STATE OF NEW YORK

S. 1505 A. 2005

SENATE - ASSEMBLY

January 18, 2019

IN SENATE -- A BUDGET BILL, submitted by the Governor pursuant to article seven of the Constitution -- read twice and ordered printed, and when printed to be committed to the Committee on Finance

IN ASSEMBLY -- A BUDGET BILL, submitted by the Governor pursuant to article seven of the Constitution -- read once and referred to the Committee on Ways and Means

AN ACT to amend the civil service law, in relation to the state's contribution to the cost of health insurance premium for future retirees of the state and their dependents (Part A); to amend the civil service law, in relation to reimbursement for medicare premium charges (Part B); to amend the civil service law, in relation to capping the standard medicare premium charge (Part C); to amend the civil practice law and rules and the state finance law, in relation to the rate of interest to be paid on judgment and accrued claims (Part D); to amend the civil service law, in relation to protection of the personal privacy of public employees (Part E); to amend the civil service law, in relation to the expiration of public arbitration panels (Part F); to amend chapter 97 of the laws of 2011, amending the general municipal law and the education law relating to establishing limits upon school district and local government tax levies, in relation to making the tax cap permanent (Part G); to amend chapter 123 of the laws of 2014, amending the vehicle and traffic law, the general municipal law, and the public officers law relating to owner liability for failure of operator to comply with traffic-control indications, in relation to extending the provisions thereof; to amend chapter 101 of the laws of 2014, amending the vehicle and traffic law, the general municipal law, and the public officers law relating to owner liability for failure of operator to comply with traffic-control indications in the city of Mt. Vernon, in relation to extending the effectiveness thereof; to amend chapter 19 of the laws of 2009, amending the vehicle and traffic law and other laws relating to adjudications and owner liability for a violation of traffic-control signal indications, in relation to extending the provisions of such chapter; to amend chapter 99 of the laws of 2014, amending the vehicle and traffic law, the general municipal law, and the public officers law relating to owner liability for failure of operator to comply with traffic-control indications in the

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

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city of New Rochelle, in relation to extending the effectiveness thereof; to amend chapter 746 of the laws of 1988, amending the vehicle and traffic law, the general municipal law and the public officers law relating to the civil liability of vehicle owners for traffic control signal violations, in relation to extending the effectiveness thereof; to amend local law number 46 of the city of New York for the year 1989, amending the administrative code of the city of New York relating to civil liability of vehicle owners for traffic control signal violations, in relation to extending the effectiveness thereof; to amend chapter 23 of the laws of 2009, amending the vehicle and traffic law and the public officers law relating to adjudications and owner liability for a violation of traffic-control signal indications, in relation to extending the provisions of such chapter; to amend chapter 222 of the laws of 2015, amending the vehicle and traffic law, the general municipal law, and the public officers law relating to owner liability for failure of an operator to comply with traffic-control indications in the city of White Plains, in relation to extending the provisions of such chapter; and to amend chapter 20 of the laws of 2009, amending the vehicle and traffic law, the general municipal law, and the public officers law, relating to owner liability for failure of operator to comply with traffic control indications, in relation to extending the provisions thereof (Part H); to amend the state finance law, in relation to base level grants for per capita state aid for the support of local government (Part I); to amend the real property tax law, in relation to a class one reassessment exemption in a special assessing unit that is not a city (Part J); to provide for the administration of certain funds and accounts related to the 2019-20 budget, authorizing certain payments and transfers; to amend the state finance law, in relation to the school tax relief fund; to amend the state finance law, in relation to payments, transfers and deposits; to amend the state finance law, in relation to reductions in enacted appropriations; to amend chapter 174 of the laws of 1968, constituting the New York state urban development corporation act, in relation to the issuance of certain bonds or notes; to amend part D of chapter 389 of the laws of 1997, relating to the financing of the correctional facilities improvement fund and the youth facility improvement fund, in relation to the issuance of certain bonds or notes; to amend the private housing finance law, in relation to the issuance of bonds or notes; to amend chapter 329 of the laws of 1991, amending the state finance law and other laws relating to the establishment of the dedicated highway and bridge trust fund, in relation to the issuance of certain bonds or notes; to amend the public authorities law, in relation to the issuance of certain bonds or notes; to amend part Y of chapter 61 of the laws of 2005, relating to providing for the administration of certain funds and accounts related to the 2005-2006 budget, in relation to the issuance of certain bonds or notes; to amend part X of chapter 59 of the laws of 2004, authorizing the New York state urban development corporation and the dormitory authority of the state of New York to issue bonds or notes, in relation to the issuance of such bonds or notes; to amend part K of chapter 81 of the laws of 2002, relating to providing for the administration of certain funds and accounts related to the 2002-2003 budget, in relation to the issuance of certain bonds or notes; to amend chapter 392 of the laws of 1973, constituting the New York state medical care facilities finance agency act, in relation to the issuance of certain bonds or notes; to amend chapter 359 of the laws of 1968, constituting the facilities development corporation act,

in relation to the mental hygiene facilities improvement fund income account; and to amend the state finance law, in relation to mental health services fund; and providing for the repeal of certain provisions upon expiration thereof (Part K); to amend chapter 22 of the laws of 2014, relating to expanding opportunities for service-disabled veteran-owned business enterprises, in relation to extending the provisions thereof (Part L); to amend the workers' compensation law, in relation to the investment of surplus funds of the state insurance fund (Part M); to amend the workers' compensation law, in relation to the right to cancel an insurance policy for failure by an employer to cooperate with a payroll audit and to the collection of premiums in case of default (Part N); to amend chapter 887 of the laws of 1983, amending the correction law relating to the psychological testing of candidates, in relation to the effectiveness thereof; to amend chapter 428 of the laws of 1999, amending the executive law and the criminal procedure law relating to expanding the geographic area of employment of certain police officers, in relation to extending the expiration of such chapter; to amend chapter 886 of the laws of 1972, amending the correction law and the penal law relating to prisoner furloughs in certain cases and the crime of absconding therefrom, in relation to the effectiveness thereof; to amend chapter 261 of the laws of 1987, amending chapters 50, 53 and 54 of the laws of 1987, the correction law, the penal law and other chapters and laws relating to correctional facilities, in relation to the effectiveness thereof; to amend chapter 55 of the laws of 1992, amending the tax law and other laws relating to taxes, surcharges, fees and funding, in relation to extending the expiration of certain provisions of such chapter; to amend chapter 339 of the laws of 1972, amending the correction law and the penal law relating to inmate work release, furlough and leave, in relation to the effectiveness thereof; to amend chapter 60 of the laws of 1994 relating to certain provisions which impact upon expenditure of certain appropriations made by chapter 50 of the laws of 1994 enacting the state operations budget, in relation to the effectiveness thereof; to amend chapter 3 of the laws of 1995, amending the correction law and other laws relating to the incarceration fee, in relation to extending the expiration of certain provisions of such chapter; to amend chapter 62 of the laws of 2011, amending the correction law and the executive law relating to merging the department of correctional services and division of parole into the department of corrections and community supervision, in relation to the effectiveness thereof; to amend chapter 907 of the laws of 1984, amending the correction law, the New York city criminal court act and the executive law relating to prison and jail housing and alternatives to detention and incarceration programs, in relation to extending the expiration of certain provisions of such chapter; to amend chapter 166 of the laws of 1991, amending the tax law and other laws relating to taxes, in relation to extending the expiration of certain provisions of such chapter; to amend the vehicle and traffic law, in relation to extending the expiration of the mandatory surcharge and victim assistance fee; to amend chapter 713 of the laws of 1988, amending the vehicle and traffic law relating to the ignition interlock device program, in relation to extending the expiration thereof; to amend chapter 435 of the laws of 1997, amending the military law and other laws relating to various provisions, in relation to extending the expiration date of the merit provisions of the correction law and the penal law of such chapter; to amend chapter 412 of the laws of 1999, amending the civil

practice law and rules and the court of claims act relating to prisoner litigation reform, in relation to extending the expiration of the inmate filing fee provisions of the civil practice law and rules and general filing fee provision and inmate property claims exhaustion requirement of the court of claims act of such chapter; to amend chapter 222 of the laws of 1994 constituting the family protection and domestic violence intervention act of 1994, in relation to extending the expiration of certain provisions of the criminal procedure law requiring the arrest of certain persons engaged in family violence; to amend chapter 505 of the laws of 1985, amending the criminal procedure law relating to the use of closed-circuit television and other protective measures for certain child witnesses, in relation to extending the expiration of the provisions thereof; 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 chapter 689 of the laws of 1993 amending the criminal procedure law relating to electronic court appearance in certain counties, in relation to extending the expiration thereof; to amend chapter 688 of the laws of 2003, amending the executive law relating to enacting the interstate compact for adult offender supervision, in relation to the effectiveness thereof; to amend chapter 56 of the laws of 2009, amending the correction law relating to limiting the closing of certain correctional facilities, providing for the custody by the department of correctional services of inmates serving definite sentences, providing for custody of federal prisoners and requiring the closing of certain correctional facilities, in relation to the effectiveness of such chapter; to amend chapter 152 of the laws of 2001 amending the military law relating to military funds of the organized militia, in relation to the effectiveness thereof; to amend chapter 554 of the laws of 1986, amending the correction law and the penal law relating to providing for community treatment facilities and establishing the crime of absconding from the community treatment facility, in relation to the effectiveness thereof; and to amend chapter 55 of the laws of 2018 amending the criminal procedure law relating to pre-criminal proceeding settlements in the city of New York, in relation to the effectiveness thereof (Part O); to amend the criminal procedure law, in relation to the statute of limitations in criminal prosecution of a sexual offense committed against a child; to amend the civil practice law and rules, in relation to the statute of limitations for civil actions related to a sexual offense committed against a child, and granting trial preference to such actions; to amend the general municipal law, in relation to providing that the notice of claim provisions shall not apply to such actions; to amend the court of claims act, in relation to providing that the notice of intention to file provisions shall not apply to such actions; to amend the education law, in relation to providing that the notice of claim provisions shall not apply to such actions; and to amend the judiciary law, in relation to judicial training relating to sexual abuse of minors and rules reviving civil actions relating to sexual offenses committed against children (Part P); to amend the penal law, in relation to prohibiting a sexual orientation panic defense (Part Q); to amend the criminal procedure law, in relation to admissibility of a victim's sexual conduct in a sex offense (Part R); to amend the penal law, the criminal procedure law, the family court act and the civil rights law, in relation to establishing the crime of unlawful dissemination or publication of an intimate image (Part S); to amend the criminal procedure

law, in relation to the statute of limitations for rape in the second degree and rape in the third degree (Part T); to amend the penal law and the criminal procedure law, in relation to sentencing and resentencing in domestic violence cases (Part U); to amend the penal law, in relation to assault on a journalist (Part V); to amend the penal law and the criminal procedure law, in relation to eliminating the imposition of the death penalty; and to repeal certain provisions of the criminal procedure law, the judiciary law, the county law, the correction law and the executive law relating to the imposition of the death penalty (Part W); to amend the penal law, in relation to prohibiting the possession, manufacture, transport and disposition of rapid-fire modification devices (Part X); to amend the penal law and the general business law, in relation to establishing a waiting period before a firearm, shotgun or rifle may be delivered to a person (Part Y); to amend the civil practice law and rules and the penal law, in relation to establishing extreme risk protection orders as court-issued orders of protection prohibiting a person from purchasing, possessing or attempting to purchase or possess a firearm, rifle or shotgun (Part Z); to amend the criminal procedure law and the judiciary law, in relation to the issuance of securing orders; and to repeal certain provisions of the criminal procedure law and the insurance law relating thereto (Subpart A); to amend the criminal procedure law and the penal law, in relation to discovery reform and intimidating or tampering with a victim or witness; and to repeal certain provisions of the criminal procedure law relating thereto (Subpart B); and to amend the criminal procedure law, in relation to a waiver and time limits for a speedy trial (Subpart C) (Part AA); to amend the public officers law, the civil practice law and rules and the executive law, in relation to the freedom of information law; and to repeal section 88 of the public officers law, section 70-0113 of the environmental conservation law and subdivision 4 of section 308 of the county law relating thereto (Part BB); to amend the workers' compensation law, in relation to extending the board's authority to resolve medical bill disputes and simplify the process (Part CC); to amend section 14 of part J of chapter 62 of the laws of 2003, amending the county law and other laws relating to fees collected, in relation to certain fees collected by the office of court administration; and to amend the judiciary law, in relation to the biennial registration fee for attorneys (Part DD); to amend the criminal procedure law, in relation to grand jury procedures (Part EE); authorizing the alienation of certain parklands in the town of Hastings, county of Oswego (Part FF); to amend the state finance law, in relation to authorizing use of centralized services by public authorities and public benefit corporations to acquire energy products as centralized services from the office of general services; to amend chapter 410 of the laws of 2009, amending the state finance law relating to authorizing the aggregate purchases of energy for state agencies, institutions, local governments, public authorities and public benefit corporations, in relation to the effectiveness thereof; and to amend part C of chapter 97 of the laws of 2011, amending the state finance law and other laws relating to providing certain centralized service to political subdivisions and extending the authority of the commissioner of general services to aggregate purchases of energy for state agencies and political subdivisions, in relation to the effectiveness thereof (Part GG); to amend the public buildings law, in relation to increasing the maximum contract amount during construction emergencies; and to amend chapter

674 of the laws of 1993, amending the public buildings law relating to value limitations on contracts, in relation to making such provisions permanent (Part HH); to amend the banking law, in relation to licensing considerations for check cashers (Subpart A); to amend the education law, in relation to eligibility for serving on a New York city community district education council and city-wide council (Subpart B); to amend the executive law, in relation to licensing considerations for bingo suppliers (Subpart C); to amend the executive law, in relation to licensing considerations for notary publics (Subpart D); to amend the general municipal law, in relation to licensing considerations for suppliers of games of chance, for games of chance licensees, for bingo licensees, and for lessors of premises to bingo licensees (Subpart E); to amend the insurance law, in relation to licensing considerations for insurer adjusters and for employment with insurance adjusters; and to repeal certain provisions of such law relating thereto (Subpart F); to amend the real property law, in relation to licensing considerations for real estate brokers or real estate salesmen (Subpart G); to amend the social services law, in relation to participation as employer in subsidized employer programs (Subpart H); to amend the vehicle and traffic law, in relation to eligibility for employment by a driver's school (Subpart I); to repeal certain provisions of the vehicle and traffic law, relating to mandatory suspension of drivers' licenses for certain offenses (Subpart J); to amend the public officers law, in relation to prohibiting disclosure of law enforcement booking information and photographs (Subpart K); to amend the executive law and the judiciary law, in relation to exclusion of undisposed cases from criminal history record searches (Subpart L); directs the commissioner of the division of criminal justice services to seal certain records of any action or proceeding terminated in favor of the accused or convictions for certain traffic violations (Subpart M); to amend the executive law and the judiciary law, in relation to preventing employment discrimination against persons whose criminal charges have been adjourned in contemplation of dismissal (Subpart N); to amend the executive law, in relation to preventing employment discrimination against persons whose criminal charges have been adjourned in contemplation of dismissal (Subpart O); and to amend the executive law, in relation to release on compassionate parole for inmates affected by age-related disability (Subpart P) (Part II); to amend the correction law, in relation to segregated confinement (Part JJ); to amend the penal law and the correction law, in relation to shock incarceration (Part KK); to amend the civil service law, in relation to establishing continuing eligible lists (Part LL); to amend the civil service law, in relation to promotional examination eligibility (Part MM); to amend the civil service law, in relation to salary protection to incumbents (Part NN); to amend the penal law, in relation to reducing certain sentences of imprisonment for misdemeanors to three hundred sixty-four days (Part OO); to amend the civil practice law and rules, the county law and the general municipal law, in relation to restricting forfeiture actions and creating greater accountability for seized assets; and to amend the criminal procedure law and the penal law, in relation to reporting certain demographic data (Part PP); to amend the family court act, in relation to establishing the child-parent security act; and to repeal section 73 and article 8 of the domestic relations law, relating to artificial insemination and surrogate parenting contracts (Part QQ); and to amend the executive law, in relation to creating an office of

special investigation within the department of law, requiring reports on the discharge of a firearm, and requiring the establishment of a model law enforcement use of force policy (Part RR)

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

Section 1. This act enacts into law major components of legislation which are necessary to implement the state fiscal plan for the 2019-2020 state fiscal year. Each component is wholly contained within a Part identified as Parts A through RR. The effective date for each particular provision contained within such Part is set forth in the last section of such Part. Any provision in any section contained within a Part, including the effective date of the Part, which makes reference to a section "of this act", when used in connection with that particular component, shall be deemed to mean and refer to the corresponding section of the Part in which it is found. Section three of this act sets forth the general effective date of this act.

PART A

Section 1. Section 167 of the civil service law is amended by adding a new subdivision 10 to read as follows:

10. Notwithstanding any inconsistent provision of law, the state's contribution for the cost of premium or subscription charges for the coverage of retired state employees who are enrolled in the statewide and the supplementary health benefit plans established pursuant to this article and who are hired on or after April first, two thousand nineteen shall be as set forth in this subdivision.

(a) For state employees who retire from a position at or equated to grade ten or higher with at least ten but less than twenty years of service, the state shall pay fifty percent of the cost of premium or subscription charges for the individual coverage of such retired state employees. Such contributions shall increase by two percent of the cost of premium or subscription charges for each year of service in excess of ten years, to a maximum of sixty-eight percent of the cost of premium or subscription charges. For state employees who retire from a position at or equated to grade ten or higher with twenty or more years of service, the state shall pay seventy-four percent of the cost of premium or subscription charges for the individual coverage of such retired state employees. Such contributions shall increase by one percent of the cost of premium or subscription charges for each year of service in excess of twenty years, to a maximum of eighty-four percent of the cost of premium or subscription charges.

(b) For state employees who retire from a position at or equated to grade nine or lower with at least ten but less than twenty years of service, the state shall pay fifty-four percent of the cost of premium or subscription charges for the individual coverage of such retired state employees. Such contributions shall increase by two percent of the cost of premium or subscription charges for each year of service in excess of ten years, to a maximum of seventy-two percent of the cost of premium or subscription charges. For state employees who retire from a position at or equated to grade nine or lower with twenty or more years of service, the state shall pay seventy-eight percent of the cost of premium or subscription charges for the individual coverage of such

retired state employees. Such contributions shall increase by one percent of the cost of premium or subscription charges for each year of service in excess of twenty years, to a maximum of eighty-eight percent of the cost of premium or subscription charges.

(c) For state employees who retire from a position at or equated to grade ten or higher with at least ten but less than twenty years of service, the state shall pay thirty-five percent of the cost of premium or subscription charges for the coverage of dependents of such retired state employees; such contribution shall increase by two percent of the cost of premium or subscription charges for each year of service in excess of ten years, to a maximum of fifty-three percent of the cost of premium or subscription charges for such dependents. For state employees who retire from a position at or equated to grade ten or higher with twenty or more years of service, the state shall pay fifty-nine percent of the cost of premium or subscription charges for the coverage of dependents of such retired state employees; such contribution shall increase by one percent of the cost of premium or subscription charges for each year of service in excess of twenty years, to a maximum of sixty-nine percent of the cost of premium or subscription charges for such dependents.

(d) For state employees who retire from a position at or equated to grade nine or lower with at least ten but less than twenty years of service, the state shall pay thirty-nine percent of the cost of premium or subscription charges for the coverage of dependents of such retired state employees; such contribution shall increase by two percent of the cost of premium or subscription charges for each year of service in excess of ten years, to a maximum of fifty-seven percent of the cost of premium or subscription charges for such dependents. For state employees who retire from a position at or equated to grade nine or lower with twenty or more years of service, the state shall pay sixty-three percent of the cost of premium or subscription charges for the coverage of dependents of such retired state employees; such contribution shall increase by one percent of the cost of premium or subscription charges for each year of service in excess of twenty years, to a maximum of seventy-three percent of the cost of premium or subscription charges for such dependents.

(e) With respect to all such retired state employees, each increment of one or two percent of the cost of premium or subscription charges for each year of service shall be applicable for whole years of service to the state and shall not be applied on a pro-rata basis for partial years of service.

(f) The provisions of this subdivision shall not be applicable to:

(1) Members of the New York state and local police and fire retirement system;

(2) Members in the uniformed personnel in institutions under the jurisdiction of the state department of corrections and community supervision or who are security hospital treatment assistants, as defined in section eighty-nine of the retirement and social security law; and

(3) Any state employee determined to have retired with an ordinary, accidental, or performance of duty disability retirement benefit.

(g) For the purposes of determining the cost of premium or subscription charges to be paid by the state on behalf of retired state employees enrolled in the New York state health insurance program who are hired on or after April first, two thousand nineteen, the state shall consider all years of service that a retired state employee has accrued in a public retirement system of the state or an optional

retirement program established pursuant to article three, eight-B, or one hundred twenty-five-A of the education law. The provisions of this paragraph may not be used to grant eligibility for retiree state health insurance coverage to a retiree who is not otherwise eligible to enroll in the New York state health insurance program as a retiree.

§ 2. This act shall take effect April 1, 2019.

PART B

Section 1. Section 167-a of the civil service law, as amended by section 1 of part I of chapter 55 of the laws of 2012, is amended to read as follows:

§ 167-a. Reimbursement for medicare premium charges. Upon exclusion from the coverage of the health benefit plan of supplementary medical insurance benefits for which an active or retired employee or a dependent covered by the health benefit plan is or would be eligible under the federal old-age, survivors and disability insurance program, an amount equal to the **standard medicare** premium charge for such supplementary medical insurance benefits for such active or retired employee and his or her dependents, if any, shall be paid monthly or at other intervals to such active or retired employee from the health insurance fund. **Furthermore, effective January first, two thousand twenty there shall be no payment whatsoever for the income related monthly adjustment amount for amounts (premiums) incurred on or after January first, two thousand nineteen to any active or retired employee and his or her dependents, if any.** Where appropriate, such **standard medicare premium** amount may be deducted from contributions payable by the employee or retired employee; or where appropriate in the case of a retired employee receiving a retirement allowance, such **standard medicare premium** amount may be included with payments of his or her retirement allowance. All state employer, employee, retired employee and dependent contributions to the health insurance fund, including contributions from public authorities, public benefit corporations or other quasi-public organizations of the state eligible for participation in the health benefit plan as authorized by subdivision two of section one hundred sixty-three of this article, shall be adjusted as necessary to cover the cost of reimbursing federal old-age, survivors and disability insurance program premium charges under this section. This cost shall be included in the calculation of premium or subscription charges for health coverage provided to employees and retired employees of the state, public authorities, public benefit corporations or other quasi-public organizations of the state; provided, however, the state, public authorities, public benefit corporations or other quasi-public organizations of the state shall remain obligated to pay no less than its share of such increased cost consistent with its share of premium or subscription charges provided for by this article. All other employer contributions to the health insurance fund shall be adjusted as necessary to provide for such payments.

§ 2. This act shall take effect immediately and shall apply on January 1, 2019 for the income related monthly adjustment amount for amounts, premiums, incurred on or after January 1, 2019.

PART C

Section 1. Section 167-a of the civil service law, as amended by section 1 of part I of chapter 55 of the laws of 2012, is amended to read as follows:

§ 167-a. Reimbursement for medicare premium charges. Upon exclusion from the coverage of the health benefit plan of supplementary medical insurance benefits for which an active or retired employee or a dependent covered by the health benefit plan is or would be eligible under the federal old-age, survivors and disability insurance program, an amount equal to the **standard medicare** premium charge for such supplementary medical insurance benefits for such active or retired employee and his or her dependents, if any, shall be paid monthly or at other intervals to such active or retired employee from the health insurance fund**; provided, however, such payment for the standard medicare premium charge shall not exceed one hundred thirty-five dollars and fifty cents per month**. Where appropriate, such **standard medicare premium** amount may be deducted from contributions payable by the employee or retired employee; or where appropriate in the case of a retired employee receiving a retirement allowance, such **standard medicare premium** amount may be included with payments of his or her retirement allowance. All state employer, employee, retired employee and dependent contributions to the health insurance fund, including contributions from public authorities, public benefit corporations or other quasi-public organizations of the state eligible for participation in the health benefit plan as authorized by subdivision two of section one hundred sixty-three of this article, shall be adjusted as necessary to cover the cost of reimbursing federal old-age, survivors and disability insurance program premium charges under this section. This cost shall be included in the calculation of premium or subscription charges for health coverage provided to employees and retired employees of the state, public authorities, public benefit corporations or other quasi-public organizations of the state; provided, however, the state, public authorities, public benefit corporations or other quasi-public organizations of the state shall remain obligated to pay no less than its share of such increased cost consistent with its share of premium or subscription charges provided for by this article. All other employer contributions to the health insurance fund shall be adjusted as necessary to provide for such payments.

§ 2. This act shall take effect immediately and shall apply to the standard medicare premium amount on and after April 1, 2019.

PART D

Section 1. Section 5004 of the civil practice law and rules, as amended by chapter 258 of the laws of 1981, is amended to read as follows:

§ 5004. Rate of interest. [~~**Interest shall be at the rate of nine per centum per annum, except where otherwise provided by statute.**~~] **Notwithstanding any other provision of law or regulation to the contrary, including any law or regulation that limits the annual rate of interest to be paid on a judgment or accrued claim, the annual rate of interest to be paid on a judgment or accrued claim shall be calculated at the one-year United States treasury bill rate. For the purposes of this section, the "one-year United States treasury bill rate" means the weekly average one-year constant maturity treasury yield, as published by the board of governors of the federal reserve system, for the calendar week preceding the date of the entry of the judgment awarding damages.**

Provided however, that this section shall not apply to any provision of the tax law which provides for the annual rate of interest to be paid on a judgment or accrued claim.

§ 2. Section 16 of the state finance law, as amended by chapter 681 of the laws of 1982, is amended to read as follows:

§ 16. Rate of interest on judgments and accrued claims against the state. The rate of interest to be paid by the state upon any judgment or accrued claim against the state shall [~~not exceed nine per centum per annum~~] **be calculated at the one-year United States treasury bill rate. For the purposes of this section, the "one-year United States treasury bill rate" means the weekly average one-year constant maturity treasury yield, as published by the board of governors of the federal reserve system, for the calendar week preceding the date of the entry of the judgment awarding damages. Provided however, that this section shall not apply to any provision of the tax law which provides for the annual rate of interest to be paid on a judgment or accrued claim**.

§ 3. This act shall take effect immediately, and shall be deemed to have been in full force and effect on and after April 1, 2019.

PART E

Section 1. Paragraphs (f) and (g) of subdivision 1 of section 209-a of the civil service law, as amended by chapter 244 of the laws of 2007, are amended to read as follows:

(f) to utilize any state funds appropriated for any purpose to train managers, supervisors or other administrative personnel regarding methods to discourage union organization or to discourage an employee from participating in a union organizing drive; [~~or~~] (g) to fail to permit or refuse to afford a public employee the right, upon the employee's demand, to representation by a representative of the employee organization, or the designee of such organization, which has been certified or recognized under this article when at the time of questioning by the employer of such employee it reasonably appears that he or she may be the subject of a potential disciplinary action. If representation is requested, and the employee is a potential target of disciplinary action at the time of questioning, a reasonable period of time shall be afforded to the employee to obtain such representation. It shall be an affirmative defense to any improper practice charge under paragraph (g) of this subdivision that the employee has the right, pursuant to statute, interest arbitration award, collectively negotiated agreement, policy or practice, to present to a hearing officer or arbitrator evidence of the employer's failure to provide representation and to obtain exclusion of the resulting evidence upon demonstration of such failure. Nothing in this section shall grant an employee any right to representation by the representative of an employee organization in any criminal investigation**; or (h) to disclose home addresses, personal telephone numbers, personal cell phone numbers, personal e-mail addresses of a public employee, as the term "public employee" is defined in subdivision seven of section two hundred one of this article, except (i) where required pursuant to the provisions of this article, and (ii) to the extent compelled to do so by lawful service of process, subpoena, court order, or as otherwise required by law. This paragraph shall not prohibit other provisions of law regarding work-related, publicly available information such as title, salary, and dates of employment**.

§ 2. Subdivision 1 of section 208 of the civil service law is amended by adding a new paragraph (d) to read as follows:

(d) Unless otherwise specified by a collective bargaining agreement, upon the request of the employee organization, not more than quarterly, the employer shall provide the employee organization the name, address, job title, employing agency or department or other operating unit and work location of all employees of a bargaining unit.

§ 3. This act shall take effect immediately.

PART F

Section 1. Paragraph (d) of subdivision 4 of section 209 of the civil service law, as amended by section 1 of part L of chapter 57 of the laws of 2016, is amended to read as follows:

(d) The provisions of this subdivision shall expire July first, two thousand [~~nineteen~~] twenty-four.

§ 2. Paragraph (f) of subdivision 6 of section 209 of the civil service law, as amended by section 2 of part L of chapter 57 of the laws of 2016, is amended to read as follows:

(f) The provisions of this subdivision shall expire July first, two thousand [~~nineteen~~] twenty-four.

§ 3. This act shall take effect immediately.

PART G

Section 1. Section 13 of part A of chapter 97 of the laws of 2011, amending the general municipal law and the education law relating to establishing limits upon school district and local government tax levies, as amended by section 18 of part A of chapter 20 of the laws of 2015, is amended to read as follows:

§ 13. This act shall take effect immediately[~~; provided, however, that sections two through eleven of this act shall take effect July 1, 2011 and shall first apply to school district budgets and the budget adoption process for the 2012-13 school year; and shall continue to apply to school district budgets and the budget adoption process for any school year beginning in any calendar year during which this act is in effect; provided further, that if section 26 of part A of chapter 58 of the laws of 2011 shall not have taken effect on or before such date then section ten of this act shall take effect on the same date and in the same manner as such chapter of the laws of 2011, takes effect; provided further, that section one of this act shall first apply to the levy of taxes by local governments for the fiscal year that begins in 2012 and shall continue to apply to the levy of taxes by local governments for any fiscal year beginning in any calendar year during which this act is in effect; provided, further, that this act shall remain in full force and effect at a minimum until and including June 15, 2020 and shall remain in effect thereafter only so long as the public emergency requiring the regulation and control of residential rents and evictions and all such laws providing for such regulation and control continue as provided in subdivision 3 of section 1 of the local emergency rent control act, sections 26-501, 26-502 and 26-520 of the administrative code of the city of New York, section 17 of chapter 576 of the laws of 1974 and subdivision 2 of section 1 of chapter 274 of the laws of 1946 constituting the emergency housing rent control law, and section 10 of chapter 555 of the laws of 1982, amending the general business law and the administrative code of the city of New York relating to conversions of residential property to cooperative or condominium ownership in the~~

~~city of New York as such laws are continued by chapter 93 of the laws of 2011 and as such sections are amended from time to time~~].

§ 2. This act shall take effect immediately.

PART H

Section 1. The opening paragraph of section 15 of chapter 123 of the laws of 2014, amending the vehicle and traffic law, the general municipal law, and the public officers law relating to owner liability for failure of an operator to comply with traffic-control indications, is amended to read as follows:

This act shall take effect on the thirtieth day after it shall have become a law and shall expire [~~5 years after such effective date when upon such date the provisions of this act shall~~] and be deemed repealed December 1, 2024; and provided further that any rules necessary for the implementation of this act on its effective date shall be promulgated on or before such effective date, provided that:

§ 2. The opening paragraph of section 15 of chapter 101 of the laws of 2014, amending the vehicle and traffic law, the general municipal law, and the public officers law relating to owner liability for failure of an operator to comply with traffic-control indications in the city of Mt. Vernon, is amended to read as follows:

This act shall take effect on the thirtieth day after it shall have become a law and shall expire [~~5 years after such effective date when upon such date the provisions of this act shall~~] and be deemed repealed December 1, 2024; and provided further that any rules necessary for the implementation of this act on its effective date shall be promulgated on or before such effective date, provided that:

§ 3. Section 10 of chapter 19 of the laws of 2009, amending the vehicle and traffic law and other laws relating to adjudications and owner liability for a violation of traffic-control signal indications, as amended by chapter 133 of the laws of 2014, is amended to read as follows:

§ 10. This act shall take effect on the thirtieth day after it shall have become a law and shall expire December 1, [~~2019~~] 2024 when upon such date the provisions of this act shall be deemed repealed; provided that the amendments to paragraph a of subdivision 5-a of section 401 of the vehicle and traffic law made by section one of this act shall be subject to the expiration and reversion of such paragraph pursuant to section 17 of chapter 746 of the laws of 1988, as amended, when upon such date the provisions of section two of this act shall take effect; provided that the amendments to the opening paragraph and paragraph (c) of subdivision 1 of section 1809 of the vehicle and traffic law made by section four of this act shall be subject to the expiration and reversion of such subdivision pursuant to chapter 166 of the laws of 1991, as amended, when upon such date the provisions of section five of this act shall take effect; provided, however, that the amendments to the opening paragraph of subdivision 1 of section 1809 of the vehicle and traffic law made by section five of this act shall not affect the expiration of such subdivision and shall expire therewith; provided, however, that the amendments to subdivision 2 of section 371 of the general municipal law made by section seven of this act shall not affect the expiration of such section and shall be deemed to expire therewith; and provided, further, that any such local laws as may be enacted pursuant to this act shall remain in full force and effect only until December 1, [~~2019~~] 2024.

§ 4. The opening paragraph of section 15 of chapter 99 of the laws of 2014, amending the vehicle and traffic law, the general municipal law, and the public officers law relating to owner liability for failure of an operator to comply with traffic-control indications in the city of New Rochelle, is amended to read as follows:

This act shall take effect on the thirtieth day after it shall have become a law and shall expire [~~5 years after such effective date when upon such date the provisions of this act shall~~] and be deemed repealed December 1, 2024; and provided further that any rules necessary for the implementation of this act on its effective date shall be promulgated on or before such effective date, provided that:

§ 5. Section 17 of chapter 746 of the laws of 1988, amending the vehicle and traffic law, the general municipal law, and the public officers law relating to the civil liability of vehicle owners for traffic control signal violations, as amended by chapter 134 of the laws of 2014, is amended to read as follows:

§ 17. This act shall take effect on the thirtieth day after it shall have become a law and shall remain in full force and effect until December 1, [~~2019~~] 2024 when upon such date the amendments and provisions made by this act shall be deemed repealed; provided, however, any such local laws as may be enacted pursuant to this act shall remain in full force and effect only until the expiration on December 1, [~~2019~~] 2024.

§ 6. Section 2 of local law number 46 of the city of New York for the year 1989 amending the administrative code of the city of New York relating to civil liability of vehicle owners for traffic control signal violations, as amended by chapter 134 of the laws of 2014, is amended to read as follows:

§ 2. This local law shall take effect immediately and shall expire on December 1, [~~2019~~] 2024.

§ 7. Section 9 of chapter 23 of the laws of 2009, amending the vehicle and traffic law and other laws relating to adjudications and owner liability for a violation of traffic-control signal indications, as amended by chapter 127 of the laws of 2014, is amended to read as follows:

§ 9. This act shall take effect on the thirtieth day after it shall have become a law and shall expire December 1, [~~2019~~] 2024 when upon such date the provisions of this act shall be deemed repealed; provided that the amendments to paragraph a of subdivision 5-a of section 401 of the vehicle and traffic law made by section one of this act shall be subject to the expiration and reversion of such paragraph pursuant to section 17 of chapter 746 of the laws of 1988, as amended, when upon such date the provisions of section two of this act shall take effect; provided that the amendments to the opening paragraph and paragraph (c) of subdivision 1 of section 1809 of the vehicle and traffic law made by section four of this act shall be subject to the expiration and reversion of such subdivision pursuant to chapter 166 of the laws of 1991, as amended, when upon such date the provisions of section five of this act shall take effect; provided, however, that the amendments to the opening paragraph of subdivision 1 of section 1809 of the vehicle and traffic law made by section five of this act shall not affect the expiration of such subdivision and shall expire therewith; and provided, further, that any such local laws as may be enacted pursuant to this act shall remain in full force and effect only until December 1, [~~2019~~] 2024.

§ 8. The opening paragraph of section 15 of chapter 222 of the laws of 2015, amending the vehicle and traffic law, the general municipal law, and the public officers law relating to owner liability for failure of

an operator to comply with traffic-control indications in the city of White Plains, is amended to read as follows:

This act shall take effect on the thirtieth day after it shall have become a law and shall expire [~~5 years after such effective date when upon such date the provisions of this act shall~~] and be deemed repealed December 1, 2024; and provided further that any rules necessary for the implementation of this act on its effective date shall be promulgated on or before such effective date, provided that:

§ 9. The opening paragraph and paragraph (k) of section 24 of chapter 20 of the laws of 2009, amending the vehicle and traffic law, the general municipal law, and the public officers law relating to owner liability for failure of operator to comply with traffic control indications, as amended by chapter 128 of the laws of 2014, are amended to read as follows:

This act shall take effect on the thirtieth day after it shall have become a law and shall expire December 1, [~~2019~~] 2024 when upon such date the provisions of this act shall be deemed repealed; provided that:

(k) any such local laws as may be enacted pursuant to this act shall remain in full force and effect only until December 1, [~~2019~~] 2024.

§ 10. This act shall take effect immediately.

PART I

Section 1. Subparagraph (viii) of paragraph a of subdivision 10 of section 54 of the state finance law, as amended by section 1 of part O of chapter 56 of the laws of 2008, clause 2 as amended by section 1 of part I of chapter 57 of the laws of 2011, is amended and a new subparagraph (v) is added to paragraph b to read as follows:

(viii) "Prior year aid" means[~~:~~

~~(1) for the state fiscal year commencing April first, two thousand seven, the total amount of state aid a municipality or county having a population of less than one million but more than nine hundred twenty-five thousand according to the federal decennial census of two thousand received in the state fiscal year commencing April first, two thousand six.~~

~~(2) for the state fiscal year commencing April first, two thousand eight and in each state fiscal year thereafter, the base level grant received in the immediately preceding state fiscal year pursuant to paragraph b of this subdivision and chapter three hundred thirteen of the laws of two thousand ten, excluding any deficit reduction adjustment pursuant to paragraph e-1 of this subdivision, plus any additional apportionments received in such year pursuant to paragraph d of this subdivision and any per capita adjustments received in such year pursuant to paragraph e of this subdivision~~] for the state fiscal year commencing April first, two thousand nineteen and in each state fiscal year thereafter, the base level grant received in the immediately preceding state fiscal year pursuant to paragraph b of this subdivision.

(v) Notwithstanding subparagraph (i) of this paragraph, within amounts appropriated in the state fiscal year commencing April first, two thousand nineteen, and annually thereafter, there shall be apportioned and paid to each municipality which is a city a base level grant in an amount equal to the prior year aid received by such city, and there shall be apportioned and paid to each municipality which is a town or village a base level grant in accordance with clause two of this subparagraph.

(1) When used in this subparagraph, unless otherwise expressly stated:

(A) "two thousand eighteen--two thousand nineteen AIM funding" shall mean the sum of the base level grant paid in the state fiscal year that began April first, two thousand eighteen pursuant to this paragraph.

(B) "two thousand seventeen total expenditures" shall mean all funds and total expenditures for a town or a village as reported to the state comptroller for local fiscal years ended in two thousand seventeen.

(C) "AIM Reliance" shall mean two thousand eighteen--two thousand nineteen AIM funding calculated as a percentage of two thousand seventeen total expenditures, provided that, for a village which dissolved during the state fiscal year that began April first, two thousand eighteen, the village's two thousand eighteen--two thousand nineteen AIM funding shall be added to the existing two thousand eighteen--two thousand nineteen AIM funding of the town into which the village dissolved for purposes of this calculation.

(2) A base level grant equal to a town or village's prior year aid only if such town or village's AIM reliance equals two percent or greater as reported to and published by the state comptroller as of January tenth, two thousand nineteen.

§ 2. Paragraph i of subdivision 10 of section 54 of the state finance law is amended by adding a new subparagraph (ix) to read as follows:

(ix) Notwithstanding subparagraph (i) of this paragraph, in the state fiscal year commencing April first, two thousand nineteen, the base level grant adjustment pursuant to subparagraph (v) of paragraph b of this subdivision shall be made on or before September twenty-fifth for a town or village.

§ 3. This act shall take effect immediately.

PART J

Section 1. The real property tax law is amended by adding a new section 485-u to read as follows:

§ 485-u. Class one reassessment exemption. 1. Applicability. A special assessing unit that is not a city may, by local law, opt to provide a class one reassessment exemption as provided in this section. Such exemption shall apply in the same manner and to the same extent to county, town, special district and school district taxes levied on the assessment roll prepared by such special assessing unit.

2. Eligibility. The assessor shall, for the two thousand twenty--two thousand twenty-one assessment roll and for the subsequent four years, apply an exemption as provided in this section to each property classified in class one pursuant to article eighteen of this chapter.

3. Exemption calculation. (a) (i) The assessor shall calculate the exemption as a percentage of the exemption base. The exemption base shall be the amount by which the assessment of a property on the two thousand twenty--two-thousand twenty-one assessment roll exceeds the equalized assessment for the two thousand nineteen--two thousand twenty tax year. The assessor shall determine the equalized assessment for the two thousand nineteen--two thousand twenty tax year by multiplying the property's effective full value for the two thousand nineteen--two thousand twenty tax year by the class one level of assessment on the two thousand twenty--two thousand twenty-one assessment roll. The assessor shall determine a property's effective full value for the two thousand nineteen--two thousand twenty tax year by dividing the assessment on the two thousand nineteen--two thousand twenty assessment roll by the class one level of assessment on the two thousand nineteen--two thousand twenty assessment roll. Such exemption base shall not include assessment

increases due to a physical improvement or a removal or reduction of an exemption on property.

(ii) Any increase in the assessment of a property due to an increase in a property's full value or physical changes subsequent to the two thousand twenty--two thousand twenty-one tax year assessment roll shall not be eligible for the exemption. If any portion of a property is fully or partially removed from the assessment roll subsequent to the two thousand twenty--two thousand twenty-one tax year by reason of fire, demolition, destruction or new exemption, the assessor shall reduce the exemption for any remaining portion in the same proportion the assessment is reduced for such fire, demolition, destruction or new exemption. If a property's assessment is reduced pursuant to title one-a of article five or title one or one-a of article seven of this chapter, or as a result of a reduction in full value compared to the full value on the two thousand twenty--two thousand twenty-one assessment roll, the assessor shall recalculate the exemption base accordingly.

(b) The exemption shall be eighty per centum of the exemption base in the two thousand twenty--two thousand twenty-one tax year, sixty per centum of the exemption base in the two thousand twenty-one--two thousand twenty-two tax year, forty per centum of the exemption base in the two thousand twenty-two--two thousand twenty-three tax year, twenty per centum of the exemption base in the two thousand twenty-three--two thousand twenty-four tax year and zero per centum of the exemption base in the two thousand twenty-four--two thousand twenty-five tax year.

4. Entering of exemption on assessment roll. The assessor shall enter in a separate column on the assessment roll the value of any exemption provided by this section.

§ 2. Severability. If any provision of this act or if any application thereof to any person or circumstances is held invalid, the remainder of this act and the application of the provision to other persons and circumstances shall not be affected thereby.

§ 3. This act shall take effect immediately.

PART K

Section 1. The state comptroller is hereby authorized and directed to loan money in accordance with the provisions set forth in subdivision 5 of section 4 of the state finance law to the following funds and/or accounts:

1. DOL-Child performer protection account (20401).
2. Proprietary vocational school supervision account (20452).
3. Local government records management account (20501).
4. Child health plus program account (20810).
5. EPIC premium account (20818).
6. Education - New (20901).
7. VLT - Sound basic education fund (20904).
8. Sewage treatment program management and administration fund (21000).
9. Hazardous bulk storage account (21061).
10. Federal grants indirect cost recovery account (21065).
11. Low level radioactive waste account (21066).
12. Recreation account (21067).
13. Public safety recovery account (21077).
14. Environmental regulatory account (21081).
15. Natural resource account (21082).
16. Mined land reclamation program account (21084).

17. Great lakes restoration initiative account (21087).
18. Environmental protection and oil spill compensation fund (21200).
19. Public transportation systems account (21401).
20. Metropolitan mass transportation (21402).
21. Operating permit program account (21451).
22. Mobile source account (21452).
23. Statewide planning and research cooperative system account (21902).
24. New York state thruway authority account (21905).
25. Mental hygiene program fund account (21907).
26. Mental hygiene patient income account (21909).
27. Financial control board account (21911).
28. Regulation of racing account (21912).
29. New York Metropolitan Transportation Council account (21913).
30. State university dormitory income reimbursable account (21937).
31. Criminal justice improvement account (21945).
32. Environmental laboratory reference fee account (21959).
33. Training, management and evaluation account (21961).
34. Clinical laboratory reference system assessment account (21962).
35. Indirect cost recovery account (21978).
36. High school equivalency program account (21979).
37. Multi-agency training account (21989).
38. Interstate reciprocity for post-secondary distance education account (23800).
39. Bell jar collection account (22003).
40. Industry and utility service account (22004).
41. Real property disposition account (22006).
42. Parking account (22007).
43. Courts special grants (22008).
44. Asbestos safety training program account (22009).
45. Camp Smith billeting account (22017).
46. Batavia school for the blind account (22032).
47. Investment services account (22034).
48. Surplus property account (22036).
49. Financial oversight account (22039).
50. Regulation of Indian gaming account (22046).
51. Rome school for the deaf account (22053).
52. Seized assets account (22054).
53. Administrative adjudication account (22055).
54. Federal salary sharing account (22056).
55. New York City assessment account (22062).
56. Cultural education account (22063).
57. Local services account (22078).
58. DHCR mortgage servicing account (22085).
59. Housing indirect cost recovery account (22090).
60. DHCR-HCA application fee account (22100).
61. Low income housing monitoring account (22130).
62. Corporation administration account (22135).
63. Montrose veteran's home account (22144).
64. Deferred compensation administration account (22151).
65. Rent revenue other New York City account (22156).
66. Rent revenue account (22158).
67. Tax revenue arrearage account (22168).
68. State university general income offset account (22654).
69. Lake George park trust fund account (22751).
70. State police motor vehicle law enforcement account (22802).

71. Highway safety program account (23001).
72. DOH drinking water program account (23102).
73. NYCCC operating offset account (23151).
74. Commercial gaming revenue account (23701).
75. Commercial gaming regulation account (23702).
76. Highway use tax administration account (23801).
77. Fantasy sports administration account (24951).
78. Highway and bridge capital account (30051).
79. Aviation purpose account (30053).
80. State university residence hall rehabilitation fund (30100).
81. State parks infrastructure account (30351).
82. Clean water/clean air implementation fund (30500).
83. Hazardous waste remedial cleanup account (31506).
84. Youth facilities improvement account (31701).
85. Housing assistance fund (31800).
86. Housing program fund (31850).
87. Highway facility purpose account (31951).
88. Information technology capital financing account (32215).
89. New York racing account (32213).
90. Capital miscellaneous gifts account (32214).
91. New York environmental protection and spill remediation account (32219).
92. Mental hygiene facilities capital improvement fund (32300).
93. Correctional facilities capital improvement fund (32350).
94. New York State Storm Recovery Capital Fund (33000).
95. OGS convention center account (50318).
96. Empire Plaza Gift Shop (50327).
97. Centralized services fund (55000).
98. Archives records management account (55052).
99. Federal single audit account (55053).
100. Civil service EHS occupational health program account (55056).
101. Banking services account (55057).
102. Cultural resources survey account (55058).
103. Neighborhood work project account (55059).
104. Automation & printing chargeback account (55060).
105. OFT NYT account (55061).
106. Data center account (55062).
107. Intrusion detection account (55066).
108. Domestic violence grant account (55067).
109. Centralized technology services account (55069).
110. Labor contact center account (55071).
111. Human services contact center account (55072).
112. Tax contact center account (55073).
113. Executive direction internal audit account (55251).
114. CIO Information technology centralized services account (55252).
115. Health insurance internal service account (55300).
116. Civil service employee benefits division administrative account (55301).
117. Correctional industries revolving fund (55350).
118. Employees health insurance account (60201).
119. Medicaid management information system escrow fund (60900).
120. Department of law civil recoveries account (55074).
121. Utility environmental regulatory account (21064).
122. New York state secure choice administrative account (23806).
123. New York state medical indemnity fund account (_____).
124. New York state cannabis revenue fund (_____).

§ 1-a. The state comptroller is hereby authorized and directed to loan money in accordance with the provisions set forth in subdivision 5 of section 4 of the state finance law to any account within the following federal funds, provided the comptroller has made a determination that sufficient federal grant award authority is available to reimburse such loans:

1. Federal USDA-food and nutrition services fund (25000).
2. Federal health and human services fund (25100).
3. Federal education fund (25200).
4. Federal block grant fund (25250).
5. Federal miscellaneous operating grants fund (25300).
6. Federal unemployment insurance administration fund (25900).
7. Federal unemployment insurance occupational training fund (25950).
8. Federal emergency employment act fund (26000).
9. Federal capital projects fund (31350).

§ 1-b. The state comptroller is hereby authorized and directed to loan money in accordance with the provisions set forth in subdivision 5 of section 4 of the state finance law to any fund within the special revenue, capital projects, proprietary or fiduciary funds for the purpose of payment of any fringe benefit or indirect cost liabilities or obligations incurred.

§ 2. Notwithstanding any law to the contrary, and in accordance with section 4 of the state finance law, the comptroller is hereby authorized and directed to transfer, upon request of the director of the budget, on or before March 31, 2020, up to the unencumbered balance or the following amounts:

Economic Development and Public Authorities:

1. $175,000 from the miscellaneous special revenue fund, underground facilities safety training account (22172), to the general fund.
2. An amount up to the unencumbered balance from the miscellaneous special revenue fund, business and licensing services account (21977), to the general fund.
3. $14,810,000 from the miscellaneous special revenue fund, code enforcement account (21904), to the general fund.
4. $3,000,000 from the general fund to the miscellaneous special revenue fund, tax revenue arrearage account (22168).

Education:

1. $2,679,000,000 from the general fund to the state lottery fund, education account (20901), as reimbursement for disbursements made from such fund for supplemental aid to education pursuant to section 92-c of the state finance law that are in excess of the amounts deposited in such fund for such purposes pursuant to section 1612 of the tax law.
2. $987,200,000 from the general fund to the state lottery fund, VLT education account (20904), as reimbursement for disbursements made from such fund for supplemental aid to education pursuant to section 92-c of the state finance law that are in excess of the amounts deposited in such fund for such purposes pursuant to section 1612 of the tax law.
3. $154,400,000 from the general fund to the New York state commercial gaming fund, commercial gaming revenue account (23701), as reimbursement for disbursements made from such fund for supplemental aid to education pursuant to section 97-nnnn of the state finance law that are in excess of the amounts deposited in such fund for purposes pursuant to section 1352 of the racing, pari-mutuel wagering and breeding law.
4. $18,000,000 from the interactive fantasy sports fund, fantasy sports education account (24950), to the state lottery fund, education account (20901), as reimbursement for disbursements made from such fund

for supplemental aid to education pursuant to section 92-c of the state finance law.

5. $36,211,000 from the charitable gifts trust fund, elementary and secondary education account (24901), to the general fund, for payment of general support for public schools pursuant to section 3609-a of the education law.

6. Moneys from the state lottery fund (20900) up to an amount deposited in such fund pursuant to section 1612 of the tax law in excess of the current year appropriation for supplemental aid to education pursuant to section 92-c of the state finance law.

7. $300,000 from the New York state local government records management improvement fund, local government records management account (20501), to the New York state archives partnership trust fund, archives partnership trust maintenance account (20351).

8. $900,000 from the general fund to the miscellaneous special revenue fund, Batavia school for the blind account (22032).

9. $900,000 from the general fund to the miscellaneous special revenue fund, Rome school for the deaf account (22053).

10. $343,400,000 from the state university dormitory income fund (40350) to the miscellaneous special revenue fund, state university dormitory income reimbursable account (21937).

11. $8,318,000 from the general fund to the state university income fund, state university income offset account (22654), for the state's share of repayment of the STIP loan.

12. $44,000,000 from the state university income fund, state university hospitals income reimbursable account (22656) to the general fund for hospital debt service for the period April 1, 2019 through March 31, 2020.

13. $7,200,000 from the miscellaneous special revenue fund, office of the professions account (22051), to the miscellaneous capital projects fund, office of the professions electronic licensing account (32200).

14. $24,000,000 from any of the state education department's special revenue and internal service funds to the miscellaneous special revenue fund, indirect cost recovery account (21978) or to the federal miscellaneous operating grants fund, federal indirect cost recovery account.

15. $6,600,000 from any of the state education department's special revenue or internal service funds to the capital projects fund (30000).

Environmental Affairs:

1. $16,000,000 from any of the department of environmental conservation's special revenue federal funds to the environmental conservation special revenue fund, federal indirect recovery account (21065).

2. $5,000,000 from any of the department of environmental conservation's special revenue federal funds to the conservation fund (21150) **or** Marine Resources Account (21151) as necessary to avoid diversion of conservation funds.

3. $3,000,000 from any of the office of parks, recreation and historic preservation capital projects federal funds and special revenue federal funds to the miscellaneous special revenue fund, federal grant indirect cost recovery account (22188).

4. $1,000,000 from any of the office of parks, recreation and historic preservation special revenue federal funds to the miscellaneous capital projects fund, I love NY water account (32212).

5. $28,000,000 from the general fund to the environmental protection fund, environmental protection fund transfer account (30451).

6. $1,800,000 from the general fund to the hazardous waste remedial fund, hazardous waste oversight and assistance account (31505).

7. An amount up to or equal to the cash balance within the special revenue-other waste management & cleanup account (21053) to the capital projects fund (30000) for services and capital expenses related to the management and cleanup program as put forth in section 27-1915 of the environmental conservation law.

8. $1,800,000 from the miscellaneous special revenue fund, public service account (22011) to the miscellaneous special revenue fund, utility environmental regulatory account (21064).

9. $500,000 from the general fund to the enterprise fund, state fair account (50051).

10. $2,200,000 from the miscellaneous special revenue fund, public service account (22011) to the general fund.

Family Assistance:

1. $7,000,000 from any of the office of children and family services, office of temporary and disability assistance, or department of health special revenue federal funds and the general fund, in accordance with agreements with social services districts, to the miscellaneous special revenue fund, office of human resources development state match account (21967).

2. $4,000,000 from any of the office of children and family services or office of temporary and disability assistance special revenue federal funds to the miscellaneous special revenue fund, family preservation and support services and family violence services account (22082).

3. $18,670,000 from any of the office of children and family services, office of temporary and disability assistance, or department of health special revenue federal funds and any other miscellaneous revenues generated from the operation of office of children and family services programs to the general fund.

4. $125,000,000 from any of the office of temporary and disability assistance or department of health special revenue funds to the general fund.

5. $2,500,000 from any of the office of temporary and disability assistance special revenue funds to the miscellaneous special revenue fund, office of temporary and disability assistance program account (21980).

6. $24,000,000 from any of the office of children and family services, office of temporary and disability assistance, department of labor, and department of health special revenue federal funds to the office of children and family services miscellaneous special revenue fund, multi-agency training contract account (21989).

7. $205,000,000 from the miscellaneous special revenue fund, youth facility per diem account (22186), to the general fund.

8. $621,850 from the general fund to the combined gifts, grants, and bequests fund, WB Hoyt Memorial account (20128).

9. $5,000,000 from the miscellaneous special revenue fund, state central registry (22028), to the general fund.

General Government:

1. $1,566,000 from the miscellaneous special revenue fund, examination and miscellaneous revenue account (22065) to the general fund.

2. $8,083,000 from the general fund to the health insurance revolving fund (55300).

3. $292,400,000 from the health insurance reserve receipts fund (60550) to the general fund.

4. $150,000 from the general fund to the not-for-profit revolving loan fund (20650).

5. $150,000 from the not-for-profit revolving loan fund (20650) to the general fund.

6. $3,000,000 from the miscellaneous special revenue fund, surplus property account (22036), to the general fund.

7. $19,000,000 from the miscellaneous special revenue fund, revenue arrearage account (22024), to the general fund.

8. $1,826,000 from the miscellaneous special revenue fund, revenue arrearage account (22024), to the miscellaneous special revenue fund, authority budget office account (22138).

9. $1,000,000 from the miscellaneous special revenue fund, parking services account (22007), to the general fund, for the purpose of reimbursing the costs of debt service related to state parking facilities.

10. $9,632,000 from the general fund to the centralized services fund, COPS account (55013).

11. $13,854,000 from the general fund to the agencies internal service fund, central technology services account (55069), for the purpose of enterprise technology projects.

12. $10,000,000 from the general fund to the agencies internal service fund, state data center account (55062).

13. $20,000,000 from the miscellaneous special revenue fund, workers' compensation account (21995), to the miscellaneous capital projects fund, workers' compensation board IT business process design fund, (32218).

14. $12,000,000 from the miscellaneous special revenue fund, parking services account (22007), to the centralized services, building support services account (55018).

15. $30,000,000 from the general fund to the internal service fund, business services center account (55022).

16. $8,000,000 from the general fund to the internal service fund, building support services account (55018).

17. $1,500,000 from the combined expendable trust, special events account (20120), to the general fund.

Health:

1. A transfer from the general fund to the combined gifts, grants and bequests fund, breast cancer research and education account (20155), up to an amount equal to the monies collected and deposited into that account in the previous fiscal year.

2. A transfer from the general fund to the combined gifts, grants and bequests fund, prostate cancer research, detection, and education account (20183), up to an amount equal to the moneys collected and deposited into that account in the previous fiscal year.

3. A transfer from the general fund to the combined gifts, grants and bequests fund, Alzheimer's disease research and assistance account (20143), up to an amount equal to the moneys collected and deposited into that account in the previous fiscal year.

4. $33,134,000 from the HCRA resources fund (20800) to the miscellaneous special revenue fund, empire state stem cell trust fund account (22161).

5. $6,000,000 from the miscellaneous special revenue fund, certificate of need account (21920), to the miscellaneous capital projects fund, healthcare IT capital subfund (32216).

6. $2,000,000 from the miscellaneous special revenue fund, vital health records account (22103), to the miscellaneous capital projects fund, healthcare IT capital subfund (32216).

7. $2,000,000 from the miscellaneous special revenue fund, professional medical conduct account (22088), to the miscellaneous capital projects fund, healthcare IT capital subfund (32216).

8. $91,304,000 from the HCRA resources fund (20800) to the capital projects fund (30000).

9. $6,550,000 from the general fund to the medical marihuana trust fund, health operation and oversight account (23755).

10. $1,086,000 from the miscellaneous special revenue fund, certificate of need account (21920), to the general fund.

11. $59,000,000 from the charitable gifts trust fund, health charitable account (24900), to the general fund, for payment of general support for primary, preventive, and inpatient health care, dental and vision care, hunger prevention and nutritional assistance, and other services for New York state residents with the overall goal of ensuring that New York state residents have access to quality health care and other related services.

Labor:

1. $500,000 from the miscellaneous special revenue fund, DOL fee and penalty account (21923), to the child performer's protection fund, child performer protection account (20401).

2. $11,700,000 from the unemployment insurance interest and penalty fund, unemployment insurance special interest and penalty account (23601), to the general fund.

3. $5,000,000 from the miscellaneous special revenue fund, workers' compensation account (21995), to the training and education program occupation safety and health fund, OSHA-training and education account (21251) and occupational health inspection account (21252).

Mental Hygiene:

1. $10,000,000 from the general fund, to the miscellaneous special revenue fund, federal salary sharing account (22056).

2. $3,800,000 from the general fund, to the agencies internal service fund, civil service EHS occupational health program account (55056).

Public Protection:

1. $1,350,000 from the miscellaneous special revenue fund, emergency management account (21944), to the general fund.

2. $2,087,000 from the general fund to the miscellaneous special revenue fund, recruitment incentive account (22171).

3. $20,773,000 from the general fund to the correctional industries revolving fund, correctional industries internal service account (55350).

4. $60,000,000 from any of the division of homeland security and emergency services special revenue federal funds to the general fund.

5. $9,500,000 from the miscellaneous special revenue fund, criminal justice improvement account (21945), to the general fund.

6. $115,420,000 from the state police motor vehicle law enforcement and motor vehicle theft and insurance fraud prevention fund, state police motor vehicle enforcement account (22802), to the general fund for state operation expenses of the division of state police.

7. $119,500,000 from the general fund to the correctional facilities capital improvement fund (32350).

8. $5,000,000 from the general fund to the dedicated highway and bridge trust fund (30050) for the purpose of work zone safety activities provided by the division of state police for the department of transportation.

9. $10,000,000 from the miscellaneous special revenue fund, statewide public safety communications account (22123), to the capital projects fund (30000).

10. $29,080,000 from the miscellaneous special revenue fund, legal services assistance account (22096), to the general fund.

11. $1,000,000 from the general fund to the agencies internal service fund, neighborhood work project account (55059).

12. $7,980,000 from the miscellaneous special revenue fund, fingerprint identification & technology account (21950), to the general fund.

13. $1,400,000 from the state police motor vehicle law enforcement and motor vehicle theft and insurance fraud prevention fund, motor vehicle theft and insurance fraud account (22801), to the general fund.

14. $150,000 from the medical marihuana trust fund, law enforcement account (23753), to the general fund.

15. $25,000,000 from the miscellaneous special revenue fund, statewide public safety communications account (22123), to the general fund.

16. A transfer of the unencumbered balance from the miscellaneous special revenue fund, airport security account (22199), to the miscellaneous special revenue fund, securing the cities account.

Transportation:

1. $17,672,000 from the federal miscellaneous operating grants fund to the miscellaneous special revenue fund, New York Metropolitan Transportation Council account (21913).

2. $20,147,000 from the federal capital projects fund to the miscellaneous special revenue fund, New York Metropolitan Transportation Council account (21913).

3. $15,181,992 from the general fund to the mass transportation operating assistance fund, public transportation systems operating assistance account (21401), of which $12,000,000 constitutes the base need for operations.

4. $727,500,000 from the general fund to the dedicated highway and bridge trust fund (30050).

5. $244,250,000 from the general fund to the MTA financial assistance fund, mobility tax trust account (23651).

6. $5,000,000 from the miscellaneous special revenue fund, transportation regulation account (22067) to the dedicated highway and bridge trust fund (30050), for disbursements made from such fund for motor carrier safety that are in excess of the amounts deposited in the dedicated highway and bridge trust fund (30050) for such purpose pursuant to section 94 of the transportation law.

7. $3,000,000 from the miscellaneous special revenue fund, traffic adjudication account (22055), to the general fund.

8. $17,421,000 from the mass transportation operating assistance fund, metropolitan mass transportation operating assistance account (21402), to the capital projects fund (30000).

9. $5,000,000 from the miscellaneous special revenue fund, transportation regulation account (22067) to the general fund, for disbursements made from such fund for motor carrier safety that are in excess of the amounts deposited in the general fund for such purpose pursuant to section 94 of the transportation law.

Miscellaneous:

1. $250,000,000 from the general fund to any funds or accounts for the purpose of reimbursing certain outstanding accounts receivable balances.

2. $500,000,000 from the general fund to the debt reduction reserve fund (40000).

3. $450,000,000 from the New York state storm recovery capital fund (33000) to the revenue bond tax fund (40152).

4. $18,550,000 from the general fund, community projects account GG (10256), to the general fund, state purposes account (10050).

5. $100,000,000 from any special revenue federal fund to the general fund, state purposes account (10050).

§ 3. Notwithstanding any law to the contrary, and in accordance with section 4 of the state finance law, the comptroller is hereby authorized and directed to transfer, on or before March 31, 2020:

1. Upon request of the commissioner of environmental conservation, up to $12,659,400 from revenues credited to any of the department of environmental conservation special revenue funds, including $4,000,000 from the environmental protection and oil spill compensation fund (21200), and $1,831,600 from the conservation fund (21150), to the environmental conservation special revenue fund, indirect charges account (21060).

2. Upon request of the commissioner of agriculture and markets, up to $3,000,000 from any special revenue fund or enterprise fund within the department of agriculture and markets to the general fund, to pay appropriate administrative expenses.

3. Upon request of the commissioner of agriculture and markets, up to $2,000,000 from the state exposition special fund, state fair receipts account (50051) to the miscellaneous capital projects fund, state fair capital improvement account (32208).

4. Upon request of the commissioner of the division of housing and community renewal, up to $6,221,000 from revenues credited to any division of housing and community renewal federal or miscellaneous special revenue fund to the miscellaneous special revenue fund, housing indirect cost recovery account (22090).

5. Upon request of the commissioner of the division of housing and community renewal, up to $5,500,000 may be transferred from any miscellaneous special revenue fund account, to any miscellaneous special revenue fund.

6. Upon request of the commissioner of health up to $8,500,000 from revenues credited to any of the department of health's special revenue funds, to the miscellaneous special revenue fund, administration account (21982).

§ 4. On or before March 31, 2020, the comptroller is hereby authorized and directed to deposit earnings that would otherwise accrue to the general fund that are attributable to the operation of section 98-a of the state finance law, to the agencies internal service fund, banking services account (55057), for the purpose of meeting direct payments from such account.

§ 5. Notwithstanding any law to the contrary, upon the direction of the director of the budget and upon requisition by the state university of New York, the dormitory authority of the state of New York is directed to transfer, up to $22,000,000 in revenues generated from the sale of notes or bonds, the state university income fund general revenue account (22653) for reimbursement of bondable equipment for further transfer to the state's general fund.

§ 6. Notwithstanding any law to the contrary, and in accordance with section 4 of the state finance law, the comptroller is hereby authorized and directed to transfer, upon request of the director of the budget and upon consultation with the state university chancellor or his or her designee, on or before March 31, 2020, up to $16,000,000 from the state university income fund general revenue account (22653) to the state general fund for debt service costs related to campus supported capital

project costs for the NY-SUNY 2020 challenge grant program at the University at Buffalo.

§ 7. Notwithstanding any law to the contrary, and in accordance with section 4 of the state finance law, the comptroller is hereby authorized and directed to transfer, upon request of the director of the budget and upon consultation with the state university chancellor or his or her designee, on or before March 31, 2020, up to $6,500,000 from the state university income fund general revenue account (22653) to the state general fund for debt service costs related to campus supported capital project costs for the NY-SUNY 2020 challenge grant program at the University at Albany.

§ 8. Notwithstanding any law to the contrary, the state university chancellor or his or her designee is authorized and directed to transfer estimated tuition revenue balances from the state university collection fund (61000) to the state university income fund, state university general revenue offset account (22655) on or before March 31, 2020.

§ 9. Notwithstanding any law to the contrary, and in accordance with section 4 of the state finance law, the comptroller is hereby authorized and directed to transfer, upon request of the director of the budget, up to $1,001,800,300 from the general fund to the state university income fund, state university general revenue offset account (22655) during the period of July 1, 2019 through June 30, 2020 to support operations at the state university.

§ 10. Notwithstanding any law to the contrary, and in accordance with section 4 of the state finance law, the comptroller is hereby authorized and directed to transfer, upon request of the director of the budget, up to $109,500,000 from the general fund to the state university income fund, state university general revenue offset account (22655) during the period of April 1, 2019 through June 30, 2019 to support operations at the state university.

§ 11. Notwithstanding any law to the contrary, and in accordance with section 4 of the state finance law, the comptroller is hereby authorized and directed to transfer, upon request of the director of the budget, up to $20,000,000 from the general fund to the state university income fund, state university general revenue offset account (22655) during the period of July 1, 2019 to June 30, 2020 to support operations at the state university in accordance with the maintenance of effort pursuant to clause (v) of subparagraph (4) of paragraph h of subdivision 2 of section 355 of the education law.

§ 12. Notwithstanding any law to the contrary, and in accordance with section 4 of the state finance law, the comptroller is hereby authorized and directed to transfer, upon request of the state university chancellor or his or her designee, up to $55,000,000 from the state university income fund, state university hospitals income reimbursable account (22656), for services and expenses of hospital operations and capital expenditures at the state university hospitals; and the state university income fund, Long Island veterans' home account (22652) to the state university capital projects fund (32400) on or before June 30, 2020.

§ 13. Notwithstanding any law to the contrary, and in accordance with section 4 of the state finance law, the comptroller, after consultation with the state university chancellor or his or her designee, is hereby authorized and directed to transfer moneys, in the first instance, from the state university collection fund, Stony Brook hospital collection account (61006), Brooklyn hospital collection account (61007), and Syracuse hospital collection account (61008) to the state university income fund, state university hospitals income reimbursable account (22656) in

the event insufficient funds are available in the state university income fund, state university hospitals income reimbursable account (22656) to permit the full transfer of moneys authorized for transfer, to the general fund for payment of debt service related to the SUNY hospitals. Notwithstanding any law to the contrary, the comptroller is also hereby authorized and directed, after consultation with the state university chancellor or his or her designee, to transfer moneys from the state university income fund to the state university income fund, state university hospitals income reimbursable account (22656) in the event insufficient funds are available in the state university income fund, state university hospitals income reimbursable account (22656) to pay hospital operating costs or to permit the full transfer of moneys authorized for transfer, to the general fund for payment of debt service related to the SUNY hospitals on or before March 31, 2020.

§ 14. Notwithstanding any law to the contrary, upon the direction of the director of the budget and the chancellor of the state university of New York or his or her designee, and in accordance with section 4 of the state finance law, the comptroller is hereby authorized and directed to transfer monies from the state university dormitory income fund (40350) to the state university residence hall rehabilitation fund (30100), and from the state university residence hall rehabilitation fund (30100) to the state university dormitory income fund (40350), in an amount not to exceed $80 million from each fund.

§ 15. Notwithstanding any law to the contrary, and in accordance with section 4 of the state finance law, the comptroller is hereby authorized and directed to transfer monies, upon request of the director of the budget, on or before March 31, 2020, from and to any of the following accounts: the miscellaneous special revenue fund, patient income account (21909), the miscellaneous special revenue fund, mental hygiene program fund account (21907), the miscellaneous special revenue fund, federal salary sharing account (22056), or the general fund in any combination, the aggregate of which shall not exceed $350 million.

§ 16. Notwithstanding any law to the contrary, and in accordance with section 4 of the state finance law, the comptroller is hereby authorized and directed to transfer, at the request of the director of the budget, up to $650 million from the unencumbered balance of any special revenue fund or account, agency fund or account, internal service fund or account, enterprise fund or account, or any combination of such funds and accounts, to the general fund. The amounts transferred pursuant to this authorization shall be in addition to any other transfers expressly authorized in the 2019-20 budget. Transfers from federal funds, debt service funds, capital projects funds, the community projects fund, or funds that would result in the loss of eligibility for federal benefits or federal funds pursuant to federal law, rule, or regulation as assented to in chapter 683 of the laws of 1938 and chapter 700 of the laws of 1951 are not permitted pursuant to this authorization.

§ 17. Notwithstanding any law to the contrary, and in accordance with section 4 of the state finance law, the comptroller is hereby authorized and directed to transfer, at the request of the director of the budget, up to $100 million from any non-general fund or account, or combination of funds and accounts, to the miscellaneous special revenue fund, technology financing account (22207), the miscellaneous capital projects fund, information technology capital financing account (32215), or the centralized technology services account (55069), for the purpose of consolidating technology procurement and services. The amounts transferred to the miscellaneous special revenue fund, technology financing

account (22207) pursuant to this authorization shall be equal to or less than the amount of such monies intended to support information technology costs which are attributable, according to a plan, to such account made in pursuance to an appropriation by law. Transfers to the technology financing account shall be completed from amounts collected by non-general funds or accounts pursuant to a fund deposit schedule or permanent statute, and shall be transferred to the technology financing account pursuant to a schedule agreed upon by the affected agency commissioner. Transfers from funds that would result in the loss of eligibility for federal benefits or federal funds pursuant to federal law, rule, or regulation as assented to in chapter 683 of the laws of 1938 and chapter 700 of the laws of 1951 are not permitted pursuant to this authorization.

§ 18. Notwithstanding any law to the contrary, and in accordance with section 4 of the state finance law, the comptroller is hereby authorized and directed to transfer, at the request of the director of the budget, up to $400 million from any non-general fund or account, or combination of funds and accounts, to the general fund for the purpose of consolidating technology procurement and services. The amounts transferred pursuant to this authorization shall be equal to or less than the amount of such monies intended to support information technology costs which are attributable, according to a plan, to such account made in pursuance to an appropriation by law. Transfers to the general fund shall be completed from amounts collected by non-general funds or accounts pursuant to a fund deposit schedule. Transfers from funds that would result in the loss of eligibility for federal benefits or federal funds pursuant to federal law, rule, or regulation as assented to in chapter 683 of the laws of 1938 and chapter 700 of the laws of 1951 are not permitted pursuant to this authorization.

§ 19. Notwithstanding any provision of law to the contrary, as deemed feasible and advisable by its trustees, the power authority of the state of New York is authorized and directed to transfer to the state treasury to the credit of the general fund $20,000,000 for the state fiscal year commencing April 1, 2019, the proceeds of which will be utilized to support energy-related state activities.

§ 20. Notwithstanding any provision of law, rule or regulation to the contrary, the New York state energy research and development authority is authorized and directed to make the following contributions to the state treasury to the credit of the general fund on or before March 31, 2020: (a) $913,000; and (b) $23,000,000 from proceeds collected by the authority from the auction or sale of carbon dioxide emission allowances allocated by the department of environmental conservation.

§ 21. Subdivision 5 of section 97-rrr of the state finance law, as amended by section 22 of part BBB of chapter 59 of the laws of 2018, is amended to read as follows:

5. Notwithstanding the provisions of section one hundred seventy-one-a of the tax law, as separately amended by chapters four hundred eighty-one and four hundred eighty-four of the laws of nineteen hundred eighty-one, and notwithstanding the provisions of chapter ninety-four of the laws of two thousand eleven, or any other provisions of law to the contrary, during the fiscal year beginning April first, two thousand [~~eighteen~~] **nineteen**, the state comptroller is hereby authorized and directed to deposit to the fund created pursuant to this section from amounts collected pursuant to article twenty-two of the tax law and pursuant to a schedule submitted by the director of the budget, up to [~~$2,458,909,000~~] **$2,185,995,000**, as may be certified in such schedule as

necessary to meet the purposes of such fund for the fiscal year beginning April first, two thousand [~~eighteen~~] **nineteen**.

§ 22. Notwithstanding any law to the contrary, the comptroller is hereby authorized and directed to transfer, upon request of the director of the budget, on or before March 31, 2020, the following amounts from the following special revenue accounts to the capital projects fund (30000), for the purposes of reimbursement to such fund for expenses related to the maintenance and preservation of state assets:

1. $43,000 from the miscellaneous special revenue fund, administrative program account (21982).

2. $1,478,000 from the miscellaneous special revenue fund, helen hayes hospital account (22140).

3. $366,000 from the miscellaneous special revenue fund, New York city veterans' home account (22141).

4. $513,000 from the miscellaneous special revenue fund, New York state home for veterans' and their dependents at oxford account (22142).

5. $159,000 from the miscellaneous special revenue fund, western New York veterans' home account (22143).

6. $323,000 from the miscellaneous special revenue fund, New York state for veterans in the lower-hudson valley account (22144).

7. $2,550,000 from the miscellaneous special revenue fund, patron services account (22163).

8. $830,000 from the miscellaneous special revenue fund, long island veterans' home account (22652).

9. $5,379,000 from the miscellaneous special revenue fund, state university general income reimbursable account (22653).

10. $112,556,000 from the miscellaneous special revenue fund, state university revenue offset account (22655).

11. $557,000 from the miscellaneous special revenue fund, state university of New York tuition reimbursement account (22659).

12. $41,930,000 from the state university dormitory income fund, state university dormitory income fund (40350).

13. $1,000,000 from the miscellaneous special revenue fund, litigation settlement and civil recovery account (22117).

§ 22-a. Subdivision 4 of section 97-rrr of the state finance law, as added by section 22-b of part XXX of chapter 59 of the laws of 2017, is amended to read as follows:

4. Any amounts disbursed from such fund shall be excluded from the calculation of annual spending growth in state operating funds [~~until June 30, 2019~~].

§ 23. Notwithstanding any provision of law to the contrary, in the event that federal legislation, federal regulatory actions, federal executive actions or federal judicial actions in federal fiscal year 2020 reduce federal financial participation in Medicaid funding to New York state or its subdivisions by $850 million or more in state fiscal years 2019-20 or 2020-21, the director of the division of the budget shall notify the temporary president of the senate and the speaker of the assembly in writing that the federal actions will reduce expected funding to New York state. The director of the division of the budget shall prepare a plan that shall be submitted to the legislature, which shall (a) specify the total amount of the reduction in federal financial participation in Medicaid, (b) itemize the specific programs and activities that will be affected by the reduction in federal financial participation in Medicaid, and (c) identify the general fund and state special revenue fund appropriations and related disbursements that shall be reduced, and in what program areas, provided, however, that such

reductions to appropriations and disbursements shall be applied equally and proportionally to the programs affected by the reduction in federal financial participation in Medicaid. Upon such submission, the legislature shall have 90 days after such submission to either prepare its own plan, which may be adopted by concurrent resolution passed by both houses, or if after 90 days the legislature fails to adopt their own plan, the reductions to the general fund and state special revenue fund appropriations and related disbursements identified in the division of the budget plan will go into effect automatically.

§ 24. Notwithstanding any provision of law to the contrary, in the event that federal legislation, federal regulatory actions, federal executive actions or federal judicial actions in federal fiscal year 2020 reduce federal financial participation or other federal aid in funding to New York state that affects the state operating funds financial plan by $850 million or more in state fiscal years 2019-20 or 2020-21, exclusive of any cuts to Medicaid, the director of the division of the budget shall notify the temporary president of the senate and the speaker of the assembly in writing that the federal actions will reduce expected funding to New York state. The director of the division of the budget shall prepare a plan that shall be submitted to the legislature, which shall (a) specify the total amount of the reduction in federal aid, (b) itemize the specific programs and activities that will be affected by the federal reductions, exclusive of Medicaid, and (c) identify the general fund and state special revenue fund appropriations and related disbursements that shall be reduced, and in what program areas, provided, however, that such reductions to appropriations and disbursements shall be applied equally and proportionally. Upon such submission, the legislature shall have 90 days after such submission to either prepare its own plan, which may be adopted by concurrent resolution passed by both houses, or if after 90 days the legislature fails to adopt their own plan, the reductions to the general fund and state special revenue fund appropriations and related disbursements identified in the division of the budget plan will go into effect automatically.

§ 25. The state finance law is amended by adding a new section 28 to read as follows:

§ 28. Reductions to enacted appropriations. 1. Notwithstanding any other provision of law to the contrary, to maintain a balanced budget in the event that the annual estimate for tax receipts for fiscal year 2019-20 is reduced by five hundred million dollars or more compared to the estimate in the fiscal year 2019-20 Executive Budget Financial Plan, the appropriations and related cash disbursements for all general fund and state special revenue fund aid to localities appropriations shall be uniformly reduced by the percentage set forth in a written allocation plan prepared by the director of the budget, provided, however, that the uniform percentage reduction shall not exceed three percent. The following types of appropriations shall be exempt from uniform reduction: (a) public assistance payments for families and individuals and payments for eligible aged, blind and disabled persons related to supplemental social security; (b) any reductions that would violate federal law; (c) payments of debt service and related expenses for which the state is constitutionally obligated to pay debt service or is contractually obligated to pay debt service, subject to an appropriation, including where the state has a contingent contractual obligation; (d) payments the state is obligated to make pursuant to court orders or judgments; (e) payments for CUNY senior colleges; (f) school aid; (g) Medicaid; and (h) payments from the community projects fund.

2. Reductions under this section shall commence within ten days following the publication of a financial plan required under sections twenty-two or twenty-three of this article stating that the annual estimate for tax receipts for fiscal year 2019-20 is reduced by five hundred million dollars or more compared to the estimate in the fiscal year 2019-20 Executive Budget Financial Plan. Such reductions shall be uniformly reduced in accordance with a written allocation plan prepared by the director of the budget, which shall be filed with the state comptroller, the chairman of the senate finance committee and the chairman of the assembly ways and means committee. Such written allocation plan shall include a summary of the methodology for calculating the percentage reductions to the payments from non-exempt appropriations and cash disbursements and the reasons for any exemptions, and a detailed schedule of the reductions and exemptions. The director of the budget shall prepare appropriately reduced certificates, which shall be filed with the state comptroller, the chair of the senate finance committee and the chair of the assembly ways and means committee.

3. On March thirty-first, two thousand twenty, the director of the budget shall calculate the difference, if any, between the annual estimate in tax receipts contained in the fiscal year 2020 Executive Budget Financial Plan and actual tax collections for fiscal year 2019-20. If actual tax receipts for fiscal year 2019-20 were not less than five hundred million dollars below the annual estimate in tax receipts contained in the Executive Budget Financial Plan for fiscal year 2019-20, then the amounts withheld under this section shall be payable as soon as practicable thereafter in the fiscal year 2021-22.

4. Notwithstanding any inconsistent provision of law, rule or regulation, the effectiveness of the provisions of sections twenty-eight hundred seven and thirty-six hundred fourteen of the public health law, section eighteen of chapter two of the laws of nineteen hundred eighty-eight, and 18 NYCRR § 505.14(h), as they relate to time frames for notice, approval or certification of rates of payment, are hereby suspended and without force or effect for purposes of implementing the provisions of this act.

§ 26. Notwithstanding any other law, rule, or regulation to the contrary, the state comptroller is hereby authorized and directed to use any balance remaining in the mental health services fund debt service appropriation, after payment by the state comptroller of all obligations required pursuant to any lease, sublease, or other financing arrangement between the dormitory authority of the state of New York as successor to the New York state medical care facilities finance agency, and the facilities development corporation pursuant to chapter 83 of the laws of 1995 and the department of mental hygiene for the purpose of making payments to the dormitory authority of the state of New York for the amount of the earnings for the investment of monies deposited in the mental health services fund that such agency determines will or may have to be rebated to the federal government pursuant to the provisions of the internal revenue code of 1986, as amended, in order to enable such agency to maintain the exemption from federal income taxation on the interest paid to the holders of such agency's mental services facilities improvement revenue bonds. Annually on or before each June 30th, such agency shall certify to the state comptroller its determination of the amounts received in the mental health services fund as a result of the investment of monies deposited therein that will or may have to be rebated to the federal government pursuant to the provisions of the internal revenue code of 1986, as amended.

§ 27. Subdivision 1 of section 47 of section 1 of chapter 174 of the laws of 1968, constituting the New York state urban development corporation act, as amended by section 31 of part BBB of chapter 59 of the laws of 2018, is amended to read as follows:

1. Notwithstanding the provisions of any other law to the contrary, the dormitory authority and the corporation are hereby authorized to issue bonds or notes in one or more series for the purpose of funding project costs for the office of information technology services, department of law, and other state costs associated with such capital projects. The aggregate principal amount of bonds authorized to be issued pursuant to this section shall not exceed [~~five hundred forty million nine hundred fifty-four thousand~~] six hundred sixty-two million six hundred fifty-four thousand dollars, $662,654,000 excluding bonds issued to fund one or more debt service reserve funds, to pay costs of issuance of such bonds, and bonds or notes issued to refund or otherwise repay such bonds or notes previously issued. Such bonds and notes of the dormitory authority and the corporation shall not be a debt of the state, and the state shall not be liable thereon, nor shall they be payable out of any funds other than those appropriated by the state to the dormitory authority and the corporation for principal, interest, and related expenses pursuant to a service contract and such bonds and notes shall contain on the face thereof a statement to such effect. Except for purposes of complying with the internal revenue code, any interest income earned on bond proceeds shall only be used to pay debt service on such bonds.

§ 28. Subdivision 1 of section 16 of part D of chapter 389 of the laws of 1997, relating to the financing of the correctional facilities improvement fund and the youth facility improvement fund, as amended by section 32 of part BBB of chapter 59 of the laws of 2018, is amended to read as follows:

1. Subject to the provisions of chapter 59 of the laws of 2000, but notwithstanding the provisions of section 18 of section 1 of chapter 174 of the laws of 1968, the New York state urban development corporation is hereby authorized to issue bonds, notes and other obligations in an aggregate principal amount not to exceed [~~eight billion eighty-two million eight hundred ninety-nine thousand~~] eight billion four hundred ninety-four million nine hundred seventy-nine thousand dollars [~~$8,082,899,000~~] $8,494,979,000, and shall include all bonds, notes and other obligations issued pursuant to chapter 56 of the laws of 1983, as amended or supplemented. The proceeds of such bonds, notes or other obligations shall be paid to the state, for deposit in the correctional facilities capital improvement fund to pay for all or any portion of the amount or amounts paid by the state from appropriations or reappropriations made to the department of corrections and community supervision from the correctional facilities capital improvement fund for capital projects. The aggregate amount of bonds, notes or other obligations authorized to be issued pursuant to this section shall exclude bonds, notes or other obligations issued to refund or otherwise repay bonds, notes or other obligations theretofore issued, the proceeds of which were paid to the state for all or a portion of the amounts expended by the state from appropriations or reappropriations made to the department of corrections and community supervision; provided, however, that upon any such refunding or repayment the total aggregate principal amount of outstanding bonds, notes or other obligations may be greater than [~~eight billion eighty-two million eight hundred ninety-nine thousand~~] eight billion four hundred ninety-four million nine hundred seventy-nine thou-

sand dollars [~~$8,082,899,000~~] $8,494,979,000, only if the present value of the aggregate debt service of the refunding or repayment bonds, notes or other obligations to be issued shall not exceed the present value of the aggregate debt service of the bonds, notes or other obligations so to be refunded or repaid. For the purposes hereof, the present value of the aggregate debt service of the refunding or repayment bonds, notes or other obligations and of the aggregate debt service of the bonds, notes or other obligations so refunded or repaid, shall be calculated by utilizing the effective interest rate of the refunding or repayment bonds, notes or other obligations, which shall be that rate arrived at by doubling the semi-annual interest rate (compounded semi-annually) necessary to discount the debt service payments on the refunding or repayment bonds, notes or other obligations from the payment dates thereof to the date of issue of the refunding or repayment bonds, notes or other obligations and to the price bid including estimated accrued interest or proceeds received by the corporation including estimated accrued interest from the sale thereof.

§ 29. Paragraph (a) of subdivision 2 of section 47-e of the private housing finance law, as amended by section 33 of part BBB of chapter 59 of the laws of 2018, is amended to read as follows:

(a) Subject to the provisions of chapter fifty-nine of the laws of two thousand, in order to enhance and encourage the promotion of housing programs and thereby achieve the stated purposes and objectives of such housing programs, the agency shall have the power and is hereby authorized from time to time to issue negotiable housing program bonds and notes in such principal amount as shall be necessary to provide sufficient funds for the repayment of amounts disbursed (and not previously reimbursed) pursuant to law or any prior year making capital appropriations or reappropriations for the purposes of the housing program; provided, however, that the agency may issue such bonds and notes in an aggregate principal amount not exceeding [~~$5,981,399,000 five billion nine hundred eighty-one million three hundred ninety-nine thousand~~] six billion one hundred seventy-eight million five hundred ninety-nine thousand dollars $6,178,599,000, plus a principal amount of bonds issued to fund the debt service reserve fund in accordance with the debt service reserve fund requirement established by the agency and to fund any other reserves that the agency reasonably deems necessary for the security or marketability of such bonds and to provide for the payment of fees and other charges and expenses, including underwriters' discount, trustee and rating agency fees, bond insurance, credit enhancement and liquidity enhancement related to the issuance of such bonds and notes. No reserve fund securing the housing program bonds shall be entitled or eligible to receive state funds apportioned or appropriated to maintain or restore such reserve fund at or to a particular level, except to the extent of any deficiency resulting directly or indirectly from a failure of the state to appropriate or pay the agreed amount under any of the contracts provided for in subdivision four of this section.

§ 30. Subdivision (b) of section 11 of chapter 329 of the laws of 1991, amending the state finance law and other laws relating to the establishment of the dedicated highway and bridge trust fund, as amended by section 34 of part BBB of chapter 59 of the laws of 2018, is amended to read as follows:

(b) Any service contract or contracts for projects authorized pursuant to sections 10-c, 10-f, 10-g and 80-b of the highway law and section 14-k of the transportation law, and entered into pursuant to subdivision (a) of this section, shall provide for state commitments to provide

annually to the thruway authority a sum or sums, upon such terms and conditions as shall be deemed appropriate by the director of the budget, to fund, or fund the debt service requirements of any bonds or any obligations of the thruway authority issued to fund or to reimburse the state for funding such projects having a cost not in excess of [~~$10,251,939,000~~] ten billion seven hundred thirty-nine million four hundred seventy-eight thousand dollars $10,739,478,000 cumulatively by the end of fiscal year [~~2018-19~~] 2019-20.

§ 31. Subdivision 1 of section 1689-i of the public authorities law, as amended by section 35 of part BBB of chapter 59 of the laws of 2018, is amended to read as follows:

1. The dormitory authority is authorized to issue bonds, at the request of the commissioner of education, to finance eligible library construction projects pursuant to section two hundred seventy-three-a of the education law, in amounts certified by such commissioner not to exceed a total principal amount of [~~two hundred seventeen million~~] two hundred thirty-one million dollars $231,000,000.

§ 32. Subdivision (a) of section 27 of part Y of chapter 61 of the laws of 2005, relating to providing for the administration of certain funds and accounts related to the 2005-2006 budget, as amended by section 36 of part BBB of chapter 59 of the laws of 2018, is amended to read as follows:

(a) Subject to the provisions of chapter 59 of the laws of 2000, but notwithstanding any provisions of law to the contrary, the urban development corporation is hereby authorized to issue bonds or notes in one or more series in an aggregate principal amount not to exceed [~~$220,100,000 two hundred twenty million one hundred thousand~~] two hundred seventy-one million six hundred thousand dollars $271,600,000, excluding bonds issued to finance one or more debt service reserve funds, to pay costs of issuance of such bonds, and bonds or notes issued to refund or otherwise repay such bonds or notes previously issued, for the purpose of financing capital projects including IT initiatives for the division of state police, debt service and leases; and to reimburse the state general fund for disbursements made therefor. Such bonds and notes of such authorized issuer shall not be a debt of the state, and the state shall not be liable thereon, nor shall they be payable out of any funds other than those appropriated by the state to such authorized issuer for debt service and related expenses pursuant to any service contract executed pursuant to subdivision (b) of this section and such bonds and notes shall contain on the face thereof a statement to such effect. Except for purposes of complying with the internal revenue code, any interest income earned on bond proceeds shall only be used to pay debt service on such bonds.

§ 33. Section 44 of section 1 of chapter 174 of the laws of 1968, constituting the New York state urban development corporation act, as amended by section 37 of part BBB of chapter 59 of the laws of 2018, is amended to read as follows:

§ 44. Issuance of certain bonds or notes. 1. Notwithstanding the provisions of any other law to the contrary, the dormitory authority and the corporation are hereby authorized to issue bonds or notes in one or more series for the purpose of funding project costs for the regional economic development council initiative, the economic transformation program, state university of New York college for nanoscale and science engineering, projects within the city of Buffalo or surrounding environs, the New York works economic development fund, projects for the retention of professional football in western New York, the empire state

economic development fund, the clarkson-trudeau partnership, the New York genome center, the cornell university college of veterinary medicine, the olympic regional development authority, projects at nano Utica, onondaga county revitalization projects, Binghamton university school of pharmacy, New York power electronics manufacturing consortium, regional infrastructure projects, high tech innovation and economic development infrastructure program, high technology manufacturing projects in Chautauqua and Erie county, an industrial scale research and development facility in Clinton county, upstate revitalization initiative projects, downstate revitalization initiative, market New York projects, fairground buildings, equipment or facilities used to house and promote agriculture, the state fair, the empire state trail, the moynihan station development project, the Kingsbridge armory project, strategic economic development projects, the cultural, arts and public spaces fund, water infrastructure in the city of Auburn and town of Owasco, a life sciences laboratory public health initiative, not-for-profit pounds, shelters and humane societies, arts and cultural facilities improvement program, restore New York's communities initiative, heavy equipment, economic development and infrastructure projects, Roosevelt Island operating corporation capital projects, and other state costs associated with such projects. The aggregate principal amount of bonds authorized to be issued pursuant to this section shall not exceed [~~eight billion three hundred million five hundred ninety thousand~~] **nine billion three hundred one million six hundred thirty-six thousand** dollars **$9,301,636,000**, excluding bonds issued to fund one or more debt service reserve funds, to pay costs of issuance of such bonds, and bonds or notes issued to refund or otherwise repay such bonds or notes previously issued. Such bonds and notes of the dormitory authority and the corporation shall not be a debt of the state, and the state shall not be liable thereon, nor shall they be payable out of any funds other than those appropriated by the state to the dormitory authority and the corporation for principal, interest, and related expenses pursuant to a service contract and such bonds and notes shall contain on the face thereof a statement to such effect. Except for purposes of complying with the internal revenue code, any interest income earned on bond proceeds shall only be used to pay debt service on such bonds.

2. Notwithstanding any other provision of law to the contrary, in order to assist the dormitory authority and the corporation in undertaking the financing for project costs for the regional economic development council initiative, the economic transformation program, state university of New York college for nanoscale and science engineering, projects within the city of Buffalo or surrounding environs, the New York works economic development fund, projects for the retention of professional football in western New York, the empire state economic development fund, the clarkson-trudeau partnership, the New York genome center, the cornell university college of veterinary medicine, the olympic regional development authority, projects at nano Utica, onondaga county revitalization projects, Binghamton university school of pharmacy, New York power electronics manufacturing consortium, regional infrastructure projects, New York State Capital Assistance Program for Transportation, infrastructure, and economic development, high tech innovation and economic development infrastructure program, high technology manufacturing projects in Chautauqua and Erie county, an industrial scale research and development facility in Clinton county, upstate revitalization initiative projects, downstate revitalization initiative, market New York projects, fairground buildings, equipment or facilities

used to house and promote agriculture, the state fair, the empire state trail, the moynihan station development project, the Kingsbridge armory project, strategic economic development projects, the cultural, arts and public spaces fund, water infrastructure in the city of Auburn and town of Owasco, a life sciences laboratory public health initiative, not-for-profit pounds, shelters and humane societies, arts and cultural facilities improvement program, restore New York's communities initiative, heavy equipment, economic development and infrastructure projects, Roosevelt Island operating corporation capital projects, and other state costs associated with such projects the director of the budget is hereby authorized to enter into one or more service contracts with the dormitory authority and the corporation, none of which shall exceed thirty years in duration, upon such terms and conditions as the director of the budget and the dormitory authority and the corporation agree, so as to annually provide to the dormitory authority and the corporation, in the aggregate, a sum not to exceed the principal, interest, and related expenses required for such bonds and notes. Any service contract entered into pursuant to this section shall provide that the obligation of the state to pay the amount therein provided shall not constitute a debt of the state within the meaning of any constitutional or statutory provision and shall be deemed executory only to the extent of monies available and that no liability shall be incurred by the state beyond the monies available for such purpose, subject to annual appropriation by the legislature. Any such contract or any payments made or to be made thereunder may be assigned and pledged by the dormitory authority and the corporation as security for its bonds and notes, as authorized by this section.

§ 34. Subdivision (a) of section 1 of part X of chapter 59 of the laws of 2004, authorizing the New York state urban development corporation and the dormitory authority of the state of New York to issue bonds or notes, as amended by section 37-a of part BBB of chapter 59 of the laws of 2018, is amended to read as follows:

(a) Subject to the provisions of chapter 59 of the laws of 2000, but notwithstanding any other provision of law to the contrary, the New York State urban development corporation and the dormitory authority of the state of New York are hereby authorized to issue bonds or notes in one or more series in an aggregate principal amount not to exceed [~~$293,325,000~~] two hundred forty-three million three hundred twenty-five thousand dollars $243,325,000, excluding bonds issued to finance one or more debt service reserve funds, to pay costs of issuance of such bonds, and bonds or notes issued to refund or otherwise repay such bonds or notes previously issued, for the purpose of financing projects cost of the Empire Opportunity Fund; Rebuilding the Empire State Through Opportunities in Regional Economies (RESTORE) New York Program; and the Community Capital Assistance Program authorized pursuant to Part T of chapter 84 of the laws of 2002. Such bonds and notes of the corporation or the dormitory authority shall not be a debt of the state, and the state shall not be liable thereon, nor shall they be payable out of any funds other than those appropriated by the state to the corporation or the dormitory authority for debt service and related expenses pursuant to any service contract executed pursuant to subdivision (b) of this section and such bonds and notes shall contain on the face thereof a statement to such effect. Except for purposes of complying with the internal revenue code, any interest income earned on bond proceeds shall only be used to pay debt service on such bonds. All of the provisions of the New York state urban development corporation act and the dormitory

authority act relating to bonds and notes which are not inconsistent with the provisions of this section shall apply to obligations authorized by this section, including but not limited to the power to establish adequate reserves therefor and to issue renewal notes or refunding bonds thereof. The issuance of any bonds or notes hereunder shall further be subject to the approval of the director of the division of the budget.

§ 35. Subdivision 3 of section 1285-p of the public authorities law, as amended by section 38 of part BBB of chapter 59 of the laws of 2018, is amended to read as follows:

3. The maximum amount of bonds that may be issued for the purpose of financing environmental infrastructure projects authorized by this section shall be [~~five billion one hundred forty-seven million two hundred sixty thousand~~] **five billion three hundred eighty-eight million ten thousand** dollars **$5,388,010,000**, exclusive of bonds issued to fund any debt service reserve funds, pay costs of issuance of such bonds, and bonds or notes issued to refund or otherwise repay bonds or notes previously issued. Such bonds and notes of the corporation shall not be a debt of the state, and the state shall not be liable thereon, nor shall they be payable out of any funds other than those appropriated by the state to the corporation for debt service and related expenses pursuant to any service contracts executed pursuant to subdivision one of this section, and such bonds and notes shall contain on the face thereof a statement to such effect.

§ 36. Subdivision (a) of section 48 of part K of chapter 81 of the laws of 2002, relating to providing for the administration of certain funds and accounts related to the 2002-2003 budget, as amended by section 40 of part BBB of chapter 59 of the laws of 2018, is amended to read as follows:

(a) Subject to the provisions of chapter 59 of the laws of 2000 but notwithstanding the provisions of section 18 of the urban development corporation act, the corporation is hereby authorized to issue bonds or notes in one or more series in an aggregate principal amount not to exceed [~~$253,000,000 two-hundred fifty-three million~~] **two hundred eighty-six million** dollars **$286,000,000,** excluding bonds issued to fund one or more debt service reserve funds, to pay costs of issuance of such bonds, and bonds or notes issued to refund or otherwise repay such bonds or notes previously issued, for the purpose of financing capital costs related to homeland security and training facilities for the division of state police, the division of military and naval affairs, and any other state agency, including the reimbursement of any disbursements made from the state capital projects fund, and is hereby authorized to issue bonds or notes in one or more series in an aggregate principal amount not to exceed [~~$748,800,000, seven hundred forty-eight million eight hundred thousand~~] **$952,800,000 nine hundred fifty-two million eight hundred thousand** dollars, excluding bonds issued to fund one or more debt service reserve funds, to pay costs of issuance of such bonds, and bonds or notes issued to refund or otherwise repay such bonds or notes previously issued, for the purpose of financing improvements to State office buildings and other facilities located statewide, including the reimbursement of any disbursements made from the state capital projects fund. Such bonds and notes of the corporation shall not be a debt of the state, and the state shall not be liable thereon, nor shall they be payable out of any funds other than those appropriated by the state to the corporation for debt service and related expenses pursuant to any service contracts executed pursuant to subdivision (b) of this section,

and such bonds and notes shall contain on the face thereof a statement to such effect.

§ 37. Subdivision 1 of section 386-b of the public authorities law, as amended by section 41 of part BBB of chapter 59 of the laws of 2018, is amended to read as follows:

1. Notwithstanding any other provision of law to the contrary, the authority, the dormitory authority and the urban development corporation are hereby authorized to issue bonds or notes in one or more series for the purpose of financing peace bridge projects and capital costs of state and local highways, parkways, bridges, the New York state thruway, Indian reservation roads, and facilities, and transportation infrastructure projects including aviation projects, non-MTA mass transit projects, and rail service preservation projects, including work appurtenant and ancillary thereto. The aggregate principal amount of bonds authorized to be issued pursuant to this section shall not exceed [~~four billion five hundred million dollars $4,500,000,000~~] four billion six hundred twenty-eight million dollars $4,628,000,000, excluding bonds issued to fund one or more debt service reserve funds, to pay costs of issuance of such bonds, and to refund or otherwise repay such bonds or notes previously issued. Such bonds and notes of the authority, the dormitory authority and the urban development corporation shall not be a debt of the state, and the state shall not be liable thereon, nor shall they be payable out of any funds other than those appropriated by the state to the authority, the dormitory authority and the urban development corporation for principal, interest, and related expenses pursuant to a service contract and such bonds and notes shall contain on the face thereof a statement to such effect. Except for purposes of complying with the internal revenue code, any interest income earned on bond proceeds shall only be used to pay debt service on such bonds.

§ 38. Paragraph (c) of subdivision 19 of section 1680 of the public authorities law, as amended by section 42 of part BBB of chapter 59 of the laws of 2018, is amended to read as follows:

(c) Subject to the provisions of chapter fifty-nine of the laws of two thousand, the dormitory authority shall not issue any bonds for state university educational facilities purposes if the principal amount of bonds to be issued when added to the aggregate principal amount of bonds issued by the dormitory authority on and after July first, nineteen hundred eighty-eight for state university educational facilities will exceed [~~thirteen billion one hundred seventy-eight million eight hundred sixty-four thousand dollars $13,178,864,000~~] thirteen billion eight hundred forty-one million eight hundred sixty-four thousand dollars $13,841,864,000; provided, however, that bonds issued or to be issued shall be excluded from such limitation if: (1) such bonds are issued to refund state university construction bonds and state university construction notes previously issued by the housing finance agency; or (2) such bonds are issued to refund bonds of the authority or other obligations issued for state university educational facilities purposes and the present value of the aggregate debt service on the refunding bonds does not exceed the present value of the aggregate debt service on the bonds refunded thereby; provided, further that upon certification by the director of the budget that the issuance of refunding bonds or other obligations issued between April first, nineteen hundred ninety-two and March thirty-first, nineteen hundred ninety-three will generate long term economic benefits to the state, as assessed on a present value basis, such issuance will be deemed to have met the present value test noted above. For purposes of this subdivision, the present value of the

aggregate debt service of the refunding bonds and the aggregate debt service of the bonds refunded, shall be calculated by utilizing the true interest cost of the refunding bonds, which shall be that rate arrived at by doubling the semi-annual interest rate (compounded semi-annually) necessary to discount the debt service payments on the refunding bonds from the payment dates thereof to the date of issue of the refunding bonds to the purchase price of the refunding bonds, including interest accrued thereon prior to the issuance thereof. The maturity of such bonds, other than bonds issued to refund outstanding bonds, shall not exceed the weighted average economic life, as certified by the state university construction fund, of the facilities in connection with which the bonds are issued, and in any case not later than the earlier of thirty years or the expiration of the term of any lease, sublease or other agreement relating thereto; provided that no note, including renewals thereof, shall mature later than five years after the date of issuance of such note. The legislature reserves the right to amend or repeal such limit, and the state of New York, the dormitory authority, the state university of New York, and the state university construction fund are prohibited from covenanting or making any other agreements with or for the benefit of bondholders which might in any way affect such right.

§ 39. Paragraph (c) of subdivision 14 of section 1680 of the public authorities law, as amended by section 43 of part BBB of chapter 59 of the laws of 2018, is amended to read as follows:

(c) Subject to the provisions of chapter fifty-nine of the laws of two thousand, (i) the dormitory authority shall not deliver a series of bonds for city university community college facilities, except to refund or to be substituted for or in lieu of other bonds in relation to city university community college facilities pursuant to a resolution of the dormitory authority adopted before July first, nineteen hundred eighty-five or any resolution supplemental thereto, if the principal amount of bonds so to be issued when added to all principal amounts of bonds previously issued by the dormitory authority for city university community college facilities, except to refund or to be substituted in lieu of other bonds in relation to city university community college facilities will exceed the sum of four hundred twenty-five million dollars and (ii) the dormitory authority shall not deliver a series of bonds issued for city university facilities, including community college facilities, pursuant to a resolution of the dormitory authority adopted on or after July first, nineteen hundred eighty-five, except to refund or to be substituted for or in lieu of other bonds in relation to city university facilities and except for bonds issued pursuant to a resolution supplemental to a resolution of the dormitory authority adopted prior to July first, nineteen hundred eighty-five, if the principal amount of bonds so to be issued when added to the principal amount of bonds previously issued pursuant to any such resolution, except bonds issued to refund or to be substituted for or in lieu of other bonds in relation to city university facilities, will exceed [~~eight billion three hundred fourteen million six hundred ninety-one thousand dollars $8,314,691,000~~] **eight billion six hundred seventy-four million two hundred fifty-six thousand dollars $8,674,256,000**. The legislature reserves the right to amend or repeal such limit, and the state of New York, the dormitory authority, the city university, and the fund are prohibited from covenanting or making any other agreements with or for the benefit of bondholders which might in any way affect such right.

§ 40. Subdivision 10-a of section 1680 of the public authorities law, as amended by section 44 of part BBB of chapter 59 of the laws of 2018, is amended to read as follows:

10-a. Subject to the provisions of chapter fifty-nine of the laws of two thousand, but notwithstanding any other provision of the law to the contrary, the maximum amount of bonds and notes to be issued after March thirty-first, two thousand two, on behalf of the state, in relation to any locally sponsored community college, shall be [~~nine hundred sixty-eight million five hundred forty-two thousand dollars $968,542,000~~] **one billion five million six hundred two thousand dollars $1,005,602,000**. Such amount shall be exclusive of bonds and notes issued to fund any reserve fund or funds, costs of issuance and to refund any outstanding bonds and notes, issued on behalf of the state, relating to a locally sponsored community college.

§ 41. Subdivision 1 of section 17 of part D of chapter 389 of the laws of 1997, relating to the financing of the correctional facilities improvement fund and the youth facility improvement fund, as amended by section 45 of part BBB of chapter 59 of the laws of 2018, is amended to read as follows:

1. Subject to the provisions of chapter 59 of the laws of 2000, but notwithstanding the provisions of section 18 of section 1 of chapter 174 of the laws of 1968, the New York state urban development corporation is hereby authorized to issue bonds, notes and other obligations in an aggregate principal amount not to exceed [~~seven~~] **eight** hundred [~~sixty-nine~~] **four** million six hundred fifteen thousand dollars [~~($769,615,000)~~] **$804,615,000**, which authorization increases the aggregate principal amount of bonds, notes and other obligations authorized by section 40 of chapter 309 of the laws of 1996, and shall include all bonds, notes and other obligations issued pursuant to chapter 211 of the laws of 1990, as amended or supplemented. The proceeds of such bonds, notes or other obligations shall be paid to the state, for deposit in the youth facilities improvement fund, to pay for all or any portion of the amount or amounts paid by the state from appropriations or reappropriations made to the office of children and family services from the youth facilities improvement fund for capital projects. The aggregate amount of bonds, notes and other obligations authorized to be issued pursuant to this section shall exclude bonds, notes or other obligations issued to refund or otherwise repay bonds, notes or other obligations theretofore issued, the proceeds of which were paid to the state for all or a portion of the amounts expended by the state from appropriations or reappropriations made to the office of children and family services; provided, however, that upon any such refunding or repayment the total aggregate principal amount of outstanding bonds, notes or other obligations may be greater than [~~seven~~] **eight** hundred [~~sixty-nine~~] **four** million six hundred fifteen thousand dollars [~~($769,615,000)~~] **$804,615,000**, only if the present value of the aggregate debt service of the refunding or repayment bonds, notes or other obligations to be issued shall not exceed the present value of the aggregate debt service of the bonds, notes or other obligations so to be refunded or repaid. For the purposes hereof, the present value of the aggregate debt service of the refunding or repayment bonds, notes or other obligations and of the aggregate debt service of the bonds, notes or other obligations so refunded or repaid, shall be calculated by utilizing the effective interest rate of the refunding or repayment bonds, notes or other obligations, which shall be that rate arrived at by doubling the semi-annual interest rate (compounded semi-annually) necessary to discount the debt service payments on the refund-

ing or repayment bonds, notes or other obligations from the payment dates thereof to the date of issue of the refunding or repayment bonds, notes or other obligations and to the price bid including estimated accrued interest or proceeds received by the corporation including estimated accrued interest from the sale thereof.

§ 42. Paragraph b of subdivision 2 of section 9-a of section 1 of chapter 392 of the laws of 1973, constituting the New York state medical care facilities finance agency act, as amended by section 46 of part BBB of chapter 59 of the laws of 2018, is amended to read as follows:

b. The agency shall have power and is hereby authorized from time to time to issue negotiable bonds and notes in conformity with applicable provisions of the uniform commercial code in such principal amount as, in the opinion of the agency, shall be necessary, after taking into account other moneys which may be available for the purpose, to provide sufficient funds to the facilities development corporation, or any successor agency, for the financing or refinancing of or for the design, construction, acquisition, reconstruction, rehabilitation or improvement of mental health services facilities pursuant to paragraph a of this subdivision, the payment of interest on mental health services improvement bonds and mental health services improvement notes issued for such purposes, the establishment of reserves to secure such bonds and notes, the cost or premium of bond insurance or the costs of any financial mechanisms which may be used to reduce the debt service that would be payable by the agency on its mental health services facilities improvement bonds and notes and all other expenditures of the agency incident to and necessary or convenient to providing the facilities development corporation, or any successor agency, with funds for the financing or refinancing of or for any such design, construction, acquisition, reconstruction, rehabilitation or improvement and for the refunding of mental hygiene improvement bonds issued pursuant to section 47-b of the private housing finance law; provided, however, that the agency shall not issue mental health services facilities improvement bonds and mental health services facilities improvement notes in an aggregate principal amount exceeding [~~eight billion seven hundred seventy-eight million seven hundred eleven thousand~~] nine billion three hundred thirty-three million three hundred eight thousand dollars $9,333,308,000, excluding mental health services facilities improvement bonds and mental health services facilities improvement notes issued to refund outstanding mental health services facilities improvement bonds and mental health services facilities improvement notes; provided, however, that upon any such refunding or repayment of mental health services facilities improvement bonds and/or mental health services facilities improvement notes the total aggregate principal amount of outstanding mental health services facilities improvement bonds and mental health facilities improvement notes may be greater than [~~eight billion seven hundred seventy-eight million seven hundred eleven thousand dollars $8,778,711,000~~] nine billion three hundred thirty-three million three hundred eight thousand dollars $9,333,308,000, only if, except as hereinafter provided with respect to mental health services facilities bonds and mental health services facilities notes issued to refund mental hygiene improvement bonds authorized to be issued pursuant to the provisions of section 47-b of the private housing finance law, the present value of the aggregate debt service of the refunding or repayment bonds to be issued shall not exceed the present value of the aggregate debt service of the bonds to be refunded or repaid. For purposes hereof, the present values of the aggregate debt service of the refunding or repayment bonds, notes or

other obligations and of the aggregate debt service of the bonds, notes or other obligations so refunded or repaid, shall be calculated by utilizing the effective interest rate of the refunding or repayment bonds, notes or other obligations, which shall be that rate arrived at by doubling the semi-annual interest rate (compounded semi-annually) necessary to discount the debt service payments on the refunding or repayment bonds, notes or other obligations from the payment dates thereof to the date of issue of the refunding or repayment bonds, notes or other obligations and to the price bid including estimated accrued interest or proceeds received by the authority including estimated accrued interest from the sale thereof. Such bonds, other than bonds issued to refund outstanding bonds, shall be scheduled to mature over a term not to exceed the average useful life, as certified by the facilities development corporation, of the projects for which the bonds are issued, and in any case shall not exceed thirty years and the maximum maturity of notes or any renewals thereof shall not exceed five years from the date of the original issue of such notes. Notwithstanding the provisions of this section, the agency shall have the power and is hereby authorized to issue mental health services facilities improvement bonds and/or mental health services facilities improvement notes to refund outstanding mental hygiene improvement bonds authorized to be issued pursuant to the provisions of section 47-b of the private housing finance law and the amount of bonds issued or outstanding for such purposes shall not be included for purposes of determining the amount of bonds issued pursuant to this section. The director of the budget shall allocate the aggregate principal authorized to be issued by the agency among the office of mental health, office for people with developmental disabilities, and the office of alcoholism and substance abuse services, in consultation with their respective commissioners to finance bondable appropriations previously approved by the legislature.

§ 43. Subdivision (a) of section 28 of part Y of chapter 61 of the laws of 2005, relating to providing for the administration of certain funds and accounts related to the 2005-2006 budget, as amended by section 49 of part BBB of chapter 59 of the laws of 2018, is amended to read as follows:

(a) Subject to the provisions of chapter 59 of the laws of 2000, but notwithstanding any provisions of law to the contrary, one or more authorized issuers as defined by section 68-a of the state finance law are hereby authorized to issue bonds or notes in one or more series in an aggregate principal amount not to exceed [~~$67,000,000, sixty-seven million~~] ninety-two million dollars $92,000,000, excluding bonds issued to finance one or more debt service reserve funds, to pay costs of issuance of such bonds, and bonds or notes issued to refund or otherwise repay such bonds or notes previously issued, for the purpose of financing capital projects for public protection facilities in the Division of Military and Naval Affairs, debt service and leases; and to reimburse the state general fund for disbursements made therefor. Such bonds and notes of such authorized issuer shall not be a debt of the state, and the state shall not be liable thereon, nor shall they be payable out of any funds other than those appropriated by the state to such authorized issuer for debt service and related expenses pursuant to any service contract executed pursuant to subdivision (b) of this section and such bonds and notes shall contain on the face thereof a statement to such effect. Except for purposes of complying with the internal revenue code, any interest income earned on bond proceeds shall only be used to pay debt service on such bonds.

§ 44. Subdivision 1 of section 386-a of the public authorities law, as amended by section 61 of part BBB of chapter 59 of the laws of 2018, is amended to read as follows:

1. Notwithstanding any other provision of law to the contrary, the authority, the dormitory authority and the urban development corporation are hereby authorized to issue bonds or notes in one or more series for the purpose of assisting the metropolitan transportation authority in the financing of transportation facilities as defined in subdivision seventeen of section twelve hundred sixty-one of this chapter. The aggregate principal amount of bonds authorized to be issued pursuant to this section shall not exceed [~~one billion six hundred ninety-four million dollars $1,694,000,000~~] **two billion seventy-nine million eight hundred fifty-six thousand dollars $2,079,856,000**, excluding bonds issued to fund one or more debt service reserve funds, to pay costs of issuance of such bonds, and to refund or otherwise repay such bonds or notes previously issued. Such bonds and notes of the authority, the dormitory authority and the urban development corporation shall not be a debt of the state, and the state shall not be liable thereon, nor shall they be payable out of any funds other than those appropriated by the state to the authority, the dormitory authority and the urban development corporation for principal, interest, and related expenses pursuant to a service contract and such bonds and notes shall contain on the face thereof a statement to such effect. Except for purposes of complying with the internal revenue code, any interest income earned on bond proceeds shall only be used to pay debt service on such bonds.

§ 45. Subdivision 1 of section 50 of section 1 of chapter 174 of the laws of 1968, constituting the New York state urban development corporation act, as amended by section 42 of part XXX of chapter 59 of the laws of 2017, is amended to read as follows:

1. Notwithstanding the provisions of any other law to the contrary, the dormitory authority and the urban development corporation are hereby authorized to issue bonds or notes in one or more series for the purpose of funding project costs undertaken by or on behalf of special act school districts, state-supported schools for the blind and deaf, approved private special education schools, non-public schools, community centers, day care facilities, and other state costs associated with such capital projects. The aggregate principal amount of bonds authorized to be issued pursuant to this section shall not exceed [~~fifty-five million dollars~~] **one hundred ten million dollars $110,000,000**, excluding bonds issued to fund one or more debt service reserve funds, to pay costs of issuance of such bonds, and bonds or notes issued to refund or otherwise repay such bonds or notes previously issued. Such bonds and notes of the dormitory authority and the urban development corporation shall not be a debt of the state, and the state shall not be liable thereon, nor shall they be payable out of any funds other than those appropriated by the state to the dormitory authority and the urban development corporation for principal, interest, and related expenses pursuant to a service contract and such bonds and notes shall contain on the face thereof a statement to such effect. Except for purposes of complying with the internal revenue code, any interest income earned on bond proceeds shall only be used to pay debt service on such bonds.

§ 46. Section 1 of chapter 174 of the laws of 1968, constituting the New York state urban development corporation act, is amended by adding a new section 53 to read as follows:

§ 53. 1. Notwithstanding the provisions of any other law to the contrary, the dormitory authority and the urban development corporation

are hereby authorized to issue bonds or notes in one or more series for the purpose of funding project costs for the acquisition of equipment, including but not limited to the creation or modernization of information technology systems and related research and development equipment, health and safety equipment, heavy equipment and machinery, the creation or improvement of security systems, and laboratory equipment and other state costs associated with such capital projects. The aggregate principal amount of bonds authorized to be issued pursuant to this section shall not exceed ninety-three million dollars $93,000,000, excluding bonds issued to fund one or more debt service reserve funds, to pay costs of issuance of such bonds, and bonds or notes issued to refund or otherwise repay such bonds or notes previously issued. Such bonds and notes of the dormitory authority and the urban development corporation shall not be a debt of the state, and the state shall not be liable thereon, nor shall they be payable out of any funds other than those appropriated by the state to the dormitory authority and the urban development corporation for principal, interest, and related expenses pursuant to a service contract and such bonds and notes shall contain on the face thereof a statement to such effect. Except for purposes of complying with the internal revenue code, any interest income earned on bond proceeds shall only be used to pay debt service on such bonds.

2. Notwithstanding any other provision of law to the contrary, in order to assist the dormitory authority and the urban development corporation in undertaking the financing for project costs for the acquisition of equipment, including but not limited to the creation or modernization of information technology systems and related research and development equipment, health and safety equipment, heavy equipment and machinery, the creation or improvement of security systems, and laboratory equipment and other state costs associated with such capital projects, the director of the budget is hereby authorized to enter into one or more service contracts with the dormitory authority and the urban development corporation, none of which shall exceed thirty years in duration, upon such terms and conditions as the director of the budget and the dormitory authority and the urban development corporation agree, so as to annually provide to the dormitory authority and the urban development corporation, in the aggregate, a sum not to exceed the principal, interest, and related expenses required for such bonds and notes. Any service contract entered into pursuant to this section shall provide that the obligation of the state to pay the amount therein provided shall not constitute a debt of the state within the meaning of any constitutional or statutory provision and shall be deemed executory only to the extent of monies available and that no liability shall be incurred by the state beyond the monies available for such purpose, subject to annual appropriation by the legislature. Any such contract or any payments made or to be made thereunder may be assigned and pledged by the dormitory authority and the urban development corporation as security for its bonds and notes, as authorized by this section.

§ 47. Subdivision 2 and paragraph (a) of subdivision 4 of section 1680-q of the public authorities law, as added by section 4 of part B of chapter 57 of the laws of 2013, are amended to read as follows:

2. The authority may, from and after April first, two thousand thirteen, issue dormitory facility revenue bonds in an amount not to exceed [~~nine hundred forty-four~~] one billion three hundred ninety-four million dollars. Notwithstanding any other rule or law, such bonds shall not be a debt of the state of New York or the state university nor shall the state or the state university be liable thereon, nor shall they be paya-

ble out of any funds other than those of the authority constituting dormitory facilities revenues. Such amount shall be exclusive of bonds and notes issued to fund any reserve fund or funds, cost of issuance, original issue premium, and to refund any prior dormitory facility bonds or any dormitory facility revenue bonds. The authority and the state university are hereby authorized to enter into agreements relating to, among other things, the acquisition of property or interests therein, the construction, reconstruction, rehabilitation, improvement, equipping and furnishing of dormitory facilities, the operation and maintenance of dormitory facilities, and the billing, collection and disbursement of dormitory facilities revenues, the title to which has been conveyed, assigned or otherwise transferred to the authority pursuant to paragraph y of subdivision two of section three hundred fifty-five of the education law. In no event shall the state university have any obligation under the agreement to make payment with respect to, on account of or to pay dormitory facilities revenue bonds, and such bonds shall be payable solely from the dormitory facilities revenues assigned to the authority by the state university. No debt shall be contracted except to finance capital works or purposes. Notwithstanding any other provision of law, dormitory facility revenues shall not be deemed to be revenues of the state. Notwithstanding any other rule or law, the state shall not be liable for any payments on any dormitory facility revenue bonds, and such bonds shall not be a debt of the state and shall not be payable out of any funds other than the dormitory facilities revenues assigned to the authority by the state university.

(a) The dormitory authority, in consultation with the state university of New York, shall prepare an annual report due on September thirtieth, commencing on September thirtieth, two thousand fourteen, of every calendar year relating to the provisions of paragraph y of subdivision two of section three hundred fifty-five of the education law [~~as added by a chapter of the laws of two thousand thirteen which added this section~~]; subdivision eight of section three hundred fifty-five of the education law [~~as amended by a chapter of the laws of two thousand thirteen which added this section~~]; and this section. The report shall include, but not be limited to: (i) the total dormitory facilities revenues assigned or otherwise transferred from the state university of New York to the dormitory authority in the prior state university fiscal year and the sum of such transfers made in the five prior fiscal years; (ii) the sum of monies, if any, transferred to the state university of New York from the dormitory facilities revenue fund in the prior state university fiscal year; (iii) a list of any increase in rents, fees and other charges that relate to dormitory facilities per campus to students; (iv) a summary of all costs associated with the construction, reconstruction, rehabilitation, improvement, equipping, furnishing, repair, maintenance and operations of dormitory facilities that the dormitory authority funded with dormitory facilities revenues and the proceeds of dormitory facility revenue bonds; (v) a summary and justification of dormitory authority administrative expenses and costs incurred related to the dormitory facilities revenue fund; (vi) the issuance amounts, debt service costs and savings, if any, of all state university of New York dormitory bonds issued prior to April first, two thousand thirteen and refinanced by the dormitory authority with dormitory facility revenue bonds; (vii) total amount of debt service payments made per year on dormitory facility revenue bonds; and (viii) an estimated date when the dormitory authority will reach the [~~nine hundred forty-four million dollar~~] cap on dormitory facility revenue bonds.

§ 48. Paragraphs b and f of subdivision 3 of section 9 of section 1 of chapter 359 of the laws of 1968 constituting the facilities development corporation act, paragraph b as amended by chapter 236 of the laws of 2005 and paragraph f as amended by chapter 58 of the laws of 1987, are amended and a new paragraph g is added to read as follows:

b. All monies of the corporation received or accepted pursuant to paragraph a of this subdivision, other than appropriations and advances from the state and except as otherwise authorized or provided in this section, shall be paid to the commissioner of taxation and finance as agent of the corporation, who shall not commingle such monies with any other monies. Such monies shall be deposited in two or more separate bank accounts. One of such accounts, to which shall be credited (i) all payments made on or after January 1, 1964, for the care, maintenance and treatment of patients in every mental hygiene facility, other than a community mental health and retardation facility, (ii) all payments made to the corporation as rentals, lease payments, permit fees or otherwise under any lease, sublease or agreement undertaken with respect to a community mental health and retardation facility or a current or former mental hygiene facility, (iii) all payments made to the corporation for the purchase of real property held by the corporation for the use of the department, other than payments derived from New York state medical care facilities finance agency financing or refinancing of the design, construction, acquisition, reconstruction, rehabilitation, improvement or renovation of state operated mental hygiene facilities, (iv) all income from investments and (v) all monies received or to be received for the purposes of such account on a recurring basis, shall be denominated the "mental hygiene facilities improvement fund income account". The monies in any account shall be paid out on checks signed by the commissioner of taxation and finance on requisition of the chairman of the corporation or of such other officer or employee or officers or employees as the corporation shall authorize to make such requisition. All deposits of such money shall, if required by the commissioner of taxation and finance or the directors of the corporation, be secured by obligations of the United States or of the state of a market value equal at all times to the amount of the deposit and all banks and trust companies are authorized to give such security for such deposits. Any moneys of the corporation not required for immediate use or disbursement may, at the discretion of the corporation, be invested by the commissioner of taxation and finance in accordance with the provisions of section 98-a of the state finance law. [~~When the corporation is no longer required to make any rental payments under any lease, sublease or agreement entered into with the state housing finance agency in effect as of the effective date of this amendment to this paragraph, all monies received or accepted pursuant to paragraph a of this subdivision, other than appropriations and advances from the state and except as otherwise authorized or provided in this section, shall be deposited into the mental health services fund established by section 97-f of the state finance law. Any monies remaining in the mental hygiene facilities improvement fund income account and in any rental reserve account created pursuant to paragraph c of subdivision 4 of this section, when such lease, sublease or agreement is no longer in effect shall be deposited in the mental health services fund.~~] **The mental hygiene facilities improvement fund and the income account therein shall remain in existence until terminated by the corporation by written notice to the commissioner of taxation and finance. Any moneys on deposit in the mental hygiene facilities improvement fund or the income account therein upon the termination of**

said fund and account shall be transferred by the commissioner of taxation and finance to the mental health services fund. The corporation shall not terminate the mental hygiene facilities improvement fund and the income account therein until all mental health services facilities bonds issued pursuant to: (i) the New York state medical care facilities finance agency act; (ii) article five-c of the state finance law; and (iii) article five-f of the state finance law and payable from the income account as described in paragraph g of this subdivision are no longer outstanding.

f. The directors of the corporation shall from time to time, but in no event later than the fifteenth day of each month pay over to the commissioner of taxation and finance and the state comptroller for deposit in the mental health services fund, all monies of the corporation in excess of the aggregate amount of money required to be maintained on deposit in the mental hygiene facilities improvement fund income account pursuant to [~~paragraph~~] paragraphs e and g of this subdivision. Prior to making any such payment, the chairman of the corporation shall, on behalf of the directors, make and deliver to the governor and the director of the budget his certificate stating the aggregate amount to be maintained on deposit in the mental hygiene facilities improvement fund income account to comply in full with the provisions of [~~paragraph e~~] paragraphs e and g of this subdivision.

g. (1) In addition to the amount required to be maintained by paragraph e of this subdivision, there shall be accumulated and set aside in each month in the mental hygiene facilities improvement fund income account, all receipts associated with loans, leases and other agreements with voluntary agencies. The corporation shall provide the amount of such receipts to be set aside to the commissioner of taxation and finance in each month. (2) No later than five days prior to the earlier of when payment is to be made on bonds issued for mental health services facilities purposes pursuant to: (i) the New York state medical care facilities finance agency act; (ii) article five-C of the state finance law; and (iii) article five-F of the state finance law, such set-aside receipts shall be transferred by the commissioner of taxation and finance as agent of the corporation from the mental hygiene facilities improvement fund income account in the amounts set forth in schedules provided by the corporation to the commissioner of taxation and finance in the following priority: first, to the trustee appointed by the New York state medical care facilities finance agency for the bonds issued pursuant to the New York state medical care facilities finance agency act for both voluntary agency and state purposes to pay debt service and other cash requirements due on such bonds on the relevant payment date, second, any remaining amount of such set-aside receipts to the trustee appointed by authorized issuers for the bonds issued pursuant to article five-C of the state finance law to pay debt service and other cash requirements due on such bonds on the relevant payment date and third, any remaining amount of such set-aside to the trustee appointed by authorized issuers for the bonds issued pursuant to article five-F of the state finance law to pay debt service and other cash requirements due on such bonds on the relevant payment date.

§ 49. Subdivisions 5 and 8 of section 97-f of the state finance law, subdivision 5 as amended by section 15 of part BBB of chapter 59 of the laws of 2018 and subdivision 8 as amended by section 59 of part HH of chapter 57 of the laws of 2013, are amended and a new subdivision 9 is added to read as follows:

5. The comptroller shall from time to time, but in no event later than the fifteenth day of each month, pay over for deposit in the mental hygiene general fund state operations account all moneys in the mental health services fund in excess of the amount of money required to be maintained on deposit in the mental health services fund. [~~The~~] **Subject to subdivision nine of this section, the** amount required to be maintained in such fund shall be (i) twenty percent of the amount of the next payment coming due relating to the mental health services facilities improvement program under any agreement between the facilities development corporation and the New York state medical care facilities finance agency multiplied by the number of months from the date of the last such payment with respect to payments under any such agreement required to be made semi-annually, plus (ii) those amounts specified in any such agreement with respect to payments required to be made other than semi-annually, including for variable rate bonds, interest rate exchange or similar agreements or other financing arrangements permitted by law. [~~Prior to making any such payment, the comptroller shall make and deliver to the director of the budget and the chairmen of the facilities development corporation and the New York state medical care facilities finance agency, a certificate stating the aggregate amount to be maintained on deposit in the mental health services fund to comply in full with the provisions of this subdivision.~~] **Concurrently with the making of any such payment, the facilities development corporation shall deliver to the comptroller, the director of the budget and the New York state medical care facilities finance agency a certificate stating the aggregate amount to be maintained on deposit in the mental health services fund to comply in full with the provisions of this subdivision.**

8. In addition to the amounts required to be maintained on deposit in the mental health services fund pursuant to subdivision five of this section **and subject to subdivision nine of this section**, the fund shall maintain on deposit an amount equal to the debt service and other cash requirements on mental health services facilities bonds issued by authorized issuers pursuant to sections sixty-eight-b and sixty-nine-n of this chapter. The amount required to be maintained in such fund shall be (i) twenty percent of the amount of the next payment coming due relating to mental health services facilities bonds issued by an authorized issuer multiplied by the number of months from the date of the last such payment with respect to payments required to be made semi-annually, plus (ii) those amounts specified in any financing agreement between the issuer and the state, acting through the director of the budget, with respect to payments required to be made other than semi-annually, including for variable rate bonds, interest rate exchange or similar agreements or other financing arrangements permitted by law. [~~Prior to making any such payment, the comptroller shall make and deliver to the director of the budget and the chairmen of the facilities development corporation and the New York state medical care facilities finance agency, a certificate stating the aggregate amount to be maintained on deposit in the mental health services fund to comply in full with the provisions of this subdivision.~~] **Concurrently with the making of any such payment, the facilities development corporation shall deliver to the comptroller, the director of the budget and the New York state medical care facilities finance agency a certificate stating the aggregate amount to be maintained on deposit in the mental health services fund to comply in full with the provisions of this subdivision.**

No later than five days prior to the payment to be made by the state comptroller on such mental health services facilities bonds pursuant to

sections ninety-two-z and ninety-two-h of this article, the amount of such payment shall be transferred by the state comptroller from the mental health services fund to the revenue bond tax fund established by section ninety-two-z of this article **and the sales tax revenue bond fund established by section ninety-two-h of this article**. The accumulation of moneys pursuant to this subdivision and subsequent transfer to the revenue bond tax fund **and the sales tax revenue bond fund** shall be subordinate in all respects to payments to be made to the New York state medical care facilities finance agency and to any pledge or assignment pursuant to subdivision six of this section.

9. In determining the amounts required to be maintained in the mental health services fund under subdivisions five and eight of this section in each month, the amount of receipts associated with loans, leases and other agreements with voluntary agencies accumulated and set aside in the mental hygiene facilities improvement fund income account under paragraph g of subdivision three of section nine of the facilities development corporation act shall be taken into account as a credit but only if such crediting does not result in the amounts required to be maintained in the mental health services fund exclusive of any credit to be less than the amount required under subdivision five of this section in each month.

§ 50. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2019; provided, however, that the provisions of sections one, two, three, four, five, six, seven, eight, thirteen, fourteen, fifteen, sixteen, seventeen, eighteen, nineteen, twenty, twenty-two, twenty-three, and twenty-four of this act shall expire March 31, 2020 when upon such date the provisions of such sections shall be deemed repealed.

PART L

Section 1. Section 4 of chapter 22 of the laws of 2014, relating to expanding opportunities for service-disabled veteran-owned business enterprises, is amended to read as follows:

§ 4. This act shall take effect immediately; provided, however, that sections one, one-a and two of this act shall expire and be deemed repealed March 31, [~~2019~~] **2024**; and provided, further, however, that the amendments to subdivisions 7 and 15 of section 310 of the executive law made by section three of this act shall not affect the expiration of such section and shall be deemed to expire therewith.

§ 2. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2019.

PART M

Section 1. Subdivision 2 of section 87 of the workers' compensation law, as added by section 20 of part GG of chapter 57 of the laws of 2013, is amended to read as follows:

2. Any of the surplus funds belonging to the state insurance fund, by order of the commissioners, approved by the superintendent of financial services, may be invested **(1)** in the types of securities described in subdivisions one, two, three, four, five, six, eleven, twelve, twelve-a, thirteen, fourteen, fifteen, nineteen, twenty, twenty-one, twenty-one-a, twenty-four, twenty-four-a, twenty-four-b, twenty-four-c and twenty-five of section two hundred thirty-five of the banking law **, or (2) in the types of obligations described in paragraph two of subsection (a) of**

section one thousand four hundred four of the insurance law except that up to twenty-five percent of surplus funds may be invested in obligations rated investment grade by a nationally recognized securities rating organization, or[~~,~~] (3) up to fifty percent of surplus funds, in the types of securities or investments described in paragraphs [~~two,~~] three, eight and ten of subsection (a) of section one thousand four hundred four of the insurance law, except that [~~up to ten percent of surplus funds may be invested~~] investments in [~~the securities of any solvent American institution as described in such paragraphs~~] diversified index funds and accounts may be made irrespective of the rating [~~of such institution's obligations~~] or other similar qualitative standards [~~described therein, and~~] applicable under such paragraphs, or (4) up to ten percent of surplus funds, in the types of securities or investments described in paragraphs two, three and ten of subsection (a) of section one thousand four hundred four of the insurance law irrespective of the rating of such institution's obligations or other similar qualitative standard, or (5) up to fifteen percent of surplus funds in securities or investments which do not otherwise qualify for investment under this section as shall be made with the care, prudence and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims as provided for the state insurance fund under this article, but shall not include any direct derivative instrument or derivative transaction except for hedging purposes. Notwithstanding any other provision in this subdivision, the aggregate amount that the state insurance fund may invest in the types of securities or investments described in paragraphs three, eight and ten of subsection (a) of section one thousand four hundred four of the insurance law and as a prudent person acting in a like capacity would invest as provided in this subdivision shall not exceed fifty percent of such surplus funds. For the purposes of this subdivision, any funds appropriated pursuant to the provisions of subdivision one or two of section eighty-seven-f of this article shall not be considered surplus funds.

§ 2. This act shall take effect immediately.

PART N

Section 1. Paragraph (a) of subdivision 5 of section 54 of the workers' compensation law, as amended by chapter 469 of the laws of 2017, is amended to read as follows:

(a) Cancellation and termination of insurance contracts. No contract of insurance issued by an insurance carrier against liability arising under this chapter shall be cancelled within the time limited in such contract for its expiration unless notice is given as required by this section. When cancellation is due to non-payment of premiums [~~and assessments~~], such cancellation shall not be effective until at least ten days after a notice of cancellation of such contract, on a date specified in such notice, shall be filed in the office of the chair and also served on the employer. When cancellation is due to any reason other than non-payment of premiums and assessments, such cancellation shall not be effective until at least thirty days after a notice of cancellation of such contract, on a date specified in such notice, shall be filed in the office of the chair and also served on the employer; provided, however, in either case, that if the employer has secured insurance with another insurance carrier which becomes effective prior

to the expiration of the time stated in such notice, the cancellation shall be effective as of the date of such other coverage. No insurer shall refuse to renew any policy insuring against liability arising under this chapter unless at least thirty days prior to its expiration notice of intention not to renew has been filed in the office of the chair and also served on the employer.

Such notice shall be served on the employer by delivering it to him, her or it or by sending it by mail, by certified or registered letter, return receipt requested, addressed to the employer at his, her or its last known place of business; provided that, if the employer be a partnership, then such notice may be so given to any of one of the partners, and if the employer be a corporation then the notice may be given to any agent or officer of the corporation upon whom legal process may be served; and further provided that an employer may designate any person or entity at any address to receive such notice including the designation of one person or entity to receive notice on behalf of multiple entities insured under one insurance policy and that service of notice at the address so designated upon the person or entity so designated by delivery or by mail, by certified or registered letter, return receipt requested, shall satisfy the notice requirement of this section. [~~Provided, however, the~~] **The** right to cancellation of a policy of insurance in the state **insurance** fund**, however,** shall be exercised only for non-payment of premiums and assessments**, or failure by the employer to cooperate with a payroll audit,** or as provided in section ninety-four of this chapter. **The state insurance fund may cancel a policy for the employer's failure to cooperate with a payroll audit if the employer fails (i) either to make or keep an appointment during regular business hours with a payroll auditor, after the state insurance fund has made at least two attempts to arrange an appointment including contacting the employer's broker or accountant, if any, or (ii) to furnish business records in the course of a payroll audit as required pursuant to sections ninety-five and one hundred thirty-one of this chapter. At least fifteen days in advance of sending a notice of cancellation for failure to cooperate with a payroll audit, the state insurance fund shall send a warning notice to the employer in the same manner as provided in this subdivision for serving a notice of cancellation. Such notice shall specify a means of contacting the sate insurance fund to set up an audit appointment. The state insurance fund will be required to provide only one such warning notice to an employer related to any particular payroll audit prior to cancellation.**

The provisions of this subdivision shall not apply with respect to policies containing coverage pursuant to subsection (j) of section three thousand four hundred twenty of the insurance law relating to every policy providing comprehensive personal liability insurance on a one, two, three or four family owner-occupied dwelling.

In the event such cancellation or termination notice is not filed with the chair within the required time period, the chair shall impose a penalty in the amount of up to five hundred dollars for each ten-day period the insurance carrier or state insurance fund failed to file the notification. All penalties collected pursuant to this subdivision shall be deposited in the uninsured employers' fund.

§ 2. Section 93 of the workers' compensation law, as amended by section 24 of part GG of chapter 57 of the laws of 2013, is amended to read as follows:

§ 93. Collection of premium in case of default. a. If a policyholder shall default in any payment required to be made by [~~him~~] **such policy-**

holder to the state insurance fund or shall fail to cooperate with a payroll audit as specified in subdivision five of section fifty-four of this chapter, after due notice, [~~his~~] such policyholder's insurance in the state insurance fund may be cancelled and the amount due from [~~him~~] such policyholder shall be collected by civil action brought against [~~him~~] such policyholder in any county wherein the state insurance fund maintains an office in the name of the commissioners of the state insurance fund and the same, when collected, shall be paid into the state insurance fund, and such policyholder's compliance with the provisions of this chapter requiring payments to be made to the state insurance fund shall date from the time of the payment of said money to the state insurance fund.

b. An employer, whose policy of insurance has been cancelled by the state insurance fund for non-payment of premium, or failure to cooperate with a payroll audit, and assessments or [~~withdraws~~] cancelled pursuant to section ninety-four of this article, is ineligible to contract for a subsequent policy of insurance with the state insurance fund [~~while~~] until the state insurance fund receives full cooperation from such employer in completing any payroll audit on the cancelled policy and the billed premium on the cancelled policy [~~remains uncollected~~] is paid, including any additional amounts billed following the completion of any payroll audit.

c. The state insurance fund shall not be required to write a policy of insurance for any employer which is owned or controlled or the majority interest of which is owned or controlled, directly or indirectly, by any person who directly or indirectly owns or controls or owned or controlled at the time of cancellation an employer whose former policy of insurance with the state insurance fund was cancelled for non-payment of premium [~~and assessments~~], or for failure to cooperate with a payroll audit, or [~~withdraws~~] cancelled pursuant to section ninety-four of this article, or who is or was at the time of cancellation the president, vice-president, secretary or treasurer of such an employer until the state insurance fund receives full cooperation from such employer in completing any payroll audit and the billed premium on the cancelled policy is paid, including any additional amounts billed following the completion of any payroll audit.

For purposes of this subdivision, "person" [~~shall include individuals, partnerships, corporations, and other associations~~] means any individual, firm, company, partnership, corporation, limited liability company, joint venture, joint-stock association, association, trust or any other legal entity whatsoever.

d. For the purposes of this section, the word "premium" includes all amounts required to be paid to the state insurance fund including any assessment by the workers' compensation board that the state insurance fund bills to an employer.

§ 3. Section 95 of the workers' compensation law, as amended by chapter 135 of the laws of 1998, is amended to read as follows:

§ 95. Record and audit of payrolls. (1) Every employer who is insured in the state insurance fund shall keep a true and accurate record of the number of [~~his~~] its employees, the classification of its employees, information regarding employee accidents and the wages paid by [~~him~~] such employer, as well as such records relating to any person performing services under a subcontract with such employer who is not covered under the subcontractor's own workers' compensation insurance policy, and shall furnish, upon demand, a sworn statement of the same. Such record and any other records of an employer containing such information

pertaining to any policy period including, but not limited to, any payroll book, payroll and distribution records, cash book, check book, bank account statements, commission records, ledgers, journals, registers, vouchers, contracts, tax returns and reports, and computer programs for retrieving data, certificates of insurance pertaining to subcontractors and any other business records specified by the rules of the board shall be open to inspection by the state insurance fund at any time and as often as may be necessary to verify the number of employees [~~and~~], the amount of the payroll, the classification of employees and information regarding employee accidents. Any employer who shall fail to keep [~~such~~] any record required in this section, who shall willfully fail to furnish such record or who shall willfully falsify any such record[~~,~~] shall be guilty of a misdemeanor and subject to a fine of not less than five thousand dollars nor more than ten thousand dollars in addition to any other penalties otherwise provided by law, except that any such employer that has previously been subject to criminal penalties under this section within the prior ten years shall be guilty of a class E felony, and subject to a fine of not less than ten thousand dollars nor more than twenty-five thousand dollars in addition to any penalties otherwise provided by law.

(2) Employers subject to [~~subdivision~~] subsection (e) of section two thousand three hundred four of the insurance law and subdivision two of section eighty-nine of this article shall keep a true and accurate record of hours worked for all construction classification employees. The willful failure to keep such record, or the knowing falsification of any such record, may be prosecuted as insurance fraud in accordance with the provisions of section 176.05 of the penal law.

§ 4. Subdivision 1 of section 131 of the workers' compensation law, as amended by chapter 6 of the laws of 2007, is amended to read as follows:

(1) Every employer subject to the provisions of this chapter shall keep a true and accurate record of the number of [~~his or her~~] its employees, the classification of its employees, information regarding employee accidents and the wages paid by [~~him or her~~] such employer for a period of four years after each entry therein, [~~which~~] as well as such records relating to any person performing services under a subcontract of such employer that is not covered under the subcontractor's own workers' compensation insurance policy. Such records shall be open to inspection at any time, and as often as may be necessary to verify the same by investigators of the board, by the authorized auditors, accountants or inspectors of the carrier with whom the employer is insured, or by the authorized auditors, accountants or inspectors of any workers' compensation insurance rating board or bureau operating under the authority of the insurance law and of which board or bureau such carrier is a member or the group trust of which the employer is a member. Any and all records required by law to be kept by such employer upon which the employer makes or files a return concerning wages paid to employees and any other records of an employer containing such information pertaining to any policy period including, but not limited to, any payroll book, payroll and distribution records, cash book, check book, bank account statements, commission records, ledgers, journals, registers, vouchers, contracts, tax returns and reports, and computer programs for retrieving data, certificates of insurance pertaining to subcontractors and any other business records specified by the rules of the board shall form part of the records described in this section and shall be open to inspection in the same manner as provided in this section. Any employer who shall fail to keep such records, who shall

willfully fail to furnish such record as required in this section or who shall falsify any such records, shall be guilty of a misdemeanor and subject to a fine of not less than five nor more than ten thousand dollars in addition to any other penalties otherwise provided by law, except that any such employer that has previously been subject to criminal penalties under this section within the prior ten years shall be guilty of a class E felony, and subject to a fine of not less than ten nor more than twenty-five thousand dollars in addition to any penalties otherwise provided by law.

§ 5. This act shall take effect on the ninetieth day after it shall have become a law and shall be applicable to policies issued or renewed after such date.

PART O

Section 1. Section 2 of chapter 887 of the laws of 1983, amending the correction law relating to the psychological testing of candidates, as amended by section 1 of part A of chapter 55 of the laws of 2017, is amended to read as follows:

§ 2. This act shall take effect on the one hundred eightieth day after it shall have become a law and shall remain in effect until September 1, [~~2019~~] 2021.

§ 2. Section 3 of chapter 428 of the laws of 1999, amending the executive law and the criminal procedure law relating to expanding the geographic area of employment of certain police officers, as amended by section 2 of part A of chapter 55 of the laws of 2017, is amended to read as follows:

§ 3. This act shall take effect on the first day of November next succeeding the date on which it shall have become a law, and shall remain in effect until the first day of September, [~~2019~~] 2021, when it shall expire and be deemed repealed.

§ 3. Section 3 of chapter 886 of the laws of 1972, amending the correction law and the penal law relating to prisoner furloughs in certain cases and the crime of absconding therefrom, as amended by section 3 of part A of chapter 55 of the laws of 2017, is amended to read as follows:

§ 3. This act shall take effect 60 days after it shall have become a law and shall remain in effect until September 1, [~~2019~~] 2021.

§ 4. Section 20 of chapter 261 of the laws of 1987, amending chapters 50, 53 and 54 of the laws of 1987, the correction law, the penal law and other chapters and laws relating to correctional facilities, as amended by section 4 of part A of chapter 55 of the laws of 2017, is amended to read as follows:

§ 20. This act shall take effect immediately except that section thirteen of this act shall expire and be of no further force or effect on and after September 1, [~~2019~~] 2021 and shall not apply to persons committed to the custody of the department after such date, and provided further that the commissioner of corrections and community supervision shall report each January first and July first during such time as the earned eligibility program is in effect, to the chairmen of the senate crime victims, crime and correction committee, the senate codes committee, the assembly correction committee, and the assembly codes committee, the standards in effect for earned eligibility during the prior six-month period, the number of inmates subject to the provisions of earned eligibility, the number who actually received certificates of earned eligibility during that period of time, the number of inmates

with certificates who are granted parole upon their first consideration for parole, the number with certificates who are denied parole upon their first consideration, and the number of individuals granted and denied parole who did not have earned eligibility certificates.

§ 5. Subdivision (q) of section 427 of chapter 55 of the laws of 1992, amending the tax law and other laws relating to taxes, surcharges, fees and funding, as amended by section 5 of part A of chapter 55 of the laws of 2017, is amended to read as follows:

(q) the provisions of section two hundred eighty-four of this act shall remain in effect until September 1, [~~2019~~] 2021 and be applicable to all persons entering the program on or before August 31, [~~2019~~] 2021.

§ 6. Section 10 of chapter 339 of the laws of 1972, amending the correction law and the penal law relating to inmate work release, furlough and leave, as amended by section 6 of part A of chapter 55 of the laws of 2017, is amended to read as follows:

§ 10. This act shall take effect 30 days after it shall have become a law and shall remain in effect until September 1, [~~2019~~] 2021, and provided further that the commissioner of correctional services shall report each January first, and July first, to the chairman of the senate crime victims, crime and correction committee, the senate codes committee, the assembly correction committee, and the assembly codes committee, the number of eligible inmates in each facility under the custody and control of the commissioner who have applied for participation in any program offered under the provisions of work release, furlough, or leave, and the number of such inmates who have been approved for participation.

§ 7. Subdivision (c) of section 46 of chapter 60 of the laws of 1994 relating to certain provisions which impact upon expenditure of certain appropriations made by chapter 50 of the laws of 1994 enacting the state operations budget, as amended by section 7 of part A of chapter 55 of the laws of 2017, is amended to read as follows:

(c) sections forty-one and forty-two of this act shall expire September 1, [~~2019~~] 2021; provided, that the provisions of section forty-two of this act shall apply to inmates entering the work release program on or after such effective date; and

§ 8. Subdivision h of section 74 of chapter 3 of the laws of 1995, amending the correction law and other laws relating to the incarceration fee, as amended by section 8 of part A of chapter 55 of the laws of 2017, is amended to read as follows:

h. Section fifty-two of this act shall be deemed to have been in full force and effect on and after April 1, 1995; provided, however, that the provisions of section 189 of the correction law, as amended by section fifty-five of this act, subdivision 5 of section 60.35 of the penal law, as amended by section fifty-six of this act, and section fifty-seven of this act shall expire September 1, [~~2019~~] 2021, when upon such date the amendments to the correction law and penal law made by sections fifty-five and fifty-six of this act shall revert to and be read as if the provisions of this act had not been enacted; provided, however, that sections sixty-two, sixty-three and sixty-four of this act shall be deemed to have been in full force and effect on and after March 1, 1995 and shall be deemed repealed April 1, 1996 and upon such date the provisions of subsection (e) of section 9110 of the insurance law and subdivision 2 of section 89-d of the state finance law shall revert to and be read as set out in law on the date immediately preceding the effective date of sections sixty-two and sixty-three of this act;

§ 9. Subdivision (c) of section 49 of subpart A of part C of chapter 62 of the laws of 2011 amending the correction law and the executive law relating to merging the department of correctional services and division of parole into the department of corrections and community supervision, as amended by section 9 of part A of chapter 55 of the laws of 2017, is amended to read as follows:

(c) that the amendments to subdivision 9 of section 201 of the correction law as added by section thirty-two of this act shall remain in effect until September 1, [~~2019~~] **2021**, when it shall expire and be deemed repealed;

§ 10. Subdivision (aa) of section 427 of chapter 55 of the laws of 1992, amending the tax law and other laws relating to taxes, surcharges, fees and funding, as amended by section 10 of part A of chapter 55 of the laws of 2017, is amended to read as follows:

(aa) the provisions of sections three hundred eighty-two, three hundred eighty-three and three hundred eighty-four of this act shall expire on September 1, [~~2019~~] **2021**;

§ 11. Section 12 of chapter 907 of the laws of 1984, amending the correction law, the New York city criminal court act and the executive law relating to prison and jail housing and alternatives to detention and incarceration programs, as amended by section 11 of part A of chapter 55 of the laws of 2017, is amended to read as follows:

§ 12. This act shall take effect immediately, except that the provisions of sections one through ten of this act shall remain in full force and effect until September 1, [~~2019~~] **2020** on which date those provisions shall be deemed to be repealed.

§ 12. Subdivision (p) of section 406 of chapter 166 of the laws of 1991, amending the tax law and other laws relating to taxes, as amended by section 12 of part A of chapter 55 of the laws of 2017, is amended to read as follows:

(p) The amendments to section 1809 of the vehicle and traffic law made by sections three hundred thirty-seven and three hundred thirty-eight of this act shall not apply to any offense committed prior to such effective date; provided, further, that section three hundred forty-one of this act shall take effect immediately and shall expire November 1, 1993 at which time it shall be deemed repealed; sections three hundred forty-five and three hundred forty-six of this act shall take effect July 1, 1991; sections three hundred fifty-five, three hundred fifty-six, three hundred fifty-seven and three hundred fifty-nine of this act shall take effect immediately and shall expire June 30, 1995 and shall revert to and be read as if this act had not been enacted; section three hundred fifty-eight of this act shall take effect immediately and shall expire June 30, 1998 and shall revert to and be read as if this act had not been enacted; section three hundred sixty-four through three hundred sixty-seven of this act shall apply to claims filed on or after such effective date; sections three hundred sixty-nine, three hundred seventy-two, three hundred seventy-three, three hundred seventy-four, three hundred seventy-five and three hundred seventy-six of this act shall remain in effect until September 1, [~~2019~~] **2021**, at which time they shall be deemed repealed; provided, however, that the mandatory surcharge provided in section three hundred seventy-four of this act shall apply to parking violations occurring on or after said effective date; and provided further that the amendments made to section 235 of the vehicle and traffic law by section three hundred seventy-two of this act, the amendments made to section 1809 of the vehicle and traffic law by sections three hundred thirty-seven and three hundred thirty-eight of

this act and the amendments made to section 215-a of the labor law by section three hundred seventy-five of this act shall expire on September 1, [~~2019~~] 2021 and upon such date the provisions of such subdivisions and sections shall revert to and be read as if the provisions of this act had not been enacted; the amendments to subdivisions 2 and 3 of section 400.05 of the penal law made by sections three hundred seventy-seven and three hundred seventy-eight of this act shall expire on July 1, 1992 and upon such date the provisions of such subdivisions shall revert and shall be read as if the provisions of this act had not been enacted; the state board of law examiners shall take such action as is necessary to assure that all applicants for examination for admission to practice as an attorney and counsellor at law shall pay the increased examination fee provided for by the amendment made to section 465 of the judiciary law by section three hundred eighty of this act for any examination given on or after the effective date of this act notwithstanding that an applicant for such examination may have prepaid a lesser fee for such examination as required by the provisions of such section 465 as of the date prior to the effective date of this act; the provisions of section 306-a of the civil practice law and rules as added by section three hundred eighty-one of this act shall apply to all actions pending on or commenced on or after September 1, 1991, provided, however, that for the purposes of this section service of such summons made prior to such date shall be deemed to have been completed on September 1, 1991; the provisions of section three hundred eighty-three of this act shall apply to all money deposited in connection with a cash bail or a partially secured bail bond on or after such effective date; and the provisions of sections three hundred eighty-four and three hundred eighty-five of this act shall apply only to jury service commenced during a judicial term beginning on or after the effective date of this act; provided, however, that nothing contained herein shall be deemed to affect the application, qualification, expiration or repeal of any provision of law amended by any section of this act and such provisions shall be applied or qualified or shall expire or be deemed repealed in the same manner, to the same extent and on the same date as the case may be as otherwise provided by law;

§ 13. Subdivision 8 of section 1809 of the vehicle and traffic law, as amended by section 13 of part A of chapter 55 of the laws of 2017, is amended to read as follows:

8. The provisions of this section shall only apply to offenses committed on or before September first, two thousand [~~nineteen~~] twenty-one.

§ 14. Section 6 of chapter 713 of the laws of 1988, amending the vehicle and traffic law relating to the ignition interlock device program, as amended by section 14 of part A of chapter 55 of the laws of 2017, is amended to read as follows:

§ 6. This act shall take effect on the first day of April next succeeding the date on which it shall have become a law; provided, however, that effective immediately, the addition, amendment or repeal of any rule or regulation necessary for the implementation of the foregoing sections of this act on their effective date is authorized and directed to be made and completed on or before such effective date and shall remain in full force and effect until the first day of September, [~~2019~~] 2021 when upon such date the provisions of this act shall be deemed repealed.

§ 15. Paragraph a of subdivision 6 of section 76 of chapter 435 of the laws of 1997, amending the military law and other laws relating to vari-

ous provisions, as amended by section 15 of part A of chapter 55 of the laws of 2017, is amended to read as follows:

a. sections forty-three through forty-five of this act shall expire and be deemed repealed on September 1, [~~2019~~] 2021;

§ 16. Section 4 of part D of chapter 412 of the laws of 1999, amending the civil practice law and rules and the court of claims act relating to prisoner litigation reform, as amended by section 16 of part A of chapter 55 of the laws of 2017, is amended to read as follows:

§ 4. This act shall take effect 120 days after it shall have become a law and shall remain in full force and effect until September 1, [~~2019~~] 2021, when upon such date it shall expire.

§ 17. Subdivision 2 of section 59 of chapter 222 of the laws of 1994, constituting the family protection and domestic violence intervention act of 1994, as amended by section 17 of part A of chapter 55 of the laws of 2017, is amended to read as follows:

2. Subdivision 4 of section 140.10 of the criminal procedure law as added by section thirty-two of this act shall take effect January 1, 1996 and shall expire and be deemed repealed on September 1, [~~2019~~] 2021.

§ 18. Section 5 of chapter 505 of the laws of 1985, amending the criminal procedure law relating to the use of closed-circuit television and other protective measures for certain child witnesses, as amended by section 18 of part A of chapter 55 of the laws of 2017, is amended to read as follows:

§ 5. This act shall take effect immediately and shall apply to all criminal actions and proceedings commenced prior to the effective date of this act but still pending on such date as well as all criminal actions and proceedings commenced on or after such effective date and its provisions shall expire on September 1, [~~2019~~] 2021, when upon such date the provisions of this act shall be deemed repealed.

§ 19. 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 A of chapter 55 of the laws of 2017, is amended to read as follows:

d. Sections one-a 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, [~~2019~~] 2021;

§ 20. Section 2 of chapter 689 of the laws of 1993 amending the criminal procedure law relating to electronic court appearance in certain counties, as amended by section 20 of part A of chapter 55 of the laws of 2017, is amended to read as follows:

§ 2. This act shall take effect immediately, except that the provisions of this act shall be deemed to have been in full force and effect since July 1, 1992 and the provisions of this act shall expire September 1, [~~2019~~] 2021 when upon such date the provisions of this act shall be deemed repealed.

§ 21. Section 3 of chapter 688 of the laws of 2003, amending the executive law relating to enacting the interstate compact for adult offender supervision, as amended by section 21 of part A of chapter 55 of the laws of 2017, is amended to read as follows:

§ 3. This act shall take effect immediately, except that section one of this act shall take effect on the first of January next succeeding the date on which it shall have become a law, and shall remain in effect until the first of September, [~~2019~~] 2021, upon which date this act shall be deemed repealed and have no further force and effect; provided that section one of this act shall only take effect with respect to any compacting state which has enacted an interstate compact entitled

"Interstate compact for adult offender supervision" and having an identical effect to that added by section one of this act and provided further that with respect to any such compacting state, upon the effective date of section one of this act, section 259-m of the executive law is hereby deemed REPEALED and section 259-mm of the executive law, as added by section one of this act, shall take effect; and provided further that with respect to any state which has not enacted an interstate compact entitled "Interstate compact for adult offender supervision" and having an identical effect to that added by section one of this act, section 259-m of the executive law shall take effect and the provisions of section one of this act, with respect to any such state, shall have no force or effect until such time as such state shall adopt an interstate compact entitled "Interstate compact for adult offender supervision" and having an identical effect to that added by section one of this act in which case, with respect to such state, effective immediately, section 259-m of the executive law is deemed repealed and section 259-mm of the executive law, as added by section one of this act, shall take effect.

§ 22. Section 8 of part H of chapter 56 of the laws of 2009, amending the correction law relating to limiting the closing of certain correctional facilities, providing for the custody by the department of correctional services of inmates serving definite sentences, providing for custody of federal prisoners and requiring the closing of certain correctional facilities, as amended by section 22 of part A of chapter 55 of the laws of 2017, is amended to read as follows:

§ 8. This act shall take effect immediately; provided, however that sections five and six of this act shall expire and be deemed repealed September 1, [~~2019~~] 2021.

§ 23. Section 3 of part C of chapter 152 of the laws of 2001 amending the military law relating to military funds of the organized militia, as amended by section 3 of part O of chapter 55 of the laws of 2018, is amended to read as follows:

§ 3. This act shall take effect immediately; provided however that the amendments made to subdivision 1 of section 221 of the military law by section two of this act shall expire and be deemed repealed September 1, [~~2019~~] 2021.

§ 24. Section 5 of chapter 554 of the laws of 1986, amending the correction law and the penal law relating to providing for community treatment facilities and establishing the crime of absconding from the community treatment facility, as amended by section 24 of part A of chapter 55 of the laws of 2017, is amended to read as follows:

§ 5. This act shall take effect immediately and shall remain in full force and effect until September 1, [~~2019~~] 2021, and provided further that the commissioner of correctional services shall report each January first and July first during such time as this legislation is in effect, to the chairmen of the senate crime victims, crime and correction committee, the senate codes committee, the assembly correction committee, and the assembly codes committee, the number of individuals who are released to community treatment facilities during the previous six-month period, including the total number for each date at each facility who are not residing within the facility, but who are required to report to the facility on a daily or less frequent basis.

§ 25. Section 2 of part F of chapter 55 of the laws of 2018, amending the criminal procedure law relating to pre-criminal proceeding settlements in the city of New York, is amended to read as follows:

§ 2. This act shall take effect immediately and shall remain in full force and effect until March 31, [~~2019~~] 2021, when it shall expire and be deemed repealed.

§ 26. This act shall take effect immediately, provided however that section twenty-five of this act shall be deemed to have been in full force and effect on and after March 31, 2019.

PART P

Section 1. Paragraph (f) of subdivision 3 of section 30.10 of the criminal procedure law, as separately amended by chapters 3 and 320 of the laws of 2006, is amended to read as follows:

(f) For purposes of a prosecution involving a sexual offense as defined in article one hundred thirty of the penal law, other than a sexual offense delineated in paragraph (a) of subdivision two of this section, committed against a child less than eighteen years of age, incest in the first, second or third degree as defined in sections 255.27, 255.26 and 255.25 of the penal law committed against a child less than eighteen years of age, or use of a child in a sexual performance as defined in section 263.05 of the penal law, the period of limitation shall not begin to run until the child has reached the age of [~~eighteen~~] twenty-three or the offense is reported to a law enforcement agency or statewide central register of child abuse and maltreatment, whichever occurs earlier.

§ 2. The opening paragraph of section 208 of the civil practice law and rules is designated subdivision (a) and a new subdivision (b) is added to read as follows:

(b) Notwithstanding any provision of law which imposes a period of limitation to the contrary, with respect to all civil claims or causes of action brought by any person for physical, psychological or other injury or condition suffered by such person as a result of conduct which would constitute a sexual offense as defined in article one hundred thirty of the penal law committed against such person who was less than eighteen years of age, incest as defined in section 255.27, 255.26 or 255.25 of the penal law committed against such person who was less than eighteen years of age, or the use of such person in a sexual performance as defined in section 263.05 of the penal law, or a predecessor statute that prohibited such conduct at the time of the act, which conduct was committed against such person who was less than eighteen years of age, such action may be commenced, against any party whose intentional or negligent acts or omissions are alleged to have resulted in the commission of said conduct, on or before the plaintiff or infant plaintiff reaches the age of fifty years. In any such claim or action, in addition to any other defense and affirmative defense that may be available in accordance with law, rule or the common law, to the extent that the acts alleged in such action are of the type described in subdivision one of section 130.30 of the penal law or subdivision one of section 130.45 of the penal law, the affirmative defenses set forth, respectively, in the closing paragraph of such section of the penal law shall apply.

§ 3. The civil practice law and rules is amended by adding a new section 214-g to read as follows:

§ 214-g. Certain child sexual abuse cases. Notwithstanding any provision of law which imposes a period of limitation to the contrary, every civil claim or cause of action brought against any party alleging intentional or negligent acts or omissions by a person for physical, psychological, or other injury or condition suffered as a result of

conduct which would constitute a sexual offense as defined in article one hundred thirty of the penal law committed against a child less than eighteen years of age, incest as defined in section 255.27, 255.26 or 255.25 of the penal law committed against a child less than eighteen years of age, or the use of a child in a sexual performance as defined in section 263.05 of the penal law, or a predecessor statute that prohibited such conduct at the time of the act, which conduct was committed against a child less than eighteen years of age, which is barred as of the effective date of this section because the applicable period of limitation has expired is hereby revived, and action thereon may be commenced not earlier than six months after, and not later than one year and six months after the effective date of this section. In any such claim or action, in addition to any other defense and affirmative defense that may be available in accordance with law, rule or the common law, to the extent that the acts alleged in such action are of the type described in subdivision one of section 130.30 of the penal law or subdivision one of section 130.45 of the penal law, the affirmative defenses set forth, respectively, in the closing paragraph of such section of the penal law shall apply.

§ 4. Subdivision (a) of rule 3403 of the civil practice law and rules is amended by adding a new paragraph 7 to read as follows:

7. any action which has been revived pursuant to section two hundred fourteen-g of this chapter.

§ 5. Subdivision 8 of section 50-e of the general municipal law, as amended by chapter 24 of the laws of 1988, is amended to read as follows:

8. Inapplicability of section. (a) This section shall not apply to claims arising under the provisions of the workers' compensation law, the volunteer firefighters' benefit law, or the volunteer ambulance workers' benefit law or to claims against public corporations by their own infant wards.

(b) This section shall not apply to any claim made for physical, psychological, or other injury or condition suffered as a result of conduct which would constitute a sexual offense as defined in article one hundred thirty of the penal law committed against a child less than eighteen years of age, incest as defined in section 255.27, 255.26 or 255.25 of the penal law committed against a child less than eighteen years of age, or the use of a child in a sexual performance as defined in section 263.05 of the penal law committed against a child less than eighteen years of age.

§ 6. Section 50-i of the general municipal law is amended by adding a new subdivision 5 to read as follows:

5. Notwithstanding any provision of law to the contrary, this section shall not apply to any claim made against a city, county, town, village, fire district or school district for physical, psychological, or other injury or condition suffered as a result of conduct which would constitute a sexual offense as defined in article one hundred thirty of the penal law committed against a child less than eighteen years of age, incest as defined in section 255.27, 255.26 or 255.25 of the penal law committed against a child less than eighteen years of age, or the use of a child in a sexual performance as defined in section 263.05 of the penal law committed against a child less than eighteen years of age.

§ 7. Section 10 of the court of claims act is amended by adding a new subdivision 10 to read as follows:

10. Notwithstanding any provision of law to the contrary, this section shall not apply to any claim to recover damages for physical, psycholog-

ical, or other injury or condition suffered as a result of conduct which would constitute a sexual offense as defined in article one hundred thirty of the penal law committed against a child less than eighteen years of age, incest as defined in section 255.27, 255.26 or 255.25 of the penal law committed against a child less than eighteen years of age, or the use of a child in a sexual performance as defined in section 263.05 of the penal law committed against a child less than eighteen years of age.

§ 8. Subdivision 2 of section 3813 of the education law, as amended by chapter 346 of the laws of 1978, is amended to read as follows:

2. Notwithstanding anything to the contrary hereinbefore contained in this section, no action or special proceeding founded upon tort shall be prosecuted or maintained against any of the parties named in this section or against any teacher or member of the supervisory or administrative staff or employee where the alleged tort was committed by such teacher or member or employee acting in the discharge of his duties within the scope of his employment and/or under the direction of the board of education, trustee or trustees, or governing body of the school unless a notice of claim shall have been made and served in compliance with section fifty-e of the general municipal law. Every such action shall be commenced pursuant to the provisions of section fifty-i of the general municipal law; provided, however, that this section shall not apply to any claim to recover damages for physical, psychological, or other injury or condition suffered as a result of conduct which would constitute a sexual offense as defined in article one hundred thirty of the penal law committed against a child less than eighteen years of age, incest as defined in section 255.27, 255.26 or 255.25 of the penal law committed against a child less than eighteen years of age, or the use of a child in a sexual performance as defined in section 263.05 of the penal law committed against a child less than eighteen years of age.

§ 9. Section 219-c of the judiciary law, as added by chapter 506 of the laws of 2011, is amended to read as follows:

§ 219-c. Crimes involving sexual assault and the sexual abuse of minors; judicial training. The office of court administration shall provide training for judges and justices with respect to crimes involving sexual assault, and the sexual abuse of minors.

§ 10. The judiciary law is amended by adding a new section 219-d to read as follows:

§ 219-d. Rules reviving certain actions; sexual offenses against children. The chief administrator of the courts shall promulgate rules for the timely adjudication of revived actions brought pursuant to section two hundred fourteen-g of the civil practice law and rules.

§ 11. The provisions of this act shall be severable, and if any clause, sentence, paragraph, subdivision or 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 or part thereof directly involved in the controversy in which such judgment shall have been rendered.

§ 12. This act shall take effect immediately; except that section nine of this act shall take effect six months after this act shall have become a law; provided, however, that training for cases brought pursuant to section 214-g of the civil practice law and rules, as added by section three of this act, shall commence three months after this act shall have become a law; and section ten of this act shall take effect three months after this act shall have become a law.

PART Q

Section 1. Paragraph (a) of subdivision 1 of section 125.25 of the penal law, as amended by chapter 791 of the laws of 1967, is amended to read as follows:

(a) The defendant acted under the influence of extreme emotional disturbance for which there was a reasonable explanation or excuse, the reasonableness of which is to be determined from the viewpoint of a person in the defendant's situation under the circumstances as the defendant believed them to be. **For purposes of determining whether the defendant acted under the influence of extreme emotional disturbance, the explanation or excuse for such extreme emotional disturbance is not reasonable if it resulted from the discovery of, knowledge about, or potential disclosure of the victim's actual or perceived gender, gender identity, gender expression, or sexual orientation. Nothing in this paragraph shall preclude the jury from considering all relevant facts to determine the defendant's actual belief.** Nothing contained in this paragraph shall constitute a defense to a prosecution for, or preclude a conviction of, manslaughter in the first degree or any other crime; or

§ 2. This act shall take effect immediately.

PART R

Section 1. Section 60.42 of the criminal procedure law, as added by chapter 230 of the laws of 1975 and subdivision 3 as amended by chapter 264 of the laws of 2003, is amended to read as follows:

§ 60.42 Rules of evidence; admissibility of evidence of victim's sexual conduct in sex offense cases.

Evidence of a victim's sexual conduct shall not be admissible in a prosecution for an offense or an attempt to commit an offense defined in article one hundred thirty **or in section 230.34** of the penal law unless such evidence:

1. proves or tends to prove specific instances of the victim's prior sexual conduct with the accused; or

2. [~~proves or tends to prove that the victim has been convicted of an offense under section 230.00 of the penal law within three years prior to the sex offense which is the subject of the prosecution; or~~

~~3.~~] rebuts evidence introduced by the people of the victim's failure to engage in sexual intercourse, oral sexual conduct, anal sexual conduct or sexual contact during a given period of time; or

[~~4.~~] **3.** rebuts evidence introduced by the people which proves or tends to prove that the accused is the cause of pregnancy or disease of the victim, or the source of semen found in the victim; or

[~~5.~~] **4.** is determined by the court after an offer of proof by the accused outside the hearing of the jury, or such hearing as the court may require, and a statement by the court of its findings of fact essential to its determination, to be relevant and admissible in the interests of justice.

§ 2. This act shall take effect immediately.

PART S

Section 1. The penal law is amended by adding a new section 245.15 to read as follows:

§ 245.15 Unlawful dissemination or publication of an intimate image.

1. A person is guilty of unlawful dissemination or publication of an intimate image when:

(a) with intent to cause material harm to the emotional, financial or physical welfare of another person, he or she intentionally disseminates or publishes a still or video image of such other person, who is identifiable from the still or video image itself or from information displayed in connection with the still or video image, without such other person's consent, which depicts:

(i) an unclothed or exposed intimate part of such other person; or

(ii) such other person engaging in sexual conduct as defined in subdivision ten of section 130.00 of this chapter with another person; and

(b) such still or video image was taken under circumstances when the person depicted had a reasonable expectation of privacy and the actor knew or reasonably should have known the person depicted intended for the still or video image to remain private indefinitely, regardless of whether the actor was present when the still or video image was taken.

2. For purposes of this section "intimate part" means the naked genitals, pubic area, anus or female nipple of the person.

2-a. For purposes of this section "disseminate" and "publish" shall have the same meaning as defined in section 250.40 of this title.

3. This section shall not apply to the following:

(a) the reporting of unlawful conduct;

(b) dissemination or publication of an intimate image made during lawful and common practices of law enforcement, legal proceedings or medical treatment;

(c) images involving voluntary exposure in a commercial setting;

(d) dissemination or publication of an intimate image made for a legitimate public purpose;

(e) providers of an interactive computer service for images provided by another person. For purposes of this subdivision, "interactive computer service" shall mean: any information service, system or access software provider that provides or enables computer access by multiple users to a computer server, including specifically a service or system that provides access to the internet and such systems operated or services offered by libraries or educational institutions.

Unlawful dissemination or publication of an intimate image is a class A misdemeanor.

§ 2. The opening paragraph of subdivision 1 of section 530.11 of the criminal procedure law, as amended by section 4 of part NN of chapter 55 of the laws of 2018, is amended to read as follows:

The family court and the criminal courts shall have concurrent jurisdiction over any proceeding concerning acts which would constitute disorderly conduct, unlawful dissemination or publication of an intimate image, harassment in the first degree, harassment in the second degree, aggravated harassment in the second degree, sexual misconduct, forcible touching, sexual abuse in the third degree, sexual abuse in the second degree as set forth in subdivision one of section 130.60 of the penal law, stalking in the first degree, stalking in the second degree, stalking in the third degree, stalking in the fourth degree, criminal mischief, menacing in the second degree, menacing in the third degree, reckless endangerment, strangulation in the first degree, strangulation in the second degree, criminal obstruction of breathing or blood circulation, assault in the second degree, assault in the third degree, an attempted assault, identity theft in the first degree, identity theft in the second degree, identity theft in the third degree, grand larceny in the fourth degree, grand larceny in the third degree, coercion in the

second degree or coercion in the third degree as set forth in subdivisions one, two and three of section 135.60 of the penal law between spouses or former spouses, or between parent and child or between members of the same family or household except that if the respondent would not be criminally responsible by reason of age pursuant to section 30.00 of the penal law, then the family court shall have exclusive jurisdiction over such proceeding. Notwithstanding a complainant's election to proceed in family court, the criminal court shall not be divested of jurisdiction to hear a family offense proceeding pursuant to this section. For purposes of this section, "disorderly conduct" includes disorderly conduct not in a public place. For purposes of this section, "members of the same family or household" with respect to a proceeding in the criminal courts shall mean the following:

§ 3. The opening paragraph of subdivision 1 of section 812 of the family court act, as amended by section 5 of part NN of chapter 55 of the laws of 2018, is amended to read as follows:

The family court and the criminal courts shall have concurrent jurisdiction over any proceeding concerning acts which would constitute disorderly conduct, **unlawful dissemination or publication of an intimate image,** harassment in the first degree, harassment in the second degree, aggravated harassment in the second degree, sexual misconduct, forcible touching, sexual abuse in the third degree, sexual abuse in the second degree as set forth in subdivision one of section 130.60 of the penal law, stalking in the first degree, stalking in the second degree, stalking in the third degree, stalking in the fourth degree, criminal mischief, menacing in the second degree, menacing in the third degree, reckless endangerment, criminal obstruction of breathing or blood circulation, strangulation in the second degree, strangulation in the first degree, assault in the second degree, assault in the third degree, an attempted assault, identity theft in the first degree, identity theft in the second degree, identity theft in the third degree, grand larceny in the fourth degree, grand larceny in the third degree, coercion in the second degree or coercion in the third degree as set forth in subdivisions one, two and three of section 135.60 of the penal law between spouses or former spouses, or between parent and child or between members of the same family or household except that if the respondent would not be criminally responsible by reason of age pursuant to section 30.00 of the penal law, then the family court shall have exclusive jurisdiction over such proceeding. Notwithstanding a complainant's election to proceed in family court, the criminal court shall not be divested of jurisdiction to hear a family offense proceeding pursuant to this section. In any proceeding pursuant to this article, a court shall not deny an order of protection, or dismiss a petition, solely on the basis that the acts or events alleged are not relatively contemporaneous with the date of the petition, the conclusion of the fact-finding or the conclusion of the dispositional hearing. For purposes of this article, "disorderly conduct" includes disorderly conduct not in a public place. For purposes of this article, "members of the same family or household" shall mean the following:

§ 4. The civil rights law is amended by adding a new section 52-b to read as follows:

§ 52-b. Private right of action for unlawful dissemination or publication of an intimate image. 1. a. Any website or internet service provider that hosts or transmits a still or video image, viewable in this state, taken under circumstances where the person depicted had a reasonable expectation of privacy, which depicts:

(i) an unclothed or exposed intimate part, as defined in section 245.15 of the penal law, of a resident of this state; or

(ii) a resident of this state engaging in sexual conduct as defined in subdivision ten of section 130.00 of the penal law with another person; and

b. Such still or video image is hosted or transmitted without the consent of such resident of this state, shall be subject to personal jurisdiction in a civil action in this state to the maximum extent permitted under the United States constitution and federal law.

2. Regardless of whether or not the original still or video image was consensually obtained, a person depicted in a still or video image shall have a cause of action against an individual who, for the purpose of harassing, annoying or alarming such person, disseminated or published, or threatened to disseminate or publish, such still or video image, where such image:

a. was taken when such person had a reasonable expectation of privacy; and

b. depicts (i) an unclothed or exposed intimate part of such person; or (ii) such person engaging in sexual conduct, as defined in subdivision ten of section 130.00 of the penal law, with another person; and

c. was disseminated or published, or threatened to be disseminated or published, without the consent of such person.

3. In any action commenced pursuant to subdivision two of this section, the finder of fact, in its discretion, may award injunctive relief, punitive damages, compensatory damages and reasonable court costs and attorney's fees.

4. This section shall not apply to the following:

a. the reporting of unlawful conduct;

b. dissemination or publication of an intimate still or video image made during lawful and common practices of law enforcement, legal proceedings or medical treatment;

c. images involving voluntary exposure in a commercial setting; or

d. dissemination or publication of an intimate still or video image made for a legitimate public purpose.

5. Any person depicted in a still or video image that depicts an unclothed or exposed intimate part of such person, or such person engaging in sexual conduct as defined in subdivision ten of section 130.00 of the penal law with another person, which is disseminated or published without the consent of such person and where such person had a reasonable expectation of privacy, may maintain an action or special proceeding for a court order to require any website or internet service provider that is subject to personal jurisdiction under subdivision one of this section to permanently remove such still or video image.

6. A cause of action or special proceeding under this section shall be commenced the later of either:

a. three years after the dissemination or publication of an image; or

b. one year from the date a person discovers, or reasonably should have discovered, the dissemination or publication of such image.

7. Nothing herein shall be read to require a prior criminal complaint, prosecution or conviction to establish the elements of the cause of action provided for by this section.

8. The provisions of this section are in addition to, but shall not supersede, any other rights or remedies available in law or equity.

9. If any provision of this section or its application to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this section which can be given effect

without the invalid provision or application, and to this end the provisions of this section are severable.

§ 5. This act shall take effect on the sixtieth day after it shall have become a law.

PART T

Section 1. Paragraph (a) of subdivision 2 of section 30.10 of the criminal procedure law, as amended by chapter 467 of the laws of 2008, is amended to read as follows:

(a) A prosecution for a class A felony, or rape in the first degree as defined in section 130.35 of the penal law, or rape in the second degree as defined in section 130.30 of the penal law, or rape in the third degree as defined in section 130.25 of the penal law, or a crime defined or formerly defined in section 130.50 of the penal law, or aggravated sexual abuse in the first degree as defined in section 130.70 of the penal law, or course of sexual conduct against a child in the first degree as defined in section 130.75 of the penal law may be commenced at any time;

§ 2. This act shall take effect immediately.

PART U

Section 1. Section 60.12 of the penal law, as added by chapter 1 of the laws of 1998, is amended to read as follows:

§ 60.12 Authorized disposition; alternative [~~indeterminate~~] sentence [~~of imprisonment~~]; domestic violence cases.

1. Notwithstanding any other provision of law, where a court is imposing sentence upon a person pursuant to section 70.00, 70.02 [~~upon a conviction for an offense enumerated in subdivision one of such section~~], 70.06 or subdivision two or three of section 70.71 of this title, other than for an offense defined in [~~article one hundred thirty of this chapter~~] section 125.26, 125.27, subdivision five of section 125.25, or article 490 of this chapter, or for an offense which would require such person to register as a sex offender pursuant to article six-C of the correction law, an attempt or conspiracy to commit any such offense, and is authorized or required pursuant to [~~such section~~] sections 70.00, 70.02, 70.06 or subdivision two or three of section 70.71 of this title to impose a [~~determinate~~] sentence of imprisonment [~~for such offense~~], the court, upon a determination following a hearing that (a) at the time of the instant offense, the defendant was [~~the~~] a victim of domestic violence subjected to substantial physical, sexual or psychological abuse [~~by the victim or intended victim of such offense,~~] inflicted by a member of the same family or household as the defendant as such term is defined in subdivision one of section 530.11 of the criminal procedure law; (b) such abuse was a significant contributing factor [~~in causing the defendant to commit such offense and~~] to the defendant's criminal behavior; (c) [~~the victim or intended victim of such offense was a member of the same family or household as the defendant as such term is defined in subdivision one of section 530.11 of the criminal procedure law, may, in lieu of imposing such determinate sentence of imprisonment, impose an indeterminate sentence of imprisonment in accordance with subdivisions two and three of this section.~~] having regard for the nature and circumstances of the crime and the history, character and condition of the defendant, that a sentence of imprisonment pursuant to section 70.00, 70.02 or 70.06 of this title

would be unduly harsh may instead impose a sentence in accordance with this section.

A court may determine that such abuse constitutes a significant contributing factor pursuant to paragraph (b) of this subdivision regardless of whether the defendant raised a defense pursuant to article thirty-five, article forty, or subdivision one of section 125.25 of this chapter.

At the hearing to determine whether the defendant should be sentenced pursuant to this section, the court shall consider oral and written arguments, take testimony from witnesses offered by either party, and consider relevant evidence to assist in making its determination. Reliable hearsay shall be admissible at such hearings.

2. [~~The maximum term of an indeterminate sentence imposed pursuant to subdivision one of this section must be fixed by the court as follows:~~] Where a court would otherwise be required to impose a sentence pursuant to section 70.02 of this title, the court may impose a definite sentence of imprisonment of one year or less, or probation in accordance with the provisions of section 65.00 of this title, or may fix a determinate term of imprisonment as follows:

(a) For a class B felony, the term must be at least [~~six years~~] one year and must not exceed [~~twenty-five~~] five years;

(b) For a class C felony, the term must be at least [~~four and one-half years~~] one year and must not exceed [~~fifteen~~] three and one-half years;

(c) For a class D felony, the term must be at least [~~three years~~] one year and must not exceed [~~seven~~] two years; and

(d) For a class E felony, the term must be [~~at least three years~~] one year and must not exceed [~~four~~] one and one-half years.

3. [~~The minimum period of imprisonment under an indeterminate sentence imposed pursuant to subdivision one of this section must be fixed by the court at one-half of the maximum term imposed and must be specified in the sentence~~] Where a court would otherwise be required to impose a sentence for a class A felony offense pursuant to section 70.00 of this title, the court may fix a determinate term of imprisonment of at least five years and not to exceed fifteen years.

4. Where a court would otherwise be required to impose a sentence for a class A felony offense pursuant to subparagraph (i) of paragraph (b) of subdivision two of section 70.71 of this title, the court may fix a determinate term of imprisonment of at least five years and not to exceed eight years.

5. Where a court would otherwise be required to impose a sentence for a class A felony offense pursuant to subparagraph (i) of paragraph (b) of subdivision three of section 70.71 of this title, the court may fix a determinate term of imprisonment of at least five years and not to exceed twelve years.

6. Where a court would otherwise be required to impose a sentence for a class A felony offense pursuant to subparagraph (ii) of paragraph (b) of subdivision two of section 70.71 of this title, the court may fix a determinate term of imprisonment of at least one year and not to exceed three years.

7. Where a court would otherwise be required to impose a sentence for a class A felony offense pursuant to subparagraph (ii) of paragraph (b) of subdivision three of section 70.71 of this title, the court may fix a determinate term of imprisonment of at least three years and not to exceed six years.

8. Where a court would otherwise be required to impose a sentence pursuant to subdivision six of section 70.06 of this title, the court may fix a term of imprisonment as follows:

(a) For a class B felony, the term must be at least three years and must not exceed eight years;

(b) For a class C felony, the term must be at least two and one-half years and must not exceed five years;

(c) For a class D felony, the term must be at least two years and must not exceed three years;

(d) For a class E felony, the term must be at least one and one-half years and must not exceed two years.

9. Where a court would otherwise be required to impose a sentence for a class B, C, D or E felony offense pursuant to section 70.00 of this title, the court may impose a sentence in accordance with the provisions of subdivision two of section 70.70 of this title.

10. Except as provided in subdivision seven of this section, where a court would otherwise be required to impose a sentence pursuant to subdivision three of section 70.06 of this title, the court may impose a sentence in accordance with the provisions of subdivision three of section 70.70 of this title.

11. Where a court would otherwise be required to impose a sentence pursuant to subdivision three of section 70.06 of this title, where the prior felony conviction was for a felony offense defined in section 70.02 of this title, the court may impose a sentence in accordance with the provisions of subdivision four of section 70.70 of this title.

§ 2. Paragraphs (a), (b), (c), (d), (e) and (f) of subdivision 2 of section 70.45 of the penal law, as amended by chapter 7 of the laws of 2007, are amended to read as follows:

(a) such period shall be one year whenever a determinate sentence of imprisonment is imposed pursuant to subdivision two of section 70.70 of this article or subdivision nine of section 60.12 of this title upon a conviction of a class D or class E felony offense;

(b) such period shall be not less than one year nor more than two years whenever a determinate sentence of imprisonment is imposed pursuant to subdivision two of section 70.70 of this article or subdivision nine of section 60.12 of this title upon a conviction of a class B or class C felony offense;

(c) such period shall be not less than one year nor more than two years whenever a determinate sentence of imprisonment is imposed pursuant to subdivision three or four of section 70.70 of this article upon conviction of a class D or class E felony offense or subdivision ten of section 60.12 of this title;

(d) such period shall be not less than one and one-half years nor more than three years whenever a determinate sentence of imprisonment is imposed pursuant to subdivision three or four of section 70.70 of this article upon conviction of a class B felony or class C felony offense[~~.~~] or subdivision eleven of section 60.12 of this title;

(e) such period shall be not less than one and one-half years nor more than three years whenever a determinate sentence of imprisonment is imposed pursuant to subdivision three of section 70.02 of this article or subdivision two or eight of section 60.12 of this title upon a conviction of a class D or class E violent felony offense or subdivision four, five, six, or seven of section 60.12 of this title;

(f) such period shall be not less than two and one-half years nor more than five years whenever a determinate sentence of imprisonment is imposed pursuant to subdivision three of section 70.02 of this article

or subdivision two or eight of section 60.12 of this title upon a conviction of a class B or class C violent felony offense.

§ 3. The criminal procedure law is amended by adding a new section 440.47 to read as follows:

§ 440.47 Motion for resentence; domestic violence cases.

1. (a) Notwithstanding any contrary provision of law, any person confined in an institution operated by the department of correction and community supervision serving a sentence with a minimum or determinate term of eight years or more for an offense committed prior to the effective date of this section and eligible for an alternative sentence pursuant to section 60.12 of the penal law may, on or after such effective date, submit to the judge or justice who imposed the original sentence upon such person a request to apply for resentencing in accordance with section 60.12 of the penal law. Such person must include in his or her request documentation proving that she or he is confined in an institution operated by the department of corrections and community supervision serving a sentence with a minimum or determinate term of eight years or more for an offense committed prior to the effective date of this section and that she or he is serving such sentence for any offense eligible for an alternative sentence under section 60.12 of the penal law.

(b) If, at the time of such person's request to apply for resentencing pursuant to this section, the original sentencing judge or justice is a judge or justice of a court of competent jurisdiction, but such court is not the court in which the original sentence was imposed, then the request shall be randomly assigned to another judge or justice of the court in which the original sentence was imposed. If the original sentencing judge is no longer a judge or justice of a court of competent jurisdiction, then the request shall be randomly assigned to another judge or justice of the court.

(c) If the court finds that such person has met the requirements to apply for resentencing in paragraph (a) of this subdivision, the court shall notify such person that he or she may submit an application for resentencing. Upon such notification, the person may request that the court assign him or her an attorney for the preparation of and proceedings on the application for resentencing pursuant to this section. The attorney shall be assigned in accordance with the provisions of subdivision one of section seven hundred seventeen and subdivision four of section seven hundred twenty-two of the county law and the related provisions of article eighteen-A of such law.

(d) If the court finds that such person has not met the requirements to apply for resentencing in paragraph (a) of subdivision one of this section, the court shall notify such person and dismiss his or her request without prejudice.

2. (a) Upon the court's receipt of an application for resentencing, the court shall promptly notify the appropriate district attorney and provide such district attorney with a copy of the application.

(b) If the judge or justice that received the application is not the original sentencing judge or justice, the application may be referred to the original sentencing judge or justice provided that he or she is a judge or justice of a court of competent jurisdiction and that the applicant and the district attorney agree that the application should be referred.

(c) An application for resentencing pursuant to this section must include at least two pieces of evidence corroborating the applicant's claim that he or she was, at the time of the offense, a victim of domes-

tic violence subjected to substantial physical, sexual or psychological abuse inflicted by a member of the same family or household as the applicant as such term is defined in subdivision one of section 530.11 of this chapter.

At least one piece of evidence must be either a court record, pre-sentence report, social services record, hospital record, sworn statement from a witness to the domestic violence, law enforcement record, domestic incident report, or order of protection. Other evidence may include, but shall not be limited to, local and state department of corrections records, a showing based in part on documentation prepared at or near the time of the commission of the offense or the prosecution thereof tending to support the person's claim, or when there is verification of consultation with a licensed medical or mental health care provider, employee of a court acting within the scope of his or her employment, member of the clergy, attorney, social worker, or rape crisis counselor as defined in section forty-five hundred ten of the civil practice law and rules, or other advocate acting on behalf of an agency that assists victims of domestic violence for the purpose of assisting such person with domestic violence victim counseling or support.

(d) If the court finds that the applicant has not complied with the provisions of paragraph (c) of this subdivision, the court shall dismiss the application without prejudice.

(e) If the court finds that the applicant has complied with the provisions of paragraph (c) of this subdivision, the court shall conduct a hearing to aid in making its determination of whether the applicant should be resentenced in accordance with section 60.12 of the penal law. At such hearing the court shall determine any controverted issue of fact relevant to the issue of sentencing. Reliable hearsay shall be admissible at such hearings.

The court may consider any fact or circumstances relevant to the imposition of a new sentence which are submitted by the applicant or the district attorney and may, in addition, consider the institutional record of confinement of such person, but shall not order a new pre-sentence investigation and report or entertain any matter challenging the underlying basis of the subject conviction. The court's consideration of the institutional record of confinement of such applicant shall include, but not be limited to, such applicant's participation in or willingness to participate in programming such as domestic violence, parenting and substance abuse treatment while incarcerated and such applicant's disciplinary history. The fact that the applicant may have been unable to participate in treatment or other programming while incarcerated despite such applicant's willingness to do so shall not be considered a negative factor in determining a motion pursuant to this section.

(f) If the court determines that the applicant should not be resentenced in accordance with section 60.12 of the penal law, the court shall inform such applicant of its decision and shall enter an order to that effect. Any order issued by a court pursuant to this section must include written findings of fact and the reasons for such order.

(g) If the court determines that the applicant should be resentenced in accordance with section 60.12 of the penal law, the court shall notify the applicant that, unless he or she withdraws the application or appeals from such order, the court will enter an order vacating the sentence originally imposed and imposing the new sentence to be imposed as authorized by section 60.12 of the penal law. Any order issued by a

court pursuant to this section must include written findings of fact and the reasons for such order.

3. An appeal may be taken as of right in accordance with applicable provisions of this chapter: (a) from an order denying resentencing; or (b) from a new sentence imposed under this provision and may be based on the grounds that (i) the term of the new sentence is harsh or excessive; or (ii) that the term of the new sentence is unauthorized as a matter of law. An appeal in accordance with the applicable provisions of this chapter may also be taken as of right by the applicant from an order specifying and informing such applicant of the term of the determinate sentence the court would impose upon resentencing on the ground that the term of the proposed sentence is harsh or excessive; upon remand to the sentencing court following such appeal the applicant shall be given an opportunity to withdraw an application for resentencing before any resentence is imposed. The applicant may request that the court assign him or her an attorney for the preparation of and proceedings on any appeals regarding his or her application for resentencing pursuant to this section. The attorney shall be assigned in accordance with the provisions of subdivision one of section seven hundred seventeen and subdivision four of section seven hundred twenty-two of the county law and the related provisions of article eighteen-A of such law.

4. In calculating the new term to be served by the applicant pursuant to section 60.12 of the penal law, such applicant shall be credited for any jail time credited towards the subject conviction as well as any period of incarceration credited toward the sentence originally imposed.

§ 4. Subdivision 1 of section 450.90 of the criminal procedure law, as amended by section 10 of part AAA of chapter 56 of the laws of 2009, is amended to read as follows:

1. Provided that a certificate granting leave to appeal is issued pursuant to section 460.20, an appeal may, except as provided in subdivision two, be taken to the court of appeals by either the defendant or the people from any adverse or partially adverse order of an intermediate appellate court entered upon an appeal taken to such intermediate appellate court pursuant to section 450.10, 450.15, or 450.20, or from an order granting or denying a motion to set aside an order of an intermediate appellate court on the ground of ineffective assistance or wrongful deprivation of appellate counsel, or by either the defendant or the people from any adverse or partially adverse order of an intermediate appellate court entered upon an appeal taken to such intermediate appellate court from an order entered pursuant to section 440.46 or section 440.47 of this chapter. An order of an intermediate appellate court is adverse to the party who was the appellant in such court when it affirms the judgment, sentence or order appealed from, and is adverse to the party who was the respondent in such court when it reverses the judgment, sentence or order appealed from. An appellate court order which modifies a judgment or order appealed from is partially adverse to each party.

§ 5. Paragraph (a) of subdivision 2 of section 390.50 of the criminal procedure law, as amended by section 5 of part OO of chapter 56 of the laws of 2010, is amended to read as follows:

(a) Not less than one court day prior to sentencing, unless such time requirement is waived by the parties, the pre-sentence report or memorandum shall be made available by the court for examination and for copying by the defendant's attorney, the defendant himself, if he has no attorney, and the prosecutor. In its discretion, the court may except from disclosure a part or parts of the report or memoranda which are not

relevant to a proper sentence, or a diagnostic opinion which might seriously disrupt a program of rehabilitation, or sources of information which have been obtained on a promise of confidentiality, or any other portion thereof, disclosure of which would not be in the interest of justice. In all cases where a part or parts of the report or memoranda are not disclosed, the court shall state for the record that a part or parts of the report or memoranda have been excepted and the reasons for its action. The action of the court excepting information from disclosure shall be subject to appellate review. The pre-sentence report shall be made available by the court for examination and copying in connection with any appeal in the case, including an appeal under this subdivision. Upon written request, the court shall make a copy of the presentence report, other than a part or parts of the report redacted by the court pursuant to this paragraph, available to the defendant for use before the parole board for release consideration or an appeal of a parole board determination **or an application for resentencing pursuant to section 440.46 or 440.47 of this chapter**. In his or her written request to the court the defendant shall affirm that he or she anticipates an appearance before the parole board or intends to file an administrative appeal of a parole board determination **or meets the eligibility criteria for and intends to file a motion for resentencing pursuant to 440.46 of this chapter or has received notification from the court which received his or her request to apply for resentencing pursuant to section 440.47 of this chapter confirming that he or she is eligible to submit an application for resentencing pursuant to section 440.47 of this chapter**. The court shall respond to the defendant's written request within twenty days from receipt of the defendant's written request.

§ 6. This act shall take effect immediately; provided, however, that sections one and two of this act shall apply to offenses committed on, after and prior to such effective date where the sentence for such offense has not yet been imposed; provided, further that sections three, four and five of this act shall take effect on the ninetieth day after it shall have become a law.

PART V

Section 1. Subdivision 11 of section 120.05 of the penal law, as separately amended by chapters 268 and 281 of the laws of 2016, is amended to read as follows:

11. With intent to cause physical injury to a train operator, ticket inspector, conductor, signalperson, bus operator, station agent, station cleaner or terminal cleaner employed by any transit agency, authority or company, public or private, whose operation is authorized by New York state or any of its political subdivisions, a city marshal, a school crossing guard appointed pursuant to section two hundred eight-a of the general municipal law, a traffic enforcement officer, traffic enforcement agent, prosecutor as defined in subdivision thirty-one of section 1.20 of the criminal procedure law, sanitation enforcement agent, New York city sanitation worker, public health sanitarian, New York city public health sanitarian, registered nurse, licensed practical nurse, emergency medical service paramedic, [~~or~~] emergency medical service technician**, or journalist**, he or she causes physical injury to such train operator, ticket inspector, conductor, signalperson, bus operator, station agent, station cleaner or terminal cleaner, city marshal, school crossing guard appointed pursuant to section two hundred eight-a of the general municipal law, traffic enforcement officer, traffic enforcement

agent, prosecutor as defined in subdivision thirty-one of section 1.20 of the criminal procedure law, registered nurse, licensed practical nurse, public health sanitarian, New York city public health sanitarian, sanitation enforcement agent, New York city sanitation worker, emergency medical service paramedic, [~~or~~] emergency medical service technician**, or journalist**, while such employee is performing an assigned duty on, or directly related to, the operation of a train or bus, including the cleaning of a train or bus station or terminal, or such city marshal, school crossing guard, traffic enforcement officer, traffic enforcement agent, prosecutor as defined in subdivision thirty-one of section 1.20 of the criminal procedure law, registered nurse, licensed practical nurse, public health sanitarian, New York city public health sanitarian, sanitation enforcement agent, New York city sanitation worker, emergency medical service paramedic, [~~or~~] emergency medical service technician**, or journalist** is performing an assigned duty; or

§ 2. This act shall take effect on the first of November next succeeding the date on which it shall have become a law.

PART W

Section 1. Section 60.06 of the penal law, as amended by chapter 482 of the laws of 2009, is amended to read as follows:

§ 60.06 Authorized disposition; murder in the first degree offenders; aggravated murder offenders; certain murder in the second degree offenders; certain terrorism offenders; criminal possession of a chemical weapon or biological weapon offenders; criminal use of a chemical weapon or biological weapon offenders.

When a defendant is convicted of murder in the first degree as defined in section 125.27 of this chapter, the court shall[~~, in accordance with the provisions of section 400.27 of the criminal procedure law,~~] sentence the defendant [~~to death,~~] to life imprisonment without parole in accordance with subdivision five of section 70.00 of this title, or to a term of imprisonment for a class A-I felony other than a sentence of life imprisonment without parole, in accordance with subdivisions one through three of section 70.00 of this title. When a person is convicted of murder in the second degree as defined in subdivision five of section 125.25 of this chapter or of the crime of aggravated murder as defined in subdivision one of section 125.26 of this chapter, the court shall sentence the defendant to life imprisonment without parole in accordance with subdivision five of section 70.00 of this title. When a defendant is convicted of the crime of terrorism as defined in section 490.25 of this chapter, and the specified offense the defendant committed is a class A-I felony offense, or when a defendant is convicted of the crime of criminal possession of a chemical weapon or biological weapon in the first degree as defined in section 490.45 of this chapter, or when a defendant is convicted of the crime of criminal use of a chemical weapon or biological weapon in the first degree as defined in section 490.55 of this chapter, the court shall sentence the defendant to life imprisonment without parole in accordance with subdivision five of section 70.00 of this title; provided, however, that nothing in this section shall preclude or prevent a sentence of death when the defendant is also convicted of murder in the first degree as defined in section 125.27 of this chapter. When a defendant is convicted of aggravated murder as defined in subdivision two of section 125.26 of this chapter, the court shall sentence the defendant to life imprisonment without parole or to a

term of imprisonment for a class A-I felony other than a sentence of life imprisonment without parole, in accordance with subdivisions one through three of section 70.00 of this title.

§ 2. Subparagraph (i) of paragraph (a) of subdivision 3 of section 70.00 of the penal law, as amended by chapter 107 of the laws of 2006, is amended to read as follows:

(i) For a class A-I felony, such minimum period shall not be less than fifteen years nor more than twenty-five years; provided, however, that (A) where a sentence, other than a sentence of [~~death or~~] life imprisonment without parole, is imposed upon a defendant convicted of murder in the first degree as defined in section 125.27 of this chapter such minimum period shall be not less than twenty years nor more than twenty-five years, and, (B) where a sentence is imposed upon a defendant convicted of murder in the second degree as defined in subdivision five of section 125.25 of this chapter or convicted of aggravated murder as defined in section 125.26 of this chapter, the sentence shall be life imprisonment without parole, and, (C) where a sentence is imposed upon a defendant convicted of attempted murder in the first degree as defined in article one hundred ten of this chapter and subparagraph (i), (ii) or (iii) of paragraph (a) of subdivision one and paragraph (b) of subdivision one of section 125.27 of this chapter or attempted aggravated murder as defined in article one hundred ten of this chapter and section 125.26 of this chapter such minimum period shall be not less than twenty years nor more than forty years.

§ 3. Paragraph (e) of subdivision 5 of section 220.10 of the criminal procedure law is REPEALED.

§ 4. Subparagraph (vii) of paragraph (b) of subdivision 3 of section 220.30 of the criminal procedure law is REPEALED.

§ 5. Sections 250.40, 270.16, 270.55, 400.27, 450.70 and 450.80 of the criminal procedure law are REPEALED.

§ 6. Paragraph (f) of subdivision 1 of section 270.20 of the criminal procedure law is REPEALED.

§ 7. Section 270.30 of the criminal procedure law, as amended by chapter 1 of the laws of 1995, is amended to read as follows:

§ 270.30 Trial jury; alternate jurors.

[~~1.~~] Immediately after the last trial juror is sworn, the court may in its discretion direct the selection of one or more, but not more than six additional jurors to be known as "alternate jurors"[~~, except that, in a prosecution under section 125.27 of the penal law, the court may, in its discretion, direct the selection of as many alternate jurors as the court determines to be appropriate~~]. Alternate jurors must be drawn in the same manner, must have the same qualifications, must be subject to the same examination and challenges for cause and must take the same oath as the regular jurors. After the jury has retired to deliberate, the court must either (1) with the consent of the defendant and the people, discharge the alternate jurors or (2) direct the alternate jurors not to discuss the case and must further direct that they be kept separate and apart from the regular jurors.

[~~2. In any prosecution in which the people seek a sentence of death, the court shall not discharge the alternate jurors when the jury retires to deliberate upon its verdict and the alternate jurors, in the discretion of the court, may be continuously kept together under the supervision of an appropriate public servant or servants until such time as the jury returns its verdict. If the jury returns a verdict of guilty to a charge for which the death penalty may be imposed, the alternate jurors shall not be discharged and shall remain available for service~~

~~during any separate sentencing proceeding which may be conducted pursuant to section 400.27.~~]

§ 8. Section 310.80 of the criminal procedure law, as amended by chapter 1 of the laws of 1995, is amended to read as follows:

§ 310.80 Recording and checking of verdict and polling of jury.

After a verdict has been rendered, it must be recorded on the minutes and read to the jury, and the jurors must be collectively asked whether such is their verdict. Even though no juror makes any declaration in the negative, the jury must, if either party makes such an application, be polled and each juror separately asked whether the verdict announced by the foreman is in all respects his verdict. If upon either the collective or the separate inquiry any juror answers in the negative, the court must refuse to accept the verdict and must direct the jury to resume its deliberation. If no disagreement is expressed, the jury must be discharged from the case[~~, except as otherwise provided in section 400.27~~].

§ 9. Subdivision 1 of section 440.20 of the criminal procedure law, as amended by chapter 1 of the laws of 1995, is amended to read as follows:

1. At any time after the entry of a judgment, the court in which the judgment was entered may, upon motion of the defendant, set aside the sentence upon the ground that it was unauthorized, illegally imposed or otherwise invalid as a matter of law. [~~Where the judgment includes a sentence of death, the court may also set aside the sentence upon any of the grounds set forth in paragraph (b), (c), (f), (g) or (h) of subdivision one of section 440.10 as applied to a separate sentencing proceeding under section 400.27, provided, however, that to the extent the ground or grounds asserted include one or more of the aforesaid paragraphs of subdivision one of section 440.10, the court must also apply subdivisions two and three of section 440.10, other than paragraph (d) of subdivision two of such section, in determining the motion. In the event the court enters an order granting a motion to set aside a sentence of death under this section, the court must either direct a new sentencing proceeding in accordance with section 400.27 or, to the extent that the defendant cannot be resentenced to death consistent with the laws of this state or the constitution of this state or of the United States, resentence the defendant to life imprisonment without parole or to a sentence of imprisonment for the class A-I felony of murder in the first degree other than a sentence of life imprisonment without parole. Upon granting the motion upon any of the grounds set forth in the aforesaid paragraphs of subdivision one of section 440.10 and setting aside the sentence, the court must afford the people a reasonable period of time, which shall not be less than ten days, to determine whether to take an appeal from the order setting aside the sentence of death. The taking of an appeal by the people stays the effectiveness of that portion of the court's order that directs a new sentencing proceeding.~~]

§ 10. Subdivision 10 of section 450.20 of the criminal procedure law is REPEALED.

§ 11. Subdivision 3 of section 460.40 of the criminal procedure law is REPEALED.

§ 12. Section 470.30 of the criminal procedure law, as amended by chapter 1 of the laws of 1995, is amended to read as follows:

§ 470.30 Determination by court of appeals of appeals taken directly thereto from judgments and orders of criminal courts.

[~~1.~~] Wherever appropriate, the rules set forth in sections 470.15 and 470.20, governing the consideration and determination by intermediate

appellate courts of appeals thereto from judgments and orders of criminal courts, and prescribing their scope of review and the corrective action to be taken by them upon reversal or modification, apply equally to the consideration and determination by the court of appeals of appeals taken directly thereto, [~~pursuant to sections 450.70 and 450.80,~~] from judgments and orders of superior criminal courts.

[~~2. Whenever a sentence of death is imposed, the judgment and sentence shall be reviewed on the record by the court of appeals. Review by the court of appeals pursuant to subdivision one of section 450.70 may not be waived.~~

~~3. With regard to the sentence, the court shall, in addition to exercising the powers and scope of review granted under subdivision one of this section, determine:~~

~~(a) whether the sentence of death was imposed under the influence of passion, prejudice, or any other arbitrary or legally impermissible factor including whether the imposition of the verdict or sentence was based upon the race of the defendant or a victim of the crime for which the defendant was convicted;~~

~~(b) whether the sentence of death is excessive or disproportionate to the penalty imposed in similar cases considering both the crime and the defendant. In conducting such review the court, upon request of the defendant, in addition to any other determination, shall review whether the sentence of death is excessive or disproportionate to the penalty imposed in similar cases by virtue of the race of the defendant or a victim of the crime for which the defendant was convicted; and~~

~~(c) whether the decision to impose the sentence of death was against the weight of the evidence.~~

~~4. The court shall include in its decision: (a) the aggravating and mitigating factors established in the record on appeal; and~~

~~(b) those similar cases it took into consideration.~~

~~5. In addition to exercising any other corrective action pursuant to subdivision one of this section, the court, with regard to review of a sentence of death, shall be authorized to:~~

~~(a) affirm the sentence of death; or~~

~~(b) set the sentence aside and remand the case for resentencing pursuant to the procedures set forth in section 400.27 for a determination as to whether the defendant shall be sentenced to death, life imprisonment without parole or to a term of imprisonment for the class A-I felony of murder in the first degree other than a sentence of life imprisonment without parole; or~~

~~(c) set the sentence aside and remand the case for resentencing by the court for a determination as to whether the defendant shall be sentenced to life imprisonment without parole or to a term of imprisonment for the class A-I felony of murder in the first degree other than a sentence of life imprisonment without parole.~~]

§ 13. Sections 35-b and 211-a of the judiciary law are REPEALED.

§ 14. Section 707 of the county law is REPEALED.

§ 15. Article 22-A of the correction law is REPEALED.

§ 16. Section 63-d of the executive law is REPEALED.

§ 17. Subdivision 7 of section 837-a of the executive law is REPEALED.

§ 18. Section 837-l of the executive law is REPEALED.

§ 19. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after September 1, 1995.

PART X

Section 1. Section 265.00 of the penal law is amended by adding five new subdivisions 26, 27, 28, 29, and 30 to read as follows:

26. "Rapid-fire modification device" means any bump stock, trigger crank, binary trigger system, burst trigger system, or any other device that is designed to accelerate substantially the rate of fire of a semi-automatic firearm, rifle or shotgun.

27. "Bump stock" means any device or instrument that increases the rate of fire achievable with a semi-automatic firearm, rifle or shotgun by using energy from the recoil of the weapon to generate a reciprocating action that facilitates repeated activation of the trigger.

28. "Trigger crank" means any device or instrument that repeatedly activates the trigger of a semi-automatic firearm, rifle or shotgun through the use of a lever or other part that is turned in a circular motion, provided, however, that "trigger crank" shall not include any weapon initially designed and manufactured to fire through the use of a crank or lever.

29. "Binary trigger system" means any device that, when installed in or attached to a semi-automatic firearm rifle, or shotgun causes that weapon to fire once when the trigger is pulled and again when the trigger is released.

30. "Burst trigger system" means any device that, when installed in or attached to a semi-automatic firearm, rifle, or shot gun, allows that weapon to discharge two or more shots with a single pull or the trigger by altering the trigger reset.

§ 2. The penal law is amended by adding a new section 265.01-c to read as follows:

§ 265.01-c Criminal possession of a rapid-fire modification device.

A person is guilty of criminal possession of a rapid-fire modification device when he or she knowingly possesses any rapid-fire modification device.

Criminal possession of a trigger modification device is a class A misdemeanor.

§ 3. Subdivisions 1, 2 and 3 of section 265.10 of the penal law, subdivisions 1 and 2 as amended by chapter 257 of the laws of 2008, and subdivision 3 as amended by chapter 189 of the laws of 2000, are amended to read as follows:

1. Any person who manufactures or causes to be manufactured any machine-gun, assault weapon, large capacity ammunition feeding device or disguised gun is guilty of a class D felony. **Any person who manufactures or causes to be manufactured any rapid-fire modification device is guilty of a class E felony.** Any person who manufactures or causes to be manufactured any switchblade knife, gravity knife, pilum ballistic knife, metal knuckle knife, billy, blackjack, bludgeon, plastic knuckles, metal knuckles, Kung Fu star, chuka stick, sandbag, sandclub or slungshot is guilty of a class A misdemeanor.

2. Any person who transports or ships any machine-gun, firearm silencer, assault weapon or large capacity ammunition feeding device or disguised gun, or who transports or ships as merchandise five or more firearms, is guilty of a class D felony. **Any person who transports or ships any rapid-fire modification device is guilty of a class E felony.** Any person who transports or ships as merchandise any firearm, other than an assault weapon, switchblade knife, gravity knife, pilum ballistic knife, billy, blackjack, bludgeon, plastic knuckles, metal knuckles, Kung Fu star, chuka stick, sandbag or slungshot is guilty of a class A misdemeanor.

3. Any person who disposes of any machine-gun, assault weapon, large capacity ammunition feeding device or firearm silencer is guilty of a class D felony. **Any person who disposes of any rapid-fire modification device is guilty of a class E felony.** Any person who knowingly buys, receives, disposes of, or conceals a machine-gun, firearm, large capacity ammunition feeding device, rifle or shotgun which has been defaced for the purpose of concealment or prevention of the detection of a crime or misrepresenting the identity of such machine-gun, firearm, large capacity ammunition feeding device, rifle or shotgun is guilty of a class D felony.

§ 4. The opening paragraph of subdivision a of section 265.20 of the penal law, as amended by section 1 of part FF of chapter 57 of the laws of 2013, is amended to read as follows:

Paragraph (h) of subdivision twenty-two of section 265.00 and sections 265.01, 265.01-a, subdivision one of section 265.01-b, **265.01-c,** 265.02, 265.03, 265.04, 265.05, 265.10, 265.11, 265.12, 265.13, 265.15, 265.36, 265.37 and 270.05 shall not apply to:

§ 5. The opening paragraph of paragraph 1 of subdivision a of section 265.20 of the penal law, as amended by chapter 1041 of the laws of 1974, is amended to read as follows:

Possession of any of the weapons, instruments, appliances or substances specified in sections 265.01, **265.01-c,** 265.02, 265.03, 265.04, 265.05 and 270.05 by the following:

§ 6. Paragraphs 2 and 8 of subdivision a of section 265.20 of the penal law, paragraph 2 as amended by chapter 189 of the laws of 2000 and paragraph 8 as amended by chapter 476 of the laws of 2018, are amended to read as follows:

2. Possession of a machine-gun, large capacity ammunition feeding device, **rapid-fire modification device,** firearm, switchblade knife, gravity knife, pilum ballistic knife, billy or blackjack by a warden, superintendent, headkeeper or deputy of a state prison, penitentiary, workhouse, county jail or other institution for the detention of persons convicted or accused of crime or detained as witnesses in criminal cases, in pursuit of official duty or when duly authorized by regulation or order to possess the same.

8. The manufacturer of machine-guns, firearm silencers, assault weapons, large capacity ammunition feeding devices, **rapid-fire modification devices,** disguised guns, pilum ballistic knives, switchblade or gravity knives, billies or blackjacks as merchandise, or as a transferee recipient of the same for repair, lawful distribution or research and development, and the disposal and shipment thereof direct to a regularly constituted or appointed state or municipal police department, sheriff, [~~policeman~~] police officer or other peace officer, or to a state prison, penitentiary, workhouse, county jail or other institution for the detention of persons convicted or accused of crime or held as witnesses in criminal cases, or to the military service of this state or of the United States; or for the repair and return of the same to the lawful possessor or for research and development.

§ 7. This act shall take effect immediately; provided, however, that section two of this act shall take effect on the one hundred twentieth day after it shall have become a law.

PART Y

Section 1. Subdivision 12 of section 400.00 of the penal law, as amended by chapter 1 of the laws of 2013, is amended to read as follows:

12. Records required of gunsmiths and dealers in firearms. Any person licensed as gunsmith or dealer in firearms shall keep a record book approved as to form, except in the city of New York, by the superintendent of state police. In the record book shall be entered at the time of every transaction involving a firearm the date, name, age, occupation and residence of any person from whom a firearm is received or to whom a firearm is delivered, and the calibre, make, model, manufacturer's name and serial number, or if none, any other distinguishing number or identification mark on such firearm. Before delivering a firearm to any person, the licensee shall require him to produce either a license valid under this section to carry or possess the same, or proof of lawful authority as an exempt person pursuant to section 265.20 **of this chapter and either (a) the National Instant Criminal Background Check System (NICS) or its successor has issued a "proceed" response to the licensee, or (b) ten business days have elapsed since the date the licensee contacted NICS to initiate a national instate criminal background check and NICS has not notified the licensee that the transfer of the firearm to such person should be denied**. In addition, before delivering a firearm to a peace officer, the licensee shall verify that person's status as a peace officer with the division of state police. After completing the foregoing, the licensee shall remove and retain the attached coupon and enter in the record book the date of such license, number, if any, and name of the licensing officer, in the case of the holder of a license to carry or possess, or the shield or other number, if any, assignment and department, unit or agency, in the case of an exempt person. The original transaction report shall be forwarded to the division of state police within ten days of delivering a firearm to any person, and a duplicate copy shall be kept by the licensee. The superintendent of state police may designate that such record shall be completed and transmitted in electronic form. A dealer may be granted a waiver from transmitting such records in electronic form if the superintendent determines that such dealer is incapable of such transmission due to technological limitations that are not reasonably within the control of the dealer, or other exceptional circumstances demonstrated by the dealer, pursuant to a process established in regulation, and at the discretion of the superintendent. Records assembled or collected for purposes of inclusion in the database created pursuant to section 400.02 of this article shall not be subject to disclosure pursuant to article six of the public officers law. The record book shall be maintained on the premises mentioned and described in the license and shall be open at all reasonable hours for inspection by any peace officer, acting pursuant to his special duties, or police officer. In the event of cancellation or revocation of the license for gunsmith or dealer in firearms, or discontinuance of business by a licensee, such record book shall be immediately surrendered to the licensing officer in the city of New York, and in the counties of Nassau and Suffolk, and elsewhere in the state to the executive department, division of state police.

§ 2. The penal law is amended by adding a new section 400.20 to read as follows:

§ 400.20 Waiting period in connection with the sale or transfer of a rifle or shotgun.

When a national instant criminal background check is required pursuant to state or federal law to be conducted through the National Instant Criminal Background Check System (NICS) or its successor in connection with the sale or transfer of a rifle or shotgun to any person, before delivering a rifle or shotgun to such person, either (a) NICS has issued

a "proceed" response to the seller or transferor, or (b) ten business days shall have elapsed since the date the seller or transferor contacted NICS to initiate a national instant criminal background check and NICS has not notified the seller or transferor that the transfer of the rifle or shotgun to such person should be denied.

§ 3. Subdivision 1 of section 897 of the general business law, as added by chapter 189 of the laws of 2000, is amended to read as follows:

1. A national instant criminal background check shall be conducted and no person shall sell or transfer a firearm, rifle or shotgun at a gun show, except in accordance with the provisions of 18 U.S.C. 922(t), provided that before delivering a firearm, rifle or shotgun to any person, either (a) the National Instant Criminal Background Check System (NICS) or its successor has issued a "proceed" response to the seller or transferor, or (b) ten business days shall have elapsed since the date the seller or transferor contacted NICS to initiate a national instant criminal background check and NICS has not notified the seller or transferor that the transfer of the firearm, rifle or shotgun to such person should be denied.

§ 4. Subdivisions 1 and 2 of section 898 of the general business law, as added by chapter 1 of the laws of 2013, are amended to read as follows:

1. In addition to any other requirements pursuant to state and federal law, all sales, exchanges or disposals of firearms, rifles or shotguns shall be conducted in accordance with this section unless such sale, exchange or disposal is conducted by a licensed importer, licensed manufacturer or licensed dealer, as those terms are defined in 18 USC § 922, when such sale, exchange or disposal is conducted pursuant to that person's federal firearms license or such sale, exchange or disposal is between members of an immediate family. When a sale, exchange or disposal is conducted pursuant to a person's federal firearms license, before delivering a firearm, rifle or shotgun to any person, either (a) the National Instant Criminal Background Check System (NICS) or its successor has issued a "proceed" response to the federal firearms licensee, or (b) ten business days shall have elapsed since the date the federal firearms licensee contacted NICS to initiate a national instant criminal background check and NICS has not notified the federal firearms licensee that the transfer of the firearm, rifle or shotgun to such person should be denied. For purposes of this section, "immediate family" shall mean spouses, domestic partners, children and step-children.

2. Before any sale, exchange or disposal pursuant to this article, a national instant criminal background check must be completed by a dealer who consents to conduct such check, and upon completion of such background check, shall complete a document, the form of which shall be approved by the superintendent of state police, that identifies and confirms that such check was performed. Before a dealer who consents to conduct a national instant criminal background check delivers a firearm, rifle or shotgun to any person, either (a) NICS issued a "proceed" response to the dealer, or (b) ten business days shall have elapsed since the date the dealer contacted NICS to initiate a national instant criminal background check and NICS has not notified the dealer that the transfer of the firearm, rifle or shotgun to such person should be denied.

§ 5. This act shall take effect on the forty-fifth day after it shall have become a law.

PART Z

Section 1. The civil practice law and rules is amended by adding a new article 63-A to read as follows:

ARTICLE 63-A

EXTREME RISK PROTECTION ORDERS

Section 6340. Definitions.

6341. Application for an extreme risk protection order.

6342. Issuance of a temporary extreme risk protection order.

6343. Issuance of a final extreme risk protection order.

6344. Surrender and removal of firearms, rifles and shotguns pursuant to an extreme risk protection order.

6345. Request for renewal of an extreme risk protection order.

6346. Expiration of an extreme risk protection order.

6347. Effect of findings and determinations in subsequent proceedings.

§ 6340. Definitions. For the purposes of this article:

1. "Extreme risk protection order" means a court-issued order of protection prohibiting a person from purchasing, possessing or attempting to purchase or possess a firearm, rifle or shotgun.

2. "Petitioner" means: (a) a police officer, as defined in section 1.20 of the criminal procedure law, or district attorney with jurisdiction in the county or city where the person against whom the order is sought resides; (b) a family or household member, as defined in subdivision two of section four hundred fifty-nine-a of the social services law, of the person against whom the order is sought; or (c) a school official of any school in which the respondent is currently enrolled or in which the respondent has been enrolled in the six months immediately preceding the filing of the petition. For purposes of this article, school official shall include the following: school teacher, school guidance counselor, school psychologist, school social worker, school nurse, school administrator or other school personnel required to hold a teaching or administrative license or certificate, and full or part-time compensated school employee required to hold a temporary coaching license or professional coaching certificate.

3. "Respondent" means the person against whom an extreme risk protection order is or may be sought under this article.

4. "Possess" shall have the same meaning as defined in subdivision eight of section 10.00 of the penal law.

§ 6341. Application for an extreme risk protection order. In accordance with this article, a petitioner may file a sworn application, and accompanying supporting documentation, setting forth the facts and circumstances justifying the issuance of an extreme risk protection order. Such application and supporting documentation shall be filed in the supreme court in the county in which the respondent resides. The chief administrator of the courts shall adopt forms that may be used for purposes of such applications and the court's consideration of such applications. Such application form shall include inquiry as to whether the petitioner knows, or has reason to believe, that the respondent owns, possesses or has access to a firearm, rifle or shotgun and if so, a request that the petitioner list or describe such firearms, rifles and shotguns, and the respective locations thereof, with as much specificity as possible.

§ 6342. Issuance of a temporary extreme risk protection order. 1. Upon application of a petitioner pursuant to this article, the court may issue a temporary extreme risk protection order, ex parte or otherwise, to prohibit the respondent from purchasing, possessing or attempting to purchase or possess a firearm, rifle or shotgun, upon a finding that

there is probable cause to believe the respondent is likely to engage in conduct that would result in serious harm to himself, herself or others, as defined in paragraph one or two of subdivision (a) of section 9.39 of the mental hygiene law. Such application for a temporary order shall be determined in writing on the same day the application is filed.

2. In determining whether grounds for a temporary extreme risk protection order exist, the court shall consider any relevant factors including, but not limited to, the following acts of the respondent:

(a) a threat or act of violence or use of physical force directed toward self, the petitioner, or another person;

(b) a violation or alleged violation of an order of protection;

(c) any pending charge or conviction for an offense involving the use of a weapon;

(d) the reckless use, display or brandishing of a firearm, rifle or shotgun;

(e) any history of a violation of an extreme risk protection order;

(f) evidence of recent or ongoing abuse of controlled substances or alcohol; or

(g) evidence of recent acquisition of a firearm, rifle, shotgun or other deadly weapon or dangerous instrument, or any ammunition therefor.

In considering the factors under this subdivision, the court shall consider the time that has elapsed since the occurrence of such act or acts and the age of the person at the time of the occurrence of such act or acts.

For the purposes of this subdivision, "recent" means within the six months prior to the date the petition was filed.

3. The application of the petitioner and supporting documentation, if any, shall set forth the factual basis for the request and probable cause for issuance of a temporary order. The court may conduct an examination under oath of the petitioner and any witness the petitioner may produce.

4. A temporary extreme risk protection order, if warranted, shall issue in writing, and shall include:

(a) a statement of the grounds found for the issuance of the order;

(b) the date and time the order expires;

(c) the address of the court that issued the order;

(d) a statement to the respondent: (i) directing that the respondent may not purchase, possess or attempt to purchase or possess a firearm, rifle or shotgun while the order is in effect and that any firearm, rifle or shotgun possessed by such respondent shall be promptly surrendered to any authorized law enforcement official in the same manner as set forth in subdivision five of section 530.14 of the criminal procedure law;

(ii) informing the respondent that the court will hold a hearing no sooner than three nor more than six business days after service of the temporary order, to determine whether a final extreme risk protection order will be issued and the date, time and location of such hearing, provided that the respondent shall be entitled to more than six days upon request in order to prepare for the hearing; and (iii) informing the respondent the he or she may seek the advice of an attorney and that an attorney should be consulted promptly; and

(e) a form to be completed and executed by the respondent at the time of service of the temporary extreme risk protection order which elicits a list of all firearms, rifles and shotguns possessed by the respondent and the particular location of each firearm, rifle or shotgun listed.

5. If the application for a temporary extreme risk protection order is not granted, the court shall notify the petitioner and, unless the application is voluntarily withdrawn by the petitioner, nonetheless schedule a hearing on the application for a final extreme risk protection order. Such hearing shall be scheduled to be held promptly, but in any event no later than ten business days after the date on which such application is served on the respondent, provided, however, that the respondent may request, and the court may grant, additional time to allow the respondent to prepare for the hearing. A notice of such hearing shall be prepared by the court and shall include the date and time of the hearing, the address of the court, and the subject of the hearing.

6. (a) The court shall, in the manner specified in paragraph (b) of this subdivision, arrange for prompt service of a copy of the temporary extreme risk protection order, if any, the application therefor and, if separately applied for or if a temporary extreme risk protection order was not granted, the application for an extreme risk protection order, any notice of hearing prepared by the court, along with any associated papers including the petition and any supporting documentation, provided, that the court may redact the address and contact information of the petitioner from such application and papers where the court finds that disclosure of such address or other contact information would pose an unreasonable risk to the health or safety of the petitioner.

(b) The court shall provide copies of such documents to the appropriate law enforcement agency serving the jurisdiction of the respondent's residence with a direction that such documents be promptly served, at no cost to the petitioner, on the respondent; provided, however, that the petitioner may voluntarily arrange for service of copies of such order and associated papers through a third party, such as a licensed process server.

7. (a) The court shall notify the division of state police, any other law enforcement agency with jurisdiction, all applicable licensing officers, and the division of criminal justice services of the issuance of a temporary extreme risk protection order and provide a copy of such order no later than the next business day after issuing the order to such persons or agencies. The court also shall promptly notify such persons and agencies and provide a copy of any order amending or revoking such protection order or restoring the respondent's ability to own or possess firearms, rifles or shotguns no later than the next business day after issuing the order to restore such right to the respondent. The court also shall report such demographic data as required by the state division of criminal justice services at the time such order is transmitted thereto. Any notice or report submitted pursuant to this subdivision shall be in an electronic format, in a manner prescribed by the division of criminal justice services.

(b) Upon receiving notice of the issuance of a temporary extreme risk protection order, the division of criminal justice services shall immediately report the existence of such order to the federal bureau of investigation to allow the bureau to identify persons prohibited from purchasing firearms, rifles or shotguns. The division shall also immediately report to the bureau the expiration of any such protection order, any court order amending or revoking such protection order or restoring the respondent's ability to purchase a firearm, rifle or shotgun.

8. A law enforcement officer serving a temporary extreme risk protection order shall request that the respondent immediately surrender

to the officer all firearms, rifles and shotguns in the respondent's possession and the officer shall conduct any search permitted by law for such firearms. The law enforcement officer shall take possession of all firearms, rifles and shotguns that are surrendered, that are in plain sight, or that are discovered pursuant to a lawful search. As part of the order, the court may also direct a police officer to search for firearms, rifles and shotguns in the respondent's possession in a manner consistent with the procedures of article six hundred ninety of the criminal procedure law.

9. Upon issuance of a temporary extreme risk protection order, or upon setting a hearing for a final extreme risk protection order where a temporary order is denied or not requested, the court shall direct the law enforcement agency having jurisdiction to conduct a background investigation and report to the court and, subject to any appropriate redactions to protect any person, each party regarding whether the respondent:

(a) has any prior criminal conviction for an offense involving domestic violence, use of a weapon, or other violence;

(b) has any criminal charge or violation currently pending against him or her;

(c) is currently on parole or probation;

(d) possesses any registered firearms, rifles or shotguns; and

(e) has been, or is, subject to any order of protection or has violated or allegedly violated any order of protection.

§ 6343. Issuance of a final extreme risk protection order. 1. In accordance with this article, no sooner than three business days nor later than six business days after service of a temporary extreme risk protection order and, alternatively, no later than ten business days after service of an application under this article where no temporary extreme risk protection order has been issued, the supreme court shall hold a hearing to determine whether to issue a final extreme risk protection order and, when applicable, whether a firearm, rifle or shotgun surrendered by, or removed from, the respondent should be returned to the respondent. The respondent shall be entitled to more than six business days if a temporary extreme risk protection order has been issued and the respondent requests a reasonable period of additional time to prepare for the hearing. Where no temporary order has been issued, the respondent may request, and the court may grant, additional time beyond the ten days to allow the respondent to prepare for the hearing.

2. At the hearing pursuant to subdivision one of this section, the petitioner shall have the burden of proving, by clear and convincing evidence, that the respondent is likely to engage in conduct that would result in serious harm to himself, herself or others, as defined in paragraph one or two of subdivision (a) of section 9.39 of the mental hygiene law. The court may consider the petition and any evidence submitted by the petitioner, any evidence submitted by the respondent, any testimony presented, and the report of the relevant law enforcement agency submitted pursuant to subdivision nine of section sixty-three hundred forty-two of this article. The court shall also consider the factors set forth in subdivision two of section sixty-three hundred forty-two of this article.

3. (a) After the hearing pursuant to subdivision one of this section, the court shall issue a written order granting or denying the extreme risk protection order and setting forth the reasons for such determination. If the extreme risk protection order is granted, the court shall

direct service of such order in the manner and in accordance with the protections for the petitioner set forth in subdivision six of section sixty-three hundred forty-two of this article.

(b) Upon issuance of an extreme risk protection order: (i) any firearm, rifle or shotgun removed pursuant to a temporary extreme risk protection order or such extreme risk protection order shall be retained by the law enforcement agency having jurisdiction for the duration of the order, unless ownership of the firearm, rifle or shotgun is legally transferred by the respondent to another individual permitted by law to own and possess such firearm, rifle or shotgun; (ii) the supreme court shall temporarily suspend any existing firearm license possessed by the respondent and order the respondent temporarily ineligible for such a license; (iii) the respondent shall be prohibited from purchasing or possessing, or attempting to purchase or possess, a firearm, rifle or shotgun; and (iv) the court shall direct the respondent to surrender any firearm, rifle or shotgun in his or her possession in the same manner as set forth in subdivision five of section 530.14 of the criminal procedure law.

(c) An extreme risk protection order issued in accordance with this section shall extend, as specified by the court, for a period of up to one year from the date of the issuance of such order; provided, however, that if such order was immediately preceded by the issuance of a temporary extreme risk protection order, then the duration of the extreme risk protection order shall be measured from the date of issuance of such temporary extreme risk protection order.

(d) A law enforcement officer serving a final extreme risk protection order shall request that the respondent immediately surrender to the officer all firearms, rifles and shotguns in the respondent's possession and the officer shall conduct any search permitted by law for such firearms. The law enforcement officer shall take possession of all firearms, rifles and shotguns that are surrendered, that are in plain sight, or that are discovered pursuant to a lawful search. As part of the order, the court may also direct a police officer to search for firearms, rifles and shotguns in a respondent's possession consistent with the procedures of article six hundred ninety of the criminal procedure law.

4. (a) The court shall notify the division of state police, any other law enforcement agency with jurisdiction, all applicable licensing officers, and the division of criminal justice services of the issuance of a final extreme risk protection order and provide a copy of such order to such persons and agencies no later than the next business day after issuing the order. The court also shall promptly notify such persons and agencies and provide a copy of any order amending or revoking such protection order or restoring the respondent's ability to own or possess firearms, rifles or shotguns no later than the next business day after issuing the order to restore such right to the respondent. Any notice or report submitted pursuant to this subdivision shall be in an electronic format, in a manner prescribed by the division of criminal justice services.

(b) Upon receiving notice of the issuance of a final extreme risk protection order, the division of criminal justice services shall immediately report the existence of such order to the federal bureau of investigation to allow the bureau to identify persons prohibited from purchasing firearms, rifles or shotguns. The division shall also immediately report to the bureau the expiration of such protection order and

any court order amending or revoking such protection order or restoring the respondent's ability to purchase a firearm, rifle or shotgun.

5. (a) If, in accordance with a temporary extreme risk protection order, a firearm, rifle or shotgun has been surrendered by or removed from the respondent, and the supreme court subsequently finds that the petitioner has not met the required standard of proof, the court's finding shall include a written order, issued to all parties, directing that any firearm, rifle or shotgun surrendered or removed pursuant to such temporary order shall be returned to the respondent, upon a written finding that there is no legal impediment to the respondent's possession of such firearm, rifle or shotgun.

(b) If any other person demonstrates that he or she is the lawful owner of any firearm, rifle or shotgun surrendered or removed pursuant to a protection order issued in accordance with this article, and provided that the court has made a written finding that there is no legal impediment to the person's possession of a surrendered or removed firearm, rifle or shotgun, the court shall direct that such firearm, rifle or shotgun be returned to such lawful owner and inform such person of the obligation to safely store such firearm, rifle, or shotgun in accordance with section 265.45 of the penal law.

6. The respondent shall be notified on the record and in writing by the court that he or she may submit one written request, at any time during the effective period of an extreme risk protection order, for a hearing setting aside any portion of such order. The request shall be submitted in substantially the same form and manner as prescribed by the chief administrator of the courts. Upon such request, the court shall promptly hold a hearing, in accordance with this article, after providing reasonable notice to the petitioner. The respondent shall bear the burden to prove, by clear and convincing evidence, any change of circumstances that may justify a change to the order.

§ 6344. Surrender and removal of firearms, rifles and shotguns pursuant to an extreme risk protection order. 1. When a law enforcement officer takes any firearm, rifle or shotgun pursuant to a temporary extreme risk protection order or a final extreme risk protection order, the officer shall give to the person from whom such firearm, rifle or shotgun is taken a receipt or voucher for the property taken, describing the property in detail. In the absence of a person, the officer shall leave the receipt or voucher in the place where the property was found, mail a copy of the receipt or voucher, retaining proof of mailing, to the last known address of the respondent and, if different, the owner of the firearm, rifle or shotgun, and file a copy of such receipt or voucher with the court. All firearms, rifles and shotguns in the possession of a law enforcement official pursuant to this article shall be subject to the provisions of applicable law, including but not limited to subdivision six of section 400.05 of the penal law; provided, however, that any such firearm, rifle or shotgun shall be retained and not disposed of by the law enforcement agency for at least two years unless legally transferred by the respondent to an individual permitted by law to own and possess such firearm, rifle or shotgun.

2. If the location to be searched during the execution of a temporary extreme risk protection order or extreme risk protection order is jointly occupied by two or more parties, and a firearm, rifle or shotgun located during the execution of such order is owned by a person other than the respondent, the court shall, upon a written finding that there is no legal impediment to the person other than the respondent's possession of such firearm, rifle or shotgun, order the return of such

firearm, rifle or shotgun to such lawful owner and inform such person of their obligation to safely store their firearm, rifle, or shotgun in accordance with section 265.45 of the penal law.

§ 6345. Request for renewal of an extreme risk protection order. 1. If a petitioner believes a person subject to an extreme risk protection order continues to be likely to engage in conduct that would result in serious harm to himself, herself, or others, as defined in paragraph one or two of subdivision (a) of section 9.39 of the mental hygiene law, such petitioner may, at any time within sixty days prior to the expiration of such existing extreme risk protection order, initiate a request for a renewal of such order, setting forth the facts and circumstances necessitating the request. The chief administrator of the courts shall adopt forms that may be used for purposes of such applications and the court's consideration of such applications. The court may issue a temporary extreme risk protection order in accordance with section sixty-three hundred forty-two of this article, during the period that a request for renewal of an extreme risk protection order is under consideration pursuant to this section.

2. A hearing held pursuant to this section shall be conducted in the supreme court, in accordance with section sixty-three hundred forty-three of this article, to determine if a request for renewal of the order shall be granted. The respondent shall be served with written notice of an application for renewal a reasonable time before the hearing, and shall be afforded an opportunity to fully participate in the hearing. The court shall direct service of such application and the accompanying papers in the manner and in accordance with the protections for the petitioner set forth in subdivision six of section sixty-three hundred forty-two of this article.

§ 6346. Expiration of an extreme risk protection order. 1. A protection order issued pursuant to this article, and all records of any proceedings conducted pursuant to this article, shall be sealed upon expiration of such order and the clerk of the court wherein such proceedings were conducted shall immediately notify the commissioner of the division of criminal justice services, the heads of all appropriate police departments, applicable licensing officers, and all other appropriate law enforcement agencies that the order has expired and that the record of such protection order shall be sealed and not be made available to any person or public or private entity, except that such records shall be made available to:

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

(b) courts in the unified court system;

(c) police forces and departments having responsibility for enforcement of the general criminal laws of the state;

(d) any state or local officer or agency with responsibility for the issuance of licenses to possess a firearm, rifle or shotgun, when the respondent has made application for such a license; and

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

2. Upon expiration of a protection order issued pursuant to this article and upon written application of the respondent who is the subject of

such order, with notice and opportunity to be heard to the petitioner and every licensing officer responsible for issuance of a firearm license to the subject of the order pursuant to article four hundred of the penal law, and upon a written finding that there is no legal impediment to the respondent's possession of a surrendered firearm, rifle or shotgun, the court shall order the return of a firearm, rifle or shotgun not otherwise disposed of in accordance with subdivision one of section sixty-three hundred forty-four of this article. When issuing such order in connection with any firearm subject to a license requirement under article four hundred of the penal law, if the licensing officer informs the court that he or she will seek to revoke the license, the order shall be stayed by the court until the conclusion of any license revocation proceeding.

§ 6347. Effect of findings and determinations in subsequent proceedings. Notwithstanding any contrary claim based on common law or a provision of any other law, no finding or determination made pursuant to this article shall be interpreted as binding, or having collateral estoppel or similar effect, in any other action or proceeding, or with respect to any other determination or finding, in any court, forum or administrative proceeding.

§ 2. Section 265.45 of the penal law, as amended by section 3 of part FF of chapter 57 of the laws of 2013, is amended to read as follows:

§ 265.45 Safe storage of rifles, shotguns, and firearms.

No person who owns or is custodian of a rifle, shotgun or firearm who resides with an individual who such person knows or has reason to know is prohibited from possessing a firearm pursuant to 18 U.S.C. § 922(g)(1), (4), (8) or (9), or pursuant to a temporary or final extreme risk protection order issued under article sixty-three-A of the civil practice law and rules, shall store or otherwise leave such rifle, shotgun or firearm out of his or her immediate possession or control without having first securely locked such rifle, shotgun or firearm in an appropriate safe storage depository or rendered it incapable of being fired by use of a gun locking device appropriate to that weapon. For purposes of this section "safe storage depository" shall mean a safe or other secure container which, when locked, is incapable of being opened without the key, combination or other unlocking mechanism and is capable of preventing an unauthorized person from obtaining access to and possession of the weapon contained therein. With respect to a person who is prohibited from possessing a firearm pursuant to 18 USC § 922(g)(9), for purposes of this section, this section applies only if such person has been convicted of a crime included in subdivision one of section 370.15 of the criminal procedure law and such gun is possessed within five years from the later of the date of conviction or completion of sentence. Nothing in this section shall be deemed to affect, impair or supersede any special or local act relating to the safe storage of rifles, shotguns or firearms which impose additional requirements on the owner or custodian of such weapons.

A violation of this section shall constitute a class A misdemeanor.

§ 3. If any part or provision of this act is adjudged by a court of competent jurisdiction to be unconstitutional or otherwise invalid, such judgment shall not affect or impair any other part of provision of this act, but shall be confined in its operation to such part or provision.

§ 4. This act shall take effect on the one hundred eightieth day after it shall have become a law.

PART AA

Section 1. This part enacts into law major components of legislation which are necessary to reform the manner in which New York state pursues justice before trial. This state, like most across the United States, has for far too long needlessly incarcerated those meant to be guaranteed a presumption of innocence simply because of an inability to pay bail and have forced those same people to choose between facing lengthy prison sentences or a speedy return to society without providing them with sufficient information regarding the case against them. This Part will usher into New York true reforms in the areas of bail, discovery, and speedy trial. Each component is wholly contained within a Subpart identified as Subparts A through C. The effective date for each particular provision contained within such Subpart is set forth in the last section of such Subpart. Any provision in any section contained within a Subpart, including the effective date of the Subpart, which makes a reference to a section "of this act", when used in connection with that particular component, shall be deemed to mean and refer to the corresponding section of the Subpart in which it is found.

SUBPART A

Section 1. Legislative findings. The legislature finds and declares that there is a present need to revise New York's procedures regulating release of persons charged with criminal offenses pending trial, set forth in title P of the criminal procedure law, so that fewer presumed-innocent people are held behind bars pretrial. First, the bill requires the police to issue appearance tickets in misdemeanor and class E felony cases, with enumerated exceptions, so that fewer people spend time in jail before arraignment. Then after arraignment, the bill breaks the link between paying money and earning freedom, so that defendants are either released on their own recognizance or, failing that, released under non-monetary conditions. The bill also revises the existing process of remanding individuals in jail before trial, so that pretrial detention can be ordered only in limited cases involving high risk of flight or a current risk to the physical safety of a reasonably identifiable person or persons, and the order comports with Supreme Court jurisprudence regarding required substantive and procedural due process before detention.

§ 2. Subdivision 1 of section 150.20 of the criminal procedure law, as amended by chapter 550 of the laws of 1987, is amended to read as follows:

1. **(a)** Whenever a police officer is authorized pursuant to section 140.10 **of this title** to arrest a person without a warrant for an offense other than a class A, B, C or D felony or a violation of section 130.25, 130.40, 205.10, 205.17, 205.19 or 215.56 of the penal law, he [~~may~~] **shall, except as set out in paragraph (b) of this subdivision**, subject to the provisions of subdivisions three and four of section 150.40 **of this title**, instead issue to and serve upon such person an appearance ticket.

(b) An officer is not required to issue an appearance ticket if the person:

(i) has one or more outstanding warrants;

(ii) has a documented history of failure to appear in court proceedings;

(iii) has been given a reasonable opportunity to make their verifiable identity and a method of contact known, and has been unable or unwilling

to do so, so that a custodial arrest is necessary to subject the individual to the jurisdiction of the court;

(iv) is charged with a crime or offense between members of the same family or household, as defined in subdivision one of section 530.11 of this chapter;

(v) is charged with a crime or offense involving sexual misconduct under section 130.00 of the penal law;

(vi) should, in the officer's estimation, be brought before the court for consideration of issuance of an order of protection, pursuant to section 530.13 of this chapter, based on the facts of the crime or offense that the officer has reasonable cause to believe occurred;

(vii) should, in the officer's estimation, be brought before the court for consideration of court-ordered restrictions on operation of a motor vehicle, based on the facts of the crime or offense that the officer has reasonable cause to believe occurred;

(viii) should, in the officer's estimation, be brought before the court for consideration of court ordered medical or mental health assessment, based on the facts of the alleged crime or offense that the officer has reasonable cause to believe occurred and the observed behavior of the individual when in contact with the police; or

(ix) is unlikely to return to court on the return date of an appearance ticket for reasons specific to the facts of the case that the officer can articulate in the information or misdemeanor complaint. These reasons cannot rely solely on the defendant's prior criminal history or place of residence.

§ 3. Section 150.30 of the criminal procedure law is REPEALED.

§ 4. Subdivision 1 of section 150.40 of the criminal procedure law is amended to read as follows:

1. An appearance ticket must be made returnable at a date as soon as possible, but in no event later than twenty days from the date of issuance. The appearance ticket shall be made returnable in a local criminal court designated in section 100.55 of this title as one with which an information for the offense in question may be filed.

§ 5. Subdivisions 1, 2, 4, 5 and 6 of section 500.10 of the criminal procedure law are amended and a new subdivision 3-a is added to read as follows:

1. "Principal" means a defendant in a criminal action or proceeding, or a person adjudged a material witness therein, or any other person so involved therein that [~~he~~] the principal may by law be compelled to appear before a court for the purpose of having such court exercise control over [~~his~~] the principal's person to secure [~~his~~] the principal's future attendance at the action or proceeding when required, and who in fact either is before the court for such purpose or has been before it and been subjected to such control.

2. "Release on own recognizance." A court releases a principal on [~~his~~] the principal's own recognizance when, having acquired control over [~~his~~] the principal's person, it permits [~~him~~] the principal to be at liberty during the pendency of the criminal action or proceeding involved upon condition that [~~he~~] the principal will appear thereat whenever [~~his~~] the principal's attendance may be required and will at all times render [~~himself~~] the principal amenable to the orders and processes of the court.

3-a. "Release under non-monetary conditions". A court releases a principal under non-monetary conditions when, having acquired control over a person, it permits the person to be at liberty during the pendency of the criminal action under conditions set by the court, which shall be

the least restrictive that will reasonably assure the principal's return appearance in court. Such conditions may include, among others, that the principal shall be in contact with a pretrial services agency serving principals in that county; that the principal shall abide by specified restrictions on association or travel that are reasonably related to a risk of flight from the jurisdiction; that the principal shall refrain from possessing a firearm, destructive device or other dangerous weapon; that the person be placed in pretrial supervision with a pretrial services agency serving principals in that county; that the person be monitored with an approved electronic monitoring device. A principal shall not be required to pay for any part of the cost of release under non-monetary conditions, including, but not limited to, electronic monitoring.

4. "Commit to the custody of the sheriff." A court commits a principal to the custody of the sheriff when, having acquired control over his person, it orders that he be confined in the custody of the sheriff [~~during the pendency of the criminal action or proceeding involved~~] pending the outcome of a hearing under article five hundred forty-five of this title, as to whether the individual shall be ordered into pretrial detention.

5. "Securing order" means an order of a court [~~committing a principal to the custody of the sheriff, or fixing bail, or releasing him on his own recognizance~~] that either releases a principal under personal recognizance, or releases the principal under non-monetary conditions, all with the direction that the principal return to court for future court appearances and to be at all times amendable to the orders and processes of the court.

6. [~~"Order of recognizance or bail" means a securing order releasing a principal on his own recognizance or fixing bail~~] "Pretrial detention". A county or superior court may commit a principal to pretrial detention if, after a hearing and making such findings as specified in article five hundred forty-five of this title, a judge so orders detention.

§ 6. Section 510.10 of the criminal procedure law, as amended by chapter 459 of the laws of 1984, is amended to read as follows:

§ 510.10 Securing order; when required; alternatives available; standard to be applied.

1. When a principal, whose future court attendance at a criminal action or proceeding is or may be required, initially comes under the control of a court, such court [~~must~~] shall, by a securing order[~~, either release him on his own recognizance, fix bail or commit him to the custody of the sheriff.~~] release the principal pending trial on the principal's personal recognizance, unless the court finds on the record that release on recognizance will not reasonably assure the individual's court attendance. In such instances, the court will release the individual under non-monetary conditions, selecting the least restrictive alternative that will reasonably assure the principal's court attendance. The court will support its choice of alternative on the record.

2. Notwithstanding the above, in cases where the people indicate that they intend to move for pretrial detention as set out in article five hundred forty-five of this title, the court may commit the defendant to the custody of the sheriff or issue a securing order in accordance with article five hundred forty-five of this title.

3. When a securing order is revoked or otherwise terminated in the course of an uncompleted action or proceeding but the principal's future court attendance still is or may be required and [~~he~~] the principal is still under the control of a court, a new securing order must be issued.

When the court revokes or otherwise terminates a securing order which committed the principal to the custody of the sheriff, the court shall give written notification to the sheriff of such revocation or termination of the securing order.

§ 7. Section 510.20 of the criminal procedure law is amended to read as follows:

§ 510.20 [~~Application for recognizance or bail; making and determination thereof in general~~] Application for a change in securing order based on a material change of circumstances.

1. Upon any occasion when a court [~~is required to issue~~] has issued a securing order with respect to a principal, [~~or at any time when a principal is confined in the custody of the sheriff as a result of a previously issued securing order, he~~] the defendant or the people may make an application for [~~recognizance or bail~~] a different securing order due to a material change of circumstances.

2. Upon such application, the principal or the people must be accorded an opportunity to be heard and to contend that [~~an order of recognizance or bail~~] a different securing order must or should issue[~~, that the court should release him on his own recognizance rather than fix bail, and that if bail is fixed it should be in a suggested amount and form~~] because, due to a material change in circumstances, the current order is either too restrictive or not restrictive enough to reasonably ensure a defendant's appearance in court. In acting upon such an application, the court shall select the least restrictive alternative that will reasonably ensure a court appearance.

§ 8. Section 510.30 of the criminal procedure law, subparagraph (v) of paragraph (a) of subdivision 2 as amended by chapter 920 of the laws of 1982, subparagraph (vi) of paragraph (a) of subdivision 2 as renumbered by chapter 447 of the laws of 1977, subparagraph (vii) of paragraph (a) of subdivision 2 as added and subparagraphs (viii) and (ix) of paragraph (a) of subdivision 2 as renumbered by section 1 of part D of chapter 491 of the laws of 2012, and subdivision 3 as added by chapter 788 of the laws of 1981, is amended to read as follows:

§ 510.30 Application for [~~recognizance or bail~~] securing order; rules of law and criteria controlling determination.

[~~1. Determinations of applications for recognizance or bail are not in all cases discretionary but are subject to rules, prescribed in article five hundred thirty and other provisions of law relating to specific kinds of criminal actions and proceedings, providing (a) that in some circumstances such an application must as a matter of law be granted, (b) that in others it must as a matter of law be denied and the principal committed to or retained in the custody of the sheriff, and (c) that in others the granting or denial thereof is a matter of judicial discretion.~~

~~2. To the extent that the issuance of an order of recognizance or bail and the terms thereof are matters of discretion rather than of law, an application is determined on the basis of the following factors and criteria:~~

~~(a)~~] With respect to any principal, the court in all cases, unless otherwise provided by law, must [~~consider the~~] impose the least restrictive kind and degree of control or restriction that is necessary to secure [~~his~~] the principal's court attendance when required. In determining that matter, the court must, on the basis of available information, consider and take into account:

[~~(i) The principal's character, reputation, habits and mental condition;~~

~~(ii) His employment and financial resources; and~~
~~(iii) His family ties and the length of his residence if any in the community; and~~
~~(iv) His~~] 1. information about the principal that is relevant to court appearance, including, but not limited to, the principal's activities, history and community ties;
2. if the principal is a defendant, the charges facing the principal;
3. the principal's criminal record if any; provided that the court must also consider the time that has elapsed since the occurrence of the crime or crimes and the age of the principal at the time of the occurrence of such delinquent or youthful offender conduct; [~~and~~
~~(v) His~~] 4. the principal's record of previous adjudication as a juvenile delinquent, as retained pursuant to section 354.2 of the family court act, or, of pending cases where fingerprints are retained pursuant to section 306.1 of such act, or a youthful offender, if any; provided that the court must also consider the time that has elapsed since the occurrence of the crime or crimes and the age of the principal at the time of the occurrence of such delinquent or youthful offender conduct; [~~and~~
~~(vi) His~~] 5. the principal's previous record if any in responding to court appearances when required or with respect to flight to avoid criminal prosecution; [~~and~~
~~(vii) Where~~] 6. where the principal is charged with a crime or crimes against a member or members of the same family or household as that term is defined in subdivision one of section 530.11 of this title, the following factors:
[~~(A)~~] (i) any violation by the principal of an order of protection issued by any court for the protection of a member or members of the same family or household as that term is defined in subdivision one of section 530.11 of this title, whether or not such order of protection is currently in effect; and
[~~(B)~~] (ii) the principal's history of use or possession of a firearm; [~~and~~
~~(viii)~~] 7. If [~~he~~] the principal is a defendant, the weight of the evidence against [~~him~~] the principal in the pending criminal action and any other factor indicating probability or improbability of conviction; or, in the case of an application for [~~bail or recognizance~~] securing order pending appeal, the merit or lack of merit of the appeal; and
[~~(ix)~~] 8. If [~~he~~] the principal is a defendant, the sentence which may be or has been imposed upon conviction[~~.~~
~~(b) Where the principal is a defendant-appellant in a pending appeal from a judgment of conviction, the court must also consider the likelihood of ultimate reversal of the judgment. A determination that the appeal is palpably without merit alone justifies, but does not require, a denial of the application, regardless of any determination made with respect to the factors specified in paragraph (a).~~
~~3. When bail or recognizance is ordered, the court shall inform the principal, if he is a defendant charged with the commission of a felony, that the release is conditional and that the court may revoke the order of release and commit the principal to the custody of the sheriff in accordance with the provisions of subdivision two of section 530.60 of this chapter if he commits a subsequent felony while at liberty upon such order.~~]; and
9. if the principal is a defendant-appellant in a pending appeal from a judgment of conviction, the court must also consider the likelihood of ultimate reversal of the judgment. A determination that the appeal is

palpably without merit alone justifies, but does not require, a denial of the application, regardless of any determination made with respect to the factors specified in this paragraph.

§ 9. Section 510.40 of the criminal procedure law is amended to read as follows:

§ 510.40 [~~Application for recognizance or bail; determination thereof, form of securing order and execution thereof~~] Notification to principal by court of conditions of release and penalties for violations of release.

1. [~~An application for recognizance or bail must be determined by a securing order which either:~~

~~(a) Grants the application and releases the principal on his own recognizance; or~~

~~(b) Grants the application and fixes bail; or~~

~~(c) Denies the application and commits the principal to, or retains him in, the custody of the sheriff.~~

~~2.~~] Upon ordering that a principal be released on [~~his~~] the principal's own recognizance, or released under non-monetary conditions, the court must direct [~~him~~] the principal to appear in the criminal action or proceeding involved whenever [~~his~~] the principal's attendance may be required and to [~~render himself~~] be at all times amenable to the orders and processes of the court. If the principal is a defendant, the court shall also direct the defendant not to commit a crime while at liberty upon the court's securing order. If such principal is in the custody of the sheriff [~~or at liberty upon bail~~] at the time of the order, the court must direct that [~~he~~] the principal be discharged from such custody [~~or, as the case may be, that his bail be exonerated~~].

[~~3. Upon the issuance of an order fixing bail, and upon the posting thereof, the court must examine the bail to determine whether it complies with the order. If it does, the court must, in the absence of some factor or circumstance which in law requires or authorizes disapproval thereof, approve the bail and must issue a certificate of release, authorizing the principal to be at liberty, and, if he is in the custody of the sheriff at the time, directing the sheriff to discharge him therefrom. If the bail fixed is not posted, or is not approved after being posted, the court must order that the principal be committed to the custody of the sheriff.~~]

2. If the principal is released under non-monetary conditions, the court shall, in the document authorizing the principal's release, notify the principal of:

(a) any of the conditions under which the principal is subject, in addition to the directions in subdivision one of this section, in a manner sufficiently clear and specific to serve as a guide for the principal's conduct; and

(b) the consequences for violation of those conditions, which could include revoking of the securing order, setting of a more restrictive securing order, or, after a motion and a hearing prescribed in article five hundred forty-five of this title, pretrial detention.

§ 10. The criminal procedure law is amended by adding a new section 510.41 to read as follows:

§ 510.41 Provisions regarding non-monetary conditions of release.

1. Non-monetary conditions of release shall, for each individual, require the least degree of restrictions or required actions that will reasonably ensure the individual's court attendance. At future court appearances, the court shall consider a lessening of the conditions or

modification of conditions to a less burdensome form based on the principal's compliance with existing conditions of release.

2. (a) Electronic monitoring of a principal's location may be ordered only if the individual is charged with a felony, or a misdemeanor crime involving a person who is a member of the same household as defined in subdivision one of section 530.11 of this title, and if the court finds, after notice and an opportunity to be heard and an individualized determination explained on the record or in writing, that no other non-monetary condition or sets of conditions will reasonably ensure a principal's return to court.

(b) The specific method of electronic monitoring of the principal's location must be approved by the court. It must be the least restrictive method and procedure that will reasonably ensure the principal's return to court, and unobtrusive to the greatest extent possible.

(c) Electronic monitoring orders shall be reviewed at least every sixty days to ascertain whether they are the least restrictive means of reasonably ensuring an individual's court attendance and whether there are less burdensome methods of ensuring such attendance.

3. In the event of non compliance with the conditions of release, the court, upon motion by the people and only after affording the defendant and defendant's counsel notice of the alleged noncompliance and an opportunity to be heard, may revoke and modify the securing order. In determining whether to revoke and modify the securing order, the court must consider the facts, nature, willfulness, and the seriousness of the noncompliance. The court may only set a more restrictive condition or conditions if it finds that such conditions are necessary to reasonably ensure the defendant's appearance in court.

§ 11. The criminal procedure law is amended by adding a new section 510.43 to read as follows:

§ 510.43 Court appearances; additional notifications.

The court, or, upon direction of the court, a certified pretrial services agency, shall, in addition to verbal notifications during court appearances, make best efforts to notify all principals released under recognizance and under non-monetary conditions of all court appearances in advance by text message, electronic mail, phone call or first class mail. The chief administrator of the courts shall, pursuant to subdivision one of section 10.40 of this chapter, develop a form which shall be offered to the principal at the principal's initial court appearance, by which the principal may select one such preferred method of notice. The form shall be retained in the court file. In no instance, however, shall the principal's failure to receive such additional notifications in addition to verbal notification at court appearances, constitute grounds to excuse the principal's failure to appear at court proceedings.

§ 12. The criminal procedure law is amended by adding a new section 510.45 to read as follows:

§ 510.45 Pretrial service agencies.

1. Pretrial services shall be provided by a county probation department or nonprofit pretrial service agency. The department or agency must be approved by the division of criminal justice services and certified by the office of court administration. The department or agency will advise the court on a principal's release on recognizance or under non-monetary conditions and monitor principals released under conditions of non-monetary release. The division of criminal justice services shall promulgate regulations for the operation of approved pretrial agencies, which shall include data collection and reporting requirements on principals served. The office of court administration shall maintain a list-

ing on its public website identifying each pretrial services agency so certified in the state. A county shall be authorized to enter into a contract with another county or municipality to provide pretrial services.

2. Any criteria, instrument, or tool used to inform a pretrial service agency's recommendation to the court about pretrial conditions shall be made available to the principal and the principal's counsel. Any criteria, instrument or tool used may consider risk of failing to appear in court and shall not contain a measure of a person's general risk to public safety. Any blank form of the criteria, instrument or tool used in the county for such purpose shall be made available to any person promptly upon request. If scores are calculated to predict the risk of failure to appear, the scoring formula shall be made available. Any tool used to predict failure to appear shall be periodically validated, with validation studies available upon request.

§ 13. Section 510.50 of the criminal procedure law is amended to read as follows:

§ 510.50 Enforcement of securing order.

When the attendance of a principal confined in the custody of the sheriff is required at the criminal action or proceeding at a particular time and place, the court may compel such attendance by directing the sheriff to produce [~~him~~] such principal at such time and place. If the principal is at liberty on [~~his~~] the principal's own recognizance [~~or on bail~~] or non-monetary conditions, [~~his~~] the principal's attendance may be achieved or compelled by various methods, including notification and the issuance of a bench warrant, prescribed by law in provisions governing such matters with respect to the particular kind of action or proceeding involved.

§ 14. Article 520 of the criminal procedure law is REPEALED.

§ 15. The article heading of article 530 of the criminal procedure law is amended to read as follows:

[~~ORDERS OF RECOGNIZANCE OR BAIL WITH RESPECT TO DEFENDANTS IN CRIMINAL ACTIONS AND PROCEEDINGS--WHEN AND BY WHAT COURTS AUTHORIZED~~] SECURING ORDERS WITH RESPECT TO DEFENDANTS IN CRIMINAL ACTIONS AND PROCEEDINGS - WHEN AND BY WHAT COURTS AUTHORIZED

§ 16. Section 530.10 of the criminal procedure law is amended to read as follows:

§ 530.10 [~~Order of recognizance or bail~~] Securing orders; in general.

Under circumstances prescribed in this article, a court, upon application of a defendant charged with or convicted of an offense, is [~~required or authorized to order bail or recognizance~~] to issue a securing order for the release or prospective release of such defendant during the pendency of either:

1. A criminal action based upon such charge; or

2. An appeal taken by the defendant from a judgment of conviction or a sentence or from an order of an intermediate appellate court affirming or modifying a judgment of conviction or a sentence.

§ 17. Subdivision 4 of section 530.11 of the criminal procedure law, as added by chapter 186 of the laws of 1997, is amended to read as follows:

4. When a person is arrested for an alleged family offense or an alleged violation of an order of protection or temporary order of protection or arrested pursuant to a warrant issued by the supreme or family court, and the supreme or family court, as applicable, is not in

session, such person shall be brought before a local criminal court in the county of arrest or in the county in which such warrant is returnable pursuant to article one hundred twenty of this chapter. Such local criminal court may issue any order authorized under subdivision eleven of section 530.12 of this article, section one hundred fifty-four-d or one hundred fifty-five of the family court act or subdivision three-b of section two hundred forty or subdivision two-a of section two hundred fifty-two of the domestic relations law, in addition to discharging other arraignment responsibilities as set forth in this chapter. In making such order, the local criminal court shall consider the [~~bail recommendation~~] **securing order**, if any, made by the supreme or family court as indicated on the warrant or certificate of warrant. Unless the petitioner or complainant requests otherwise, the court, in addition to scheduling further criminal proceedings, if any, regarding such alleged family offense or violation allegation, shall make such matter returnable in the supreme or family court, as applicable, on the next day such court is in session.

§ 18. Paragraph (a) of subdivision 8 of section 530.13 of the criminal procedure law, as added by chapter 388 of the laws of 1984, is amended to read as follows:

(a) revoke [~~an order of recognizance or bail~~] **a securing order** and commit the defendant to custody; or

§ 19. The opening paragraph of subdivision 1 of section 530.13 of the criminal procedure law, as amended by chapter 137 of the laws of 2007, is amended to read as follows:

When any criminal action is pending, and the court has not issued a temporary order of protection pursuant to section 530.12 of this article, the court, in addition to the other powers conferred upon it by this chapter, may for good cause shown issue a temporary order of protection in conjunction with any securing order [~~committing the defendant to the custody of the sheriff or as a condition of a pre-trial release, or as a condition of release on bail or an adjournment in contemplation of dismissal~~]. In addition to any other conditions, such an order may require that the defendant:

§ 20. Subdivisions 9 and 11 of section 530.12 of the criminal procedure law, subdivision 9 as amended by section 81 of subpart B of part C of chapter 62 of the laws of 2011, subdivision 11 as amended by chapter 498 of the laws of 1993, the opening paragraph of subdivision 11 as amended by chapter 597 of the laws of 1998, paragraph (a) of subdivision 11 as amended by chapter 222 of the laws of 1994, paragraph (d) of subdivision 11 as amended by chapter 644 of the laws of 1996, are amended to read as follows:

9. If no warrant, order or temporary order of protection has been issued by the court, and an act alleged to be a family offense as defined in section 530.11 of this [~~chapter~~] **article** is the basis of the arrest, the magistrate shall permit the complainant to file a petition, information or accusatory instrument and for reasonable cause shown, shall thereupon hold such respondent or defendant, [~~admit to, fix or accept bail,~~] **establish a securing order** or parole him or her for hearing before the family court or appropriate criminal court as the complainant shall choose in accordance with the provisions of section 530.11 of this [~~chapter~~] **article**.

11. If a defendant is brought before the court for failure to obey any lawful order issued under this section, or an order of protection issued by a court of competent jurisdiction in another state, territorial or tribal jurisdiction, and if, after hearing, the court is satisfied by

competent proof that the defendant has willfully failed to obey any such order, the court may:

(a) revoke [~~an order of recognizance or revoke an order of bail or order forfeiture of such bail~~] a securing order and commit the defendant to custody; or

(b) restore the case to the calendar when there has been an adjournment in contemplation of dismissal and commit the defendant to custody; or

(c) revoke a conditional discharge in accordance with section 410.70 of this chapter and impose probation supervision or impose a sentence of imprisonment in accordance with the penal law based on the original conviction; or

(d) revoke probation in accordance with section 410.70 of this chapter and impose a sentence of imprisonment in accordance with the penal law based on the original conviction. In addition, if the act which constitutes the violation of the order of protection or temporary order of protection is a crime or a violation the defendant may be charged with and tried for that crime or violation.

§ 21. Section 530.20 of the criminal procedure law, as amended by chapter 531 of the laws of 1975, subparagraph (ii) of paragraph (b) of subdivision 2 as amended by chapter 218 of the laws of 1979, is amended to read as follows:

§ 530.20 [~~Order of recognizance or bail;~~] Securing order by local criminal court when action is pending therein.

When a criminal action is pending in a local criminal court, such court, upon application of a defendant, must [~~or may order recognizance or bail~~] issue a securing order as follows:

1. [~~When the defendant is charged, by information, simplified information, prosecutor's information or misdemeanor complaint, with an offense or offenses of less than felony grade only, the court must order recognizance or bail.~~] Release the principal pending trial on the principal's personal recognizance, unless the court finds on the record that release on recognizance will not reasonably assure the individual's court attendance. In such instances, the court will release the individual under non-monetary conditions, selecting the least restrictive alternative that will reasonably assure the principal's court attendance. The court will support its choice of alternative on the record.

2. [~~When the defendant is charged, by felony complaint, with a felony, the court may, in its discretion, order recognizance or bail except as otherwise provided in this subdivision:~~

~~(a) A city court, a town court or a village court may not order recognizance or bail when (i) the defendant is charged with a class A felony, or (ii) it appears that the defendant has two previous felony convictions;~~

~~(b)~~] Notwithstanding the above, in cases where the people indicate that they intend to move for pretrial detention as set forth in article five hundred forty-five of this title, the court may commit the defendant to the custody of the sheriff or issue a securing order in accordance with article five hundred forty-five of this title.

3. Notwithstanding the above, in cases where the defendant is facing a charge of a class A felony, or it appears that the defendant has two previous felony convictions within the meaning of subdivision one of section 70.08 or 70.10 of the penal law; the court shall commit the defendant to the custody of the sheriff for the county or superior court to make a determination about a securing order within three days.

4. No local criminal court may order [~~recognizance or bail~~] a securing order with respect to a defendant charged with a felony unless and until[~~:~~

~~(i) The district attorney has been heard in the matter or, after knowledge or notice of the application and reasonable opportunity to be heard, has failed to appear at the proceeding or has otherwise waived his right to do so; and~~

~~(ii) The~~] the court [~~has~~], and counsel for the defense, have been furnished with a report of the division of criminal justice services concerning the defendant's criminal record, if any, or with a police department report with respect to the defendant's prior arrest and conviction record, if any. If neither report is available, the court, with the consent of the district attorney, may dispense with this requirement; provided, however, that in an emergency, including but not limited to a substantial impairment in the ability of such division or police department to timely furnish such report, such consent shall not be required if, for reasons stated on the record, the court deems it unnecessary. [~~When the court has been furnished with any such report or record, it shall furnish a copy thereof to counsel for the defendant or, if the defendant is not represented by counsel, to the defendant.~~]

§ 22. The section heading, subdivisions 1 and 2 of section 530.30 of the criminal procedure law, subdivision 2 as amended by chapter 762 of the laws of 1971, are amended to read as follows:

[~~Order of recognizance or bail; by superior court judge when action is pending in local criminal court~~] Securing order by superior court judge when action is pending in local criminal court.

1. When a criminal action is pending in a local criminal court, other than one consisting of a superior court judge sitting as such, a judge of a superior court holding a term thereof in the county, upon application of a defendant, may order [~~recognizance or bail~~] a securing order when such local criminal court:

(a) Lacks authority to issue such an order, pursuant to [~~paragraph (a) of~~] subdivision [~~two~~] three of section 530.20[~~; or~~

~~(b) Has denied an application for recognizance or bail; or~~

~~(c) Has fixed bail which is excessive;~~] or

(b) Has set a securing order of release under non-monetary conditions which are more restrictive than necessary to reasonably ensure court attendance.

In such case, such superior court judge may vacate the order of such local criminal court and release the defendant on [~~his own~~] recognizance [~~or fix bail in a lesser amount or in a less burdensome form,~~] or under release with conditions, whichever is the least restrictive alternative that will reasonably assure defendant's appearance in court. The court will support its choice of alternative on the record.

2. Notwithstanding the provisions of subdivision one of this section, when the defendant is charged with a felony in a local criminal court, a superior court judge may not [~~order recognizance or bail~~] issue a securing order unless and until the district attorney has had an opportunity to be heard in the matter and such judge [~~has~~] and counsel for the defendant have been furnished with a report as described in [~~subparagraph (ii) of paragraph (b) of~~] subdivision [~~two~~] four of section 530.20.

§ 23. Section 530.40 of the criminal procedure law, subdivision 3 as amended by chapter 264 of the laws of 2003, and subdivision 4 as amended by chapter 762 of the laws of 1971, is amended to read as follows:

§ 530.40 [~~Order of recognizance or bail;~~] Securing order by superior court when action is pending therein.

When a criminal action is pending in a superior court, such court, upon application of a defendant, must [~~or may~~] order [~~recognizance or bail~~] a securing order as follows:

1. [~~When the defendant is charged with an offense or offenses of less than felony grade only, the court must order recognizance or bail.~~

~~2. When the defendant is charged with a felony, the court may, in its discretion, order recognizance or bail. In any such case in which an indictment (a) has resulted from an order of a local criminal court holding the defendant for the action of the grand jury, or (b) was filed at a time when a felony complaint charging the same conduct was pending in a local criminal court, and in which such local criminal court or a superior court judge has issued an order of recognizance or bail which is still effective, the superior court's order may be in the form of a direction continuing the effectiveness of the previous order.~~] Release the principal pending trial on the principal's personal recognizance, unless the court finds on the record that release on recognizance will not reasonably assure the individual's court attendance. In such instances, the court will release the individual under non-monetary conditions, selecting the least restrictive alternative that will reasonably assure the principal's court attendance. The court will support its choice of alternative on the record.

2. Notwithstanding the above, in cases where the people indicate that they intend to move for pretrial detention as set out in article five hundred forty-five of this title, the court may commit the defendant to the custody of the sheriff, or issue a securing order in accordance with article five hundred forty-five of this title.

3. Notwithstanding the provisions of subdivision [~~two,~~] one of this section, a superior court may not [~~order recognizance or bail~~] issue a securing order, or permit a defendant to remain at liberty pursuant to an existing order, after [~~he~~] the defendant has been convicted of either: (a) a class A felony or (b) any class B or class C felony defined in article one hundred thirty of the penal law committed or attempted to be committed by a person eighteen years of age or older against a person less than eighteen years of age. In either case the court must commit or remand the defendant to the custody of the sheriff.

4. Notwithstanding the provisions of subdivision [~~two~~] one of this section, a superior court may not [~~order recognizance or bail~~] issue a securing order when the defendant is charged with a felony unless and until the district attorney has had an opportunity to be heard in the matter and such court [~~has~~] and counsel for the defense have been furnished with a report as described in [~~subparagraph (ii) of paragraph (b) of~~] subdivision [~~two~~] four of section 530.20 of this article.

§ 24. Subdivision 1 of section 530.45 of the criminal procedure law, as amended by chapter 264 of the laws of 2003, is amended to read as follows:

1. When the defendant is at liberty in the course of a criminal action as a result of a prior [~~order of recognizance or bail~~] securing order and the court revokes such order and then [~~either fixes no bail or fixes bail in a greater amount or in a more burdensome form than was previously fixed and remands or commits defendant to the custody of the sheriff, a judge designated in subdivision two, upon application of the defendant following conviction of an offense other than a class A felony or a class B or class C felony offense defined in article one hundred thirty of the penal law committed or attempted to be committed by a person~~

~~eighteen years of age or older against a person less than eighteen years of age, and before sentencing, may issue a securing order and either release defendant on his own recognizance, or fix bail, or fix bail in a lesser amount or~~] issues a more restrictive securing order in a less [~~burdensome~~] restrictive form than fixed by the court in which the conviction was entered.

§ 25. Section 530.60 of the criminal procedure law is REPEALED.

§ 26. Title P of part 3 of the criminal procedure law is amended by adding a new article 545 to read as follows:

ARTICLE 545--PRETRIAL DETENTION

Section 545.10 Pretrial detention; when ordered.
545.20 Eligibility for a pretrial detention hearing.
545.30 Pretrial detention hearing.
545.40 Order for pretrial detention.
545.50 Reopening of pretrial hearing.
545.60 Length of detention for defendant held under a pretrial detention order.

§ 545.10 Pretrial detention; when ordered.

A county or superior court may order, before trial, the detention of a defendant if the people seek detention of the defendant under section 545.20 of this article, and, after a hearing pursuant to section 545.30 of this article, the court finds clear and convincing evidence that the defendant poses a high risk of flight before trial, or that defendant poses a current threat to the physical safety of a reasonably identifiable person or persons, and that no conditions or combination of conditions in the community will suffice to contain the aforesaid risk or threat. There shall be a rebuttable presumption, except in the circumstances outlined in subdivision four of section 545.30 of this article that some condition or conditions in the community will reasonably contain a high risk of flight or a current threat to the physical safety of a reasonably identifiable person or persons. That presumption may only be overcome by clear and convincing evidence.

§ 545.20 Eligibility for a pretrial detention hearing.

1. The people may make a motion with the court at any time seeking the pretrial detention of a defendant:

(a) charged with a class A felony defined in the penal law;

(b) charged with offenses involving witness intimidation under section 215.15, 215.16 or 215.17 of the penal law;

(c) charged with class B or C crimes as enumerated under section 70.02 of the penal law (except burglary in the second degree as defined in subdivision two of section 140.25 of the penal law, or robbery in the second degree as defined in subdivision one of section 160.10 of the penal law);

(d) who, the people allege poses an immediate risk of physical harm to members of the same family or household of the defendant, as defined in subdivision one of section 530.11 of this title; or

(e) who has persistently and willfully failed to appear in court in the current case, and the relevant pretrial services agency certifies that the agency has made persistent efforts to assist the individual's appearance in court.

2. Upon such motion by the people, the defendant may be committed to the custody of the sheriff pending a hearing on the people's motion, or the court may issue a securing order. The court shall support its choice of an alternative on the record. If the person is at liberty, a warrant shall be issued and the defendant brought into custody of the sheriff.

§ 545.30 Pretrial detention hearing.

1. A hearing shall be held within three working days from the people's motion. At the hearing, the defendant shall have the right to be represented by counsel, and, if financially unable to obtain counsel, to have counsel assigned. The defendant shall be afforded an opportunity to testify, to present witnesses, to cross-examine witnesses who appear at the hearing, and to present information by proffer or otherwise. The rules concerning the admissibility of evidence in criminal trials do not apply to the presentation and consideration of information during the hearing.

2. (a) Within at least twenty-four hours of the hearing, the people shall disclose to the defendant and permit the defendant to inspect, copy or photograph all statements and reports that are in the possession, custody or control of the people, or persons under the people's direction and control that:

(i) the people rely upon to establish reasonable cause that the defendant committed the alleged crime or crimes; and

(ii) relate to the people's basis for the pretrial detention motion that either the defendant presents a high risk of flight or a current threat to the physical safety of a reasonably identifiable person or persons.

(b) In addition, the people will produce any statements that are exculpatory in nature.

(c) Portions of materials claimed to be non-discoverable may be withheld pending a determination and ruling of the court under section 245.70 of this chapter; but the defendant shall be notified in writing that such information has not been disclosed under a particular subdivision of such section, and the discoverable portions of such materials shall be disclosed if practicable.

3. In hearings in cases for which there is no indictment, the people shall establish reasonable cause that the eligible defendant committed the charged offense. The people must establish by clear and convincing evidence that defendant poses a high risk of flight or a current threat of physical danger to a reasonably identifiable person or persons and that no conditions or combination of conditions in the community will suffice to contain the aforesaid risk or threat.

4. There shall be a rebuttable presumption, which the defendant may overcome by a preponderance of the evidence, that no conditions or combination of conditions in the community will suffice to contain a current threat to the physical safety of a reasonably identifiable person or persons if the court finds reasonable cause that the defendant:

(a) committed a crime for which the defendant would be subject to a term of life imprisonment;

(b) committed a crime involving serious physical injury or threat of serious physical injury, or attempt therein, while the defendant was in the community on recognizance or under non-monetary conditions for a crime involving serious physical injury or the threat of serious physical injury; or

(c) threatened, injured, intimidated, or attempted to threaten, injure or intimidate a prospective witness or juror in an criminal investigation or judicial proceeding.

5. In determining whether the defendant presents a high risk of flight or a current threat of physical danger to a reasonably identifiable person or persons and whether no conditions or combinations of conditions in the community will suffice to contain such risk or threat, the court may take into account the following information:

(a) the nature and circumstances of the charged offense;

(b) the weight of the evidence against the defendant, except that the court may consider the admissibility of any evidence sought to be excluded;

(c) the defendant's current and prior history of failure to appear in court whether such failures to appear were willful;

(d) the nature and the credibility of the threat to the physical danger of a reasonably identifiable person or persons, if applicable; and

(e) whether, at the time of the current offense or arrest, the defendant was on probation, parole, or on release pending trial, sentencing or completion of a sentence in this state or other jurisdictions.

§ 545.40 Order for pretrial detention.

In a pretrial detention order issued pursuant to section 545.10 of this article, the court shall:

1. include written findings of fact and a written statement of the reasons for the detention; and

2. direct that the eligible defendant be afforded reasonable opportunity for private consultation with counsel.

§ 545.50 Reopening of pretrial hearing.

A pretrial detention hearing may be opened, before or after issuance of a pretrial detention order by the court, by motion of the people or the defendant, at any time before trial, if the court finds either a change of circumstances or that information exists that was not known to the people or to the defendant at the time of the hearing, that has a material bearing on the issue of whether defendant presents a high risk of failure to appear or a current threat to the physical safety of a reasonably identifiable person or persons and whether no conditions or combination of conditions will suffice to contain such risk or threat.

§ 545.60 Length of detention for defendant held under a pretrial detention order.

1. If a pretrial detention order is issued, a defendant shall not remain detained in jail for more than one hundred eighty days after the return of the indictment, if applicable, until the start of trial. In cases where no indictment is required, the defendant shall not remain detained in jail for more than ninety days from the date of the pretrial detention motion until the start of trial.

2. (a) The time within which the trial of the case commences may be extended for one or more additional periods not to exceed twenty days each on the basis of a motion submitted by the people and approved by the court. The additional period or periods of detention may be granted only on the basis of good cause shown, and shall be granted only for the additional time required to prepare for the trial of the person. Good cause may include, but not be limited to, the unavailability of an essential witness, the necessity for forensic analysis of evidence, the ability to conduct a joint trial with a co-defendant or co-defendants, severance of co-defendants which permits only one trial to commence within the time period, complex or major investigations, scheduling conflicts which arise shortly before the trial date, the inability to proceed to trial because of action taken by or at the behest of the defendant, the breakdown of a plea agreement on or immediately before the trial date, and allowing reasonable time to prepare for a trial after the circumstances giving rise to a tolling or extension of the time period no longer exists.

(b) In computing the one hundred eighty days from indictment, if applicable, or if no indictment is required, ninety days from the date

of the pretrial order, to commencement of trial, the following periods shall be excluded:

(i) any period from the filing of the notice of appeal to the issuance of the mandate in an interlocutory appeal;

(ii) any period attributable to any examination to determine the defendant's sanity or lack thereof or his or her mental or physical competency to stand trial;

(iii) any period attributable to the inability of the defendant to participate in the defendant's defense because of mental incompetency or physical incapacity; and

(iv) any period in which the defendant is otherwise unavailable for trial.

3. If a trial has not commenced within one hundred eighty days from indictment, if applicable, or ninety days from the pretrial detention order if no indictment is required, as calculated above, and the defendant remains in custody, the defendant shall be released on recognizance or under non-monetary conditions of release pending trial on the underlying charge, unless:

(a) the trial is in progress,

(b) the trial has been delayed by the timely filing of motions, excluding motions for continuances;

(c) the trial has been delayed at the request of the defendant; or

(d) upon motion of the people, the court finds that a current substantial and unjustifiable risk to the physical safety of a reasonably identifiable person would result from the defendant's release from custody, and that no appropriate conditions for the defendant's release would reasonably address that risk, and also finds that the failure to commence trial in accordance with the time requirements set forth in this section was not due to unreasonable delay by the people. If the court makes such a finding, the court must set an additional period of time, not to exceed thirty days, in which the defendant's trial must commence. If the trial does not commence within this period, the defendant must be released on recognizance or under non-monetary conditions.

§ 27. Article 68 of the insurance law is REPEALED.

§ 28. Paragraph (a) of subdivision 9 of section 216.05 of the criminal procedure law, as amended by chapter 258 of the laws of 2015, is amended to read as follows:

(a) If at any time during the defendant's participation in the judicial diversion program, the court has reasonable grounds to believe that the defendant has violated a release condition or has failed to appear before the court as requested, the court shall direct the defendant to appear or issue a bench warrant to a police officer or an appropriate peace officer directing him or her to take the defendant into custody and bring the defendant before the court without unnecessary delay; provided, however, that under no circumstances shall a defendant who requires treatment for opioid abuse or dependence be deemed to have violated a release condition on the basis of his or her participation in medically prescribed drug treatments under the care of a health care professional licensed or certified under title eight of the education law, acting within his or her lawful scope of practice. The provisions of [~~subdivision one of~~] section [~~530.60~~] 530.10 of this chapter relating to [~~revocation of recognizance or bail~~] issuance of securing orders shall apply to such proceedings under this subdivision.

§ 29. Subdivisions 2 and 3 of section 620.50 of the criminal procedure law are amended to read as follows:

2. If the court is satisfied after such hearing that there is reasonable cause to believe that the prospective witness (a) possesses information material to the pending action or proceeding, and (b) will not be amenable or respond to a subpoena at a time when [~~his~~] the witness's attendance will be sought, it may issue a material witness order, adjudging [~~him~~] the individual a material witness and [~~fixing bail to secure his~~] releasing the individual on the individual's own recognizance unless the court finds on the record that release on recognizance will not reasonably ensure the individual's court attendance. In such instances the court will release the individual under non-monetary conditions, selecting the least restrictive alternative that will reasonably ensure the individual's future attendance.

3. [~~A~~] When a material witness order [~~must be~~] is executed [~~as follows:~~

~~(a) If the bail is posted and approved by the court~~], the witness must[~~, as provided in subdivision three of section 510.40,~~] be released and be permitted to remain at liberty[~~; provided that, where the bail is posted by a person other than the witness himself, he may not be so released except upon his signed written consent thereto;~~

~~(b) If the bail is not posted, or if though posted it is not approved by the court, the witness must[, as provided in subdivision three of section 510.40, be committed to the custody of the sheriff~~].

§ 30. Section 216 of the judiciary law is amended by adding a new subdivision 5 to read as follows:

5. (a) The chief administrator of the courts shall collect data at arraignment on all pretrial release and detention decisions, including information on sex, race, criminal charge, the pretrial release decision outcome, whether the individual was detained, whether electronic monitoring was imposed, and information on any pretrial motions made, and motions granted.

(b) The office of court administration shall provide data and information to the division of criminal justice services which will prepare an annual report on pretrial release and detention outcomes, and include information on the sex, race, criminal charge, pretrial decision outcomes, the use of electronic monitoring, pretrial motions, rates of failure to appear and rates of rearrest for individuals released before trial. The report shall also include information on pretrial service agency activity.

§ 31. This act shall take effect November 1, 2020.

SUBPART B

Section 1. Article 240 of the criminal procedure law is REPEALED.

§ 2. The criminal procedure law is amended by adding a new article 245 to read as follows:

ARTICLE 245
DISCOVERY

Section 245.10 Timing of discovery.
245.20 Automatic discovery.
245.25 Disclosure prior to guilty plea deadline.
245.30 Court orders for preservation, access or discovery.
245.35 Court ordered procedures to facilitate compliance.
245.40 Non-testimonial evidence from the defendant.
245.45 DNA comparison order.
245.50 Certificates of compliance.
245.55 Flow of information.

245.60 Continuing duty to disclose.
245.65 Work product.
245.70 Protective orders.
245.75 Waiver of discovery by defendant.
245.80 Remedies or sanctions for non-compliance.
245.85 Admissibility of discovery.

§ 245.10 Timing of discovery.

1. Prosecution's performance of obligations. (a) The prosecution shall perform its initial discovery obligations under subdivision one of section 245.20 of this article as soon as practicable but not later than fifteen calendar days after the defendant's arraignment on an indictment, superior court information, prosecutor's information, information, or simplified information. Portions of materials claimed to be non-discoverable may be withheld pending a determination and ruling of the court under section 245.70 of this article; but the defendant shall be notified in writing that information has not been disclosed under a particular subdivision of such section, and the discoverable portions of such materials shall be disclosed if practicable. When the discoverable materials are exceptionally voluminous or, despite diligent efforts, are otherwise not in the possession, custody, or control of the prosecution, the time period in this paragraph may be stayed by up to an additional thirty calendar days without need for a motion pursuant to subdivision two of section 245.70 of this article.

(b) The prosecution shall perform its supplemental discovery obligations under subdivision three of section 245.20 of this article as soon as practicable but not later than fifteen calendar days before trial.

2. Defendant's performance of obligations. The defendant shall perform his or her discovery obligations under subdivision four of section 245.20 of this article not later than fifteen calendar days after being served with the prosecution's certificate of compliance pursuant to subdivision one of section 245.50 of this article, except that portions of materials claimed to be non-discoverable may be withheld pending a determination and ruling of the court under section 245.70 of this article; but the prosecution must be notified in writing that information has not been disclosed under a particular section and the disclosable portions of such material shall be disclosed if practicable.

§ 245.20 Automatic discovery.

1. Initial discovery for the defendant. Subject to paragraph (b) of this subdivision and section 245.70 of this article, the prosecution shall disclose to the defendant, and permit the defendant to discover, inspect, copy or photograph, each of the following items and information when it relates to the subject matter of the case and is in the possession, custody or control of the prosecution or persons known to the prosecution to be in the possession, custody or control of the prosecution's direction or control:

(a) All written or recorded statements, and the substance of all oral statements, made by the defendant or a co-defendant to a public servant engaged in law enforcement activity or to a person then acting under his or her direction or in cooperation with him or her, other than statements made in the course of the criminal transaction.

(b) All transcripts of the testimony of a person who has testified before a grand jury, including but not limited to the defendant or a co-defendant. If in the exercise of reasonable diligence, and due to the limited availability of transcription resources, a transcript is unavailable for disclosure within the time period specified in subdivi-

sion one of section 245.10 of this article, such time period may be stayed by up to an additional thirty calendar days without need for a motion pursuant to subdivision two of section 245.70 of this article; except that such disclosure shall be made as soon as practicable and not later than thirty calendar days before a scheduled trial date. When the court is required to review grand jury transcripts, the prosecution shall disclose such transcripts to the court expeditiously upon receipt by the prosecutor, notwithstanding the otherwise-applicable time periods for disclosure in this article.

(c) The names of, and addresses or adequate alternative contact information for, all persons other than law enforcement personnel whom the prosecutor knows to have evidence or information relevant to any offense charged or to a potential defense thereto, including a designation by the prosecutor as to which of those persons may be called as witnesses. Information under this subdivision relating to a confidential informant may be withheld, and redacted from discovery materials, without need for a motion pursuant to section 245.70 of this article; but the defendant shall be notified in writing that such information has not been disclosed, unless the court rules otherwise for good cause shown.

(d) The name and work affiliation of all law enforcement personnel whom the prosecutor knows to have evidence or information relevant to any offense charged or to a potential defense thereto, including a designation by the prosecutor as to which of those persons may be called as witnesses. Information under this subdivision relating to undercover personnel may be withheld, and redacted from discovery materials, without need for a motion pursuant to section 245.70 of this article; but the defendant shall be notified in writing that such information has not been disclosed, unless the court rules otherwise for good cause shown.

(e) All statements, written or recorded or summarized in any writing or recording, made by persons who have evidence or information relevant to any offense charged or to a potential defense thereto, including all police reports and law enforcement agency reports. This provision also includes statements, written or recorded or summarized in any writing or recording, by persons to be called as witnesses at pre-trial hearings.

(f) Expert opinion evidence, including the name, business address, current curriculum vitae, and a list of publications of each expert witness whom the prosecutor intends to call as a witness at trial or a pre-trial hearing, and all reports prepared by the expert that pertain to the case, or if no report is prepared, a written statement of the facts and opinions to which the expert is expected to testify and a summary of the grounds for each opinion. This paragraph does not alter or in any way affect the procedures, obligations or rights set forth in section 250.10 of this title. If in the exercise of reasonable diligence this information is unavailable for disclosure within the time period specified in subdivision one of section 245.10 of this article, that period shall be stayed without need for a motion pursuant to subdivision two of section 245.70 of this article; except that the disclosure shall be made as soon as practicable and not later than thirty calendar days before a scheduled trial date, unless an order is obtained pursuant to section 245.70 of this article. When the prosecution's expert witness is being called in response to disclosure of an expert witness by the defendant, the court may alter a scheduled trial date to allow the prosecution thirty calendar days to make the disclosure and the defendant thirty calendar days to prepare and respond to the new materials.

(g) All tapes or other electronic recordings which the prosecution intends to introduce at trial or a pre-trial hearing.

(h) All photographs and drawings made or completed by a public servant engaged in law enforcement activity, or which were made by a person whom the prosecutor intends to call as a witness at trial or a pre-trial hearing, or which the prosecution intends to introduce at trial or a pre-trial hearing.

(i) All photographs, photocopies and reproductions made by or at the direction of law enforcement personnel of any property prior to its release pursuant to section 450.10 of the penal law.

(j) All reports, documents, data, calculations or writings, including but not limited to preliminary tests or screening results and bench notes, concerning physical or mental examinations, or scientific tests or experiments or comparisons, and analyses performed electronically, relating to the criminal action or proceeding which were made by or at the request or direction of a public servant engaged in law enforcement activity, or which were made by a person whom the prosecutor intends to call as a witness at trial or a pre-trial hearing, or which the prosecution intends to introduce at trial or a pre-trial hearing.

(k) All evidence and information, including that which is known to police or other law enforcement agencies acting on the government's behalf in the case, that tends to: (i) negate the defendant's guilt as to a charged offense; (ii) reduce the degree of or mitigate the defendant's culpability as to a charged offense; (iii) support a potential defense to a charged offense; (iv) materially impact the credibility of a testifying prosecution witness; (v) undermine evidence of the defendant's identity as a perpetrator of a charged offense; or (vi) provide a basis for a motion to suppress evidence. Information under this subdivision shall be disclosed whether or not such information is recorded in tangible form and irrespective of whether the prosecutor credits the information. The prosecutor shall disclose the information expeditiously upon its receipt and shall not delay disclosure if it is obtained earlier than the time period for disclosure in subdivision one of section 245.10 of this article.

(l) A summary of all promises, rewards and inducements made to, or in favor of, persons who may be called as witnesses, as well as requests for consideration by persons who may be called as witnesses and copies of all documents relevant to a promise, reward or inducement.

(m) A list of all tangible objects obtained from, or allegedly possessed by, the defendant or a co-defendant. The list shall include a designation by the prosecutor as to which objects were physically or constructively possessed by the defendant and were recovered during a search or seizure by a public servant or an agent thereof, and which tangible objects were recovered by a public servant or an agent thereof after allegedly being abandoned by the defendant. If the prosecution intends to prove the defendant's possession of any tangible objects by means of a statutory presumption of possession, it shall designate such intention as to each such object. If reasonably practicable, the prosecution shall also designate the location from which each tangible object was recovered. There is also a right to inspect or copy or photograph the listed tangible objects.

(n) Whether a search warrant has been executed and all documents relating thereto, including but not limited to the warrant, the warrant application, supporting affidavits, a police inventory of all property seized under the warrant, and a transcript of all testimony or other oral communications offered in support of the warrant application.

(o) All tangible property that the prosecution intends to introduce in its case-in-chief at trial or a pre-trial hearing. If in the exercise of reasonable diligence the prosecutor has not formed an intention within the time period specified in subdivision one of section 245.10 of this article that an item under this subdivision will be introduced at trial or a pre-trial hearing, such time period shall be stayed without need for a motion pursuant to subdivision two of section 245.70 of this article; but the disclosure shall be made as soon as practicable and subject to the continuing duty to disclose in section 245.60 of this article.

(p) A record of judgment of conviction for all defendants and all persons designated as potential prosecution witnesses pursuant to paragraph (c) of this subdivision, other than those witnesses who are experts.

(q) When it is known to the prosecution, the existence of any pending criminal action against all persons designated as potential prosecution witnesses pursuant to paragraph (c) of this subdivision.

(r) The approximate date, time and place of the offense or offenses charged and of the defendant's seizure and arrest.

(s) In any prosecution alleging a violation of the vehicle and traffic law, where the defendant is charged by indictment, superior court information, prosecutor's information, information, or simplified information, the most recent record of inspection, calibration and repair of machines and instruments utilized to perform any scientific tests and experiments and the certification certificate, if any, held by the operator of the machine or instrument, and all other disclosures required under this article.

(t) In any prosecution alleging a violation of section 156.05 or 156.10 of the penal law, the time, place and manner such violation occurred.

2. Discovery by the prosecution. The prosecutor shall make a diligent, good faith effort to ascertain the existence of material or information discoverable under subdivision one of this section and to cause such material or information to be made available for discovery where it exists but is not within the prosecutor's possession, custody or control; provided that the prosecutor shall not be required to obtain by subpoena duces tecum material or information which the defendant may thereby obtain. This provision shall not require the prosecutor to ascertain the existence of witnesses not known to police or another law enforcement agency, or the written or recorded statements thereof, under paragraph (c) or (e) of subdivision one of this section.

3. Supplemental discovery for the defendant. The prosecution shall disclose to the defendant a list of all misconduct and criminal acts of the defendant not charged in the indictment, superior court information, prosecutor's information, information, or simplified information, which the prosecution intends to use at trial for purposes of (a) impeaching the credibility of the defendant, or (b) as substantive proof of any material issue in the case.

4. Reciprocal discovery for the prosecution. (a) The defendant shall, subject to constitutional limitations, disclose to the prosecution, and permit the prosecution to discover, inspect, copy or photograph, any material and relevant evidence within the defendant's or counsel for the defendant's possession or control that is discoverable under paragraphs (f), (g), (h), (j), (1) and (o) of subdivision one of this section, which the defendant intends to offer at trial or a pre-trial hearing, and the names, addresses, birth dates, and all statements, written or recorded or summarized in any writing or recording, of those persons

other than the defendant whom the defendant intends to call as witnesses at trial or a pre-trial hearing.

(b) Disclosure of the name, address, birth date, and all statements, written or recorded or summarized in any writing or recording, of a person whom the defendant intends to call as a witness for the sole purpose of impeaching a prosecution witness is not required until after the prosecution witness has testified at trial.

(c) If in the exercise of reasonable diligence the reciprocally discoverable information under paragraph (f) or (o) of subdivision one of this section is unavailable for disclosure within the time period specified in subdivision two of section 245.10 of this article, such time period shall be stayed without need for a motion pursuant to subdivision two of section 245.70 of this article; but the disclosure shall be made as soon as practicable and subject to the continuing duty to disclose in section 245.60 of this article.

5. Stay of automatic discovery; remedies and sanctions. If in the judgment of either party good cause exists for declining to make any of the disclosures set forth above, such party may move for a protective order pursuant to section 245.70 of this article and production of the item shall be stayed pending a ruling by the court. The opposing party shall be notified in writing that information has not been disclosed under a particular section. When some parts of material or information are discoverable but in the judgment of a party good cause exists for declining to disclose other parts, the discoverable parts shall be disclosed and the disclosing party shall give notice in writing that non-discoverable parts have been withheld.

6. Redactions permitted. Either party may redact social security numbers and tax numbers from disclosures under this article.

§ 245.25 Disclosure prior to guilty plea deadline.

1. Pre-indictment guilty pleas. Subject to subdivision two of this section and section 245.70 of this article, upon a felony complaint, where the prosecution has made a pre-indictment guilty plea offer requiring a plea to a crime, the defendant may, upon timely request and reasonable notice to the prosecution, inspect any available police or other law enforcement agency report of a factual nature regarding the arrest or investigation of the charges, and/or any designated and available items or information that could be of material importance to the decision on the guilty plea offer and would be discoverable prior to trial under subdivision one of section 245.20 of this article. The prosecution shall disclose the requested and designated items or information, as well as any known information that tends to be exculpatory or to support a defense to a charged offense, not less than three calendar days prior to the expiration date of any guilty plea offer by the prosecution or any deadline imposed by the court for acceptance of a negotiated guilty plea offer. If the prosecution does not comply with a proper request made pursuant to this subdivision, the court may take appropriate action as necessary to address the non-compliance. The inspection rights under this subdivision do not apply to items or information that are the subject of a protective order under section 245.70 of this article; but if such information tends to be exculpatory, the court shall reconsider the protective order. The court may deny an inspection under this subdivision when a reasonable person in the defendant's position would not consider the requested and designated item or information to be of material importance to the decision on the guilty plea offer. A defendant may waive his or her rights under this

subdivision; but a guilty plea offer may not be conditioned on such waiver.

2. Other guilty pleas. Upon an indictment, superior court information, prosecutor's information, information, simplified information, or misdemeanor complaint, where the prosecution has made a guilty plea offer requiring a plea to a crime, the defendant may, upon timely request and reasonable notice to the prosecution, inspect any available police or other law enforcement agency report of a factual nature regarding the arrest or investigation of the charges, and/or any designated and available items or information that could be of material importance to the decision on the guilty plea offer and would be discoverable prior to trial under subdivision one of section 245.20 of this article. The prosecution shall disclose the requested and designated items or information, as well as any known information that tends to be exculpatory or to support a defense to a charged offense, not less than seven calendar days prior to the expiration date of any guilty plea offer by the prosecution or any deadline imposed by the court for a guilty plea. If the prosecution does not comply with a proper request made pursuant to this subdivision, the court may take appropriate action as necessary to address the non-compliance. The inspection rights under this subdivision do not apply to items or information that are the subject of a protective order under section 245.70 of this article; but if such information tends to be exculpatory, the court shall reconsider the protective order. The court may deny an inspection under this subdivision when a reasonable person in the defendant's position would not consider the requested and designated item or information to be of material importance to the decision on the guilty plea offer. A defendant may waive his or her rights under this subdivision, but a guilty plea offer may not be conditioned on such waiver.

§ 245.30 Court orders for preservation, access or discovery.

1. Order to preserve evidence. At any time, a party may move for a court order to any individual, agency or other entity in possession, custody or control of items which relate to the subject matter of the case or are otherwise relevant, requiring that such items be preserved for a specified period of time. The court shall hear and rule upon such motions expeditiously. The court may modify or vacate such an order upon a showing that preservation of particular evidence will create significant hardship, on condition that the probative value of that evidence is preserved by a specified alternative means.

2. Order to grant access to premises. Without prejudice to its ability to issue a subpoena pursuant to this chapter, after an accusatory instrument has been filed, on application of the prosecution or the defendant for access to an area or place relevant to the case in order to inspect, photograph, or measure same, and upon notice to the property owner with a right to be heard, the court may, upon a finding that such would be material to the preparation of the case or helpful to the jury in determining any material factual issue, enter an order authorizing same on a date and time reasonable for the parties and those in possession of the area or place, provided that law enforcement is not in good faith engaged in a continued investigation of the area or place. The court may in the alternative otherwise provide for the securing of photographs or measurements of the area or place, particularly when necessary to protect the privacy of those in possession of private premises, or when necessary to preserve the safety and security of a place. The court may also limit access and/or the distribution of photographs or measurements to the parties or their counsel.

3. Discretionary discovery by order of the court. The court in its discretion may, upon a showing by the defendant that the request is reasonable and that the defendant is unable without undue hardship to obtain the substantial equivalent by other means, order the prosecution, or any individual, agency or other entity subject to the jurisdiction of the court, to make available for disclosure to the defendant any material or information which relates to the subject matter of the case and is reasonably likely to be material. A motion under this subdivision must be on notice to any person or entity affected by the order. The court may, on its own, upon request of any person or entity affected by the order, modify or vacate the order if compliance would be unreasonable or will create significant hardship. The court may permit a party seeking or opposing a discretionary order of discovery under this subdivision, or another affected person or entity, to submit papers or testify on the record ex parte or in camera. Any such papers and a transcript of such testimony may be sealed and shall constitute a part of the record on appeal.

§ 245.35 Court ordered procedures to facilitate compliance.

To facilitate compliance with this article, and to reduce or streamline litigation of any disputes about discovery, the court in its discretion may issue an order:

1. Requiring that the prosecutor and counsel for the defendant diligently confer to attempt to reach an accommodation as to any dispute concerning discovery prior to seeking a ruling from the court;

2. Requiring a discovery compliance conference at a specified time prior to trial between the prosecutor, counsel for all defendants, and the court or its staff;

3. Requiring the prosecution to file an additional certificate of compliance that states that the prosecutor and/or an appropriate named agent has made reasonable inquiries of all police officers and other persons who have participated in investigating or evaluating the case about the existence of any favorable evidence or information within paragraph (k) of subdivision one of section 245.20 of this article, including such evidence or information that was not reduced to writing or otherwise memorialized or preserved as evidence, and has disclosed any such information to the defendant; and/or

4. Requiring other measures or proceedings designed to carry into effect the goals of this article.

§ 245.40 Non-testimonial evidence from the defendant.

1. Availability. After the filing of an accusatory instrument, and subject to constitutional limitations, the court may, upon motion of the prosecution showing probable cause to believe the defendant has committed the crime, a clear indication that relevant material evidence will be found, and that the method used to secure such evidence is safe and reliable, require a defendant to provide non-testimonial evidence, including to:

(a) Appear in a lineup;

(b) Speak for identification by a witness or potential witness;

(c) Be fingerprinted;

(d) Pose for photographs not involving reenactment of an event;

(e) Permit the taking of samples of the defendant's blood, hair, and other materials of the defendant's body that involves no unreasonable intrusion thereof;

(f) Provide specimens of the defendant's handwriting; and

(g) Submit to a reasonable physical or medical inspection of the defendant's body.

2. Limitations. This section shall not be construed to alter or in any way affect the issuance of a similar court order, as may be authorized by law, before the filing of an accusatory instrument, consistent with such rights as the defendant may derive from the state constitution or the United States constitution. This section shall not be construed to alter or in any way affect the administration of a chemical test where otherwise authorized. An order pursuant to this section may be denied, limited or conditioned as provided in section 245.70 of this article.

§ 245.45 DNA comparison order.

Where property in the prosecution's possession, custody, or control consists of a deoxyribonucleic acid ("DNA") profile obtained from probative biological material gathered in connection with the investigation of the crime, or the defendant, or the prosecution of the defendant, and the defendant establishes (a) that such profile complies with federal bureau of investigation or state requirements, whichever are applicable and as such requirements are applied to law enforcement agencies seeking a keyboard search or similar comparison, and (b) that the data meets state DNA index system or national DNA index system criteria as such criteria are applied to law enforcement agencies seeking such a keyboard search or similar comparison, the court may, upon motion of a defendant against whom an indictment, superior court information, prosecutor's information, information, or simplified information is pending, order an entity that has access to the combined DNA index system or its successor system to compare such DNA profile against DNA databanks by keyboard searches, or a similar method that does not involve uploading, upon notice to both parties and the entity required to perform the search, upon a showing by the defendant that such a comparison is material to the presentation of his or her defense and that the request is reasonable. For purposes of this section, a "keyboard search" shall mean a search of a DNA profile against the databank in which the profile that is searched is not uploaded to or maintained in the databank.

§ 245.50 Certificates of compliance.

1. By the prosecution. When the prosecution has provided the discovery required by subdivision one of section 245.20 of this article, except for any items or information that are the subject of an order pursuant to section 245.70 of this article, it shall serve upon the defendant and file with the court a certificate of compliance. The certificate of compliance shall state that, after exercising due diligence and making reasonable inquiries to ascertain the existence of material and information subject to discovery, the prosecutor has disclosed and made available all known material and information subject to discovery. It shall also identify the items provided. If additional discovery is subsequently provided prior to trial pursuant to section 245.60 of this article, a supplemental certificate shall be served upon the defendant and filed with the court identifying the additional material and information provided. No adverse consequence to the prosecution or the prosecutor shall result from the filing of a certificate of compliance in good faith; but the court may grant a remedy or sanction for a discovery violation as provided in section 245.80 of this article.

2. By the defendant. When the defendant has provided all discovery required by subdivision four of section 245.20 of this article, except for any items or information that are the subject of an order pursuant to section 245.70 of this article, counsel for the defendant shall serve upon the prosecution and file with the court a certificate of compliance. The certificate shall state that, after exercising due diligence

and making reasonable inquiries to ascertain the existence of material and information subject to discovery, counsel for the defendant has disclosed and made available all known material and information subject to discovery. It shall also identify the items provided. If additional discovery is subsequently provided prior to trial pursuant to section 245.60 of this article, a supplemental certificate shall be served upon the prosecution and filed with the court identifying the additional material and information provided. No adverse consequence to the defendant or counsel for the defendant shall result from the filing of a certificate of compliance in good faith; but the court may grant a remedy or sanction for a discovery violation as provided in section 245.80 of this article.

§ 245.55 Flow of information.

1. Sufficient communication for compliance. The district attorney and the assistant responsible for the case, or, if the matter is not being prosecuted by the district attorney, the prosecuting agency and its assigned representative, shall endeavor to ensure that a flow of information is maintained between the police and other investigative personnel and his or her office sufficient to place within his or her possession or control all material and information pertinent to the defendant and the offense or offenses charged, including, but not limited to, any evidence or information discoverable under paragraph (k) of subdivision one of section 245.20 of this article.

2. Provision of law enforcement agency files. Absent a court order or clear security requirement, upon request by the prosecution, a New York state law enforcement agency shall make available to the prosecution a complete copy of its complete files related to the investigation of the case or the prosecution of the defendant for compliance with this article.

3. 911 telephone call and police radio transmission electronic recordings, police worn body camera recordings and other police recordings. (a) Whenever an electronic recording of a 911 telephone call or a police radio transmission or video or audio footage from a police body-worn camera or other police recording was made or received in connection with the investigation of an apparent criminal incident, the arresting officer or lead detective shall expeditiously notify the prosecution in writing upon the filing of an accusatory instrument of the existence of all such known recordings. The prosecution shall expeditiously take whatever reasonable steps are necessary to ensure that all known electronic recordings of 911 telephone calls, police radio transmissions and video and audio footage and other police recordings made or available in connection with the case are preserved throughout the pendency of the case. Upon the defendant's timely request and designation of a specific electronic recording of a 911 telephone call, the prosecution shall also expeditiously take whatever reasonable steps are necessary to ensure that it is preserved throughout the pendency of the case.

(b) If the prosecution fails to disclose such an electronic recording to the defendant pursuant to paragraph (e), (g) or (k) of subdivision one of section 245.20 of this article due to a failure to comply with this obligation by police officers or other law enforcement or prosecution personnel, the court upon motion of the defendant shall impose an appropriate remedy or sanction pursuant to section 245.80 of this article.

§ 245.60 Continuing duty to disclose.

If either the prosecution or the defendant subsequently learns of additional material or information which it would have been under a duty to disclose pursuant to any provisions of this article at the time of a previous discovery obligation or discovery order, it shall expeditiously notify the other party and disclose the additional material or information as required for initial discovery under this article. This provision also requires expeditious disclosure by the prosecution of material or information that became relevant to the case or discoverable based upon reciprocal discovery received from the defendant pursuant to subdivision four of section 245.20 of this article.

§ 245.65 Work product.

This article does not authorize discovery by a party of those portions of records, reports, correspondence, memoranda, or internal documents of the adverse party which are only the legal research, opinions, theories or conclusions of the adverse party or its attorney or the attorney's agents, or of statements of a defendant, written or recorded or summarized in any writing or recording, made to the attorney for the defendant or the attorney's agents.

§ 245.70 Protective orders.

1. Any discovery subject to protective order. Upon a showing of good cause by either party, the court may at any time order that discovery or inspection of any kind of material or information under this article be denied, restricted, conditioned or deferred, or make such other order as is appropriate. The court may impose as a condition on discovery to a defendant that the material or information to be discovered be available only to counsel for the defendant; or, alternatively, that counsel for the defendant, and persons employed by the attorney or appointed by the court to assist in the preparation of a defendant's case, may not disclose physical copies of the discoverable documents to a defendant or to anyone else, provided that the prosecution affords the defendant access to inspect redacted copies of the discoverable documents at a supervised location that provides regular and reasonable hours for such access, such as a prosecutor's office, police station, facility of detention, or court. The court may permit a party seeking or opposing a protective order under this section, or another affected person, to submit papers or testify on the record ex parte or in camera. Any such papers and a transcript of such testimony may be sealed and shall constitute a part of the record on appeal. This section does not alter the allocation of the burden of proof with regard to matters at issue, including privilege.

2. Modification of time periods for discovery. Upon motion of a party in an individual case, the court may alter the time periods for discovery imposed by this article upon a showing of good cause.

3. Prompt hearing. Upon request for a protective order, the court shall conduct an appropriate hearing within three business days to determine whether good cause has been shown and when practicable shall render decision expeditiously. Any materials submitted and a transcript of the proceeding may be sealed and shall constitute a part of the record on appeal.

4. Showing of good cause. Good cause under this section includes but is not limited to: constitutional rights or limitations; danger to the integrity of physical evidence; an unreasonable risk of physical harm, intimidation, economic reprisal, bribery or unjustified annoyance or embarrassment to any person; an unreasonable risk of an adverse effect upon the legitimate needs of law enforcement, including but not limited to a continuing or related grand jury proceeding and the protection of

the confidentiality of informants; danger to any person stemming from factors such as a defendant's gang affiliation, prior history of interfering with witnesses, or threats or intimidating actions directed at potential witnesses; or other similar factors that also outweigh the usefulness of the discovery.

5. Successor counsel or pro se defendant. In cases in which the attorney-client relationship is terminated prior to trial for any reason, any material or information disclosed subject to a condition that it be available only to counsel for the defendant, or limited in dissemination by protective order or otherwise, shall be provided only to successor counsel for the defendant under the same condition or conditions or be returned to the prosecution, unless the court rules otherwise for good cause shown or the prosecutor gives written consent. Any work product derived from such material or information shall not be provided to the defendant, unless the court rules otherwise or the prosecutor gives written consent. If the defendant is acting as his or her own attorney, the court may regulate the time, place and manner of access to any discoverable material or information; and it may as appropriate appoint persons to assist the defendant in the investigation or preparation of the case. Upon motion or application of a defendant acting as his or her own attorney, the court may at any time modify or vacate any condition or restriction relating to access to discoverable material or information, for good cause shown.

6. Expedited review of adverse ruling. (a) A party that has unsuccessfully sought, or unsuccessfully opposed the granting of, a protective order under this section relating to the name, address, contact information or statements of a person may obtain expedited review of that ruling by an individual justice of the intermediate appellate court to which an appeal from a judgment of conviction in the case would be taken.

(b) Such review shall be sought within two business days of the adverse or partially adverse ruling, by order to show cause filed with the intermediate appellate court. The order to show cause shall in addition be timely served on the lower court and on the opposing party, and shall be accompanied by a sworn affirmation stating in good faith (i) that the ruling affects substantial interests, and (ii) that diligent efforts to reach an accommodation of the underlying discovery dispute with opposing counsel failed or that no accommodation was feasible; except that service on the opposing party, and a statement regarding efforts to reach an accommodation, are unnecessary where the opposing party was not made aware of the application for a protective order and good cause exists for omitting service of the order to show cause on the opposing party. The lower court's order subject to review shall be stayed until the appellate justice renders decision.

(c) The assignment of the individual appellate justice, and the mode of and procedure for the review, are determined by rules of the individual appellate courts. The appellate justice may consider any relevant and reliable information bearing on the issue, and may dispense with written briefs other than supporting and opposing materials previously submitted to the lower court. The appellate justice may dispense with the issuance of a written opinion in rendering his or her decision, and when practicable shall render decision expeditiously. Such review and decision shall not affect the right of a defendant, in a subsequent appeal from a judgment of conviction, to claim as error the ruling reviewed.

7. Compliance with protective order. Any protective order issued under this article is a mandate of the court for purposes of the offense of criminal contempt in subdivision three of section 215.50 of the penal law.

§ 245.75 Waiver of discovery by defendant.

A defendant who does not seek discovery from the prosecution under this article shall so notify the prosecution and the court at the defendant's arraignment on an indictment, superior court information, prosecutor's information, information, or simplified information, or expeditiously thereafter but before receiving discovery from the prosecution pursuant to subdivision one of section 245.20 of this article, and the defendant need not provide discovery to the prosecution pursuant to subdivision four of section 245.20 and section 245.60 of this article. A waiver shall be in writing and signed by the defendant and counsel for the defendant. Such a waiver does not alter or in any way affect the procedures, obligations or rights set forth in sections 250.10, 250.20 and 250.30 of this title, or otherwise established or required by law. The prosecution may not condition a guilty plea offer on the defendant's execution of a waiver under this section.

§ 245.80 Remedies or sanctions for non-compliance.

1. Need for remedy or sanction. (a) When material or information is discoverable under this article but is disclosed belatedly, the court shall impose an appropriate remedy or sanction if the party entitled to disclosure shows that it was prejudiced. Regardless of a showing of prejudice the party entitled to disclosure shall be given reasonable time to prepare and respond to the new material.

(b) When material or information is discoverable under this article but cannot be disclosed because it has been lost or destroyed, the court shall impose an appropriate remedy or sanction if the party entitled to disclosure shows that the lost or destroyed material may have contained some information relevant to a contested issue. The appropriate remedy or sanction is that which is proportionate to the potential ways in which the lost or destroyed material reasonably could have been helpful to the party entitled to disclosure.

2. Available remedies or sanctions. For failure to comply with any discovery order imposed or issued pursuant to this article, the court may make a further order for discovery, grant a continuance, order that a hearing be reopened, order that a witness be called or recalled, instruct the jury that it may draw an adverse inference regarding the non-compliance, preclude or strike a witness's testimony or a portion of a witness's testimony, admit or exclude evidence, order a mistrial, order the dismissal of all or some of the charges, or make such other order as it deems just under the circumstances; except that any sanction against the defendant shall comport with the defendant's constitutional right to present a defense, and precluding a defense witness from testifying shall be permissible only upon a finding that the defendant's failure to comply with the discovery obligation or order was willful and motivated by a desire to obtain a tactical advantage.

3. Consequences of non-disclosure of statement of testifying prosecution witness. The failure of the prosecutor or any agent of the prosecutor to disclose any written or recorded statement made by a prosecution witness which relates to the subject matter of the witness's testimony shall not constitute grounds for any court to order a new pre-trial hearing or set aside a conviction, or reverse, modify or vacate a judgment of conviction, in the absence of a showing by the defendant that there is a reasonable possibility that the non-disclosure

materially contributed to the result of the trial or other proceeding; provided, however, that nothing in this section shall affect or limit any right the defendant may have to a reopened pre-trial hearing when such statements were disclosed before the close of evidence at trial.

§ 245.85 Admissibility of discovery.

The fact that a party has indicated during the discovery process an intention to offer specified evidence or to call a specified witness is not admissible in evidence or grounds for adverse comment at a hearing or a trial.

§ 3. Subdivision 3 of section 610.20 of the criminal procedure law is amended and a new subdivision 4 is added to read as follows:

3. An attorney for a defendant in a criminal action or proceeding, as an officer of a criminal court, may issue a subpoena of such court, subscribed by himself, for the attendance in such court of any witness whom the defendant is entitled to call in such action or proceeding. An attorney for a defendant may not issue a subpoena duces tecum of the court directed to any department, bureau or agency of the state or of a political subdivision thereof, or to any officer or representative thereof**, unless the subpoena is endorsed by the court and provides at least three days for the production of the requested materials. In the case of an emergency, the court may by order dispense with the three-day production period**. Such a subpoena duces tecum may be issued in behalf of a defendant upon order of a court pursuant to the rules applicable to civil cases as provided in section twenty-three hundred seven of the civil practice law and rules.

4. The showing required to sustain any subpoena under this section is that the testimony or evidence sought is reasonably likely to be relevant and material to the proceedings, and the subpoena is not overbroad or unreasonably burdensome.

§ 4. Section 65.20 of the criminal procedure law, as added by chapter 505 of the laws of 1985, subdivision 2 as added, the opening paragraph of subdivision 10 as amended and subdivisions 3, 4, 5, 6, 7, 8, 9, 10, 11, 12 and 13 as renumbered by chapter 548 of the laws of 2007, subdivision 7 and paragraph (k) of subdivision 10 as amended by chapter 320 of the laws of 2006 and subdivisions 11 and 12 as amended by chapter 455 of the laws of 1991, is amended to read as follows:

§ 65.20 Closed-circuit television; procedure for application and grounds for determination.

1. Prior to the commencement of a criminal proceeding; other than a grand jury proceeding, either party may apply to the court for an order declaring that a child witness is vulnerable.

2. A child witness should be declared vulnerable when the court, in accordance with the provisions of this section, determines by clear and convincing evidence that the child witness would suffer serious mental or emotional harm that would substantially impair the child witness' ability to communicate with the finder of fact without the use of live, two-way closed-circuit television.

3. A motion pursuant to subdivision one of this section must be made in writing at least eight days before the commencement of trial or other criminal proceeding upon reasonable notice to the other party and with an opportunity to be heard.

4. The motion papers must state the basis for the motion and must contain sworn allegations of fact which, if true, would support a determination by the court that the child witness is vulnerable. Such allegations may be based upon the personal knowledge of the deponent or upon

information and belief, provided that, in the latter event, the sources of such information and the grounds for such belief are stated.

5. The answering papers may admit or deny any of the alleged facts and may, in addition, contain sworn allegations of fact relevant to the motion, including the rights of the defendant, the need to protect the child witness and the integrity of the truth-finding function of the trier of fact.

6. Unless all material facts alleged in support of the motion made pursuant to subdivision one of this section are conceded, the court shall, in addition to examining the papers and hearing oral argument, conduct an appropriate hearing for the purpose of making findings of fact essential to the determination of the motion. Except as provided in subdivision [~~six~~] **seven** of this section, it may subpoena or call and examine witnesses, who must either testify under oath or be permitted to give unsworn testimony pursuant to subdivision two of section 60.20 and must authorize the attorneys for the parties to do the same.

7. Notwithstanding any other provision of law, the child witness who is alleged to be vulnerable may not be compelled to testify at such hearing or to submit to any psychological or psychiatric examination. The failure of the child witness to testify at such hearing shall not be a ground for denying a motion made pursuant to subdivision one of this section. Prior statements made by the child witness relating to any allegations of conduct constituting an offense defined in article one hundred thirty of the penal law or incest as defined in section 255.25, 255.26 or 255.27 of such law or to any allegation of words or conduct constituting an attempt to prevent, impede or deter the child witness from cooperating in the investigation or prosecution of the offense shall be admissible at such hearing, provided, however, that a declaration that a child witness is vulnerable may not be based solely upon such prior statements.

8. (a) Notwithstanding any of the provisions of article forty-five of the civil practice law and rules, any physician, psychologist, nurse or social worker who has treated a child witness may testify at a hearing conducted pursuant to subdivision [~~five~~] **six** of this section concerning the treatment of such child witness as such treatment relates to the issue presented at the hearing, provided that any otherwise applicable statutory privileges concerning communications between the child witness and such physician, psychologist, nurse or social worker in connection with such treatment shall not be deemed waived by such testimony alone, except to the limited extent of permitting the court alone to examine in camera reports, records or documents, if any, prepared by such physician, psychologist, nurse or social worker. If upon such examination the court determines that such reports, records or documents, or any one or portion thereof, contain information material and relevant to the issue of whether the child witness is a vulnerable child witness, the court shall disclose such information to both the attorney for the defendant and the district attorney.

(b) At any time after a motion has been made pursuant to subdivision one of this section, upon the demand of the other party the moving party must furnish the demanding party with a copy of any and all of such records, reports or other documents in the possession of such other party and must, in addition, supply the court with a copy of all such reports, records or other documents which are the subject of the demand. At any time after a demand has been made pursuant to this paragraph, the moving party may demand that property of the same kind or character in possession of the party that originally made such demand be furnished to

the moving party and, if so furnished, be supplied, in addition, to the court.

9. (a) Prior to the commencement of the hearing conducted pursuant to subdivision [~~five~~] **six** of this section, the district attorney shall, subject to a protective order, comply with the provisions of **paragraph (c) of** subdivision one of section [~~240.45~~] **245.20** of this chapter as they concern any witness whom the district attorney intends to call at the hearing and the child witness.

(b) Before a defendant calls a witness at such hearing, he or she must, subject to a protective order, comply with the provisions of subdivision [~~two~~] **four** of section [~~240.45~~] **245.20** of this chapter as they concern all the witnesses the defendant intends to call at such hearing.

10. The court may consider, in determining whether there are factors which would cause the child witness to suffer serious mental or emotional harm, a finding that any one or more of the following circumstances have been established by clear and convincing evidence:

(a) The manner of the commission of the offense of which the defendant is accused was particularly heinous or was characterized by aggravating circumstances.

(b) The child witness is particularly young or otherwise particularly subject to psychological harm on account of a physical or mental condition which existed before the alleged commission of the offense.

(c) At the time of the alleged offense, the defendant occupied a position of authority with respect to the child witness.

(d) The offense or offenses charged were part of an ongoing course of conduct committed by the defendant against the child witness over an extended period of time.

(e) A deadly weapon or dangerous instrument was allegedly used during the commission of the crime.

(f) The defendant has inflicted serious physical injury upon the child witness.

(g) A threat, express or implied, of physical violence to the child witness or a third person if the child witness were to report the incident to any person or communicate information to or cooperate with a court, grand jury, prosecutor, police officer or peace officer concerning the incident has been made by or on behalf of the defendant.

(h) A threat, express or implied, of the incarceration of a parent or guardian of the child witness, the removal of the child witness from the family or the dissolution of the family of the child witness if the child witness were to report the incident to any person or communicate information to or cooperate with a court, grand jury, prosecutor, police officer or peace officer concerning the incident has been made by or on behalf of the defendant.

(i) A witness other than the child witness has received a threat of physical violence directed at such witness or to a third person by or on behalf of the defendant.

(j) The defendant, at the time of the inquiry, (i) is living in the same household with the child witness, (ii) has ready access to the child witness or (iii) is providing substantial financial support for the child witness.

(k) The child witness has previously been the victim of an offense defined in article one hundred thirty of the penal law or incest as defined in section 255.25, 255.26 or 255.27 of such law.

(l) According to expert testimony, the child witness would be particularly [~~suceptible~~] susceptible to psychological harm if required to testify in open court or in the physical presence of the defendant.

11. Irrespective of whether a motion was made pursuant to subdivision one of this section, the court, at the request of either party or on its own motion, may decide that a child witness may be vulnerable based on its own observations that a child witness who has been called to testify at a criminal proceeding is suffering severe mental or emotional harm and therefore is physically or mentally unable to testify or to continue to testify in open court or in the physical presence of the defendant and that the use of live, two-way closed-circuit television is necessary to enable the child witness to testify. If the court so decides, it must conduct the same hearing that subdivision [~~five~~] six of this section requires when a motion is made pursuant to subdivision one of this section, and it must make findings of fact pursuant to subdivisions [~~nine~~] ten and [~~eleven~~] twelve of this section, before determining that the child witness is vulnerable.

12. In deciding whether a child witness is vulnerable, the court shall make findings of fact which reflect the causal relationship between the existence of any one or more of the factors set forth in subdivision [~~nine~~] ten of this section or other relevant factors which the court finds are established and the determination that the child witness is vulnerable. If the court is satisfied that the child witness is vulnerable and that, under the facts and circumstances of the particular case, the defendant's constitutional rights to an impartial jury or of confrontation will not be impaired, it may enter an order granting the application for the use of live, two-way closed-circuit television.

13. When the court has determined that a child witness is a vulnerable child witness, it shall make a specific finding as to whether placing the defendant and the child witness in the same room during the testimony of the child witness will contribute to the likelihood that the child witness will suffer severe mental or emotional harm. If the court finds that placing the defendant and the child witness in the same room during the testimony of the child witness will contribute to the likelihood that the child witness will suffer severe mental or emotional harm, the order entered pursuant to subdivision [~~eleven~~] twelve of this section shall direct that the defendant remain in the courtroom during the testimony of the vulnerable child witness.

§ 5. Subdivision 5 of section 200.95 of the criminal procedure law, as added by chapter 558 of the laws of 1982, is amended to read as follows:

5. Court ordered bill of particulars. Where a prosecutor has timely served a written refusal pursuant to subdivision four of this section and upon motion, made in writing, of a defendant, who has made a request for a bill of particulars and whose request has not been complied with in whole or in part, the court must, to the extent a protective order is not warranted, order the prosecutor to comply with the request if it is satisfied that the items of factual information requested are authorized to be included in a bill of particulars, and that such information is necessary to enable the defendant adequately to prepare or conduct his defense and, if the request was untimely, a finding of good cause for the delay. Where a prosecutor has not timely served a written refusal pursuant to subdivision four of this section the court must, unless it is satisfied that the people have shown good cause why such an order should not be issued, issue an order requiring the prosecutor to comply or providing for any other order authorized by [~~subdivision one of section 240.70~~] section 245.80 of this part.

§ 6. Paragraph (c) of subdivision 1 of section 255.10 of the criminal procedure law, as added by chapter 763 of the laws of 1974, is amended to read as follows:

(c) granting discovery pursuant to article [~~240~~] 245; or

§ 7. Subdivision 1 of section 255.20 of the criminal procedure law, as amended by chapter 369 of the laws of 1982, is amended to read as follows:

1. Except as otherwise expressly provided by law, whether the defendant is represented by counsel or elects to proceed pro se, all pre-trial motions shall be served or filed within forty-five days after arraignment and before commencement of trial, or within such additional time as the court may fix upon application of the defendant made prior to entry of judgment. In an action in which either (a) material or information has been disclosed pursuant to paragraph (m) or (n) of subdivision one of section 245.20, (b) an eavesdropping warrant and application have been furnished pursuant to section 700.70, or (c) a notice of intention to introduce evidence has been served pursuant to section 710.30, such period shall be extended until forty-five days after the last date of such service. If the defendant is not represented by counsel and has requested an adjournment to obtain counsel or to have counsel assigned, such forty-five day period shall commence on the date counsel initially appears on defendant's behalf.

§ 8. Section 340.30 of the criminal procedure law is amended to read as follows:

§ 340.30 Pre-trial discovery and notices of defenses.

The provisions of article two hundred [~~forty~~] forty-five, concerning pre-trial discovery by a defendant under indictment in a superior court, and article two hundred fifty, concerning pre-trial notice to the people by a defendant under indictment in a superior court who intends to advance a trial defense of mental disease or defect or of alibi, apply to a prosecution of an information in a local criminal court.

§ 9. Subdivision 14 of section 400.27 of the criminal procedure law, as added by chapter 1 of the laws of 1995, is amended to read as follows:

14. (a) At a reasonable time prior to the sentencing proceeding or a mental retardation hearing:

[~~(i)~~] the prosecutor shall, unless previously disclosed and subject to a protective order, make available to the defendant the statements and information specified in subdivision one of section [~~240.45~~] 245.20 of this part and make available for inspection, photographing, copying or testing the property specified in subdivision one of section [~~240.20; and~~

~~(ii) the defendant shall, unless previously disclosed and subject to a protective order, make available to the prosecution the statements and information specified in subdivision two of section 240.45 and make available for inspection, photographing, copying or testing, subject to constitutional limitations, the reports, documents and other property specified in subdivision one of section 240.30~~] 245.20 of this part.

(b) Where a party refuses to make disclosure pursuant to this section, the provisions of section [~~240.35, subdivision one of section 240.40 and section 240.50~~] 245.70, 245.75 and/or 245.80 of this part shall apply.

(c) If, after complying with the provisions of this section or an order pursuant thereto, a party finds either before or during a sentencing proceeding or mental retardation hearing, additional material subject to discovery or covered by court order, the party shall promptly make disclosure or apply for a protective order.

(d) If the court finds that a party has failed to comply with any of the provisions of this section, the court may [~~enter~~] **employ** any of the [~~orders~~] **remedies or sanctions** specified in subdivision one of section [~~240.70~~] **245.80 of this part**.

§ 10. The opening paragraph of paragraph (b) of subdivision 1 of section 440.30 of the criminal procedure law, as added by chapter 19 of the laws of 2012, is amended to read as follows:

In conjunction with the filing or consideration of a motion to vacate a judgment pursuant to section 440.10 of this article by a defendant convicted after a trial, in cases where the court has ordered an evidentiary hearing upon such motion, the court may order that the people produce or make available for inspection property[~~, as defined in subdivision three of section 240.10 of this part,~~] in its possession, custody, or control that was secured in connection with the investigation or prosecution of the defendant upon credible allegations by the defendant and a finding by the court that such property, if obtained, would be probative to the determination of defendant's actual innocence, and that the request is reasonable. The court shall deny or limit such a request upon a finding that such a request, if granted, would threaten the integrity or chain of custody of property or the integrity of the processes or functions of a laboratory conducting DNA testing, pose a risk of harm, intimidation, embarrassment, reprisal, or other substantially negative consequences to any person, undermine the proper functions of law enforcement including the confidentiality of informants, or on the basis of any other factor identified by the court in the interests of justice or public safety. The court shall further ensure that any property produced pursuant to this paragraph is subject to a protective order, where appropriate. The court shall deny any request made pursuant to this paragraph where:

§ 11. Subdivision 10 of section 450.10 of the penal law, as added by chapter 795 of the laws of 1984, is amended to read as follows:

10. Where there has been a failure to comply with the provisions of this section, and where the district attorney does not demonstrate to the satisfaction of the court that such failure has not caused the defendant prejudice, the court shall instruct the jury that it may consider such failure in determining the weight to be given such evidence and may also impose any other sanction set forth in subdivision one of section [~~240.70~~] **245.80** of the criminal procedure law; provided, however, that unless the defendant has convinced the court that such failure has caused him undue prejudice, the court shall not preclude the district attorney from introducing into evidence the property, photographs, photocopies, or other reproductions of the property or, where appropriate, testimony concerning its value and condition, where such evidence is otherwise properly authenticated and admissible under the rules of evidence. Failure to comply with any one or more of the provisions of this section shall not for that reason alone be grounds for dismissal of the accusatory instrument.

§ 12. Section 460.80 of the penal law, as added by chapter 516 of the laws of 1986, is amended to read as follows:

§ 460.80 Court ordered disclosure.

Notwithstanding the provisions of article two hundred [~~forty~~] **forty-five** of the criminal procedure law, when forfeiture is sought pursuant to section 460.30 of this [~~chapter~~] **article**, the court may order discovery of any property not otherwise disclosed which is material and reasonably necessary for preparation by the defendant with respect to the forfeiture proceeding pursuant to such section. The court may issue

a protective order denying, limiting, conditioning, delaying or regulating such discovery where a danger to the integrity of physical evidence or a substantial risk of physical harm, intimidation, economic reprisal, bribery or unjustified annoyance or embarrassment to any person or an adverse effect upon the legitimate needs of law enforcement, including the protection of the confidentiality of informants, or any other factor or set of factors outweighs the usefulness of the discovery.

§ 13. Subdivision 5 of section 480.10 of the penal law, as added by chapter 655 of the laws of 1990, is amended to read as follows:

5. In addition to information required to be disclosed pursuant to article two hundred [~~forty~~] **forty-five** of the criminal procedure law, when forfeiture is sought pursuant to this article, and following the defendant's arraignment on the special forfeiture information, the court shall order discovery of any information not otherwise disclosed which is material and reasonably necessary for preparation by the defendant with respect to a forfeiture proceeding brought pursuant to this article. Such material shall include those portions of the grand jury minutes and such other information which pertain solely to the special forfeiture information and shall not include information which pertains to the criminal charges. Upon application of the prosecutor, the court may issue a protective order pursuant to section [~~240.40~~] **245.70** of the criminal procedure law with respect to any information required to be disclosed pursuant to this subdivision.

§ 14. The penal law is amended by adding a new section 215.07 to read as follows:

§ 215.07 Tampering with or intimidating a victim or witness through social media.

A person is guilty of tampering with or intimidating a victim or witness through social media when he or she disseminates information on social media with the intent to induce a witness or victim:

1. to absent himself or herself from, or otherwise to avoid or seek to avoid appearing at, producing records, documents or other objects for use at, or testifying at a criminal action or proceeding; or

2. to refrain from communicating information or producing records, documents or other objects to any court, grand jury, prosecutor, police officer or peace officer concerning a criminal transaction.

Social media includes, but is not limited to forms of communication through which users participate in online communities to share information, ideas, personal messages, and other content.

Tampering with or intimidating a victim or witness through social media is a class A misdemeanor.

§ 15. Section 215.10 of the penal law, the section heading and the closing paragraph as amended by chapter 664 of the laws of 1982, is amended to read as follows:

§ 215.10 Tampering with a witness in the [~~fourth~~] **fifth** degree.

A person is guilty of tampering with a witness **in the fifth degree** when, knowing that a person [~~is or is about to~~] **may** be called as a witness in an action or proceeding, (a) he **or she** wrongfully induces or attempts to induce such person to absent himself **or herself** from, or otherwise to avoid or seek to avoid appearing **at, producing records, documents or other objects for use at** or testifying at, such action or proceeding, or (b) he **or she** knowingly makes any false statement or practices any fraud or deceit with intent to affect the testimony of such person.

Tampering with a witness in the [~~fourth~~] **fifth** degree is a class A misdemeanor.

§ 16. Section 215.11 of the penal law, as added by chapter 664 of the laws of 1982, is amended to read as follows:

§ 215.11 Tampering with a witness in the [~~third~~] fourth degree.

A person is guilty of tampering with a witness in the [~~third~~] fourth degree when, knowing that a person [~~is about to~~] may be called as a witness in a criminal proceeding:

1. He or she wrongfully compels or attempts to compel such person to absent himself or herself from, or otherwise to avoid or seek to avoid appearing at, producing records, documents or other objects for use at or testifying at such proceeding by means of instilling in him or her a fear that the actor will cause physical injury to such person or another person; or

2. He or she wrongfully compels or attempts to compel such person to swear falsely or alter, destroy, mutilate or conceal an object with the intent to impair the integrity or availability of the object for use in the action or proceeding by means of instilling in him or her a fear that the actor will cause physical injury to such person or another person.

Tampering with a witness in the [~~third~~] fourth degree is a class E felony.

§ 17. Section 215.12 of the penal law, as added by chapter 664 of the laws of 1982, is amended to read as follows:

§ 215.12 Tampering with a witness in the [~~second~~] third degree.

A person is guilty of tampering with a witness in the [~~second~~] third degree when he or she:

1. Intentionally causes or attempts to cause physical injury to a person for the purpose of obstructing, delaying, preventing or impeding the giving of testimony in a criminal proceeding by such person or another person or for the purpose of compelling such person or another person to swear falsely or alter, destroy, mutilate or conceal an object with the intent to impair the integrity or availability of the object for use in the action or proceeding; or

2. [~~He intentionally~~] Intentionally causes or attempts to cause physical injury to a person on account of such person or another person having testified in a criminal proceeding or produced records, documents or other objects for use in a criminal proceeding.

Tampering with a witness in the [~~second~~] third degree is a class D felony.

§ 18. Section 215.13 of the penal law, as added by chapter 664 of the laws of 1982, is amended to read as follows:

§ 215.13 Tampering with a witness in the [~~first~~] second degree.

A person is guilty of tampering with a witness in the [~~first~~] second degree when:

1. He or she intentionally causes or attempts for cause serious physical injury to a person for the purpose of obstructing, delaying, preventing or impeding the giving of testimony in a criminal proceeding by such person or another person or for the purpose of compelling such person or another person to swear falsely or alter, destroy, mutilate or conceal an object with the intent to impair the integrity or availability of the object for use in the action or proceeding; or

2. He or she intentionally causes or attempts to cause serious physical injury to a person on account of such person or another person having testified in a criminal proceeding or produced records, documents or other objects for use in a criminal proceeding.

Tampering with a witness in the [~~first~~] second degree is a class B felony.

§ 19. The penal law is amended by adding a new section 215.13-a to read as follows:

§ 215.13-a Tampering with a witness in the first degree.

A person is guilty of tampering with a witness in the first degree when:

1. He or she intentionally causes or attempts to cause the death of a person for the purpose of obstructing, delaying, preventing or impeding the giving of testimony in a criminal proceeding by such person or another person or for the purpose of compelling such person or another person to swear falsely or alter, destroy, mutilate or conceal an object with the intent to impair the integrity or availability of the object for use in the action or proceeding; or

2. He or she intentionally causes or attempts to cause the death of a person on account of such person or another person having testified in a criminal proceeding or produced records, documents or other objects for use in a criminal proceeding.

Tampering with a witness in the first degree is a class A-I felony.

§ 20. Section 215.15 of the penal law, as added by chapter 667 of the laws of 1985, is amended to read as follows:

§ 215.15 Intimidating a victim or witness in the [~~third~~] **fourth** degree.

A person is guilty of intimidating a victim or witness in the [~~third~~] **fourth** degree when, knowing that another person possesses information**, records, documents or other objects** relating to a criminal transaction and other than in the course of that criminal transaction or immediate flight therefrom, he **or she**:

1. Wrongfully compels or attempts to compel such other person to refrain from communicating such information **or producing records, documents or other objects** to any court, grand jury, prosecutor, police officer or peace officer by means of instilling in him a fear that the actor will cause physical injury to such other person or another person; or

2. Intentionally damages the property of such other person or another person for the purpose of compelling such other person or another person to refrain from communicating **information or producing records, documents or other objects**, or on account of such other person or another person having communicated[~~,~~] information **or produced records, documents or other objects,** relating to that criminal transaction to any court, grand jury, prosecutor, police officer or peace officer**; or**

3. Intentionally distributes, posts, or publishes through the internet or social media, including any form of communication through which users participate in online communities to share information, ideas, personal messages and other content, copies of a victim or witness statement, including but not limited to transcripts of grand jury testimony or a written statement given by the victim or witness during the course of a criminal investigation or proceeding, or a visual image of a victim or witness or any other person, for the purpose of compelling a person to refrain from communicating, or on account of such victim, witness or another person having communicated, information relating to that criminal transaction to any court, grand jury, prosecutor, police officer or peace officer.

Intimidating a victim or witness in the [~~third~~] **fourth** degree is a class E felony.

§ 21. Section 215.16 of the penal law, as added by chapter 667 of the laws of 1985, is amended to read as follows:

§ 215.16 Intimidating a victim or witness in the [~~second~~] **third** degree.

A person is guilty of intimidating a victim or witness in the [~~second~~] third degree when, other than in the course of that criminal transaction or immediate flight therefrom, he or she:

1. Intentionally causes or attempts to cause physical injury to another person for the purpose of obstructing, delaying, preventing or impeding the communication by such other person or another person of information or the production of records, documents or other objects relating to a criminal transaction to any court, grand jury, prosecutor, police officer or peace officer or for the purpose of compelling such other person or another person to swear falsely; or

2. Intentionally causes or attempts to cause physical injury to another person on account of such other person or another person having communicated information or produced records, documents or other objects relating to a criminal transaction to any court, grand jury, prosecutor, police officer or peace officer; or

3. Recklessly causes physical injury to another person by intentionally damaging the property of such other person or another person, for the purpose of obstructing, delaying, preventing or impeding such other person or another person from communicating or producing records, documents or other objects, or on account of such other person or another person having communicated[~~,~~] information or produced records, documents or other objects, relating to a criminal transaction to any court, grand jury, prosecutor, police officer or peace officer.

Intimidating a victim or witness in the [~~second~~] third degree is a class D felony.

§ 22. Section 215.17 of the penal law, as added by chapter 667 of the laws of 1985, is amended to read as follows:

§ 215.17 Intimidating a victim or witness in the [~~first~~] second degree.

A person is guilty of intimidating a victim or witness in the [~~first~~] second degree when, other than in the course of that criminal transaction or immediate flight therefrom, he or she:

1. Intentionally causes or attempts to cause serious physical injury to another person for the purpose of obstructing, delaying, preventing or impeding the communication by such other person or another person of information or the production of records, documents or other objects relating to a criminal transaction to any court, grand jury, prosecutor, police officer or peace officer or for the purpose of compelling such other person or another person to swear falsely; or

2. Intentionally causes or attempts to cause serious physical injury to another person on account of such other person or another person having communicated information or produced records, documents or other objects, relating to a criminal transaction to any court, grand jury, prosecutor, police officer or peace officer.

Intimidating a victim or witness in the [~~first~~] second degree is a class B felony.

§ 23. The penal law is amended by adding a new section 215.18 to read as follows:

§ 215.18 Intimidating a victim or witness in the first degree.

A person is guilty of intimidating a victim or witness in the first degree when, other than in the course of that criminal transaction or immediate flight therefrom, he or she:

1. Intentionally causes or attempts to cause death to another person for the purpose of obstructing, delaying, preventing or impeding the communication by such other person or another person of information or the production of records, documents or other objects relating to a criminal transaction to any court, grand jury, prosecutor, police offi-

cer or peace officer or for the purpose of compelling such other person or another person to swear falsely; or

2. Intentionally causes or attempts to cause death to another person on account of such other person or another person having communicated information or produced records, documents or other objects, relating to a criminal transaction to any court, grand jury, prosecutor, police officer or peace officer.

Intimidating a victim or witness in the first degree is a class A-I felony.

§ 24. The penal law is amended by adding a new section 215.21 to read as follows:

§ 215.21 Affirmative defense.

In a prosecution for an offense under this article, it is an affirmative defense, as to which the defendant has the burden of proof by a preponderance of the evidence, that the conduct consisted solely of lawful conduct and that the defendant's sole intention was to encourage, induce, or cause the other person to testify truthfully.

§ 25. This act shall take effect on the one hundred eightieth day after it shall have become a law; provided, however, the amendments to section 65.20 of the criminal procedure law made by section four of this act shall not affect the repeal of such section and shall be deemed repealed therewith.

SUBPART C

Section 1. Section 30.30 of the criminal procedure law, as added by chapter 184 of the laws of 1972, paragraph (a) of subdivision 3 as amended by chapter 93 of the laws of 2006, paragraph (a) of subdivision 4 as amended by chapter 558 of the laws of 1982, paragraph (c) of subdivision 4 as amended by chapter 631 of the laws of 1996, paragraph (h) of subdivision 4 as added by chapter 837 of the laws of 1986, paragraph (i) of subdivision 4 as added by chapter 446 of the laws of 1993, paragraph (j) of subdivision 4 as added by chapter 222 of the laws of 1994, paragraph (b) of subdivision 5 as amended by chapter 109 of the laws of 1982, paragraphs (e) and (f) of subdivision 5 as added by chapter 209 of the laws of 1990, is amended to read as follows:

§ 30.30 Speedy trial; time limitations.

1. Except as otherwise provided in subdivision three, a motion made pursuant to paragraph (e) of subdivision one of section 170.30 or paragraph (g) of subdivision one of section 210.20 must be granted where the people are not ready for trial within:

(a) six months of the commencement of a criminal action wherein a defendant is accused of one or more offenses, at least one of which is a felony;

(b) ninety days of the commencement of a criminal action wherein a defendant is accused of one or more offenses, at least one of which is a misdemeanor punishable by a sentence of imprisonment of more than three months and none of which is a felony;

(c) sixty days of the commencement of a criminal action wherein the defendant is accused of one or more offenses, at least one of which is a misdemeanor punishable by a sentence of imprisonment of not more than three months and none of which is a crime punishable by a sentence of imprisonment of more than three months;

(d) thirty days of the commencement of a criminal action wherein the defendant is accused of one or more offenses, at least one of which is a violation and none of which is a crime.

2. [~~Except as provided in subdivision three, where a defendant has been committed to the custody of the sheriff in a criminal action he must be released on bail or on his own recognizance, upon such conditions as may be just and reasonable, if the people are not ready for trial in that criminal action within:~~

~~(a) ninety days from the commencement of his commitment to the custody of the sheriff in a criminal action wherein the defendant is accused of one or more offenses, at least one of which is a felony;~~

~~(b) thirty days from the commencement of his commitment to the custody of the sheriff in a criminal action wherein the defendant is accused of one or more offenses, at least one of which is a misdemeanor punishable by a sentence of imprisonment of more than three months and none of which is a felony;~~

~~(c) fifteen days from the commencement of his commitment to the custody of the sheriff in a criminal action wherein the defendant is accused of one or more offenses, at least one of which is a misdemeanor punishable by a sentence of imprisonment of not more than three months and none of which is a crime punishable by a sentence of imprisonment of more than three months;~~

~~(d) five days from the commencement of his commitment to the custody of the sheriff in a criminal action wherein the defendant is accused of one or more offenses, at least one of which is a violation and none of which is a crime.~~]

Whenever pursuant to this section a prosecutor states or otherwise provides notice that the people are ready for trial, the court may make inquiry on the record as to their actual readiness. If, after conducting its inquiry, the court determines that the people are not ready to proceed to trial, the prosecutor's statement or notice of readiness shall not be valid for purposes of this section. Any statement of trial readiness must be accompanied or preceded by a certification of good faith compliance with the disclosure requirements of article two hundred forty-five of this chapter. This subdivision shall not apply to cases where the defense has waived disclosure requirements. The defense shall be afforded an opportunity to be heard on the record concerning any such inquiry by the court, and concerning whether such disclosure requirements have been met.

2-a. Upon a misdemeanor complaint, a statement of readiness shall not be valid unless the prosecuting attorney certifies that all counts charged in the accusatory instrument meet the requirements of sections 100.15 and 100.40 and those counts not meeting the requirements of sections 100.15 and 100.40 have been dismissed.

3. (a) Subdivisions one and two do not apply to a criminal action wherein the defendant is accused of an offense defined in sections 125.10, 125.15, 125.20, 125.25, 125.26 and 125.27 of the penal law.

(b) A motion made pursuant to subdivisions one or two upon expiration of the specified period may be denied where the people are not ready for trial if the people were ready for trial prior to the expiration of the specified period and their present unreadiness is due to some exceptional fact or circumstance, including, but not limited to, the sudden unavailability of evidence material to the people's case, when the district attorney has exercised due diligence to obtain such evidence and there are reasonable grounds to believe that such evidence will become available in a reasonable period.

(c) A motion made pursuant to subdivision two shall not:

(i) apply to any defendant who is serving a term of imprisonment for another offense;

(ii) require the release from custody of any defendant who is also being held in custody pending trial of another criminal charge as to which the applicable period has not yet elapsed;

(iii) prevent the redetention of or otherwise apply to any defendant who, after being released from custody pursuant to this section or otherwise, is charged with another crime or violates the conditions on which he has been released, by failing to appear at a judicial proceeding at which his presence is required or otherwise.

4. In computing the time within which the people must be ready for trial pursuant to subdivisions one and two, the following periods must be excluded:

(a) a reasonable period of delay resulting from other proceedings concerning the defendant, including but not limited to: proceedings for the determination of competency and the period during which defendant is incompetent to stand trial; demand to produce; request for a bill of particulars; pre-trial motions; appeals; trial of other charges; and the period during which such matters are under consideration by the court; or

(b) the period of delay resulting from a continuance granted by the court at the request of, or with the consent of, the defendant or his **or her** counsel. The court [~~**must**~~] **may** grant such a continuance only if it is satisfied that postponement is in the interest of justice, taking into account the public interest in the prompt dispositions of criminal charges. A defendant without counsel must not be deemed to have consented to a continuance unless he has been advised by the court of his **or her** rights under these rules and the effect of his consent**, which must be done on the record in open court**; or

(c) (i) the period of delay resulting from the absence or unavailability of the defendant. A defendant must be considered absent whenever his location is unknown and he is attempting to avoid apprehension or prosecution, or his location cannot be determined by due diligence. A defendant must be considered unavailable whenever his location is known but his presence for trial cannot be obtained by due diligence; or

(ii) where the defendant has either escaped from custody or has failed to appear when required after having previously been released on bail or on his own recognizance, and provided the defendant is not in custody on another matter, the period extending from the day the court issues a bench warrant pursuant to section 530.70 because of the defendant's failure to appear in court when required, to the day the defendant subsequently appears in the court pursuant to a bench warrant or voluntarily or otherwise; or

(d) a reasonable period of delay when the defendant is joined for trial with a co-defendant as to whom the time for trial pursuant to this section has not run and good cause is not shown for granting a severance; or

(e) the period of delay resulting from detention of the defendant in another jurisdiction provided the district attorney is aware of such detention and has been diligent and has made reasonable efforts to obtain the presence of the defendant for trial; or

(f) the period during which the defendant is without counsel through no fault of the court; except when the defendant is proceeding as his own attorney with the permission of the court; or

(g) other periods of delay occasioned by exceptional circumstances, including but not limited to, the period of delay resulting from a continuance granted at the request of a district attorney if (i) the continuance is granted because of the unavailability of evidence materi-

al to the people's case, when the district attorney has exercised due diligence to obtain such evidence and there are reasonable grounds to believe that such evidence will become available in a reasonable period; or (ii) the continuance is granted to allow the district attorney additional time to prepare the people's case and additional time is justified by the exceptional circumstances of the case. **Any such exclusion when a statement of unreadiness has followed a statement of readiness made by the people must be accompanied by supporting facts and approved by the court. The court shall inquire on the record as to the reasons for the people's unreadiness; or**

(h) the period during which an action has been adjourned in contemplation of dismissal pursuant to sections 170.55, 170.56 and 215.10 of this chapter[~~.~~]**; or**

(i) [~~The~~] **the** period prior to the defendant's actual appearance for arraignment in a situation in which the defendant has been directed to appear by the district attorney pursuant to subdivision three of section 120.20 or subdivision three of section 210.10[~~.~~]**; or**

(j) the period during which a family offense is before a family court until such time as an accusatory instrument or indictment is filed against the defendant alleging a crime constituting a family offense, as such term is defined in section 530.11 of this chapter.

5. **At each court appearance date preceding the commencement of trial in a criminal action, the court, whenever it is practicable to do so, shall rule preliminarily on whether the adjournment period immediately following such court appearance date is to be included or excluded for the purposes of computing the time within which the people must be ready for trial within the meaning of this section. The court's ruling shall be noted in the court file.**

6. For purposes of this section, (a) where the defendant is to be tried following the withdrawal of the plea of guilty or is to be retried following a mistrial, an order for a new trial or an appeal or collateral attack, the criminal action and the commitment to the custody of the sheriff, if any, must be deemed to have commenced on the date the withdrawal of the plea of guilty or the date the order occasioning a retrial becomes final;

(b) where a defendant has been served with an appearance ticket, the criminal action must be deemed to have commenced on the date the defendant first appears in a local criminal court in response to the ticket;

(c) where a criminal action is commenced by the filing of a felony complaint, and thereafter, in the course of the same criminal action either the felony complaint is replaced with or converted to an information, prosecutor's information or misdemeanor complaint pursuant to article [~~180~~] **one hundred eighty** or a prosecutor's information is filed pursuant to section 190.70, the period applicable for the purposes of subdivision one must be the period applicable to the charges in the new accusatory instrument, calculated from the date of the filing of such new accusatory instrument; provided, however, that when the aggregate of such period and the period of time, excluding the periods provided in subdivision [~~four~~] **five**, already elapsed from the date of the filing of the felony complaint to the date of the filing of the new accusatory instrument exceeds six months, the period applicable to the charges in the felony complaint must remain applicable and continue as if the new accusatory instrument had not been filed;

(d) where a criminal action is commenced by the filing of a felony complaint, and thereafter, in the course of the same criminal action either the felony complaint is replaced with or converted to an informa-

tion, prosecutor's information or misdemeanor complaint pursuant to article [~~180~~] one hundred eighty or a prosecutor's information is filed pursuant to section 190.70, the period applicable for the purposes of subdivision two must be the period applicable to the charges in the new accusatory instrument, calculated from the date of the filing of such new accusatory instrument; provided, however, that when the aggregate of such period and the period of time, excluding the periods provided in subdivision [~~four~~] five, already elapsed from the date of the filing of the felony complaint to the date of the filing of the new accusatory instrument exceeds ninety days, the period applicable to the charges in the felony complaint must remain applicable and continue as if the new accusatory instrument had not been filed.

(e) where a count of an indictment is reduced to charge only a misdemeanor or petty offense and a reduced indictment or a prosecutor's information is filed pursuant to subdivisions one-a and six of section 210.20, the period applicable for the purposes of subdivision one of this section must be the period applicable to the charges in the new accusatory instrument, calculated from the date of the filing of such new accusatory instrument; provided, however, that when the aggregate of such period and the period of time, excluding the periods provided in subdivision [~~four~~] five of this section, already elapsed from the date of the filing of the indictment to the date of the filing of the new accusatory instrument exceeds six months, the period applicable to the charges in the indictment must remain applicable and continue as if the new accusatory instrument had not been filed;

(f) where a count of an indictment is reduced to charge only a misdemeanor or petty offense and a reduced indictment or a prosecutor's information is filed pursuant to subdivisions one-a and six of section 210.20, the period applicable for the purposes of subdivision two of this section must be the period applicable to the charges in the new accusatory instrument, calculated from the date of the filing of such new accusatory instrument; provided, however, that when the aggregate of such period and the period of time, excluding the periods provided in subdivision [~~four~~] five of this section, already elapsed from the date of the filing of the indictment to the date of the filing of the new accusatory instrument exceeds ninety days, the period applicable to the charges in the indictment must remain applicable and continue as if the new accusatory instrument had not been filed.

[~~6.~~] 7. The procedural rules prescribed in subdivisions one through seven of section 210.45 with respect to a motion to dismiss an indictment are also applicable to a motion made pursuant to subdivision two.

§ 2. Subdivision 6 of section 180.85 of the criminal procedure law, as added by chapter 518 of the laws of 2004, is amended to read as follows:

6. The period from the filing of a motion pursuant to this section until entry of an order disposing of such motion shall not, by reason of such motion, be considered a period of delay for purposes of subdivision [~~four~~] five of section 30.30, nor shall such period, by reason of such motion, be excluded in computing the time within which the people must be ready for trial pursuant to such section 30.30.

§ 3. This act shall take effect on the one hundred eightieth day after it shall have become a law.

§ 2. If any clause, sentence, paragraph, subdivision, section or subpart 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 subpart 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.

§ 3. This act shall take effect immediately provided, however, that the applicable effective date of Subparts A through C of this act shall be as specifically set forth in the last section of such Subparts.

PART BB

Section 1. Subdivisions 2 and 3 of section 86 of the public officers law, as added by chapter 933 of the laws of 1977, are amended and a new subdivision 6 is added to read as follows:

2. "State legislature" means the [~~legislature of the state of New York, including~~] New York state senate, New York state assembly, any committee, subcommittee, joint committee, select committee, or commission thereof, and any members, officers, representatives and employees thereof.

3. "Agency" means any state or municipal department, board, bureau, division, commission, committee, public authority, public corporation, council, office, or other governmental entity performing a governmental or proprietary function for the state or any one or more municipalities thereof, except the judiciary [~~or the state legislature~~].

6. "Respective house of the state legislature" means the New York state senate, New York state assembly, and any corresponding committee, subcommittee, joint committee, select committee, or commission thereof, and any members, officers, representatives and employees thereof.

§ 2. Section 87 of the public officers law, as added by chapter 933 of the laws of 1977, paragraph (a) and the opening paragraph of paragraph (b) of subdivision 1 as amended by chapter 80 of the laws of 1983, subparagraph iii of paragraph (b) of subdivision 1 as amended and paragraph (c) of subdivision 1 and subdivision 5 as added by chapter 223 of the laws of 2008, paragraph (d) of subdivision 2 as amended by chapter 289 of the laws of 1990, paragraph (f) of subdivision 2 as amended by chapter 403 of the laws of 2003, paragraph (g) of subdivision 2 as amended by chapter 510 of the laws of 1999, paragraph (i) of subdivision 2 as amended by chapter 154 of the laws of 2010, paragraph (j) of subdivision 2 as added by chapter 746 of the laws of 1988, paragraph (k) of subdivision 2 as separately added by chapters 19, 20, 21, 22, 23 and 383 of the laws of 2009, paragraph (l) of subdivision 2 as added by section 12 of part II of chapter 59 of the laws of 2010, paragraph (m) of subdivision 2 as added by chapter 189 of the laws of 2013, paragraph (n) of subdivision 2 as added by chapter 43 of the laws of 2014, paragraph (n) of subdivision 2 as separately added by chapters 99, 101, and 123 of the laws of 2014, paragraph (o) of subdivision 2 as added by chapter 222 of the laws of 2015, paragraph (c) of subdivision 3 as amended by chapter 499 of the laws of 2008, subdivision 4 as added by chapter 890 of the laws of 1981, and paragraph (c) of subdivision 4 as added by chapter 102 of the laws of 2007, is amended to read as follows:

§ 87. Access to agency or state legislature records. 1. (a) Within sixty days after the effective date of this article, the governing body of each public corporation shall promulgate uniform rules and regulations for all agencies in such public corporation pursuant to such general rules and regulations as may be promulgated by the committee on open government in conformity with the provisions of this article, pertaining to the administration of this article.

(b) Each agency **and each house of the state legislature** shall promulgate rules and regulations, in conformity with this article and applicable rules and regulations promulgated pursuant to the provisions of paragraph (a) of this subdivision, and pursuant to such general rules and regulations as may be promulgated by the committee on open government in conformity with the provisions of this article, pertaining to the availability of records and procedures to be followed, including, but not limited to:

i. the times and places such records are available;

ii. the persons from whom such records may be obtained[~~,~~]**;** and

iii. the fees for copies of records which shall not exceed twenty-five cents per photocopy not in excess of nine inches by fourteen inches, or the actual cost of reproducing any other record in accordance with the provisions of paragraph (c) of this subdivision, except when a different fee is otherwise prescribed by statute.

(c) In determining the actual cost of reproducing a record, an agency **and the state legislature** may include only:

i. an amount equal to the hourly salary attributed to the lowest paid **employee of an** agency or [~~employee~~] **respective house of the state legislature** who has the necessary skill required to prepare a copy of the requested record;

ii. the actual cost of the storage devices or media provided to the person making the request in complying with such request;

iii. the actual cost to the agency **or to the respective house of the state legislature** of engaging an outside professional service to prepare a copy of a record, but only when an agency's **or respective house of the state legislature's** information technology equipment is inadequate to prepare a copy, if such service is used to prepare the copy; and

iv. preparing a copy shall not include search time or administrative costs, and no fee shall be charged unless at least two hours of agency **or respective house of the state legislature** employee time is needed to prepare a copy of the record requested. A person requesting a record shall be informed of the estimated cost of preparing a copy of the record if more than two hours of an agency **or respective house of the state legislature** employee's time is needed, or if an outside professional service would be retained to prepare a copy of the record.

2. Each agency **and the respective house of the state legislature** shall, in accordance with its published rules, make available for public inspection and copying all records, except that such agency **and the respective house of the state legislature** may deny access to records or portions thereof that:

(a) are specifically exempted from disclosure by state or federal statute;

(b) if disclosed would constitute an unwarranted invasion of personal privacy under the provisions of subdivision two of section eighty-nine of this article;

(c) if disclosed would impair present or imminent contract awards or collective bargaining negotiations **provided, however, that the proposed terms of an agreement between a public employer and an employee organization, as those terms are defined in article fourteen of the civil service law, that require ratification by members of the employee organization or by the public employer, where applicable, or approval of such provisions by the appropriate legislative body as required by section two hundred four-a of the civil service law, shall be made available to the public no later than when such proposed terms are sent to members of the employee organization for ratification, when such terms are**

presented to the employer for ratification, where applicable, or when the provisions of such agreement requiring approval by the appropriate legislative body pursuant to section two hundred four-a of the civil service law are submitted to such body, whichever date is earliest. Additionally, a copy of the proposed terms of such agreement shall be placed on the website of the applicable public employer, if such websites exist, and within the local public libraries and offices of such public employer, or in the case of collective bargaining agreements negotiated by the state, on the website of the office of employee relations on such date;

(d) are trade secrets or are submitted to an agency or to the respective house of the state legislature by a commercial enterprise or derived from information obtained from a commercial enterprise and which if disclosed would cause substantial injury to the competitive position of the subject enterprise;

(e) are compiled for law enforcement purposes and which, if disclosed, would:

i. interfere with law enforcement investigations or judicial proceedings;

ii. deprive a person of a right to a fair trial or impartial adjudication;

iii. identify a confidential source or disclose confidential information relating to a criminal investigation; or

iv. reveal criminal investigative techniques or procedures, except routine techniques and procedures;

(f) if disclosed could endanger critical infrastructure or the life or safety of any person;

(g) are inter-agency or intra-agency materials which are not:

i. statistical or factual tabulations or data;

ii. instructions to staff that affect the public;

iii. final agency policy or determinations;

iv. external audits, including but not limited to audits performed by the comptroller and the federal government; [~~or~~]

(g-1) are materials exchanged within the state legislature which are not:

i. statistical or factual tabulations or data;

ii. instructions to staff that affect the public;

iii. final policy or determinations of the respective house of the state legislature;

iv. external audits, including but not limited to audits performed by the comptroller and the federal government; or

(h) are examination questions or answers which are requested prior to the final administration of such questions.

(i) if disclosed, would jeopardize the capacity of an agency, the state legislature, or an entity that has shared information with an agency or the state legislature to guarantee the security of its information technology assets, such assets encompassing both electronic information systems and infrastructures; or

(j) are photographs, microphotographs, videotape or other recorded images prepared under authority of section eleven hundred eleven-a of the vehicle and traffic law.

(k) are photographs, microphotographs, videotape or other recorded images prepared under authority of section eleven hundred eleven-b of the vehicle and traffic law.

(l) are photographs, microphotographs, videotape or other recorded images produced by a bus lane photo device prepared under authority of section eleven hundred eleven-c of the vehicle and traffic law.

(m) are photographs, microphotographs, videotape or other recorded images prepared under the authority of section eleven hundred eighty-b of the vehicle and traffic law.

(n) are photographs, microphotographs, videotape or other recorded images prepared under the authority of section eleven hundred eighty-c of the vehicle and traffic law.

(n) are photographs, microphotographs, videotape or other recorded images prepared under authority of section eleven hundred eleven-d of the vehicle and traffic law.

(o) are photographs, microphotographs, videotape or other recorded images prepared under authority of section eleven hundred eleven-e of the vehicle and traffic law.

3. Each agency **and respective house of the state legislature** shall maintain:

(a) a record of the final vote of each member in every agency **or state legislature** proceeding in which the member votes**;**

(b) a record of votes of each member in every session and every committee and subcommittee meeting in which the member of the senate or assembly votes;

[~~(b)~~] **(c)** a record setting forth the name, public office address, title and salary of every officer or employee of the agency **or the state legislature**; and

[~~(c)~~] **(d)** a reasonably detailed current list by subject matter of all records in the possession of the agency **or state legislature**, whether or not available under this article. Each agency **and each respective house of the state legislature** shall update its subject matter list annually, and the date of the most recent update shall be conspicuously indicated on the list. [~~Each~~] **The state legislature and each** state agency as defined in subdivision four of this section that maintains a website shall post its current list on its website and such posting shall be linked to the website of the committee on open government. Any such agency **or part of the state legislature** that does not maintain a website shall arrange to have its list posted on the website of the committee on open government.

4. (a) Each state agency **or respective house of the state legislature** which maintains records containing trade secrets, to which access may be denied pursuant to paragraph (d) of subdivision two of this section, shall promulgate regulations in conformity with the provisions of subdivision five of section eighty-nine of this article pertaining to such records, including, but not limited to the following:

(1) the manner of identifying the records or parts;

(2) the manner of identifying persons within the agency **or respective house of the state legislature** to whose custody the records or parts will be charged and for whose inspection and study the records will be made available;

(3) the manner of safeguarding against any unauthorized access to the records.

(b) As used in this subdivision the term "agency" or "state agency" means only a state department, board, bureau, division, council [~~or~~]**,** office and any public corporation the majority of whose members are appointed by the governor.

(c) **As used in this subdivision the term "state legislature" means the legislature as defined in subdivision two of section eighty-six of this article.**

(d) Each state agency **and respective house of the state legislature** that maintains a website shall post information related to this article and article six-A of this chapter on its website. Such information shall include, at a minimum, contact information for the persons from whom records of the agency **or respective house of the state legislature** may be obtained, the times and places such records are available for inspection and copying, and information on how to request records in person, by mail, and, if the agency **or respective house of the state legislature** accepts requests for records electronically, by e-mail. This posting shall be linked to the website of the committee on open government.

5. (a) An agency **and the respective house of the state legislature** shall provide records on the medium requested by a person, if the agency **or the respective house of the state legislature** can reasonably make such copy or have such copy made by engaging an outside professional service. Records provided in a computer format shall not be encrypted.

(b) No agency **nor the state legislature** shall enter into or renew a contract for the creation or maintenance of records if such contract impairs the right of the public to inspect or copy the agency's **or the state legislature's** records.

6. (a) Each agency and house of the state legislature shall publish, on its internet website, to the extent practicable, records or portions of records that are available to the public pursuant to the provisions of this article, or which, in consideration of their nature, content or subject matter, are determined by the agency or house of the state legislature to be of substantial interest to the public. Any such records may be removed from the internet website when the agency or house of the state legislature determines that they are no longer of substantial interest to the public. Any such records may be removed from the internet website when they have reached the end of their legal retention period. Guidance on creating records in accessible formats and ensuring their continuing accessibility shall be available from the office of information technology services and the state archives.

(b) The provisions of paragraph (a) of this subdivision shall not apply to records or portions of records the disclosure of which would constitute an unwarranted invasion of personal privacy in accordance with subdivision two of section eighty-nine of this article.

(c) The committee on open government shall promulgate guidelines to effectuate this subdivision.

(d) Nothing in this subdivision shall be construed as to limit or abridge the power of an agency or house of the state legislature to publish records on its internet website that are subject to the provisions of this article prior to a written request or prior to a frequent request.

§ 3. Section 88 of the public officers law is REPEALED.

§ 4. Section 89 of the public officers law, as added by chapter 933 of the laws of 1977, paragraph (a) of subdivision 1 as amended by chapter 33 of the laws of 1984, paragraph (b) of subdivision 1 as amended by chapter 182 of the laws of 2006, subdivision 2 as amended by section 11 of part U of chapter 61 of the laws of 2011, subdivision 2-a as added by chapter 652 of the laws of 1983, subdivision 3 as amended by chapter 223 of the laws of 2008, paragraph (c) of subdivision 3 as added by chapter 47 of the laws of 2018, subdivision 4 as amended by chapter 22 of the

laws of 2005, paragraph (c) of subdivision 4 as amended by chapter 453 of the laws of 2017, paragraph (d) of subdivision 4 as added by chapter 487 of the laws of 2016, subdivision 5 as added and subdivision 6 as renumbered by chapter 890 of the laws of 1981, paragraph (a) of subdivision 5 as amended by chapter 403 of the laws of 2003, paragraph (d) of subdivision 5 as amended by chapter 339 of the laws of 2004, subdivision 7 as added by chapter 783 of the laws of 1983, subdivision 8 as added by chapter 705 of the laws of 1989, and subdivision 9 as added by chapter 351 of the laws of 2008, is amended to read as follows:

§ 89. General provisions relating to access to records; certain cases. The provisions of this section apply to access to all records, except as hereinafter specified:

1. (a) The committee on open government is continued and shall consist of the lieutenant governor or the delegate of such officer, the secretary of state or the delegate of such officer, whose office shall act as secretariat for the committee, the commissioner of the office of general services or the delegate of such officer, the director of the budget or the delegate of such officer, and seven other persons, none of whom shall hold any other state or local public office except the representative of local governments as set forth herein, to be appointed as follows: five by the governor, at least two of whom are or have been representatives of the news media, one of whom shall be a representative of local government who, at the time of appointment, is serving as a duly elected officer of a local government, one by the temporary president of the senate, and one by the speaker of the assembly. The persons appointed by the temporary president of the senate and the speaker of the assembly shall be appointed to serve, respectively, until the expiration of the terms of office of the temporary president and the speaker to which the temporary president and speaker were elected. The four persons presently serving by appointment of the governor for fixed terms shall continue to serve until the expiration of their respective terms. Thereafter, their respective successors shall be appointed for terms of four years. The member representing local government shall be appointed for a term of four years, so long as such member shall remain a duly elected officer of a local government. The committee shall hold no less than two meetings annually, but may meet at any time. The members of the committee shall be entitled to reimbursement for actual expenses incurred in the discharge of their duties.

(b) The committee shall:

i. furnish to any agency **and to each house of the state legislature** advisory guidelines, opinions or other appropriate information regarding this article;

ii. furnish to any person advisory opinions or other appropriate information regarding this article;

iii. promulgate rules and regulations with respect to the implementation of subdivision one and paragraph (c) of subdivision three of section eighty-seven of this article;

iv. request from any agency **and from either house of the state legislature** such assistance, services and information as will enable the committee to effectively carry out its powers and duties;

v. develop a form, which shall be made available on the internet, that may be used by the public to request a record; and

vi. report on its activities and findings regarding this article and article seven of this chapter, including recommendations for changes in the law, to the governor and the legislature annually, on or before December fifteenth.

2. (a) The committee on [~~public access to records~~] **open government** may promulgate guidelines regarding deletion of identifying details or withholding of records otherwise available under this article to prevent unwarranted invasions of personal privacy. In the absence of such guidelines, an agency **and the respective house of state legislature** may delete identifying details when it makes records available.

(b) An unwarranted invasion of personal privacy includes, but shall not be limited to:

i. disclosure of employment, medical or credit histories or personal references of applicants for employment;

ii. disclosure of items involving the medical or personal records of a client or patient in a medical facility;

iii. sale or release of lists of names and addresses if such lists would be used for solicitation or fund-raising purposes;

iv. disclosure of information of a personal nature when disclosure would result in economic or personal hardship to the subject party and such information is not relevant to the work of the agency **or respective house of the state legislature** requesting or maintaining it;

v. disclosure of information of a personal nature reported in confidence to an agency **or to the state legislature** and not relevant to the ordinary work of such agency **or the state legislature**;

vi. information of a personal nature contained in a workers' compensation record, except as provided by section one hundred ten-a of the workers' compensation law; [~~or~~]

vii. disclosure of electronic contact information, such as an e-mail address or a social network username, that has been collected from a taxpayer under section one hundred four of the real property tax law**; or**

viii. disclosure of communications of a personal nature between legislators and their constituents.

(c) Unless otherwise provided by this article, disclosure shall not be construed to constitute an unwarranted invasion of personal privacy pursuant to paragraphs (a) and (b) of this subdivision:

i. when identifying details are deleted;

ii. when the person to whom a record pertains consents in writing to disclosure;

iii. when upon presenting reasonable proof of identity, a person seeks access to records pertaining to him or her; or

iv. when a record or group of records relates to the right, title or interest in real property, or relates to the inventory, status or characteristics of real property, in which case disclosure and providing copies of such record or group of records shall not be deemed an unwarranted invasion of personal privacy, provided that nothing herein shall be construed to authorize the disclosure of electronic contact information, such as an e-mail address or a social network username, that has been collected from a taxpayer under section one hundred four of the real property tax law.

2-a. Nothing in this article shall permit disclosure which constitutes an unwarranted invasion of personal privacy as defined in subdivision two of this section if such disclosure is prohibited under section ninety-six of this chapter.

3. (a) Each entity subject to the provisions of this article, within five business days of the receipt of a written request for a record reasonably described, shall make such record available to the person requesting it, deny such request in writing or furnish a written acknowledgement of the receipt of such request and a statement of the approximate date, which shall be reasonable under the circumstances of

the request, when such request will be granted or denied, including, where appropriate, a statement that access to the record will be determined in accordance with subdivision five of this section. [~~An~~] **Neither an** agency **nor the state legislature** shall [~~not~~] deny a request on the basis that the request is voluminous or that locating or reviewing the requested records or providing the requested copies is burdensome because the agency **or respective house of the state legislature** lacks sufficient staffing or on any other basis if the agency **or respective house of the state legislature** may engage an outside professional service to provide copying, programming or other services required to provide the copy, the costs of which the agency may recover pursuant to paragraph (c) of subdivision one of section eighty-seven of this article. An agency **or respective house of the state legislature** may require a person requesting lists of names and addresses to provide a written certification that such person will not use such lists of names and addresses for solicitation or fund-raising purposes and will not sell, give or otherwise make available such lists of names and addresses to any other person for the purpose of allowing that person to use such lists of names and addresses for solicitation or fund-raising purposes. If an agency **or respective house of the state legislature** determines to grant a request in whole or in part, and if circumstances prevent disclosure to the person requesting the record or records within twenty business days from the date of the acknowledgement of the receipt of the request, the agency **or respective house of the state legislature** shall state, in writing, both the reason for the inability to grant the request within twenty business days and a date certain within a reasonable period, depending on the circumstances, when the request will be granted in whole or in part. Upon payment of, or offer to pay, the fee prescribed therefor, the entity shall provide a copy of such record and certify to the correctness of such copy if so requested, or as the case may be, shall certify that it does not have possession of such record or that such record cannot be found after diligent search. Nothing in this article shall be construed to require any entity to prepare any record not possessed or maintained by such entity except the records specified in subdivision three of section eighty-seven [~~and subdivision three of section eighty-eight~~] of this article. When an agency **or the respective house of the state legislature** has the ability to retrieve or extract a record or data maintained in a computer storage system with reasonable effort, it shall be required to do so. When doing so requires less employee time than engaging in manual retrieval or redactions from non-electronic records, the agency **and respective house of the state legislature** shall be required to retrieve or extract such record or data electronically. Any programming necessary to retrieve a record maintained in a computer storage system and to transfer that record to the medium requested by a person or to allow the transferred record to be read or printed shall not be deemed to be the preparation or creation of a new record.

(b) All entities shall, provided such entity has reasonable means available, accept requests for records submitted in the form of electronic mail and shall respond to such requests by electronic mail, using forms, to the extent practicable, consistent with the form or forms developed by the committee on open government pursuant to subdivision one of this section and provided that the written requests do not seek a response in some other form.

(c) Each state agency, as defined in subdivision five of this section, that maintains a website shall ensure its website provides for the online submission of a request for records pursuant to this article.

4. (a) Except as provided in subdivision five of this section, any person denied access to a record may within thirty days appeal in writing such denial to the head, chief executive or governing body of the entity, or the person therefor designated by such head, chief executive, or governing body, who shall within ten business days of the receipt of such appeal fully explain in writing to the person requesting the record the reasons for further denial, or provide access to the record sought. In addition, each agency **or the respective house of the state legislature** shall immediately forward to the committee on open government a copy of such appeal when received by the agency **or such house** and the ensuing determination thereon. Failure by an agency **or respective house of the state legislature** to conform to the provisions of subdivision three of this section shall constitute a denial.

(b) Except as provided in subdivision five of this section, a person denied access to a record in an appeal determination under the provisions of paragraph (a) of this subdivision may bring a proceeding for review of such denial pursuant to article seventy-eight of the civil practice law and rules. In the event that access to any record is denied pursuant to the provisions of subdivision two of section eighty-seven of this article, the agency **or respective house of the state legislature** involved shall have the burden of proving that such record falls within the provisions of such subdivision two. Failure by an agency **or respective house of the state legislature** to conform to the provisions of paragraph (a) of this subdivision shall constitute a denial.

(c) The court in such a proceeding: (i) may assess, against such agency involved, reasonable attorney's fees and other litigation costs reasonably incurred by such person in any case under the provisions of this section in which such person has substantially prevailed, and when the agency failed to respond to a request or appeal within the statutory time; and (ii) shall assess, against such agency involved, reasonable attorney's fees and other litigation costs reasonably incurred by such person in any case under the provisions of this section in which such person has substantially prevailed and the court finds that the agency had no reasonable basis for denying access.

(d) (i) Appeal to the appellate division of the supreme court must be made in accordance with subdivision (a) of section fifty-five hundred thirteen of the civil practice law and rules.

(ii) An appeal from an agency **or respective house of the state legislature** taken from an order of the court requiring disclosure of any of all records sought:

(A) shall be given preference;

(B) shall be brought on for argument on such terms and conditions as the presiding justice may direct, upon application of any party to the proceedings; and

(C) shall be deemed abandoned if the agency **or respective house of the state legislature** fails to serve and file a record and brief within sixty days after the date of service upon the petitioner of the notice of appeal, unless consent to further extension is given by all parties, or unless further extension is granted by the court upon such terms as may be just and upon good cause shown.

5. (a) (1) A person acting pursuant to law or regulation who, subsequent to the effective date of this subdivision, submits any information to any state agency **or to the respective house of the state legislature**

may, at the time of submission, request that the agency **or such house provisionally** except such information from disclosure under paragraph (d) of subdivision two of section eighty-seven of this article. Where the request itself contains information which if disclosed would defeat the purpose for which the exception is sought, such information shall also be **provisionally** excepted from disclosure.

(1-a) A person or entity who submits or otherwise makes available any records to any agency **or a house of the state legislature**, may, at any time, identify those records or portions thereof that may contain critical infrastructure information, and request that the agency **or house of the state legislature** that maintains such records except such information from disclosure under subdivision two of section eighty-seven of this article. Where the request itself contains information which if disclosed would defeat the purpose for which the exception is sought, such information shall also be **provisionally** excepted from disclosure.

(2) The request for an exception shall be in writing**, shall specifically identify which portions of the record are the subject of the request for exception** and **shall** state the reasons why the information should be **provisionally** excepted from disclosure. **Any such request for an exception shall be effective for a five-year period from the agency's or respective house of the state legislature's receipt thereof. Provided, however, that not less than sixty days prior to the expiration of the then current term of the exception request, the submitter may apply to the agency or respective house of the state legislature for a two-year extension of its exception request. Upon timely receipt of a request for an extension of an exception request, an agency or respective house of the state legislature may either (A) perform a cursory review of the application and grant the extension should it find any justification for such determination, or (B) commence the procedure set forth in paragraph (b) of this subdivision to make a final determination granting or terminating such exception.**

(3) Information submitted as provided in subparagraphs one and one-a of this paragraph shall be **provisionally** excepted from disclosure and be maintained apart by the agency **and the respective house of the state legislature** from all other records until **the expiration of the submitter's exception request or** fifteen days after the entitlement to such exception has been finally determined or such further time as ordered by a court of competent jurisdiction.

(b) [~~**On the**~~] **During the effective period of an exception request under this subdivision, on the** initiative of the agency **or either house of the state legislature** at any time, or upon the request of any person for a record excepted from disclosure pursuant to this subdivision, the agency **or respective house of the state legislature** shall:

(1) inform the person who requested the exception of the agency's **or such house's** intention to determine whether such exception should be granted or continued;

(2) permit the person who requested the exception, within ten business days of receipt of notification from the agency **or respective house of the state legislature**, to submit a written statement of the necessity for the granting or continuation of such exception;

(3) within seven business days of receipt of such written statement, or within seven business days of the expiration of the period prescribed for submission of such statement, issue a written determination granting, continuing or terminating such exception and stating the reasons therefor; copies of such determination shall be served upon the person,

if any, requesting the record, the person who requested the exception, and the committee on [~~public access to records~~] open government.

(c) A denial of an exception from disclosure under paragraph (b) of this subdivision may be appealed by the person submitting the information and a denial of access to the record may be appealed by the person requesting the record in accordance with this subdivision:

(1) Within seven business days of receipt of written notice denying the request, the person may file a written appeal from the determination of the agency or the respective house of the state legislature with the head of the agency or respective house of the state legislature, the chief executive officer or governing body or their designated representatives.

(2) The appeal shall be determined within ten business days of the receipt of the appeal. Written notice of the determination shall be served upon the person, if any, requesting the record, the person who requested the exception and the committee on [~~public access to records~~] open government. The notice shall contain a statement of the reasons for the determination.

(d) A proceeding to review an adverse determination pursuant to paragraph (c) of this subdivision may be commenced pursuant to article seventy-eight of the civil practice law and rules. Such proceeding, when brought by a person seeking an exception from disclosure pursuant to this subdivision, must be commenced within fifteen days of the service of the written notice containing the adverse determination provided for in subparagraph two of paragraph (c) of this subdivision. The proceeding shall be given preference and shall be brought on for argument on such terms and conditions as the presiding justice may direct, not to exceed forty-five days. Appeal to the appellate division of the supreme court must be made in accordance with law, and must be filed within fifteen days after service by a party upon the appellant of a copy of the judgment or order appealed from and written notice of its entry. An appeal taken from an order of the court requiring disclosure shall be given preference and shall be brought on for argument on such terms and conditions as the presiding justice may direct, not to exceed sixty days. This action shall be deemed abandoned when the party requesting an exclusion from disclosure fails to serve and file a record and brief within thirty days after the date of the notice of appeal. Failure by the party requesting an exclusion from disclosure to serve and file a record and brief within the allotted time shall result in the dismissal of the appeal.

(e) The person requesting an exception from disclosure pursuant to this subdivision shall in all proceedings have the burden of proving entitlement to the exception.

(f) Where the agency or the respective house of the state legislature denies access to a record pursuant to paragraph [~~(d) of~~] (b) of this subdivision in conjunction with subdivision two of section eighty-seven of this article, the agency or respective house of the state legislature shall have the burden of proving that the record falls within the provisions of such exception.

(g) Nothing in this subdivision shall be construed to deny any person access, pursuant to the remaining provisions of this article, to any record or part excepted from disclosure upon the express written consent of the person who had requested the exception.

(h) As used in this subdivision the term "agency" or "state agency" means only a state department, board, bureau, division, council or

office and any public corporation the majority of whose members are appointed by the governor.

(i) As used in this subdivision the term "state legislature" means the legislature as defined in subdivision two of section eighty-six of this article.

6. Nothing in this article shall be construed to limit or abridge any otherwise available right of access at law or in equity of any party to records.

7. Nothing in this article shall require the disclosure of the home address of an officer or employee, former officer or employee, or of a retiree of a public employees' retirement system; nor shall anything in this article require the disclosure of the name or home address of a beneficiary of a public employees' retirement system or of an applicant for appointment to public employment; provided however, that nothing in this subdivision shall limit or abridge the right of an employee organization, certified or recognized for any collective negotiating unit of an employer pursuant to article fourteen of the civil service law, to obtain the name or home address of any officer, employee or retiree of such employer, if such name or home address is otherwise available under this article.

8. Any person who, with intent to prevent the public inspection of a record pursuant to this article, willfully conceals or destroys any such record shall be guilty of a violation.

9. When records maintained electronically include items of information that would be available under this article, as well as items of information that may be withheld, an agency **or respective house of the state legislature** in designing its information retrieval methods, whenever practicable and reasonable, shall do so in a manner that permits the segregation and retrieval of available items in order to provide maximum public access.

§ 5. Subdivisions (t) and (u) of section 105 of the civil practice law and rules, subdivision (u) as relettered by chapter 100 of the laws of 1994, are relettered subdivisions (u) and (v) and a new subdivision (t) is added to read as follows:

(t) "State legislature" means the New York state senate, New York state assembly, any committee, subcommittee, joint committee, select committee, or commission thereof, and any members, officers, representatives and employees thereof.

§ 6. Subdivision (a) of section 7802 of the civil practice law and rules is amended to read as follows:

(a) Definition of "body or officer". The expression "body or officer" includes every court, tribunal, board, corporation, officer, **state legislature,** or other person, or aggregation of persons, whose action may be affected by a proceeding under this article**.**

§ 7. Subdivision 3 of section 713 of the executive law, as amended by section 16 of part B of chapter 56 of the laws of 2010, is amended to read as follows:

3. Any reports prepared pursuant to this article shall not be subject to disclosure pursuant to [~~section eighty-eight~~] **article six** of the public officers law.

§ 8. Section 70-0113 of the environmental conservation law is REPEALED.

§ 9. Subdivision 4 of section 308 of the county law is REPEALED.

§ 10. This act shall take effect immediately; provided however that the amendments to paragraphs (j), (k), (l), (m), (n), (n) and (o) of subdivision 2 of section 87 of the public officers law made by section

two of this act shall not affect the repeal of such paragraphs and shall be deemed repealed therewith.

PART CC

Section 1. Section 13-b of the workers' compensation law, as amended by chapter 1068 of the laws of 1960, the section heading, subdivisions 1 and 2 as amended by chapter 473 of the laws of 2000 and subdivision 3 as amended by section 85 of part A of chapter 58 of the laws of 2010, is amended to read as follows:

§ 13-b. Authorization of [~~physicians~~] **providers**, medical bureaus and laboratories by the chair. 1. [~~Upon the recommendation of the medical society of the county in which the physician's office is located or of a board designated by such county society or of a board representing duly licensed physicians of any other school of medical practice in such county, the chair may authorize physicians licensed to practice medicine in the state of New York to render medical care under this chapter and to perform independent medical examinations in accordance with subdivision four of section thirteen-a of this article. If, within sixty days after the chair requests such recommendations the medical society of such county or board fails to act, or if there is no such society in such county, the chair shall designate a board of three outstanding physicians, who shall make the requisite recommendations.~~

~~No such authorization shall be made in the absence of a recommendation of the appropriate society or board or of a review and recommendation by the medical appeals unit.~~] No person shall render medical care or conduct independent medical examinations under this chapter without such authorization by the chair[~~, provided, that: (a)~~]**. As used in this title, the following definitions shall have the following meanings unless their context requires otherwise:**

(a) "Acupuncturist" shall mean licensed as having completed a formal course of study and having passed an examination in accordance with the education law, the regulations of the commissioner of education, and the requirements of the board of regents. Acupuncturists are required by the education law to advise, in writing, each patient of the importance of consulting with a physician for the condition or conditions necessitating acupuncture care, as prescribed by the education law.

(b) "Chair" of the board shall mean either the chair or the chair's designee.

(c) "Chiropractor" shall mean licensed and having completed two years of preprofessional college study and a four-year resident program in chiropractic in accordance with the education law, and consistent with the licensing requirements of the commissioner of education.

(d) "Dentist" shall mean licensed and having completed a four-year course of study leading to a D.D.S. or D.D.M. degree, or an equivalent degree, in accordance with the education law and the licensing requirements of the commissioner of education.

(e) "Employer" shall mean a self-insured employer or, if insured, the insurance carrier.

(f) "Independent medical examination" shall mean an examination performed by a medical provider, authorized under this section to perform such examination, for the purpose of examining or evaluating injury or illness pursuant to paragraph (b) of subdivision four of section thirteen-a and section one hundred thirty-seven of this chapter and as more fully set forth in regulation.

(g) "Nurse practitioner" shall mean a licensed registered professional nurse certified pursuant to section sixty-nine hundred ten of the education law.

(h) "Occupational therapist" shall mean licensed as having a bachelor's or master's degree in occupational therapy from a registered program with the education department or receipt of a diploma or degree resulting from completion of not less than four years of postsecondary study, which includes the professional study of occupational therapy in accordance with the education law and the regulations of the commissioner of education.

(i) "Physical therapist" shall mean licensed as having completed a master's degree or higher in physical therapy in accordance with the education law and the licensing requirements of the commissioner of education.

(j) "Physician" shall mean licensed with a degree of doctor of medicine, M.D., or doctor of osteopathic medicine, D.O., or an equivalent degree in accordance with the education law and the licensing requirements of the state board of medicine and the regulations of the commissioner of education.

(k) "Physician assistant" shall mean a licensed provider who has graduated from a two- to four-year state-approved physician assistant program, has passed a licensing examination, and whose actions and duties are within the scope of practice of the supervising physician, in accordance with the education law and the regulations of the commissioner of education.

(l) "Podiatrist" shall mean a doctor of podiatric medicine licensed as having received a doctoral degree in podiatric medicine in accordance with the regulations of the commissioner of education and the education law, and must satisfactorily meet all other requirements of the state board for podiatric medicine.

(m) "Provider" shall mean a duly licensed acupuncturist, chiropractor, independent medical examiner, nurse practitioner, physical therapist, physician, physician assistant, podiatrist, psychologist, or social worker authorized by the chair.

(n) "Psychologist" shall mean licensed as having received a doctoral degree in psychology from a program of psychology registered with the state education department or the substantial equivalent thereof in accordance with the education law, the requirements of the state board for psychology, and the regulations of the commissioner of education.

(o) "Social worker" shall mean a licensed clinical social worker. A licensed clinical social worker has completed a master's degree of social work that includes completion of a core curriculum of at least twelve credit hours of clinical courses or the equivalent post-graduate clinical coursework, in accordance with the education law and the regulations of the commissioner of education.

2. Any [~~physician~~] provider licensed [~~to practice medicine~~] pursuant to the education law to provide medical care and treatment in the state of New York may render emergency [~~medical~~] care and treatment in an emergency hospital or urgent care setting providing emergency treatment under this chapter without authorization by the chair under this section; [~~and~~

~~(b)~~] (a) Such licensed [~~physician~~] provider as identified in this subdivision who is [~~a member of a constituted medical staff of any hospital~~] on staff at any hospital or urgent care center providing emergency treatment may [~~render~~] continue such medical care under this chap-

ter while an injured employee remains a patient in such hospital or urgent care setting; and

[~~(c)~~] (b) Under the [~~active and personal~~] direct supervision of an authorized [~~physician~~] provider, medical care may be rendered by a registered nurse or other person trained in laboratory or diagnostic techniques within the scope of such person's specialized training and qualifications. This supervision shall be evidenced by signed records of instructions for treatment and signed records of the patient's condition and progress. Reports of such treatment and supervision shall be made by such [~~physician~~] provider to the chair [~~on such forms and~~] in the format prescribed by the chair at such times as the chair may require.

~~[(d) Upon the referral which may be directive as to treatment of an authorized physician physical therapy care may be rendered by a duly licensed physical therapist. Where physical therapy care is rendered records of the patient's condition and progress, together with records of instruction for treatment, if any, shall be maintained by the physical therapist and physician. Said records shall be submitted to the chair on such forms and at such times as the chair may require.~~

~~(e) Upon the prescription or referral of an authorized physician occupational therapy care may be rendered by a duly licensed occupational therapist. Where occupational therapy care is rendered records of the patient's condition and progress, together with records of instruction for treatment, if any shall be maintained by the occupational therapist and physician. Said records shall be submitted to the chair on forms and at such times as the chair may require.~~

~~(f)~~] (c) Where it would place an unreasonable burden upon the employer or carrier to arrange for, or for the claimant to attend, an independent medical examination by an authorized [~~physician~~] provider, the employer or carrier shall arrange for such examination to be performed by a qualified [~~physician~~] provider in a medical facility convenient to the claimant.

[~~2.~~] (d) Upon the prescription or referral of an authorized physician, or nurse practitioner acting within the scope of his or her practice, care or treatment may be rendered to an injured employee by an authorized physical therapist, occupational therapist or acupuncturist provided the conditions and the treatment performed are among the conditions that the physical therapist, occupational therapist or acupuncturist is authorized to treat pursuant to the education law or the regulations of the commissioner of education. Where any such care or treatment is rendered, records of the patient's condition and progress, together with records of instruction for treatment, if any, shall be maintained by the physical therapist, occupational therapist or acupuncturist rendering treatment and by the referring physician or nurse practitioner. Said records shall be submitted to the chair on forms and at such times as the chair may require.

(e) A record, report or opinion of a physical therapist, occupational therapist, acupuncturist or physician assistant shall not be considered as evidence of the causal relationship of any condition to a work related accident or occupational disease under this chapter. Nor may a record, report or opinion of a physical therapist, occupational therapist or acupuncturist be considered evidence of disability. Nor may a record, report or opinion of a physician assistant be considered evidence of the presence of a permanent or initial disability or the degree thereof. Nor may a physical therapist, occupational therapist, acupuncturist or physician assistant perform an independent medical examination concerning a claim under this chapter.

(f) A nurse practitioner, or licensed clinical social worker, may perform an independent medical examination on behalf of an employer only to the extent that the examination concerns treatment rendered by an identical provider type, but may not perform an independent medical examination on behalf of the employer concerning (1) the causal relationship of any condition to a work related accident or occupational disease under this chapter or (2) the presence of a disability or the degree thereof.

3. A [~~physician licensed to practice medicine in the state of New York who is~~] provider properly licensed or certified pursuant to the regulations of the commissioner of education and the requirements of the education law desirous of being authorized to render medical care under this chapter and/or to conduct independent medical examinations in accordance with paragraph (b) of subdivision four of section thirteen-a and section one hundred thirty-seven of this chapter shall file an application for authorization under this chapter with the [~~medical society in the county in which his or her office is located, or with a board designated by such society, or with a board designated by the chair as provided in this section. In such application the applicant shall state his or her training and qualifications, and shall agree to limit his or her professional activities under this chapter to such medical care and independent medical examinations, as his or her experience and training qualify him or her to render. The applicant shall further agree to refrain~~] chair or chair's designee. Prior to receiving authorization, a physician must, together with submission of an application to the chair, submit such application to the medical society of the county in which the physician's office is located or of a board designated by such county society or of a board representing duly licensed physicians of any other school of medical practice in such county, and submit the recommendation to the board. In the event such county society or board fails to take action upon a physician's application within forty-five days, the chair may complete review of the application without such approval. Upon approval of the application by the chair or the chair's designee, the applicant shall further agree to refrain from subsequently treating for remuneration, as a private patient, any person seeking medical treatment, or submitting to an independent medical examination, in connection with, or as a result of, any injury compensable under this chapter, if he or she has been removed from the list of [~~physicians~~] providers authorized to render medical care or to conduct independent medical examinations under this chapter, or if the person seeking such treatment, or submitting to an independent medical examination, has been transferred from his or her care in accordance with the provisions of this chapter. This agreement shall run to the benefit of the injured person so treated or examined, and shall be available to him or her as a defense in any action by such [~~physician~~] provider for payment for treatment rendered by a [~~physician~~] provider after he or she has been removed from the list of [~~physicians~~] providers authorized to render medical care or to conduct independent medical examinations under this chapter, or after the injured person was transferred from his or her care in accordance with the provisions of this chapter. [~~The medical society or the board designated by it, or the board as otherwise provided under this section, if it deems such licensed physician duly qualified, shall recommend to the chair that such physician be authorized to render medical care and/or conduct independent medical examinations under this chapter, and such recommendation and authorization shall specify the character of the medical care or independent medical~~

~~examination which such physician is qualified and authorized to render under this chapter. Such recommendations shall be advisory to the chair only and shall not be binding or conclusive upon him or her. The licensed physician may present to the medical society or board, evidences of additional qualifications at any time subsequent to his or her original application. If the medical society or board fails to recommend to the chair that a physician be authorized to render medical care and/or to conduct independent medical examinations under this chapter, the physician may appeal to the medical appeals unit. The medical society or the board designated by it, or the board as otherwise provided under this section, may upon its own initiative, or shall upon request of the chair, review at any time the qualifications of any physician as to the character of the medical care or independent medical examinations which such physician has theretofore been authorized to render under this chapter and may recommend to the chair that such physician be authorized to render medical care or to conduct independent medical examinations thereafter of the character which such physician is then qualified to render. On such advisory recommendation the chair may review and after reasonable investigation may revise the authorization of a physician in respect to the character of medical care and/or to conduct independent medical examinations which he or she is authorized to render. If the medical society or board recommends to the chair that a physician be authorized to render medical care and/or to conduct independent medical examinations under this chapter of a character different from the character of medical care or independent medical examinations he or she has been theretofore authorized to render, such physician may appeal from such recommendation to the medical appeals unit.~~

~~3.~~] **4.** Laboratories and bureaus engaged in x-ray diagnosis or treatment or in physiotherapy or other therapeutic procedures and which participate in the diagnosis or treatment of injured [~~workmen~~] **workers** under this chapter shall be operated or supervised by [~~qualified physicians duly~~] **providers** authorized under this chapter and shall be subject to the provisions of section thirteen-c of this article. The person in charge of diagnostic clinical laboratories duly authorized under this chapter shall possess the qualifications established by the public health and health planning council for approval by the state commissioner of health or, in the city of New York, the qualifications approved by the board of health of said city and shall maintain the standards of work required for such approval.

§ 2. Section 13-d of the workers' compensation law, as amended by chapter 459 of the laws of 1944, the section heading, subdivision 1 and subdivision 2 as amended by chapter 473 of the laws of 2000, paragraphs (a) and (b) of subdivision 2 as amended and subdivision 5 as added by chapter 6 of the laws of 2007, subdivision 4 as amended by chapter 1068 of the laws of 1960, is amended to read as follows:

§ 13-d. Removal of [~~physicians~~] **providers** from lists of those authorized to render medical care or to conduct independent medical examinations. 1. The medical society of the county in which the physician's office is located at the time or a board designated by such county society or a board representing duly licensed physicians of any other school of medical practice in such county shall investigate, hear and make findings with respect to all charges as to professional or other misconduct of any authorized physician as herein provided under rules and procedure to be prescribed by the medical appeals unit, and shall report evidence of such misconduct, with their findings and recommendation with respect thereto, to the chair. Failure to commence such investigation

within sixty days from the date the charges are referred to the society by the chair or submit findings and recommendations relating to the charges within one hundred eighty days from the date the charges are referred shall empower the chair to appoint, as a hearing officer, a member of the board, employee, or other qualified hearing officer to hear and report on the charges to the chair. A qualified hearing officer, who is neither a member of the board, or employee thereof shall be paid at a reasonable per diem rate to be fixed by the chair.

Such investigation, hearing, findings, recommendation and report may be made by the society or board of an adjoining county upon the request of the medical society of the county in which the alleged misconduct or infraction of this chapter occurred, subject to the time limit and conditions set forth herein. The medical appeals unit shall review the findings and recommendation of such medical society or board, or hearing officer appointed by the chair upon application of the accused physician and may reopen the matter and receive further evidence. The findings, decision and recommendation of such society, board or hearing officer appointed by the chair or medical appeals unit shall be advisory to the chair only, and shall not be binding or conclusive upon him or her.

2. The chair shall remove from the list of [~~physicians~~] **providers** authorized to render medical care under this chapter, or to conduct independent medical examinations in accordance with paragraph (b) of subdivision four of section thirteen-a of this article, the name of any [~~physician~~] **provider** who he or she shall find after reasonable investigation is disqualified because such [~~physician~~] **provider**:

(a) has been guilty of professional or other misconduct or incompetency in connection with rendering medical services under the law; or

(b) has exceeded the limits of his or her professional competence in rendering medical care or in conducting independent medical examinations under the law, or has made materially false statements regarding his or her qualifications in his or her application for the recommendation of the medical society or board as provided in section thirteen-b of this article; or

(c) has failed to transmit copies of medical reports to claimant's attorney or licensed representative as provided in subdivision (f) of section thirteen of this article; or has failed to submit full and truthful medical reports of all his or her findings to the employer, and directly to the chair or the board within the time limits provided in subdivision four of section thirteen-a of this article with the exception of injuries which do not require (1) more than ordinary first aid or more than two treatments by a [~~physician~~] **provider** or person rendering first aid, or (2) loss of time from regular duties of one day beyond the working day or shift; or

(d) knowingly made a false statement or representation as to a material fact in any medical report made pursuant to this chapter or in testifying or otherwise providing information for the purposes of this chapter; or

(e) has solicited, or has employed another to solicit for himself or herself or for another, professional treatment, examination or care of an injured employee in connection with any claim under this chapter; or

(f) has refused to appear before, to testify, to submit to a deposition, or to answer upon request of, the chair, board, medical appeals unit or any duly authorized officer of the state, any legal question, or to produce any relevant book or paper concerning his or her conduct under any authorization granted to him or her under this chapter; or

(g) has directly or indirectly requested, received or participated in the division, transference, assignment, rebating, splitting or refunding of a fee for, or has directly or indirectly requested, received or profited by means of a credit or other valuable consideration as a commission, discount or gratuity in connection with the furnishing of medical or surgical care, an independent medical examination, diagnosis or treatment or service, including X-ray examination and treatment, or for or in connection with the sale, rental, supplying or furnishing of clinical laboratory services or supplies, X-ray laboratory services or supplies, inhalation therapy service or equipment, ambulance service, hospital or medical supplies, physiotherapy or other therapeutic service or equipment, artificial limbs, teeth or eyes, orthopedic or surgical appliances or supplies, optical appliances, supplies or equipment, devices for aid of hearing, drugs, medication or medical supplies, or any other goods, services or supplies prescribed for medical diagnosis, care or treatment, under this chapter; except that reasonable payment, not exceeding the technical component fee permitted in the medical fee schedule, established under this chapter for X-ray examinations, diagnosis or treatment, may be made by a [~~physician~~] **provider** duly authorized as a roentgenologist to any hospital furnishing facilities and equipment for such examination, diagnosis or treatment, provided such hospital does not also submit a charge for the same services. Nothing contained in this paragraph shall prohibit such [~~physicians~~] **providers** who practice as partners, in groups or as a professional corporation or as a university faculty practice corporation from pooling fees and moneys received, either by the partnership, professional corporation, university faculty practice corporation or group by the individual members thereof, for professional services furnished by any individual professional member, or employee of such partnership, corporation or group, nor shall the professionals constituting the partnerships, corporations, or groups be prohibited from sharing, dividing or apportioning the fees and moneys received by them or by the partnership, corporation or group in accordance with a partnership or other agreement.

3. Any person who violates or attempts to violate, and any person who aids another to violate or attempts to induce him **or her** to violate the provisions of paragraph (g) of subdivision two of this section shall be guilty of a misdemeanor.

4. Nothing in this section shall be construed as limiting in any respect the power or duty of the [~~chairman~~] **chair** to investigate instances of misconduct, either before or after investigation by a medical society or board as herein provided, or to temporarily suspend the authorization of any [~~physician~~] **provider** that he **or she** may believe to be guilty of such misconduct.

5. Whenever the department of health **or the department of education** shall conduct an investigation with respect to charges of professional or other misconduct by a [~~physician~~] **provider** which results in a report, determination or consent order that includes a finding of professional or other misconduct or incompetency by such [~~physician~~] **provider**, the chair shall have full power and authority to temporarily suspend, revoke or otherwise limit the authorization under this chapter of any [~~physician~~] **provider** upon such finding by the department of health **or the department of education** that the [~~physician~~] **provider** has been guilty of professional or other misconduct. The recommendations of the department of health **or the department of education** shall be advisory to the chair only and shall not be binding or conclusive upon the chair.

§ 3. Section 13-g of the workers' compensation law, as added by chapter 258 of the laws of 1935, subdivision 1 as amended by chapter 674 of the laws of 1994, subdivisions 2 and 3 as amended by section 4 of part GG of chapter 57 of the laws of 2013, subdivision 4 as amended by section 3 of part D of chapter 55 of the laws of 2015, subdivision 5 as amended by chapter 578 of the laws of 1959 and subdivision 6 as amended by chapter 639 of the laws of 1996, is amended to read as follows:

§ 13-g. Payment of bills for medical care. (1) Within forty-five days after a bill **for medical care or supplies delivered pursuant to section thirteen of this article** has been rendered to the employer [~~by the hospital, physician or self-employed physical or occupational therapist who has rendered treatment pursuant to a referral from the injured employee's authorized physician or authorized podiatrist for treatment to the injured employee~~], such employer must pay the bill or notify the [~~hospital, physician or self-employed physical or occupational therapist in writing~~] **medical care provider or supplier in the format prescribed by the chair** that the bill is not being paid and explain the reasons for non-payment. In the event that the employer fails to make payment or notify the [~~hospital, physician or self-employed physical or occupational therapist~~] **medical care provider or supplier** within such forty-five day period that payment is not being made, the [~~hospital, physician, self-employed physical therapist or self-employed occupational therapist~~] **medical care provider or supplier** may notify **the board in the format prescribed by** the chair [~~in writing~~] that the bill has not been paid and request that the board make an award for payment of such bill. The board or the chair may make an award not in excess of the established fee schedules for any such bill or part thereof which remains unpaid after said forty-five day period or thirty days after all other questions duly and timely raised in accordance with the provisions of this chapter, relating to the employer's liability for the payment of such amount, shall have been finally determined adversely to the employer, whichever is later, in accordance with rules promulgated by the chair, and such award may be collected in like manner as an award of compensation. The chair shall assess the sum of fifty dollars against the employer for each such award made by the board, which sum shall be paid into the state treasury.

In the event that the employer has provided an explanation in writing why the bill has not been paid, in part or in full, within the aforesaid time period, and the parties can not agree as to the value of medical aid rendered under this chapter, such value shall be decided by arbitration [~~if requested by the hospital, physician or self-employed physical or occupational therapist, in accordance with the provisions of subdivision two or subdivision three of this section, as appropriate, and~~] **as set forth in** rules and regulations promulgated by the chair.

Where a [~~physician, physical or occupational therapist~~] bill **for medical care or supplies** has been determined to be due and owing in accordance with the provisions of this section the board shall include in the amount of the award interest of not more than one and one-half [~~per cent~~] **percent** (1 1/2%) per month payable to the [~~physician, physical or occupational therapist~~] **medical care provider or supplier**, in accordance with the rules and regulations promulgated by the board. Interest shall be calculated from the forty-fifth day after the bill was rendered or from the thirtieth day after all other questions duly and timely raised in accordance with the provisions of this chapter, relating to the employer's liability for the payment of such amount, shall

have been finally determined adversely to the employer, whichever is later, in accordance with rules promulgated by the chair.

(2) (a) If the parties fail to agree to the value of medical aid rendered under this chapter and the amount of the disputed bill is one thousand dollars or less, or if the amount of the disputed medical bill exceeds one thousand dollars and the [~~health~~] **medical** care provider **or supplier** expressly so requests, such value shall be decided by a single arbitrator process, pursuant to rules promulgated by the chair. [~~The chair shall appoint a physician who is a member in good standing of the medical society of the state of New York to determine the value of such disputed medical bill. Where the physician whose charges are being arbitrated is a member in good standing of the New York osteopathic society, the value of such disputed bill shall be determined by a member in good standing of the New York osteopathic society appointed by the chair. Where the physician whose charges are being arbitrated is a member in good standing of the New York homeopathic society, the value of such disputed bill shall be determined by a member in good standing of the New York homeopathic society appointed by the chair. Where the value of physical therapy services or occupational therapy services is at issue, such value shall be determined by a member in good standing of a recognized professional association representing its respective profession in the state of New York appointed by the chair.~~] Decisions rendered under the single arbitrator process shall be conclusive upon the parties as to the value of the services in dispute.

(b) If the parties fail to agree as to the value of medical aid rendered under this chapter and the amount of the disputed bill exceeds one thousand dollars, such value shall be decided by an arbitration committee unless the [~~health~~] **medical** care provider **or supplier** expressly requests a single arbitrator process in accordance with paragraph (a) of this subdivision. The arbitration committee shall [~~consist of one physician designated by the president of the medical society of the county in which the medical services were rendered, one physician who is a member of the medical society of the state of New York, appointed by the employer or carrier, and one physician, also a member of the medical society of the state of New York, appointed by the chair of the workers' compensation board. If the physician whose charges are being arbitrated is a member in good standing of the New York osteopathic society or the New York homeopathic society, the members of such arbitration committee shall be physicians of such organization, one to be appointed by the president of that organization, one by the employer or carrier and the third by the chair of the workers' compensation board. Where the value of physical therapy services is at issue and the amount of the disputed bill exceeds one thousand dollars, the arbitration committee shall consist of a member in good standing of a recognized professional association representing physical therapists in the state of New York appointed by the president of such organization, a physician designated by the employer or carrier and a physician designated by the chair of the workers' compensation board provided however, that the chair finds that there are a sufficient number of physical therapy arbitrations in a geographical area comprised of one or more counties to warrant a committee so comprised. In all other cases where the value of physical therapy services is at issue and the amount of the disputed bill exceeds one thousand dollars, the arbitration committee shall be similarly selected and identical in composition, provided that the physical therapist member shall serve without remuneration, and provided further that in the event a physical therapist is not available, the committee shall be~~

~~comprised of three physicians designated in the same manner as in cases where the value of medical aid is at issue.~~

~~(c) Where the value of occupational therapy services is at issue the arbitration committee shall consist of a member in good standing of a recognized professional association representing occupational therapists in the state of New York appointed by the president of such organization; a physician designated by the employer or carrier and a physician designated by the chair of the workers' compensation board provided, however, that the chair finds that there are a sufficient number of occupational therapy arbitrations in a geographical area comprised of one or more counties to warrant a committee so comprised. In all other cases where the value of occupational therapy services is at issue and the amount of the disputed bill exceeds one thousand dollars, the arbitration committee shall be similarly selected and identical in composition, provided that the occupational therapist member shall serve without remuneration, and provided further that in the event an occupational therapist is not available, the committee shall be comprised of three physicians designated in the same manner as in cases where the value of medical aid is at issue.~~] have three members designated by the chair in consultation with the medical director's office of the workers' compensation board. The majority decision of any such arbitration committee shall be conclusive upon the parties as to the value of the services in dispute.

(3) [~~(a) If an employer shall have notified the hospital in writing, as provided in subdivision one of this section, why the bill has not been paid, in part or in full, and the amount of the disputed bill is one thousand dollars or less, or where the amount of the disputed medical bill exceeds one thousand dollars and the hospital expressly so requests, such value shall be decided by a single arbitrator process, pursuant to rules promulgated by the chair. The chair shall appoint a physician in good standing licensed to practice in New York state to determine the value of such disputed bill. Decisions rendered under the administrative resolution procedure shall be conclusive upon the parties as to the value of the services in dispute.~~

~~(b) If an employer shall have notified the hospital in writing, as provided in subdivision one of this section, why the bill has not been paid, in part or in full, and the amount of the disputed bill exceeds one thousand dollars, the value of such bill shall be determined by an arbitration committee appointed by the chair for that purpose, which committee shall consider all of the charges of the hospital, unless the hospital expressly requests a single arbitrator process pursuant to paragraph (a) of this subdivision. The committee shall consist of three physicians. One member of the committee may be nominated by the chair upon recommendation of the president of the hospital association of New York state and one member may be nominated by the employer or insurance carrier. The majority decision of any such committee shall be conclusive upon the parties as to the value of the services rendered. The chair may make reasonable rules and regulations consistent with the provisions of this section.~~

~~(4)~~] A provider or supplier initiating an arbitration, including a single arbitrator process, pursuant to this section shall not pay a fee to cover the costs related to the conduct of such arbitration. [~~Each member of an arbitration committee for medical bills, and each member of an arbitration committee for hospital bills shall be entitled to receive and shall be paid a fee for each day's attendance at an arbitration~~

~~session in any one count in an amount fixed by the chair of the workers' compensation board.~~

~~(5)~~] (4) In claims where the employer has failed to secure compensation to his employees as required by section fifty of this chapter, the board may make an award for the value of medical [~~and podiatry~~] services, supplies or treatment rendered to such employees, in accordance with the schedules of fees and charges prepared and established under the provisions of [~~section thirteen, subdivision a, and section thirteen-k, subdivision two, of~~] this chapter[~~, and for the reasonable value of hospital care in accordance with the charges currently in force in hospitals in the same community for cases coming within the provisions of this chapter~~]. Such award shall be made to the [~~physician, podiatrist, or hospital~~] medical care provider or supplier entitled thereto. A default in the payment of such award may be enforced in the manner provided for the enforcement of compensation awards as set forth in section twenty-six of this [~~chapter~~] article.

In all cases coming under this subdivision the payment of the claim [~~of the physician, podiatrist, or hospital for medical, podiatry, or surgical services or treatment~~] for medical care or supplies shall be subordinate to that of the claimant or his or her beneficiaries.

[~~(6) Notwithstanding any inconsistent provision of law, arbitration regarding payments for inpatient hospital services for any patient discharged on or after January first, nineteen hundred ninety-one and prior to December thirty-first, nineteen hundred ninety-six shall be resolved in accordance with paragraph (d) of subdivision three of section twenty-eight hundred seven-c of the public health law.~~]

§ 4. Subdivisions 1 and 2 and paragraph (b) of subdivision 3 of section 13-k of the workers' compensation law, subdivision 1 as added by chapter 787 of the laws of 1952 and subdivision 2 and paragraph (b) of subdivision 3 as amended by chapter 473 of the laws of 2000, are amended to read as follows:

1. When the term "chairman" is hereinafter used, it shall be deemed to mean the [~~chairman~~] chair of the [~~workmen's~~] workers' compensation board of the state of New York.

2. An employee injured under circumstances which make such injury compensable under this article, when care is required for an injury to the foot which injury or resultant condition therefrom may lawfully be treated by a duly registered and licensed podiatrist of the state of New York, may select to treat him or her any podiatrist authorized by the chair to render [~~podiatry~~] podiatric medical care, as hereinafter provided. If the injury or condition is one which is without the limits prescribed by the education law for [~~podiatry~~] podiatric medical care and treatment, or the injuries involved affect other parts of the body in addition to the foot, the said podiatrist must so advise the said injured employee and instruct him or her to consult a physician of said employee's choice for appropriate care and treatment. Such physician shall thenceforth have overall supervision of the treatment of said patient including the future treatment to be administered to the patient by the podiatrist. If for any reason during the period when [~~podiatry~~] podiatric medical treatment and care is required, the employee wishes to transfer his or her treatment and care to another authorized podiatrist he or she may do so, in accordance with rules prescribed by the chair, provided however that the employer shall be liable for the proper fees of the original podiatrist for the care and treatment he or she shall have rendered. [~~A podiatrist licensed and registered to practice podiatry in the state of New York who is desirous of being authorized to~~

~~render podiatry care under this section and/or to conduct independent medical examinations in accordance with paragraph (b) of subdivision three of this section shall file an application for authorization under this section with the podiatry practice committee. In such application he or she shall agree to refrain from subsequently treating for remuneration, as a private patient, any person seeking podiatry treatment, or submitting to an independent medical examination, in connection with, or as a result of, any injury compensable under this chapter, if he or she has been removed from the list of podiatrists authorized to render podiatry care or to conduct independent medical examinations under this chapter, or if the person seeking such treatment has been transferred from his or her care in accordance with the provisions of this section. This agreement shall run to the benefit of the injured person so treated or examined, and shall be available to him or her as a defense in any action by such podiatrist for payment for treatment rendered by a podiatrist after he or she has been removed from the list of podiatrists authorized to render podiatry care or to conduct independent medical examinations under this section, or after the injured person was transferred from his or her care in accordance with the provisions of this section. The podiatry practice committee if it deems such licensed podiatrist duly qualified shall recommend to the chair that such podiatrist be authorized to render podiatry care and/or to conduct independent medical examinations under this section. Such recommendation shall be advisory to the chair only and shall not be binding or conclusive upon him or her.~~] The chair shall prepare and establish a schedule for the state, or schedules limited to defined localities, of charges and fees for [~~podiatry~~] **podiatric medical** treatment and care, to be determined in accordance with and to be subject to change pursuant to rules promulgated by the chair. Before preparing such schedule for the state or schedules for limited localities the chair shall request the [~~podiatry~~] **podiatric medicine** practice committee to submit to him or her a report on the amount of remuneration deemed by such committee to be fair and adequate for the types of [~~podiatry~~] **podiatric medical** care to be rendered under this chapter, but consideration shall be given to the view of other interested parties. The amounts payable by the employer for such treatment and services shall be the fees and charges established by such schedule.

(b) Upon receipt of the notice provided for by paragraph (a) of this subdivision, the employer, the carrier and the claimant each shall be entitled to have the claimant examined by a qualified podiatrist authorized by the chair in accordance with [~~subdivision two of this~~] section **thirteen-b** and section one hundred thirty-seven of this chapter, at a medical facility convenient to the claimant and in the presence of the claimant's podiatrist, and refusal by the claimant to submit to such independent medical examination at such time or times as may reasonably be necessary in the opinion of the board shall bar the claimant from recovering compensation for any period during which he or she has refused to submit to such examination.

§ 5. Subdivisions 1 and 2 and paragraph (b) of subdivision 3 of section 13-l of the workers' compensation law, subdivision 1 as added by chapter 940 of the laws of 1973 and subdivision 2 and paragraph (b) of subdivision 3 as amended by chapter 473 of the laws of 2000, are amended to read as follows:

1. Where the term "chairman" is hereinafter used, it shall be deemed to mean the [~~chairman~~] **chair** of the [~~workmen's~~] **workers'** compensation board of the state of New York.

2. An employee injured under circumstances which make such injury compensable under this article, when care is required for an injury which consists solely of a condition which may lawfully be treated by a chiropractor as defined in section sixty-five hundred fifty-one of the education law may select to treat him or her, any duly registered and licensed chiropractor of the state of New York, authorized by the chair to render chiropractic care as hereinafter provided. If the injury or condition is one which is outside the limits prescribed by the education law for chiropractic care and treatment, the said chiropractor must so advise the said injured employee and instruct him or her to consult a physician of said employee's choice for appropriate care and treatment. Such physician shall thenceforth have supervision of the treatment of said condition including the future treatment to be administered to the patient by the chiropractor. [~~A chiropractor licensed and registered to practice chiropractic in the state of New York, who is desirous of being authorized to render chiropractic care under this section and/or to conduct independent medical examinations in accordance with paragraph (b) of subdivision three of this section shall file an application for authorization under this section with the chiropractic practice committee. In such application he or she shall agree to refrain from subsequently treating for remuneration, as a private patient, any person seeking chiropractic treatment, or submitting to an independent medical examination, in connection with, or as a result of, any injury compensable under this chapter, if he or she has been removed from the list of chiropractors authorized to render chiropractic care or to conduct independent medical examinations under this chapter, or if the person seeking such treatment has been transferred from his or her care in accordance with the provisions of this section. This agreement shall run to the benefit of the injured person so treated, or examined, and shall be available to him or her as a defense in any action by such chiropractor for payment rendered by a chiropractor after he or she has been removed from the list of chiropractors authorized to render chiropractic care or to conduct independent medical examinations under this section, or after the injured person was transferred from his or her care in accordance with the provisions of this section. The chiropractic practice committee if it deems such licensed chiropractor duly qualified shall recommend to the chair that such be authorized to render chiropractic care and/or to conduct independent medical examinations under this section. Such recommendations shall be advisory to the chair only and shall not be binding or conclusive upon him or her.~~] The chair shall prepare and establish a schedule for the state, or schedules limited to defined localities of charges and fees for chiropractic treatment and care, to be determined in accordance with and to be subject to change pursuant to rules promulgated by the chair. Before preparing such schedule for the state or schedules for limited localities the chair shall request the chiropractic practice committee to submit to him or her a report on the amount of remuneration deemed by such committee to be fair and adequate for the types of chiropractic care to be rendered under this chapter, but consideration shall be given to the view of other interested parties, the amounts payable by the employer for such treatment and services shall be the fees and charges established by such schedule.

(b) Upon receipt of the notice provided for by paragraph (a) of this subdivision, the employer, the carrier, and the claimant each shall be entitled to have the claimant examined by a qualified chiropractor authorized by the chair in accordance with [~~subdivision two of this~~] section **thirteen-b** and section one hundred thirty-seven of this chapter

at a medical facility convenient to the claimant and in the presence of the claimant's chiropractor, and refusal by the claimant to submit to such independent medical examination at such time or times as may reasonably be necessary in the opinion of the board shall bar the claimant from recovering compensation, for any period during which he or she has refused to submit to such examination.

§ 6. Subdivisions 1, 2 and 3 and paragraph (b) of subdivision 4 of section 13-m of the workers' compensation law, subdivisions 1 and 2 as added by chapter 589 of the laws of 1989 and subdivision 3 and paragraph (b) of subdivision 4 as amended by chapter 473 of the laws of 2000, are amended to read as follows:

1. Where the term "chairman" is hereinafter used, it shall be deemed to mean the [~~chairman~~] **chair** of the workers' compensation board of the state of New York.

2. (a) An injured employee, injured under circumstances which make such injury compensable under this article, may lawfully be treated[~~, upon the referral of an authorized physician,~~] by a psychologist, duly registered and licensed by the state of New York, authorized by the [~~chairman~~] **chair** to render psychological care pursuant to [~~this~~] section **thirteen-b of this article**. Such services shall be within the scope of such psychologist's specialized training and qualifications as defined in article one hundred fifty-three of the education law.

(b) Medical bureaus, medical centers jointly operated by labor and management representatives, hospitals and health maintenance organizations, authorized to provide medical care pursuant to section thirteen-c of this [~~chapter~~] **article**, may provide psychological services when required[~~, upon the referral of an authorized physician, provided such care is rendered by a duly registered, licensed and authorized psychologist, as required by this section~~].

(c) A psychologist rendering service pursuant to this section shall maintain records of the patient's psychological condition and treatment, and such records or reports shall be submitted to the [~~chairman~~] **chair** on such forms and at such times as the [~~chairman~~] **chair** may require.

3. [~~A psychologist, licensed and registered to practice psychology in the state of New York, who is desirous of being authorized to render psychological care under this section and/or to conduct independent medical examinations in accordance with paragraph (b) of subdivision four of this section shall file an application for authorization under this section with the psychology practice committee. The applicant shall agree to refrain from subsequently treating for remuneration, as a private patient, any person seeking psychological treatment, or submitting to an independent medical examination, in connection with, or as a result of, any injury compensable under this chapter, if he or she has been removed from the list of psychologists authorized to render psychological care under this chapter. This agreement shall run to the benefit of the injured person so treated, and shall be available as a defense in any action by such psychologist for payment for treatment rendered by such psychologist after being removed from the list of psychologists authorized to render psychological care or to conduct independent medical examinations under this section. The psychology practice committee if it deems such licensed psychologist duly qualified shall recommend to the chair that such person be authorized to render psychological care and/or to conduct independent medical examinations under this section. Such recommendations shall be only advisory to the chair and shall not be binding or conclusive.~~] The chair shall prepare and establish a schedule for the state or schedules limited to defined localities

of charges and fees for psychological treatment and care, to be determined in accordance with and be subject to change pursuant to rules promulgated by the chair. Before preparing such schedule for the state or schedules for limited localities the chair shall request the psychology practice committee to submit to such chair a report on the amount of remuneration deemed by such committee to be fair and adequate for the types of psychological care to be rendered under this chapter, but consideration shall be given to the view of other interested parties. The amounts payable by the employer for such treatment and services shall be the fees and charges established by such schedule.

(b) Upon receipt of the notice provided for by paragraph (a) of this subdivision, the employer, the carrier, and the claimant each shall be entitled to have the claimant examined by a qualified psychologist, authorized by the chair in accordance with [~~subdivision three of this~~] section **thirteen-b** and section one hundred thirty-seven of this chapter, at a medical facility convenient to the claimant and in the presence of the claimant's psychologist, and refusal by the claimant to submit to such independent medical examination at such time or times as may reasonably be necessary in the opinion of the board shall bar the claimant from recovering compensation, for any period during which he or she has refused to submit to such examination.

§ 7. Section 54-b of the workers' compensation law, as amended by chapter 6 of the laws of 2007, is amended to read as follows:

§ 54-b. Enforcement on failure to pay award or judgment. In case of default by a carrier or self-insured employer in the payment of any compensation due under an award for the period of thirty days after payment is due and payable, or in the case of failure by a carrier or self-insured employer to make full payment of an award for medical care **or supplies** issued by the board or the chair pursuant to section thirteen-g of this chapter, the chair in any such case or on the chair's consent any party to an award may file with the county clerk for the county in which the injury occurred or the county in which the carrier or self-insured employer has his or her principal place of business, (1) a certified copy of the decision of the board awarding compensation or ending, diminishing or increasing compensation previously awarded, from which no appeal has been taken within the time allowed therefor, or if an appeal has been taken by a carrier or self-insured employer who has not complied with the provisions of section fifty of this article, where he or she fails to deposit with the chair the amount of the award as security for its payment within ten days after the same is due and payable, or (2) a certified copy of the award for medical care **or supplies** issued pursuant to section thirteen-g of this chapter, and thereupon judgment must be entered in the supreme court by the clerk of such county in conformity therewith immediately upon such filing. If the payment in default be an installment, the board may declare the entire award due and judgment may be entered in accordance with the provisions of this section. Such judgment shall be entered in the same manner, have the same effect and be subject to the same proceedings as though rendered in a suit duly heard and determined by the supreme court, except that no appeal may be taken therefrom. The court shall vacate or modify such judgment to conform to any later award or decision of the board upon presentation of a certified copy of such award or decision. The award may be so compromised by the board as in the discretion of the board may best serve the interest of the persons entitled to receive the compensation or benefits. Where an award has been made against a carrier or self-insured employer in accordance with the provisions of subdivision

nine of section fifteen, or of section twenty-five-a of this chapter, such an award may be similarly compromised by the board, upon notice to a representative of the fund to which the award is payable, but if there be no representative of any such fund, notice shall be given to such representative as may be designated by the chair of the board; and notwithstanding any other provision of law, such compromise shall be effective without the necessity of any approval by the state comptroller. Neither the chair nor any party in interest shall be required to pay any fee to any public officer for filing or recording any paper or instrument or for issuing a transcript of any judgment executed in pursuance of this section. The carrier or self-insured employer shall be liable for all costs and attorneys fees necessary to enforce the award. For the purposes of this section, the term "carrier" shall include the state insurance fund and any stock corporation, mutual corporation or reciprocal insurer authorized to transact the business of workers' compensation insurance in this state.

§ 8. This act shall take effect on the ninetieth day after it shall have become a law.

PART DD

Section 1. Section 14 of part J of chapter 62 of the laws of 2003 amending the county law and other laws relating to fees collected, as amended by section 7 of part K of chapter 56 of the laws of 2010, is amended to read as follows:

§ 14. Notwithstanding the provisions of any other law: (a) the fee collected by the office of court administration for the provision of criminal history searches and other searches for data kept electronically by the unified court system shall be [~~sixty-five~~] ninety dollars; (b) [~~thirty-five~~] sixty dollars of each such fee collected shall be deposited in the indigent legal services fund established by section 98-b of the state finance law, as added by section twelve of this act, (c) nine dollars of each such fee collected shall be deposited in the legal services assistance fund established by section 98-c of the state finance law, as added by section nineteen of this act, (d) sixteen dollars of each such fee collected shall be deposited to the judiciary data processing offset fund established by section 94-b of the state finance law, and (e) the remainder shall be deposited in the general fund.

§ 2. Subdivision 4 of section 468-a of the judiciary law, as amended by section 9 of part K of chapter 56 of the laws of 2010, is amended to read as follows:

4. The biennial registration fee shall be [~~three~~] four hundred [~~seventy-five~~] twenty-five dollars, sixty dollars of which shall be allocated to and be deposited in a fund established pursuant to the provisions of section ninety-seven-t of the state finance law, [~~fifty~~] one hundred dollars of which shall be allocated to and shall be deposited in a fund established pursuant to the provisions of section ninety-eight-b of the state finance law, twenty-five dollars of which shall be allocated to be deposited in a fund established pursuant to the provisions of section ninety-eight-c of the state finance law, and the remainder of which shall be deposited in the attorney licensing fund. Such fee shall be required of every attorney who is admitted and licensed to practice law in this state, whether or not the attorney is engaged in the practice of law in this state or elsewhere, except attorneys who certify to the

chief administrator of the courts that they have retired from the practice of law.

§ 3. This act shall take effect immediately.

PART EE

Section 1. Subdivision 1 of section 20.60 of the criminal procedure law, is amended to read as follows:

1. An oral or written statement made by a person in one jurisdiction to a person in another jurisdiction by means of telecommunication, mail or any other method of communication is deemed to be made in each such jurisdiction. **For purposes of this subdivision, such statement shall include testimony given pursuant to subdivision four-a of section 190.30 of this chapter.**

§ 2. Subdivision 1 of section 50.10 of the criminal procedure law, is amended to read as follows:

1. "Immunity." A person who has been a witness in a legal proceeding, and [~~who cannot, except as otherwise provided in this subdivision, be convicted of any offense or subjected to any penalty or forfeiture for or on account of any transaction, matter or thing concerning which he gave evidence therein, possesses "immunity" from any such conviction, penalty or forfeiture~~], **neither the evidence given by such witness nor any evidence derived directly or indirectly therefrom may be used against the witness in the same or any other criminal proceeding, possesses "immunity"**. A person who possesses such immunity may nevertheless be convicted of perjury as a result of having given false testimony in such legal proceeding, and may be convicted of or adjudged in contempt as a result of having contumaciously refused to give evidence therein**, and the evidence given by the person at the proceeding at which the person possessed immunity may be used against such person in any such prosecution for perjury or judgement for contempt**.

§ 3. Section 60.22 of the criminal procedure law is amended by adding a new subdivision 4 to read as follows:

4. For purposes of this section, "corroborative evidence" shall mean evidence from one or more other accomplices.

§ 4. Paragraph (b) of subdivision 1 of section 170.30 of the criminal procedure law, is amended and a new subdivision 5 is added to read as follows:

(b) [~~The defendant has received immunity from prosecution for the offense charged, pursuant to sections 50.20 or 190.40;~~] **Allegations in the information, simplified information, prosecutor's information or misdemeanor complaint are based on evidence protected by immunity as defined in subdivision one of section 50.10 of this chapter;** or

5. Where the defendant establishes in his or her motion that immunity has been conferred on him or her, the people must then establish, by a preponderance of the evidence, that such evidence was not derived, directly or indirectly, from the evidence as to which such immunity was conferred. A motion seeking relief on this ground shall not be entertained before a motion made pursuant to subdivision eight of section 710.20 of this chapter, seeking suppression of potential evidence as to the use of which the defendant possesses immunity, has been resolved. Upon grant of such a motion, the court shall dismiss the instrument; otherwise, the court must deny the motion to dismiss.

§ 5. Paragraph (g) of subdivision 3 of section 190.30 of the criminal procedure law, as added by chapter 690 of the laws of 2005, is amended and a new paragraph (h) is added to read as follows:

(g) that person's ownership of, or possessory right in, a credit card account number or debit card account number, and the defendant's lack of superior or equal right to use or possession thereof[~~.~~]; **(h) that a person's ownership of, or possessory right in, personal identifying information, as defined in subdivision one of section 190.77 of the penal law, or a personal identification number, as defined in paragraph b of subdivision two of section 190.77 of the penal law, as any number or code which may be used alone or in conjunction with any other information to assume the identity of another person or access financial resources or credit of another person and the defendant's lack of superior or equal right to use or possession thereof.**

§ 6. Section 190.30 of the criminal procedure law is amended by adding a new subdivision 4-a to read as follows:

4-a. Whenever the district attorney has reason to believe that a witness, other than a witness who waives immunity pursuant to section 190.40 of this article, including a defendant testifying on his or her own behalf pursuant to subdivision five of section 190.50 of this article, is located either out-of-state or more than one hundred miles from the grand jury proceeding, the person may provide live testimony by closed circuit video or videoconferencing in the same manner as if the witness had testified in person. The audiovisual technology used pursuant to this section shall seek to ensure that the communication be reasonably secure from interception or eavesdropping by anyone other than the persons communicating, and must ensure that the witness may be clearly heard, seen and examined.

(a) The testimony of the witness shall be:

(i) taken by a certified videographer who is in the physical presence of the witness. The certified videographer shall sign a written declaration which states that the witness does not possess any notes or other materials to assist in the witness's testimony;

(ii) recorded and preserved through the use of audiovisual recording technology; and

(iii) transcribed by a certified court reporter.

(b) Before giving testimony, the witness shall be sworn and sign a written declaration, which acknowledges that the witness is alone in the room where the testimony is being taken, that, to his or her knowledge, no one other than the certified videographer is hearing his or her testimony, that the witness understands that he or she is subject to the jurisdiction of the courts of this state and may be subject to criminal prosecution for the commission of any crime in connection with his or her testimony, including, without limitation, perjury and contempt, and that the witness consents to such jurisdiction.

(c) The original recorded testimony of the witness must be delivered to the certified court reporter.

§ 7. Paragraph (a) of subdivision 8 of section 190.30 of the criminal procedure law, as added by chapter 279 of the laws of 2008, is amended to read as follows:

(a) [~~**A business record may be received in such grand jury proceedings as evidence of the following facts and similar facts stated therein:**~~

~~**(i) a person's use of, subscription to and charges and payments for communication equipment and services including but not limited to equipment or services provided by telephone companies and internet service providers, but not including recorded conversations or images communicated thereby; and**~~

~~**(ii) financial transactions, and a person's ownership or possessory interest in any account, at a bank, insurance company, brokerage,**~~

~~exchange or banking organization as defined in section two of the banking law.~~] All business records as defined in subdivision (a) of rule forty-five hundred eighteen of the civil practice law and rules and sections three hundred two and three hundred six of the state technology law may be received in such grand jury proceedings as evidence of the facts stated therein.

§ 8. Section 210.35 of the criminal procedure law is amended by adding a new subdivision 4-a to read as follows:

4-a. Evidence protected by use immunity was used to obtain the indictment. A motion seeking relief on this ground shall not be entertained before a motion made pursuant to subdivision eight of section 710.20 of this chapter, seeking suppression of potential evidence as to the use of which the defendant possesses immunity, has been resolved. Upon the granting of such a motion, the court shall dismiss the indictment; otherwise, the court shall deny the motion to dismiss; or

§ 9. The opening paragraph and subdivisions 6 and 7 of section 710.20 of the criminal procedure law, the opening paragraph as amended by chapter 8 of the laws of 1976, subdivision 6 as amended by section 5 of part VVV of chapter 59 of the laws of 2017, and subdivision 7 as added by chapter 744 of the laws of 1988, are amended and a new subdivision 8 is added to read as follows:

Upon motion of a defendant who (a) is aggrieved by unlawful or improper acquisition of evidence and has reasonable cause to believe that such may be offered against him or her in a criminal action, [~~or~~] (b) claims that improper identification testimony may be offered against him or her in a criminal action, or (c) claims that evidence as to the use of which he or she possesses immunity, as defined in subdivision one of section 50.10 of this chapter, may be offered against him or her in a criminal action, a court may, under circumstances prescribed in this article, order that such evidence be suppressed or excluded upon the ground that it:

6. Consists of potential testimony regarding an observation of the defendant either at the time or place of the commission of the offense or upon some other occasion relevant to the case, which potential testimony would not be admissible upon the prospective trial of such charge owing to an improperly made previous identification of the defendant or of a pictorial, photographic, electronic, filmed or video recorded reproduction of the defendant by the prospective witness. A claim that the previous identification of the defendant or of a pictorial, photographic, electronic, filmed or video recorded reproduction of the defendant by a prospective witness did not comply with paragraph (c) of subdivision one of section 60.25 of this chapter or with the protocol promulgated in accordance with subdivision twenty-one of section eight hundred thirty-seven of the executive law shall not constitute a legal basis to suppress evidence pursuant to this subdivision. A claim that a public servant failed to comply with paragraph (c) of subdivision one of section 60.25 of this chapter or of subdivision twenty-one of section eight hundred thirty-seven of the executive law shall neither expand nor limit the rights an accused person may derive under the constitution of this state or of the United States[~~.~~]; or

7. Consists of information obtained by means of a pen register or trap and trace device installed or used in violation of the provisions of article seven hundred five of this chapter[~~.~~]; or

8. Consists of potential evidence as to the use of which the defendant possesses immunity. Where the defendant establishes that immunity has been conferred on him or her, the people must then establish, by a

preponderance of the evidence, that such evidence was not derived, directly or indirectly, from the evidence as to which immunity was conferred.

§ 10. This act shall take effect on the ninetieth day after it shall have become a law.

PART FF

Section 1. Subject to the provisions of this act, the town of Hastings, in the county of Oswego, acting by and through its governing body and upon such terms and conditions as determined by such body, is hereby authorized to discontinue as parklands and to transfer ownership of the lands described in section three of this act, to the New York Division of State Police for the purpose of providing necessary land for the construction of a Division of State Police station.

§ 2. The authorization contained in section one of this act shall take effect only upon the condition that the town of Hastings shall dedicate an amount equal to or greater than the fair market value of the parklands being discontinued towards the acquisition of new parklands and/or capital improvements to existing park and recreational facilities.

§ 3. The parklands authorized by section one of this act to be alienated are described as follows: All that tract or parcel of land situate in the Town of Hastings, County of Oswego and State of New York, being part of Lot No. 28 and being part of Lot No. 29 in Township No. 13 of Scriba's Patent, and being part of the lands conveyed from F. Don Sweet to the Town of Hastings by deed dated April 16, 1969 and recorded at the Oswego County Clerk's Office on April 16, 1969 in Book of Deeds 712 at Page 116 and being more particularly described as follows:

Beginning at the southwesterly corner of lands of the Town of Hastings (712/116), being a point on the southerly bounds of Lot No. 28, also being the centerline of Wilson Road per deed (712/116), said point being easterly a distance of 645 feet, more or less, from the nominal centerline intersection of Wilson Road and U.S. Route No. 11;

Thence running N. 28° 53' 09" E. along the easterly bounds of The Town of Hastings (712/141) a distance of 435.60 feet to a point; thence S. 61° 57' 15" E. a distance of 300.00 feet to a point; thence S. 28° 53' 09" W. a distance of 435.60 feet to the southerly bounds of Lot No. 29; thence N. 61° 57' 15" W. a distance of 300.00 feet to the point and place of beginning containing 3.0 acres of land, more or less.

Subject to any and all easements and restrictions of record and the highway rights of the public and the Town of Hastings in and to the portion of Wilson Road lying within the bounds of the above described parcel.

§ 4. If the parkland that is described in section three of this act has received funding pursuant to the federal land and water conservation fund, the discontinuance of parklands authorized by section one of this act shall not occur until the town of Hastings has complied with the federal requirements pertaining to the conversion of parklands, including satisfying the secretary of the interior that the discontinuance with all conditions which the secretary of the interior deems necessary to assure the substitution of other lands shall be equivalent in fair market value and recreational usefulness to the lands being discontinued.

§ 5. This act shall take effect immediately.

PART GG

Section 1. Subdivisions 3 and 5 of section 97-g of the state finance law, subdivision 3 as amended by section 62 of part HH of chapter 57 of the laws of 2013 and subdivision 5 as amended by section 1 of subpart A of part C of chapter 97 of the laws of 2011, are amended to read as follows:

3. Moneys of the fund shall be available to the commissioner of general services for the purchase of food, supplies and equipment for state agencies, and for the purpose of furnishing or providing centralized services to or for state agencies; provided further that such moneys shall be available to the commissioner of general services for purposes pursuant to items (d) and (f) of subdivision four of this section to or for political subdivisions**, public authorities, and public benefit corporations**. Beginning the first day of April, two thousand two, moneys in such fund shall also be transferred by the state comptroller to the revenue bond tax fund account of the general debt service fund in amounts equal to those required for payments to authorized issuers for revenue bonds issued pursuant to article five-C and article five-F of this chapter for the purpose of lease purchases and installment purchases by or for state agencies and institutions for personal or real property purposes.

5. The amount expended from such fund for the above-stated purposes shall be charged against the agency [~~or~~], political [~~subdivisions~~] **subdivision, public authority or public benefit corporation** above receiving such food, supplies, equipment and services and all payments received therefor shall be credited to such fund.

§ 2. Section 3 of chapter 410 of the laws of 2009, amending the state finance law relating to authorizing the aggregate purchases of energy for state agencies, institutions, local governments, public authorities and public benefit corporations, as amended by section 1 of part G of chapter 55 of the laws of 2014, is amended to read as follows:

§ 3. This act shall take effect immediately [~~and shall expire and be deemed repealed July 31, 2019~~].

§ 3. Section 9 of subpart A of part C of chapter 97 of the laws of 2011, amending the state finance law and other laws relating to providing certain centralized service to political subdivisions and extending the authority of the commissioner of general services to aggregate purchases of energy for state agencies and political subdivisions, as amended by section 2 of part G of chapter 55 of the laws of 2014, is amended to read as follows:

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

1. sections [~~one,~~] four, five, six and seven of this act shall expire and be deemed repealed July 31, [~~2019~~] **2024**;

2. the amendments to subdivision 4 of section 97-g of the state finance law made by section two of this act shall survive the expiration and reversion of such subdivision as provided in section 3 of chapter 410 of the laws of 2009, as amended;

3. sections four, five, six and seven of this act shall apply to any contract let or awarded on or after such effective date.

§ 4. This act shall take effect immediately.

PART HH

Section 1. Subdivision 2 of section 9 of the public buildings law, as amended by section 2 of part M of chapter 55 of the laws of 2015, is amended to read as follows:

2. Notwithstanding any other provision of this law or any general or special law, where there is a construction emergency, as defined by subdivision one of this section, the commissioner of general services may, upon written notice of such construction emergency from an authorized officer of the department or agency having jurisdiction of the property, let emergency contracts for public work or the purchase of supplies, materials or equipment without complying with formal competitive bidding requirements, provided that all such contracts shall be subject to the approval of the attorney general and the comptroller and that no such contract shall exceed [~~six hundred thousand~~] **two million** dollars. Such emergency contracts shall be let only for work necessary to remedy or ameliorate a construction emergency.

§ 2. Section 3 of chapter 674 of the laws of 1993, amending the public buildings law relating to value limitations on contracts, as amended by section 1 of part L of chapter 55 of the laws of 2017, is amended to read as follows:

§ 3. This act shall take effect immediately [~~and shall remain in full force and effect only until June 30, 2019~~].

§ 3. This act shall take effect immediately.

PART II

Section 1. This Part enacts into law major components of legislation that remove unnecessary barriers to reentry of people with criminal histories into society. This Part removes mandatory bars on licensing and employment for people with criminal convictions in the categories enumerated therein and replace them with individualized review processes using the factors set out in article 23-A of the correction law. This Part removes mandatory drivers license suspension for non-driving drug offenses. This Part prohibits disclosure of mugshots and arrest information by amending the freedom of information law. This Part also amends provisions of law to enact into law major components of legislation to prevent the use in a civil context, of past arrest information that did not result in a conviction because no disposition has been reported, or the case has been adjourned in contemplation of dismissal, or because arrest and arraignment charges were not followed by a corresponding conviction on those charges. This information would still be able to be seen and used by law enforcement and in criminal proceedings. Finally, this Part establishes compassionate parole for incarcerated individuals over the age of 55 who have incapacitating medical conditions exacerbated by age. Each component is wholly contained with a Subpart identified as Subparts A through P. Any provision in any section contained within a Subpart, including the effective date of the Subpart, which makes reference to a section "of this act", when used in connection with that particular component, shall be deemed to mean and refer to the corresponding section of the Subpart in which it is found. Section three of this Part sets forth the general effective date of this Part.

SUBPART A

Section 1. Subdivision 6 of section 369 of the banking law, as amended by chapter 164 of the laws of 2003, paragraph (b) as amended by section 6 of part LL of chapter 56 of the laws of 2010, is amended to read as follows:

6. The superintendent may**, consistent with article twenty-three-A of the correction law,** refuse to issue a license pursuant to this article

if he shall find that the applicant, or any person who is a director, officer, partner, agent, employee or substantial stockholder of the applicant, (a) has been convicted of a crime in any jurisdiction or (b) is associating or consorting with any person who has, or persons who have, been convicted of a crime or crimes in any jurisdiction or jurisdictions[~~; provided, however, that the superintendent shall not issue such a license if he shall find that the applicant, or any person who is a director, officer, partner, agent, employee or substantial stockholder of the applicant, has been convicted of a felony in any jurisdiction or of a crime which, if committed within this state, would constitute a felony under the laws thereof~~]. For the purposes of this article, a person shall be deemed to have been convicted of a crime if such person shall have pleaded guilty to a charge thereof before a court or magistrate, or shall have been found guilty thereof by the decision or judgment of a court or magistrate or by the verdict of a jury, irrespective of the pronouncement of sentence or the suspension thereof[~~, unless such plea of guilty, or such decision, judgment or verdict, shall have been set aside, reversed or otherwise abrogated by lawful judicial process or unless the person convicted of the crime shall have received a pardon therefor from the president of the United States or the governor or other pardoning authority in the jurisdiction where the conviction was had, or shall have received a certificate of relief from disabilities or a certificate of good conduct pursuant to article twenty-three of the correction law to remove the disability under this article because of such conviction~~]. The term "substantial stockholder," as used in this subdivision, shall be deemed to refer to a person owning or controlling ten per centum or more of the total outstanding stock of the corporation in which such person is a stockholder. In making a determination pursuant to this subdivision, the superintendent shall require fingerprinting of the applicant. Such fingerprints shall be submitted to the division of criminal justice services for a state criminal history record check, as defined in subdivision one of section three thousand thirty-five of the education law, and may be submitted to the federal bureau of investigation for a national criminal history record check.

§ 2. This act shall take effect immediately.

SUBPART B

Section 1. Paragraph (f) of subdivision 7 of section 2590-b of the education law, as added by chapter 345 of the laws of 2009, is amended to read as follows:

(f) A person [~~who has been convicted of a felony, or has been removed from a city-wide council established pursuant to this section or community district education council for any of the following shall~~] **may** be permanently ineligible for appointment to a city-wide council **for any of the following**:

(i) an act of malfeasance directly related to his or her service on such city-wide council or community district education council; or

(ii) conviction of a crime, if such crime is directly related to his or her service upon such city-wide council or community district education council**, or if service upon such council would involve an unreasonable risk to property or to the safety or welfare of specific individuals or the general public**.

§ 2. Subdivision 5 of section 2590-c of the education law, as amended by chapter 345 of the laws of 2009, is amended to read as follows:

5. No person may serve on more than one community council or on the city-wide council on special education, the city-wide council on English language learners, or the city-wide council on high schools and a community council. A member of a community council shall be ineligible to be employed by the community council of which he or she is a member, any other community council, the city-wide council on special education, the city-wide council on English language learners, the city-wide council on high schools, or the city board. No person shall be eligible for membership on a community council if he or she holds any elective public office or any elective or appointed party position except that of delegate or alternate delegate to a national, state, judicial or other party convention, or member of a county committee.

A person [~~who has been convicted of a felony, or has been removed from a community school board, community district education council, or the city-wide council on special education, the city-wide council on English language learners, or the city-wide council on high schools for any of the following shall~~] **may** be permanently ineligible for appointment to any community district education council **for any of the following**: (a) an act of malfeasance directly related to his or her service on the city-wide council on special education, the city-wide council on English language learners, the city-wide council on high schools, community school board or community district education council; or (b) conviction of a crime, if such crime is directly related to his or her service upon the city-wide council on special education, the city-wide council on English language learners, the city-wide council on high schools, community school board or community district education council**, or if service upon such council would involve an unreasonable risk to property or to the safety or welfare of specific individuals or the general public**.

Any decision rendered by the chancellor or the city board with respect to the eligibility or qualifications of the nominees for community district education councils must be written and made available for public inspection within seven days of its issuance at the office of the chancellor and the city board. Such written decision shall include the factual and legal basis for its issuance and a record of the vote of each board member who participated in the decision, if applicable.

§ 3. This act shall take effect immediately, provided that the amendments to subdivision 7 of section 2590-b of the education law made by section one of this act shall not affect the repeal of such subdivision and shall be deemed repealed therewith; provided, further, that the amendments to subdivision 5 of section 2590-c of the education law made by section two of this act shall not affect the repeal of such subdivision and shall be deemed to repeal therewith.

SUBPART C

Section 1. Clauses 1 and 5 of paragraph (c) of subdivision 2 of section 435 of the executive law, clause 1 as amended by chapter 371 of the laws of 1974 and clause 5 as amended by 437 of the laws of 1962, are amended to read as follows:

(1) a person convicted of a crime [~~who has not received a pardon, a certificate of good conduct or a certificate of relief from disabilities~~] **if there is a direct relationship between one or more of the previous criminal offenses and the integrity and safety of bingo, considering the factors set forth in article twenty-three-A of the correction law**;

(5) a firm or corporation in which a person defined in [~~subdivision~~] clause (1), (2), (3) or (4) [~~above~~] of this paragraph, or a person married or related in the first degree to such a person, has greater than a ten [~~per centum~~] percent proprietary, equitable or credit interest or in which such a person is active or employed.

§ 2. This act shall take effect immediately.

SUBPART D

Section 1. Subdivision 1 of section 130 of the executive law, as amended by section 1 of part LL of chapter 56 of the laws of 2010, paragraph (g) as separately amended by chapter 232 of the laws 2010, is amended to read as follows:

1. The secretary of state may appoint and commission as many notaries public for the state of New York as in his or her judgment may be deemed best, whose jurisdiction shall be co-extensive with the boundaries of the state. The appointment of a notary public shall be for a term of four years. An application for an appointment as notary public shall be in form and set forth such matters as the secretary of state shall prescribe. Every person appointed as notary public must, at the time of his or her appointment, be a citizen of the United States and either a resident of the state of New York or have an office or place of business in New York state. A notary public who is a resident of the state and who moves out of the state but still maintains a place of business or an office in New York state does not vacate his or her office as a notary public. A notary public who is a nonresident and who ceases to have an office or place of business in this state, vacates his or her office as a notary public. A notary public who is a resident of New York state and moves out of the state and who does not retain an office or place of business in this state shall vacate his or her office as a notary public. A non-resident who accepts the office of notary public in this state thereby appoints the secretary of state as the person upon whom process can be served on his or her behalf. Before issuing to any applicant a commission as notary public, unless he or she be an attorney and counsellor at law duly admitted to practice in this state or a court clerk of the unified court system who has been appointed to such position after taking a civil service promotional examination in the court clerk series of titles, the secretary of state shall satisfy himself or herself that the applicant is of good moral character, has the equivalent of a common school education and is familiar with the duties and responsibilities of a notary public; provided, however, that where a notary public applies, before the expiration of his or her term, for reappointment with the county clerk or where a person whose term as notary public shall have expired applies within six months thereafter for reappointment as a notary public with the county clerk, such qualifying requirements may be waived by the secretary of state, and further, where an application for reappointment is filed with the county clerk after the expiration of the aforementioned renewal period by a person who failed or was unable to re-apply by reason of his or her induction or enlistment in the armed forces of the United States, such qualifying requirements may also be waived by the secretary of state, provided such application for reappointment is made within a period of one year after the military discharge of the applicant under conditions other than dishonorable. In any case, the appointment or reappointment of any applicant is in the discretion of the secretary of state. The secretary of state may suspend or remove from office, for misconduct, any notary

public appointed by him or her but no such removal shall be made unless the person who is sought to be removed shall have been served with a copy of the charges against him or her and have an opportunity of being heard. No person shall be appointed as a notary public under this article who has been convicted, in this state or any other state or territory, of a [~~felony or any of the following offenses, to wit:~~

~~(a) Illegally using, carrying or possessing a pistol or other dangerous weapon; (b) making or possessing burglar's instruments; (c) buying or receiving or criminally possessing stolen property; (d) unlawful entry of a building; (e) aiding escape from prison; (f) unlawfully possessing or distributing habit forming narcotic drugs; (g) violating sections two hundred seventy, two hundred seventy-a, two hundred seventy-b, two hundred seventy-c, two hundred seventy-one, two hundred seventy-five, two hundred seventy-six, five hundred fifty, five hundred fifty-one, five hundred fifty-one-a and subdivisions six, ten or eleven of section seven hundred twenty-two of the former penal law as in force and effect immediately prior to September first, nineteen hundred sixty-seven, or violating sections 165.25, 165.30 or subdivision one of section 240.30 of the penal law, or violating sections four hundred seventy-eight, four hundred seventy-nine, four hundred eighty, four hundred eighty-one, four hundred eighty-four, four hundred eighty-nine and four hundred ninety-one of the judiciary law; or (h) vagrancy or prostitution, and who has not subsequent to such conviction received an executive pardon therefor or a certificate of relief from disabilities or a certificate of good conduct pursuant to article twenty-three of the correction law to remove the disability under this section because of such conviction~~] **crime, unless the secretary makes a finding in conformance with all applicable statutory requirements, including those contained in article twenty-three-A of the correction law, that such convictions do not constitute a bar to employment**.

§ 2. This act shall take effect immediately.

SUBPART E

Section 1. Paragraphs 1 and 5 of subdivision (a) of section 189-a of the general municipal law, as added by chapter 574 of the laws of 1978, are amended to read as follows:

(1) a person convicted of a crime [~~who has not received a pardon, a certificate of good conduct or a certificate of relief from disabilities~~] **if there is a direct relationship between one or more of the previous criminal offenses and the integrity or safety of charitable gaming, considering the factors set forth in article twenty-three-A of the correction law**;

(5) a firm or corporation in which a person defined in [~~subdivision~~] **paragraph** (1), (2), (3) or (4) [~~above~~] **of this subdivision** has greater than a ten [~~per centum~~] **percent** proprietary, equitable or credit interest or in which such a person is active or employed.

§ 2. Paragraph (a) of subdivision 1 of section 191 of the general municipal law, as amended by section 15 of part LL of chapter 56 of the laws of 2010, is amended to read as follows:

(a) Issuance of licenses to conduct games of chance. If such clerk or department [~~shall determine~~] **determines:**

(i) that the applicant is duly qualified to be licensed to conduct games of chance under this article;

(ii) that the member or members of the applicant designated in the application to manage games of chance are bona fide active members of

the applicant and are persons of good moral character and have never been convicted of a crime[~~, or,~~] if [~~convicted, have received a pardon, a certificate of good conduct or a certificate of relief from disabilities pursuant to article twenty-three of the correction law~~] **there is a direct relationship between one or more of the previous criminal offenses and the integrity or safety of charitable gaming, considering the factors set forth in article twenty-three-A of the correction law**;

(iii) that such games are to be conducted in accordance with the provisions of this article and in accordance with the rules and regulations of the [~~board~~] **gaming commission** and applicable local laws or ordinances and that the proceeds thereof are to be disposed of as provided by this article[~~,~~]**;** and

[~~if such clerk or department is satisfied~~] **(iv)** that no commission, salary, compensation, reward or recompense whatever will be paid or given to any person managing, operating or assisting therein except as in this article otherwise provided; [~~it~~] **then such clerk or department** shall issue a license to the applicant for the conduct of games of chance upon payment of a license fee of twenty-five dollars for each license period.

§ 3. Subdivision 9 of section 476 of the general municipal law, as amended by chapter 1057 of the laws of 1965, paragraph (a) as amended by section 16 of part LL of chapter 56 of the laws of 2010, is amended to read as follows:

9. "Authorized commercial lessor" shall mean a person, firm or corporation other than a licensee to conduct bingo under the provisions of this article, who or which [~~shall own~~] **owns** or [~~be~~] **is** a net lessee of premises and offer the same for leasing by him**, her** or it to an authorized organization for any consideration whatsoever, direct or indirect, for the purpose of conducting bingo therein, provided that he**, she** or it, as the case may be, shall not be

(a) a person convicted of a crime [~~who has not received a pardon or a certificate of good conduct or a certificate of relief from disabilities pursuant to~~] **if there is a direct relationship between one or more of the previous criminal offenses and the integrity or safety of bingo, considering the factors set forth in** article [~~twenty-three~~] **twenty-three-A** of the correction law;

(b) a person who is or has been a professional gambler or gambling promoter or who for other reasons is not of good moral character;

(c) a public officer who receives any consideration, direct or indirect, as owner or lessor of premises offered for the purpose of conducting bingo therein;

(d) a firm or corporation in which a person defined in [~~subdivision~~] **paragraph** (a), (b) or (c) [~~above~~] **of this subdivision** or a person married or related in the first degree to such a person has greater than a ten [~~percentum (10%)~~] **percent** proprietary, equitable or credit interest or in which such a person is active or employed.

Nothing contained in this subdivision shall be construed to bar any firm or corporation [~~which~~] **that** is not organized for pecuniary profit and no part of the net earnings of which inure to the benefit of any individual, member, or shareholder, from being an authorized commercial lessor solely because a public officer, or a person married or related in the first degree to a public officer, is a member of, active in or employed by such firm or corporation.

§ 4. Paragraph (a) of subdivision 1 of section 481 of the general municipal law, as amended by section 5 of part MM of chapter 59 of the laws of 2017, is amended to read as follows:

(a) Issuance of licenses to conduct bingo. If the governing body of the municipality determines:

(i) that the applicant is duly qualified to be licensed to conduct bingo under this article;

(ii) that the member or members of the applicant designated in the application to conduct bingo are bona fide active members or auxiliary members of the applicant and are persons of good moral character and have never been convicted of a crime [~~or, if convicted, have received a pardon or a certificate of good conduct or a certificate of relief from disabilities pursuant to article twenty-three~~] if there is a direct relationship between one or more of the previous criminal offenses and the integrity or safety of bingo, considering the factors set forth in article twenty-three-A of the correction law;

(iii) that such games of bingo are to be conducted in accordance with the provisions of this article and in accordance with the rules and regulations of the commission[~~, and~~];

(iv) that the proceeds thereof are to be disposed of as provided by this article[~~, and if the governing body is satisfied~~];

(v) that no commission, salary, compensation, reward or recompense [~~what so ever~~] whatsoever will be paid or given to any person holding, operating or conducting or assisting in the holding, operation and conduct of any such games of bingo except as in this article otherwise provided; and

(vi) that no prize will be offered and given in excess of the sum or value of five thousand dollars in any single game of bingo and that the aggregate of all prizes offered and given in all of such games of bingo conducted on a single occasion[~~,~~] under said license shall not exceed the sum or value of fifteen thousand dollars, then the municipality shall issue a license to the applicant for the conduct of bingo upon payment of a license fee of eighteen dollars and seventy-five cents for each bingo occasion[~~; provided, however, that~~].

Notwithstanding anything to the contrary in this paragraph, the governing body shall refuse to issue a license to an applicant seeking to conduct bingo in premises of a licensed commercial lessor where such governing body determines that the premises presently owned or occupied by such applicant are in every respect adequate and suitable for conducting bingo games.

§ 5. This act shall take effect immediately.

SUBPART F

Section 1. Paragraphs 3 and 4 of subsection (d) of section 2108 of the insurance law are REPEALED, and paragraph 5 is renumbered paragraph 3.

§ 2. This act shall take effect immediately.

SUBPART G

Section 1. Section 440-a of the real property law, as amended by chapter 81 of the laws of 1995, the first undesignated paragraph as amended by section 23 of part LL of chapter 56 of the laws of 2010, is amended to read as follows:

§ 440-a. License required for real estate brokers and salesmen. No person, co-partnership, limited liability company or corporation shall engage in or follow the business or occupation of, or hold himself or itself out or act temporarily or otherwise as a real estate broker or real estate salesman in this state without first procuring a license

therefor as provided in this article. No person shall be entitled to a license as a real estate broker under this article, either as an individual or as a member of a co-partnership, or as a member or manager of a limited liability company or as an officer of a corporation, unless he or she is twenty years of age or over, a citizen of the United States or an alien lawfully admitted for permanent residence in the United States. No person shall be entitled to a license as a real estate salesman under this article unless he or she is over the age of eighteen years. No person shall be entitled to a license as a real estate broker or real estate salesman under this article who has been convicted in this state or elsewhere of a [~~felony, of a sex offense, as defined in subdivision two of section one hundred sixty-eight-a of the correction law or any offense committed outside of this state which would constitute a sex offense, or a sexually violent offense, as defined in subdivision three of section one hundred sixty-eight-a of the correction law or any offense committed outside this state which would constitute a sexually violent offense, and who has not subsequent to such conviction received executive pardon therefor or a certificate of relief from disabilities or a certificate of good conduct pursuant to article twenty-three of the correction law, to remove the disability under this section because of such conviction~~] **crime, unless the secretary makes a finding in conformance with all applicable statutory requirements, including those contained in article twenty-three-A of the correction law, that such convictions do not constitute a bar to licensure**. No person shall be entitled to a license as a real estate broker or real estate salesman under this article who does not meet the requirements of section 3-503 of the general obligations law.

Notwithstanding [~~the above~~] **anything to the contrary in this section**, tenant associations[~~,~~] and not-for-profit corporations authorized in writing by the commissioner of the department of the city of New York charged with enforcement of the housing maintenance code of such city to manage residential property owned by such city or appointed by a court of competent jurisdiction to manage residential property owned by such city shall be exempt from the licensing provisions of this section with respect to the properties so managed.

§ 2. This act shall take effect immediately.

SUBPART H

Section 1. Subdivision 5 of section 336-f of the social services law, as added by section 148 of part B of chapter 436 of the laws of 1997, is amended to read as follows:

5. The social services district shall require every private or not-for-profit employer that intends to hire one or more work activity participants to certify to the district [~~that~~] **whether** such employer has [~~not~~], in the past five years, been convicted of a felony or a misdemeanor the underlying basis of which involved workplace safety and health or labor standards. Such employer shall also certify as to all violations issued by the department of labor within the past five years. The social services official in the district in which the participant is placed shall determine whether there is a pattern of **convictions or** violations sufficient to render the potential employer ineligible. Employers who submit false information under this section shall be subject to criminal prosecution for filing a false instrument.

§ 2. This act shall take effect immediately.

SUBPART I

Section 1. Subdivision 9 of section 394 of the vehicle and traffic law, as separately renumbered by chapters 300 and 464 of the laws of 1960, is amended to read as follows:

9. Employees. [~~No licensee shall knowingly employ, in connection with a driving school in any capacity whatsoever, any person who has been convicted of a felony, or of any crime involving violence, dishonesty, deceit, indecency, degeneracy or moral turpitude~~] A licensee may not employ, in connection with a driving school in any capacity whatsoever, a person who has been convicted of a crime, if, after considering the factors set forth in article twenty-three-A of the correction law, the licensee determines that there is a direct relationship between the conviction and employment in the driving school, or that employment would constitute an unreasonable risk to property or to the safety of students, customers, or employees of the driving school, or to the general public.

§ 2. This act shall take effect immediately.

SUBPART J

Section 1. Legislative findings. This Subpart will remove an overbroad mandatory suspension of drivers' licenses for six months for people convicted of state and federal drug crimes, that is unnecessary to protect the safety of New York roads, as the vehicle and traffic law has other provisions to suspend licenses when drug use has impaired safe driving. The mandatory suspension, and the fees associated with lifting it, interferes with the ability of people convicted of drug crimes to work, attend treatment and otherwise live productive lives, all of which are necessary for their rehabilitation. At any given time, about 8,000 New Yorkers have their licenses suspended because of non-driving related drug convictions. This mandatory suspension was instituted in response to federal law requiring states to either suspend the licenses of people convicted of drug offenses, or pass a resolution expressing opposition to the bill, or lose eight percent of federal highway funding. Concurrent with this bill, Resolution ___ is being presented to the legislature for their action; the Resolution contains the required statement of opposition to mandatory suspension of driver's licenses for people convicted of drug crimes in order for New York's federal funding for highways to be maintained. By passing the Resolution and removing the mandatory suspension, New York will join 40 other states who have taken this action.

§ 2. Subparagraphs (v), (vi) and (vii) of paragraph b of subdivision 2 of section 510 of the vehicle and traffic law are REPEALED.

§ 3. This act shall take effect immediately.

SUBPART K

Section 1. Legislative findings. The legislature finds that law enforcement booking information and photographs, otherwise known as "mugshots," are published on the internet and other public platforms with impunity. An individual's mugshot is displayed publicly even if the arrest does not lead to a conviction, or the conviction is later expunged, sealed, or pardoned. This practice presents an unacceptable invasion of the individual's personal privacy. While there is a well-established Constitutional right for the press and the public to publish

government records which are in the public domain or that have been lawfully accessed, arrest and booking information have not been found by courts to have the same public right of access as criminal court proceedings or court filings. Therefore, each state can set access to this information through its Freedom of Information laws. The federal government has already limited access to booking photographs through privacy formulations in its Freedom of Information Act, and the legislature hereby declares that New York will follow the same principle to protect its residents from this unwarranted invasion of personal privacy, absent a specific law enforcement purpose, such as disclosure of a photograph to alert victims or witnesses to come forward to aid in a criminal investigation.

§ 2. Paragraph (b) of subdivision 2 of section 89 of the public officers law, as amended by section 11 of part U of chapter 61 of the laws of 2011, is amended to read as follows:

(b) An unwarranted invasion of personal privacy includes, but shall not be limited to:

i. disclosure of employment, medical or credit histories or personal references of applicants for employment;

ii. disclosure of items involving the medical or personal records of a client or patient in a medical facility;

iii. sale or release of lists of names and addresses if such lists would be used for solicitation or fund-raising purposes;

iv. disclosure of information of a personal nature when disclosure would result in economic or personal hardship to the subject party and such information is not relevant to the work of the agency requesting or maintaining it;

v. disclosure of information of a personal nature reported in confidence to an agency and not relevant to the ordinary work of such agency;

vi. information of a personal nature contained in a workers' compensation record, except as provided by section one hundred ten-a of the workers' compensation law; [~~or~~]

vii. disclosure of electronic contact information, such as an e-mail address or a social network username, that has been collected from a taxpayer under section one hundred four of the real property tax law**; or**

viii. disclosure of law enforcement booking information about an individual, including booking photographs, unless public release of such information will serve a specific law enforcement purpose and disclosure is not precluded by any state or federal laws.

§ 3. This act shall take effect immediately.

SUBPART L

Section 1. The executive law is amended by adding a new section 845-c to read as follows:

§ 845-c. Criminal history record searches; undisposed cases. 1. When, pursuant to statute or the regulations of the division, the division conducts a search of its criminal history records and returns a report thereon, all references to undisposed cases contained in such criminal history record shall be excluded from such report.

2. For purposes of this section, "undisposed case" shall mean a criminal action or proceeding identified in the division's criminal history record repository, for which there is no record of an unexecuted warrant of arrest, superior court warrant of arrest, or bench warrant, and for which there is no record of conviction or imposition of sentence or other final disposition, other than the issuance of an apparently unexe-

cuted warrant, has been recorded and with respect to which no entry has been made in the division's criminal history records for a period of at least five years preceding the issuance of such report. When a criminal action in the division's criminal history record repository becomes an undisposed case pursuant to this section, the division shall notify the district attorney in the county which has jurisdiction. If the district attorney notifies the division that such case is pending and should not meet the definition of an undisposed case, the case shall not be excluded from such report.

3. The provisions of subdivision one of this section shall not apply to criminal history record information: (a) provided by the division to qualified agencies pursuant to subdivision six of section eight hundred thirty-seven of this article, or to federal or state law enforcement agencies, for criminal justice purposes; (b) prepared solely for a bona fide research purpose; or (c) prepared for the internal record keeping or case management purposes of the division.

§ 2. Subdivision 2 of section 212 of the judiciary law is amended by adding a new paragraph (x) to read as follows:

(x) Take such actions and adopt such measures as may be necessary to ensure that no written or electronic report of a criminal history record search conducted by the office of court administration, other than a search conducted solely for the internal recordkeeping or case management purposes of the judiciary or for a bona fide research purpose, contains information relating to an undisposed case. For purposes of this paragraph, "undisposed case" shall mean a criminal action or proceeding, or an arrest incident, appearing in the criminal history records of the office of court administration for which no conviction, imposition of sentence, order of removal or other final disposition, other than the issuance of an apparently unexecuted warrant, has been recorded and with respect to which no entry has been made in such records for a period of at least five years preceding the issuance of such report. Nothing contained in this paragraph shall be deemed to permit or require the release, disclosure or other dissemination by the office of court administration of criminal history record information that has been sealed in accordance with law.

§ 3. This act shall take effect on the one hundred eightieth day after it shall have become a law and shall apply to searches of criminal history records conducted on or after such date. Prior to such effective date, the division of criminal justice services, in consultation with the state administrator of the unified court system as well as any other public or private agency, shall undertake such measures as may be necessary and appropriate to update its criminal history records with respect to criminal cases and arrest incidents for which no final disposition has been reported.

SUBPART M

Section 1. The commissioner of the division of criminal justice services is authorized to direct that records of any action or proceeding terminated in favor of the accused, as defined by section 160.50 of the criminal procedure law, on or after September 1, 1976 and before November 1, 1991 maintained by the division of criminal justice services be sealed in the manner provided for by section 160.50 of the criminal procedure law. The commissioner of the division of criminal justice services is further authorized to direct that records of any action or proceeding terminated by a conviction for a traffic infraction or a

violation, other than a violation of loitering as described in paragraph (d) or (e) of subdivision 1 of section 160.50 of the criminal procedure law or the violation of operating a motor vehicle while ability impaired as described in subdivision one of section 1192 of the vehicle and traffic law on or after September 1, 1980 and before November 1, 1991 maintained by the division of criminal justice services be sealed in the manner provided for by section 160.55 of the criminal procedure law.

§ 2. This act shall take effect on the one hundred eightieth day after it shall have become a law.

SUBPART N

Section 1. The executive law is amended by adding a new section 845-d to read as follows:

§ 845-d. Criminal record searches; arrest charges without corresponding convictions or violations. 1. When, pursuant to statute or the regulations of the division, the division conducts a search of its criminal history records and returns a report thereon, in arrest cycles that result in at least one conviction or violation, all arrest and arraignment charges in that cycle that do not result in a corresponding conviction shall be excluded from such report.

2. For purposes of this section, "corresponding conviction" shall mean a conviction or violation charge that matches one or more of the arrest or arraignment charges.

3. The provisions of subdivision one of this section shall not apply to criminal history records: (a) provided by the division to qualified agencies pursuant to subdivision six of section eight hundred thirty-seven of this article, or to federal or state law enforcement agencies, for criminal justice purposes; (b) prepared solely for a bona fide research purpose; or (c) prepared for the internal record keeping or case management purposes of the division.

§ 2. Subdivision 2 of section 212 of the judiciary law is amended by adding a new paragraph (y) to read as follows:

(y) Take such actions and adopt such measures as may be necessary to ensure that no written or electronic report of a criminal history record search conducted by the office of court administration that contains an arrest cycle and a criminal conviction or violation resulting from that arrest, other than a search conducted for the internal recordkeeping or case management purposes of the judiciary, or produced to the court, the people, and defense counsel in a criminal proceeding, or for a bona fide research purpose, contains information relating to arrest and arraignment charges that do not result in a corresponding conviction. For purposes of this section, "corresponding conviction" shall mean a conviction or violation charge that matches one or more of the arrest or arraignment charges.

§ 3. This act shall take effect immediately.

SUBPART O

Section 1. This Subpart amends the human rights law to specify that considering arrests that are followed by an order adjourning the criminal action in contemplation of dismissal, which adjournments are not convictions or admissions of guilt under section 170.55 of the criminal procedure law, is an unlawful discriminatory practice for civil purposes. This Subpart amends the human rights law to clarify as well that adjourning the criminal action in contemplation of dismissal is not

a pending arrest for purposes of this Subpart, unless the case has been restored to the calendar. This Subpart also amends the same section of the law to add housing and volunteer positions to employment and licensing to the civil purposes for which past arrest information that did not result in a conviction or violation can be used.

§ 2. Subdivision 16 of section 296 of the executive law, as amended by section 48-a of part WWW of chapter 59 of the laws of 2017, is amended to read as follows:

16. It shall be an unlawful discriminatory practice, unless specifically required or permitted by statute, for any person, agency, bureau, corporation or association, including the state and any political subdivision thereof, to make any inquiry about, whether in any form of application or otherwise, or to act upon adversely to the individual involved, any arrest or criminal accusation of such individual not then pending against that individual which was followed by a termination of that criminal action or proceeding in favor of such individual, as defined in subdivision two of section 160.50 of the criminal procedure law, **or by an order adjourning the criminal action in contemplation of dismissal, pursuant to section 170.55, 170.56, 210.46, 210.47, or 215.10 of the criminal procedure law,** or by a youthful offender adjudication, as defined in subdivision one of section 720.35 of the criminal procedure law, or by a conviction for a violation sealed pursuant to section 160.55 of the criminal procedure law or by a conviction which is sealed pursuant to section 160.59 or 160.58 of the criminal procedure law, in connection with the licensing, **housing,** employment**, including volunteer positions,** or providing of credit or insurance to such individual; provided, further, that no person shall be required to divulge information pertaining to any arrest or criminal accusation of such individual not then pending against that individual which was followed by a termination of that criminal action or proceeding in favor of such individual, as defined in subdivision two of section 160.50 of the criminal procedure law, **or by an order adjourning the criminal action in contemplation of dismissal, pursuant to section 170.55 or 170.56 of the criminal procedure law,** or by a youthful offender adjudication, as defined in subdivision one of section 720.35 of the criminal procedure law, or by a conviction for a violation sealed pursuant to section 160.55 of the criminal procedure law, or by a conviction which is sealed pursuant to section 160.58 or 160.59 of the criminal procedure law. The provisions of this subdivision shall not apply to the licensing activities of governmental bodies in relation to the regulation of guns, firearms and other deadly weapons or in relation to an application for employment as a police officer or peace officer as those terms are defined in subdivisions thirty-three and thirty-four of section 1.20 of the criminal procedure law; provided further that the provisions of this subdivision shall not apply to an application for employment or membership in any law enforcement agency with respect to any arrest or criminal accusation which was followed by a youthful offender adjudication, as defined in subdivision one of section 720.35 of the criminal procedure law, or by a conviction for a violation sealed pursuant to section 160.55 of the criminal procedure law, or by a conviction which is sealed pursuant to section 160.58 or 160.59 of the criminal procedure law. **For purposes of this subdivision, an action which has been adjourned in contemplation of dismissal, pursuant to section 170.55 or 170.56 of the criminal procedure law, shall not be considered a pending action, unless the case has been restored to the calendar.**

§ 3. This act shall take effect on the ninetieth day after it shall have become a law.

SUBPART P

Section 1. The executive law is amended by adding a new section 259-t to read as follows:

§ 259-t. Release on compassionate parole for inmates who are affected by an age-related debility. 1. (a) The board shall have the power to release on compassionate parole any inmate who is at least fifty-five years of age, serving an indeterminate or determinate sentence of imprisonment who, pursuant to subdivision two of this section, has been certified to be suffering from a chronic or serious condition, disease, syndrome, or infirmity, exacerbated by age, that has rendered the inmate so physically or cognitively debilitated or incapacitated that the ability to provide self-care within the environment of a correctional facility is substantially diminished, provided, however, that no inmate serving a sentence imposed upon a conviction for murder in the first degree, aggravated murder or an attempt or conspiracy to commit murder in the first degree or aggravated murder or a sentence of life without parole shall be eligible for such release, and provided further that no inmate shall be eligible for such release unless in the case of an indeterminate sentence he or she has served at least one-half of the minimum period of the sentence and in the case of a determinate sentence he or she has served at least one-half of the term of his or her determinate sentence. Solely for the purpose of determining compassionate parole eligibility pursuant to this section, such one-half of the minimum period of the indeterminate sentence and one-half of the term of the determinate sentence shall not be credited with any time served under the jurisdiction of the department prior to the commencement of such sentence pursuant to the opening paragraph of subdivision one of section 70.30 of the penal law or subdivision two-a of section 70.30 of the penal law, except to the extent authorized by subdivision three of section 70.30 of the penal law.

(b) Such release shall be granted only after the board considers whether, in light of the inmate's condition, there is a reasonable probability that the inmate, if released, will live and remain at liberty without violating the law, and that such release is not incompatible with the welfare of society and will not so deprecate the seriousness of the crime as to undermine respect for the law, and shall be subject to the limits and conditions specified in subdivision four of this section. In making this determination, the board shall consider: (i) the factors described in subdivision two of section two hundred fifty-nine-i of this article; (ii) the nature of the inmate's conditions, diseases, syndromes or infirmities and the level of care; (iii) the amount of time the inmate must serve before becoming eligible for release pursuant to section two hundred fifty-nine-i of this article; (iv) the current age of the inmate and his or her age at the time of the crime; and (v) any other relevant factor.

(c) The board shall afford notice to the sentencing court, the district attorney, the attorney for the inmate and, where necessary pursuant to subdivision two of section two hundred fifty-nine-i of this article, the crime victim, that the inmate is being considered for release pursuant to this section and the parties receiving notice shall have thirty days to comment on the release of the inmate. Release on

compassionate parole shall not be granted until the expiration of the comment period provided for in this paragraph.

2. (a) The commissioner, on the commissioner's own initiative or at the request of an inmate, or an inmate's spouse, relative or attorney, may, in the exercise of the commissioner's discretion, direct that an investigation be undertaken to determine whether an assessment should be made of an inmate who appears to be suffering from chronic or serious conditions, diseases, syndromes or infirmities, exacerbated by advanced age that has rendered the inmate so physically or cognitively debilitated or incapacitated that the ability to provide self-care within the environment of a correctional facility is substantially diminished. Any such medical assessment shall be made by a physician licensed to practice medicine in this state pursuant to section sixty-five hundred twenty-four of the education law. Such physician shall either be employed by the department, shall render professional services at the request of the department, or shall be employed by a hospital or medical facility used by the department for the medical treatment of inmates. The assessment shall be reported to the commissioner by way of the deputy commissioner for health services or the chief medical officer of the facility and shall include but shall not be limited to a description of the conditions, diseases or syndromes suffered by the inmate, a prognosis concerning the likelihood that the inmate will not recover from such conditions, diseases or syndromes, a description of the inmate's physical or cognitive incapacity which shall include a prediction respecting the likely duration of the incapacity, and a statement by the physician of whether the inmate is so debilitated or incapacitated as to be severely restricted in his or her ability to self-ambulate or to perform significant activities of daily living. This assessment also shall include a recommendation of the type and level of services and level of care the inmate would require if granted compassionate parole and a recommendation for the types of settings in which the services and treatment should be given.

(b) The commissioner, or the commissioner's designee, shall review the assessment and may certify that the inmate is suffering from a chronic or serious condition, disease, syndrome or infirmity, exacerbated by age, that has rendered the inmate so physically or cognitively debilitated or incapacitated that the ability to provide self-care within the environment of a correctional facility is substantially diminished. If the commissioner does not so certify then the inmate shall not be referred to the board for consideration for release on compassionate parole. If the commissioner does so certify, then the commissioner shall, within seven working days of receipt of such assessment, refer the inmate to the board for consideration for release on compassionate parole. However, an inmate will not be referred to the board of parole with diseases, conditions, syndromes or infirmities that pre-existed incarceration unless certified by a physician that such diseases, conditions, syndromes or infirmities, have progressed to render the inmate so physically or cognitively debilitated or incapacitated that the ability to provide self-care within the environment of a correctional facility is substantially diminished.

3. Any certification by the commissioner or the commissioner's designee pursuant to this section shall be deemed a judicial function and shall not be reviewable if done in accordance with law.

4. (a) Once an inmate is released on compassionate parole, that releasee will then be supervised by the department pursuant to paragraph

(b) of subdivision two of section two hundred fifty-nine-i of this article.

(b) The board may require as a condition of release on compassionate parole that the releasee agree to remain under the care of a physician while on compassionate parole and in a hospital established pursuant to article twenty-eight of the public health law, nursing home established pursuant to article twenty-eight-a of the public health law, a hospice established pursuant to article forty of the public health law or any other placement, including a residence with family or others, that can provide appropriate medical and other necessary compassionate care as recommended by the medical assessment required by subdivision two of this section. For those who are released pursuant to this subdivision, a discharge plan shall be completed and state that the availability of the placement has been confirmed, and by whom. Notwithstanding any other provision of law, when an inmate who qualifies for release under this section is cognitively incapable of signing the requisite documentation to effectuate the discharge plan and, after a diligent search no person has been identified who could otherwise be appointed as the inmate's guardian by a court of competent jurisdiction, then, solely for the purpose of implementing the discharge plan, the facility health services director at the facility where the inmate is currently incarcerated shall be lawfully empowered to act as the inmate's guardian for the purpose of effectuating the discharge.

(c) Where appropriate, the board shall require as a condition of release that compassionate parolees be supervised on intensive caseloads at reduced supervision ratios.

5. A denial of release on compassionate parole shall not preclude the inmate from reapplying for compassionate parole or otherwise affect an inmate's eligibility for any other form of release provided for by law.

6. To the extent that any provision of this section requires disclosure of medical information for the purpose of processing an application or making a decision, regarding release on compassionate parole or for the purpose of appropriately supervising a person released on compassionate parole, and that such disclosure would otherwise be prohibited by article twenty-seven-f of the public health law, the provisions of this section shall be controlling.

7. The commissioner and the chair of the board shall be authorized to promulgate rules and regulations for their respective agencies to implement the provisions of this section.

8. Any decision made by the board pursuant to this section may be appealed pursuant to subdivision four of section two hundred fifty-nine-i of this article.

9. The chair of the board shall report annually to the governor, the temporary president of the senate and the speaker of the assembly, the chairpersons of the assembly and senate codes committees, the chairperson of the senate crime and corrections committee, and the chairperson of the assembly corrections committee the number of inmates who have applied for compassionate parole under this section; the number who have been granted compassionate parole; the nature of the illness of the applicants, the counties to which they have been released and the nature of the placement pursuant to the discharge plan; the categories of reasons for denial for those who have been denied; the number of releasees on compassionate parole who have been returned to imprisonment in the custody of the department and the reasons for return.

§ 2. This act shall take effect April 1, 2019.

§ 2. Severability clause. If any clause, sentence, paragraph, subdivision, section or 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 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.

§ 3. This act shall take effect immediately provided, however, that the applicable effective date of Subparts A through P of this act shall be as specifically set forth in the last section of such Subparts.

PART JJ

Section 1. Section 2 of the correction law is amended by adding four new subdivisions 32, 33, 34 and 35 to read as follows:

32. "Special populations" means any person: (a) who is an adolescent offender that is confined in an adolescent offender facility; or (b) who is pregnant, or in the first eight weeks of post partum recovery period after giving birth.

33. "Residential rehabilitation unit" means a housing unit used for treatment and rehabilitative programming of incarcerated individuals who have been determined to require more than ninety days of segregated confinement on and after April first, two thousand twenty-one; more than sixty days of segregated confinement on and after October first, two thousand twenty-one; and more than thirty days of segregated confinement on and after April first, two thousand twenty-two or who have been deemed by the deputy commissioner for correctional facilities or his or her designee to be an unreasonable risk to safety and security of staff, incarcerated individuals or the facility.

34. "Step down unit" means a housing unit used for the progressive programming of incarcerated individuals with a violent history or a substance abuse history that has led to long-term periods of segregated confinement in order to prepare them for return to general population or the community.

35. "Adolescent offender separation unit" means a housing unit used for adolescent offenders housed in an adolescent offender facility that receive a disciplinary confinement sanction or who have been deemed by the superintendent to be an unreasonable risk to the safety and security of staff, incarcerated individuals or the facility.

§ 2. Subdivision 6 of section 137 of the correction law is amended by adding ten new paragraphs (g), (h), (i), (j), (k), (l), (m), (n), (o) and (p) to read as follows:

(g) Incarcerated individuals in special populations as defined in subdivision thirty-two of section two of this chapter shall not be placed in segregated confinement for any length of time.

(h) No incarcerated individual may be placed in segregated confinement for longer than necessary and no more than ninety days of segregated confinement on and after April first, two thousand twenty-one; no more than sixty days of segregated confinement on and after October first, two thousand twenty-one; and no more than thirty days of segregated confinement on and after April first, two thousand twenty-two. Upon reaching this limit, he or she must be released from segregated confinement or diverted to a residential rehabilitation unit or step down unit. Such admission to a residential rehabilitation unit or step down unit

shall occur as expeditiously as possible and in no case take longer than seventy-two hours from the time transfer should occur.

(i) Persons admitted to a residential rehabilitation unit shall be offered at least five hours of out-of-cell programming, activities, or recreation four days per week, excluding holidays, and at least two hours of recreation on the remaining days.

(i) Such incarcerated individuals in a residential rehabilitation unit shall have access to out-of-cell programs and activities that promote personal development and group engagement, addressing underlying causes of problematic behavior resulting in placement in segregated confinement or a residential rehabilitation unit, and helping prepare for discharge from the unit to general confinement or the community.

(ii) Persons in a residential rehabilitation unit shall have the opportunity to earn additional privileges under a progressive movement system.

(iii) Upon admission to a residential rehabilitation unit, a program management team shall develop an individual rehabilitation plan in consultation with the incarcerated individual based upon his or her programming needs. Such plan shall identify specific goals and program to be offered, including discharge from the residential rehabilitation unit or recommendations to transition to a step down unit.

(iv) The program management team will conduct ongoing reviews of the incarcerated individual, and if appropriate, have the ability to recommend continuation in the residential rehabilitation unit beyond the individuals length of disciplinary sanction.

(v) If the incarcerated individual is maintained in the residential rehabilitation unit beyond the length of the disciplinary sanction imposed, or is placed there as a result of the deputy commissioner for correctional facility or his or her designee's determination of an unreasonable risk to safety and security or staff, incarcerated individuals or the facility, there shall be a periodic review of the status of each incarcerated person at least every sixty days to assess the person's progress and determine if the person should be discharged from the unit.

(j) Persons may be admitted to a step down unit from either segregated confinement or a residential rehabilitation unit.

(i) Persons admitted to a step down unit shall participate in a multi-phase progressive program. Incarcerated individuals will progress through the program, earning fewer restrictions and increased incentives, as they meet benchmarks and individual goals.

(ii) Such incarcerated individuals will be offered at least five hours of out-of-cell programming, activities and recreation four days per week, excluding holidays, and at least two hours of recreation on the remaining days.

(iii) When an incarcerated person is discharged from a step down unit, any remaining time to serve on any underlying disciplinary sanction shall be held in abeyance for a period of no more than six months.

(iv) Persons in a step down unit shall have the opportunity to earn additional privileges under a progressive movement system.

(k) Persons admitted to an adolescent offender separation unit shall be offered at least five hours of out-of-cell programming, activities and recreation four days per week, excluding holidays, and at least two hours of recreation on the remaining days.

(i) Persons in an adolescent offender separation unit shall have the opportunity to earn additional privileges under a progressive movement system.

(ii) If the incarcerated individual is maintained in the adolescent offender separation unit beyond the length of the disciplinary sanction imposed, or is placed there as a result of the deputy commissioner for correctional facility or designees determination of an unreasonable risk to safety and security of staff, incarcerated individuals or the facility, there shall be a periodic review of the status of each incarcerated person at least every sixty days to assess the person's progress and determine if the person should be discharged from the unit.

(l) All staff assigned to segregated confinement, residential rehabilitation, step down or adolescent offender separation unit shall receive specialized training in dealing with this population, to include interpersonal communication skills, de-escalation techniques and implicit bias.

(m) The superintendent of the institution maintains the right to restrict employees from working on a segregated confinement, residential rehabilitation, step down or adolescent offender separation unit if it is in the best interest of the overall safety and security of the institution, staff or incarcerated individuals.

(n) Prior to presiding over a superintendent hearing, all hearing officers shall receive hearing officers training on relevant topics, including implicit bias.

(o) The department shall publish monthly reports on its website of the total number of incarcerated individuals who are in segregated confinement, the total number of incarcerated individuals who are in a residential rehabilitation unit and the total number of incarcerated individuals in a step down unit, and the total number of incarcerated individuals in an adolescent offender separation unit on the first day of each month.

(p) The department shall publish an annual cumulative report of the total number of incarcerated individuals who were in segregated confinement, the total number of incarcerated individuals who were in a residential rehabilitation unit and the total number of incarcerated individuals who were in a step down unit for the preceding year. The annual report shall include the average length of stay in each of the units.

§ 3. Clauses (A) and (B) of subparagraph (ii) of paragraph (d) of subdivision 6 of section 137 of the correction law, as added by chapter 1 of the laws of 2008, are amended to read as follows:

(A) Upon placement of an inmate into segregated confinement, a residential rehabilitation unit, step down unit or adolescent offender separation unit, at a level one or level two facility, a suicide prevention screening instrument shall be administered by staff from the department or the office of mental health who has been trained for that purpose. If such a screening instrument reveals that the inmate is at risk of suicide, a mental health clinician shall be consulted and appropriate safety precautions shall be taken. Additionally, within one business day of the placement of such an inmate into segregated confinement, a residential rehabilitation unit, step down unit or adolescent offender separation unit, at a level one or level two facility, the inmate shall be assessed by a mental health clinician.

(B) Upon placement of an inmate into segregated confinement, a residential rehabilitation unit, step down unit or adolescent offender separation unit, at a level three or level four facility, a suicide prevention screening instrument shall be administered by staff from the department or the office of mental health who has been trained for that purpose. If such a screening instrument reveals that the inmate is at risk of suicide, a mental health clinician shall be consulted and appro-

priate safety precautions shall be taken. All inmates placed in segregated confinement, a residential rehabilitation unit, step down unit or adolescent offender separation unit, at a level three or level four facility shall be assessed by a mental health clinician, within fourteen days of such placement into segregated confinement, a residential rehabilitation unit, step down unit or adolescent offender separation unit.

§ 4. This act shall take effect immediately; provided, however, that no incarcerated individual may be placed in segregated confinement for longer than necessary and:

1. effective on and after April 1, 2021, no more than ninety days of segregated confinement;

2. effective on and after October 1, 2021, no more than sixty days of segregated confinement; and

3. effective on and after April 1, 2022, no more than thirty days of segregated confinement.

PART KK

Section 1. Section 60.05 of the penal law is amended by adding a new subdivision 8 to read as follows:

8. Shock incarceration participation. (a) When the court imposes a determinate sentence of imprisonment pursuant to subdivision three of section 70.02 of this chapter or subdivision six of section 70.06 of this chapter upon a person who stands convicted either of burglary in the second degree as defined in subdivision two of section 140.25 of this chapter or robbery in the second degree as defined in subdivision one of section 160.10 of this chapter, or an attempt thereof, upon motion of the defendant, the court may issue an order directing that the department of corrections and community supervision enroll the defendant in the shock incarceration program as defined in article twenty-six-A of the correction law, provided that the defendant is an eligible inmate, as described in subdivision one of section eight hundred sixty-five of the correction law. Notwithstanding the foregoing provisions of this subdivision, any defendant to be enrolled in such program pursuant to this subdivision shall be governed by the same rules and regulations promulgated by the department of corrections and community supervision, including without limitation those rules and regulations establishing requirements for completion and such rules and regulations governing discipline and removal from the program.

(b) Paragraph (b) of subdivision seven of section 60.04 of this article shall apply in the event an inmate designated by court order for enrollment in the shock incarceration program requires a degree of medical care or mental health care that cannot be provided at a shock incarceration facility.

§ 2. Subdivision 1 of section 865 of the correction law, as amended by chapter 377 of the laws of 2010, is amended to read as follows:

1. "Eligible inmate" means a person sentenced to an indeterminate term of imprisonment who will become eligible for release on parole within three years or sentenced to a determinate term of imprisonment who will become eligible for conditional release within three years, who has not reached the age of fifty years, who has not previously been convicted of a violent felony as defined in article seventy of the penal law, or a felony in any other jurisdiction which includes all of the essential elements of any such violent felony, upon which an indeterminate or determinate term of imprisonment was imposed and who was between the ages of sixteen and fifty years at the time of commission of the crime

upon which his or her present sentence was based. Notwithstanding the foregoing, no person who is convicted of any of the following crimes shall be deemed eligible to participate in this program: (a) a violent felony offense as defined in article seventy of the penal law[~~,~~] **; provided, however, that a person who is convicted of burglary in the second degree as defined in subdivision two of section 140.25 of the penal law, or robbery in the second degree as defined in subdivision one of section 160.10 of the penal law, or an attempt thereof, and for whom the sentencing court has issued an order pursuant to subdivision eight of section 60.05 of the penal law enrolling such person in the shock incarceration program, is eligible to participate,** (b) an A-I felony offense, (c) any homicide offense as defined in article one hundred twenty-five of the penal law, (d) any felony sex offense as defined in article one hundred thirty of the penal law and (e) any escape or absconding offense as defined in article two hundred five of the penal law.

§ 3. This act shall take effect on September 1, 2019.

PART LL

Section 1. Section 57 of the civil service law, as added by chapter 83 of the laws of 1963, is amended to read as follows:

§ 57. Continuous recruitment for certain positions. Notwithstanding any other provisions of this chapter or any other law, the civil service department or a municipal commission may establish a continuing eligible list for any class of positions for which it finds [~~**inadequate numbers of well qualified persons available for recruitment**~~] **such lists appropriate**. Names of eligibles shall be inserted in such list from time to time as applicants are tested and found qualified in examinations held at such intervals as may be prescribed by the civil service department or municipal commission having jurisdiction. Such successive examinations shall, so far as practicable, be constructed and rated so as to be equivalent tests of the merit and fitness of candidates. The name of any candidate who passes any such examination and who is otherwise qualified shall be placed on the continuing eligible list in the rank corresponding to his final rating on such examination. The period of eligibility of successful candidates for certification and appointment from such continuing eligible list, as a result of any such examination, shall be fixed by the civil service department or municipal commission but, except as a list may reach an announced terminal date, such period shall not be less than one year; nor shall such period of eligibility exceed four years. Subject to such conditions and limitations as the civil service department or municipal commission may prescribe, a candidate may take more than one such examination; provided, however, that no such candidate shall be certified simultaneously with more than one rank on the continuing eligible list. With respect to any candidate who applies for and is granted additional credit in any such examination as a disabled or non-disabled veteran, and for the limited purpose of granting such additional credit, the eligible list shall be deemed to be established on the date on which his name is added thereto.

§ 2. This act shall take effect immediately.

PART MM

Section 1. Subdivision 11 of section 52 of the civil service law, as amended by chapter 214 of the laws of 1989, is amended to read as follows:

11. Notwithstanding any other provision of law, the state [~~department of~~] civil service **department** may, for titles designated by it, extend to employees in the state service who are holding or who have held a position in the non-competitive or labor class of such service the same opportunity as employees in the competitive class to take promotion examinations [~~if such examinations are to be held in conjunction with open competitive examinations~~].

§ 2. This act shall take effect immediately.

PART NN

Section 1. Paragraph (a) of subdivision 2 of section 121 of the civil service law, as added by chapter 790 of the laws of 1958, is amended to read as follows:

(a) Notwithstanding the provisions of paragraph (b) of this subdivision, the annual salary of any position, compensable on an annual basis, which is classified or reclassified, or which is allocated or reallocated to a salary grade pursuant to the provisions of this article shall not be reduced for the then [~~permanent~~] incumbent by reason of any provision of this article [~~so long as such position is held by the then permanent incumbent~~].

§ 2. This act shall take effect immediately.

PART OO

Section 1. Subdivision 1 of section 70.15 of the penal law, as amended by chapter 291 of the laws of 1993, is amended to read as follows:

1. Class A misdemeanor. A sentence of imprisonment for a class A misdemeanor shall be a definite sentence. When such a sentence is imposed the term shall be fixed by the court, and shall not exceed [~~one year~~] **three hundred sixty-four days**; provided, however, that a sentence of imprisonment imposed upon a conviction of criminal possession of a weapon in the fourth degree as defined in subdivision one of section 265.01 must be for a period of no less than [~~one year~~] **three hundred sixty-four days** when the conviction was the result of a plea of guilty entered in satisfaction of an indictment or any count thereof charging the defendant with the class D violent felony offense of criminal possession of a weapon in the third degree as defined in subdivision four of section 265.02, except that the court may impose any other sentence authorized by law upon a person who has not been previously convicted in the five years immediately preceding the commission of the offense for a felony or a class A misdemeanor defined in this chapter, if the court having regard to the nature and circumstances of the crime and to the history and character of the defendant, finds on the record that such sentence would be unduly harsh and that the alternative sentence would be consistent with public safety and does not deprecate the seriousness of the crime.

§ 2. Section 70.15 of the penal law is amended by adding a new subdivision 1-a to read as follows:

1-a. (a) Notwithstanding the provisions of any other law, whenever the phrase "one year" or "three hundred sixty-five days" or "365 days" or any similar phrase appears in any provision of this chapter or any other law in reference to the definite sentence or maximum definite sentence

of imprisonment that is imposed, or has been imposed, or may be imposed after the effective date of this subdivision, for a misdemeanor conviction in this state, such phrase shall mean, be interpreted and be applied as three hundred sixty-four days.

(b) The amendatory provisions of this subdivision are ameliorative and shall apply to all persons who are sentenced before, on or after the effective date of this subdivision, for a crime committed before, on or after the effective date of this subdivision.

(c) Any sentence for a misdemeanor conviction imposed prior to the effective date of this subdivision that is a definite sentence of imprisonment of one year, or three hundred sixty-five days, shall, by operation of law, be changed to, mean and be interpreted and applied as a sentence of three hundred sixty-four days. In addition to any other right of a person to obtain a record of a proceeding against him or her, a person so sentenced prior to the effective date of this subdivision shall be entitled to obtain, from the criminal court or the clerk thereof, a certificate of conviction, as described in subdivision one of section 60.60 of the criminal procedure law, setting forth such sentence as the sentence specified in this paragraph.

§ 3. This act shall take effect immediately.

PART PP

Section 1. The opening paragraph and paragraph (a) of subdivision 1 of section 1311 of the civil practice law and rules, the opening paragraph as amended by chapter 655 of the laws of 1990 and paragraph (a) as added by chapter 669 of the laws of 1984, are amended to read as follows:

A civil action may be commenced by the appropriate claiming authority against a criminal defendant to recover the property which constitutes the proceeds of a crime, the substituted proceeds of a crime, an instrumentality of a crime or the real property instrumentality of a crime [~~or to recover a money judgment in an amount equivalent in value to the property which constitutes the proceeds of a crime, the substituted proceeds of a crime, an instrumentality of a crime, or the real property instrumentality of a crime~~]. A civil action may be commenced against a non-criminal defendant to recover the property which constitutes the proceeds of a crime, the substituted proceeds of a crime, an instrumentality of a crime, or the real property instrumentality of a crime provided, however, that a judgment of forfeiture predicated upon clause (A) of subparagraph (iv) of paragraph (b) of subdivision three [~~hereof~~] of this section shall be limited to the amount of the proceeds of the crime. Any action under this article must be commenced within five years of the commission of the crime and shall be civil, remedial, and in personam in nature and shall not be deemed to be a penalty or criminal forfeiture for any purpose. Except as otherwise specially provided by statute, the proceedings under this article shall be governed by this chapter. An action under this article is not a criminal proceeding and may not be deemed to be a previous prosecution under article forty of the criminal procedure law.

(a) Actions relating to post-conviction forfeiture crimes. An action relating to a post-conviction forfeiture crime must be grounded upon a conviction of a felony defined in subdivision five of section one thousand three hundred ten of this article[~~, or upon criminal activity arising from a common scheme or plan of which such a conviction is a part,~~] or upon a count of an indictment or information alleging a felony which was dismissed at the time of a plea of guilty to a felony in satisfac-

tion of such count. A court may not grant forfeiture until such conviction has occurred. However, an action may be commenced, and a court may grant a provisional remedy provided under this article, prior to such conviction having occurred. An action under this paragraph must be dismissed at any time after sixty days of the commencement of the action unless the conviction upon which the action is grounded has occurred, or an indictment or information upon which the asserted conviction is to be based is pending in a superior court. An action under this paragraph shall be stayed during the pendency of a criminal action which is related to it; provided, however, that such stay shall not prevent the granting or continuance of any provisional remedy provided under this article or any other provisions of law.

§ 2. The civil practice law and rules is amended by adding a new section 1311-b to read as follows:

§ 1311-b. Money judgment. If a claiming authority obtains a forfeiture judgment against a defendant for the proceeds, substituted proceeds, instrumentality of a crime or real property instrumentality of a crime, but is unable to locate all or part of any such property, the claiming authority may apply to the court for a money judgment against the defendant in the amount of the value of the forfeited property that cannot be located. The defendant shall have the right to challenge the valuation of any property that is the basis for such an application. The claiming authority shall have the burden of establishing the value of the property under this section by a preponderance of the evidence.

§ 3. Subdivisions 1, 3 and 4 of section 1312 of the civil practice law and rules, subdivision 1 as added by chapter 669 of the laws of 1984, subdivision 3 as amended and subdivision 4 as added by chapter 655 of the laws of 1990, are amended to read as follows:

1. The provisional remedies of attachment, injunction, receivership and notice of pendency provided for herein, shall be available in all actions to recover property [~~or for a money judgment~~] under this article.

3. A court may grant an application for a provisional remedy when it determines that: (a) there is a substantial probability that the claiming authority will **be able to demonstrate at trial that the property is the proceeds, substituted proceeds, instrumentality of the crime or real property instrumentality of the crime, that the claiming authority will** prevail on the issue of forfeiture**,** and that failure to enter the order may result in the property being destroyed, removed from the jurisdiction of the court, or otherwise be unavailable for forfeiture; (b) the need to preserve the availability of the property through the entry of the requested order outweighs the hardship on any party against whom the order may operate; and (c) in an action relating to real property, that entry of the requested order will not substantially diminish, impair, or terminate the lawful property interest in such real property of any person or persons other than the defendant or defendants.

4. Upon motion of any party against whom a provisional remedy granted pursuant to this article is in effect, the court may issue an order modifying or vacating such provisional remedy if necessary to permit the moving party to obtain funds for the payment of reasonable living expenses, other costs or expenses related to the maintenance, operation, or preservation of property which is the subject of any such provisional remedy or reasonable and bona fide attorneys' fees and expenses for the representation of the defendant in the forfeiture proceeding or in a related criminal matter relating thereto, payment for which is not otherwise available from assets of the defendant which are not subject

to such provisional remedy. Any such motion shall be supported by an affidavit establishing the unavailability of other assets of the moving party which are not the subject of such provisional remedy for payment of such expenses or fees. **That funds sought to be released under this subdivision are alleged to be the proceeds, substituted proceeds, instrumentality of a crime or real property instrumentality of a crime shall not be a factor for the court in considering and determining a motion made pursuant to this subdivision.**

§ 4. The opening paragraph of subdivision 2 of section 1349 of the civil practice law and rules, as added by chapter 655 of the laws of 1990, is amended to read as follows:

If any other provision of law expressly governs the manner of disposition of property subject to the judgment or order of forfeiture, that provision of law shall be controlling**, with the exception that, notwithstanding the provisions of any other law, all forfeited monies and proceeds from forfeited property shall be deposited into and disbursed from an asset forfeiture escrow fund established pursuant to section six-v of the general municipal law, which shall govern the maintenance of such monies and proceeds from forfeited property**. Upon application by a claiming agent for reimbursement of moneys directly expended by a claiming agent in the underlying criminal investigation for the purchase of contraband which were converted into a non-monetary form or which have not been otherwise recovered, the court shall direct such reimbursement from money forfeited pursuant to this article. Upon application of the claiming agent, the court may direct that any vehicles, vessels or aircraft forfeited pursuant to this article be retained by the claiming agent for law enforcement purposes, unless the court determines that such property is subject to a perfected lien, in which case the court may not direct that the property be retained unless all such liens on the property to be retained have been satisfied or pursuant to the court's order will be satisfied. In the absence of an application by the claiming agent, the claiming authority may apply to the court to retain such property for law enforcement purposes. Upon such application, the court may direct that such property be retained by the claiming authority for law enforcement purposes, unless the court determines that such property is subject to a perfected lien. If not so retained, the judgment or order shall direct the claiming authority to sell the property in accordance with article fifty-one of this chapter, and that the proceeds of such sale and any other moneys realized as a consequence of any forfeiture pursuant to this article **shall be deposited to an asset forfeiture escrow fund established pursuant to section six-v of the general municipal law and** shall be apportioned and paid in the following descending order of priority:

§ 5. Section 1349 of the civil practice law and rules is amended by adding a new subdivision 5 to read as follows:

5. Monies and proceeds from the sale of property realized as a consequence of any forfeiture distributed to the claiming agent or claiming authority of any county, town, city, or village of which the claiming agent or claiming authority is a part, shall be deposited to an asset forfeiture escrow fund established pursuant to section six-v of the general municipal law.

§ 6. Subdivision 2 of section 700 of the county law is amended to read as follows:

2. Within thirty days after the receipt of any fine, penalty, recovery upon any recognizance**, monies and proceeds from the sale of property realized as a consequence of any forfeiture,** or other money belonging to

the county, the district attorney **or the claiming authority** shall pay the same to the county treasurer. Not later than the first day of February in each year, the district attorney shall make in duplicate a verified true statement of all such moneys received and paid to the county treasurer during the preceding calendar year and at that time shall pay to the county treasurer any balance due. One statement shall be furnished to the county treasurer [~~and the other~~]**, one** to the clerk of the board of supervisors **and one to the state comptroller**. A district attorney who is not re-elected shall make and file the verified statement and pay any balance of such moneys to the county treasurer within thirty days after the expiration of his term.

§ 7. The general municipal law is amended by adding a new section 6-v to read as follows:

§ 6-v. Asset forfeiture escrow fund. 1. As used in this section:

a. The term "governing board", insofar as it is used in reference to a village, shall mean the board of trustees thereof; insofar as it is used in reference to a town, shall mean the town board thereof; insofar as it is used in reference to a county, shall mean the board of supervisors or the county legislature thereof, as applicable; insofar as it is used in reference to a city, shall mean the "legislative body" thereof, as that term is defined in subdivision seven of section two of the municipal home rule law.

b. The term "chief fiscal officer" shall mean:

(i) In the case of counties operating under (1) an alternative form of county government or charter enacted as a state statute or adopted under the alternative county government law or by local law, the official designated in such statute, consolidated law or local law as the chief fiscal officer, or, if no such designation is made therein, the official possessing powers and duties similar to those of a county treasurer under the county law as shall be designated by local law.

(2) In the case of counties not operating under an alternative form of county government or charter enacted as a state statute or adopted under the alternative county government law or by local law, the treasurer, except that, in the case of counties having a comptroller, it shall mean the comptroller.

(ii) In the case of cities, the comptroller; if a city does not have a comptroller, the treasurer; if a city has neither a comptroller nor a treasurer, such official possessing powers and duties similar to those of a city treasurer as the finance board shall, by resolution, designate. A certified copy of such designation shall be filed with the state comptroller and shall be a public record.

(iii) In the case of towns, the town supervisor; if a town has more than one supervisor, the presiding supervisor.

(iv) In the case of villages, the village treasurer.

c. The term "claiming authority" shall mean the district attorney having jurisdiction over the offense or the attorney general for purpose of those crimes for which the attorney general has criminal jurisdiction in a case where the underlying criminal charge has been, is being or could have been brought by the attorney general, or the appropriate corporation counsel or county attorney, where such corporation counsel or county attorney may act as a claiming authority only with the consent of the district attorney or the attorney general, as appropriate.

d. The term "claiming agent" shall mean and shall include all persons described in subdivision thirty-four of section 1.20 of the criminal procedure law, and sheriffs, undersheriffs and deputy sheriffs of counties within the city of New York.

2. The governing board shall authorize the establishment of an asset forfeiture escrow fund for any claiming agent or claiming authority as is deemed necessary for the monies and proceeds of sale of property realized as a consequence of any forfeiture. The separate identity of such fund shall be maintained.

3. There shall be paid into the asset forfeiture escrow fund all proceeds realized as a consequence of any forfeiture action. Such funds shall include, but are not limited to, all funds and any property (real, personal, tangible and/or intangible) that are forfeited pursuant to agreement or otherwise prior to, in lieu of or after the lodging of criminal charges, pre-indictment, post-indictment, or after conviction by plea or trial. Such funds shall also include funds that are forfeited in compromise of charges that are never brought.

4. The monies and proceeds in the asset forfeiture escrow fund shall be deposited and secured in the manner provided by section ten of this article. All monies and proceeds so deposited in such fund shall be kept in a separate bank account. The chief fiscal officer may invest the moneys in such fund in the manner provided in section eleven of this article. Any interest earned or capital gains realized on the moneys so deposited or invested shall accrue to and become part of such fund. The separate identity of such fund shall be maintained, whether its assets consist of cash, investments, or both.

5. Every claim for the payment of money from the asset forfeiture escrow fund shall specify the purpose of the requested payment and must be accompanied by a written certification that the expenditure is in compliance with all applicable laws. Payments from such fund shall be made by the chief fiscal officer subject to the required certification and the determination of fund sufficiency.

6. The chief fiscal officer, at the termination of each fiscal year, shall render a detailed report of the operation and condition of the asset forfeiture escrow fund to the governing board and the state comptroller. Such report shall be subject to examination and audit. The chief fiscal officer may account for such fund separate and apart from all other funds of the village, town, county, and city.

§ 8. Section 1352 of the civil practice law and rules, as added by chapter 669 of the laws of 1984, is amended to read as follows:

§ 1352. Preservation of other rights and remedies. The remedies provided for in this article are not intended to substitute for or limit or [~~supercede~~] supersede the lawful authority of any public officer or agency or other person to enforce any other right or remedy provided for by law. The exercise of such lawful authority in the forfeiture of property alleged to be the proceeds, substitute proceeds, instrumentality of a crime or real property instrumentality of crime must include the provision of a prompt opportunity to be heard for the owner of seized property in order to ensure the legitimacy and the necessity of its continued retention by law enforcement, as well as clear notice of deadlines for accomplishing the return of such property.

§ 9. Subdivision 11 of section 1311 of the civil practice law and rules is amended by adding a new paragraph (d) to read as follows:

(d) Any stipulation, settlement agreement, judgement, order or affidavit required to be given to the state division of criminal justice services pursuant to this subdivision shall include the defendant's name and such other demographic data as required by the state division of criminal justice services.

§ 10. Subdivision 6 of section 220.50 of the criminal procedure law, as added by chapter 655 of the laws of 1990, is amended to read as follows:

6. Where the defendant consents to a plea of guilty to the indictment, or part of the indictment, or consents to be prosecuted by superior court information as set forth in section 195.20 of this chapter, and if the defendant and prosecutor agree that as a condition of the plea or the superior court information certain property shall be forfeited by the defendant, the description and present estimated monetary value of the property shall be stated in court by the prosecutor at the time of plea. Within thirty days of the acceptance of the plea or superior court information by the court, the prosecutor shall send to the commissioner of the division of criminal justice services a document containing the name of the defendant, the description and present estimated monetary value of the property, **any other demographic data as required by the division of criminal justice services** and the date the plea or superior court information was accepted. Any property forfeited by the defendant as a condition to a plea of guilty to an indictment, or a part thereof, or to a superior court information, shall be disposed of in accordance with the provisions of section thirteen hundred forty-nine of the civil practice law and rules.

§ 11. Subdivision 4 of section 480.10 of the penal law, as added by chapter 655 of the laws of 1990, is amended to read as follows:

4. The prosecutor shall promptly file a copy of the special forfeiture information, including the terms thereof, with the state division of criminal justice services and with the local agency responsible for criminal justice planning. Failure to file such information shall not be grounds for any relief under this chapter. **The prosecutor shall also report such demographic data as required by the state division of criminal justice services when filing a copy of the special forfeiture information with the state division of criminal justice services.**

§ 12. This act shall take effect on the one hundred eightieth day after it shall have become a law and shall apply to crimes which were committed on or after such date.

PART QQ

Section 1. The family court act is amended by adding a new article 5-C to read as follows:

ARTICLE 5-C
CHILD-PARENT SECURITY ACT

PART 1. General provisions (581-101 - 581-103)
2. Judgment of parentage (581-201 - 581-205)
3. Child of assisted reproduction (581-301 - 581-307)
4. Gestational agreement (581-401 - 581-411)
5. Payment to donors and gestational carriers (581-501 - 581-502)
6. Miscellaneous provisions (581-601 - 581-604)

PART 1
GENERAL PROVISIONS

Section 581-101. Short title.
581-102. Purpose.
581-103. Definitions.

§ 581-101. Short title. This article shall be known and may be cited as the "child-parent security act".

§ 581-102. Purpose. The purpose of this article is to legally establish a child's relationship to his or her parents where the child is conceived through collaborative reproduction.

§ 581-103. Definitions. (a) "Assisted reproduction" means a method of causing pregnancy other than sexual intercourse and includes but is not limited to:

1. intrauterine or vaginal insemination;

2. donation of gametes;

3. donation of embryos;

4. in vitro fertilization and transfer of embryos; and

5. intracytoplasmic sperm injection.

(b) "Assisted reproductive technology" or "ART" is any medical or scientific intervention, including, but not limited to, assisted reproduction, provided for the purpose of achieving live birth that results from assisted conception. Assisted conception means the formation of a human embryo outside the body with the intent to produce a live birth.

(c) "Child" means a live born individual of any age whose parentage may be determined under this act or other law.

(d) "Collaborative reproduction" involves artificial insemination with donor sperm and any assisted reproduction in which an individual other than the intended parent provides genetic material or agrees to act as a gestational carrier. It can include, but is not limited to, (1) attempts by the intended parent to create a child through means of a gestational arrangement, with or without the involvement of a donor, and (2) assisted reproduction involving a donor where a gestational carrier is not used.

(e) "Compensation" means payment of any valuable consideration for time, effort, pain and/or risk to health in excess of reasonable medical and ancillary costs.

(f) "Donor" means an individual who produces gametes and provides them to another person other than the individual's spouse for use in assisted reproduction, whether or not for compensation, and who does not intend to be a parent. Donor also includes an individual with dispositional control of an embryo who provides it to another person for the purpose of gestation and relinquishes all present and future parental and inheritance rights and obligations to a resulting child.

(g) "Embryo" means a cell or group of cells containing a diploid complement of chromosomes or group of such cells, not a gamete or gametes, that has the potential to develop into a live born human being if transferred into the body of a woman under conditions in which gestation may be reasonably expected to occur.

(h) "Embryo transfer" means all medical and laboratory procedures that are necessary to effectuate the transfer of an embryo into the uterine cavity.

(i) "Gamete" means a cell containing a haploid complement of DNA that has the potential to form an embryo when combined with another gamete. Sperm and eggs are gametes. A gamete may consist of nuclear DNA from one human being combined with the cytoplasm, including cytoplasmic DNA, of another human being.

(j) "Gestational agreement" is a contract between an intended parent and a gestational carrier intended to result in a live birth where the child will be the legal child of the intended parent.

(k) "Gestational carrier" means an adult person not an intended parent, who enters into a gestational agreement to bear a child who will be the legal child of the intended parent so long as she has not provided the egg used to conceive the resulting child.

(l) "Gestational carrier arrangement" means the process by which a gestational carrier attempts to carry and give birth to a child created through assisted reproduction so long as the gestational carrier has not provided the egg used to conceive the resulting child.

(m) "Health care practitioner" means an individual licensed or certified under title eight of the education law acting within his or her scope of practice.

(n) "Intended parent" is an individual who manifests the intent as provided in this act to be legally bound as the parent of a child resulting from assisted reproduction or collaborative reproduction.

(o) "In vitro fertilization" means the formation of a human embryo outside the human body.

(p) "Parent" means an individual who has established a parent-child relationship under this act or other law and includes, but is not limited to: (1) a child's birth parent who is not a gestational carrier or the spouse of the gestational carrier; (2) a child's genetic parent who is not the donor; (3) an individual who has legally adopted the child; (4) an individual who is a parent of the child pursuant to a legal presumption; (5) an individual who is a parent of the child pursuant to an acknowledgment or judgment of parentage pursuant to article two of this act or other law; (6) an individual who is a parent of the child pursuant to article three or four of this act.

(q) "Participant" means an individual who provides a biological or genetic component of assisted reproduction, an intended parent, and the spouse of an intended parent or gestational carrier. Gestation is a biological component within the meaning of this definition.

(r) "Record" means information inscribed in a tangible medium or stored in an electronic or other medium that is retrievable in perceivable form.

(s) "Retrieval" means the procurement of eggs or sperm from a gamete provider.

(t) "Spouse" means an individual married to another, or who has a legal relationship entered into under the laws of the United States or of any state, local or foreign jurisdiction, which is substantially equivalent to a marriage, including a civil union or domestic partnership.

(u) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

(v) "Transfer" means the placement of an embryo or gametes into the body of a woman with the intent to achieve pregnancy and live birth.

PART 2
JUDGMENT OF PARENTAGE

Section 581-201. Judgment of parentage.
581-202. Proceeding for judgment of parentage of a child born through assisted reproduction.
581-203. Proceeding for judgment of parentage of a child born pursuant to a gestational carrier arrangement.
581-204. Judgment of parentage for intended parents who are spouses.
581-205. Jurisdiction.

§ 581-201. Judgment of parentage. (a) A civil proceeding may be maintained to adjudicate the parentage of a child under the circumstances set forth in this article. This proceeding is governed by the civil practice law and rules.

(b) A judgment of parentage may be issued prior to birth but shall not become effective until the birth of the child.

(c) A judgment of parentage shall be issued by the court upon the petition of (1) a child, or (2) a parent or a presumed parent, or (3) a participant, or (4) the support/enforcement agency or other governmental agency authorized by other law, or (5) a representative authorized by law to act for an individual who would otherwise be entitled to maintain a proceeding but who is deceased, incapacitated, or a minor, in order to legally establish the child-parent relationship of either a child born through assisted reproduction under part three of this article or a child born pursuant to a gestational carrier arrangement under part four of this article.

§ 581-202. Proceeding for judgment of parentage of a child born through assisted reproduction. (a) A proceeding for a judgment of parentage may be commenced:

(1) if the intended parent resides in New York state, in the county where the intended parent resides any time after pregnancy is achieved or in the county where the child was born or resides; or

(2) if the intended parent and child do not reside in New York state, up to ninety days after the birth of the child in the county where the child was born.

(b) The petition for a judgment of parentage must be verified and include the following:

(1) a statement that the intended parent has been a resident of the state for at least ninety days or if the intended parent is not a New York state resident, that the child was born in the state; and

(2) a statement from the gestating parent that the gestating parent became pregnant as a result of the donation of the gamete or embryo and a representation of non-access during the time of conception; and

(3) a statement that the non-gestating intended parent consented to assisted reproduction pursuant to section 581-304 of this article; and

(4) proof of donor's donative intent.

(c) The following shall be deemed sufficient proof of a donor's donative intent for purposes of this section:

(1) in the case of an anonymous donor or where gametes or embryos have previously been relinquished to a gamete or embryo storage facility, a statement from the gamete or embryo storage facility with custody of the gametes or embryos that the donor does not retain any parental or proprietary interest in the gametes or embryos; or

(2) in the case of a donation from a known donor, a record from the gamete or embryo donor acknowledging the donation and confirming that the donor has no parental or proprietary interest in the gametes or embryos. The record shall be signed by the gamete or embryo donor:

i. before a notary public, or

ii. before two witnesses who are not the intended parents, or

iii. before the health care provider, who supervised the donation.

(3) In the absence of a record pursuant to paragraph two of this subdivision, notice shall be given to the donor at least twenty days prior to the proceeding by delivery of a copy of the petition and notice. Upon a showing to the court, by affidavit or otherwise, on or before the date of the proceeding or within such further time as the court may allow, that personal service cannot be effected at the donor's last known address with reasonable effort, notice may be given, without prior court order therefore, at least twenty days prior to the proceeding by registered or certified mail directed to the donor's last known

address. Notice by publication shall not be required to be given to a donor entitled to notice pursuant to the provisions of this section.

(4) Notwithstanding the above, where sperm is provided under the supervision of a health care provider to someone other than the sperm provider's intimate partner or spouse without a record of the sperm provider's intent to parent, the sperm provider is presumed to be a Donor and notice is not required.

(d) Where a petition for parentage demonstrates the consent of the intended parent to assisted reproduction, the donative intent of the gamete or embryo donor and that the pregnancy resulted from the donation, the court shall issue a judgment of parentage:

(1) declaring, that upon the birth of the child, the intended parent is the only legal parent of the child; and

(2) ordering the intended parent to assume sole responsibility for the maintenance and support of the child immediately upon the birth of the child; and

(3) ordering that upon the birth of the child, a copy of the judgment of parentage be served on the (i) department of health or New York city department of mental health and hygiene, or (ii) registrar of births in the hospital where the child is born and directing that the hospital report the parentage of the child to the appropriate department of health in conformity with the court order. If an original birth certificate has already issued, the court shall issue an order directing the appropriate department of health to amend the birth certificate in an expedited manner and seal the previously issued birth certificate.

§ 581-203. Proceeding for judgment of parentage of a child born pursuant to a gestational carrier arrangement. (a) The proceeding may be commenced at any time after the gestational agreement has been executed by all of the parties. Any party to the gestational agreement not joining in the petition must be served with notice of the proceeding. Failure to respond to the notice shall be considered a default and no further notice shall be required.

(b) The petition for a judgment of parentage must be verified and include the following:

(1) A statement that the gestational carrier or the intended parent has been a resident of the state for at least ninety days at the time the gestational agreement was executed; and

(2) A certification from the attorneys representing the petitioners that the parties are eligible to participate in the gestational carrier arrangement as required by section 581-404 of this article and that the gestational agreement contains the required terms under section 581-405 of this article; and

(3) A statement that the parties entered into the gestational agreement knowingly and voluntarily.

(c) Where a petition satisfies subdivision (b) of this section, the court shall issue a judgment of parentage, without additional proceedings or documentation:

(1) Declaring, that upon the birth of a child born during the term of the gestational agreement, the intended parent is the legal parent of the child; and

(2) Declaring, that upon the birth of a child born during the term of the gestational agreement, the gestational carrier, and the gestational carrier's spouse, if any, is not the legal parent of the child; and

(3) Ordering the gestational carrier and the gestational carrier's spouse, if any, to transfer the child to the intended parent if this has not already occurred; and

(4) Ordering the intended parent to assume sole responsibility for the maintenance and support of the child immediately upon the birth of the child; and

(5) Ordering that when the child is born, a copy of the judgment of parentage be served on the (i) department of health or New York city department of mental health and hygiene, or (ii) registrar of births in the hospital where the child is born and directing that the hospital report the parentage of the child to the appropriate department of health in conformity with the court order. If an original birth certificate has already issued, the court shall issue an order directing the appropriate department of health to amend the birth certificate in an expedited manner and seal the previously issued birth certificate.

(d) In the event the certification required by paragraph two of subdivision (b) of this section cannot be made because of a technical or non-substantial deviation from the requirements of sections 581-404 or 581-405 of this article; the court may nevertheless enforce the agreement and issue an order of parentage if the court determines the agreement is in substantial compliance with the requirements of sections 581-404 and 581-405 of this article.

(e) The agreement of the intended parent to pay reasonable compensation to the gestational carrier in excess of reasonable medical and ancillary costs shall not be a bar to the issuance of a judgment of parentage.

§ 581-204. Judgment of parentage for intended parents who are spouses. Notwithstanding or without limitation on presumptions of parentage that apply, a judgment of parentage may be obtained under this part by intended parents who are each other's spouse.

§ 581-205. Jurisdiction. Proceedings pursuant to this article may be instituted in the supreme, family or surrogate's court.

PART 3
CHILD OF ASSISTED REPRODUCTION

Section 581-301. Scope of article.
581-302. Status of donor.
581-303. Parentage of child of assisted reproduction.
581-304. Consent to assisted reproduction.
581-305. Limitation on spouses' dispute of parentage of child of assisted reproduction.
581-306. Effect of embryo disposition agreement between intended parents which transfers custody and control to one intended parent.
581-307. Effect of death of intended parent.

§ 581-301. Scope of article. This article does not apply to the birth of a child conceived by means of sexual intercourse.

§ 581-302. Status of donor. A donor is not a parent of a child conceived by means of assisted reproduction.

§ 581-303. Parentage of child of assisted reproduction. (a) An individual who provides gametes for assisted reproduction with the intent to be a parent of the child and consents to assisted reproduction with the consent of the gestating parent as provided in section 581-304 of this part, is a parent of the resulting child for all legal purposes.

(b) Upon application by any participant, the court shall issue a judgment of parentage to any participant who is a parent pursuant to this act.

§ 581-304. Consent to assisted reproduction. (a) Where the intended parent who gives birth to a child by means of assisted reproduction is a

spouse, the consent of both spouses to the assisted reproduction is presumed and neither spouse may challenge the parentage of the child, except as provided in section 581-305 of this part.

(b) Where the intended parent who gives birth to a child by means of assisted reproduction is not a spouse, the consent to the assisted reproduction must be in a record in such a manner as to indicate the mutual agreement of the intended parents to conceive and parent a child together.

(c) The absence of a record described in subdivision (b) of this section shall not preclude a finding that such consent existed if the court finds by clear and convincing evidence that at the time of the assisted reproduction the intended parents agreed to conceive and parent the child together.

§ 581-305. Limitation on spouses' dispute of parentage of child of assisted reproduction. (a) Except as otherwise provided in subdivision (b) of this section, neither spouse may challenge the presumption of parentage of the child unless:

(1) Within two years after learning of the birth of the child a proceeding is commenced to adjudicate parentage; and

(2) The court finds by clear and convincing evidence that either spouse did not consent for the non-gestating spouse to be a parent of the child.

(b) A proceeding for a judgment of parentage may be maintained at any time if the court finds by clear and convincing evidence that:

(1) The spouse did not consent to assisted reproduction by the individual who gave birth; and

(2) The spouse and the individual who gave birth have not cohabited since the spouse knew or had reason to know of the pregnancy; and

(3) The spouse never openly held out the child as his or her own.

(c) The limitation provided in this section applies to a spousal relationship that has been declared invalid after assisted reproduction or artificial insemination.

§ 581-306. Effect of embryo disposition agreement between intended parents which transfers custody and control to one intended parent. (a) An embryo disposition agreement between intended parents with joint custody and control of an embryo shall be binding under the following circumstances:

(1) it is in writing;

(2) each intended parent had the advice of counsel prior to its execution; and

(3) where the intended parents are married, transfer of custody and control occurs only upon divorce.

(b) The intended parent who transfers custody and control of the embryo is not a parent of any child born from the embryo unless the agreement states that he or she consents to be a parent.

(c) If the intended parent transferring custody and control consents to be a parent, he or she may withdraw his or her consent to be a parent upon notice to the embryo storage facility and to the other intended parent prior to transfer of the embryo. If he or she timely withdraws consent to parent he or she is not a parent for any purpose including support obligations but the embryo transfer may still proceed.

(d) An embryo disposition agreement or advance directive that is not in compliance with subdivision (a) of this section may still be found to be enforceable by the court after balancing the respective interests of the parties except that under no circumstances may the intended parent who divested him or herself of custody and control be declared to be a

parent for any purpose without his or her consent. The parent awarded custody and control of the embryos shall, in this instance, be declared to be the only parent of the child.

§ 581-307. Effect of death of intended parent. If an individual who consented in a record to be a parent by assisted reproduction dies before the transfer of eggs, sperm, or embryos, the deceased individual is not a parent of the resulting child unless the deceased individual consented in a signed record that if assisted reproduction were to occur after death, the deceased individual would be a parent of the child, provided that the record complies with the estates, powers and trusts law.

PART 4
GESTATIONAL AGREEMENT

Section 581-401. Gestational agreement authorized.
581-404. Eligibility.
581-405. Requirements of gestational agreement.
581-406. Termination of gestational agreement.
581-407. Gestational agreement: effect of subsequent spousal relationship.
581-408. Failure to obtain a judgment of parentage.
581-409. Dispute as to gestational agreement.
581-410. Inspection of records.
581-411. Exclusive, continuing jurisdiction.

§ 581-401. Gestational agreement authorized. (a) If eligible under this article to enter into a gestational agreement, a gestational carrier, the gestational carrier's spouse if applicable, and the intended parent may enter into a gestational agreement which will be enforceable provided the gestational agreement meets the requirements of this article.

(b) A gestational agreement shall not apply to the birth of a child conceived by means of sexual intercourse.

(c) A gestational agreement may provide for payment of compensation under part five of this article.

(d) A gestational agreement may not limit the right of the gestational carrier to make decisions to safeguard the gestational carrier's health or that of any fetus or embryo the gestational carrier is carrying.

(e) A gestational agreement may not limit the right of the gestational carrier to terminate the pregnancy or reduce the number of fetuses or embryos the gestational carrier is carrying.

§ 581-404. Eligibility. (a) A gestational carrier shall be eligible to enter into an enforceable gestational agreement under this article if the gestational carrier has met the following requirements at the time the gestational agreement is executed:

(1) The gestational carrier is at least twenty-one years of age; and

(2) The gestational carrier has not provided the egg used to conceive the resulting child; and

(3) The gestational carrier has completed a medical evaluation with a health care practitioner relating to the anticipated pregnancy; and

(4) The gestational carrier, and the gestational carrier's spouse if applicable have undergone legal consultation with independent legal counsel of their own choosing which may be paid for by the intended parent regarding the terms of the gestational agreement and the potential legal consequences of the gestational carrier arrangement; and

(5) The gestational carrier has, or the gestational agreement stipulates that prior to the embryo transfer, the gestational carrier will

obtain, a health insurance policy that covers major medical treatments and hospitalization, and the health insurance policy has a term that extends throughout the duration of the expected pregnancy and for eight weeks after the birth of the child; the policy may be procured and paid for by the intended parents on behalf of the gestational carrier pursuant to the gestational agreement.

(b) The intended parent shall be eligible to enter into an enforceable gestational agreement under this article if he, she, or they have met the following requirements at the time the gestational agreement was executed:

(1) He, she, or they have undergone legal consultation with independent legal counsel regarding the terms of the gestational agreement and the potential legal consequences of the gestational carrier arrangement; and

(2) He or she is an adult person who is not in a spousal relationship, or adult spouses together, or any two adults who are intimate partners together, except the spouse of the intended parent is not required to be a party to the gestational agreement and shall not have parental rights or obligations to the child where the intended parent and his or her spouse:

(i) are living separate and apart pursuant to a decree or judgment of separation or pursuant to a written agreement of separation subscribed by the parties thereto and acknowledged or proved in the form required to entitle a deed to be recorded; or

(ii) have been living separate and apart for at least three years prior to execution of the gestational agreement.

§ 581-405. Requirements of gestational agreement. (a) A gestational agreement shall be deemed to have satisfied the requirements of this article and be enforceable if it meets the following requirements:

(1) It shall be in a signed record verified by:

i. the intended parents, and

ii. the gestational carrier, and the gestational carrier's spouse, unless;

A. the gestational carrier and the gestational carrier's spouse are living separate and apart pursuant to a decree or judgment of separation or pursuant to a written agreement of separation subscribed by the parties thereto and acknowledged or proved in the form required to entitle a deed to be recorded; or

B. have been living separate and apart for at least three years prior to execution of the gestational agreement; and

(2) It shall be executed prior to the embryo transfer; and

(3) It shall be executed by a gestational carrier meeting the eligibility requirements of subdivision (a) of section 581-404 of this part and by the gestational carrier's spouse, unless the gestational carrier's spouse's signature is not required as set forth in this section; and

(4) It shall be executed by intended parents meeting the eligibility requirements of subdivision (b) of section 581-404 of this part; and

(5) The gestational carrier and the gestational carrier's spouse if applicable and the intended parents shall have been represented by separate, independent counsel in all matters concerning the gestational agreement; and

(6) If the gestational agreement provides for the payment of compensation to the gestational carrier, the compensation shall have been placed in escrow with an independent escrow agent prior to the gestational carrier's commencement of any medical procedure other than

medical evaluations necessary to determine the gestational carrier's eligibility; and

(7) The agreement must include information disclosing how the intended parents will cover the medical expenses of the surrogate and the child. If health care coverage is used to cover the medical expenses, the disclosure shall include a review of the health care policy provisions related to coverage for surrogate pregnancy, including any possible liability of the surrogate, third-party liability liens or other insurance coverage, and any notice requirements that could affect coverage or liability of the surrogate.

(8) The gestational agreement must include the following terms:

(i) As to the gestational carrier and the gestational carrier's spouse, if any:

(A) the agreement of the gestational carrier to undergo embryo transfer and attempt to carry and give birth to the child; and

(B) the agreement of the gestational carrier and the gestational carrier's spouse, if any, to surrender custody of all resulting children to the intended parent immediately upon the birth; and

(C) the right of the gestational carrier to utilize the services of a health care practitioner of the gestational carrier's choosing, to provide her care during the pregnancy; and

(ii) As to the intended parent:

(A) the agreement to accept custody of all resulting children immediately upon birth regardless of number, gender, or mental or physical condition; and

(B) the agreement to assume sole responsibility for the support of the child immediately upon the child's birth; and

(C) the agreement that the rights and obligations of the intended parent under the gestational agreement are not assignable.

§ 581-406. Termination of gestational agreement. After the execution of a gestational agreement but before the gestational carrier becomes pregnant by means of assisted reproduction, the gestational carrier, the gestational carrier's spouse, if any, or any intended parent may terminate the gestational agreement by giving notice of termination in a record to all other parties. Upon proper termination of the gestational agreement the parties are released from all obligations recited in the agreement except that the intended parent remains responsible for all expenses that are reimbursable under the agreement which have been incurred by the gestational carrier through the date of termination. Unless the agreement provides otherwise, the gestational carrier is entitled to keep all payments she has received and obtain all payments to which the gestational carrier is entitled. Neither a prospective gestational carrier nor the gestational carrier's spouse, if any, is liable to the intended parent for terminating a gestational agreement as provided in this section.

§ 581-407. Gestational agreement: effect of subsequent spousal relationship. After the execution of a gestational agreement under this article, the subsequent spousal relationship of the gestational carrier does not affect the validity of a gestational agreement, the gestational carrier's spouse's consent to the agreement shall not be required, and the gestational carrier's spouse shall not be the presumed parent of the resulting child.

§ 581-408. Failure to obtain a judgment of parentage. Where an intended parent or the gestational carrier fails to obtain a judgment of parentage pursuant to section 581-203 of this article, either because the gestational agreement does not meet the requirements of this article

or there was no gestational agreement, the parentage of a child will be determined based on the best interests of the child taking into account genetics and the intent of the parties. An intended parent's absence of genetic connection to the child is not a sufficient basis to deny that individual a judgment of legal parentage.

§ 581-409. Dispute as to gestational agreement. (a) Any dispute which is related to a gestational agreement other than disputes as to parentage shall be resolved by the supreme court, which shall determine the respective rights and obligations of the parties. If a gestational agreement does not meet the requirements of this article, except as set forth in subdivision (d) of section 581-203 of part two of this article the agreement is not enforceable.

(b) Except as expressly provided in the gestational agreement, the intended parent and the gestational carrier shall be entitled to all remedies available at law or equity in any dispute related to the gestational agreement.

(c) There shall be no specific performance remedy available for a breach by the gestational carrier of a gestational agreement term that requires the gestational carrier to be impregnated or to terminate the pregnancy or to reduce the number of fetuses or embryos the gestational carrier is carrying.

§ 581-410. Inspection of records. The proceedings, records, and identities of the individual parties to a gestational agreement under this article shall be sealed except upon the petition of the parties to the gestational agreement or the child born as a result of the gestational carrier arrangement.

§ 581-411. Exclusive, continuing jurisdiction. Subject to the jurisdictional standards of section seventy-six of the domestic relations law, the court conducting a proceeding under this article has exclusive, continuing jurisdiction of all matters arising out of the gestational agreement until a child born to the gestational carrier during the period governed by the agreement attains the age of one hundred eighty days.

PART 5
PAYMENT TO DONORS AND GESTATIONAL CARRIERS

Section 581-501. Reimbursement.
581-502. Compensation.

§ 581-501. Reimbursement. (a) A donor who has entered into a valid agreement to be a donor, may receive reimbursement from an intended parent for economic losses incurred in connection with the donation which result from the retrieval or storage of gametes or embryos.

(b) Premiums paid for insurance against economic losses directly resulting from the retrieval or storage of gametes or embryos for donation may be reimbursed.

§ 581-502. Compensation. (a) Compensation may be paid to a donor or gestational carrier based on services rendered, expenses and or medical risks that have been or will be incurred, time, and inconvenience. Under no circumstances may compensation be paid to purchase gametes or embryos or to pay for the relinquishment of a parental interest in a child.

(b) The compensation, if any, paid to a donor or gestational carrier must be reasonable and negotiated in good faith between the parties, and said payments to a gestational carrier shall not exceed the duration of the pregnancy and recuperative period of up to eight weeks after the birth of the child.

(c) Compensation may not be conditioned upon the purported quality or genome-related traits of the gametes or embryos.

(d) Compensation may not be conditioned on actual genotypic or phenotypic characteristics of the donor or of the child.

PART 6
MISCELLANEOUS PROVISIONS

Section 581-601. Remedial.
581-602. Severability.
581-603. Parent under section seventy of the domestic relations law.
581-604. Interpretation.

§ 581-601. Remedial. This legislation is hereby declared to be a remedial statute and is to be construed liberally to secure the beneficial interests and purposes thereof for the best interests of the child.

§ 581-602. Severability. The invalidation of any part of this legislation by a court of competent jurisdiction shall not result in the invalidation of any other part.

§ 581-603. Parent under section seventy of the domestic relations law. The term "parent" in section seventy of the domestic relations law shall include a person established to be a parent under this article or any other relevant law.

§ 581-604. Interpretation. Unless the context indicates otherwise, words importing the singular include and apply to several persons, parties, or things; words importing the plural include the singular.

§ 2. Section 73 of the domestic relations law is REPEALED.

§ 3. Article 8 of the domestic relations law is REPEALED.

§ 4. This act shall take effect on the one hundred twentieth day after it shall have become a law. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made on or before such date.

PART RR

Section 1. The executive law is amended by adding a new section 63-e to read as follows:

§ 63-e. Office of special investigation. There is established within the department of law an office of special investigation. Notwithstanding any other provision of this article, the office shall investigate any case in which the death of an unarmed civilian is caused by a police officer during the performance of his or her duties. Proceedings of the office under this section shall be conducted by the deputy attorney general for special investigation, who may appear in person or by his or her deputy or assistant before any court or grand jury and exercise all of the powers and perform all of the duties with respect to such actions or proceedings which the district attorney would otherwise be authorized or required to exercise or perform. Where an investigation required under this section involves the state police, the attorney general shall appoint an independent special prosecutor to conduct such investigation. In all proceedings of the office under this section, all expenses incurred by the attorney general, including the salary or other compensation of all deputies employed, shall be charged as provided for under subdivision two of section sixty-three of this article.

§ 2. The executive law is amended by adding a new section 837-t to read as follows:

§ 837-t. Use of force reporting. The chief of every police department, each county sheriff, and the superintendent of state police shall

report, to the division in a form and manner as defined by the division, any incident where a police officer, as defined in subdivision thirty-four of section 1.20 of the criminal procedure law or a peace officer as defined in section 2.10 of the criminal procedure law, discharges a firearm in the direction of another person, or where his or her action results in the death or serious bodily injury of another person. Serious bodily injury is defined as bodily injury that involves a substantial risk of death, unconsciousness, protracted and obvious disfigurement, or protracted loss of impairment of the function of a bodily member, organ or mental faculty.

§ 3. Subdivision 4 of section 840 of the executive law is amended by adding a new paragraph (d) to read as follows:

(d) Establish a model law enforcement use of force policy suitable for adoption by any law enforcement agency throughout the state. The use of force policy shall include, but not be limited to, information on current law as it relates to use of force and acts or techniques a police officer or peace officer may not use in the course of acting in his or her official capacity. The chief of every local police department, each county sheriff, and the superintendent of state police shall implement a use of force policy. The use of force policy should be consistent with the model law enforcement policy as required by this section except that a department shall not be limited from imposing further restrictions on the use of force.

§ 4. This act shall take effect immediately.

§ 2. Severability clause. If any clause, sentence, paragraph, subdivision, section or 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 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.

§ 3. This act shall take effect immediately provided, however, that the applicable effective date of Parts A through RR of this act shall be as specifically set forth in the last section of such Parts.