

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:

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

12 PART A

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

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

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

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

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

5 (c) For state employees who retire from a position at or equated to
6 grade ten or higher with at least ten but less than twenty years of
7 service, the state shall pay thirty-five percent of the cost of premium
8 or subscription charges for the coverage of dependents of such retired
9 state employees; such contribution shall increase by two percent of the
10 cost of premium or subscription charges for each year of service in
11 excess of ten years, to a maximum of fifty-three percent of the cost of
12 premium or subscription charges for such dependents. For state employees
13 who retire from a position at or equated to grade ten or higher with
14 twenty or more years of service, the state shall pay fifty-nine percent
15 of the cost of premium or subscription charges for the coverage of
16 dependents of such retired state employees; such contribution shall
17 increase by one percent of the cost of premium or subscription charges
18 for each year of service in excess of twenty years, to a maximum of
19 sixty-nine percent of the cost of premium or subscription charges for
20 such dependents.

21 (d) For state employees who retire from a position at or equated to
22 grade nine or lower with at least ten but less than twenty years of
23 service, the state shall pay thirty-nine percent of the cost of premium
24 or subscription charges for the coverage of dependents of such retired
25 state employees; such contribution shall increase by two percent of the
26 cost of premium or subscription charges for each year of service in
27 excess of ten years, to a maximum of fifty-seven percent of the cost of
28 premium or subscription charges for such dependents. For state employees
29 who retire from a position at or equated to grade nine or lower with
30 twenty or more years of service, the state shall pay sixty-three percent
31 of the cost of premium or subscription charges for the coverage of
32 dependents of such retired state employees; such contribution shall
33 increase by one percent of the cost of premium or subscription charges
34 for each year of service in excess of twenty years, to a maximum of
35 seventy-three percent of the cost of premium or subscription charges for
36 such dependents.

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

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

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

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

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

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

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

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

7 PART B

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

11 § 167-a. Reimbursement for medicare premium charges. Upon exclusion
 12 from the coverage of the health benefit plan of supplementary medical
 13 insurance benefits for which an active or retired employee or a depend-
 14 ent covered by the health benefit plan is or would be eligible under the
 15 federal old-age, survivors and disability insurance program, an amount
 16 equal to the standard medicare premium charge for such supplementary
 17 medical insurance benefits for such active or retired employee and his
 18 or her dependents, if any, shall be paid monthly or at other intervals
 19 to such active or retired employee from the health insurance fund.
 20 Furthermore, effective January first, two thousand twenty there shall be
 21 no payment whatsoever for the income related monthly adjustment amount
 22 for amounts (premiums) incurred on or after January first, two thousand
 23 nineteen to any active or retired employee and his or her dependents, if
 24 any. Where appropriate, such standard medicare premium amount may be
 25 deducted from contributions payable by the employee or retired employee;
 26 or where appropriate in the case of a retired employee receiving a
 27 retirement allowance, such standard medicare premium amount may be
 28 included with payments of his or her retirement allowance. All state
 29 employer, employee, retired employee and dependent contributions to the
 30 health insurance fund, including contributions from public authorities,
 31 public benefit corporations or other quasi-public organizations of the
 32 state eligible for participation in the health benefit plan as author-
 33 ized by subdivision two of section one hundred sixty-three of this arti-
 34 cle, shall be adjusted as necessary to cover the cost of reimbursing
 35 federal old-age, survivors and disability insurance program premium
 36 charges under this section. This cost shall be included in the calcu-
 37 lation of premium or subscription charges for health coverage provided
 38 to employees and retired employees of the state, public authorities,
 39 public benefit corporations or other quasi-public organizations of the
 40 state; provided, however, the state, public authorities, public benefit
 41 corporations or other quasi-public organizations of the state shall
 42 remain obligated to pay no less than its share of such increased cost
 43 consistent with its share of premium or subscription charges provided
 44 for by this article. All other employer contributions to the health
 45 insurance fund shall be adjusted as necessary to provide for such
 46 payments.

47 § 2. This act shall take effect immediately and shall apply on January
 48 1, 2019 for the income related monthly adjustment amount for amounts,
 49 premiums, incurred on or after January 1, 2019.

50 PART C

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

4 § 167-a. Reimbursement for medicare premium charges. Upon exclusion
5 from the coverage of the health benefit plan of supplementary medical
6 insurance benefits for which an active or retired employee or a depend-
7 ent covered by the health benefit plan is or would be eligible under the
8 federal old-age, survivors and disability insurance program, an amount
9 equal to the standard medicare premium charge for such supplementary
10 medical insurance benefits for such active or retired employee and his
11 or her dependents, if any, shall be paid monthly or at other intervals
12 to such active or retired employee from the health insurance fund;
13 provided, however, such payment for the standard medicare premium charge
14 shall not exceed one hundred thirty-five dollars and fifty cents per
15 month. Where appropriate, such standard medicare premium amount may be
16 deducted from contributions payable by the employee or retired employee;
17 or where appropriate in the case of a retired employee receiving a
18 retirement allowance, such standard medicare premium amount may be
19 included with payments of his or her retirement allowance. All state
20 employer, employee, retired employee and dependent contributions to the
21 health insurance fund, including contributions from public authorities,
22 public benefit corporations or other quasi-public organizations of the
23 state eligible for participation in the health benefit plan as author-
24 ized by subdivision two of section one hundred sixty-three of this arti-
25 cle, shall be adjusted as necessary to cover the cost of reimbursing
26 federal old-age, survivors and disability insurance program premium
27 charges under this section. This cost shall be included in the calcu-
28 lation of premium or subscription charges for health coverage provided
29 to employees and retired employees of the state, public authorities,
30 public benefit corporations or other quasi-public organizations of the
31 state; provided, however, the state, public authorities, public benefit
32 corporations or other quasi-public organizations of the state shall
33 remain obligated to pay no less than its share of such increased cost
34 consistent with its share of premium or subscription charges provided
35 for by this article. All other employer contributions to the health
36 insurance fund shall be adjusted as necessary to provide for such
37 payments.

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

40 PART D

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

44 § 5004. Rate of interest. [~~Interest shall be at the rate of nine per~~
45 ~~centum per annum, except where otherwise provided by statute.~~] Notwith-
46 standing any other provision of law or regulation to the contrary,
47 including any law or regulation that limits the annual rate of interest
48 to be paid on a judgment or accrued claim, the annual rate of interest
49 to be paid on a judgment or accrued claim shall be calculated at the
50 one-year United States treasury bill rate. For the purposes of this
51 section, the "one-year United States treasury bill rate" means the week-
52 ly average one-year constant maturity treasury yield, as published by
53 the board of governors of the federal reserve system, for the calendar
54 week preceding the date of the entry of the judgment awarding damages.

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

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

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

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

19 PART E

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

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

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

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

6 § 3. This act shall take effect immediately.

7 PART F

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

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

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

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

18 § 3. This act shall take effect immediately.

19 PART G

20 Section 1. Section 13 of part A of chapter 97 of the laws of 2011,
 21 amending the general municipal law and the education law relating to
 22 establishing limits upon school district and local government tax
 23 levies, as amended by section 18 of part A of chapter 20 of the laws of
 24 2015, is amended to read as follows:

25 § 13. This act shall take effect immediately~~[, provided, however, that~~
 26 ~~sections two through eleven of this act shall take effect July 1, 2011~~
 27 ~~and shall first apply to school district budgets and the budget adoption~~
 28 ~~process for the 2012-13 school year, and shall continue to apply to~~
 29 ~~school district budgets and the budget adoption process for any school~~
 30 ~~year beginning in any calendar year during which this act is in effect,~~
 31 ~~provided further, that if section 26 of part A of chapter 58 of the laws~~
 32 ~~of 2011 shall not have taken effect on or before such date then section~~
 33 ~~ten of this act shall take effect on the same date and in the same~~
 34 ~~manner as such chapter of the laws of 2011, takes effect, provided~~
 35 ~~further, that section one of this act shall first apply to the levy of~~
 36 ~~taxes by local governments for the fiscal year that begins in 2012 and~~
 37 ~~shall continue to apply to the levy of taxes by local governments for~~
 38 ~~any fiscal year beginning in any calendar year during which this act is~~
 39 ~~in effect, provided, further, that this act shall remain in full force~~
 40 ~~and effect at a minimum until and including June 15, 2020 and shall~~
 41 ~~remain in effect thereafter only so long as the public emergency requir-~~
 42 ~~ing the regulation and control of residential rents and evictions and~~
 43 ~~all such laws providing for such regulation and control continue as~~
 44 ~~provided in subdivision 3 of section 1 of the local emergency rent~~
 45 ~~control act, sections 26-501, 26-502 and 26-520 of the administrative~~
 46 ~~code of the city of New York, section 17 of chapter 576 of the laws of~~
 47 ~~1974 and subdivision 2 of section 1 of chapter 274 of the laws of 1946~~
 48 ~~constituting the emergency housing rent control law, and section 10 of~~
 49 ~~chapter 555 of the laws of 1982, amending the general business law and~~
 50 ~~the administrative code of the city of New York relating to conversions~~
 51 ~~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.

1 § 4. The opening paragraph of section 15 of chapter 99 of the laws of
2 2014, amending the vehicle and traffic law, the general municipal law,
3 and the public officers law relating to owner liability for failure of
4 an operator to comply with traffic-control indications in the city of
5 New Rochelle, is amended to read as follows:

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

12 § 5. Section 17 of chapter 746 of the laws of 1988, amending the vehi-
13 cle and traffic law, the general municipal law, and the public officers
14 law relating to the civil liability of vehicle owners for traffic
15 control signal violations, as amended by chapter 134 of the laws of
16 2014, is amended to read as follows:

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

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

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

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

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

54 § 8. The opening paragraph of section 15 of chapter 222 of the laws of
55 2015, amending the vehicle and traffic law, the general municipal law,
56 and the public officers law relating to owner liability for failure of

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

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

9 § 9. The opening paragraph and paragraph (k) of section 24 of chapter
10 20 of the laws of 2009, amending the vehicle and traffic law, the gener-
11 al municipal law, and the public officers law relating to owner liabil-
12 ity for failure of operator to comply with traffic control indications,
13 as amended by chapter 128 of the laws of 2014, are amended to read as
14 follows:

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

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

20 § 10. This act shall take effect immediately.

21 PART I

22 Section 1. Subparagraph (viii) of paragraph a of subdivision 10 of
23 section 54 of the state finance law, as amended by section 1 of part 0
24 of chapter 56 of the laws of 2008, clause 2 as amended by section 1 of
25 part I of chapter 57 of the laws of 2011, is amended and a new subpara-
26 graph (v) is added to paragraph b to read as follows:

27 (viii) "Prior year aid" means[+

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

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

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

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

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

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

7 (C) "AIM Reliance" shall mean two thousand eighteen--two thousand
8 nineteen AIM funding calculated as a percentage of two thousand seven-
9 teen total expenditures, provided that, for a village which dissolved
10 during the state fiscal year that began April first, two thousand eigh-
11 teen, the village's two thousand eighteen--two thousand nineteen AIM
12 funding shall be added to the existing two thousand eighteen--two thou-
13 sand nineteen AIM funding of the town into which the village dissolved
14 for purposes of this calculation.

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

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

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

26 § 3. This act shall take effect immediately.

27 PART J

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

30 § 485-u. Class one reassessment exemption. 1. Applicability. A special
31 assessing unit that is not a city may, by local law, opt to provide a
32 class one reassessment exemption as provided in this section. Such
33 exemption shall apply in the same manner and to the same extent to coun-
34 ty, town, special district and school district taxes levied on the
35 assessment roll prepared by such special assessing unit.

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

40 3. Exemption calculation. (a) (i) The assessor shall calculate the
41 exemption as a percentage of the exemption base. The exemption base
42 shall be the amount by which the assessment of a property on the two
43 thousand twenty--two-thousand twenty-one assessment roll exceeds the
44 equalized assessment for the two thousand nineteen--two thousand twenty
45 tax year. The assessor shall determine the equalized assessment for the
46 two thousand nineteen--two thousand twenty tax year by multiplying the
47 property's effective full value for the two thousand nineteen--two thou-
48 sand twenty tax year by the class one level of assessment on the two
49 thousand twenty--two thousand twenty-one assessment roll. The assessor
50 shall determine a property's effective full value for the two thousand
51 nineteen--two thousand twenty tax year by dividing the assessment on the
52 two thousand nineteen--two thousand twenty assessment roll by the class
53 one level of assessment on the two thousand nineteen--two thousand twen-
54 ty assessment roll. Such exemption base shall not include assessment

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

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

17 (b) The exemption shall be eighty per centum of the exemption base in
18 the two thousand twenty--two thousand twenty-one tax year, sixty per
19 centum of the exemption base in the two thousand twenty-one--two thou-
20 sand twenty-two tax year, forty per centum of the exemption base in the
21 two thousand twenty-two--two thousand twenty-three tax year, twenty per
22 centum of the exemption base in the two thousand twenty-three--two thou-
23 sand twenty-four tax year and zero per centum of the exemption base in
24 the two thousand twenty-four--two thousand twenty-five tax year.

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

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

32 § 3. This act shall take effect immediately.

33 PART K

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

- 38 1. DOL-Child performer protection account (20401).
- 39 2. Proprietary vocational school supervision account (20452).
- 40 3. Local government records management account (20501).
- 41 4. Child health plus program account (20810).
- 42 5. EPIC premium account (20818).
- 43 6. Education - New (20901).
- 44 7. VLT - Sound basic education fund (20904).
- 45 8. Sewage treatment program management and administration fund
- 46 (21000).
- 47 9. Hazardous bulk storage account (21061).
- 48 10. Federal grants indirect cost recovery account (21065).
- 49 11. Low level radioactive waste account (21066).
- 50 12. Recreation account (21067).
- 51 13. Public safety recovery account (21077).
- 52 14. Environmental regulatory account (21081).
- 53 15. Natural resource account (21082).
- 54 16. Mined land reclamation program account (21084).

- 1 17. Great lakes restoration initiative account (21087).
- 2 18. Environmental protection and oil spill compensation fund (21200).
- 3 19. Public transportation systems account (21401).
- 4 20. Metropolitan mass transportation (21402).
- 5 21. Operating permit program account (21451).
- 6 22. Mobile source account (21452).
- 7 23. Statewide planning and research cooperative system account
- 8 (21902).
- 9 24. New York state thruway authority account (21905).
- 10 25. Mental hygiene program fund account (21907).
- 11 26. Mental hygiene patient income account (21909).
- 12 27. Financial control board account (21911).
- 13 28. Regulation of racing account (21912).
- 14 29. New York Metropolitan Transportation Council account (21913).
- 15 30. State university dormitory income reimbursable account (21937).
- 16 31. Criminal justice improvement account (21945).
- 17 32. Environmental laboratory reference fee account (21959).
- 18 33. Training, management and evaluation account (21961).
- 19 34. Clinical laboratory reference system assessment account (21962).
- 20 35. Indirect cost recovery account (21978).
- 21 36. High school equivalency program account (21979).
- 22 37. Multi-agency training account (21989).
- 23 38. Interstate reciprocity for post-secondary distance education
- 24 account (23800).
- 25 39. Bell jar collection account (22003).
- 26 40. Industry and utility service account (22004).
- 27 41. Real property disposition account (22006).
- 28 42. Parking account (22007).
- 29 43. Courts special grants (22008).
- 30 44. Asbestos safety training program account (22009).
- 31 45. Camp Smith billeting account (22017).
- 32 46. Batavia school for the blind account (22032).
- 33 47. Investment services account (22034).
- 34 48. Surplus property account (22036).
- 35 49. Financial oversight account (22039).
- 36 50. Regulation of Indian gaming account (22046).
- 37 51. Rome school for the deaf account (22053).
- 38 52. Seized assets account (22054).
- 39 53. Administrative adjudication account (22055).
- 40 54. Federal salary sharing account (22056).
- 41 55. New York City assessment account (22062).
- 42 56. Cultural education account (22063).
- 43 57. Local services account (22078).
- 44 58. DHCR mortgage servicing account (22085).
- 45 59. Housing indirect cost recovery account (22090).
- 46 60. DHCR-HCA application fee account (22100).
- 47 61. Low income housing monitoring account (22130).
- 48 62. Corporation administration account (22135).
- 49 63. Montrose veteran's home account (22144).
- 50 64. Deferred compensation administration account (22151).
- 51 65. Rent revenue other New York City account (22156).
- 52 66. Rent revenue account (22158).
- 53 67. Tax revenue arrearage account (22168).
- 54 68. State university general income offset account (22654).
- 55 69. Lake George park trust fund account (22751).
- 56 70. State police motor vehicle law enforcement account (22802).

- 1 71. Highway safety program account (23001).
- 2 72. DOH drinking water program account (23102).
- 3 73. NYCCC operating offset account (23151).
- 4 74. Commercial gaming revenue account (23701).
- 5 75. Commercial gaming regulation account (23702).
- 6 76. Highway use tax administration account (23801).
- 7 77. Fantasy sports administration account (24951).
- 8 78. Highway and bridge capital account (30051).
- 9 79. Aviation purpose account (30053).
- 10 80. State university residence hall rehabilitation fund (30100).
- 11 81. State parks infrastructure account (30351).
- 12 82. Clean water/clean air implementation fund (30500).
- 13 83. Hazardous waste remedial cleanup account (31506).
- 14 84. Youth facilities improvement account (31701).
- 15 85. Housing assistance fund (31800).
- 16 86. Housing program fund (31850).
- 17 87. Highway facility purpose account (31951).
- 18 88. Information technology capital financing account (32215).
- 19 89. New York racing account (32213).
- 20 90. Capital miscellaneous gifts account (32214).
- 21 91. New York environmental protection and spill remediation account
- 22 (32219).
- 23 92. Mental hygiene facilities capital improvement fund (32300).
- 24 93. Correctional facilities capital improvement fund (32350).
- 25 94. New York State Storm Recovery Capital Fund (33000).
- 26 95. OGS convention center account (50318).
- 27 96. Empire Plaza Gift Shop (50327).
- 28 97. Centralized services fund (55000).
- 29 98. Archives records management account (55052).
- 30 99. Federal single audit account (55053).
- 31 100. Civil service EHS occupational health program account (55056).
- 32 101. Banking services account (55057).
- 33 102. Cultural resources survey account (55058).
- 34 103. Neighborhood work project account (55059).
- 35 104. Automation & printing chargeback account (55060).
- 36 105. OFT NYT account (55061).
- 37 106. Data center account (55062).
- 38 107. Intrusion detection account (55066).
- 39 108. Domestic violence grant account (55067).
- 40 109. Centralized technology services account (55069).
- 41 110. Labor contact center account (55071).
- 42 111. Human services contact center account (55072).
- 43 112. Tax contact center account (55073).
- 44 113. Executive direction internal audit account (55251).
- 45 114. CIO Information technology centralized services account (55252).
- 46 115. Health insurance internal service account (55300).
- 47 116. Civil service employee benefits division administrative account
- 48 (55301).
- 49 117. Correctional industries revolving fund (55350).
- 50 118. Employees health insurance account (60201).
- 51 119. Medicaid management information system escrow fund (60900).
- 52 120. Department of law civil recoveries account (55074).
- 53 121. Utility environmental regulatory account (21064).
- 54 122. New York state secure choice administrative account (23806).
- 55 123. New York state medical indemnity fund account (_____).
- 56 124. New York state cannabis revenue fund (_____).

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

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

16 § 1-b. The state comptroller is hereby authorized and directed to loan
17 money in accordance with the provisions set forth in subdivision 5 of
18 section 4 of the state finance law to any fund within the special reven-
19 ue, capital projects, proprietary or fiduciary funds for the purpose of
20 payment of any fringe benefit or indirect cost liabilities or obli-
21 gations incurred.

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

27 Economic Development and Public Authorities:

- 28 1. \$175,000 from the miscellaneous special revenue fund, underground
29 facilities safety training account (22172), to the general fund.
- 30 2. An amount up to the unencumbered balance from the miscellaneous
31 special revenue fund, business and licensing services account (21977),
32 to the general fund.
- 33 3. \$14,810,000 from the miscellaneous special revenue fund, code
34 enforcement account (21904), to the general fund.
- 35 4. \$3,000,000 from the general fund to the miscellaneous special
36 revenue fund, tax revenue arrearage account (22168).

37 Education:

- 38 1. \$2,679,000,000 from the general fund to the state lottery fund,
39 education account (20901), as reimbursement for disbursements made from
40 such fund for supplemental aid to education pursuant to section 92-c of
41 the state finance law that are in excess of the amounts deposited in
42 such fund for such purposes pursuant to section 1612 of the tax law.
- 43 2. \$987,200,000 from the general fund to the state lottery fund, VLT
44 education account (20904), as reimbursement for disbursements made from
45 such fund for supplemental aid to education pursuant to section 92-c of
46 the state finance law that are in excess of the amounts deposited in
47 such fund for such purposes pursuant to section 1612 of the tax law.
- 48 3. \$154,400,000 from the general fund to the New York state commercial
49 gaming fund, commercial gaming revenue account (23701), as reimbursement
50 for disbursements made from such fund for supplemental aid to education
51 pursuant to section 97-nnnn of the state finance law that are in excess
52 of the amounts deposited in such fund for purposes pursuant to section
53 1352 of the racing, pari-mutuel wagering and breeding law.
- 54 4. \$18,000,000 from the interactive fantasy sports fund, fantasy
55 sports education account (24950), to the state lottery fund, education
56 account (20901), as reimbursement for disbursements made from such fund

- 1 for supplemental aid to education pursuant to section 92-c of the state
2 finance law.
- 3 5. \$36,211,000 from the charitable gifts trust fund, elementary and
4 secondary education account (24901), to the general fund, for payment of
5 general support for public schools pursuant to section 3609-a of the
6 education law.
- 7 6. Moneys from the state lottery fund (20900) up to an amount deposit-
8 ed in such fund pursuant to section 1612 of the tax law in excess of the
9 current year appropriation for supplemental aid to education pursuant to
10 section 92-c of the state finance law.
- 11 7. \$300,000 from the New York state local government records manage-
12 ment improvement fund, local government records management account
13 (20501), to the New York state archives partnership trust fund, archives
14 partnership trust maintenance account (20351).
- 15 8. \$900,000 from the general fund to the miscellaneous special revenue
16 fund, Batavia school for the blind account (22032).
- 17 9. \$900,000 from the general fund to the miscellaneous special revenue
18 fund, Rome school for the deaf account (22053).
- 19 10. \$343,400,000 from the state university dormitory income fund
20 (40350) to the miscellaneous special revenue fund, state university
21 dormitory income reimbursable account (21937).
- 22 11. \$8,318,000 from the general fund to the state university income
23 fund, state university income offset account (22654), for the state's
24 share of repayment of the STIP loan.
- 25 12. \$44,000,000 from the state university income fund, state universi-
26 ty hospitals income reimbursable account (22656) to the general fund for
27 hospital debt service for the period April 1, 2019 through March 31,
28 2020.
- 29 13. \$7,200,000 from the miscellaneous special revenue fund, office of
30 the professions account (22051), to the miscellaneous capital projects
31 fund, office of the professions electronic licensing account (32200).
- 32 14. \$24,000,000 from any of the state education department's special
33 revenue and internal service funds to the miscellaneous special revenue
34 fund, indirect cost recovery account (21978) or to the federal miscella-
35 neous operating grants fund, federal indirect cost recovery account.
- 36 15. \$6,600,000 from any of the state education department's special
37 revenue or internal service funds to the capital projects fund (30000).
- 38 Environmental Affairs:
- 39 1. \$16,000,000 from any of the department of environmental conserva-
40 tion's special revenue federal funds to the environmental conservation
41 special revenue fund, federal indirect recovery account (21065).
- 42 2. \$5,000,000 from any of the department of environmental conserva-
43 tion's special revenue federal funds to the conservation fund (21150) or
44 Marine Resources Account (21151) as necessary to avoid diversion of
45 conservation funds.
- 46 3. \$3,000,000 from any of the office of parks, recreation and historic
47 preservation capital projects federal funds and special revenue federal
48 funds to the miscellaneous special revenue fund, federal grant indirect
49 cost recovery account (22188).
- 50 4. \$1,000,000 from any of the office of parks, recreation and historic
51 preservation special revenue federal funds to the miscellaneous capital
52 projects fund, I love NY water account (32212).
- 53 5. \$28,000,000 from the general fund to the environmental protection
54 fund, environmental protection fund transfer account (30451).
- 55 6. \$1,800,000 from the general fund to the hazardous waste remedial
56 fund, hazardous waste oversight and assistance account (31505).

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

6 8. \$1,800,000 from the miscellaneous special revenue fund, public
7 service account (22011) to the miscellaneous special revenue fund, util-
8 ity environmental regulatory account (21064).

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

11 10. \$2,200,000 from the miscellaneous special revenue fund, public
12 service account (22011) to the general fund.

13 Family Assistance:

14 1. \$7,000,000 from any of the office of children and family services,
15 office of temporary and disability assistance, or department of health
16 special revenue federal funds and the general fund, in accordance with
17 agreements with social services districts, to the miscellaneous special
18 revenue fund, office of human resources development state match account
19 (21967).

20 2. \$4,000,000 from any of the office of children and family services
21 or office of temporary and disability assistance special revenue federal
22 funds to the miscellaneous special revenue fund, family preservation and
23 support services and family violence services account (22082).

24 3. \$18,670,000 from any of the office of children and family services,
25 office of temporary and disability assistance, or department of health
26 special revenue federal funds and any other miscellaneous revenues
27 generated from the operation of office of children and family services
28 programs to the general fund.

29 4. \$125,000,000 from any of the office of temporary and disability
30 assistance or department of health special revenue funds to the general
31 fund.

32 5. \$2,500,000 from any of the office of temporary and disability
33 assistance special revenue funds to the miscellaneous special revenue
34 fund, office of temporary and disability assistance program account
35 (21980).

36 6. \$24,000,000 from any of the office of children and family services,
37 office of temporary and disability assistance, department of labor, and
38 department of health special revenue federal funds to the office of
39 children and family services miscellaneous special revenue fund, multi-
40 agency training contract account (21989).

41 7. \$205,000,000 from the miscellaneous special revenue fund, youth
42 facility per diem account (22186), to the general fund.

43 8. \$621,850 from the general fund to the combined gifts, grants, and
44 bequests fund, WB Hoyt Memorial account (20128).

45 9. \$5,000,000 from the miscellaneous special revenue fund, state
46 central registry (22028), to the general fund.

47 General Government:

48 1. \$1,566,000 from the miscellaneous special revenue fund, examination
49 and miscellaneous revenue account (22065) to the general fund.

50 2. \$8,083,000 from the general fund to the health insurance revolving
51 fund (55300).

52 3. \$292,400,000 from the health insurance reserve receipts fund
53 (60550) to the general fund.

54 4. \$150,000 from the general fund to the not-for-profit revolving loan
55 fund (20650).

- 1 5. \$150,000 from the not-for-profit revolving loan fund (20650) to the
2 general fund.
- 3 6. \$3,000,000 from the miscellaneous special revenue fund, surplus
4 property account (22036), to the general fund.
- 5 7. \$19,000,000 from the miscellaneous special revenue fund, revenue
6 arrearage account (22024), to the general fund.
- 7 8. \$1,826,000 from the miscellaneous special revenue fund, revenue
8 arrearage account (22024), to the miscellaneous special revenue fund,
9 authority budget office account (22138).
- 10 9. \$1,000,000 from the miscellaneous special revenue fund, parking
11 services account (22007), to the general fund, for the purpose of reim-
12 bursing the costs of debt service related to state parking facilities.
- 13 10. \$9,632,000 from the general fund to the centralized services fund,
14 COPS account (55013).
- 15 11. \$13,854,000 from the general fund to the agencies internal service
16 fund, central technology services account (55069), for the purpose of
17 enterprise technology projects.
- 18 12. \$10,000,000 from the general fund to the agencies internal service
19 fund, state data center account (55062).
- 20 13. \$20,000,000 from the miscellaneous special revenue fund, workers'
21 compensation account (21995), to the miscellaneous capital projects
22 fund, workers' compensation board IT business process design fund,
23 (32218).
- 24 14. \$12,000,000 from the miscellaneous special revenue fund, parking
25 services account (22007), to the centralized services, building support
26 services account (55018).
- 27 15. \$30,000,000 from the general fund to the internal service fund,
28 business services center account (55022).
- 29 16. \$8,000,000 from the general fund to the internal service fund,
30 building support services account (55018).
- 31 17. \$1,500,000 from the combined expendable trust, special events
32 account (20120), to the general fund.
- 33 Health:
- 34 1. A transfer from the general fund to the combined gifts, grants and
35 bequests fund, breast cancer research and education account (20155), up
36 to an amount equal to the monies collected and deposited into that
37 account in the previous fiscal year.
- 38 2. A transfer from the general fund to the combined gifts, grants and
39 bequests fund, prostate cancer research, detection, and education
40 account (20183), up to an amount equal to the moneys collected and
41 deposited into that account in the previous fiscal year.
- 42 3. A transfer from the general fund to the combined gifts, grants and
43 bequests fund, Alzheimer's disease research and assistance account
44 (20143), up to an amount equal to the moneys collected and deposited
45 into that account in the previous fiscal year.
- 46 4. \$33,134,000 from the HCRA resources fund (20800) to the miscella-
47 neous special revenue fund, empire state stem cell trust fund account
48 (22161).
- 49 5. \$6,000,000 from the miscellaneous special revenue fund, certificate
50 of need account (21920), to the miscellaneous capital projects fund,
51 healthcare IT capital subfund (32216).
- 52 6. \$2,000,000 from the miscellaneous special revenue fund, vital
53 health records account (22103), to the miscellaneous capital projects
54 fund, healthcare IT capital subfund (32216).

- 1 7. \$2,000,000 from the miscellaneous special revenue fund, profes-
2 sional medical conduct account (22088), to the miscellaneous capital
3 projects fund, healthcare IT capital subfund (32216).
- 4 8. \$91,304,000 from the HCRA resources fund (20800) to the capital
5 projects fund (30000).
- 6 9. \$6,550,000 from the general fund to the medical marihuana trust
7 fund, health operation and oversight account (23755).
- 8 10. \$1,086,000 from the miscellaneous special revenue fund, certif-
9 icate of need account (21920), to the general fund.
- 10 11. \$59,000,000 from the charitable gifts trust fund, health charita-
11 ble account (24900), to the general fund, for payment of general support
12 for primary, preventive, and inpatient health care, dental and vision
13 care, hunger prevention and nutritional assistance, and other services
14 for New York state residents with the overall goal of ensuring that New
15 York state residents have access to quality health care and other
16 related services.
- 17 Labor:
- 18 1. \$500,000 from the miscellaneous special revenue fund, DOL fee and
19 penalty account (21923), to the child performer's protection fund, child
20 performer protection account (20401).
- 21 2. \$11,700,000 from the unemployment insurance interest and penalty
22 fund, unemployment insurance special interest and penalty account
23 (23601), to the general fund.
- 24 3. \$5,000,000 from the miscellaneous special revenue fund, workers'
25 compensation account (21995), to the training and education program
26 occupation safety and health fund, OSHA-training and education account
27 (21251) and occupational health inspection account (21252).
- 28 Mental Hygiene:
- 29 1. \$10,000,000 from the general fund, to the miscellaneous special
30 revenue fund, federal salary sharing account (22056).
- 31 2. \$3,800,000 from the general fund, to the agencies internal service
32 fund, civil service EHS occupational health program account (55056).
- 33 Public Protection:
- 34 1. \$1,350,000 from the miscellaneous special revenue fund, emergency
35 management account (21944), to the general fund.
- 36 2. \$2,087,000 from the general fund to the miscellaneous special
37 revenue fund, recruitment incentive account (22171).
- 38 3. \$20,773,000 from the general fund to the correctional industries
39 revolving fund, correctional industries internal service account
40 (55350).
- 41 4. \$60,000,000 from any of the division of homeland security and emer-
42 gency services special revenue federal funds to the general fund.
- 43 5. \$9,500,000 from the miscellaneous special revenue fund, criminal
44 justice improvement account (21945), to the general fund.
- 45 6. \$115,420,000 from the state police motor vehicle law enforcement
46 and motor vehicle theft and insurance fraud prevention fund, state
47 police motor vehicle enforcement account (22802), to the general fund
48 for state operation expenses of the division of state police.
- 49 7. \$119,500,000 from the general fund to the correctional facilities
50 capital improvement fund (32350).
- 51 8. \$5,000,000 from the general fund to the dedicated highway and
52 bridge trust fund (30050) for the purpose of work zone safety activities
53 provided by the division of state police for the department of transpor-
54 tation.

- 1 9. \$10,000,000 from the miscellaneous special revenue fund, statewide
2 public safety communications account (22123), to the capital projects
3 fund (30000).
- 4 10. \$29,080,000 from the miscellaneous special revenue fund, legal
5 services assistance account (22096), to the general fund.
- 6 11. \$1,000,000 from the general fund to the agencies internal service
7 fund, neighborhood work project account (55059).
- 8 12. \$7,980,000 from the miscellaneous special revenue fund, finger-
9 print identification & technology account (21950), to the general fund.
- 10 13. \$1,400,000 from the state police motor vehicle law enforcement and
11 motor vehicle theft and insurance fraud prevention fund, motor vehicle
12 theft and insurance fraud account (22801), to the general fund.
- 13 14. \$150,000 from the medical marihuana trust fund, law enforcement
14 account (23753), to the general fund.
- 15 15. \$25,000,000 from the miscellaneous special revenue fund, statewide
16 public safety communications account (22123), to the general fund.
- 17 16. A transfer of the unencumbered balance from the miscellaneous
18 special revenue fund, airport security account (22199), to the miscella-
19 neous special revenue fund, securing the cities account.
- 20 Transportation:
- 21 1. \$17,672,000 from the federal miscellaneous operating grants fund to
22 the miscellaneous special revenue fund, New York Metropolitan Transpor-
23 tation Council account (21913).
- 24 2. \$20,147,000 from the federal capital projects fund to the miscella-
25 neous special revenue fund, New York Metropolitan Transportation Council
26 account (21913).
- 27 3. \$15,181,992 from the general fund to the mass transportation oper-
28 ating assistance fund, public transportation systems operating assist-
29 ance account (21401), of which \$12,000,000 constitutes the base need for
30 operations.
- 31 4. \$727,500,000 from the general fund to the dedicated highway and
32 bridge trust fund (30050).
- 33 5. \$244,250,000 from the general fund to the MTA financial assistance
34 fund, mobility tax trust account (23651).
- 35 6. \$5,000,000 from the miscellaneous special revenue fund, transporta-
36 tion regulation account (22067) to the dedicated highway and bridge
37 trust fund (30050), for disbursements made from such fund for motor
38 carrier safety that are in excess of the amounts deposited in the dedi-
39 cated highway and bridge trust fund (30050) for such purpose pursuant to
40 section 94 of the transportation law.
- 41 7. \$3,000,000 from the miscellaneous special revenue fund, traffic
42 adjudication account (22055), to the general fund.
- 43 8. \$17,421,000 from the mass transportation operating assistance fund,
44 metropolitan mass transportation operating assistance account (21402),
45 to the capital projects fund (30000).
- 46 9. \$5,000,000 from the miscellaneous special revenue fund, transporta-
47 tion regulation account (22067) to the general fund, for disbursements
48 made from such fund for motor carrier safety that are in excess of the
49 amounts deposited in the general fund for such purpose pursuant to
50 section 94 of the transportation law.
- 51 Miscellaneous:
- 52 1. \$250,000,000 from the general fund to any funds or accounts for the
53 purpose of reimbursing certain outstanding accounts receivable balances.
- 54 2. \$500,000,000 from the general fund to the debt reduction reserve
55 fund (40000).

1 3. \$450,000,000 from the New York state storm recovery capital fund
2 (33000) to the revenue bond tax fund (40152).

3 4. \$18,550,000 from the general fund, community projects account GG
4 (10256), to the general fund, state purposes account (10050).

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

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

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

16 2. Upon request of the commissioner of agriculture and markets, up to
17 \$3,000,000 from any special revenue fund or enterprise fund within the
18 department of agriculture and markets to the general fund, to pay appro-
19 priate administrative expenses.

20 3. Upon request of the commissioner of agriculture and markets, up to
21 \$2,000,000 from the state exposition special fund, state fair receipts
22 account (50051) to the miscellaneous capital projects fund, state fair
23 capital improvement account (32208).

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

29 5. Upon request of the commissioner of the division of housing and
30 community renewal, up to \$5,500,000 may be transferred from any miscel-
31 laneous special revenue fund account, to any miscellaneous special
32 revenue fund.

33 6. Upon request of the commissioner of health up to \$8,500,000 from
34 revenues credited to any of the department of health's special revenue
35 funds, to the miscellaneous special revenue fund, administration account
36 (21982).

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

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

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

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

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

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

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

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

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

40 § 12. Notwithstanding any law to the contrary, and in accordance with
41 section 4 of the state finance law, the comptroller is hereby authorized
42 and directed to transfer, upon request of the state university chancel-
43 lor or his or her designee, up to \$55,000,000 from the state university
44 income fund, state university hospitals income reimbursable account
45 (22656), for services and expenses of hospital operations and capital
46 expenditures at the state university hospitals; and the state university
47 income fund, Long Island veterans' home account (22652) to the state
48 university capital projects fund (32400) on or before June 30, 2020.

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

1 the event insufficient funds are available in the state university
2 income fund, state university hospitals income reimbursable account
3 (22656) to permit the full transfer of moneys authorized for transfer,
4 to the general fund for payment of debt service related to the SUNY
5 hospitals. Notwithstanding any law to the contrary, the comptroller is
6 also hereby authorized and directed, after consultation with the state
7 university chancellor or his or her designee, to transfer moneys from
8 the state university income fund to the state university income fund,
9 state university hospitals income reimbursable account (22656) in the
10 event insufficient funds are available in the state university income
11 fund, state university hospitals income reimbursable account (22656) to
12 pay hospital operating costs or to permit the full transfer of moneys
13 authorized for transfer, to the general fund for payment of debt service
14 related to the SUNY hospitals on or before March 31, 2020.

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

24 § 15. Notwithstanding any law to the contrary, and in accordance with
25 section 4 of the state finance law, the comptroller is hereby authorized
26 and directed to transfer monies, upon request of the director of the
27 budget, on or before March 31, 2020, from and to any of the following
28 accounts: the miscellaneous special revenue fund, patient income account
29 (21909), the miscellaneous special revenue fund, mental hygiene program
30 fund account (21907), the miscellaneous special revenue fund, federal
31 salary sharing account (22056), or the general fund in any combination,
32 the aggregate of which shall not exceed \$350 million.

33 § 16. Notwithstanding any law to the contrary, and in accordance with
34 section 4 of the state finance law, the comptroller is hereby authorized
35 and directed to transfer, at the request of the director of the budget,
36 up to \$650 million from the unencumbered balance of any special revenue
37 fund or account, agency fund or account, internal service fund or
38 account, enterprise fund or account, or any combination of such funds
39 and accounts, to the general fund. The amounts transferred pursuant to
40 this authorization shall be in addition to any other transfers expressly
41 authorized in the 2019-20 budget. Transfers from federal funds, debt
42 service funds, capital projects funds, the community projects fund, or
43 funds that would result in the loss of eligibility for federal benefits
44 or federal funds pursuant to federal law, rule, or regulation as assent-
45 ed to in chapter 683 of the laws of 1938 and chapter 700 of the laws of
46 1951 are not permitted pursuant to this authorization.

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

1 account (22207) pursuant to this authorization shall be equal to or less
2 than the amount of such monies intended to support information technolo-
3 gy costs which are attributable, according to a plan, to such account
4 made in pursuance to an appropriation by law. Transfers to the technolo-
5 gy financing account shall be completed from amounts collected by non-
6 general funds or accounts pursuant to a fund deposit schedule or perma-
7 nent statute, and shall be transferred to the technology financing
8 account pursuant to a schedule agreed upon by the affected agency
9 commissioner. Transfers from funds that would result in the loss of
10 eligibility for federal benefits or federal funds pursuant to federal
11 law, rule, or regulation as assented to in chapter 683 of the laws of
12 1938 and chapter 700 of the laws of 1951 are not permitted pursuant to
13 this authorization.

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

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

36 § 20. Notwithstanding any provision of law, rule or regulation to the
37 contrary, the New York state energy research and development authority
38 is authorized and directed to make the following contributions to the
39 state treasury to the credit of the general fund on or before March 31,
40 2020: (a) \$913,000; and (b) \$23,000,000 from proceeds collected by the
41 authority from the auction or sale of carbon dioxide emission allowances
42 allocated by the department of environmental conservation.

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

46 5. Notwithstanding the provisions of section one hundred seventy-one-a
47 of the tax law, as separately amended by chapters four hundred eighty-
48 one and four hundred eighty-four of the laws of nineteen hundred eight-
49 y-one, and notwithstanding the provisions of chapter ninety-four of the
50 laws of two thousand eleven, or any other provisions of law to the
51 contrary, during the fiscal year beginning April first, two thousand
52 [~~eighteen~~ nineteen], the state comptroller is hereby authorized and
53 directed to deposit to the fund created pursuant to this section from
54 amounts collected pursuant to article twenty-two of the tax law and
55 pursuant to a schedule submitted by the director of the budget, up to
56 [~~\$2,458,909,000~~ \$2,185,995,000], as may be certified in such schedule as

1 necessary to meet the purposes of such fund for the fiscal year begin-
2 ning April first, two thousand [~~eighteen~~] nineteen.

3 § 22. Notwithstanding any law to the contrary, the comptroller is
4 hereby authorized and directed to transfer, upon request of the director
5 of the budget, on or before March 31, 2020, the following amounts from
6 the following special revenue accounts to the capital projects fund
7 (30000), for the purposes of reimbursement to such fund for expenses
8 related to the maintenance and preservation of state assets:

9 1. \$43,000 from the miscellaneous special revenue fund, administrative
10 program account (21982).

11 2. \$1,478,000 from the miscellaneous special revenue fund, helen hayes
12 hospital account (22140).

13 3. \$366,000 from the miscellaneous special revenue fund, New York city
14 veterans' home account (22141).

15 4. \$513,000 from the miscellaneous special revenue fund, New York
16 state home for veterans' and their dependents at oxford account (22142).

17 5. \$159,000 from the miscellaneous special revenue fund, western New
18 York veterans' home account (22143).

19 6. \$323,000 from the miscellaneous special revenue fund, New York
20 state for veterans in the lower-hudson valley account (22144).

21 7. \$2,550,000 from the miscellaneous special revenue fund, patron
22 services account (22163).

23 8. \$830,000 from the miscellaneous special revenue fund, long island
24 veterans' home account (22652).

25 9. \$5,379,000 from the miscellaneous special revenue fund, state
26 university general income reimbursable account (22653).

27 10. \$112,556,000 from the miscellaneous special revenue fund, state
28 university revenue offset account (22655).

29 11. \$557,000 from the miscellaneous special revenue fund, state
30 university of New York tuition reimbursement account (22659).

31 12. \$41,930,000 from the state university dormitory income fund, state
32 university dormitory income fund (40350).

33 13. \$1,000,000 from the miscellaneous special revenue fund, litigation
34 settlement and civil recovery account (22117).

35 § 22-a. Subdivision 4 of section 97-rrr of the state finance law, as
36 added by section 22-b of part XXX of chapter 59 of the laws of 2017, is
37 amended to read as follows:

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

41 § 23. Notwithstanding any provision of law to the contrary, in the
42 event that federal legislation, federal regulatory actions, federal
43 executive actions or federal judicial actions in federal fiscal year
44 2020 reduce federal financial participation in Medicaid funding to New
45 York state or its subdivisions by \$850 million or more in state fiscal
46 years 2019-20 or 2020-21, the director of the division of the budget
47 shall notify the temporary president of the senate and the speaker of
48 the assembly in writing that the federal actions will reduce expected
49 funding to New York state. The director of the division of the budget
50 shall prepare a plan that shall be submitted to the legislature, which
51 shall (a) specify the total amount of the reduction in federal financial
52 participation in Medicaid, (b) itemize the specific programs and activ-
53 ities that will be affected by the reduction in federal financial
54 participation in Medicaid, and (c) identify the general fund and state
55 special revenue fund appropriations and related disbursements that shall
56 be reduced, and in what program areas, provided, however, that such

1 reductions to appropriations and disbursements shall be applied equally
2 and proportionally to the programs affected by the reduction in federal
3 financial participation in Medicaid. Upon such submission, the legisla-
4 ture shall have 90 days after such submission to either prepare its own
5 plan, which may be adopted by concurrent resolution passed by both hous-
6 es, or if after 90 days the legislature fails to adopt their own plan,
7 the reductions to the general fund and state special revenue fund appro-
8 priations and related disbursements identified in the division of the
9 budget plan will go into effect automatically.

10 § 24. Notwithstanding any provision of law to the contrary, in the
11 event that federal legislation, federal regulatory actions, federal
12 executive actions or federal judicial actions in federal fiscal year
13 2020 reduce federal financial participation or other federal aid in
14 funding to New York state that affects the state operating funds finan-
15 cial plan by \$850 million or more in state fiscal years 2019-20 or
16 2020-21, exclusive of any cuts to Medicaid, the director of the division
17 of the budget shall notify the temporary president of the senate and the
18 speaker of the assembly in writing that the federal actions will reduce
19 expected funding to New York state. The director of the division of the
20 budget shall prepare a plan that shall be submitted to the legislature,
21 which shall (a) specify the total amount of the reduction in federal
22 aid, (b) itemize the specific programs and activities that will be
23 affected by the federal reductions, exclusive of Medicaid, and (c) iden-
24 tify the general fund and state special revenue fund appropriations and
25 related disbursements that shall be reduced, and in what program areas,
26 provided, however, that such reductions to appropriations and disburse-
27 ments shall be applied equally and proportionally. Upon such submission,
28 the legislature shall have 90 days after such submission to either
29 prepare its own plan, which may be adopted by concurrent resolution
30 passed by both houses, or if after 90 days the legislature fails to
31 adopt their own plan, the reductions to the general fund and state
32 special revenue fund appropriations and related disbursements identified
33 in the division of the budget plan will go into effect automatically.

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

36 § 28. Reductions to enacted appropriations. 1. Notwithstanding any
37 other provision of law to the contrary, to maintain a balanced budget in
38 the event that the annual estimate for tax receipts for fiscal year
39 2019-20 is reduced by five hundred million dollars or more compared to
40 the estimate in the fiscal year 2019-20 Executive Budget Financial Plan,
41 the appropriations and related cash disbursements for all general fund
42 and state special revenue fund aid to localities appropriations shall be
43 uniformly reduced by the percentage set forth in a written allocation
44 plan prepared by the director of the budget, provided, however, that the
45 uniform percentage reduction shall not exceed three percent. The follow-
46 ing types of appropriations shall be exempt from uniform reduction: (a)
47 public assistance payments for families and individuals and payments for
48 eligible aged, blind and disabled persons related to supplemental social
49 security; (b) any reductions that would violate federal law; (c)
50 payments of debt service and related expenses for which the state is
51 constitutionally obligated to pay debt service or is contractually obli-
52 gated to pay debt service, subject to an appropriation, including where
53 the state has a contingent contractual obligation; (d) payments the
54 state is obligated to make pursuant to court orders or judgments; (e)
55 payments for CUNY senior colleges; (f) school aid; (g) Medicaid; and (h)
56 payments from the community projects fund.

1 2. Reductions under this section shall commence within ten days
2 following the publication of a financial plan required under sections
3 twenty-two or twenty-three of this article stating that the annual esti-
4 mate for tax receipts for fiscal year 2019-20 is reduced by five hundred
5 million dollars or more compared to the estimate in the fiscal year
6 2019-20 Executive Budget Financial Plan. Such reductions shall be
7 uniformly reduced in accordance with a written allocation plan prepared
8 by the director of the budget, which shall be filed with the state comp-
9 troller, the chairman of the senate finance committee and the chairman
10 of the assembly ways and means committee. Such written allocation plan
11 shall include a summary of the methodology for calculating the percent-
12 age reductions to the payments from non-exempt appropriations and cash
13 disbursements and the reasons for any exemptions, and a detailed sched-
14 ule of the reductions and exemptions. The director of the budget shall
15 prepare appropriately reduced certificates, which shall be filed with
16 the state comptroller, the chair of the senate finance committee and the
17 chair of the assembly ways and means committee.

18 3. On March thirty-first, two thousand twenty, the director of the
19 budget shall calculate the difference, if any, between the annual esti-
20 mate in tax receipts contained in the fiscal year 2020 Executive Budget
21 Financial Plan and actual tax collections for fiscal year 2019-20. If
22 actual tax receipts for fiscal year 2019-20 were not less than five
23 hundred million dollars below the annual estimate in tax receipts
24 contained in the Executive Budget Financial Plan for fiscal year 2019-
25 20, then the amounts withheld under this section shall be payable as
26 soon as practicable thereafter in the fiscal year 2021-22.

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

35 § 26. Notwithstanding any other law, rule, or regulation to the
36 contrary, the state comptroller is hereby authorized and directed to use
37 any balance remaining in the mental health services fund debt service
38 appropriation, after payment by the state comptroller of all obligations
39 required pursuant to any lease, sublease, or other financing arrangement
40 between the dormitory authority of the state of New York as successor to
41 the New York state medical care facilities finance agency, and the
42 facilities development corporation pursuant to chapter 83 of the laws of
43 1995 and the department of mental hygiene for the purpose of making
44 payments to the dormitory authority of the state of New York for the
45 amount of the earnings for the investment of monies deposited in the
46 mental health services fund that such agency determines will or may have
47 to be rebated to the federal government pursuant to the provisions of
48 the internal revenue code of 1986, as amended, in order to enable such
49 agency to maintain the exemption from federal income taxation on the
50 interest paid to the holders of such agency's mental services facilities
51 improvement revenue bonds. Annually on or before each June 30th, such
52 agency shall certify to the state comptroller its determination of the
53 amounts received in the mental health services fund as a result of the
54 investment of monies deposited therein that will or may have to be
55 rebated to the federal government pursuant to the provisions of the
56 internal revenue code of 1986, as amended.

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

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

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

31 1. Subject to the provisions of chapter 59 of the laws of 2000, but
32 notwithstanding the provisions of section 18 of section 1 of chapter 174
33 of the laws of 1968, the New York state urban development corporation is
34 hereby authorized to issue bonds, notes and other obligations in an
35 aggregate principal amount not to exceed [~~eight billion eighty-two~~
36 ~~million eight hundred ninety-nine thousand~~] eight billion four hundred
37 ninety-four million nine hundred seventy-nine thousand dollars
38 [~~\$8,082,899,000~~] \$8,494,979,000, and shall include all bonds, notes and
39 other obligations issued pursuant to chapter 56 of the laws of 1983, as
40 amended or supplemented. The proceeds of such bonds, notes or other
41 obligations shall be paid to the state, for deposit in the correctional
42 facilities capital improvement fund to pay for all or any portion of the
43 amount or amounts paid by the state from appropriations or reappropri-
44 ations made to the department of corrections and community supervision
45 from the correctional facilities capital improvement fund for capital
46 projects. The aggregate amount of bonds, notes or other obligations
47 authorized to be issued pursuant to this section shall exclude bonds,
48 notes or other obligations issued to refund or otherwise repay bonds,
49 notes or other obligations theretofore issued, the proceeds of which
50 were paid to the state for all or a portion of the amounts expended by
51 the state from appropriations or reappropriations made to the department
52 of corrections and community supervision; provided, however, that upon
53 any such refunding or repayment the total aggregate principal amount of
54 outstanding bonds, notes or other obligations may be greater than [~~eight~~
55 ~~billion eighty-two million eight hundred ninety-nine thousand~~] eight
56 billion four hundred ninety-four million nine hundred seventy-nine thou-

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

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

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

48 § 30. Subdivision (b) of section 11 of chapter 329 of the laws of
49 1991, amending the state finance law and other laws relating to the
50 establishment of the dedicated highway and bridge trust fund, as amended
51 by section 34 of part BBB of chapter 59 of the laws of 2018, is amended
52 to read as follows:

53 (b) Any service contract or contracts for projects authorized pursuant
54 to sections 10-c, 10-f, 10-g and 80-b of the highway law and section
55 14-k of the transportation law, and entered into pursuant to subdivision
56 (a) of this section, shall provide for state commitments to provide

1 annually to the thruway authority a sum or sums, upon such terms and
2 conditions as shall be deemed appropriate by the director of the budget,
3 to fund, or fund the debt service requirements of any bonds or any obli-
4 gations of the thruway authority issued to fund or to reimburse the
5 state for funding such projects having a cost not in excess of
6 [~~\$10,251,939,000~~] ten billion seven hundred thirty-nine million four
7 hundred seventy-eight thousand dollars \$10,739,478,000 cumulatively by
8 the end of fiscal year [~~2018-19~~] 2019-20.

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

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

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

23 (a) Subject to the provisions of chapter 59 of the laws of 2000, but
24 notwithstanding any provisions of law to the contrary, the urban devel-
25 opment corporation is hereby authorized to issue bonds or notes in one
26 or more series in an aggregate principal amount not to exceed
27 [~~\$220,100,000 two hundred twenty million one hundred thousand~~] two
28 hundred seventy-one million six hundred thousand dollars \$271,600,000,
29 excluding bonds issued to finance one or more debt service reserve
30 funds, to pay costs of issuance of such bonds, and bonds or notes issued
31 to refund or otherwise repay such bonds or notes previously issued, for
32 the purpose of financing capital projects including IT initiatives for
33 the division of state police, debt service and leases; and to reimburse
34 the state general fund for disbursements made therefor. Such bonds and
35 notes of such authorized issuer shall not be a debt of the state, and
36 the state shall not be liable thereon, nor shall they be payable out of
37 any funds other than those appropriated by the state to such authorized
38 issuer for debt service and related expenses pursuant to any service
39 contract executed pursuant to subdivision (b) of this section and such
40 bonds and notes shall contain on the face thereof a statement to such
41 effect. Except for purposes of complying with the internal revenue code,
42 any interest income earned on bond proceeds shall only be used to pay
43 debt service on such bonds.

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

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

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

37 2. Notwithstanding any other provision of law to the contrary, in
38 order to assist the dormitory authority and the corporation in undertak-
39 ing the financing for project costs for the regional economic develop-
40 ment council initiative, the economic transformation program, state
41 university of New York college for nanoscale and science engineering,
42 projects within the city of Buffalo or surrounding environs, the New
43 York works economic development fund, projects for the retention of
44 professional football in western New York, the empire state economic
45 development fund, the clarkson-trudeau partnership, the New York genome
46 center, the cornell university college of veterinary medicine, the olym-
47 pic regional development authority, projects at nano Utica, onondaga
48 county revitalization projects, Binghamton university school of pharma-
49 cy, New York power electronics manufacturing consortium, regional
50 infrastructure projects, New York State Capital Assistance Program for
51 Transportation, infrastructure, and economic development, high tech
52 innovation and economic development infrastructure program, high tech-
53 nology manufacturing projects in Chautauqua and Erie county, an indus-
54 trial scale research and development facility in Clinton county, upstate
55 revitalization initiative projects, downstate revitalization initiative,
56 market New York projects, fairground buildings, equipment or facilities

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

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

33 (a) Subject to the provisions of chapter 59 of the laws of 2000, but
34 notwithstanding any other provision of law to the contrary, the New York
35 State urban development corporation and the dormitory authority of the
36 state of New York are hereby authorized to issue bonds or notes in one
37 or more series in an aggregate principal amount not to exceed
38 ~~[\$293,325,000]~~ two hundred forty-three million three hundred twenty-five
39 thousand dollars \$243,325,000, excluding bonds issued to finance one or
40 more debt service reserve funds, to pay costs of issuance of such bonds,
41 and bonds or notes issued to refund or otherwise repay such bonds or
42 notes previously issued, for the purpose of financing projects cost of
43 the Empire Opportunity Fund; Rebuilding the Empire State Through Oppor-
44 tunities in Regional Economies (RESTORE) New York Program; and the
45 Community Capital Assistance Program authorized pursuant to Part T of
46 chapter 84 of the laws of 2002. Such bonds and notes of the corporation
47 or the dormitory authority shall not be a debt of the state, and the
48 state shall not be liable thereon, nor shall they be payable out of any
49 funds other than those appropriated by the state to the corporation or
50 the dormitory authority for debt service and related expenses pursuant
51 to any service contract executed pursuant to subdivision (b) of this
52 section and such bonds and notes shall contain on the face thereof a
53 statement to such effect. Except for purposes of complying with the
54 internal revenue code, any interest income earned on bond proceeds shall
55 only be used to pay debt service on such bonds. All of the provisions of
56 the New York state urban development corporation act and the dormitory

1 authority act relating to bonds and notes which are not inconsistent
 2 with the provisions of this section shall apply to obligations author-
 3 ized by this section, including but not limited to the power to estab-
 4 lish adequate reserves therefor and to issue renewal notes or refunding
 5 bonds thereof. The issuance of any bonds or notes hereunder shall
 6 further be subject to the approval of the director of the division of
 7 the budget.

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

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

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

30 (a) Subject to the provisions of chapter 59 of the laws of 2000 but
 31 notwithstanding the provisions of section 18 of the urban development
 32 corporation act, the corporation is hereby authorized to issue bonds or
 33 notes in one or more series in an aggregate principal amount not to
 34 exceed [~~\$253,000,000 two hundred fifty three million~~] two hundred eight-
 35 y-six million dollars \$286,000,000, excluding bonds issued to fund one
 36 or more debt service reserve funds, to pay costs of issuance of such
 37 bonds, and bonds or notes issued to refund or otherwise repay such bonds
 38 or notes previously issued, for the purpose of financing capital costs
 39 related to homeland security and training facilities for the division of
 40 state police, the division of military and naval affairs, and any other
 41 state agency, including the reimbursement of any disbursements made from
 42 the state capital projects fund, and is hereby authorized to issue bonds
 43 or notes in one or more series in an aggregate principal amount not to
 44 exceed [~~\$748,800,000 seven hundred forty eight million eight hundred~~
 45 ~~thousand~~] \$952,800,000 nine hundred fifty-two million eight hundred
 46 thousand dollars, excluding bonds issued to fund one or more debt
 47 service reserve funds, to pay costs of issuance of such bonds, and bonds
 48 or notes issued to refund or otherwise repay such bonds or notes previ-
 49 ously issued, for the purpose of financing improvements to State office
 50 buildings and other facilities located statewide, including the
 51 reimbursement of any disbursements made from the state capital projects
 52 fund. Such bonds and notes of the corporation shall not be a debt of the
 53 state, and the state shall not be liable thereon, nor shall they be
 54 payable out of any funds other than those appropriated by the state to
 55 the corporation for debt service and related expenses pursuant to any
 56 service contracts executed pursuant to subdivision (b) of this section,

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

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

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

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

33 (c) Subject to the provisions of chapter fifty-nine of the laws of two
34 thousand, the dormitory authority shall not issue any bonds for state
35 university educational facilities purposes if the principal amount of
36 bonds to be issued when added to the aggregate principal amount of bonds
37 issued by the dormitory authority on and after July first, nineteen
38 hundred eighty-eight for state university educational facilities will
39 exceed [~~thirteen billion one hundred seventy-eight million eight hundred~~
40 ~~sixty-four thousand dollars \$13,178,864,000~~] thirteen billion eight
41 hundred forty-one million eight hundred sixty-four thousand dollars
42 \$13,841,864,000; provided, however, that bonds issued or to be issued
43 shall be excluded from such limitation if: (1) such bonds are issued to
44 refund state university construction bonds and state university
45 construction notes previously issued by the housing finance agency; or
46 (2) such bonds are issued to refund bonds of the authority or other
47 obligations issued for state university educational facilities purposes
48 and the present value of the aggregate debt service on the refunding
49 bonds does not exceed the present value of the aggregate debt service on
50 the bonds refunded thereby; provided, further that upon certification by
51 the director of the budget that the issuance of refunding bonds or other
52 obligations issued between April first, nineteen hundred ninety-two and
53 March thirty-first, nineteen hundred ninety-three will generate long
54 term economic benefits to the state, as assessed on a present value
55 basis, such issuance will be deemed to have met the present value test
56 noted above. For purposes of this subdivision, the present value of the

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

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

25 (c) Subject to the provisions of chapter fifty-nine of the laws of two
26 thousand, (i) the dormitory authority shall not deliver a series of
27 bonds for city university community college facilities, except to refund
28 or to be substituted for or in lieu of other bonds in relation to city
29 university community college facilities pursuant to a resolution of the
30 dormitory authority adopted before July first, nineteen hundred eighty-
31 five or any resolution supplemental thereto, if the principal amount of
32 bonds so to be issued when added to all principal amounts of bonds
33 previously issued by the dormitory authority for city university commu-
34 nity college facilities, except to refund or to be substituted in lieu
35 of other bonds in relation to city university community college facili-
36 ties will exceed the sum of four hundred twenty-five million dollars and
37 (ii) the dormitory authority shall not deliver a series of bonds issued
38 for city university facilities, including community college facilities,
39 pursuant to a resolution of the dormitory authority adopted on or after
40 July first, nineteen hundred eighty-five, except to refund or to be
41 substituted for or in lieu of other bonds in relation to city university
42 facilities and except for bonds issued pursuant to a resolution supple-
43 mental to a resolution of the dormitory authority adopted prior to July
44 first, nineteen hundred eighty-five, if the principal amount of bonds so
45 to be issued when added to the principal amount of bonds previously
46 issued pursuant to any such resolution, except bonds issued to refund or
47 to be substituted for or in lieu of other bonds in relation to city
48 university facilities, will exceed [~~eight billion three hundred fourteen~~
49 ~~million six hundred ninety-one thousand dollars \$8,314,691,000~~] eight
50 billion six hundred seventy-four million two hundred fifty-six thousand
51 dollars \$8,674,256,000. The legislature reserves the right to amend or
52 repeal such limit, and the state of New York, the dormitory authority,
53 the city university, and the fund are prohibited from covenanting or
54 making any other agreements with or for the benefit of bondholders which
55 might in any way affect such right.

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

4 10-a. Subject to the provisions of chapter fifty-nine of the laws of
5 two thousand, but notwithstanding any other provision of the law to the
6 contrary, the maximum amount of bonds and notes to be issued after March
7 thirty-first, two thousand two, on behalf of the state, in relation to
8 any locally sponsored community college, shall be [~~nine hundred sixty~~
9 ~~eight million five hundred forty two thousand dollars \$968,542,000~~] one
10 billion five million six hundred two thousand dollars \$1,005,602,000.

11 Such amount shall be exclusive of bonds and notes issued to fund any
12 reserve fund or funds, costs of issuance and to refund any outstanding
13 bonds and notes, issued on behalf of the state, relating to a locally
14 sponsored community college.

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

20 1. Subject to the provisions of chapter 59 of the laws of 2000, but
21 notwithstanding the provisions of section 18 of section 1 of chapter 174
22 of the laws of 1968, the New York state urban development corporation is
23 hereby authorized to issue bonds, notes and other obligations in an
24 aggregate principal amount not to exceed [~~seven~~ eight hundred [~~sixty~~
25 ~~nine~~] four million six hundred fifteen thousand dollars [~~(\$769,615,000)~~
26 \$804,615,000, which authorization increases the aggregate principal
27 amount of bonds, notes and other obligations authorized by section 40 of
28 chapter 309 of the laws of 1996, and shall include all bonds, notes and
29 other obligations issued pursuant to chapter 211 of the laws of 1990, as
30 amended or supplemented. The proceeds of such bonds, notes or other
31 obligations shall be paid to the state, for deposit in the youth facili-
32 ties improvement fund, to pay for all or any portion of the amount or
33 amounts paid by the state from appropriations or reappropriations made
34 to the office of children and family services from the youth facilities
35 improvement fund for capital projects. The aggregate amount of bonds,
36 notes and other obligations authorized to be issued pursuant to this
37 section shall exclude bonds, notes or other obligations issued to refund
38 or otherwise repay bonds, notes or other obligations theretofore issued,
39 the proceeds of which were paid to the state for all or a portion of the
40 amounts expended by the state from appropriations or reappropriations
41 made to the office of children and family services; provided, however,
42 that upon any such refunding or repayment the total aggregate principal
43 amount of outstanding bonds, notes or other obligations may be greater
44 than [~~seven~~ eight hundred [~~sixty-nine~~] four million six hundred fifteen
45 thousand dollars [~~(\$769,615,000)~~] \$804,615,000, only if the present
46 value of the aggregate debt service of the refunding or repayment bonds,
47 notes or other obligations to be issued shall not exceed the present
48 value of the aggregate debt service of the bonds, notes or other obli-
49 gations so to be refunded or repaid. For the purposes hereof, the pres-
50 ent value of the aggregate debt service of the refunding or repayment
51 bonds, notes or other obligations and of the aggregate debt service of
52 the bonds, notes or other obligations so refunded or repaid, shall be
53 calculated by utilizing the effective interest rate of the refunding or
54 repayment bonds, notes or other obligations, which shall be that rate
55 arrived at by doubling the semi-annual interest rate (compounded semi-
56 annually) necessary to discount the debt service payments on the refund-

1 ing or repayment bonds, notes or other obligations from the payment
2 dates thereof to the date of issue of the refunding or repayment bonds,
3 notes or other obligations and to the price bid including estimated
4 accrued interest or proceeds received by the corporation including esti-
5 mated accrued interest from the sale thereof.

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

10 b. The agency shall have power and is hereby authorized from time to
11 time to issue negotiable bonds and notes in conformity with applicable
12 provisions of the uniform commercial code in such principal amount as,
13 in the opinion of the agency, shall be necessary, after taking into
14 account other moneys which may be available for the purpose, to provide
15 sufficient funds to the facilities development corporation, or any
16 successor agency, for the financing or refinancing of or for the design,
17 construction, acquisition, reconstruction, rehabilitation or improvement
18 of mental health services facilities pursuant to paragraph a of this
19 subdivision, the payment of interest on mental health services improve-
20 ment bonds and mental health services improvement notes issued for such
21 purposes, the establishment of reserves to secure such bonds and notes,
22 the cost or premium of bond insurance or the costs of any financial
23 mechanisms which may be used to reduce the debt service that would be
24 payable by the agency on its mental health services facilities improve-
25 ment bonds and notes and all other expenditures of the agency incident
26 to and necessary or convenient to providing the facilities development
27 corporation, or any successor agency, with funds for the financing or
28 refinancing of or for any such design, construction, acquisition, recon-
29 struction, rehabilitation or improvement and for the refunding of mental
30 hygiene improvement bonds issued pursuant to section 47-b of the private
31 housing finance law; provided, however, that the agency shall not issue
32 mental health services facilities improvement bonds and mental health
33 services facilities improvement notes in an aggregate principal amount
34 exceeding [~~eight billion seven hundred seventy-eight million seven~~
35 ~~hundred eleven thousand~~] nine billion three hundred thirty-three million
36 three hundred eight thousand dollars \$9,333,308,000, excluding mental
37 health services facilities improvement bonds and mental health services
38 facilities improvement notes issued to refund outstanding mental health
39 services facilities improvement bonds and mental health services facili-
40 ties improvement notes; provided, however, that upon any such refunding
41 or repayment of mental health services facilities improvement bonds
42 and/or mental health services facilities improvement notes the total
43 aggregate principal amount of outstanding mental health services facili-
44 ties improvement bonds and mental health facilities improvement notes
45 may be greater than [~~eight billion seven hundred seventy-eight million~~
46 ~~seven hundred eleven thousand dollars \$8,778,711,000~~] nine billion three
47 hundred thirty-three million three hundred eight thousand dollars
48 \$9,333,308,000, only if, except as hereinafter provided with respect to
49 mental health services facilities bonds and mental health services
50 facilities notes issued to refund mental hygiene improvement bonds
51 authorized to be issued pursuant to the provisions of section 47-b of
52 the private housing finance law, the present value of the aggregate debt
53 service of the refunding or repayment bonds to be issued shall not
54 exceed the present value of the aggregate debt service of the bonds to
55 be refunded or repaid. For purposes hereof, the present values of the
56 aggregate debt service of the refunding or repayment bonds, notes or

1 other obligations and of the aggregate debt service of the bonds, notes
2 or other obligations so refunded or repaid, shall be calculated by
3 utilizing the effective interest rate of the refunding or repayment
4 bonds, notes or other obligations, which shall be that rate arrived at
5 by doubling the semi-annual interest rate (compounded semi-annually)
6 necessary to discount the debt service payments on the refunding or
7 repayment bonds, notes or other obligations from the payment dates ther-
8 eof to the date of issue of the refunding or repayment bonds, notes or
9 other obligations and to the price bid including estimated accrued
10 interest or proceeds received by the authority including estimated
11 accrued interest from the sale thereof. Such bonds, other than bonds
12 issued to refund outstanding bonds, shall be scheduled to mature over a
13 term not to exceed the average useful life, as certified by the facili-
14 ties development corporation, of the projects for which the bonds are
15 issued, and in any case shall not exceed thirty years and the maximum
16 maturity of notes or any renewals thereof shall not exceed five years
17 from the date of the original issue of such notes. Notwithstanding the
18 provisions of this section, the agency shall have the power and is here-
19 by authorized to issue mental health services facilities improvement
20 bonds and/or mental health services facilities improvement notes to
21 refund outstanding mental hygiene improvement bonds authorized to be
22 issued pursuant to the provisions of section 47-b of the private housing
23 finance law and the amount of bonds issued or outstanding for such
24 purposes shall not be included for purposes of determining the amount of
25 bonds issued pursuant to this section. The director of the budget shall
26 allocate the aggregate principal authorized to be issued by the agency
27 among the office of mental health, office for people with developmental
28 disabilities, and the office of alcoholism and substance abuse services,
29 in consultation with their respective commissioners to finance bondable
30 appropriations previously approved by the legislature.

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

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

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

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

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

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

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

55 § 53. 1. Notwithstanding the provisions of any other law to the
56 contrary, the dormitory authority and the urban development corporation

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

22 2. Notwithstanding any other provision of law to the contrary, in
23 order to assist the dormitory authority and the urban development corpo-
24 ration in undertaking the financing for project costs for the acquisi-
25 tion of equipment, including but not limited to the creation or modern-
26 ization of information technology systems and related research and
27 development equipment, health and safety equipment, heavy equipment and
28 machinery, the creation or improvement of security systems, and labora-
29 tory equipment and other state costs associated with such capital
30 projects, the director of the budget is hereby authorized to enter into
31 one or more service contracts with the dormitory authority and the urban
32 development corporation, none of which shall exceed thirty years in
33 duration, upon such terms and conditions as the director of the budget
34 and the dormitory authority and the urban development corporation agree,
35 so as to annually provide to the dormitory authority and the urban
36 development corporation, in the aggregate, a sum not to exceed the prin-
37 cipal, interest, and related expenses required for such bonds and notes.
38 Any service contract entered into pursuant to this section shall provide
39 that the obligation of the state to pay the amount therein provided
40 shall not constitute a debt of the state within the meaning of any
41 constitutional or statutory provision and shall be deemed executory only
42 to the extent of monies available and that no liability shall be
43 incurred by the state beyond the monies available for such purpose,
44 subject to annual appropriation by the legislature. Any such contract or
45 any payments made or to be made thereunder may be assigned and pledged
46 by the dormitory authority and the urban development corporation as
47 security for its bonds and notes, as authorized by this section.

48 § 47. Subdivision 2 and paragraph (a) of subdivision 4 of section
49 1680-q of the public authorities law, as added by section 4 of part B of
50 chapter 57 of the laws of 2013, are amended to read as follows:

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

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

26 (a) The dormitory authority, in consultation with the state university
27 of New York, shall prepare an annual report due on September thirtieth,
28 commencing on September thirtieth, two thousand fourteen, of every
29 calendar year relating to the provisions of paragraph y of subdivision
30 two of section three hundred fifty-five of the education law [~~as added~~
31 ~~by a chapter of the laws of two thousand thirteen which added this~~
32 ~~section~~]; subdivision eight of section three hundred fifty-five of the
33 education law [~~as amended by a chapter of the laws of two thousand thir-~~
34 ~~teen which added this section~~]; and this section. The report shall
35 include, but not be limited to: (i) the total dormitory facilities
36 revenues assigned or otherwise transferred from the state university of
37 New York to the dormitory authority in the prior state university fiscal
38 year and the sum of such transfers made in the five prior fiscal years;
39 (ii) the sum of monies, if any, transferred to the state university of
40 New York from the dormitory facilities revenue fund in the prior state
41 university fiscal year; (iii) a list of any increase in rents, fees and
42 other charges that relate to dormitory facilities per campus to
43 students; (iv) a summary of all costs associated with the construction,
44 reconstruction, rehabilitation, improvement, equipping, furnishing,
45 repair, maintenance and operations of dormitory facilities that the
46 dormitory authority funded with dormitory facilities revenues and the
47 proceeds of dormitory facility revenue bonds; (v) a summary and justi-
48 fication of dormitory authority administrative expenses and costs
49 incurred related to the dormitory facilities revenue fund; (vi) the
50 issuance amounts, debt service costs and savings, if any, of all state
51 university of New York dormitory bonds issued prior to April first, two
52 thousand thirteen and refinanced by the dormitory authority with dormi-
53 tory facility revenue bonds; (vii) total amount of debt service payments
54 made per year on dormitory facility revenue bonds; and (viii) an esti-
55 mated date when the dormitory authority will reach the [~~nine hundred~~
56 ~~forty-four million dollar~~] cap on dormitory facility revenue bonds.

1 § 48. Paragraphs b and f of subdivision 3 of section 9 of section 1 of
2 chapter 359 of the laws of 1968 constituting the facilities development
3 corporation act, paragraph b as amended by chapter 236 of the laws of
4 2005 and paragraph f as amended by chapter 58 of the laws of 1987, are
5 amended and a new paragraph g is added to read as follows:

6 b. All monies of the corporation received or accepted pursuant to
7 paragraph a of this subdivision, other than appropriations and advances
8 from the state and except as otherwise authorized or provided in this
9 section, shall be paid to the commissioner of taxation and finance as
10 agent of the corporation, who shall not commingle such monies with any
11 other monies. Such monies shall be deposited in two or more separate
12 bank accounts. One of such accounts, to which shall be credited (i) all
13 payments made on or after January 1, 1964, for the care, maintenance and
14 treatment of patients in every mental hygiene facility, other than a
15 community mental health and retardation facility, (ii) all payments made
16 to the corporation as rentals, lease payments, permit fees or otherwise
17 under any lease, sublease or agreement undertaken with respect to a
18 community mental health and retardation facility or a current or former
19 mental hygiene facility, (iii) all payments made to the corporation for
20 the purchase of real property held by the corporation for the use of the
21 department, other than payments derived from New York state medical care
22 facilities finance agency financing or refinancing of the design,
23 construction, acquisition, reconstruction, rehabilitation, improvement
24 or renovation of state operated mental hygiene facilities, (iv) all
25 income from investments and (v) all monies received or to be received
26 for the purposes of such account on a recurring basis, shall be denomi-
27 nated the "mental hygiene facilities improvement fund income account".
28 The monies in any account shall be paid out on checks signed by the
29 commissioner of taxation and finance on requisition of the chairman of
30 the corporation or of such other officer or employee or officers or
31 employees as the corporation shall authorize to make such requisition.
32 All deposits of such money shall, if required by the commissioner of
33 taxation and finance or the directors of the corporation, be secured by
34 obligations of the United States or of the state of a market value equal
35 at all times to the amount of the deposit and all banks and trust compa-
36 nies are authorized to give such security for such deposits. Any moneys
37 of the corporation not required for immediate use or disbursement may,
38 at the discretion of the corporation, be invested by the commissioner of
39 taxation and finance in accordance with the provisions of section 98-a
40 of the state finance law. [~~When the corporation is no longer required to~~

41 ~~make any rental payments under any lease, sublease or agreement entered~~
42 ~~into with the state housing finance agency in effect as of the effective~~
43 ~~date of this amendment to this paragraph, all monies received or~~
44 ~~accepted pursuant to paragraph a of this subdivision, other than appro-~~
45 ~~priations and advances from the state and except as otherwise authorized~~
46 ~~or provided in this section, shall be deposited into the mental health~~
47 ~~services fund established by section 97-f of the state finance law. Any~~
48 ~~monies remaining in the mental hygiene facilities improvement fund~~
49 ~~income account and in any rental reserve account created pursuant to~~
50 ~~paragraph c of subdivision 4 of this section, when such lease, sublease~~
51 ~~or agreement is no longer in effect shall be deposited in the mental~~
52 ~~health services fund.] The mental hygiene facilities improvement fund
53 and the income account therein shall remain in existence until termi-
54 nated by the corporation by written notice to the commissioner of taxa-
55 tion and finance. Any moneys on deposit in the mental hygiene facilities
56 improvement fund or the income account therein upon the termination of~~

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

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

23 g. (1) In addition to the amount required to be maintained by para-
24 graph e of this subdivision, there shall be accumulated and set aside in
25 each month in the mental hygiene facilities improvement fund income
26 account, all receipts associated with loans, leases and other agreements
27 with voluntary agencies. The corporation shall provide the amount of
28 such receipts to be set aside to the commissioner of taxation and
29 finance in each month. (2) No later than five days prior to the earlier
30 of when payment is to be made on bonds issued for mental health services
31 facilities purposes pursuant to: (i) the New York state medical care
32 facilities finance agency act; (ii) article five-C of the state finance
33 law; and (iii) article five-F of the state finance law, such set-aside
34 receipts shall be transferred by the commissioner of taxation and
35 finance as agent of the corporation from the mental hygiene facilities
36 improvement fund income account in the amounts set forth in schedules
37 provided by the corporation to the commissioner of taxation and finance
38 in the following priority: first, to the trustee appointed by the New
39 York state medical care facilities finance agency for the bonds issued
40 pursuant to the New York state medical care facilities finance agency
41 act for both voluntary agency and state purposes to pay debt service and
42 other cash requirements due on such bonds on the relevant payment date,
43 second, any remaining amount of such set-aside receipts to the trustee
44 appointed by authorized issuers for the bonds issued pursuant to article
45 five-C of the state finance law to pay debt service and other cash
46 requirements due on such bonds on the relevant payment date and third,
47 any remaining amount of such set-aside to the trustee appointed by
48 authorized issuers for the bonds issued pursuant to article five-F of
49 the state finance law to pay debt service and other cash requirements
50 due on such bonds on the relevant payment date.

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

1 5. The comptroller shall from time to time, but in no event later than
2 the fifteenth day of each month, pay over for deposit in the mental
3 hygiene general fund state operations account all moneys in the mental
4 health services fund in excess of the amount of money required to be
5 maintained on deposit in the mental health services fund. [~~The~~] Subject
6 to subdivision nine of this section, the amount required to be main-
7 tained in such fund shall be (i) twenty percent of the amount of the
8 next payment coming due relating to the mental health services facili-
9 ties improvement program under any agreement between the facilities
10 development corporation and the New York state medical care facilities
11 finance agency multiplied by the number of months from the date of the
12 last such payment with respect to payments under any such agreement
13 required to be made semi-annually, plus (ii) those amounts specified in
14 any such agreement with respect to payments required to be made other
15 than semi-annually, including for variable rate bonds, interest rate
16 exchange or similar agreements or other financing arrangements permitted
17 by law. [~~Prior to making any such payment, the comptroller shall make~~
18 ~~and deliver to the director of the budget and the chairmen of the facil-~~
19 ~~ities development corporation and the New York state medical care facil-~~
20 ~~ities finance agency, a certificate stating the aggregate amount to be~~
21 ~~maintained on deposit in the mental health services fund to comply in~~
22 ~~full with the provisions of this subdivision.~~] Concurrently with the
23 making of any such payment, the facilities development corporation shall
24 deliver to the comptroller, the director of the budget and the New York
25 state medical care facilities finance agency a certificate stating the
26 aggregate amount to be maintained on deposit in the mental health
27 services fund to comply in full with the provisions of this subdivision.

28 8. In addition to the amounts required to be maintained on deposit in
29 the mental health services fund pursuant to subdivision five of this
30 section and subject to subdivision nine of this section, the fund shall
31 maintain on deposit an amount equal to the debt service and other cash
32 requirements on mental health services facilities bonds issued by
33 authorized issuers pursuant to sections sixty-eight-b and sixty-nine-n
34 of this chapter. The amount required to be maintained in such fund shall
35 be (i) twenty percent of the amount of the next payment coming due
36 relating to mental health services facilities bonds issued by an author-
37 ized issuer multiplied by the number of months from the date of the last
38 such payment with respect to payments required to be made semi-annually,
39 plus (ii) those amounts specified in any financing agreement between the
40 issuer and the state, acting through the director of the budget, with
41 respect to payments required to be made other than semi-annually,
42 including for variable rate bonds, interest rate exchange or similar
43 agreements or other financing arrangements permitted by law. [~~Prior to~~
44 ~~making any such payment, the comptroller shall make and deliver to the~~
45 ~~director of the budget and the chairmen of the facilities development~~
46 ~~corporation and the New York state medical care facilities finance agen-~~
47 ~~cy, a certificate stating the aggregate amount to be maintained on~~
48 ~~deposit in the mental health services fund to comply in full with the~~
49 ~~provisions of this subdivision.~~] Concurrently with the making of any
50 such payment, the facilities development corporation shall deliver to
51 the comptroller, the director of the budget and the New York state
52 medical care facilities finance agency a certificate stating the aggre-
53 gate amount to be maintained on deposit in the mental health services
54 fund to comply in full with the provisions of this subdivision.

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

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

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

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

29 PART L

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

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

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

41 PART M

42 Section 1. Subdivision 2 of section 87 of the workers' compensation
43 law, as added by section 20 of part GG of chapter 57 of the laws of
44 2013, is amended to read as follows:

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

1 section one thousand four hundred four of the insurance law except that
2 up to twenty-five percent of surplus funds may be invested in obli-
3 gations rated investment grade by a nationally recognized securities
4 rating organization, or~~[7]~~ (3) up to fifty percent of surplus funds, in
5 the types of securities or investments described in paragraphs [~~two,~~]
6 three, eight and ten of subsection (a) of section one thousand four
7 hundred four of the insurance law, except that [~~up to ten percent of~~
8 ~~surplus funds may be invested~~] investments in [~~the securities of any~~
9 ~~solvent American institution as described in such paragraphs~~] diversi-
10 fied index funds and accounts may be made irrespective of the rating [~~of~~
11 ~~such institution's obligations~~] or other similar qualitative standards
12 [~~described therein, and~~] applicable under such paragraphs, or (4) up to
13 ten percent of surplus funds, in the types of securities or investments
14 described in paragraphs two, three and ten of subsection (a) of section
15 one thousand four hundred four of the insurance law irrespective of the
16 rating of such institution's obligations or other similar qualitative
17 standard, or (5) up to fifteen percent of surplus funds in securities or
18 investments which do not otherwise qualify for investment under this
19 section as shall be made with the care, prudence and diligence under the
20 circumstances then prevailing that a prudent person acting in a like
21 capacity and familiar with such matters would use in the conduct of an
22 enterprise of a like character and with like aims as provided for the
23 state insurance fund under this article, but shall not include any
24 direct derivative instrument or derivative transaction except for hedg-
25 ing purposes. Notwithstanding any other provision in this subdivision,
26 the aggregate amount that the state insurance fund may invest in the
27 types of securities or investments described in paragraphs three, eight
28 and ten of subsection (a) of section one thousand four hundred four of
29 the insurance law and as a prudent person acting in a like capacity
30 would invest as provided in this subdivision shall not exceed fifty
31 percent of such surplus funds. For the purposes of this subdivision, any
32 funds appropriated pursuant to the provisions of subdivision one or two
33 of section eighty-seven-f of this article shall not be considered
34 surplus funds.

35 § 2. This act shall take effect immediately.

36 PART N

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

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

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

7 Such notice shall be served on the employer by delivering it to him,
8 her or it or by sending it by mail, by certified or registered letter,
9 return receipt requested, addressed to the employer at his, her or its
10 last known place of business; provided that, if the employer be a part-
11 nership, then such notice may be so given to any of one of the partners,
12 and if the employer be a corporation then the notice may be given to any
13 agent or officer of the corporation upon whom legal process may be
14 served; and further provided that an employer may designate any person
15 or entity at any address to receive such notice including the desig-
16 nation of one person or entity to receive notice on behalf of multiple
17 entities insured under one insurance policy and that service of notice
18 at the address so designated upon the person or entity so designated by
19 delivery or by mail, by certified or registered letter, return receipt
20 requested, shall satisfy the notice requirement of this section.

21 [~~Provided, however, the~~] The right to cancellation of a policy of insur-
22 ance in the state insurance fund, however, shall be exercised only for
23 non-payment of premiums and assessments, or failure by the employer to
24 cooperate with a payroll audit, or as provided in section ninety-four of
25 this chapter. The state insurance fund may cancel a policy for the
26 employer's failure to cooperate with a payroll audit if the employer
27 fails (i) either to make or keep an appointment during regular business
28 hours with a payroll auditor, after the state insurance fund has made at
29 least two attempts to arrange an appointment including contacting the
30 employer's broker or accountant, if any, or (ii) to furnish business
31 records in the course of a payroll audit as required pursuant to
32 sections ninety-five and one hundred thirty-one of this chapter. At
33 least fifteen days in advance of sending a notice of cancellation for
34 failure to cooperate with a payroll audit, the state insurance fund
35 shall send a warning notice to the employer in the same manner as
36 provided in this subdivision for serving a notice of cancellation. Such
37 notice shall specify a means of contacting the state insurance fund to
38 set up an audit appointment. The state insurance fund will be required
39 to provide only one such warning notice to an employer related to any
40 particular payroll audit prior to cancellation.

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

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

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

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

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

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

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

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

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

46 § 3. Section 95 of the workers' compensation law, as amended by chap-
47 ter 135 of the laws of 1998, is amended to read as follows:

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

1 pertaining to any policy period including, but not limited to, any
2 payroll book, payroll and distribution records, cash book, check book,
3 bank account statements, commission records, ledgers, journals, regis-
4 ters, vouchers, contracts, tax returns and reports, and computer
5 programs for retrieving data, certificates of insurance pertaining to
6 subcontractors and any other business records specified by the rules of
7 the board shall be open to inspection by the state insurance fund at any
8 time and as often as may be necessary to verify the number of employees
9 ~~[and]~~, the amount of the payroll, the classification of employees and
10 information regarding employee accidents. Any employer who shall fail
11 to keep ~~[such]~~ any record required in this section, who shall willfully
12 fail to furnish such record or who shall willfully falsify any such
13 record~~[7]~~ shall be guilty of a misdemeanor and subject to a fine of not
14 less than five thousand dollars nor more than ten thousand dollars in
15 addition to any other penalties otherwise provided by law, except that
16 any such employer that has previously been subject to criminal penalties
17 under this section within the prior ten years shall be guilty of a class
18 E felony, and subject to a fine of not less than ten thousand dollars
19 nor more than twenty-five thousand dollars in addition to any penalties
20 otherwise provided by law.

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

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

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

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

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

13 PART O

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

18 § 2. This act shall take effect on the one hundred eightieth day after
19 it shall have become a law and shall remain in effect until September 1,
20 [~~2019~~] 2021.

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

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

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

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

37 § 4. Section 20 of chapter 261 of the laws of 1987, amending chapters
38 50, 53 and 54 of the laws of 1987, the correction law, the penal law and
39 other chapters and laws relating to correctional facilities, as amended
40 by section 4 of part A of chapter 55 of the laws of 2017, is amended to
41 read as follows:

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

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

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

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

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

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

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

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

36 § 8. Subdivision h of section 74 of chapter 3 of the laws of 1995,
37 amending the correction law and other laws relating to the incarceration
38 fee, as amended by section 8 of part A of chapter 55 of the laws of
39 2017, is amended to read as follows:

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

1 § 9. Subdivision (c) of section 49 of subpart A of part C of chapter
2 62 of the laws of 2011 amending the correction law and the executive law
3 relating to merging the department of correctional services and division
4 of parole into the department of corrections and community supervision,
5 as amended by section 9 of part A of chapter 55 of the laws of 2017, is
6 amended to read as follows:

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

11 § 10. Subdivision (aa) of section 427 of chapter 55 of the laws of
12 1992, amending the tax law and other laws relating to taxes, surcharges,
13 fees and funding, as amended by section 10 of part A of chapter 55 of
14 the laws of 2017, is amended to read as follows:

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

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

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

27 § 12. Subdivision (p) of section 406 of chapter 166 of the laws of
28 1991, amending the tax law and other laws relating to taxes, as amended
29 by section 12 of part A of chapter 55 of the laws of 2017, is amended to
30 read as follows:

31 (p) The amendments to section 1809 of the vehicle and traffic law made
32 by sections three hundred thirty-seven and three hundred thirty-eight of
33 this act shall not apply to any offense committed prior to such effec-
34 tive date; provided, further, that section three hundred forty-one of
35 this act shall take effect immediately and shall expire November 1, 1993
36 at which time it shall be deemed repealed; sections three hundred
37 forty-five and three hundred forty-six of this act shall take effect
38 July 1, 1991; sections three hundred fifty-five, three hundred fifty-
39 six, three hundred fifty-seven and three hundred fifty-nine of this act
40 shall take effect immediately and shall expire June 30, 1995 and shall
41 revert to and be read as if this act had not been enacted; section three
42 hundred fifty-eight of this act shall take effect immediately and shall
43 expire June 30, 1998 and shall revert to and be read as if this act had
44 not been enacted; section three hundred sixty-four through three hundred
45 sixty-seven of this act shall apply to claims filed on or after such
46 effective date; sections three hundred sixty-nine, three hundred seven-
47 ty-two, three hundred seventy-three, three hundred seventy-four, three
48 hundred seventy-five and three hundred seventy-six of this act shall
49 remain in effect until September 1, [~~2019~~] 2021, at which time they
50 shall be deemed repealed; provided, however, that the mandatory
51 surcharge provided in section three hundred seventy-four of this act
52 shall apply to parking violations occurring on or after said effective
53 date; and provided further that the amendments made to section 235 of
54 the vehicle and traffic law by section three hundred seventy-two of this
55 act, the amendments made to section 1809 of the vehicle and traffic law
56 by sections three hundred thirty-seven and three hundred thirty-eight of

1 this act and the amendments made to section 215-a of the labor law by
2 section three hundred seventy-five of this act shall expire on September
3 1, [~~2019~~] 2021 and upon such date the provisions of such subdivisions
4 and sections shall revert to and be read as if the provisions of this
5 act had not been enacted; the amendments to subdivisions 2 and 3 of
6 section 400.05 of the penal law made by sections three hundred seventy-
7 seven and three hundred seventy-eight of this act shall expire on July
8 1, 1992 and upon such date the provisions of such subdivisions shall
9 revert and shall be read as if the provisions of this act had not been
10 enacted; the state board of law examiners shall take such action as is
11 necessary to assure that all applicants for examination for admission to
12 practice as an attorney and counsellor at law shall pay the increased
13 examination fee provided for by the amendment made to section 465 of the
14 judiciary law by section three hundred eighty of this act for any exam-
15 ination given on or after the effective date of this act notwithstanding
16 that an applicant for such examination may have prepaid a lesser fee for
17 such examination as required by the provisions of such section 465 as of
18 the date prior to the effective date of this act; the provisions of
19 section 306-a of the civil practice law and rules as added by section
20 three hundred eighty-one of this act shall apply to all actions pending
21 on or commenced on or after September 1, 1991, provided, however, that
22 for the purposes of this section service of such summons made prior to
23 such date shall be deemed to have been completed on September 1, 1991;
24 the provisions of section three hundred eighty-three of this act shall
25 apply to all money deposited in connection with a cash bail or a
26 partially secured bail bond on or after such effective date; and the
27 provisions of sections three hundred eighty-four and three hundred
28 eighty-five of this act shall apply only to jury service commenced
29 during a judicial term beginning on or after the effective date of this
30 act; provided, however, that nothing contained herein shall be deemed to
31 affect the application, qualification, expiration or repeal of any
32 provision of law amended by any section of this act and such provisions
33 shall be applied or qualified or shall expire or be deemed repealed in
34 the same manner, to the same extent and on the same date as the case may
35 be as otherwise provided by law;

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

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

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

45 § 6. This act shall take effect on the first day of April next
46 succeeding the date on which it shall have become a law; provided,
47 however, that effective immediately, the addition, amendment or repeal
48 of any rule or regulation necessary for the implementation of the fore-
49 going sections of this act on their effective date is authorized and
50 directed to be made and completed on or before such effective date and
51 shall remain in full force and effect until the first day of September,
52 [~~2019~~] 2021 when upon such date the provisions of this act shall be
53 deemed repealed.

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

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

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

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

9 § 4. This act shall take effect 120 days after it shall have become a
10 law and shall remain in full force and effect until September 1, [~~2019~~]
11 2021, when upon such date it shall expire.

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

16 2. Subdivision 4 of section 140.10 of the criminal procedure law as
17 added by section thirty-two of this act shall take effect January 1,
18 1996 and shall expire and be deemed repealed on September 1, [~~2019~~]
19 2021.

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

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

31 § 19. Subdivision d of section 74 of chapter 3 of the laws of 1995,
32 enacting the sentencing reform act of 1995, as amended by section 19 of
33 part A of chapter 55 of the laws of 2017, is amended to read as follows:

34 d. Sections one-a through twenty, twenty-four through twenty-eight,
35 thirty through thirty-nine, forty-two and forty-four of this act shall
36 be deemed repealed on September 1, [~~2019~~] 2021;

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

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

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

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

1 "Interstate compact for adult offender supervision" and having an iden-
2 tical effect to that added by section one of this act and provided
3 further that with respect to any such compacting state, upon the effec-
4 tive date of section one of this act, section 259-m of the executive law
5 is hereby deemed REPEALED and section 259-mm of the executive law, as
6 added by section one of this act, shall take effect; and provided
7 further that with respect to any state which has not enacted an inter-
8 state compact entitled "Interstate compact for adult offender super-
9 vision" and having an identical effect to that added by section one of
10 this act, section 259-m of the executive law shall take effect and the
11 provisions of section one of this act, with respect to any such state,
12 shall have no force or effect until such time as such state shall adopt
13 an interstate compact entitled "Interstate compact for adult offender
14 supervision" and having an identical effect to that added by section one
15 of this act in which case, with respect to such state, effective imme-
16 diately, section 259-m of the executive law is deemed repealed and
17 section 259-mm of the executive law, as added by section one of this
18 act, shall take effect.

19 § 22. Section 8 of part H of chapter 56 of the laws of 2009, amending
20 the correction law relating to limiting the closing of certain correc-
21 tional facilities, providing for the custody by the department of
22 correctional services of inmates serving definite sentences, providing
23 for custody of federal prisoners and requiring the closing of certain
24 correctional facilities, as amended by section 22 of part A of chapter
25 55 of the laws of 2017, is amended to read as follows:

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

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

33 § 3. This act shall take effect immediately; provided however that the
34 amendments made to subdivision 1 of section 221 of the military law by
35 section two of this act shall expire and be deemed repealed September 1,
36 [~~2019~~] 2021.

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

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

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

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

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

7 PART P

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

11 (f) For purposes of a prosecution involving a sexual offense as
12 defined in article one hundred thirty of the penal law, other than a
13 sexual offense delineated in paragraph (a) of subdivision two of this
14 section, committed against a child less than eighteen years of age,
15 incest in the first, second or third degree as defined in sections
16 255.27, 255.26 and 255.25 of the penal law committed against a child
17 less than eighteen years of age, or use of a child in a sexual perform-
18 ance as defined in section 263.05 of the penal law, the period of limi-
19 tation shall not begin to run until the child has reached the age of
20 [~~eighteen~~] twenty-three or the offense is reported to a law enforcement
21 agency or statewide central register of child abuse and maltreatment,
22 whichever occurs earlier.

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

26 (b) Notwithstanding any provision of law which imposes a period of
27 limitation to the contrary, with respect to all civil claims or causes
28 of action brought by any person for physical, psychological or other
29 injury or condition suffered by such person as a result of conduct which
30 would constitute a sexual offense as defined in article one hundred
31 thirty of the penal law committed against such person who was less than
32 eighteen years of age, incest as defined in section 255.27, 255.26 or
33 255.25 of the penal law committed against such person who was less than
34 eighteen years of age, or the use of such person in a sexual performance
35 as defined in section 263.05 of the penal law, or a predecessor statute
36 that prohibited such conduct at the time of the act, which conduct was
37 committed against such person who was less than eighteen years of age,
38 such action may be commenced, against any party whose intentional or
39 negligent acts or omissions are alleged to have resulted in the commis-
40 sion of said conduct, on or before the plaintiff or infant plaintiff
41 reaches the age of fifty years. In any such claim or action, in addition
42 to any other defense and affirmative defense that may be available in
43 accordance with law, rule or the common law, to the extent that the acts
44 alleged in such action are of the type described in subdivision one of
45 section 130.30 of the penal law or subdivision one of section 130.45 of
46 the penal law, the affirmative defenses set forth, respectively, in the
47 closing paragraph of such section of the penal law shall apply.

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

50 § 214-g. Certain child sexual abuse cases. Notwithstanding any
51 provision of law which imposes a period of limitation to the contrary,
52 every civil claim or cause of action brought against any party alleging
53 intentional or negligent acts or omissions by a person for physical,
54 psychological, or other injury or condition suffered as a result of

1 conduct which would constitute a sexual offense as defined in article
2 one hundred thirty of the penal law committed against a child less than
3 eighteen years of age, incest as defined in section 255.27, 255.26 or
4 255.25 of the penal law committed against a child less than eighteen
5 years of age, or the use of a child in a sexual performance as defined
6 in section 263.05 of the penal law, or a predecessor statute that
7 prohibited such conduct at the time of the act, which conduct was
8 committed against a child less than eighteen years of age, which is
9 barred as of the effective date of this section because the applicable
10 period of limitation has expired is hereby revived, and action thereon
11 may be commenced not earlier than six months after, and not later than
12 one year and six months after the effective date of this section. In any
13 such claim or action, in addition to any other defense and affirmative
14 defense that may be available in accordance with law, rule or the common
15 law, to the extent that the acts alleged in such action are of the type
16 described in subdivision one of section 130.30 of the penal law or
17 subdivision one of section 130.45 of the penal law, the affirmative
18 defenses set forth, respectively, in the closing paragraph of such
19 section of the penal law shall apply.

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

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

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

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

32 (b) This section shall not apply to any claim made for physical,
33 psychological, or other injury or condition suffered as a result of
34 conduct which would constitute a sexual offense as defined in article
35 one hundred thirty of the penal law committed against a child less than
36 eighteen years of age, incest as defined in section 255.27, 255.26 or
37 255.25 of the penal law committed against a child less than eighteen
38 years of age, or the use of a child in a sexual performance as defined
39 in section 263.05 of the penal law committed against a child less than
40 eighteen years of age.

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

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

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

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

1 ical, or other injury or condition suffered as a result of conduct which
2 would constitute a sexual offense as defined in article one hundred
3 thirty of the penal law committed against a child less than eighteen
4 years of age, incest as defined in section 255.27, 255.26 or 255.25 of
5 the penal law committed against a child less than eighteen years of age,
6 or the use of a child in a sexual performance as defined in section
7 263.05 of the penal law committed against a child less than eighteen
8 years of age.

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

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

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

33 § 219-c. Crimes involving sexual assault and the sexual abuse of
34 minors; judicial training. The office of court administration shall
35 provide training for judges and justices with respect to crimes involv-
36 ing sexual assault, and the sexual abuse of minors.

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

39 § 219-d. Rules reviving certain actions; sexual offenses against chil-
40 dren. The chief administrator of the courts shall promulgate rules for
41 the timely adjudication of revived actions brought pursuant to section
42 two hundred fourteen-g of the civil practice law and rules.

43 § 11. The provisions of this act shall be severable, and if any
44 clause, sentence, paragraph, subdivision or part of this act shall be
45 adjudged by any court of competent jurisdiction to be invalid, such
46 judgment shall not affect, impair, or invalidate the remainder thereof,
47 but shall be confined in its operation to the clause, sentence, para-
48 graph, subdivision or part thereof directly involved in the controversy
49 in which such judgment shall have been rendered.

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

1

PART Q

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

5 (a) The defendant acted under the influence of extreme emotional
6 disturbance for which there was a reasonable explanation or excuse, the
7 reasonableness of which is to be determined from the viewpoint of a
8 person in the defendant's situation under the circumstances as the
9 defendant believed them to be. For purposes of determining whether the
10 defendant acted under the influence of extreme emotional disturbance,
11 the explanation or excuse for such extreme emotional disturbance is not
12 reasonable if it resulted from the discovery of, knowledge about, or
13 potential disclosure of the victim's actual or perceived gender, gender
14 identity, gender expression, or sexual orientation. Nothing in this
15 paragraph shall preclude the jury from considering all relevant facts to
16 determine the defendant's actual belief. Nothing contained in this para-
17 graph shall constitute a defense to a prosecution for, or preclude a
18 conviction of, manslaughter in the first degree or any other crime; or
19 § 2. This act shall take effect immediately.

20

PART R

21 Section 1. Section 60.42 of the criminal procedure law, as added by
22 chapter 230 of the laws of 1975 and subdivision 3 as amended by chapter
23 264 of the laws of 2003, is amended to read as follows:

24 § 60.42 Rules of evidence; admissibility of evidence of victim's sexual
25 conduct in sex offense cases.

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

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

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

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

38 [~~4.] 3. rebuts evidence introduced by the people which proves or tends
39 to prove that the accused is the cause of pregnancy or disease of the
40 victim, or the source of semen found in the victim; or~~

41 [~~5.] 4. is determined by the court after an offer of proof by the
42 accused outside the hearing of the jury, or such hearing as the court
43 may require, and a statement by the court of its findings of fact essen-
44 tial to its determination, to be relevant and admissible in the inter-
45 ests of justice.~~

46 § 2. This act shall take effect immediately.

47

PART S

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

50 § 245.15 Unlawful dissemination or publication of an intimate image.

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

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

9 (i) an unclothed or exposed intimate part of such other person; or
10 (ii) such other person engaging in sexual conduct as defined in subdivi-
11 vision ten of section 130.00 of this chapter with another person; and

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

17 2. For purposes of this section "intimate part" means the naked geni-
18 tals, pubic area, anus or female nipple of the person.

19 2-a. For purposes of this section "disseminate" and "publish" shall
20 have the same meaning as defined in section 250.40 of this title.

21 3. This section shall not apply to the following:

22 (a) the reporting of unlawful conduct;

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

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

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

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

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

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

41 The family court and the criminal courts shall have concurrent juris-
42 diction over any proceeding concerning acts which would constitute
43 disorderly conduct, unlawful dissemination or publication of an intimate
44 image, harassment in the first degree, harassment in the second degree,
45 aggravated harassment in the second degree, sexual misconduct, forcible
46 touching, sexual abuse in the third degree, sexual abuse in the second
47 degree as set forth in subdivision one of section 130.60 of the penal
48 law, stalking in the first degree, stalking in the second degree, stalk-
49 ing in the third degree, stalking in the fourth degree, criminal
50 mischief, menacing in the second degree, menacing in the third degree,
51 reckless endangerment, strangulation in the first degree, strangulation
52 in the second degree, criminal obstruction of breathing or blood circu-
53 lation, assault in the second degree, assault in the third degree, an
54 attempted assault, identity theft in the first degree, identity theft in
55 the second degree, identity theft in the third degree, grand larceny in
56 the fourth degree, grand larceny in the third degree, coercion in the

1 second degree or coercion in the third degree as set forth in subdivi-
2 sions one, two and three of section 135.60 of the penal law between
3 spouses or former spouses, or between parent and child or between
4 members of the same family or household except that if the respondent
5 would not be criminally responsible by reason of age pursuant to section
6 30.00 of the penal law, then the family court shall have exclusive
7 jurisdiction over such proceeding. Notwithstanding a complainant's
8 election to proceed in family court, the criminal court shall not be
9 divested of jurisdiction to hear a family offense proceeding pursuant to
10 this section. For purposes of this section, "disorderly conduct"
11 includes disorderly conduct not in a public place. For purposes of this
12 section, "members of the same family or household" with respect to a
13 proceeding in the criminal courts shall mean the following:

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

17 The family court and the criminal courts shall have concurrent juris-
18 diction over any proceeding concerning acts which would constitute
19 disorderly conduct, unlawful dissemination or publication of an intimate
20 image, harassment in the first degree, harassment in the second degree,
21 aggravated harassment in the second degree, sexual misconduct, forcible
22 touching, sexual abuse in the third degree, sexual abuse in the second
23 degree as set forth in subdivision one of section 130.60 of the penal
24 law, stalking in the first degree, stalking in the second degree, stalk-
25 ing in the third degree, stalking in the fourth degree, criminal
26 mischief, menacing in the second degree, menacing in the third degree,
27 reckless endangerment, criminal obstruction of breathing or blood circu-
28 lation, strangulation in the second degree, strangulation in the first
29 degree, assault in the second degree, assault in the third degree, an
30 attempted assault, identity theft in the first degree, identity theft in
31 the second degree, identity theft in the third degree, grand larceny in
32 the fourth degree, grand larceny in the third degree, coercion in subdivi-
33 sions one, two and three of section 135.60 of the penal law between
34 spouses or former spouses, or between parent and child or between
35 members of the same family or household except that if the respondent
36 would not be criminally responsible by reason of age pursuant to section
37 30.00 of the penal law, then the family court shall have exclusive
38 jurisdiction over such proceeding. Notwithstanding a complainant's
39 election to proceed in family court, the criminal court shall not be
40 divested of jurisdiction to hear a family offense proceeding pursuant to
41 this section. In any proceeding pursuant to this article, a court shall
42 not deny an order of protection, or dismiss a petition, solely on the
43 basis that the acts or events alleged are not relatively contemporaneous
44 with the date of the petition, the conclusion of the fact-finding or the
45 conclusion of the dispositional hearing. For purposes of this article,
46 "disorderly conduct" includes disorderly conduct not in a public place.
47 For purposes of this article, "members of the same family or household"
48 shall mean the following:

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

51 § 52-b. Private right of action for unlawful dissemination or publica-
52 tion of an intimate image. 1. a. Any website or internet service provid-
53 er that hosts or transmits a still or video image, viewable in this
54 state, taken under circumstances where the person depicted had a reason-
55 able expectation of privacy, which depicts:
56

1 (i) an unclothed or exposed intimate part, as defined in section
2 245.15 of the penal law, of a resident of this state; or

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

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

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

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

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

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

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

27 4. This section shall not apply to the following:

28 a. the reporting of unlawful conduct;

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

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

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

35 5. Any person depicted in a still or video image that depicts an
36 unclothed or exposed intimate part of such person, or such person engag-
37 ing in sexual conduct as defined in subdivision ten of section 130.00 of
38 the penal law with another person, which is disseminated or published
39 without the consent of such person and where such person had a reason-
40 able expectation of privacy, may maintain an action or special proceed-
41 ing for a court order to require any website or internet service provid-
42 er that is subject to personal jurisdiction under subdivision one of
43 this section to permanently remove such still or video image.

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

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

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

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

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

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

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

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

5 PART T

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

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

18 § 2. This act shall take effect immediately.

19 PART U

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

22 § 60.12 Authorized disposition; alternative [~~indeterminate~~] sentence [~~of~~
23 ~~imprisonment~~]; domestic violence cases.

24 1. Notwithstanding any other provision of law, where a court is impos-
25 ing sentence upon a person pursuant to section 70.00, 70.02 [~~upon a~~
26 ~~conviction for an offense enumerated in subdivision one of such~~
27 ~~section~~], 70.06 or subdivision two or three of section 70.71 of this
28 title, other than for an offense defined in [~~article one hundred thirty~~
29 ~~of this chapter~~] section 125.26, 125.27, subdivision five of section
30 125.25, or article 490 of this chapter, or for an offense which would
31 require such person to register as a sex offender pursuant to article
32 six-C of the correction law, an attempt or conspiracy to commit any such
33 offense, and is authorized or required pursuant to [~~such section~~]
34 sections 70.00, 70.02, 70.06 or subdivision two or three of section
35 70.71 of this title to impose a [~~determinate~~] sentence of imprisonment
36 [~~for such offense~~], the court, upon a determination following a hearing
37 that (a) at the time of the instant offense, the defendant was [~~the~~] a
38 victim of domestic violence subjected to substantial physical, sexual or
39 psychological abuse [~~by the victim or intended victim of such offense,~~
40 inflicted by a member of the same family or household as the defendant
41 as such term is defined in subdivision one of section 530.11 of the
42 criminal procedure law; (b) such abuse was a significant contributing
43 factor [~~in causing the defendant to commit such offense and~~] to the
44 defendant's criminal behavior; (c) [~~the victim or intended victim of~~
45 ~~such offense was a member of the same family or household as the defend-~~
46 ~~ant as such term is defined in subdivision one of section 530.11 of the~~
47 ~~criminal procedure law, may, in lieu of imposing such determinate~~
48 ~~sentence of imprisonment, impose an indeterminate sentence of imprison-~~
49 ~~ment in accordance with subdivisions two and three of this section,~~
50 having regard for the nature and circumstances of the crime and the
51 history, character and condition of the defendant, that a sentence of
52 imprisonment pursuant to section 70.00, 70.02 or 70.06 of this title

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

21 11. Where a court would otherwise be required to impose a sentence
22 pursuant to subdivision three of section 70.06 of this title, where the
23 prior felony conviction was for a felony offense defined in section
24 70.02 of this title, the court may impose a sentence in accordance with
25 the provisions of subdivision four of section 70.70 of this title.

26 § 2. Paragraphs (a), (b), (c), (d), (e) and (f) of subdivision 2 of
27 section 70.45 of the penal law, as amended by chapter 7 of the laws of
28 2007, are amended to read as follows:

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

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

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

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

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

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

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

3 § 3. The criminal procedure law is amended by adding a new section
4 440.47 to read as follows:

5 § 440.47 Motion for resentence; domestic violence cases.

6 1. (a) Notwithstanding any contrary provision of law, any person
7 confined in an institution operated by the department of correction and
8 community supervision serving a sentence with a minimum or determinate
9 term of eight years or more for an offense committed prior to the effec-
10 tive date of this section and eligible for an alternative sentence
11 pursuant to section 60.12 of the penal law may, on or after such effec-
12 tive date, submit to the judge or justice who imposed the original
13 sentence upon such person a request to apply for resentencing in accord-
14 ance with section 60.12 of the penal law. Such person must include in
15 his or her request documentation proving that she or he is confined in
16 an institution operated by the department of corrections and community
17 supervision serving a sentence with a minimum or determinate term of
18 eight years or more for an offense committed prior to the effective date
19 of this section and that she or he is serving such sentence for any
20 offense eligible for an alternative sentence under section 60.12 of the
21 penal law.

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

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

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

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

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

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

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

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

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

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

31 The court may consider any fact or circumstances relevant to the impo-
32 sition of a new sentence which are submitted by the applicant or the
33 district attorney and may, in addition, consider the institutional
34 record of confinement of such person, but shall not order a new pre-sen-
35 tence investigation and report or entertain any matter challenging the
36 underlying basis of the subject conviction. The court's consideration of
37 the institutional record of confinement of such applicant shall include,
38 but not be limited to, such applicant's participation in or willingness
39 to participate in programming such as domestic violence, parenting and
40 substance abuse treatment while incarcerated and such applicant's disci-
41 plinary history. The fact that the applicant may have been unable to
42 participate in treatment or other programming while incarcerated despite
43 such applicant's willingness to do so shall not be considered a negative
44 factor in determining a motion pursuant to this section.

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

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

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

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

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

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

29 1. Provided that a certificate granting leave to appeal is issued
30 pursuant to section 460.20, an appeal may, except as provided in subdivi-
31 sion two, be taken to the court of appeals by either the defendant or
32 the people from any adverse or partially adverse order of an intermedi-
33 ate appellate court entered upon an appeal taken to such intermediate
34 appellate court pursuant to section 450.10, 450.15, or 450.20, or from
35 an order granting or denying a motion to set aside an order of an inter-
36 mediate appellate court on the ground of ineffective assistance or
37 wrongful deprivation of appellate counsel, or by either the defendant or
38 the people from any adverse or partially adverse order of an intermedi-
39 ate appellate court entered upon an appeal taken to such intermediate
40 appellate court from an order entered pursuant to section 440.46 or
41 section 440.47 of this chapter. An order of an intermediate appellate
42 court is adverse to the party who was the appellant in such court when
43 it affirms the judgment, sentence or order appealed from, and is adverse
44 to the party who was the respondent in such court when it reverses the
45 judgment, sentence or order appealed from. An appellate court order
46 which modifies a judgment or order appealed from is partially adverse to
47 each party.

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

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

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

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

34

PART V

35 Section 1. Subdivision 11 of section 120.05 of the penal law, as sepa-
36 rately amended by chapters 268 and 281 of the laws of 2016, is amended
37 to read as follows:

38 11. With intent to cause physical injury to a train operator, ticket
39 inspector, conductor, signalperson, bus operator, station agent, station
40 cleaner or terminal cleaner employed by any transit agency, authority or
41 company, public or private, whose operation is authorized by New York
42 state or any of its political subdivisions, a city marshal, a school
43 crossing guard appointed pursuant to section two hundred eight-a of the
44 general municipal law, a traffic enforcement officer, traffic enforce-
45 ment agent, prosecutor as defined in subdivision thirty-one of section
46 1.20 of the criminal procedure law, sanitation enforcement agent, New
47 York city sanitation worker, public health sanitarian, New York city
48 public health sanitarian, registered nurse, licensed practical nurse,
49 emergency medical service paramedic, [~~ex~~] emergency medical service
50 technician, or journalist, he or she causes physical injury to such
51 train operator, ticket inspector, conductor, signalperson, bus operator,
52 station agent, station cleaner or terminal cleaner, city marshal, school
53 crossing guard appointed pursuant to section two hundred eight-a of the
54 general municipal law, traffic enforcement officer, traffic enforcement

1 agent, prosecutor as defined in subdivision thirty-one of section 1.20
2 of the criminal procedure law, registered nurse, licensed practical
3 nurse, public health sanitarian, New York city public health sanitarian,
4 sanitation enforcement agent, New York city sanitation worker, emergency
5 medical service paramedic, [~~or~~] emergency medical service technician, or
6 journalist, while such employee is performing an assigned duty on, or
7 directly related to, the operation of a train or bus, including the
8 cleaning of a train or bus station or terminal, or such city marshal,
9 school crossing guard, traffic enforcement officer, traffic enforcement
10 agent, prosecutor as defined in subdivision thirty-one of section 1.20
11 of the criminal procedure law, registered nurse, licensed practical
12 nurse, public health sanitarian, New York city public health sanitarian,
13 sanitation enforcement agent, New York city sanitation worker, emergency
14 medical service paramedic, [~~or~~] emergency medical service technician, or
15 journalist is performing an assigned duty; or
16 § 2. This act shall take effect on the first of November next succeed-
17 ing the date on which it shall have become a law.

18

PART W

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

21 § 60.06 Authorized disposition; murder in the first degree offenders;
22 aggravated murder offenders; certain murder in the second
23 degree offenders; certain terrorism offenders; criminal
24 possession of a chemical weapon or biological weapon offen-
25 ders; criminal use of a chemical weapon or biological weapon
26 offenders.

27 When a defendant is convicted of murder in the first degree as defined
28 in section 125.27 of this chapter, the court shall[~~, in accordance with~~
29 ~~the provisions of section 400.27 of the criminal procedure law,~~
30 sentence the defendant [~~to death,~~] to life imprisonment without parole
31 in accordance with subdivision five of section 70.00 of this title, or
32 to a term of imprisonment for a class A-I felony other than a sentence
33 of life imprisonment without parole, in accordance with subdivisions one
34 through three of section 70.00 of this title. When a person is convicted
35 of murder in the second degree as defined in subdivision five of section
36 125.25 of this chapter or of the crime of aggravated murder as defined
37 in subdivision one of section 125.26 of this chapter, the court shall
38 sentence the defendant to life imprisonment without parole in accordance
39 with subdivision five of section 70.00 of this title. When a defendant
40 is convicted of the crime of terrorism as defined in section 490.25 of
41 this chapter, and the specified offense the defendant committed is a
42 class A-I felony offense, or when a defendant is convicted of the crime
43 of criminal possession of a chemical weapon or biological weapon in the
44 first degree as defined in section 490.45 of this chapter, or when a
45 defendant is convicted of the crime of criminal use of a chemical weapon
46 or biological weapon in the first degree as defined in section 490.55 of
47 this chapter, the court shall sentence the defendant to life imprison-
48 ment without parole in accordance with subdivision five of section 70.00
49 of this title; provided, however, that nothing in this section shall
50 preclude or prevent a sentence of death when the defendant is also
51 convicted of murder in the first degree as defined in section 125.27 of
52 this chapter. When a defendant is convicted of aggravated murder as
53 defined in subdivision two of section 125.26 of this chapter, the court
54 shall sentence the defendant to life imprisonment without parole or to a

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

4 § 2. Subparagraph (i) of paragraph (a) of subdivision 3 of section
5 70.00 of the penal law, as amended by chapter 107 of the laws of 2006,
6 is amended to read as follows:

7 (i) For a class A-I felony, such minimum period shall not be less than
8 fifteen years nor more than twenty-five years; provided, however, that
9 (A) where a sentence, other than a sentence of ~~[death or]~~ life imprison-
10 ment without parole, is imposed upon a defendant convicted of murder in
11 the first degree as defined in section 125.27 of this chapter such mini-
12 mum period shall be not less than twenty years nor more than twenty-five
13 years, and, (B) where a sentence is imposed upon a defendant convicted
14 of murder in the second degree as defined in subdivision five of section
15 125.25 of this chapter or convicted of aggravated murder as defined in
16 section 125.26 of this chapter, the sentence shall be life imprisonment
17 without parole, and, (C) where a sentence is imposed upon a defendant
18 convicted of attempted murder in the first degree as defined in article
19 one hundred ten of this chapter and subparagraph (i), (ii) or (iii) of
20 paragraph (a) of subdivision one and paragraph (b) of subdivision one of
21 section 125.27 of this chapter or attempted aggravated murder as defined
22 in article one hundred ten of this chapter and section 125.26 of this
23 chapter such minimum period shall be not less than twenty years nor more
24 than forty years.

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

27 § 4. Subparagraph (vii) of paragraph (b) of subdivision 3 of section
28 220.30 of the criminal procedure law is REPEALED.

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

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

33 § 7. Section 270.30 of the criminal procedure law, as amended by chap-
34 ter 1 of the laws of 1995, is amended to read as follows:

35 § 270.30 Trial jury; alternate jurors.

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

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

1 ~~during any separate sentencing proceeding which may be conducted pursu-~~
2 ~~ant to section 400.27.]~~

3 § 8. Section 310.80 of the criminal procedure law, as amended by chap-
4 ter 1 of the laws of 1995, is amended to read as follows:

5 § 310.80 Recording and checking of verdict and polling of jury.

6 After a verdict has been rendered, it must be recorded on the minutes
7 and read to the jury, and the jurors must be collectively asked whether
8 such is their verdict. Even though no juror makes any declaration in the
9 negative, the jury must, if either party makes such an application, be
10 polled and each juror separately asked whether the verdict announced by
11 the foreman is in all respects his verdict. If upon either the collec-
12 tive or the separate inquiry any juror answers in the negative, the
13 court must refuse to accept the verdict and must direct the jury to
14 resume its deliberation. If no disagreement is expressed, the jury must
15 be discharged from the case[~~, except as otherwise provided in section~~
16 ~~400.27].~~

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

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

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

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

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

53 § 470.30 Determination by court of appeals of appeals taken directly
54 thereto from judgments and orders of criminal courts.

55 [~~1.~~] Wherever appropriate, the rules set forth in sections 470.15 and
56 470.20, governing the consideration and determination by intermediate

1 appellate courts of appeals thereto from judgments and orders of crimi-
 2 nal courts, and prescribing their scope of review and the corrective
 3 action to be taken by them upon reversal or modification, apply equally
 4 to the consideration and determination by the court of appeals of
 5 appeals taken directly thereto, [~~pursuant to sections 450.70 and~~
 6 ~~450.80,~~] from judgments and orders of superior criminal courts.

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

11 [~~3. With regard to the sentence, the court shall, in addition to exer-~~
 12 ~~cising the powers and scope of review granted under subdivision one of~~
 13 ~~this section, determine:~~

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

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

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

28 4. ~~The court shall include in its decision: (a) the aggravating and~~
 29 ~~mitigating factors established in the record on appeal; and~~
 30 ~~(b) those similar cases it took into consideration.~~

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

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

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

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

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

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

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

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

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

51 § 18. Section 837-1 of the executive law is REPEALED.

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

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

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

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

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

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

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

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

27 § 265.01-c Criminal possession of a rapid-fire modification device.

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

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

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

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

46 2. Any person who transports or ships any machine-gun, firearm silenc-
47 er, assault weapon or large capacity ammunition feeding device or
48 disguised gun, or who transports or ships as merchandise five or more
49 firearms, is guilty of a class D felony. Any person who transports or
50 ships any rapid-fire modification device is guilty of a class E felony.

51 Any person who transports or ships as merchandise any firearm, other
52 than an assault weapon, switchblade knife, gravity knife, pilum ballis-
53 tic knife, billy, blackjack, bludgeon, plastic knuckles, metal knuckles,
54 Kung Fu star, chuka stick, sandbag or slungshot is guilty of a class A
55 misdemeanor.

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

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

14 Paragraph (h) of subdivision twenty-two of section 265.00 and sections
15 265.01, 265.01-a, subdivision one of section 265.01-b, 265.01-c, 265.02,
16 265.03, 265.04, 265.05, 265.10, 265.11, 265.12, 265.13, 265.15, 265.36,
17 265.37 and 270.05 shall not apply to:

18 § 5. The opening paragraph of paragraph 1 of subdivision a of section
19 265.20 of the penal law, as amended by chapter 1041 of the laws of 1974,
20 is amended to read as follows:

21 Possession of any of the weapons, instruments, appliances or
22 substances specified in sections 265.01, 265.01-c, 265.02, 265.03,
23 265.04, 265.05 and 270.05 by the following:

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

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

36 8. The manufacturer of machine-guns, firearm silencers, assault weap-
37 ons, large capacity ammunition feeding devices, rapid-fire modification
38 devices, disguised guns, pilum ballistic knives, switchblade or gravity
39 knives, billies or blackjacks as merchandise, or as a transferee recipi-
40 ent of the same for repair, lawful distribution or research and develop-
41 ment, and the disposal and shipment thereof direct to a regularly
42 constituted or appointed state or municipal police department, sheriff,
43 [~~police~~man] police officer or other peace officer, or to a state prison,
44 penitentiary, workhouse, county jail or other institution for the
45 detention of persons convicted or accused of crime or held as witnesses
46 in criminal cases, or to the military service of this state or of the
47 United States; or for the repair and return of the same to the lawful
48 possessor or for research and development.

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

52 PART Y

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

1 12. Records required of gunsmiths and dealers in firearms. Any person
2 licensed as gunsmith or dealer in firearms shall keep a record book
3 approved as to form, except in the city of New York, by the superinten-
4 dent of state police. In the record book shall be entered at the time of
5 every transaction involving a firearm the date, name, age, occupation
6 and residence of any person from whom a firearm is received or to whom a
7 firearm is delivered, and the calibre, make, model, manufacturer's name
8 and serial number, or if none, any other distinguishing number or iden-
9 tification mark on such firearm. Before delivering a firearm to any
10 person, the licensee shall require him to produce either a license valid
11 under this section to carry or possess the same, or proof of lawful
12 authority as an exempt person pursuant to section 265.20 of this chapter
13 and either (a) the National Instant Criminal Background Check System
14 (NICS) or its successor has issued a "proceed" response to the licensee,
15 or (b) ten business days have elapsed since the date the licensee
16 contacted NICS to initiate a national instate criminal background check
17 and NICS has not notified the licensee that the transfer of the firearm
18 to such person should be denied. In addition, before delivering a
19 firearm to a peace officer, the licensee shall verify that person's
20 status as a peace officer with the division of state police. After
21 completing the foregoing, the licensee shall remove and retain the
22 attached coupon and enter in the record book the date of such license,
23 number, if any, and name of the licensing officer, in the case of the
24 holder of a license to carry or possess, or the shield or other number,
25 if any, assignment and department, unit or agency, in the case of an
26 exempt person. The original transaction report shall be forwarded to the
27 division of state police within ten days of delivering a firearm to any
28 person, and a duplicate copy shall be kept by the licensee. The super-
29 intendent of state police may designate that such record shall be
30 completed and transmitted in electronic form. A dealer may be granted a
31 waiver from transmitting such records in electronic form if the super-
32 intendent determines that such dealer is incapable of such transmission
33 due to technological limitations that are not reasonably within the
34 control of the dealer, or other exceptional circumstances demonstrated
35 by the dealer, pursuant to a process established in regulation, and at
36 the discretion of the superintendent. Records assembled or collected for
37 purposes of inclusion in the database created pursuant to section 400.02
38 of this article shall not be subject to disclosure pursuant to article
39 six of the public officers law. The record book shall be maintained on
40 the premises mentioned and described in the license and shall be open at
41 all reasonable hours for inspection by any peace officer, acting pursu-
42 ant to his special duties, or police officer. In the event of cancella-
43 tion or revocation of the license for gunsmith or dealer in firearms, or
44 discontinuance of business by a licensee, such record book shall be
45 immediately surrendered to the licensing officer in the city of New
46 York, and in the counties of Nassau and Suffolk, and elsewhere in the
47 state to the executive department, division of state police.

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

50 § 400.20 Waiting period in connection with the sale or transfer of a
51 rifle or shotgun.

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

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

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

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

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

22 1. In addition to any other requirements pursuant to state and feder-
23 al law, all sales, exchanges or disposals of firearms, rifles or shot-
24 guns shall be conducted in accordance with this section unless such
25 sale, exchange or disposal is conducted by a licensed importer, licensed
26 manufacturer or licensed dealer, as those terms are defined in 18 USC §
27 922, when such sale, exchange or disposal is conducted pursuant to that
28 person's federal firearms license or such sale, exchange or disposal is
29 between members of an immediate family. When a sale, exchange or
30 disposal is conducted pursuant to a person's federal firearms license,
31 before delivering a firearm, rifle or shotgun to any person, either (a)
32 the National Instant Criminal Background Check System (NICS) or its
33 successor has issued a "proceed" response to the federal firearms licen-
34 see, or (b) ten business days shall have elapsed since the date the
35 federal firearms licensee contacted NICS to initiate a national instant
36 criminal background check and NICS has not notified the federal firearms
37 licensee that the transfer of the firearm, rifle or shotgun to such
38 person should be denied. For purposes of this section, "immediate fami-
39 ly" shall mean spouses, domestic partners, children and step-children.

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

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

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

3 ARTICLE 63-A

4 EXTREME RISK PROTECTION ORDERS

5 Section 6340. Definitions.

6 6341. Application for an extreme risk protection order.

7 6342. Issuance of a temporary extreme risk protection order.

8 6343. Issuance of a final extreme risk protection order.

9 6344. Surrender and removal of firearms, rifles and shotguns
10 pursuant to an extreme risk protection order.

11 6345. Request for renewal of an extreme risk protection order.

12 6346. Expiration of an extreme risk protection order.

13 6347. Effect of findings and determinations in subsequent
14 proceedings.

15 § 6340. Definitions. For the purposes of this article:

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

19 2. "Petitioner" means: (a) a police officer, as defined in section
20 1.20 of the criminal procedure law, or district attorney with jurisdic-
21 tion in the county or city where the person against whom the order is
22 sought resides; (b) a family or household member, as defined in subdivi-
23 sion two of section four hundred fifty-nine-a of the social services
24 law, of the person against whom the order is sought; or (c) a school
25 official of any school in which the respondent is currently enrolled or
26 in which the respondent has been enrolled in the six months immediately
27 preceding the filing of the petition. For purposes of this article,
28 school official shall include the following: school teacher, school
29 guidance counselor, school psychologist, school social worker, school
30 nurse, school administrator or other school personnel required to hold a
31 teaching or administrative license or certificate, and full or part-time
32 compensated school employee required to hold a temporary coaching
33 license or professional coaching certificate.

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

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

38 § 6341. Application for an extreme risk protection order. In accord-
39 ance with this article, a petitioner may file a sworn application, and
40 accompanying supporting documentation, setting forth the facts and
41 circumstances justifying the issuance of an extreme risk protection
42 order. Such application and supporting documentation shall be filed in
43 the supreme court in the county in which the respondent resides. The
44 chief administrator of the courts shall adopt forms that may be used for
45 purposes of such applications and the court's consideration of such
46 applications. Such application form shall include inquiry as to whether
47 the petitioner knows, or has reason to believe, that the respondent
48 owns, possesses or has access to a firearm, rifle or shotgun and if so,
49 a request that the petitioner list or describe such firearms, rifles and
50 shotguns, and the respective locations thereof, with as much specificity
51 as possible.

52 § 6342. Issuance of a temporary extreme risk protection order. 1.
53 Upon application of a petitioner pursuant to this article, the court may
54 issue a temporary extreme risk protection order, ex parte or otherwise,
55 to prohibit the respondent from purchasing, possessing or attempting to
56 purchase or possess a firearm, rifle or shotgun, upon a finding that

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

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

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

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

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

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

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

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

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

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

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

27 3. The application of the petitioner and supporting documentation, if
28 any, shall set forth the factual basis for the request and probable
29 cause for issuance of a temporary order. The court may conduct an exam-
30 ination under oath of the petitioner and any witness the petitioner may
31 produce.

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

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

35 (b) the date and time the order expires;

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

37 (d) a statement to the respondent: (i) directing that the respondent
38 may not purchase, possess or attempt to purchase or possess a firearm,
39 rifle or shotgun while the order is in effect and that any firearm,
40 rifle or shotgun possessed by such respondent shall be promptly surren-
41 dered to any authorized law enforcement official in the same manner as
42 set forth in subdivision five of section 530.14 of the criminal proce-
43 dure law;

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

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

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

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

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

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

46 (b) Upon receiving notice of the issuance of a temporary extreme risk
47 protection order, the division of criminal justice services shall imme-
48 diately report the existence of such order to the federal bureau of
49 investigation to allow the bureau to identify persons prohibited from
50 purchasing firearms, rifles or shotguns. The division shall also imme-
51 diately report to the bureau the expiration of any such protection
52 order, any court order amending or revoking such protection order or
53 restoring the respondent's ability to purchase a firearm, rifle or shot-
54 gun.

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

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

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

17 (a) has any prior criminal conviction for an offense involving domes-
18 tic violence, use of a weapon, or other violence;

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

21 (c) is currently on parole or probation;

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

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

25 § 6343. Issuance of a final extreme risk protection order. 1. In
26 accordance with this article, no sooner than three business days nor
27 later than six business days after service of a temporary extreme risk
28 protection order and, alternatively, no later than ten business days
29 after service of an application under this article where no temporary
30 extreme risk protection order has been issued, the supreme court shall
31 hold a hearing to determine whether to issue a final extreme risk
32 protection order and, when applicable, whether a firearm, rifle or shot-
33 gun surrendered by, or removed from, the respondent should be returned
34 to the respondent. The respondent shall be entitled to more than six
35 business days if a temporary extreme risk protection order has been
36 issued and the respondent requests a reasonable period of additional
37 time to prepare for the hearing. Where no temporary order has been
38 issued, the respondent may request, and the court may grant, additional
39 time beyond the ten days to allow the respondent to prepare for the
40 hearing.

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

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

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

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

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

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

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

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

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

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

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

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

31 § 6344. Surrender and removal of firearms, rifles and shotguns pursu-
32 ant to an extreme risk protection order. 1. When a law enforcement offi-
33 cer takes any firearm, rifle or shotgun pursuant to a temporary extreme
34 risk protection order or a final extreme risk protection order, the
35 officer shall give to the person from whom such firearm, rifle or shot-
36 gun is taken a receipt or voucher for the property taken, describing the
37 property in detail. In the absence of a person, the officer shall leave
38 the receipt or voucher in the place where the property was found, mail a
39 copy of the receipt or voucher, retaining proof of mailing, to the last
40 known address of the respondent and, if different, the owner of the
41 firearm, rifle or shotgun, and file a copy of such receipt or voucher
42 with the court. All firearms, rifles and shotguns in the possession of a
43 law enforcement official pursuant to this article shall be subject to
44 the provisions of applicable law, including but not limited to subdivi-
45 sion six of section 400.05 of the penal law; provided, however, that any
46 such firearm, rifle or shotgun shall be retained and not disposed of by
47 the law enforcement agency for at least two years unless legally trans-
48 ferred by the respondent to an individual permitted by law to own and
49 possess such firearm, rifle or shotgun.

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

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

4 § 6345. Request for renewal of an extreme risk protection order. 1.
5 If a petitioner believes a person subject to an extreme risk protection
6 order continues to be likely to engage in conduct that would result in
7 serious harm to himself, herself, or others, as defined in paragraph one
8 or two of subdivision (a) of section 9.39 of the mental hygiene law,
9 such petitioner may, at any time within sixty days prior to the expira-
10 tion of such existing extreme risk protection order, initiate a request
11 for a renewal of such order, setting forth the facts and circumstances
12 necessitating the request. The chief administrator of the courts shall
13 adopt forms that may be used for purposes of such applications and the
14 court's consideration of such applications. The court may issue a tempo-
15 rary extreme risk protection order in accordance with section sixty-
16 three hundred forty-two of this article, during the period that a
17 request for renewal of an extreme risk protection order is under consid-
18 eration pursuant to this section.

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

29 § 6346. Expiration of an extreme risk protection order. 1. A
30 protection order issued pursuant to this article, and all records of any
31 proceedings conducted pursuant to this article, shall be sealed upon
32 expiration of such order and the clerk of the court wherein such
33 proceedings were conducted shall immediately notify the commissioner of
34 the division of criminal justice services, the heads of all appropriate
35 police departments, applicable licensing officers, and all other appro-
36 priate law enforcement agencies that the order has expired and that the
37 record of such protection order shall be sealed and not be made avail-
38 able to any person or public or private entity, except that such records
39 shall be made available to:

40 (a) the respondent or the respondent's designated agent;
41 (b) courts in the unified court system;
42 (c) police forces and departments having responsibility for enforce-
43 ment of the general criminal laws of the state;
44 (d) any state or local officer or agency with responsibility for the
45 issuance of licenses to possess a firearm, rifle or shotgun, when the
46 respondent has made application for such a license; and
47 (e) any prospective employer of a police officer or peace officer as
48 those terms are defined in subdivisions thirty-three and thirty-four of
49 section 1.20 of the criminal procedure law, in relation to an applica-
50 tion for employment as a police officer or peace officer; provided,
51 however, that every person who is an applicant for the position of
52 police officer or peace officer shall be furnished with a copy of all
53 records obtained under this subparagraph and afforded an opportunity to
54 make an explanation thereto.

55 2. Upon expiration of a protection order issued pursuant to this arti-
56 cle and upon written application of the respondent who is the subject of

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

14 § 6347. Effect of findings and determinations in subsequent
 15 proceedings. Notwithstanding any contrary claim based on common law or
 16 a provision of any other law, no finding or determination made pursuant
 17 to this article shall be interpreted as binding, or having collateral
 18 estoppel or similar effect, in any other action or proceeding, or with
 19 respect to any other determination or finding, in any court, forum or
 20 administrative proceeding.

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

23 § 265.45 Safe storage of rifles, shotguns, and firearms.

24 No person who owns or is custodian of a rifle, shotgun or firearm who
 25 resides with an individual who such person knows or has reason to know
 26 is prohibited from possessing a firearm pursuant to 18 U.S.C. § 922(g)
 27 (1), (4), (8) or (9), or pursuant to a temporary or final extreme risk
 28 protection order issued under article sixty-three-A of the civil prac-
 29 tice law and rules, shall store or otherwise leave such rifle, shotgun
 30 or firearm out of his or her immediate possession or control without
 31 having first securely locked such rifle, shotgun or firearm in an appro-
 32 priate safe storage depository or rendered it incapable of being fired
 33 by use of a gun locking device appropriate to that weapon. For purposes
 34 of this section "safe storage depository" shall mean a safe or other
 35 secure container which, when locked, is incapable of being opened with-
 36 out the key, combination or other unlocking mechanism and is capable of
 37 preventing an unauthorized person from obtaining access to and
 38 possession of the weapon contained therein. With respect to a person who
 39 is prohibited from possessing a firearm pursuant to 18 USC § 922(g)(9),
 40 for purposes of this section, this section applies only if such person
 41 has been convicted of a crime included in subdivision one of section
 42 370.15 of the criminal procedure law and such gun is possessed within
 43 five years from the later of the date of conviction or completion of
 44 sentence. Nothing in this section shall be deemed to affect, impair or
 45 supersede any special or local act relating to the safe storage of
 46 rifles, shotguns or firearms which impose additional requirements on the
 47 owner or custodian of such weapons.

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

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

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

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

18

SUBPART A

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

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

39 1. (a) Whenever a police officer is authorized pursuant to section
40 140.10 of this title to arrest a person without a warrant for an offense
41 other than a class A, B, C or D felony or a violation of section 130.25,
42 130.40, 205.10, 205.17, 205.19 or 215.56 of the penal law, he [~~may~~]
43 shall, except as set out in paragraph (b) of this subdivision, subject
44 to the provisions of subdivisions three and four of section 150.40 of
45 this title, instead issue to and serve upon such person an appearance
46 ticket.

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

49 (i) has one or more outstanding warrants;

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

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

1 to do so, so that a custodial arrest is necessary to subject the indi-
2 vidual to the jurisdiction of the court;

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

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

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

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

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

21 (ix) is unlikely to return to court on the return date of an appear-
22 ance ticket for reasons specific to the facts of the case that the offi-
23 cer can articulate in the information or misdemeanor complaint. These
24 reasons cannot rely solely on the defendant's prior criminal history or
25 place of residence.

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

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

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

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

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

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

53 3-a. "Release under non-monetary conditions". A court releases a prin-
54 cipal under non-monetary conditions when, having acquired control over a
55 person, it permits the person to be at liberty during the pendency of
56 the criminal action under conditions set by the court, which shall be

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

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

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

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

33 § 6. Section 510.10 of the criminal procedure law, as amended by chap-
34 ter 459 of the laws of 1984, is amended to read as follows:

35 § 510.10 Securing order; when required; alternatives available; standard
36 to be applied.

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

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

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

1 When the court revokes or otherwise terminates a securing order which
2 committed the principal to the custody of the sheriff, the court shall
3 give written notification to the sheriff of such revocation or termi-
4 nation of the securing order.

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

7 § 510.20 [~~Application for recognizance or bail, making and determination~~
8 ~~thereof in general~~] Application for a change in securing
9 order based on a material change of circumstances.

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

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

26 § 8. Section 510.30 of the criminal procedure law, subparagraph (v) of
27 paragraph (a) of subdivision 2 as amended by chapter 920 of the laws of
28 1982, subparagraph (vi) of paragraph (a) of subdivision 2 as renumbered
29 by chapter 447 of the laws of 1977, subparagraph (vii) of paragraph (a)
30 of subdivision 2 as added and subparagraphs (viii) and (ix) of paragraph
31 (a) of subdivision 2 as renumbered by section 1 of part D of chapter 491
32 of the laws of 2012, and subdivision 3 as added by chapter 788 of the
33 laws of 1981, is amended to read as follows:

34 § 510.30 Application for [~~recognizance or bail~~] securing order; rules of
35 law and criteria controlling determination.

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

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

49 ~~(a)]~~ With respect to any principal, the court in all cases, unless
50 otherwise provided by law, must [~~consider the~~] impose the least restric-
51 tive kind and degree of control or restriction that is necessary to
52 secure [~~his~~] the principal's court attendance when required. In deter-
53 mining that matter, the court must, on the basis of available informa-
54 tion, consider and take into account:

55 [~~(i) The principal's character, reputation, habits and mental condi-~~
56 ~~tion;~~

1 ~~(ii) His employment and financial resources; and~~
2 ~~(iii) His family ties and the length of his residence if any in the~~
3 ~~community; and~~

4 ~~(iv) His~~ 1. information about the principal that is relevant to court
5 appearance, including, but not limited to, the principal's activities,
6 history and community ties;

7 2. if the principal is a defendant, the charges facing the principal;

8 3. the principal's criminal record if any; provided that the court
9 must also consider the time that has elapsed since the occurrence of the
10 crime or crimes and the age of the principal at the time of the occur-
11 rence of such delinquent or youthful offender conduct; [and

12 ~~(v) His~~ 4. the principal's record of previous adjudication as a juve-
13 nile delinquent, as retained pursuant to section 354.2 of the family
14 court act, or, of pending cases where fingerprints are retained pursuant
15 to section 306.1 of such act, or a youthful offender, if any; provided
16 that the court must also consider the time that has elapsed since the
17 occurrence of the crime or crimes and the age of the principal at the
18 time of the occurrence of such delinquent or youthful offender conduct;

19 ~~[and~~

20 ~~(vi) His~~ 5. the principal's previous record if any in responding to
21 court appearances when required or with respect to flight to avoid crim-
22 inal prosecution; [and

23 ~~(vii) Where~~ 6. where the principal is charged with a crime or crimes
24 against a member or members of the same family or household as that term
25 is defined in subdivision one of section 530.11 of this title, the
26 following factors:

27 ~~(A)~~ (i) any violation by the principal of an order of protection
28 issued by any court for the protection of a member or members of the
29 same family or household as that term is defined in subdivision one of
30 section 530.11 of this title, whether or not such order of protection is
31 currently in effect; and

32 ~~(B)~~ (ii) the principal's history of use or possession of a firearm;
33 ~~[and~~

34 ~~(viii)~~ 7. If ~~[he]~~ the principal is a defendant, the weight of the
35 evidence against ~~[him]~~ the principal in the pending criminal action and
36 any other factor indicating probability or improbability of conviction;
37 or, in the case of an application for ~~[bail or recognizance]~~ securing
38 order pending appeal, the merit or lack of merit of the appeal; and

39 ~~(ix)~~ 8. If ~~[he]~~ the principal is a defendant, the sentence which may
40 be or has been imposed upon conviction[~~r~~

41 ~~(b) Where the principal is a defendant-appellant in a pending appeal~~
42 ~~from a judgment of conviction, the court must also consider the likeli-~~
43 ~~hood of ultimate reversal of the judgment. A determination that the~~
44 ~~appeal is palpably without merit alone justifies, but does not require,~~
45 ~~a denial of the application, regardless of any determination made with~~
46 ~~respect to the factors specified in paragraph (a).~~

47 ~~3. When bail or recognizance is ordered, the court shall inform the~~
48 ~~principal, if he is a defendant charged with the commission of a felony,~~
49 ~~that the release is conditional and that the court may revoke the order~~
50 ~~of release and commit the principal to the custody of the sheriff in~~
51 ~~accordance with the provisions of subdivision two of section 530.60 of~~
52 ~~this chapter if he commits a subsequent felony while at liberty upon~~
53 ~~such order.]; and~~

54 9. if the principal is a defendant-appellant in a pending appeal from
55 a judgment of conviction, the court must also consider the likelihood of
56 ultimate reversal of the judgment. A determination that the appeal is

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

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

6 § 510.40 [~~Application for recognizance or bail, determination thereof,~~
7 ~~form of securing order and execution thereof~~] Notification to
8 principal by court of conditions of release and penalties for
9 violations of release.

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

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

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

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

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

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

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

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

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

49 § 10. The criminal procedure law is amended by adding a new section
50 510.41 to read as follows:

51 § 510.41 Provisions regarding non-monetary conditions of release.

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

1 modification of conditions to a less burdensome form based on the prin-
2 icipal's compliance with existing conditions of release.

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

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

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

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

28 § 11. The criminal procedure law is amended by adding a new section
29 510.43 to read as follows:

30 § 510.43 Court appearances; additional notifications.

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

44 § 12. The criminal procedure law is amended by adding a new section
45 510.45 to read as follows:

46 § 510.45 Pretrial service agencies.

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

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

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

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

18 § 510.50 Enforcement of securing order.

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

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

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

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

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

40 § 530.10 [~~Order of recognizance or bail~~] Securing orders; in general.

41 Under circumstances prescribed in this article, a court, upon applica-
42 tion of a defendant charged with or convicted of an offense, is
43 [~~required or authorized to order bail or recognizance~~] to issue a secur-
44 ing order for the release or prospective release of such defendant
45 during the pendency of either:

- 46 1. A criminal action based upon such charge; or
- 47 2. An appeal taken by the defendant from a judgment of conviction or a
48 sentence or from an order of an intermediate appellate court affirming
49 or modifying a judgment of conviction or a sentence.

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

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

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

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

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

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

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

35 § 20. Subdivisions 9 and 11 of section 530.12 of the criminal proce-
36 dure law, subdivision 9 as amended by section 81 of subpart B of part C
37 of chapter 62 of the laws of 2011, subdivision 11 as amended by chapter
38 498 of the laws of 1993, the opening paragraph of subdivision 11 as
39 amended by chapter 597 of the laws of 1998, paragraph (a) of subdivision
40 11 as amended by chapter 222 of the laws of 1994, paragraph (d) of
41 subdivision 11 as amended by chapter 644 of the laws of 1996, are
42 amended to read as follows:

43 9. If no warrant, order or temporary order of protection has been
44 issued by the court, and an act alleged to be a family offense as
45 defined in section 530.11 of this [~~chapter~~] article is the basis of the
46 arrest, the magistrate shall permit the complainant to file a petition,
47 information or accusatory instrument and for reasonable cause shown,
48 shall thereupon hold such respondent or defendant, [~~admit to, fix or~~
49 ~~accept bail,~~] establish a securing order or parole him or her for hear-
50 ing before the family court or appropriate criminal court as the
51 complainant shall choose in accordance with the provisions of section
52 530.11 of this [~~chapter~~] article.

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

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

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

6 (b) restore the case to the calendar when there has been an adjourn-
7 ment in contemplation of dismissal and commit the defendant to custody;
8 or

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

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

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

23 § 530.20 [~~Order of recognizance or bail,~~] Securing order by local crimi-
24 nal court when action is pending therein.

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

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

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

41 (a) ~~A city court, a town court or a village court may not order recog-~~
42 ~~nizance or bail when (i) the defendant is charged with a class A felony,~~
43 ~~or (ii) it appears that the defendant has two previous felony~~
44 ~~convictions.~~

45 (b) Notwithstanding the above, in cases where the people indicate
46 that they intend to move for pretrial detention as set forth in article
47 five hundred forty-five of this title, the court may commit the defend-
48 ant to the custody of the sheriff or issue a securing order in accord-
49 ance with article five hundred forty-five of this title.

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

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

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

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

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

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

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

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

34 ~~(b) Has denied an application for recognizance or bail; or~~
35 ~~(c) Has fixed bail which is excessive;] or~~

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

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

45 2. Notwithstanding the provisions of subdivision one of this section,
46 when the defendant is charged with a felony in a local criminal court, a
47 superior court judge may not [~~order recognizance or bail~~] issue a secur-
48 ing order unless and until the district attorney has had an opportunity
49 to be heard in the matter and such judge [~~has~~] and counsel for the
50 defendant have been furnished with a report as described in [~~subpara-~~
51 ~~graph (ii) of paragraph (b) of~~] subdivision [~~two~~] four of section
52 530.20.

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

1 § 530.40 [~~Order of recognizance or bail,~~] Securing order by superior
2 court when action is pending therein.

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

6 1. [~~When the defendant is charged with an offense or offenses of less~~
7 ~~than felony grade only, the court must order recognizance or bail.~~

8 2. [~~When the defendant is charged with a felony, the court may, in its~~
9 ~~discretion, order recognizance or bail. In any such case in which an~~
10 ~~indictment (a) has resulted from an order of a local criminal court~~
11 ~~holding the defendant for the action of the grand jury, or (b) was filed~~
12 ~~at a time when a felony complaint charging the same conduct was pending~~
13 ~~in a local criminal court, and in which such local criminal court or a~~
14 ~~superior court judge has issued an order of recognizance or bail which~~
15 ~~is still effective, the superior court's order may be in the form of a~~
16 ~~direction continuing the effectiveness of the previous order.] Release
17 the principal pending trial on the principal's personal recognizance,
18 unless the court finds on the record that release on recognizance will
19 not reasonably assure the individual's court attendance. In such
20 instances, the court will release the individual under non-monetary
21 conditions, selecting the least restrictive alternative that will
22 reasonably assure the principal's court attendance. The court will
23 support its choice of alternative on the record.~~

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

29 3. Notwithstanding the provisions of subdivision [~~two,~~] one of this
30 section, a superior court may not [~~order recognizance or bail~~] issue a
31 securing order, or permit a defendant to remain at liberty pursuant to
32 an existing order, after [~~he~~] the defendant has been convicted of
33 either: (a) a class A felony or (b) any class B or class C felony
34 defined in article one hundred thirty of the penal law committed or
35 attempted to be committed by a person eighteen years of age or older
36 against a person less than eighteen years of age. In either case the
37 court must commit or remand the defendant to the custody of the sheriff.

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

45 § 24. Subdivision 1 of section 530.45 of the criminal procedure law,
46 as amended by chapter 264 of the laws of 2003, is amended to read as
47 follows:

48 1. When the defendant is at liberty in the course of a criminal action
49 as a result of a prior [~~order of recognizance or bail~~] securing order
50 and the court revokes such order and then [~~either fixes no bail or fixes~~
51 ~~bail in a greater amount or in a more burdensome form than was previous-~~
52 ~~ly fixed and remands or commits defendant to the custody of the sheriff,~~
53 ~~a judge designated in subdivision two, upon application of the defendant~~
54 ~~following conviction of an offense other than a class A felony or a~~
55 ~~class B or class C felony offense defined in article one hundred thirty~~
56 ~~of the penal law committed or attempted to be committed by a person~~

1 ~~eighteen years of age or older against a person less than eighteen years~~
2 ~~of age, and before sentencing, may issue a securing order and either~~
3 ~~release defendant on his own recognizance, or fix bail, or fix bail in a~~
4 ~~lesser amount or] issues a more restrictive securing order in a less~~
5 ~~[burdensome] restrictive form than fixed by the court in which the~~
6 conviction was entered.

7 § 25. Section 530.60 of the criminal procedure law is REPEALED.

8 § 26. Title P of part 3 of the criminal procedure law is amended by
9 adding a new article 545 to read as follows:

10 ARTICLE 545--PRETRIAL DETENTION

11 Section 545.10 Pretrial detention; when ordered.

12 545.20 Eligibility for a pretrial detention hearing.

13 545.30 Pretrial detention hearing.

14 545.40 Order for pretrial detention.

15 545.50 Reopening of pretrial hearing.

16 545.60 Length of detention for defendant held under a pretrial
17 detention order.

18 § 545.10 Pretrial detention; when ordered.

19 A county or superior court may order, before trial, the detention of a
20 defendant if the people seek detention of the defendant under section
21 545.20 of this article, and, after a hearing pursuant to section 545.30
22 of this article, the court finds clear and convincing evidence that the
23 defendant poses a high risk of flight before trial, or that defendant
24 poses a current threat to the physical safety of a reasonably identifi-
25 able person or persons, and that no conditions or combination of condi-
26 tions in the community will suffice to contain the aforesaid risk or
27 threat. There shall be a rebuttable presumption, except in the circum-
28 stances outlined in subdivision four of section 545.30 of this article
29 that some condition or conditions in the community will reasonably
30 contain a high risk of flight or a current threat to the physical safety
31 of a reasonably identifiable person or persons. That presumption may
32 only be overcome by clear and convincing evidence.

33 § 545.20 Eligibility for a pretrial detention hearing.

34 1. The people may make a motion with the court at any time seeking the
35 pretrial detention of a defendant:

36 (a) charged with a class A felony defined in the penal law;

37 (b) charged with offenses involving witness intimidation under section
38 215.15, 215.16 or 215.17 of the penal law;

39 (c) charged with class B or C crimes as enumerated under section 70.02
40 of the penal law (except burglary in the second degree as defined in
41 subdivision two of section 140.25 of the penal law, or robbery in the
42 second degree as defined in subdivision one of section 160.10 of the
43 penal law);

44 (d) who, the people allege poses an immediate risk of physical harm to
45 members of the same family or household of the defendant, as defined in
46 subdivision one of section 530.11 of this title; or

47 (e) who has persistently and willfully failed to appear in court in
48 the current case, and the relevant pretrial services agency certifies
49 that the agency has made persistent efforts to assist the individual's
50 appearance in court.

51 2. Upon such motion by the people, the defendant may be committed to
52 the custody of the sheriff pending a hearing on the people's motion, or
53 the court may issue a securing order. The court shall support its choice
54 of an alternative on the record. If the person is at liberty, a warrant
55 shall be issued and the defendant brought into custody of the sheriff.
56 § 545.30 Pretrial detention hearing.

1 1. A hearing shall be held within three working days from the people's
2 motion. At the hearing, the defendant shall have the right to be
3 represented by counsel, and, if financially unable to obtain counsel, to
4 have counsel assigned. The defendant shall be afforded an opportunity to
5 testify, to present witnesses, to cross-examine witnesses who appear at
6 the hearing, and to present information by proffer or otherwise. The
7 rules concerning the admissibility of evidence in criminal trials do not
8 apply to the presentation and consideration of information during the
9 hearing.

10 2. (a) Within at least twenty-four hours of the hearing, the people
11 shall disclose to the defendant and permit the defendant to inspect,
12 copy or photograph all statements and reports that are in the
13 possession, custody or control of the people, or persons under the
14 people's direction and control that:

15 (i) the people rely upon to establish reasonable cause that the
16 defendant committed the alleged crime or crimes; and

17 (ii) relate to the people's basis for the pretrial detention motion
18 that either the defendant presents a high risk of flight or a current
19 threat to the physical safety of a reasonably identifiable person or
20 persons.

21 (b) In addition, the people will produce any statements that are
22 exculpatory in nature.

23 (c) Portions of materials claimed to be non-discoverable may be with-
24 held pending a determination and ruling of the court under section
25 245.70 of this chapter; but the defendant shall be notified in writing
26 that such information has not been disclosed under a particular subdivi-
27 sion of such section, and the discoverable portions of such materials
28 shall be disclosed if practicable.

29 3. In hearings in cases for which there is no indictment, the people
30 shall establish reasonable cause that the eligible defendant committed
31 the charged offense. The people must establish by clear and convincing
32 evidence that defendant poses a high risk of flight or a current threat
33 of physical danger to a reasonably identifiable person or persons and
34 that no conditions or combination of conditions in the community will
35 suffice to contain the aforesaid risk or threat.

36 4. There shall be a rebuttable presumption, which the defendant may
37 overcome by a preponderance of the evidence, that no conditions or
38 combination of conditions in the community will suffice to contain a
39 current threat to the physical safety of a reasonably identifiable
40 person or persons if the court finds reasonable cause that the defend-
41 ant:

42 (a) committed a crime for which the defendant would be subject to a
43 term of life imprisonment;

44 (b) committed a crime involving serious physical injury or threat of
45 serious physical injury, or attempt therein, while the defendant was in
46 the community on recognizance or under non-monetary conditions for a
47 crime involving serious physical injury or the threat of serious phys-
48 ical injury; or

49 (c) threatened, injured, intimidated, or attempted to threaten, injure
50 or intimidate a prospective witness or juror in an criminal investi-
51 gation or judicial proceeding.

52 5. In determining whether the defendant presents a high risk of flight
53 or a current threat of physical danger to a reasonably identifiable
54 person or persons and whether no conditions or combinations of condi-
55 tions in the community will suffice to contain such risk or threat, the
56 court may take into account the following information:

1 (a) the nature and circumstances of the charged offense;
 2 (b) the weight of the evidence against the defendant, except that the
 3 court may consider the admissibility of any evidence sought to be
 4 excluded;

5 (c) the defendant's current and prior history of failure to appear in
 6 court whether such failures to appear were willful;

7 (d) the nature and the credibility of the threat to the physical
 8 danger of a reasonably identifiable person or persons, if applicable;
 9 and

10 (e) whether, at the time of the current offense or arrest, the defend-
 11 ant was on probation, parole, or on release pending trial, sentencing or
 12 completion of a sentence in this state or other jurisdictions.

13 § 545.40 Order for pretrial detention.

14 In a pretrial detention order issued pursuant to section 545.10 of
 15 this article, the court shall:

16 1. include written findings of fact and a written statement of the
 17 reasons for the detention; and

18 2. direct that the eligible defendant be afforded reasonable opportu-
 19 nity for private consultation with counsel.

20 § 545.50 Reopening of pretrial hearing.

21 A pretrial detention hearing may be opened, before or after issuance
 22 of a pretrial detention order by the court, by motion of the people or
 23 the defendant, at any time before trial, if the court finds either a
 24 change of circumstances or that information exists that was not known to
 25 the people or to the defendant at the time of the hearing, that has a
 26 material bearing on the issue of whether defendant presents a high risk
 27 of failure to appear or a current threat to the physical safety of a
 28 reasonably identifiable person or persons and whether no conditions or
 29 combination of conditions will suffice to contain such risk or threat.

30 § 545.60 Length of detention for defendant held under a pretrial
 31 detention order.

32 1. If a pretrial detention order is issued, a defendant shall not
 33 remain detained in jail for more than one hundred eighty days after the
 34 return of the indictment, if applicable, until the start of trial. In
 35 cases where no indictment is required, the defendant shall not remain
 36 detained in jail for more than ninety days from the date of the pretrial
 37 detention motion until the start of trial.

38 2. (a) The time within which the trial of the case commences may be
 39 extended for one or more additional periods not to exceed twenty days
 40 each on the basis of a motion submitted by the people and approved by
 41 the court. The additional period or periods of detention may be granted
 42 only on the basis of good cause shown, and shall be granted only for the
 43 additional time required to prepare for the trial of the person. Good
 44 cause may include, but not be limited to, the unavailability of an
 45 essential witness, the necessity for forensic analysis of evidence, the
 46 ability to conduct a joint trial with a co-defendant or co-defendants,
 47 severance of co-defendants which permits only one trial to commence
 48 within the time period, complex or major investigations, scheduling
 49 conflicts which arise shortly before the trial date, the inability to
 50 proceed to trial because of action taken by or at the behest of the
 51 defendant, the breakdown of a plea agreement on or immediately before
 52 the trial date, and allowing reasonable time to prepare for a trial
 53 after the circumstances giving rise to a tolling or extension of the
 54 time period no longer exists.

55 (b) In computing the one hundred eighty days from indictment, if
 56 applicable, or if no indictment is required, ninety days from the date

1 of the pretrial order, to commencement of trial, the following periods
2 shall be excluded:

3 (i) any period from the filing of the notice of appeal to the issuance
4 of the mandate in an interlocutory appeal;

5 (ii) any period attributable to any examination to determine the
6 defendant's sanity or lack thereof or his or her mental or physical
7 competency to stand trial;

8 (iii) any period attributable to the inability of the defendant to
9 participate in the defendant's defense because of mental incompetency or
10 physical incapacity; and

11 (iv) any period in which the defendant is otherwise unavailable for
12 trial.

13 3. If a trial has not commenced within one hundred eighty days from
14 indictment, if applicable, or ninety days from the pretrial detention
15 order if no indictment is required, as calculated above, and the defend-
16 ant remains in custody, the defendant shall be released on recognizance
17 or under non-monetary conditions of release pending trial on the under-
18 lying charge, unless:

19 (a) the trial is in progress,

20 (b) the trial has been delayed by the timely filing of motions,
21 excluding motions for continuances;

22 (c) the trial has been delayed at the request of the defendant; or

23 (d) upon motion of the people, the court finds that a current substan-
24 tial and unjustifiable risk to the physical safety of a reasonably iden-
25 tifiable person would result from the defendant's release from custody,
26 and that no appropriate conditions for the defendant's release would
27 reasonably address that risk, and also finds that the failure to
28 commence trial in accordance with the time requirements set forth in
29 this section was not due to unreasonable delay by the people. If the
30 court makes such a finding, the court must set an additional period of
31 time, not to exceed thirty days, in which the defendant's trial must
32 commence. If the trial does not commence within this period, the defend-
33 ant must be released on recognizance or under non-monetary conditions.

34 § 27. Article 68 of the insurance law is REPEALED.

35 § 28. Paragraph (a) of subdivision 9 of section 216.05 of the criminal
36 procedure law, as amended by chapter 258 of the laws of 2015, is amended
37 to read as follows:

38 (a) If at any time during the defendant's participation in the judi-
39 cial diversion program, the court has reasonable grounds to believe that
40 the defendant has violated a release condition or has failed to appear
41 before the court as requested, the court shall direct the defendant to
42 appear or issue a bench warrant to a police officer or an appropriate
43 peace officer directing him or her to take the defendant into custody
44 and bring the defendant before the court without unnecessary delay;
45 provided, however, that under no circumstances shall a defendant who
46 requires treatment for opioid abuse or dependence be deemed to have
47 violated a release condition on the basis of his or her participation in
48 medically prescribed drug treatments under the care of a health care
49 professional licensed or certified under title eight of the education
50 law, acting within his or her lawful scope of practice. The provisions
51 of [~~subdivision one of~~] section [~~530.60~~] 530.10 of this chapter relating
52 to [~~revocation of recognizance or bail~~] issuance of securing orders
53 shall apply to such proceedings under this subdivision.

54 § 29. Subdivisions 2 and 3 of section 620.50 of the criminal procedure
55 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.

1 245.60 Continuing duty to disclose.

2 245.65 Work product.

3 245.70 Protective orders.

4 245.75 Waiver of discovery by defendant.

5 245.80 Remedies or sanctions for non-compliance.

6 245.85 Admissibility of discovery.

7 § 245.10 Timing of discovery.

8 1. Prosecution's performance of obligations. (a) The prosecution shall
9 perform its initial discovery obligations under subdivision one of
10 section 245.20 of this article as soon as practicable but not later
11 than fifteen calendar days after the defendant's arraignment on an
12 indictment, superior court information, prosecutor's information, infor-
13 mation, or simplified information. Portions of materials claimed to be
14 non-discoverable may be withheld pending a determination and ruling of
15 the court under section 245.70 of this article; but the defendant shall
16 be notified in writing that information has not been disclosed under a
17 particular subdivision of such section, and the discoverable portions of
18 such materials shall be disclosed if practicable. When the discoverable
19 materials are exceptionally voluminous or, despite diligent efforts, are
20 otherwise not in the possession, custody, or control of the prosecution,
21 the time period in this paragraph may be stayed by up to an additional
22 thirty calendar days without need for a motion pursuant to subdivision
23 two of section 245.70 of this article.

24 (b) The prosecution shall perform its supplemental discovery obli-
25 gations under subdivision three of section 245.20 of this article as
26 soon as practicable but not later than fifteen calendar days before
27 trial.

28 2. Defendant's performance of obligations. The defendant shall perform
29 his or her discovery obligations under subdivision four of section
30 245.20 of this article not later than fifteen calendar days after being
31 served with the prosecution's certificate of compliance pursuant to
32 subdivision one of section 245.50 of this article, except that portions
33 of materials claimed to be non-discoverable may be withheld pending a
34 determination and ruling of the court under section 245.70 of this arti-
35 cle; but the prosecution must be notified in writing that information
36 has not been disclosed under a particular section and the disclosable
37 portions of such material shall be disclosed if practicable.

38 § 245.20 Automatic discovery.

39 1. Initial discovery for the defendant. Subject to paragraph (b) of
40 this subdivision and section 245.70 of this article, the prosecution
41 shall disclose to the defendant, and permit the defendant to discover,
42 inspect, copy or photograph, each of the following items and information
43 when it relates to the subject matter of the case and is in the
44 possession, custody or control of the prosecution or persons known to
45 the prosecution to be in the possession, custody or control of the pros-
46 ecution's direction or control:

47 (a) All written or recorded statements, and the substance of all oral
48 statements, made by the defendant or a co-defendant to a public servant
49 engaged in law enforcement activity or to a person then acting under his
50 or her direction or in cooperation with him or her, other than state-
51 ments made in the course of the criminal transaction.

52 (b) All transcripts of the testimony of a person who has testified
53 before a grand jury, including but not limited to the defendant or a
54 co-defendant. If in the exercise of reasonable diligence, and due to the
55 limited availability of transcription resources, a transcript is
56 unavailable for disclosure within the time period specified in subdivi-

1 sion one of section 245.10 of this article, such time period may be
2 stayed by up to an additional thirty calendar days without need for a
3 motion pursuant to subdivision two of section 245.70 of this article;
4 except that such disclosure shall be made as soon as practicable and not
5 later than thirty calendar days before a scheduled trial date. When the
6 court is required to review grand jury transcripts, the prosecution
7 shall disclose such transcripts to the court expeditiously upon receipt
8 by the prosecutor, notwithstanding the otherwise-applicable time periods
9 for disclosure in this article.

10 (c) The names of, and addresses or adequate alternative contact infor-
11 mation for, all persons other than law enforcement personnel whom the
12 prosecutor knows to have evidence or information relevant to any offense
13 charged or to a potential defense thereto, including a designation by
14 the prosecutor as to which of those persons may be called as witnesses.
15 Information under this subdivision relating to a confidential informant
16 may be withheld, and redacted from discovery materials, without need for
17 a motion pursuant to section 245.70 of this article; but the defendant
18 shall be notified in writing that such information has not been
19 disclosed, unless the court rules otherwise for good cause shown.

20 (d) The name and work affiliation of all law enforcement personnel
21 whom the prosecutor knows to have evidence or information relevant to
22 any offense charged or to a potential defense thereto, including a
23 designation by the prosecutor as to which of those persons may be called
24 as witnesses. Information under this subdivision relating to undercover
25 personnel may be withheld, and redacted from discovery materials, with-
26 out need for a motion pursuant to section 245.70 of this article; but
27 the defendant shall be notified in writing that such information has not
28 been disclosed, unless the court rules otherwise for good cause shown.

29 (e) All statements, written or recorded or summarized in any writing
30 or recording, made by persons who have evidence or information relevant
31 to any offense charged or to a potential defense thereto, including all
32 police reports and law enforcement agency reports. This provision also
33 includes statements, written or recorded or summarized in any writing or
34 recording, by persons to be called as witnesses at pre-trial hearings.

35 (f) Expert opinion evidence, including the name, business address,
36 current curriculum vitae, and a list of publications of each expert
37 witness whom the prosecutor intends to call as a witness at trial or a
38 pre-trial hearing, and all reports prepared by the expert that pertain
39 to the case, or if no report is prepared, a written statement of the
40 facts and opinions to which the expert is expected to testify and a
41 summary of the grounds for each opinion. This paragraph does not alter
42 or in any way affect the procedures, obligations or rights set forth in
43 section 250.10 of this title. If in the exercise of reasonable dili-
44 gence this information is unavailable for disclosure within the time
45 period specified in subdivision one of section 245.10 of this article,
46 that period shall be stayed without need for a motion pursuant to
47 subdivision two of section 245.70 of this article; except that the
48 disclosure shall be made as soon as practicable and not later than thir-
49 ty calendar days before a scheduled trial date, unless an order is
50 obtained pursuant to section 245.70 of this article. When the prose-
51 cution's expert witness is being called in response to disclosure of an
52 expert witness by the defendant, the court may alter a scheduled trial
53 date to allow the prosecution thirty calendar days to make the disclo-
54 sure and the defendant thirty calendar days to prepare and respond to
55 the new materials.

1 (g) All tapes or other electronic recordings which the prosecution
2 intends to introduce at trial or a pre-trial hearing.

3 (h) All photographs and drawings made or completed by a public servant
4 engaged in law enforcement activity, or which were made by a person
5 whom the prosecutor intends to call as a witness at trial or a pre-trial
6 hearing, or which the prosecution intends to introduce at trial or a
7 pre-trial hearing.

8 (i) All photographs, photocopies and reproductions made by or at the
9 direction of law enforcement personnel of any property prior to its
10 release pursuant to section 450.10 of the penal law.

11 (j) All reports, documents, data, calculations or writings, including
12 but not limited to preliminary tests or screening results and bench
13 notes, concerning physical or mental examinations, or scientific tests
14 or experiments or comparisons, and analyses performed electronically,
15 relating to the criminal action or proceeding which were made by or at
16 the request or direction of a public servant engaged in law enforcement
17 activity, or which were made by a person whom the prosecutor intends to
18 call as a witness at trial or a pre-trial hearing, or which the prose-
19 cution intends to introduce at trial or a pre-trial hearing.

20 (k) All evidence and information, including that which is known to
21 police or other law enforcement agencies acting on the government's
22 behalf in the case, that tends to: (i) negate the defendant's guilt as
23 to a charged offense; (ii) reduce the degree of or mitigate the defend-
24 ant's culpability as to a charged offense; (iii) support a potential
25 defense to a charged offense; (iv) materially impact the credibility of
26 a testifying prosecution witness; (v) undermine evidence of the defend-
27 ant's identity as a perpetrator of a charged offense; or (vi) provide a
28 basis for a motion to suppress evidence. Information under this subdi-
29 vision shall be disclosed whether or not such information is recorded in
30 tangible form and irrespective of whether the prosecutor credits the
31 information. The prosecutor shall disclose the information expeditiously
32 upon its receipt and shall not delay disclosure if it is obtained earli-
33 er than the time period for disclosure in subdivision one of section
34 245.10 of this article.

35 (l) A summary of all promises, rewards and inducements made to, or in
36 favor of, persons who may be called as witnesses, as well as requests
37 for consideration by persons who may be called as witnesses and copies
38 of all documents relevant to a promise, reward or inducement.

39 (m) A list of all tangible objects obtained from, or allegedly
40 possessed by, the defendant or a co-defendant. The list shall include a
41 designation by the prosecutor as to which objects were physically or
42 constructively possessed by the defendant and were recovered during a
43 search or seizure by a public servant or an agent thereof, and which
44 tangible objects were recovered by a public servant or an agent thereof
45 after allegedly being abandoned by the defendant. If the prosecution
46 intends to prove the defendant's possession of any tangible objects by
47 means of a statutory presumption of possession, it shall designate such
48 intention as to each such object. If reasonably practicable, the prose-
49 cution shall also designate the location from which each tangible object
50 was recovered. There is also a right to inspect or copy or photograph
51 the listed tangible objects.

52 (n) Whether a search warrant has been executed and all documents
53 relating thereto, including but not limited to the warrant, the warrant
54 application, supporting affidavits, a police inventory of all property
55 seized under the warrant, and a transcript of all testimony or other
56 oral communications offered in support of the warrant application.

1 (o) All tangible property that the prosecution intends to introduce in
2 its case-in-chief at trial or a pre-trial hearing. If in the exercise of
3 reasonable diligence the prosecutor has not formed an intention within
4 the time period specified in subdivision one of section 245.10 of this
5 article that an item under this subdivision will be introduced at trial
6 or a pre-trial hearing, such time period shall be stayed without need
7 for a motion pursuant to subdivision two of section 245.70 of this arti-
8 cle; but the disclosure shall be made as soon as practicable and subject
9 to the continuing duty to disclose in section 245.60 of this article.

10 (p) A record of judgment of conviction for all defendants and all
11 persons designated as potential prosecution witnesses pursuant to para-
12 graph (c) of this subdivision, other than those witnesses who are
13 experts.

14 (q) When it is known to the prosecution, the existence of any pending
15 criminal action against all persons designated as potential prosecution
16 witnesses pursuant to paragraph (c) of this subdivision.

17 (r) The approximate date, time and place of the offense or offenses
18 charged and of the defendant's seizure and arrest.

19 (s) In any prosecution alleging a violation of the vehicle and traffic
20 law, where the defendant is charged by indictment, superior court infor-
21 mation, prosecutor's information, information, or simplified informa-
22 tion, the most recent record of inspection, calibration and repair of
23 machines and instruments utilized to perform any scientific tests and
24 experiments and the certification certificate, if any, held by the oper-
25 ator of the machine or instrument, and all other disclosures required
26 under this article.

27 (t) In any prosecution alleging a violation of section 156.05 or
28 156.10 of the penal law, the time, place and manner such violation
29 occurred.

30 2. Discovery by the prosecution. The prosecutor shall make a dili-
31 gent, good faith effort to ascertain the existence of material or infor-
32 mation discoverable under subdivision one of this section and to cause
33 such material or information to be made available for discovery where
34 it exists but is not within the prosecutor's possession, custody or
35 control; provided that the prosecutor shall not be required to obtain by
36 subpoena duces tecum material or information which the defendant may
37 thereby obtain. This provision shall not require the prosecutor to
38 ascertain the existence of witnesses not known to police or another law
39 enforcement agency, or the written or recorded statements thereof, under
40 paragraph (c) or (e) of subdivision one of this section.

41 3. Supplemental discovery for the defendant. The prosecution shall
42 disclose to the defendant a list of all misconduct and criminal acts of
43 the defendant not charged in the indictment, superior court information,
44 prosecutor's information, information, or simplified information, which
45 the prosecution intends to use at trial for purposes of (a) impeaching
46 the credibility of the defendant, or (b) as substantive proof of any
47 material issue in the case.

48 4. Reciprocal discovery for the prosecution. (a) The defendant shall,
49 subject to constitutional limitations, disclose to the prosecution, and
50 permit the prosecution to discover, inspect, copy or photograph, any
51 material and relevant evidence within the defendant's or counsel for the
52 defendant's possession or control that is discoverable under paragraphs
53 (f), (g), (h), (j), (l) and (o) of subdivision one of this section,
54 which the defendant intends to offer at trial or a pre-trial hearing,
55 and the names, addresses, birth dates, and all statements, written or
56 recorded or summarized in any writing or recording, of those persons

1 other than the defendant whom the defendant intends to call as witnesses
2 at trial or a pre-trial hearing.

3 (b) Disclosure of the name, address, birth date, and all statements,
4 written or recorded or summarized in any writing or recording, of a
5 person whom the defendant intends to call as a witness for the sole
6 purpose of impeaching a prosecution witness is not required until after
7 the prosecution witness has testified at trial.

8 (c) If in the exercise of reasonable diligence the reciprocally
9 discoverable information under paragraph (f) or (o) of subdivision one
10 of this section is unavailable for disclosure within the time period
11 specified in subdivision two of section 245.10 of this article, such
12 time period shall be stayed without need for a motion pursuant to subdi-
13 vision two of section 245.70 of this article; but the disclosure shall
14 be made as soon as practicable and subject to the continuing duty to
15 disclose in section 245.60 of this article.

16 5. Stay of automatic discovery; remedies and sanctions. If in the
17 judgment of either party good cause exists for declining to make any of
18 the disclosures set forth above, such party may move for a protective
19 order pursuant to section 245.70 of this article and production of the
20 item shall be stayed pending a ruling by the court. The opposing party
21 shall be notified in writing that information has not been disclosed
22 under a particular section. When some parts of material or information
23 are discoverable but in the judgment of a party good cause exists for
24 declining to disclose other parts, the discoverable parts shall be
25 disclosed and the disclosing party shall give notice in writing that
26 non-discoverable parts have been withheld.

27 6. Redactions permitted. Either party may redact social security
28 numbers and tax numbers from disclosures under this article.
29 § 245.25 Disclosure prior to guilty plea deadline.

30 1. Pre-indictment guilty pleas. Subject to subdivision two of this
31 section and section 245.70 of this article, upon a felony complaint,
32 where the prosecution has made a pre-indictment guilty plea offer
33 requiring a plea to a crime, the defendant may, upon timely request and
34 reasonable notice to the prosecution, inspect any available police or
35 other law enforcement agency report of a factual nature regarding the
36 arrest or investigation of the charges, and/or any designated and avail-
37 able items or information that could be of material importance to the
38 decision on the guilty plea offer and would be discoverable prior to
39 trial under subdivision one of section 245.20 of this article. The pros-
40 ecution shall disclose the requested and designated items or informa-
41 tion, as well as any known information that tends to be exculpatory or
42 to support a defense to a charged offense, not less than three calendar
43 days prior to the expiration date of any guilty plea offer by the prose-
44 cution or any deadline imposed by the court for acceptance of a negoti-
45 ated guilty plea offer. If the prosecution does not comply with a prop-
46 er request made pursuant to this subdivision, the court may take
47 appropriate action as necessary to address the non-compliance. The
48 inspection rights under this subdivision do not apply to items or infor-
49 mation that are the subject of a protective order under section 245.70
50 of this article; but if such information tends to be exculpatory, the
51 court shall reconsider the protective order. The court may deny an
52 inspection under this subdivision when a reasonable person in the
53 defendant's position would not consider the requested and designated
54 item or information to be of material importance to the decision on the
55 guilty plea offer. A defendant may waive his or her rights under this

1 subdivision; but a guilty plea offer may not be conditioned on such
2 waiver.

3 2. Other guilty pleas. Upon an indictment, superior court information,
4 prosecutor's information, information, simplified information, or
5 misdemeanor complaint, where the prosecution has made a guilty plea
6 offer requiring a plea to a crime, the defendant may, upon timely
7 request and reasonable notice to the prosecution, inspect any available
8 police or other law enforcement agency report of a factual nature
9 regarding the arrest or investigation of the charges, and/or any desig-
10 nated and available items or information that could be of material
11 importance to the decision on the guilty plea offer and would be discov-
12 erable prior to trial under subdivision one of section 245.20 of this
13 article. The prosecution shall disclose the requested and designated
14 items or information, as well as any known information that tends to be
15 exculpatory or to support a defense to a charged offense, not less than
16 seven calendar days prior to the expiration date of any guilty plea
17 offer by the prosecution or any deadline imposed by the court for a
18 guilty plea. If the prosecution does not comply with a proper request
19 made pursuant to this subdivision, the court may take appropriate action
20 as necessary to address the non-compliance. The inspection rights under
21 this subdivision do not apply to items or information that are the
22 subject of a protective order under section 245.70 of this article; but
23 if such information tends to be exculpatory, the court shall reconsider
24 the protective order. The court may deny an inspection under this
25 subdivision when a reasonable person in the defendant's position would
26 not consider the requested and designated item or information to be of
27 material importance to the decision on the guilty plea offer. A defend-
28 ant may waive his or her rights under this subdivision, but a guilty
29 plea offer may not be conditioned on such waiver.

30 § 245.30 Court orders for preservation, access or discovery.

31 1. Order to preserve evidence. At any time, a party may move for a
32 court order to any individual, agency or other entity in possession,
33 custody or control of items which relate to the subject matter of the
34 case or are otherwise relevant, requiring that such items be preserved
35 for a specified period of time. The court shall hear and rule upon such
36 motions expeditiously. The court may modify or vacate such an order
37 upon a showing that preservation of particular evidence will create
38 significant hardship, on condition that the probative value of that
39 evidence is preserved by a specified alternative means.

40 2. Order to grant access to premises. Without prejudice to its abili-
41 ty to issue a subpoena pursuant to this chapter, after an accusatory
42 instrument has been filed, on application of the prosecution or the
43 defendant for access to an area or place relevant to the case in order
44 to inspect, photograph, or measure same, and upon notice to the property
45 owner with a right to be heard, the court may, upon a finding that such
46 would be material to the preparation of the case or helpful to the jury
47 in determining any material factual issue, enter an order authorizing
48 same on a date and time reasonable for the parties and those in
49 possession of the area or place, provided that law enforcement is not in
50 good faith engaged in a continued investigation of the area or place.
51 The court may in the alternative otherwise provide for the securing of
52 photographs or measurements of the area or place, particularly when
53 necessary to protect the privacy of those in possession of private prem-
54 ises, or when necessary to preserve the safety and security of a place.
55 The court may also limit access and/or the distribution of photographs
56 or measurements to the parties or their counsel.

1 3. Discretionary discovery by order of the court. The court in its
2 discretion may, upon a showing by the defendant that the request is
3 reasonable and that the defendant is unable without undue hardship to
4 obtain the substantial equivalent by other means, order the prosecution,
5 or any individual, agency or other entity subject to the jurisdiction of
6 the court, to make available for disclosure to the defendant any materi-
7 al or information which relates to the subject matter of the case and is
8 reasonably likely to be material. A motion under this subdivision must
9 be on notice to any person or entity affected by the order. The court
10 may, on its own, upon request of any person or entity affected by the
11 order, modify or vacate the order if compliance would be unreasonable or
12 will create significant hardship. The court may permit a party seeking
13 or opposing a discretionary order of discovery under this subdivision,
14 or another affected person or entity, to submit papers or testify on the
15 record ex parte or in camera. Any such papers and a transcript of such
16 testimony may be sealed and shall constitute a part of the record on
17 appeal.

18 § 245.35 Court ordered procedures to facilitate compliance.

19 To facilitate compliance with this article, and to reduce or stream-
20 line litigation of any disputes about discovery, the court in its
21 discretion may issue an order:

22 1. Requiring that the prosecutor and counsel for the defendant dili-
23 gently confer to attempt to reach an accommodation as to any dispute
24 concerning discovery prior to seeking a ruling from the court;

25 2. Requiring a discovery compliance conference at a specified time
26 prior to trial between the prosecutor, counsel for all defendants, and
27 the court or its staff;

28 3. Requiring the prosecution to file an additional certificate of
29 compliance that states that the prosecutor and/or an appropriate named
30 agent has made reasonable inquiries of all police officers and other
31 persons who have participated in investigating or evaluating the case
32 about the existence of any favorable evidence or information within
33 paragraph (k) of subdivision one of section 245.20 of this article,
34 including such evidence or information that was not reduced to writing
35 or otherwise memorialized or preserved as evidence, and has disclosed
36 any such information to the defendant; and/or

37 4. Requiring other measures or proceedings designed to carry into
38 effect the goals of this article.

39 § 245.40 Non-testimonial evidence from the defendant.

40 1. Availability. After the filing of an accusatory instrument, and
41 subject to constitutional limitations, the court may, upon motion of
42 the prosecution showing probable cause to believe the defendant has
43 committed the crime, a clear indication that relevant material evidence
44 will be found, and that the method used to secure such evidence is safe
45 and reliable, require a defendant to provide non-testimonial evidence,
46 including to:

47 (a) Appear in a lineup;

48 (b) Speak for identification by a witness or potential witness;

49 (c) Be fingerprinted;

50 (d) Pose for photographs not involving reenactment of an event;

51 (e) Permit the taking of samples of the defendant's blood, hair, and
52 other materials of the defendant's body that involves no unreasonable
53 intrusion thereof;

54 (f) Provide specimens of the defendant's handwriting; and

55 (g) Submit to a reasonable physical or medical inspection of the
56 defendant's body.

1 2. Limitations. This section shall not be construed to alter or in any
2 way affect the issuance of a similar court order, as may be authorized
3 by law, before the filing of an accusatory instrument, consistent with
4 such rights as the defendant may derive from the state constitution or
5 the United States constitution. This section shall not be construed to
6 alter or in any way affect the administration of a chemical test where
7 otherwise authorized. An order pursuant to this section may be denied,
8 limited or conditioned as provided in section 245.70 of this article.
9 § 245.45 DNA comparison order.

10 Where property in the prosecution's possession, custody, or control
11 consists of a deoxyribonucleic acid ("DNA") profile obtained from
12 probative biological material gathered in connection with the investi-
13 gation of the crime, or the defendant, or the prosecution of the defend-
14 ant, and the defendant establishes (a) that such profile complies with
15 federal bureau of investigation or state requirements, whichever are
16 applicable and as such requirements are applied to law enforcement agen-
17 cies seeking a keyboard search or similar comparison, and (b) that the
18 data meets state DNA index system or national DNA index system criteria
19 as such criteria are applied to law enforcement agencies seeking such a
20 keyboard search or similar comparison, the court may, upon motion of a
21 defendant against whom an indictment, superior court information,
22 prosecutor's information, information, or simplified information is
23 pending, order an entity that has access to the combined DNA index
24 system or its successor system to compare such DNA profile against DNA
25 databanks by keyboard searches, or a similar method that does not
26 involve uploading, upon notice to both parties and the entity required
27 to perform the search, upon a showing by the defendant that such a
28 comparison is material to the presentation of his or her defense and
29 that the request is reasonable. For purposes of this section, a
30 "keyboard search" shall mean a search of a DNA profile against the
31 databank in which the profile that is searched is not uploaded to or
32 maintained in the databank.

33 § 245.50 Certificates of compliance.

34 1. By the prosecution. When the prosecution has provided the discovery
35 required by subdivision one of section 245.20 of this article, except
36 for any items or information that are the subject of an order pursuant
37 to section 245.70 of this article, it shall serve upon the defendant and
38 file with the court a certificate of compliance. The certificate of
39 compliance shall state that, after exercising due diligence and making
40 reasonable inquiries to ascertain the existence of material and infor-
41 mation subject to discovery, the prosecutor has disclosed and made
42 available all known material and information subject to discovery. It
43 shall also identify the items provided. If additional discovery is
44 subsequently provided prior to trial pursuant to section 245.60 of this
45 article, a supplemental certificate shall be served upon the defendant
46 and filed with the court identifying the additional material and infor-
47 mation provided. No adverse consequence to the prosecution or the prose-
48 cutor shall result from the filing of a certificate of compliance in
49 good faith; but the court may grant a remedy or sanction for a discov-
50 ery violation as provided in section 245.80 of this article.

51 2. By the defendant. When the defendant has provided all discovery
52 required by subdivision four of section 245.20 of this article, except
53 for any items or information that are the subject of an order pursuant
54 to section 245.70 of this article, counsel for the defendant shall serve
55 upon the prosecution and file with the court a certificate of compli-
56 ance. The certificate shall state that, after exercising due diligence

1 and making reasonable inquiries to ascertain the existence of material
2 and information subject to discovery, counsel for the defendant has
3 disclosed and made available all known material and information subject
4 to discovery. It shall also identify the items provided. If additional
5 discovery is subsequently provided prior to trial pursuant to section
6 245.60 of this article, a supplemental certificate shall be served upon
7 the prosecution and filed with the court identifying the additional
8 material and information provided. No adverse consequence to the
9 defendant or counsel for the defendant shall result from the filing of a
10 certificate of compliance in good faith; but the court may grant a reme-
11 dy or sanction for a discovery violation as provided in section 245.80
12 of this article.

13 § 245.55 Flow of information.

14 1. Sufficient communication for compliance. The district attorney and
15 the assistant responsible for the case, or, if the matter is not being
16 prosecuted by the district attorney, the prosecuting agency and its
17 assigned representative, shall endeavor to ensure that a flow of infor-
18 mation is maintained between the police and other investigative person-
19 nel and his or her office sufficient to place within his or her
20 possession or control all material and information pertinent to the
21 defendant and the offense or offenses charged, including, but not limit-
22 ed to, any evidence or information discoverable under paragraph (k) of
23 subdivision one of section 245.20 of this article.

24 2. Provision of law enforcement agency files. Absent a court order or
25 clear security requirement, upon request by the prosecution, a New York
26 state law enforcement agency shall make available to the prosecution a
27 complete copy of its complete files related to the investigation of the
28 case or the prosecution of the defendant for compliance with this arti-
29 cle.

30 3. 911 telephone call and police radio transmission electronic
31 recordings, police worn body camera recordings and other police
32 recordings. (a) Whenever an electronic recording of a 911 telephone
33 call or a police radio transmission or video or audio footage from a
34 police body-worn camera or other police recording was made or received
35 in connection with the investigation of an apparent criminal incident,
36 the arresting officer or lead detective shall expeditiously notify the
37 prosecution in writing upon the filing of an accusatory instrument of
38 the existence of all such known recordings. The prosecution shall expe-
39 ditiously take whatever reasonable steps are necessary to ensure that
40 all known electronic recordings of 911 telephone calls, police radio
41 transmissions and video and audio footage and other police recordings
42 made or available in connection with the case are preserved throughout
43 the pendency of the case. Upon the defendant's timely request and desig-
44 nation of a specific electronic recording of a 911 telephone call, the
45 prosecution shall also expeditiously take whatever reasonable steps are
46 necessary to ensure that it is preserved throughout the pendency of the
47 case.

48 (b) If the prosecution fails to disclose such an electronic recording
49 to the defendant pursuant to paragraph (e), (g) or (k) of subdivision
50 one of section 245.20 of this article due to a failure to comply with
51 this obligation by police officers or other law enforcement or prose-
52 cution personnel, the court upon motion of the defendant shall impose an
53 appropriate remedy or sanction pursuant to section 245.80 of this arti-
54 cle.

55 § 245.60 Continuing duty to disclose.

1 If either the prosecution or the defendant subsequently learns of
2 additional material or information which it would have been under a duty
3 to disclose pursuant to any provisions of this article at the time of a
4 previous discovery obligation or discovery order, it shall expeditiously
5 notify the other party and disclose the additional material or informa-
6 tion as required for initial discovery under this article. This
7 provision also requires expeditious disclosure by the prosecution of
8 material or information that became relevant to the case or discoverable
9 based upon reciprocal discovery received from the defendant pursuant to
10 subdivision four of section 245.20 of this article.

11 § 245.65 Work product.

12 This article does not authorize discovery by a party of those portions
13 of records, reports, correspondence, memoranda, or internal documents of
14 the adverse party which are only the legal research, opinions, theories
15 or conclusions of the adverse party or its attorney or the attorney's
16 agents, or of statements of a defendant, written or recorded or summa-
17 ri- zed in any writing or recording, made to the attorney for the defend-
18 ant or the attorney's agents.

19 § 245.70 Protective orders.

20 1. Any discovery subject to protective order. Upon a showing of good
21 cause by either party, the court may at any time order that discovery or
22 inspection of any kind of material or information under this article be
23 denied, restricted, conditioned or deferred, or make such other order as
24 is appropriate. The court may impose as a condition on discovery to a
25 defendant that the material or information to be discovered be available
26 only to counsel for the defendant; or, alternatively, that counsel for
27 the defendant, and persons employed by the attorney or appointed by the
28 court to assist in the preparation of a defendant's case, may not
29 disclose physical copies of the discoverable documents to a defendant or
30 to anyone else, provided that the prosecution affords the defendant
31 access to inspect redacted copies of the discoverable documents at a
32 supervised location that provides regular and reasonable hours for such
33 access, such as a prosecutor's office, police station, facility of
34 detention, or court. The court may permit a party seeking or opposing a
35 protective order under this section, or another affected person, to
36 submit papers or testify on the record ex parte or in camera. Any such
37 papers and a transcript of such testimony may be sealed and shall
38 constitute a part of the record on appeal. This section does not alter
39 the allocation of the burden of proof with regard to matters at issue,
40 including privilege.

41 2. Modification of time periods for discovery. Upon motion of a party
42 in an individual case, the court may alter the time periods for discov-
43 ery imposed by this article upon a showing of good cause.

44 3. Prompt hearing. Upon request for a protective order, the court
45 shall conduct an appropriate hearing within three business days to
46 determine whether good cause has been shown and when practicable shall
47 render decision expeditiously. Any materials submitted and a transcript
48 of the proceeding may be sealed and shall constitute a part of the
49 record on appeal.

50 4. Showing of good cause. Good cause under this section includes but
51 is not limited to: constitutional rights or limitations; danger to the
52 integrity of physical evidence; an unreasonable risk of physical harm,
53 intimidation, economic reprisal, bribery or unjustified annoyance or
54 embarrassment to any person; an unreasonable risk of an adverse effect
55 upon the legitimate needs of law enforcement, including but not limited
56 to a continuing or related grand jury proceeding and the protection of

1 the confidentiality of informants; danger to any person stemming from
2 factors such as a defendant's gang affiliation, prior history of inter-
3 fering with witnesses, or threats or intimidating actions directed at
4 potential witnesses; or other similar factors that also outweigh the
5 usefulness of the discovery.

6 5. Successor counsel or pro se defendant. In cases in which the attor-
7 ney-client relationship is terminated prior to trial for any reason,
8 any material or information disclosed subject to a condition that it be
9 available only to counsel for the defendant, or limited in dissemination
10 by protective order or otherwise, shall be provided only to successor
11 counsel for the defendant under the same condition or conditions or be
12 returned to the prosecution, unless the court rules otherwise for good
13 cause shown or the prosecutor gives written consent. Any work product
14 derived from such material or information shall not be provided to the
15 defendant, unless the court rules otherwise or the prosecutor gives
16 written consent. If the defendant is acting as his or her own attorney,
17 the court may regulate the time, place and manner of access to any
18 discoverable material or information; and it may as appropriate appoint
19 persons to assist the defendant in the investigation or preparation of
20 the case. Upon motion or application of a defendant acting as his or her
21 own attorney, the court may at any time modify or vacate any condition
22 or restriction relating to access to discoverable material or informa-
23 tion, for good cause shown.

24 6. Expedited review of adverse ruling. (a) A party that has unsuccess-
25 fully sought, or unsuccessfully opposed the granting of, a protective
26 order under this section relating to the name, address, contact informa-
27 tion or statements of a person may obtain expedited review of that
28 ruling by an individual justice of the intermediate appellate court to
29 which an appeal from a judgment of conviction in the case would be
30 taken.

31 (b) Such review shall be sought within two business days of the
32 adverse or partially adverse ruling, by order to show cause filed with
33 the intermediate appellate court. The order to show cause shall in addi-
34 tion be timely served on the lower court and on the opposing party, and
35 shall be accompanied by a sworn affirmation stating in good faith (i)
36 that the ruling affects substantial interests, and (ii) that diligent
37 efforts to reach an accommodation of the underlying discovery dispute
38 with opposing counsel failed or that no accommodation was feasible;
39 except that service on the opposing party, and a statement regarding
40 efforts to reach an accommodation, are unnecessary where the opposing
41 party was not made aware of the application for a protective order and
42 good cause exists for omitting service of the order to show cause on the
43 opposing party. The lower court's order subject to review shall be
44 stayed until the appellate justice renders decision.

45 (c) The assignment of the individual appellate justice, and the mode
46 of and procedure for the review, are determined by rules of the individ-
47 ual appellate courts. The appellate justice may consider any relevant
48 and reliable information bearing on the issue, and may dispense with
49 written briefs other than supporting and opposing materials previously
50 submitted to the lower court. The appellate justice may dispense with
51 the issuance of a written opinion in rendering his or her decision, and
52 when practicable shall render decision expeditiously. Such review and
53 decision shall not affect the right of a defendant, in a subsequent
54 appeal from a judgment of conviction, to claim as error the ruling
55 reviewed.

1 7. Compliance with protective order. Any protective order issued under
2 this article is a mandate of the court for purposes of the offense of
3 criminal contempt in subdivision three of section 215.50 of the penal
4 law.

5 § 245.75 Waiver of discovery by defendant.

6 A defendant who does not seek discovery from the prosecution under
7 this article shall so notify the prosecution and the court at the
8 defendant's arraignment on an indictment, superior court information,
9 prosecutor's information, information, or simplified information, or
10 expeditiously thereafter but before receiving discovery from the prose-
11 cution pursuant to subdivision one of section 245.20 of this article,
12 and the defendant need not provide discovery to the prosecution pursuant
13 to subdivision four of section 245.20 and section 245.60 of this arti-
14 cle. A waiver shall be in writing and signed by the defendant and coun-
15 sel for the defendant. Such a waiver does not alter or in any way
16 affect the procedures, obligations or rights set forth in sections
17 250.10, 250.20 and 250.30 of this title, or otherwise established or
18 required by law. The prosecution may not condition a guilty plea offer
19 on the defendant's execution of a waiver under this section.

20 § 245.80 Remedies or sanctions for non-compliance.

21 1. Need for remedy or sanction. (a) When material or information is
22 discoverable under this article but is disclosed belatedly, the court
23 shall impose an appropriate remedy or sanction if the party entitled to
24 disclosure shows that it was prejudiced. Regardless of a showing of
25 prejudice the party entitled to disclosure shall be given reasonable
26 time to prepare and respond to the new material.

27 (b) When material or information is discoverable under this article
28 but cannot be disclosed because it has been lost or destroyed, the court
29 shall impose an appropriate remedy or sanction if the party entitled to
30 disclosure shows that the lost or destroyed material may have contained
31 some information relevant to a contested issue. The appropriate remedy
32 or sanction is that which is proportionate to the potential ways in
33 which the lost or destroyed material reasonably could have been helpful
34 to the party entitled to disclosure.

35 2. Available remedies or sanctions. For failure to comply with any
36 discovery order imposed or issued pursuant to this article, the court
37 may make a further order for discovery, grant a continuance, order that
38 a hearing be reopened, order that a witness be called or recalled,
39 instruct the jury that it may draw an adverse inference regarding the
40 non-compliance, preclude or strike a witness's testimony or a portion of
41 a witness's testimony, admit or exclude evidence, order a mistrial,
42 order the dismissal of all or some of the charges, or make such other
43 order as it deems just under the circumstances; except that any sanction
44 against the defendant shall comport with the defendant's constitutional
45 right to present a defense, and precluding a defense witness from
46 testifying shall be permissible only upon a finding that the defendant's
47 failure to comply with the discovery obligation or order was willful
48 and motivated by a desire to obtain a tactical advantage.

49 3. Consequences of non-disclosure of statement of testifying prose-
50 cution witness. The failure of the prosecutor or any agent of the prose-
51 cutor to disclose any written or recorded statement made by a prose-
52 cution witness which relates to the subject matter of the witness's
53 testimony shall not constitute grounds for any court to order a new
54 pre-trial hearing or set aside a conviction, or reverse, modify or
55 vacate a judgment of conviction, in the absence of a showing by the
56 defendant that there is a reasonable possibility that the non-disclosure

1 materially contributed to the result of the trial or other proceeding;
 2 provided, however, that nothing in this section shall affect or limit
 3 any right the defendant may have to a reopened pre-trial hearing when
 4 such statements were disclosed before the close of evidence at trial.
 5 § 245.85 Admissibility of discovery.

6 The fact that a party has indicated during the discovery process an
 7 intention to offer specified evidence or to call a specified witness is
 8 not admissible in evidence or grounds for adverse comment at a hearing
 9 or a trial.

10 § 3. Subdivision 3 of section 610.20 of the criminal procedure law is
 11 amended and a new subdivision 4 is added to read as follows:

12 3. An attorney for a defendant in a criminal action or proceeding, as
 13 an officer of a criminal court, may issue a subpoena of such court,
 14 subscribed by himself, for the attendance in such court of any witness
 15 whom the defendant is entitled to call in such action or proceeding. An
 16 attorney for a defendant may not issue a subpoena duces tecum of the
 17 court directed to any department, bureau or agency of the state or of a
 18 political subdivision thereof, or to any officer or representative ther-
 19 eof, unless the subpoena is endorsed by the court and provides at least
 20 three days for the production of the requested materials. In the case of
 21 an emergency, the court may by order dispense with the three-day
 22 production period. Such a subpoena duces tecum may be issued in behalf
 23 of a defendant upon order of a court pursuant to the rules applicable to
 24 civil cases as provided in section twenty-three hundred seven of the
 25 civil practice law and rules.

26 4. The showing required to sustain any subpoena under this section is
 27 that the testimony or evidence sought is reasonably likely to be rele-
 28 vant and material to the proceedings, and the subpoena is not overbroad
 29 or unreasonably burdensome.

30 § 4. Section 65.20 of the criminal procedure law, as added by chapter
 31 505 of the laws of 1985, subdivision 2 as added, the opening paragraph
 32 of subdivision 10 as amended and subdivisions 3, 4, 5, 6, 7, 8, 9, 10,
 33 11, 12 and 13 as renumbered by chapter 548 of the laws of 2007, subdivi-
 34 sion 7 and paragraph (k) of subdivision 10 as amended by chapter 320 of
 35 the laws of 2006 and subdivisions 11 and 12 as amended by chapter 455 of
 36 the laws of 1991, is amended to read as follows:

37 § 65.20 Closed-circuit television; procedure for application and grounds
 38 for determination.

39 1. Prior to the commencement of a criminal proceeding; other than a
 40 grand jury proceeding, either party may apply to the court for an order
 41 declaring that a child witness is vulnerable.

42 2. A child witness should be declared vulnerable when the court, in
 43 accordance with the provisions of this section, determines by clear and
 44 convincing evidence that the child witness would suffer serious mental
 45 or emotional harm that would substantially impair the child witness'
 46 ability to communicate with the finder of fact without the use of live,
 47 two-way closed-circuit television.

48 3. A motion pursuant to subdivision one of this section must be made
 49 in writing at least eight days before the commencement of trial or other
 50 criminal proceeding upon reasonable notice to the other party and with
 51 an opportunity to be heard.

52 4. The motion papers must state the basis for the motion and must
 53 contain sworn allegations of fact which, if true, would support a deter-
 54 mination by the court that the child witness is vulnerable. Such allega-
 55 tions may be based upon the personal knowledge of the deponent or upon

1 information and belief, provided that, in the latter event, the sources
2 of such information and the grounds for such belief are stated.

3 5. The answering papers may admit or deny any of the alleged facts and
4 may, in addition, contain sworn allegations of fact relevant to the
5 motion, including the rights of the defendant, the need to protect the
6 child witness and the integrity of the truth-finding function of the
7 trier of fact.

8 6. Unless all material facts alleged in support of the motion made
9 pursuant to subdivision one of this section are conceded, the court
10 shall, in addition to examining the papers and hearing oral argument,
11 conduct an appropriate hearing for the purpose of making findings of
12 fact essential to the determination of the motion. Except as provided in
13 subdivision [~~six~~] seven of this section, it may subpoena or call and
14 examine witnesses, who must either testify under oath or be permitted to
15 give unsworn testimony pursuant to subdivision two of section 60.20 and
16 must authorize the attorneys for the parties to do the same.

17 7. Notwithstanding any other provision of law, the child witness who
18 is alleged to be vulnerable may not be compelled to testify at such
19 hearing or to submit to any psychological or psychiatric examination.
20 The failure of the child witness to testify at such hearing shall not be
21 a ground for denying a motion made pursuant to subdivision one of this
22 section. Prior statements made by the child witness relating to any
23 allegations of conduct constituting an offense defined in article one
24 hundred thirty of the penal law or incest as defined in section 255.25,
25 255.26 or 255.27 of such law or to any allegation of words or conduct
26 constituting an attempt to prevent, impede or deter the child witness
27 from cooperating in the investigation or prosecution of the offense
28 shall be admissible at such hearing, provided, however, that a declara-
29 tion that a child witness is vulnerable may not be based solely upon
30 such prior statements.

31 8. (a) Notwithstanding any of the provisions of article forty-five of
32 the civil practice law and rules, any physician, psychologist, nurse or
33 social worker who has treated a child witness may testify at a hearing
34 conducted pursuant to subdivision [~~five~~] six of this section concerning
35 the treatment of such child witness as such treatment relates to the
36 issue presented at the hearing, provided that any otherwise applicable
37 statutory privileges concerning communications between the child witness
38 and such physician, psychologist, nurse or social worker in connection
39 with such treatment shall not be deemed waived by such testimony alone,
40 except to the limited extent of permitting the court alone to examine in
41 camera reports, records or documents, if any, prepared by such physi-
42 cian, psychologist, nurse or social worker. If upon such examination the
43 court determines that such reports, records or documents, or any one or
44 portion thereof, contain information material and relevant to the issue
45 of whether the child witness is a vulnerable child witness, the court
46 shall disclose such information to both the attorney for the defendant
47 and the district attorney.

48 (b) At any time after a motion has been made pursuant to subdivision
49 one of this section, upon the demand of the other party the moving party
50 must furnish the demanding party with a copy of any and all of such
51 records, reports or other documents in the possession of such other
52 party and must, in addition, supply the court with a copy of all such
53 reports, records or other documents which are the subject of the demand.
54 At any time after a demand has been made pursuant to this paragraph, the
55 moving party may demand that property of the same kind or character in
56 possession of the party that originally made such demand be furnished to

1 the moving party and, if so furnished, be supplied, in addition, to the
2 court.

3 9. (a) Prior to the commencement of the hearing conducted pursuant to
4 subdivision [~~five~~] six of this section, the district attorney shall,
5 subject to a protective order, comply with the provisions of paragraph
6 (c) of subdivision one of section [~~240.45~~] 245.20 of this chapter as
7 they concern any witness whom the district attorney intends to call at
8 the hearing and the child witness.

9 (b) Before a defendant calls a witness at such hearing, he or she
10 must, subject to a protective order, comply with the provisions of
11 subdivision [~~two~~] four of section [~~240.45~~] 245.20 of this chapter as
12 they concern all the witnesses the defendant intends to call at such
13 hearing.

14 10. The court may consider, in determining whether there are factors
15 which would cause the child witness to suffer serious mental or
16 emotional harm, a finding that any one or more of the following circum-
17 stances have been established by clear and convincing evidence:

18 (a) The manner of the commission of the offense of which the defendant
19 is accused was particularly heinous or was characterized by aggravating
20 circumstances.

21 (b) The child witness is particularly young or otherwise particularly
22 subject to psychological harm on account of a physical or mental condi-
23 tion which existed before the alleged commission of the offense.

24 (c) At the time of the alleged offense, the defendant occupied a posi-
25 tion of authority with respect to the child witness.

26 (d) The offense or offenses charged were part of an ongoing course of
27 conduct committed by the defendant against the child witness over an
28 extended period of time.

29 (e) A deadly weapon or dangerous instrument was allegedly used during
30 the commission of the crime.

31 (f) The defendant has inflicted serious physical injury upon the child
32 witness.

33 (g) A threat, express or implied, of physical violence to the child
34 witness or a third person if the child witness were to report the inci-
35 dent to any person or communicate information to or cooperate with a
36 court, grand jury, prosecutor, police officer or peace officer concern-
37 ing the incident has been made by or on behalf of the defendant.

38 (h) A threat, express or implied, of the incarceration of a parent or
39 guardian of the child witness, the removal of the child witness from the
40 family or the dissolution of the family of the child witness if the
41 child witness were to report the incident to any person or communicate
42 information to or cooperate with a court, grand jury, prosecutor, police
43 officer or peace officer concerning the incident has been made by or on
44 behalf of the defendant.

45 (i) A witness other than the child witness has received a threat of
46 physical violence directed at such witness or to a third person by or on
47 behalf of the defendant.

48 (j) The defendant, at the time of the inquiry, (i) is living in the
49 same household with the child witness, (ii) has ready access to the
50 child witness or (iii) is providing substantial financial support for
51 the child witness.

52 (k) The child witness has previously been the victim of an offense
53 defined in article one hundred thirty of the penal law or incest as
54 defined in section 255.25, 255.26 or 255.27 of such law.

1 (1) According to expert testimony, the child witness would be partic-
2 ularly [~~sueceptible~~] susceptible to psychological harm if required to
3 testify in open court or in the physical presence of the defendant.

4 11. Irrespective of whether a motion was made pursuant to subdivision
5 one of this section, the court, at the request of either party or on its
6 own motion, may decide that a child witness may be vulnerable based on
7 its own observations that a child witness who has been called to testify
8 at a criminal proceeding is suffering severe mental or emotional harm
9 and therefore is physically or mentally unable to testify or to continue
10 to testify in open court or in the physical presence of the defendant
11 and that the use of live, two-way closed-circuit television is necessary
12 to enable the child witness to testify. If the court so decides, it must
13 conduct the same hearing that subdivision [~~five~~] six of this section
14 requires when a motion is made pursuant to subdivision one of this
15 section, and it must make findings of fact pursuant to subdivisions
16 [~~nine~~] ten and [~~eleven~~] twelve of this section, before determining that
17 the child witness is vulnerable.

18 12. In deciding whether a child witness is vulnerable, the court shall
19 make findings of fact which reflect the causal relationship between the
20 existence of any one or more of the factors set forth in subdivision
21 [~~nine~~] ten of this section or other relevant factors which the court
22 finds are established and the determination that the child witness is
23 vulnerable. If the court is satisfied that the child witness is vulner-
24 able and that, under the facts and circumstances of the particular case,
25 the defendant's constitutional rights to an impartial jury or of
26 confrontation will not be impaired, it may enter an order granting the
27 application for the use of live, two-way closed-circuit television.

28 13. When the court has determined that a child witness is a vulnerable
29 child witness, it shall make a specific finding as to whether placing
30 the defendant and the child witness in the same room during the testimo-
31 ny of the child witness will contribute to the likelihood that the child
32 witness will suffer severe mental or emotional harm. If the court finds
33 that placing the defendant and the child witness in the same room during
34 the testimony of the child witness will contribute to the likelihood
35 that the child witness will suffer severe mental or emotional harm, the
36 order entered pursuant to subdivision [~~eleven~~] twelve of this section
37 shall direct that the defendant remain in the courtroom during the
38 testimony of the vulnerable child witness.

39 § 5. Subdivision 5 of section 200.95 of the criminal procedure law, as
40 added by chapter 558 of the laws of 1982, is amended to read as follows:

41 5. Court ordered bill of particulars. Where a prosecutor has timely
42 served a written refusal pursuant to subdivision four of this section
43 and upon motion, made in writing, of a defendant, who has made a request
44 for a bill of particulars and whose request has not been complied with
45 in whole or in part, the court must, to the extent a protective order is
46 not warranted, order the prosecutor to comply with the request if it is
47 satisfied that the items of factual information requested are authorized
48 to be included in a bill of particulars, and that such information is
49 necessary to enable the defendant adequately to prepare or conduct his
50 defense and, if the request was untimely, a finding of good cause for
51 the delay. Where a prosecutor has not timely served a written refusal
52 pursuant to subdivision four of this section the court must, unless it
53 is satisfied that the people have shown good cause why such an order
54 should not be issued, issue an order requiring the prosecutor to comply
55 or providing for any other order authorized by [~~subdivision one of~~
56 ~~section 240.70~~] section 245.80 of this part.

1 § 6. Paragraph (c) of subdivision 1 of section 255.10 of the criminal
2 procedure law, as added by chapter 763 of the laws of 1974, is amended
3 to read as follows:

4 (c) granting discovery pursuant to article [~~240~~] 245; or

5 § 7. Subdivision 1 of section 255.20 of the criminal procedure law, as
6 amended by chapter 369 of the laws of 1982, is amended to read as
7 follows:

8 1. Except as otherwise expressly provided by law, whether the defend-
9 ant is represented by counsel or elects to proceed pro se, all pre-trial
10 motions shall be served or filed within forty-five days after arraign-
11 ment and before commencement of trial, or within such additional time as
12 the court may fix upon application of the defendant made prior to entry
13 of judgment. In an action in which either (a) material or information
14 has been disclosed pursuant to paragraph (m) or (n) of subdivision one
15 of section 245.20, (b) an eavesdropping warrant and application have
16 been furnished pursuant to section 700.70, or (c) a notice of intention
17 to introduce evidence has been served pursuant to section 710.30, such
18 period shall be extended until forty-five days after the last date of
19 such service. If the defendant is not represented by counsel and has
20 requested an adjournment to obtain counsel or to have counsel assigned,
21 such forty-five day period shall commence on the date counsel initially
22 appears on defendant's behalf.

23 § 8. Section 340.30 of the criminal procedure law is amended to read
24 as follows:

25 § 340.30 Pre-trial discovery and notices of defenses.

26 The provisions of article two hundred [~~forty~~] forty-five, concerning
27 pre-trial discovery by a defendant under indictment in a superior court,
28 and article two hundred fifty, concerning pre-trial notice to the people
29 by a defendant under indictment in a superior court who intends to
30 advance a trial defense of mental disease or defect or of alibi, apply
31 to a prosecution of an information in a local criminal court.

32 § 9. Subdivision 14 of section 400.27 of the criminal procedure law,
33 as added by chapter 1 of the laws of 1995, is amended to read as
34 follows:

35 14. (a) At a reasonable time prior to the sentencing proceeding or a
36 mental retardation hearing:

37 [~~(i)~~] the prosecutor shall, unless previously disclosed and subject to
38 a protective order, make available to the defendant the statements and
39 information specified in subdivision one of section [~~240.45~~] 245.20 of
40 this part and make available for inspection, photographing, copying or
41 testing the property specified in subdivision one of section [~~240.20,~~
42 ~~and~~

43 ~~(ii) the defendant shall, unless previously disclosed and subject to a~~
44 ~~protective order, make available to the prosecution the statements and~~
45 ~~information specified in subdivision two of section 240.45 and make~~
46 ~~available for inspection, photographing, copying or testing, subject to~~
47 ~~constitutional limitations, the reports, documents and other property~~
48 ~~specified in subdivision one of section 240.30] 245.20 of this part.~~

49 (b) Where a party refuses to make disclosure pursuant to this section,
50 the provisions of section [~~240.35, subdivision one of section 240.40 and~~
51 ~~section 240.50~~] 245.70, 245.75 and/or 245.80 of this part shall apply.

52 (c) If, after complying with the provisions of this section or an
53 order pursuant thereto, a party finds either before or during a sentenc-
54 ing proceeding or mental retardation hearing, additional material
55 subject to discovery or covered by court order, the party shall promptly
56 make disclosure or apply for a protective order.

1 (d) If the court finds that a party has failed to comply with any of
2 the provisions of this section, the court may ~~enter~~ employ any of the
3 ~~orders~~ remedies or sanctions specified in subdivision one of section
4 ~~[240.70]~~ 245.80 of this part.

5 § 10. The opening paragraph of paragraph (b) of subdivision 1 of
6 section 440.30 of the criminal procedure law, as added by chapter 19 of
7 the laws of 2012, is amended to read as follows:

8 In conjunction with the filing or consideration of a motion to vacate
9 a judgment pursuant to section 440.10 of this article by a defendant
10 convicted after a trial, in cases where the court has ordered an eviden-
11 tiary hearing upon such motion, the court may order that the people
12 produce or make available for inspection property~~[, as defined in subdi-~~
13 ~~vision three of section 240.10 of this part,~~] in its possession, custo-
14 dy, or control that was secured in connection with the investigation or
15 prosecution of the defendant upon credible allegations by the defendant
16 and a finding by the court that such property, if obtained, would be
17 probative to the determination of defendant's actual innocence, and that
18 the request is reasonable. The court shall deny or limit such a request
19 upon a finding that such a request, if granted, would threaten the
20 integrity or chain of custody of property or the integrity of the proc-
21 esses or functions of a laboratory conducting DNA testing, pose a risk
22 of harm, intimidation, embarrassment, reprisal, or other substantially
23 negative consequences to any person, undermine the proper functions of
24 law enforcement including the confidentiality of informants, or on the
25 basis of any other factor identified by the court in the interests of
26 justice or public safety. The court shall further ensure that any prop-
27 erty produced pursuant to this paragraph is subject to a protective
28 order, where appropriate. The court shall deny any request made pursuant
29 to this paragraph where:

30 § 11. Subdivision 10 of section 450.10 of the penal law, as added by
31 chapter 795 of the laws of 1984, is amended to read as follows:

32 10. Where there has been a failure to comply with the provisions of
33 this section, and where the district attorney does not demonstrate to
34 the satisfaction of the court that such failure has not caused the
35 defendant prejudice, the court shall instruct the jury that it may
36 consider such failure in determining the weight to be given such
37 evidence and may also impose any other sanction set forth in subdivision
38 one of section ~~[240.70]~~ 245.80 of the criminal procedure law; provided,
39 however, that unless the defendant has convinced the court that such
40 failure has caused him undue prejudice, the court shall not preclude the
41 district attorney from introducing into evidence the property, photo-
42 graphs, photocopies, or other reproductions of the property or, where
43 appropriate, testimony concerning its value and condition, where such
44 evidence is otherwise properly authenticated and admissible under the
45 rules of evidence. Failure to comply with any one or more of the
46 provisions of this section shall not for that reason alone be grounds
47 for dismissal of the accusatory instrument.

48 § 12. Section 460.80 of the penal law, as added by chapter 516 of the
49 laws of 1986, is amended to read as follows:

50 § 460.80 Court ordered disclosure.

51 Notwithstanding the provisions of article two hundred ~~[forty]~~ forty-
52 five of the criminal procedure law, when forfeiture is sought pursuant
53 to section 460.30 of this ~~chapter~~ article, the court may order discov-
54 ery of any property not otherwise disclosed which is material and
55 reasonably necessary for preparation by the defendant with respect to
56 the forfeiture proceeding pursuant to such section. The court may issue

1 a protective order denying, limiting, conditioning, delaying or regulat-
2 ing such discovery where a danger to the integrity of physical evidence
3 or a substantial risk of physical harm, intimidation, economic reprisal,
4 bribery or unjustified annoyance or embarrassment to any person or an
5 adverse effect upon the legitimate needs of law enforcement, including
6 the protection of the confidentiality of informants, or any other factor
7 or set of factors outweighs the usefulness of the discovery.

8 § 13. Subdivision 5 of section 480.10 of the penal law, as added by
9 chapter 655 of the laws of 1990, is amended to read as follows:

10 5. In addition to information required to be disclosed pursuant to
11 article two hundred [~~forty~~] forty-five of the criminal procedure law,
12 when forfeiture is sought pursuant to this article, and following the
13 defendant's arraignment on the special forfeiture information, the court
14 shall order discovery of any information not otherwise disclosed which
15 is material and reasonably necessary for preparation by the defendant
16 with respect to a forfeiture proceeding brought pursuant to this arti-
17 cle. Such material shall include those portions of the grand jury
18 minutes and such other information which pertain solely to the special
19 forfeiture information and shall not include information which pertains
20 to the criminal charges. Upon application of the prosecutor, the court
21 may issue a protective order pursuant to section [~~240.40~~] 245.70 of the
22 criminal procedure law with respect to any information required to be
23 disclosed pursuant to this subdivision.

24 § 14. The penal law is amended by adding a new section 215.07 to read
25 as follows:

26 § 215.07 Tampering with or intimidating a victim or witness through
27 social media.

28 A person is guilty of tampering with or intimidating a victim or
29 witness through social media when he or she disseminates information on
30 social media with the intent to induce a witness or victim:

31 1. to absent himself or herself from, or otherwise to avoid or seek to
32 avoid appearing at, producing records, documents or other objects for
33 use at, or testifying at a criminal action or proceeding; or

34 2. to refrain from communicating information or producing records,
35 documents or other objects to any court, grand jury, prosecutor, police
36 officer or peace officer concerning a criminal transaction.

37 Social media includes, but is not limited to forms of communication
38 through which users participate in online communities to share informa-
39 tion, ideas, personal messages, and other content.

40 Tampering with or intimidating a victim or witness through social
41 media is a class A misdemeanor.

42 § 15. Section 215.10 of the penal law, the section heading and the
43 closing paragraph as amended by chapter 664 of the laws of 1982, is
44 amended to read as follows:

45 § 215.10 Tampering with a witness in the [~~fourth~~] fifth degree.

46 A person is guilty of tampering with a witness in the fifth degree
47 when, knowing that a person [~~is or is about to~~] may be called as a
48 witness in an action or proceeding, (a) he or she wrongfully induces or
49 attempts to induce such person to absent himself or herself from, or
50 otherwise to avoid or seek to avoid appearing at, producing records,
51 documents or other objects for use at or testifying at, such action or
52 proceeding, or (b) he or she knowingly makes any false statement or
53 practices any fraud or deceit with intent to affect the testimony of
54 such person.

55 Tampering with a witness in the [~~fourth~~] fifth degree is a class A
56 misdemeanor.

1 § 16. Section 215.11 of the penal law, as added by chapter 664 of the
2 laws of 1982, is amended to read as follows:

3 § 215.11 Tampering with a witness in the [~~third~~] fourth degree.

4 A person is guilty of tampering with a witness in the [~~third~~] fourth
5 degree when, knowing that a person [~~is about to~~] may be called as a
6 witness in a criminal proceeding:

7 1. He or she wrongfully compels or attempts to compel such person to
8 absent himself or herself from, or otherwise to avoid or seek to avoid
9 appearing at, producing records, documents or other objects for use at
10 or testifying at such proceeding by means of instilling in him or her a
11 fear that the actor will cause physical injury to such person or another
12 person; or

13 2. He or she wrongfully compels or attempts to compel such person to
14 swear falsely or alter, destroy, mutilate or conceal an object with the
15 intent to impair the integrity or availability of the object for use in
16 the action or proceeding by means of instilling in him or her a fear
17 that the actor will cause physical injury to such person or another
18 person.

19 Tampering with a witness in the [~~third~~] fourth degree is a class E
20 felony.

21 § 17. Section 215.12 of the penal law, as added by chapter 664 of the
22 laws of 1982, is amended to read as follows:

23 § 215.12 Tampering with a witness in the [~~second~~] third degree.

24 A person is guilty of tampering with a witness in the [~~second~~] third
25 degree when he or she:

26 1. Intentionally causes or attempts to cause physical injury to a
27 person for the purpose of obstructing, delaying, preventing or impeding
28 the giving of testimony in a criminal proceeding by such person or
29 another person or for the purpose of compelling such person or another
30 person to swear falsely or alter, destroy, mutilate or conceal an object
31 with the intent to impair the integrity or availability of the object
32 for use in the action or proceeding; or

33 2. [~~He intentionally~~] Intentionally causes or attempts to cause phys-
34 ical injury to a person on account of such person or another person
35 having testified in a criminal proceeding or produced records, documents
36 or other objects for use in a criminal proceeding.

37 Tampering with a witness in the [~~second~~] third degree is a class D
38 felony.

39 § 18. Section 215.13 of the penal law, as added by chapter 664 of the
40 laws of 1982, is amended to read as follows:

41 § 215.13 Tampering with a witness in the [~~first~~] second degree.

42 A person is guilty of tampering with a witness in the [~~first~~] second
43 degree when:

44 1. He or she intentionally causes or attempts for cause serious phys-
45 ical injury to a person for the purpose of obstructing, delaying,
46 preventing or impeding the giving of testimony in a criminal proceeding
47 by such person or another person or for the purpose of compelling such
48 person or another person to swear falsely or alter, destroy, mutilate or
49 conceal an object with the intent to impair the integrity or availabili-
50 ty of the object for use in the action or proceeding; or

51 2. He or she intentionally causes or attempts to cause serious phys-
52 ical injury to a person on account of such person or another person
53 having testified in a criminal proceeding or produced records, documents
54 or other objects for use in a criminal proceeding.

55 Tampering with a witness in the [~~first~~] second degree is a class B
56 felony.

1 § 19. The penal law is amended by adding a new section 215.13-a to
2 read as follows:

3 § 215.13-a Tampering with a witness in the first degree.

4 A person is guilty of tampering with a witness in the first degree
5 when:

6 1. He or she intentionally causes or attempts to cause the death of a
7 person for the purpose of obstructing, delaying, preventing or impeding
8 the giving of testimony in a criminal proceeding by such person or
9 another person or for the purpose of compelling such person or another
10 person to swear falsely or alter, destroy, mutilate or conceal an object
11 with the intent to impair the integrity or availability of the object
12 for use in the action or proceeding; or

13 2. He or she intentionally causes or attempts to cause the death of a
14 person on account of such person or another person having testified in a
15 criminal proceeding or produced records, documents or other objects for
16 use in a criminal proceeding.

17 Tampering with a witness in the first degree is a class A-I felony.

18 § 20. Section 215.15 of the penal law, as added by chapter 667 of the
19 laws of 1985, is amended to read as follows:

20 § 215.15 Intimidating a victim or witness in the [~~third~~] fourth degree.

21 A person is guilty of intimidating a victim or witness in the [~~third~~]
22 fourth degree when, knowing that another person possesses information,
23 records, documents or other objects relating to a criminal transaction
24 and other than in the course of that criminal transaction or immediate
25 flight therefrom, he or she:

26 1. Wrongfully compels or attempts to compel such other person to
27 refrain from communicating such information or producing records, docu-
28 ments or other objects to any court, grand jury, prosecutor, police
29 officer or peace officer by means of instilling in him a fear that the
30 actor will cause physical injury to such other person or another person;
31 or

32 2. Intentionally damages the property of such other person or another
33 person for the purpose of compelling such other person or another person
34 to refrain from communicating information or producing records, docu-
35 ments or other objects, or on account of such other person or another
36 person having communicated[~~r~~] information or produced records, documents
37 or other objects, relating to that criminal transaction to any court,
38 grand jury, prosecutor, police officer or peace officer; or

39 3. Intentionally distributes, posts, or publishes through the internet
40 or social media, including any form of communication through which users
41 participate in online communities to share information, ideas, personal
42 messages and other content, copies of a victim or witness statement,
43 including but not limited to transcripts of grand jury testimony or a
44 written statement given by the victim or witness during the course of a
45 criminal investigation or proceeding, or a visual image of a victim or
46 witness or any other person, for the purpose of compelling a person to
47 refrain from communicating, or on account of such victim, witness or
48 another person having communicated, information relating to that crimi-
49 nal transaction to any court, grand jury, prosecutor, police officer or
50 peace officer.

51 Intimidating a victim or witness in the [~~third~~] fourth degree is a
52 class E felony.

53 § 21. Section 215.16 of the penal law, as added by chapter 667 of the
54 laws of 1985, is amended to read as follows:

55 § 215.16 Intimidating a victim or witness in the [~~second~~] third degree.

1 A person is guilty of intimidating a victim or witness in the [~~second~~
2 third] degree when, other than in the course of that criminal transaction
3 or immediate flight therefrom, he or she:

4 1. Intentionally causes or attempts to cause physical injury to another
5 person for the purpose of obstructing, delaying, preventing or impeding
6 the communication by such other person or another person of information
7 or the production of records, documents or other objects relating
8 to a criminal transaction to any court, grand jury, prosecutor, police
9 officer or peace officer or for the purpose of compelling such other
10 person or another person to swear falsely; or

11 2. Intentionally causes or attempts to cause physical injury to another
12 person on account of such other person or another person having
13 communicated information or produced records, documents or other objects
14 relating to a criminal transaction to any court, grand jury, prosecutor,
15 police officer or peace officer; or

16 3. Recklessly causes physical injury to another person by inten-
17 tionally damaging the property of such other person or another person,
18 for the purpose of obstructing, delaying, preventing or impeding such
19 other person or another person from communicating or producing records,
20 documents or other objects, or on account of such other person or another
21 person having communicated[~~r~~] information or produced records, docu-
22 ments or other objects, relating to a criminal transaction to any court,
23 grand jury, prosecutor, police officer or peace officer.

24 Intimidating a victim or witness in the [~~second~~] third degree is a
25 class D felony.

26 § 22. Section 215.17 of the penal law, as added by chapter 667 of the
27 laws of 1985, is amended to read as follows:

28 § 215.17 Intimidating a victim or witness in the [~~first~~] second degree.

29 A person is guilty of intimidating a victim or witness in the [~~first~~]
30 second degree when, other than in the course of that criminal trans-
31 action or immediate flight therefrom, he or she:

32 1. Intentionally causes or attempts to cause serious physical injury
33 to another person for the purpose of obstructing, delaying, preventing
34 or impeding the communication by such other person or another person of
35 information or the production of records, documents or other objects
36 relating to a criminal transaction to any court, grand jury, prosecutor,
37 police officer or peace officer or for the purpose of compelling such
38 other person or another person to swear falsely; or

39 2. Intentionally causes or attempts to cause serious physical injury
40 to another person on account of such other person or another person
41 having communicated information or produced records, documents or other
42 objects, relating to a criminal transaction to any court, grand jury,
43 prosecutor, police officer or peace officer.

44 Intimidating a victim or witness in the [~~first~~] second degree is a
45 class B felony.

46 § 23. The penal law is amended by adding a new section 215.18 to read
47 as follows:

48 § 215.18 Intimidating a victim or witness in the first degree.

49 A person is guilty of intimidating a victim or witness in the first
50 degree when, other than in the course of that criminal transaction or
51 immediate flight therefrom, he or she:

52 1. Intentionally causes or attempts to cause death to another person
53 for the purpose of obstructing, delaying, preventing or impeding the
54 communication by such other person or another person of information or
55 the production of records, documents or other objects relating to a
56 criminal transaction to any court, grand jury, prosecutor, police offi-

1 cer or peace officer or for the purpose of compelling such other person
2 or another person to swear falsely; or

3 2. Intentionally causes or attempts to cause death to another person
4 on account of such other person or another person having communicated
5 information or produced records, documents or other objects, relating to
6 a criminal transaction to any court, grand jury, prosecutor, police
7 officer or peace officer.

8 Intimidating a victim or witness in the first degree is a class A-I
9 felony.

10 § 24. The penal law is amended by adding a new section 215.21 to read
11 as follows:

12 § 215.21 Affirmative defense.

13 In a prosecution for an offense under this article, it is an affirma-
14 tive defense, as to which the defendant has the burden of proof by a
15 preponderance of the evidence, that the conduct consisted solely of
16 lawful conduct and that the defendant's sole intention was to encourage,
17 induce, or cause the other person to testify truthfully.

18 § 25. This act shall take effect on the one hundred eightieth day
19 after it shall have become a law; provided, however, the amendments to
20 section 65.20 of the criminal procedure law made by section four of this
21 act shall not affect the repeal of such section and shall be deemed
22 repealed therewith.

23 SUBPART C

24 Section 1. Section 30.30 of the criminal procedure law, as added by
25 chapter 184 of the laws of 1972, paragraph (a) of subdivision 3 as
26 amended by chapter 93 of the laws of 2006, paragraph (a) of subdivision
27 4 as amended by chapter 558 of the laws of 1982, paragraph (c) of subdi-
28 vision 4 as amended by chapter 631 of the laws of 1996, paragraph (h) of
29 subdivision 4 as added by chapter 837 of the laws of 1986, paragraph (i)
30 of subdivision 4 as added by chapter 446 of the laws of 1993, paragraph
31 (j) of subdivision 4 as added by chapter 222 of the laws of 1994, para-
32 graph (b) of subdivision 5 as amended by chapter 109 of the laws of
33 1982, paragraphs (e) and (f) of subdivision 5 as added by chapter 209 of
34 the laws of 1990, is amended to read as follows:

35 § 30.30 Speedy trial; time limitations.

36 1. Except as otherwise provided in subdivision three, a motion made
37 pursuant to paragraph (e) of subdivision one of section 170.30 or para-
38 graph (g) of subdivision one of section 210.20 must be granted where the
39 people are not ready for trial within:

40 (a) six months of the commencement of a criminal action wherein a
41 defendant is accused of one or more offenses, at least one of which is a
42 felony;

43 (b) ninety days of the commencement of a criminal action wherein a
44 defendant is accused of one or more offenses, at least one of which is a
45 misdemeanor punishable by a sentence of imprisonment of more than three
46 months and none of which is a felony;

47 (c) sixty days of the commencement of a criminal action wherein the
48 defendant is accused of one or more offenses, at least one of which is a
49 misdemeanor punishable by a sentence of imprisonment of not more than
50 three months and none of which is a crime punishable by a sentence of
51 imprisonment of more than three months;

52 (d) thirty days of the commencement of a criminal action wherein the
53 defendant is accused of one or more offenses, at least one of which is a
54 violation and none of which is a crime.

1 2. [~~Except as provided in subdivision three, where a defendant has~~
 2 ~~been committed to the custody of the sheriff in a criminal action he~~
 3 ~~must be released on bail or on his own recognizance, upon such condi-~~
 4 ~~tions as may be just and reasonable, if the people are not ready for~~
 5 ~~trial in that criminal action within:~~

6 (a) ~~ninety days from the commencement of his commitment to the custody~~
 7 ~~of the sheriff in a criminal action wherein the defendant is accused of~~
 8 ~~one or more offenses, at least one of which is a felony;~~

9 (b) ~~thirty days from the commencement of his commitment to the custody~~
 10 ~~of the sheriff in a criminal action wherein the defendant is accused of~~
 11 ~~one or more offenses, at least one of which is a misdemeanor punishable~~
 12 ~~by a sentence of imprisonment of more than three months and none of~~
 13 ~~which is a felony;~~

14 (c) ~~fifteen days from the commencement of his commitment to the custo-~~
 15 ~~dy of the sheriff in a criminal action wherein the defendant is accused~~
 16 ~~of one or more offenses, at least one of which is a misdemeanor punisha-~~
 17 ~~ble by a sentence of imprisonment of not more than three months and none~~
 18 ~~of which is a crime punishable by a sentence of imprisonment of more~~
 19 ~~than three months;~~

20 (d) ~~five days from the commencement of his commitment to the custody~~
 21 ~~of the sheriff in a criminal action wherein the defendant is accused of~~
 22 ~~one or more offenses, at least one of which is a violation and none of~~
 23 ~~which is a crime.]~~

24 Whenever pursuant to this section a prosecutor states or otherwise
 25 provides notice that the people are ready for trial, the court may make
 26 inquiry on the record as to their actual readiness. If, after conducting
 27 its inquiry, the court determines that the people are not ready to
 28 proceed to trial, the prosecutor's statement or notice of readiness
 29 shall not be valid for purposes of this section. Any statement of trial
 30 readiness must be accompanied or preceded by a certification of good
 31 faith compliance with the disclosure requirements of article two hundred
 32 forty-five of this chapter. This subdivision shall not apply to cases
 33 where the defense has waived disclosure requirements. The defense shall
 34 be afforded an opportunity to be heard on the record concerning any such
 35 inquiry by the court, and concerning whether such disclosure require-
 36 ments have been met.

37 2-a. Upon a misdemeanor complaint, a statement of readiness shall not
 38 be valid unless the prosecuting attorney certifies that all counts
 39 charged in the accusatory instrument meet the requirements of sections
 40 100.15 and 100.40 and those counts not meeting the requirements of
 41 sections 100.15 and 100.40 have been dismissed.

42 3. (a) Subdivisions one and two do not apply to a criminal action
 43 wherein the defendant is accused of an offense defined in sections
 44 125.10, 125.15, 125.20, 125.25, 125.26 and 125.27 of the penal law.

45 (b) A motion made pursuant to subdivisions one or two upon expiration
 46 of the specified period may be denied where the people are not ready for
 47 trial if the people were ready for trial prior to the expiration of the
 48 specified period and their present unreadiness is due to some excep-
 49 tional fact or circumstance, including, but not limited to, the sudden
 50 unavailability of evidence material to the people's case, when the
 51 district attorney has exercised due diligence to obtain such evidence
 52 and there are reasonable grounds to believe that such evidence will
 53 become available in a reasonable period.

54 (c) A motion made pursuant to subdivision two shall not:

55 (i) apply to any defendant who is serving a term of imprisonment for
 56 another offense;

1 (ii) require the release from custody of any defendant who is also
2 being held in custody pending trial of another criminal charge as to
3 which the applicable period has not yet elapsed;

4 (iii) prevent the redetention of or otherwise apply to any defendant
5 who, after being released from custody pursuant to this section or
6 otherwise, is charged with another crime or violates the conditions on
7 which he has been released, by failing to appear at a judicial proceed-
8 ing at which his presence is required or otherwise.

9 4. In computing the time within which the people must be ready for
10 trial pursuant to subdivisions one and two, the following periods must
11 be excluded:

12 (a) a reasonable period of delay resulting from other proceedings
13 concerning the defendant, including but not limited to: proceedings for
14 the determination of competency and the period during which defendant is
15 incompetent to stand trial; demand to produce; request for a bill of
16 particulars; pre-trial motions; appeals; trial of other charges; and the
17 period during which such matters are under consideration by the court;
18 or

19 (b) the period of delay resulting from a continuance granted by the
20 court at the request of, or with the consent of, the defendant or his or
21 her counsel. The court [~~must~~] may grant such a continuance only if it is
22 satisfied that postponement is in the interest of justice, taking into
23 account the public interest in the prompt dispositions of criminal
24 charges. A defendant without counsel must not be deemed to have
25 consented to a continuance unless he has been advised by the court of
26 his or her rights under these rules and the effect of his consent, which
27 must be done on the record in open court; or

28 (c) (i) the period of delay resulting from the absence or unavailabil-
29 ity of the defendant. A defendant must be considered absent whenever his
30 location is unknown and he is attempting to avoid apprehension or prose-
31 cution, or his location cannot be determined by due diligence. A defend-
32 ant must be considered unavailable whenever his location is known but
33 his presence for trial cannot be obtained by due diligence; or

34 (ii) where the defendant has either escaped from custody or has failed
35 to appear when required after having previously been released on bail or
36 on his own recognizance, and provided the defendant is not in custody on
37 another matter, the period extending from the day the court issues a
38 bench warrant pursuant to section 530.70 because of the defendant's
39 failure to appear in court when required, to the day the defendant
40 subsequently appears in the court pursuant to a bench warrant or volun-
41 tarily or otherwise; or

42 (d) a reasonable period of delay when the defendant is joined for
43 trial with a co-defendant as to whom the time for trial pursuant to this
44 section has not run and good cause is not shown for granting a sever-
45 ance; or

46 (e) the period of delay resulting from detention of the defendant in
47 another jurisdiction provided the district attorney is aware of such
48 detention and has been diligent and has made reasonable efforts to
49 obtain the presence of the defendant for trial; or

50 (f) the period during which the defendant is without counsel through
51 no fault of the court; except when the defendant is proceeding as his
52 own attorney with the permission of the court; or

53 (g) other periods of delay occasioned by exceptional circumstances,
54 including but not limited to, the period of delay resulting from a
55 continuance granted at the request of a district attorney if (i) the
56 continuance is granted because of the unavailability of evidence materi-

1 al to the people's case, when the district attorney has exercised due
2 diligence to obtain such evidence and there are reasonable grounds to
3 believe that such evidence will become available in a reasonable period;
4 or (ii) the continuance is granted to allow the district attorney addi-
5 tional time to prepare the people's case and additional time is justi-
6 fied by the exceptional circumstances of the case. Any such exclusion
7 when a statement of unreadiness has followed a statement of readiness
8 made by the people must be accompanied by supporting facts and approved
9 by the court. The court shall inquire on the record as to the reasons
10 for the people's unreadiness; or

11 (h) the period during which an action has been adjourned in contem-
12 plation of dismissal pursuant to sections 170.55, 170.56 and 215.10 of
13 this chapter[-]; or

14 (i) [~~the~~] the period prior to the defendant's actual appearance for
15 arraignment in a situation in which the defendant has been directed to
16 appear by the district attorney pursuant to subdivision three of section
17 120.20 or subdivision three of section 210.10[-]; or

18 (j) the period during which a family offense is before a family court
19 until such time as an accusatory instrument or indictment is filed
20 against the defendant alleging a crime constituting a family offense, as
21 such term is defined in section 530.11 of this chapter.

22 5. At each court appearance date preceding the commencement of trial
23 in a criminal action, the court, whenever it is practicable to do so,
24 shall rule preliminarily on whether the adjournment period immediately
25 following such court appearance date is to be included or excluded for
26 the purposes of computing the time within which the people must be ready
27 for trial within the meaning of this section. The court's ruling shall
28 be noted in the court file.

29 6. For purposes of this section, (a) where the defendant is to be
30 tried following the withdrawal of the plea of guilty or is to be retried
31 following a mistrial, an order for a new trial or an appeal or collat-
32 eral attack, the criminal action and the commitment to the custody of
33 the sheriff, if any, must be deemed to have commenced on the date the
34 withdrawal of the plea of guilty or the date the order occasioning a
35 retrial becomes final;

36 (b) where a defendant has been served with an appearance ticket, the
37 criminal action must be deemed to have commenced on the date the defend-
38 ant first appears in a local criminal court in response to the ticket;

39 (c) where a criminal action is commenced by the filing of a felony
40 complaint, and thereafter, in the course of the same criminal action
41 either the felony complaint is replaced with or converted to an informa-
42 tion, prosecutor's information or misdemeanor complaint pursuant to
43 article [~~180~~] one hundred eighty or a prosecutor's information is filed
44 pursuant to section 190.70, the period applicable for the purposes of
45 subdivision one must be the period applicable to the charges in the new
46 accusatory instrument, calculated from the date of the filing of such
47 new accusatory instrument; provided, however, that when the aggregate of
48 such period and the period of time, excluding the periods provided in
49 subdivision [~~four~~] five, already elapsed from the date of the filing of
50 the felony complaint to the date of the filing of the new accusatory
51 instrument exceeds six months, the period applicable to the charges in
52 the felony complaint must remain applicable and continue as if the new
53 accusatory instrument had not been filed;

54 (d) where a criminal action is commenced by the filing of a felony
55 complaint, and thereafter, in the course of the same criminal action
56 either the felony complaint is replaced with or converted to an informa-

1 tion, prosecutor's information or misdemeanor complaint pursuant to
2 article [~~180~~ one hundred eighty or a prosecutor's information is filed
3 pursuant to section 190.70, the period applicable for the purposes of
4 subdivision two must be the period applicable to the charges in the new
5 accusatory instrument, calculated from the date of the filing of such
6 new accusatory instrument; provided, however, that when the aggregate of
7 such period and the period of time, excluding the periods provided in
8 subdivision [~~four~~ five, already elapsed from the date of the filing of
9 the felony complaint to the date of the filing of the new accusatory
10 instrument exceeds ninety days, the period applicable to the charges in
11 the felony complaint must remain applicable and continue as if the new
12 accusatory instrument had not been filed.

13 (e) where a count of an indictment is reduced to charge only a misde-
14 meanor or petty offense and a reduced indictment or a prosecutor's
15 information is filed pursuant to subdivisions one-a and six of section
16 210.20, the period applicable for the purposes of subdivision one of
17 this section must be the period applicable to the charges in the new
18 accusatory instrument, calculated from the date of the filing of such
19 new accusatory instrument; provided, however, that when the aggregate of
20 such period and the period of time, excluding the periods provided in
21 subdivision [~~four~~ five of this section, already elapsed from the date
22 of the filing of the indictment to the date of the filing of the new
23 accusatory instrument exceeds six months, the period applicable to the
24 charges in the indictment must remain applicable and continue as if the
25 new accusatory instrument had not been filed;

26 (f) where a count of an indictment is reduced to charge only a misde-
27 meanor or petty offense and a reduced indictment or a prosecutor's
28 information is filed pursuant to subdivisions one-a and six of section
29 210.20, the period applicable for the purposes of subdivision two of
30 this section must be the period applicable to the charges in the new
31 accusatory instrument, calculated from the date of the filing of such
32 new accusatory instrument; provided, however, that when the aggregate of
33 such period and the period of time, excluding the periods provided in
34 subdivision [~~four~~ five of this section, already elapsed from the date
35 of the filing of the indictment to the date of the filing of the new
36 accusatory instrument exceeds ninety days, the period applicable to the
37 charges in the indictment must remain applicable and continue as if the
38 new accusatory instrument had not been filed.

39 [~~6-~~ 7. The procedural rules prescribed in subdivisions one through
40 seven of section 210.45 with respect to a motion to dismiss an indict-
41 ment are also applicable to a motion made pursuant to subdivision two.

42 § 2. Subdivision 6 of section 180.85 of the criminal procedure law, as
43 added by chapter 518 of the laws of 2004, is amended to read as follows:

44 6. The period from the filing of a motion pursuant to this section
45 until entry of an order disposing of such motion shall not, by reason of
46 such motion, be considered a period of delay for purposes of subdivision
47 [~~four~~ five of section 30.30, nor shall such period, by reason of such
48 motion, be excluded in computing the time within which the people must
49 be ready for trial pursuant to such section 30.30.

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

52 § 2. If any clause, sentence, paragraph, subdivision, section or
53 subpart of this act shall be adjudged by any court of competent juris-
54 diction to be invalid, such judgment shall not affect, impair, or inval-
55 idate the remainder thereof, but shall be confined in its operation to
56 the clause, sentence, paragraph, subdivision, section or subpart thereof

1 directly involved in the controversy in which such judgment shall have
2 been rendered. It is hereby declared to be the intent of the legislature
3 that this act would have been enacted even if such invalid provisions
4 had not been included herein.

5 § 3. This act shall take effect immediately provided, however, that
6 the applicable effective date of Subparts A through C of this act shall
7 be as specifically set forth in the last section of such Subparts.

8

PART BB

9 Section 1. Subdivisions 2 and 3 of section 86 of the public officers
10 law, as added by chapter 933 of the laws of 1977, are amended and a new
11 subdivision 6 is added to read as follows:

12 2. "State legislature" means the [~~legislature of the state of New~~
13 ~~York, including~~] New York state senate, New York state assembly, any
14 committee, subcommittee, joint committee, select committee, or commis-
15 sion thereof, and any members, officers, representatives and employees
16 thereof.

17 3. "Agency" means any state or municipal department, board, bureau,
18 division, commission, committee, public authority, public corporation,
19 council, office, or other governmental entity performing a governmental
20 or proprietary function for the state or any one or more municipalities
21 thereof, except the judiciary [~~or the state legislature~~].

22 6. "Respective house of the state legislature" means the New York
23 state senate, New York state assembly, and any corresponding committee,
24 subcommittee, joint committee, select committee, or commission thereof,
25 and any members, officers, representatives and employees thereof.

26 § 2. Section 87 of the public officers law, as added by chapter 933 of
27 the laws of 1977, paragraph (a) and the opening paragraph of paragraph
28 (b) of subdivision 1 as amended by chapter 80 of the laws of 1983,
29 subparagraph iii of paragraph (b) of subdivision 1 as amended and para-
30 graph (c) of subdivision 1 and subdivision 5 as added by chapter 223 of
31 the laws of 2008, paragraph (d) of subdivision 2 as amended by chapter
32 289 of the laws of 1990, paragraph (f) of subdivision 2 as amended by
33 chapter 403 of the laws of 2003, paragraph (g) of subdivision 2 as
34 amended by chapter 510 of the laws of 1999, paragraph (i) of subdivision
35 2 as amended by chapter 154 of the laws of 2010, paragraph (j) of subdi-
36 vision 2 as added by chapter 746 of the laws of 1988, paragraph (k) of
37 subdivision 2 as separately added by chapters 19, 20, 21, 22, 23 and 383
38 of the laws of 2009, paragraph (l) of subdivision 2 as added by section
39 12 of part II of chapter 59 of the laws of 2010, paragraph (m) of subdi-
40 vision 2 as added by chapter 189 of the laws of 2013, paragraph (n) of
41 subdivision 2 as added by chapter 43 of the laws of 2014, paragraph (n)
42 of subdivision 2 as separately added by chapters 99, 101, and 123 of the
43 laws of 2014, paragraph (o) of subdivision 2 as added by chapter 222 of
44 the laws of 2015, paragraph (c) of subdivision 3 as amended by chapter
45 499 of the laws of 2008, subdivision 4 as added by chapter 890 of the
46 laws of 1981, and paragraph (c) of subdivision 4 as added by chapter 102
47 of the laws of 2007, is amended to read as follows:

48 § 87. Access to agency or state legislature records. 1. (a) Within
49 sixty days after the effective date of this article, the governing body
50 of each public corporation shall promulgate uniform rules and regu-
51 lations for all agencies in such public corporation pursuant to such
52 general rules and regulations as may be promulgated by the committee on
53 open government in conformity with the provisions of this article,
54 pertaining to the administration of this article.

1 (b) Each agency and each house of the state legislature shall promul-
2 gate rules and regulations, in conformity with this article and applica-
3 ble rules and regulations promulgated pursuant to the provisions of
4 paragraph (a) of this subdivision, and pursuant to such general rules
5 and regulations as may be promulgated by the committee on open govern-
6 ment in conformity with the provisions of this article, pertaining to
7 the availability of records and procedures to be followed, including,
8 but not limited to:

9 i. the times and places such records are available;

10 ii. the persons from whom such records may be obtained[7]; and

11 iii. the fees for copies of records which shall not exceed twenty-five
12 cents per photocopy not in excess of nine inches by fourteen inches, or
13 the actual cost of reproducing any other record in accordance with the
14 provisions of paragraph (c) of this subdivision, except when a different
15 fee is otherwise prescribed by statute.

16 (c) In determining the actual cost of reproducing a record, an agency
17 and the state legislature may include only:

18 i. an amount equal to the hourly salary attributed to the lowest paid
19 employee of an agency or [~~employee~~] respective house of the state legis-
20 lature who has the necessary skill required to prepare a copy of the
21 requested record;

22 ii. the actual cost of the storage devices or media provided to the
23 person making the request in complying with such request;

24 iii. the actual cost to the agency or to the respective house of the
25 state legislature of engaging an outside professional service to prepare
26 a copy of a record, but only when an agency's or respective house of the
27 state legislature's information technology equipment is inadequate to
28 prepare a copy, if such service is used to prepare the copy; and

29 iv. preparing a copy shall not include search time or administrative
30 costs, and no fee shall be charged unless at least two hours of agency
31 or respective house of the state legislature employee time is needed to
32 prepare a copy of the record requested. A person requesting a record
33 shall be informed of the estimated cost of preparing a copy of the
34 record if more than two hours of an agency or respective house of the
35 state legislature employee's time is needed, or if an outside profes-
36 sional service would be retained to prepare a copy of the record.

37 2. Each agency and the respective house of the state legislature
38 shall, in accordance with its published rules, make available for public
39 inspection and copying all records, except that such agency and the
40 respective house of the state legislature may deny access to records or
41 portions thereof that:

42 (a) are specifically exempted from disclosure by state or federal
43 statute;

44 (b) if disclosed would constitute an unwarranted invasion of personal
45 privacy under the provisions of subdivision two of section eighty-nine
46 of this article;

47 (c) if disclosed would impair present or imminent contract awards or
48 collective bargaining negotiations provided, however, that the proposed
49 terms of an agreement between a public employer and an employee organ-
50 ization, as those terms are defined in article fourteen of the civil
51 service law, that require ratification by members of the employee organ-
52 ization or by the public employer, where applicable, or approval of such
53 provisions by the appropriate legislative body as required by section
54 two hundred four-a of the civil service law, shall be made available to
55 the public no later than when such proposed terms are sent to members of
56 the employee organization for ratification, when such terms are

1 presented to the employer for ratification, where applicable, or when
2 the provisions of such agreement requiring approval by the appropriate
3 legislative body pursuant to section two hundred four-a of the civil
4 service law are submitted to such body, whichever date is earliest.
5 Additionally, a copy of the proposed terms of such agreement shall be
6 placed on the website of the applicable public employer, if such
7 websites exist, and within the local public libraries and offices of
8 such public employer, or in the case of collective bargaining agreements
9 negotiated by the state, on the website of the office of employee
10 relations on such date;

11 (d) are trade secrets or are submitted to an agency or to the respec-
12 tive house of the state legislature by a commercial enterprise or
13 derived from information obtained from a commercial enterprise and which
14 if disclosed would cause substantial injury to the competitive position
15 of the subject enterprise;

16 (e) are compiled for law enforcement purposes and which, if disclosed,
17 would:

18 i. interfere with law enforcement investigations or judicial
19 proceedings;

20 ii. deprive a person of a right to a fair trial or impartial adjudi-
21 cation;

22 iii. identify a confidential source or disclose confidential informa-
23 tion relating to a criminal investigation; or

24 iv. reveal criminal investigative techniques or procedures, except
25 routine techniques and procedures;

26 (f) if disclosed could endanger critical infrastructure or the life or
27 safety of any person;

28 (g) are inter-agency or intra-agency materials which are not:

29 i. statistical or factual tabulations or data;

30 ii. instructions to staff that affect the public;

31 iii. final agency policy or determinations;

32 iv. external audits, including but not limited to audits performed by
33 the comptroller and the federal government; [~~or~~]

34 (g-1) are materials exchanged within the state legislature which are
35 not:

36 i. statistical or factual tabulations or data;

37 ii. instructions to staff that affect the public;

38 iii. final policy or determinations of the respective house of the
39 state legislature;

40 iv. external audits, including but not limited to audits performed by
41 the comptroller and the federal government; or

42 (h) are examination questions or answers which are requested prior to
43 the final administration of such questions.

44 (i) if disclosed, would jeopardize the capacity of an agency, the
45 state legislature, or an entity that has shared information with an
46 agency or the state legislature to guarantee the security of its infor-
47 mation technology assets, such assets encompassing both electronic
48 information systems and infrastructures; or

49 (j) are photographs, microphotographs, videotape or other recorded
50 images prepared under authority of section eleven hundred eleven-a of
51 the vehicle and traffic law.

52 (k) are photographs, microphotographs, videotape or other recorded
53 images prepared under authority of section eleven hundred eleven-b of
54 the vehicle and traffic law.

1 (l) are photographs, microphotographs, videotape or other recorded
2 images produced by a bus lane photo device prepared under authority of
3 section eleven hundred eleven-c of the vehicle and traffic law.

4 (m) are photographs, microphotographs, videotape or other recorded
5 images prepared under the authority of section eleven hundred eighty-b
6 of the vehicle and traffic law.

7 (n) are photographs, microphotographs, videotape or other recorded
8 images prepared under the authority of section eleven hundred eighty-c
9 of the vehicle and traffic law.

10 (n) are photographs, microphotographs, videotape or other recorded
11 images prepared under authority of section eleven hundred eleven-d of
12 the vehicle and traffic law.

13 (o) are photographs, microphotographs, videotape or other recorded
14 images prepared under authority of section eleven hundred eleven-e of
15 the vehicle and traffic law.

16 3. Each agency and respective house of the state legislature shall
17 maintain:

18 (a) a record of the final vote of each member in every agency or state
19 legislature proceeding in which the member votes;

20 (b) a record of votes of each member in every session and every
21 committee and subcommittee meeting in which the member of the senate or
22 assembly votes;

23 [~~(b)~~] (c) a record setting forth the name, public office address,
24 title and salary of every officer or employee of the agency or the state
25 legislature; and

26 [~~(c)~~] (d) a reasonably detailed current list by subject matter of all
27 records in the possession of the agency or state legislature, whether or
28 not available under this article. Each agency and each respective house
29 of the state legislature shall update its subject matter list annually,
30 and the date of the most recent update shall be conspicuously indicated
31 on the list. [~~Each~~] The state legislature and each state agency as
32 defined in subdivision four of this section that maintains a website
33 shall post its current list on its website and such posting shall be
34 linked to the website of the committee on open government. Any such
35 agency or part of the state legislature that does not maintain a website
36 shall arrange to have its list posted on the website of the committee on
37 open government.

38 4. (a) Each state agency or respective house of the state legislature
39 which maintains records containing trade secrets, to which access may be
40 denied pursuant to paragraph (d) of subdivision two of this section,
41 shall promulgate regulations in conformity with the provisions of subdivi-
42 sion five of section eighty-nine of this article pertaining to such
43 records, including, but not limited to the following:

44 (1) the manner of identifying the records or parts;

45 (2) the manner of identifying persons within the agency or respective
46 house of the state legislature to whose custody the records or parts
47 will be charged and for whose inspection and study the records will be
48 made available;

49 (3) the manner of safeguarding against any unauthorized access to the
50 records.

51 (b) As used in this subdivision the term "agency" or "state agency"
52 means only a state department, board, bureau, division, council [~~or~~],
53 office and any public corporation the majority of whose members are
54 appointed by the governor.

1 (c) As used in this subdivision the term "state legislature" means the
2 legislature as defined in subdivision two of section eighty-six of this
3 article.

4 (d) Each state agency and respective house of the state legislature
5 that maintains a website shall post information related to this article
6 and article six-A of this chapter on its website. Such information shall
7 include, at a minimum, contact information for the persons from whom
8 records of the agency or respective house of the state legislature may
9 be obtained, the times and places such records are available for
10 inspection and copying, and information on how to request records in
11 person, by mail, and, if the agency or respective house of the state
12 legislature accepts requests for records electronically, by e-mail. This
13 posting shall be linked to the website of the committee on open govern-
14 ment.

15 5. (a) An agency and the respective house of the state legislature
16 shall provide records on the medium requested by a person, if the agency
17 or the respective house of the state legislature can reasonably make
18 such copy or have such copy made by engaging an outside professional
19 service. Records provided in a computer format shall not be encrypted.

20 (b) No agency nor the state legislature shall enter into or renew a
21 contract for the creation or maintenance of records if such contract
22 impairs the right of the public to inspect or copy the agency's or the
23 state legislature's records.

24 6. (a) Each agency and house of the state legislature shall publish,
25 on its internet website, to the extent practicable, records or portions
26 of records that are available to the public pursuant to the provisions
27 of this article, or which, in consideration of their nature, content or
28 subject matter, are determined by the agency or house of the state
29 legislature to be of substantial interest to the public. Any such
30 records may be removed from the internet website when the agency or
31 house of the state legislature determines that they are no longer of
32 substantial interest to the public. Any such records may be removed from
33 the internet website when they have reached the end of their legal
34 retention period. Guidance on creating records in accessible formats and
35 ensuring their continuing accessibility shall be available from the
36 office of information technology services and the state archives.

37 (b) The provisions of paragraph (a) of this subdivision shall not
38 apply to records or portions of records the disclosure of which would
39 constitute an unwarranted invasion of personal privacy in accordance
40 with subdivision two of section eighty-nine of this article.

41 (c) The committee on open government shall promulgate guidelines to
42 effectuate this subdivision.

43 (d) Nothing in this subdivision shall be construed as to limit or
44 abridge the power of an agency or house of the state legislature to
45 publish records on its internet website that are subject to the
46 provisions of this article prior to a written request or prior to a
47 frequent request.

48 § 3. Section 88 of the public officers law is REPEALED.

49 § 4. Section 89 of the public officers law, as added by chapter 933 of
50 the laws of 1977, paragraph (a) of subdivision 1 as amended by chapter
51 33 of the laws of 1984, paragraph (b) of subdivision 1 as amended by
52 chapter 182 of the laws of 2006, subdivision 2 as amended by section 11
53 of part U of chapter 61 of the laws of 2011, subdivision 2-a as added by
54 chapter 652 of the laws of 1983, subdivision 3 as amended by chapter 223
55 of the laws of 2008, paragraph (c) of subdivision 3 as added by chapter
56 47 of the laws of 2018, subdivision 4 as amended by chapter 22 of the

1 laws of 2005, paragraph (c) of subdivision 4 as amended by chapter 453
2 of the laws of 2017, paragraph (d) of subdivision 4 as added by chapter
3 487 of the laws of 2016, subdivision 5 as added and subdivision 6 as
4 renumbered by chapter 890 of the laws of 1981, paragraph (a) of subdivi-
5 sion 5 as amended by chapter 403 of the laws of 2003, paragraph (d) of
6 subdivision 5 as amended by chapter 339 of the laws of 2004, subdivision
7 7 as added by chapter 783 of the laws of 1983, subdivision 8 as added by
8 chapter 705 of the laws of 1989, and subdivision 9 as added by chapter
9 351 of the laws of 2008, is amended to read as follows:

10 § 89. General provisions relating to access to records; certain cases.
11 The provisions of this section apply to access to all records, except as
12 hereinafter specified:

13 1. (a) The committee on open government is continued and shall consist
14 of the lieutenant governor or the delegate of such officer, the secre-
15 tary of state or the delegate of such officer, whose office shall act as
16 secretariat for the committee, the commissioner of the office of general
17 services or the delegate of such officer, the director of the budget or
18 the delegate of such officer, and seven other persons, none of whom
19 shall hold any other state or local public office except the represen-
20 tative of local governments as set forth herein, to be appointed as
21 follows: five by the governor, at least two of whom are or have been
22 representatives of the news media, one of whom shall be a representative
23 of local government who, at the time of appointment, is serving as a
24 duly elected officer of a local government, one by the temporary presi-
25 dent of the senate, and one by the speaker of the assembly. The persons
26 appointed by the temporary president of the senate and the speaker of
27 the assembly shall be appointed to serve, respectively, until the expi-
28 ration of the terms of office of the temporary president and the speaker
29 to which the temporary president and speaker were elected. The four
30 persons presently serving by appointment of the governor for fixed terms
31 shall continue to serve until the expiration of their respective terms.
32 Thereafter, their respective successors shall be appointed for terms of
33 four years. The member representing local government shall be appointed
34 for a term of four years, so long as such member shall remain a duly
35 elected officer of a local government. The committee shall hold no less
36 than two meetings annually, but may meet at any time. The members of the
37 committee shall be entitled to reimbursement for actual expenses
38 incurred in the discharge of their duties.

39 (b) The committee shall:

40 i. furnish to any agency and to each house of the state legislature
41 advisory guidelines, opinions or other appropriate information regarding
42 this article;

43 ii. furnish to any person advisory opinions or other appropriate
44 information regarding this article;

45 iii. promulgate rules and regulations with respect to the implementa-
46 tion of subdivision one and paragraph (c) of subdivision three of
47 section eighty-seven of this article;

48 iv. request from any agency and from either house of the state legis-
49 lature such assistance, services and information as will enable the
50 committee to effectively carry out its powers and duties;

51 v. develop a form, which shall be made available on the internet, that
52 may be used by the public to request a record; and

53 vi. report on its activities and findings regarding this article and
54 article seven of this chapter, including recommendations for changes in
55 the law, to the governor and the legislature annually, on or before
56 December fifteenth.

1 2. (a) The committee on [~~public access to records~~] open government may
2 promulgate guidelines regarding deletion of identifying details or with-
3 holding of records otherwise available under this article to prevent
4 unwarranted invasions of personal privacy. In the absence of such guide-
5 lines, an agency and the respective house of state legislature may
6 delete identifying details when it makes records available.

7 (b) An unwarranted invasion of personal privacy includes, but shall
8 not be limited to:

9 i. disclosure of employment, medical or credit histories or personal
10 references of applicants for employment;

11 ii. disclosure of items involving the medical or personal records of a
12 client or patient in a medical facility;

13 iii. sale or release of lists of names and addresses if such lists
14 would be used for solicitation or fund-raising purposes;

15 iv. disclosure of information of a personal nature when disclosure
16 would result in economic or personal hardship to the subject party and
17 such information is not relevant to the work of the agency or respective
18 house of the state legislature requesting or maintaining it;

19 v. disclosure of information of a personal nature reported in confi-
20 dence to an agency or to the state legislature and not relevant to the
21 ordinary work of such agency or the state legislature;

22 vi. information of a personal nature contained in a workers' compen-
23 sation record, except as provided by section one hundred ten-a of the
24 workers' compensation law; [~~ex~~]

25 vii. disclosure of electronic contact information, such as an e-mail
26 address or a social network username, that has been collected from a
27 taxpayer under section one hundred four of the real property tax law; or
28 viii. disclosure of communications of a personal nature between legis-
29 lators and their constituents.

30 (c) Unless otherwise provided by this article, disclosure shall not be
31 construed to constitute an unwarranted invasion of personal privacy
32 pursuant to paragraphs (a) and (b) of this subdivision:

33 i. when identifying details are deleted;

34 ii. when the person to whom a record pertains consents in writing to
35 disclosure;

36 iii. when upon presenting reasonable proof of identity, a person seeks
37 access to records pertaining to him or her; or

38 iv. when a record or group of records relates to the right, title or
39 interest in real property, or relates to the inventory, status or char-
40 acteristics of real property, in which case disclosure and providing
41 copies of such record or group of records shall not be deemed an unwar-
42 ranted invasion of personal privacy, provided that nothing herein shall
43 be construed to authorize the disclosure of electronic contact informa-
44 tion, such as an e-mail address or a social network username, that has
45 been collected from a taxpayer under section one hundred four of the
46 real property tax law.

47 2-a. Nothing in this article shall permit disclosure which constitutes
48 an unwarranted invasion of personal privacy as defined in subdivision
49 two of this section if such disclosure is prohibited under section nine-
50 ty-six of this chapter.

51 3. (a) Each entity subject to the provisions of this article, within
52 five business days of the receipt of a written request for a record
53 reasonably described, shall make such record available to the person
54 requesting it, deny such request in writing or furnish a written
55 acknowledgement of the receipt of such request and a statement of the
56 approximate date, which shall be reasonable under the circumstances of

1 the request, when such request will be granted or denied, including,
2 where appropriate, a statement that access to the record will be deter-
3 mined in accordance with subdivision five of this section. [~~As~~] Neither
4 an agency nor the state legislature shall [~~not~~] deny a request on the
5 basis that the request is voluminous or that locating or reviewing the
6 requested records or providing the requested copies is burdensome
7 because the agency or respective house of the state legislature lacks
8 sufficient staffing or on any other basis if the agency or respective
9 house of the state legislature may engage an outside professional
10 service to provide copying, programming or other services required to
11 provide the copy, the costs of which the agency may recover pursuant to
12 paragraph (c) of subdivision one of section eighty-seven of this arti-
13 cle. An agency or respective house of the state legislature may require
14 a person requesting lists of names and addresses to provide a written
15 certification that such person will not use such lists of names and
16 addresses for solicitation or fund-raising purposes and will not sell,
17 give or otherwise make available such lists of names and addresses to
18 any other person for the purpose of allowing that person to use such
19 lists of names and addresses for solicitation or fund-raising purposes.
20 If an agency or respective house of the state legislature determines to
21 grant a request in whole or in part, and if circumstances prevent
22 disclosure to the person requesting the record or records within twenty
23 business days from the date of the acknowledgement of the receipt of the
24 request, the agency or respective house of the state legislature shall
25 state, in writing, both the reason for the inability to grant the
26 request within twenty business days and a date certain within a reason-
27 able period, depending on the circumstances, when the request will be
28 granted in whole or in part. Upon payment of, or offer to pay, the fee
29 prescribed therefor, the entity shall provide a copy of such record and
30 certify to the correctness of such copy if so requested, or as the case
31 may be, shall certify that it does not have possession of such record or
32 that such record cannot be found after diligent search. Nothing in this
33 article shall be construed to require any entity to prepare any record
34 not possessed or maintained by such entity except the records specified
35 in subdivision three of section eighty-seven [~~and subdivision three of~~
36 ~~section eighty-eight~~] of this article. When an agency or the respective
37 house of the state legislature has the ability to retrieve or extract a
38 record or data maintained in a computer storage system with reasonable
39 effort, it shall be required to do so. When doing so requires less
40 employee time than engaging in manual retrieval or redactions from non-
41 electronic records, the agency and respective house of the state legis-
42 lature shall be required to retrieve or extract such record or data
43 electronically. Any programming necessary to retrieve a record main-
44 tained in a computer storage system and to transfer that record to the
45 medium requested by a person or to allow the transferred record to be
46 read or printed shall not be deemed to be the preparation or creation of
47 a new record.

48 (b) All entities shall, provided such entity has reasonable means
49 available, accept requests for records submitted in the form of elec-
50 tronic mail and shall respond to such requests by electronic mail, using
51 forms, to the extent practicable, consistent with the form or forms
52 developed by the committee on open government pursuant to subdivision
53 one of this section and provided that the written requests do not seek a
54 response in some other form.

1 (c) Each state agency, as defined in subdivision five of this section,
2 that maintains a website shall ensure its website provides for the
3 online submission of a request for records pursuant to this article.

4 4. (a) Except as provided in subdivision five of this section, any
5 person denied access to a record may within thirty days appeal in writ-
6 ing such denial to the head, chief executive or governing body of the
7 entity, or the person therefor designated by such head, chief executive,
8 or governing body, who shall within ten business days of the receipt of
9 such appeal fully explain in writing to the person requesting the record
10 the reasons for further denial, or provide access to the record sought.
11 In addition, each agency or the respective house of the state legisla-
12 ture shall immediately forward to the committee on open government a
13 copy of such appeal when received by the agency or such house and the
14 ensuing determination thereon. Failure by an agency or respective house
15 of the state legislature to conform to the provisions of subdivision
16 three of this section shall constitute a denial.

17 (b) Except as provided in subdivision five of this section, a person
18 denied access to a record in an appeal determination under the
19 provisions of paragraph (a) of this subdivision may bring a proceeding
20 for review of such denial pursuant to article seventy-eight of the civil
21 practice law and rules. In the event that access to any record is denied
22 pursuant to the provisions of subdivision two of section eighty-seven of
23 this article, the agency or respective house of the state legislature
24 involved shall have the burden of proving that such record falls within
25 the provisions of such subdivision two. Failure by an agency or respec-
26 tive house of the state legislature to conform to the provisions of
27 paragraph (a) of this subdivision shall constitute a denial.

28 (c) The court in such a proceeding: (i) may assess, against such agen-
29 cy involved, reasonable attorney's fees and other litigation costs
30 reasonably incurred by such person in any case under the provisions of
31 this section in which such person has substantially prevailed, and when
32 the agency failed to respond to a request or appeal within the statutory
33 time; and (ii) shall assess, against such agency involved, reasonable
34 attorney's fees and other litigation costs reasonably incurred by such
35 person in any case under the provisions of this section in which such
36 person has substantially prevailed and the court finds that the agency
37 had no reasonable basis for denying access.

38 (d) (i) Appeal to the appellate division of the supreme court must be
39 made in accordance with subdivision (a) of section fifty-five hundred
40 thirteen of the civil practice law and rules.

41 (ii) An appeal from an agency or respective house of the state legis-
42 lature taken from an order of the court requiring disclosure of any of
43 all records sought:

44 (A) shall be given preference;

45 (B) shall be brought on for argument on such terms and conditions as
46 the presiding justice may direct, upon application of any party to the
47 proceedings; and

48 (C) shall be deemed abandoned if the agency or respective house of the
49 state legislature fails to serve and file a record and brief within
50 sixty days after the date of service upon the petitioner of the notice
51 of appeal, unless consent to further extension is given by all parties,
52 or unless further extension is granted by the court upon such terms as
53 may be just and upon good cause shown.

54 5. (a) (1) A person acting pursuant to law or regulation who, subse-
55 quent to the effective date of this subdivision, submits any information
56 to any state agency or to the respective house of the state legislature

1 may, at the time of submission, request that the agency or such house
2 provisionally except such information from disclosure under paragraph
3 (d) of subdivision two of section eighty-seven of this article. Where
4 the request itself contains information which if disclosed would defeat
5 the purpose for which the exception is sought, such information shall
6 also be provisionally excepted from disclosure.

7 (1-a) A person or entity who submits or otherwise makes available any
8 records to any agency or a house of the state legislature, may, at any
9 time, identify those records or portions thereof that may contain crit-
10 ical infrastructure information, and request that the agency or house of
11 the state legislature that maintains such records except such informa-
12 tion from disclosure under subdivision two of section eighty-seven of
13 this article. Where the request itself contains information which if
14 disclosed would defeat the purpose for which the exception is sought,
15 such information shall also be provisionally excepted from disclosure.

16 (2) The request for an exception shall be in writing, shall specif-
17 ically identify which portions of the record are the subject of the
18 request for exception and shall state the reasons why the information
19 should be provisionally excepted from disclosure. Any such request for
20 an exception shall be effective for a five-year period from the agency's
21 or respective house of the state legislature's receipt thereof.
22 Provided, however, that not less than sixty days prior to the expiration
23 of the then current term of the exception request, the submitter may
24 apply to the agency or respective house of the state legislature for a
25 two-year extension of its exception request. Upon timely receipt of a
26 request for an extension of an exception request, an agency or respec-
27 tive house of the state legislature may either (A) perform a cursory
28 review of the application and grant the extension should it find any
29 justification for such determination, or (B) commence the procedure set
30 forth in paragraph (b) of this subdivision to make a final determination
31 granting or terminating such exception.

32 (3) Information submitted as provided in subparagraphs one and one-a
33 of this paragraph shall be provisionally excepted from disclosure and be
34 maintained apart by the agency and the respective house of the state
35 legislature from all other records until the expiration of the submit-
36 ter's exception request or fifteen days after the entitlement to such
37 exception has been finally determined or such further time as ordered by
38 a court of competent jurisdiction.

39 (b) [~~On the~~] During the effective period of an exception request under
40 this subdivision, on the initiative of the agency or either house of the
41 state legislature at any time, or upon the request of any person for a
42 record excepted from disclosure pursuant to this subdivision, the agency
43 or respective house of the state legislature shall:

44 (1) inform the person who requested the exception of the agency's or
45 such house's intention to determine whether such exception should be
46 granted or continued;

47 (2) permit the person who requested the exception, within ten business
48 days of receipt of notification from the agency or respective house of
49 the state legislature, to submit a written statement of the necessity
50 for the granting or continuation of such exception;

51 (3) within seven business days of receipt of such written statement,
52 or within seven business days of the expiration of the period prescribed
53 for submission of such statement, issue a written determination grant-
54 ing, continuing or terminating such exception and stating the reasons
55 therefor; copies of such determination shall be served upon the person,

1 if any, requesting the record, the person who requested the exception,
2 and the committee on [~~public access to records~~] open government.

3 (c) A denial of an exception from disclosure under paragraph (b) of
4 this subdivision may be appealed by the person submitting the informa-
5 tion and a denial of access to the record may be appealed by the person
6 requesting the record in accordance with this subdivision:

7 (1) Within seven business days of receipt of written notice denying
8 the request, the person may file a written appeal from the determination
9 of the agency or the respective house of the state legislature with the
10 head of the agency or respective house of the state legislature, the
11 chief executive officer or governing body or their designated represen-
12 tatives.

13 (2) The appeal shall be determined within ten business days of the
14 receipt of the appeal. Written notice of the determination shall be
15 served upon the person, if any, requesting the record, the person who
16 requested the exception and the committee on [~~public access to records~~]
17 open government. The notice shall contain a statement of the reasons for
18 the determination.

19 (d) A proceeding to review an adverse determination pursuant to para-
20 graph (c) of this subdivision may be commenced pursuant to article
21 seventy-eight of the civil practice law and rules. Such proceeding, when
22 brought by a person seeking an exception from disclosure pursuant to
23 this subdivision, must be commenced within fifteen days of the service
24 of the written notice containing the adverse determination provided for
25 in subparagraph two of paragraph (c) of this subdivision. The proceeding
26 shall be given preference and shall be brought on for argument on such
27 terms and conditions as the presiding justice may direct, not to exceed
28 forty-five days. Appeal to the appellate division of the supreme court
29 must be made in accordance with law, and must be filed within fifteen
30 days after service by a party upon the appellant of a copy of the judg-
31 ment or order appealed from and written notice of its entry. An appeal
32 taken from an order of the court requiring disclosure shall be given
33 preference and shall be brought on for argument on such terms and condi-
34 tions as the presiding justice may direct, not to exceed sixty days.
35 This action shall be deemed abandoned when the party requesting an
36 exclusion from disclosure fails to serve and file a record and brief
37 within thirty days after the date of the notice of appeal. Failure by
38 the party requesting an exclusion from disclosure to serve and file a
39 record and brief within the allotted time shall result in the dismissal
40 of the appeal.

41 (e) The person requesting an exception from disclosure pursuant to
42 this subdivision shall in all proceedings have the burden of proving
43 entitlement to the exception.

44 (f) Where the agency or the respective house of the state legislature
45 denies access to a record pursuant to paragraph [~~(d) of~~] (b) of this
46 subdivision in conjunction with subdivision two of section eighty-seven
47 of this article, the agency or respective house of the state legislature
48 shall have the burden of proving that the record falls within the
49 provisions of such exception.

50 (g) Nothing in this subdivision shall be construed to deny any person
51 access, pursuant to the remaining provisions of this article, to any
52 record or part excepted from disclosure upon the express written consent
53 of the person who had requested the exception.

54 (h) As used in this subdivision the term "agency" or "state agency"
55 means only a state department, board, bureau, division, council or

1 office and any public corporation the majority of whose members are
2 appointed by the governor.

3 (i) As used in this subdivision the term "state legislature" means the
4 legislature as defined in subdivision two of section eighty-six of this
5 article.

6 6. Nothing in this article shall be construed to limit or abridge any
7 otherwise available right of access at law or in equity of any party to
8 records.

9 7. Nothing in this article shall require the disclosure of the home
10 address of an officer or employee, former officer or employee, or of a
11 retiree of a public employees' retirement system; nor shall anything in
12 this article require the disclosure of the name or home address of a
13 beneficiary of a public employees' retirement system or of an applicant
14 for appointment to public employment; provided however, that nothing in
15 this subdivision shall limit or abridge the right of an employee organ-
16 ization, certified or recognized for any collective negotiating unit of
17 an employer pursuant to article fourteen of the civil service law, to
18 obtain the name or home address of any officer, employee or retiree of
19 such employer, if such name or home address is otherwise available under
20 this article.

21 8. Any person who, with intent to prevent the public inspection of a
22 record pursuant to this article, willfully conceals or destroys any such
23 record shall be guilty of a violation.

24 9. When records maintained electronically include items of information
25 that would be available under this article, as well as items of informa-
26 tion that may be withheld, an agency or respective house of the state
27 legislature in designing its information retrieval methods, whenever
28 practicable and reasonable, shall do so in a manner that permits the
29 segregation and retrieval of available items in order to provide maximum
30 public access.

31 § 5. Subdivisions (t) and (u) of section 105 of the civil practice law
32 and rules, subdivision (u) as relettered by chapter 100 of the laws of
33 1994, are relettered subdivisions (u) and (v) and a new subdivision (t)
34 is added to read as follows:

35 (t) "State legislature" means the New York state senate, New York
36 state assembly, any committee, subcommittee, joint committee, select
37 committee, or commission thereof, and any members, officers, represen-
38 tatives and employees thereof.

39 § 6. Subdivision (a) of section 7802 of the civil practice law and
40 rules is amended to read as follows:

41 (a) Definition of "body or officer". The expression "body or officer"
42 includes every court, tribunal, board, corporation, officer, state
43 legislature, or other person, or aggregation of persons, whose action
44 may be affected by a proceeding under this article.

45 § 7. Subdivision 3 of section 713 of the executive law, as amended by
46 section 16 of part B of chapter 56 of the laws of 2010, is amended to
47 read as follows:

48 3. Any reports prepared pursuant to this article shall not be subject
49 to disclosure pursuant to [~~section eighty-eight~~] article six of the
50 public officers law.

51 § 8. Section 70-0113 of the environmental conservation law is
52 REPEALED.

53 § 9. Subdivision 4 of section 308 of the county law is REPEALED.

54 § 10. This act shall take effect immediately; provided however that
55 the amendments to paragraphs (j), (k), (l), (m), (n), (n) and (o) of
56 subdivision 2 of section 87 of the public officers law made by section

1 two of this act shall not affect the repeal of such paragraphs and shall
2 be deemed repealed therewith.

3 PART CC

4 Section 1. Section 13-b of the workers' compensation law, as amended
5 by chapter 1068 of the laws of 1960, the section heading, subdivisions 1
6 and 2 as amended by chapter 473 of the laws of 2000 and subdivision 3 as
7 amended by section 85 of part A of chapter 58 of the laws of 2010, is
8 amended to read as follows:

9 § 13-b. Authorization of [~~physicians~~] providers, medical bureaus and
10 laboratories by the chair. 1. [~~Upon the recommendation of the medical
11 society of the county in which the physician's office is located or of a
12 board designated by such county society or of a board representing duly
13 licensed physicians of any other school of medical practice in such
14 county, the chair may authorize physicians licensed to practice medicine
15 in the state of New York to render medical care under this chapter and
16 to perform independent medical examinations in accordance with subdivi-
17 sion four of section thirteen-a of this article. If, within sixty days
18 after the chair requests such recommendations the medical society of
19 such county or board fails to act, or if there is no such society in
20 such county, the chair shall designate a board of three outstanding
21 physicians, who shall make the requisite recommendations.~~

22 ~~No such authorization shall be made in the absence of a recommendation
23 of the appropriate society or board or of a review and recommendation by
24 the medical appeals unit.]~~ No person shall render medical care or
25 conduct independent medical examinations under this chapter without such
26 authorization by the chair[~~, provided, that: (a)~~]. As used in this
27 title, the following definitions shall have the following meanings
28 unless their context requires otherwise:

29 (a) "Acupuncturist" shall mean licensed as having completed a formal
30 course of study and having passed an examination in accordance with the
31 education law, the regulations of the commissioner of education, and the
32 requirements of the board of regents. Acupuncturists are required by the
33 education law to advise, in writing, each patient of the importance of
34 consulting with a physician for the condition or conditions necessitat-
35 ing acupuncture care, as prescribed by the education law.

36 (b) "Chair" of the board shall mean either the chair or the chair's
37 designee.

38 (c) "Chiropractor" shall mean licensed and having completed two years
39 of preprofessional college study and a four-year resident program in
40 chiropractic in accordance with the education law, and consistent with
41 the licensing requirements of the commissioner of education.

42 (d) "Dentist" shall mean licensed and having completed a four-year
43 course of study leading to a D.D.S. or D.D.M. degree, or an equivalent
44 degree, in accordance with the education law and the licensing require-
45 ments of the commissioner of education.

46 (e) "Employer" shall mean a self-insured employer or, if insured, the
47 insurance carrier.

48 (f) "Independent medical examination" shall mean an examination
49 performed by a medical provider, authorized under this section to
50 perform such examination, for the purpose of examining or evaluating
51 injury or illness pursuant to paragraph (b) of subdivision four of
52 section thirteen-a and section one hundred thirty-seven of this chapter
53 and as more fully set forth in regulation.

1 (g) "Nurse practitioner" shall mean a licensed registered professional
2 nurse certified pursuant to section sixty-nine hundred ten of the educa-
3 tion law.

4 (h) "Occupational therapist" shall mean licensed as having a bach-
5 elor's or master's degree in occupational therapy from a registered
6 program with the education department or receipt of a diploma or degree
7 resulting from completion of not less than four years of postsecondary
8 study, which includes the professional study of occupational therapy in
9 accordance with the education law and the regulations of the commis-
10 sioner of education.

11 (i) "Physical therapist" shall mean licensed as having completed a
12 master's degree or higher in physical therapy in accordance with the
13 education law and the licensing requirements of the commissioner of
14 education.

15 (j) "Physician" shall mean licensed with a degree of doctor of medi-
16 cine, M.D., or doctor of osteopathic medicine, D.O., or an equivalent
17 degree in accordance with the education law and the licensing require-
18 ments of the state board of medicine and the regulations of the commis-
19 sioner of education.

20 (k) "Physician assistant" shall mean a licensed provider who has grad-
21 uated from a two- to four-year state-approved physician assistant
22 program, has passed a licensing examination, and whose actions and
23 duties are within the scope of practice of the supervising physician, in
24 accordance with the education law and the regulations of the commis-
25 sioner of education.

26 (l) "Podiatrist" shall mean a doctor of podiatric medicine licensed as
27 having received a doctoral degree in podiatric medicine in accordance
28 with the regulations of the commissioner of education and the education
29 law, and must satisfactorily meet all other requirements of the state
30 board for podiatric medicine.

31 (m) "Provider" shall mean a duly licensed acupuncturist, chiropractor,
32 independent medical examiner, nurse practitioner, physical therapist,
33 physician, physician assistant, podiatrist, psychologist, or social
34 worker authorized by the chair.

35 (n) "Psychologist" shall mean licensed as having received a doctoral
36 degree in psychology from a program of psychology registered with the
37 state education department or the substantial equivalent thereof in
38 accordance with the education law, the requirements of the state board
39 for psychology, and the regulations of the commissioner of education.

40 (o) "Social worker" shall mean a licensed clinical social worker. A
41 licensed clinical social worker has completed a master's degree of
42 social work that includes completion of a core curriculum of at least
43 twelve credit hours of clinical courses or the equivalent post-graduate
44 clinical coursework, in accordance with the education law and the regu-
45 lations of the commissioner of education.

46 2. Any [physician] provider licensed [~~to practice medicine~~] pursuant
47 to the education law to provide medical care and treatment in the state
48 of New York may render emergency [~~medical~~] care and treatment in an
49 emergency hospital or urgent care setting providing emergency treatment
50 under this chapter without authorization by the chair under this
51 section; [~~and~~

52 (~~b~~) (a) Such licensed [physician] provider as identified in this
53 subdivision who is [~~a member of a constituted medical staff of any~~
54 hospital] on staff at any hospital or urgent care center providing emer-
55 gency treatment may [~~render~~] continue such medical care under this chap-

1 ter while an injured employee remains a patient in such hospital or
2 urgent care setting; and

3 [~~(e)~~] (b) Under the [~~active and personal~~] direct supervision of an
4 authorized [~~physician~~] provider, medical care may be rendered by a
5 registered nurse or other person trained in laboratory or diagnostic
6 techniques within the scope of such person's specialized training and
7 qualifications. This supervision shall be evidenced by signed records of
8 instructions for treatment and signed records of the patient's condition
9 and progress. Reports of such treatment and supervision shall be made by
10 such [~~physician~~] provider to the chair [~~on such forms and~~] in the format
11 prescribed by the chair at such times as the chair may require.

12 [~~(d) Upon the referral which may be directive as to treatment of an~~
13 ~~authorized physician physical therapy care may be rendered by a duly~~
14 ~~licensed physical therapist. Where physical therapy care is rendered~~
15 ~~records of the patient's condition and progress, together with records~~
16 ~~of instruction for treatment, if any, shall be maintained by the phys-~~
17 ~~ical therapist and physician. Said records shall be submitted to the~~
18 ~~chair on such forms and at such times as the chair may require.~~

19 [~~(e) Upon the prescription or referral of an authorized physician occu-~~
20 ~~ptional therapy care may be rendered by a duly licensed occupational~~
21 ~~therapist. Where occupational therapy care is rendered records of the~~
22 ~~patient's condition and progress, together with records of instruction~~
23 ~~for treatment, if any shall be maintained by the occupational therapist~~
24 ~~and physician. Said records shall be submitted to the chair on forms and~~
25 ~~at such times as the chair may require.~~

26 [~~(f)~~] (c) Where it would place an unreasonable burden upon the employer
27 or carrier to arrange for, or for the claimant to attend, an independent
28 medical examination by an authorized [~~physician~~] provider, the employer
29 or carrier shall arrange for such examination to be performed by a qual-
30 ified [~~physician~~] provider in a medical facility convenient to the
31 claimant.

32 [~~2-~~] (d) Upon the prescription or referral of an authorized physician,
33 or nurse practitioner acting within the scope of his or her practice,
34 care or treatment may be rendered to an injured employee by an author-
35 ized physical therapist, occupational therapist or acupuncturist
36 provided the conditions and the treatment performed are among the condi-
37 tions that the physical therapist, occupational therapist or acupunctu-
38 rist is authorized to treat pursuant to the education law or the regu-
39 lations of the commissioner of education. Where any such care or
40 treatment is rendered, records of the patient's condition and progress,
41 together with records of instruction for treatment, if any, shall be
42 maintained by the physical therapist, occupational therapist or acupunc-
43 turist rendering treatment and by the referring physician or nurse prac-
44 titioner. Said records shall be submitted to the chair on forms and at
45 such times as the chair may require.

46 (e) A record, report or opinion of a physical therapist, occupational
47 therapist, acupuncturist or physician assistant shall not be considered
48 as evidence of the causal relationship of any condition to a work
49 related accident or occupational disease under this chapter. Nor may a
50 record, report or opinion of a physical therapist, occupational thera-
51 pist or acupuncturist be considered evidence of disability. Nor may a
52 record, report or opinion of a physician assistant be considered
53 evidence of the presence of a permanent or initial disability or the
54 degree thereof. Nor may a physical therapist, occupational therapist,
55 acupuncturist or physician assistant perform an independent medical
56 examination concerning a claim under this chapter.

1 (f) A nurse practitioner, or licensed clinical social worker, may
2 perform an independent medical examination on behalf of an employer only
3 to the extent that the examination concerns treatment rendered by an
4 identical provider type, but may not perform an independent medical
5 examination on behalf of the employer concerning (1) the causal
6 relationship of any condition to a work related accident or occupational
7 disease under this chapter or (2) the presence of a disability or the
8 degree thereof.

9 ~~3. A [physician licensed to practice medicine in the state of New York~~
10 ~~who is]~~ provider properly licensed or certified pursuant to the regu-
11 lations of the commissioner of education and the requirements of the
12 education law desirous of being authorized to render medical care under
13 this chapter and/or to conduct independent medical examinations in
14 accordance with paragraph (b) of subdivision four of section thirteen-a
15 and section one hundred thirty-seven of this chapter shall file an
16 application for authorization under this chapter with the [~~medical soci-~~
17 ~~ety in the county in which his or her office is located, or with a board~~
18 ~~designated by such society, or with a board designated by the chair as~~
19 ~~provided in this section. In such application the applicant shall state~~
20 ~~his or her training and qualifications, and shall agree to limit his or~~
21 ~~her professional activities under this chapter to such medical care and~~
22 ~~independent medical examinations, as his or her experience and training~~
23 ~~qualify him or her to render. The applicant shall further agree to~~
24 ~~refrain]~~ chair or chair's designee. Prior to receiving authorization, a
25 physician must, together with submission of an application to the chair,
26 submit such application to the medical society of the county in which
27 the physician's office is located or of a board designated by such coun-
28 ty society or of a board representing duly licensed physicians of any
29 other school of medical practice in such county, and submit the recom-
30 mendation to the board. In the event such county society or board fails
31 to take action upon a physician's application within forty-five days,
32 the chair may complete review of the application without such approval.
33 Upon approval of the application by the chair or the chair's designee,
34 the applicant shall further agree to refrain from subsequently treating
35 for remuneration, as a private patient, any person seeking medical
36 treatment, or submitting to an independent medical examination, in
37 connection with, or as a result of, any injury compensable under this
38 chapter, if he or she has been removed from the list of [~~physicians]~~
39 providers authorized to render medical care or to conduct independent
40 medical examinations under this chapter, or if the person seeking such
41 treatment, or submitting to an independent medical examination, has been
42 transferred from his or her care in accordance with the provisions of
43 this chapter. This agreement shall run to the benefit of the injured
44 person so treated or examined, and shall be available to him or her as a
45 defense in any action by such [~~physician]~~ provider for payment for
46 treatment rendered by a [~~physician]~~ provider after he or she has been
47 removed from the list of [~~physicians]~~ providers authorized to render
48 medical care or to conduct independent medical examinations under this
49 chapter, or after the injured person was transferred from his or her
50 care in accordance with the provisions of this chapter. [~~The medical~~
51 ~~society or the board designated by it, or the board as otherwise~~
52 ~~provided under this section, if it deems such licensed physician duly~~
53 ~~qualified, shall recommend to the chair that such physician be author-~~
54 ~~ized to render medical care and/or conduct independent medical examina-~~
55 ~~tions under this chapter, and such recommendation and authorization~~
56 ~~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

1 within sixty days from the date the charges are referred to the society
2 by the chair or submit findings and recommendations relating to the
3 charges within one hundred eighty days from the date the charges are
4 referred shall empower the chair to appoint, as a hearing officer, a
5 member of the board, employee, or other qualified hearing officer to
6 hear and report on the charges to the chair. A qualified hearing offi-
7 cer, who is neither a member of the board, or employee thereof shall be
8 paid at a reasonable per diem rate to be fixed by the chair.

9 Such investigation, hearing, findings, recommendation and report may
10 be made by the society or board of an adjoining county upon the request
11 of the medical society of the county in which the alleged misconduct or
12 infraction of this chapter occurred, subject to the time limit and
13 conditions set forth herein. The medical appeals unit shall review the
14 findings and recommendation of such medical society or board, or hearing
15 officer appointed by the chair upon application of the accused physician
16 and may reopen the matter and receive further evidence. The findings,
17 decision and recommendation of such society, board or hearing officer
18 appointed by the chair or medical appeals unit shall be advisory to the
19 chair only, and shall not be binding or conclusive upon him or her.

20 2. The chair shall remove from the list of [~~physicians~~] ~~providers~~
21 authorized to render medical care under this chapter, or to conduct
22 independent medical examinations in accordance with paragraph (b) of
23 subdivision four of section thirteen-a of this article, the name of any
24 [~~physician~~] ~~provider~~ who he or she shall find after reasonable investi-
25 gation is disqualified because such [~~physician~~] ~~provider~~:

26 (a) has been guilty of professional or other misconduct or incompeten-
27 cy in connection with rendering medical services under the law; or

28 (b) has exceeded the limits of his or her professional competence in
29 rendering medical care or in conducting independent medical examinations
30 under the law, or has made materially false statements regarding his or
31 her qualifications in his or her application for the recommendation of
32 the medical society or board as provided in section thirteen-b of this
33 article; or

34 (c) has failed to transmit copies of medical reports to claimant's
35 attorney or licensed representative as provided in subdivision (f) of
36 section thirteen of this article; or has failed to submit full and
37 truthful medical reports of all his or her findings to the employer, and
38 directly to the chair or the board within the time limits provided in
39 subdivision four of section thirteen-a of this article with the excep-
40 tion of injuries which do not require (1) more than ordinary first aid
41 or more than two treatments by a [~~physician~~] ~~provider~~ or person render-
42 ing first aid, or (2) loss of time from regular duties of one day beyond
43 the working day or shift; or

44 (d) knowingly made a false statement or representation as to a materi-
45 al fact in any medical report made pursuant to this chapter or in testi-
46 fying or otherwise providing information for the purposes of this chap-
47 ter; or

48 (e) has solicited, or has employed another to solicit for himself or
49 herself or for another, professional treatment, examination or care of
50 an injured employee in connection with any claim under this chapter; or

51 (f) has refused to appear before, to testify, to submit to a deposi-
52 tion, or to answer upon request of, the chair, board, medical appeals
53 unit or any duly authorized officer of the state, any legal question, or
54 to produce any relevant book or paper concerning his or her conduct
55 under any authorization granted to him or her under this chapter; or

1 (g) has directly or indirectly requested, received or participated in
2 the division, transference, assignment, rebating, splitting or refunding
3 of a fee for, or has directly or indirectly requested, received or prof-
4 ited by means of a credit or other valuable consideration as a commis-
5 sion, discount or gratuity in connection with the furnishing of medical
6 or surgical care, an independent medical examination, diagnosis or
7 treatment or service, including X-ray examination and treatment, or for
8 or in connection with the sale, rental, supplying or furnishing of clin-
9 ical laboratory services or supplies, X-ray laboratory services or
10 supplies, inhalation therapy service or equipment, ambulance service,
11 hospital or medical supplies, physiotherapy or other therapeutic service
12 or equipment, artificial limbs, teeth or eyes, orthopedic or surgical
13 appliances or supplies, optical appliances, supplies or equipment,
14 devices for aid of hearing, drugs, medication or medical supplies, or
15 any other goods, services or supplies prescribed for medical diagnosis,
16 care or treatment, under this chapter; except that reasonable payment,
17 not exceeding the technical component fee permitted in the medical fee
18 schedule, established under this chapter for X-ray examinations, diagno-
19 sis or treatment, may be made by a [~~physician~~ provider] duly authorized
20 as a roentgenologist to any hospital furnishing facilities and equipment
21 for such examination, diagnosis or treatment, provided such hospital
22 does not also submit a charge for the same services. Nothing contained
23 in this paragraph shall prohibit such [~~physicians~~ providers] who prac-
24 tice as partners, in groups or as a professional corporation or as a
25 university faculty practice corporation from pooling fees and moneys
26 received, either by the partnership, professional corporation, universi-
27 ty faculty practice corporation or group by the individual members ther-
28 eof, for professional services furnished by any individual professional
29 member, or employee of such partnership, corporation or group, nor shall
30 the professionals constituting the partnerships, corporations, or groups
31 be prohibited from sharing, dividing or apportioning the fees and moneys
32 received by them or by the partnership, corporation or group in accord-
33 ance with a partnership or other agreement.

34 3. Any person who violates or attempts to violate, and any person who
35 aids another to violate or attempts to induce him or her to violate the
36 provisions of paragraph (g) of subdivision two of this section shall be
37 guilty of a misdemeanor.

38 4. Nothing in this section shall be construed as limiting in any
39 respect the power or duty of the [~~chairman~~ chair] to investigate
40 instances of misconduct, either before or after investigation by a
41 medical society or board as herein provided, or to temporarily suspend
42 the authorization of any [~~physician~~ provider] that he or she may believe
43 to be guilty of such misconduct.

44 5. Whenever the department of health or the department of education
45 shall conduct an investigation with respect to charges of professional
46 or other misconduct by a [~~physician~~ provider] which results in a report,
47 determination or consent order that includes a finding of professional
48 or other misconduct or incompetency by such [~~physician~~ provider], the
49 chair shall have full power and authority to temporarily suspend, revoke
50 or otherwise limit the authorization under this chapter of any [~~physi-
51 eian~~ provider] upon such finding by the department of health or the
52 department of education that the [~~physician~~ provider] has been guilty of
53 professional or other misconduct. The recommendations of the department
54 of health or the department of education shall be advisory to the chair
55 only and shall not be binding or conclusive upon the chair.

1 § 3. Section 13-g of the workers' compensation law, as added by chap-
2 ter 258 of the laws of 1935, subdivision 1 as amended by chapter 674 of
3 the laws of 1994, subdivisions 2 and 3 as amended by section 4 of part
4 GG of chapter 57 of the laws of 2013, subdivision 4 as amended by
5 section 3 of part D of chapter 55 of the laws of 2015, subdivision 5 as
6 amended by chapter 578 of the laws of 1959 and subdivision 6 as amended
7 by chapter 639 of the laws of 1996, is amended to read as follows:

8 § 13-g. Payment of bills for medical care. (1) Within forty-five days
9 after a bill for medical care or supplies delivered pursuant to section
10 thirteen of this article has been rendered to the employer [~~by the~~
11 ~~hospital, physician or self-employed physical or occupational therapist~~
12 ~~who has rendered treatment pursuant to a referral from the injured~~
13 ~~employee's authorized physician or authorized podiatrist for treatment~~
14 ~~to the injured employee~~], such employer must pay the bill or notify the
15 [~~hospital, physician or self-employed physical or occupational therapist~~
16 ~~in writing~~] medical care provider or supplier in the format prescribed
17 by the chair that the bill is not being paid and explain the reasons for
18 non-payment. In the event that the employer fails to make payment or
19 notify the [~~hospital, physician or self-employed physical or occupa-~~
20 ~~tional therapist~~] medical care provider or supplier within such forty-
21 five day period that payment is not being made, the [~~hospital, physi-~~
22 ~~cian, self-employed physical therapist or self-employed occupational~~
23 ~~therapist~~] medical care provider or supplier may notify the board in the
24 format prescribed by the chair [~~in writing~~] that the bill has not been
25 paid and request that the board make an award for payment of such bill.
26 The board or the chair may make an award not in excess of the estab-
27 lished fee schedules for any such bill or part thereof which remains
28 unpaid after said forty-five day period or thirty days after all other
29 questions duly and timely raised in accordance with the provisions of
30 this chapter, relating to the employer's liability for the payment of
31 such amount, shall have been finally determined adversely to the employ-
32 er, whichever is later, in accordance with rules promulgated by the
33 chair, and such award may be collected in like manner as an award of
34 compensation. The chair shall assess the sum of fifty dollars against
35 the employer for each such award made by the board, which sum shall be
36 paid into the state treasury.

37 In the event that the employer has provided an explanation in writing
38 why the bill has not been paid, in part or in full, within the aforesaid
39 time period, and the parties can not agree as to the value of medical
40 aid rendered under this chapter, such value shall be decided by arbi-
41 tration [~~if requested by the hospital, physician or self-employed phys-~~
42 ~~ical or occupational therapist, in accordance with the provisions of~~
43 ~~subdivision two or subdivision three of this section, as appropriate,~~
44 ~~and~~] as set forth in rules and regulations promulgated by the chair.

45 Where a [~~physician, physical or occupational therapist~~] bill for
46 medical care or supplies has been determined to be due and owing in
47 accordance with the provisions of this section the board shall include
48 in the amount of the award interest of not more than one and one-half
49 [~~per cent~~] percent (1 1/2%) per month payable to the [~~physician, phys-~~
50 ~~ical or occupational therapist~~] medical care provider or supplier, in
51 accordance with the rules and regulations promulgated by the board.
52 Interest shall be calculated from the forty-fifth day after the bill was
53 rendered or from the thirtieth day after all other questions duly and
54 timely raised in accordance with the provisions of this chapter, relat-
55 ing to the employer's liability for the payment of such amount, shall

1 have been finally determined adversely to the employer, whichever is
2 later, in accordance with rules promulgated by the chair.

3 (2) (a) If the parties fail to agree to the value of medical aid
4 rendered under this chapter and the amount of the disputed bill is one
5 thousand dollars or less, or if the amount of the disputed medical bill
6 exceeds one thousand dollars and the ~~[health] medical~~ care provider ~~or~~
7 ~~supplier~~ expressly so requests, such value shall be decided by a single
8 arbitrator process, pursuant to rules promulgated by the chair. ~~[The~~
9 ~~chair shall appoint a physician who is a member in good standing of the~~
10 ~~medical society of the state of New York to determine the value of such~~
11 ~~disputed medical bill. Where the physician whose charges are being~~
12 ~~arbitrated is a member in good standing of the New York osteopathic~~
13 ~~society, the value of such disputed bill shall be determined by a member~~
14 ~~in good standing of the New York osteopathic society appointed by the~~
15 ~~chair. Where the physician whose charges are being arbitrated is a~~
16 ~~member in good standing of the New York homeopathic society, the value~~
17 ~~of such disputed bill shall be determined by a member in good standing~~
18 ~~of the New York homeopathic society appointed by the chair. Where the~~
19 ~~value of physical therapy services or occupational therapy services is~~
20 ~~at issue, such value shall be determined by a member in good standing of~~
21 ~~a recognized professional association representing its respective~~
22 ~~profession in the state of New York appointed by the chair.]~~ Decisions
23 rendered under the single arbitrator process shall be conclusive upon
24 the parties as to the value of the services in dispute.

25 (b) If the parties fail to agree as to the value of medical aid
26 rendered under this chapter and the amount of the disputed bill exceeds
27 one thousand dollars, such value shall be decided by an arbitration
28 committee unless the ~~[health] medical~~ care provider ~~or supplier~~ express-
29 ly requests a single arbitrator process in accordance with paragraph (a)
30 of this subdivision. The arbitration committee shall ~~[consist of one~~
31 ~~physician designated by the president of the medical society of the~~
32 ~~county in which the medical services were rendered, one physician who is~~
33 ~~a member of the medical society of the state of New York, appointed by~~
34 ~~the employer or carrier, and one physician, also a member of the medical~~
35 ~~society of the state of New York, appointed by the chair of the workers'~~
36 ~~compensation board. If the physician whose charges are being arbitrated~~
37 ~~is a member in good standing of the New York osteopathic society or the~~
38 ~~New York homeopathic society, the members of such arbitration committee~~
39 ~~shall be physicians of such organization, one to be appointed by the~~
40 ~~president of that organization, one by the employer or carrier and the~~
41 ~~third by the chair of the workers' compensation board. Where the value~~
42 ~~of physical therapy services is at issue and the amount of the disputed~~
43 ~~bill exceeds one thousand dollars, the arbitration committee shall~~
44 ~~consist of a member in good standing of a recognized professional asso-~~
45 ~~ciation representing physical therapists in the state of New York~~
46 ~~appointed by the president of such organization, a physician designated~~
47 ~~by the employer or carrier and a physician designated by the chair of~~
48 ~~the workers' compensation board provided however, that the chair finds~~
49 ~~that there are a sufficient number of physical therapy arbitrations in a~~
50 ~~geographical area comprised of one or more counties to warrant a commit-~~
51 ~~tee so comprised. In all other cases where the value of physical therapy~~
52 ~~services is at issue and the amount of the disputed bill exceeds one~~
53 ~~thousand dollars, the arbitration committee shall be similarly selected~~
54 ~~and identical in composition, provided that the physical therapist~~
55 ~~member shall serve without remuneration, and provided further that in~~
56 ~~the event a physical therapist is not available, the committee shall be~~

1 ~~comprised of three physicians designated in the same manner as in cases~~
2 ~~where the value of medical aid is at issue.~~

3 ~~(c) Where the value of occupational therapy services is at issue the~~
4 ~~arbitration committee shall consist of a member in good standing of a~~
5 ~~recognized professional association representing occupational therapists~~
6 ~~in the state of New York appointed by the president of such organiza-~~
7 ~~tion, a physician designated by the employer or carrier and a physician~~
8 ~~designated by the chair of the workers' compensation board provided,~~
9 ~~however, that the chair finds that there are a sufficient number of~~
10 ~~occupational therapy arbitrations in a geographical area comprised of~~
11 ~~one or more counties to warrant a committee so comprised. In all other~~
12 ~~cases where the value of occupational therapy services is at issue and~~
13 ~~the amount of the disputed bill exceeds one thousand dollars, the arbi-~~
14 ~~tration committee shall be similarly selected and identical in composi-~~
15 ~~tion, provided that the occupational therapist member shall serve with-~~
16 ~~out remuneration, and provided further that in the event an occupational~~
17 ~~therapist is not available, the committee shall be comprised of three~~
18 ~~physicians designated in the same manner as in cases where the value of~~
19 ~~medical aid is at issue.] have three members designated by the chair in~~
20 ~~consultation with the medical director's office of the workers' compen-~~
21 ~~sation board.~~ The majority decision of any such arbitration committee
22 shall be conclusive upon the parties as to the value of the services in
23 dispute.

24 (3) ~~[(a) If an employer shall have notified the hospital in writing,~~
25 ~~as provided in subdivision one of this section, why the bill has not~~
26 ~~been paid, in part or in full, and the amount of the disputed bill is~~
27 ~~one thousand dollars or less, or where the amount of the disputed~~
28 ~~medical bill exceeds one thousand dollars and the hospital expressly so~~
29 ~~requests, such value shall be decided by a single arbitrator process,~~
30 ~~pursuant to rules promulgated by the chair. The chair shall appoint a~~
31 ~~physician in good standing licensed to practice in New York state to~~
32 ~~determine the value of such disputed bill. Decisions rendered under the~~
33 ~~administrative resolution procedure shall be conclusive upon the parties~~
34 ~~as to the value of the services in dispute.~~

35 (b) ~~If an employer shall have notified the hospital in writing, as~~
36 ~~provided in subdivision one of this section, why the bill has not been~~
37 ~~paid, in part or in full, and the amount of the disputed bill exceeds~~
38 ~~one thousand dollars, the value of such bill shall be determined by an~~
39 ~~arbitration committee appointed by the chair for that purpose, which~~
40 ~~committee shall consider all of the charges of the hospital, unless the~~
41 ~~hospital expressly requests a single arbitrator process pursuant to~~
42 ~~paragraph (a) of this subdivision. The committee shall consist of three~~
43 ~~physicians. One member of the committee may be nominated by the chair~~
44 ~~upon recommendation of the president of the hospital association of New~~
45 ~~York state and one member may be nominated by the employer or insurance~~
46 ~~carrier. The majority decision of any such committee shall be conclusive~~
47 ~~upon the parties as to the value of the services rendered. The chair may~~
48 ~~make reasonable rules and regulations consistent with the provisions of~~
49 ~~this section.~~

50 (4) ~~A provider or supplier initiating an arbitration, including a~~
51 ~~single arbitrator process, pursuant to this section shall not pay a fee~~
52 ~~to cover the costs related to the conduct of such arbitration. [~~Each~~~~
53 ~~member of an arbitration committee for medical bills, and each member of~~
54 ~~an arbitration committee for hospital bills shall be entitled to receive~~
55 ~~and shall be paid a fee for each day's attendance at an arbitration~~

~~1 session in any one count in an amount fixed by the chair of the workers'~~
~~2 compensation board.~~

3 ~~(5)]~~ (4) In claims where the employer has failed to secure compen-
4 sation to his employees as required by section fifty of this chapter,
5 the board may make an award for the value of medical [~~and podiatry~~]
6 services, supplies or treatment rendered to such employees, in accord-
7 ance with the schedules of fees and charges prepared and established
8 under the provisions of [~~section thirteen, subdivision a, and section~~
9 ~~thirteen k, subdivision two, of~~] this chapter[~~, and for the reasonable~~
10 ~~value of hospital care in accordance with the charges currently in force~~
11 ~~in hospitals in the same community for cases coming within the~~
12 ~~provisions of this chapter~~]. Such award shall be made to the [~~physician,~~
13 ~~podiatrist, or hospital~~] medical care provider or supplier entitled
14 thereto. A default in the payment of such award may be enforced in the
15 manner provided for the enforcement of compensation awards as set forth
16 in section twenty-six of this [~~chapter~~] article.

17 In all cases coming under this subdivision the payment of the claim
18 [~~of the physician, podiatrist, or hospital for medical, podiatry, or~~
19 ~~surgical services or treatment~~] for medical care or supplies shall be
20 subordinate to that of the claimant or his or her beneficiaries.

21 [~~(6) Notwithstanding any inconsistent provision of law, arbitration~~
22 ~~regarding payments for inpatient hospital services for any patient~~
23 ~~discharged on or after January first, nineteen hundred ninety one and~~
24 ~~prior to December thirty first, nineteen hundred ninety six shall be~~
25 ~~resolved in accordance with paragraph (d) of subdivision three of~~
26 ~~section twenty-eight hundred seven-c of the public health law.]~~

27 § 4. Subdivisions 1 and 2 and paragraph (b) of subdivision 3 of
28 section 13-k of the workers' compensation law, subdivision 1 as added by
29 chapter 787 of the laws of 1952 and subdivision 2 and paragraph (b) of
30 subdivision 3 as amended by chapter 473 of the laws of 2000, are amended
31 to read as follows:

32 1. When the term "chairman" is hereinafter used, it shall be deemed to
33 mean the [~~chairman~~] chair of the [~~workmen's~~] workers' compensation board
34 of the state of New York.

35 2. An employee injured under circumstances which make such injury
36 compensable under this article, when care is required for an injury to
37 the foot which injury or resultant condition therefrom may lawfully be
38 treated by a duly registered and licensed podiatrist of the state of New
39 York, may select to treat him or her any podiatrist authorized by the
40 chair to render [~~podiatry~~] podiatric medical care, as hereinafter
41 provided. If the injury or condition is one which is without the limits
42 prescribed by the education law for [~~podiatry~~] podiatric medical care
43 and treatment, or the injuries involved affect other parts of the body
44 in addition to the foot, the said podiatrist must so advise the said
45 injured employee and instruct him or her to consult a physician of said
46 employee's choice for appropriate care and treatment. Such physician
47 shall thenceforth have overall supervision of the treatment of said
48 patient including the future treatment to be administered to the patient
49 by the podiatrist. If for any reason during the period when [~~podiatry~~]
50 podiatric medical treatment and care is required, the employee wishes to
51 transfer his or her treatment and care to another authorized podiatrist
52 he or she may do so, in accordance with rules prescribed by the chair,
53 provided however that the employer shall be liable for the proper fees
54 of the original podiatrist for the care and treatment he or she shall
55 have rendered. [~~A podiatrist licensed and registered to practice podia-~~
56 ~~try in the state of New York who is desirous of being authorized to~~

~~1 render podiatry care under this section and/or to conduct independent
2 medical examinations in accordance with paragraph (b) of subdivision
3 three of this section shall file an application for authorization under
4 this section with the podiatry practice committee. In such application
5 he or she shall agree to refrain from subsequently treating for remuneration,
6 as a private patient, any person seeking podiatry treatment, or
7 submitting to an independent medical examination, in connection with, or
8 as a result of, any injury compensable under this chapter, if he or she
9 has been removed from the list of podiatrists authorized to render
10 podiatry care or to conduct independent medical examinations under this
11 chapter, or if the person seeking such treatment has been transferred
12 from his or her care in accordance with the provisions of this section.
13 This agreement shall run to the benefit of the injured person so treated
14 or examined, and shall be available to him or her as a defense in any
15 action by such podiatrist for payment for treatment rendered by a podiatrist
16 after he or she has been removed from the list of podiatrists
17 authorized to render podiatry care or to conduct independent medical
18 examinations under this section, or after the injured person was transferred
19 from his or her care in accordance with the provisions of this
20 section. The podiatry practice committee if it deems such licensed
21 podiatrist duly qualified shall recommend to the chair that such podiatrist
22 be authorized to render podiatry care and/or to conduct independent
23 medical examinations under this section. Such recommendation shall
24 be advisory to the chair only and shall not be binding or conclusive
25 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 13-1 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.

1 2. An employee injured under circumstances which make such injury
2 compensable under this article, when care is required for an injury
3 which consists solely of a condition which may lawfully be treated by a
4 chiropractor as defined in section sixty-five hundred fifty-one of the
5 education law may select to treat him or her, any duly registered and
6 licensed chiropractor of the state of New York, authorized by the chair
7 to render chiropractic care as hereinafter provided. If the injury or
8 condition is one which is outside the limits prescribed by the education
9 law for chiropractic care and treatment, the said chiropractor must so
10 advise the said injured employee and instruct him or her to consult a
11 physician of said employee's choice for appropriate care and treatment.
12 Such physician shall thenceforth have supervision of the treatment of
13 said condition including the future treatment to be administered to the
14 patient by the chiropractor. [~~A chiropractor licensed and registered to
15 practice chiropractic in the state of New York, who is desirous of being
16 authorized to render chiropractic care under this section and/or to
17 conduct independent medical examinations in accordance with paragraph
18 (b) of subdivision three of this section shall file an application for
19 authorization under this section with the chiropractic practice commit-
20 tee. In such application he or she shall agree to refrain from subse-
21 quently treating for remuneration, as a private patient, any person
22 seeking chiropractic treatment, or submitting to an independent medical
23 examination, in connection with, or as a result of, any injury compensa-
24 ble under this chapter, if he or she has been removed from the list of
25 chiropractors authorized to render chiropractic care or to conduct inde-
26 pendent medical examinations under this chapter, or if the person seek-
27 ing such treatment has been transferred from his or her care in accord-
28 ance with the provisions of this section. This agreement shall run to
29 the benefit of the injured person so treated, or examined, and shall be
30 available to him or her as a defense in any action by such chiropractor
31 for payment rendered by a chiropractor after he or she has been removed
32 from the list of chiropractors authorized to render chiropractic care or
33 to conduct independent medical examinations under this section, or after
34 the injured person was transferred from his or her care in accordance
35 with the provisions of this section. The chiropractic practice committee
36 if it deems such licensed chiropractor duly qualified shall recommend to
37 the chair that such be authorized to render chiropractic care and/or to
38 conduct independent medical examinations under this section. Such recom-
39 mendations shall be advisory to the chair only and shall not be binding
40 or conclusive upon him or her.] The chair shall prepare and establish a
41 schedule for the state, or schedules limited to defined localities of
42 charges and fees for chiropractic treatment and care, to be determined
43 in accordance with and to be subject to change pursuant to rules promul-
44 gated by the chair. Before preparing such schedule for the state or
45 schedules for limited localities the chair shall request the chiroprac-
46 tic practice committee to submit to him or her a report on the amount of
47 remuneration deemed by such committee to be fair and adequate for the
48 types of chiropractic care to be rendered under this chapter, but
49 consideration shall be given to the view of other interested parties,
50 the amounts payable by the employer for such treatment and services
51 shall be the fees and charges established by such schedule.~~

52 (b) Upon receipt of the notice provided for by paragraph (a) of this
53 subdivision, the employer, the carrier, and the claimant each shall be
54 entitled to have the claimant examined by a qualified chiropractor
55 authorized by the chair in accordance with [~~subdivision two of this~~
56 section **thirteen-b** and section one hundred thirty-seven of this chapter

1 at a medical facility convenient to the claimant and in the presence of
2 the claimant's chiropractor, and refusal by the claimant to submit to
3 such independent medical examination at such time or times as may
4 reasonably be necessary in the opinion of the board shall bar the claim-
5 ant from recovering compensation, for any period during which he or she
6 has refused to submit to such examination.

7 § 6. Subdivisions 1, 2 and 3 and paragraph (b) of subdivision 4 of
8 section 13-m of the workers' compensation law, subdivisions 1 and 2 as
9 added by chapter 589 of the laws of 1989 and subdivision 3 and paragraph
10 (b) of subdivision 4 as amended by chapter 473 of the laws of 2000, are
11 amended to read as follows:

12 1. Where the term "chairman" is hereinafter used, it shall be deemed
13 to mean the [~~chairman~~] chair of the workers' compensation board of the
14 state of New York.

15 2. (a) An injured employee, injured under circumstances which make
16 such injury compensable under this article, may lawfully be treated[~~,
17 upon the referral of an authorized physician,~~] by a psychologist, duly
18 registered and licensed by the state of New York, authorized by the
19 [~~chairman~~] chair to render psychological care pursuant to [~~this~~]
20 thirteen-b of this article. Such services shall be within the scope of
21 such psychologist's specialized training and qualifications as defined
22 in article one hundred fifty-three of the education law.

23 (b) Medical bureaus, medical centers jointly operated by labor and
24 management representatives, hospitals and health maintenance organiza-
25 tions, authorized to provide medical care pursuant to section thirteen-c
26 of this [~~chapter~~] article, may provide psychological services when
27 required[~~, upon the referral of an authorized physician, provided such
28 care is rendered by a duly registered, licensed and authorized psychol-
29 ogist, as required by this section~~].

30 (c) A psychologist rendering service pursuant to this section shall
31 maintain records of the patient's psychological condition and treatment,
32 and such records or reports shall be submitted to the [~~chairman~~] chair
33 on such forms and at such times as the [~~chairman~~] chair may require.

34 3. [~~A psychologist, licensed and registered to practice psychology in
35 the state of New York, who is desirous of being authorized to render
36 psychological care under this section and/or to conduct independent
37 medical examinations in accordance with paragraph (b) of subdivision
38 four of this section shall file an application for authorization under
39 this section with the psychology practice committee. The applicant shall
40 agree to refrain from subsequently treating for remuneration, as a
41 private patient, any person seeking psychological treatment, or submit-
42 ting to an independent medical examination, in connection with, or as a
43 result of, any injury compensable under this chapter, if he or she has
44 been removed from the list of psychologists authorized to render psycho-
45 logical care under this chapter. This agreement shall run to the benefit
46 of the injured person so treated, and shall be available as a defense in
47 any action by such psychologist for payment for treatment rendered by
48 such psychologist after being removed from the list of psychologists
49 authorized to render psychological care or to conduct independent
50 medical examinations under this section. The psychology practice commit-
51 tee if it deems such licensed psychologist duly qualified shall recom-
52 mend to the chair that such person be authorized to render psychological
53 care and/or to conduct independent medical examinations under this
54 section. Such recommendations shall be only advisory to the chair and
55 shall not be binding or conclusive.] The chair shall prepare and estab-
56 lish a schedule for the state or schedules limited to defined localities~~

1 of charges and fees for psychological treatment and care, to be deter-
2 mined in accordance with and be subject to change pursuant to rules
3 promulgated by the chair. Before preparing such schedule for the state
4 or schedules for limited localities the chair shall request the psychol-
5 ogy practice committee to submit to such chair a report on the amount of
6 remuneration deemed by such committee to be fair and adequate for the
7 types of psychological care to be rendered under this chapter, but
8 consideration shall be given to the view of other interested parties.
9 The amounts payable by the employer for such treatment and services
10 shall be the fees and charges established by such schedule.

11 (b) Upon receipt of the notice provided for by paragraph (a) of this
12 subdivision, the employer, the carrier, and the claimant each shall be
13 entitled to have the claimant examined by a qualified psychologist,
14 authorized by the chair in accordance with [~~subdivision three of this~~]
15 section thirteen-b and section one hundred thirty-seven of this chapter,
16 at a medical facility convenient to the claimant and in the presence of
17 the claimant's psychologist, and refusal by the claimant to submit to
18 such independent medical examination at such time or times as may
19 reasonably be necessary in the opinion of the board shall bar the claim-
20 ant from recovering compensation, for any period during which he or she
21 has refused to submit to such examination.

22 § 7. Section 54-b of the workers' compensation law, as amended by
23 chapter 6 of the laws of 2007, is amended to read as follows:

24 § 54-b. Enforcement on failure to pay award or judgment. In case of
25 default by a carrier or self-insured employer in the payment of any
26 compensation due under an award for the period of thirty days after
27 payment is due and payable, or in the case of failure by a carrier or
28 self-insured employer to make full payment of an award for medical care
29 or supplies issued by the board or the chair pursuant to section thir-
30 teen-g of this chapter, the chair in any such case or on the chair's
31 consent any party to an award may file with the county clerk for the
32 county in which the injury occurred or the county in which the carrier
33 or self-insured employer has his or her principal place of business, (1)
34 a certified copy of the decision of the board awarding compensation or
35 ending, diminishing or increasing compensation previously awarded, from
36 which no appeal has been taken within the time allowed therefor, or if
37 an appeal has been taken by a carrier or self-insured employer who has
38 not complied with the provisions of section fifty of this article, where
39 he or she fails to deposit with the chair the amount of the award as
40 security for its payment within ten days after the same is due and paya-
41 ble, or (2) a certified copy of the award for medical care or supplies
42 issued pursuant to section thirteen-g of this chapter, and thereupon
43 judgment must be entered in the supreme court by the clerk of such coun-
44 ty in conformity therewith immediately upon such filing. If the payment
45 in default be an installment, the board may declare the entire award due
46 and judgment may be entered in accordance with the provisions of this
47 section. Such judgment shall be entered in the same manner, have the
48 same effect and be subject to the same proceedings as though rendered in
49 a suit duly heard and determined by the supreme court, except that no
50 appeal may be taken therefrom. The court shall vacate or modify such
51 judgment to conform to any later award or decision of the board upon
52 presentation of a certified copy of such award or decision. The award
53 may be so compromised by the board as in the discretion of the board may
54 best serve the interest of the persons entitled to receive the compen-
55 sation or benefits. Where an award has been made against a carrier or
56 self-insured employer in accordance with the provisions of subdivision

1 nine of section fifteen, or of section twenty-five-a of this chapter,
2 such an award may be similarly compromised by the board, upon notice to
3 a representative of the fund to which the award is payable, but if there
4 be no representative of any such fund, notice shall be given to such
5 representative as may be designated by the chair of the board; and
6 notwithstanding any other provision of law, such compromise shall be
7 effective without the necessity of any approval by the state comp-
8 troller. Neither the chair nor any party in interest shall be required
9 to pay any fee to any public officer for filing or recording any paper
10 or instrument or for issuing a transcript of any judgment executed in
11 pursuance of this section. The carrier or self-insured employer shall be
12 liable for all costs and attorneys fees necessary to enforce the award.
13 For the purposes of this section, the term "carrier" shall include the
14 state insurance fund and any stock corporation, mutual corporation or
15 reciprocal insurer authorized to transact the business of workers'
16 compensation insurance in this state.

17 § 8. This act shall take effect on the ninetieth day after it shall
18 have become a law.

19

PART DD

20 Section 1. Section 14 of part J of chapter 62 of the laws of 2003
21 amending the county law and other laws relating to fees collected, as
22 amended by section 7 of part K of chapter 56 of the laws of 2010, is
23 amended to read as follows:

24 § 14. Notwithstanding the provisions of any other law: (a) the fee
25 collected by the office of court administration for the provision of
26 criminal history searches and other searches for data kept electron-
27 ically by the unified court system shall be [~~sixty-five~~ **ninety** dollars;
28 (b) [~~thirty-five~~ **sixty** dollars of each such fee collected shall be
29 deposited in the indigent legal services fund established by section
30 98-b of the state finance law, as added by section twelve of this act,
31 (c) nine dollars of each such fee collected shall be deposited in the
32 legal services assistance fund established by section 98-c of the state
33 finance law, as added by section nineteen of this act, (d) sixteen
34 dollars of each such fee collected shall be deposited to the judiciary
35 data processing offset fund established by section 94-b of the state
36 finance law, and (e) the remainder shall be deposited in the general
37 fund.

38 § 2. Subdivision 4 of section 468-a of the judiciary law, as amended
39 by section 9 of part K of chapter 56 of the laws of 2010, is amended to
40 read as follows:

41 4. The biennial registration fee shall be [~~three~~ **four** hundred [~~seven-~~
42 ~~ty-five~~ **twenty-five** dollars, sixty dollars of which shall be allocated
43 to and be deposited in a fund established pursuant to the provisions of
44 section ninety-seven-t of the state finance law, [~~fifty~~ **one hundred**
45 dollars of which shall be allocated to and shall be deposited in a fund
46 established pursuant to the provisions of section ninety-eight-b of the
47 state finance law, twenty-five dollars of which shall be allocated to be
48 deposited in a fund established pursuant to the provisions of section
49 ninety-eight-c of the state finance law, and the remainder of which
50 shall be deposited in the attorney licensing fund. Such fee shall be
51 required of every attorney who is admitted and licensed to practice law
52 in this state, whether or not the attorney is engaged in the practice of
53 law in this state or elsewhere, except attorneys who certify to the

1 chief administrator of the courts that they have retired from the prac-
2 tice of law.

3 § 3. This act shall take effect immediately.

4 PART EE

5 Section 1. Subdivision 1 of section 20.60 of the criminal procedure
6 law, is amended to read as follows:

7 1. An oral or written statement made by a person in one jurisdiction
8 to a person in another jurisdiction by means of telecommunication, mail
9 or any other method of communication is deemed to be made in each such
10 jurisdiction. For purposes of this subdivision, such statement shall
11 include testimony given pursuant to subdivision four-a of section 190.30
12 of this chapter.

13 § 2. Subdivision 1 of section 50.10 of the criminal procedure law, is
14 amended to read as follows:

15 1. "Immunity." A person who has been a witness in a legal proceeding,
16 and [~~who cannot, except as otherwise provided in this subdivision, be~~
17 ~~convicted of any offense or subjected to any penalty or forfeiture for~~
18 ~~or on account of any transaction, matter or thing concerning which he~~
19 ~~gave evidence therein, possesses "immunity" from any such conviction,~~
20 ~~penalty or forfeiture], neither the evidence given by such witness nor
21 any evidence derived directly or indirectly therefrom may be used
22 against the witness in the same or any other criminal proceeding,
23 possesses "immunity". A person who possesses such immunity may neverthe-
24 less be convicted of perjury as a result of having given false testimony
25 in such legal proceeding, and may be convicted of or adjudged in
26 contempt as a result of having contumaciously refused to give evidence
27 therein, and the evidence given by the person at the proceeding at which
28 the person possessed immunity may be used against such person in any
29 such prosecution for perjury or judgement for contempt.~~

30 § 3. Section 60.22 of the criminal procedure law is amended by adding
31 a new subdivision 4 to read as follows:

32 4. For purposes of this section, "corroborative evidence" shall mean
33 evidence from one or more other accomplices.

34 § 4. Paragraph (b) of subdivision 1 of section 170.30 of the criminal
35 procedure law, is amended and a new subdivision 5 is added to read as
36 follows:

37 (b) [~~The defendant has received immunity from prosecution for the~~
38 ~~offense charged, pursuant to sections 50.20 or 190.40,] Allegations in
39 the information, simplified information, prosecutor's information or
40 misdemeanor complaint are based on evidence protected by immunity as
41 defined in subdivision one of section 50.10 of this chapter; or~~

42 5. Where the defendant establishes in his or her motion that immunity
43 has been conferred on him or her, the people must then establish, by a
44 preponderance of the evidence, that such evidence was not derived,
45 directly or indirectly, from the evidence as to which such immunity was
46 conferred. A motion seeking relief on this ground shall not be enter-
47 tained before a motion made pursuant to subdivision eight of section
48 710.20 of this chapter, seeking suppression of potential evidence as to
49 the use of which the defendant possesses immunity, has been resolved.
50 Upon grant of such a motion, the court shall dismiss the instrument;
51 otherwise, the court must deny the motion to dismiss.

52 § 5. Paragraph (g) of subdivision 3 of section 190.30 of the criminal
53 procedure law, as added by chapter 690 of the laws of 2005, is amended
54 and a new paragraph (h) is added to read as follows:

1 (g) that person's ownership of, or possessory right in, a credit card
2 account number or debit card account number, and the defendant's lack of
3 superior or equal right to use or possession thereof[-];

4 (h) that a person's ownership of, or possessory right in, personal
5 identifying information, as defined in subdivision one of section 190.77
6 of the penal law, or a personal identification number, as defined in
7 paragraph b of subdivision two of section 190.77 of the penal law, as
8 any number or code which may be used alone or in conjunction with any
9 other information to assume the identity of another person or access
10 financial resources or credit of another person and the defendant's lack
11 of superior or equal right to use or possession thereof.

12 § 6. Section 190.30 of the criminal procedure law is amended by adding
13 a new subdivision 4-a to read as follows:

14 4-a. Whenever the district attorney has reason to believe that a
15 witness, other than a witness who waives immunity pursuant to section
16 190.40 of this article, including a defendant testifying on his or her
17 own behalf pursuant to subdivision five of section 190.50 of this arti-
18 cle, is located either out-of-state or more than one hundred miles from
19 the grand jury proceeding, the person may provide live testimony by
20 closed circuit video or videoconferencing in the same manner as if the
21 witness had testified in person. The audiovisual technology used pursu-
22 ant to this section shall seek to ensure that the communication be
23 reasonably secure from interception or eavesdropping by anyone other
24 than the persons communicating, and must ensure that the witness may be
25 clearly heard, seen and examined.

26 (a) The testimony of the witness shall be:

27 (i) taken by a certified videographer who is in the physical presence
28 of the witness. The certified videographer shall sign a written declara-
29 tion which states that the witness does not possess any notes or other
30 materials to assist in the witness's testimony;

31 (ii) recorded and preserved through the use of audiovisual recording
32 technology; and

33 (iii) transcribed by a certified court reporter.

34 (b) Before giving testimony, the witness shall be sworn and sign a
35 written declaration, which acknowledges that the witness is alone in the
36 room where the testimony is being taken, that, to his or her knowledge,
37 no one other than the certified videographer is hearing his or her
38 testimony, that the witness understands that he or she is subject to the
39 jurisdiction of the courts of this state and may be subject to criminal
40 prosecution for the commission of any crime in connection with his or
41 her testimony, including, without limitation, perjury and contempt, and
42 that the witness consents to such jurisdiction.

43 (c) The original recorded testimony of the witness must be delivered
44 to the certified court reporter.

45 § 7. Paragraph (a) of subdivision 8 of section 190.30 of the criminal
46 procedure law, as added by chapter 279 of the laws of 2008, is amended
47 to read as follows:

48 ~~(a) [A business record may be received in such grand jury proceedings~~
49 ~~as evidence of the following facts and similar facts stated therein:~~

50 ~~(i) a person's use of, subscription to and charges and payments for~~
51 ~~communication equipment and services including but not limited to equip-~~
52 ~~ment or services provided by telephone companies and internet service~~
53 ~~providers, but not including recorded conversations or images communi-~~
54 ~~cated thereby; and~~

55 ~~(ii) financial transactions, and a person's ownership or possessory~~
56 ~~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, [~~ex~~] (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

1 preponderance of the evidence, that such evidence was not derived,
2 directly or indirectly, from the evidence as to which immunity was
3 conferred.

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

6 PART FF

7 Section 1. Subject to the provisions of this act, the town of Hast-
8 ings, in the county of Oswego, acting by and through its governing body
9 and upon such terms and conditions as determined by such body, is hereby
10 authorized to discontinue as parklands and to transfer ownership of the
11 lands described in section three of this act, to the New York Division
12 of State Police for the purpose of providing necessary land for the
13 construction of a Division of State Police station.

14 § 2. The authorization contained in section one of this act shall take
15 effect only upon the condition that the town of Hastings shall dedicate
16 an amount equal to or greater than the fair market value of the park-
17 lands being discontinued towards the acquisition of new parklands and/or
18 capital improvements to existing park and recreational facilities.

19 § 3. The parklands authorized by section one of this act to be alien-
20 ated are described as follows: All that tract or parcel of land situate
21 in the Town of Hastings, County of Oswego and State of New York, being
22 part of Lot No. 28 and being part of Lot No. 29 in Township No. 13 of
23 Scriba's Patent, and being part of the lands conveyed from F. Don Sweet
24 to the Town of Hastings by deed dated April 16, 1969 and recorded at the
25 Oswego County Clerk's Office on April 16, 1969 in Book of Deeds 712 at
26 Page 116 and being more particularly described as follows:

27 Beginning at the southwesterly corner of lands of the Town of Hastings
28 (712/116), being a point on the southerly bounds of Lot No. 28, also
29 being the centerline of Wilson Road per deed (712/116), said point being
30 easterly a distance of 645 feet, more or less, from the nominal center-
31 line intersection of Wilson Road and U.S. Route No. 11;

32 Thence running N. 28° 53' 09" E. along the easterly bounds of The Town
33 of Hastings (712/141) a distance of 435.60 feet to a point; thence S.
34 61° 57' 15" E. a distance of 300.00 feet to a point; thence S. 28° 53'
35 09" W. a distance of 435.60 feet to the southerly bounds of Lot No. 29;
36 thence N. 61° 57' 15" W. a distance of 300.00 feet to the point and
37 place of beginning containing 3.0 acres of land, more or less.

38 Subject to any and all easements and restrictions of record and the
39 highway rights of the public and the Town of Hastings in and to the
40 portion of Wilson Road lying within the bounds of the above described
41 parcel.

42 § 4. If the parkland that is described in section three of this act
43 has received funding pursuant to the federal land and water conservation
44 fund, the discontinuance of parklands authorized by section one of this
45 act shall not occur until the town of Hastings has complied with the
46 federal requirements pertaining to the conversion of parklands, includ-
47 ing satisfying the secretary of the interior that the discontinuance
48 with all conditions which the secretary of the interior deems necessary
49 to assure the substitution of other lands shall be equivalent in fair
50 market value and recreational usefulness to the lands being discontin-
51 ued.

52 § 5. This act shall take effect immediately.

53 PART GG

1 Section 1. Subdivisions 3 and 5 of section 97-g of the state finance
2 law, subdivision 3 as amended by section 62 of part HH of chapter 57 of
3 the laws of 2013 and subdivision 5 as amended by section 1 of subpart A
4 of part C of chapter 97 of the laws of 2011, are amended to read as
5 follows:

6 3. Moneys of the fund shall be available to the commissioner of gener-
7 al services for the purchase of food, supplies and equipment for state
8 agencies, and for the purpose of furnishing or providing centralized
9 services to or for state agencies; provided further that such moneys
10 shall be available to the commissioner of general services for purposes
11 pursuant to items (d) and (f) of subdivision four of this section to or
12 for political subdivisions, public authorities, and public benefit
13 corporations. Beginning the first day of April, two thousand two, moneys
14 in such fund shall also be transferred by the state comptroller to the
15 revenue bond tax fund account of the general debt service fund in
16 amounts equal to those required for payments to authorized issuers for
17 revenue bonds issued pursuant to article five-C and article five-F of
18 this chapter for the purpose of lease purchases and installment
19 purchases by or for state agencies and institutions for personal or real
20 property purposes.

21 5. The amount expended from such fund for the above-stated purposes
22 shall be charged against the agency [~~or~~], political [~~subdivisions~~]
23 subdivision, public authority or public benefit corporation above
24 receiving such food, supplies, equipment and services and all payments
25 received therefor shall be credited to such fund.

26 § 2. Section 3 of chapter 410 of the laws of 2009, amending the state
27 finance law relating to authorizing the aggregate purchases of energy
28 for state agencies, institutions, local governments, public authorities
29 and public benefit corporations, as amended by section 1 of part G of
30 chapter 55 of the laws of 2014, is amended to read as follows:

31 § 3. This act shall take effect immediately [~~and shall expire and be~~
32 ~~deemed repealed July 31, 2019~~].

33 § 3. Section 9 of subpart A of part C of chapter 97 of the laws of
34 2011, amending the state finance law and other laws relating to provid-
35 ing certain centralized service to political subdivisions and extending
36 the authority of the commissioner of general services to aggregate
37 purchases of energy for state agencies and political subdivisions, as
38 amended by section 2 of part G of chapter 55 of the laws of 2014, is
39 amended to read as follows:

40 § 9. This act shall take effect immediately, provided, however that:

41 1. sections [~~one~~] four, five, six and seven of this act shall expire
42 and be deemed repealed July 31, [~~2019~~] 2024;

43 2. the amendments to subdivision 4 of section 97-g of the state
44 finance law made by section two of this act shall survive the expiration
45 and reversion of such subdivision as provided in section 3 of chapter
46 410 of the laws of 2009, as amended;

47 3. sections four, five, six and seven of this act shall apply to any
48 contract let or awarded on or after such effective date.

49 § 4. This act shall take effect immediately.

50

PART HH

51 Section 1. Subdivision 2 of section 9 of the public buildings law, as
52 amended by section 2 of part M of chapter 55 of the laws of 2015, is
53 amended to read as follows:

1 2. Notwithstanding any other provision of this law or any general or
2 special law, where there is a construction emergency, as defined by
3 subdivision one of this section, the commissioner of general services
4 may, upon written notice of such construction emergency from an author-
5 ized officer of the department or agency having jurisdiction of the
6 property, let emergency contracts for public work or the purchase of
7 supplies, materials or equipment without complying with formal compet-
8 itive bidding requirements, provided that all such contracts shall be
9 subject to the approval of the attorney general and the comptroller and
10 that no such contract shall exceed [~~six hundred thousand~~] two million
11 dollars. Such emergency contracts shall be let only for work necessary
12 to remedy or ameliorate a construction emergency.

13 § 2. Section 3 of chapter 674 of the laws of 1993, amending the public
14 buildings law relating to value limitations on contracts, as amended by
15 section 1 of part L of chapter 55 of the laws of 2017, is amended to
16 read as follows:

17 § 3. This act shall take effect immediately [~~and shall remain in full~~
18 ~~force and effect only until June 30, 2019~~].

19 § 3. This act shall take effect immediately.

20

PART II

21 Section 1. This Part enacts into law major components of legislation
22 that remove unnecessary barriers to reentry of people with criminal
23 histories into society. This Part removes mandatory bars on licensing
24 and employment for people with criminal convictions in the categories
25 enumerated therein and replace them with individualized review processes
26 using the factors set out in article 23-A of the correction law. This
27 Part removes mandatory drivers license suspension for non-driving drug
28 offenses. This Part prohibits disclosure of mugshots and arrest informa-
29 tion by amending the freedom of information law. This Part also amends
30 provisions of law to enact into law major components of legislation to
31 prevent the use in a civil context, of past arrest information that did
32 not result in a conviction because no disposition has been reported, or
33 the case has been adjourned in contemplation of dismissal, or because
34 arrest and arraignment charges were not followed by a corresponding
35 conviction on those charges. This information would still be able to be
36 seen and used by law enforcement and in criminal proceedings. Finally,
37 this Part establishes compassionate parole for incarcerated individuals
38 over the age of 55 who have incapacitating medical conditions exacerbat-
39 ed by age. Each component is wholly contained with a Subpart identified
40 as Subparts A through P. Any provision in any section contained within a
41 Subpart, including the effective date of the Subpart, which makes refer-
42 ence to a section "of this act", when used in connection with that
43 particular component, shall be deemed to mean and refer to the corre-
44 sponding section of the Subpart in which it is found. Section three of
45 this Part sets forth the general effective date of this Part.

46

SUBPART A

47 Section 1. Subdivision 6 of section 369 of the banking law, as amended
48 by chapter 164 of the laws of 2003, paragraph (b) as amended by section
49 6 of part LL of chapter 56 of the laws of 2010, is amended to read as
50 follows:

51 6. The superintendent may, consistent with article twenty-three-A of
52 the correction law, refuse to issue a license pursuant to this article

1 if he shall find that the applicant, or any person who is a director,
2 officer, partner, agent, employee or substantial stockholder of the
3 applicant, (a) has been convicted of a crime in any jurisdiction or (b)
4 is associating or consorting with any person who has, or persons who
5 have, been convicted of a crime or crimes in any jurisdiction or juris-
6 dictions[~~, provided, however, that the superintendent shall not issue~~
7 ~~such a license if he shall find that the applicant, or any person who is~~
8 ~~a director, officer, partner, agent, employee or substantial stockholder~~
9 ~~of the applicant, has been convicted of a felony in any jurisdiction or~~
10 ~~of a crime which, if committed within this state, would constitute a~~
11 ~~felony under the laws thereof]. For the purposes of this article, a~~
12 person shall be deemed to have been convicted of a crime if such person
13 shall have pleaded guilty to a charge thereof before a court or magis-
14 trate, or shall have been found guilty thereof by the decision or judg-
15 ment of a court or magistrate or by the verdict of a jury, irrespective
16 of the pronouncement of sentence or the suspension thereof[~~, unless such~~
17 ~~plea of guilty, or such decision, judgment or verdict, shall have been~~
18 ~~set aside, reversed or otherwise abrogated by lawful judicial process or~~
19 ~~unless the person convicted of the crime shall have received a pardon~~
20 ~~therefor from the president of the United States or the governor or~~
21 ~~other pardoning authority in the jurisdiction where the conviction was~~
22 ~~had, or shall have received a certificate of relief from disabilities or~~
23 ~~a certificate of good conduct pursuant to article twenty three of the~~
24 ~~correction law to remove the disability under this article because of~~
25 ~~such conviction]. The term "substantial stockholder," as used in this
26 subdivision, shall be deemed to refer to a person owning or controlling
27 ten per centum or more of the total outstanding stock of the corporation
28 in which such person is a stockholder. In making a determination pursu-
29 ant to this subdivision, the superintendent shall require fingerprinting
30 of the applicant. Such fingerprints shall be submitted to the division
31 of criminal justice services for a state criminal history record check,
32 as defined in subdivision one of section three thousand thirty-five of
33 the education law, and may be submitted to the federal bureau of inves-
34 tigation for a national criminal history record check.~~

35 § 2. This act shall take effect immediately.

36 SUBPART B

37 Section 1. Paragraph (f) of subdivision 7 of section 2590-b of the
38 education law, as added by chapter 345 of the laws of 2009, is amended
39 to read as follows:

40 (f) A person [~~who has been convicted of a felony, or has been removed~~
41 ~~from a city-wide council established pursuant to this section or commu-~~
42 ~~nity district education council for any of the following shall] may be
43 permanently ineligible for appointment to a city-wide council for any of
44 the following:~~

45 (i) an act of malfeasance directly related to his or her service on
46 such city-wide council or community district education council; or

47 (ii) conviction of a crime, if such crime is directly related to his
48 or her service upon such city-wide council or community district educa-
49 tion council, or if service upon such council would involve an unreason-
50 able risk to property or to the safety or welfare of specific individ-
51 uals or the general public.

52 § 2. Subdivision 5 of section 2590-c of the education law, as amended
53 by chapter 345 of the laws of 2009, is amended to read as follows:

1 5. No person may serve on more than one community council or on the
2 city-wide council on special education, the city-wide council on English
3 language learners, or the city-wide council on high schools and a commu-
4 nity council. A member of a community council shall be ineligible to be
5 employed by the community council of which he or she is a member, any
6 other community council, the city-wide council on special education, the
7 city-wide council on English language learners, the city-wide council on
8 high schools, or the city board. No person shall be eligible for member-
9 ship on a community council if he or she holds any elective public
10 office or any elective or appointed party position except that of dele-
11 gate or alternate delegate to a national, state, judicial or other party
12 convention, or member of a county committee.

13 A person [~~who has been convicted of a felony, or has been removed from~~
14 ~~a community school board, community district education council, or the~~
15 ~~city-wide council on special education, the city wide council on English~~
16 ~~language learners, or the city-wide council on high schools for any of~~
17 ~~the following shall~~] may be permanently ineligible for appointment to
18 any community district education council for any of the following: (a)
19 an act of malfeasance directly related to his or her service on the
20 city-wide council on special education, the city-wide council on English
21 language learners, the city-wide council on high schools, community
22 school board or community district education council; or (b) conviction
23 of a crime, if such crime is directly related to his or her service upon
24 the city-wide council on special education, the city-wide council on
25 English language learners, the city-wide council on high schools, commu-
26 nity school board or community district education council, or if service
27 upon such council would involve an unreasonable risk to property or to
28 the safety or welfare of specific individuals or the general public.

29 Any decision rendered by the chancellor or the city board with respect
30 to the eligibility or qualifications of the nominees for community
31 district education councils must be written and made available for
32 public inspection within seven days of its issuance at the office of the
33 chancellor and the city board. Such written decision shall include the
34 factual and legal basis for its issuance and a record of the vote of
35 each board member who participated in the decision, if applicable.

36 § 3. This act shall take effect immediately, provided that the amend-
37 ments to subdivision 7 of section 2590-b of the education law made by
38 section one of this act shall not affect the repeal of such subdivision
39 and shall be deemed repealed therewith; provided, further, that the
40 amendments to subdivision 5 of section 2590-c of the education law made
41 by section two of this act shall not affect the repeal of such subdivi-
42 sion and shall be deemed to repeal therewith.

43

SUBPART C

44 Section 1. Clauses 1 and 5 of paragraph (c) of subdivision 2 of
45 section 435 of the executive law, clause 1 as amended by chapter 371 of
46 the laws of 1974 and clause 5 as amended by 437 of the laws of 1962, are
47 amended to read as follows:

48 (1) a person convicted of a crime [~~who has not received a pardon, a~~
49 ~~certificate of good conduct or a certificate of relief from disabili-~~
50 ~~ties~~] if there is a direct relationship between one or more of the
51 previous criminal offenses and the integrity and safety of bingo,
52 considering the factors set forth in article twenty-three-A of the
53 correction law;

1 (5) a firm or corporation in which a person defined in [~~subdivision~~
2 ~~clause~~ (1), (2), (3) or (4) [~~above~~ of this paragraph, or a person
3 married or related in the first degree to such a person, has greater
4 than a ten [~~per centum~~ percent proprietary, equitable or credit inter-
5 est or in which such a person is active or employed.
6 § 2. This act shall take effect immediately.

7

SUBPART D

8 Section 1. Subdivision 1 of section 130 of the executive law, as
9 amended by section 1 of part LL of chapter 56 of the laws of 2010, para-
10 graph (g) as separately amended by chapter 232 of the laws 2010, is
11 amended to read as follows:

12 1. The secretary of state may appoint and commission as many notaries
13 public for the state of New York as in his or her judgment may be deemed
14 best, whose jurisdiction shall be co-extensive with the boundaries of
15 the state. The appointment of a notary public shall be for a term of
16 four years. An application for an appointment as notary public shall be
17 in form and set forth such matters as the secretary of state shall
18 prescribe. Every person appointed as notary public must, at the time of
19 his or her appointment, be a citizen of the United States and either a
20 resident of the state of New York or have an office or place of business
21 in New York state. A notary public who is a resident of the state and
22 who moves out of the state but still maintains a place of business or an
23 office in New York state does not vacate his or her office as a notary
24 public. A notary public who is a nonresident and who ceases to have an
25 office or place of business in this state, vacates his or her office as
26 a notary public. A notary public who is a resident of New York state and
27 moves out of the state and who does not retain an office or place of
28 business in this state shall vacate his or her office as a notary
29 public. A non-resident who accepts the office of notary public in this
30 state thereby appoints the secretary of state as the person upon whom
31 process can be served on his or her behalf. Before issuing to any appli-
32 cant a commission as notary public, unless he or she be an attorney and
33 counsellor at law duly admitted to practice in this state or a court
34 clerk of the unified court system who has been appointed to such posi-
35 tion after taking a civil service promotional examination in the court
36 clerk series of titles, the secretary of state shall satisfy himself or
37 herself that the applicant is of good moral character, has the equiv-
38 alent of a common school education and is familiar with the duties and
39 responsibilities of a notary public; provided, however, that where a
40 notary public applies, before the expiration of his or her term, for
41 reappointment with the county clerk or where a person whose term as
42 notary public shall have expired applies within six months thereafter
43 for reappointment as a notary public with the county clerk, such quali-
44 fying requirements may be waived by the secretary of state, and further,
45 where an application for reappointment is filed with the county clerk
46 after the expiration of the aforementioned renewal period by a person
47 who failed or was unable to re-apply by reason of his or her induction
48 or enlistment in the armed forces of the United States, such qualifying
49 requirements may also be waived by the secretary of state, provided such
50 application for reappointment is made within a period of one year after
51 the military discharge of the applicant under conditions other than
52 dishonorable. In any case, the appointment or reappointment of any
53 applicant is in the discretion of the secretary of state. The secretary
54 of state may suspend or remove from office, for misconduct, any notary

1 public appointed by him or her but no such removal shall be made unless
2 the person who is sought to be removed shall have been served with a
3 copy of the charges against him or her and have an opportunity of being
4 heard. No person shall be appointed as a notary public under this arti-
5 cle who has been convicted, in this state or any other state or territo-
6 ry, of a [~~felony or any of the following offenses, to wit:~~

7 ~~(a) Illegally using, carrying or possessing a pistol or other danger-~~
8 ~~ous weapon; (b) making or possessing burglar's instruments; (c) buying~~
9 ~~or receiving or criminally possessing stolen property; (d) unlawful~~
10 ~~entry of a building; (e) aiding escape from prison; (f) unlawfully~~
11 ~~possessing or distributing habit forming narcotic drugs; (g) violating~~
12 ~~sections two hundred seventy, two hundred seventy a, two hundred seven-~~
13 ~~ty b, two hundred seventy c, two hundred seventy one, two hundred seven-~~
14 ~~ty five, two hundred seventy six, five hundred fifty, five hundred~~
15 ~~fifty one, five hundred fifty one a and subdivisions six, ten or eleven~~
16 ~~of section seven hundred twenty-two of the former penal law as in force~~
17 ~~and effect immediately prior to September first, nineteen hundred~~
18 ~~sixty-seven, or violating sections 165.25, 165.30 or subdivision one of~~
19 ~~section 240.30 of the penal law, or violating sections four hundred~~
20 ~~seventy eight, four hundred seventy nine, four hundred eighty, four~~
21 ~~hundred eighty one, four hundred eighty four, four hundred eighty nine~~
22 ~~and four hundred ninety one of the judiciary law; or (h) vagrancy or~~
23 ~~prostitution, and who has not subsequent to such conviction received an~~
24 ~~executive pardon therefor or a certificate of relief from disabilities~~
25 ~~or a certificate of good conduct pursuant to article twenty three of the~~
26 ~~correction law to remove the disability under this section because of~~
27 ~~such conviction] crime, unless the secretary makes a finding in conform-~~
28 ~~ance with all applicable statutory requirements, including those~~
29 ~~contained in article twenty-three-A of the correction law, that such~~
30 ~~convictions do not constitute a bar to employment.~~

31 § 2. This act shall take effect immediately.

32 SUBPART E

33 Section 1. Paragraphs 1 and 5 of subdivision (a) of section 189-a of
34 the general municipal law, as added by chapter 574 of the laws of 1978,
35 are amended to read as follows:

36 (1) a person convicted of a crime [~~who has not received a pardon, a~~
37 ~~certificate of good conduct or a certificate of relief from disabili-~~
38 ~~ties] if there is a direct relationship between one or more of the~~
39 ~~previous criminal offenses and the integrity or safety of charitable~~
40 ~~gaming, considering the factors set forth in article twenty-three-A of~~
41 ~~the correction law;~~

42 (5) a firm or corporation in which a person defined in [~~subdivision~~
43 ~~paragraph~~ (1), (2), (3) or (4) [~~above~~] of this subdivision has greater
44 than a ten [~~per centum~~] percent proprietary, equitable or credit inter-
45 est or in which such a person is active or employed.

46 § 2. Paragraph (a) of subdivision 1 of section 191 of the general
47 municipal law, as amended by section 15 of part LL of chapter 56 of the
48 laws of 2010, is amended to read as follows:

49 (a) Issuance of licenses to conduct games of chance. If such clerk or
50 department [~~shall determine~~] determines:

51 (i) that the applicant is duly qualified to be licensed to conduct
52 games of chance under this article;

53 (ii) that the member or members of the applicant designated in the
54 application to manage games of chance are bona fide active members of

1 the applicant and are persons of good moral character and have never
2 been convicted of a crime~~[, or,]~~ if ~~[convicted, have received a pardon,~~
3 ~~a certificate of good conduct or a certificate of relief from disabili-~~
4 ~~ties pursuant to article twenty-three of the correction law]~~ there is a
5 direct relationship between one or more of the previous criminal
6 offenses and the integrity or safety of charitable gaming, considering
7 the factors set forth in article twenty-three-A of the correction law;

8 (iii) that such games are to be conducted in accordance with the
9 provisions of this article and in accordance with the rules and regu-
10 lations of the ~~[board]~~ gaming commission and applicable local laws or
11 ordinances and that the proceeds thereof are to be disposed of as
12 provided by this article~~[,]~~; and

13 ~~[if such clerk or department is satisfied]~~ (iv) that no commission,
14 salary, compensation, reward or recompense whatever will be paid or
15 given to any person managing, operating or assisting therein except as
16 in this article otherwise provided; ~~[it]~~ then such clerk or department
17 shall issue a license to the applicant for the conduct of games of
18 chance upon payment of a license fee of twenty-five dollars for each
19 license period.

20 § 3. Subdivision 9 of section 476 of the general municipal law, as
21 amended by chapter 1057 of the laws of 1965, paragraph (a) as amended by
22 section 16 of part LL of chapter 56 of the laws of 2010, is amended to
23 read as follows:

24 9. "Authorized commercial lessor" shall mean a person, firm or corpo-
25 ration other than a licensee to conduct bingo under the provisions of
26 this article, who or which ~~[shall own]~~ owns or ~~[be]~~ is a net lessee of
27 premises and offer the same for leasing by him, her or it to an author-
28 ized organization for any consideration whatsoever, direct or indirect,
29 for the purpose of conducting bingo therein, provided that he, she or
30 it, as the case may be, shall not be

31 (a) a person convicted of a crime ~~[who has not received a pardon or a~~
32 ~~certificate of good conduct or a certificate of relief from disabilities~~
33 ~~pursuant to]~~ if there is a direct relationship between one or more of
34 the previous criminal offenses and the integrity or safety of bingo,
35 considering the factors set forth in article ~~[twenty-three]~~
36 twenty-three-A of the correction law;

37 (b) a person who is or has been a professional gambler or gambling
38 promoter or who for other reasons is not of good moral character;

39 (c) a public officer who receives any consideration, direct or indi-
40 rect, as owner or lessor of premises offered for the purpose of conduct-
41 ing bingo therein;

42 (d) a firm or corporation in which a person defined in ~~[subdivision]~~
43 paragraph (a), (b) or (c) ~~[above]~~ of this subdivision or a person
44 married or related in the first degree to such a person has greater than
45 a ten ~~[percentum (10%)]~~ percent proprietary, equitable or credit inter-
46 est or in which such a person is active or employed.

47 Nothing contained in this subdivision shall be construed to bar any
48 firm or corporation ~~[which]~~ that is not organized for pecuniary profit
49 and no part of the net earnings of which inure to the benefit of any
50 individual, member, or shareholder, from being an authorized commercial
51 lessor solely because a public officer, or a person married or related
52 in the first degree to a public officer, is a member of, active in or
53 employed by such firm or corporation.

54 § 4. Paragraph (a) of subdivision 1 of section 481 of the general
55 municipal law, as amended by section 5 of part MM of chapter 59 of the
56 laws of 2017, is amended to read as follows:

1 (a) Issuance of licenses to conduct bingo. If the governing body of
2 the municipality determines:

3 (i) that the applicant is duly qualified to be licensed to conduct
4 bingo under this article;

5 (ii) that the member or members of the applicant designated in the
6 application to conduct bingo are bona fide active members or auxiliary
7 members of the applicant and are persons of good moral character and
8 have never been convicted of a crime [~~or, if convicted, have received a~~
9 ~~pardon or a certificate of good conduct or a certificate of relief from~~
10 ~~disabilities pursuant to article twenty-three~~] if there is a direct
11 relationship between one or more of the previous criminal offenses and
12 the integrity or safety of bingo, considering the factors set forth in
13 article twenty-three-A of the correction law;

14 (iii) that such games of bingo are to be conducted in accordance with
15 the provisions of this article and in accordance with the rules and
16 regulations of the commission[~~, and~~];

17 (iv) that the proceeds thereof are to be disposed of as provided by
18 this article[~~, and if the governing body is satisfied~~];

19 (v) that no commission, salary, compensation, reward or recompense
20 [~~what so ever~~] whatsoever will be paid or given to any person holding,
21 operating or conducting or assisting in the holding, operation and
22 conduct of any such games of bingo except as in this article otherwise
23 provided; and

24 (vi) that no prize will be offered and given in excess of the sum or
25 value of five thousand dollars in any single game of bingo and that the
26 aggregate of all prizes offered and given in all of such games of bingo
27 conducted on a single occasion[~~7~~] under said license shall not exceed
28 the sum or value of fifteen thousand dollars, then the municipality
29 shall issue a license to the applicant for the conduct of bingo upon
30 payment of a license fee of eighteen dollars and seventy-five cents for
31 each bingo occasion[~~, provided, however, that~~].

32 Notwithstanding anything to the contrary in this paragraph, the
33 governing body shall refuse to issue a license to an applicant seeking
34 to conduct bingo in premises of a licensed commercial lessor where such
35 governing body determines that the premises presently owned or occupied
36 by such applicant are in every respect adequate and suitable for
37 conducting bingo games.

38 § 5. This act shall take effect immediately.

39 SUBPART F

40 Section 1. Paragraphs 3 and 4 of subsection (d) of section 2108 of the
41 insurance law are REPEALED, and paragraph 5 is renumbered paragraph 3.

42 § 2. This act shall take effect immediately.

43 SUBPART G

44 Section 1. Section 440-a of the real property law, as amended by chap-
45 ter 81 of the laws of 1995, the first undesignated paragraph as amended
46 by section 23 of part LL of chapter 56 of the laws of 2010, is amended
47 to read as follows:

48 § 440-a. License required for real estate brokers and salesmen. No
49 person, co-partnership, limited liability company or corporation shall
50 engage in or follow the business or occupation of, or hold himself or
51 itself out or act temporarily or otherwise as a real estate broker or
52 real estate salesman in this state without first procuring a license

1 therefor as provided in this article. No person shall be entitled to a
 2 license as a real estate broker under this article, either as an indi-
 3 vidual or as a member of a co-partnership, or as a member or manager of
 4 a limited liability company or as an officer of a corporation, unless he
 5 or she is twenty years of age or over, a citizen of the United States or
 6 an alien lawfully admitted for permanent residence in the United States.
 7 No person shall be entitled to a license as a real estate salesman under
 8 this article unless he or she is over the age of eighteen years. No
 9 person shall be entitled to a license as a real estate broker or real
 10 estate salesman under this article who has been convicted in this state
 11 or elsewhere of a [~~felony, of a sex offense, as defined in subdivision~~
 12 ~~two of section one hundred sixty eight a of the correction law or any~~
 13 ~~offense committed outside of this state which would constitute a sex~~
 14 ~~offense, or a sexually violent offense, as defined in subdivision three~~
 15 ~~of section one hundred sixty eight a of the correction law or any~~
 16 ~~offense committed outside this state which would constitute a sexually~~
 17 ~~violent offense, and who has not subsequent to such conviction received~~
 18 ~~executive pardon therefor or a certificate of relief from disabilities~~
 19 ~~or a certificate of good conduct pursuant to article twenty three of the~~
 20 ~~correction law, to remove the disability under this section because of~~
 21 ~~such conviction]~~ crime, unless the secretary makes a finding in conform-
 22 ance with all applicable statutory requirements, including those
 23 contained in article twenty-three-A of the correction law, that such
 24 convictions do not constitute a bar to licensure. No person shall be
 25 entitled to a license as a real estate broker or real estate salesman
 26 under this article who does not meet the requirements of section 3-503
 27 of the general obligations law.

28 Notwithstanding [~~the above~~] anything to the contrary in this section,
 29 tenant associations[~~7~~] and not-for-profit corporations authorized in
 30 writing by the commissioner of the department of the city of New York
 31 charged with enforcement of the housing maintenance code of such city to
 32 manage residential property owned by such city or appointed by a court
 33 of competent jurisdiction to manage residential property owned by such
 34 city shall be exempt from the licensing provisions of this section with
 35 respect to the properties so managed.

36 § 2. This act shall take effect immediately.

37 SUBPART H

38 Section 1. Subdivision 5 of section 336-f of the social services law,
 39 as added by section 148 of part B of chapter 436 of the laws of 1997, is
 40 amended to read as follows:

41 5. The social services district shall require every private or not-
 42 for-profit employer that intends to hire one or more work activity
 43 participants to certify to the district [~~that~~] whether such employer has
 44 [~~not~~], in the past five years, been convicted of a felony or a misdemea-
 45 nor the underlying basis of which involved workplace safety and health
 46 or labor standards. Such employer shall also certify as to all
 47 violations issued by the department of labor within the past five years.
 48 The social services official in the district in which the participant is
 49 placed shall determine whether there is a pattern of convictions or
 50 violations sufficient to render the potential employer ineligible.
 51 Employers who submit false information under this section shall be
 52 subject to criminal prosecution for filing a false instrument.

53 § 2. This act shall take effect immediately.

1

SUBPART I

2 Section 1. Subdivision 9 of section 394 of the vehicle and traffic
3 law, as separately renumbered by chapters 300 and 464 of the laws of
4 1960, is amended to read as follows:

5 9. Employees. [~~No licensee shall knowingly employ, in connection with~~
6 ~~a driving school in any capacity whatsoever, any person who has been~~
7 ~~convicted of a felony, or of any crime involving violence, dishonesty,~~
8 ~~deceit, indecency, degeneracy or moral turpitude]~~ A licensee may not
9 employ, in connection with a driving school in any capacity whatsoever,
10 a person who has been convicted of a crime, if, after considering the
11 factors set forth in article twenty-three-A of the correction law, the
12 licensee determines that there is a direct relationship between the
13 conviction and employment in the driving school, or that employment
14 would constitute an unreasonable risk to property or to the safety of
15 students, customers, or employees of the driving school, or to the
16 general public.

17 § 2. This act shall take effect immediately.

18

SUBPART J

19 Section 1. Legislative findings. This Subpart will remove an overbroad
20 mandatory suspension of drivers' licenses for six months for people
21 convicted of state and federal drug crimes, that is unnecessary to
22 protect the safety of New York roads, as the vehicle and traffic law has
23 other provisions to suspend licenses when drug use has impaired safe
24 driving. The mandatory suspension, and the fees associated with lifting
25 it, interferes with the ability of people convicted of drug crimes to
26 work, attend treatment and otherwise live productive lives, all of which
27 are necessary for their rehabilitation. At any given time, about 8,000
28 New Yorkers have their licenses suspended because of non-driving related
29 drug convictions. This mandatory suspension was instituted in response
30 to federal law requiring states to either suspend the licenses of people
31 convicted of drug offenses, or pass a resolution expressing opposition
32 to the bill, or lose eight percent of federal highway funding. Concur-
33 rent with this bill, Resolution ___ is being presented to the legisla-
34 ture for their action; the Resolution contains the required statement of
35 opposition to mandatory suspension of driver's licenses for people
36 convicted of drug crimes in order for New York's federal funding for
37 highways to be maintained. By passing the Resolution and removing the
38 mandatory suspension, New York will join 40 other states who have taken
39 this action.

40 § 2. Subparagraphs (v), (vi) and (vii) of paragraph b of subdivision 2
41 of section 510 of the vehicle and traffic law are REPEALED.

42 § 3. This act shall take effect immediately.

43

SUBPART K

44 Section 1. Legislative findings. The legislature finds that law
45 enforcement booking information and photographs, otherwise known as
46 "mugshots," are published on the internet and other public platforms
47 with impunity. An individual's mugshot is displayed publicly even if the
48 arrest does not lead to a conviction, or the conviction is later
49 expunged, sealed, or pardoned. This practice presents an unacceptable
50 invasion of the individual's personal privacy. While there is a well-es-
51 tablished Constitutional right for the press and the public to publish

1 government records which are in the public domain or that have been
2 lawfully accessed, arrest and booking information have not been found by
3 courts to have the same public right of access as criminal court
4 proceedings or court filings. Therefore, each state can set access to
5 this information through its Freedom of Information laws. The federal
6 government has already limited access to booking photographs through
7 privacy formulations in its Freedom of Information Act, and the legisla-
8 ture hereby declares that New York will follow the same principle to
9 protect its residents from this unwarranted invasion of personal priva-
10 cy, absent a specific law enforcement purpose, such as disclosure of a
11 photograph to alert victims or witnesses to come forward to aid in a
12 criminal investigation.

13 § 2. Paragraph (b) of subdivision 2 of section 89 of the public offi-
14 cers law, as amended by section 11 of part U of chapter 61 of the laws
15 of 2011, is amended to read as follows:

16 (b) An unwarranted invasion of personal privacy includes, but shall
17 not be limited to:

18 i. disclosure of employment, medical or credit histories or personal
19 references of applicants for employment;

20 ii. disclosure of items involving the medical or personal records of a
21 client or patient in a medical facility;

22 iii. sale or release of lists of names and addresses if such lists
23 would be used for solicitation or fund-raising purposes;

24 iv. disclosure of information of a personal nature when disclosure
25 would result in economic or personal hardship to the subject party and
26 such information is not relevant to the work of the agency requesting or
27 maintaining it;

28 v. disclosure of information of a personal nature reported in confi-
29 dence to an agency and not relevant to the ordinary work of such agency;

30 vi. information of a personal nature contained in a workers' compen-
31 sation record, except as provided by section one hundred ten-a of the
32 workers' compensation law; ~~or~~

33 vii. disclosure of electronic contact information, such as an e-mail
34 address or a social network username, that has been collected from a
35 taxpayer under section one hundred four of the real property tax law; or

36 viii. disclosure of law enforcement booking information about an indi-
37 vidual, including booking photographs, unless public release of such
38 information will serve a specific law enforcement purpose and disclosure
39 is not precluded by any state or federal laws.

40 § 3. This act shall take effect immediately.

41

SUBPART L

42 Section 1. The executive law is amended by adding a new section 845-c
43 to read as follows:

44 § 845-c. Criminal history record searches; undisposed cases. 1. When,
45 pursuant to statute or the regulations of the division, the division
46 conducts a search of its criminal history records and returns a report
47 thereon, all references to undisposed cases contained in such criminal
48 history record shall be excluded from such report.

49 2. For purposes of this section, "undisposed case" shall mean a crimi-
50 nal action or proceeding identified in the division's criminal history
51 record repository, for which there is no record of an unexecuted warrant
52 of arrest, superior court warrant of arrest, or bench warrant, and for
53 which there is no record of conviction or imposition of sentence or
54 other final disposition, other than the issuance of an apparently unexe-

1 cuted warrant, has been recorded and with respect to which no entry has
 2 been made in the division's criminal history records for a period of at
 3 least five years preceding the issuance of such report. When a criminal
 4 action in the division's criminal history record repository becomes an
 5 undisposed case pursuant to this section, the division shall notify the
 6 district attorney in the county which has jurisdiction. If the district
 7 attorney notifies the division that such case is pending and should not
 8 meet the definition of an undisposed case, the case shall not be
 9 excluded from such report.

10 3. The provisions of subdivision one of this section shall not apply
 11 to criminal history record information: (a) provided by the division to
 12 qualified agencies pursuant to subdivision six of section eight hundred
 13 thirty-seven of this article, or to federal or state law enforcement
 14 agencies, for criminal justice purposes; (b) prepared solely for a bona
 15 fide research purpose; or (c) prepared for the internal record keeping
 16 or case management purposes of the division.

17 § 2. Subdivision 2 of section 212 of the judiciary law is amended by
 18 adding a new paragraph (x) to read as follows:

19 (x) Take such actions and adopt such measures as may be necessary to
 20 ensure that no written or electronic report of a criminal history record
 21 search conducted by the office of court administration, other than a
 22 search conducted solely for the internal recordkeeping or case manage-
 23 ment purposes of the judiciary or for a bona fide research purpose,
 24 contains information relating to an undisposed case. For purposes of
 25 this paragraph, "undisposed case" shall mean a criminal action or
 26 proceeding, or an arrest incident, appearing in the criminal history
 27 records of the office of court administration for which no conviction,
 28 imposition of sentence, order of removal or other final disposition,
 29 other than the issuance of an apparently unexecuted warrant, has been
 30 recorded and with respect to which no entry has been made in such
 31 records for a period of at least five years preceding the issuance of
 32 such report. Nothing contained in this paragraph shall be deemed to
 33 permit or require the release, disclosure or other dissemination by the
 34 office of court administration of criminal history record information
 35 that has been sealed in accordance with law.

36 § 3. This act shall take effect on the one hundred eightieth day after
 37 it shall have become a law and shall apply to searches of criminal
 38 history records conducted on or after such date. Prior to such effective
 39 date, the division of criminal justice services, in consultation with
 40 the state administrator of the unified court system as well as any other
 41 public or private agency, shall undertake such measures as may be neces-
 42 sary and appropriate to update its criminal history records with respect
 43 to criminal cases and arrest incidents for which no final disposition
 44 has been reported.

45 SUBPART M

46 Section 1. The commissioner of the division of criminal justice
 47 services is authorized to direct that records of any action or proceed-
 48 ing terminated in favor of the accused, as defined by section 160.50 of
 49 the criminal procedure law, on or after September 1, 1976 and before
 50 November 1, 1991 maintained by the division of criminal justice services
 51 be sealed in the manner provided for by section 160.50 of the criminal
 52 procedure law. The commissioner of the division of criminal justice
 53 services is further authorized to direct that records of any action or
 54 proceeding terminated by a conviction for a traffic infraction or a

1 violation, other than a violation of loitering as described in paragraph
2 (d) or (e) of subdivision 1 of section 160.50 of the criminal procedure
3 law or the violation of operating a motor vehicle while ability impaired
4 as described in subdivision one of section 1192 of the vehicle and traf-
5 fic law on or after September 1, 1980 and before November 1, 1991 main-
6 tained by the division of criminal justice services be sealed in the
7 manner provided for by section 160.55 of the criminal procedure law.

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

10

SUBPART N

11 Section 1. The executive law is amended by adding a new section 845-d
12 to read as follows:

13 § 845-d. Criminal record searches; arrest charges without correspond-
14 ing convictions or violations. 1. When, pursuant to statute or the regu-
15 lations of the division, the division conducts a search of its criminal
16 history records and returns a report thereon, in arrest cycles that
17 result in at least one conviction or violation, all arrest and arraign-
18 ment charges in that cycle that do not result in a corresponding
19 conviction shall be excluded from such report.

20 2. For purposes of this section, "corresponding conviction" shall mean
21 a conviction or violation charge that matches one or more of the arrest
22 or arraignment charges.

23 3. The provisions of subdivision one of this section shall not apply
24 to criminal history records: (a) provided by the division to qualified
25 agencies pursuant to subdivision six of section eight hundred thirty-
26 seven of this article, or to federal or state law enforcement agencies,
27 for criminal justice purposes; (b) prepared solely for a bona fide
28 research purpose; or (c) prepared for the internal record keeping or
29 case management purposes of the division.

30 § 2. Subdivision 2 of section 212 of the judiciary law is amended by
31 adding a new paragraph (y) to read as follows:

32 (y) Take such actions and adopt such measures as may be necessary to
33 ensure that no written or electronic report of a criminal history record
34 search conducted by the office of court administration that contains an
35 arrest cycle and a criminal conviction or violation resulting from that
36 arrest, other than a search conducted for the internal recordkeeping or
37 case management purposes of the judiciary, or produced to the court, the
38 people, and defense counsel in a criminal proceeding, or for a bona fide
39 research purpose, contains information relating to arrest and arraign-
40 ment charges that do not result in a corresponding conviction. For
41 purposes of this section, "corresponding conviction" shall mean a
42 conviction or violation charge that matches one or more of the arrest or
43 arraignment charges.

44 § 3. This act shall take effect immediately.

45

SUBPART O

46 Section 1. This Subpart amends the human rights law to specify that
47 considering arrests that are followed by an order adjourning the crimi-
48 nal action in contemplation of dismissal, which adjournments are not
49 convictions or admissions of guilt under section 170.55 of the criminal
50 procedure law, is an unlawful discriminatory practice for civil
51 purposes. This Subpart amends the human rights law to clarify as well
52 that adjourning the criminal action in contemplation of dismissal is not

1 a pending arrest for purposes of this Subpart, unless the case has been
2 restored to the calendar. This Subpart also amends the same section of
3 the law to add housing and volunteer positions to employment and licens-
4 ing to the civil purposes for which past arrest information that did not
5 result in a conviction or violation can be used.

6 § 2. Subdivision 16 of section 296 of the executive law, as amended by
7 section 48-a of part WWW of chapter 59 of the laws of 2017, is amended
8 to read as follows:

9 16. It shall be an unlawful discriminatory practice, unless specif-
10 ically required or permitted by statute, for any person, agency, bureau,
11 corporation or association, including the state and any political subdi-
12 vision thereof, to make any inquiry about, whether in any form of appli-
13 cation or otherwise, or to act upon adversely to the individual
14 involved, any arrest or criminal accusation of such individual not then
15 pending against that individual which was followed by a termination of
16 that criminal action or proceeding in favor of such individual, as
17 defined in subdivision two of section 160.50 of the criminal procedure
18 law, or by an order adjourning the criminal action in contemplation of
19 dismissal, pursuant to section 170.55, 170.56, 210.46, 210.47, or 215.10
20 of the criminal procedure law, or by a youthful offender adjudication,
21 as defined in subdivision one of section 720.35 of the criminal proce-
22 dure law, or by a conviction for a violation sealed pursuant to section
23 160.55 of the criminal procedure law or by a conviction which is sealed
24 pursuant to section 160.59 or 160.58 of the criminal procedure law, in
25 connection with the licensing, housing, employment, including volunteer
26 positions, or providing of credit or insurance to such individual;
27 provided, further, that no person shall be required to divulge informa-
28 tion pertaining to any arrest or criminal accusation of such individual
29 not then pending against that individual which was followed by a termi-
30 nation of that criminal action or proceeding in favor of such individ-
31 ual, as defined in subdivision two of section 160.50 of the criminal
32 procedure law, or by an order adjourning the criminal action in contem-
33 plation of dismissal, pursuant to section 170.55 or 170.56 of the crimi-
34 nal procedure law, or by a youthful offender adjudication, as defined in
35 subdivision one of section 720.35 of the criminal procedure law, or by a
36 conviction for a violation sealed pursuant to section 160.55 of the
37 criminal procedure law, or by a conviction which is sealed pursuant to
38 section 160.58 or 160.59 of the criminal procedure law. The provisions
39 of this subdivision shall not apply to the licensing activities of
40 governmental bodies in relation to the regulation of guns, firearms and
41 other deadly weapons or in relation to an application for employment as
42 a police officer or peace officer as those terms are defined in subdivi-
43 sions thirty-three and thirty-four of section 1.20 of the criminal
44 procedure law; provided further that the provisions of this subdivision
45 shall not apply to an application for employment or membership in any
46 law enforcement agency with respect to any arrest or criminal accusation
47 which was followed by a youthful offender adjudication, as defined in
48 subdivision one of section 720.35 of the criminal procedure law, or by a
49 conviction for a violation sealed pursuant to section 160.55 of the
50 criminal procedure law, or by a conviction which is sealed pursuant to
51 section 160.58 or 160.59 of the criminal procedure law. For purposes of
52 this subdivision, an action which has been adjourned in contemplation of
53 dismissal, pursuant to section 170.55 or 170.56 of the criminal proce-
54 dure law, shall not be considered a pending action, unless the case has
55 been restored to the calendar.

1 § 3. This act shall take effect on the ninetieth day after it shall
2 have become a law.

3 SUBPART P

4 Section 1. The executive law is amended by adding a new section 259-t
5 to read as follows:

6 § 259-t. Release on compassionate parole for inmates who are affected
7 by an age-related debility. 1. (a) The board shall have the power to
8 release on compassionate parole any inmate who is at least fifty-five
9 years of age, serving an indeterminate or determinate sentence of impri-
10 sonment who, pursuant to subdivision two of this section, has been
11 certified to be suffering from a chronic or serious condition, disease,
12 syndrome, or infirmity, exacerbated by age, that has rendered the inmate
13 so physically or cognitively debilitated or incapacitated that the abil-
14 ity to provide self-care within the environment of a correctional facil-
15 ity is substantially diminished, provided, however, that no inmate serv-
16 ing a sentence imposed upon a conviction for murder in the first degree,
17 aggravated murder or an attempt or conspiracy to commit murder in the
18 first degree or aggravated murder or a sentence of life without parole
19 shall be eligible for such release, and provided further that no inmate
20 shall be eligible for such release unless in the case of an indetermi-
21 nate sentence he or she has served at least one-half of the minimum
22 period of the sentence and in the case of a determinate sentence he or
23 she has served at least one-half of the term of his or her determinate
24 sentence. Solely for the purpose of determining compassionate parole
25 eligibility pursuant to this section, such one-half of the minimum peri-
26 od of the indeterminate sentence and one-half of the term of the deter-
27 minate sentence shall not be credited with any time served under the
28 jurisdiction of the department prior to the commencement of such
29 sentence pursuant to the opening paragraph of subdivision one of section
30 70.30 of the penal law or subdivision two-a of section 70.30 of the
31 penal law, except to the extent authorized by subdivision three of
32 section 70.30 of the penal law.

33 (b) Such release shall be granted only after the board considers
34 whether, in light of the inmate's condition, there is a reasonable prob-
35 ability that the inmate, if released, will live and remain at liberty
36 without violating the law, and that such release is not incompatible
37 with the welfare of society and will not so deprecate the seriousness of
38 the crime as to undermine respect for the law, and shall be subject to
39 the limits and conditions specified in subdivision four of this section.
40 In making this determination, the board shall consider: (i) the factors
41 described in subdivision two of section two hundred fifty-nine-i of this
42 article; (ii) the nature of the inmate's conditions, diseases, syndromes
43 or infirmities and the level of care; (iii) the amount of time the
44 inmate must serve before becoming eligible for release pursuant to
45 section two hundred fifty-nine-i of this article; (iv) the current age
46 of the inmate and his or her age at the time of the crime; and (v) any
47 other relevant factor.

48 (c) The board shall afford notice to the sentencing court, the
49 district attorney, the attorney for the inmate and, where necessary
50 pursuant to subdivision two of section two hundred fifty-nine-i of this
51 article, the crime victim, that the inmate is being considered for
52 release pursuant to this section and the parties receiving notice shall
53 have thirty days to comment on the release of the inmate. Release on

1 compassionate parole shall not be granted until the expiration of the
2 comment period provided for in this paragraph.

3 2. (a) The commissioner, on the commissioner's own initiative or at
4 the request of an inmate, or an inmate's spouse, relative or attorney,
5 may, in the exercise of the commissioner's discretion, direct that an
6 investigation be undertaken to determine whether an assessment should be
7 made of an inmate who appears to be suffering from chronic or serious
8 conditions, diseases, syndromes or infirmities, exacerbated by advanced
9 age that has rendered the inmate so physically or cognitively debili-
10 tated or incapacitated that the ability to provide self-care within the
11 environment of a correctional facility is substantially diminished. Any
12 such medical assessment shall be made by a physician licensed to prac-
13 tice medicine in this state pursuant to section sixty-five hundred twen-
14 ty-four of the education law. Such physician shall either be employed by
15 the department, shall render professional services at the request of the
16 department, or shall be employed by a hospital or medical facility used
17 by the department for the medical treatment of inmates. The assessment
18 shall be reported to the commissioner by way of the deputy commissioner
19 for health services or the chief medical officer of the facility and
20 shall include but shall not be limited to a description of the condi-
21 tions, diseases or syndromes suffered by the inmate, a prognosis
22 concerning the likelihood that the inmate will not recover from such
23 conditions, diseases or syndromes, a description of the inmate's phys-
24 ical or cognitive incapacity which shall include a prediction respecting
25 the likely duration of the incapacity, and a statement by the physician
26 of whether the inmate is so debilitated or incapacitated as to be
27 severely restricted in his or her ability to self-ambulate or to perform
28 significant activities of daily living. This assessment also shall
29 include a recommendation of the type and level of services and level of
30 care the inmate would require if granted compassionate parole and a
31 recommendation for the types of settings in which the services and
32 treatment should be given.

33 (b) The commissioner, or the commissioner's designee, shall review the
34 assessment and may certify that the inmate is suffering from a chronic
35 or serious condition, disease, syndrome or infirmity, exacerbated by
36 age, that has rendered the inmate so physically or cognitively debili-
37 tated or incapacitated that the ability to provide self-care within the
38 environment of a correctional facility is substantially diminished. If
39 the commissioner does not so certify then the inmate shall not be
40 referred to the board for consideration for release on compassionate
41 parole. If the commissioner does so certify, then the commissioner
42 shall, within seven working days of receipt of such assessment, refer
43 the inmate to the board for consideration for release on compassionate
44 parole. However, an inmate will not be referred to the board of parole
45 with diseases, conditions, syndromes or infirmities that pre-existed
46 incarceration unless certified by a physician that such diseases, condi-
47 tions, syndromes or infirmities, have progressed to render the inmate so
48 physically or cognitively debilitated or incapacitated that the ability
49 to provide self-care within the environment of a correctional facility
50 is substantially diminished.

51 3. Any certification by the commissioner or the commissioner's desig-
52 nee pursuant to this section shall be deemed a judicial function and
53 shall not be reviewable if done in accordance with law.

54 4. (a) Once an inmate is released on compassionate parole, that
55 releasee will then be supervised by the department pursuant to paragraph

1 (b) of subdivision two of section two hundred fifty-nine-i of this arti-
2 cle.

3 (b) The board may require as a condition of release on compassionate
4 parole that the releasee agree to remain under the care of a physician
5 while on compassionate parole and in a hospital established pursuant to
6 article twenty-eight of the public health law, nursing home established
7 pursuant to article twenty-eight-a of the public health law, a hospice
8 established pursuant to article forty of the public health law or any
9 other placement, including a residence with family or others, that can
10 provide appropriate medical and other necessary compassionate care as
11 recommended by the medical assessment required by subdivision two of
12 this section. For those who are released pursuant to this subdivision, a
13 discharge plan shall be completed and state that the availability of the
14 placement has been confirmed, and by whom. Notwithstanding any other
15 provision of law, when an inmate who qualifies for release under this
16 section is cognitively incapable of signing the requisite documentation
17 to effectuate the discharge plan and, after a diligent search no person
18 has been identified who could otherwise be appointed as the inmate's
19 guardian by a court of competent jurisdiction, then, solely for the
20 purpose of implementing the discharge plan, the facility health services
21 director at the facility where the inmate is currently incarcerated
22 shall be lawfully empowered to act as the inmate's guardian for the
23 purpose of effectuating the discharge.

24 (c) Where appropriate, the board shall require as a condition of
25 release that compassionate parolees be supervised on intensive caseloads
26 at reduced supervision ratios.

27 5. A denial of release on compassionate parole shall not preclude the
28 inmate from reapplying for compassionate parole or otherwise affect an
29 inmate's eligibility for any other form of release provided for by law.

30 6. To the extent that any provision of this section requires disclo-
31 sure of medical information for the purpose of processing an application
32 or making a decision, regarding release on compassionate parole or for
33 the purpose of appropriately supervising a person released on compas-
34 sionate parole, and that such disclosure would otherwise be prohibited
35 by article twenty-seven-f of the public health law, the provisions of
36 this section shall be controlling.

37 7. The commissioner and the chair of the board shall be authorized to
38 promulgate rules and regulations for their respective agencies to imple-
39 ment the provisions of this section.

40 8. Any decision made by the board pursuant to this section may be
41 appealed pursuant to subdivision four of section two hundred fifty-
42 nine-i of this article.

43 9. The chair of the board shall report annually to the governor, the
44 temporary president of the senate and the speaker of the assembly, the
45 chairpersons of the assembly and senate codes committees, the chair-
46 person of the senate crime and corrections committee, and the chair-
47 person of the assembly corrections committee the number of inmates who
48 have applied for compassionate parole under this section; the number who
49 have been granted compassionate parole; the nature of the illness of the
50 applicants, the counties to which they have been released and the nature
51 of the placement pursuant to the discharge plan; the categories of
52 reasons for denial for those who have been denied; the number of releas-
53 ees on compassionate parole who have been returned to imprisonment in
54 the custody of the department and the reasons for return.

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

1 § 2. Severability clause. If any clause, sentence, paragraph, subdivi-
2 sion, section or part of this act shall be adjudged by any court of
3 competent jurisdiction to be invalid, such judgment shall not affect,
4 impair, or invalidate the remainder thereof, but shall be confined in
5 its operation to the clause, sentence, paragraph, subdivision, section
6 or part thereof directly involved in the controversy in which such judg-
7 ment shall have been rendered. It is hereby declared to be the intent of
8 the legislature that this act would have been enacted even if such
9 invalid provisions had not been included herein.

10 § 3. This act shall take effect immediately provided, however, that
11 the applicable effective date of Subparts A through P of this act shall
12 be as specifically set forth in the last section of such Subparts.

13 PART JJ

14 Section 1. Section 2 of the correction law is amended by adding four
15 new subdivisions 32, 33, 34 and 35 to read as follows:

16 32. "Special populations" means any person: (a) who is an adolescent
17 offender that is confined in an adolescent offender facility; or (b) who
18 is pregnant, or in the first eight weeks of post partum recovery period
19 after giving birth.

20 33. "Residential rehabilitation unit" means a housing unit used for
21 treatment and rehabilitative programming of incarcerated individuals who
22 have been determined to require more than ninety days of segregated
23 confinement on and after April first, two thousand twenty-one; more than
24 sixty days of segregated confinement on and after October first, two
25 thousand twenty-one; and more than thirty days of segregated confinement
26 on and after April first, two thousand twenty-two or who have been
27 deemed by the deputy commissioner for correctional facilities or his or
28 her designee to be an unreasonable risk to safety and security of staff,
29 incarcerated individuals or the facility.

30 34. "Step down unit" means a housing unit used for the progressive
31 programming of incarcerated individuals with a violent history or a
32 substance abuse history that has led to long-term periods of segregated
33 confinement in order to prepare them for return to general population or
34 the community.

35 35. "Adolescent offender separation unit" means a housing unit used
36 for adolescent offenders housed in an adolescent offender facility that
37 receive a disciplinary confinement sanction or who have been deemed by
38 the superintendent to be an unreasonable risk to the safety and security
39 of staff, incarcerated individuals or the facility.

40 § 2. Subdivision 6 of section 137 of the correction law is amended by
41 adding ten new paragraphs (g), (h), (i), (j), (k), (l), (m), (n), (o)
42 and (p) to read as follows:

43 (g) Incarcerated individuals in special populations as defined in
44 subdivision thirty-two of section two of this chapter shall not be
45 placed in segregated confinement for any length of time.

46 (h) No incarcerated individual may be placed in segregated confinement
47 for longer than necessary and no more than ninety days of segregated
48 confinement on and after April first, two thousand twenty-one; no more
49 than sixty days of segregated confinement on and after October first,
50 two thousand twenty-one; and no more than thirty days of segregated
51 confinement on and after April first, two thousand twenty-two. Upon
52 reaching this limit, he or she must be released from segregated confine-
53 ment or diverted to a residential rehabilitation unit or step down unit.
54 Such admission to a residential rehabilitation unit or step down unit

1 shall occur as expeditiously as possible and in no case take longer than
2 seventy-two hours from the time transfer should occur.

3 (i) Persons admitted to a residential rehabilitation unit shall be
4 offered at least five hours of out-of-cell programming, activities, or
5 recreation four days per week, excluding holidays, and at least two
6 hours of recreation on the remaining days.

7 (i) Such incarcerated individuals in a residential rehabilitation unit
8 shall have access to out-of-cell programs and activities that promote
9 personal development and group engagement, addressing underlying causes
10 of problematic behavior resulting in placement in segregated confinement
11 or a residential rehabilitation unit, and helping prepare for discharge
12 from the unit to general confinement or the community.

13 (ii) Persons in a residential rehabilitation unit shall have the
14 opportunity to earn additional privileges under a progressive movement
15 system.

16 (iii) Upon admission to a residential rehabilitation unit, a program
17 management team shall develop an individual rehabilitation plan in
18 consultation with the incarcerated individual based upon his or her
19 programming needs. Such plan shall identify specific goals and program
20 to be offered, including discharge from the residential rehabilitation
21 unit or recommendations to transition to a step down unit.

22 (iv) The program management team will conduct ongoing reviews of the
23 incarcerated individual, and if appropriate, have the ability to recom-
24 mend continuation in the residential rehabilitation unit beyond the
25 individuals length of disciplinary sanction.

26 (v) If the incarcerated individual is maintained in the residential
27 rehabilitation unit beyond the length of the disciplinary sanction
28 imposed, or is placed there as a result of the deputy commissioner for
29 correctional facility or his or her designee's determination of an
30 unreasonable risk to safety and security or staff, incarcerated individ-
31 uals or the facility, there shall be a periodic review of the status of
32 each incarcerated person at least every sixty days to assess the
33 person's progress and determine if the person should be discharged from
34 the unit.

35 (j) Persons may be admitted to a step down unit from either segregated
36 confinement or a residential rehabilitation unit.

37 (i) Persons admitted to a step down unit shall participate in a
38 multi-phase progressive program. Incarcerated individuals will progress
39 through the program, earning fewer restrictions and increased incen-
40 tives, as they meet benchmarks and individual goals.

41 (ii) Such incarcerated individuals will be offered at least five hours
42 of out-of-cell programming, activities and recreation four days per
43 week, excluding holidays, and at least two hours of recreation on the
44 remaining days.

45 (iii) When an incarcerated person is discharged from a step down unit,
46 any remaining time to serve on any underlying disciplinary sanction
47 shall be held in abeyance for a period of no more than six months.

48 (iv) Persons in a step down unit shall have the opportunity to earn
49 additional privileges under a progressive movement system.

50 (k) Persons admitted to an adolescent offender separation unit shall
51 be offered at least five hours of out-of-cell programming, activities
52 and recreation four days per week, excluding holidays, and at least two
53 hours of recreation on the remaining days.

54 (i) Persons in an adolescent offender separation unit shall have the
55 opportunity to earn additional privileges under a progressive movement
56 system.

1 (ii) If the incarcerated individual is maintained in the adolescent
2 offender separation unit beyond the length of the disciplinary sanction
3 imposed, or is placed there as a result of the deputy commissioner for
4 correctional facility or designees determination of an unreasonable risk
5 to safety and security of staff, incarcerated individuals or the facili-
6 ty, there shall be a periodic review of the status of each incarcerated
7 person at least every sixty days to assess the person's progress and
8 determine if the person should be discharged from the unit.

9 (l) All staff assigned to segregated confinement, residential rehabil-
10 itation, step down or adolescent offender separation unit shall receive
11 specialized training in dealing with this population, to include inter-
12 personal communication skills, de-escalation techniques and implicit
13 bias.

14 (m) The superintendent of the institution maintains the right to
15 restrict employees from working on a segregated confinement, residential
16 rehabilitation, step down or adolescent offender separation unit if it
17 is in the best interest of the overall safety and security of the insti-
18 tution, staff or incarcerated individuals.

19 (n) Prior to presiding over a superintendent hearing, all hearing
20 officers shall receive hearing officers training on relevant topics,
21 including implicit bias.

22 (o) The department shall publish monthly reports on its website of the
23 total number of incarcerated individuals who are in segregated confine-
24 ment, the total number of incarcerated individuals who are in a residen-
25 tial rehabilitation unit and the total number of incarcerated individ-
26 uals in a step down unit, and the total number of incarcerated
27 individuals in an adolescent offender separation unit on the first day
28 of each month.

29 (p) The department shall publish an annual cumulative report of the
30 total number of incarcerated individuals who were in segregated confine-
31 ment, the total number of incarcerated individuals who were in a resi-
32 dential rehabilitation unit and the total number of incarcerated indi-
33 viduals who were in a step down unit for the preceding year. The annual
34 report shall include the average length of stay in each of the units.

35 § 3. Clauses (A) and (B) of subparagraph (ii) of paragraph (d) of
36 subdivision 6 of section 137 of the correction law, as added by chapter
37 1 of the laws of 2008, are amended to read as follows:

38 (A) Upon placement of an inmate into segregated confinement, a resi-
39 dential rehabilitation unit, step down unit or adolescent offender sepa-
40 ration unit, at a level one or level two facility, a suicide prevention
41 screening instrument shall be administered by staff from the department
42 or the office of mental health who has been trained for that purpose. If
43 such a screening instrument reveals that the inmate is at risk of
44 suicide, a mental health clinician shall be consulted and appropriate
45 safety precautions shall be taken. Additionally, within one business day
46 of the placement of such an inmate into segregated confinement, a resi-
47 dential rehabilitation unit, step down unit or adolescent offender sepa-
48 ration unit, at a level one or level two facility, the inmate shall be
49 assessed by a mental health clinician.

50 (B) Upon placement of an inmate into segregated confinement, a resi-
51 dential rehabilitation unit, step down unit or adolescent offender sepa-
52 ration unit, at a level three or level four facility, a suicide
53 prevention screening instrument shall be administered by staff from the
54 department or the office of mental health who has been trained for that
55 purpose. If such a screening instrument reveals that the inmate is at
56 risk of suicide, a mental health clinician shall be consulted and appro-

1 puate safety precautions shall be taken. All inmates placed in segre-
 2 gated confinement, a residential rehabilitation unit, step down unit or
 3 adolescent offender separation unit, at a level three or level four
 4 facility shall be assessed by a mental health clinician, within fourteen
 5 days of such placement into segregated confinement, a residential reha-
 6 ilitation unit, step down unit or adolescent offender separation unit.

7 § 4. This act shall take effect immediately; provided, however, that
 8 no incarcerated individual may be placed in segregated confinement for
 9 longer than necessary and:

10 1. effective on and after April 1, 2021, no more than ninety days of
 11 segregated confinement;

12 2. effective on and after October 1, 2021, no more than sixty days of
 13 segregated confinement; and

14 3. effective on and after April 1, 2022, no more than thirty days of
 15 segregated confinement.

16 PART KK

17 Section 1. Section 60.05 of the penal law is amended by adding a new
 18 subdivision 8 to read as follows:

19 8. Shock incarceration participation. (a) When the court imposes a
 20 determinate sentence of imprisonment pursuant to subdivision three of
 21 section 70.02 of this chapter or subdivision six of section 70.06 of
 22 this chapter upon a person who stands convicted either of burglary in
 23 the second degree as defined in subdivision two of section 140.25 of
 24 this chapter or robbery in the second degree as defined in subdivision
 25 one of section 160.10 of this chapter, or an attempt thereof, upon
 26 motion of the defendant, the court may issue an order directing that the
 27 department of corrections and community supervision enroll the defendant
 28 in the shock incarceration program as defined in article twenty-six-A of
 29 the correction law, provided that the defendant is an eligible inmate,
 30 as described in subdivision one of section eight hundred sixty-five of
 31 the correction law. Notwithstanding the foregoing provisions of this
 32 subdivision, any defendant to be enrolled in such program pursuant to
 33 this subdivision shall be governed by the same rules and regulations
 34 promulgated by the department of corrections and community supervision,
 35 including without limitation those rules and regulations establishing
 36 requirements for completion and such rules and regulations governing
 37 discipline and removal from the program.

38 (b) Paragraph (b) of subdivision seven of section 60.04 of this arti-
 39 cle shall apply in the event an inmate designated by court order for
 40 enrollment in the shock incarceration program requires a degree of
 41 medical care or mental health care that cannot be provided at a shock
 42 incarceration facility.

43 § 2. Subdivision 1 of section 865 of the correction law, as amended by
 44 chapter 377 of the laws of 2010, is amended to read as follows:

45 1. "Eligible inmate" means a person sentenced to an indeterminate term
 46 of imprisonment who will become eligible for release on parole within
 47 three years or sentenced to a determinate term of imprisonment who will
 48 become eligible for conditional release within three years, who has not
 49 reached the age of fifty years, who has not previously been convicted of
 50 a violent felony as defined in article seventy of the penal law, or a
 51 felony in any other jurisdiction which includes all of the essential
 52 elements of any such violent felony, upon which an indeterminate or
 53 determinate term of imprisonment was imposed and who was between the
 54 ages of sixteen and fifty years at the time of commission of the crime

1 upon which his or her present sentence was based. Notwithstanding the
 2 foregoing, no person who is convicted of any of the following crimes
 3 shall be deemed eligible to participate in this program: (a) a violent
 4 felony offense as defined in article seventy of the penal law[7] ;
 5 provided, however, that a person who is convicted of burglary in the
 6 second degree as defined in subdivision two of section 140.25 of the
 7 penal law, or robbery in the second degree as defined in subdivision one
 8 of section 160.10 of the penal law, or an attempt thereof, and for whom
 9 the sentencing court has issued an order pursuant to subdivision eight
 10 of section 60.05 of the penal law enrolling such person in the shock
 11 incarceration program, is eligible to participate, (b) an A-I felony
 12 offense, (c) any homicide offense as defined in article one hundred
 13 twenty-five of the penal law, (d) any felony sex offense as defined in
 14 article one hundred thirty of the penal law and (e) any escape or
 15 absconding offense as defined in article two hundred five of the penal
 16 law.

17 § 3. This act shall take effect on September 1, 2019.

18 PART LL

19 Section 1. Section 57 of the civil service law, as added by chapter 83
 20 of the laws of 1963, is amended to read as follows:

21 § 57. Continuous recruitment for certain positions. Notwithstanding
 22 any other provisions of this chapter or any other law, the civil service
 23 department or a municipal commission may establish a continuing eligible
 24 list for any class of positions for which it finds [~~inadequate numbers~~
 25 ~~of well qualified persons available for recruitment~~] such lists appro-
 26 priate. Names of eligibles shall be inserted in such list from time to
 27 time as applicants are tested and found qualified in examinations held
 28 at such intervals as may be prescribed by the civil service department
 29 or municipal commission having jurisdiction. Such successive examina-
 30 tions shall, so far as practicable, be constructed and rated so as to be
 31 equivalent tests of the merit and fitness of candidates. The name of any
 32 candidate who passes any such examination and who is otherwise qualified
 33 shall be placed on the continuing eligible list in the rank correspond-
 34 ing to his final rating on such examination. The period of eligibility
 35 of successful candidates for certification and appointment from such
 36 continuing eligible list, as a result of any such examination, shall be
 37 fixed by the civil service department or municipal commission but,
 38 except as a list may reach an announced terminal date, such period shall
 39 not be less than one year; nor shall such period of eligibility exceed
 40 four years. Subject to such conditions and limitations as the civil
 41 service department or municipal commission may prescribe, a candidate
 42 may take more than one such examination; provided, however, that no such
 43 candidate shall be certified simultaneously with more than one rank on
 44 the continuing eligible list. With respect to any candidate who applies
 45 for and is granted additional credit in any such examination as a dis-
 46 abled or non-disabled veteran, and for the limited purpose of granting
 47 such additional credit, the eligible list shall be deemed to be estab-
 48 lished on the date on which his name is added thereto.

49 § 2. This act shall take effect immediately.

50 PART MM

1 Section 1. Subdivision 11 of section 52 of the civil service law, as
2 amended by chapter 214 of the laws of 1989, is amended to read as
3 follows:

4 11. Notwithstanding any other provision of law, the state [~~department~~
5 ~~of~~] civil service department may, for titles designated by it, extend to
6 employees in the state service who are holding or who have held a posi-
7 tion in the non-competitive or labor class of such service the same
8 opportunity as employees in the competitive class to take promotion
9 examinations [~~if such examinations are to be held in conjunction with~~
10 ~~open competitive examinations~~].

11 § 2. This act shall take effect immediately.

12 PART NN

13 Section 1. Paragraph (a) of subdivision 2 of section 121 of the civil
14 service law, as added by chapter 790 of the laws of 1958, is amended to
15 read as follows:

16 (a) Notwithstanding the provisions of paragraph (b) of this subdivi-
17 sion, the annual salary of any position, compensable on an annual basis,
18 which is classified or reclassified, or which is allocated or reallo-
19 cated to a salary grade pursuant to the provisions of this article shall
20 not be reduced for the then [~~permanent~~] incumbent by reason of any
21 provision of this article [~~so long as such position is held by the then~~
22 ~~permanent incumbent~~].

23 § 2. This act shall take effect immediately.

24 PART OO

25 Section 1. Subdivision 1 of section 70.15 of the penal law, as amended
26 by chapter 291 of the laws of 1993, is amended to read as follows:

27 1. Class A misdemeanor. A sentence of imprisonment for a class A
28 misdemeanor shall be a definite sentence. When such a sentence is
29 imposed the term shall be fixed by the court, and shall not exceed [~~one~~
30 ~~year~~] three hundred sixty-four days; provided, however, that a sentence
31 of imprisonment imposed upon a conviction of criminal possession of a
32 weapon in the fourth degree as defined in subdivision one of section
33 265.01 must be for a period of no less than [~~one year~~] three hundred
34 sixty-four days when the conviction was the result of a plea of guilty
35 entered in satisfaction of an indictment or any count thereof charging
36 the defendant with the class D violent felony offense of criminal
37 possession of a weapon in the third degree as defined in subdivision
38 four of section 265.02, except that the court may impose any other
39 sentence authorized by law upon a person who has not been previously
40 convicted in the five years immediately preceding the commission of the
41 offense for a felony or a class A misdemeanor defined in this chapter,
42 if the court having regard to the nature and circumstances of the crime
43 and to the history and character of the defendant, finds on the record
44 that such sentence would be unduly harsh and that the alternative
45 sentence would be consistent with public safety and does not deprecate
46 the seriousness of the crime.

47 § 2. Section 70.15 of the penal law is amended by adding a new subdivi-
48 sion 1-a to read as follows:

49 1-a. (a) Notwithstanding the provisions of any other law, whenever the
50 phrase "one year" or "three hundred sixty-five days" or "365 days" or
51 any similar phrase appears in any provision of this chapter or any other
52 law in reference to the definite sentence or maximum definite sentence

1 of imprisonment that is imposed, or has been imposed, or may be imposed
2 after the effective date of this subdivision, for a misdemeanor
3 conviction in this state, such phrase shall mean, be interpreted and be
4 applied as three hundred sixty-four days.

5 (b) The amendatory provisions of this subdivision are ameliorative and
6 shall apply to all persons who are sentenced before, on or after the
7 effective date of this subdivision, for a crime committed before, on or
8 after the effective date of this subdivision.

9 (c) Any sentence for a misdemeanor conviction imposed prior to the
10 effective date of this subdivision that is a definite sentence of impri-
11 sonment of one year, or three hundred sixty-five days, shall, by opera-
12 tion of law, be changed to, mean and be interpreted and applied as a
13 sentence of three hundred sixty-four days. In addition to any other
14 right of a person to obtain a record of a proceeding against him or her,
15 a person so sentenced prior to the effective date of this subdivision
16 shall be entitled to obtain, from the criminal court or the clerk there-
17 of, a certificate of conviction, as described in subdivision one of
18 section 60.60 of the criminal procedure law, setting forth such sentence
19 as the sentence specified in this paragraph.

20 § 3. This act shall take effect immediately.

21

PART PP

22 Section 1. The opening paragraph and paragraph (a) of subdivision 1 of
23 section 1311 of the civil practice law and rules, the opening paragraph
24 as amended by chapter 655 of the laws of 1990 and paragraph (a) as added
25 by chapter 669 of the laws of 1984, are amended to read as follows:

26 A civil action may be commenced by the appropriate claiming authority
27 against a criminal defendant to recover the property which constitutes
28 the proceeds of a crime, the substituted proceeds of a crime, an instru-
29 mentality of a crime or the real property instrumentality of a crime [~~or~~
30 ~~to recover a money judgment in an amount equivalent in value to the~~
31 ~~property which constitutes the proceeds of a crime, the substituted~~
32 ~~proceeds of a crime, an instrumentality of a crime, or the real property~~
33 ~~instrumentality of a crime~~]. A civil action may be commenced against a
34 non-criminal defendant to recover the property which constitutes the
35 proceeds of a crime, the substituted proceeds of a crime, an instrumen-
36 tality of a crime, or the real property instrumentality of a crime
37 provided, however, that a judgment of forfeiture predicated upon clause
38 (A) of subparagraph (iv) of paragraph (b) of subdivision three [~~hereof~~
39 of this section] shall be limited to the amount of the proceeds of the
40 crime. Any action under this article must be commenced within five years
41 of the commission of the crime and shall be civil, remedial, and in
42 personam in nature and shall not be deemed to be a penalty or criminal
43 forfeiture for any purpose. Except as otherwise specially provided by
44 statute, the proceedings under this article shall be governed by this
45 chapter. An action under this article is not a criminal proceeding and
46 may not be deemed to be a previous prosecution under article forty of
47 the criminal procedure law.

48 (a) Actions relating to post-conviction forfeiture crimes. An action
49 relating to a post-conviction forfeiture crime must be grounded upon a
50 conviction of a felony defined in subdivision five of section one thou-
51 sand three hundred ten of this article [~~, or upon criminal activity aris-~~
52 ~~ing from a common scheme or plan of which such a conviction is a part,~~]
53 or upon a count of an indictment or information alleging a felony which
54 was dismissed at the time of a plea of guilty to a felony in satisfac-

1 tion of such count. A court may not grant forfeiture until such
2 conviction has occurred. However, an action may be commenced, and a
3 court may grant a provisional remedy provided under this article, prior
4 to such conviction having occurred. An action under this paragraph must
5 be dismissed at any time after sixty days of the commencement of the
6 action unless the conviction upon which the action is grounded has
7 occurred, or an indictment or information upon which the asserted
8 conviction is to be based is pending in a superior court. An action
9 under this paragraph shall be stayed during the pendency of a criminal
10 action which is related to it; provided, however, that such stay shall
11 not prevent the granting or continuance of any provisional remedy
12 provided under this article or any other provisions of law.

13 § 2. The civil practice law and rules is amended by adding a new
14 section 1311-b to read as follows:

15 § 1311-b. Money judgment. If a claiming authority obtains a forfeiture
16 judgment against a defendant for the proceeds, substituted proceeds,
17 instrumentality of a crime or real property instrumentality of a crime,
18 but is unable to locate all or part of any such property, the claiming
19 authority may apply to the court for a money judgment against the
20 defendant in the amount of the value of the forfeited property that
21 cannot be located. The defendant shall have the right to challenge the
22 valuation of any property that is the basis for such an application. The
23 claiming authority shall have the burden of establishing the value of
24 the property under this section by a preponderance of the evidence.

25 § 3. Subdivisions 1, 3 and 4 of section 1312 of the civil practice law
26 and rules, subdivision 1 as added by chapter 669 of the laws of 1984,
27 subdivision 3 as amended and subdivision 4 as added by chapter 655 of
28 the laws of 1990, are amended to read as follows:

29 1. The provisional remedies of attachment, injunction, receivership
30 and notice of pendency provided for herein, shall be available in all
31 actions to recover property [~~or for a money judgment~~] under this arti-
32 cle.

33 3. A court may grant an application for a provisional remedy when it
34 determines that: (a) there is a substantial probability that the claim-
35 ing authority will be able to demonstrate at trial that the property is
36 the proceeds, substituted proceeds, instrumentality of the crime or real
37 property instrumentality of the crime, that the claiming authority will
38 prevail on the issue of forfeiture, and that failure to enter the order
39 may result in the property being destroyed, removed from the jurisdic-
40 tion of the court, or otherwise be unavailable for forfeiture; (b) the
41 need to preserve the availability of the property through the entry of
42 the requested order outweighs the hardship on any party against whom the
43 order may operate; and (c) in an action relating to real property, that
44 entry of the requested order will not substantially diminish, impair, or
45 terminate the lawful property interest in such real property of any
46 person or persons other than the defendant or defendants.

47 4. Upon motion of any party against whom a provisional remedy granted
48 pursuant to this article is in effect, the court may issue an order
49 modifying or vacating such provisional remedy if necessary to permit the
50 moving party to obtain funds for the payment of reasonable living
51 expenses, other costs or expenses related to the maintenance, operation,
52 or preservation of property which is the subject of any such provisional
53 remedy or reasonable and bona fide attorneys' fees and expenses for the
54 representation of the defendant in the forfeiture proceeding or in a
55 related criminal matter relating thereto, payment for which is not
56 otherwise available from assets of the defendant which are not subject

1 to such provisional remedy. Any such motion shall be supported by an
2 affidavit establishing the unavailability of other assets of the moving
3 party which are not the subject of such provisional remedy for payment
4 of such expenses or fees. That funds sought to be released under this
5 subdivision are alleged to be the proceeds, substituted proceeds,
6 instrumentality of a crime or real property instrumentality of a crime
7 shall not be a factor for the court in considering and determining a
8 motion made pursuant to this subdivision.

9 § 4. The opening paragraph of subdivision 2 of section 1349 of the
10 civil practice law and rules, as added by chapter 655 of the laws of
11 1990, is amended to read as follows:

12 If any other provision of law expressly governs the manner of disposi-
13 tion of property subject to the judgment or order of forfeiture, that
14 provision of law shall be controlling, with the exception that, notwith-
15 standing the provisions of any other law, all forfeited monies and
16 proceeds from forfeited property shall be deposited into and disbursed
17 from an asset forfeiture escrow fund established pursuant to section
18 six-v of the general municipal law, which shall govern the maintenance
19 of such monies and proceeds from forfeited property. Upon application
20 by a claiming agent for reimbursement of moneys directly expended by a
21 claiming agent in the underlying criminal investigation for the purchase
22 of contraband which were converted into a non-monetary form or which
23 have not been otherwise recovered, the court shall direct such
24 reimbursement from money forfeited pursuant to this article. Upon appli-
25 cation of the claiming agent, the court may direct that any vehicles,
26 vessels or aircraft forfeited pursuant to this article be retained by
27 the claiming agent for law enforcement purposes, unless the court deter-
28 mines that such property is subject to a perfected lien, in which case
29 the court may not direct that the property be retained unless all such
30 liens on the property to be retained have been satisfied or pursuant to
31 the court's order will be satisfied. In the absence of an application by
32 the claiming agent, the claiming authority may apply to the court to
33 retain such property for law enforcement purposes. Upon such applica-
34 tion, the court may direct that such property be retained by the claim-
35 ing authority for law enforcement purposes, unless the court determines
36 that such property is subject to a perfected lien. If not so retained,
37 the judgment or order shall direct the claiming authority to sell the
38 property in accordance with article fifty-one of this chapter, and that
39 the proceeds of such sale and any other moneys realized as a consequence
40 of any forfeiture pursuant to this article shall be deposited to an
41 asset forfeiture escrow fund established pursuant to section six-v of
42 the general municipal law and shall be apportioned and paid in the
43 following descending order of priority:

44 § 5. Section 1349 of the civil practice law and rules is amended by
45 adding a new subdivision 5 to read as follows:

46 5. Monies and proceeds from the sale of property realized as a conse-
47 quence of any forfeiture distributed to the claiming agent or claiming
48 authority of any county, town, city, or village of which the claiming
49 agent or claiming authority is a part, shall be deposited to an asset
50 forfeiture escrow fund established pursuant to section six-v of the
51 general municipal law.

52 § 6. Subdivision 2 of section 700 of the county law is amended to read
53 as follows:

54 2. Within thirty days after the receipt of any fine, penalty, recovery
55 upon any recognizance, monies and proceeds from the sale of property
56 realized as a consequence of any forfeiture, or other money belonging to

1 the county, the district attorney or the claiming authority shall pay
2 the same to the county treasurer. Not later than the first day of Febru-
3 ary in each year, the district attorney shall make in duplicate a veri-
4 fied true statement of all such moneys received and paid to the county
5 treasurer during the preceding calendar year and at that time shall pay
6 to the county treasurer any balance due. One statement shall be
7 furnished to the county treasurer [~~and the other~~], one to the clerk of
8 the board of supervisors and one to the state comptroller. A district
9 attorney who is not re-elected shall make and file the verified state-
10 ment and pay any balance of such moneys to the county treasurer within
11 thirty days after the expiration of his term.

12 § 7. The general municipal law is amended by adding a new section 6-v
13 to read as follows:

14 § 6-v. Asset forfeiture escrow fund. 1. As used in this section:

15 a. The term "governing board", insofar as it is used in reference to a
16 village, shall mean the board of trustees thereof; insofar as it is used
17 in reference to a town, shall mean the town board thereof; insofar as it
18 is used in reference to a county, shall mean the board of supervisors or
19 the county legislature thereof, as applicable; insofar as it is used in
20 reference to a city, shall mean the "legislative body" thereof, as that
21 term is defined in subdivision seven of section two of the municipal
22 home rule law.

23 b. The term "chief fiscal officer" shall mean:

24 (i) In the case of counties operating under (1) an alternative form of
25 county government or charter enacted as a state statute or adopted under
26 the alternative county government law or by local law, the official
27 designated in such statute, consolidated law or local law as the chief
28 fiscal officer, or, if no such designation is made therein, the official
29 possessing powers and duties similar to those of a county treasurer
30 under the county law as shall be designated by local law.

31 (2) In the case of counties not operating under an alternative form of
32 county government or charter enacted as a state statute or adopted under
33 the alternative county government law or by local law, the treasurer,
34 except that, in the case of counties having a comptroller, it shall mean
35 the comptroller.

36 (ii) In the case of cities, the comptroller; if a city does not have a
37 comptroller, the treasurer; if a city has neither a comptroller nor a
38 treasurer, such official possessing powers and duties similar to those
39 of a city treasurer as the finance board shall, by resolution, desig-
40 nate. A certified copy of such designation shall be filed with the state
41 comptroller and shall be a public record.

42 (iii) In the case of towns, the town supervisor; if a town has more
43 than one supervisor, the presiding supervisor.

44 (iv) In the case of villages, the village treasurer.

45 c. The term "claiming authority" shall mean the district attorney
46 having jurisdiction over the offense or the attorney general for purpose
47 of those crimes for which the attorney general has criminal jurisdiction
48 in a case where the underlying criminal charge has been, is being or
49 could have been brought by the attorney general, or the appropriate
50 corporation counsel or county attorney, where such corporation counsel
51 or county attorney may act as a claiming authority only with the consent
52 of the district attorney or the attorney general, as appropriate.

53 d. The term "claiming agent" shall mean and shall include all persons
54 described in subdivision thirty-four of section 1.20 of the criminal
55 procedure law, and sheriffs, undersheriffs and deputy sheriffs of coun-
56 ties within the city of New York.

1 2. The governing board shall authorize the establishment of an asset
2 forfeiture escrow fund for any claiming agent or claiming authority as
3 is deemed necessary for the monies and proceeds of sale of property
4 realized as a consequence of any forfeiture. The separate identity of
5 such fund shall be maintained.

6 3. There shall be paid into the asset forfeiture escrow fund all
7 proceeds realized as a consequence of any forfeiture action. Such funds
8 shall include, but are not limited to, all funds and any property (real,
9 personal, tangible and/or intangible) that are forfeited pursuant to
10 agreement or otherwise prior to, in lieu of or after the lodging of
11 criminal charges, pre-indictment, post-indictment, or after conviction
12 by plea or trial. Such funds shall also include funds that are forfeited
13 in compromise of charges that are never brought.

14 4. The monies and proceeds in the asset forfeiture escrow fund shall
15 be deposited and secured in the manner provided by section ten of this
16 article. All monies and proceeds so deposited in such fund shall be
17 kept in a separate bank account. The chief fiscal officer may invest the
18 moneys in such fund in the manner provided in section eleven of this
19 article. Any interest earned or capital gains realized on the moneys so
20 deposited or invested shall accrue to and become part of such fund. The
21 separate identity of such fund shall be maintained, whether its assets
22 consist of cash, investments, or both.

23 5. Every claim for the payment of money from the asset forfeiture
24 escrow fund shall specify the purpose of the requested payment and must
25 be accompanied by a written certification that the expenditure is in
26 compliance with all applicable laws. Payments from such fund shall be
27 made by the chief fiscal officer subject to the required certification
28 and the determination of fund sufficiency.

29 6. The chief fiscal officer, at the termination of each fiscal year,
30 shall render a detailed report of the operation and condition of the
31 asset forfeiture escrow fund to the governing board and the state comp-
32 troller. Such report shall be subject to examination and audit. The
33 chief fiscal officer may account for such fund separate and apart from
34 all other funds of the village, town, county, and city.

35 § 8. Section 1352 of the civil practice law and rules, as added by
36 chapter 669 of the laws of 1984, is amended to read as follows:

37 § 1352. Preservation of other rights and remedies. The remedies
38 provided for in this article are not intended to substitute for or limit
39 or [~~supereede~~ supersede] the lawful authority of any public officer or
40 agency or other person to enforce any other right or remedy provided for
41 by law. The exercise of such lawful authority in the forfeiture of prop-
42 erty alleged to be the proceeds, substitute proceeds, instrumentality of
43 a crime or real property instrumentality of crime must include the
44 provision of a prompt opportunity to be heard for the owner of seized
45 property in order to ensure the legitimacy and the necessity of its
46 continued retention by law enforcement, as well as clear notice of dead-
47 lines for accomplishing the return of such property.

48 § 9. Subdivision 11 of section 1311 of the civil practice law and
49 rules is amended by adding a new paragraph (d) to read as follows:

50 (d) Any stipulation, settlement agreement, judgement, order or affida-
51 vit required to be given to the state division of criminal justice
52 services pursuant to this subdivision shall include the defendant's name
53 and such other demographic data as required by the state division of
54 criminal justice services.

1 § 10. Subdivision 6 of section 220.50 of the criminal procedure law,
2 as added by chapter 655 of the laws of 1990, is amended to read as
3 follows:

4 6. Where the defendant consents to a plea of guilty to the indictment,
5 or part of the indictment, or consents to be prosecuted by superior
6 court information as set forth in section 195.20 of this chapter, and if
7 the defendant and prosecutor agree that as a condition of the plea or
8 the superior court information certain property shall be forfeited by
9 the defendant, the description and present estimated monetary value of
10 the property shall be stated in court by the prosecutor at the time of
11 plea. Within thirty days of the acceptance of the plea or superior court
12 information by the court, the prosecutor shall send to the commissioner
13 of the division of criminal justice services a document containing the
14 name of the defendant, the description and present estimated monetary
15 value of the property, any other demographic data as required by the
16 division of criminal justice services and the date the plea or superior
17 court information was accepted. Any property forfeited by the defendant
18 as a condition to a plea of guilty to an indictment, or a part thereof,
19 or to a superior court information, shall be disposed of in accordance
20 with the provisions of section thirteen hundred forty-nine of the civil
21 practice law and rules.

22 § 11. Subdivision 4 of section 480.10 of the penal law, as added by
23 chapter 655 of the laws of 1990, is amended to read as follows:

24 4. The prosecutor shall promptly file a copy of the special forfeiture
25 information, including the terms thereof, with the state division of
26 criminal justice services and with the local agency responsible for
27 criminal justice planning. Failure to file such information shall not be
28 grounds for any relief under this chapter. The prosecutor shall also
29 report such demographic data as required by the state division of crimi-
30 nal justice services when filing a copy of the special forfeiture infor-
31 mation with the state division of criminal justice services.

32 § 12. This act shall take effect on the one hundred eightieth day
33 after it shall have become a law and shall apply to crimes which were
34 committed on or after such date.

35 PART QQ

36 Section 1. The family court act is amended by adding a new article 5-C
37 to read as follows:

38 ARTICLE 5-C

39 CHILD-PARENT SECURITY ACT

40 PART 1. General provisions (581-101 - 581-103)

41 2. Judgment of parentage (581-201 - 581-205)

42 3. Child of assisted reproduction (581-301 - 581-307)

43 4. Gestational agreement (581-401 - 581-411)

44 5. Payment to donors and gestational carriers (581-501 - 581-502)

45 6. Miscellaneous provisions (581-601 - 581-604)

46 PART 1

47 GENERAL PROVISIONS

48 Section 581-101. Short title.

49 581-102. Purpose.

50 581-103. Definitions.

51 § 581-101. Short title. This article shall be known and may be cited
52 as the "child-parent security act".

1 § 581-102. Purpose. The purpose of this article is to legally estab-
2 lish a child's relationship to his or her parents where the child is
3 conceived through collaborative reproduction.

4 § 581-103. Definitions. (a) "Assisted reproduction" means a method of
5 causing pregnancy other than sexual intercourse and includes but is not
6 limited to:

7 1. intrauterine or vaginal insemination;

8 2. donation of gametes;

9 3. donation of embryos;

10 4. in vitro fertilization and transfer of embryos; and

11 5. intracytoplasmic sperm injection.

12 (b) "Assisted reproductive technology" or "ART" is any medical or
13 scientific intervention, including, but not limited to, assisted reprod-
14 uction, provided for the purpose of achieving live birth that results
15 from assisted conception. Assisted conception means the formation of a
16 human embryo outside the body with the intent to produce a live birth.

17 (c) "Child" means a live born individual of any age whose parentage
18 may be determined under this act or other law.

19 (d) "Collaborative reproduction" involves artificial insemination with
20 donor sperm and any assisted reproduction in which an individual other
21 than the intended parent provides genetic material or agrees to act as a
22 gestational carrier. It can include, but is not limited to, (1) attempts
23 by the intended parent to create a child through means of a gestational
24 arrangement, with or without the involvement of a donor, and (2)
25 assisted reproduction involving a donor where a gestational carrier is
26 not used.

27 (e) "Compensation" means payment of any valuable consideration for
28 time, effort, pain and/or risk to health in excess of reasonable medical
29 and ancillary costs.

30 (f) "Donor" means an individual who produces gametes and provides them
31 to another person other than the individual's spouse for use in assisted
32 reproduction, whether or not for compensation, and who does not intend
33 to be a parent. Donor also includes an individual with dispositional
34 control of an embryo who provides it to another person for the purpose
35 of gestation and relinquishes all present and future parental and inher-
36 itance rights and obligations to a resulting child.

37 (g) "Embryo" means a cell or group of cells containing a diploid
38 complement of chromosomes or group of such cells, not a gamete or
39 gametes, that has the potential to develop into a live born human being
40 if transferred into the body of a woman under conditions in which
41 gestation may be reasonably expected to occur.

42 (h) "Embryo transfer" means all medical and laboratory procedures that
43 are necessary to effectuate the transfer of an embryo into the uterine
44 cavity.

45 (i) "Gamete" means a cell containing a haploid complement of DNA that
46 has the potential to form an embryo when combined with another gamete.
47 Sperm and eggs are gametes. A gamete may consist of nuclear DNA from one
48 human being combined with the cytoplasm, including cytoplasmic DNA, of
49 another human being.

50 (j) "Gestational agreement" is a contract between an intended parent
51 and a gestational carrier intended to result in a live birth where the
52 child will be the legal child of the intended parent.

53 (k) "Gestational carrier" means an adult person not an intended
54 parent, who enters into a gestational agreement to bear a child who will
55 be the legal child of the intended parent so long as she has not
56 provided the egg used to conceive the resulting child.

1 (l) "Gestational carrier arrangement" means the process by which a
2 gestational carrier attempts to carry and give birth to a child created
3 through assisted reproduction so long as the gestational carrier has not
4 provided the egg used to conceive the resulting child.

5 (m) "Health care practitioner" means an individual licensed or certi-
6 fied under title eight of the education law acting within his or her
7 scope of practice.

8 (n) "Intended parent" is an individual who manifests the intent as
9 provided in this act to be legally bound as the parent of a child
10 resulting from assisted reproduction or collaborative reproduction.

11 (o) "In vitro fertilization" means the formation of a human embryo
12 outside the human body.

13 (p) "Parent" means an individual who has established a parent-child
14 relationship under this act or other law and includes, but is not limit-
15 ed to: (1) a child's birth parent who is not a gestational carrier or
16 the spouse of the gestational carrier; (2) a child's genetic parent who
17 is not the donor; (3) an individual who has legally adopted the child;
18 (4) an individual who is a parent of the child pursuant to a legal
19 presumption; (5) an individual who is a parent of the child pursuant to
20 an acknowledgment or judgment of parentage pursuant to article two of
21 this act or other law; (6) an individual who is a parent of the child
22 pursuant to article three or four of this act.

23 (q) "Participant" means an individual who provides a biological or
24 genetic component of assisted reproduction, an intended parent, and the
25 spouse of an intended parent or gestational carrier. Gestation is a
26 biological component within the meaning of this definition.

27 (r) "Record" means information inscribed in a tangible medium or
28 stored in an electronic or other medium that is retrievable in perceiva-
29 ble form.

30 (s) "Retrieval" means the procurement of eggs or sperm from a gamete
31 provider.

32 (t) "Spouse" means an individual married to another, or who has a
33 legal relationship entered into under the laws of the United States or
34 of any state, local or foreign jurisdiction, which is substantially
35 equivalent to a marriage, including a civil union or domestic partner-
36 ship.

37 (u) "State" means a state of the United States, the District of Colum-
38 bia, Puerto Rico, the United States Virgin Islands, or any territory or
39 insular possession subject to the jurisdiction of the United States.

40 (v) "Transfer" means the placement of an embryo or gametes into the
41 body of a woman with the intent to achieve pregnancy and live birth.

42 PART 2

43 JUDGMENT OF PARENTAGE

44 Section 581-201. Judgment of parentage.

45 581-202. Proceeding for judgment of parentage of a child born
46 through assisted reproduction.

47 581-203. Proceeding for judgment of parentage of a child born
48 pursuant to a gestational carrier arrangement.

49 581-204. Judgment of parentage for intended parents who are
50 spouses.

51 581-205. Jurisdiction.

52 § 581-201. Judgment of parentage. (a) A civil proceeding may be main-
53 tained to adjudicate the parentage of a child under the circumstances
54 set forth in this article. This proceeding is governed by the civil
55 practice law and rules.

1 (b) A judgment of parentage may be issued prior to birth but shall not
2 become effective until the birth of the child.

3 (c) A judgment of parentage shall be issued by the court upon the
4 petition of (1) a child, or (2) a parent or a presumed parent, or (3) a
5 participant, or (4) the support/enforcement agency or other governmental
6 agency authorized by other law, or (5) a representative authorized by
7 law to act for an individual who would otherwise be entitled to maintain
8 a proceeding but who is deceased, incapacitated, or a minor, in order to
9 legally establish the child-parent relationship of either a child born
10 through assisted reproduction under part three of this article or a
11 child born pursuant to a gestational carrier arrangement under part four
12 of this article.

13 § 581-202. Proceeding for judgment of parentage of a child born
14 through assisted reproduction. (a) A proceeding for a judgment of
15 parentage may be commenced:

16 (1) if the intended parent resides in New York state, in the county
17 where the intended parent resides any time after pregnancy is achieved
18 or in the county where the child was born or resides; or

19 (2) if the intended parent and child do not reside in New York state,
20 up to ninety days after the birth of the child in the county where the
21 child was born.

22 (b) The petition for a judgment of parentage must be verified and
23 include the following:

24 (1) a statement that the intended parent has been a resident of the
25 state for at least ninety days or if the intended parent is not a New
26 York state resident, that the child was born in the state; and

27 (2) a statement from the gestating parent that the gestating parent
28 became pregnant as a result of the donation of the gamete or embryo and
29 a representation of non-access during the time of conception; and

30 (3) a statement that the non-gestating intended parent consented to
31 assisted reproduction pursuant to section 581-304 of this article; and
32 (4) proof of donor's donative intent.

33 (c) The following shall be deemed sufficient proof of a donor's dona-
34 tative intent for purposes of this section:

35 (1) in the case of an anonymous donor or where gametes or embryos have
36 previously been relinquished to a gamete or embryo storage facility, a
37 statement from the gamete or embryo storage facility with custody of the
38 gametes or embryos that the donor does not retain any parental or
39 proprietary interest in the gametes or embryos; or

40 (2) in the case of a donation from a known donor, a record from the
41 gamete or embryo donor acknowledging the donation and confirming that
42 the donor has no parental or proprietary interest in the gametes or
43 embryos. The record shall be signed by the gamete or embryo donor:

44 i. before a notary public, or

45 ii. before two witnesses who are not the intended parents, or

46 iii. before the health care provider, who supervised the donation.

47 (3) In the absence of a record pursuant to paragraph two of this
48 subdivision, notice shall be given to the donor at least twenty days
49 prior to the proceeding by delivery of a copy of the petition and
50 notice. Upon a showing to the court, by affidavit or otherwise, on or
51 before the date of the proceeding or within such further time as the
52 court may allow, that personal service cannot be effected at the donor's
53 last known address with reasonable effort, notice may be given, without
54 prior court order therefore, at least twenty days prior to the proceed-
55 ing by registered or certified mail directed to the donor's last known

1 address. Notice by publication shall not be required to be given to a
2 donor entitled to notice pursuant to the provisions of this section.

3 (4) Notwithstanding the above, where sperm is provided under the
4 supervision of a health care provider to someone other than the sperm
5 provider's intimate partner or spouse without a record of the sperm
6 provider's intent to parent, the sperm provider is presumed to be a
7 Donor and notice is not required.

8 (d) Where a petition for parentage demonstrates the consent of the
9 intended parent to assisted reproduction, the donative intent of the
10 gamete or embryo donor and that the pregnancy resulted from the
11 donation, the court shall issue a judgment of parentage:

12 (1) declaring, that upon the birth of the child, the intended parent
13 is the only legal parent of the child; and

14 (2) ordering the intended parent to assume sole responsibility for the
15 maintenance and support of the child immediately upon the birth of the
16 child; and

17 (3) ordering that upon the birth of the child, a copy of the judgment
18 of parentage be served on the (i) department of health or New York city
19 department of mental health and hygiene, or (ii) registrar of births in
20 the hospital where the child is born and directing that the hospital
21 report the parentage of the child to the appropriate department of
22 health in conformity with the court order. If an original birth certif-
23 icate has already issued, the court shall issue an order directing the
24 appropriate department of health to amend the birth certificate in an
25 expedited manner and seal the previously issued birth certificate.

26 § 581-203. Proceeding for judgment of parentage of a child born pursu-
27 ant to a gestational carrier arrangement. (a) The proceeding may be
28 commenced at any time after the gestational agreement has been executed
29 by all of the parties. Any party to the gestational agreement not join-
30 ing in the petition must be served with notice of the proceeding. Fail-
31 ure to respond to the notice shall be considered a default and no
32 further notice shall be required.

33 (b) The petition for a judgment of parentage must be verified and
34 include the following:

35 (1) A statement that the gestational carrier or the intended parent
36 has been a resident of the state for at least ninety days at the time
37 the gestational agreement was executed; and

38 (2) A certification from the attorneys representing the petitioners
39 that the parties are eligible to participate in the gestational carrier
40 arrangement as required by section 581-404 of this article and that the
41 gestational agreement contains the required terms under section 581-405
42 of this article; and

43 (3) A statement that the parties entered into the gestational agree-
44 ment knowingly and voluntarily.

45 (c) Where a petition satisfies subdivision (b) of this section, the
46 court shall issue a judgment of parentage, without additional
47 proceedings or documentation:

48 (1) Declaring, that upon the birth of a child born during the term of
49 the gestational agreement, the intended parent is the legal parent of
50 the child; and

51 (2) Declaring, that upon the birth of a child born during the term of
52 the gestational agreement, the gestational carrier, and the gestational
53 carrier's spouse, if any, is not the legal parent of the child; and

54 (3) Ordering the gestational carrier and the gestational carrier's
55 spouse, if any, to transfer the child to the intended parent if this has
56 not already occurred; and

1 (4) Ordering the intended parent to assume sole responsibility for the
2 maintenance and support of the child immediately upon the birth of the
3 child; and

4 (5) Ordering that when the child is born, a copy of the judgment of
5 parentage be served on the (i) department of health or New York city
6 department of mental health and hygiene, or (ii) registrar of births in
7 the hospital where the child is born and directing that the hospital
8 report the parentage of the child to the appropriate department of
9 health in conformity with the court order. If an original birth certif-
10 icate has already issued, the court shall issue an order directing the
11 appropriate department of health to amend the birth certificate in an
12 expedited manner and seal the previously issued birth certificate.

13 (d) In the event the certification required by paragraph two of subdi-
14 vision (b) of this section cannot be made because of a technical or
15 non-substantial deviation from the requirements of sections 581-404 or
16 581-405 of this article; the court may nevertheless enforce the agree-
17 ment and issue an order of parentage if the court determines the agree-
18 ment is in substantial compliance with the requirements of sections
19 581-404 and 581-405 of this article.

20 (e) The agreement of the intended parent to pay reasonable compen-
21 sation to the gestational carrier in excess of reasonable medical and
22 ancillary costs shall not be a bar to the issuance of a judgment of
23 parentage.

24 § 581-204. Judgment of parentage for intended parents who are spouses.
25 Notwithstanding or without limitation on presumptions of parentage that
26 apply, a judgment of parentage may be obtained under this part by
27 intended parents who are each other's spouse.

28 § 581-205. Jurisdiction. Proceedings pursuant to this article may be
29 instituted in the supreme, family or surrogate's court.

30 PART 3

31 CHILD OF ASSISTED REPRODUCTION

32 Section 581-301. Scope of article.

33 581-302. Status of donor.

34 581-303. Parentage of child of assisted reproduction.

35 581-304. Consent to assisted reproduction.

36 581-305. Limitation on spouses' dispute of parentage of child of
37 assisted reproduction.

38 581-306. Effect of embryo disposition agreement between intended
39 parents which transfers custody and control to one
40 intended parent.

41 581-307. Effect of death of intended parent.

42 § 581-301. Scope of article. This article does not apply to the birth
43 of a child conceived by means of sexual intercourse.

44 § 581-302. Status of donor. A donor is not a parent of a child
45 conceived by means of assisted reproduction.

46 § 581-303. Parentage of child of assisted reproduction. (a) An indi-
47 vidual who provides gametes for assisted reproduction with the intent to
48 be a parent of the child and consents to assisted reproduction with the
49 consent of the gestating parent as provided in section 581-304 of this
50 part, is a parent of the resulting child for all legal purposes.

51 (b) Upon application by any participant, the court shall issue a judg-
52 ment of parentage to any participant who is a parent pursuant to this
53 act.

54 § 581-304. Consent to assisted reproduction. (a) Where the intended
55 parent who gives birth to a child by means of assisted reproduction is a

1 spouse, the consent of both spouses to the assisted reproduction is
2 presumed and neither spouse may challenge the parentage of the child,
3 except as provided in section 581-305 of this part.

4 (b) Where the intended parent who gives birth to a child by means of
5 assisted reproduction is not a spouse, the consent to the assisted
6 reproduction must be in a record in such a manner as to indicate the
7 mutual agreement of the intended parents to conceive and parent a child
8 together.

9 (c) The absence of a record described in subdivision (b) of this
10 section shall not preclude a finding that such consent existed if the
11 court finds by clear and convincing evidence that at the time of the
12 assisted reproduction the intended parents agreed to conceive and parent
13 the child together.

14 § 581-305. Limitation on spouses' dispute of parentage of child of
15 assisted reproduction. (a) Except as otherwise provided in subdivision
16 (b) of this section, neither spouse may challenge the presumption of
17 parentage of the child unless:

18 (1) Within two years after learning of the birth of the child a
19 proceeding is commenced to adjudicate parentage; and

20 (2) The court finds by clear and convincing evidence that either
21 spouse did not consent for the non-gestating spouse to be a parent of
22 the child.

23 (b) A proceeding for a judgment of parentage may be maintained at any
24 time if the court finds by clear and convincing evidence that:

25 (1) The spouse did not consent to assisted reproduction by the indi-
26 vidual who gave birth; and

27 (2) The spouse and the individual who gave birth have not cohabited
28 since the spouse knew or had reason to know of the pregnancy; and

29 (3) The spouse never openly held out the child as his or her own.

30 (c) The limitation provided in this section applies to a spousal
31 relationship that has been declared invalid after assisted reproduction
32 or artificial insemination.

33 § 581-306. Effect of embryo disposition agreement between intended
34 parents which transfers custody and control to one intended parent. (a)
35 An embryo disposition agreement between intended parents with joint
36 custody and control of an embryo shall be binding under the following
37 circumstances:

38 (1) it is in writing;

39 (2) each intended parent had the advice of counsel prior to its
40 execution; and

41 (3) where the intended parents are married, transfer of custody and
42 control occurs only upon divorce.

43 (b) The intended parent who transfers custody and control of the
44 embryo is not a parent of any child born from the embryo unless the
45 agreement states that he or she consents to be a parent.

46 (c) If the intended parent transferring custody and control consents
47 to be a parent, he or she may withdraw his or her consent to be a parent
48 upon notice to the embryo storage facility and to the other intended
49 parent prior to transfer of the embryo. If he or she timely withdraws
50 consent to parent he or she is not a parent for any purpose including
51 support obligations but the embryo transfer may still proceed.

52 (d) An embryo disposition agreement or advance directive that is not
53 in compliance with subdivision (a) of this section may still be found to
54 be enforceable by the court after balancing the respective interests of
55 the parties except that under no circumstances may the intended parent
56 who divested him or herself of custody and control be declared to be a

1 parent for any purpose without his or her consent. The parent awarded
2 custody and control of the embryos shall, in this instance, be declared
3 to be the only parent of the child.

4 § 581-307. Effect of death of intended parent. If an individual who
5 consented in a record to be a parent by assisted reproduction dies
6 before the transfer of eggs, sperm, or embryos, the deceased individual
7 is not a parent of the resulting child unless the deceased individual
8 consented in a signed record that if assisted reproduction were to occur
9 after death, the deceased individual would be a parent of the child,
10 provided that the record complies with the estates, powers and trusts
11 law.

12 PART 4

13 GESTATIONAL AGREEMENT

14 Section 581-401. Gestational agreement authorized.

15 581-404. Eligibility.

16 581-405. Requirements of gestational agreement.

17 581-406. Termination of gestational agreement.

18 581-407. Gestational agreement: effect of subsequent spousal
19 relationship.

20 581-408. Failure to obtain a judgment of parentage.

21 581-409. Dispute as to gestational agreement.

22 581-410. Inspection of records.

23 581-411. Exclusive, continuing jurisdiction.

24 § 581-401. Gestational agreement authorized. (a) If eligible under
25 this article to enter into a gestational agreement, a gestational carri-
26 er, the gestational carrier's spouse if applicable, and the intended
27 parent may enter into a gestational agreement which will be enforceable
28 provided the gestational agreement meets the requirements of this arti-
29 cle.

30 (b) A gestational agreement shall not apply to the birth of a child
31 conceived by means of sexual intercourse.

32 (c) A gestational agreement may provide for payment of compensation
33 under part five of this article.

34 (d) A gestational agreement may not limit the right of the gestational
35 carrier to make decisions to safeguard the gestational carrier's health
36 or that of any fetus or embryo the gestational carrier is carrying.

37 (e) A gestational agreement may not limit the right of the gestational
38 carrier to terminate the pregnancy or reduce the number of fetuses or
39 embryos the gestational carrier is carrying.

40 § 581-404. Eligibility. (a) A gestational carrier shall be eligible
41 to enter into an enforceable gestational agreement under this article if
42 the gestational carrier has met the following requirements at the time
43 the gestational agreement is executed:

44 (1) The gestational carrier is at least twenty-one years of age; and

45 (2) The gestational carrier has not provided the egg used to conceive
46 the resulting child; and

47 (3) The gestational carrier has completed a medical evaluation with a
48 health care practitioner relating to the anticipated pregnancy; and

49 (4) The gestational carrier, and the gestational carrier's spouse if
50 applicable have undergone legal consultation with independent legal
51 counsel of their own choosing which may be paid for by the intended
52 parent regarding the terms of the gestational agreement and the poten-
53 tial legal consequences of the gestational carrier arrangement; and

54 (5) The gestational carrier has, or the gestational agreement stipu-
55 lates that prior to the embryo transfer, the gestational carrier will

1 obtain, a health insurance policy that covers major medical treatments
2 and hospitalization, and the health insurance policy has a term that
3 extends throughout the duration of the expected pregnancy and for eight
4 weeks after the birth of the child; the policy may be procured and paid
5 for by the intended parents on behalf of the gestational carrier pursu-
6 ant to the gestational agreement.

7 (b) The intended parent shall be eligible to enter into an enforceable
8 gestational agreement under this article if he, she, or they have met
9 the following requirements at the time the gestational agreement was
10 executed:

11 (1) He, she, or they have undergone legal consultation with independ-
12 ent legal counsel regarding the terms of the gestational agreement and
13 the potential legal consequences of the gestational carrier arrangement;
14 and

15 (2) He or she is an adult person who is not in a spousal relationship,
16 or adult spouses together, or any two adults who are intimate partners
17 together, except the spouse of the intended parent is not required to be
18 a party to the gestational agreement and shall not have parental rights
19 or obligations to the child where the intended parent and his or her
20 spouse:

21 (i) are living separate and apart pursuant to a decree or judgment of
22 separation or pursuant to a written agreement of separation subscribed
23 by the parties thereto and acknowledged or proved in the form required
24 to entitle a deed to be recorded; or

25 (ii) have been living separate and apart for at least three years
26 prior to execution of the gestational agreement.

27 § 581-405. Requirements of gestational agreement. (a) A gestational
28 agreement shall be deemed to have satisfied the requirements of this
29 article and be enforceable if it meets the following requirements:

30 (1) It shall be in a signed record verified by:

31 i. the intended parents, and

32 ii. the gestational carrier, and the gestational carrier's spouse,
33 unless;

34 A. the gestational carrier and the gestational carrier's spouse are
35 living separate and apart pursuant to a decree or judgment of separation
36 or pursuant to a written agreement of separation subscribed by the
37 parties thereto and acknowledged or proved in the form required to enti-
38 tle a deed to be recorded; or

39 B. have been living separate and apart for at least three years prior
40 to execution of the gestational agreement; and

41 (2) It shall be executed prior to the embryo transfer; and

42 (3) It shall be executed by a gestational carrier meeting the eligi-
43 bility requirements of subdivision (a) of section 581-404 of this part
44 and by the gestational carrier's spouse, unless the gestational carri-
45 er's spouse's signature is not required as set forth in this section;
46 and

47 (4) It shall be executed by intended parents meeting the eligibility
48 requirements of subdivision (b) of section 581-404 of this part; and

49 (5) The gestational carrier and the gestational carrier's spouse if
50 applicable and the intended parents shall have been represented by sepa-
51 rate, independent counsel in all matters concerning the gestational
52 agreement; and

53 (6) If the gestational agreement provides for the payment of compen-
54 sation to the gestational carrier, the compensation shall have been
55 placed in escrow with an independent escrow agent prior to the gesta-
56 tional carrier's commencement of any medical procedure other than

1 medical evaluations necessary to determine the gestational carrier's
2 eligibility; and

3 (7) The agreement must include information disclosing how the intended
4 parents will cover the medical expenses of the surrogate and the child.
5 If health care coverage is used to cover the medical expenses, the
6 disclosure shall include a review of the health care policy provisions
7 related to coverage for surrogate pregnancy, including any possible
8 liability of the surrogate, third-party liability liens or other insur-
9 ance coverage, and any notice requirements that could affect coverage or
10 liability of the surrogate.

11 (8) The gestational agreement must include the following terms:

12 (i) As to the gestational carrier and the gestational carrier's
13 spouse, if any:

14 (A) the agreement of the gestational carrier to undergo embryo trans-
15 fer and attempt to carry and give birth to the child; and

16 (B) the agreement of the gestational carrier and the gestational
17 carrier's spouse, if any, to surrender custody of all resulting children
18 to the intended parent immediately upon the birth; and

19 (C) the right of the gestational carrier to utilize the services of a
20 health care practitioner of the gestational carrier's choosing, to
21 provide her care during the pregnancy; and

22 (ii) As to the intended parent:

23 (A) the agreement to accept custody of all resulting children imme-
24 diately upon birth regardless of number, gender, or mental or physical
25 condition; and

26 (B) the agreement to assume sole responsibility for the support of the
27 child immediately upon the child's birth; and

28 (C) the agreement that the rights and obligations of the intended
29 parent under the gestational agreement are not assignable.

30 § 581-406. Termination of gestational agreement. After the execution
31 of a gestational agreement but before the gestational carrier becomes
32 pregnant by means of assisted reproduction, the gestational carrier, the
33 gestational carrier's spouse, if any, or any intended parent may termi-
34 nate the gestational agreement by giving notice of termination in a
35 record to all other parties. Upon proper termination of the gestational
36 agreement the parties are released from all obligations recited in the
37 agreement except that the intended parent remains responsible for all
38 expenses that are reimbursable under the agreement which have been
39 incurred by the gestational carrier through the date of termination.
40 Unless the agreement provides otherwise, the gestational carrier is
41 entitled to keep all payments she has received and obtain all payments
42 to which the gestational carrier is entitled. Neither a prospective
43 gestational carrier nor the gestational carrier's spouse, if any, is
44 liable to the intended parent for terminating a gestational agreement as
45 provided in this section.

46 § 581-407. Gestational agreement: effect of subsequent spousal
47 relationship. After the execution of a gestational agreement under this
48 article, the subsequent spousal relationship of the gestational carrier
49 does not affect the validity of a gestational agreement, the gestational
50 carrier's spouse's consent to the agreement shall not be required, and
51 the gestational carrier's spouse shall not be the presumed parent of the
52 resulting child.

53 § 581-408. Failure to obtain a judgment of parentage. Where an
54 intended parent or the gestational carrier fails to obtain a judgment of
55 parentage pursuant to section 581-203 of this article, either because
56 the gestational agreement does not meet the requirements of this article

1 or there was no gestational agreement, the parentage of a child will be
2 determined based on the best interests of the child taking into account
3 genetics and the intent of the parties. An intended parent's absence of
4 genetic connection to the child is not a sufficient basis to deny that
5 individual a judgment of legal parentage.

6 § 581-409. Dispute as to gestational agreement. (a) Any dispute which
7 is related to a gestational agreement other than disputes as to parent-
8 age shall be resolved by the supreme court, which shall determine the
9 respective rights and obligations of the parties. If a gestational
10 agreement does not meet the requirements of this article, except as set
11 forth in subdivision (d) of section 581-203 of part two of this article
12 the agreement is not enforceable.

13 (b) Except as expressly provided in the gestational agreement, the
14 intended parent and the gestational carrier shall be entitled to all
15 remedies available at law or equity in any dispute related to the gesta-
16 tional agreement.

17 (c) There shall be no specific performance remedy available for a
18 breach by the gestational carrier of a gestational agreement term that
19 requires the gestational carrier to be impregnated or to terminate the
20 pregnancy or to reduce the number of fetuses or embryos the gestational
21 carrier is carrying.

22 § 581-410. Inspection of records. The proceedings, records, and iden-
23 tities of the individual parties to a gestational agreement under this
24 article shall be sealed except upon the petition of the parties to the
25 gestational agreement or the child born as a result of the gestational
26 carrier arrangement.

27 § 581-411. Exclusive, continuing jurisdiction. Subject to the juris-
28 ditional standards of section seventy-six of the domestic relations
29 law, the court conducting a proceeding under this article has exclusive,
30 continuing jurisdiction of all matters arising out of the gestational
31 agreement until a child born to the gestational carrier during the peri-
32 od governed by the agreement attains the age of one hundred eighty days.

33 PART 5

34 PAYMENT TO DONORS AND GESTATIONAL CARRIERS

35 Section 581-501. Reimbursement.

36 581-502. Compensation.

37 § 581-501. Reimbursement. (a) A donor who has entered into a valid
38 agreement to be a donor, may receive reimbursement from an intended
39 parent for economic losses incurred in connection with the donation
40 which result from the retrieval or storage of gametes or embryos.

41 (b) Premiums paid for insurance against economic losses directly
42 resulting from the retrieval or storage of gametes or embryos for
43 donation may be reimbursed.

44 § 581-502. Compensation. (a) Compensation may be paid to a donor or
45 gestational carrier based on services rendered, expenses and or medical
46 risks that have been or will be incurred, time, and inconvenience. Under
47 no circumstances may compensation be paid to purchase gametes or embryos
48 or to pay for the relinquishment of a parental interest in a child.

49 (b) The compensation, if any, paid to a donor or gestational carrier
50 must be reasonable and negotiated in good faith between the parties, and
51 said payments to a gestational carrier shall not exceed the duration of
52 the pregnancy and recuperative period of up to eight weeks after the
53 birth of the child.

54 (c) Compensation may not be conditioned upon the purported quality or
55 genome-related traits of the gametes or embryos.

1 (d) Compensation may not be conditioned on actual genotypic or pheno-
2 typic characteristics of the donor or of the child.

3 PART 6

4 MISCELLANEOUS PROVISIONS

5 Section 581-601. Remedial.

6 581-602. Severability.

7 581-603. Parent under section seventy of the domestic relations
8 law.

9 581-604. Interpretation.

10 § 581-601. Remedial. This legislation is hereby declared to be a
11 remedial statute and is to be construed liberally to secure the benefi-
12 cial interests and purposes thereof for the best interests of the child.

13 § 581-602. Severability. The invalidation of any part of this legis-
14 lation by a court of competent jurisdiction shall not result in the
15 invalidation of any other part.

16 § 581-603. Parent under section seventy of the domestic relations law.
17 The term "parent" in section seventy of the domestic relations law shall
18 include a person established to be a parent under this article or any
19 other relevant law.

20 § 581-604. Interpretation. Unless the context indicates otherwise,
21 words importing the singular include and apply to several persons,
22 parties, or things; words importing the plural include the singular.

23 § 2. Section 73 of the domestic relations law is REPEALED.

24 § 3. Article 8 of the domestic relations law is REPEALED.

25 § 4. This act shall take effect on the one hundred twentieth day after
26 it shall have become a law. Effective immediately, the addition, amend-
27 ment and/or repeal of any rule or regulation necessary for the implemen-
28 tation of this act on its effective date are authorized to be made on or
29 before such date.

30 PART RR

31 Section 1. The executive law is amended by adding a new section 63-e
32 to read as follows:

33 § 63-e. Office of special investigation. There is established within
34 the department of law an office of special investigation. Notwithstand-
35 ing any other provision of this article, the office shall investigate
36 any case in which the death of an unarmed civilian is caused by a police
37 officer during the performance of his or her duties. Proceedings of the
38 office under this section shall be conducted by the deputy attorney
39 general for special investigation, who may appear in person or by his or
40 her deputy or assistant before any court or grand jury and exercise all
41 of the powers and perform all of the duties with respect to such actions
42 or proceedings which the district attorney would otherwise be authorized
43 or required to exercise or perform. Where an investigation required
44 under this section involves the state police, the attorney general shall
45 appoint an independent special prosecutor to conduct such investigation.
46 In all proceedings of the office under this section, all expenses
47 incurred by the attorney general, including the salary or other compen-
48 sation of all deputies employed, shall be charged as provided for under
49 subdivision two of section sixty-three of this article.

50 § 2. The executive law is amended by adding a new section 837-t to
51 read as follows:

52 § 837-t. Use of force reporting. The chief of every police department,
53 each county sheriff, and the superintendent of state police shall

1 report, to the division in a form and manner as defined by the division,
 2 any incident where a police officer, as defined in subdivision thirty-
 3 four of section 1.20 of the criminal procedure law or a peace officer as
 4 defined in section 2.10 of the criminal procedure law, discharges a
 5 firearm in the direction of another person, or where his or her action
 6 results in the death or serious bodily injury of another person. Serious
 7 bodily injury is defined as bodily injury that involves a substantial
 8 risk of death, unconsciousness, protracted and obvious disfigurement, or
 9 protracted loss of impairment of the function of a bodily member, organ
 10 or mental faculty.

11 § 3. Subdivision 4 of section 840 of the executive law is amended by
 12 adding a new paragraph (d) to read as follows:

13 (d) Establish a model law enforcement use of force policy suitable for
 14 adoption by any law enforcement agency throughout the state. The use of
 15 force policy shall include, but not be limited to, information on
 16 current law as it relates to use of force and acts or techniques a
 17 police officer or peace officer may not use in the course of acting in
 18 his or her official capacity. The chief of every local police depart-
 19 ment, each county sheriff, and the superintendent of state police shall
 20 implement a use of force policy. The use of force policy should be
 21 consistent with the model law enforcement policy as required by this
 22 section except that a department shall not be limited from imposing
 23 further restrictions on the use of force.

24 § 4. This act shall take effect immediately.

25 § 2. Severability clause. If any clause, sentence, paragraph, subdivi-
 26 sion, section or part of this act shall be adjudged by any court of
 27 competent jurisdiction to be invalid, such judgment shall not affect,
 28 impair, or invalidate the remainder thereof, but shall be confined in
 29 its operation to the clause, sentence, paragraph, subdivision, section
 30 or part thereof directly involved in the controversy in which such judg-
 31 ment shall have been rendered. It is hereby declared to be the intent of
 32 the legislature that this act would have been enacted even if such
 33 invalid provisions had not been included herein.

34 § 3. This act shall take effect immediately provided, however, that
 35 the applicable effective date of Parts A through RR of this act shall be
 36 as specifically set forth in the last section of such Parts.