

# STATE OF NEW YORK

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4157

2017-2018 Regular Sessions

## IN SENATE

February 3, 2017

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Introduced by Sens. MONTGOMERY, BRESLIN, COMRIE, DILAN, HAMILTON, KRUEGER, PARKER, PERALTA, PERKINS, RIVERA, SANDERS, SERRANO, SQUADRON -- read twice and ordered printed, and when printed to be committed to the Committee on Judiciary

AN ACT to amend the family court act, in relation to family court proceedings, jurisdiction of the court, the definition of juvenile delinquent, the definition of a designated felony act, the procedures regarding the adjustment of cases from criminal courts to family court, the age at which children may be tried as an adult for various felonies, and the manner in which courts handle juvenile delinquent cases; to amend the social services law, in relation to state reimbursement for expenditures made by social services districts for various services; to amend the social services law, in relation to the definitions of juvenile delinquent and persons in need of supervision; to amend the penal law, in relation to the definition of infancy and the authorized dispositions, sentences, and periods of post-release supervision for juvenile offenders; to amend chapter 3 of the laws of 1995, enacting the sentencing reform act of 1995, in relation to extending the expiration of certain provisions of such chapter; 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; 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

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

LBD09030-04-7

of supervision or youthful offenders; and to amend the vehicle and traffic law, in relation to convictions; and in relation to suspension, revocation and reissuance of licenses and registrations; and to repeal certain provisions of the correction law relating to the housing of prisoners and other persons in custody

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

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

4 (vi) proceedings concerning juvenile delinquency as set forth in arti-  
5 cle three of this act that are commenced in family court.

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

8 (e) The family court has concurrent jurisdiction with the criminal  
9 court over all family offenses as defined in article eight of this act  
10 and has concurrent jurisdiction with the youth part of a superior court  
11 over any juvenile delinquency proceeding resulting from the removal of  
12 the case to the family court pursuant to article seven hundred twenty-  
13 five of the criminal procedure law.

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

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

~~committed by a person fourteen or fifteen years of age but only where there has been a prior finding by a court that such person has previously committed an act which, if committed by an adult, would be the crime of assault in the second degree, robbery in the second degree or any designated felony act specified in clause (i), (ii) or (iii) of this subdivision regardless of the age of such person at the time of the commission of the prior act, or (vi) other than a misdemeanor, committed by a person at least seven but less than sixteen years of age, but only where there has been two prior findings by the court that such person has committed a prior act which, if committed by an adult would be a felony]~~ constitute a designated felony act as defined in subdivision eight of section 301.2 of such article:

(i) There is hereby established in the family court in the city of New York at least one "designated felony act part." Such part or parts shall be held separate from all other proceedings of the court, and shall have jurisdiction over all proceedings involving such an allegation that are not referred to the youth part of a superior court. All such proceedings shall be originated in or be transferred to this part from other parts 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 of this act.

§ 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 125.25 (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 eighteen years of age who committed an act that would constitute a crime if committed by an adult; or

(iii) sixteen or seventeen years of age who committed a violation of paragraph (a) of subdivision two of section sixty-five-b of the alcoholic beverage control law provided, however, that such person shall only be deemed to be a juvenile delinquent for the purposes of imposing license sanctions in accordance with subdivision four of section 352.2 of this article; 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.

§ 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

1 the first degree); or 150.20 (arson in the first degree) of the penal  
2 law committed by a person thirteen, fourteen ~~[or]~~, fifteen, sixteen, or  
3 seventeen years of age; or such conduct committed as a sexually moti-  
4 vated felony, where authorized pursuant to section 130.91 of the penal  
5 law; (ii) defined in sections 120.10 (assault in the first degree);  
6 125.20 (manslaughter in the first degree); 130.35 (rape in the first  
7 degree); 130.50 (criminal sexual act in the first degree); 130.70  
8 (aggravated sexual abuse in the first degree); 135.20 (kidnapping in the  
9 second degree) but only where the abduction involved the use or threat  
10 of use of deadly physical force; 150.15 (arson in the second degree) or  
11 160.15 (robbery in the first degree) of the penal law committed by a  
12 person thirteen, fourteen ~~[or]~~, fifteen, sixteen, or seventeen years of  
13 age; or such conduct committed as a sexually motivated felony, where  
14 authorized pursuant to section 130.91 of the penal law; (iii) defined in  
15 the penal law as an attempt to commit murder in the first or second  
16 degree or kidnapping in the first degree committed by a person thirteen,  
17 fourteen ~~[or]~~, fifteen, sixteen, or seventeen years of age; or such  
18 conduct committed as a sexually motivated felony, where authorized  
19 pursuant to section 130.91 of the penal law; (iv) defined in section  
20 140.30 (burglary in the first degree); subdivision one of section 140.25  
21 (burglary in the second degree); subdivision two of section 160.10  
22 (robbery in the second degree) of the penal law; or section 265.03 of  
23 the penal law, where such machine gun or such firearm is possessed on  
24 school grounds, as that phrase is defined in subdivision fourteen of  
25 section 220.00 of the penal law committed by a person fourteen or  
26 fifteen years of age; or such conduct committed as a sexually motivated  
27 felony, where authorized pursuant to section 130.91 of the penal law;  
28 (v) defined in section 120.05 (assault in the second degree) or 160.10  
29 (robbery in the second degree) of the penal law committed by a person  
30 fourteen ~~[or]~~, fifteen, sixteen or seventeen years of age but only where  
31 there has been a prior finding by a court that such person has previous-  
32 ly committed an act which, if committed by an adult, would be the crime  
33 of assault in the second degree, robbery in the second degree or any  
34 designated felony act specified in paragraph (i), (ii), or (iii) of this  
35 subdivision regardless of the age of such person at the time of the  
36 commission of the prior act; ~~[or]~~ (vi) other than a misdemeanor commit-  
37 ted by a person at least ~~seven~~ twelve but less than ~~sixteen~~ eighteen  
38 years of age, but only where there has been two prior findings by the  
39 court that such person has committed a prior felony; or (vii) defined in  
40 section 460.22 (aggravated enterprise corruption); 490.25 (crime of  
41 terrorism); 490.45 (criminal possession of a chemical weapon or biolog-  
42 ical weapon in the first degree); 490.50 (criminal use of a chemical  
43 weapon or biological weapon in the second degree); 490.55 (criminal use  
44 of a chemical weapon or biological weapon in the first degree); 120.11  
45 (aggravated assault upon a police officer or a peace officer); 125.22  
46 (aggravated manslaughter in the first degree); 215.17 (intimidating a  
47 victim or witness in the first degree); 265.04 (criminal possession of a  
48 weapon in the first degree); 265.09 (criminal use of a firearm in the  
49 first degree); 265.13 (criminal sale of a firearm in the first degree);  
50 490.35 (hindering prosecution of terrorism in the first degree); 490.40  
51 (criminal possession of a chemical weapon or biological weapon in the  
52 second degree); 490.47 (criminal use of a chemical weapon or biological  
53 weapon in the third degree); 121.13 (strangulation in the first degree);  
54 490.37 (criminal possession of a chemical weapon or biological weapon in  
55 the third degree) of the penal law; or a felony sex offense as defined  
56 in paragraph (a) of subdivision one of section 70.80 of the penal law.

9. "Designated class A felony act" means a designated felony act ~~[defined in paragraph (i) of subdivision eight]~~ that would constitute a class A felony if committed by an adult.

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

1. The family court has exclusive original jurisdiction over any proceeding to determine whether a person is a juvenile delinquent commenced in family court and concurrent jurisdiction with the youth part of a superior court over any such proceeding removed to the family court pursuant to article seven hundred twenty-five of the criminal procedure law.

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

3. Whenever a crime and a traffic infraction arise out of the same transaction or occurrence, a charge alleging both offenses may be made returnable before the court having jurisdiction over the crime. Nothing herein provided shall be construed to prevent a court, having jurisdiction over a criminal charge relating to traffic or a traffic infraction, from lawfully entering a judgment of conviction, whether or not based on a plea of guilty, for an offense classified as a traffic infraction.

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

§ 304.1. Detention. 1. A facility certified by the state ~~[division for youth]~~ office of children and family services as a juvenile detention facility must be operated in conformity with the regulations of the state ~~[division for youth and shall be subject to the visitation and inspection of the state board of social welfare]~~ office of children and family services.

2. No child to whom the provisions of this article may apply shall be detained in any prison, jail, lockup, or other place used for adults convicted of crime or under arrest and charged with crime without the approval of the state ~~[division for youth]~~ office of children and family services in the case of each child and the statement of its reasons therefor. The state ~~[division for youth]~~ office of children and family services shall promulgate and publish the rules which it shall apply in determining whether approval should be granted pursuant to this subdivision.

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

~~4.~~ A detention facility which receives a child under subdivision four of section 305.2 shall immediately notify the child's parent or other person legally responsible for his or her care or, if such legally responsible person is unavailable the person with whom the child resides, that he or she has been placed in detention.

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

(1) Upon application by the presentment agency, or upon application by the probation service as part of the adjustment of a case, the court may issue a temporary order of protection against a respondent for good cause shown, ex parte or upon notice, at any time after a juvenile is taken into custody, pursuant to section 305.1 or 305.2 or upon the issuance of an appearance ticket pursuant to section 307.1 or upon the filing of a petition pursuant to section 310.1.



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

1. A private person may take a child [~~under the age of sixteen~~] who may be subject to the provisions of this article for committing an act that would be a crime if committed by an adult into custody in cases in which [~~he~~] such private person may arrest an adult for a crime under section 140.30 of the criminal procedure law.

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

2. An officer may take a child [~~under the age of sixteen~~] who may be subject to the provisions of this article for committing an act that would be a crime if committed by an adult into custody without a warrant in cases in which [~~he~~] the officer may arrest a person for a crime under article one hundred forty of the criminal procedure law.

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

(b) forthwith and with all reasonable speed take the child directly, and without his first being taken to the police station house, to the family court located in the county in which the act occasioning the taking into custody allegedly was committed, or, when the family court is not in session, to the most accessible magistrate, if any, designated by the appellate division of the supreme court in the applicable department to conduct a hearing under section 307.4 of this part, unless the officer determines that it is necessary to question the child, in which case he or she may take the child to a facility designated by the chief administrator of the courts as a suitable place for the questioning of children or, upon the consent of a parent or other person legally responsible for the care of the child, to the child's residence and there question him or her for a reasonable period of time; or

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

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

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

(b) the child is twelve years of age or older and the crime which is the subject of the arrest or which is charged in the petition constitutes a class A or B felony; or

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

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

§ 307.3. Rules of court authorizing release before filing of petition.

1. The agency responsible for operating a detention facility pursuant to section two hundred eighteen-a of the county law, five hundred [~~ten-a~~] three of the executive law or other applicable provisions of law, shall release a child in custody before the filing of a petition to the custody of his or her parents or other person legally responsible for his or

1 her care, or if such legally responsible person is unavailable, to a  
2 person with whom he or she resides, when the events occasioning the  
3 taking into custody do not appear to involve allegations that the child  
4 committed a delinquent act.

5 2. When practicable such agency may release a child before the filing  
6 of a petition to the custody of his or her parents or other person  
7 legally responsible for his or her care, or if such legally responsible  
8 person is unavailable, to a person with whom he or she resides, when the  
9 events occasioning the taking into custody appear to involve allegations  
10 that the child committed a delinquent act; provided, however, that such  
11 agency must release the child if:

12 (a) such events appear to involve only allegations that the child  
13 committed acts that would constitute more than a violation but no more  
14 than a misdemeanor if committed by an adult if:

15 (i) the alleged acts did not result in any physical injury as defined  
16 in subdivision nine of section 10.00 of the penal law to another person;  
17 and

18 (ii) the child was assessed at a low risk on the applicable detention  
19 risk assessment instrument approved by the office of children and family  
20 services unless the agency determines that detention is necessary  
21 because the respondent otherwise poses an imminent risk to public safety  
22 and states the reasons for such determination in the child's record; or

23 (b) such events appear to involve allegations that the child committed  
24 acts that would constitute a felony if committed by an adult if:

25 (i) the alleged acts did not result in any physical injury as defined  
26 in subdivision nine of section 10.00 of the penal law to another person;

27 (ii) the child does not have any prior adjudications for an act that  
28 would constitute a felony if committed by an adult;

29 (iii) the child has no more than one prior adjudication for an act  
30 that would constitute a misdemeanor if committed by an adult and that  
31 act also did not result in any physical injury to another person; and

32 (iv) the child was assessed at a low risk on the applicable detention  
33 risk assessment instrument approved by the office of children and family  
34 services unless the agency determines that detention is necessary  
35 because the respondent otherwise poses an imminent risk to public safety  
36 and states the reasons for such determination in the child's record.

37 3. If a child is released under this section, the child and the person  
38 legally responsible for his or her care shall be issued a family court  
39 appearance ticket in accordance with section 307.1.

40 4. If the agency for any reason does not release a child under this  
41 section, such child shall be brought before the appropriate family  
42 court, or when such family court is not in session, to the most accessi-  
43 ble magistrate, if any, designated by the appellate division of the  
44 supreme court in the applicable department; provided, however, that if  
45 such family court is not in session and if a magistrate is not avail-  
46 able, such youth shall be brought before such family court within seven-  
47 ty-two hours or the next day the court is in session, whichever is soon-  
48 er. Such agency shall thereupon file an application for an order  
49 pursuant to section 307.4 and shall forthwith serve a copy of the appli-  
50 cation upon the appropriate presentment agency. Nothing in this subdivi-  
51 sion shall preclude the adjustment of suitable cases pursuant to section  
52 308.1.

53 § 14. Section 308.1 of the family court act, as added by chapter 920  
54 of the laws of 1982, subdivision 2 as amended by section 3 of part V of  
55 chapter 55 of the laws of 2012, subdivision 4 as amended by chapter 264  
56 of the laws of 2003, subdivisions 5 and 8 as amended by chapter 398 of

the laws of 1983, and subdivision 6 as amended by chapter 663 of the laws of 1985, is amended to read as follows:

§ 308.1. ~~[Rules of court for preliminary]~~ Preliminary procedure; adjustment of cases. 1. ~~[Rules of court shall authorize and determine the circumstances under which the]~~ The probation service may confer with any person seeking to have a juvenile delinquency petition filed, the potential respondent and other interested persons concerning the advisability of requesting that a petition be filed in accordance with this section.

2. (a) Except as provided in subdivisions three ~~[and], four, and thirteen~~ of this section, the probation service ~~[may, in accordance with rules of court,]~~ shall attempt to adjust ~~[suitable cases]~~ a case before a petition is filed. Such attempts may include the use of a juvenile review board comprised of appropriate community members to work with the child and his or her family on developing recommended adjustment activities. The probation service may stop attempting to adjust such a case if it determines that there is no substantial likelihood that the child will benefit from attempts at adjustment in the time remaining for adjustment or the time for adjustment has expired.

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

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

3. The probation service shall not attempt to adjust a case that commenced in family court in which the child has allegedly committed a designated felony act that involves allegations that the child caused physical injury to a person unless ~~[it]~~ the probation service has received the written approval of the court.

4. The probation service shall not attempt to adjust a case in which the child has allegedly committed a delinquent act which would be a crime defined in section 120.25, (reckless endangerment in the first degree), subdivision one of section 125.15, (manslaughter in the second degree), subdivision one of section 130.25, (rape in the third degree), subdivision one of section 130.40, (criminal sexual act in the third degree), subdivision one or two of section 130.65, (sexual abuse in the first degree), section 135.65, (coercion in the first degree), section 140.20, (burglary in the third degree), section 150.10, (arson in the third degree), section 160.05, (robbery in the third degree), subdivision two~~[,]~~ or three ~~[or four]~~ of section 265.02, (criminal possession of a weapon in the third degree), section 265.03, (criminal possession of a weapon in the second degree), or section 265.04, (criminal possession of a ~~[dangerous]~~ weapon in the first degree) of the penal law where the child has previously had one or more adjustments of a case in which such child allegedly committed an act which would be a crime specified in this subdivision unless it has received written approval from the court and the appropriate presentment agency.

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



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

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

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

9. Efforts at adjustment ~~[pursuant to rules of court]~~ under this section may not extend for a period of more than two months ~~[without]~~, or, for a period of more than four months if the probation service determines that adjustment beyond the first two months is warranted because documented barriers to adjustment exist or changes need to be made to the child's services plan, except upon leave of the court, which may extend the adjustment period for an additional two months.

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

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

12. The probation service shall certify to the division of criminal justice services and to the appropriate police department or law enforcement agency whenever it adjusts a case in which the potential respondent's fingerprints were taken pursuant to section 306.1 in any manner other than the filing of a petition for juvenile delinquency for an act which, if committed by an adult, would constitute a felony, provided, however, in the case of a child ~~[eleven or]~~ twelve years of age, such certification shall be made only if the act would constitute a class A or B felony, or, in the case of a child eleven years of age, such certification shall be made only if the act would constitute a class A-1 felony.

13. The ~~[provisions of this section]~~ probation service shall not ~~[apply]~~ attempt to adjust a case where the petition is an order of removal to the family court pursuant to article seven hundred twenty-five of the criminal procedure law unless it has received the written approval of the court.

14. Where written approval is required prior to adjustment attempts, the probation department shall seek such approval.

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

(c) the fact that the respondent is a person ~~[under sixteen years of]~~ of the necessary age to be a juvenile delinquent at the time of the alleged act or acts;

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

1. At the initial appearance, the court in its discretion may (a) release the respondent or (b) direct his detention.

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

1 (a-1) Notwithstanding paragraph (a) of this subdivision, the court  
2 shall not direct detention if:

3 (i) such events appear to involve only allegations that the child  
4 committed acts that would constitute more than a violation but no more  
5 than a misdemeanor if committed by an adult if:

6 (1) the alleged acts did not result in any physical injury as defined  
7 in subdivision nine of section 10.00 of the penal law to another person;  
8 and

9 (2) the child was assessed at a low risk on the applicable detention  
10 risk assessment instrument approved by the office of children and family  
11 services unless the agency determines that detention is necessary  
12 because the respondent otherwise poses an imminent risk to public safety  
13 and states the reasons for such determination in the child's record; or

14 (ii) such events appear to involve allegations that the child commit-  
15 ted acts that would constitute a felony if committed by an adult if:

16 (1) the alleged acts did not result in any physical injury as defined  
17 in subdivision nine of section 10.00 of the penal law to another person;

18 (2) the child does not have any prior adjudications for an act that  
19 would constitute a felony if committed by an adult;

20 (3) the child has no more than one prior adjudication for an act that  
21 would constitute a misdemeanor if committed by an adult and that act  
22 also did not result in any physical injury to another person; and

23 (4) the child was assessed at a low risk on the applicable detention  
24 risk assessment instrument approved by the office of children and family  
25 services unless the agency determines that detention is necessary  
26 because the respondent otherwise poses an imminent risk to public safety  
27 and states the reasons for such determination in the child's record.

28 § 18. Subdivision 5 of section 322.2 of the family court act, as added  
29 by chapter 920 of the laws of 1982, paragraph (a) as amended by chapter  
30 37 of the laws of 2016 and paragraph (d) as amended by chapter 41 of the  
31 laws of 2010, is amended to read as follows:

32 5. (a) If the court finds that there is probable cause to believe  
33 that the respondent committed a felony, it shall order the respondent  
34 committed to the custody of the commissioner of mental health or the  
35 commissioner of the office for people with developmental disabilities  
36 for an initial period not to exceed one year from the date of such  
37 order. Such period may be extended annually upon further application to  
38 the court by the commissioner having custody or his or her designee.  
39 Such application must be made not more than sixty days prior to the  
40 expiration of such period on forms that have been prescribed by the  
41 chief administrator of the courts. At that time, the commissioner must  
42 give written notice of the application to the respondent, the counsel  
43 representing the respondent and the mental hygiene legal service if the  
44 respondent is at a residential facility. Upon receipt of such applica-  
45 tion, the court must conduct a hearing to determine the issue of capaci-  
46 ty. If, at the conclusion of a hearing conducted pursuant to this subdivi-  
47 sion, the court finds that the respondent is no longer incapacitated,  
48 he or she shall be returned to the family court for further proceedings  
49 pursuant to this article. If the court is satisfied that the respondent  
50 continues to be incapacitated, the court shall authorize continued  
51 custody of the respondent by the commissioner for a period not to exceed  
52 one year. Such extensions shall not continue beyond a reasonable period  
53 of time necessary to determine whether the respondent will attain the  
54 capacity to proceed to a fact finding hearing in the foreseeable future  
55 but in no event shall continue beyond the respondent's eighteenth birth-

1 day or, if the respondent was at least sixteen years of age when the act  
2 was committed, beyond the respondent's twenty-first birthday.

3 (b) If a respondent is in the custody of the commissioner upon the  
4 respondent's eighteenth birthday, or if the respondent was at least  
5 sixteen years of age when the act resulting in the respondent's place-  
6 ment was committed, beyond the respondent's twenty-first birthday, the  
7 commissioner shall notify the clerk of the court that the respondent was  
8 in his custody on such date and the court shall dismiss the petition.

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

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

34 § 19. Subdivisions 1 and 5 of section 325.1 of the family court act,  
35 subdivision 1 as amended by chapter 398 of the laws of 1983, subdivision  
36 5 as added by chapter 920 of the laws of 1982, are amended to read as  
37 follows:

38 1. At the initial appearance, if the respondent denies a charge  
39 contained in the petition and the court determines in accordance with  
40 the requirements of section 320.5 of this part that ~~he~~ the respondent  
41 shall be detained for more than three days pending a fact-finding hear-  
42 ing, the court shall schedule a probable-cause hearing to determine the  
43 issues specified in section 325.3 of this part.

44 5. Where the petition consists of an order of removal pursuant to  
45 article seven hundred twenty-five of the criminal procedure law, unless  
46 the removal was pursuant to subdivision three of section 725.05 of such  
47 law and the respondent was not afforded a probable cause hearing [~~pursu-~~  
48 ~~ant to subdivision three of section 180.75 of such law for a reason~~  
49 ~~other than his waiver thereof pursuant to subdivision two of section~~  
50 ~~180.75 of such law~~], the petition shall be deemed to be based upon a  
51 determination that probable cause exists to believe the respondent is a  
52 juvenile delinquent and the respondent shall not be entitled to any  
53 further inquiry on the subject of whether probable cause exists. After  
54 the filing of any such petition the court must, however, exercise inde-  
55 pendent, de novo discretion with respect to release or detention as set  
56 forth in section 320.5.

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

1. ~~[The]~~ Except when authorized in accordance with section 346.1 of this part involving a case removed to family court pursuant to article seven hundred twenty-five of the criminal procedure law, the judge who presides at the commencement of the fact-finding hearing shall continue to preside until such hearing is concluded and an order entered pursuant to section 345.1 of this part unless a mistrial is declared.

2. The judge who presides at the fact-finding hearing or accepts an admission pursuant to section 321.3 of this article shall preside at any other subsequent hearing in the proceeding, including but not limited to the dispositional hearing except where the case is removed to family court pursuant to article seven hundred twenty-five of the criminal procedure law after a fact-finding hearing has occurred.

§ 21. Subdivision 2 of section 351.1 of the family court act, as amended by chapter 880 of the laws of 1985, is amended to read as follows:

2. Following a determination that a respondent committed a crime and prior to the dispositional hearing, the court shall order a probation investigation, a risk and needs assessment, and may order a diagnostic assessment. Based upon the assessment findings, the probation department shall recommend to the court that the respondent participate in any services necessary to mitigate identified risks and address individual needs.

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

(a) In determining an appropriate order the court shall consider the needs and best interests of the respondent as well as the need for protection of the community. If the respondent has committed a designated felony act the court shall determine the appropriate disposition in accord with section 353.5. In all other cases the court shall order the least restrictive available alternative enumerated in subdivision one of this section which is consistent with the needs and best interests of the respondent and the need for protection of the community; provided, however, that the court shall not direct the placement of a respondent with a commissioner of social services or the office of children and family services if:

(i) such events appear to involve only allegations that the child committed acts that would constitute more than a violation but no more than a misdemeanor if committed by an adult if:

(1) the alleged acts did not result in any physical injury as defined in subdivision nine of section 10.00 of the penal law to another person; and

(2) the child was assessed at a low risk on the applicable detention risk assessment instrument approved by the office of children and family services unless the agency determines that detention is necessary because the respondent otherwise poses an imminent risk to public safety and states the reasons for such determination in the child's record; or

(ii) such events appear to involve allegations that the child committed acts that would constitute a felony if committed by an adult if:

(1) the alleged acts did not result in any physical injury as defined in subdivision nine of section 10.00 of the penal law to another person;

(2) the child does not have any prior adjudications for an act that would constitute a felony if committed by an adult;

(3) the child has no more than one prior adjudication for an act that would constitute a misdemeanor if committed by an adult and that act also did not result in any physical injury to another person; and

(4) the child was assessed at a low risk on the applicable detention risk assessment instrument approved by the office of children and family services unless the agency determines that detention is necessary because the respondent otherwise poses an imminent risk to public safety and states the reasons for such determination in the child's record.

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

4. Where a youth receives a juvenile delinquency adjudication for conduct committed when the youth was age sixteen or older that would constitute a crime under the vehicle and traffic law, or a violation of paragraph (a) of subdivision two of section sixty-five-b of the alcoholic beverage control law, the court shall notify the commissioner of motor vehicles of such adjudication. Where a youth receives a juvenile delinquency adjudication for conduct that would constitute a violation of any other provision of law which allows for the imposition of a license and registration sanction, the court shall notify the commissioner of motor vehicles of such adjudication. The court shall have the power to impose any suspension or revocation of driving privileges, ignition interlock devices, any drug or alcohol rehabilitation program, victim impact program, driver responsibility assessment, victim assistance fee, and surcharge as is otherwise required upon a conviction of a crime under the vehicle and traffic law, or an offense for which a license sanction is required, and, further, shall notify the commissioner of motor vehicles of said suspension or revocation.

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

(a) placement of respondent is not or may not be necessary or allowable;

(f) make restitution or perform services for the public good pursuant to section 353.6, provided the respondent is over ~~ten~~ twelve years of age;

(h) comply with such other reasonable conditions as the court shall determine to be necessary or appropriate to ameliorate the conduct which gave rise to the filing of the petition or to prevent placement with the commissioner of social services or the ~~division for youth~~ office of children and family services.

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

(e) co-operate with a mental health, social services or other appropriate community facility or agency to which the respondent is referred, including a family support center pursuant to title twelve of article six of the social services law;

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

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

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



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

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

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

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

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

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

after the period set under subparagraph (ii) of this paragraph, the respondent shall be placed in a residential facility for a period of twelve months; provided, however, that if the respondent has been placed from a family court in 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 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.

§ 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.

§ 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:

§ 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

1 of the laws of 1996, subdivisions 4 and 5 as amended by chapter 398 of  
2 the laws of 1983, is amended to read as follows:

3 § 354.1. Retention and destruction of fingerprints of persons alleged  
4 to be juvenile delinquents. 1. If a person whose fingerprints, palm-  
5 prints or photographs were taken pursuant to section 306.1 or was  
6 initially fingerprinted as a juvenile offender and the action is subse-  
7 quently removed to a family court pursuant to article seven hundred  
8 twenty-five of the criminal procedure law is adjudicated to be a juve-  
9 nile delinquent for a felony, the family court shall forward or cause to  
10 be forwarded to the division of criminal justice services notification  
11 of such adjudication and such related information as may be required by  
12 such division, provided, however, in the case of a person eleven [~~or~~  
13 ~~twelve~~] years of age such notification shall be provided only if the act  
14 upon which the adjudication is based would constitute a class [~~A or B~~]  
15 A-1 felony or, in the case of a person twelve years of age, such notifi-  
16 cation shall be provided only if the act upon which the adjudication is  
17 based would constitute a class A or B felony.

18 2. If a person whose fingerprints, palmprints or photographs were  
19 taken pursuant to section 306.1 or was initially fingerprinted as a  
20 juvenile offender and the action is subsequently removed to family court  
21 pursuant to article seven hundred twenty-five of the criminal procedure  
22 law has had all petitions disposed of by the family court in any manner  
23 other than an adjudication of juvenile delinquency for a felony, but in  
24 the case of acts committed when such person was eleven [~~or twelve~~] years  
25 of age which would constitute a class [~~A or B~~] A-1 felony only, or, in  
26 the case of acts committed when such person was twelve years of age  
27 which would constitute a class A or B felony only, all such finger-  
28 prints, palmprints, photographs, and copies thereof, and all information  
29 relating to such allegations obtained by the division of criminal  
30 justice services pursuant to section 306.1 shall be destroyed forthwith.  
31 The clerk of the court shall notify the commissioner of the division of  
32 criminal justice services and the heads of all police departments and  
33 law enforcement agencies having copies of such records, who shall  
34 destroy such records without unnecessary delay.

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

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

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

55 6. If a person fingerprinted pursuant to section 306.1 and subsequent-  
56 ly adjudicated a juvenile delinquent for a felony, but in the case of

1 acts committed when such a person was eleven [~~or twelve~~] years of age  
2 which would constitute a class [~~A or B~~] A-1 felony only, or, in the case  
3 of acts committed when such a person was twelve years of age which would  
4 constitute a class A or B felony only, is subsequently convicted of a  
5 crime, all fingerprints and related information obtained by the division  
6 of criminal justice services pursuant to such section and not destroyed  
7 pursuant to subdivisions two, five and seven or subdivision twelve of  
8 section 308.1 shall become part of such division's permanent adult crim-  
9 inal record for that person, notwithstanding section 381.2 or 381.3.

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

29 § 28. Subdivisions 1 and 6 of section 355.3 of the family court act,  
30 subdivision 1 as amended by chapter 398 of the laws of 1983, subdivision  
31 6 as amended by chapter 663 of the laws of 1985, are amended to read as  
32 follows:

33 1. In any case in which the respondent has been placed pursuant to  
34 section 353.3 the respondent, the person with whom the respondent has  
35 been placed, the commissioner of social services, or the [~~division for~~  
36 ~~youth~~] office of children and family services may petition the court to  
37 extend such placement. Such petition shall be filed at least sixty days  
38 prior to the expiration of the period of placement, except for good  
39 cause shown but in no event shall such petition be filed after the  
40 original expiration date.

41 6. Successive extensions of placement under this section may be grant-  
42 ed, but no placement may be made or continued beyond the respondent's  
43 eighteenth birthday without the child's consent for acts committed  
44 before the respondent's sixteenth birthday and in no event past the  
45 child's twenty-first birthday except as provided for in subdivision four  
46 of section 353.5.

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

49 5. Nothing in this section shall: require that consent be obtained  
50 from the youth's parent or legal guardian to any medical, dental, or  
51 mental health service and treatment when no consent is necessary or the  
52 youth is authorized by law to consent on his or her own behalf; preclude  
53 a youth from consenting on his or her own behalf to any medical, dental  
54 or mental health service and treatment where otherwise authorized by law  
55 to do so[~~, or the division for youth~~]; or preclude the officer of chil-  
56 dren and family services or a social services district from petitioning

1 the court pursuant to section two hundred thirty-three of this act, as  
2 appropriate.

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

6 (b) subsequent permanency hearings shall be held no later than every  
7 twelve months following the respondent's initial twelve months in place-  
8 ment but in no event past the respondent's twenty-first birthday;  
9 provided, however, that they shall be held in conjunction with an exten-  
10 sion of placement hearing held pursuant to section 355.3 of this [~~arti-~~  
11 ~~cle~~] part.

12 § 31. Subdivisions 2 and 6 of section 360.3 of the family court act,  
13 as added by chapter 920 of the laws of 1982, are amended to read as  
14 follows:

15 2. At the time of his or her first appearance following the filing of  
16 a petition of violation the court must: (a) advise the respondent of the  
17 contents of the petition and furnish him or her with a copy thereof; (b)  
18 determine whether the respondent should be released or detained pursuant  
19 to section 320.5, provided, however, that nothing herein shall authorize  
20 a respondent to be detained for a violation of a condition that would  
21 not constitute a crime if committed by an adult unless the court deter-  
22 mines (i) that the respondent poses a specific imminent threat to public  
23 safety and states the reasons for the finding on the record or (ii) the  
24 respondent is on probation for an act that would constitute a violent  
25 felony as defined in section 70.02 of the penal law if committed by an  
26 adult and the use of graduated sanctions have been exhausted without  
27 success; and (c) ask the respondent whether he or she wishes to make any  
28 statement with respect to the violation. If the respondent makes a  
29 statement, the court may accept it and base its decision thereon; the  
30 provisions of subdivision two of section 321.3 shall apply in determin-  
31 ing whether a statement should be accepted. If the court does not accept  
32 such statement or if the respondent does not make a statement, the court  
33 shall proceed with the hearing. Upon request, the court shall grant a  
34 reasonable adjournment to the respondent to enable him or her to prepare  
35 for the hearing.

36 6. At the conclusion of the hearing the court may revoke, continue or  
37 modify the order of probation or conditional discharge. If the court  
38 revokes the order, it shall order a different disposition pursuant to  
39 section 352.2, provided, however, that nothing herein shall authorize  
40 the placement of a respondent 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 respondent poses a specific imminent threat to public  
43 safety and states the reasons for the finding on the record or (ii) the  
44 respondent 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 have been exhausted without  
47 success. If the court continues the order of probation or conditional  
48 discharge, it shall dismiss the petition of violation.

49 § 32. Subdivisions (d) and (i) of section 712 of the family court  
50 act, subdivision (d) as amended by chapter 920 of the laws of 1982, and  
51 subdivision (i) as amended by chapter 38 of the laws of 2014, are  
52 amended and two new subdivisions (d-1) and (n) are added to read as  
53 follows:

54 (d) "Non-secure detention facility". [~~A facility characterized by the~~  
55 ~~absence of physically restricting construction, hardware and proce-~~  
56 ~~dures.~~] A foster care program certified by the office of children and

1 family services or a certified or approved family boarding home, or in a  
2 city having a population of five million or more, a foster care facility  
3 established and maintained pursuant to the social services law.

4 (d-1) "Detention facility". A foster care program certified by the  
5 office of children and family services or a certified or approved family  
6 boarding home, or in a city having a population of five million or more,  
7 a foster care facility established and maintained pursuant to the social  
8 services law.

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

28 (n) "Family support center". A program established pursuant to title  
29 twelve of article six of the social services law.

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

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

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

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

54 4. Whenever detention is authorized and ordered pursuant to this arti-  
55 cle, for a person alleged to be or adjudicated as a person in need of  
56 supervision, a family court in a city having a population of one million



1 or more shall, notwithstanding any other provision of law, direct  
2 detention in a foster care facility established and maintained pursuant  
3 to the social services law. In all other respects, the detention of such  
4 a person in a foster care facility shall be subject to the identical  
5 terms and conditions for detention as are set forth in this article and  
6 in section two hundred thirty-five of this act.

7 5. (a) The court shall not order or direct detention under this arti-  
8 cle, unless the court determines that there is no substantial likelihood  
9 that the youth and his or her family will continue to benefit from  
10 diversion services, and that continuation in the home would not be  
11 appropriate because such continuation would (A) continue or worsen the  
12 circumstances alleged in the underlying petition, or that created the  
13 need for a petition to be sought or (B) create a safety risk to the  
14 child or the child's family and that all other available alternatives to  
15 detention have been exhausted; and

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

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

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

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

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

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

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

55 (i) that there is no substantial likelihood that the youth and his or  
56 her family will continue to benefit from diversion services, that

1 continuation in the home would not be appropriate because such continua-  
2 tion would (A) continue or worsen the circumstances alleged in the  
3 underlying petition, or that created the need for a petition to be  
4 sought or (B) create a safety risk to the child or the child's family  
5 and that all other available alternatives to detention have been  
6 exhausted; and

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

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

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

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

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

41 (b) The designated lead agency shall:

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

46 (ii) diligently attempt to prevent the filing of a petition under this  
47 article or, after the petition is filed, to prevent the placement of the  
48 youth into foster care in accordance with section seven hundred fifty-  
49 six of this article; and

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

52 (iv) assess whether the youth is a sexually exploited child as defined  
53 in section four hundred forty-seven-a of the social services law and, if  
54 so, whether such youth should be referred to a safe house; and

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

1 (vi) determine whether the youth and his or her family should be  
2 referred to an available family support center; [and]

3 (vii) assess whether remaining in the home would cause the continua-  
4 tion or worsening of the circumstances that created the need for a peti-  
5 tion to be sought, or create a safety risk to the child or the child's  
6 family; and

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

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

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

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

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

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

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

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

16 (f) Efforts to prevent the filing of a petition pursuant to this  
17 section may extend until the designated lead agency determines that  
18 there is no substantial likelihood that the youth and his or her family  
19 will benefit from further attempts. Efforts at diversion pursuant to  
20 this section may continue after the filing of a petition where the  
21 designated lead agency determines that the youth and his or her family  
22 will benefit from further attempts to prevent placement of the youth  
23 from entering foster care in accordance with section seven hundred  
24 fifty-six of this article.

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

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

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

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

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

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

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

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

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

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

32 (ii) The court may, as a condition of an adjournment in contemplation  
33 of dismissal order: (A) in cases where the record indicates that the  
34 consumption of alcohol may have been a contributing factor, require the  
35 respondent to attend and complete an alcohol awareness program estab-  
36 lished pursuant to section 19.25 of the mental hygiene law; or (B) in  
37 cases where the record indicates that cyberbullying or sexting was the  
38 basis of the petition, require an eligible person to complete an educa-  
39 tion reform program in accordance with section four hundred  
40 fifty-eight-1 of the social services law; or (C) participate in services  
41 including but not limited to those provided by family support centers.

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

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

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



1 probation service. In dismissing a petition pursuant to this section,  
2 the court shall consider whether a referral of services would be appro-  
3 priate to meet the needs of the respondent and his or her family.

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

13 § 754. Disposition on adjudication of person in need of supervision.

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

16 (a) Discharging the respondent with warning;

17 (b) Suspending judgment in accord with section seven hundred fifty-  
18 five of this part;

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

25 (d) Putting the respondent on probation in accord with section seven  
26 hundred fifty-seven of this part.

27 The court may order an eligible person to complete an education reform  
28 program in accordance with section four hundred fifty-eight-1 of the  
29 social services law, as part of a disposition pursuant to paragraph (a),  
30 (b) or (d) of this subdivision. The court may also order services,  
31 including those provided by a family support center, as part of a dispo-  
32 sition pursuant to paragraph (a), (b) or (d) of this subdivision.

33 2. (a) Notwithstanding any other provision of law to the contrary, the  
34 court shall not order placement with the local commissioner of social  
35 services pursuant to section seven hundred fifty-six of this part unless  
36 the court finds and states in writing that:

37 (i) no appropriate suitable relative or suitable private person is  
38 available for placement pursuant to section seven hundred fifty-six of  
39 this part; and

40 (ii) placement in the child's home would not be appropriate because  
41 such placement would:

42 (A) continue or worsen the circumstances alleged in the underlying  
43 petition or,

44 (B) create a safety risk to the child or the child's family.

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

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

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

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

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

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

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

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

44 (vi) the parental rights of the parent to a sibling of such child have  
45 been involuntarily terminated;

46 unless the court determines that providing reasonable efforts would be  
47 in the best interests of the child, not contrary to the health and safe-  
48 ty of the child, and would likely result in the reunification of the  
49 parent and the child in the foreseeable future. The court shall state  
50 such findings in its order.

51 If the court determines that reasonable efforts are not required  
52 because of one of the grounds set forth above, a permanency hearing  
53 shall be held within thirty days of the finding of the court that such  
54 efforts are not required. At the permanency hearing, the court shall  
55 determine the appropriateness of the permanency plan prepared by the  
56 social services official which shall include whether and when the child:

(A) will be returned to the parent; (B) should be placed for adoption with the social services official filing a petition for termination of parental rights; (C) should be referred for legal guardianship; (D) should be placed permanently with a fit and willing relative; or (E) should be placed in another planned permanent living arrangement with a significant connection to an adult willing to be a permanency resource for the child if the child is age sixteen or older and if the requirements of subparagraph (E) of paragraph (iv) of subdivision (d) of section seven hundred fifty-six-a of this part have been met. The social services official shall thereafter make reasonable efforts to place the child in a timely manner and to complete whatever steps are necessary to finalize the permanent placement of the child as set forth in the permanency plan approved by the court. If reasonable efforts are determined by the court not to be required because of one of the grounds set forth in this paragraph, the social services official may file a petition for termination of parental rights in accordance with section three hundred eighty-four-b of the social services law.

~~[(e)]~~ (d) For the purpose of this section, in determining reasonable efforts to be made with respect to a child, and in making such reasonable efforts, the child's health and safety shall be the paramount concern.

~~[(d)]~~ (e) For the purpose of this section, a sibling shall include a half-sibling.

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

§ 755. Suspended judgment. (a) Rules of court shall define permissible terms and conditions of a suspended judgment. The court may order as a condition of a suspended judgment restitution, services, including those provided by a family support center pursuant to title twelve of article six of the social services law or services for public good pursuant to section seven hundred fifty-eight-a, and ~~[, except when the respondent has been assigned to a facility in accordance with subdivision four of section five hundred four of the executive law,]~~ in cases wherein the record indicates that the consumption of alcohol by the respondent may have been a contributing factor, the court may order attendance at and completion of an alcohol awareness program established pursuant to section 19.25 of the mental hygiene law.

(b) The maximum duration of any term or condition of a suspended judgment is one year, unless the court finds at the conclusion of that period that exceptional circumstances require an additional period of one year.

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

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

(ii) Where the child is placed with the commissioner of the local social services district, the court may direct the commissioner to place the child with an authorized agency or class of authorized agencies, including, if the court finds that the respondent is a sexually

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

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

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

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

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

36 § 42. Section 756-a of the family court act, as added by chapter 604  
37 of the laws of 1986, subdivision (a) as amended by chapter 309 of the  
38 laws of 1996, subdivisions (b) and (d) as amended by section 4 of part B  
39 of chapter 327 of the laws of 2007, subdivisions (c) and (e) as amended  
40 by chapter 7 of the laws of 1999, paragraph (ii) of subdivision (d) as  
41 amended by section 3 of part M of chapter 54 of the laws of 2016, para-  
42 graphs (iii), (iv) and (v) of subdivision (d) as amended by section 23  
43 and subdivision (d-1) as amended by section 24 of part L of chapter 56  
44 of the laws of 2015, is amended to read as follows:

45 § 756-a. Extension of placement. (a) In any case in which the child  
46 has been placed pursuant to section seven hundred fifty-six, the child,  
47 the person with whom the child has been placed or the commissioner of  
48 social services may petition the court to extend such placement. Such  
49 petition shall be filed at least ~~[sixty]~~ **thirty** days prior to the expi-  
50 ration of the period of placement, except for good cause shown, but in  
51 no event shall such petition be filed after the original expiration  
52 date.

53 (b) The court shall conduct a permanency hearing concerning the need  
54 for continuing the placement. The child, the person with whom the child  
55 has been placed and the commissioner of social services shall be noti-  
56 fied of such hearing and shall have the right to be heard thereat.

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

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

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

(ii) in the case of a child who has attained the age of fourteen, (A) the services needed, if any, to assist the child to make the transition from foster care to successful adulthood; and (B)(1) that the permanency plan developed for the child, and any revision or addition to the plan shall be developed in consultation with the child and, at the option of the child, with up to two additional members of the child's permanency planning team who are selected by the child and who are not a foster parent of, or case worker, case planner or case manager for, the child, except that the local commissioner of social services with custody of the child may reject an individual so selected by the child if such commissioner has good cause to believe that the individual would not act in the best interests of the child, and (2) that one individual so selected by the child may be designated to be the child's advisor and, as necessary, advocate with respect to the application of the reasonable and prudent parent standard;

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

(iv) whether and when the child: (A) will be returned to the parent; (B) should be placed for adoption with the social services official filing a petition for termination of parental rights; (C) should be referred for legal guardianship; (D) should be placed permanently with a fit and willing relative; or (E) should be placed in another planned permanent living arrangement with a significant connection to an adult willing to be a permanency resource for the child if the child is age sixteen or older and (1) the social services official has documented to the court: (I) intensive, ongoing, and, as of the date of the hearing, unsuccessful efforts made by the social services district to return the child home or secure a placement for the child with a fit and willing relative including adult siblings, a legal guardian, or an adoptive parent, including through efforts that utilize search technology including social media to find biological family members for children, (II) the steps the social services district is taking to ensure that (A) the child's foster family home or child care facility is following the reasonable and prudent parent standard in accordance with guidance provided by the United States department of health and human services, and (B) the child has regular, ongoing opportunities to engage in age or developmentally appropriate activities including by consulting with the child in an age-appropriate manner about the opportunities of the child to participate in activities; and (2) the social services district has documented to the court and the court has determined that there are



1 compelling reasons for determining that it continues to not be in the  
2 best interest of the child to return home, be referred for termination  
3 of parental rights and placed for adoption, placed with a fit and will-  
4 ing relative, or placed with a legal guardian; and (3) the court has  
5 made a determination explaining why, as of the date of the hearing,  
6 another planned living arrangement with a significant connection to an  
7 adult willing to be a permanency resource for the child is the best  
8 permanency plan for the child; and

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

11 (d-1) At the permanency hearing, the court shall consult with the  
12 respondent in an age-appropriate manner regarding the permanency plan;  
13 provided, however, that if the respondent is age sixteen or older and  
14 the requested permanency plan for the respondent is placement in another  
15 planned permanent living arrangement with a significant connection to an  
16 adult willing to be a permanency resource for the respondent, the court  
17 must ask the respondent about the desired permanency outcome for the  
18 respondent.

19 (e) Pending final determination of a petition to extend such placement  
20 filed in accordance with the provisions of this section, the court may,  
21 on its own motion or at the request of the petitioner or respondent,  
22 enter one or more temporary orders extending a period of placement not  
23 to exceed thirty days upon satisfactory proof showing probable cause for  
24 continuing such placement and that each temporary order is necessary.  
25 The court may order additional temporary extensions, not to exceed a  
26 total of fifteen days, if the court is unable to conclude the hearing  
27 within the thirty day temporary extension period. In no event shall the  
28 aggregate number of days in extensions granted or ordered under this  
29 subdivision total more than forty-five days. The petition shall be  
30 dismissed if a decision is not rendered within the period of placement  
31 or any temporary extension thereof. Notwithstanding any provision of law  
32 to the contrary, the initial permanency hearing shall be held within  
33 ~~[twelve months of the date the child was placed into care]~~ a reasonable  
34 period of time prior to the expiration of the initial period of place-  
35 ment pursuant to section seven hundred fifty-six ~~[of this article]~~ and  
36 no later than every twelve months thereafter. ~~[For the purposes of this~~  
37 ~~section, the date the child was placed into care shall be sixty days~~  
38 ~~after the child was removed from his or her home in accordance with the~~  
39 ~~provisions of this section.]~~

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

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

46 (e) The court may order services deemed appropriate to address the  
47 circumstances alleged in the underlying petition including services  
48 provided by family support centers.

49 § 44. Section 758-a of the family court act, as amended by chapter 73  
50 of the laws of 1979, subdivision 1 as amended by chapter 4 of the laws  
51 of 1987, paragraph (b) of subdivision 1 as amended by chapter 575 of the  
52 laws of 2007, subdivision 2 as amended by chapter 309 of the laws of  
53 1996, and subdivision 3 as separately amended by chapter 568 of the laws  
54 of 1979, is amended to read as follows:

§ 758-a. Restitution. 1. In cases involving acts of [~~infante~~] children over [~~ten~~] twelve and less than [~~sixteen~~] eighteen years of age, the court may

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

(b) order as a condition of placement, probation, or suspended judgment, services for the public good including in the case of a crime involving willful, malicious, or unlawful damage or destruction to real or personal property maintained as a cemetery plot, grave, burial place, or other place of interment of human remains, services for the maintenance and repair thereof, taking into consideration the age and physical condition of the [~~infant~~] child.

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

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

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

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

(f) to participate in family counseling or other professional counseling activities, or other services, including services provided by family support centers, alternative dispute resolution services conducted by an authorized person or an authorized agency to which the

1 youth has been referred or placed, deemed necessary for the rehabili-  
2 tation of the youth, provided that such family counseling, other coun-  
3 seling activity or other necessary services are not contrary to such  
4 person's religious beliefs;

5 § 46. Section 768 of the family court act is amended to read as  
6 follows:

7 § 768. Successive petitions. If a petition under section seven hundred  
8 sixty-four is denied, it may not be renewed for a period of [~~ninety~~]  
9 thirty days after the denial, unless the order of denial permits renewal  
10 at an earlier time.

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

13 2-a. Notwithstanding any other provision of law to the contrary, state  
14 reimbursement shall be made available for one hundred percent of expend-  
15 itures made by social services districts, exclusive of any federal funds  
16 made available for such purposes, for preventive services, aftercare  
17 services, independent living services and foster care services provided  
18 to youth age sixteen years of age or older when such services would not  
19 otherwise have been provided to such youth absent the provisions in a  
20 chapter of the laws of two thousand seventeen that increased the age of  
21 juvenile jurisdiction above fifteen years of age.

22 2-b. Notwithstanding any other provision of law to the contrary, state  
23 reimbursement shall be made available for one hundred percent of expend-  
24 itures made by social services districts, exclusive of any federal funds  
25 made available for such purpose, for family support centers established  
26 pursuant to title twelve of this article.

27 § 48. Subdivisions 5 and 6 of section 371 of the social services law,  
28 subdivision 5 as added by chapter 690 of the laws of 1962, and subdivi-  
29 sion 6 as amended by chapter 596 of the laws of 2000, are amended to  
30 read as follows:

31 5. "Juvenile delinquent" means a person [~~over seven and less than~~  
32 ~~sixteen years of age who does any act which, if done by an adult, would~~  
33 ~~constitute a crime~~] as defined in section 301.2 of the family court act.

34 6. "Person in need of supervision" means a person [~~less than eighteen~~  
35 ~~years of age who is habitually truant or who is incorrigible, ungovernable~~  
36 ~~or habitually disobedient and beyond the lawful control of a parent~~  
37 ~~or other person legally responsible for such child's care, or other~~  
38 ~~lawful authority~~] as defined in section seven hundred twelve of the  
39 family court act.

40 § 49. Article 6 of the social services law is amended by adding a new  
41 title 12 to read as follows:

## 42 TITLE 12

### 43 FAMILY SUPPORT CENTERS

44 Section 458-m. Family support centers.

45 458-n. Funding for family support centers.

46 § 458-m. Family support centers. 1. As used in this title, the term  
47 "family support center" shall mean a program established pursuant to  
48 this title to provide community-based supportive services to youth at  
49 risk of being, or alleged or adjudicated to be persons in need of super-  
50 vision pursuant to article seven of the family court act, and their  
51 families. Family support centers may also provide community-based  
52 supportive services to youth who are alleged or adjudicated to be juve-  
53 nilite delinquents pursuant to article three of the family court act.

54 2. Family support centers shall provide comprehensive services to such  
55 children and their families, either directly or through referrals with  
56 partner agencies, including, but not limited to:

1 (a) rapid family assessments and screenings;  
2 (b) crisis intervention;  
3 (c) family mediation and skills building;  
4 (d) mental and behavioral health services, as defined in subdivision  
5 fifty-eight of section 1.03 of the mental hygiene law, including cogni-  
6 tive interventions;  
7 (e) case management;  
8 (f) respite services; and  
9 (g) other family support services.

10 3. To the extent practicable, the services that are provided shall be  
11 trauma sensitive, family focused, gender-responsive, where appropriate,  
12 and evidence and/or strength based and shall be tailored to the individ-  
13 ualized needs of the child and family based on the assessments and  
14 screenings conducted by such family support center.

15 4. Family support centers shall have the capacity to serve families  
16 outside of regular business hours including evenings or weekends.

17 § 458-n. Funding for family support centers. 1. Notwithstanding any  
18 other provision of law to the contrary, state reimbursement shall be  
19 made available for one hundred percent of expenditures made by social  
20 services districts, exclusive of any federal funds made available for  
21 such purpose, for family support centers statewide.

22 2. Notwithstanding any other provision of law to the contrary, family  
23 support centers shall be established in each social services district  
24 throughout the state with the approval of the office of children and  
25 family services, provided however that two or more social services  
26 districts may join together to establish, operate and maintain a family  
27 support center and may make and perform agreements in connection there-  
28 with.

29 3. Social services districts may contract with not-for-profit corpo-  
30 rations or utilize existing programs to operate family support centers  
31 in accordance with the provisions of this title and the specific program  
32 requirements issued by the office. Family support centers shall have  
33 sufficient capacity to provide services to youth within the social  
34 services district or districts who are at risk of becoming, alleged or  
35 adjudicated to be persons in need of supervision pursuant to article  
36 seven of the family court act, and their families. In addition, to the  
37 extent practicable, family support centers may provide services to youth  
38 who are alleged or adjudicated under article three of the family court  
39 act.

40 4. Social services districts receiving funding under this title shall  
41 report to the office of children and family services, in the form and  
42 manner and at such times as determined by the office, on the performance  
43 outcomes of any family support center located within such district that  
44 receives funding under this title.

45 § 50. Subdivisions 3 and 11 of section 398 of the social services law,  
46 subdivision 3 as amended by chapter 419 of the laws of 1987, paragraph  
47 (c) of subdivision 3 as amended by section 19 of part E of chapter 57 of  
48 the laws of 2005, subdivision 11 as added by chapter 514 of the laws of  
49 1976, are amended to read as follows:

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

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

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

54 (c) Receive within fifteen days from the order of placement as a  
55 public charge any delinquent child committed or placed or in the case of  
56 a person in need of supervision placed, ten days, in his or her care by

1 the family court provided, however, that the commissioner of the social  
2 services district with whom the child is placed may apply to the state  
3 commissioner or his or her designee for approval of an additional  
4 fifteen days, or in the case of a person in need of supervision, ten  
5 days, upon written documentation to the office of children and family  
6 services that the youth is in need of specialized treatment or placement  
7 and the diligent efforts by the commissioner of social services to  
8 locate an appropriate placement.

9 11. In the case of a child who is adjudicated a person in need of  
10 supervision or a juvenile delinquent and is placed by the family court  
11 with the [~~division for youth~~] office of children and family services and  
12 who is placed by [~~the division for youth~~] such office with an authorized  
13 agency pursuant to court order, the social services official shall make  
14 expenditures in accordance with the regulations of the department for  
15 the care and maintenance of such child during the term of such placement  
16 subject to state reimbursement pursuant to section one hundred fifty-  
17 three-k of this title[~~, or article nineteen-G of the executive law in~~  
18 ~~applicable cases~~].

19 § 51. Subdivision 8 of section 404 of the social services law, as  
20 added by section 1 of subpart A of part G of chapter 57 of the laws of  
21 2012, is amended to read as follows:

22 8. (a) Notwithstanding any other provision of law to the contrary[~~,~~]  
23 except as provided for in paragraph (a-1) of this subdivision, eligible  
24 expenditures during the applicable time periods made by a social  
25 services district for an approved juvenile justice services close to  
26 home initiative shall, if approved by the department of family assist-  
27 ance, be subject to reimbursement with state funds only up to the extent  
28 of an annual appropriation made specifically therefor, after first  
29 deducting therefrom any federal funds properly received or to be  
30 received on account thereof; provided, however, that when such funds  
31 have been exhausted, a social services district may receive state  
32 reimbursement from other available state appropriations for that state  
33 fiscal year for eligible expenditures for services that otherwise would  
34 be reimbursable under such funding streams. Any claims submitted by a  
35 social services district for reimbursement for a particular state fiscal  
36 year for which the social services district does not receive state  
37 reimbursement from the annual appropriation for the approved close to  
38 home initiative may not be claimed against that district's appropriation  
39 for the initiative for the next or any subsequent state fiscal year.

40 (i) State funding for reimbursement shall be, subject to appropri-  
41 ation, in the following amounts: for state fiscal year 2013-14,  
42 \$35,200,000 adjusted by any changes in such amount required by subpara-  
43 graphs (ii) and (iii) of this paragraph; for state fiscal year 2014-15,  
44 \$41,400,000 adjusted to include the amount of any changes made to the  
45 state fiscal year 2013-14 appropriation under subparagraphs (ii) and  
46 (iii) of this paragraph plus any additional changes required by such  
47 subparagraphs; and, such reimbursement shall be, subject to appropri-  
48 ation, for all subsequent state fiscal years in the amount of the prior  
49 year's actual appropriation adjusted by any changes required by subpara-  
50 graphs (ii) and (iii) of this paragraph.

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



1 programs in existence immediately prior to the most recently approved  
2 rates.

3 (iii) The reimbursement amounts set forth in subparagraph (i) of this  
4 paragraph shall be increased if either the population of alleged juvenile  
5 delinquents who receive a probation intake or the total population  
6 of adjudicated juvenile delinquents placed on probation combined with  
7 the population of adjudicated juvenile delinquents placed out of their  
8 homes in a setting other than a secure facility pursuant to section  
9 352.2 of the family court act, increases by at least ten percent over  
10 the respective population in the annual baseline year. The baseline year  
11 shall be the period from July first, two thousand ten through June thirtieth,  
12 two thousand eleven or the most recent twelve month period for  
13 which there is complete data, whichever is later. In each successive  
14 year, the population of the previous July first through June thirtieth  
15 period shall be compared to the baseline year for determining any  
16 adjustments to a state fiscal year appropriation. When either population  
17 increases by ten percent or more, the reimbursement will be adjusted by  
18 a percentage equal to the larger of the percentage increase in either  
19 the number of probation intakes for alleged juvenile delinquents or the  
20 total population of adjudicated juvenile delinquents placed on probation  
21 combined with the population of adjudicated juvenile delinquents placed  
22 out of their homes in a setting other than a secure facility pursuant to  
23 section 352.2 of the family court act.

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

31 (a-1) State reimbursement shall be made available for one hundred  
32 percent of eligible expenditures made by a social services district,  
33 exclusive of any federal funds made available for such purposes, for  
34 approved juvenile justice services under an approved close to home  
35 initiative provided to youth age sixteen years of age or older when such  
36 services would not otherwise have been provided to such youth absent the  
37 provisions in a chapter of the laws of two thousand seventeen that  
38 increased the age of juvenile jurisdiction above fifteen years of age.

39 (b) The department of family assistance is authorized, in its  
40 discretion, to make advances to a social services district in anticipation  
41 of the state reimbursement provided for in this section.

42 (c) A social services district shall conduct eligibility determinations  
43 for federal and state funding and submit claims for reimbursement in  
44 such form and manner and at such times and for such periods as the  
45 department of family assistance shall determine.

46 (d) Notwithstanding any inconsistent provision of law or regulation of  
47 the department of family assistance, state reimbursement shall not be  
48 made for any expenditure made for the duplication of any grant or allowance  
49 for any period.

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

54 (f) The office of children and family services shall not reimburse any  
55 claims for expenditures for residential services that are submitted more

1 than twenty-two months after the calendar quarter in which the expendi-  
2 tures were made.

3 (g) Notwithstanding any other provision of law, the state shall not be  
4 responsible for reimbursing a social services district and a district  
5 shall not seek state reimbursement for any portion of any state disal-  
6 lowance or sanction taken against the social services district, or any  
7 federal disallowance attributable to final federal agency decisions or  
8 to settlements made, when such disallowance or sanction results from the  
9 failure of the social services district to comply with federal or state  
10 requirements, including, but not limited to, failure to document eligi-  
11 bility for the federal or state funds in the case record. To the extent  
12 that the social services district has sufficient claims other than those  
13 that are subject to disallowance or sanction to draw down the full annu-  
14 al appropriation, such disallowance or sanction shall not result in a  
15 reduction in payment of state funds to the district unless the district  
16 requests that the department use a portion of the appropriation toward  
17 meeting the district's responsibility to repay the federal government  
18 for the disallowance or sanction and any related interest payments.

19 (h) Rates for residential services. (i) The office shall establish the  
20 rates, in accordance with section three hundred ninety-eight-a of this  
21 chapter, for any non-secure facilities established under an approved  
22 juvenile justice services close to home initiative. For any such non-se-  
23 cure facility that will be used primarily by the social services  
24 district with an approved close to home initiative, final authority for  
25 establishment of such rates and any adjustments thereto shall reside  
26 with the office, but such rates and any adjustments thereto shall be  
27 established only upon the request of, and in consultation with, such  
28 social services district.

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

37 § 52. Paragraph (a) of subdivision 1 of section 409-a of the social  
38 services law, as amended by chapter 87 of the laws of 1993, subparagraph  
39 (i) as amended by chapter 342 of the laws of 2010, and subparagraph (ii)  
40 as amended by section 22 of part C of chapter 83 of the laws of 2002, is  
41 amended to read as follows:

42 (a) A social services official shall provide preventive services to a  
43 child and his or her family, in accordance with the family's service  
44 plan as required by section four hundred nine-e of this chapter and the  
45 social services district's child welfare services plan submitted and  
46 approved pursuant to section four hundred nine-d of this chapter, upon a  
47 finding by such official that (i) the child will be placed, returned to  
48 or continued in foster care unless such services are provided and that  
49 it is reasonable to believe that by providing such services the child  
50 will be able to remain with or be returned to his or her family, and for  
51 a former foster care youth under the age of twenty-one who was previous-  
52 ly placed in the care and custody or custody and guardianship of the  
53 local commissioner of social services or other officer, board or depart-  
54 ment authorized to receive children as public charges where it is  
55 reasonable to believe that by providing such services the former foster  
56 care youth will avoid a return to foster care or (ii) the child is the

1 subject of a petition under article seven of the family court act, or  
2 has been determined by the assessment service established pursuant to  
3 section two hundred forty-three-a of the executive law, or by the  
4 probation service where no such assessment service has been designated,  
5 to be at risk of being the subject of such a petition, and the social  
6 services official determines that the child is at risk of placement into  
7 foster care. Such finding shall be entered in the child's uniform case  
8 record established and maintained pursuant to section four hundred  
9 nine-f of this chapter. The commissioner shall promulgate regulations to  
10 assist social services officials in making determinations of eligibility  
11 for mandated preventive services pursuant to this ~~[subparagraph]~~ para-  
12 graph.

13 § 53. Section 30.00 of the penal law, as amended by chapter 481 of the  
14 laws of 1978, subdivision 2 as amended by chapter 7 of the laws of 2007,  
15 is amended to read as follows:

16 § 30.00 Infancy.

17 1. Except as provided in ~~[subdivision]~~ subdivisions two and three of  
18 this section, a person less than ~~[sixteen]~~ eighteen years old is not  
19 criminally responsible for conduct.

20 2. A person thirteen, fourteen ~~[or]~~, fifteen, sixteen, or seventeen  
21 years of age is criminally responsible for acts constituting murder in  
22 the second degree as defined in subdivisions one and two of section  
23 125.25 and in subdivision three of such section provided that the under-  
24 lying crime for the murder charge is one for which such person is crimi-  
25 nally responsible or for such conduct as a sexually motivated felony,  
26 where authorized pursuant to section 130.91 of ~~[the penal law]~~ this  
27 chapter; and a person fourteen ~~[or]~~, fifteen, sixteen or seventeen years  
28 of age is criminally responsible for acts constituting the crimes  
29 defined in section 135.25 (kidnapping in the first degree); 150.20  
30 (arson in the first degree); subdivisions one and two of section 120.10  
31 (assault in the first degree); 125.20 (manslaughter in the first  
32 degree); subdivisions one and two of section 130.35 (rape in the first  
33 degree); subdivisions one and two of section 130.50 (criminal sexual act  
34 in the first degree); 130.70 (aggravated sexual abuse in the first  
35 degree); 140.30 (burglary in the first degree); subdivision one of  
36 section 140.25 (burglary in the second degree); 150.15 (arson in the  
37 second degree); 160.15 (robbery in the first degree); subdivision two of  
38 section 160.10 (robbery in the second degree) of this chapter; or  
39 section 265.03 of this chapter, where such machine gun or such firearm  
40 is possessed on school grounds, as that phrase is defined in subdivision  
41 fourteen of section 220.00 of this chapter; or defined in this chapter  
42 as an attempt to commit murder in the second degree or kidnapping in the  
43 first degree, or for such conduct as a sexually motivated felony, where  
44 authorized pursuant to section 130.91 of ~~[the penal law]~~ this chapter.

45 3. A person sixteen or seventeen years of age is criminally responsi-  
46 ble for acts constituting the crimes defined in section 460.22 (aggra-  
47 ated enterprise corruption); 490.25 (crime of terrorism); 490.45 (crim-  
48 inal possession of a chemical or biological weapon in the first degree);  
49 490.50 (criminal use of a chemical weapon or biological weapon in the  
50 second degree); 490.55 (criminal use of a chemical weapon or biological  
51 weapon in the first degree); 120.11 (aggravated assault upon a police  
52 officer or a peace officer); 125.22 (aggravated manslaughter in the  
53 first degree); 215.17 (intimidating a victim or witness in the first  
54 degree); 265.04 (criminal possession of a weapon in the first degree);  
55 265.09 (criminal use of a firearm in the first degree); 265.13 (criminal  
56 sale of a firearm in the first degree); 490.35 (hindering prosecution of

terrorism in the first degree); 490.40 (criminal possession of a chemical weapon or biological weapon in the second degree); 490.47 (criminal use of a chemical weapon or biological weapon in the third degree); 121.13 (strangulation in the first degree); 490.37 (criminal possession of a chemical weapon or biological weapon in the third degree) of this chapter; or a felony sex offense as defined in paragraph (a) of subdivision one of section 70.80 of this chapter.

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

§ 54. Subdivision 2 of section 60.02 of the penal law, as amended by chapter 471 of the laws of 1980, is amended to read as follows:

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

§ 55. Section 60.10 of the penal law, as amended by chapter 411 of the laws of 1979, is amended to read as follows:

§ 60.10 Authorized disposition; juvenile offender.

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

2. Subdivision one of this section shall apply when sentencing a juvenile offender notwithstanding the provisions of any other law that deals with the authorized sentence for persons who are not juvenile offenders. Provided, however, that the limitation prescribed by this section shall not be deemed or construed to bar use of a conviction of a juvenile offender, other than a juvenile offender who has been adjudicated a youthful offender pursuant to section 720.20 of the criminal procedure law, as a previous or predicate felony offender under section 70.04, 70.06, 70.07, 70.08~~[, or 70.10,]~~ or 70.80 when sentencing a person who commits a felony after ~~[he]~~ such person has reached the age of ~~[sixteen]~~ eighteen.

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

(b) For ~~[the]~~ a class ~~[A]~~ A-I felony ~~[of arson in the first degree, or for the class A felony of kidnapping in the first degree]~~ other than murder in the second degree, the term shall be fixed by the court, and shall be at least twelve years but shall not exceed fifteen years;

(b-1) For a class A-II felony the term shall be fixed by the court and shall be at least ten years but shall not exceed fourteen years;

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

(b) For ~~[the]~~ a class ~~[A]~~ A-I felony ~~[of arson in the first degree, or for the class A felony of kidnapping in the first degree]~~ other than murder in the second degree, the minimum period of imprisonment shall be fixed by the court and shall be not less than four years but shall not exceed six years; and

(b-1) For a class A-II felony, the minimum period of imprisonment shall be fixed by the court and shall be not less than three years but shall not exceed five years; and

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

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

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

~~[(c) Notwithstanding paragraph (b) of this subdivision, where the court commits a defendant who is not yet eighteen years of age to the custody of the department of corrections and community supervision in accordance with this section and no medical consent has been obtained prior to said commitment, the commitment order shall be deemed to grant the capacity to consent to routine medical, dental and mental health services and treatment to the person so committed.~~

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

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

§ 58-a. Subdivision d of section 74 of chapter 3 of the laws of 1995, enacting the sentencing reform act of 1995, as amended by section 19 of part B of chapter 55 of the laws of 2015, is amended and a new subdivision d-1 is added to read as follows:

d. Sections one-a through eight, ten through twenty, twenty-four through twenty-eight, thirty through thirty-nine, forty-two and forty-four of this act shall be deemed repealed on September 1, 2017;

d-1. Section nine of this act shall be deemed repealed on September 1, 2019;

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

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

~~[(b) The court in committing a defendant who is not yet eighteen years of age to the local correctional facility shall inquire as to whether the parents or legal guardian of the defendant, if present, will grant~~



~~to the minor the capacity to consent to routine medical, dental and mental health services and treatment.~~

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

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

4. (a) Notwithstanding any other provision of law to the contrary, a juvenile offender~~[r]~~ or a juvenile offender who is adjudicated a youthful offender and given an indeterminate or a definite sentence, and who is under the age of twenty-one at the time of sentencing, shall be committed to the custody of the commissioner of the office of children and family services who shall arrange for the confinement of such offender in ~~[secure]~~ facilities of the office. The release or transfer of such offenders from the office of children and family services shall be governed by section five hundred eight of the executive law. If the juvenile offender is convicted or adjudicated a youthful offender and is twenty-one years of age or older at the time of sentencing, he or she shall be delivered to the department of corrections and community supervision.

(a-1) Notwithstanding any other provision of law to the contrary, a person who is sentenced to an indeterminate sentence as an adult for committing a crime when he or she was sixteen or seventeen years of age who is sentenced on or after December first, two thousand seventeen to a term of at least one year of imprisonment and who is under the age of eighteen at the time he or she is sentenced shall be committed to the custody of the commissioner of the office of children and family services who shall arrange for the confinement of such offender in facilities of the office. The release or transfer of such offenders from the office of children and family services shall be governed by section five hundred eight of the executive law.

(b) The court in committing ~~[a juvenile offender and youthful offender]~~ an offender under eighteen years of age to the custody of the office of children and family services shall inquire as to whether the parents or legal guardian of the youth, if present, will consent for the office of children and family services to provide routine medical, dental and mental health services and treatment.

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

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

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

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

(f) The aggregate maximum term of consecutive sentences imposed upon a juvenile offender for two or more crimes, not including a class A felony, committed before he has reached the age of sixteen, shall, if it exceeds ten years, be deemed to be ten years. If consecutive indeterminate sentences imposed upon a juvenile offender include a sentence for ~~[the] a class A felony [of arson in the first degree or for the class A felony of kidnapping in the first degree]~~ other than murder in the second degree, then the aggregate maximum term of such sentences shall, if it exceeds fifteen years, be deemed to be fifteen years. Where the aggregate maximum term of two or more consecutive sentences is reduced by a calculation made pursuant to this paragraph, the aggregate minimum period of imprisonment, if it exceeds one-half of the aggregate maximum term as so reduced, shall be deemed to be one-half of the aggregate maximum term as so reduced.

§ 61. Subdivision 18 of section 10.00 of the penal law, as amended by chapter 7 of the laws of 2007, is amended to read as follows:

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

(2) a person fourteen ~~[or]~~, fifteen, sixteen or seventeen years old who is criminally responsible for acts constituting the crimes defined in subdivisions one and two of section 125.25 (murder in the second degree) and in subdivision three of such section provided that the underlying crime for the murder charge is one for which such person is criminally responsible; section 135.25 (kidnapping in the first degree); 150.20 (arson in the first degree); subdivisions one and two of section 120.10 (assault in the first degree); 125.20 (manslaughter in the first degree); subdivisions one and two of section 130.35 (rape in the first degree); subdivisions one and two of section 130.50 (criminal sexual act in the first degree); 130.70 (aggravated sexual abuse in the first degree); 140.30 (burglary in the first degree); subdivision one of section 140.25 (burglary in the second degree); 150.15 (arson in the second degree); 160.15 (robbery in the first degree); subdivision two of section 160.10 (robbery in the second degree) of this chapter; or section 265.03 of this chapter, where such machine gun or such firearm is possessed on school grounds, as that phrase is defined in subdivision fourteen of section 220.00 of this chapter; or defined in this chapter as an attempt to commit murder in the second degree or kidnapping in the first degree, or such conduct as a sexually motivated felony, where authorized pursuant to section 130.91 of ~~[the penal law]~~ this chapter; and

(3) a person sixteen or seventeen years of age is criminally responsible for acts constituting the crimes defined in section 460.22 (aggravated enterprise corruption); 490.25 (crime of terrorism); 490.45 (criminal possession of a chemical weapon or biological weapon in the first degree); 490.50 (criminal use of a chemical weapon or biological weapon in the second degree); 490.55 (criminal use of a chemical weapon or

1 biological weapon in the first degree); 120.11 (aggravated assault upon  
2 a police officer or a peace officer); 125.22 (aggravated manslaughter in  
3 the first degree); 215.17 (intimidating a victim or witness in the first  
4 degree); 265.04 (criminal possession of a weapon in the first degree);  
5 265.09 (criminal use of a firearm in the first degree); 265.13 (criminal  
6 sale of a firearm in the first degree); 490.35 (hindering prosecution of  
7 terrorism in the first degree); 490.40 (criminal possession of a chemi-  
8 cal weapon or biological weapon in the second degree); 490.47 (criminal  
9 use of a chemical weapon or biological weapon in the third degree);  
10 121.13 (strangulation in the first degree); 490.37 (criminal possession  
11 of a chemical weapon or biological weapon in the third degree) of this  
12 chapter; or a felony sex offense as defined in paragraph (a) of subdivi-  
13 sion one of section 70.80 of this chapter.

14 § 62. Subdivision 42 of section 1.20 of the criminal procedure law, as  
15 amended by chapter 7 of the laws of 2007, is amended to read as follows:

16 42. "Juvenile offender" means (1) a person, thirteen years old who is  
17 criminally responsible for acts constituting murder in the second degree  
18 as defined in subdivisions one and two of section 125.25 of the penal  
19 law, or such conduct as a sexually motivated felony, where authorized  
20 pursuant to section 130.91 of the penal law; ~~and~~ (2) a person fourteen  
21 ~~or~~, fifteen, sixteen or seventeen years old who is criminally respon-  
22 sible for acts constituting the crimes defined in subdivisions one and  
23 two of section 125.25 (murder in the second degree) and in subdivision  
24 three of such section provided that the underlying crime for the murder  
25 charge is one for which such person is criminally responsible; section  
26 135.25 (kidnapping in the first degree); 150.20 (arson in the first  
27 degree); subdivisions one and two of section 120.10 (assault in the  
28 first degree); 125.20 (manslaughter in the first degree); subdivisions  
29 one and two of section 130.35 (rape in the first degree); subdivisions  
30 one and two of section 130.50 (criminal sexual act in the first degree);  
31 130.70 (aggravated sexual abuse in the first degree); 140.30 (burglary  
32 in the first degree); subdivision one of section 140.25 (burglary in the  
33 second degree); 150.15 (arson in the second degree); 160.15 (robbery in  
34 the first degree); subdivision two of section 160.10 (robbery in the  
35 second degree) of the penal law; or section 265.03 of the penal law,  
36 where such machine gun or such firearm is possessed on school grounds,  
37 as that phrase is defined in subdivision fourteen of section 220.00 of  
38 the penal law; or defined in the penal law as an attempt to commit  
39 murder in the second degree or kidnapping in the first degree, or such  
40 conduct as a sexually motivated felony, where authorized pursuant to  
41 section 130.91 of the penal law; and (3) a person sixteen or seventeen  
42 years of age is criminally responsible for acts constituting the crimes  
43 defined in section 460.22 (aggravated enterprise corruption); 490.25  
44 (crime of terrorism); 490.45 (criminal possession of a chemical weapon  
45 or biological weapon in the first degree); 490.50 (criminal use of a  
46 chemical weapon or biological weapon in the second degree); 490.55  
47 (criminal use of a chemical weapon or biological weapon in the first  
48 degree); 120.11 (aggravated assault upon a police officer or a peace  
49 officer); 125.22 (aggravated manslaughter in the first degree); 215.17  
50 (intimidating a victim or witness in the first degree); 265.04 (criminal  
51 possession of a weapon in the first degree); 265.09 (criminal use of a  
52 firearm in the first degree); 265.13 (criminal sale of a firearm in the  
53 first degree); 490.35 (hindering prosecution of terrorism in the first  
54 degree); 490.40 (criminal possession of a chemical weapon or biological  
55 weapon in the second degree); 490.47 (criminal use of a chemical weapon  
56 or biological weapon in the third degree); 121.13 (strangulation in the

1 first degree); 490.37 (criminal possession of a chemical weapon or  
2 biological weapon in the third degree) of this chapter; or a felony sex  
3 offense as defined in paragraph (a) of subdivision one of section 70.80  
4 of this chapter.

5 § 63. The article heading of article 100 of the criminal procedure law  
6 is amended to read as follows:

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

10 § 63-a. The opening paragraph of section 100.05 of the criminal proce-  
11 dure law is amended to read as follows:

12 A criminal action is commenced by the filing of an accusatory instru-  
13 ment with a criminal court, or, in the case of a juvenile offender, the  
14 youth part of the superior court, and if more than one such instrument  
15 is filed in the course of the same criminal action, such action  
16 commences when the first of such instruments is filed. The only way in  
17 which a criminal action can be commenced in a superior court is by the  
18 filing therewith by a grand jury of an indictment against a defendant  
19 who has never been held by a local criminal court for the action of such  
20 grand jury with respect to any charge contained in such indictment;  
21 provided, however, that when the criminal action is commenced against a  
22 juvenile offender, such criminal action, whatever the form of commence-  
23 ment, shall be filed in the youth part of the superior court or, if the  
24 youth part is not in session, filed with the most accessible magistrate  
25 designated by the appellate division of the supreme court in the appli-  
26 cable department to act as a youth part. Otherwise, a criminal action  
27 can be commenced only in a local criminal court, by the filing therewith  
28 of a local criminal court accusatory instrument, namely:

29 § 63-b. The section heading and subdivision 5 of section 100.10 of the  
30 criminal procedure law are amended to read as follows:

31 Local criminal court and youth part of the superior court accusatory  
32 instruments; definitions thereof.

33 5. A "felony complaint" is a verified written accusation by a person,  
34 filed with a local criminal court, or youth part of the superior court,  
35 charging one or more other persons with the commission of one or more  
36 felonies. It serves as a basis for the commencement of a criminal  
37 action, but not as a basis for prosecution thereof.

38 § 63-c. The section heading of section 100.40 of the criminal proce-  
39 dure law is amended to read as follows:

40 Local criminal court and youth part of the superior court accusatory  
41 instruments; sufficiency on face.

42 § 63-d. The criminal procedure law is amended by adding a new section  
43 100.60 to read as follows:

44 § 100.60 Youth part of the superior court accusatory instruments; in  
45 what courts filed.

46 Any youth part of the superior court accusatory instrument may be  
47 filed with the youth part of the superior court of a particular county  
48 when an offense charged therein was allegedly committed in such county  
49 or that part thereof over which such court has jurisdiction.

50 § 63-e. The article heading of article 110 of the criminal procedure  
51 law is amended to read as follows:

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

55 § 63-f. The section heading and subdivisions 1 and 2 of section 110.10  
56 of the criminal procedure law are amended to read as follows:

1 Methods of requiring defendant's appearance in local criminal court or  
2 youth part of the superior court for arraignment; in general.

3 1. After a criminal action has been commenced in a local criminal  
4 court or youth part of the superior court by the filing of an accusatory  
5 instrument therewith, a defendant who has not been arraigned in the  
6 action and has not come under the control of the court may under certain  
7 circumstances be compelled or required to appear for arraignment upon  
8 such accusatory instrument by:

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

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

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

17 2. Although no criminal action against a person has been commenced in  
18 any court, he may under certain circumstances be compelled or required  
19 to appear in a local criminal court or youth part of a superior court  
20 for arraignment upon an accusatory instrument to be filed therewith at  
21 or before the time of his appearance by:

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

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

26 § 63-g. Section 110.20 of the criminal procedure law, as amended by  
27 chapter 843 of the laws of 1980, is amended to read as follows:

28 § 110.20 Local criminal court or youth part of the superior court accu-  
29 satory instruments; notice thereof to district attorney.

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

43 § 63-h. The opening paragraph of subdivision 1 of section 120.20 of  
44 the criminal procedure law, as amended by chapter 506 of the laws of  
45 2000, is amended to read as follows:

46 When a criminal action has been commenced in a local criminal court or  
47 youth part of the superior court by the filing therewith of an accusato-  
48 ry instrument, other than a simplified traffic information, against a  
49 defendant who has not been arraigned upon such accusatory instrument and  
50 has not come under the control of the court with respect thereto:

51 § 63-i. Section 120.30 of the criminal procedure law is amended to  
52 read as follows:

53 § 120.30 Warrant of arrest; by what courts issuable and in what courts  
54 returnable.

55 1. A warrant of arrest may be issued only by the local criminal court  
56 or youth part of the superior court with which the underlying accusatory



1 instrument has been filed, and it may be made returnable in such issuing  
2 court only.

3 2. The particular local criminal court or courts or youth part of  
4 superior court with which any particular local criminal court or youth  
5 part of the superior court accusatory instrument may be filed for the  
6 purpose of obtaining a warrant of arrest are determined, generally, by  
7 the provisions of section 100.55 or 100.60, as applicable. If, however,  
8 a particular accusatory instrument may pursuant to said section 100.55  
9 be filed with a particular town court and such town court is not avail-  
10 able at the time such instrument is sought to be filed and a warrant  
11 obtained, such accusatory instrument may be filed with the town court of  
12 any adjoining town of the same county. If such instrument may be filed  
13 pursuant to said section 100.55 with a particular village court and such  
14 village court is not available at the time, it may be filed with the  
15 town court of the town embracing such village, or if such town court is  
16 not available either, with the town court of any adjoining town of the  
17 same county.

18 § 63-j. Section 120.55 of the criminal procedure law, as amended by  
19 section 71 of subpart B of part C of chapter 62 of the laws of 2011, is  
20 amended to read as follows:

21 § 120.55 Warrant of arrest; defendant under parole or probation super-  
22 vision.

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

35 § 63-k. Subdivision 1 of section 120.70 of the criminal procedure law  
36 is amended to read as follows:

37 1. A warrant of arrest issued by a district court, by the New York  
38 City criminal court, the youth part of a superior court or by a superior  
39 court judge sitting as a local criminal court may be executed anywhere  
40 in the state.

41 § 63-l. Section 120.90 of the criminal procedure law, as amended by  
42 chapter 424 of the laws of 1998, subdivision 8 as amended by chapter 96  
43 of the laws of 2010, is amended to read as follows:

44 § 120.90 Warrant of arrest; procedure after arrest.

45 1. Upon arresting a defendant for any offense pursuant to a warrant  
46 of arrest in the county in which the warrant is returnable or in any  
47 adjoining county, or upon so arresting him for a felony in any other  
48 county, a police officer, if he be one to whom the warrant is addressed,  
49 must without unnecessary delay bring the defendant before the local  
50 criminal court or youth part of the superior court in which such warrant  
51 is returnable.

52 2. Upon arresting a defendant for any offense pursuant to a warrant  
53 of arrest in a county adjoining the county in which the warrant is  
54 returnable, or upon so arresting him for a felony in any other county, a  
55 police officer, if he be one delegated to execute the warrant pursuant  
56 to section 120.60, must without unnecessary delay deliver the defendant

1 or cause him to be delivered to the custody of the officer by whom he  
2 was so delegated, and the latter must then proceed as provided in subdi-  
3 vision one.

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

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

53 5. Whenever a police officer is required pursuant to this section to  
54 bring an arrested defendant before a town court in which a warrant of  
55 arrest is returnable, and if such town court is not available at the  
56 time, such officer must, if a copy of the underlying accusatory instru-

1 ment has been attached to the warrant pursuant to section 120.40,  
2 instead bring such defendant before any village court embraced, in whole  
3 or in part, by such town, or any local criminal court of an adjoining  
4 town or city of the same county or any village court embraced, in whole  
5 or in part, by such adjoining town. When the court in which the warrant  
6 is returnable is a village court which is not available at the time, the  
7 officer must in such circumstances bring the defendant before the town  
8 court of the town embracing such village or any other village court  
9 within such town or, if such town court or village court is not avail-  
10 able either, before the local criminal court of any town or city of the  
11 same county which adjoins such embracing town or, before the local crim-  
12 inal court of any village embraced in whole or in part by such adjoining  
13 town. When the court in which the warrant is returnable is a city court  
14 which is not available at the time, the officer must in such circum-  
15 stances bring the defendant before the local criminal court of any  
16 adjoining town or village embraced in whole or in part by such adjoining  
17 town of the same county.

18 5-a. Whenever a police officer is required, pursuant to this section,  
19 to bring an arrested defendant before a youth part of a superior court  
20 in which a warrant of arrest is returnable, and if such court is not  
21 available at the time, such officer must bring such defendant before the  
22 most accessible magistrate designated by the appellate division of the  
23 supreme court in the applicable department to act as a youth part.

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

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

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

52 § 63-1-1. Subdivision 1 of section 120.90 of the criminal procedure  
53 law, as amended by chapter 492 of the laws of 2016, is amended to read  
54 as follows:

55 1. Upon arresting a defendant for any offense pursuant to a warrant of  
56 arrest in the county in which the warrant is returnable or in any

1 adjoining county, or upon so arresting him or her for a felony in any  
2 other county, a police officer, if he or she be one to whom the warrant  
3 is addressed, must without unnecessary delay bring the defendant before  
4 the local criminal court or youth part of the superior court in which  
5 such warrant is returnable, provided that, where a local criminal court  
6 in the county in which the warrant is returnable hereunder is operating  
7 an off-hours arraignment part designated in accordance with paragraph  
8 (w) of subdivision one of section two hundred twelve of the judiciary  
9 law at the time of defendant's return, such police officer may bring the  
10 defendant before such local criminal court.

11 § 63-m. Subdivision 1 of section 130.10 of the criminal procedure law,  
12 as amended by chapter 446 of the laws of 1993, is amended to read as  
13 follows:

14 1. A summons is a process issued by a local criminal court directing a  
15 defendant designated in an information, a prosecutor's information, a  
16 felony complaint or a misdemeanor complaint filed with such court, or a  
17 youth part of a superior court directing a defendant designated in a  
18 felony complaint, or by a superior court directing a defendant desig-  
19 nated in an indictment filed with such court, to appear before it at a  
20 designated future time in connection with such accusatory instrument.  
21 The sole function of a summons is to achieve a defendant's court appear-  
22 ance in a criminal action for the purpose of arraignment upon the accu-  
23 satory instrument by which such action was commenced.

24 § 63-n. Section 130.30 of the criminal procedure law, as amended by  
25 chapter 506 of the laws of 2000, is amended to read as follows:

26 § 130.30 Summons; when issuable.

27 A local criminal court or youth part of the superior court may issue a  
28 summons in any case in which, pursuant to section 120.20, it is author-  
29 ized to issue a warrant of arrest based upon an information, a  
30 prosecutor's information, a felony complaint or a misdemeanor complaint.  
31 If such information, prosecutor's information, felony complaint or  
32 misdemeanor complaint is not sufficient on its face as prescribed in  
33 section 100.40, and if the court is satisfied that on the basis of the  
34 available facts or evidence it would be impossible to draw and file an  
35 authorized accusatory instrument that is sufficient on its face, the  
36 court must dismiss the accusatory instrument. A superior court may issue  
37 a summons in any case in which, pursuant to section 210.10, it is  
38 authorized to issue a warrant of arrest based upon an indictment.

39 § 63-o. Subdivision 1 of section 140.20 of the criminal procedure law  
40 is amended by adding a new paragraph (f) to read as follows:

41 (f) If the arrest is for a person under the age of eighteen, such  
42 person shall be brought before the youth part of the superior court. If  
43 the youth part is not in session, such person shall be brought before  
44 the most accessible magistrate designated by the appellate division of  
45 the supreme court in the applicable department to act as a youth part.

46 § 64. Subdivision 6 of section 140.20 of the criminal procedure law,  
47 as added by chapter 411 of the laws of 1979, is amended to read as  
48 follows:

49 6. Upon arresting a juvenile offender without a warrant, the police  
50 officer shall immediately notify the parent or other person legally  
51 responsible for his or her care or the person with whom he or she is  
52 domiciled, that the juvenile offender has been arrested, and the  
53 location of the facility where he or she is being detained. If the offi-  
54 cer determines that it is necessary to question a juvenile offender or a  
55 child under eighteen years of age who fits within the definition of a  
56 juvenile offender as defined in section 30.00 of the penal law, the

1 officer must take the juvenile to a facility designated by the chief  
2 administrator of the courts as a suitable place for the questioning of  
3 children or, upon the consent of a parent or other person legally  
4 responsible for the care of the juvenile, to the juvenile's residence  
5 and there question him or her for a reasonable period of time. A juve-  
6 nile shall not be questioned pursuant to this section unless the juve-  
7 nile and a person required to be notified pursuant to this subdivision,  
8 if present, have been advised:

9 (a) of the juvenile's right to remain silent;

10 (b) that the statements made by the juvenile may be used in a court of  
11 law;

12 (c) of the juvenile's right to have an attorney present at such ques-  
13 tioning; and

14 (d) of the juvenile's right to have an attorney provided for him or  
15 her without charge if he or she is indigent.

16 In determining the suitability of questioning and determining the  
17 reasonable period of time for questioning such a juvenile offender, the  
18 juvenile's age, the presence or absence of his or her parents or other  
19 persons legally responsible for his or her care and notification pursu-  
20 ant to this subdivision shall be included among relevant considerations.

21 § 64-a. Subdivision 2 of section 140.27 of the criminal procedure law,  
22 as amended by chapter 843 of the laws of 1980, is amended to read as  
23 follows:

24 2. Upon arresting a person without a warrant, a peace officer, except  
25 as otherwise provided in subdivision three or three-a, must without  
26 unnecessary delay bring him or cause him to be brought before a local  
27 criminal court, as provided in section 100.55 and subdivision one of  
28 section 140.20, and must without unnecessary delay file or cause to be  
29 filed therewith an appropriate accusatory instrument. If the offense  
30 which is the subject of the arrest is one of those specified in subdivi-  
31 sion one of section 160.10, the arrested person must be fingerprinted  
32 and photographed as therein provided. In order to execute the required  
33 post-arrest functions, such arresting peace officer may perform such  
34 functions himself or he may enlist the aid of a police officer for the  
35 performance thereof in the manner provided in subdivision one of section  
36 140.20.

37 § 64-b. Section 140.27 of the criminal procedure law is amended by  
38 adding a new subdivision 3-a to read as follows:

39 3-a. If the arrest is for a person under the age of eighteen, such  
40 person shall be brought before the youth part of the superior court. If  
41 the youth part is not in session, such person shall be brought before  
42 the most accessible magistrate designated by the appellate division of  
43 the supreme court in the applicable department to act as a youth part.

44 § 65. Subdivision 5 of section 140.27 of the criminal procedure law,  
45 as added by chapter 411 of the laws of 1979, is amended to read as  
46 follows:

47 5. Upon arresting a juvenile offender without a warrant, the peace  
48 officer shall immediately notify the parent or other person legally  
49 responsible for his care or the person with whom he or she is domiciled,  
50 that the juvenile offender has been arrested, and the location of the  
51 facility where he or she is being detained. If the officer determines  
52 that it is necessary to question a juvenile offender or a child under  
53 eighteen years of age who fits within the definition of a juvenile  
54 offender as defined in section 30.00 of the penal law the officer must  
55 take the juvenile to a facility designated by the chief administrator of  
56 the courts as a suitable place for the questioning of children or, upon



1 the consent of a parent or other person legally responsible for the care  
2 of the juvenile, to the juvenile's residence and there question him or  
3 her for a reasonable period of time. A juvenile shall not be questioned  
4 pursuant to this section unless the juvenile and a person required to be  
5 notified pursuant to this subdivision, if present, have been advised:

6 (a) of the juvenile's right to remain silent;

7 (b) that the statements made by the juvenile may be used in a court of  
8 law;

9 (c) of the juvenile's right to have an attorney present at such ques-  
10 tioning; and

11 (d) of the juvenile's right to have an attorney provided for him or  
12 her without charge if he or she is indigent.

13 In determining the suitability of questioning and determining the  
14 reasonable period of time for questioning such a juvenile offender, the  
15 juvenile's age, the presence or absence of his or her parents or other  
16 persons legally responsible for his or her care and notification pursu-  
17 ant to this subdivision shall be included among relevant considerations.

18 § 66. Subdivision 5 of section 140.40 of the criminal procedure law,  
19 as added by chapter 411 of the laws of 1979, is amended to read as  
20 follows:

21 5. If a police officer takes an arrested juvenile offender into  
22 custody, the police officer shall immediately notify the parent or other  
23 person legally responsible for his or her care or the person with whom  
24 he or she is domiciled, that the juvenile offender has been arrested,  
25 and the location of the facility where he or she is being detained. If  
26 the officer determines that it is necessary to question a juvenile  
27 offender or a child under eighteen years of age who fits within the  
28 definition of a juvenile offender as defined in section 30.00 of the  
29 penal law the officer must take the juvenile to a facility designated by  
30 the chief administrator of the courts as a suitable place for the ques-  
31 tioning of children or, upon the consent of a parent or other person  
32 legally responsible for the care of the juvenile, to the juvenile's  
33 residence and there question him or her for a reasonable period of time.  
34 A juvenile shall not be questioned pursuant to this section unless the  
35 juvenile and a person required to be notified pursuant to this subdivi-  
36 sion, if present, have been advised:

37 (a) of the juvenile's right to remain silent;

38 (b) that the statements made by the juvenile may be used in a court of  
39 law;

40 (c) of the juvenile's right to have an attorney present at such ques-  
41 tioning; and

42 (d) of the juvenile's right to have an attorney provided for him or  
43 her without charge if he or she is indigent.

44 In determining the suitability of questioning and determining the  
45 reasonable period of time for questioning such a juvenile offender, the  
46 juvenile's age, the presence or absence of his or her parents or other  
47 persons legally responsible for his or her care and notification pursu-  
48 ant to this subdivision shall be included among relevant considerations.

49 § 66-a. Section 150.40 of the criminal procedure law is amended by  
50 adding a new subdivision 5 to read as follows:

51 5. Notwithstanding any other provision of this chapter, any uniform  
52 traffic ticket issued to a person sixteen or seventeen years of age  
53 pursuant to a violation of any provision of the vehicle and traffic law,  
54 or any local law, constituting a traffic infraction shall be returnable  
55 to the local city, town, or village court, or traffic violations bureau  
56 having jurisdiction.

1 § 67. The criminal procedure law is amended by adding a new section  
2 160.56 to read as follows:

3 § 160.56 Sealing of certain convictions.

4 1. Definitions: As used in this section, the following terms shall  
5 have the following meanings:

6 (a) "Eligible offense" shall mean any offense defined in the laws of  
7 this state other than a sex offense defined in article one hundred thir-  
8 ty of the penal law, an offense defined in article two hundred sixty-  
9 three of the penal law, a felony offense defined in article one hundred  
10 twenty-five of the penal law, a violent felony offense defined in  
11 section 70.02 of the penal law, a class A felony offense defined in the  
12 penal law other than a class A felony offense defined in article two  
13 hundred twenty of the penal law, or an offense for which registration as  
14 a sex offender is required pursuant to article six-C of the correction  
15 law. For the purposes of this section, where the defendant is convicted  
16 of more than one eligible offense, committed as part of the same crimi-  
17 nal transaction as defined in subdivision two of section 40.10 of this  
18 chapter, those offenses shall be considered one eligible offense.

19 2. A defendant who has been convicted of up to two eligible offenses  
20 but not more than one felony offense may petition the court in which he  
21 or she was convicted of the most serious offense to have such conviction  
22 or convictions sealed. If all offenses are offenses with the same clas-  
23 sification, the petition shall be filed in the court in which the  
24 defendant was last convicted. On the defendant's motion, the court may  
25 order that all official records and papers relating to the arrest, pros-  
26 ecution and conviction for the defendant's prior eligible offenses be  
27 conditionally sealed when:

28 (a) the defendant has not been convicted of any other crime, including  
29 crimes sealed under section 160.58 of this chapter, other than the  
30 eligible offenses;

31 (b) for a misdemeanor, at least one year has passed since: the entry  
32 of the judgment or, if the defendant was sentenced to a conditional  
33 discharge or a period of probation, including a period of incarceration  
34 imposed in conjunction with a sentence of probation or conditional  
35 discharge, the completion of the defendant's term of probation or condi-  
36 tional discharge, or if the defendant was sentenced to incarceration,  
37 the defendant's release from incarceration, whichever is the longest; or

38 (c) for an eligible felony, at least three years have passed since:  
39 the entry of the judgment or, if the defendant was sentenced to a condi-  
40 tional discharge or a period of probation, including a period of incar-  
41 ceration imposed in conjunction with a sentence of probation or condi-  
42 tional discharge, the completion of the defendant's term of probation or  
43 conditional discharge, or if the defendant was sentenced to carcera-  
44 tion, the defendant's release from incarceration, whichever is the long-  
45 est; and

46 (d) the sentencing court has requested and received from the division  
47 of criminal justice services or the federal bureau of investigation a  
48 fingerprint based criminal history record of the defendant, including  
49 any sealed or suppressed information. The division of criminal justice  
50 services shall also include a criminal history report, if any, from the  
51 federal bureau of investigation regarding any criminal history informa-  
52 tion that occurred in other jurisdictions. The division is hereby  
53 authorized to receive such information from the federal bureau of inves-  
54 tigation for this purpose. The parties shall be permitted to examine  
55 these records;

1 (e) the defendant or court has identified the misdemeanor conviction  
2 or convictions or felony conviction for which relief may be granted;

3 (f) the court has received documentation that the sentences imposed on  
4 the eligible convictions have been completed, or if no such documenta-  
5 tion is reasonably available, a sworn affidavit that the sentences  
6 imposed on the prior eligible convictions have been completed;

7 (g) the court has notified the district attorney of each jurisdiction  
8 in which the defendant has been convicted of an offense with respect to  
9 which sealing is sought, and the court or courts of conviction for such  
10 offenses, that the court is considering sealing the records of the  
11 defendant's eligible convictions. Both the district attorney and the  
12 court shall be given a reasonable opportunity, which shall be up to  
13 thirty days, in which to comment and submit materials to aid the court  
14 in making such a determination. When the court notifies a district  
15 attorney of a sealing application, the district attorney shall provide  
16 notice to the victim, if any, of the sealing application by mailing  
17 written notice to the victim's last-known address. For purposes of this  
18 section "victim" means any person who has sustained physical or finan-  
19 cial injury to person or to property as a direct result of the crime or  
20 crimes for which sealing is applied. The court shall provide the defend-  
21 ant with any materials submitted to the court in response to the defend-  
22 ant's petition; and

23 (h) no charges for any offense are pending against the defendant.

24 3. At the request of the defendant or the district attorney of a coun-  
25 ty in which the defendant committed a crime that is the subject of the  
26 sealing application, the court may conduct a hearing to consider and  
27 review any relevant evidence offered by either party that would aid the  
28 court in its decision whether to seal the records of the defendant's  
29 arrests, prosecutions and convictions. In making such a determination,  
30 the court shall consider any relevant factors, including but not limited  
31 to:

32 (a) the circumstances and seriousness of the offense or offenses that  
33 resulted in the conviction or convictions;

34 (b) the character of the defendant, including what steps the petition-  
35 er has taken since the time of the offense toward personal rehabili-  
36 tation, including treatment, work, school, or other personal history  
37 that demonstrates rehabilitation;

38 (c) the defendant's criminal history;

39 (d) the impact of sealing the defendant's records upon his or her  
40 rehabilitation and his or her successful and productive reentry and  
41 reintegration into society, and on public safety; and

42 (e) any statements made by the victim of the offense where there is in  
43 fact a victim of the crime.

44 4. When a court orders sealing pursuant to this section, all official  
45 records and papers relating to the arrests, prosecutions, and  
46 convictions, including all duplicates and copies thereof, on file with  
47 the division of criminal justice services or any court shall be sealed  
48 and not made available to any person or public or private agency;  
49 provided, however, the division shall retain any fingerprints, palm-  
50 prints, photographs, or digital images of the same.

51 5. When the court orders sealing pursuant to this section, the clerk  
52 of such court shall immediately notify the commissioner of the division  
53 of criminal justice services, and any court that sentenced the defendant  
54 for an offense which has been conditionally sealed, regarding the  
55 records that shall be sealed pursuant to this section.

56 6. Records sealed pursuant to this section shall be made available to:

1 (a) the defendant or the defendant's designated agent;

2 (b) qualified agencies, as defined in subdivision nine of section  
3 eight hundred thirty-five of the executive law, and federal and state  
4 law enforcement agencies, when acting within the scope of their law  
5 enforcement duties;

6 (c) any state or local officer or agency with responsibility for the  
7 issuance of licenses to possess guns, when the person has made applica-  
8 tion for such a license;

9 (d) any prospective employer of a police officer or peace officer as  
10 those terms are defined in subdivisions thirty-three and thirty-four of  
11 section 1.20 of this chapter, in relation to an application for employ-  
12 ment as a police officer or peace officer; provided, however, that every  
13 person who is an applicant for the position of police officer or peace  
14 officer shall be furnished with a copy of all records obtained under  
15 this paragraph and afforded an opportunity to make an explanation there-  
16 to; or

17 (e) the criminal justice information services division of the federal  
18 bureau of investigation, for the purposes of responding to queries to  
19 the national instant criminal background check system regarding attempts  
20 to purchase or otherwise take possession of firearms, as defined in 18  
21 USC 921 (a) (3).

22 10. If, within ten years following the entry of the judgment or, if  
23 the defendant was sentenced to a conditional discharge or a period of  
24 probation, including a period of incarceration imposed in conjunction  
25 with a sentence of probation or conditional discharge, the completion of  
26 the defendant's term of probation or conditional discharge, or if the  
27 defendant was sentenced to incarceration, the defendant's release from  
28 incarceration, the person who is the subject of such records sealed  
29 pursuant to this section is arrested for or formally charged with any  
30 misdemeanor or felony offense, such records shall be unsealed immediate-  
31 ly and remain unsealed; provided, however, that if such new misdemeanor  
32 or felony arrest results in a termination in favor of the accused as  
33 defined in subdivision three of section 160.50 of this article or by  
34 conviction for a non-criminal offense as described in section 160.55 of  
35 this article, such unsealed records shall be conditionally sealed pursu-  
36 ant to this section.

37 11. No defendant shall be required or permitted to waive eligibility  
38 for conditional sealing pursuant to this section as part of a plea of  
39 guilty, sentence or any agreement related to a conviction for an eligi-  
40 ble offense and any such waiver shall be deemed void and wholly unen-  
41 forceable.

42 § 68. Section 180.75 of the criminal procedure law, as added by chap-  
43 ter 481 of the laws of 1978, paragraph (b) of subdivision 3 as amended  
44 by chapter 920 of the laws of 1982, subdivision 4 as amended by chapter  
45 264 of the laws of 2003, and subdivisions 5 and 6 as added by chapter  
46 411 of the laws of 1979, is amended to read as follows:

47 § 180.75 Proceedings upon felony complaint; juvenile offender.

48 1. When the youth part of a superior court is not in session and a  
49 juvenile offender is arraigned before [a local criminal court] the most  
50 accessible magistrate designated by the appellate division of the  
51 supreme court in the applicable department to act as a youth part, the  
52 provisions of this section shall apply in lieu of the provisions of  
53 sections 180.30, 180.50 and 180.70 of this article.

54 2. [~~if~~] Whether or not the defendant waives a hearing upon the felony  
55 complaint, the court must [~~order that the defendant be held for the~~  
56 ~~action of the grand jury of the appropriate superior court with respect~~

1 ~~to the charge or charges contained in the felony complaint~~ transfer the  
2 action to the youth part of the superior court. In such case the court  
3 must promptly transmit to such youth part of the superior court the  
4 order, the felony complaint, the supporting depositions and all other  
5 pertinent documents. Until such papers are received by the youth part  
6 of the superior court, the action is deemed to be still pending in the  
7 ~~[local criminal court]~~ court designated by the appellate division of the  
8 supreme court in the applicable department to act as a youth part.

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

11 (a) If there is reasonable cause to believe that the defendant commit-  
12 ted a crime for which a person under the age of ~~[sixteen]~~ eighteen is  
13 criminally responsible, the court must order that the defendant be held  
14 for the action of a grand jury of the appropriate superior court; or

15 (b) If there is not reasonable cause to believe that the defendant  
16 committed a crime for which a person under the age of ~~[sixteen]~~ eigh-  
17 teen, is criminally responsible but there is reasonable cause to believe  
18 that the defendant is a "juvenile delinquent" as defined in subdivision  
19 one of section 301.2 of the family court act, the court must specify the  
20 act or acts it found reasonable cause to believe the defendant did and  
21 direct that the action be removed to the family court in accordance with  
22 the provisions of article seven hundred twenty-five of this chapter; or

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

27 4. Notwithstanding the provisions of subdivisions two and three of  
28 this section, ~~[a local criminal]~~ the court shall, at the request of the  
29 district attorney, order removal of an action against a juvenile offen-  
30 der to the family court pursuant to the provisions of article seven  
31 hundred twenty-five of this chapter if, upon consideration of the crite-  
32 ria specified in subdivision two of section 210.43 of this chapter, it  
33 is determined that to do so would be in the interests of justice.  
34 Where, however, the felony complaint charges the juvenile offender with  
35 murder in the second degree as defined in section 125.25 of the penal  
36 law, rape in the first degree as defined in subdivision one of section  
37 130.35 of the penal law, criminal sexual act in the first degree as  
38 defined in subdivision one of section 130.50 of the penal law, or an  
39 armed felony as defined in paragraph (a) of subdivision forty-one of  
40 section 1.20 of this chapter, a determination that such action be  
41 removed to the family court shall, in addition, be based upon a finding  
42 of one or more of the following factors: (i) mitigating circumstances  
43 that bear directly upon the manner in which the crime was committed; or  
44 (ii) where the defendant was not the sole participant in the crime, the  
45 defendant's participation was relatively minor although not so minor as  
46 to constitute a defense to the prosecution; or (iii) possible deficien-  
47 cies in proof of the crime.

48 5. Notwithstanding the provisions of subdivision two, three, or four,  
49 if a currently undetermined felony complaint against a juvenile offender  
50 is pending ~~[in a local criminal court]~~, and the defendant has not waived  
51 a hearing pursuant to subdivision two and a hearing pursuant to subdivi-  
52 sion three has not commenced, the defendant may move in the youth part  
53 of the superior court which would exercise the trial jurisdiction of the  
54 offense or offenses charged were an indictment therefor to result, to  
55 remove the action to family court. The procedural rules of subdivisions  
56 one and two of section 210.45 of this chapter are applicable to a motion



1 pursuant to this subdivision. Upon such motion, the [~~superior~~] court  
2 [~~shall be authorized to sit as a local criminal court to exercise the~~  
3 ~~preliminary jurisdiction specified in subdivisions two and three of this~~  
4 ~~section, and~~] shall proceed and determine the motion as provided in  
5 section 210.43 of this chapter; provided, however, that the exception  
6 provisions of paragraph (b) of subdivision one of such section 210.43  
7 shall not apply when there is not reasonable cause to believe that the  
8 juvenile offender committed one or more of the crimes enumerated there-  
9 in, and in such event the provisions of paragraph (a) thereof shall  
10 apply.

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

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

19 (c) For the purpose of making a determination pursuant to subdivision  
20 four or five, the court may make such inquiry as it deems necessary. Any  
21 evidence which is not legally privileged may be introduced. If the  
22 defendant testifies, his testimony may not be introduced against him in  
23 any future proceeding, except to impeach his testimony at such future  
24 proceeding as inconsistent prior testimony.

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

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

31 (f) Where a motion by the defendant pursuant to subdivision five has  
32 been granted, there shall be no further proceedings against the juvenile  
33 offender in any local or superior criminal court including the youth  
34 part of the superior court for the offense or offenses which were the  
35 subject of the removal order.

36 § 68-a. The opening paragraph of section 180.80 of the criminal proce-  
37 dure law, as amended by chapter 556 of the laws of 1982, is amended to  
38 read as follows:

39 Upon application of a defendant against whom a felony complaint has  
40 been filed with a local criminal court or the youth part of a superior  
41 court, and who, since the time of his arrest or subsequent thereto, has  
42 been held in custody pending disposition of such felony complaint, and  
43 who has been confined in such custody for a period of more than one  
44 hundred twenty hours or, in the event that a Saturday, Sunday or legal  
45 holiday occurs during such custody, one hundred forty-four hours, with-  
46 out either a disposition of the felony complaint or commencement of a  
47 hearing thereon, the [~~local criminal~~] court must release him on his own  
48 recognizance unless:

49 § 69. Subdivisions (a) and (b) of section 190.71 of the criminal  
50 procedure law, subdivision (a) as amended by chapter 7 of the laws of  
51 2007, subdivision (b) as added by chapter 481 of the laws of 1978, are  
52 amended to read as follows:

53 (a) Except as provided in subdivision six of section 200.20 of this  
54 chapter, a grand jury may not indict (i) a person thirteen years of age  
55 for any conduct or crime other than conduct constituting a crime defined  
56 in subdivisions one and two of section 125.25 (murder in the second

degree) or such conduct as a sexually motivated felony, where authorized pursuant to section 130.91 of the penal law; (ii) a person fourteen ~~[or]~~, fifteen, sixteen or seventeen years of age for any conduct or crime other than conduct constituting a crime defined in subdivisions one and two of section 125.25 (murder in the second degree) and in subdivision three of such section provided that the underlying crime for the murder charge is one for which such person is criminally responsible; 135.25 (kidnapping in the first degree); 150.20 (arson in the first degree); subdivisions one and two of section 120.10 (assault in the first degree); 125.20 (manslaughter in the first degree); subdivisions one and two of section 130.35 (rape in the first degree); subdivisions one and two of section 130.50 (criminal sexual act in the first degree); 130.70 (aggravated sexual abuse in the first degree); 140.30 (burglary in the first degree); subdivision one of section 140.25 (burglary in the second degree); 150.15 (arson in the second degree); 160.15 (robbery in the first degree); subdivision two of section 160.10 (robbery in the second degree) of the penal law; subdivision four of section 265.02 of the penal law, where such firearm is possessed on school grounds, as that phrase is defined in subdivision fourteen of section 220.00 of the penal law; or section 265.03 of the penal law, where such machine gun or such firearm is possessed on school grounds, as that phrase is defined in subdivision fourteen of section 220.00 of the penal law; or defined in the penal law as an attempt to commit murder in the second degree or kidnapping in the first degree, or such conduct as a sexually motivated felony, where authorized pursuant to section 130.91 of the penal law; and (iii) a person sixteen or seventeen years of age is criminally responsible for acts constituting the crimes defined in section 460.22 (aggravated enterprise corruption); 490.25 (crime of terrorism); 490.45 (criminal possession of a chemical weapon or biological weapon in the first degree); 490.50 (criminal use of a chemical weapon or biological weapon in the second degree); 490.55 (criminal use of a chemical weapon or biological weapon in the first degree); 120.11 (aggravated assault upon a police officer or a peace officer); 125.22 (aggravated manslaughter in the first degree); 215.17 (intimidating a victim or witness); 265.04 (criminal possession of a weapon in the first degree); 265.09 (criminal use of a firearm in the first degree); 265.13 (criminal sale of a firearm in the first degree); 490.35 (hindering prosecution of terrorism in the first degree); 490.40 (criminal possession of a chemical weapon or biological weapon in the second degree); 490.47 (criminal use of a chemical weapon or biological weapon in the third degree); 121.13 (strangulation in the first degree); 490.37 (criminal possession of a chemical weapon or biological weapon in the third degree) of this chapter; or a felony sex offense as defined in paragraph (a) of subdivision one of section 70.80 of this chapter.

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

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

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

(a) the offense for which the defendant is criminally responsible and the one or more other offenses for which he or she would not have been criminally responsible by reason of infancy are based upon the same act or upon the same criminal transaction, as that term is defined in subdivision two of section 40.10 of this chapter; or

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

§ 71. Subdivision 1 of section 210.43 of the criminal procedure law, as added by chapter 411 of the laws of 1979, paragraph (b) as amended by chapter 264 of the laws of 2003, is amended to read as follows:

1. After a motion by a juvenile offender, pursuant to subdivision five of section 180.75 of this chapter, or after arraignment of a juvenile offender upon an indictment, the youth part of a superior court may, on motion of any party or on its own motion:

(a) except as otherwise provided by paragraph (b) of this section, order removal of the action 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 subdivision two of this section, the court determines that to do so would be in the interests of justice. Provided, however, that a youth part shall be required to 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 of this part, unless the district attorney proves by a preponderance of the evidence that the youth played a primary role in commission of the crime or that aggravating circumstances set forth in the memorandum in opposition submitted by the district attorney that bear directly on the manner in which the crime was committed are present; or

(b) [~~with the consent~~] after consideration of the recommendation of the district attorney, order removal of an action involving an indictment charging a juvenile offender with murder in the second degree as defined in section 125.25 of the penal law; rape in the first degree, as defined in subdivision one of section 130.35 of the penal law; criminal sexual act in the first degree, as defined in subdivision one of section 130.50 of the penal law; or an armed felony as defined in paragraph (a) of subdivision forty-one of section 1.20, to the family court pursuant to the provisions of article seven hundred twenty-five of this chapter if the court finds one or more of the following factors: (i) mitigating circumstances that bear directly upon the manner in which the crime was committed; (ii) where the defendant was not the sole participant in the crime, the defendant's participation was relatively minor although not so minor as to constitute a defense to the prosecution; or (iii) possible deficiencies in the proof of the crime, and, after consideration of the factors set forth in subdivision two of this section, the court determined that removal of the action to the family court would be in the interests of justice.

§ 72. Paragraph (g) of subdivision 5 of section 220.10 of the criminal procedure law, as amended by chapter 410 of the laws of 1979, subparagraph (iii) as amended by chapter 264 of the laws of 2003, the second

1 undesignated paragraph as amended by chapter 920 of the laws of 1982 and  
2 the closing paragraph as amended by chapter 411 of the laws of 1979, is  
3 amended to read as follows:

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

8 (i) If the indictment charges a person fourteen [~~or~~], fifteen,  
9 sixteen, or seventeen years old with the crime of murder in the second  
10 degree any plea of guilty entered pursuant to subdivision three or four  
11 must be a plea of guilty of a crime for which the defendant is criminal-  
12 ly responsible;

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

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

43 If the court is of the opinion based on specific factors set forth in  
44 [~~the district attorney's memorandum~~] this subparagraph that the inter-  
45 ests of justice would best be served by removal of the action to the  
46 family court, a plea of guilty of a crime or act for which the defendant  
47 is not criminally responsible may be entered pursuant to subdivision  
48 three or four of this section, except that a thirteen year old charged  
49 with the crime of murder in the second degree may only plead to a desig-  
50 nated felony act, as defined in subdivision eight of section 301.2 of  
51 the family court act.

52 Upon accepting any such plea, the court must specify upon the record  
53 the portion or portions of the district attorney's statement the court  
54 is relying upon as the basis of its opinion and that it believes the  
55 interests of justice would best be served by removal of the proceeding  
56 to the family court. Such plea shall then be deemed to be a juvenile

1 delinquency fact determination and the court upon entry thereof must  
2 direct that the action be removed to the family court in accordance with  
3 the provisions of article seven hundred twenty-five of this chapter.

4 § 72-a. Section 330.25 of the criminal procedure law, as added by  
5 chapter 481 of the laws of 1978, and subdivision 2 as amended by chapter  
6 920 of the laws of 1982, is amended to read as follows:

7 § 330.25 Removal after verdict.

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

13 2. If the district attorney consents to the motion for removal pursu-  
14 ant to this section, ~~[he shall file a subscribed memorandum with the~~  
15 ~~court setting forth (1) a recommendation that]~~ the court, in determining  
16 the motion, shall consider: (1) whether the interests of justice would  
17 best be served by removal of the action to the family court; and (2) if  
18 the conviction is of an offense set forth in paragraph (b) of subdivi-  
19 sion one of section 210.43 of this chapter, whether specific factors  
20 exist, one or more of which reasonably ~~[support]~~ supports the ~~[recommen-~~  
21 ~~dation]~~ motion, showing, (i) mitigating circumstances that bear directly  
22 upon the manner in which the crime was committed, or (ii) where the  
23 defendant was not the sole participant in the crime, that the defend-  
24 ant's participation was relatively minor although not so minor as to  
25 constitute a defense to prosecution, or (iii) where the juvenile offen-  
26 der has no previous adjudications of having committed a designated felo-  
27 ny act, as defined in subdivision eight of section 301.2 of the family  
28 court act, regardless of the age of the offender at the time of commis-  
29 sion of the act, that the criminal act was not part of a pattern of  
30 criminal behavior and, in view of the history of the offender, is not  
31 likely to be repeated.

32 3. If the court is of the opinion, based upon the specific factors  
33 ~~[set forth in the district attorney's memorandum]~~ shown to the court,  
34 that the interests of justice would best be served by removal of the  
35 action to the family court, the verdict shall be set aside and a plea of  
36 guilty of a crime or act for which the defendant is not criminally  
37 responsible may be entered pursuant to subdivision three or four of  
38 section 220.10 of this chapter. Upon accepting any such plea, the court  
39 must specify upon the record the ~~[portion or portions of the district~~  
40 ~~attorney's statement]~~ factors the court is relying upon as the basis of  
41 its opinion and that it believes the interests of justice would best be  
42 served by removal of the proceeding to the family court. Such plea  
43 shall then be deemed to be a juvenile delinquency fact determination and  
44 the court upon entry thereof must direct that the action be removed to  
45 the family court in accordance with the provisions of article seven  
46 hundred twenty-five of this chapter.

47 § 72-b. Subdivision 2 of section 410.40 of the criminal procedure law,  
48 as amended by chapter 652 of the laws of 2008, is amended to read as  
49 follows:

50 2. Warrant. (a) Where the probation officer has requested that a  
51 probation warrant be issued, the court shall, within seventy-two hours  
52 of its receipt of the request, issue or deny the warrant or take any  
53 other lawful action including issuance of a notice to appear pursuant to  
54 subdivision one of this section. If at any time during the period of a  
55 sentence of probation or of conditional discharge the court has reason-  
56 able grounds to believe that the defendant has violated a condition of



1 the sentence, the court may issue a warrant to a police officer or to an  
2 appropriate peace officer directing him or her to take the defendant  
3 into custody and bring the defendant before the court without unneces-  
4 sary delay; provided, however, if the court in which the warrant is  
5 returnable is a superior court, and such court is not available, and the  
6 warrant is addressed to a police officer or appropriate probation offi-  
7 cer certified as a peace officer, such executing officer may unless  
8 otherwise specified under paragraph (b) of this section, bring the  
9 defendant to the local correctional facility of the county in which such  
10 court sits, to be detained there until not later than the commencement  
11 of the next session of such court occurring on the next business day; or  
12 if the court in which the warrant is returnable is a local criminal  
13 court, and such court is not available, and the warrant is addressed to  
14 a police officer or appropriate probation officer certified as a peace  
15 officer, such executing officer must without unnecessary delay bring the  
16 defendant before an alternate local criminal court, as provided in  
17 subdivision five of section 120.90 of this chapter. A court which issues  
18 such a warrant may attach thereto a summary of the basis for the  
19 warrant. In any case where a defendant arrested upon the warrant is  
20 brought before a local criminal court other than the court in which the  
21 warrant is returnable, such local criminal court shall consider such  
22 summary before issuing a securing order with respect to the defendant.

23 (b) If the court in which the warrant is returnable is a superior  
24 court, and such court and its youth part is not available, and the  
25 warrant is addressed to a police officer or appropriate probation offi-  
26 cer certified as a peace officer, such executing officer shall, where a  
27 defendant is seventeen years of age or younger who allegedly commits an  
28 offense or a violation of his or her probation or conditional discharge  
29 imposed for an offense, bring the defendant to a juvenile detention  
30 facility, to be detained there until brought without unnecessary delay  
31 before the most accessible magistrate designated by the appellate divi-  
32 sion of the supreme court in the applicable department to act as a youth  
33 part.

34 § 73. Section 410.60 of the criminal procedure law, as amended by  
35 chapter 652 of the laws of 2008, is amended to read as follows:

36 § 410.60 Appearance before court.

37 (a) A person who has been taken into custody pursuant to section  
38 410.40 or section 410.50 of this article for violation of a condition of  
39 a sentence of probation or a sentence of conditional discharge must  
40 forthwith be brought before the court that imposed the sentence. Where a  
41 violation of probation petition and report has been filed and the person  
42 has not been taken into custody nor has a warrant been issued, an  
43 initial court appearance shall occur within ten business days of the  
44 court's issuance of a notice to appear. If the court has reasonable  
45 cause to believe that such person has violated a condition of the  
46 sentence, it may commit him or her to the custody of the sheriff or fix  
47 bail or release such person on his or her own recognizance for future  
48 appearance at a hearing to be held in accordance with section 410.70 of  
49 this article. If the court does not have reasonable cause to believe  
50 that such person has violated a condition of the sentence, it must  
51 direct that he or she be released.

52 (b) A juvenile offender who has been taken into custody pursuant to  
53 section 410.40 or section 410.50 of this article for violation of a  
54 condition of a sentence of probation or a sentence of conditional  
55 discharge must forthwith be brought before the court that imposed the  
56 sentence. Where a violation of probation petition and report has been

1 filed and the person has not been taken into custody nor has a warrant  
2 been issued, an initial court appearance shall occur within ten business  
3 days of the court's issuance of a notice to appear. If the court has  
4 reasonable cause to believe that such person has violated a condition of  
5 the sentence, it may commit him or her to the custody of the sheriff or  
6 in the case of a juvenile offender less than eighteen years of age to  
7 the custody of the office of children and family services, or fix bail  
8 or release such person on his or her own recognizance for future appear-  
9 ance at a hearing to be held in accordance with section 410.70 of this  
10 article. Provided, however, nothing herein shall authorize a juvenile to  
11 be detained for a violation of a condition that would not constitute a  
12 crime if committed by an adult unless the court determines (i) that the  
13 juvenile poses a specific imminent threat to public safety and states  
14 the reasons for the finding on the record or (ii) the use of graduated  
15 sanctions has been exhausted without success. If the court does not have  
16 reasonable cause to believe that such person has violated a condition of  
17 the sentence, it must direct that the juvenile be released.

18 § 74. Subdivision 5 of section 410.70 of the criminal procedure law,  
19 as amended by chapter 17 of the laws of 2014, is amended to read as  
20 follows:

21 5. Revocation; modification; continuation. (a) At the conclusion of  
22 the hearing the court may revoke, continue or modify the sentence of  
23 probation or conditional discharge. Where the court revokes the  
24 sentence, it must impose sentence as specified in subdivisions three and  
25 four of section 60.01 of the penal law. Where the court continues or  
26 modifies the sentence, it must vacate the declaration of delinquency and  
27 direct that the defendant be released. If the alleged violation is  
28 sustained and the court continues or modifies the sentence, it may  
29 extend the sentence up to the period of interruption specified in subdi-  
30 vision two of section 65.15 of the penal law, but any time spent in  
31 custody in any correctional institution or juvenile detention facility  
32 pursuant to section 410.40 or 410.60 of this article shall be credited  
33 against the term of the sentence. Provided further, where the alleged  
34 violation is sustained and the court continues or modifies the sentence,  
35 the court may also extend the remaining period of probation up to the  
36 maximum term authorized by section 65.00 of the penal law. Provided,  
37 however, a defendant shall receive credit for the time during which he  
38 or she was supervised under the original probation sentence prior to any  
39 declaration of delinquency and for any time spent in custody pursuant to  
40 this article for an alleged violation of probation.

41 (b) Notwithstanding paragraph (a) of this subdivision, nothing herein  
42 shall authorize the placement of a juvenile for a violation of a condi-  
43 tion that would not constitute a crime if committed by an adult unless  
44 the court determines (i) that the juvenile poses a specific imminent  
45 threat to public safety and states the reasons for the finding on the  
46 record or (ii) the use of graduated sanctions has been exhausted without  
47 success.

48 § 75. The criminal procedure law is amended by adding a new section  
49 410.90-a to read as follows:

50 § 410.90-a Superior court; youth part.

51 Notwithstanding any other provisions of this article, all proceedings  
52 relating to a juvenile offender shall be heard in the youth part of the  
53 superior court having jurisdiction and any intrastate transfers under  
54 this article shall be between courts designated as a youth part pursuant  
55 to article seven hundred twenty-two of this chapter.

§ 76. Section 510.15 of the criminal procedure law, as amended by chapter 411 of the laws of 1979, subdivision 1 as designated and subdivision 2 as added by chapter 359 of the laws of 1980, is amended to read as follows:

§ 510.15 Commitment of principal under [~~sixteen~~] eighteen.

1. When a principal who is under the age of [~~sixteen~~] eighteen, is committed to the custody of the sheriff the court must direct that the principal be taken to and lodged in a place certified by the state [~~division for youth~~] office of children and family services as a juvenile detention facility for the reception of children. Where such a direction is made the sheriff shall deliver the principal in accordance therewith and such person shall although lodged and cared for in a juvenile detention facility continue to be deemed to be in the custody of the sheriff. No principal under the age [~~of sixteen~~] specified to whom the provisions of this section may apply shall be detained in any prison, jail, lockup, or other place used for adults convicted of a crime or under arrest and charged with the commission of a crime without the approval of the [~~state division for youth~~] office of children and family services in the case of each principal and the statement of its reasons therefor. The sheriff shall not be liable for any acts done to or by such principal resulting from negligence in the detention of and care for such principal, when the principal is not in the actual custody of the sheriff.

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

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

1. "Youth" means a person charged with a crime alleged to have been committed when he was at least sixteen years old and less than [~~nineteen~~] twenty-one years old or a person charged with being a juvenile offender as defined in subdivision forty-two of section 1.20 of this chapter.

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

3. The provisions of subdivisions one and two of this section requiring or authorizing the accusatory instrument filed against a youth to be sealed, and the arraignment and all proceedings in the action to be conducted in private shall not apply in connection with a pending charge of committing any [~~felony~~] sex offense as defined in the penal law. [~~The provisions of subdivision one requiring the accusatory instrument filed against a youth to be sealed shall not apply where such youth has previously been adjudicated a youthful offender or convicted of a crime.~~]

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

1. Upon conviction of an eligible youth, the court must order a pre-sentence investigation of the defendant. After receipt of a written report of the investigation and at the time of pronouncing sentence the court must determine whether or not the eligible youth is a youthful

offender. Such determination shall be in accordance with the following criteria:

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

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

(c) There shall be a presumption to grant youthful offender status to an eligible youth, unless the district attorney upon motion with not less than seven days notice to such person or his or her attorney demonstrates to the satisfaction of the court that the interests of justice require otherwise.

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

1. ~~[A-youthful]~~ 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]~~ two hundred fifty-nine-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.

§ 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.

#### § 722.00 Probation case planning and services.

1. Every probation department shall conduct a risk and needs assessment of any juvenile 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. Such juvenile shall have the right to have an attorney present throughout the assessment process. 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.

1     2. Any juvenile agreeing to undergo services shall execute appropriate  
2 and necessary consent forms, where applicable, to ensure that the  
3 probation department may communicate with any service provider and  
4 receive progress reports with respect to services offered and/or deliv-  
5 ered including, but not limited to, diagnosis, treatment, prognosis,  
6 test results, juvenile attendance and information regarding juvenile  
7 compliance or noncompliance with program service requirements, if any.

8     3. Nothing shall preclude the probation department and juvenile from  
9 entering into a voluntary written/formal case plan as to terms and  
10 conditions to be met, including, but not limited to, reporting to the  
11 probation department and other probation department contacts, undergoing  
12 alcohol, substance abuse, or mental health testing, participating in  
13 specific services, adhering to service program requirements, and school  
14 attendance, where applicable. Such juvenile shall have the right to  
15 confer with counsel prior to entering into any such case plan. Following  
16 the juvenile's successful completion of the conditions of his or her  
17 case plan, the court, with the consent of the district attorney may  
18 dismiss the indictment or any count thereof in accordance with section  
19 210.40 of this chapter.

20     4. When preparing a pre-sentence investigation report of any such  
21 youth, the probation department shall incorporate a summary of the  
22 assessment findings, any referrals and progress with respect to mitigat-  
23 ing risk and addressing any identified juvenile needs.

24     5. The probation department shall not transmit or otherwise communi-  
25 cate to the district attorney or the youth part any statement made by  
26 the juvenile offender to a probation officer. The probation department  
27 may make a recommendation regarding the completion of his or her case  
28 plan to the youth part and provide relevant information.

29     6. No statement made to an employee or representative of the probation  
30 department may be admitted in evidence prior to conviction on any charge  
31 or charges related thereto or, in the case of a matter proceeding before  
32 the court under the family court act, prior to an adjudication.  
33 § 722.10 Youth part of the superior court established.

34     1. The chief administrator of the courts is hereby directed to estab-  
35 lish, in a superior court in each county of the state that exercises  
36 criminal jurisdiction, a part of court to be known as the youth part of  
37 the superior court for the county in which such court presides. Judges  
38 presiding in the youth part shall receive training in specialized areas,  
39 including, but not limited to, juvenile justice, adolescent development  
40 and effective treatment methods for reducing crime commission by adoles-  
41 cents. The youth part shall have exclusive jurisdiction of all  
42 proceedings in relation to juvenile offenders, except as provided in  
43 section 180.75 of this chapter.

44     2. The chief administrator of the courts shall also direct the presid-  
45 ing justice of the appellate division, in each judicial department of  
46 the state, to designate magistrates to serve as accessible magistrates,  
47 for the purpose of acting as a youth part for certain initial  
48 proceedings involving youths, as provided by law. Magistrates so desiq-  
49 ated shall be superior court judges and judges of other courts, in each  
50 county of the state, that exercise criminal jurisdiction. A judge  
51 presiding as such a magistrate shall receive training in specialized  
52 areas, including, but not limited to, juvenile justice, adolescent  
53 development and effective treatment methods for reducing crime commis-  
54 sion by adolescents.

55 § 722.20 Proceedings in a youth part of superior court.



1 1. When a juvenile offender is arraigned before a youth part or trans-  
2 ferred to a youth part pursuant to section 180.75 of this chapter, the  
3 provisions of this article shall apply.

4 2. If an action is not removed to the family court pursuant to the  
5 applicable provisions of this chapter, the youth part shall hear the  
6 case sitting as a criminal court or, in its discretion, when the defend-  
7 ant is sixteen or seventeen years of age the youth part may retain it as  
8 a juvenile delinquency proceeding for all purposes, and shall make such  
9 proceeding fully subject to the provisions and grant any relief avail-  
10 able under article three of the family court act. Provided, however,  
11 that the provisions of paragraph (b) of subdivision one of section  
12 210.43 of this chapter shall apply to any action involving an indictment  
13 charging a juvenile offender with any of the crimes enumerated in such  
14 paragraph.

15 § 81. The opening paragraph of section 725.05 of the criminal proce-  
16 dure law, as added by chapter 481 of the laws of 1978, is amended to  
17 read as follows:

18 When a [~~court~~] youth part directs that an action or charge is to be  
19 removed to the family court the [~~court~~] youth part must issue an order  
20 of removal in accordance with this section. Such order must be as  
21 follows:

22 § 82. Section 725.20 of the criminal procedure law, as added by chap-  
23 ter 481 of the laws of 1978, subdivisions 1 and 2 as amended by chapter  
24 411 of the laws of 1979, is amended to read as follows:

25 § 725.20 Record of certain actions removed.

26 1. The provisions of this section shall apply in any case where an  
27 order of removal to the family court is entered pursuant to a direction  
28 authorized by subdivision four of section 180.75, or section 210.43, or  
29 subparagraph (iii) of paragraph [~~(h)~~] (g) of subdivision five of section  
30 220.10 of this chapter, or section 330.25 of this chapter.

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

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

37 (b) Where the direction is one authorized by subdivision four of  
38 section 180.75 of this chapter, a copy of [~~the~~] any statement of the  
39 district attorney made pursuant to paragraph (b) of subdivision six of  
40 section 180.75 of this chapter;

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

44 (d) Where the direction is one authorized by subparagraph (iii) of  
45 paragraph [~~(h)~~] (g) of subdivision five of section 220.10 or section  
46 330.25 of this chapter, a copy of the minutes of the plea of guilty,  
47 including the minutes of the memorandum submitted by the district attor-  
48 ney and the court;

49 (e) Where the direction is one authorized by subdivision one of  
50 section 210.43 of this chapter, a copy of that portion of the minutes  
51 containing [~~the~~] any statement by the court pursuant to paragraph (a) of  
52 subdivision five of section 210.43 of this chapter;

53 (f) Where the direction is one authorized by paragraph (b) of subdi-  
54 vision one of section 210.43 of this chapter, a copy of that portion of  
55 the minutes containing [~~the~~] any statement of the district attorney made

1 pursuant to paragraph (b) of subdivision five of section 210.43 of this  
2 chapter; and

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

8 3. It shall be the duty of said clerk to maintain a separate file for  
9 copies of orders and minutes filed pursuant to this section. Upon  
10 receipt of such orders and minutes the clerk must promptly delete such  
11 portions as would identify the defendant, but the clerk shall neverthe-  
12 less maintain a separate confidential system to enable correlation of  
13 the documents so filed with identification of the defendant. After  
14 making such deletions the orders and minutes shall be placed within the  
15 file and must be available for public inspection. Information permit-  
16 ting correlation of any such record with the identity of any defendant  
17 shall not be divulged to any person except upon order of a justice of  
18 the supreme court based upon a finding that the public interest or the  
19 interests of justice warrant disclosure in a particular cause for a  
20 particular case or for a particular purpose or use.

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

23 (h) Notwithstanding any other provision of law, no county jail shall  
24 be used for the confinement of any person under the age of eighteen.  
25 Placement of any person who may not be confined to a county jail pursu-  
26 ant to this subdivision shall be determined by the office of children  
27 and family services.

28 § 84. Subdivision 4 of section 500-b of the correction law is  
29 REPEALED.

30 § 85. Subparagraph 3 of paragraph (c) of subdivision 8 of section  
31 500-b of the correction law is REPEALED.

32 § 86. Subdivision 13 of section 500-b of the correction law is  
33 REPEALED.

34 § 87. Subparagraph 1 of paragraph d of subdivision 3 of section 3214  
35 of the education law, as amended by chapter 425 of the laws of 2002, is  
36 amended to read as follows:

37 (1) Consistent with the federal gun-free schools act, any public  
38 school pupil who is determined under this subdivision to have brought a  
39 firearm to or possessed a firearm at a public school shall be suspended  
40 for a period of not less than one calendar year and any nonpublic school  
41 pupil participating in a program operated by a public school district  
42 using funds from the elementary and secondary education act of nineteen  
43 hundred sixty-five who is determined under this subdivision to have  
44 brought a firearm to or possessed a firearm at a public school or other  
45 premises used by the school district to provide such programs shall be  
46 suspended for a period of not less than one calendar year from partic-  
47 ipation in such program. The procedures of this subdivision shall apply  
48 to such a suspension of a nonpublic school pupil. A superintendent of  
49 schools, district superintendent of schools or community superintendent  
50 shall have the authority to modify this suspension requirement for each  
51 student on a case-by-case basis. The determination of a superintendent  
52 shall be subject to review by the board of education pursuant to para-  
53 graph c of this subdivision and the commissioner pursuant to section  
54 three hundred ten of this chapter. Nothing in this subdivision shall be  
55 deemed to authorize the suspension of a student with a disability in  
56 violation of the individuals with disabilities education act or article

eighty-nine of this chapter. A superintendent shall refer the pupil under the age of [~~sixteen~~] eighteen who has been determined to have brought a weapon or firearm to school in violation of this subdivision to a presentment agency for a juvenile delinquency proceeding consistent with article three of the family court act except a student [~~fourteen or fifteen years of age~~] who qualifies for juvenile offender status under subdivision forty-two of section 1.20 of the criminal procedure law. A superintendent shall refer any pupil [~~sixteen~~] eighteen years of age or older or a student [~~fourteen or fifteen years of age~~] who qualifies for juvenile offender status under subdivision forty-two of section 1.20 of the criminal procedure law, who has been determined to have brought a weapon or firearm to school in violation of this subdivision to the appropriate law enforcement officials.

§ 87-a. Paragraph d of subdivision 3 of section 3214 of the education law, as amended by chapter 181 of the laws of 2000, is amended to read as follows:

d. Consistent with the federal gun-free schools act of nineteen hundred ninety-four, any public school pupil who is determined under this subdivision to have brought a weapon to school shall be suspended for a period of not less than one calendar year and any nonpublic school pupil participating in a program operated by a public school district using funds from the elementary and secondary education act of nineteen hundred sixty-five who is determined under this subdivision to have brought a weapon to a public school or other premises used by the school district to provide such programs shall be suspended for a period of not less than one calendar year from participation in such program. The procedures of this subdivision shall apply to such a suspension of a nonpublic school pupil. A superintendent of schools, district superintendent of schools or community superintendent shall have the authority to modify this suspension requirement for each student on a case-by-case basis. The determination of a superintendent shall be subject to review by the board of education pursuant to paragraph c of this subdivision and the commissioner pursuant to section three hundred ten of this chapter. Nothing in this subdivision shall be deemed to authorize the suspension of a student with a disability in violation of the individuals with disabilities education act or article eighty-nine of this chapter. A superintendent shall refer the pupil under the age of [~~sixteen~~] eighteen who has been determined to have brought a weapon to school in violation of this subdivision to a presentment agency for a juvenile delinquency proceeding consistent with article three of the family court act except a student [~~fourteen or fifteen years of age~~] who qualifies for juvenile offender status under subdivision forty-two of section 1.20 of the criminal procedure law. A superintendent shall refer any pupil [~~sixteen~~] eighteen years of age or older or a student [~~fourteen or fifteen years of age who~~] qualifies for juvenile offender status under subdivision forty-two of section 1.20 of the criminal procedure law, who has been determined to have brought a weapon to school in violation of this subdivision to the appropriate law enforcement officials.

§ 88. Paragraph b of subdivision 4 of section 3214 of the education law, as amended by chapter 181 of the laws of 2000, is amended to read as follows:

b. The school authorities may institute proceedings before a court having jurisdiction to determine the liability of a person in parental relation to contribute towards the maintenance of a school delinquent under [~~sixteen~~] seventeen years of age ordered to attend upon instruc-

tion under confinement. If the court shall find the person in parental relation able to contribute towards the maintenance of such a minor, it may issue an order fixing the amount to be paid weekly.

§ 89. Subdivisions 3 and 4 of section 246 of the executive law, as amended by section 10 of part D of chapter 56 of the laws of 2010, are amended to read as follows:

3. Applications from counties or the city of New York for state aid under this section shall be made by filing with the division of criminal justice services, a detailed plan, including cost estimates covering probation services for the fiscal year or portion thereof for which aid is requested. Included in such estimates shall be clerical costs and maintenance and operation costs as well as salaries of probation personnel, family engagement specialists and such other pertinent information as the commissioner of the division of criminal justice services may require. Items for which state aid is requested under this section shall be duly designated in the estimates submitted. The commissioner of the division of criminal justice services, after consultation with the state probation commission and the director of the office of probation and correctional alternatives, shall approve such plan if it conforms to standards relating to the administration of probation services as specified in the rules adopted by him or her.

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

The commissioner of the division of criminal justice services may take into consideration granting additional state aid from an appropriation made for state aid for county probation services for counties or the city of New York when a county or the city of New York demonstrates that additional probation services were dedicated to intensive supervision programs~~[ ]~~ and intensive programs for sex offenders ~~[or programs defined as juvenile risk intervention services]~~. The commissioner shall grant additional state aid from an appropriation dedicated to juvenile risk intervention services coordination by probation departments which shall include, but not be limited to, probation services performed under article three of the family court act or article seven hundred twenty-two of the criminal procedure law. The administration of such additional grants shall be made according to rules and regulations promulgated by the commissioner of the division of criminal justice services. Each county and the city of New York shall certify the total amount collected pursuant to section two hundred fifty-seven-c of this chapter. The commissioner of the division of criminal justice services shall thereupon certify to the comptroller for payment by the state out of funds appropriated for that purpose, the amount to which the county or the city of New York shall be entitled under this section. The commissioner shall, subject to an appropriation made available for such purpose, establish and provide funding to probation departments for a continuum of evidence-based intervention services for youth alleged or adjudicated juvenile delinquents pursuant to article three of the family court act or for eligible youth before or sentenced under the youth part in accordance with article seven hundred twenty-two of the criminal procedure law.

b. Additional state aid shall be made in an amount necessary to pay one hundred percent of the expenditures for evidence-based practices and juvenile risk and evidence-based intervention services provided to youth aged sixteen years of age or older when such services would not other-

1 wise have been provided absent the provisions of a chapter of the laws  
2 of two thousand seventeen that increased the age of juvenile jurisdic-  
3 tion.

4 § 89-a. The second undesignated paragraph of subdivision 4 of section  
5 246 of the executive law, as added by chapter 479 of the laws of 1970,  
6 is amended to read as follows:

7 The ~~[director]~~ commissioner of the division of criminal justice  
8 services shall thereupon certify to the comptroller for payment by the  
9 state out of funds appropriated for that purpose, the amount to which  
10 the county or the city of New York shall be entitled under this section.  
11 The commissioner shall grant additional state aid from an appropriation  
12 dedicated to juvenile risk intervention services coordination by  
13 probation departments which shall include, but not be limited to,  
14 probation services performed under article three of the family court act  
15 or article seven hundred twenty-two of the criminal procedure law. The  
16 commissioner shall, subject to an appropriation made available for such  
17 purpose, establish and provide funding to probation departments for a  
18 continuum of evidence-based intervention services for youth alleged or  
19 adjudicated juvenile delinquents pursuant to article three of the family  
20 court act or for eligible youth before or sentenced under the youth part  
21 in accordance with article seven hundred twenty-two of the criminal  
22 procedure law.

23 § 90. The executive law is amended by adding a new section 259-p to  
24 read as follows:

25 § 259-p. Interstate detention. 1. Notwithstanding any other provision  
26 of law, a defendant subject to section two hundred fifty-nine-mm of this  
27 article, may be detained as authorized by the interstate compact for  
28 adult offender supervision.

29 2. A defendant shall be detained at a local correctional facility,  
30 except as otherwise provided in subdivision three of this section.

31 3. A defendant seventeen years of age or younger who allegedly commits  
32 a criminal act or violation of his or her supervision shall be detained  
33 in a juvenile detention facility.

34 § 91. Subdivision 16 of section 296 of the executive law, as separate-  
35 ly amended by section 3 of part N and section 14 of part AAA of chapter  
36 56 of the laws of 2009, is amended to read as follows:

37 16. It shall be an unlawful discriminatory practice, unless specif-  
38 ically required or permitted by statute, for any person, agency, bureau,  
39 corporation or association, including the state and any political subdi-  
40 vision thereof, to make any inquiry about, whether in any form of appli-  
41 cation or otherwise, or to act upon adversely to the individual  
42 involved, any arrest or criminal accusation of such individual not then  
43 pending against that individual which was followed by a termination of  
44 that criminal action or proceeding in favor of such individual, as  
45 defined in subdivision two of section 160.50 of the criminal procedure  
46 law, or by a youthful offender adjudication, as defined in subdivision  
47 one of section 720.35 of the criminal procedure law, or by a conviction  
48 for a violation sealed pursuant to section 160.55 of the criminal proce-  
49 dure law or by a conviction which is sealed pursuant to section 160.56  
50 or 160.58 of the criminal procedure law, in connection with the licens-  
51 ing, employment or providing of credit or insurance to such individual;  
52 provided, further, that no person shall be required to divulge informa-  
53 tion pertaining to any arrest or criminal accusation of such individual  
54 not then pending against that individual which was followed by a termi-  
55 nation of that criminal action or proceeding in favor of such individ-  
56 ual, as defined in subdivision two of section 160.50 of the criminal



1 procedure law, or by a youthful offender adjudication, as defined in  
2 subdivision one of section 720.35 of the criminal procedure law, or by a  
3 conviction for a violation sealed pursuant to section 160.55 of the  
4 criminal procedure law, or by a conviction which is sealed pursuant to  
5 section 160.56 or 160.58 of the criminal procedure law. The provisions  
6 of this subdivision shall not apply to the licensing activities of  
7 governmental bodies in relation to the regulation of guns, firearms and  
8 other deadly weapons or in relation to an application for employment as  
9 a police officer or peace officer as those terms are defined in subdivi-  
10 sions thirty-three and thirty-four of section 1.20 of the criminal  
11 procedure law; provided further that the provisions of this subdivision  
12 shall not apply to an application for employment or membership in any  
13 law enforcement agency with respect to any arrest or criminal accusation  
14 which was followed by a youthful offender adjudication, as defined in  
15 subdivision one of section 720.35 of the criminal procedure law, or by a  
16 conviction for a violation sealed pursuant to section 160.55 of the  
17 criminal procedure law, or by a conviction which is sealed pursuant to  
18 section 160.56 or 160.58 of the criminal procedure law.

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

22 § 502. Definitions. Unless otherwise specified in this article:

23 1. "Director" means the [~~director of the division for youth~~] commis-  
24 sioner of the office of children and family services.

25 2. [~~"Division"~~] "Division", "Office" or "division for youth" means the  
26 [~~division for youth~~] office of children and family services.

27 3. "Detention" means the temporary care and maintenance of youth held  
28 away from their homes pursuant to article three or seven of the family  
29 court act, or held pending a hearing for alleged violation of the condi-  
30 tions of release from an office of children and family services facility  
31 or authorized agency, or held pending a hearing for alleged violation of  
32 the condition of parole as a juvenile offender, or held pending return  
33 to a jurisdiction other than the one in which the youth is held, or held  
34 pursuant to a securing order of a criminal court if the youth named  
35 therein as principal is charged as a juvenile offender or held pending a  
36 hearing on an extension of placement or held pending transfer to a  
37 facility upon commitment or placement by a court. Only alleged or  
38 convicted juvenile offenders who have not attained their [~~eighteenth~~]  
39 twenty-first birthday shall be subject to detention in a detention  
40 facility.

41 4. For purposes of this article, the term "youth" shall [~~be synonymous~~  
42 ~~with the term "child" and means~~] mean a person not less than [~~seven~~] ten  
43 years of age and not more than [~~twenty~~] twenty-three years of age.

44 5. "Placement" means the transfer of a youth to the custody of the  
45 [~~division~~] office pursuant to the family court act.

46 6. "Commitment" means the transfer of a youth to the custody of the  
47 [~~division~~] office pursuant to the penal law.

48 7. "Conditional release" means the transfer of a youth from facility  
49 status to aftercare supervision under the continued custody of the  
50 [~~division~~] office.

51 8. "Discharge" means the termination of [~~division~~] office custody of a  
52 youth.

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

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

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

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

§ 507-a. Placement and commitment; procedures. 1. Youth may be placed in or committed to the custody of the ~~[division]~~ office of children and family services:

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

(b) for commitment pursuant to the penal law.

2. (a) Consistent with other provisions of law, only those youth who have reached the age of ~~[seven]~~ ten, but who have not reached the age of twenty-one may be placed in ~~[, committed to or remain in]~~ the ~~[division's]~~ custody of the office of children and family services. Except as provided for in paragraph (a-1) of this subdivision, no youth who has reached the age of twenty-one may remain in custody of the office of children and family services.

(a-1) (i) A youth who is committed to the office of children and family services as a juvenile offender or youthful offender may remain in the custody of the office during the period of his or her sentence beyond the age of twenty-one in accordance with the provisions of subdivision five of section five hundred eight of this article but in no event may such a youth remain in the custody of the office beyond his or her twenty-third birthday; and (ii) a youth found to have committed a 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

1 return of conditionally released children and runaways pursuant to  
2 section five hundred ten-b of this article. Such photograph shall be  
3 destroyed immediately upon the discharge of the youth from ~~[division]~~  
4 office custody.

5 4. (a) A youth placed with or committed to the ~~[division]~~ office may,  
6 immediately following placement or commitment, be remanded to an appro-  
7 priate detention facility.

8 (b) The ~~[division]~~ office shall admit a ~~[child]~~ youth placed ~~[with the~~  
9 ~~division]~~ under its care to a facility of the ~~[division]~~ office within  
10 fifteen days of the date of the order of placement with the ~~[division]~~  
11 office and shall admit a juvenile offender committed to the ~~[division]~~  
12 office to a facility of the ~~[division]~~ office within ten days of the  
13 date of the order of commitment to the ~~[division]~~ office, except as  
14 provided in section five hundred seven-b of this article.

15 5. Consistent with other provisions of law, in the discretion of the  
16 ~~[director, youth]~~ commissioner of the office of children and family  
17 services, youth placed within the office under the family court act who  
18 attain the age of eighteen while in ~~[division]~~ custody of the office and  
19 who are not required to remain in the placement with the office as a  
20 result of a dispositional order of the family court may reside in a  
21 non-secure facility until the age of twenty-one, provided that such  
22 youth attend a full-time vocational or educational program and are like-  
23 ly to benefit from such program.

24 § 95. Section 508 of the executive law, as added by chapter 481 of the  
25 laws of 1978 and as renumbered by chapter 465 of the laws of 1992,  
26 subdivision 1 as amended by chapter 738 of the laws of 2004, subdivision  
27 2 as amended by chapter 572 of the laws of 1985, subdivisions 4, 5, 6  
28 and 7 as amended by section 97 of subpart B of part C of chapter 62 of  
29 the laws of 2011, subdivision 8 as added by chapter 560 of the laws of  
30 1984 and subdivision 9 as amended by chapter 37 of the laws of 2016, is  
31 amended to read as follows:

32 § 508. Juvenile offender facilities. 1. The office of children and  
33 family services shall maintain ~~[secure]~~ facilities for the care and  
34 confinement of juvenile offenders committed ~~[for an indeterminate,~~  
35 ~~determinate or definite sentence]~~ to the office pursuant to the sentenc-  
36 ing provisions of the penal law. Such facilities shall provide appropri-  
37 ate services to juvenile offenders including but not limited to residen-  
38 tial care, educational and vocational training, physical and mental  
39 health services, and employment counseling.

40 1-a. Any new facilities developed by the office of children and family  
41 services to serve the additional youth placed with the office as a  
42 result of raising the age of juvenile jurisdiction shall, to the extent  
43 practicable, consist of smaller, more home-like facilities located near  
44 the youths' homes and families that provide gender-responsive program-  
45 ming, services and treatment in small, closely supervised groups that  
46 offer extensive and on-going individual attention and encourage support-  
47 ive peer relationships.

48 2. Juvenile offenders committed to the office for committing crimes  
49 prior to the age of sixteen shall be confined in such facilities ~~[until~~  
50 ~~the age of twenty-one]~~ in accordance with their sentences, and shall not  
51 be released, discharged or permitted home visits except pursuant to the  
52 provisions of this section.

53 ~~[(a) The director of the division for youth may authorize the transfer~~  
54 ~~of a juvenile offender in his custody, who has been convicted of~~  
55 ~~burglary or robbery, to a school or center established and operated~~  
56 ~~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 for youth and the juvenile offender and that there is no danger to public safety.~~

~~The rules and regulations shall further provide for the establishment of a division central office transfer committee to review transfer cases referred by the secure facility directors. The committee shall recommend approval of a transfer request to the director of the division only upon a clear showing by the secure facility director that the transfer is in the best interests of the division for youth and the juvenile offender and that there is no danger to public safety. In the case of the denial of the transfer request by the transfer committee, the juvenile offender shall remain at a secure facility. Notwithstanding the recommendation for approval of transfer by the transfer committee, the director of the division may deny the request for transfer if there is a danger to public safety or if the transfer is not in the best interests of the division for youth or the juvenile offender.~~

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

3. The [division] office of children and family services shall report in writing to the sentencing court and district attorney, not less than

1 once every six months during the period of confinement, on the status,  
2 adjustment, programs and progress of the offender.

3 4. ~~[The office of children and family services may apply to the~~  
4 ~~sentencing court for permission to transfer a youth not less than~~  
5 ~~sixteen nor more than eighteen years of age to the department of~~  
6 ~~corrections and community supervision. Such application shall be made~~  
7 ~~upon notice to the youth, who shall be entitled to be heard upon the~~  
8 ~~application and to be represented by counsel. The court shall grant the~~  
9 ~~application if it is satisfied that there is no substantial likelihood~~  
10 ~~that the youth will benefit from the programs offered by the office~~  
11 ~~facilities.~~

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

18 [~~6. At age twenty-one, all~~] 5. (a) All juvenile offenders committed to  
19 the office for committing a crime prior to the youth's sixteenth birth-  
20 day who still have time left on their sentences of imprisonment shall be  
21 transferred at age twenty-three to the custody of the department of  
22 corrections and community supervision for confinement pursuant to the  
23 correction law.

24 [~~7.~~] (b) All offenders committed to the office for committing a crime  
25 on or after their sixteenth birthday who still have time left on their  
26 sentences of imprisonment shall be transferred to the custody of the  
27 department of corrections and community supervision for confinement  
28 pursuant to the correction law after completing two years of care in  
29 office of children and family services facilities unless they are within  
30 four months of completing the imprisonment portion of their sentence and  
31 the office determines, in its discretion, on a case-by-case basis that  
32 the youth should be permitted to remain with the office for the addi-  
33 tional short period of time necessary to enable them to complete their  
34 sentence. In making such a determination, the factors the office may  
35 consider include, but are not limited to, the age of the youth, the  
36 amount of time remaining on the youth's sentence of imprisonment, the  
37 level of the youth's participation in the program, the youth's educa-  
38 tional and vocational progress, the opportunities available to the youth  
39 through the office and through the department. Nothing in this paragraph  
40 shall authorize a youth to remain in an office facility beyond his or  
41 her twenty-third birthday.

42 (c) All juvenile offenders who are eligible to be released from an  
43 office of children and family services facility before they are required  
44 to be transferred to the department of corrections and community super-  
45 vision and who are able to complete the full-term of their community  
46 supervision sentences before they turn twenty-three years of age shall  
47 remain with the office of children and family services for community  
48 supervision.

49 (d) All juvenile offenders released from an office of children and  
50 family services facility before they are transferred to the department  
51 of corrections and community supervision who are unable to complete the  
52 full-term of their community supervision before they turn twenty-three  
53 years of age shall be under the supervision of the department of  
54 corrections and community supervision until expiration of the maximum  
55 term.



6. While in the custody of the office of children and family services, an offender shall be subject to the rules and regulations of the office, except that his or her parole, temporary release and discharge shall be governed by the laws applicable to inmates of state correctional facilities and his or her transfer to state hospitals in the office of mental health shall be governed by section five hundred nine of this chapter. The commissioner of the office of children and family services shall, however, establish and operate temporary release programs at office of children and family services facilities for eligible juvenile offenders and ~~[contract with the department of corrections and community supervision for the provision of parole]~~ provide supervision ~~[services]~~ for temporary releasees. The rules and regulations for these programs shall not be inconsistent with the laws for temporary release applicable to inmates of state correctional facilities. For the purposes of temporary release programs for juvenile offenders only, when referred to or defined in article twenty-six of the correction law, "institution" shall mean any facility designated by the commissioner of the office of children and family services, "department" shall mean the office of children and family services, "inmate" shall mean a juvenile offender residing in an office of children and family services facility, and "commissioner" shall mean the ~~[director]~~ commissioner of the office of children and family services. Time spent in office of children and family services facilities and in juvenile detention facilities 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 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.

§ 96. 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 1. Definitions. As used in this section:

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

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

7 (c) "foster care" shall mean residential care, maintenance and super-  
8 vision provided to released or discharged youth, or youth otherwise in  
9 the custody of the [~~division for youth, in a division foster family home~~  
10 ~~certified by the division~~];

11 [~~(d) "division foster family home" means a service program provided in~~  
12 ~~a home setting available to youth under the jurisdiction of the division~~  
13 ~~for youth~~] office of children and family services.

14 2. [~~Expenditures~~] Except as provided in subdivision five of this  
15 section, expenditures made by the [~~division for youth~~] office of chil-  
16 dren and family services for care, maintenance and supervision furnished  
17 youth, including alleged and adjudicated juvenile delinquents and  
18 persons in need of supervision, placed or referred, pursuant to titles  
19 two or three of this article, and juvenile offenders committed pursuant  
20 to section 70.05 of the penal law, in the [~~division's~~] office's programs  
21 and facilities, shall be subject to reimbursement to the state by the  
22 social services district from which the youth was placed or by the  
23 social services district in which the juvenile offender resided at the  
24 time of commitment, in accordance with this section and the regulations  
25 of the [~~division~~] office as follows: fifty percent of the amount  
26 expended for care, maintenance and supervision of local charges includ-  
27 ing juvenile offenders.

28 [~~4. Expenditures made by the division for youth~~] 3. The costs for  
29 foster care provided by voluntary authorized agencies to juvenile delin-  
30 quents placed in the care of the office of children and family services  
31 shall be [~~subject to reimbursement to the state by~~] the responsibility  
32 of the social services district from which the youth was placed, and  
33 shall be subject to reimbursement from the state in accordance with [~~the~~  
34 ~~regulations of the division, as follows: fifty percent of the amount~~  
35 ~~expended for care, maintenance and supervision of local charges~~] section  
36 one hundred fifty-three-k of the social services law.

37 [~~5~~] 4. (a) [Expenditures] Except as provided in subdivision five of  
38 this section, expenditures made by the [~~division for youth~~] office of  
39 children and family services for aftercare supervision shall be subject  
40 to reimbursement to the state by the social services district from which  
41 the youth was placed, in accordance with regulations of the [~~division~~]  
42 office, as follows: fifty percent of the amount expended for aftercare  
43 supervision of local charges.

44 (b) Expenditures made by social services districts for aftercare  
45 supervision of adjudicated juvenile delinquents and persons in need of  
46 supervision [~~provided (prior to the expiration of the initial or~~  
47 ~~extended period of placement or commitment) by the aftercare staff of~~  
48 ~~the facility from which the youth has been released or discharged, other~~  
49 ~~than those under the jurisdiction of the division for youth, in which~~  
50 ~~said youth was placed or committed, pursuant to directions of the family~~  
51 ~~court,~~] shall be subject to reimbursement by the state[, ~~upon approval~~  
52 ~~by the division and in accordance with its regulations, as follows:~~

53 ~~(1) the full amount expended by the district for aftercare supervision~~  
54 ~~of state charges;~~

~~(2) fifty percent of the amount expended by the district for aftercare supervision of local charges]~~ in accordance with section one hundred fifty-three-k of the social services law.

(c) Expenditures made by the ~~[division for youth]~~ office of children and family services for contracted programs and contracted services pursuant to subdivision seven of section five hundred one of this article, except with respect to urban homes and group homes, shall be subject to reimbursement to the state by the social services district from which the youth was placed, in accordance with this section and the regulations of the ~~[division]~~ office as follows: fifty percent of the amount expended for the operation and maintenance of such programs and services.

5. Notwithstanding any other provision of law to the contrary, no reimbursement shall be required from a social services district for expenditures made by the office of children and family services on or after December first, two thousand seventeen for the care, maintenance, supervision or aftercare supervision of youth age sixteen years of age or older that would not otherwise have been made absent the provisions of a chapter of the laws of two thousand seventeen that increased the age of juvenile jurisdiction above fifteen years of age or that authorized the placement in office of children and family services facilities of certain other youth who committed a crime on or after their sixteenth birthdays.

5-a. The social services district responsible for reimbursement to the state shall remain the same if during a period of placement or extension thereof, a child commits a criminal act while in ~~[a division]~~ an office of children and family services facility, during an authorized absence therefrom or after absconding therefrom and is returned to the ~~[division]~~ office following adjudication or conviction for the act by a court with jurisdiction outside the boundaries of the social services district which was responsible for reimbursement to the state prior to such adjudication or conviction.

§ 97. Subdivision 1 and subparagraph (iii) of paragraph (a) of subdivision 3 of section 529-b of the executive law, as added by section 3 of subpart B of part Q of chapter 58 of the laws of 2011, are amended to read as follows:

1. (a) Notwithstanding any provision of law to the contrary, eligible expenditures by an eligible municipality for services to divert youth at risk of, alleged to be, or adjudicated as juvenile delinquents or persons alleged or adjudicated to be in need of supervision, or youth alleged to be or convicted as juvenile offenders from placement in detention or in residential care shall be subject to state reimbursement under the supervision and treatment services for juveniles program for up to sixty-two percent of the municipality's expenditures, subject to available appropriations and exclusive of any federal funds made available for such purposes, not to exceed the municipality's distribution under the supervision and treatment services for juveniles program.

(b) The state funds appropriated for the supervision and treatment services for juveniles program shall be distributed to eligible municipalities by the office of children and family services based on a plan developed by the office which may consider historical information regarding the number of youth seen at probation intake for an alleged act of delinquency, the number of alleged persons in need of supervision receiving diversion services under section seven hundred thirty-five of the family court act, the number of youth remanded to detention, the number of juvenile delinquents placed with the office, the number of

1 juvenile delinquents and persons in need of supervision placed in resi-  
2 dential care with the municipality, the municipality's reduction in the  
3 use of detention and residential placements, and other factors as deter-  
4 mined by the office. Such plan developed by the office shall be subject  
5 to the approval of the director of the budget. The office is authorized,  
6 in its discretion, to make advance distributions to a municipality in  
7 anticipation of state reimbursement.

8 (iii) a description of how the services and programs proposed for  
9 funding will reduce the number of youth from the municipality who are  
10 detained and residentially or otherwise placed; how such services and  
11 programs are family-focused; and whether such services and programs are  
12 capable of being replicated across multiple sites;

13 § 98. Subdivisions 2, 4, 5, 6 and 7 of section 530 of the executive  
14 law, subdivisions 2 and 4 as amended by section 4 of subpart B of part Q  
15 of chapter 58 of the laws of 2011, paragraphs (a) and (d) of subdivision  
16 2 as amended by section 1 of part M of chapter 57 of the laws of 2012,  
17 subdivision 5 as amended by chapter 920 of the laws of 1982, subpara-  
18 graphs 1, 2 and 4 of paragraph (a) and paragraph (b) of subdivision 5 as  
19 amended by section 5 of subpart B of part Q of chapter 58 of the laws of  
20 2011, subdivision 6 as amended by chapter 880 of the laws of 1976, and  
21 subdivision 7 as amended by section 6 of subpart B of part Q of chapter  
22 58 of the laws of 2011, are amended and a new subdivision 8 is added to  
23 read as follows:

24 2. [~~Expenditures~~] Except as provided for in subdivision eight of this  
25 section, expenditures made by municipalities in providing care, mainte-  
26 nance and supervision to youth in detention facilities designated pursu-  
27 ant to sections seven hundred twenty and 305.2 of the family court act  
28 and certified by [~~the division for youth~~] office of children and family  
29 services, shall be subject to reimbursement by the state, as follows:

30 (a) Notwithstanding any provision of law to the contrary, eligible  
31 expenditures by a municipality during a particular program year for the  
32 care, maintenance and supervision in foster care programs certified by  
33 the office of children and family services, certified or approved family  
34 boarding homes, and non-secure detention facilities certified by the  
35 office for those youth alleged to be persons in need of supervision or  
36 adjudicated persons in need of supervision held pending transfer to a  
37 facility upon placement; and in secure and non-secure detention facili-  
38 ties certified by the office in accordance with section five hundred  
39 three of this article for those youth alleged to be juvenile delin-  
40 quents; adjudicated juvenile delinquents held pending transfer to a  
41 facility upon placement, and juvenile delinquents held at the request of  
42 the office of children and family services pending extension of place-  
43 ment hearings or release revocation hearings or while awaiting disposi-  
44 tion of such hearings; and youth alleged to be or convicted as juvenile  
45 offenders and, youth alleged to be persons in need of supervision or  
46 adjudicated persons in need of supervision held pending transfer to a  
47 facility upon placement in foster care programs certified by the office  
48 of children and family services, certified or approved family boarding  
49 homes, shall be subject to state reimbursement for up to fifty percent  
50 of the municipality's expenditures, exclusive of any federal funds made  
51 available for such purposes, not to exceed the municipality's distrib-  
52 ution from funds that have been appropriated specifically therefor for  
53 that program year. Municipalities shall implement the use of detention  
54 risk assessment instruments in a manner prescribed by the office so as  
55 to inform detention decisions. Notwithstanding any other provision of  
56 state law to the contrary, data necessary for completion of a detention

1 risk assessment instrument may be shared among law enforcement,  
2 probation, courts, detention administrators, detention providers, and  
3 the attorney for the child upon retention or appointment; solely for the  
4 purpose of accurate completion of such risk assessment instrument, and a  
5 copy of the completed detention risk assessment instrument shall be made  
6 available to the applicable detention provider, the attorney for the  
7 child and the court.

8 (b) The state funds appropriated for juvenile detention services shall  
9 be distributed to eligible municipalities by the office of children and  
10 family services based on a plan developed by the office which may  
11 consider historical information regarding the number of youth remanded  
12 to detention, the municipality's reduction in the use of detention, the  
13 municipality's youth population, and other factors as determined by the  
14 office. Such plan developed by the office shall be subject to the  
15 approval of the director of the budget. The office is authorized, in its  
16 discretion, to make advance distributions to a municipality in antic-  
17 ipation of state reimbursement.

18 (c) A municipality may also use the funds distributed to it for juve-  
19 nile detention services under this section for a particular program year  
20 for sixty-two percent of a municipality's eligible expenditures for  
21 supervision and treatment services for juveniles programs approved under  
22 section five hundred twenty-nine-b of this title for services that were  
23 not reimbursed from a municipality's distribution under such program  
24 provided to at-risk, alleged or adjudicated juvenile delinquents or  
25 persons alleged or adjudicated to be in need of supervision, or alleged  
26 to be or convicted as juvenile offenders in community-based non-residen-  
27 tial settings. Any claims submitted by a municipality for reimbursement  
28 for detention services or supervision and treatment services for juve-  
29 niles provided during a particular program year for which the munici-  
30 pality does not receive state reimbursement from the municipality's  
31 distribution of detention services funds for that program year may not  
32 be claimed against the municipality's distribution of funds available  
33 under this section for the next applicable program year. The office may  
34 require that such claims be submitted to the office electronically at  
35 such times and in the manner and format required by the office.

36 [~~(d)(1)~~] 2-a. (a) Notwithstanding any provision of law or regulation  
37 to the contrary, any information or data necessary for the development,  
38 validation or revalidation of the detention risk assessment instrument  
39 shall be shared among local probation departments, the office of  
40 probation and correctional alternatives and, where authorized by the  
41 division of criminal justice services, the entity under contract with  
42 the division to provide information technology services related to youth  
43 assessment and screening, the office of children and family services,  
44 and any entity under contract with the office of children and family  
45 services to provide services relating to the development, validation or  
46 revalidation of the detention risk assessment instrument. Any such  
47 information and data shall not be commingled with any criminal history  
48 database. Any information and data used and shared pursuant to this  
49 section shall only be used and shared for the purposes of this section  
50 and in accordance with this section. Such information shall be shared  
51 and received in a manner that protects the confidentiality of such  
52 information. The sharing, use, disclosure and redisclosure of such  
53 information to any person, office, or other entity not specifically  
54 authorized to receive it pursuant to this section or any other law is  
55 prohibited.



1    [~~(ii)~~] (b) The office of children and family services shall consult  
2 with individuals with professional research experience and expertise in  
3 criminal justice; social work; juvenile justice; and applied mathemat-  
4 ics, psychometrics and/or statistics to assist the office in determining  
5 the method it will use to: develop, validate and revalidate such  
6 detention risk assessment instrument; and analyze the effectiveness of  
7 the use of such detention risk assessment instrument in accomplishing  
8 its intended goals; and analyze, to the greatest extent possible any  
9 disparate impact on detention outcomes for juveniles based on race, sex,  
10 national origin, economic status and any other constitutionally  
11 protected class, regarding the use of such instrument. The office shall  
12 consult with such individuals regarding whether it is appropriate to  
13 attempt to analyze whether there is any such disparate impact based on  
14 sexual orientation and, if so, the best methods to conduct such analy-  
15 sis. The office shall take into consideration any recommendations given  
16 by such individuals involving improvements that could be made to such  
17 instrument and process.

18    [~~(iii)~~] (c) Data collected for the purposes of completing the  
19 detention risk assessment instrument from any source other than an offi-  
20 cially documented record shall be confirmed as soon as practicable.  
21 Should any data originally utilized in completing the risk assessment  
22 instrument be found to conflict with the officially documented record,  
23 the risk assessment instrument shall be completed with the officially  
24 documented data and any corresponding revision to the risk categori-  
25 zation shall be made. The office shall periodically revalidate any  
26 approved risk assessment instrument. The office shall conspicuously post  
27 any approved detention risk assessment instrument on its website and  
28 shall confer with appropriate stakeholders, including but not limited  
29 to, attorneys for children, presentment agencies, probation, and the  
30 family court, prior to revising any validated risk assessment instru-  
31 ment. Any such revised risk assessment instrument shall be subject to  
32 periodic empirical validation.

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

38    (b) Except as provided in subdivision eight of this section: (i) In  
39 computing reimbursement to the municipality pursuant to this section,  
40 the office shall insure that the aggregate of state aid under all state  
41 aid formulas shall not exceed fifty percent of the cost of care, mainte-  
42 nance and supervision provided to detainees eligible for state  
43 reimbursement under subdivision two of this section, exclusive of feder-  
44 al aid for such purposes not to exceed the amount of the municipality's  
45 distribution under the juvenile detention services program.

46    [~~(e)~~] (ii) Reimbursement for administrative related expenditures as  
47 defined by the office of children and family services, for secure and  
48 nonsecure detention services shall not exceed seventeen percent of the  
49 total approved expenditures for facilities of twenty-five beds or more  
50 and shall not exceed twenty-one percent of the total approved expendi-  
51 tures for facilities with less than twenty-five beds.

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

55    (1) temporary care, maintenance and supervision provided to alleged  
56 juvenile delinquents and persons in need of supervision in detention

1 facilities certified pursuant to sections seven hundred twenty and 305.2  
2 of the family court act by the office of children and family services,  
3 pending adjudication of alleged delinquency or alleged need of super-  
4 vision by the family court, or pending transfer to institutions to which  
5 committed or placed by such court or while awaiting disposition by such  
6 court after adjudication or held pursuant to a securing order of a crim-  
7 inal court if the person named therein as principal is under [~~sixteen~~]  
8 eighteen years of age; or[7]

9 (1-a) temporary care, maintenance, and supervision provided to alleged  
10 juvenile delinquents in detention facilities certified by the office of  
11 children and family services, pending adjudication of alleged delinquen-  
12 cy by the family court, or pending transfer to institutions to which  
13 committed or placed by such court or while awaiting disposition by such  
14 court after adjudication or held pursuant to a securing order of a crim-  
15 inal court if the person named therein as principal is under twenty-one;  
16 or

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

21 (3) temporary care, maintenance and supervision in approved detention  
22 facilities for youth held pursuant to the family court act or the inter-  
23 state compact on juveniles, pending return to their place of residence  
24 or domicile[7]; or

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

28 (b) Payments made for reserved accommodations, whether or not in full  
29 time use, approved and certified by the office of children and family  
30 services [~~and certified pursuant to sections seven hundred twenty and~~  
31 ~~305.2 of the family court act~~], in order to assure that adequate accom-  
32 modations will be available for the immediate reception and proper care  
33 therein of youth for which detention costs are reimbursable pursuant to  
34 paragraph (a) of this subdivision, shall be reimbursed as expenditures  
35 for care, maintenance and supervision under the provisions of this  
36 section, provided the office shall have given its prior approval for  
37 reserving such accommodations.

38 6. The [~~director of the division for youth~~] office of children and  
39 family services may adopt, amend, or rescind all rules and regulations,  
40 subject to the approval of the director of the budget and certification  
41 to the chairmen of the senate finance and assembly ways and means  
42 committees, necessary to carry out the provisions of this section.

43 7. The agency administering detention for each county and the city of  
44 New York shall submit to the office of children and family services, at  
45 such times and in such form and manner and containing such information  
46 as required by the office of children and family services, an annual  
47 report on youth remanded pursuant to article three or seven of the fami-  
48 ly court act who are detained during each calendar year including,  
49 commencing January first, two thousand twelve, the risk level of each  
50 detained youth as assessed by a detention risk assessment instrument  
51 approved by the office of children and family services. The office may  
52 require that such data on detention use be submitted to the office elec-  
53 tronically. Such report shall include, but not be limited to, the reason  
54 for the court's determination in accordance with section 320.5 or seven  
55 hundred thirty-nine of the family court act, if applicable, to detain  
56 the youth; the offense or offenses with which the youth is charged; and

1 all other reasons why the youth remains detained. The office shall  
2 submit a compilation of all the separate reports to the governor and the  
3 legislature.

4 8. Notwithstanding any other provisions of law to the contrary, state  
5 reimbursement shall be made available for one hundred percent of a  
6 municipality's eligible expenditures for the care, maintenance and  
7 supervision of youth sixteen years of age or older in non-secure and  
8 secure detention facilities when such detention would not otherwise have  
9 occurred absent the provisions of a chapter of the laws of two thousand  
10 seventeen that increased the age of juvenile jurisdiction above fifteen  
11 years of age.

12 § 99. Section 109-c of the vehicle and traffic law, as added by  
13 section 1 of part E of chapter 60 of the laws of 2005, is amended to  
14 read as follows:

15 § 109-c. Conviction. 1. Any conviction as defined in subdivision  
16 thirteen of section 1.20 of the criminal procedure law; provided, howev-  
17 er, where a conviction or administrative finding in this state or anoth-  
18 er state results in a mandatory sanction against a commercial driver's  
19 license, as set forth in sections five hundred ten, five hundred ten-a,  
20 eleven hundred ninety-two and eleven hundred ninety-four of this chap-  
21 ter, conviction shall also mean an unvacated adjudication of guilt, or a  
22 determination that a person has violated or failed to comply with the  
23 law in a court of original jurisdiction or by an authorized administra-  
24 tive tribunal, an unvacated forfeiture of bail or collateral deposited  
25 to secure the person's appearance in court, a plea of guilty or nolo  
26 contendere accepted by the court, the payment of a fine or court cost,  
27 or violation of a condition of release without bail, regardless of  
28 whether or not the penalty is rebated, suspended, or probated.

29 2. A conviction shall include a juvenile delinquency adjudication for  
30 the purposes of sections five hundred ten; subdivision five of section  
31 five hundred eleven; five hundred fourteen; five hundred twenty-three-a;  
32 subparagraph (ii) of paragraph (b) of subdivision one of section eleven  
33 hundred ninety-three; subdivision two of section eleven hundred ninety-  
34 three; eleven hundred ninety-six; eleven hundred ninety-eight; eleven  
35 hundred ninety-eight-a; eleven hundred ninety-nine; eighteen hundred  
36 eight; eighteen hundred nine; eighteen hundred nine-c; and eighteen  
37 hundred nine-e of this chapter and paragraph (a) of subdivision six of  
38 section sixty-five-b of the alcoholic beverage control law only and  
39 solely for the purposes of allowing the family court to impose license  
40 and registration sanctions, ignition interlock devices, any drug or  
41 alcohol rehabilitation program, victim impact program, driver responsi-  
42 bility assessment, victim assistance fee, surcharge, and issuing a stay  
43 order on appeal. Nothing in this subdivision shall be construed as  
44 limiting or precluding the enforcement of section eleven hundred nine-  
45 ty-two-a of this chapter against a person under the age of twenty-one.

46 § 100. Subdivision 1 of section 510 of the vehicle and traffic law, as  
47 amended by chapter 132 of the laws of 1986, is amended to read as  
48 follows:

49 1. Who may suspend or revoke. Any magistrate, justice or judge, in a  
50 city, in a town, or in a village, any supreme court justice, any county  
51 judge, any judge of a district court, any family court judge, the super-  
52 intendent of state police and the commissioner of motor vehicles or any  
53 person deputized by him, shall have power to revoke or suspend the  
54 license to drive a motor vehicle or motorcycle of any person, or in the  
55 case of an owner, the registration, as provided herein.

§ 100-a. Severability. If any clause, sentence, paragraph, subdivision, section or part contained in any part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part contained in any part thereof directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the intent of the legislature that this act would have been enacted even if such invalid provisions had not been included herein.

§ 101. This act shall take effect immediately; provided, however, that:

1. sections one through twenty-four, twenty-six through fifty-eight, fifty-nine, sixty-one through sixty-three-l, sixty-three-m, sixty-six, sixty-eight through seventy-six, eighty through eighty-seven, eighty-eight, eighty-nine and ninety through one hundred-a of this act shall take effect on January 1, 2019;

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

3. the amendments to subparagraph (ii) of paragraph (a) of subdivision 1 of section 409-a of the social services law, made by section fifty-two of this act shall survive the expiration of such subparagraph pursuant to section 28 of part C of chapter 83 of the laws of 2002, as amended;

4. the amendments to subdivision 4 of section 353.5 of the family court act made by section twenty-four of this act shall not affect the expiration and reversion of such subdivision pursuant to section 11 of subpart A of part G of chapter 57 of the laws of 2012, as amended, and shall expire and be deemed repealed therewith, when upon such date the provisions of section twenty-five of this act shall take effect;

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

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

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

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

8-a. if chapter 492 of the laws of 2016 shall not have taken effect on or before such date then section sixty-three-l-one of this act shall take effect on the same date and in the same manner as such chapter of the laws of 2016, takes effect;

9. the amendments to subparagraph 1 of paragraph d of subdivision 3 of section 3214 of the education law made by section eighty-seven of this act shall not affect the expiration and reversion of such paragraph pursuant to section 4 of chapter 425 of the laws of 2002, as amended, when upon such date the provisions of section eighty-seven-a of this act shall take effect; provided, however if such date of reversion is prior to January 1, 2019, section eighty-seven-a of this act shall take effect on January 1, 2019; and

1     10. the amendments to the second undesignated paragraph of subdivision  
2     4 of section 246 of the executive law made by section eighty-nine of  
3     this act shall not affect the expiration and reversion of such paragraph  
4     pursuant to subdivision aa of section 427 of chapter 55 of the laws of  
5     1992, as amended, when upon such date the provisions of section eighty-  
6     nine-a of this act shall take effect; provided, however if such date of  
7     reversion is prior to January 1, 2019, section eighty-nine-a of this act  
8     shall take effect on January 1, 2019.