STATE OF NEW YORK

4876

2017-2018 Regular Sessions

IN ASSEMBLY

February 3, 2017

Introduced by M. of A. LENTOL, JAFFEE, HEASTIE, AUBRY, WEINSTEIN, PERRY, WEPRIN, FARRELL, HEVESI, O'DONNELL, LUPARDO, BLAKE, SEPULVEDA, MOSLEY, RAMOS, HOOPER, COOK, ARROYO, ORTIZ, RIVERA, PEOPLES-STOKES, TITUS, CRESPO, MOYA, KIM, ROZIC, SOLAGES, DAVILA, PICHARDO, BARRON, BICHOTTE, DILAN, JEAN-PIERRE, JOYNER, WALKER, RICHARDSON, SIMON, ROSENTHAL, GOTTFRIED, TITONE, RODRIGUEZ, FAHY -- read once and referred to the Committee on Codes

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

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

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with the office of children and family services; to amend the education law, in relation to the possession of a gun on school grounds by a student; to amend the executive law, in relation to persons in need of supervision or youthful offenders; 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:

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

(vi) proceedings concerning juvenile delinquency as set forth in article three **of this act that are commenced in family court**.

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

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

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

(b) For every juvenile delinquency proceeding under article three **of this act** involving an allegation of an act committed by a person which, if done by an adult, would [~~be a crime (i) defined in sections 125.27 (murder in the first degree); 125.25 (murder in the second degree); 135.25 (kidnapping in the first degree); or 150.20 (arson in the first degree) of the penal law committed by a person thirteen, fourteen or fifteen years of age; or such conduct committed as a sexually motivated felony, where authorized pursuant to section 130.91 of the penal law; (ii) defined in sections 120.10 (assault in the first degree); 125.20 (manslaughter in the first degree); 130.35 (rape in the first degree); 130.50 (criminal sexual act in the first degree); 135.20 (kidnapping in the second degree), but only where the abduction involved the use or threat of use of deadly physical force; 150.15 (arson in the second degree); or 160.15 (robbery in the first degree) of the penal law committed by a person thirteen, fourteen or fifteen years of age; or such conduct committed as a sexually motivated felony, where authorized pursuant to section 130.91 of the penal law; (iii) defined in the penal law as an attempt to commit murder in the first or second degree or kidnapping in the first degree committed by a person thirteen, fourteen or fifteen years of age; or such conduct committed as a sexually motivated felony, where authorized pursuant to section 130.91 of the penal law; (iv) defined in section 140.30 (burglary in the first degree); subdivision one of section 140.25 (burglary in the second degree); subdivision two of section 160.10 (robbery in the second degree) 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 committed by a person fourteen or fifteen years of age; or such conduct committed as~~

~~a sexually motivated felony, where authorized pursuant to section 130.91 of the penal law; (v) defined in section 120.05 (assault in the second 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 the first degree); or 150.20 (arson in the first degree) of the penal law committed by a person thirteen, fourteen [~~or~~], fifteen, sixteen, or seventeen years of age; or such conduct committed as a sexually motivated felony, where authorized pursuant to section 130.91 of the penal law; (ii) defined in sections 120.10 (assault in the first degree); 125.20 (manslaughter in the first degree); 130.35 (rape in the first degree); 130.50 (criminal sexual act in the first degree); 130.70 (aggravated sexual abuse in the first degree); 135.20 (kidnapping in the second degree) but only where the abduction involved the use or threat of use of deadly physical force; 150.15 (arson in the second degree) or 160.15 (robbery in the first degree) of the penal law committed by a person thirteen, fourteen [~~or~~], fifteen, sixteen, or seventeen years of age; or such conduct committed as a sexually motivated felony, where authorized pursuant to section 130.91 of the penal law; (iii) defined in the penal law as an attempt to commit murder in the first or second degree or kidnapping in the first degree committed by a person thirteen, fourteen [~~or~~], fifteen, sixteen, or seventeen years of age; or such conduct committed as a sexually motivated felony, where authorized pursuant to section 130.91 of the penal law; (iv) defined in section 140.30 (burglary in the first degree); subdivision one of section 140.25 (burglary in the second degree); subdivision two of section 160.10 (robbery in the second degree) 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 committed by a person fourteen or fifteen years of age; or such conduct committed as a sexually motivated felony, where authorized pursuant to section 130.91 of the penal law; (v) defined in section 120.05 (assault in the second degree) or 160.10 (robbery in the second degree) of the penal law committed by a person fourteen [~~or~~], fifteen, sixteen or seventeen 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 paragraph (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~~] twelve but less than [~~sixteen~~] eighteen years of age, but only where there has been two prior findings by the court that such person has committed a prior felony; or (vii) 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 in the first degree); 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 the penal law; or a felony sex offense as defined 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 issu-

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

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

(a) 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:

(i) 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

(ii) 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

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

(i) 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;

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

(iii) 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

(iv) 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.

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

4. If the agency for any reason does not release a child under this section, such child shall be brought before the appropriate family court, or when such 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; provided, however, that if such family court is not in session and if a magistrate is not available, such youth shall be brought before such family court within seventy-two hours or the next day the court is in session, whichever is sooner. Such agency shall thereupon file an application for an order pursuant to section 307.4 and shall forthwith serve a copy of the application upon the appropriate presentment agency. Nothing in this subdivision shall preclude the adjustment of suitable cases pursuant to section 308.1.

§ 14. Section 308.1 of the family court act, as added by chapter 920 of the laws of 1982, subdivision 2 as amended by section 3 of part V of

chapter 55 of the laws of 2012, subdivision 4 as amended by chapter 264 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-l 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:

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

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

5. (a) If the court finds that there is probable cause to believe that the respondent committed a felony, it shall order the respondent committed to the custody of the commissioner of mental health or the commissioner of **the office for people with** developmental disabilities for an initial period not to exceed one year from the date of such order. Such period may be extended annually upon further application to the court by the commissioner having custody or his or her designee. Such application must be made not more than sixty days prior to the expiration of such period on forms that have been prescribed by the chief administrator of the courts. At that time, the commissioner must give written notice of the application to the respondent, the counsel representing the respondent and the mental hygiene legal service if the respondent is at a residential facility. Upon receipt of such application, the court must conduct a hearing to determine the issue of capacity. If, at the conclusion of a hearing conducted pursuant to this subdivision, the court finds that the respondent is no longer incapacitated, he or she shall be returned to the family court for further proceedings pursuant to this article. If the court is satisfied that the respondent continues to be incapacitated, the court shall authorize continued custody of the respondent by the commissioner for a period not to exceed one year. Such extensions shall not continue beyond a reasonable period of time necessary to determine whether the respondent will attain the capacity to proceed to a fact finding hearing in the foreseeable future

but in no event shall continue beyond the respondent's eighteenth birthday **or, if the respondent was at least sixteen years of age when the act was committed, beyond the respondent's twenty-first birthday**.

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

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

(d) The commissioner shall review the condition of the respondent within forty-five days after the respondent is committed to the custody of the commissioner. He or she shall make a second review within ninety days after the respondent is committed to his or her custody. Thereafter, he or she shall review the condition of the respondent every ninety days. The respondent and the counsel for the respondent, shall be notified of any such review and afforded an opportunity to be heard. The commissioner having custody shall apply to the court for an order dismissing the petition whenever he or she determines that there is a substantial probability that the respondent will continue to be incapacitated for the foreseeable future. At the time of such application the commissioner must give written notice of the application to the respondent, the presentment agency and the mental hygiene legal service if the respondent is at a residential facility. Upon receipt of such application, the court may on its own motion conduct a hearing to determine whether there is substantial probability that the respondent will continue to be incapacitated for the foreseeable future, and it must conduct such hearing if a demand therefor is made by the respondent or the mental hygiene legal service within ten days from the date that notice of the application was given to them. The respondent may apply to the court for an order of dismissal on the same ground.

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

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

5. Where the petition consists of an order of removal pursuant to article seven hundred twenty-five of the criminal procedure law, unless the removal was pursuant to subdivision three of section 725.05 of such law and the respondent was not afforded a probable cause hearing [~~pursuant to subdivision three of section 180.75 of such law for a reason other than his waiver thereof pursuant to subdivision two of section 180.75 of such law~~], the petition shall be deemed to be based upon a determination that probable cause exists to believe the respondent is a juvenile delinquent and the respondent shall not be entitled to any further inquiry on the subject of whether probable cause exists. After the filing of any such petition the court must, however, exercise inde-

pendent, de novo discretion with respect to release or detention as set 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 of the laws of 1996, subdivisions 4 and 5 as amended by chapter 398 of the laws of 1983, is amended to read as follows:

§ 354.1. Retention and destruction of fingerprints of persons alleged to be juvenile delinquents. 1. If a person whose fingerprints, palmprints or photographs were taken pursuant to section 306.1 or was initially fingerprinted as a juvenile offender and the action is subsequently removed to a family court pursuant to article seven hundred twenty-five of the criminal procedure law is adjudicated to be a juvenile delinquent for a felony, the family court shall forward or cause to be forwarded to the division of criminal justice services notification of such adjudication and such related information as may be required by such division, provided, however, in the case of a person eleven [~~or twelve~~] years of age such notification shall be provided only if the act upon which the adjudication is based would constitute a class [~~A or B~~] **A-1** felony **or, in the case of a person twelve years of age, such notification shall be provided only if the act upon which the adjudication is based would constitute a class A or B felony**.

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

3. If the appropriate presentment agency does not originate a proceeding under section 310.1 for a case in which the potential respondent's fingerprints were taken pursuant to section 306.1, the presentment agency shall serve a certification of such action upon the division of criminal justice services, and upon the appropriate police department or law enforcement agency.

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

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

6. If a person fingerprinted pursuant to section 306.1 and subsequently adjudicated a juvenile delinquent for a felony, but in the case of acts committed when such a person was eleven [~~or twelve~~] years of age which would constitute a class [~~A or B~~] A-1 felony only, or, in the case of acts committed when such a person was twelve years of age which would constitute a class A or B felony only, is subsequently convicted of a crime, all fingerprints and related information obtained by the division of criminal justice services pursuant to such section and not destroyed pursuant to subdivisions two, five and seven or subdivision twelve of section 308.1 shall become part of such division's permanent adult criminal record for that person, notwithstanding section 381.2 or 381.3.

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

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

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

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

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

5. Nothing in this section shall: require that consent be obtained from the youth's parent or legal guardian to any medical, dental, or mental health service and treatment when no consent is necessary or the youth is authorized by law to consent on his or her own behalf; preclude a youth from consenting on his or her own behalf to any medical, dental or mental health service and treatment where otherwise authorized by law

to do so[~~, or the division for youth~~]; or preclude the officer of children and family services or a social services district from petitioning the court pursuant to section two hundred thirty-three of this act, as appropriate.

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

(b) subsequent permanency hearings shall be held no later than every twelve months following the respondent's initial twelve months in placement but in no event past the respondent's twenty-first birthday; provided, however, that they shall be held in conjunction with an extension of placement hearing held pursuant to section 355.3 of this [~~article~~] part.

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

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

6. At the conclusion of the hearing the court may revoke, continue or modify the order of probation or conditional discharge. If the court revokes the order, it shall order a different disposition pursuant to section 352.2, provided, however, that nothing herein shall authorize the placement of a respondent for a violation of a condition that would not constitute a crime if committed by an adult unless the court determines (i) that the respondent poses a specific imminent threat to public safety and states the reasons for the finding on the record or (ii) the respondent is on probation for an act that would constitute a violent felony as defined in section 70.02 of the penal law if committed by an adult and the use of graduated sanctions have been exhausted without success. If the court continues the order of probation or conditional discharge, it shall dismiss the petition of violation.

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

(d) "Non-secure detention facility". [~~A facility characterized by the absence of physically restricting construction, hardware and procedures.~~] A foster care program certified by the office of children and family services or a certified or approved family boarding home, or in a city having a population of five million or more, a foster care facility established and maintained pursuant to the social services law.

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

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

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

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

§ 720. Detention. 1. 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 a crime.

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

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

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

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

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

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

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

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

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

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

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

(i) that there is no substantial likelihood that the youth and his or her family will continue to benefit from diversion services**, that continuation in the home would not be appropriate because such continuation would (A) continue or worsen the circumstances alleged in the underlying petition, or that created the need for a petition to be sought or (B) create a safety risk to the child or the child's family** and that all **other** available alternatives to detention have been exhausted; and

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

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

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

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

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

(b) The designated lead agency shall:

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

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

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

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

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

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

(vii) assess whether remaining in the home would cause the continuation or worsening of the circumstances that created the need for a petition to be sought, or create a safety risk to the child or the child's family; and

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

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

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

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

(ii) scheduling and holding at least one conference with the youth and his or her family and the person or representatives of the entity seeking to file a petition under this article concerning alternatives to filing a petition and services that are available. Diversion services shall include clearly documented diligent attempts to provide appropriate services to the youth and his or her family before it may be determined that there is no substantial likelihood that the youth and his or her family will benefit from further attempts.

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

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

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

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

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

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

(B) a notice from the designated lead agency stating that it has terminated diversion services because it has determined that there is no substantial likelihood that the youth and his or her family will benefit

from further attempts, and that the case has not been successfully diverted.

(h) No statement made to the designated lead agency or to any agency or organization to which the potential respondent has been referred, prior to the filing of the petition, or if the petition has been filed, prior to the time the respondent has been notified that attempts at diversion will not be made or have been terminated, or prior to the commencement of a fact-finding hearing if attempts at diversion have not terminated previously, 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.

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

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

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

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

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

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

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

§ 751. Order dismissing petition. If the allegations of a petition under this article are not established, the court shall dismiss the

petition. The court may in its discretion dismiss a petition under this article, in the interests of justice where attempts have been made to adjust the case as provided for in sections seven hundred thirty-five and seven hundred forty-two of this article and the probation service has exhausted its efforts to successfully adjust such case as a result of the petition's failure to provide reasonable assistance to the probation service. **In dismissing a petition pursuant to this section, the court shall consider whether a referral of services would be appropriate to meet the needs of the respondent and his or her family.**

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

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

(a) Discharging the respondent with warning;

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

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

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

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

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

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

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

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

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

(b) The order shall state the court's reasons for the particular disposition. If the court places the child in accordance with section seven hundred fifty-six of this part, the court in its order shall determine: (i) whether continuation in the child's home would be contrary to the best interest of the child and where appropriate, that reasonable efforts were made prior to the date of the dispositional hearing

held pursuant to this article to prevent or eliminate the need for removal of the child from his or her home and, if the child was removed from his or her home prior to the date of such hearing, that such removal was in the child's best interest and, where appropriate, reasonable efforts were made to make it possible for the child to return safely home. If the court determines that reasonable efforts to prevent or eliminate the need for removal of the child from the home were not made but that the lack of such efforts was appropriate under the circumstances, the court order shall include such a finding; and (ii) in the case of a child who has attained the age of fourteen, the services needed, if any, to assist the child to make the transition from foster care to independent living. Nothing in this subdivision shall be construed to modify the standards for directing detention set forth in section seven hundred thirty-nine of this article.

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

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

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

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

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

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

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

unless the court determines that providing reasonable efforts would be in the best interests of the child, not contrary to the health and safety of the child, and would likely result in the reunification of the parent and the child in the foreseeable future. The court shall state such findings in its order.

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

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

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

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

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

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

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

§ 756-a. Extension of placement. (a) In any case in which the child has been placed pursuant to section seven hundred fifty-six, the child, the person with whom the child has been placed or the commissioner of social services may petition the court to extend such placement. Such petition shall be filed at least [~~sixty~~] **thirty** days prior to the expiration of the period of placement, except for good cause shown, but in

no event shall such petition be filed after the original expiration date.

(b) The court shall conduct a permanency hearing concerning the need for continuing the placement. The child, the person with whom the child has been placed and the commissioner of social services shall be notified 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 compelling reasons for determining that it continues to not be in the best interest of the child to return home, be referred for termination of parental rights and placed for adoption, placed with a fit and willing relative, or placed with a legal guardian; and (3) the court has made a determination explaining why, as of the date of the hearing, another planned living arrangement with a significant connection to an adult willing to be a permanency resource for the child is the best permanency plan for the child; and

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

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

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

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

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

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

§ 44. Section 758-a of the family court act, as amended by chapter 73 of the laws of 1979, subdivision 1 as amended by chapter 4 of the laws

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

§ 758-a. Restitution. 1. In cases involving acts of [~~infants~~] **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 youth has been referred or placed, deemed necessary for the rehabilitation of the youth, provided that such family counseling, other counseling activity or other necessary services are not contrary to such person's religious beliefs;

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

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

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

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

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

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

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

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

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

TITLE 12

FAMILY SUPPORT CENTERS

Section 458-m. Family support centers.

458-n. Funding for family support centers.

§ 458-m. Family support centers. 1. As used in this title, the term "family support center" shall mean a program established pursuant to this title to provide community-based supportive services to youth at risk of being, or alleged or adjudicated to be persons in need of supervision pursuant to article seven of the family court act, and their families. Family support centers may also provide community-based

supportive services to youth who are alleged or adjudicated to be juvenile delinquents pursuant to article three of the family court act.

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

(a) rapid family assessments and screenings;

(b) crisis intervention;

(c) family mediation and skills building;

(d) mental and behavioral health services, as defined in subdivision fifty-eight of section 1.03 of the mental hygiene law, including cognitive interventions;

(e) case management;

(f) respite services; and

(g) other family support services.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(e) Claims submitted by a social services district for reimbursement shall be paid after deducting any expenditures defrayed by fees, third

party reimbursement, and any non-tax levy funds including any donated funds.

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

(g) Notwithstanding any other provision of law, the state shall not be responsible for reimbursing a social services district and a district shall not seek state reimbursement for any portion of any state disallowance or sanction taken against the social services district, or any federal disallowance attributable to final federal agency decisions or to settlements made, when such disallowance or sanction results from the failure of the social services district to comply with federal or state requirements, including, but not limited to, failure to document eligibility for the federal or state funds in the case record. To the extent that the social services district has sufficient claims other than those that are subject to disallowance or sanction to draw down the full annual appropriation, such disallowance or sanction shall not result in a reduction in payment of state funds to the district unless the district requests that the department use a portion of the appropriation toward meeting the district's responsibility to repay the federal government for the disallowance or sanction and any related interest payments.

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

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

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

(a) A social services official shall provide preventive services to a child and his or her family, in accordance with the family's service plan as required by section four hundred nine-e of this chapter and the social services district's child welfare services plan submitted and approved pursuant to section four hundred nine-d of this chapter, upon a finding by such official that (i) the child will be placed, returned to or continued in foster care unless such services are provided and that it is reasonable to believe that by providing such services the child will be able to remain with or be returned to his or her family, and for a former foster care youth under the age of twenty-one who was previously placed in the care and custody or custody and guardianship of the

local commissioner of social services or other officer, board or department authorized to receive children as public charges where it is reasonable to believe that by providing such services the former foster care youth will avoid a return to foster care or (ii) the child is the subject of a petition under article seven of the family court act, or has been determined by the assessment service established pursuant to section two hundred forty-three-a of the executive law, or by the probation service where no such assessment service has been designated, to be at risk of being the subject of such a petition, and the social services official determines that the child is at risk of placement into foster care. Such finding shall be entered in the child's uniform case record established and maintained pursuant to section four hundred nine-f of this chapter. The commissioner shall promulgate regulations to assist social services officials in making determinations of eligibility for mandated preventive services pursuant to this [~~subparagraph~~] **paragraph**.

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

§ 30.00 Infancy.

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

2. A person thirteen, fourteen [~~or~~]**,** fifteen**, sixteen, or seventeen** years of age is criminally responsible for acts constituting murder in the second degree as defined in subdivisions one and two of section 125.25 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 or for such conduct as a sexually motivated felony, where authorized pursuant to section 130.91 of [~~the penal law~~] **this chapter**; and a person fourteen [~~or~~]**,** fifteen**, sixteen or seventeen** years of age is criminally responsible for acts constituting the crimes defined in 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 for such conduct as a sexually motivated felony, where authorized pursuant to section 130.91 of [~~the penal law~~] **this chapter**.

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 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 in the first degree); 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.

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[~~,~~] 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 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 in the first degree); 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.

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

42. "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 the penal law, or such conduct as a sexually motivated felony, where authorized pursuant to section 130.91 of the penal law; [~~and~~] (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 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 (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 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 in the first degree); 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.

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

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

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

A criminal action is commenced by the filing of an accusatory instrument with a criminal court, or, in the case of a juvenile offender, the youth part of the superior court, and if more than one such instrument is filed in the course of the same criminal action, such action commences when the first of such instruments is filed. The only way in which a criminal action can be commenced in a superior court is by the filing therewith by a grand jury of an indictment against a defendant who has never been held by a local criminal court for the action of such grand jury with respect to any charge contained in such indictment; provided, however, that when the criminal action is commenced against a juvenile offender, such criminal action, whatever the form of commencement, shall be filed in the youth part of the superior court or, if the youth part is not in session, filed with the most accessible magistrate designated by the appellate division of the supreme court in the applicable department to act as a youth part. Otherwise, a criminal action can be commenced only in a local criminal court, by the filing therewith of a local criminal court accusatory instrument, namely:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

§ 110.20 Local criminal court **or youth part of the superior court** accusatory instruments; notice thereof to district attorney.

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

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

When a criminal action has been commenced in a local criminal court **or youth part of the superior court** by the filing therewith of an accusatory instrument, other than a simplified traffic information, against a

defendant who has not been arraigned upon such accusatory instrument and has not come under the control of the court with respect thereto:

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

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

1. A warrant of arrest may be issued only by the local criminal court **or youth part of the superior court** with which the underlying accusatory instrument has been filed, and it may be made returnable in such issuing court only.

2. The particular local criminal court or courts **or youth part of superior court** with which any particular local criminal court **or youth part of the superior court** accusatory instrument may be filed for the purpose of obtaining a warrant of arrest are determined, generally, by the provisions of section 100.55 **or 100.60, as applicable**. If, however, a particular accusatory instrument may pursuant to said section 100.55 be filed with a particular town court and such town court is not available at the time such instrument is sought to be filed and a warrant obtained, such accusatory instrument may be filed with the town court of any adjoining town of the same county. If such instrument may be filed pursuant to said section 100.55 with a particular village court and such village court is not available at the time, it may be filed with the town court of the town embracing such village, or if such town court is not available either, with the town court of any adjoining town of the same county.

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

§ 120.55 Warrant of arrest; defendant under parole or probation supervision.

If the defendant named within a warrant of arrest issued by a local criminal court **or youth part of the superior court** pursuant to the provisions of this article, or by a superior court issued pursuant to subdivision three of section 210.10 of this chapter, is under the supervision of the state department of corrections and community supervision or a local or state probation department, then a warrant for his or her arrest may be executed by a parole officer or probation officer, when authorized by his or her probation director, within his or her geographical area of employment. The execution of the warrant by a parole officer or probation officer shall be upon the same conditions and conducted in the same manner as provided for execution of a warrant by a police officer.

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

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

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

§ 120.90 Warrant of arrest; procedure after arrest.

1. Upon arresting a defendant for any offense pursuant to a warrant of arrest in the county in which the warrant is returnable or in any adjoining county, or upon so arresting him for a felony in any other county, a police officer, if he be one to whom the warrant is addressed,

must without unnecessary delay bring the defendant before the local criminal court **or youth part of the superior court** in which such warrant is returnable.

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

3. Upon arresting a defendant for an offense other than a felony pursuant to a warrant of arrest in a county other than the one in which the warrant is returnable or one adjoining it, a police officer, if he be one to whom the warrant is addressed, must inform the defendant that he has a right to appear before a local criminal court of the county of arrest for the purpose of being released on his own recognizance or having bail fixed. If the defendant does not desire to avail himself of such right, the officer must request him to endorse such fact upon the warrant, and upon such endorsement the officer must without unnecessary delay bring him before the court in which the warrant is returnable. If the defendant does desire to avail himself of such right, or if he refuses to make the aforementioned endorsement, the officer must without unnecessary delay bring him before a local criminal court of the county of arrest. Such court must release the defendant on his own recognizance or fix bail for his appearance on a specified date in the court in which the warrant is returnable. If the defendant is in default of bail, the officer must without unnecessary delay bring him before the court in which the warrant is returnable.

4. Upon arresting a defendant for an offense other than a felony pursuant to a warrant of arrest in a county other than the one in which the warrant is returnable or one adjoining it, a police officer, if he be one delegated to execute the warrant pursuant to section 120.60, may hold the defendant in custody in the county of arrest for a period not exceeding two hours for the purpose of delivering him to the custody of the officer by whom he was delegated to execute such warrant. If the delegating officer receives custody of the defendant during such period, he must proceed as provided in subdivision three. Otherwise, the delegated officer must inform the defendant that he has a right to appear before a local criminal court for the purpose of being released on his own recognizance or having bail fixed. If the defendant does not desire to avail himself of such right, the officer must request him to make, sign and deliver to him a written statement of such fact, and if the defendant does so, the officer must retain custody of him but must without unnecessary delay deliver him or cause him to be delivered to the custody of the delegating police officer. If the defendant does desire to avail himself of such right, or if he refuses to make and deliver the aforementioned statement, the delegated or arresting officer must without unnecessary delay bring him before a local criminal court of the county of arrest and must submit to such court a written statement reciting the material facts concerning the issuance of the warrant, the offense involved, and all other essential matters relating thereto. Upon the submission of such statement, such court must release the defendant on his own recognizance or fix bail for his appearance on a specified date in the court in which the warrant is returnable. If the defendant is in default of bail, the officer must retain custody of him

but must without unnecessary delay deliver him or cause him to be delivered to the custody of the delegating officer. Upon receiving such custody, the latter must without unnecessary delay bring the defendant before the court in which the warrant is returnable.

5. Whenever a police officer is required pursuant to this section to bring an arrested defendant before a town court in which a warrant of arrest is returnable, and if such town court is not available at the time, such officer must, if a copy of the underlying accusatory instrument has been attached to the warrant pursuant to section 120.40, instead bring such defendant before any village court embraced, in whole or in part, by such town, or any local criminal court of an adjoining town or city of the same county or any village court embraced, in whole or in part, by such adjoining town. When the court in which the warrant is returnable is a village court which is not available at the time, the officer must in such circumstances bring the defendant before the town court of the town embracing such village or any other village court within such town or, if such town court or village court is not available either, before the local criminal court of any town or city of the same county which adjoins such embracing town or, before the local criminal court of any village embraced in whole or in part by such adjoining town. When the court in which the warrant is returnable is a city court which is not available at the time, the officer must in such circumstances bring the defendant before the local criminal court of any adjoining town or village embraced in whole or in part by such adjoining town of the same county.

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

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

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

8. Upon arresting a defendant, other than a juvenile offender, for any offense pursuant to a warrant of arrest, a police officer shall, upon the defendant's request, permit the defendant to communicate by telephone provided by the law enforcement facility where the defendant is held to a phone number located anywhere in the United States or Puerto Rico, for the purposes of obtaining counsel and informing a relative

or friend that he or she has been arrested, unless granting the call will compromise an ongoing investigation or the prosecution of the defendant.

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

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

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

1. A summons is a process issued by a local criminal court directing a defendant designated in an information, a prosecutor's information, a felony complaint or a misdemeanor complaint filed with such court, **or a youth part of a superior court directing a defendant designated in a felony complaint,** or by a superior court directing a defendant designated in an indictment filed with such court, to appear before it at a designated future time in connection with such accusatory instrument. The sole function of a summons is to achieve a defendant's court appearance in a criminal action for the purpose of arraignment upon the accusatory instrument by which such action was commenced.

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

§ 130.30 Summons; when issuable.

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

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

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

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

6. Upon arresting a juvenile offender without a warrant, the police officer shall immediately notify the parent or other person legally responsible for his **or her** care or the person with whom he **or she** is domiciled, that the juvenile offender has been arrested, and the location of the facility where he **or she** is being detained. **If the officer determines that it is necessary to question a juvenile offender or a child under eighteen years of age who fits within the definition of a juvenile offender as defined in section 30.00 of the penal law, the officer must take the juvenile 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 juvenile, to the juvenile's residence and there question him or her for a reasonable period of time. A juvenile shall not be questioned pursuant to this section unless the juvenile and a person required to be notified pursuant to this subdivision, if present, have been advised:**

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

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

(c) of the juvenile's right to have an attorney present at such questioning; and

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

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

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

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

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

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

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

5. Upon arresting a juvenile offender without a warrant, the peace officer shall immediately notify the parent or other person legally

responsible for his care or the person with whom he or she is domiciled, that the juvenile offender has been arrested, and the location of the facility where he or she is being detained. If the officer determines that it is necessary to question a juvenile offender or a child under eighteen years of age who fits within the definition of a juvenile offender as defined in section 30.00 of the penal law the officer must take the juvenile 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 juvenile, to the juvenile's residence and there question him or her for a reasonable period of time. A juvenile shall not be questioned pursuant to this section unless the juvenile and a person required to be notified pursuant to this subdivision, if present, have been advised:

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

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

(c) of the juvenile's right to have an attorney present at such questioning; and

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

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

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

5. If a police officer takes an arrested juvenile offender into custody, the police officer shall immediately notify the parent or other person legally responsible for his or her care or the person with whom he or she is domiciled, that the juvenile offender has been arrested, and the location of the facility where he or she is being detained. If the officer determines that it is necessary to question a juvenile offender or a child under eighteen years of age who fits within the definition of a juvenile offender as defined in section 30.00 of the penal law the officer must take the juvenile 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 juvenile, to the juvenile's residence and there question him or her for a reasonable period of time. A juvenile shall not be questioned pursuant to this section unless the juvenile and a person required to be notified pursuant to this subdivision, if present, have been advised:

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

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

(c) of the juvenile's right to have an attorney present at such questioning; and

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

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

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

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

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

§ 160.56 Sealing of certain convictions.

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

(a) "Eligible offense" shall mean any offense defined in the laws of this state other than a sex offense defined in article one hundred thirty of the penal law, an offense defined in article two hundred sixty-three of the penal law, a felony offense defined in article one hundred twenty-five of the penal law, a violent felony offense defined in section 70.02 of the penal law, a class A felony offense defined in the penal law other than a class A felony offense defined in article two hundred twenty of the penal law, or an offense for which registration as a sex offender is required pursuant to article six-C of the correction law. For the purposes of this section, where the defendant is convicted of more than one eligible offense, committed as part of the same criminal transaction as defined in subdivision two of section 40.10 of this chapter, those offenses shall be considered one eligible offense.

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

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

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

(c) for an eligible felony, at least three years have passed since: the entry of the judgment or, if the defendant was sentenced to a conditional discharge or a period of probation, including a period of incarceration imposed in conjunction with a sentence of probation or conditional discharge, the completion of the defendant's term of probation or conditional discharge, or if the defendant was sentenced to incarceration, the defendant's release from incarceration, whichever is the longest; and

(d) the sentencing court has requested and received from the division of criminal justice services or the federal bureau of investigation a fingerprint based criminal history record of the defendant, including

any sealed or suppressed information. The division of criminal justice services shall also include a criminal history report, if any, from the federal bureau of investigation regarding any criminal history information that occurred in other jurisdictions. The division is hereby authorized to receive such information from the federal bureau of investigation for this purpose. The parties shall be permitted to examine these records;

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

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

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

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

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

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

(b) the character of the defendant, including what steps the petitioner has taken since the time of the offense toward personal rehabilitation, including treatment, work, school, or other personal history that demonstrates rehabilitation;

(c) the defendant's criminal history;

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

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

4. When a court orders sealing pursuant to this section, all official records and papers relating to the arrests, prosecutions, and convictions, including all duplicates and copies thereof, on file with the division of criminal justice services or any court shall be sealed and not made available to any person or public or private agency;

provided, however, the division shall retain any fingerprints, palmprints, photographs, or digital images of the same.

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

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

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

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

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

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

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

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

11. No defendant shall be required or permitted to waive eligibility for conditional sealing pursuant to this section as part of a plea of guilty, sentence or any agreement related to a conviction for an eligible offense and any such waiver shall be deemed void and wholly unenforceable.

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

§ 180.75 Proceedings upon felony complaint; juvenile offender.

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

2. [~~If~~] **Whether or not** the defendant waives a hearing upon the felony complaint, the court must [~~order that the defendant be held for the action of the grand jury of the appropriate superior court with respect to the charge or charges contained in the felony complaint~~] **transfer the action to the youth part of the superior court**. In such case the court must promptly transmit to such **youth part of the** superior court the order, the felony complaint, the supporting depositions and all other pertinent documents. Until such papers are received by the **youth part of the** superior court, the action is deemed to be still pending in the [~~local criminal court~~] **court designated by the appellate division of the supreme court in the applicable department to act as a youth part**.

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

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

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

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

4. Notwithstanding the provisions of subdivisions two and three of this section, [~~a local criminal~~] **the** court shall, at the request of the district attorney, order removal of an action against a juvenile offender to the family court pursuant to the provisions of article seven hundred twenty-five of this chapter if, upon consideration of the criteria specified in subdivision two of section 210.43 of this chapter, it is determined that to do so would be in the interests of justice. Where, however, the felony complaint charges the 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 of this chapter, a determination that such action be removed to the family court shall, in addition, be based upon a finding of one or more of the following factors: (i) mitigating circumstances that bear directly upon the manner in which the crime was committed; or (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 proof of the crime.

5. Notwithstanding the provisions of subdivision two, three, or four, if a currently undetermined felony complaint against a juvenile offender is pending [~~in a local criminal court~~], and the defendant has not waived a hearing pursuant to subdivision two and a hearing pursuant to subdivision three has not commenced, the defendant may move in the **youth part of the** superior court which would exercise the trial jurisdiction of the offense or offenses charged were an indictment therefor to result, to remove the action to family court. The procedural rules of subdivisions one and two of section 210.45 of this chapter are applicable to a motion pursuant to this subdivision. Upon such motion, the [~~superior~~] court [~~shall be authorized to sit as a local criminal court to exercise the preliminary jurisdiction specified in subdivisions two and three of this section, and~~] shall proceed and determine the motion as provided in section 210.43 of this chapter; provided, however, that the exception provisions of paragraph (b) of subdivision one of such section 210.43 shall not apply when there is not reasonable cause to believe that the juvenile offender committed one or more of the crimes enumerated therein, and in such event the provisions of paragraph (a) thereof shall apply.

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

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

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

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

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

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

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

Upon application of a defendant against whom a felony complaint has been filed with a local criminal court **or the youth part of a superior court**, and who, since the time of his arrest or subsequent thereto, has been held in custody pending disposition of such felony complaint, and who has been confined in such custody for a period of more than one hundred twenty hours or, in the event that a Saturday, Sunday or legal holiday occurs during such custody, one hundred forty-four hours, without either a disposition of the felony complaint or commencement of a

hearing thereon, the [~~local criminal~~] court must release him on his own recognizance unless:

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

(a) Except as provided in subdivision six of section 200.20 of this chapter, a grand jury may not indict (i) a person thirteen 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) 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 undesignated paragraph as amended by chapter 920 of the laws of 1982 and the closing paragraph as amended by chapter 411 of the laws of 1979, is amended to read as follows:

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

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

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

(iii) Where the indictment does not charge a crime specified in subparagraph (i) of this paragraph, the district attorney may recommend removal of the action to the family court. Upon making such recommendation the district attorney [~~shall~~] **may** submit a subscribed memorandum setting forth: (1) a recommendation that the interests of justice would best be served by removal of the action to the family court; and (2) if the indictment charges a thirteen year old with the crime of murder in the second degree, or a fourteen [~~or~~], fifteen**, sixteen or seventeen** year old with the crimes of rape in the first degree as defined in subdivision one of section 130.35 of the penal law, or 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 of this chapter specific factors, one or more of which reasonably supports the recommendation, showing, (i) mitigating circumstances that bear directly upon the manner in which the crime was committed, or (ii) where the defendant was not the sole participant in the crime, that the defendant's participation was relatively minor although not so minor as to constitute a defense to the prosecution, or (iii) possible deficiencies in proof of the crime, or (iv) where the juvenile offender has no previous adjudications of having committed a designated felony act, as defined in subdivision eight of section 301.2 of the family court act, regardless of the age of the offender at the time of commission of the act, that the criminal act was not part of a pattern of criminal behavior and, in view of the history of the offender, is not likely to be repeated.

If the court is of the opinion based on specific factors set forth in [~~the district attorney's memorandum~~] **this subparagraph** that the interests of justice would best be served by removal of the action to the family court, a plea of guilty of a crime or act for which the defendant

is not criminally responsible may be entered pursuant to subdivision three or four of this section, except that a thirteen year old charged with the crime of murder in the second degree may only plead to a designated felony act, as defined in subdivision eight of section 301.2 of the family court act.

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

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

§ 330.25 Removal after verdict.

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

2. If the district attorney consents to the motion for removal pursuant to this section, [~~he shall file a subscribed memorandum with the court setting forth (1) a recommendation that~~] **the court, in determining the motion, shall consider: (1) whether** the interests of justice would best be served by removal of the action to the family court; and (2) if the conviction is of an offense set forth in paragraph (b) of subdivision one of section 210.43 of this chapter, **whether** specific factors **exist**, one or more of which reasonably [~~support~~] **supports** the [~~recommendation~~] **motion**, showing, (i) mitigating circumstances that bear directly upon the manner in which the crime was committed, or (ii) where the defendant was not the sole participant in the crime, that the defendant's participation was relatively minor although not so minor as to constitute a defense to prosecution, or (iii) where the juvenile offender has no previous adjudications of having committed a designated felony act, as defined in subdivision eight of section 301.2 of the family court act, regardless of the age of the offender at the time of commission of the act, that the criminal act was not part of a pattern of criminal behavior and, in view of the history of the offender, is not likely to be repeated.

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

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

2. Warrant. **(a)** Where the probation officer has requested that a probation warrant be issued, the court shall, within seventy-two hours of its receipt of the request, issue or deny the warrant or take any other lawful action including issuance of a notice to appear pursuant to subdivision one of this section. If at any time during the period of a sentence of probation or of conditional discharge the court has reasonable grounds to believe that the defendant has violated a condition of the sentence, the court may issue a warrant to a police officer or to an appropriate peace officer directing him or her to take the defendant into custody and bring the defendant before the court without unnecessary delay; provided, however, if the court in which the warrant is returnable is a superior court, and such court is not available, and the warrant is addressed to a police officer or appropriate probation officer certified as a peace officer, such executing officer may **unless otherwise specified under paragraph (b) of this section,** bring the defendant to the local correctional facility of the county in which such court sits, to be detained there until not later than the commencement of the next session of such court occurring on the next business day; or if the court in which the warrant is returnable is a local criminal court, and such court is not available, and the warrant is addressed to a police officer or appropriate probation officer certified as a peace officer, such executing officer must without unnecessary delay bring the defendant before an alternate local criminal court, as provided in subdivision five of section 120.90 of this chapter. A court which issues such a warrant may attach thereto a summary of the basis for the warrant. In any case where a defendant arrested upon the warrant is brought before a local criminal court other than the court in which the warrant is returnable, such local criminal court shall consider such summary before issuing a securing order with respect to the defendant.

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

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

§ 410.60 Appearance before court.

(a) A person who has been taken into custody pursuant to section 410.40 or section 410.50 of this article for violation of a condition of a sentence of probation or a sentence of conditional discharge must forthwith be brought before the court that imposed the sentence. Where a violation of probation petition and report has been filed and the person has not been taken into custody nor has a warrant been issued, an initial court appearance shall occur within ten business days of the court's issuance of a notice to appear. If the court has reasonable cause to believe that such person has violated a condition of the sentence, it may commit him **or her** to the custody of the sheriff or fix

bail or release such person on his **or her** own recognizance for future appearance at a hearing to be held in accordance with section 410.70 of this article. If the court does not have reasonable cause to believe that such person has violated a condition of the sentence, it must direct that he **or she** be released.

(b) A juvenile offender who has been taken into custody pursuant to section 410.40 or section 410.50 of this article for violation of a condition of a sentence of probation or a sentence of conditional discharge must forthwith be brought before the court that imposed the sentence. Where a violation of probation petition and report has been filed and the person has not been taken into custody nor has a warrant been issued, an initial court appearance shall occur within ten business days of the court's issuance of a notice to appear. If the court has reasonable cause to believe that such person has violated a condition of the sentence, it may commit him or her to the custody of the sheriff or in the case of a juvenile offender less than eighteen years of age to the custody of the office of children and family services, or fix bail or release such person on his or her own recognizance for future appearance at a hearing to be held in accordance with section 410.70 of this article. Provided, however, nothing herein shall authorize a juvenile to be detained for a violation of a condition that would not constitute a crime if committed by an adult unless the court determines (i) that the juvenile poses a specific imminent threat to public safety and states the reasons for the finding on the record or (ii) the use of graduated sanctions has been exhausted without success. If the court does not have reasonable cause to believe that such person has violated a condition of the sentence, it must direct that the juvenile be released.

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

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

(b) Notwithstanding paragraph (a) of this subdivision, nothing herein shall authorize the placement of a juvenile for a violation of a condition that would not constitute a crime if committed by an adult unless the court determines (i) that the juvenile poses a specific imminent threat to public safety and states the reasons for the finding on the

record or (ii) the use of graduated sanctions has been exhausted without success.

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

§ 410.90-a Superior court; youth part.

Notwithstanding any other provisions of this article, all proceedings relating to a juvenile offender shall be heard in the youth part of the superior court having jurisdiction and any intrastate transfers under this article shall be between courts designated as a youth part pursuant 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

§ 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.

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

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

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

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

6. No statement made to an employee or representative of the probation department may be admitted in evidence prior to conviction on any charge or charges related thereto or, in the case of a matter proceeding before the court under the family court act, prior to an adjudication.

§ 722.10 Youth part of the superior court established.

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

2. The chief administrator of the courts shall also direct the presiding justice of the appellate division, in each judicial department of the state, to designate magistrates to serve as accessible magistrates, for the purpose of acting as a youth part for certain initial

proceedings involving youths, as provided by law. Magistrates so designated shall be superior court judges and judges of other courts, in each county of the state, that exercise criminal jurisdiction. A judge presiding as such a magistrate shall receive training in specialized areas, including, but not limited to, juvenile justice, adolescent development and effective treatment methods for reducing crime commission by adolescents.

§ 722.20 Proceedings in a youth part of superior court.

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

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

§ 81. The opening paragraph of section 725.05 of the criminal procedure law, as added by chapter 481 of the laws of 1978, is amended to read as follows:

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

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

§ 725.20 Record of certain actions removed.

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

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

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

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

(c) Where the direction is authorized by section 180.75, a copy of the portion of the minutes containing the statement by the court pursuant to paragraph (a) of subdivision six of such section 180.75;

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

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

(f) Where the direction is one authorized by paragraph (b) of subdivision one of section 210.43 of this chapter, a copy of that portion of the minutes containing [~~the~~] any statement of the district attorney made pursuant to paragraph (b) of subdivision five of section 210.43 of this chapter; and

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

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

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

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

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

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

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

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

(1) Consistent with the federal gun-free schools act, any public school pupil who is determined under this subdivision to have brought a firearm to or possessed a firearm at a public 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 firearm to or possessed a firearm at 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 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 instruction 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 otherwise have been provided absent the provisions of a chapter of the laws of two thousand seventeen that increased the age of juvenile jurisdiction.

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

The [~~director~~] 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 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 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.

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

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

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

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

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

16. It shall be an unlawful discriminatory practice, unless specifically required or permitted by statute, for any person, agency, bureau, corporation or association, including the state and any political subdivision thereof, to make any inquiry about, whether in any form of application or otherwise, or to act upon adversely to the individual involved, any arrest or criminal accusation of such individual not then pending against that individual which was followed by a termination of that criminal action or proceeding in favor of such individual, as defined in subdivision two of section 160.50 of the criminal procedure law, or by a youthful offender adjudication, as defined in subdivision one of section 720.35 of the criminal procedure law, or by a conviction for a violation sealed pursuant to section 160.55 of the criminal procedure law or by a conviction which is sealed pursuant to section 160.56

or 160.58 of the criminal procedure law, in connection with the licensing, employment or providing of credit or insurance to such individual; provided, further, that no person shall be required to divulge information pertaining to any arrest or criminal accusation of such individual not then pending against that individual which was followed by a termination of that criminal action or proceeding in favor of such individual, as defined in subdivision two of section 160.50 of the criminal procedure law, or by a youthful offender adjudication, as defined in subdivision one of section 720.35 of the criminal procedure law, or by a conviction for a violation sealed pursuant to section 160.55 of the criminal procedure law, or by a conviction which is sealed pursuant to section 160.56 or 160.58 of the criminal procedure law. The provisions of this subdivision shall not apply to the licensing activities of governmental bodies in relation to the regulation of guns, firearms and other deadly weapons or in relation to an application for employment as a police officer or peace officer as those terms are defined in subdivisions thirty-three and thirty-four of section 1.20 of the criminal procedure law; provided further that the provisions of this subdivision shall not apply to an application for employment or membership in any law enforcement agency with respect to any arrest or criminal accusation which was followed by a youthful offender adjudication, as defined in subdivision one of section 720.35 of the criminal procedure law, or by a conviction for a violation sealed pursuant to section 160.55 of the criminal procedure law, or by a conviction which is sealed pursuant to section 160.56 or 160.58 of the criminal procedure law.

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

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

1. "Director" means the [~~director of the division for youth~~] commissioner of the office of children and family services.

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

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

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

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

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

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

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

9. "Aftercare" means supervision of a youth on conditional release 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 [~~or 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 return of conditionally released children and runaways pursuant to section five hundred ten-b of this article. Such photograph shall be destroyed immediately upon the discharge of the youth from [~~division~~] **office** custody.

4. (a) A youth placed with or committed to the [~~division~~] **office** may, immediately following placement or commitment, be remanded to an appropriate detention facility.

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

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

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

§ 508. Juvenile offender facilities. 1. The office of children and family services shall maintain [~~secure~~] facilities for the care and confinement of juvenile offenders committed [~~for an indeterminate, determinate or definite sentence~~] **to the office** pursuant to the sentencing provisions of the penal law. Such facilities shall provide appropriate services to juvenile offenders including but not limited to residential care, educational and vocational training, physical and mental health services, and employment counseling.

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

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

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

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

~~(c) A juvenile offender may be transferred as provided in paragraphs (a) and (b) herein, only after the director determines that there is no danger to public safety and that the offender shall substantially benefit from the programs and services of another division facility. In determining whether there is a danger to public safety the director shall consider: (i) the nature and circumstances of the offense including whether any physical injury involved was inflicted by the offender or another participant; (ii) the record and background of the offender; and (iii) the adjustment of the offender at division facilities.~~

~~(d) For a period of six months after a juvenile offender has been transferred pursuant to paragraph (a) or (b) herein, the juvenile offender may have only accompanied home visits. After completing six months of confinement following transfer from a secure facility, a juvenile offender may not have an unaccompanied home visit unless two accompanied home visits have already occurred. An "accompanied home visit" shall mean a home visit during which the juvenile offender shall be accompanied at all times while outside the facility by appropriate personnel of the division for youth designated pursuant to regulations of the director of the division.~~

~~(e) The director of the division for youth shall promulgate rules and regulations including uniform standards and procedures governing the transfer of juvenile offenders from secure facilities to other facilities and the return of such offenders to secure facilities. The rules and regulations shall provide a procedure for the referral of proposed transfer cases by the secure facility director, and shall require a determination by the facility director that transfer of a juvenile offender to another facility is in the best interests of the division 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 once every six months during the period of confinement, on the status, adjustment, programs and progress of the offender.

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

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

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

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

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

(d) All juvenile offenders released from an office of children and family services facility before they are transferred to the department of corrections and community supervision who are unable to complete the full-term of their community supervision before they turn twenty-three years of age shall be under the supervision of the department of corrections and community supervision until expiration of the maximum 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. Definitions. As used in this section:

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

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

(c) "foster care" shall mean residential care, maintenance and supervision provided **to** released or discharged youth, or youth otherwise in the custody of the [~~division for youth, in a division foster family home certified by the division.~~

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

2. [~~Expenditures~~] **Except as provided in subdivision five of this section, expenditures** made by the [~~division for youth~~] **office of children and family services** for care, maintenance and supervision furnished youth, including alleged and adjudicated juvenile delinquents and persons in need of supervision, placed or referred, pursuant to titles two or three of this article, and juvenile offenders committed pursuant to section 70.05 of the penal law, in the [~~division's~~] **office's** programs and facilities, shall be subject to reimbursement to the state by the social services district from which the youth was placed or by the social services district in which the juvenile offender resided at the time of commitment, in accordance with this section and the regulations of the [~~division,~~] **office** as follows: fifty percent of the amount expended for care, maintenance and supervision of local charges including juvenile offenders.

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

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

(b) Expenditures made by social services districts for aftercare supervision of adjudicated juvenile delinquents and persons in need of supervision [~~provided (prior to the expiration of the initial or extended period of placement or commitment) by the aftercare staff of the facility from which the youth has been released or discharged, other~~

~~than those under the jurisdiction of the division for youth, in which said youth was placed or committed, pursuant to directions of the family court,~~] shall be subject to reimbursement by the state[~~, upon approval by the division and in accordance with its regulations, as follows:~~

~~(1) the full amount expended by the district for aftercare supervision 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 juvenile delinquents and persons in need of supervision placed in residential care with the municipality, the municipality's reduction in the use of detention and residential placements, and other factors as determined by the office. Such plan developed by the office shall be subject to the approval of the director of the budget. The office is authorized, in its discretion, to make advance distributions to a municipality in anticipation of state reimbursement.

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

§ 98. Subdivisions 2, 4, 5, 6 and 7 of section 530 of the executive law, subdivisions 2 and 4 as amended by section 4 of subpart B of part Q of chapter 58 of the laws of 2011, paragraphs (a) and (d) of subdivision 2 as amended by section 1 of part M of chapter 57 of the laws of 2012, subdivision 5 as amended by chapter 920 of the laws of 1982, subparagraphs 1, 2 and 4 of paragraph (a) and paragraph (b) of subdivision 5 as amended by section 5 of subpart B of part Q of chapter 58 of the laws of 2011, subdivision 6 as amended by chapter 880 of the laws of 1976, and subdivision 7 as amended by section 6 of subpart B of part Q of chapter 58 of the laws of 2011, are amended and a new subdivision 8 is added to read as follows:

2. [~~**Expenditures**~~] **Except as provided for in subdivision eight of this section, expenditures** made by municipalities in providing care, maintenance and supervision to youth in detention facilities designated pursuant to sections seven hundred twenty and 305.2 of the family court act and certified by [~~**the division for youth**~~] **office of children and family services**, shall be subject to reimbursement by the state, as follows:

(a) Notwithstanding any provision of law to the contrary, eligible expenditures by a municipality during a particular program year for the care, maintenance and supervision in foster care programs certified by the office of children and family services, certified or approved family boarding homes, and non-secure detention facilities certified by the office for those youth alleged to be persons in need of supervision or adjudicated persons in need of supervision held pending transfer to a facility upon placement; and in secure and non-secure detention facilities certified by the office in accordance with section five hundred three of this article for those youth alleged to be juvenile delinquents; adjudicated juvenile delinquents held pending transfer to a facility upon placement, and juvenile delinquents held at the request of the office of children and family services pending extension of placement hearings or release revocation hearings or while awaiting disposition of such hearings; and youth alleged to be or convicted as juvenile offenders **and, youth alleged to be persons in need of supervision or adjudicated persons in need of supervision held pending transfer to a facility upon placement in foster care programs certified by the office of children and family services, certified or approved family boarding homes,** shall be subject to state reimbursement for up to fifty percent of the municipality's expenditures, exclusive of any federal funds made

available for such purposes, not to exceed the municipality's distribution from funds that have been appropriated specifically therefor for that program year. Municipalities shall implement the use of detention risk assessment instruments in a manner prescribed by the office so as to inform detention decisions. Notwithstanding any other provision of state law to the contrary, data necessary for completion of a detention risk assessment instrument may be shared among law enforcement, probation, courts, detention administrators, detention providers, and the attorney for the child upon retention or appointment; solely for the purpose of accurate completion of such risk assessment instrument, and a copy of the completed detention risk assessment instrument shall be made available to the applicable detention provider, the attorney for the child and the court.

(b) The state funds appropriated for juvenile detention services 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 remanded to detention, the municipality's reduction in the use of detention, the municipality's youth population, and other factors as determined by the office. Such plan developed by the office shall be subject to the approval of the director of the budget. The office is authorized, in its discretion, to make advance distributions to a municipality in anticipation of state reimbursement.

(c) A municipality may also use the funds distributed to it for juvenile detention services under this section for a particular program year for sixty-two percent of a municipality's eligible expenditures for supervision and treatment services for juveniles programs approved under section five hundred twenty-nine-b of this title for services that were not reimbursed from a municipality's distribution under such program provided to at-risk, alleged or adjudicated juvenile delinquents or persons alleged or adjudicated to be in need of supervision, or alleged to be or convicted as juvenile offenders in community-based non-residential settings. Any claims submitted by a municipality for reimbursement for detention services or supervision and treatment services for juveniles provided during a particular program year for which the municipality does not receive state reimbursement from the municipality's distribution of detention services funds for that program year may not be claimed against the municipality's distribution of funds available under this section for the next applicable program year. The office may require that such claims be submitted to the office electronically at such times and in the manner and format required by the office.

[~~(d)(i)~~] **2-a. (a)** Notwithstanding any provision of law or regulation to the contrary, any information or data necessary for the development, validation or revalidation of the detention risk assessment instrument shall be shared among local probation departments, the office of probation and correctional alternatives and, where authorized by the division of criminal justice services, the entity under contract with the division to provide information technology services related to youth assessment and screening, the office of children and family services, and any entity under contract with the office of children and family services to provide services relating to the development, validation or revalidation of the detention risk assessment instrument. Any such information and data shall not be commingled with any criminal history database. Any information and data used and shared pursuant to this section shall only be used and shared for the purposes of this section and in accordance with this section. Such information shall be shared

and received in a manner that protects the confidentiality of such information. The sharing, use, disclosure and redisclosure of such information to any person, office, or other entity not specifically authorized to receive it pursuant to this section or any other law is prohibited.

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

[~~(iii)~~] **(c)** Data collected for the purposes of completing the detention risk assessment instrument from any source other than an officially documented record shall be confirmed as soon as practicable. Should any data originally utilized in completing the risk assessment instrument be found to conflict with the officially documented record, the risk assessment instrument shall be completed with the officially documented data and any corresponding revision to the risk categorization shall be made. The office shall periodically revalidate any approved risk assessment instrument. The office shall conspicuously post any approved detention risk assessment instrument on its website and shall confer with appropriate stakeholders, including but not limited to, attorneys for children, presentment agencies, probation, and the family court, prior to revising any validated risk assessment instrument. Any such revised risk assessment instrument shall be subject to periodic empirical validation.

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

(b) **Except as provided in subdivision eight of this section: (i)** In computing reimbursement to the municipality pursuant to this section, the office shall insure that the aggregate of state aid under all state aid formulas shall not exceed fifty percent of the cost of care, maintenance and supervision provided to detainees eligible for state reimbursement under subdivision two of this section, exclusive of federal aid for such purposes not to exceed the amount of the municipality's distribution under the juvenile detention services program.

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

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

(1) temporary care, maintenance and supervision provided **to** alleged juvenile delinquents and persons in need of supervision in detention facilities certified pursuant to sections seven hundred twenty and 305.2 of the family court act by the office of children and family services, pending adjudication of alleged delinquency or alleged need of supervision by the family court, or pending transfer to institutions to which committed or placed by such court or while awaiting disposition by such court after adjudication or held pursuant to a securing order of a criminal court if the person named therein as principal is under [~~sixteen~~] **eighteen years of age**; or[~~,~~]

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

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

(3) temporary care, maintenance and supervision in approved detention facilities for youth held pursuant to the family court act or the interstate compact on juveniles, pending return to their place of residence or domicile[~~,~~]**; or**

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

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

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

7. The agency administering detention for each county and the city of New York shall submit to the office of children and family services, at such times and in such form and manner and containing such information as required by the office of children and family services, an annual report on youth remanded pursuant to article three or seven of the family court act who are detained during each calendar year including, commencing January first, two thousand twelve, the risk level of each detained youth as assessed by a detention risk assessment instrument approved by the office of children and family services. The office may

require that such data on detention use be submitted to the office electronically. Such report shall include, but not be limited to, the reason for the court's determination in accordance with section 320.5 or seven hundred thirty-nine of the family court act, if applicable, to detain the youth; the offense or offenses with which the youth is charged; and all other reasons why the youth remains detained. The office shall submit a compilation of all the separate reports to the governor and the legislature.

8. Notwithstanding any other provisions of law to the contrary, state reimbursement shall be made available for one hundred percent of a municipality's eligible expenditures for the care, maintenance and supervision of youth sixteen years of age or older in non-secure and secure detention facilities when such detention would not otherwise have occurred 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.

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

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

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

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

1. Who may suspend or revoke. Any magistrate, justice or judge, in a city, in a town, or in a village, any supreme court justice, any county judge, any judge of a district court, any family court judge, the super-

intendent of state police and the commissioner of motor vehicles or any person deputized by him, shall have power to revoke or suspend the license to drive a motor vehicle or motorcycle of any person, or in the 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

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