

STATE OF NEW YORK

4157

2017-2018 Regular Sessions

IN SENATE

February 3, 2017

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

AN ACT to amend the family court act, in relation to family court proceedings, jurisdiction of the court, the definition of juvenile delinquent, the definition of a designated felony act, the procedures regarding the adjustment of cases from criminal courts to family court, the age at which children may be tried as an adult for various felonies, and the manner in which courts handle juvenile delinquent cases; to amend the social services law, in relation to state reimbursement for expenditures made by social services districts for various services; to amend the social services law, in relation to the definitions of juvenile delinquent and persons in need of supervision; to amend the penal law, in relation to the definition of infancy and the authorized dispositions, sentences, and periods of post-release supervision for juvenile offenders; to amend chapter 3 of the laws of 1995, enacting the sentencing reform act of 1995, in relation to extending the expiration of certain provisions of such chapter; to amend the criminal procedure law, in relation to the definition of juvenile offender; to amend the criminal procedure law, in relation to the arrest of a juvenile offender without a warrant; in relation to conditional sealing of certain convictions; in relation to removal of certain proceedings to family court; in relation to joinder of offenses and consolidation of indictments; in relation to appearances and hearings for and placements of certain juvenile offenders; in relation to raising the age for juvenile offender status; in relation to creating a youth part for certain proceedings involving juvenile offenders; to amend the correction law, in relation to requiring that no county jail be used for the confinement of persons under the age of eighteen; to amend the education law, in relation to certain contracts with the office of children and family services; to amend the education law, in relation to the possession of a gun on school grounds by a student; to amend the executive law, in relation to persons in need

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) who is:

(i) ten or eleven years of age who committed an act that would constitute a crime as defined in section 125.25 (murder in the second degree) of the penal law if committed by an adult; or

(ii) at least twelve years of age and less than eighteen years of age who committed an act that would constitute a crime if committed by an adult; or

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

(b) who is either:

(i) not criminally responsible for such conduct by reason of infancy; or

(ii) the defendant in an action based on such act that has been ordered removed to the family court pursuant to article seven hundred twenty-five of the criminal procedure law.

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

8. "Designated felony act" means an act which, if done by an adult, would be a crime: (i) defined in sections ~~[125.27 (murder in the first degree)]~~ 125.25 (murder in the second degree); 135.25 (kidnapping in

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3 § 308.1. ~~[Rules of court for preliminary]~~ Preliminary procedure;
4 adjustment of cases. 1. ~~[Rules of court shall authorize and determine~~
5 ~~the circumstances under which the]~~ The probation service may confer with
6 any person seeking to have a juvenile delinquency petition filed, the
7 potential respondent and other interested persons concerning the advis-
8 ability of requesting that a petition be filed in accordance with this
9 section.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

after the period set under subparagraph (ii) of this paragraph, the respondent shall be placed in a residential facility for a period of twelve months; provided, however, that if the respondent has been placed from a family court in a social services district operating an approved juvenile justice services close to home initiative pursuant to section four hundred four of the social services law for an act committed when the respondent was under sixteen years of age, once the time frames in subparagraph (ii) of this paragraph are met:

(d) Upon the expiration of the initial period of placement, or any extension thereof, the placement may be extended in accordance with section 355.3 on a petition of any party or the office of children and family services, or, if applicable, a social services district operating an approved juvenile justice services close to home initiative pursuant to section four hundred four of the social services law, after a dispositional hearing, for an additional period not to exceed twelve months, but no initial placement or extension of placement under this section may continue beyond the respondent's twenty-first birthday, or, for an act that was committed when the respondent was sixteen years of age or older, the respondent's twenty-third birthday.

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

(d) Upon the expiration of the initial period of placement, or any extension thereof, the placement may be extended in accordance with section 355.3 on a petition of any party or the ~~[division for youth]~~ office of children and family services after a dispositional hearing, for an additional period not to exceed twelve months, but no initial placement or extension of placement under this section may continue beyond the respondent's twenty-first birthday, or, for an act that was committed when the respondent was sixteen years of age or older, the respondent's twenty-third birthday.

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

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

§ 27. Section 354.1 of the family court act, as added by chapter 920 of the laws of 1982, subdivisions 2, 6 and 7 as amended by chapter 645

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

41 (b) The designated lead agency shall:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

16 (a) Discharging the respondent with warning;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

42 TITLE 12

43 FAMILY SUPPORT CENTERS

44 Section 458-m. Family support centers.

45 458-n. Funding for family support centers.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

16 § 30.00 Infancy.

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

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

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

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

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

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

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

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

§ 60.10 Authorized disposition; juvenile offender.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

44 § 120.90 Warrant of arrest; procedure after arrest.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

26 § 130.30 Summons; when issuable.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3 § 160.56 Sealing of certain convictions.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

38 (c) the defendant's criminal history;

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

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

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

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

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

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

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

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

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

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

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

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

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

47 § 180.75 Proceedings upon felony complaint; juvenile offender.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) except as otherwise provided by paragraph (b) of this section, order removal of the action to the family court pursuant to the provisions of article seven hundred twenty-five of this chapter, if, after consideration of the factors set forth in subdivision two of this section, the court determines that to do so would be in the interests of justice. Provided, however, that a youth part shall be required to order removal of an action against a juvenile offender accused of robbery in the second degree as defined in subdivision two of section 160.10 of this part, unless the district attorney proves by a preponderance of the evidence that the youth played a primary role in commission of the crime or that aggravating circumstances set forth in the memorandum in opposition submitted by the district attorney that bear directly on the manner in which the crime was committed are present; or

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

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

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

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

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

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

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

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

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

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

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

7 § 330.25 Removal after verdict.

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

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

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

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

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

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

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

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

36 § 410.60 Appearance before court.

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

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

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

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

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

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

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

50 § 410.90-a Superior court; youth part.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1. ~~[A-youthful]~~ Youthful offender adjudication is not a judgment of conviction for a crime or any other offense, and does not operate as a disqualification of any person so adjudged to hold public office or public employment or to receive any license granted by public authority but shall be deemed a conviction only for the purposes of transfer of supervision and custody pursuant to section ~~[two hundred fifty-nine-m]~~ two hundred fifty-nine-mm of the executive law. A defendant for whom a youthful offender adjudication was substituted, who was originally charged with prostitution as defined in section 230.00 of the penal law or loitering for the purposes of prostitution as defined in subdivision two of section 240.37 of the penal law provided that the person does not stand charged with loitering for the purpose of patronizing a prostitute, for an offense allegedly committed when he or she was sixteen or seventeen years of age, shall be deemed a "sexually exploited child" as defined in subdivision one of section four hundred forty-seven-a of the social services law and therefore shall not be considered an adult for purposes related to the charges in the youthful offender proceeding or a proceeding under section 170.80 of this chapter.

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

ARTICLE 722

PROCEEDINGS AGAINST JUVENILE OFFENDERS; ESTABLISHMENT OF YOUTH

PART AND RELATED PROCEDURES

Section 722.00 Probation case planning and services.

722.10 Youth part of the superior court established.

722.20 Proceedings in a youth part of superior court.

§ 722.00 Probation case planning and services.

1. Every probation department shall conduct a risk and needs assessment of any juvenile following arraignment by a youth part within its jurisdiction. The court shall order any such juvenile to report within seven calendar days to the probation department for purposes of assessment. Such juvenile shall have the right to have an attorney present throughout the assessment process. Based upon the assessment findings, the probation department shall refer the juvenile to available specialized and evidence-based services to mitigate any risks identified and to address individual needs.

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

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

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

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

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

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

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

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

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

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

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

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

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

25 § 725.20 Record of certain actions removed.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) for commitment pursuant to the penal law.

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

(a-1) (i) A youth who is committed to the office of children and family services as a juvenile offender or youthful offender may remain in the custody of the office during the period of his or her sentence beyond the age of twenty-one in accordance with the provisions of subdivision five of section five hundred eight of this article but in no event may such a youth remain in the custody of the office beyond his or her twenty-third birthday; and (ii) a youth found to have committed a designated class A felony act who is restrictively placed with the office under subdivision four of section 353.5 of the family court act for committing an act on or after the youth's sixteenth birthday may remain in the custody of the office of children and family services up to the age of twenty-three in accordance with his or her placement order.

(a-2) Whenever it shall appear to the satisfaction of the ~~[division]~~ office of children and family services that any youth placed therewith is not of proper age to be so placed or is not properly placed, or is mentally or physically incapable of being materially benefited by the program of the ~~[division]~~ office, the ~~[division]~~ office shall cause the return of such youth to the county from which placement was made.

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

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

3. The ~~[division]~~ office may photograph any youth in its custody. Such photograph may be used only for the purpose of assisting in the

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

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

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

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

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

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

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

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

53 ~~[(a) The director of the division for youth may authorize the transfer~~
54 ~~of a juvenile offender in his custody, who has been convicted of~~
55 ~~burglary or robbery, to a school or center established and operated~~
56 ~~pursuant to title three of this article at any time after the juvenile~~

~~offender has been confined in a division for youth secure facility for one year or one half of his minimum sentence, whichever is greater.~~

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

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

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

~~(e) The director of the division for youth shall promulgate rules and regulations including uniform standards and procedures governing the transfer of juvenile offenders from secure facilities to other facilities and the return of such offenders to secure facilities. The rules and regulations shall provide a procedure for the referral of proposed transfer cases by the secure facility director, and shall require a determination by the facility director that transfer of a juvenile offender to another facility is in the best interests of the division for youth and the juvenile offender and that there is no danger to public safety.~~

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

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

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

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

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

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

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

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

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

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

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

~~[8]~~ 7. Whenever a juvenile offender or a juvenile offender adjudicated a youthful offender shall be delivered to the director of ~~[a division for youth]~~ an office of children and family services facility pursuant to a commitment to the ~~[director of the division for youth]~~ office of children and family services, the officer so delivering such person shall deliver to such facility director a certified copy of the sentence received by such officer from the clerk of the court by which such person shall have been sentenced, a copy of the report of the probation officer's investigation and report, any other pre-sentence memoranda filed with the court, a copy of the person's fingerprint records, a detailed summary of available medical records, psychiatric records and reports relating to assaults, or other violent acts, attempts at suicide or escape by the person while in the custody of a local detention facility.

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

§ 96. Subdivisions 1, 2, 4, 5 and 5-a of section 529 of the executive law, subdivisions 1, 4 and 5 as added by chapter 906 of the laws of 1973, paragraph (c) of subdivision 1 as amended and paragraph (d) of subdivision 1 as added by chapter 881 of the laws of 1976, subdivision 2 as amended by chapter 430 of the laws of 1991, paragraph (c) of subdivision 5 as amended by chapter 722 of the laws of 1979 and subdivision 5-a as added by chapter 258 of the laws of 1974, are amended to read as follows:

1 1. Definitions. As used in this section:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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