STATE OF NEW YORK

3332

2021-2022 Regular Sessions

IN SENATE

January 28, 2021

Introduced by Sen. RIVERA -- read twice and ordered printed, and when printed to be committed to the Committee on Crime Victims, Crime and Correction

AN ACT to amend the civil service law, the election law, the executive law, the public officers law, the state finance law, the tax law, the workers' compensation law, the labor law, the transportation law, the vehicle and traffic law, the environmental conservation law, the public buildings law, the public health law, the general municipal law, the county law, the education law, the mental hygiene law, the retirement and social security law, the social services law, the general business law, the penal law, the correction law, the criminal procedure law, the surrogate's court procedure act, the New York city criminal court act, the court of claims act, the civil practice law and rules, the civil rights law, chapter 784 of the laws of 1951, constituting the New York state defense emergency act, the administrative code of the city of New York, and the New York city charter, in relation to replacing all instances of the words inmate or inmates with the words incarcerated individual or incarcerated individuals

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

Section 1. Subdivision 1 of section 136 of the civil service law, as amended by section 62 of subpart B of part C of chapter 62 of the laws of 2011, is amended to read as follows:

1. The term "teacher", for purposes of this section, means any employee of a state facility or institution in the office of children and family services in the executive department and in the departments of corrections and community supervision, health, mental hygiene and social services holding a position the principal duty of which is the teaching or instruction of patients or [~~inmates~~] **incarcerated individuals**, or the direct supervision of such teaching or instruction, including an insti-

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

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tution education director, as determined by the department of civil service subject to approval of the director of the budget.

§ 2. Subdivision 1 of section 3-107 of the election law is amended to read as follows:

1. Visit and inspect any house, dwelling, building, inn, lodginghouse, boarding-house, rooming-house, or hotel and interrogate any [~~inmate~~] **incarcerated individual**, house-dweller, keeper, caretaker, owner, proprietor or landlord thereof or therein, as to any person or persons residing or claiming to reside therein or thereat.

§ 3. Subdivision 13 of section 5-210 of the election law, as amended by chapter 179 of the laws of 2005, is amended to read as follows:

13. An affidavit or a signed statement by any officer or employee of the state or county board of elections or any police officer, sheriff or deputy sheriff, that such person visited the premises claimed by the applicant as his or her residence and interrogated an [~~inmate~~] **incarcerated individual**, house-dweller, keeper, caretaker, owner, proprietor or landlord thereof or therein as to such applicant's residence therein or thereat, and that he or she was informed by one or more such persons, naming them, that they knew the persons residing upon such premises and that the applicant did not reside upon such premises as set forth in his or her application, shall be sufficient authority for a determination by the board that the applicant is not entitled to registration or enrollment; but this provision shall not preclude the board from making such other determination, as the result of other inquiry, as it may deem appropriate.

§ 4. Paragraph (c) of subdivision 1 and subparagraph (iii) of paragraph (c) of subdivision 4 of section 15-120 of the election law, as added by chapter 289 of the laws of 2014, are amended to read as follows:

(c) an [~~inmate~~] **incarcerated individual** or patient of a veteran's administration hospital; or

(iii) an [~~inmate~~] **incarcerated individual** or patient of a veteran's administration hospital; or

§ 5. Subdivision 5 of section 16-108 of the election law is amended to read as follows:

5. An affidavit by any officer or employee of the board of elections, or by any police officer, sheriff or deputy sheriff, or by any special investigator appointed by the state board of elections, that he **or she** visited the premises claimed by the applicant as his **or her** residence and that he interrogated an [~~inmate~~] **incarcerated individual**, housedweller, keeper, caretaker, owner, proprietor or landlord thereof or therein as to the applicant's residence therein or thereat, and that he **or she** was informed by one or more of such persons, naming them, that they knew the persons residing upon such premises and that the applicant did not reside upon such premises thirty days before the election, shall be presumptive evidence against the right of the voter to register from such premises.

§ 6. Subdivision 6 of section 24 of the executive law, as added by chapter 640 of the laws of 1978, is amended to read as follows:

6. Whenever a local state of emergency is declared by the chief executive of a local government pursuant to this section, the chief executive of the county in which such local state of emergency is declared, or where a county is wholly contained within a city, the mayor of such city, may request the governor to remove all or any number of sentenced [~~inmates~~] **incarcerated individuals** from institutions maintained by such county in accordance with section ninety-three of the correction law.

§ 7. Subdivision 4 of section 221-a of the executive law, as amended by chapter 368 of the laws of 2013, is amended to read as follows:

4. Courts and law enforcement officials, including probation officers, and employees of local correctional facilities and the department of corrections and community supervision who are responsible for monitoring, supervising or classification of [~~inmates~~] **incarcerated individuals** or parolees shall have the ability to disclose and share information with respect to such orders and warrants consistent with the purposes of this section, subject to applicable provisions of the family court act, domestic relations law and criminal procedure law concerning the confidentiality, sealing and expungement of records.

§ 8. Subdivisions 1, 3, 4, 5, 8, 12 and 16 of section 259-c of the executive law, as amended by section 38-b of subpart A of part C of chapter 62 of the laws of 2011, are amended to read as follows:

1. have the power and duty of determining which [~~inmates~~] **incarcerated individuals** serving an indeterminate or determinate sentence of imprisonment may be released on parole, or on medical parole pursuant to section two hundred fifty-nine-r or section two hundred fifty-nine-s of this article, and when and under what conditions;

3. determine, as each [~~inmate~~] **incarcerated individual** is received by the department, the need for further investigation of the background of such [~~inmate~~] **incarcerated individual**. Upon such determination, the department shall cause such investigation as may be necessary to be made as soon as practicable, the results of such investigation together with all other information compiled by the department and the complete criminal record and family court record of such [~~inmate~~] **incarcerated individual** to be filed so as to be readily available when the parole of such [~~inmate~~] **incarcerated individual** is being considered;

4. establish written procedures for its use in making parole decisions as required by law. Such written procedures shall incorporate risk and needs principles to measure the rehabilitation of persons appearing before the board, the likelihood of success of such persons upon release, and assist members of the state board of parole in determining which [~~inmates~~] **incarcerated individuals** may be released to parole supervision;

5. through its members, officers and employees, study or cause to be studied the [~~inmates~~] **incarcerated individuals** confined in institutions over which the board has jurisdiction, so as to determine their ultimate fitness to be paroled;

8. have the power and perform the duty, when requested by the governor, of reporting to the governor the facts, circumstances, criminal records and social, physical, mental and psychiatric conditions and histories of [~~inmates~~] **incarcerated individuals** under consideration by the governor for pardon or commutation of sentence and of applicants for restoration of the rights of citizenship;

12. to facilitate the supervision of all [~~inmates~~] **incarcerated individuals** released on community supervision the chairman of the state board of parole shall consider the implementation of a program of graduated sanctions, including but not limited to the utilization of a risk and needs assessment instrument that would be administered to all [~~inmates~~] **incarcerated individuals** eligible for parole supervision. Such a program would include various components including the use of alternatives to incarceration for technical parole violations;

16. determine which [~~inmates~~] **incarcerated individuals** serving a definite sentence of imprisonment may be conditionally released from an

institution in which he or she is confined in accordance with subdivision two of section 70.40 of the penal law.

§ 8-a. Subdivision 1 of section 259-c of the executive law, as amended by chapter 55 of the laws of 1992, is amended to read as follows:

1. have the power and duty of determining which [~~inmates~~] **incarcerated individuals** serving an indeterminate sentence of imprisonment may be released on parole, or on medical parole pursuant to section two hundred fifty-nine-r of this article, and when and under what conditions;

§ 8-b. Subdivision 2 of section 259-c of the executive law, as added by chapter 904 of the laws of 1977 and amended by chapter 1 of the laws of 1998, is amended to read as follows:

2. have the power and duty of determining the conditions of release of the person who may be conditionally released or subject to a period of post-release supervision under an indeterminate or reformatory sentence of imprisonment and of determining which [~~inmates~~] **incarcerated individuals** serving a definite sentence of imprisonment may be conditionally released and when and under what conditions;

§ 9. Section 259-e of the executive law, as amended by chapter 473 of the laws of 2016, is amended to read as follows:

§ 259-e. Institutional parole services. The department shall provide institutional parole services. Such services shall include preparation of reports and other data required by the state board of parole in the exercise of its functions with respect to release on presumptive release, parole, conditional release or post-release supervision of [~~inmates~~] **incarcerated individuals**. Additionally, the department shall determine which [~~inmates~~] **incarcerated individuals** are in need of a deaf language interpreter or an English language interpreter, and shall inform the board of such need within a reasonable period of time prior to an [~~inmate's~~] **incarcerated individual's** scheduled appearance before the board. Employees of the department who collect data, interview [~~inmates~~] **incarcerated individuals** and prepare reports for the state board of parole in institutions under the jurisdiction of the department shall work under the direct supervision of the deputy commissioner of the department in charge of program services. Data and reports submitted to the board shall address the statutory factors to be considered by the board pursuant to the relevant provisions of section two hundred fifty-nine-i of this article.

§ 10. The section heading and subdivisions 4 and 5 of section 259-h of the executive law, as added by chapter 904 of the laws of 1977, are amended to read as follows:

Parole eligibility for certain [~~inmates~~] **incarcerated individuals** sentenced for crimes committed prior to September first, nineteen hundred sixty-seven.

4. In calculating time required to be served prior to eligibility for parole under the minimum periods of imprisonment established by this section the following rules shall apply:

(a) Service of such time shall be deemed to have commenced on the day the [~~inmate~~] **incarcerated individual** was received in an institution under the jurisdiction of the department pursuant to the sentence;

(b) Where an [~~inmate~~] **incarcerated individual** is under more than one sentence, (i) if the sentences run concurrently, the time served under imprisonment on any of the sentences shall be credited against the minimum periods of all the concurrent sentences, and (ii) if the sentences run consecutively, the minimum periods of imprisonment shall merge in and be satisfied by service of the period that has the longest unexpired time to run;

(c) No credit shall be allowed for "good conduct and efficient and willing performance of duties," under former section two hundred thirty of the correction law, repealed by chapter four hundred seventy-six of the laws of nineteen hundred seventy and continued in effect as to certain [~~inmates~~] **incarcerated individuals**, or under any other provision of law;

(d) Calculations with respect to "jail time" "time served under vacated sentence" and interruption for "escape" shall be in accordance with the provisions of subdivisions three, five and six of section 70.30 of the penal law as enacted by chapter ten hundred thirty of the laws of nineteen hundred sixty-five, as amended.

5. The provisions of this section shall not be construed as diminishing the discretionary authority of the board of parole to determine whether or not an [~~inmate~~] **incarcerated individual** is to be paroled.

§ 11. Paragraphs (a), (c), (d) and (e) of subdivision 2, paragraph (d) of subdivision 3, paragraph (b) of subdivision 4 and paragraph (a) of subdivision 6 of section 259-i of the executive law, paragraphs (a) and (d) of subdivision 2 as amended by section 38-f-1 of subpart A of part C of chapter 62 of the laws of 2011, paragraph (c) of subdivision 2 as separately amended by chapters 40 and 126 of the laws of 1999, subparagraph (A) of paragraph (c) of subdivision 2 as amended by chapter 130 of the laws of 2016, paragraph (e) of subdivision 2 as amended by chapter 120 of the laws of 2017, paragraph (d) of subdivision 3 as amended by section 11 of part E of chapter 62 of the laws of 2003, paragraph (b) of subdivision 4 as added by chapter 904 of the laws of 1977 and paragraph (a) of subdivision 6 as amended by chapter 363 of the laws of 2012, are amended to read as follows:

(a) (i) Except as provided in subparagraph (ii) of this paragraph, at least one month prior to the date on which an [~~inmate~~] **incarcerated individual** may be paroled pursuant to subdivision one of section 70.40 of the penal law, a member or members as determined by the rules of the board shall personally interview such [~~inmate~~] **incarcerated individual** and determine whether he **or she** should be paroled in accordance with the guidelines adopted pursuant to subdivision four of section two hundred fifty-nine-c of this article. If parole is not granted upon such review, the [~~inmate~~] **incarcerated individual** shall be informed in writing within two weeks of such appearance of the factors and reasons for such denial of parole. Such reasons shall be given in detail and not in conclusory terms. The board shall specify a date not more than twenty-four months from such determination for reconsideration, and the procedures to be followed upon reconsideration shall be the same. If the [~~inmate~~] **incarcerated individual** is released, he **or she** shall be given a copy of the conditions of parole. Such conditions shall where appropriate, include a requirement that the parolee comply with any restitution order, mandatory surcharge, sex offender registration fee and DNA databank fee previously imposed by a court of competent jurisdiction that applies to the parolee. The conditions shall indicate which restitution collection agency established under subdivision eight of section 420.10 of the criminal procedure law, shall be responsible for collection of restitution, mandatory surcharge, sex offender registration fees and DNA databank fees as provided for in section 60.35 of the penal law and section eighteen hundred nine of the vehicle and traffic law.

(ii) Any [~~inmate~~] **incarcerated individual** who is scheduled for presumptive release pursuant to section eight hundred six of the correction law shall not appear before the board as provided in subparagraph (i) of this paragraph unless such [~~inmate's~~] **incarcerated individ-**

ual's scheduled presumptive release is forfeited, canceled, or rescinded subsequently as provided in such law. In such event, the [~~inmate~~] incarcerated individual shall appear before the board for release consideration as provided in subparagraph (i) of this paragraph as soon thereafter as is practicable.

(c) (A) Discretionary release on parole shall not be granted merely as a reward for good conduct or efficient performance of duties while confined but after considering if there is a reasonable probability that, if such [~~inmate~~] incarcerated individual is released, he or she will live and remain at liberty without violating the law, and that his or her release is not incompatible with the welfare of society and will not so deprecate the seriousness of his or her crime as to undermine respect for law. In making the parole release decision, the procedures adopted pursuant to subdivision four of section two hundred fifty-nine-c of this article shall require that the following be considered: (i) the institutional record including program goals and accomplishments, academic achievements, vocational education, training or work assignments, therapy and interactions with staff and [~~inmates~~] incarcerated individuals; (ii) performance, if any, as a participant in a temporary release program; (iii) release plans including community resources, employment, education and training and support services available to the [~~inmate~~] incarcerated individual; (iv) any deportation order issued by the federal government against the [~~inmate~~] incarcerated individual while in the custody of the department and any recommendation regarding deportation made by the commissioner of the department pursuant to section one hundred forty-seven of the correction law; (v) any current or prior statement made to the board by the crime victim or the victim's representative, where the crime victim is deceased or is mentally or physically incapacitated; (vi) the length of the determinate sentence to which the [~~inmate~~] incarcerated individual would be subject had he or she received a sentence pursuant to section 70.70 or section 70.71 of the penal law for a felony defined in article two hundred twenty or article two hundred twenty-one of the penal law; (vii) the seriousness of the offense with due consideration to the type of sentence, length of sentence and recommendations of the sentencing court, the district attorney, the attorney for the [~~inmate~~] incarcerated individual, the pre-sentence probation report as well as consideration of any mitigating and aggravating factors, and activities following arrest prior to confinement; and (viii) prior criminal record, including the nature and pattern of offenses, adjustment to any previous probation or parole supervision and institutional confinement. The board shall provide toll free telephone access for crime victims. In the case of an oral statement made in accordance with subdivision one of section 440.50 of the criminal procedure law, the parole board member shall present a written report of the statement to the parole board. A crime victim's representative shall mean the crime victim's closest surviving relative, the committee or guardian of such person, or the legal representative of any such person. Such statement submitted by the victim or victim's representative may include information concerning threatening or intimidating conduct toward the victim, the victim's representative, or the victim's family, made by the person sentenced and occurring after the sentencing. Such information may include, but need not be limited to, the threatening or intimidating conduct of any other person who or which is directed by the person sentenced. Any statement by a victim or the victim's representative made to the board shall be maintained by the department in the file provided to the board when interviewing the [~~inmate~~] incar-

cerated individual in consideration of release. A victim or victim's representative who has submitted a written request to the department for the transcript of such interview shall be provided such transcript as soon as it becomes available.

(B) Where a crime victim or victim's representative as defined in subparagraph (A) of this paragraph, or other person submits to the parole board a written statement concerning the release of an [~~inmate~~] incarcerated individual, the parole board shall keep that individual's name and address confidential.

(d) (i) Notwithstanding the provisions of paragraphs (a), (b) and (c) of this subdivision, after the [~~inmate~~] incarcerated individual has served his or her minimum period of imprisonment imposed by the court, or at any time after the [~~inmate's~~] incarcerated individual's period of imprisonment has commenced for an [~~inmate~~] incarcerated individual serving a determinate or indeterminate term of imprisonment, provided that the [~~inmate~~] incarcerated individual has had a final order of deportation issued against him or her and provided further that the [~~inmate~~] incarcerated individual is not convicted of either an A-I felony offense other than an A-I felony offense as defined in article two hundred twenty of the penal law or a violent felony offense as defined in section 70.02 of the penal law, if the [~~inmate~~] incarcerated individual is subject to deportation by the United States Bureau of Immigration and Customs Enforcement, in addition to the criteria set forth in paragraph (c) of this subdivision, the board may consider, as a factor warranting earlier release, the fact that such [~~inmate~~] incarcerated individual will be deported, and may grant parole from an indeterminate sentence or release for deportation from a determinate sentence to such [~~inmate~~] incarcerated individual conditioned specifically on his or her prompt deportation. The board may make such conditional grant of early parole from an indeterminate sentence or release for deportation from a determinate sentence only where it has received from the United States Bureau of Immigration and Customs Enforcement assurance (A) that an order of deportation will be executed or that proceedings will promptly be commenced for the purpose of deportation upon release of the [~~inmate~~] incarcerated individual from the custody of the department of correctional services, and (B) that the [~~inmate~~] incarcerated individual, if granted parole or release for deportation pursuant to this paragraph, will not be released from the custody of the United States Bureau of Immigration and Customs Enforcement, unless such release be as a result of deportation without providing the board a reasonable opportunity to arrange for execution of its warrant for the retaking of such person.

(ii) An [~~inmate~~] incarcerated individual who has been granted parole from an indeterminate sentence or release for deportation from a determinate sentence pursuant to this paragraph shall be delivered to the custody of the United States Bureau of Immigration and Customs Enforcement along with the board's warrant for his or her retaking to be executed in the event of his release from such custody other than by deportation. In the event that such person is not deported, the board shall execute the warrant, effect his return to imprisonment in the custody of the department and within sixty days after such return, provided that the person is serving an indeterminate sentence and the minimum period of imprisonment has been served, personally interview him or her to determine whether he or she should be paroled in accordance with the provisions of paragraphs (a), (b) and (c) of this subdivision. The return of a person granted parole from an indeterminate sentence or release for deportation from a determinate sentence pursuant to this

paragraph for the reason set forth herein shall not be deemed to be a parole delinquency and the interruptions specified in subdivision three of section 70.40 of the penal law shall not apply, but the time spent in the custody of the United States Bureau of Immigration and Customs Enforcement shall be credited against the term of the sentence in accordance with the rules specified in paragraph (c) of that subdivision. Notwithstanding any other provision of law, any [~~inmate~~] **incarcerated individual** granted parole from an indeterminate sentence or release for deportation from a determinate sentence pursuant to this paragraph who is subsequently committed to imprisonment in the custody of the department for a felony offense committed after release pursuant to this paragraph shall have his parole eligibility date on the indeterminate sentence for the new felony offense, or his **or her** conditional release date on the determinate sentence for the new felony offense, as the case may be, extended by the amount of time between the date on which such [~~inmate~~] **incarcerated individual** was released from imprisonment in the custody of the department pursuant to this paragraph and the date on which such [~~inmate~~] **incarcerated individual** would otherwise have completed service of the minimum period of imprisonment on the prior felony offense.

(e) Notwithstanding the requirements of paragraph (a) of this subdivision, the determination to parole an [~~inmate~~] **incarcerated individual** who has successfully completed the shock incarceration program pursuant to section eight hundred sixty-seven of the correction law may be made without a personal interview of the [~~inmate~~] **incarcerated individual** and shall be made in accordance with procedures set forth in the rules of the board. If parole is not granted, the time period for reconsideration shall not exceed the court imposed minimum.

(d) If a finding of probable cause is made pursuant to this subdivision either by a determination at a preliminary hearing or by the waiver thereof, or if the releasee has been convicted of a new crime while under presumptive release, parole, conditional release or post-release supervision, the board's rules shall provide for (i) declaring such person to be delinquent as soon as practicable and shall require reasonable and appropriate action to make a final determination with respect to the alleged violation or (ii) ordering such person to be restored to presumptive release, parole, conditional release or post-release supervision under such circumstances as it may deem appropriate or (iii) when a presumptive releasee, parolee, conditional releasee or person on post-release supervision has been convicted of a new felony committed while under such supervision and a new indeterminate or determinate sentence has been imposed, the board's rules shall provide for a final declaration of delinquency. The [~~inmate~~] **incarcerated individual** shall then be notified in writing that his **or her** release has been revoked on the basis of the new conviction and a copy of the commitment shall accompany said notification. The [~~inmate's~~] **incarcerated individual's** next appearance before the board shall be governed by the legal requirements of said new indeterminate or determinate sentence, or shall occur as soon after a final reversal of the conviction as is practicable.

(b) Upon an appeal to the board, the [~~inmate~~] **incarcerated individual** may be represented by an attorney. Where the [~~inmate~~] **incarcerated individual** is financially unable to provide for his **or her** own attorney, upon request an attorney shall be assigned pursuant to the provisions of subparagraph (v) of paragraph (f) of subdivision three of this section.

(a) (i) The board shall provide for the making of a verbatim record of each parole release interview, except where a decision is made to

release the [~~inmate~~] **incarcerated individual** to parole supervision, and each preliminary and final revocation hearing, except when the decision of the presiding officer after such hearings result in a dismissal of all charged violations of parole, conditional release or post release supervision.

(ii) Notwithstanding the provisions of subparagraph (i) of this paragraph, the board shall provide for the making of a verbatim record of each parole release interview in all proceedings where the [~~inmate~~] **incarcerated individual** is a detained sex offender as such term is defined in subdivision (g) of section 10.03 of the mental hygiene law. Such record shall be provided to the office of mental health for use by the multidisciplinary staff and the case review panel pursuant to section 10.05 of the mental hygiene law.

§ 11-a. Paragraph (a) of subdivision 2 and paragraph (d) of subdivision 3 of section 259-i of the executive law, paragraph (a) of subdivision 2 as amended by section 38-f-2 of subpart A of part C of chapter 62 of the laws of 2011 and paragraph (d) of subdivision 3 as amended by chapter 413 of the laws of 1984, are amended to read as follows:

(a) At least one month prior to the expiration of the minimum period or periods of imprisonment fixed by the court or board, a member or members as determined by the rules of the board shall personally interview an [~~inmate~~] **incarcerated individual** serving an indeterminate sentence and determine whether he **or she** should be paroled at the expiration of the minimum period or periods in accordance with the procedures adopted pursuant to subdivision four of section two hundred fifty-nine-c **of this article**. If parole is not granted upon such review, the [~~inmate~~] **incarcerated individual** shall be informed in writing within two weeks of such appearance of the factors and reasons for such denial of parole. Such reasons shall be given in detail and not in conclusory terms. The board shall specify a date not more than twenty-four months from such determination for reconsideration, and the procedures to be followed upon reconsideration shall be the same. If the [~~inmate~~] **incarcerated individual** is released, he **or she** shall be given a copy of the conditions of parole. Such conditions shall where appropriate, include a requirement that the parolee comply with any restitution order and mandatory surcharge previously imposed by a court of competent jurisdiction that applies to the parolee. The conditions shall indicate which restitution collection agency established under subdivision eight of section 420.10 of the criminal procedure law, shall be responsible for collection of restitution and mandatory surcharge as provided for in section 60.35 of the penal law and section eighteen hundred nine of the vehicle and traffic law.

(d) If a finding of probable cause is made pursuant to this subdivision either by determination at a preliminary hearing or by the waiver thereof, or if the releasee has been convicted of a new crime while under his present parole or conditional release supervision, the board's rules shall provide for (i) declaring such person to be delinquent as soon as practicable and shall require reasonable and appropriate action to make a final determination with respect to the alleged violation or (ii) ordering such person to be restored to parole supervision under such circumstances as it may deem appropriate or (iii) when a parolee or conditional releasee has been convicted of a new felony committed while under his **or her** present parole or conditional release supervision and a new indeterminate sentence has been imposed, the board's rules shall provide for a final declaration of delinquency. The [~~inmate~~] **incarcerated individual** shall then be notified in writing that his **or her** release

has been revoked on the basis of the new conviction and a copy of the commitment shall accompany said notification. The [~~inmate's~~] **incarcerated individual's** next appearance before the board shall be governed by the legal requirements of said new indeterminate sentence, or shall occur as soon after a final reversal of the conviction as is practicable.

§ 12. Subdivision 3 of section 259-k of the executive law, as amended by section 38-i of subpart A of part C of chapter 62 of the laws of 2011, is amended to read as follows:

3. Members of the board and officers and employees of the department providing community supervision services and designated by the commissioner shall have free access to all [~~inmates~~] **incarcerated individuals** confined in institutions under the jurisdiction of the department, the office of children and family services and the department of mental hygiene in order to enable them to perform their functions, provided, however, that the department of mental hygiene may temporarily restrict such access where it determines, for significant clinical reasons, that such access would interfere with its care and treatment of the mentally ill [~~inmate~~] **incarcerated individual**. If under the provisions of this subdivision an [~~inmate~~] **incarcerated individual** is not accessible for release consideration by the board, that [~~inmate~~] **incarcerated individual** shall be scheduled to see the board in the month immediately subsequent to the month within which he **or she** was not available.

§ 13. Subdivision 1 of section 259-l of the executive law, as amended by chapter 26 of the laws of 2018, is amended to read as follows:

1. It shall be the duty of the commissioner of corrections and community supervision to ensure that all officers and employees of the department shall at all times cooperate with the board of parole and shall furnish to such members of the board and employees of the board such information as may be appropriate to enable them to perform their independent decision making functions. It is also his or her duty to ensure that the functions of the board of parole are not hampered in any way, including but not limited to: a restriction of resources including staff assistance; limited access to vital information; and presentation of [~~inmate~~] **an incarcerated individual's** information in a manner that may inappropriately influence the board in its decision making. Where an [~~inmate~~] **incarcerated individual** has appeared before the board prior to having completed any program assigned by the department, and such program remains incomplete by no fault of the [~~inmate~~] **incarcerated individual**, and where the board has denied such [~~inmate~~] **incarcerated individual** release pursuant to paragraph (a) of subdivision two of section two hundred fifty-nine-i of this article, the department shall prioritize such [~~inmate's~~] **an incarcerated individual's** placement into the assigned program.

§ 14. The section heading, subdivisions 1 and 2, paragraph (b) of subdivision 4 and subdivisions 5, 9, 10 and 11 of section 259-r of the executive law, the section heading, subdivisions 1 and 2, paragraph (b) of subdivision 4, and subdivisions 5 and 9 as amended by section 38-l of subpart A of part C of chapter 62 of the laws of 2011 and subdivisions 10 and 11 as added by section 1 of part A of chapter 55 of the laws of 2015, are amended to read as follows:

Release on medical parole for terminally ill [~~inmates~~] **incarcerated individuals**. 1. (a) The board shall have the power to release on medical parole any [~~inmate~~] **incarcerated individual** serving an indeterminate or determinate sentence of imprisonment who, pursuant to subdivision two of this section, has been certified to be suffering from a terminal condi-

tion, disease or syndrome and to be so debilitated or incapacitated as to create a reasonable probability that he or she is physically or cognitively incapable of presenting any danger to society, provided, however, that no [~~inmate~~] **incarcerated individual** serving a sentence imposed upon a conviction for murder in the first degree or an attempt or conspiracy to commit murder in the first degree shall be eligible for such release, and provided further that no [~~inmate~~] **incarcerated individual** serving a sentence imposed upon a conviction for any of the following offenses shall be eligible for such release unless in the case of an indeterminate sentence he or she has served at least one-half of the minimum period of the sentence and in the case of a determinate sentence he or she has served at least one-half of the term of his or her determinate sentence: murder in the second degree, manslaughter in the first degree, any offense defined in article one hundred thirty of the penal law or an attempt to commit any of these offenses. Solely for the purpose of determining medical parole eligibility pursuant to this section, such one-half of the minimum period of the indeterminate sentence and one-half of the term of the determinate sentence shall not be credited with any time served under the jurisdiction of the department prior to the commencement of such sentence pursuant to the opening paragraph of subdivision one of section 70.30 of the penal law or subdivision two-a of section 70.30 of the penal law, except to the extent authorized by subdivision three of section 70.30 of the penal law.

(b) Such release shall be granted only after the board considers whether, in light of the [~~inmate's~~] **incarcerated individual's** medical condition, there is a reasonable probability that the [~~inmate~~] **incarcerated individual**, if released, will live and remain at liberty without violating the law, and that such release is not incompatible with the welfare of society and will not so deprecate the seriousness of the crime as to undermine respect for the law, and shall be subject to the limits and conditions specified in subdivision four of this section. Except as set forth in paragraph (a) of this subdivision, such release may be granted at any time during the term of an [~~inmate's~~] **incarcerated individual's** sentence, notwithstanding any other provision of law.

(c) The board shall afford notice to the sentencing court, the district attorney and the attorney for the [~~inmate~~] **incarcerated individual** that the [~~inmate~~] **incarcerated individual** is being considered for release pursuant to this section and the parties receiving notice shall have fifteen days to comment on the release of the [~~inmate~~] **incarcerated individual**. Release on medical parole shall not be granted until the expiration of the comment period provided for in this paragraph.

2. (a) The commissioner, on the commissioner's own initiative or at the request of an [~~inmate~~] **incarcerated individual**, or an [~~inmate's~~] **incarcerated individual's** spouse, relative or attorney, may, in the exercise of the commissioner's discretion, direct that an investigation be undertaken to determine whether a diagnosis should be made of an [~~inmate~~] **incarcerated individual** who appears to be suffering from a terminal condition, disease or syndrome. Any such medical diagnosis shall be made by a physician licensed to practice medicine in this state pursuant to section sixty-five hundred twenty-four of the education law. Such physician shall either be employed by the department, shall render professional services at the request of the department, or shall be employed by a hospital or medical facility used by the department for the medical treatment of [~~inmates~~] **incarcerated individuals**. The diagnosis shall be reported to the commissioner and shall include but shall not be limited to a description of the terminal condition, disease or

syndrome suffered by the [~~inmate~~] **incarcerated individual**, a prognosis concerning the likelihood that the [~~inmate~~] **incarcerated individual** will not recover from such terminal condition, disease or syndrome, a description of the [~~inmate's~~] **incarcerated individual's** physical or cognitive incapacity which shall include a prediction respecting the likely duration of the incapacity, and a statement by the physician of whether the [~~inmate~~] **incarcerated individual** is so debilitated or incapacitated as to be severely restricted in his or her ability to self-ambulate or to perform significant normal activities of daily living. This report also shall include a recommendation of the type and level of services and treatment the [~~inmate~~] **incarcerated individual** would require if granted medical parole and a recommendation for the types of settings in which the services and treatment should be given.

(b) The commissioner, or the commissioner's designee, shall review the diagnosis and may certify that the [~~inmate~~] **incarcerated individual** is suffering from such terminal condition, disease or syndrome and that the [~~inmate~~] **incarcerated individual** is so debilitated or incapacitated as to create a reasonable probability that he or she is physically or cognitively incapable of presenting any danger to society. If the commissioner does not so certify then the [~~inmate~~] **incarcerated individual** shall not be referred to the board for consideration for release on medical parole. If the commissioner does so certify, then the commissioner shall, within seven working days of receipt of such diagnosis, refer the [~~inmate~~] **incarcerated individual** to the board for consideration for release on medical parole. However, no such referral of an [~~inmate~~] **incarcerated individual** to the board shall be made unless the [~~inmate~~] **incarcerated individual** has been examined by a physician and diagnosed as having a terminal condition, disease or syndrome as previously described herein at some time subsequent to such [~~inmate's~~] **incarcerated individual's** admission to a facility operated by the department of correctional services.

(c) When the commissioner refers an [~~inmate~~] **incarcerated individual** to the board, the commissioner shall provide an appropriate medical discharge plan established by the department. The department is authorized to request assistance from the department of health and from the county in which the [~~inmate~~] **incarcerated individual** resided and committed his or her crime, which shall provide assistance with respect to the development and implementation of a discharge plan, including potential placements of a releasee. The department and the department of health shall jointly develop standards for the medical discharge plan that are appropriately adapted to the criminal justice setting, based on standards established by the department of health for hospital medical discharge planning. The board may postpone its decision pending completion of an adequate discharge plan, or may deny release based on inadequacy of the discharge plan.

(b) The board shall require as a condition of release on medical parole that the releasee agree to remain under the care of a physician while on medical parole and in a hospital established pursuant to article twenty-eight of the public health law, a hospice established pursuant to article forty of the public health law or any other placement that can provide appropriate medical care as specified in the medical discharge plan required by subdivision two of this section. The medical discharge plan shall state that the availability of the placement has been confirmed, and by whom. Notwithstanding any other provision of law, when an [~~inmate~~] **incarcerated individual** who qualifies for release under this section is cognitively incapable of signing the requisite documen-

tation to effectuate the medical discharge plan and, after a diligent search no person has been identified who could otherwise be appointed as the [~~inmate's~~] **incarcerated individual's** guardian by a court of competent jurisdiction, then, solely for the purpose of implementing the medical discharge plan, the facility health services director at the facility where the [~~inmate~~] **incarcerated individual** is currently incarcerated shall be lawfully empowered to act as the [~~inmate's~~] **incarcerated individual's** guardian for the purpose of effectuating the medical discharge.

5. A denial of release on medical parole or expiration of medical parole in accordance with the provisions of paragraph (f) of subdivision four of this section shall not preclude the [~~inmate~~] **incarcerated individual** from reapplying for medical parole or otherwise affect an [~~inmate's~~] **incarcerated individual's** eligibility for any other form of release provided for by law.

9. The chairman shall report annually to the governor, the temporary president of the senate and the speaker of the assembly, the chairpersons of the assembly and senate codes committees, the chairperson of the senate crime and corrections committee, and the chairperson of the assembly corrections committee the number of [~~inmates~~] **incarcerated individuals** who have applied for medical parole; the number who have been granted medical parole; the nature of the illness of the applicants, the counties to which they have been released and the nature of the placement pursuant to the medical discharge plan; the categories of reasons for denial for those who have been denied; the number of releasees who have been granted an additional period or periods of medical parole and the number of such grants; the number of releasees on medical parole who have been returned to imprisonment in the custody of the department and the reasons for return.

10. Notwithstanding any other provision of law, in the case of an [~~inmate~~] **incarcerated individual** whose terminal condition, disease or syndrome meets the criteria for medical parole as set forth in paragraph (a) of subdivision one of this section, and who is not serving a sentence for one or more offenses set forth in paragraph (i) of subdivision one of section eight hundred six of the correction law which would render such [~~inmate~~] **incarcerated individual** ineligible for presumptive release, the granting of medical parole shall be determined by the commissioner provided that a release of such [~~inmate~~] **incarcerated individual** shall be in accordance with subdivision eleven of this section. In such case, the provisions that would have applied to and the procedures that would have been followed by the board of parole pursuant to this section shall apply to and be followed by the commissioner.

11. (a) After the commissioner has made a determination to grant medical parole pursuant to subdivision ten of this section, the commissioner shall notify the chairperson of the board of parole, or their designee who shall be a member of the board of parole, and provide him or her with all relevant records, files, information and documentation, which includes but is not limited to the criminal history, medical diagnosis and treatment pertaining to the terminally ill [~~inmate~~] **incarcerated individual** no more than five days from the date of the determination. (b) The chairperson or his or her designee shall either accept the commissioner's grant of medical parole, in which case the [~~inmate~~] **incarcerated individual** may be released by the commissioner, or conduct further review. This decision or review shall be made within five days of the receipt of the relevant records, files, information and documentation from the commissioner. The chairperson's further review may

include, but not be limited to, an appearance by the terminally ill [~~inmate~~] **incarcerated individual** before the chairperson or his or her designee. (c) After this further review, the chairperson shall either accept the commissioner's grant of medical parole, in which case the [~~inmate~~] **incarcerated individual** may be released by the commissioner, or the chairperson shall schedule an appearance for the terminally ill [~~inmate~~] **incarcerated individual** before the board of parole.

In the event the terminally ill [~~inmate~~] **incarcerated individual** is scheduled to make an appearance before the board of parole pursuant to this subdivision, the matter shall be heard by a panel that does not include the chairperson or any member of the board of parole who was involved in the review of the commissioner's determination.

§ 14-a. Paragraph (a) of subdivision 1 of section 259-r of the executive law, as amended by section 38-l-1 of subpart A of part C of chapter 62 of the laws of 2011, is amended to read as follows:

(a) The board shall have the power to release on medical parole any [~~inmate~~] **incarcerated individual** serving an indeterminate or determinate sentence of imprisonment who, pursuant to subdivision two of this section, has been certified to be suffering from a terminal condition, disease or syndrome and to be so debilitated or incapacitated as to create a reasonable probability that he or she is physically or cognitively incapable of presenting any danger to society, provided, however, that no [~~inmate~~] **incarcerated individual** serving a sentence imposed upon a conviction for murder in the first degree or an attempt or conspiracy to commit murder in the first degree shall be eligible for such release, and provided further that no [~~inmate~~] **incarcerated individual** serving a sentence imposed upon a conviction for any of the following offenses shall be eligible for such release unless in the case of an indeterminate sentence he or she has served at least one-half of the minimum period of the sentence and in the case of a determinate sentence he or she has served at least one-half of the term of his or her determinate sentence: murder in the second degree, manslaughter in the first degree, any offense defined in article one hundred thirty of the penal law or an attempt to commit any of these offenses. Solely for the purpose of determining medical parole eligibility pursuant to this section, such one-half of the minimum period of the indeterminate sentence and one-half of the term of the determinate sentence shall not be credited with any time served under the jurisdiction of the department prior to the commencement of such sentence pursuant to the opening paragraph of subdivision one of section 70.30 of the penal law or subdivision two-a of section 70.30 of the penal law, except to the extent authorized by subdivision three of section 70.30 of the penal law.

§ 15. Section 259-s of the executive law, as amended by section 38-m of subpart A of part C of chapter 62 of the laws of 2011, is amended to read as follows:

§ 259-s. Release on medical parole for [~~inmates~~] **incarcerated individuals** suffering significant debilitating illnesses. 1. (a) The board shall have the power to release on medical parole any [~~inmate~~] **incarcerated individual** serving an indeterminate or determinate sentence of imprisonment who, pursuant to subdivision two of this section, has been certified to be suffering from a significant and permanent non-terminal condition, disease or syndrome that has rendered the [~~inmate~~] **incarcerated individual** so physically or cognitively debilitated or incapacitated as to create a reasonable probability that he or she does not present any danger to society, provided, however, that no [~~inmate~~] **incarcerated individual** serving a sentence imposed upon a conviction for

murder in the first degree or an attempt or conspiracy to commit murder in the first degree shall be eligible for such release, and provided further that no [~~inmate~~] **incarcerated individual** serving a sentence imposed upon a conviction for any of the following offenses shall be eligible for such release unless in the case of an indeterminate sentence he or she has served at least one-half of the minimum period of the sentence and in the case of a determinate sentence he or she has served at least one-half of the term of his or her determinate sentence: murder in the second degree, manslaughter in the first degree, any offense defined in article one hundred thirty of the penal law or an attempt to commit any of these offenses. Solely for the purpose of determining medical parole eligibility pursuant to this section, such one-half of the minimum period of the indeterminate sentence and one-half of the term of the determinate sentence shall not be credited with any time served under the jurisdiction of the department prior to the commencement of such sentence pursuant to the opening paragraph of subdivision one of section 70.30 of the penal law or subdivision two-a of section 70.30 of the penal law, except to the extent authorized by subdivision three of section 70.30 of the penal law.

(b) Such release shall be granted only after the board considers whether, in light of the [~~inmate's~~] **incarcerated individual's** medical condition, there is a reasonable probability that the [~~inmate~~] **incarcerated individual**, if released, will live and remain at liberty without violating the law, and that such release is not incompatible with the welfare of society and will not so deprecate the seriousness of the crime as to undermine respect for the law, and shall be subject to the limits and conditions specified in subdivision four of this section. In making this determination, the board shall consider: (i) the nature and seriousness of the [~~inmate's~~] **incarcerated individual's** crime; (ii) the [~~inmate's~~] **incarcerated individual's** prior criminal record; (iii) the [~~inmate's~~] **incarcerated individual's** disciplinary, behavioral and rehabilitative record during the term of his or her incarceration; (iv) the amount of time the [~~inmate~~] **incarcerated individual** must serve before becoming eligible for release pursuant to section two hundred fifty-nine-i of this article; (v) the current age of the [~~inmate~~] **incarcerated individual** and his or her age at the time of the crime; (vi) the recommendations of the sentencing court, the district attorney and the victim or the victim's representative; (vii) the nature of the [~~inmate's~~] **incarcerated individual's** medical condition, disease or syndrome and the extent of medical treatment or care that the [~~inmate~~] **incarcerated individual** will require as a result of that condition, disease or syndrome; and (viii) any other relevant factor. Except as set forth in paragraph (a) of this subdivision, such release may be granted at any time during the term of an [~~inmate's~~] **incarcerated individual's** sentence, notwithstanding any other provision of law.

(c) The board shall afford notice to the sentencing court, the district attorney, the attorney for the [~~inmate~~] **incarcerated individual** and, where necessary pursuant to subdivision two of section two hundred fifty-nine-i of this article, the crime victim, that the [~~inmate~~] **incarcerated individual** is being considered for release pursuant to this section and the parties receiving notice shall have thirty days to comment on the release of the [~~inmate~~] **incarcerated individual**. Release on medical parole shall not be granted until the expiration of the comment period provided for in this paragraph.

2. (a) The commissioner, on the commissioner's own initiative or at the request of an [~~inmate~~] **incarcerated individual**, or an [~~inmate's~~]

incarcerated individual's spouse, relative or attorney, may, in the exercise of the commissioner's discretion, direct that an investigation be undertaken to determine whether a diagnosis should be made of an [~~inmate~~] incarcerated individual who appears to be suffering from a significant and permanent non-terminal and incapacitating condition, disease or syndrome. Any such medical diagnosis shall be made by a physician licensed to practice medicine in this state pursuant to section sixty-five hundred twenty-four of the education law. Such physician shall either be employed by the department, shall render professional services at the request of the department, or shall be employed by a hospital or medical facility used by the department for the medical treatment of [~~inmates~~] incarcerated individuals. The diagnosis shall be reported to the commissioner and shall include but shall not be limited to a description of the condition, disease or syndrome suffered by the [~~inmate~~] incarcerated individual, a prognosis concerning the likelihood that the [~~inmate~~] incarcerated individual will not recover from such condition, disease or syndrome, a description of the [~~inmate's~~] incarcerated individual's physical or cognitive incapacity which shall include a prediction respecting the likely duration of the incapacity, and a statement by the physician of whether the [~~inmate~~] incarcerated individual is so debilitated or incapacitated as to be severely restricted in his or her ability to self-ambulate or to perform significant normal activities of daily living. This report also shall include a recommendation of the type and level of services and treatment the [~~inmate~~] incarcerated individual would require if granted medical parole and a recommendation for the types of settings in which the services and treatment should be given.

(b) The commissioner, or the commissioner's designee, shall review the diagnosis and may certify that the [~~inmate~~] incarcerated individual is suffering from such condition, disease or syndrome and that the [~~inmate~~] incarcerated individual is so debilitated or incapacitated as to create a reasonable probability that he or she is physically or cognitively incapable of presenting any danger to society. If the commissioner does not so certify then the [~~inmate~~] incarcerated individual shall not be referred to the board for consideration for release on medical parole. If the commissioner does so certify, then the commissioner shall, within seven working days of receipt of such diagnosis, refer the [~~inmate~~] incarcerated individual to the board for consideration for release on medical parole. However, no such referral of an [~~inmate~~] incarcerated individual to the board of parole shall be made unless the [~~inmate~~] incarcerated individual has been examined by a physician and diagnosed as having a condition, disease or syndrome as previously described herein at some time subsequent to such [~~inmate's~~] incarcerated individual's admission to a facility operated by the department.

(c) When the commissioner refers an [~~inmate~~] incarcerated individual to the board, the commissioner shall provide an appropriate medical discharge plan established by the department. The department is authorized to request assistance from the department of health and from the county in which the [~~inmate~~] incarcerated individual resided and committed his or her crime, which shall provide assistance with respect to the development and implementation of a discharge plan, including potential placements of a releasee. The department and the department of health shall jointly develop standards for the medical discharge plan that are appropriately adapted to the criminal justice setting, based on standards established by the department of health for hospital medical discharge planning. The board may postpone its decision pending

completion of an adequate discharge plan, or may deny release based on inadequacy of the discharge plan.

3. Any certification by the commissioner or the commissioner's designee pursuant to this section shall be deemed a judicial function and shall not be reviewable if done in accordance with law.

4. (a) Medical parole granted pursuant to this section shall be for a period of six months.

(b) The board shall require as a condition of release on medical parole that the releasee agree to remain under the care of a physician while on medical parole and in a hospital established pursuant to article twenty-eight of the public health law, a hospice established pursuant to article forty of the public health law or any other placement, including a residence with family or others, that can provide appropriate medical care as specified in the medical discharge plan required by subdivision two of this section. The medical discharge plan shall state that the availability of the placement has been confirmed, and by whom. Notwithstanding any other provision of law, when an [~~inmate~~] **incarcerated individual** who qualifies for release under this section is cognitively incapable of signing the requisite documentation to effectuate the medical discharge plan and, after a diligent search no person has been identified who could otherwise be appointed as the [~~inmate's~~] **incarcerated individual's** guardian by a court of competent jurisdiction, then, solely for the purpose of implementing the medical discharge plan, the facility health services director at the facility where the [~~inmate~~] **incarcerated individual** is currently incarcerated shall be lawfully empowered to act as the [~~inmate's~~] **incarcerated individual's** guardian for the purpose of effectuating the medical discharge.

(c) Where appropriate, the board shall require as a condition of release that medical parolees be supervised on intensive caseloads at reduced supervision ratios.

(d) The board shall require as a condition of release on medical parole that the releasee undergo periodic medical examinations and a medical examination at least one month prior to the expiration of the period of medical parole and, for the purposes of making a decision pursuant to paragraph (e) of this subdivision, that the releasee provide the board with a report, prepared by the treating physician, of the results of such examination. Such report shall specifically state whether or not the parolee continues to suffer from a significant and permanent non-terminal and debilitating condition, disease, or syndrome, and to be so debilitated or incapacitated as to be severely restricted in his or her ability to self-ambulate or to perform significant normal activities of daily living.

(e) Prior to the expiration of the period of medical parole the board shall review the medical examination report required by paragraph (d) of this subdivision and may again grant medical parole pursuant to this section; provided, however, that the provisions of paragraph (c) of subdivision one and subdivision two of this section shall not apply.

(f) If the updated medical report presented to the board states that a parolee released pursuant to this section is no longer so debilitated or incapacitated as to create a reasonable probability that he or she is physically or cognitively incapable of presenting any danger to society or if the releasee fails to submit the updated medical report then the board may not make a new grant of medical parole pursuant to paragraph (e) of this subdivision. Where the board has not granted medical parole pursuant to such paragraph (e) the board shall promptly conduct through one of its members, or cause to be conducted by a hearing officer desig-

nated by the board, a hearing to determine whether the releasee is suffering from a significant and permanent non-terminal and incapacitating condition, disease or syndrome and is so debilitated or incapacitated as to create a reasonable probability that he or she is physically or cognitively incapable of presenting any danger to society and does not present a danger to society. If the board makes such a determination then it may make a new grant of medical parole pursuant to the standards of paragraph (b) of subdivision one of this section. At the hearing, the releasee shall have the right to representation by counsel, including the right, if the releasee is financially unable to retain counsel, to have the appropriate court assign counsel in accordance with the county or city plan for representation placed in operation pursuant to article eighteen-B of the county law.

(g) The hearing and determination provided for by paragraph (f) of this subdivision shall be concluded within the six month period of medical parole. If the board does not renew the grant of medical parole, it shall order that the releasee be returned immediately to the custody of the department of correctional services.

(h) In addition to the procedures set forth in paragraph (f) of this subdivision, medical parole may be revoked at any time upon any of the grounds specified in paragraph (a) of subdivision three of section two hundred fifty-nine-i of this article, and in accordance with the procedures specified in subdivision three of section two hundred fifty-nine-i of this article.

(i) A releasee who is on medical parole and who becomes eligible for parole pursuant to the provisions of subdivision two of section two hundred fifty-nine-i of this article shall be eligible for parole consideration pursuant to such subdivision.

5. A denial of release on medical parole or expiration of medical parole in accordance with the provisions of paragraph (f) of subdivision four of this section shall not preclude the [~~inmate~~] **incarcerated individual** from reapplying for medical parole or otherwise affect an [~~inmate's~~] **incarcerated individual's** eligibility for any other form of release provided for by law.

6. To the extent that any provision of this section requires disclosure of medical information for the purpose of processing an application or making a decision, regarding release on medical parole or renewal of medical parole, or for the purpose of appropriately supervising a person released on medical parole, and that such disclosure would otherwise be prohibited by article twenty-seven-F of the public health law, the provisions of this section shall be controlling.

7. The commissioner and the chair of the board shall be authorized to promulgate rules and regulations for their respective agencies to implement the provisions of this section.

8. Any decision made by the board pursuant to this section may be appealed pursuant to subdivision four of section two hundred fifty-nine-i of this article.

9. The chair of the board shall report annually to the governor, the temporary president of the senate and the speaker of the assembly, the chairpersons of the assembly and senate codes committees, the chairperson of the senate crime and corrections committee, and the chairperson of the assembly corrections committee the number of [~~inmates~~] **incarcerated individuals** who have applied for medical parole under this section; the number who have been granted medical parole; the nature of the illness of the applicants, the counties to which they have been released and the nature of the placement pursuant to the medical

discharge plan; the categories of reasons for denial for those who have been denied; the number of releasees who have been granted an additional period or periods of medical parole and the number of such grants; the number of releasees on medical parole who have been returned to imprisonment in the custody of the department and the reasons for return.

§ 16. Paragraph b of subdivision 2 of section 265 of the executive law, as amended by section 31 of part A of chapter 56 of the laws of 2010, is amended to read as follows:

b. Except as provided in section two hundred sixty-six of this article, applications for such assistance must be made and submitted no later than one hundred eighty days after the effective date of the chapter of the laws of nineteen hundred eighty-eight which amended this paragraph and added these words or by the first day of April of each subsequent year and shall be either approved or denied by the office no later than sixty days following such submission. Any part of the moneys so made available and not apportioned pursuant to a plan approved and contract entered into with the office within the time limits required shall be apportioned by the office in its discretion to such a city or counties on a need basis, taking into consideration [~~inmate~~] **incarcerated individual** population or prior commitment by a county in the development of alternatives to detention or incarceration programs.

§ 17. Subdivision 7 of section 508 of the executive law, as amended by section 4 of part G of chapter 55 of the laws of 2020, is amended to read as follows:

7. While in the custody of the office of children and family services, an offender shall be subject to the rules and regulations of the office, except that his or her parole, temporary release and discharge shall be governed by the laws applicable to [~~inmates~~] **incarcerated individuals** of state correctional facilities and his or her transfer to state hospitals in the office of mental health shall be governed by section five hundred nine of this [~~article~~] **title**; provided, however, that an otherwise eligible offender may receive the six-month limited credit time allowance for successful participation in one or more programs developed by the office of children and family services that are comparable to the programs set forth in section eight hundred three-b of the correction law, taking into consideration the age of offenders. The commissioner of the office of children and family services shall, however, establish and operate temporary release programs at office of children and family services facilities for eligible juvenile offenders and adolescent offenders and contract with the department of corrections and community supervision for the provision of parole supervision services for temporary releasees. The rules and regulations for these programs shall not be inconsistent with the laws for temporary release applicable to [~~inmates~~] **incarcerated individuals** of state correctional facilities. For the purposes of temporary release programs for juvenile offenders and adolescent offenders only, when referred to or defined in article twenty-six of the correction law, "institution" shall mean any facility designated by the commissioner of the office of children and family services, "department" shall mean the office of children and family services, [~~"inmate"~~] **"incarcerated individual"** shall mean a juvenile offender or adolescent offender residing in an office of children and family services facility, and "commissioner" shall mean the commissioner of the office of children and family services. Time spent in office of children and family services facilities and in juvenile detention facilities shall be credited towards the sentence imposed in the same manner

and to the same extent applicable to [~~inmates~~] **incarcerated individuals** of state correctional facilities.

§ 18. Subdivision 24 of section 553 of the executive law, as added by section 3 of part A of chapter 501 of the laws of 2012, is amended to read as follows:

24. To monitor and make recommendations regarding the quality of care provided to [~~inmates~~] **incarcerated individuals** with serious mental illness, including those who are in a residential mental health treatment unit or segregated confinement in facilities operated by the department of corrections and community supervision, and oversee compliance with paragraphs (d) and (e) of subdivision six of section one hundred thirty-seven, and section four hundred one of the correction law. Such responsibilities shall be carried out in accordance with section four hundred one-a of the correction law;

§ 19. Subparagraphs (i) and (ii) of paragraph (c) of subdivision 1, the opening paragraph of paragraph (b) and paragraph (c) of subdivision 2 and subdivision 3 of section 632-a of the executive law, subparagraphs (i) and (ii) of paragraph (c) of subdivision 1 as amended by section 100 of subpart B of part C of chapter 62 of the laws of 2011, the opening paragraph of paragraph (b) of subdivision 2 as amended by section 101 of subpart B of part C of chapter 62 of the laws of 2011 and paragraph (c) of subdivision 2 and subdivision 3 as amended by section 24 of part A-1 of chapter 56 of the laws of 2010, are amended to read as follows:

(i) is an [~~inmate~~] **incarcerated individual** serving a sentence with the department of corrections and community supervision or a prisoner confined at a local correctional facility or federal correctional institute, and includes funds that a superintendent, sheriff or municipal official receives on behalf of an [~~inmate~~] **incarcerated individual** or prisoner and deposits in an [~~inmate~~] **incarcerated individual** account to the credit of the [~~inmate~~] **incarcerated individual** pursuant to section one hundred sixteen of the correction law or deposits in a prisoner account to the credit of the prisoner pursuant to section five hundred-c of the correction law; or

(ii) is not an [~~inmate~~] **incarcerated individual** or prisoner but who is serving a sentence of probation or conditional discharge or is presently subject to an undischarged indeterminate, determinate or definite term of imprisonment or period of post-release supervision or term of supervised release, but shall include earned income earned during a period in which such person was not in compliance with the conditions of his or her probation, parole, conditional release, period of post-release supervision by the department of corrections and community supervision or term of supervised release with the United States probation office or United States parole commission. For purposes of this subparagraph, such period of non-compliance shall be measured, as applicable, from the earliest date of delinquency determined by the department of corrections and community supervision, or from the earliest date on which a declaration of delinquency is filed pursuant to section 410.30 of the criminal procedure law and thereafter sustained, or from the earliest date of delinquency determined in accordance with applicable federal law, rules or regulations, and shall continue until a final determination sustaining the violation has been made by the trial court, the department of corrections and community supervision, or appropriate federal authority; or

Notwithstanding subparagraph (ii) of paragraph (a) of this subdivision, whenever the payment or obligation to pay involves funds of a convicted person that a superintendent, sheriff or municipal official

receives or will receive on behalf of an [~~inmate~~] **incarcerated individual** serving a sentence with the department of corrections and community supervision or prisoner confined at a local correctional facility and deposits or will deposit in an [~~inmate~~] **incarcerated individual** account to the credit of the [~~inmate~~] **incarcerated individual** or in a prisoner account to the credit of the prisoner, and the value, combined value or aggregate value of such funds exceeds or will exceed ten thousand dollars, the superintendent, sheriff or municipal official shall also give written notice to the office.

(c) The office, upon receipt of notice of a contract, an agreement to pay or payment of profits from a crime or funds of a convicted person pursuant to paragraph (a) or (b) of this subdivision, or upon receipt of notice of funds of a convicted person from the superintendent, sheriff or municipal official of the facility where the [~~inmate~~] **incarcerated individual** or prisoner is confined pursuant to section one hundred sixteen or five hundred-c of the correction law, shall notify all known crime victims of the existence of such profits or funds at their last known address.

3. Notwithstanding any inconsistent provision of the estates, powers and trusts law or the civil practice law and rules with respect to the timely bringing of an action, any crime victim shall have the right to bring a civil action in a court of competent jurisdiction to recover money damages from a person convicted of a crime of which the crime victim is a victim, or the representative of that convicted person, within three years of the discovery of any profits from a crime or funds of a convicted person, as those terms are defined in this section. Notwithstanding any other provision of law to the contrary, a judgment obtained pursuant to this section shall not be subject to execution or enforcement against the first one thousand dollars deposited in an [~~inmate~~] **incarcerated individual** account to the credit of the [~~inmate~~] **incarcerated individual** pursuant to section one hundred sixteen of the correction law or in a prisoner account to the credit of the prisoner pursuant to section five hundred-c of the correction law. In addition, where the civil action involves funds of a convicted person and such funds were recovered by the convicted person pursuant to a judgment obtained in a civil action, a judgment obtained pursuant to this section may not be subject to execution or enforcement against a portion thereof in accordance with subdivision (k) of section fifty-two hundred five of the civil practice law and rules. If an action is filed pursuant to this subdivision after the expiration of all other applicable statutes of limitation, any other crime victims must file any action for damages as a result of the crime within three years of the actual discovery of such profits or funds, or within three years of actual notice received from or notice published by the office of such discovery, whichever is later.

§ 20. Paragraphs (a), (b) and (c) of subdivision 1 of section 747 of the executive law, as added by chapter 669 of the laws of 1977, is amended to read as follows:

(a) To visit and inspect, or cause members of its staff to visit and inspect, at such times as the board may consider to be necessary or appropriate to help insure adequate supervision, public and private facilities or agencies, whether state, county, municipal, incorporated or not incorporated which are in receipt of public funds and which are of a charitable, eleemosynary, correctional or reformatory character, including all reformatories for juveniles and facilities or agencies exercising custody of dependent, neglected, abused, maltreated, abandoned or delinquent children or persons in need of supervision, agencies

engaged in the placing out or boarding out of children as defined in section three hundred seventy-one of the social services law, or in operating homes for unmarried mothers or special care homes, and facilities providing residential care for convalescent, invalid, aged, or indigent persons, but excepting state institutions for the education and support of the blind, the deaf and the dumb, and excepting also such institutions as are subject to the visitation and inspection of the state department of mental hygiene or the state commission of correction. As to institutions, whether incorporated or not incorporated, having [~~inmates~~] **incarcerated individuals**, but not in receipt of public funds, which are of a charitable, eleemosynary, correctional or reformatory character, and agencies, whether incorporated or not incorporated, not in receipt of public funds, which exercise custody of abandoned, destitute, dependent, neglected, abused, maltreated or delinquent children or persons in need of supervision, the board shall make inspections, or cause inspections to be made by members of its staff, but solely as to matters directly affecting the health, safety, treatment and training of their [~~inmates~~] **incarcerated individuals**, or of the children under their custody. Visiting and inspecting as herein authorized shall not be exclusive of other visiting and inspecting now or hereafter authorized by law.

(b) To have full access to the grounds, buildings, records, documents, books and papers relating to any facility or agency subject to being visited and inspected by the board, including all case records of [~~inmates~~] **incarcerated individuals** and children under their custody and all financial records.

(c) Upon visiting or inspecting any facility or agency under this article, inquiry may be made to ascertain the quality of supervision exercised by state and local agencies responsible for supervising such facilities and agencies, and the quality of program and operating standards established by such state and local agencies, and to ascertain the adequacy of such state and local agency supervision to determine the following:

(i) whether the objects of the facility or agency are being accomplished;

(ii) whether the applicable laws, rules and regulations governing its operation are fully complied with;

(iii) its methods of and equipment for vocational and scholastic education, and whether the same are best suited to the needs of its [~~inmates~~] **incarcerated individuals** or children under their custody;

(iv) its methods of administration; and of providing care, medical attention, treatment and discipline of its residents and beneficiaries, and whether the same are best adapted to the needs of the residents and beneficiaries;

(v) the qualifications and general conduct of its officers and employees;

(vi) the condition of its grounds, buildings and other property;

(vii) the sources of public moneys received by any institution in receipt of public funds and the management and condition of its finances generally; and

(viii) any other matter connected with or pertaining to its usefulness and good management or to the interest of its residents or beneficiaries.

§ 21. Section 750 of the executive law, as added by chapter 110 of the laws of 1971 and as renumbered by chapter 669 of the laws of 1977, is amended to read as follows:

§ 750. Duties of the attorney general and district attorneys. If, in the opinion of the board, any matter in regard to the management or affairs of any such institution, society or association, or any [~~inmate~~] **incarcerated individual** or person in any way connected therewith, require legal investigation or action of any kind, notice thereof may be given by the board, to the attorney general, and he shall thereupon make inquiry and take such proceedings in the premises as he may deem necessary and proper. The attorney general and every district attorney shall, when so required, furnish such legal assistance, counsel or advice as the board may require in the discharge of its duties.

§ 22. Subdivision 6-a of section 837 of the executive law, as added by section 4 of part OO of chapter 56 of the laws of 2010, is amended to read as follows:

6-a. Upon request, provide an [~~inmate~~] **incarcerated individual** of the state or local correctional facility, at no charge, with a copy of all criminal history information maintained on file by the division pertaining to such [~~inmate~~] **incarcerated individual**.

§ 23. Paragraph (c) of subdivision 6 of section 95 of the public officers law, as added by chapter 652 of the laws of 1983, is amended to read as follows:

(c) personal information pertaining to the incarceration of an [~~inmate~~] **incarcerated individual** at a state correctional facility which is evaluative in nature or which, if such access was provided, could endanger the life or safety of any person, unless such access is otherwise permitted by law or by court order;

§ 24. Paragraph (c) of subdivision 2 of section 96 of the public officers law, as added by chapter 652 of the laws of 1983, is amended to read as follows:

(c) personal information pertaining to the incarceration of an [~~inmate~~] **incarcerated individual** at a state correctional facility which is evaluative in nature or which, if disclosed, could endanger the life or safety of any person, unless such disclosure is otherwise permitted by law;

§ 25. Subdivisions 12, 12-d and 12-g of section 8 of the state finance law, subdivision 12 as amended by section 156 of subpart B of part C of chapter 62 of the laws of 2011, subdivision 12-d as amended by chapter 165 of the laws of 2017 and subdivision 12-g as amended by section 157 of subpart B of part C of chapter 62 of the laws of 2011, are amended to read as follows:

12. Notwithstanding any inconsistent provision of the court of claims act, examine, audit and certify for payment any claim submitted and approved by the head of any institution in the department of mental hygiene, the department of corrections and community supervision, the department of health or the office of children and family services for personal property damaged or destroyed by any [~~inmate~~] **incarcerated individual** thereof, or for personal property of an employee damaged or destroyed without fault on his **or her** part, by a fire in said institution; or any claim submitted and approved by the head of any institution in the department of mental hygiene or the office of children and family services for real or personal property damaged or destroyed or for personal injuries caused by any patient during thirty days from the date of his **or her** escape from such institution; or any claim submitted and approved by the commissioner of the department of corrections and community supervision for personal property of an employee damaged or destroyed without fault on his **or her** part as a result of actions unique to the performance of his **or her** official duties in accordance with

rules and regulations promulgated by the commissioner of the department of corrections and community supervision with the approval of the comptroller; or any claim submitted and approved by the chief administrator of the courts for personal property of any judge or justice of the unified court system or of any nonjudicial officer or employee thereof damaged or destroyed, without fault on his **or her** part, by any party, witness, juror or bystander to court proceedings, provided no such claim may be certified for payment to a nonjudicial officer or employee who is in a collective negotiating unit until the chief administrator shall deliver to the comptroller a certificate that there is in effect with respect to such negotiating unit a written collective bargaining agreement with the state pursuant to article fourteen of the civil service law which provides therefor; or any claim submitted and approved by the superintendent of state police for personal property of a member of the state police damaged or destroyed without fault on his **or her** part as a result of actions unique to the performance of police duties in accordance with rules and regulations promulgated by the superintendent with the approval of the comptroller; or any claim submitted and approved by the head of a state department or agency having employees in the security services unit or the security supervisors unit for personal property of a member of such units damaged or destroyed without fault on his **or her** part as a result of actions unique to the performance of law enforcement duties in accordance with rules and regulations promulgated by the department or agency head, after consultation with the employee organization representing such units and with the approval of the comptroller and payment of any such claim shall not exceed the sum of three hundred fifty dollars. Where an agreement between the state and an employee organization reached pursuant to the provisions of article fourteen of the civil service law provides for payments to be made to employees by an institution, such payments for claims not in excess of seventy-five dollars, or one hundred fifty dollars if otherwise provided in accordance with the terms of such agreement, may be made from a petty cash account established pursuant to section one hundred fifteen of this chapter, and in the manner prescribed therein.

12-d. Notwithstanding any inconsistent provision of the court of claims act, examine, audit and certify for payment any claim submitted and approved by the head of a state department or agency, other than a department or agency specified in subdivision twelve of this section, for personal property of an employee damaged or destroyed in the course of the performance of official duties without fault on his **or her** part by an [~~**inmate**~~] **incarcerated individual**, patient or client of such department or agency after March thirty-first, two thousand sixteen and prior to April first, two thousand twenty-one, provided no such claim may be certified for payment to an officer or employee who is in a collective negotiating unit until the director of employee relations shall deliver to the comptroller a letter that there is in effect with respect to such negotiating unit a written collectively negotiated agreement with the state pursuant to article fourteen of the civil service law which provides therefor. Payment of any such claim shall not exceed the sum of three hundred dollars. No person submitting a claim under this subdivision shall have any claim for damages to such personal property approved pursuant to the provision of subdivision four of section five hundred thirty of the labor law or any other applicable provision of law.

12-g. Notwithstanding any other provision of the court of claims act or any other law to the contrary, thirty days before the comptroller

issues a check for payment to an [~~inmate~~] **incarcerated individual** serving a sentence of imprisonment with the department of corrections and community supervision or to a prisoner confined at a local correctional facility for any reason, including a payment made in satisfaction of any damage award in connection with any lawsuit brought by or on behalf of such [~~inmate~~] **incarcerated individual** or prisoner against the state or any of its employees in federal court or any other court, the comptroller shall give written notice, if required pursuant to subdivision two of section six hundred thirty-two-a of the executive law, to the office of victim services that such payment shall be made thirty days after the date of such notice.

§ 26. Subparagraph 4 of paragraph a of subdivision 1 of section 54 of the state finance law, as amended by section 158 of subpart B of part C of chapter 62 of the laws of 2011, is amended to read as follows:

(4) Population excludes the reservation and school Indian population and [~~inmates~~] **incarcerated individuals** of institutions under the direction, supervision or control of the state department of corrections and community supervision and the state department of mental hygiene and the [~~inmates~~] **incarcerated individuals** of state institutions operated and maintained by the office of children and family services.

§ 27. Subdivision 3 of section 127 of the state finance law, as amended by chapter 420 of the laws of 1968, is amended to read as follows:

3. The work of construction, alteration, repair or improvement of buildings or plant of any such state institution may be done by the employment of [~~inmate~~] **incarcerated individual** or outside labor, either or both, and by purchase of materials in the open market whenever, in the opinion of the comptroller, the department having jurisdiction and the commissioner of general services, or an authorized representative of his department, such course shall be more advantageous to the state. No compensation shall be allowed for the employment of [~~inmate~~] **incarcerated individual** labor except convict labor.

§ 28. The closing paragraph of section 135 of the state finance law, as amended by section 3 of part MM of chapter 57 of the laws of 2008, is amended to read as follows:

Nothing in this section shall be construed to prevent the authorities in charge of any state building, from performing any such branches of work by or through their regular employees, or in the case of public institutions, by the [~~inmates~~] **incarcerated individuals** thereof.

§ 29. Subdivision (d) of section 484 of the tax law, as amended by section 168 of subpart B of part C of chapter 62 of the laws of 2011, is amended to read as follows:

(d) The provisions of this article shall not be applicable to any sale as to which the tax imposed by section four hundred seventy-one of this chapter is not applicable or to a sale to the department of corrections and community supervision of this state for sale to or use by [~~inmates~~] **incarcerated individuals** in institutions under the jurisdiction of such department.

§ 30. Subdivision (c) of section 1846 of the tax law, as amended by chapter 556 of the laws of 2011, is amended to read as follows:

(c) In the alternative, the tax commission may dispose of any cigarettes seized pursuant to this section, except those that violate, or are suspected of violating, federal trademark laws or import laws, by transferring them to the department of corrections and community supervision for sale to or use by [~~inmates~~] **incarcerated individuals** in such institutions.

§ 31. Subdivision (c) of section 1846-a of the tax law, as amended by chapter 556 of the laws of 2011, is amended to read as follows:

(c) In the alternative, the commissioner may dispose of any tobacco products seized pursuant to this section, except those that violate, or are suspected of violating, federal trademark or import laws, by transferring them to the department of corrections and community supervision for sale to or use by [~~inmates~~] **incarcerated individuals** in such institutions.

§ 32. Subdivision 6 of section 16 of the workers' compensation law, as amended by chapter 550 of the laws of 1978, is amended to read as follows:

6. If there be a person entitled to death benefits under the provisions of this section, who shall be under the age of eighteen years, and who shall be an [~~inmate~~] **incarcerated individual** of any institution and a public charge upon the department of social services of the city of New York, or any other department or body, the benefits allowed hereunder shall be payable to the said department of public welfare of the city of New York or any other department or body to the extent of the reasonable charges for the care and maintenance, during the continuance as a public charge in said institution, of said beneficiary and until the said person shall have attained the age of eighteen years. Any sum or sums remaining after the said payment out of the benefits shall be distributed as provided by the other subdivisions of this section.

§ 33. Paragraph d of subdivision 2 of section 133 of the labor law, as amended by chapter 294 of the laws of 1967, is amended to read as follows:

d. penal or correctional institutions, if such employment relates to the custody or care of prisoners or [~~inmates~~] **incarcerated individuals**;

§ 34. Subdivision 1 of section 168 of the labor law, as amended by section 18 of part AA of chapter 56 of the laws of 2019, is amended to read as follows:

1. This section shall apply to all persons employed by the state in the ward, cottage, colony, kitchen and dining room, and guard service personnel in any hospital, school, prison, reformatory or other institution within or subject to the jurisdiction, supervision, control or visitation of the department of corrections and community supervision, the department of health, the department of mental hygiene, the department of social welfare or the division of veterans' services in the executive department, and engaged in the performance of such duties as nursing, guarding or attending the [~~inmates~~] **incarcerated individuals**, patients, wards or other persons kept or housed in such institutions, or in protecting and guarding the buildings and/or grounds thereof, or in preparing or serving food therein.

§ 35. Subdivision 1 of section 459 of the labor law, as amended by section 10 of part CC of chapter 57 of the laws of 2009, is amended to read as follows:

1. A license or certificate, or the renewal thereof may be denied where the commissioner has probable reason to believe, based on knowledge or reliable information, or finds, after investigation, that the applicant or any officer, servant, agent or employee of the applicant is not sufficiently reliable and experienced to be authorized to own, possess, store, transport, use, manufacture, deal in, sell, purchase or otherwise handle, as the case may be, explosives, lacks suitable facilities therefor, has been convicted of a felony, is disloyal or hostile to the United States, has been confined as a patient or [~~inmate~~] **incarcer-**

ated individual in a public or private institution for the treatment of mental diseases or has been convicted under section four hundred eighty-four of the general business law. Whenever the commissioner denies an application for a license or certificate or the renewal thereof, within five days of such denial, notice thereof and the reasons therefor shall be provided in writing to the applicant. Such denial may be appealed to the commissioner who shall follow the procedure provided by subdivision four of this section.

§ 36. Paragraph (e) of subdivision 2 of section 563 of the labor law, as amended by chapter 413 of the laws of 1991, is amended to read as follows:

(e) an [~~inmate~~] incarcerated individual of a custodial or penal institution;

§ 37. Paragraph (g) of subdivision 2 of section 565 of the labor law, as added by chapter 675 of the laws of 1977, is amended to read as follows:

(g) an [~~inmate~~] incarcerated individual of a custodial or penal institution.

§ 38. Subparagraph 4 of paragraph (e) of subdivision 1 of section 581 of the labor law, as amended by chapter 589 of the laws of 1998, is amended to read as follows:

(4) An employer's account shall not be charged, and the charges shall instead be made to the general account, for benefits paid to a claimant based on base period employment while the claimant was an [~~inmate~~] incarcerated individual of a correctional institution and enrolled in a work release program, provided that the employment was terminated solely because the [~~inmate~~] incarcerated individual was required to relocate to another area as a condition of parole or the [~~inmate~~] incarcerated individual voluntarily relocated to another area immediately upon being released or paroled from such correctional institution.

§ 39. Subdivision 2 of section 103 of the transportation law, as amended by chapter 72 of the laws of 1976, is amended to read as follows:

2. No common carrier subject to the provisions of this chapter shall, directly or indirectly, issue or give any free ticket, free pass or free transportation for passengers or property between points within this state, except to its officers, employees, agents, surgeons, physicians, attorneys-at-law, and their families; to ministers of religion, officers and employees of railroad young men's christian associations, [~~inmates~~] incarcerated individuals of hospitals, charitable and eleemosynary institutions and persons exclusively engaged in charitable and eleemosynary work; and to indigent, destitute and homeless persons and to such persons when transported by charitable societies or hospitals, and the necessary agents employed in such transportation; to [~~inmates~~] incarcerated individuals of the national homes or state homes for disabled volunteer soldiers and of soldiers' and sailors' homes, including those about to enter and those returning home after discharge, and boards of managers of such homes; to necessary caretakers of property in transit; to employees of sleeping-car companies, express companies, telegraph and telephone companies doing business along the line of the issuing carrier; to railway mail service employees, post-office inspectors, mail carriers in uniform, customs inspectors and immigration inspectors; to newspaper carriers on trains, baggage agents, witnesses attending any legal investigation or proceeding in which the common carrier is interested, persons injured in accidents or wrecks and physicians and nurses attending such persons; to the carriage free or at reduced rates of

persons or property for the United States, state or municipal governments, or of property to or from fairs and expositions for exhibit thereat.

§ 40. Paragraph (i) of subdivision 3 of section 503 of the vehicle and traffic law, as amended by chapter 548 of the laws of 1986, is amended to read as follows:

(i) is an [~~inmate~~] **incarcerated individual** in an institution under the jurisdiction of a state department or agency, or

§ 41. Subdivision 5 of section 1809 of the vehicle and traffic law, as amended by chapter 385 of the laws of 1999, is amended to read as follows:

5. When a person who is convicted of a crime or traffic infraction and sentenced to a term of imprisonment has failed to pay the mandatory surcharge or crime victim assistance fee required by this section, the clerk of the court or the administrative tribunal that rendered the conviction shall notify the superintendent or the municipal official of the facility where the person is confined. The superintendent or the municipal official shall cause any amount owing to be collected from such person during his **or her** term of imprisonment from moneys to the credit of an [~~inmates'~~] **incarcerated individuals'** fund or such moneys as may be earned by a person in a work release program pursuant to section eight hundred sixty of the correction law. Such moneys shall be paid over to the state comptroller to the credit of the criminal justice improvement account established by section ninety-seven-bb of the state finance law, except that any such moneys collected which are surcharges or crime victim assistance fees levied in relation to convictions obtained in a town or village justice court shall be paid within thirty days after the receipt thereof by the superintendent or municipal official of the facility to the justice of the court in which the conviction was obtained. For the purposes of collecting such mandatory surcharge or crime victim assistance fee, the state shall be legally entitled to the money to the credit of an [~~inmates'~~] **incarcerated individuals'** fund or money which is earned by an [~~inmate~~] **incarcerated individual** in a work release program. For purposes of this subdivision, the term "[~~inmates'~~] **incarcerated individuals'** fund" shall mean moneys in the possession of an [~~inmate~~] **incarcerated individual** at the time of his admission into such facility, funds earned by him **or her** as provided for in section one hundred eighty-seven of the correction law and any other funds received by him **or her** or on his **or her** behalf and deposited with such superintendent or municipal official.

§ 42. Subdivision 3 of section 11-0707 of the environmental conservation law, as amended by section 20 of part AA of chapter 56 of the laws of 2019, is amended to read as follows:

3. Any person who is a patient at any facility in this state maintained by the United States Veterans Health Administration or at any hospital or sanitorium for treatment of tuberculosis maintained by the state or any municipal corporation thereof or resident patient at any institution of the department of Mental Hygiene, or resident patient at the rehabilitation hospital of the department of Health, or at any rest camp maintained by the state through the Division of Veterans' Services in the Executive Department or any [~~inmate~~] **incarcerated individual** of a conservation work camp within the youth rehabilitation facility of the department of corrections and community supervision, or any [~~inmate~~] **incarcerated individual** of a youth opportunity or youth rehabilitation center within the Office of Children and Family Services, any resident of a nursing home or residential health care facility as defined in

subdivisions two and three of section twenty-eight hundred one of the public health law, or any staff member or volunteer accompanying or assisting one or more residents of such nursing home or residential health care facility on an outing authorized by the administrator of such nursing home or residential health care facility may take fish as if he or she held a fishing license, except that he or she may not take bait fish by net or trap, if he or she has on his or her person an authorization upon a form furnished by the department containing such identifying information and data as may be required by it, and signed by the superintendent or other head of such facility, institution, hospital, sanitarium, nursing home, residential health care facility or rest camp, as the case may be, or by a staff physician thereat duly authorized so to do by the superintendent or other head thereof. Such authorization with respect to [~~inmates~~] **incarcerated individuals** of said conservation work camps shall be limited to areas under the care, custody and control of the department.

§ 43. Subdivision 1 of section 10 of the public buildings law, as amended by section 127-r of subpart B of part C of chapter 62 of the laws of 2011, is amended to read as follows:

1. Except as provided in subdivision two of this section, whenever the head of any agency, board, division or commission, with the approval of the director of the budget, (a) shall certify to the commissioner of general services that any property on state land or on land under lease to the state and consisting of buildings with or without fixtures attached thereto, and any other improvements upon such lands, are unfit, not adapted or not needed for use by such agency, board, division or commission and (b) shall recommend for reasons to be stated, that the said property should be disposed of, the commissioner of general services shall, after causing an investigation to be made, dispose of said property by sale or demolition as will best promote the public interest. Public notice of a proposed sale where the value of the property to be sold exceeds five thousand dollars shall be given by advertising at least once in a newspaper published and having a general circulation in the county in which such lands are located and in such other newspaper or newspapers as the commissioner of general services may deem to be necessary. Such advertisement shall give a general description and location of the property and the terms of the sale and the date on which proposals for the same will be received by the commissioner of general services. Should any or all of the offers so received be deemed by the commissioner of general services to be too low, he or she may dispose of such property so advertised at private sale within ninety days of the opening of the bids, provided that no such private sale shall be consummated at a price lower than that submitted as a result of public advertising. The commissioner of general services shall also have the power to demolish such property either by contract or, if such property is located on lands which are under the jurisdiction of the department of corrections and community supervision, the work of such demolition may be done by the [~~inmates~~] **incarcerated individuals** of the institution where such property is located, provided however that the commissioner of corrections and community supervision shall consent to the employment of the [~~inmates~~] **incarcerated individuals** for the work of demolition. The provisions of this subdivision shall be effective notwithstanding the provisions of any other general or special law relating to the disposal of buildings with the fixtures attached thereto or of any improvements upon lands belonging to or under lease to the state, and any such statute or parts thereof relating to such disposal

of buildings, fixtures and improvements insofar as they are inconsistent with the provisions of this section are hereby superseded. A record of any such sale shall be filed with the state agency head above referred to and the proceeds of such sale or disposal shall be paid into the treasury of the state to the credit of the capital projects fund.

§ 44. Section 19 of the public buildings law, as amended by chapter 420 of the laws of 1968, is amended to read as follows:

§ 19. Manner of doing work or acquiring material. The work of construction, reconstruction, alteration, repair or improvement of any state building, whether constructed or to be constructed, may be done by the employment of [~~inmate~~] **incarcerated individuals** or outside labor or both and by the purchase of materials in the open market whenever in the opinion of the department having jurisdiction over such building, and the commissioner of general services or his **or her** authorized representative, such a course shall be deemed advantageous to the state, and only upon plans and specifications prepared by the commissioner of general services, but no compensation shall be allowed for the employment of [~~inmate~~] **incarcerated individual** labor except convict labor.

§ 45. Subdivision 1 of section 140 of the public buildings law, as amended by chapter 510 of the laws of 2004, is amended to read as follows:

1. It shall be the duty of each superintendent or chief executive officer of each of the public institutions and buildings of the state, supported wholly or partly by the funds of the state, to provide that the following regulations for the protection of the [~~inmates~~] **incarcerated individuals** of said buildings and the buildings be complied with: There shall be provided a sufficient number of stand-pipes, with connections or outlets on each floor, and sufficient fire hose to properly protect the entire floor surface. Sufficient portable fire extinguishers shall be provided on each floor of each building to provide adequate fire protection. All fire hose shall be inspected under the direction of the engineer at least once every six months and shall be maintained at all times in proper condition. On each floor of every public building having two or more stories where the rooms are connected by an interior hallway, there shall be posted by each stairway, elevator or other means of egress, a printed scale floor plan of that particular story, which shall show all means of egress, clearly labeling those to be used in case of fire. Such posted floor plan shall clearly indicate exits which would be accessible for a person having a disability, as such term is defined in subdivision twenty-one of section two hundred ninety-two of the executive law. Such floor plan shall be posted in at least two other conspicuous areas through the building. Said floor plan shall be no smaller than eight inches by ten inches and shall be posted in such a manner that it cannot be readily removed. Unless exit doors at floor level are provided at fire escapes suitable steps must be provided under other openings used as exits to fire escapes which are not at floor level. Painters' supplies and inflammable liquids of all kinds must not be stored in buildings occupied by wards of the state or employees. All attics and basements must be constantly kept free from rubbish or articles not necessary to the proper conduct of the institution or building, and must be regularly swept, cleaned and all broken or needless articles promptly removed.

§ 46. Subdivision 26 of section 206 of the public health law, as amended by section 127-t of subpart B of part C of chapter 62 of the laws of 2011, is amended to read as follows:

26. The commissioner is hereby authorized and directed to review any policy or practice instituted in facilities operated by the department of corrections and community supervision, and in all local correctional facilities, as defined in subdivision sixteen of section two of the correction law, regarding human immunodeficiency virus (HIV), acquired immunodeficiency syndrome (AIDS), and hepatitis C (HCV) including the prevention of the transmission of HIV and HCV and the treatment of AIDS, HIV and HCV among [~~inmates~~] **incarcerated individuals**. Such review shall be performed annually and shall focus on whether such HIV, AIDS or HCV policy or practice is consistent with current, generally accepted medical standards and procedures used to prevent the transmission of HIV and HCV and to treat AIDS, HIV and HCV among the general public. In performing such reviews, in order to determine the quality and adequacy of care and treatment provided, department personnel are authorized to enter correctional facilities and inspect policy and procedure manuals and medical protocols, interview health services providers and [~~inmate~~] **incarcerated individual**-patients, review medical grievances, and inspect a representative sample of medical records of [~~inmates~~] **incarcerated individuals** known to be infected with HIV or HCV or have AIDS. Prior to initiating a review of a correctional system, the commissioner shall inform the public, including patients, their families and patient advocates, of the scheduled review and invite them to provide the commissioner with relevant information. Upon the completion of such review, the department shall, in writing, approve such policy or practice as instituted in facilities operated by the department of corrections and community supervision, and in any local correctional facility, or, based on specific, written recommendations, direct the department of corrections and community supervision, or the authority responsible for the provision of medical care to [~~inmates~~] **incarcerated individuals** in local correctional facilities to prepare and implement a corrective plan to address deficiencies in areas where such policy or practice fails to conform to current, generally accepted medical standards and procedures. The commissioner shall monitor the implementation of such corrective plans and shall conduct such further reviews as the commissioner deems necessary to ensure that identified deficiencies in HIV, AIDS and HCV policies and practices are corrected. All written reports pertaining to reviews provided for in this subdivision shall be maintained, under such conditions as the commissioner shall prescribe, as public information available for public inspection.

§ 47. Subdivision 2 of section 579 of the public health law, as amended by section 128 of subpart B of part C of chapter 62 of the laws of 2011, is amended to read as follows:

2. This title shall not be applicable to and the department shall not have the power to regulate pursuant to this title: (a) any examination performed by a state or local government of materials derived from the human body for use in criminal identification or as evidence in a criminal proceeding or for investigative purposes; (b) any test conducted pursuant to paragraph (c) of subdivision four of section eleven hundred ninety-four of the vehicle and traffic law and paragraph (c) of subdivision eight of section 25.24 of the parks, recreation and historic preservation law; (c) any examination performed by a state or local agency of materials derived from the body of an [~~inmate~~] **incarcerated individual**, pretrial releasee, parolee, conditional releasee or probationer to (i) determine, measure or otherwise describe the presence or absence of any substance whose possession, ingestion or use is prohibited by law, the rules of the department of corrections and community supervision,

the conditions of release established by the board of parole, the conditions of release established by a court or a local conditional release commission or the conditions of any program to which such individuals are referred and (ii) to determine whether there has been a violation thereof; or (d) any examination performed by a coroner or medical examiner for the medical-legal investigation of a death. Nothing herein shall prevent the department from consulting with the division of criminal justice services, the department of corrections and community supervision, the state police, or any other state agency or commission, at the request of the division of criminal justice services, the department of corrections and community supervision, the state police, or such other agency or commission, concerning examination of materials for purposes other than public health.

§ 48. Intentionally omitted.

§ 49. Subdivision 3 of section 2122 of the public health law is amended to read as follows:

3. The authorities of the institution to which such person is committed by the magistrate pursuant to the provisions of this section shall keep such person separate and apart from the other [~~inmates~~] **incarcerated individuals**.

§ 50. Paragraph (a) of subdivision 10 of section 2140 of the public health law, as added by chapter 180 of the laws of 2002, is amended to read as follows:

(a) as an [~~inmate~~] **incarcerated individual** of any state or federal prison, or

§ 51. Subdivision 3 of section 2200 of the public health law is amended to read as follows:

3. Qualification on residence. The continuous residence required to acquire either state residence or local residence shall not include any period during which the person was (a) a patient in a hospital, or (b) an [~~inmate~~] **incarcerated individual** of any public institution, incorporated private institution, or private tuberculosis home, cottage or hospital, or (c) residing on any military reservation. If, however, the periods of residence immediately prior and subsequent to the periods specified in (a), (b), or (c) shall together equal the required period of residence, such person shall be deemed to have the required continuous residence.

§ 52. Intentionally omitted.

§ 53. Paragraph (a-1) of subdivision 1 and paragraph (o) of subdivision 11 of section 2807-c of the public health law, paragraph (a-1) of subdivision 1 as amended by chapter 639 of the laws of 1996 and paragraph (o) of subdivision 11 as amended by chapter 731 of the laws of 1993, are amended to read as follows:

(a-1) Payments made by local governmental agencies to general hospitals for reimbursement of inpatient hospital services provided to [~~inmates~~] **incarcerated individuals** of local correctional facilities as defined in subdivision sixteen of section two of the correction law shall be at the rates of payment determined pursuant to this section for state governmental agencies, excluding adjustments pursuant to subdivision fourteen-f of this section.

(o) No general hospital shall refuse to provide hospital services to a person presented or proposed to be presented for admission to such general hospital by a representative of a correctional facility or a local correctional facility as defined respectively in subdivisions four, fifteen and sixteen of section two of the correction law based solely on the grounds such person is an [~~inmate~~] **incarcerated individual**

of such correctional facility or local correctional facility. No general hospital may demand or request any charge for hospital services provided to such person in addition to the charges or rates authorized in accordance with this article, except for charges for identifiable additional hospital costs associated with or reasonable additional charges associated with security arrangements for such person.

§ 53-a. Paragraph (a-1) of subdivision 1 of section 2807-c of the public health law, as amended by chapter 731 of the laws of 1993, is amended to read as follows:

(a-1) Payments made by local governmental agencies to general hospitals for reimbursement of inpatient hospital services provided to [~~inmates~~] **incarcerated individuals** of local correctional facilities as defined in subdivision sixteen of section two of the correction law shall be at the rates of payment determined pursuant to this section for state governmental agencies.

§ 54. Subdivisions 1, 2 and 4 of section 4165 of the public health law, as amended by chapter 384 of the laws of 1971, are amended to read as follows:

1. Directors, superintendents, managers or other persons in charge of hospitals, homes for indigents, lying-in or other institutions, public or private, to which persons resort for treatment of diseases or confinement, or to which persons are committed by process of law, shall make, at the time of their admittance, a record of all the personal and statistical particulars relative to the patients and [~~inmates~~] **incarcerated individuals** in their institutions, which are required in the forms of the certificate provided for by this article as directed by the commissioner.

2. The personal particulars and information required by this section shall be obtained from the patient or [~~inmate~~] **incarcerated individual**, if it is practicable to do so; and when they cannot be so obtained, they shall be obtained in as complete a manner as possible from relatives, friends, or other persons acquainted with the facts.

4. The records of patients or [~~inmates~~] **incarcerated individuals** obtained in accordance with this section shall not be sold to any person for promotional or profit-making purposes without the written consent of such patient or [~~inmate~~] **incarcerated individual** or the written consent of the legal representative of such patient or [~~inmate~~] **incarcerated individual**.

§ 55. Subdivision 4 of section 4174 of the public health law, as amended by chapter 323 of the laws of 2016, is amended to read as follows:

4. No fee shall be charged for a search, certification, certificate, certified copy or certified transcript of a record to be used for school entrance, employment certificate or for purposes of public relief or when required by the veterans administration to be used in determining the eligibility of any person to participate in the benefits made available by the veterans administration or when required by a board of elections for the purposes of determining voter eligibility or when requested by the department of corrections and community supervision or a local correctional facility as defined in subdivision sixteen of section two of the correction law for the purpose of providing a certified copy or certified transcript of birth to an [~~inmate~~] **incarcerated individual** in anticipation of such [~~inmate's~~] **incarcerated individual's** release from custody or to obtain a death certificate to be used for administrative purposes for an [~~inmate~~] **incarcerated individual** who has died under custody or when requested by the office of children and fami-

ly services or an authorized agency for the purpose of providing a certified copy or certified transcript of birth to a youth placed in the care and custody or custody and guardianship of the local commissioner of social services or the care and custody or custody and guardianship of the office of children and family services in anticipation of such youth's discharge from placement or foster care.

§ 56. Section 4179 of the public health law, as amended by chapter 323 of the laws of 2016, is amended to read as follows:

§ 4179. Vital records; fees; city of New York. Notwithstanding the provisions of paragraph one of subdivision a of section 207.13 of the health code of the city of New York, the department of health shall charge, and the applicant shall pay, for a search of two consecutive calendar years under one name and the issuance of a certificate of birth, death or termination of pregnancy, or a certification of birth or death, or a certification that the record cannot be found, a fee of fifteen dollars for each copy. Provided, however, that no such fee shall be charged when the department of corrections and community supervision or a local correctional facility as defined in subdivision sixteen of section two of the correction law requests a certificate of birth or certification of birth for the purpose of providing such certificate of birth or certification of birth to an [~~inmate~~] **incarcerated individual** in anticipation of such [~~inmate's~~] **incarcerated individual's** release from custody or to obtain a death certificate to be used for administrative purposes for an [~~inmate~~] **incarcerated individual** who has died under custody or when the office of children and family services or an authorized agency requests a certified copy or certified transcript of birth for a youth placed in the custody of the local commissioner of social services or the custody of the office of children and family services pursuant to article three of the family court act for the purpose of providing such certified copy or certified transcript of birth to such youth in anticipation of discharge from placement.

§ 57. Section 70 of the general municipal law, as amended by section 116 of subpart B of part C of chapter 62 of the laws of 2011, is amended to read as follows:

§ 70. Payment of judgments against municipal corporation. When a final judgment for a sum of money shall be recovered against a municipal corporation, and the execution thereof shall not be stayed pursuant to law, or the time for such stay shall have expired, the treasurer or other financial officer of such corporation having sufficient moneys in his **or her** hands belonging to the corporation not otherwise specifically appropriated, shall pay such judgment upon the production of a certified copy of the docket thereof. Notwithstanding the provisions of any other law to the contrary, in any case where payment for any reason is to be made to an [~~inmate~~] **incarcerated individual** serving a sentence of imprisonment with the state department of corrections and community supervision or to a prisoner confined at a local correctional facility, the treasurer or other financial officer shall give written notice, if required pursuant to subdivision two of section six hundred thirty-two-a of the executive law, to the office of victim services that such payment shall be made thirty days after the date of such notice.

§ 58. Section 87 of the general municipal law, as amended by chapter 555 of the laws of 1978, is amended to read as follows:

§ 87. Support and maintenance of charitable and other institutions. Boards of estimate and apportionment, common councils, boards of aldermen, boards of supervisors, town boards, boards of trustees of villages and all other boards or officers of counties, cities, towns and

villages, authorized to appropriate and to raise money by taxation and to make payments therefrom, are hereby authorized, in their discretion, to appropriate and to raise money by taxation and to make payments from said moneys, and from any moneys received from any other source and properly applicable thereto, to charitable, eleemosynary, correctional and reformatory institutions wholly or partly under private control, for the care, support and maintenance of their [~~inmates~~] **incarcerated individuals** and out-patients, of the moneys which are or may be appropriated therefor; such payments to be made only for such [~~inmates~~] **incarcerated individuals** as are received and retained therein pursuant to regulations established by the state department of social services or other state department having the power of inspection thereof. In the absence within the state of adequate facilities conveniently accessible, payments for the support, care and maintenance of [~~inmates~~] **incarcerated individuals** and out-patients may be made to institutions, wholly or partly under private control, of a charitable or eleemosynary character, located without the state, which institutions if located within the state would be subject to the visitation, inspection and supervision of the department of social services. However, such payments may be made only to institutions conducted in conformity with the regulations of such department.

§ 59. Subdivision 2 of section 101 of the general municipal law, as added by chapter 861 of the laws of 1953, is amended to read as follows:

2. Such specifications shall be drawn so as to permit separate and independent bidding upon each of the above three subdivisions of work. All contracts awarded by any political subdivision or by an officer, board or agency thereof, or of any district therein, for the erection, construction, reconstruction or alteration of buildings, or any part thereof, shall award the three subdivisions of the above specified work separately in the manner provided by section one hundred three of this [~~chapter~~] **article**. Nothing in this section shall be construed to prevent any political subdivision from performing any such branches of work by or through their regular employees, or in the case of public institutions, by the [~~inmates~~] **incarcerated individuals** thereof.

§ 60. Intentionally omitted.

§ 61. Intentionally omitted.

§ 62. Paragraph (e) of subdivision 2 of section 148 of the general municipal law, as added by chapter 871 of the laws of 1948, is amended to read as follows:

(e) The board of supervisors of the county of which such deceased person was a resident at the time of his or her death is hereby authorized and directed to audit the account and pay the expenses of such burial and headstone, and a reasonable sum for the services and necessary expenses of the person or commission so designated. In case such person shall be at the time of his or her death an [~~inmate~~] **incarcerated individual** of any state institution, including state hospitals and soldiers' homes, or any institution, supported by the state and supported by public expense therein, the expense of such burial and headstone shall be a charge upon the county of his or her legal residence.

§ 63. Section 207-n of the general municipal law, as added by chapter 622 of the laws of 1997, is amended to read as follows:

§ 207-n. Performance of duty disability retirement. Notwithstanding the provisions of any general, special or local law or administrative code to the contrary, but except for the purposes of the workers' compensation law and the labor law, a paid member of the uniformed force

of a paid correction department, where such paid member is drawn from competitive civil service lists, who successfully passed a physical examination on entry into the service of such department, who contracts HIV (where there may have been exposure to a bodily fluid of an [~~inmate~~] **incarcerated individual** or any person confined in an institution under the jurisdiction of the department of [~~correction~~] **corrections and community supervision**, or the department of health, or any person who has been committed to such institution by any court as a natural and proximate result of an act of any [~~inmate~~] **incarcerated individual** or person described above, that may have involved transmission of a specified transmissible disease from an [~~inmate~~] **incarcerated individual** or person described above to the member), tuberculosis or hepatitis will be presumed to have contracted such disease in the performance or discharge of his or her duties, unless the contrary be proved by competent evidence.

§ 64. Intentionally omitted.

§ 65. Paragraph (b) of subdivision 1 of section 671 of the county law, as amended by chapter 491 of the laws of 1987, is amended to read as follows:

(b) shall make inquiry into all deaths whether natural or unnatural in his **or her** county occurring to an [~~inmate~~] **incarcerated individual** of a correctional facility as defined by subdivision three of section forty of the correction law, whether or not the death occurred inside such facility.

§ 66. Subdivision 5 of section 674 of the county law, as amended by chapter 490 of the laws of 2015, is amended to read as follows:

5. Notwithstanding section six hundred seventy of this article or any other provision of law, the coroner, coroner's physician or medical examiner shall promptly perform or cause to be performed an autopsy and to prepare an autopsy report which shall include a toxicological report and any report of any examination or inquiry with respect to any death occurring within his **or her** county to an [~~inmate~~] **incarcerated individual** of a correctional facility as defined by subdivision three of section forty of the correction law, whether or not the death occurred inside such facility.

§ 67. Subdivision 6 of section 677 of the county law, as amended by chapter 490 of the laws of 2015, is amended to read as follows:

6. Notwithstanding section six hundred seventy of this article or any other provision of law, the coroner, coroner's physician or medical examiner shall promptly provide the chairman of the correction medical review board and the commissioner of corrections and community supervision with copies of any autopsy report, toxicological report or any report of any examination or inquiry prepared with respect to any death occurring to an [~~inmate~~] **incarcerated individual** of a correctional facility as defined by subdivision three of section forty of the correction law within his **or her** county; and shall promptly provide the executive director of the justice center for the protection of people with special needs with copies of any autopsy report, toxicology report or any report of any examination or inquiry prepared with respect to the death of any service recipient occurring while he or she was a resident in any facility operated, licensed or certified by any agency within the department of mental hygiene, the office of children and family services, the department of health or the state education department. If the toxicological report is prepared pursuant to any agreement or contract with any person, partnership, corporation or governmental agency with the coroner or medical examiner, such report shall be promptly

provided to the chairman of the correction medical review board, the commissioner of corrections and community supervision or the executive director of the justice center for people with special needs, as appropriate, by such person, partnership, corporation or governmental agency.

§ 68. Intentionally omitted.

§ 69. Intentionally omitted.

§ 70. Paragraph b of subdivision 1 of section 272 of the education law, as amended by section 88 of subpart B of part C of chapter 62 of the laws of 2011, is amended to read as follows:

b. The "area served" by a public library system for the purposes of this article shall mean the area which the public library system proposes to serve in its approved plan of service. In determining the population of the area served by the public library system the population shall be deemed to be that shown by the latest federal census for the political subdivisions in the area served. Such population shall be certified in the same manner as provided by section fifty-four of the state finance law except that such population shall include the reservation and school Indian population and [~~inmates~~] **incarcerated individuals** of state institutions under the direction, supervision or control of the state department of corrections and community supervision, the state department of mental hygiene and the state department of social welfare. In the event that any of the political subdivisions receiving library service are included within a larger political subdivision which is a part of the public library system the population used for the purposes of computing state aid shall be the population of the larger political subdivision, provided however, that where any political subdivision within a larger political subdivision shall have taken an interim census since the last census taken of the larger political subdivision, the population of the larger political subdivision may be adjusted to reflect such interim census and, as so adjusted, may be used until the next census of such larger political subdivision. In the event that the area served is not coterminous with a political subdivision, the population of which is shown on such census, or the area in square miles of which is available from official sources, such population and area shall be determined, for the purpose of computation of state aid pursuant to section two hundred seventy-three of this part by applying to the population and area in square miles of such political subdivision, the ratio which exists between the assessed valuation of the portion of such political subdivision included within the area served and the total assessed valuation of such political subdivision.

§ 71. Section 285 of the education law, as amended by section 6 of part O of chapter 57 of the laws of 2005, is amended to read as follows:

§ 285. State aid for cooperation with correctional facilities. 1. Each public library system operating under an approved plan of service which has a state correctional facility or facilities within its area of service shall be awarded an annual grant of nine dollars twenty-five cents per capita for the [~~inmate~~] **incarcerated individual** population of such facility or facilities to make available to the [~~inmate~~] **incarcerated individual** population of such facility or facilities, in direct coordination with the correctional facilities libraries, the library resources of such system. The commissioner shall adopt any regulations necessary to carry out the purposes and provisions of this subdivision.

2. The commissioner is authorized to expend up to one hundred seventy-five thousand dollars annually to provide grants to public library systems operating under an approved plan of service for provision of services to county jail facilities. Such formula grants shall assist the

library system in making available to the [~~inmate~~] **incarcerated individual** population of such facility or facilities the library resources of such system. Such grants shall be available to each public library system in such manner as to insure that the ratio of the amount each system is eligible to receive equals the ratio of the number of [~~inmates~~] **incarcerated individuals** served by the county jail facility to the total number of [~~inmates~~] **incarcerated individuals** served by county jail facilities in the state as of July first of the year preceding the calendar year in which the state aid to public library systems is to be paid. [~~Inmate~~] **Incarcerated individual** populations shall be certified by the New York state commission of correction. The commissioner shall adopt any regulations necessary to carry out the purposes and provisions of this subdivision.

§ 72. Subdivision 3 of section 2016 of the education law, as amended by chapter 801 of the laws of 1953, is amended to read as follows:

3. An affidavit by any officer or employee of the board of education or any police officer, sheriff or deputy sheriff that he **or she** visited the premises claimed by the applicant as his **or her** residence, and that he **or she** interrogated an [~~inmate~~] **incarcerated individual**, housedweller, keeper or caretaker, owner, proprietor, or landlord thereof or therein, as to the applicant's residence therein or thereat, and that he **or she** was informed by one or more of such persons, naming them, that they knew the persons residing upon such premises and that the applicant did not reside upon such premises thirty days before the meeting or election shall be presumptive evidence against the right of the voter to register from such premises.

§ 73. Subdivision (h) of section 19.07 of the mental hygiene law, as amended by section 118-f of subpart B of part C of chapter 62 of the laws of 2011, is amended to read as follows:

(h) The office of alcoholism and substance abuse services shall monitor programs providing care and treatment to [~~inmates~~] **incarcerated individuals** in correctional facilities operated by the department of corrections and community supervision who have a history of alcohol or substance abuse or dependence. The office shall also develop guidelines for the operation of alcohol and substance abuse treatment programs in such correctional facilities in order to ensure that such programs sufficiently meet the needs of [~~inmates~~] **incarcerated individuals** with a history of alcohol or substance abuse or dependence and promote the successful transition to treatment in the community upon release. No later than the first day of December of each year, the office shall submit a report regarding the adequacy and effectiveness of alcohol and substance abuse treatment programs operated by the department of corrections and community supervision to the governor, the temporary president of the senate, the speaker of the assembly, the chairman of the senate committee on crime victims, crime and correction, and the chairman of the assembly committee on correction.

§ 74. Section 29.27 of the mental hygiene law, as added by chapter 766 of the laws of 1976, subdivision (c) as amended by chapter 789 of the laws of 1985, subdivisions (e), (f), (g), (i) and (j) as amended by section 118-h of subpart B of part C of chapter 62 of the laws of 2011, is amended to read as follows:

§ 29.27 [~~Inmate~~] **Incarcerated individual**-patients placed in the custody of the department.

(a) As used in this section, the term "[~~inmate~~] **incarcerated individual**-patient" means a person committed pursuant to the provisions of

article sixteen of the correction law to the custody of the department of mental hygiene for care and treatment.

(b) The commissioner shall provide a facility or facilities in which [~~inmate~~] **incarcerated individual**-patients may be retained for care and treatment.

(c) An [~~inmate~~] **incarcerated individual**-patient may be retained for care and treatment in the facility designated by the commissioner for the period stated in the order committing the [~~inmate~~] **incarcerated individual**-patient to the custody of the department unless sooner transferred or discharged in accordance with law. If the [~~inmate~~] **incarcerated individual**-patient requires inpatient care and treatment for mental illness beyond such authorized period, the director of the facility where he **or she** is kept in custody shall apply for an order of retention or subsequent orders of retention in accordance with the procedures set forth in article nine of this chapter for the retention of patients. The provisions of this chapter applying to the rights of patients with respect to notices, hearings, judicial review, writ of habeas corpus, and the services of the mental hygiene legal service shall apply to [~~inmate~~] **incarcerated individual**-patients except that in no case shall an [~~inmate~~] **incarcerated individual**-patient be discharged or released from custody prior to the time that such [~~inmate~~] **incarcerated individual**-patient has completed his **or her** term of imprisonment or that his **or her** release from custodial confinement in the correctional facility or jail from which he **or she** was delivered to the department has been duly authorized.

(d) During the period of his **or her** custody in the department of mental hygiene pursuant to this section, an [~~inmate~~] **incarcerated individual**-patient shall be entitled to the rights to care and treatment set forth in section 15.03 of this chapter and to such other rights granted to patients by this chapter, as determined by regulation of the commissioner, which are not inconsistent with his **or her** status as a person legally subject to confinement in a correctional facility or jail or with the mandate of secure custody of such [~~inmate~~] **incarcerated individual**-patient.

(e) When the director of the facility in which the [~~inmate~~] **incarcerated individual**-patient is in custody finds that the [~~inmate~~] **incarcerated individual**-patient is no longer mentally ill or no longer requires hospitalization for care and treatment, he **or she** shall so notify the [~~inmate~~] **incarcerated individual**-patient and commissioner of corrections and community supervision or, in the case of an [~~inmate~~] **incarcerated individual**-patient coming from a jail or correctional institution operated by local government, the officer in charge of the jail or correctional institution from which the [~~inmate~~] **incarcerated individual**-patient was committed. The commissioner of corrections and community supervision or such officer, as the case may be, shall immediately arrange to take such [~~inmate~~] **incarcerated individual**-patient into custody and return him **or her** to a correctional facility or to the jail or correctional institution operated by local government.

(f) Upon delivery of the [~~inmate~~] **incarcerated individual**-patient to the representative of the commissioner of corrections and community supervision or of an officer in charge of a jail or correctional institution operated by local government, the responsibility of the department and its facilities for the custody of the [~~inmate~~] **incarcerated individual**-patient shall terminate. Where the [~~inmate~~] **incarcerated individual** is returned to a state correctional facility, the department shall continue to be responsible for the [~~inmate~~] **incarcerated individ-**

ual-patient's psychiatric care if the [~~inmate~~] incarcerated individual-patient upon his or her return is in a program established pursuant to section four hundred one of the correction law.

(g) If an [~~inmate~~] incarcerated individual-patient in the custody of the department escapes from custody, immediate notice shall be given to the commissioner of corrections and community supervision or, in the case of an [~~inmate~~] incarcerated individual-patient coming from a jail or correctional institution operated by local government, to the officer in charge of such jail or correctional institution. Notice shall also be given to appropriate law enforcement authorities.

(h) The cost of care and treatment of an [~~inmate~~] incarcerated individual-patient in a department facility shall be a charge upon the department if the [~~inmate~~] incarcerated individual-patient was committed from a state correctional facility or upon the local government from which the [~~inmate~~] incarcerated individual-patient was committed.

(i) Upon release of an [~~inmate~~] incarcerated individual-patient from a facility, the director shall forward a copy of all health and psychiatric records to the commissioner of corrections and community supervision or to the officer in charge of a jail or correctional institution operated by local government, as the case may be.

(j) If the sentence for which an [~~inmate~~] incarcerated individual-patient is confined expires or is vacated or modified by court order, the director shall so notify the commissioner of corrections and community supervision or such officer in charge of a jail or correctional institution operated by local government, as appropriate.

§ 75. The section heading and subdivision (a) of section 29.28 of the mental hygiene law, as added by section 5 of subpart C of part C of chapter 97 of the laws of 2011, are amended to read as follows:

Payment of costs for prosecution of [~~inmate~~] incarcerated individual-patients.

(a) When an [~~inmate~~] incarcerated individual-patient, as defined in subdivision (a) of section 29.27 of this article, who was committed from a state correctional facility, is alleged to have committed an offense while in the custody of the department, the department of corrections and community supervision shall pay all reasonable costs for the prosecution of such offense, including but not limited to, costs for: a grand jury impaneled to hear and examine evidence of such offense, petit jurors, witnesses, the defense of any [~~inmate~~] incarcerated individual financially unable to obtain counsel in accordance with the provisions of the county law, the district attorney, the costs of the sheriff and the appointment of additional court attendants, officers or other judicial personnel.

§ 76. Subdivision (g) of section 33.08 of the mental hygiene law, as added by chapter 709 of the laws of 1986, is amended to read as follows:

(g) For the purposes of this section, a person who has been admitted to central New York psychiatric center from a state correctional facility or county jail pursuant to section four hundred two of the correction law shall not be considered a patient in a hospital operated by the office of mental health. Notwithstanding any other provision of this section, a person who has been admitted to central New York psychiatric center from a county jail pursuant to section four hundred two of the correction law shall be entitled to receive a monthly state payment for personal needs in an amount equal to, and calculated in the same manner as, an incentive allowance which is provided to an [~~inmate~~] incarcerated

individual of a state correctional institution pursuant to section two hundred of the correction law.

§ 77. Paragraph 10 of subdivision (c) of section 33.13 of the mental hygiene law, as amended by section 118-i of subpart B of part C of chapter 62 of the laws of 2011, is amended to read as follows:

10. to a correctional facility, when the chief administrative officer has requested such information with respect to a named [~~inmate~~] incarcerated individual of such correctional facility as defined by subdivision three of section forty of the correction law or to the department of corrections and community supervision, when the department has requested such information with respect to a person under its jurisdiction or an [~~inmate~~] incarcerated individual of a state correctional facility, when such [~~inmate~~] incarcerated individual is within four weeks of release from such institution to community supervision. Information released pursuant to this paragraph may be limited to a summary of the record, including but not limited to: the basis for referral to the facility; the diagnosis upon admission and discharge; a diagnosis and description of the patient's or client's current mental condition; the current course of treatment, medication and therapies; and the facility's recommendation for future mental hygiene services, if any. Such information may be forwarded to the department of corrections and community supervision staff in need of such information for the purpose of making a determination regarding an [~~inmate's~~] incarcerated individual's health care, security, safety or ability to participate in programs. In the event an [~~inmate~~] incarcerated individual is transferred, the sending correctional facility shall forward, upon request, such summaries to the chief administrative officer of any correctional facility to which the [~~inmate~~] incarcerated individual is subsequently incarcerated. The office of mental health and the office for people with developmental disabilities, in consultation with the commission of correction and the department of corrections and community supervision, shall promulgate rules and regulations to implement the provisions of this paragraph.

§ 78. Intentionally omitted.

§ 79. Subdivisions a and b of section 63-a of the retirement and social security law, subdivision a as amended by section 138 of subpart B of part C of chapter 62 of the laws of 2011 and subdivision b as added by chapter 722 of the laws of 1996, are amended to read as follows:

a. Any member in the uniformed personnel in institutions under the jurisdiction of the department of corrections and community supervision or a security hospital treatment assistant, as those terms are defined in subdivision i of section eighty-nine of this article, who becomes physically or mentally incapacitated for the performance of duties as the natural and proximate result of an injury, sustained in the performance or discharge of his or her duties by, or as the natural and proximate result of an act of any [~~inmate~~] incarcerated individual or any person confined in an institution under the jurisdiction of the department of corrections and community supervision or office of mental health, or by any person who has been committed to such institution by any court shall be paid a performance of duty disability retirement allowance equal to that which is provided in section sixty-three of this title, subject to the provisions of section sixty-four of this title.

b. Notwithstanding any provision of this chapter or of any general or special law to the contrary, a member covered by this section who contracts HIV (where there may have been an exposure to a bodily fluid of an [~~inmate~~] incarcerated individual or a person described in subdivi-

sion a of this section as a natural and proximate result of an act of any [~~inmate~~] **incarcerated individual** or person described in [~~such~~] subdivision a that may have involved transmission of a specified transmissible disease from an [~~inmate~~] **incarcerated individual** or such person described in [~~such~~] subdivision a to the retirement system member), tuberculosis or hepatitis will be presumed to have contracted such disease in the performance or discharge of his or her duties, and will be presumed to be disabled from the performance of his or her duties, unless the contrary be proved by competent evidence.

§ 80. Subdivisions b and c of section 63-b of the retirement and social security law, as added by chapter 639 of the laws of 1999, are amended to read as follows:

b. Any sheriff, deputy sheriff, undersheriff, or correction officer as defined in subdivision a of this section, who becomes physically or mentally incapacitated for the performance of duties as the natural and proximate result of an injury, sustained in the performance or discharge of his or her duties by, or as the natural and proximate result of an act of any [~~inmate~~] **incarcerated individual** or any person confined in an institution under the jurisdiction of such county, shall be paid a performance of duty disability retirement allowance equal to that which is provided in section sixty-three of this title, subject to the provisions of section sixty-four of this title.

c. Notwithstanding any provision of this chapter or of any general or special law to the contrary, a member covered by this section who contracts HIV (where there may have been an exposure to a bodily fluid of an [~~inmate~~] **incarcerated individual** or a person defined in subdivision b of this section as a natural and proximate result of an act of any [~~inmate~~] **incarcerated individual** or person described in such subdivision b that may have involved transmission of a specified transmissible disease from an [~~inmate~~] **incarcerated individual** or person described in such subdivision b to the retirement system member), tuberculosis or hepatitis will be presumed to have contracted such disease in the performance or discharge of his or her duties, and will be presumed to be disabled from the performance of his or her duties, unless the contrary be proved by competent evidence.

§ 81. Subdivision i of section 89 of the retirement and social security law, as amended by section 139 of subpart B of part C of chapter 62 of the laws of 2011, is amended to read as follows:

i. As used in this section, "uniformed persons" or "uniformed personnel" in institutions under the jurisdiction of the department of corrections and community supervision or "security hospital treatment assistants" under the jurisdiction of the office of mental health mean officers or employees holding the titles hereinafter set forth in institutions under the jurisdiction of the department of corrections and community supervision or under the jurisdiction of the office of mental health, namely: correction officers, prison guards, correction sergeants, correction lieutenants, correction captains, deputy assistant superintendent or warden, deputy warden or deputy superintendent, superintendents and wardens, assistant director and director of correction reception center, director of correctional program, assistant director of correctional program, director of community correctional center, community correctional center assistant, correction hospital officers, male or female, correction hospital senior officers, correction hospital charge officer, correction hospital supervising officer, correction hospital security supervisor, correction hospital chief officer, correction youth camp officer, correction youth camp supervisor, assist-

ant supervisor, correctional camp superintendent, assistant correctional camp superintendent, director of crisis intervention unit, assistant director of crisis intervention unit, security hospital treatment assistants, security hospital treatment assistants (Spanish speaking), security hospital senior treatment assistants, security hospital supervising treatment assistants and security hospital treatment chiefs. Previous service rendered under the titles by which such positions were formerly designated and previous service rendered as a narcotic addiction control commission officer shall constitute creditable service. Notwithstanding any provision of law to the contrary, any employee of the department of corrections and community supervision who became enrolled under this section by reason of employment as a uniformed person in an institution under the jurisdiction of the department of corrections and community supervision shall be entitled to full retirement credit for, and full allowance shall be made under this section for the service of such employee, not to exceed twelve years, while assigned to the training academy or central office, in the following titles, namely: correction officer, correction sergeant, correction lieutenant, correction captain, correctional services investigator, senior correctional services employee investigator, correctional services fire and safety coordinator, director of special housing and [~~inmate~~] **incarcerated individual** disciplinary program, assistant director of special housing and [~~inmate~~] **incarcerated individual** disciplinary program, assistant chief of investigations, director of CERT operations, correctional facility operations specialist, director of security staffing project, correctional security technical services specialist, assistant commissioner and deputy commissioner.

§ 82. Subdivisions a and b of section 507-b of the retirement and social security law, subdivision a as amended by section 146 of subpart B of part C of chapter 62 of the laws of 2011 and subdivision b as added by chapter 722 of the laws of 1996, are amended to read as follows:

a. Any member in the uniformed personnel in institutions under the jurisdiction of the department of corrections and community supervision or a security hospital treatment assistant, as those terms are defined in subdivision i of section eighty-nine of this chapter, who becomes physically or mentally incapacitated for the performance of duties as the natural and proximate result of an injury, sustained in the performance or discharge of his or her duties by, or as a natural and proximate result of, an act of any [~~inmate~~] **incarcerated individual** or any person confined in an institution under the jurisdiction of the department of corrections and community supervision or office of mental health, or by any person who has been committed to such institution by any court shall be paid a performance of duty disability retirement allowance equal to that which is provided in section sixty-three of this chapter, subject to the provisions of section sixty-four of this chapter.

b. Notwithstanding any provision of this chapter or of any general or special law to the contrary, a member covered by this section who contracts HIV (where there may have been an exposure to a bodily fluid of an [~~inmate~~] **incarcerated individual** or a person described in subdivision a of this section as a natural and proximate result of an act of any [~~inmate~~] **incarcerated individual** or person described in such subdivision a that may have involved transmission of a specified transmissible disease from an [~~inmate~~] **incarcerated individual** or such person described in such subdivision a to the retirement system member), tuberculosis or hepatitis will be presumed to have contracted such disease in the performance or discharge of his or her duties, and will be presumed

to be disabled from the performance of his or her duties, unless the contrary be proved by competent evidence.

§ 83. Subdivisions a and b of section 507-c of the retirement and social security law, subdivision a as amended by chapter 18 of the laws of 2012 and subdivision b as added by chapter 622 of the laws of 1997, are amended to read as follows:

a. Any member in the uniformed personnel in institutions under the jurisdiction of the New York city department of correction, who becomes physically or mentally incapacitated for the performance of duties as the natural and proximate result of an injury, sustained in the performance or discharge of his or her duties by, or as a natural and proximate result of, an act of any [~~inmate~~] **incarcerated individual** or any person confined in an institution under the jurisdiction of the department of correction or the department of health, or by any person who has been committed to such institution by any court shall be paid a performance of duty disability retirement allowance equal to three-quarters of final average salary, subject to the provisions of section 13-176 of the administrative code of the city of New York, provided, however, that the provisions of this section shall not apply to a member of the uniformed force of the New York city department of correction who is a New York city uniformed correction/sanitation revised plan member.

b. Notwithstanding any provision of this chapter or of any general or special law to the contrary, a member covered by this section who contracts HIV (where there may have been an exposure to a bodily fluid of an [~~inmate~~] **incarcerated individual** or a person described in subdivision a of this section as a natural and proximate result of an act of any [~~inmate~~] **incarcerated individual** or person described in subdivision a of this section that may have involved transmission of a specified transmissible disease from an [~~inmate~~] **incarcerated individual** or such person described in such subdivision a to the retirement system member), tuberculosis or hepatitis will be presumed to have contracted such disease in the performance or discharge of his or her duties, and will be presumed to be disabled from the performance of his or her duties, unless the contrary be proved by competent evidence.

§ 84. Subdivision b of section 607-a of the retirement and social security law, as added by chapter 722 of the laws of 1996, is amended to read as follows:

b. Notwithstanding any provision of this chapter or of any general or special law to the contrary, a member covered by this section who contracts HIV (where there may have been an exposure to a bodily fluid of an [~~inmate~~] **incarcerated individual** or a person described in subdivision a of this section as a natural and proximate result of an act of any [~~inmate~~] **incarcerated individual** or person described in such subdivision a that may have involved transmission of a specified transmissible disease from an [~~inmate~~] **incarcerated individual** or such person described in such subdivision a to the retirement system member), tuberculosis or hepatitis will be presumed to have contracted such disease in the performance or discharge of his or her duties, and will be presumed to be disabled from the performance of his or her duties, unless the contrary be proved by competent evidence.

§ 85. Subdivisions a and b of section 607-c of the retirement and social security law, as added by chapter 639 of the laws of 1999, are amended to read as follows:

a. Any sheriff, deputy sheriff, undersheriff or correction officer as defined in subdivision a of section sixty-three-b of this chapter, and who are employed in a county which makes an election pursuant to subdi-

vision d of such section sixty-three-b, who becomes physically or mentally incapacitated for the performance of duties as the natural and proximate result of an injury, sustained in the performance or discharge of his or her duties by, or as the natural and proximate result of any act of any [~~inmate~~] **incarcerated individual** or any person confined in an institution under the jurisdiction of such county, shall be paid a performance of duty disability retirement allowance equal to that which is provided in section sixty-three of this chapter, subject to the provisions of section sixty-four of this chapter.

b. Notwithstanding any provision of this chapter or of any general or special law to the contrary, a member covered by this section who contracts HIV (where there may have been an exposure to a bodily fluid of an [~~inmate~~] **incarcerated individual** or a person defined in subdivision a of this section as a natural and proximate result of an act of any [~~inmate~~] **incarcerated individual** or person described in such subdivision a that may have involved transmission of a specified transmissible disease from an [~~inmate~~] **incarcerated individual** or person described in such subdivision a to the retirement system member), tuberculosis or hepatitis will be presumed to have contracted such disease in the performance or discharge of his or her duties, and will be presumed to be disabled from the performance of his or her duties, unless the contrary be proved by competent evidence.

§ 86. Subdivision (b) of section 118 of the social services law, as added by chapter 200 of the laws of 1946, is amended to read as follows:

(b) an [~~inmate~~] **incarcerated individual** of any public institution or any incorporated private institution, or

§ 87. Subdivisions 1, 2, 5, 6, 7, 8 and 8-a of section 194 of the social services law, subdivision 8 as added by chapter 226 of the laws of 1950 and subdivision 8-a as added by chapter 805 of the laws of 1962, are amended to read as follows:

1. be responsible for the management of the home and for the care of its [~~inmates~~] **incarcerated individuals**,

2. have control of the admission and discharge of [~~inmates~~] **incarcerated individuals** of the home,

5. classify the [~~inmates~~] **incarcerated individuals** of the home, and provide the type of care best fitted to their needs and carry out the recommendations of the attending physician in regard to their care,

6. establish rules for the administration of the public home and for the conduct and employment of the [~~inmates~~] **incarcerated individuals** thereof; but such rules shall not be valid unless approved in writing by the department,

7. as far as practicable provide suitable employment for any [~~inmate~~] **incarcerated individual** whom the attending physician pronounces able to work, assigning such inmates to such labor in connection with the farm and garden, or the care and upkeep of the buildings or other suitable tasks in the public home as they may be deemed capable of performing, and providing occupational and other diversions as may be for the best interests of the [~~inmates~~] **incarcerated individuals**,

8. when in their individual judgment and discretion it appears advisable, for purposes of rehabilitation, to provide incentive compensation to an [~~inmate~~] **incarcerated individual**, in any amount or amounts totalling ten dollars or less per month, for work assigned and performed in or about the public home, farm and garden; but the payment of any such reward shall not be deemed, for the purposes of any law, to make the [~~inmate~~] **incarcerated individual** receiving the same an employee of the public home or of the county or city maintaining such home,

8-a. deposit as prescribed in section eighty-seven of this chapter, any and all moneys received by him **or her** for the use of a particular [~~inmate~~] **incarcerated individual** or [~~inmates~~] **incarcerated individuals** of the public home[~~.~~]**,**

§ 88. Section 194-a of the social services law, as added by chapter 384 of the laws of 1961, is amended to read as follows:

§ 194-a. Additional power of work assignment granted to commissioner of public welfare of Monroe county. When, pursuant to the provisions of subdivision eight of section one hundred ninety-four of this [~~chapter~~] **title**, the commissioner of public welfare of Monroe county deems it advisable to assign work to an [~~inmate~~] **incarcerated individual**, such work may be assigned and performed in or about not only the public home, farm and garden but also any other property maintained under his supervision. The payment of any reward pursuant to such subdivision eight shall not be deemed, for the purposes of any law, to make the [~~inmate~~] **incarcerated individual** receiving the same an employee of the public home or of the county or city maintaining such home or such other property maintained under the commissioner's jurisdiction.

§ 89. Section 195 of the social services law is amended to read as follows:

§ 195. Medical care. 1. Each [~~inmate~~] **incarcerated individual** shall be examined by the attending physician or physicians as soon after admission to the public home as practicable.

2. A medical record shall be kept for each [~~inmate~~] **incarcerated individual**, in which shall be recorded his **or her** condition on admission, the physician's recommendation of the type of care to be given him **or her** and any medical attention given to the [~~inmate~~] **incarcerated individual** subsequent to the examination on admission.

3. The physician shall be responsible for the medical care given [~~inmates~~] **incarcerated individuals** who are ill, and shall give such orders as he considers necessary for their welfare. He **or she** shall (a) visit the public home at regular intervals and shall re-examine the [~~inmates~~] **incarcerated individuals** periodically, as the need of the [~~inmates~~] **incarcerated individuals** may require,

(b) also visit the public home, on call of the superintendent, in case of the illness of any [~~inmate~~] **incarcerated individual**,

(c) make such recommendations to the commissioner of public welfare as to changes, improvements and additional equipment as he may deem necessary for the adequate care of the [~~inmates~~] **incarcerated individuals** of such home.

4. Any physician who accepts an appointment as attending physician to the [~~inmates~~] **incarcerated individuals** of a public home shall be obligated to carry out the provisions of this section. The commissioner may dismiss an attending physician who fails to fulfill such duties.

§ 90. Section 196 of the social services law is amended to read as follows:

§ 196. Report on needs of [~~inmates~~] **incarcerated individuals** of public homes. It shall be the duty of the commissioner of public welfare to report to the legislative body as to the needs of the home and to make recommendations of any changes, improvements, additional equipment or other provision which he **or she** may consider necessary to provide adequate care for the [~~inmates~~] **incarcerated individuals**.

§ 91. Section 197 of the social services law is amended to read as follows:

§ 197. [~~Inmates'~~] **Incarcerated individuals'** right of appeal. Any [~~inmate~~] **incarcerated individual** of a public home, who considers himself

or herself to have a cause for complaint against any officer or employee of the public home, shall have the right of appeal to the superintendent of the public home, and to the commissioner of public welfare.

§ 92. Section 198 of the social services law, as amended by chapter 82 of the laws of 1941, is amended to read as follows:

§ 198. Control of [~~inmates~~] incarcerated individuals. If any [~~inmate~~] incarcerated individual shall wilfully disobey the rules of the home in such a way as to be detrimental to the welfare of the other [~~inmates~~] incarcerated individuals, the commissioner may institute a proceeding in a court of competent jurisdiction against such [~~inmate~~] incarcerated individual for disorderly conduct.

§ 93. Section 199 of the social services law, as amended by chapter 195 of the laws of 1973, is amended to read as follows:

§ 199. Power of commissioner of public welfare to detain certain [~~inmates~~] incarcerated individuals. The commissioner of public welfare shall have power to detain in the public home, pending a vacancy for such person in a state institution, a person over the age of sixteen who has been certified as mentally retarded or epileptic in accordance with the provisions of the mental hygiene law and for whom an application for admission to a state institution has been made. Whenever the commissioner shall so detain an [~~inmate~~] incarcerated individual in the public home he or she shall at once notify the state department of mental hygiene.

§ 94. Subdivisions 2, 4 and 6 of section 200 of the social services law, are amended to read as follows:

2. utilize the labor of such of the [~~inmates~~] incarcerated individuals of the public home as may in the judgment of the attending physician be able to work on the farm,

4. sell such surplus produce and proceeds of such farm and labor as may remain after the needs of the [~~inmates~~] incarcerated individuals of the public home have been supplied,

6. keep a record of the work of the farm, including the labor of the [~~inmates~~] incarcerated individuals of the public home on the farm and of the produce and proceeds of the farm supplied for the use of the public home, with the estimated value of such produce and proceeds,

§ 95. Intentionally omitted.

§ 96. Subdivision 1-a of section 366 of the social services law, as amended by section 21-a of part B of chapter 59 of the laws of 2016, is amended to read as follows:

1-a. Notwithstanding any other provision of law, in the event that a person who is an [~~inmate~~] incarcerated individual of a state or local correctional facility, as defined in section two of the correction law, was in receipt of medical assistance pursuant to this title immediately prior to being admitted to such facility, such person shall remain eligible for medical assistance while an [~~inmate~~] incarcerated individual, except that no medical assistance shall be furnished pursuant to this title for any care, services, or supplies provided during such time as the person is an [~~inmate~~] incarcerated individual; provided, however, that nothing herein shall be deemed as preventing the provision of medical assistance for inpatient hospital services furnished to an [~~inmate~~] incarcerated individual at a hospital outside of the premises of such correctional facility or pursuant to other federal authority authorizing the provision of medical assistance to an [~~inmate~~] incarcerated individual of a state or local correctional facility during the thirty days prior to release, to the extent that federal financial participation is available for the costs of such services. Upon release

from such facility, such person shall continue to be eligible for receipt of medical assistance furnished pursuant to this title until such time as the person is determined to no longer be eligible for receipt of such assistance. To the extent permitted by federal law, the time during which such person is an [~~inmate~~] **incarcerated individual** shall not be included in any calculation of when the person must recertify his or her eligibility for medical assistance in accordance with this article. The state may seek federal authority to provide medical assistance for transitional services including but not limited to medical, prescription, and care coordination services for high needs [~~inmates~~] **incarcerated individuals** in state and local correctional facilities during the thirty days prior to release.

§ 97. Intentionally omitted.

§ 98. Section 480 of the social services law is amended to read as follows:

§ 480. Labor of children not to be hired out. It shall be unlawful for the trustees or managers of any house of refuge, reformatory or other correctional institution, to contract, hire, or let by the day, week or month, or any longer period, the services or labor of any child or children, now or hereafter committed to or [~~inmates~~] **incarcerated individual** of such institutions.

§ 99. Section 69 of the general business law, as amended by section 1 of part A of chapter 62 of the laws of 2003, the second undesignated paragraph as amended by section 115 of subpart B of part C of chapter 62 of the laws of 2011, is amended to read as follows:

§ 69. Sale of [~~inmate~~] **incarcerated individual** made goods. No goods, wares, or merchandise, manufactured, produced or mined wholly or in part by [~~inmates~~] **incarcerated individuals**, except [~~inmates~~] **incarcerated individuals** or persons on parole, probation, or release, shall be sold in this state to any person, firm, association or corporation except that nothing in this section shall be construed to forbid the sale of such goods produced in the correctional facilities of this state to the state, the government of the United States or to any state of the United States, or any political subdivision thereof, or for any public institution owned or managed and controlled by the state, or any political subdivision thereof, as provided in section one hundred eighty-four of the correction law, or any public corporation or eleemosynary association or corporation funded in whole or in part by any federal, state or local funds, or to forbid the sale, subject to the rules and regulations of the head of the department or other like governmental authority having jurisdiction, of any product resulting from occupational therapy within any penal or correctional institution, as provided in section one hundred ninety-seven of the correction law.

Nothing in this section shall be construed to forbid the sale of parts and components produced by [~~inmate~~] **incarcerated individual** labor in correctional industry programs of the government of the United States or any state of the United States, or any political subdivision thereof, to the department of corrections and community supervision's division of correctional industries for use in its manufacturing operations.

A violation of the provisions of this section shall constitute a misdemeanor.

§ 100. Paragraph (b) of subdivision 1 and paragraph (g) of subdivision 2 of section 399-ddd of the general business law, as added by chapter 371 of the laws of 2012, are amended to read as follows:

(b) For purposes of this section, the term [~~"inmate"~~] **"incarcerated individual"** means a person confined in any local correctional facility

as defined in subdivision sixteen of section two of the correction law or in any correctional facility as defined in paragraph (a) of subdivision four of section two of the correction law pursuant to such person's conviction of a criminal offense.

(g) Knowingly use the labor or time of or employ any [~~inmate~~] **incarcerated individual** in this state, or in any other jurisdiction, in any capacity that involves obtaining access to, collecting or processing social security account numbers of other individuals.

§ 101. Intentionally omitted.

§ 102. Subdivision 7 of section 60.04 of the penal law, as amended by section 120 of subpart B of part C of chapter 62 of the laws of 2011, is amended to read as follows:

7. a. Shock incarceration participation. When the court imposes a sentence of imprisonment which requires a commitment to the department of corrections and community supervision upon a person who stands convicted of a controlled substance or marihuana offense, upon motion of the defendant, the court may issue an order directing that the department of corrections and community supervision enroll the defendant in the shock incarceration program as defined in article twenty-six-A of the correction law, provided that the defendant is an eligible [~~inmate~~] **incarcerated individual**, as described in subdivision one of section eight hundred sixty-five of the correction law. Notwithstanding the foregoing provisions of this subdivision, any defendant to be enrolled in such program pursuant to this subdivision shall be governed by the same rules and regulations promulgated by the department of corrections and community supervision, including without limitation those rules and regulations establishing requirements for completion and such rules and regulations governing discipline and removal from the program.

b. (i) In the event that an [~~inmate~~] **incarcerated individual** designated by court order for enrollment in the shock incarceration program requires a degree of medical care or mental health care that cannot be provided at a shock incarceration facility, the department, in writing, shall notify the [~~inmate~~] **incarcerated individual**, provide a proposal describing a proposed alternative-to-shock-incarceration program, and notify him or her that he or she may object in writing to placement in such alternative-to-shock-incarceration program. If the [~~inmate~~] **incarcerated individual** objects in writing to placement in such alternative-to-shock-incarceration program, the department of corrections and community supervision shall notify the sentencing court, provide such proposal to the court, and arrange for the [~~inmate's~~] **incarcerated individual's** prompt appearance before the court. The court shall provide the proposal and notice of a court appearance to the people, the [~~inmate~~] **incarcerated individual** and the appropriate defense attorney. After considering the proposal and any submissions by the parties, and after a reasonable opportunity for the people, the [~~inmate~~] **incarcerated individual** and counsel to be heard, the court may modify its sentencing order accordingly, notwithstanding the provisions of section 430.10 of the criminal procedure law.

(ii) An [~~inmate~~] **incarcerated individual** who successfully completes an alternative-to-shock-incarceration program within the department of corrections and community supervision shall be treated in the same manner as a person who has successfully completed the shock incarceration program, as set forth in subdivision four of section eight hundred sixty-seven of the correction law.

§ 103. Paragraph (a) of subdivision 5 of section 60.35 of the penal law, as amended by section 1 of part E of chapter 56 of the laws of 2004, is amended to read as follows:

(a) When a person who is convicted of a crime or violation and sentenced to a term of imprisonment has failed to pay the mandatory surcharge, sex offender registration fee, DNA databank fee, crime victim assistance fee or supplemental sex offender victim fee required by this section, the clerk of the court that rendered the conviction shall notify the superintendent or the municipal official of the facility where the person is confined. The superintendent or the municipal official shall cause any amount owing to be collected from such person during his or her term of imprisonment from moneys to the credit of an [~~inmates'~~] **incarcerated individuals'** fund or such moneys as may be earned by a person in a work release program pursuant to section eight hundred sixty of the correction law. Such moneys attributable to the mandatory surcharge or crime victim assistance fee shall be paid over to the state comptroller to the credit of the criminal justice improvement account established by section ninety-seven-bb of the state finance law and such moneys attributable to the sex offender registration fee or DNA databank fee shall be paid over to the state comptroller to the credit of the general fund, except that any such moneys collected which are surcharges, sex offender registration fees, DNA databank fees, crime victim assistance fees or supplemental sex offender victim fees levied in relation to convictions obtained in a town or village justice court shall be paid within thirty days after the receipt thereof by the superintendent or municipal official of the facility to the justice of the court in which the conviction was obtained. For the purposes of collecting such mandatory surcharge, sex offender registration fee, DNA databank fee, crime victim assistance fee, and supplemental sex offender victim fee, the state shall be legally entitled to the money to the credit of an [~~inmates'~~] **incarcerated individuals'** fund or money which is earned by an [~~inmate~~] **incarcerated individual** in a work release program. For purposes of this subdivision, the term "[~~inmates'~~] **incarcerated individuals'** fund" shall mean moneys in the possession of an [~~inmate~~] **incarcerated individual** at the time of his or her admission into such facility, funds earned by him or her as provided for in section one hundred eighty-seven of the correction law and any other funds received by him or her or on his or her behalf and deposited with such superintendent or municipal official.

§ 103-a. Subdivision 5 of section 60.35 of the penal law, as amended by section 2 of part E of chapter 56 of the laws of 2004, is amended to read as follows:

5. When a person who is convicted of a crime or violation and sentenced to a term of imprisonment has failed to pay the mandatory surcharge, sex offender registration fee, DNA databank fee, crime victim assistance fee or supplemental sex offender victim fee required by this section, the clerk of the court that rendered the conviction shall notify the superintendent or the municipal official of the facility where the person is confined. The superintendent or the municipal official shall cause any amount owing to be collected from such person during his or her term of imprisonment from moneys to the credit of an [~~inmates'~~] **incarcerated individuals'** fund or such moneys as may be earned by a person in a work release program pursuant to section eight hundred sixty of the correction law. Such moneys attributable to the mandatory surcharge or crime victim assistance fee shall be paid over to the state comptroller to the credit of the criminal justice improvement account

established by section ninety-seven-bb of the state finance law and such moneys attributable to the sex offender registration fee or DNA databank fee shall be paid over to the state comptroller to the credit of the general fund, except that any such moneys collected which are surcharges, sex offender registration fees, DNA databank fees, crime victim assistance fees or supplemental sex offender victim fees levied in relation to convictions obtained in a town or village justice court shall be paid within thirty days after the receipt thereof by the superintendent or municipal official of the facility to the justice of the court in which the conviction was obtained. For the purposes of collecting such mandatory surcharge, sex offender registration fee, DNA databank fee, crime victim assistance fee and supplemental sex offender victim fee, the state shall be legally entitled to the money to the credit of an [~~inmates'~~] **incarcerated individuals'** fund or money which is earned by an [~~inmate~~] **incarcerated individual** in a work release program. For purposes of this subdivision, the term "[~~inmates'~~] **incarcerated individuals'** fund" shall mean moneys in the possession of an [~~inmate~~] **incarcerated individual** at the time of his or her admission into such facility, funds earned by him or her as provided for in section one hundred eighty-seven of the correction law and any other funds received by him or her or on his or her behalf and deposited with such superintendent or municipal official.

§ 104. Paragraph (d) of subdivision 1 of section 70.20 of the penal law, as amended by section 124 of subpart B of part C of chapter 62 of the laws of 2011, is amended to read as follows:

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

§ 104-a. Paragraph (d) of subdivision 1 of section 70.20 of the penal law, as amended by section 125 of subpart B of part C of chapter 62 of the laws of 2011, is amended to read as follows:

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

§ 105. Paragraphs (e) and (f) of subdivision 3 of section 130.05 of the penal law, paragraph (e) as amended by chapter 205 of the laws of 2011 and paragraph (f) as amended by section 127-q of subpart B of part C of chapter 62 of the laws of 2011, are amended to read as follows:

(e) committed to the care and custody or supervision of the state department of corrections and community supervision or a hospital, as such term is defined in subdivision two of section four hundred of the correction law, and the actor is an employee who knows or reasonably should know that such person is committed to the care and custody or supervision of such department or hospital. For purposes of this paragraph, "employee" means (i) an employee of the state department of corrections and community supervision who, as part of his or her employ-

ment, performs duties: (A) in a state correctional facility in which the victim is confined at the time of the offense consisting of providing custody, medical or mental health services, counseling services, educational programs, vocational training, institutional parole services or direct supervision to [~~inmates~~] incarcerated individuals; or

(B) of supervising persons released on community supervision and supervises the victim at the time of the offense or has supervised the victim and the victim is still under community supervision at the time of the offense; or

(ii) an employee of the office of mental health who, as part of his or her employment, performs duties in a state correctional facility or hospital, as such term is defined in subdivision two of section four hundred of the correction law in which the [~~inmate~~] incarcerated individual is confined at the time of the offense, consisting of providing custody, medical or mental health services, or direct supervision to such [~~inmates~~] incarcerated individuals; or

(iii) a person, including a volunteer, providing direct services to [~~inmates~~] incarcerated individuals in a state correctional facility in which the victim is confined at the time of the offense pursuant to a contractual arrangement with the state department of corrections and community supervision or, in the case of a volunteer, a written agreement with such department, provided that the person received written notice concerning the provisions of this paragraph; or

(f) committed to the care and custody of a local correctional facility, as such term is defined in subdivision two of section forty of the correction law, and the actor is an employee, not married to such person, who knows or reasonably should know that such person is committed to the care and custody of such facility. For purposes of this paragraph, "employee" means an employee of the local correctional facility where the person is committed who performs professional duties consisting of providing custody, medical or mental health services, counseling services, educational services, or vocational training for [~~inmates~~] incarcerated individuals. For purposes of this paragraph, "employee" shall also mean a person, including a volunteer or a government employee of the state department of corrections and community supervision or a local health, education or probation agency, providing direct services to [~~inmates~~] incarcerated individuals in the local correctional facility in which the victim is confined at the time of the offense pursuant to a contractual arrangement with the local correctional department or, in the case of such a volunteer or government employee, a written agreement with such department, provided that such person received written notice concerning the provisions of this paragraph; or

§ 106. Section 240.32 of the penal law, as amended by section 127-p of the subpart B of part C of chapter 62 of the laws of 2011, the opening paragraph as amended by chapter 180 of the laws of 2013, is amended to read as follows:

§ 240.32 Aggravated harassment of an employee by an [~~inmate~~] incarcerated individual.

An [~~inmate~~] incarcerated individual or respondent is guilty of aggravated harassment of an employee by an [~~inmate~~] incarcerated individual when, with intent to harass, annoy, threaten or alarm a person in a facility whom he or she knows or reasonably should know to be an employee of such facility or the board of parole or the office of mental health, or a probation department, bureau or unit or a police officer, he or she causes or attempts to cause such employee to come into contact

with blood, seminal fluid, urine, feces, or the contents of a toilet bowl, by throwing, tossing or expelling such fluid or material.

For purposes of this section, [~~"inmate"~~] **"incarcerated individual"** means an [~~inmate~~] **incarcerated individual** or detainee in a correctional facility, local correctional facility or a hospital, as such term is defined in subdivision two of section four hundred of the correction law. For purposes of this section, "respondent" means a juvenile in a secure facility operated and maintained by the office of children and family services who is placed with or committed to the office of children and family services. For purposes of this section, "facility" means a correctional facility or local correctional facility, hospital, as such term is defined in subdivision two of section four hundred of the correction law, or a secure facility operated and maintained by the office of children and family services.

Aggravated harassment of an employee by an [~~inmate~~] **incarcerated individual** is a class E felony.

§ 107. Subdivisions 8, 17, 18, 19, 21, 23, 24, 26, 27, 28, 29 and 30 of section 2 of the correction law, subdivision 8 as amended by chapter 567 of the laws of 1972, subdivision 17 as added by chapter 338 of the laws of 1989, subdivision 18 as amended by section 1-a of subpart A of part C of chapter 62 of the laws of 2011, subdivision 19 as amended by chapter 63 of the laws of 1994, subdivisions 21, 23, 24, 26, 27, 28, 29 and 30 as added by chapter 1 of the laws of 2008, are amended to read as follows:

8. "Correctional Camp". A correctional facility consisting of a camp maintained for the purpose of including conservation work in the program of [~~inmates~~] **incarcerated individuals**.

17. "Alcohol and substance abuse treatment facility." A correctional facility designed to house medium security [~~inmates~~] **incarcerated individuals** as defined by department rules and regulations and operated for the purpose of providing intensive alcohol and substance abuse treatment services. Such services shall ensure comprehensive treatment for alcoholism and substance abuse to [~~inmates~~] **incarcerated individuals** who have been identified by the commissioner or his or her designee as having had or presently having a history of alcoholism or substance abuse. Such services shall be provided in the facility in accordance with minimum standards promulgated by the department after consultation with the [~~division~~] **office** of alcoholism and [~~alcohol abuse and the division of~~] substance abuse services.

18. "Alcohol and substance abuse treatment correctional annex." A medium security correctional facility consisting of one or more residential dormitories, which provide intensive alcohol and substance abuse treatment services to [~~inmates~~] **incarcerated individuals** who: (i) are otherwise eligible for temporary release, or (ii) stand convicted of a felony defined in article two hundred twenty or two hundred twenty-one of the penal law, and are within six months of being an eligible [~~inmate~~] **incarcerated individual** as that term is defined in subdivision two of section eight hundred fifty-one of this chapter including such [~~inmates~~] **incarcerated individuals** who are participating in such program pursuant to subdivision six of section 60.04 of the penal law. Notwithstanding the foregoing provisions of this subdivision, any [~~inmate~~] **incarcerated individual** to be enrolled in this program pursuant to subdivision six of section 60.04 of the penal law shall be governed by the same rules and regulations promulgated by the department, including without limitation those rules and regulations establishing requirements for completion and those rules and regulations governing discipline and

removal from the program. No such period of court ordered corrections based drug abuse treatment pursuant to this subdivision shall be required to extend beyond the defendant's conditional release date. Such treatment services may be provided by one or more outside service providers pursuant to contractual agreements with the department, provided, however, that any such provider shall be required to continue to provide, either directly or through formal or informal agreement with other providers, alcohol and substance abuse treatment services to [~~inmates~~] **incarcerated individuals** who have successfully participated in such provider's incarcerative treatment services and who have been presumptively released, paroled, conditionally released or released to post release supervision under the supervision of the department and who are, as a condition of such release, required to participate in alcohol or substance abuse treatment. Such incarcerative services shall be provided in the facility in accordance with minimum standards promulgated by the department after consultation with the office of alcoholism and substance abuse services. Such services to parolees shall be provided in accordance with standards promulgated by the department after consultation with the office of alcoholism and substance abuse services. Notwithstanding any other provision of law, any person who has successfully completed no less than six months of intensive alcohol and substance abuse treatment services in one of the department's eight designated alcohol and substance abuse treatment correctional annexes having a combined total capacity of two thousand five hundred fifty beds may be transferred to a program operated by or at a residential treatment facility, provided however, that a person under a determinate sentence as a second felony drug offender for a class B felony offense defined in article two hundred twenty of the penal law, who was sentenced pursuant to section 70.70 of such law, shall not be eligible to be transferred to a program operated at a residential treatment facility until the time served under imprisonment for his or her determinate sentence, including any jail time credited pursuant to subdivision three of section 70.30 of the penal law, shall be at least nine months. The commissioner shall report annually to the temporary president of the senate and the speaker of the assembly commencing January first, two thousand twelve the number of [~~inmates~~] **incarcerated individuals** received by the department during the reporting period who are subject to a sentence which includes enrollment in substance abuse treatment in accordance with subdivision six of section 60.04 of the penal law, the number of such [~~inmates~~] **incarcerated individuals** who are not placed in such treatment program and the reasons for such occurrences.

19. "Vocational and skills training facility" means a correctional facility designated by the commissioner to provide a vocational and skills training program ("VAST") to [~~inmates~~] **incarcerated individuals** who need such service before they participate in a work release program. The VAST facility shall provide intensive assessment, counseling, job search assistance and where appropriate academic and vocational instruction to program participants. Such assistance may include an assessment of any [~~inmate's~~] **incarcerated individual's** education attainment level and skills aptitudes; career counseling and exploration; the development of a comprehensive instructional plan including identification of educational and training needs that may extend beyond the date of entry into work release; instructional programs including GED preparation or postsecondary instruction as appropriate; occupational skills training; life skills training; employment readiness including workplace behavior; and

job search assistance. The department and the department of labor shall jointly develop activities providing career counseling, job search assistance, and job placement services for participants. Nothing contained in this section shall be deemed to modify the eligibility requirements provided by law applicable to [~~inmates~~] **incarcerated individuals** participating in a work release program.

21. "Residential mental health treatment unit" means housing for [~~inmates~~] **incarcerated individuals** with serious mental illness that is operated jointly by the department and the office of mental health and is therapeutic in nature. Such units shall not be operated as disciplinary housing units, and decisions about treatment and conditions of confinement shall be made based upon a clinical assessment of the therapeutic needs of the [~~inmate~~] **incarcerated individual** and maintenance of adequate safety and security on the unit. Such units shall include, but not be limited to, the residential mental health unit model, the behavioral health unit model, the intermediate care program and the intensive intermediate care program. The models shall be defined in regulations promulgated by the department in consultation with the commissioner of mental health consistent with this subdivision and section four hundred one of this chapter. [~~Inmates~~] **Incarcerated individuals** placed in a residential mental health treatment unit shall be offered at least four hours a day of structured out-of-cell therapeutic programming and/or mental health treatment, except on weekends or holidays, in addition to exercise, and may be provided with additional out-of-cell activities as are consistent with their mental health needs; provided, however, that the department may maintain no more than thirty-eight behavioral health unit beds in which the number of hours of out-of-cell structured therapeutic programming and/or mental health treatment offered to [~~inmates~~] **incarcerated individuals** on a daily basis, except on weekends or holidays, may be limited to only two hours. Out-of-cell therapeutic programming and/or mental health treatment need not be provided to an [~~inmate~~] **incarcerated individual** for a brief orientation period following his or her arrival at a residential mental health treatment unit. The length of such orientation period shall be determined by a mental health clinician but in no event shall be longer than five business days.

23. "Segregated confinement" means the disciplinary confinement of an [~~inmate~~] **incarcerated individual** in a special housing unit or in a separate keeplock housing unit. Special housing units and separate keeplock units are housing units that consist of cells grouped so as to provide separation from the general population, and may be used to house [~~inmates~~] **incarcerated individuals** confined pursuant to the disciplinary procedures described in regulations.

24. "Joint case management committee" means a committee composed of staff from the department and the office of mental health. Such a committee shall be established at each level one and level two facility. Each committee shall consist of at least two clinical staff of the office of mental health and two officials of the department. The purpose of such committee shall be to review, monitor and coordinate the behavior and treatment plan of any [~~inmate~~] **incarcerated individual** who is placed in segregated confinement or a residential mental health treatment unit and who is receiving services from the office of mental health.

26. "Treatment team" means a team consisting of an equal number of individuals from the department and the office of mental health who are assigned to a residential mental health treatment unit and who will review and determine each [~~inmate's~~] **incarcerated individual's** appropri-

ateness for movement through the various program phases, when applicable. The treatment team shall also review, monitor and coordinate the treatment plans for all [~~inmate~~] **incarcerated individual** participants.

27. "Level one facility" means a correctional facility at which staff from the office of mental health are assigned on a full-time basis and able to provide treatment to [~~inmates~~] **incarcerated individuals** with a major mental disorder. The array of available specialized services include: residential crisis treatment, residential day treatment, medication monitoring by psychiatric nursing staff, and potential commitment to the central New York Psychiatric Center.

28. "Level two facility" means a correctional facility at which staff from the office of mental health are assigned on a full-time basis and able to provide treatment to [~~inmates~~] **incarcerated individuals** with a major mental disorder, but such disorder is not as acute as that of [~~inmates~~] **incarcerated individuals** who require placement at a level one facility.

29. "Level three facility" means a correctional facility at which staff from the office of mental health are assigned on a part-time basis and able to provide treatment and medication to [~~inmates~~] **incarcerated individuals** who either have a moderate mental disorder, or who are in remission from a disorder, and who are determined by staff of the office of mental health to be able to function adequately in the facility with such level of staffing.

30. "Level four facility" means a correctional facility at which staff from the office of mental health are assigned on a part-time basis and able to provide treatment to [~~inmates~~] **incarcerated individuals** who may require limited intervention, excluding psychiatric medications.

§ 107-a. Subdivision 18 of section 2 of the correction law, as amended by section 2 of subpart A of part C of chapter 62 of the laws of 2011, is amended to read as follows:

18. "Alcohol and substance abuse treatment correctional annex." A medium security correctional facility consisting of one or more residential dormitories which provide intensive alcohol and substance abuse treatment services to [~~inmates~~] **incarcerated individuals** who: (i) are otherwise eligible for temporary release, or (ii) stand convicted of a felony defined in article two hundred twenty or two hundred twenty-one of the penal law, and are within six months of being an eligible [~~inmate~~] **incarcerated individual** as that term is defined in subdivision two of section eight hundred fifty-one of this chapter including such [~~inmates~~] **incarcerated individuals** who are participating in such program pursuant to subdivision six of section 60.04 of the penal law. Notwithstanding the foregoing provisions of this subdivision, any [~~inmate~~] **incarcerated individual** to be enrolled in this program pursuant to subdivision six of section 60.04 of the penal law shall be governed by the same rules and regulations promulgated by the department, including without limitation those rules and regulations establishing requirements for completion and those rules and regulations governing discipline and removal from the program. No such period of court ordered corrections based drug abuse treatment pursuant to this subdivision shall be required to extend beyond the defendant's conditional release date. Such treatment services may be provided by one or more outside service providers pursuant to contractual agreements with the department, provided, however, that any such provider shall be required to continue to provide, either directly or through formal or informal agreement with other providers, alcohol and substance abuse treatment services to [~~inmates~~] **incarcerated individuals** who have successfully participated in

such provider's incarcerative treatment services and who have been presumptively released, paroled, conditionally released or released to post release supervision under the supervision of the department and who are, as a condition of such release, required to participate in alcohol or substance abuse treatment. Such incarcerative services shall be provided in the facility in accordance with minimum standards promulgated by the department after consultation with the office of alcoholism and substance abuse services. Such services to parolees shall be provided in accordance with standards promulgated by the department after consultation with the office of alcoholism and substance abuse services. The commissioner shall report annually to the majority leader of the senate and the speaker of the assembly commencing January first, two thousand twelve the number of [~~inmates~~] **incarcerated individuals** received by the department during the reporting period who are subject to a sentence which includes enrollment in substance abuse treatment in accordance with subdivision six of section 60.04 of the penal law, the number of such [~~inmates~~] **incarcerated individuals** who are not placed in such treatment program and the reasons for such occurrences.

§ 108. The section heading of section 9 of the correction law, as added by section 2 of part OO of chapter 56 of the laws of 2010, is amended to read as follows:

Access to [~~inmate~~] information **of incarcerated individuals** via the internet.

§ 109. Subdivision 1 of section 10 of the correction law, as added by section 8 of subpart A of part C of chapter 62 of the laws of 2011, is amended to read as follows:

1. Employees in the department who perform the duties of supervising [~~inmates~~] **incarcerated individuals** released on community supervision shall be parole officers.

§ 110. Section 15-c of the correction law, as added by chapter 647 of the laws of 1966, is amended to read as follows:

§ 15-c. **Acceptance of grants or gifts.** The commissioner, with the approval of the governor, may accept as agent of the state any grant, including federal grants, or any gift for any of the purposes of this article. Any moneys so received may be expended by the department to develop and promote programs for the study and treatment of crime and delinquency, education and training of [~~inmates~~] **incarcerated individuals**, staff improvement, research and evaluation, improvement of facilities, or any other lawful purpose, subject to the same limitations as to approval of expenditures and audit as are prescribed for state moneys appropriated for the purpose of this article.

§ 111. Section 16 of the correction law, as amended by chapter 447 of the laws of 2016, is amended to read as follows:

§ 16. Expense of autopsy; state charge. 1. The reasonable expense of any inquiry, autopsy, examination or report prepared thereon conducted by a coroner, coroner's physician or medical examiner as required by law with respect to any death occurring to an [~~inmate~~] **incarcerated individual** of an institution operated by the department shall, to the extent not otherwise reimbursed by the state, be a state charge. Reimbursement of such expense shall be made on vouchers submitted annually and certified by the chief fiscal officer of the county or city as the case may be on the audit and warrant of the comptroller.

2. The department shall acquire a preliminary or final death certificate for such [~~inmate~~] **incarcerated individual** from a coroner, coroner's physician or medical examiner and forward such original death certificate to the next of kin.

§ 112. Subdivision 1 of section 18 of the correction law, as amended by section 10 of subpart A of part C of chapter 62 of the laws of 2011, is amended to read as follows:

1. Each correctional facility shall have a superintendent who shall be appointed by the commissioner. Each such superintendent shall be in the non-competitive-confidential class but shall be appointed from employees of the department who have at least three years of experience in correctional work in the department and (i) who have a permanent civil service appointment of salary grade twenty-seven or higher or who have a salary equivalent to a salary grade of twenty-seven or higher for correctional facilities with an [~~inmate~~] **incarcerated individual** population capacity of four hundred or more [~~inmates~~] **incarcerated individuals**, or (ii) who have a permanent civil service appointment of salary grade twenty-three or higher or who have a salary equivalent to a salary grade of twenty-three or higher for correctional facilities with an [~~inmate~~] **incarcerated individual** population capacity of fewer than four hundred [~~inmates~~] **incarcerated individuals**; provided that for correctional facilities of either capacity, the employee shall be appointed superintendent at the hiring rate set forth in section nineteen of this article or such other rate as may be appropriate, subject to the approval of the director of the budget; provided that in no event shall the salary upon appointment exceed the job rate. Such superintendents shall serve at the pleasure of the commissioner and shall have such other qualifications as may be prescribed by the commissioner, based on differences in duties, levels of responsibility, size and character of the correctional facility, knowledge, skills and abilities required, and other factors affecting the position.

§ 113. Paragraphs a and b of subdivision 1 of section 19 of the correction law, as amended by section 2 of part D of chapter 24 of the laws of 2019, are amended to read as follows:

a. The salary schedule for superintendents of a correctional facility with an [~~inmate~~] **incarcerated individual** population capacity of four hundred or more [~~inmates~~] **incarcerated individuals** shall be as follows:

Effective April first, two thousand sixteen:

Hiring Rate	Job Rate
$116,937	$159,580

Effective April first, two thousand seventeen:

Hiring Rate	Job Rate
$121,661	$166,027

Effective April first, two thousand eighteen:

Hiring Rate	Job Rate
$125,335	$171,041

Effective April first, two thousand nineteen:

Hiring Rate	Job Rate
$127,842	$174,462

Effective April first, two thousand twenty:

Hiring Rate	Job Rate
$130,399	$177,951

b. The salary schedule for superintendents of correctional facilities with an [~~inmate~~] **incarcerated individual** population capacity of fewer than four hundred [~~inmates~~] **incarcerated individuals** shall be as follows:

Effective April first, two thousand sixteen:

Hiring Rate	Job Rate
$90,935	$114,914

Effective April first, two thousand seventeen:

Hiring Rate Job Rate
$94,609 $119,557
Effective April first, two thousand eighteen:
Hiring Rate Job Rate
$97,466 $123,168
Effective April first, two thousand nineteen:
Hiring Rate Job Rate
$99,415 $125,631
Effective April first, two thousand twenty:
Hiring Rate Job Rate
$101,403 $128,144

§ 114. Subdivision 2 of section 22 of the correction law, as amended by chapter 829 of the laws of 1975, is amended to read as follows:

2. Accepts a present from a contractor or contractor's agent, directly or indirectly, or employs the labor of an [~~inmate~~] **incarcerated individual** or another person employed in such institution on any work for the private benefit of such commissioner, superintendent, officer or employee, is guilty of a misdemeanor.

§ 115. Section 23 of the correction law, as amended by section 5 of subpart B of part C of chapter 62 of the laws of 2011, subdivision 1 as amended by chapter 254 of the laws of 2017, is amended to read as follows:

§ 23. Transfer of [~~inmates~~] **incarcerated individuals** from one correctional facility to another; treatment in outside hospitals. 1. The commissioner shall have the power to transfer [~~inmates~~] **incarcerated individuals** from one correctional facility to another. Whenever the transfer of [~~inmates~~] **incarcerated individuals** from one correctional facility to another shall be ordered by the commissioner, the superintendent of the facility from which the [~~inmates~~] **incarcerated individuals** are transferred shall take immediate steps to make the transfer. The transfer shall be in accordance with rules and regulations promulgated by the department for the safe delivery of such [~~inmates~~] **incarcerated individuals** to the designated facility. Within twenty-four hours of arriving at the facility to which an [~~inmate~~] **incarcerated individual** is transferred, he or she shall be allowed to make at least one personal phone call, except when to do so would create an unacceptable risk to the safety and security of [~~inmates~~] **incarcerated individuals** or staff. If security precautions prevent the [~~inmate~~] **incarcerated individual** from making such call, a staff member designated by the superintendent of the facility shall make a call to a person of the [~~inmate's~~] **incarcerated individual's** choice unless the [~~inmate~~] **incarcerated individual** declines to have such a call made.

2. The commissioner, in his or her discretion, may by written order permit [~~inmates~~] **incarcerated individuals** to receive medical diagnosis and treatment in outside hospitals, upon the recommendation of the superintendent or director that such outside treatment or diagnosis is necessary by reason of inadequate facilities within the institution. Such [~~inmates~~] **incarcerated individuals** shall remain under the jurisdiction and in the custody of the department while in said outside hospital and said superintendent or director shall enforce proper measures in each case to safely maintain such jurisdiction and custody.

3. The cost of transporting [~~inmates~~] **incarcerated individuals** between facilities and to outside hospitals shall be paid from funds appropriated to the department for such purpose.

§ 116. Section 24-a of the correction law, as amended by chapter 481 of the laws of 1992, is amended to read as follows:

§ 24-a. Actions against persons rendering health care services at the request of the department; defense and indemnification. The provisions of section seventeen of the public officers law shall apply to any person holding a license to practice a profession pursuant to article one hundred thirty-one, one hundred thirty-one-B, one hundred thirty-two, one hundred thirty-three, one hundred thirty-six, one hundred thirty-seven, one hundred thirty-nine, one hundred forty-one, one hundred forty-three, one hundred fifty-six or one hundred fifty-nine of the education law, who is rendering or has rendered professional services authorized under such license while acting at the request of the department or a facility of the department in providing health care and treatment or professional consultation to [~~inmates~~] **incarcerated individuals** of state correctional facilities, or to the infant children of [~~inmates~~] **incarcerated individuals** while such infants are cared for in facility nurseries pursuant to section six hundred eleven of this chapter, without regard to whether such health care and treatment or professional consultation is provided within or without a correctional facility.

§ 117. Section 25 of the correction law, as amended by chapter 476 of the laws of 2018, is amended to read as follows:

§ 25. Mutual assistance by institutional and local fire fighting facilities. In cooperation with the development and operation of plans for mutual aid in cases of fire and other public emergencies, the warden or superintendent of any state institution in the department, with the approval of the commissioner, may authorize the fire department of the institution to furnish aid to such territory surrounding the institution as may be practical in cases of fire and such emergencies, having due regard to the safety of the [~~inmates~~] **incarcerated individuals** and property of the institution and to engage in practice and training programs in connection with the development and operation of such mutual aid plans. Any lawfully organized fire-fighting forces or firefighters from such surrounding territory may enter upon the grounds of the institution to furnish aid in cases of fire and such emergencies.

§ 118. Section 26 of the correction law, as amended by chapter 487 of the laws of 1994, is amended to read as follows:

§ 26. Establishment of commissaries or canteens in correctional institutions. The commissioner may authorize the head of any institution in the department to establish a commissary or a canteen in such institution for the use and benefit of [~~inmates~~] **incarcerated individuals**. The moneys received by the head of the institution as profits from the sales of the commissary or canteen shall be deposited in a special fund to be known as the commissary or canteen fund and such funds shall be used for the general purposes of the institution subject to the provisions of section fifty-three of the state finance law.

§ 119. Subdivisions 1 and 4 of section 29 of the correction law, subdivision 1 as amended by chapter 485 of the laws of 2019 and subdivision 4 as amended by section 1 of part U of chapter 55 of the laws of 2012, are amended to read as follows:

1. The department shall continue to collect, maintain, and analyze statistical and other information and data with respect to persons subject to the jurisdiction of the department, including but not limited to: (a) the number of such persons: placed in the custody of the department, assigned to a specific department program, accorded community supervision and declared delinquent, recommitted to a state correctional institution upon revocation of community supervision, or discharged upon maximum expiration of sentence; (b) the criminal history of such persons; (c) the social, educational, and vocational circumstances of

any such persons; (d) the institutional and community supervision programs and the behavior of such persons; and, (e) the military background and circumstances, if such person served in the United States armed forces. Provided, however, in the event any statistical information on the ethnic background of the [~~inmate~~] **incarcerated individual** population of a correctional facility or facilities is collected by the department, such statistical information shall contain, but not be limited to, the following ethnic categories: (i) Caucasian; (ii) Asian; (iii) American Indian; (iv) Afro-American/Black; and (v) Spanish speaking/Hispanic which category shall include, but not be limited to, the following subcategories consisting of: (1) Puerto Ricans; (2) Cubans; (3) Dominicans; and (4) other Hispanic nationalities.

4. (a) The commissioner shall provide an annual report to the legislature on the staffing of correction officers and correction sergeants in state correctional facilities. Such report shall include, but not be limited to the following factors: the number of security posts on the current plot plan for each facility that have been closed on a daily basis, by correctional facility security classification (minimum, medium and maximum); the number of security positions eliminated by correctional facility since two thousand compared to the number of [~~inmates~~] **incarcerated individuals** incarcerated in each such facility; a breakdown by correctional facility security classification (minimum, medium, and maximum) of the staff hours of overtime worked, by year since two thousand and the annual aggregate costs related to this overtime. In addition, such report shall be delineated by correctional facility security classification, the annual number of security positions eliminated, the number of closed posts and amount of staff hours of overtime accrued as well as the overall overtime expenditures that resulted. Such report shall be provided to the chairs of the senate finance, assembly ways and means, senate crime and corrections and assembly correction committees, and posted on the department's website, annually by February first.

(b) Such report shall also include but not be limited to: the total number of correctional facilities in operation which are maintained by the department, the security level of each facility, the number of beds at each facility as of December thirty-first of the prior year, as classified by the department, and the number of empty beds, if any, by such classification as of such date.

§ 120. Paragraph 1 of subdivision (a) of section 42 of the correction law, as amended by chapter 490 of the laws of 2019, is amended to read as follows:

1. There shall be within the commission a citizen's policy and complaint review council. It shall consist of nine persons to be appointed by the governor, by and with the advice and consent of the senate. One person so appointed shall have served in the armed forces of the United States in any foreign war, conflict or military occupation, who (i) was discharged therefrom under other than dishonorable conditions, or (ii) has a qualifying condition, as defined in section three hundred fifty of the executive law, and has received a discharge other than bad conduct or dishonorable from such service, or (iii) is a discharged LGBT veteran, as defined in section three hundred fifty of the executive law, and has received a discharge other than bad conduct or dishonorable from such service, or shall be a duly licensed mental health professional who has professional experience or training with regard to post-traumatic stress syndrome. One person so appointed shall be an attorney admitted to practice in this state. One person so appointed shall be a former [~~inmate~~] **incarcerated individual** of a

correctional facility. One person so appointed shall be a former correction officer. One person so appointed shall be a former resident of a division for youth secure center or a health care professional duly licensed to practice in this state. One person so appointed shall be a former employee of the office of children and family services who has directly supervised youth in a secure residential center operated by such office. In addition, the governor shall designate one of the full-time members other than the chairman of the commission as chairman of the council to serve as such at the pleasure of the governor.

§ 121. Subdivisions 3, 4, 5, 7, 10 and 17 of section 45 of the correction law, subdivision 3 as amended by section 1 of part Q of chapter 56 of the laws of 2009, subdivision 4 as amended by section 15 of subpart A of part C of chapter 62 of the laws of 2011, subdivisions 5 and 7 as added by chapter 865 of the laws of 1975, subdivision 10 as amended by section 7 of part Q of chapter 56 of the laws of 2009 and subdivision 17 as added by chapter 573 of the laws of 2011, are amended to read as follows:

3. Except in circumstances involving health, safety or alleged violations of established standards of the commission, visit, and inspect correctional facilities consistent with a schedule determined by the chairman of the commission, taking into consideration available resources, workload and staffing, and appraise the management of such correctional facilities with specific attention to matters such as safety, security, health of [~~inmates~~] **incarcerated individuals**, sanitary conditions, rehabilitative programs, disturbance and fire prevention and control preparedness, and adherence to laws and regulations governing the rights of [~~inmates~~] **incarcerated individuals**.

4. Establish procedures to assure effective investigation of grievances of, and conditions affecting, [~~inmates~~] **incarcerated individuals** of local correctional facilities. Such procedures shall include but not be limited to receipt of written complaints, interviews of persons, and on-site monitoring of conditions. In addition, the commission shall establish procedures for the speedy and impartial review of grievances referred to it by the commissioner of the department of corrections and community supervision.

5. Ascertain and recommend such system of employing [~~inmates~~] **incarcerated individuals** of correctional facilities as may, in the opinion of said commission, be for the best interest of the public and of said [~~inmates~~] **incarcerated individuals** and not in conflict with the provisions of the constitution or laws of the state relating to the employment of [~~inmates~~] **incarcerated individuals**.

7. Place such members of its staff as it deems appropriate as monitors in any local correctional facility which, in the judgment of the commission, presents an imminent danger to the health, safety or security of the [~~inmates~~] **incarcerated individuals** or employees of such correctional facility or of the public.

10. Approve or reject plans and specifications for the construction or improvement of correctional facilities that directly affect the health of [~~inmates~~] **incarcerated individuals** and staff, safety, or security.

17. Make an annual report to the governor, the chairman of the assembly committee on correction and the chairman of the senate committee on crime victims, crime and correction concerning [~~inmates~~] **incarcerated individuals** confined in local correctional facilities pursuant to an agreement authorized by section five hundred-o of this chapter. Such report shall include but not be limited to the number of counties main-

taining such agreements and the number of [~~inmates~~] **incarcerated individuals** confined pursuant to such agreements.

§ 122. Subdivisions 1, 2 and 4 of section 46 of the correction law, subdivisions 1 and 2 as amended by chapter 232 of the laws of 2012 and subdivision 4 as added by chapter 865 of the laws of 1975, are amended to read as follows:

1. The commission, any member or any employee designated by the commission must be granted access at any and all times to any correctional facility or part thereof and to all books, records, [~~inmate~~] medical records **of incarcerated individuals** and data pertaining to any correctional facility deemed necessary for carrying out the commission's functions, powers and duties. The commission, any member or any employee designated by the chairman may require from the officers or employees of a correctional facility any information deemed necessary for the purpose of carrying out the commission's functions, powers and duties.

2. In the exercise of its functions, powers and duties, the commission, any member, and any attorney employed by the commission is authorized to issue and enforce a subpoena and a subpoena duces tecum, administer oaths and examine persons under oath, in accordance with and pursuant to civil practice law and rules. A person examined under oath pursuant to this subdivision shall have the right to be accompanied by counsel who shall advise the person of their rights subject to reasonable limitations to prevent obstruction of, or interference with, the orderly conduct of the examination. Notwithstanding any other provision of law, a subpoena may be issued and enforced pursuant to this subdivision for the medical records of an [~~inmate~~] **incarcerated individual** of a correctional facility, regardless of whether such medical records were made during the course of the [~~inmate's~~] **incarcerated individual's** incarceration.

4. In any case where any rule or regulation promulgated by the commission pursuant to subdivision six of section forty-five **of this article** or the laws relating to the construction, management and affairs of any correctional facility or the care, treatment and discipline of its [~~inmates~~] **incarcerated individuals**, are being or are about to be violated, the commission shall notify the person in charge or control of the facility of such violation, recommend remedial action, and direct such person to comply with the rule, regulation or law, as the case may be. Upon the failure of such person to comply with the rule, regulation or law the commission may apply to the supreme court for an order directed to such person requiring compliance with such rule, regulation or law. Upon such application the court may issue such order as may be just and a failure to comply with the order of the court shall be a contempt of court and punishable as such.

§ 123. Section 47 of the correction law, as added by chapter 865 of the laws of 1975, paragraph (d) of subdivision 1 as amended by chapter 80 of the laws of 2020, paragraph (e) of subdivision 1 as amended by chapter 447 of the laws of 2016 and subdivision 2 as amended by chapter 491 of the laws of 1987, is amended to read as follows:

§ 47. Functions, powers and duties of the board. 1. The board shall have the following functions, powers and duties:

(a) Investigate and review the cause and circumstances surrounding the death of any [~~inmate~~] **incarcerated individual** of a correctional facility.

(b) Visit and inspect any correctional facility wherein an [~~inmate~~] **incarcerated individual** has died.

(c) Cause the body of the deceased to undergo such examinations, including an autopsy, as in the opinion of the board, are necessary to determine the cause of death, irrespective of whether any such examination or autopsy shall have previously been performed.

(d) Upon review of the cause of death and circumstances surrounding the death of any [~~inmate~~] **incarcerated individual**, the board shall submit its report thereon to the commission and to the governor, the chairman of the assembly committee on correction and the chairman of the senate committee on crime victims, crime and correction and, where appropriate, make recommendations to prevent the recurrence of such deaths to the commission and the administrator of the appropriate correctional facility. The report provided to the governor, the chairman of the assembly committee on correction and the chairman of the senate committee on crime victims, crime and correction shall not be redacted except as otherwise required to protect confidential medical records and behavioral health records in accordance with state and federal laws, rules, and regulations.

(e) (i) Investigate and report to the commission on the condition of systems for the delivery of medical care to [~~inmates~~] **incarcerated individuals** of correctional facilities and where appropriate recommend such changes as it shall deem necessary and proper to improve the quality and availability of such medical care.

(ii) The board shall be responsive to inquiries from the next of kin and other person designated as a representative of any [~~inmate~~] **incarcerated individual** whose death takes place during custody in a state correctional facility regarding the circumstances surrounding the death of such [~~inmate~~] **incarcerated individual**. Contact information for the next of kin and designated representative shall be provided by the department to the board from the emergency contact information previously provided by the [~~inmate~~] **incarcerated individual** to the department.

2. Every administrator of a correctional facility shall immediately report to the board the death of an [~~inmate~~] **incarcerated individual** of any such facility in such manner and form as the board shall prescribe, together with an autopsy report.

§ 124. The article heading of article 4 of the correction law, as added by chapter 476 of the laws of 1970, is amended to read as follows:

ESTABLISHMENT OF CORRECTIONAL FACILITIES, COMMITMENTS TO DEPARTMENT AND CUSTODY OF [~~INMATES~~] **INCARCERATED INDIVIDUALS**

§ 125. Subdivision 4 of section 70 of the correction law, as added by chapter 476 of the laws of 1970, is amended to read as follows:

4. Two or more correctional facilities may be maintained or established in the same building or on the same premises so long as the [~~inmates~~] **incarcerated individuals** of each are at all times kept separate and apart from each other except that the [~~inmates~~] **incarcerated individuals** of one may be permitted to have contact with [~~inmates~~] **incarcerated individuals** of the other in order to perform duties, receive therapeutic treatment, attend religious services and engage in like activities as specifically provided in the rules and regulations of the department.

§ 126. Subdivisions 1-a and 1-b of section 71 of the correction law, as added by chapter 547 of the laws of 1995, are amended to read as follows:

1-a. The commissioner shall ensure that each general confinement facility law library has information on international offender transfers sufficient to inform those persons who are citizens of a treaty nation of the existence of such treaties and of the means by which such persons

may initiate a request for return to the person's country of citizenship for service of the sentence imposed. Such law libraries shall also contain the most recent annual Amnesty International Report published by Amnesty International describing the conditions of prisons in each treaty nation and, to the extent practicable, other materials describing such prison conditions published by the United Nations, United States Department of State or human rights organizations. In addition, to the extent practicable, such law libraries shall contain information either listing each foreign country's provisions for the reduction of the terms of confinement for penal sentences as well as the availability of [~~inmate~~] **incarcerated individual** programs or, shall contain a list of officials in the United States Department of Justice or the embassy of the foreign country to whom an [~~inmate~~] **incarcerated individual** may write for information. To the extent practicable, newly received [~~inmates~~] **incarcerated individuals** who are identified as foreign nationals of treaty nations shall, as part of the reception process, be advised of the existence of such treaties and the possibility of the initiation of a transfer request.

1-b. The commissioner shall promulgate rules and regulations setting forth the procedures by which an [~~inmate~~] **incarcerated individual** may apply to be considered for transfer to a foreign nation. The commissioner, or his designee, shall retain sole and absolute authority to approve or disapprove an [~~inmate's~~] **incarcerated individual's** application for transfer. Nothing herein shall be construed to confer upon an [~~inmate~~] **incarcerated individual** a right to be a transferred to a foreign nation. Notwithstanding any other law, rule or regulation to the contrary, no inmate application for transfer shall be processed unless the [~~inmate~~] **incarcerated individual** has first indicated his willingness and desire in writing, on a form prescribed by the commissioner, to be considered for transfer to the foreign nation. Such form shall also contain a copy of the [~~inmate's~~] **incarcerated individual's** most recent legal date computation printout indicating the term or aggregate term of the sentence originally imposed and the release dates resulting therefrom. If a request for transfer is approved by the commissioner or his designee, facility staff shall assist in the preparation and submission of all materials and forms necessary to effectuate the person's request for transfer to the United States Department of Justice for purposes of finalization of the transfer process, including verification proceedings before a United States District Court Judge, United States magistrate or other appointed United States official to assure and document the [~~inmate's~~] **incarcerated individual's** voluntary request for transfer.

§ 127. Section 71-a of the correction law, as added by section 16-a of subpart A of part C of chapter 62 of the laws of 2011, is amended to read as follows:

§ 71-a. Transitional accountability plan. Upon admission of an [~~inmate~~] **incarcerated individual** committed to the custody of the department under an indeterminate or determinate sentence of imprisonment, the department shall develop a transitional accountability plan. Such plan shall be a comprehensive, dynamic and individualized case management plan based on the programming and treatment needs of the [~~inmate~~] **incarcerated individual**. The purpose of such plan shall be to promote the rehabilitation of the [~~inmate~~] **incarcerated individual** and their successful and productive reentry and reintegration into society upon release. To that end, such plan shall be used to prioritize programming and treatment services for the [~~inmate~~] **incarcerated individual** during incarceration and any period of community supervision. The commissioner

may consult with the office of mental health, the office of alcoholism and substance abuse services, the board of parole, the department of health, and other appropriate agencies in the development of transitional case management plans.

§ 128. Section 72 of the correction law, as added by chapter 476 of the laws of 1970, subdivision 2-a as amended by chapter 256 of the laws of 2010, subdivision 2-b as separately added by chapters 536 and 966 of the laws of 1974, subdivision 4 as amended by chapter 567 of the laws of 1972, subdivision 5 as amended by chapter 339 of the laws of 1972, subdivision 7 as added by chapter 261 of the laws of 1987, and subdivisions 8 and 9 as renumbered by chapter 261 of the laws of 1987, is amended to read as follows:

§ 72. Confinement of persons by the department. 1. Except as otherwise provided in this section, all persons committed, transferred, certified to or placed in the care or custody of the department shall be confined in institutions maintained by the department until paroled, conditionally released, transferred to the care of another agency or released or discharged in accordance with the law.

2. The commissioner, or the superintendent or director of an institution in which an [~~inmate~~] **incarcerated individual** is confined, may permit an [~~inmate~~] **incarcerated individual** to be taken, under guard, to any place or for any purpose authorized by law, and the commissioner must provide for delivery of an [~~inmate~~] **incarcerated individual**, under guard, to any place where his presence is required pursuant to an order of a court that has authority to require his presence.

2-a. The commissioner, superintendent, or director of an institution in which an [~~inmate~~] **incarcerated individual** is confined, may permit an [~~inmate~~] **incarcerated individual**, wishing to do so, to leave the institution under guard for the purpose of performing volunteer labor or services when in the public interest upon the threat or occurrence of a natural disaster, including but not limited to flood, earthquake, hurricane, landslide or fire. An [~~inmate~~] **incarcerated individual** may also be permitted to leave the institution under guard to voluntarily perform work for a nonprofit organization pursuant to this subdivision. As used in this subdivision, the term "nonprofit organization" means an organization operated exclusively for religious, charitable, or educational purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

2-b. The commissioner, or his designee as authorized by the commissioner, may permit an [~~inmate~~] **incarcerated individual** to be taken under guard to any place to participate in an industrial training program.

3. The superintendent or director of an institution may permit [~~inmates~~] **incarcerated individuals** to leave the institution for the purpose of performing maintenance work or farm work, or any other work necessary or appropriate for the upkeep, operations or business of the institution or the department.

4. Any [~~inmate~~] **incarcerated individual** who is confined in a correctional facility and who is eligible for parole or who will become eligible for parole within two years or who has one year or less remaining to be served under his **or her** sentence may be transferred by the commissioner to a correctional camp and may be permitted, by the superintendent, to leave the camp to engage in conservation or forestry work or for any purpose permitted under subdivisions two**, two-a, two-b** and three of this section.

5. An [~~inmate~~] **incarcerated individual** may be permitted to leave the institution to participate in a temporary release program in accordance with the provisions of article twenty-six of this chapter.

6. An [~~inmate~~] **incarcerated individual** of a residential treatment facility may be permitted to leave such facility in accordance with the provisions of section seventy-three of this article.

7. An [~~inmate~~] **incarcerated individual** of a shock incarceration correctional facility may be permitted to leave the facility to participate in programs in accordance with the provisions of article twenty-six-A of this chapter.

8. In any case where the decision to permit an [~~inmate~~] **incarcerated individual** to leave an institution is made by a person other than the commissioner or a deputy commissioner of correction such action and the manner in which it is carried out shall be in strict accordance with the rules and regulations of the department. Such rules and regulations may restrict or limit the authority of the superintendent or director in any manner deemed advisable by the commissioner.

9. The provisions of this section shall not be construed in such manner as to be in conflict with any provision of law that specifically provides for circumstances under which [~~inmates~~] **incarcerated individuals** may be permitted to leave institutions.

§ 128-a. Subdivision 5 of section 72 of the correction law, as added by chapter 476 of the laws of 1970, is amended to read as follows:

5. An [~~inmate~~] **incarcerated individual** of a work release facility may be permitted to leave the facility to participate in a work release program in accordance with the provisions of article twenty-six of this chapter.

§ 129. Section 72-a of the correction law, as amended by section 7 of subpart B of part C of chapter 62 of the laws of 2011, is amended to read as follows:

§ 72-a. Community treatment facilities. 1. Transfer of eligible [~~inmate~~] **incarcerated individual**. Notwithstanding the provisions of section seventy-two of this chapter, any [~~inmate~~] **incarcerated individual** confined in a correctional facility who is an "eligible [~~inmate~~] **incarcerated individual**" as defined by subdivision two of section eight hundred fifty-one of this chapter and has been certified by the [~~division of~~] **office of alcoholism and** substance abuse services as being in need of substance abuse treatment and rehabilitation may be transferred by the commissioner to a community treatment facility.

2. Designation of facilities. A community treatment facility shall be designated by the [~~director~~] **commissioner** of the [~~division of~~] **office of alcoholism and** substance abuse services and the commissioner. Such facility shall be operated by a provider or sponsoring agency that has provided approved residential substance abuse treatment services for at least two years duration.

3. Operating standards. The commissioner, after consultation with the [~~director~~] **commissioner** of the [~~division of~~] **office of alcoholism and** substance abuse services, shall promulgate rules and regulations which provide for minimum standards of operation, including but not limited to the following:

(a) provision for adequate security and protection of the surrounding community;

(b) adequate physical plant standards;

(c) provisions for adequate program services, staffing, and record keeping; and

(d) provision for the general welfare of the [~~inmates~~] **incarcerated individuals**.

4. Community supervision. The department shall provide for the provision of community supervision services. All [~~inmates~~] **incarcerated individuals** residing in a community treatment facility shall be assigned to parole officers for supervision. Such parole officers shall be responsible for providing such supervision.

5. Reports. The department and the division of substance abuse services shall jointly issue quarterly reports including a description of those facilities that have been designated as community treatment facilities, the number of [~~inmates~~] **incarcerated individuals** confined in each facility, a description of the programs within each facility, and the number of absconders, if any, as well as the nature and number of re-arrests, if any, during the individual's period of community supervision. Copies of such reports, as well as copies of any inspection report issued by the department or the commission of correction shall be sent to the director of the budget, the chairman of the senate finance committee, the chairman of the senate crime and correction committee, the chairman of the assembly ways and means committee and the chairman of the assembly committee on codes.

6. Reimbursement. (a) The commissioner, in consultation with the [~~director~~] **commissioner** of the [~~division of~~] **office of alcoholism and** substance abuse services, shall enter into an agreement with the [~~division of~~] **office of alcoholism and** substance abuse services whereby the [~~division of~~] **office of alcoholism and** substance abuse services will contract with community treatment facilities for provision of services pursuant to this section within amounts made available by the department. Each contract shall provide for frequent visitation, inspection of the facility, and enforcement of the minimum standards and shall authorize the supervision of [~~inmates~~] **incarcerated individuals** residing in a community treatment facility by parole officers.

(b) The commissioner shall promulgate rules and regulations specifying those costs related to the general operation of community treatment facilities that shall be eligible for reimbursement. Such eligible costs shall not include debt service, whether principal or interest, or costs for which state or federal aid or reimbursement is otherwise available. Such rules and regulations shall be subject to the approval of the director of the budget.

(c) The department shall not contract for provision of services to more than fifty [~~inmates~~] **incarcerated individuals** at any one facility.

(d) At least thirty days prior to final approval of any such contract, a copy of the proposed contract shall be sent to the director of the budget, the chairman of the senate finance committee, the chairman of the senate crime and correction committee, the chairman of the assembly ways and means committee, and the chairman of the assembly committee on codes.

§ 130. Section 72-b of the correction law, as added by section 48 of part B of chapter 58 of the laws of 2004, subdivision 2 as amended by section 17 of subpart A of part C of chapter 62 of the laws of 2011, is amended to read as follows:

§ 72-b. Discharge of [~~inmates~~] **incarcerated individuals** to adult care facilities. 1. An [~~inmate~~] **incarcerated individual** about to be discharged to an adult home, enriched housing program or residence for adults, as defined in section two of the social services law, shall be referred only to such home, program or residence that is consistent with that person's needs and that operates pursuant to section four hundred

sixty of the social services law. No [~~inmate~~] **incarcerated individual** shall be directly referred to any facility that is required to be certified as an adult care facility under the provisions of article seven of the social services law, unless it has been determined that such facility has a valid operating certificate.

2. No [~~inmate~~] **incarcerated individual** about to be paroled, conditionally released, transferred, released or discharged shall be referred to any adult home, enriched housing program or residence for adults, as defined in section two of the social services law, where the department of corrections and community supervision has received written notice that the facility has been placed on the "do not refer list" pursuant to subdivision fifteen of section four hundred sixty-d of the social services law.

§ 131. Section 73 of the correction law, as amended by section 8 of subpart B of part C of chapter 62 of the laws of 2011, is amended to read as follows:

§ 73. Residential treatment facilities. 1. The commissioner may transfer any [~~inmate~~] **incarcerated individual** of a correctional facility who is eligible for community supervision or who will become eligible for community supervision within six months after the date of transfer or who has one year or less remaining to be served under his or her sentence to a residential treatment facility and such person may be allowed to go outside the facility during reasonable and necessary hours to engage in any activity reasonably related to his or her rehabilitation and in accordance with the program established for him or her. While outside the facility he or she shall be at all times in the custody of the department and under its supervision.

2. The department shall be responsible for securing appropriate education, on-the-job training and employment for [~~inmates~~] **incarcerated individuals** transferred to residential treatment facilities. The department also shall supervise such [~~inmates~~] **incarcerated individuals** during their participation in activities outside any such facility and at all times while they are outside any such facility.

3. Programs directed toward the rehabilitation and total reintegration into the community of persons transferred to a residential treatment facility shall be established. Each [~~inmate~~] **incarcerated individual** shall be assigned a specific program by the superintendent of the facility and a written memorandum of such program shall be delivered to him or her.

4. If at any time the superintendent of a residential treatment facility is of the opinion that any aspect of the program assigned to an individual is inconsistent with the welfare or safety of the community or of the facility or its [~~inmates~~] **incarcerated individuals**, the superintendent may suspend such program or any part thereof and restrict the [~~inmate's~~] **incarcerated individual's** activities in any manner that is necessary and appropriate. Upon taking such action the superintendent shall promptly notify the commissioner and pending decision by the commissioner, the superintendent may keep such [~~inmate~~] **incarcerated individual** under such security as may be necessary.

5. The commissioner may at any time and for any reason transfer an [~~inmate~~] **incarcerated individual** from a residential treatment facility to another correctional facility.

6. Where a person who is an [~~inmate~~] **incarcerated individual** of a residential treatment facility absconds, or fails to return thereto as specified in the program approved for him or her, he or she may be arrested and returned by an officer or employee of the department or by

any peace officer, acting pursuant to his or her special duties, or police officer without a warrant; or a member of the board of parole or an officer designated by such board may issue a warrant for the retaking of such person. A warrant issued pursuant to this subdivision shall have the same force and effect, and shall be executed in the same manner, as a warrant issued for violation of community supervision.

7. The provisions of this chapter relating to good behavior allowances and conditional release shall apply to behavior of [~~inmates~~] **incarcerated individuals** while assigned to a residential treatment facility for behavior on the premises and outside the premises of such facility and good behavior allowances may be granted, withheld, forfeited or cancelled in whole or in part for behavior outside the premises of the facility to the same extent and in the same manner as is provided for [~~inmates~~] **incarcerated individuals** within the premises of any facility.

8. The state board of parole may grant parole to any [~~inmate~~] **incarcerated individual** of a residential treatment facility at any time after he or she becomes eligible therefor. Such parole shall be in accordance with provisions of law that would apply if the person were still confined in the facility from which he or she was transferred, except that any personal appearance before the board may be at any place designated by the board.

9. The earnings of any [~~inmate~~] **incarcerated individual** of a residential treatment facility shall be dealt with in accordance with the procedure set forth in section eight hundred sixty of this chapter.

10. The commissioner is authorized to use any residential treatment facility as a residence for persons who are on community supervision. Persons who reside in such a facility shall be subject to conditions of community supervision imposed by the board.

§ 132. Section 74 of the correction law, as amended by chapter 270 of the laws of 2015, is amended to read as follows:

§ 74. Discharge on holidays, Saturdays and Sundays. Where the date of release on parole or conditional release, or where the date of discharge from the care or custody of the department, falls on Saturday or Sunday, it shall be deemed to fall on the preceding Friday. Where the date of such release or discharge falls on a legal holiday it shall be deemed to fall on the preceding day, except that when such legal holiday falls on a Monday the date of release shall be deemed to fall on the preceding Friday. Notwithstanding the foregoing, or any other provision of the law to the contrary, the commissioner, in his or her discretion, may advance the release date of an [~~inmate~~] **incarcerated individual**, who is scheduled to be released on a Friday, to a Thursday in any case where the [~~inmate~~] **incarcerated individual** will serve a period of community supervision upon release and the commissioner determines that public safety will be enhanced by a next day reporting requirement.

§ 133. The section heading and subdivision 1 of section 76 of the correction law, the section heading as amended by chapter 5 of the laws of 2015 and subdivision 1 as amended by chapter 385 of the laws of 2019, are amended to read as follows:

Notice of transitional services for [~~inmates~~] **incarcerated individuals** released from correctional facilities. 1. (a) Prior to the release of an [~~inmate~~] **incarcerated individual** from a correctional facility, the department shall provide such [~~inmate~~] **incarcerated individual** with information on transitional services available in the county or city where such [~~inmate~~] **incarcerated individual** is scheduled to be released. Such information shall include programs designed to promote the successful and productive reentry and reintegration of an [~~inmate~~] **incarcerated**

individual into society including medical and mental health services, HIV/AIDS services, educational, vocational and employment services, alcohol or substance abuse treatment and housing services. The department shall maintain a current list of transitional services which shall be updated regularly in order to effectuate the purposes of this section. Where appropriate, the department shall provide assistance to an [~~inmate~~] incarcerated individual in contacting a program or service provider prior to such [~~inmate's~~] incarcerated individual's release to the community.

(b) Upon discharge of an [~~inmate~~] incarcerated individual from a correctional facility, the department shall provide such [~~inmate~~] incarcerated individual with educational information about the prevention of human immunodeficiency virus (HIV) infection, instructions about how to obtain free HIV testing upon release, including contact information for HIV counseling and testing service providers located in the county or city in which such [~~inmate~~] incarcerated individual intends to reside upon release, and referrals to community-based HIV prevention, education and counseling resources located in the county or city in which such [~~inmate~~] incarcerated individual intends to reside upon release.

§ 134. Subdivisions 1, 4 and 5 of section 87 of the correction law, as added by chapter 549 of the laws of 1987, are amended to read as follows:

1. "Alternate correctional facility" shall mean a correctional facility designed to house medium security [~~inmates~~] incarcerated individuals as defined by department rules and regulations, which is owned by the city of New York, operated by the department pursuant to the rules and regulations promulgated by the commissioner and in accordance with the operation agreement as defined in subdivision five of this section, and used for the confinement of eligible [~~inmates~~] incarcerated individuals, as defined by subdivision four of this section.

4. "Eligible [~~inmates~~] incarcerated individuals" shall mean [~~male inmates~~] incarcerated individuals of a New York city correctional facility who are at least nineteen years of age, who are serving a definite, but not an intermittent, sentence of imprisonment, and who do not have criminal charges pending against them.

5. "Operation agreement" shall mean an agreement entered into pursuant to section eighty-eight of this article by the commissioner and the city of New York which governs the operation of one or both alternate correctional facilities and addresses all related issues, including, but not limited to, general staffing levels and nature of staffing positions; composition of medical staff; availability of outside medical services; procedures and criteria for selecting eligible [~~inmates~~] incarcerated individuals; availability and frequency of transportation of [~~inmates~~] incarcerated individuals and visitors of [~~inmates~~] incarcerated individuals to such facility; availability, content and frequency of programming for [~~inmates~~] incarcerated individuals; mechanisms to establish, monitor and review operating and capital expenditures; and legal representation of both [~~inmates~~] incarcerated individuals and employees of such facilities.

§ 135. Subdivision 4 of section 88 of the correction law, as added by chapter 549 of the laws of 1987, is amended to read as follows:

4. For each alternate correctional facility, the commissioner is hereby authorized and empowered to enter into a construction agreement, an operation agreement, and any other agreements or leases with the city of New York which are deemed by the commissioner to be necessary or convenient for the establishment, operation and maintenance of an alternate

correctional facility. An operation agreement shall govern the operation of an alternate correctional facility for up to ten years after the commencement of housing of eligible [~~inmates~~] **incarcerated individuals** at such facility. The commissioner shall not operate an alternate correctional facility except pursuant to an executed operation agreement.

§ 136. Subdivision 2 of section 88-a of the correction law, as added by chapter 549 of the laws of 1987, is amended to read as follows:

2. To enter into an operation agreement or agreements as defined in this article and pursuant to any such agreements to utilize alternate correctional facilities for the housing of certain [~~inmates~~] **incarcerated individuals** of New York city correctional facilities.

§ 137. Subdivision 1 of section 89-a of the correction law, as amended by chapter 409 of the laws of 1991, is amended to read as follows:

1. Management of alternate correctional facilities. Superintendence, management and control of alternate correctional facilities and the eligible [~~inmates~~] **incarcerated individuals** housed therein shall be as directed by the commissioner consistent with the following: an alternate correctional facility shall be operated pursuant to rules and regulations promulgated for such facilities by the commissioner in consultation with the state commission of correction and the provisions of the operation agreement. The commissioner shall operate such facility insofar as practicable in the same manner as a general confinement facility which houses medium security state [~~inmates~~] **incarcerated individuals**. Nothing herein, however, shall preclude the commissioner from enhancing staffing or programming to accommodate the particular needs of eligible [~~inmates~~] **incarcerated individuals** pursuant to the operation agreement. No [~~inmate~~] **incarcerated individual** shall be housed in any alternate correctional facility until such facility has been established in accordance with the provisions of section eighty-nine of this article. The population in an alternate correctional facility shall not exceed its design capacity of approximately seven hundred eligible [~~inmates~~] **incarcerated individuals** except pursuant to variances permitted by law, rule or regulation or court order.

§ 138. Section 89-c of the correction law, as added by chapter 549 of the laws of 1987, is amended to read as follows:

§ 89-c. Use of alternate correctional facilities. 1. Alternate correctional facilities shall serve only to supplement local correctional facilities within the city of New York. In considering whether to assign an eligible [~~inmate~~] **incarcerated individual** to an alternate correctional facility or to transfer such [~~inmate~~] **incarcerated individual** from such facility, preference shall be given to available space suitable for housing sentenced [~~inmates~~] **incarcerated individuals** at local correctional facilities within the city of New York.

2. Consistent with the provisions of this article and subject to the applicable rules and regulations for operation of alternate correctional facilities and the provisions of the operation agreement, assignment of [~~inmates~~] **incarcerated individuals** to alternate correctional facilities shall be made jointly by the commissioner and the commissioner of the New York city department of correction. In making such assignments, consideration shall be given to [~~inmates~~] **incarcerated individuals** who have a greater period of time remaining to be served on their sentences, taking into account any applicable jail time and good behavior time. No [~~inmate~~] **incarcerated individual** who is eligible for educational services pursuant to subdivision seven of section three thousand two hundred two of the education law and who chooses to avail himself **or**

herself of such services shall be assigned to an alternate correctional facility.

3. [~~Inmates~~] Incarcerated individuals assigned to alternate correctional facilities shall be returned to a local correctional facility within the city of New York at any such time as the commissioner determines:

(a) that the assignment was not in accordance with this article, or

(b) that the confinement of an [~~inmate~~] incarcerated individual in an alternate correctional facility is no longer suitable because it potentially endangers the safety, security or order of the facility.

4. Any [~~inmate~~] incarcerated individual who is eligible for educational services pursuant to subdivision seven of section three thousand two hundred two of the education law shall also be returned to a New York city local correctional facility if he or she chooses to avail himself or herself of such services.

5. [~~Inmates~~] Incarcerated individuals assigned to alternate correctional facilities shall be returned to a New York city correctional facility within the city of New York no later than seven days prior to their scheduled release or discharge from incarceration.

6. Notwithstanding any other provisions of law, no [~~inmates~~] incarcerated individuals from jurisdictions other than the city of New York shall be housed at any time in an alternate correctional facility.

§ 139. Section 89-d of the correction law, as added by chapter 549 of the laws of 1987, is amended to read as follows:

§ 89-d. Transportation. The state of New York shall have no responsibility, financial or otherwise, for transporting [~~inmates~~] incarcerated individuals between a New York city local correctional facility and an alternate correctional facility, regardless of the reason for such transfer. The city of New York shall be responsible for all such costs, as well as the actual transportation and supervision of [~~inmates~~] incarcerated individuals during transport.

§ 140. Subdivision 3 of section 89-e of the correction law, as added by chapter 549 of the laws of 1987, is amended to read as follows:

3. The panel shall examine whether alternate correctional facilities should continue to be utilized, whether all steps practicable have been taken by the city of New York toward finding alternatives to housing eligible [~~inmates~~] incarcerated individuals in alternate correctional facilities, including the construction of correctional facilities within the city of New York and the development of alternatives to incarceration, and whether there has been compliance with all applicable laws, rules and regulations and the operation agreement.

§ 141. Subdivision 1 of section 90 of the correction law, as added by chapter 478 of the laws of 1970, is amended to read as follows:

1. To provide correctional programs for persons who receive sentences of imprisonment with terms of one year or less and who otherwise would be confined in institutions in counties that do not have a sufficient number of [~~inmates~~] incarcerated individuals to justify construction of an adequate correctional institution or operation of a modern correctional program;

§ 142. The section heading and subdivisions 1 and 3 of section 91 of the correction law, as amended by section 5 of part H of chapter 56 of the laws of 2009, are amended to read as follows:

Agreements for custody of definite sentence [~~inmates~~] incarcerated individuals. 1. The commissioner may enter into an agreement with any county or with the city of New York to provide for custody by the department of persons who receive definite sentences of imprisonment

with terms in excess of ninety days who otherwise would serve such sentences in the jail, workhouse, penitentiary or other local correctional institution maintained by such locality; provided, however, that a person committed to the custody of the department pursuant to an agreement established by this section, except a person committed pursuant to an agreement with the city of New York, shall be delivered to a reception center designated by the commissioner for an initial processing period which shall be no longer than seven days, and thereafter, shall be transferred to a general confinement correctional facility located in the same county or in a county adjacent to the county where such person would otherwise be committed to a local correctional facility. In the event, however, that exigent circumstances related to health, safety or security arise which require the immediate transfer of an [~~inmate~~] **incarcerated individual** to a different facility not within the county or adjacent county, then the department shall, as soon thereafter as practicable, arrange for such [~~inmate~~] **incarcerated individual** to be returned to the jurisdiction of the county from which he or she was committed.

3. An agreement made under this section shall require the locality to pay the cost of treatment, maintenance and custody furnished by the department, and the costs incurred under subdivision two or three of section one hundred twenty-five of this chapter relating to the provision of clothing, money and transportation upon release or discharge of [~~inmates~~] **incarcerated individuals** delivered to the department pursuant to the agreement, and shall contain at least the following provisions:

(a) A provision specifying the minimum length of the term of imprisonment of persons who may be received by the department under the agreement, which may be any term in excess of ninety days agreed to by the parties and which need not be the same in each agreement;

(b) A provision that no charge will be made to the state or to the department or to any of its institutions during the pendency of such agreement for delivery of [~~inmates~~] **incarcerated individuals** to the department by officers of the locality, and that the provisions of section six hundred two of this chapter or of any similar law shall not apply for delivery of [~~inmates~~] **incarcerated individuals** during such time;

(c) Designation of the correctional facility or facilities to which persons under sentences covered by the agreement are to be delivered;

(d) A provision requiring the department to provide transitional services upon the release of persons committed to the custody of the department pursuant to an agreement established by this section;

(e) Any other provision the commissioner may deem necessary or appropriate; and

(f) A provision giving either party the right to cancel the agreement by giving the other party notice in writing, with cancellation to become effective on such date as may be specified in such notice.

§ 142-a. The section heading, and paragraphs (b), (c) and (d) of subdivision 3 of section 91 of the correction law, as amended by section 10 of subpart B of part C of chapter 62 of the laws of 2011, are amended to read as follows:

Agreements for custody of definite sentence [~~inmates~~] **incarcerated individuals**.

(b) A provision that no charge will be made to the state or to the state department of corrections and community supervision or to any of its institutions during the pendency of such agreement for delivery of

[~~inmates~~] **incarcerated individuals** to the state department of corrections and community supervision by officers of the locality, and that the provisions of section six hundred two of this chapter or of any similar law shall not apply for delivery of [~~inmates~~] **incarcerated individuals** during such time;

(c) A provision that no charge shall be made to or shall be payable by the state during the pendency of such agreement for the expense of maintaining parole violators pursuant to section [~~two hundred sixteen of this chapter~~] **two hundred fifty-nine-i of the executive law**, for the expense of maintaining coram nobis prisoners pursuant to section six hundred one-b of this chapter, **or** for the expense of maintaining felony prisoners pursuant to section six hundred one-c of this chapter[~~, or for the expense of maintaining alternative local reformatory inmates pursuant to section eight hundred thirty-five in institutions maintained by the locality~~];

(d) A provision, approved by the state comptroller, for reimbursement of the state department of corrections and community supervision by the locality for expenses incurred under subdivision two or three of section one hundred twenty-five of this chapter relating to clothing, money and transportation furnished upon release or discharge of [~~inmates~~] **incarcerated individuals** delivered to the state department of corrections and community supervision pursuant to the agreement;

§ 143. Section 92 of the correction law, as amended by section 6 of part H of chapter 56 of the laws of 2009, is amended to read as follows:

§ 92. Effect of agreement for custody of definite sentence [~~inmates~~] **incarcerated individuals**. 1. After a copy of an agreement made under section ninety-one of this article is filed with the secretary of state, all commitments under sentences covered by the agreement by courts in the county or city to which it applies shall be deemed to be to the custody of the department and shall be so construed and interpreted irrespective of the institution or agency to which the commitments are made.

2. Any [~~inmate~~] **incarcerated individual** who is serving a term of imprisonment covered by the agreement imposed prior to the filing of such agreement, and any [~~inmate~~] **incarcerated individual** who is under consecutive definite sentences of imprisonment with an aggregate term of the length covered by the agreement, irrespective of whether one or more of such sentences was imposed prior to the filing of the agreement, may be transferred to the care of the department upon request of the head of the county or city institution and approval of the commissioner.

3. [~~Inmates~~] **Incarcerated individuals** who are deemed committed to the custody of the department under subdivision one of this section, or who may be transferred to the care of the department under subdivision two of this section, shall be dealt with in all respects in the same manner as [~~inmates~~] **incarcerated individuals** committed to the custody of the department.

4. In the event any such agreement is cancelled, [~~inmates~~] **incarcerated individuals** delivered to the department prior to the date of cancellation shall continue to serve their sentences in the custody of such department and the provisions of such agreement shall continue to apply with respect to such [~~inmates~~] **incarcerated individuals**. A copy of the notice of cancellation shall be filed with the secretary of state and with the clerks of courts in the manner provided in subdivision four of section ninety-one of this article, and no [~~inmates~~] **incarcerated individuals** shall be delivered to the custody of the department under such agreement after the date on which such cancellation becomes effective.

§ 143-a. Section 92 of the correction law, as amended by section 11 of subpart B of part C of chapter 62 of the laws of 2011, is amended to read as follows:

§ 92. Effect of agreement for custody of definite sentence [~~inmates~~] **incarcerated individuals**. 1. After a copy of an agreement made under section ninety-one of this article is filed with the secretary of state, all commitments under sentences covered by the agreement by courts in the county or city to which it applies shall be deemed to be to the custody of the state department of corrections and community supervision and shall be so construed and interpreted irrespective of the institution or agency to which the commitments are made.

2. Any [~~inmate~~] **incarcerated individual** who is serving a term of imprisonment covered by the agreement imposed prior to the filing of such agreement, and any [~~inmate~~] **incarcerated individual** who is under consecutive definite sentences of imprisonment with an aggregate term of the length covered by the agreement, irrespective of whether one or more of such sentences was imposed prior to the filing of the agreement, may be transferred to the care of the state department of corrections and community supervision upon request of the head of the county or city institution and approval of the state commissioner of corrections and community supervision.

3. [~~Inmates~~] **Incarcerated individuals** who are deemed committed to the custody of the state department of corrections and community supervision under subdivision one of this section, or who may be transferred to the care of the state department of corrections and community supervision under subdivision two of this section, shall be dealt with in all respects in the same manner as [~~inmates~~] **incarcerated individuals** committed to the custody of the state department of corrections and community supervision.

4. In the event any such agreement is cancelled, [~~inmates~~] **incarcerated individuals** delivered to the state department of corrections and community supervision prior to the date of cancellation shall continue to serve their sentences in the custody of such department and the provisions of such agreement shall continue to apply with respect to such [~~inmates~~] **incarcerated individuals**. A copy of the notice of cancellation shall be filed with the secretary of state and with the clerks of courts in the manner provided in subdivision four of section ninety-one of this article, and no [~~inmates~~] **incarcerated individuals** shall be delivered to the custody of the state department of corrections and community supervision under such agreement after the date on which such cancellation becomes effective.

§ 144. Section 93 of the correction law, as amended by section 12 of subpart B of part C of chapter 62 of the laws of 2011, is amended to read as follows:

§ 93. Temporary custody of sentenced [~~inmates~~] **incarcerated individuals** in emergencies. 1. Whenever a state of emergency shall be declared by the chief executive officer of a local government pursuant to section two hundred nine-m of the general municipal law, the chief executive officer of the county in which such state of emergency is declared, or where a county or counties are wholly within a city the mayor of such city, may request the governor to remove all or any number of sentenced [~~inmates~~] **incarcerated individuals** from institutions maintained by such county or city. Upon receipt of such request, if the governor is satisfied that the public interest so requires, the governor may, in his **or her** discretion, authorize and direct the state commissioner of

corrections and community supervision to remove such [~~inmates~~] incarcerated individuals.

2. Upon receipt of any such direction the state commissioner of corrections and community supervision shall transport such [~~inmates~~] incarcerated individuals to any correctional facility in the department and such [~~inmates~~] incarcerated individuals shall be retained in the custody of the department, subject to all laws and rules and regulations pertaining to [~~inmates~~] incarcerated individuals in the custody of the department, until returned to the institution from which they were removed or discharged or released in accordance with the law.

3. In the event that the state department of corrections and community supervision does not have space in its correctional facilities to accommodate all or any number of the [~~inmates~~] incarcerated individuals so removed from a local institution, the commissioner shall have the power to lodge any number of such [~~inmates~~] incarcerated individuals in any county jail, workhouse or penitentiary within the state that has room to receive them and such institution shall be required to receive such [~~inmates~~] incarcerated individuals. [~~Inmates~~] Incarcerated individuals so lodged shall be subject to all rules and regulations pertaining to [~~inmates~~] incarcerated individuals committed to such institution until returned to the institution from which they were removed, or removed to a state correctional facility, or discharged or released in accordance with the law; provided, however, that [~~inmates~~] incarcerated individuals discharged or released from any such local institution shall be entitled to receive clothing, money and transportation from the state department of corrections and community supervision to the same extent as [~~inmates~~] incarcerated individuals discharged or released from a state correctional facility.

4. When sentenced [~~inmates~~] incarcerated individuals have been removed from a penitentiary pursuant to this section, such penitentiary may be used for the purpose of detention of prisoners awaiting trial or for any other purpose to which a county jail may be put.

5. The original order of commitment and any other case record pertaining to [~~inmates~~] incarcerated individuals removed pursuant to this section shall be delivered to the head of any institution in which he or she may be lodged and shall be returned to the institution from which he or she was removed at the time of his or her return to such institution or upon his or her release or discharge in accordance with the law.

6. [~~Inmates~~] Incarcerated individuals removed from a local institution pursuant to a request made under subdivision one of this section may be returned to such institution by the state commissioner of corrections and community supervision, subject to the approval of the governor, at any time such commissioner is satisfied that the return of such [~~inmates~~] incarcerated individuals is not inconsistent with the public interest.

7. The county or city maintaining the institution from which [~~inmates~~] incarcerated individuals are removed pursuant to subdivision one of this section shall be liable for all damages arising out of any act performed pursuant to this section and for reimbursement for the following items:

(a) The cost of clothing, money and transportation furnished to any [~~inmate~~] incarcerated individual who is released or discharged prior to the return of such [~~inmate~~] incarcerated individual to the institution from which he or she is removed shall be paid to the state department of corrections and community supervision; and

(b) The cost of maintaining any [~~inmate~~] incarcerated individual in a county jail, workhouse or penitentiary shall be paid to the local

government that maintains such institution. Such cost shall be the actual per capita daily cost, as certified to the state commissioner of corrections and community supervision.

§ 145. Section 94 of the correction law, as amended by section 13 of subpart B of part C of chapter 62 of the laws of 2011, is amended to read as follows:

§ 94. Use of local government institutions for residential treatment of persons under the custody of the state department of corrections and community supervision. 1. The state commissioner of corrections and community supervision is hereby authorized to transfer any [~~inmate~~] **incarcerated individual** under the care or custody of the department who is eligible to be transferred to a residential treatment facility under section seventy-three of this chapter to any county jail, workhouse or penitentiary for the purpose of having such [~~inmate~~] **incarcerated individual** engage in a residential treatment facility program; provided, however, that:

(a) Such [~~inmate~~] **incarcerated individual** has resided or was employed or has dependents or parents who reside in the county, or in a county that is contiguous to the county, in which the institution to which he **or she** would be transferred is located;

(b) Arrangements have been made for the education, on-the-job training, employment or for some other rehabilitative treatment of such [~~inmate~~] **incarcerated individual** in the county, or in a county that is contiguous to the county, in which the institution to which he **or she** would be transferred is located; and

(c) The sheriff, warden, superintendent, local commissioner of correction or other person in charge of the institution to which the [~~inmate~~] **incarcerated individual** would be transferred consents to such transfer.

2. An [~~inmate~~] **incarcerated individual** so transferred shall continue to be in the custody of the state department of corrections and community supervision but shall, during the period of such transfer, be in the care of the head of the institution to which he or she is transferred. The provisions of section seventy-three of this chapter shall apply in the case of any such transfer as fully and completely as if the [~~inmate~~] **incarcerated individual** were transferred to a residential treatment facility, and the head of the institution to which the [~~inmate~~] **incarcerated individual** is transferred and the officers and employees thereof shall have and may exercise all of the powers of the superintendent of a residential treatment facility with respect to the care or custody of such [~~inmate~~] **incarcerated individual**.

In any case where an [~~inmate~~] **incarcerated individual** is employed, however, the provisions of subdivision nine of such section seventy-three shall not apply and the wages or salary of such [~~inmate~~] **incarcerated individual** shall be dealt with under the provisions applicable to a work release program in the type of institution to which he **or she** is transferred as provided in [~~sections~~] **section** one hundred fifty-four[~~,~~] **or** eight hundred seventy-two [~~or eight hundred ninety-three~~] **of this chapter** as the case may be; and in the event such [~~inmate~~] **incarcerated individual** is returned to a state correctional facility, any balance remaining in the trust fund account shall be paid over to the superintendent of such facility and shall be deposited by him or her as [~~inmates'~~] **incarcerated individuals'** funds pursuant to section one hundred sixteen of this chapter.

3. If at any time the head of a local institution to which an [~~inmate~~] **incarcerated individual** is transferred under this section is of the

opinion that continued care of such [~~inmate~~] **incarcerated individual** in such institution is inconsistent with the welfare or safety of the community or of the institution or its [~~inmates~~] **incarcerated individuals**, he or she may request the state commissioner to return such [~~inmate~~] **incarcerated individual** to a state correctional facility and, upon the receipt of any such request, the commissioner shall cause such [~~inmate~~] **incarcerated individual** to be so returned promptly and at the expense of the state department of corrections and community supervision.

4. The expenses of any such transfer shall be paid by the state department of corrections and community supervision and the commissioner is hereby authorized to reimburse the local institution for a sum determined by the head of such institution and agreed to in advance by the commissioner to be the cost of food, lodging and clothing within the institution, and the actual and necessary food, travel and other expenses required for a program outside the institution, incurred or advanced by the institution; provided, however, that:

(a) In any case where the commissioner has a pending agreement with a locality under section ninety-one of this article, the commissioner shall not reimburse the local institution for any cost incurred for food, lodging and clothing within the institution; and

(b) The wages or salary, if any, of such [~~inmate~~] **incarcerated individual** shall be used for such reimbursement and shall be applied to defray any costs authorized to be paid under this section before any amount shall be paid by the commissioner hereunder, and any such wages or salary may be so applied irrespective of the provisions of paragraph (a) of this subdivision.

§ 146. Subdivisions 2, 3 and 5 of section 95 of the correction law, subdivisions 2 and 5 as added by chapter 3 of the laws of 1995 and subdivision 3 as amended by chapter 518 of the laws of 1999, are amended to read as follows:

2. Any such [~~inmate~~] **incarcerated individual** shall be deemed to be in the custody of and subject to the jurisdiction of the department but shall, during the period of his or her local confinement, be under the care of the head of the local correctional facility in which he or she resides.

3. If at any time the head of the local correctional facility is of the opinion that the continued care of such [~~inmate~~] **incarcerated individual** in the local correctional facility is inconsistent with the welfare or safety of the [~~inmate~~] **incarcerated individual**, the community, the facility or other [~~inmates~~] **incarcerated individuals**, he **or she** may demand that such [~~inmate~~] **incarcerated individual** be transferred forthwith to the custody of the department. Thereafter, the department shall be obligated to receive into its custody such [~~inmate~~] **incarcerated individual** in the manner prescribed for the acceptance of newly sentenced [~~inmates~~] **incarcerated individuals** required by section 430.20 of the criminal procedure law unless the contract specifies an alternative method of transfer. Notwithstanding the foregoing, in any case where the [~~inmate~~] **incarcerated individual** in the care of the local correctional facility pursuant to a contract as provided for in this section is convicted of a class A-1 felony offense or a class B violent felony offense or a class C violent felony offense, the head of the local correctional facility may demand that such [~~inmate~~] **incarcerated individual** be transferred forthwith to the custody of the department. Thereafter, the department shall be obligated to receive into its custo-

dy such [~~inmate~~] incarcerated individual within forty-eight hours of receipt of such demand from the head of the local correctional facility.

5. No [~~inmate~~] incarcerated individual shall be housed in a local correctional facility or series of local correctional facilities pursuant to a contract under subdivision one of this section for a period exceeding six months.

§ 147. Subdivisions (c), (d) and (e) of section 102 of the correction law, as added by chapter 400 of the laws of 1984, are amended to read as follows:

(c) "Receiving state" means a state party to this compact to which an [~~inmate~~] incarcerated individual is sent for confinement other than a state in which conviction or court commitment was had.

(d) "[~~Inmate~~] Incarcerated individual" means a male or female offender who is committed, under sentence to or confined in a penal or correctional institution.

(e) "Institution" means any penal or correctional facility, including but not limited to a facility for the mentally ill or mentally defective, in which [~~inmates~~] incarcerated individuals as defined in subdivision (d) [~~hereof~~] of this section may lawfully be confined.

§ 148. Subdivision (a) of section 103 of the correction law, as added by chapter 400 of the laws of 1984, is amended to read as follows:

(a) Each party state may make one or more contracts with any one or more of the other party states for the confinement of [~~inmates~~] incarcerated individuals on behalf of a sending state in institutions situated within receiving states. Any such contract shall provide for:

1. Its duration.

2. Payments to be made to the receiving state by the sending state for [~~inmate~~] incarcerated individual maintenance, extraordinary medical and dental expenses, and any participation in or receipt by [~~inmates~~] incarcerated individuals of rehabilitative or correctional services, facilities, programs or treatment not reasonably included as part of normal maintenance.

3. Participation in programs of [~~inmate~~] incarcerated individual employment, if any; the disposition or crediting of any payments received by [~~inmates~~] incarcerated individuals on account thereof; and the crediting of proceeds from or disposal of any products resulting therefrom.

4. Delivery and retaking of [~~inmates~~] incarcerated individuals.

5. Such other matters as may be necessary and appropriate to fix the obligations, responsibilities and rights of the sending and receiving states.

§ 149. Section 104 of the correction law, as added by chapter 400 of the laws of 1984, is amended to read as follows:

§ 104. Procedures and rights. (a) Whenever the duly constituted authorities in a state party to this compact, and which has entered into a contract pursuant to section one hundred three of this article, shall decide that confinement in, or transfer of an [~~inmate~~] incarcerated individual to, an institution within the territory of another party state is necessary or desirable in order to provide adequate quarters and care or an appropriate program of rehabilitation or treatment, said officials may direct that the confinement be within an institution within the territory of said other party state, the receiving state to act in that regard solely as agent for the sending state.

(b) The appropriate officials of any state party to this compact shall have access, at all reasonable times, to any institution in which it has a contractual right to confine [~~inmates~~] incarcerated individuals for

the purpose of inspecting the facilities thereof and visiting such of its [~~inmates~~] **incarcerated individuals** as may be confined in the institution.

(c) [~~Inmates~~] **Incarcerated individuals** confined in an institution pursuant to the terms of this compact shall at all times be subject to the jurisdiction of the sending state and may at any time be removed therefrom for transfer to a prison or other institution within the sending state, for transfer to another institution in which the sending state may have a contractual or other right to confine [~~inmates~~] **incarcerated individuals**, for release on probation or parole, for discharge, or for any other purpose permitted by the laws of the sending state; provide that the sending state shall continue to be obligated to such payments as may be required pursuant to the terms of any contract entered into under the terms contained in section one hundred three of this article.

(d) Each receiving state shall provide regular reports to each sending state on the [~~inmates~~] **incarcerated individuals** of that sending state in institutions pursuant to this compact including a conduct record of each [~~inmate~~] **incarcerated individual** and certify said record to the official designated by the sending state, in order that each [~~inmate~~] **incarcerated individual** may have official review of his or her record in determining and altering the disposition of said [~~inmate~~] **incarcerated individual** in accordance with the law which may obtain in the sending state and in order that the same may be a source of information for the sending state.

(e) All [~~inmates~~] **incarcerated individuals** who may be confined in an institution pursuant to the provisions of this compact shall be treated in a reasonable and humane manner and shall be treated equally with such similar [~~inmates~~] **incarcerated individuals** of the receiving state as may be confined in the same institution. The fact of confinement in a receiving state shall not deprive any [~~inmate~~] **incarcerated individual** so confined of any legal rights which said [~~inmate~~] **incarcerated individual** would have had if confined in an appropriate institution of the sending state.

(f) Any hearing or hearings to which an [~~inmate~~] **incarcerated individual** confined pursuant to this compact may be entitled by the laws of the sending state may be had before the appropriate authorities of the sending state, or of the receiving state if authorized by the sending state. The receiving state shall provide adequate facilities for such hearings as may be conducted by the appropriate officials of a sending state. In the event such hearing or hearings are had before officials of the receiving state, the governing law shall be that of the sending state and a record of the hearing or hearings as prescribed by the sending state shall be made. Said record together with any recommendations of the hearing officials shall be transmitted forthwith to the official or officials before whom the hearing would have been had if it had taken place in the sending state. In any and all proceedings had pursuant to the provisions of this subdivision, the officials of the receiving state shall act solely as agents of the sending state and no final determination shall be made in any matter except by the appropriate officials of the sending state.

(g) Any [~~inmate~~] **incarcerated individual** confined pursuant to this compact shall be released within the territory of the sending state unless the [~~inmate~~] **incarcerated individual**, and the sending and receiving states, shall agree upon release in some other place. The sending state shall bear the cost of such return to its territory.

(h) Any [~~inmate~~] **incarcerated individual** confined pursuant to the terms of this compact shall have any and all rights to participate in and derive any benefits or incur or be relieved of any obligations or have such obligations modified or his **or her** status changed on account of any action or proceeding in which he **or she** could have participated if confined in any appropriate institution of the sending state located within such state.

(i) The parent, guardian, trustee, or other person or persons entitled under the laws of the sending state to act for, advise, or otherwise function with respect to any [~~inmate~~] **incarcerated individual** shall not be deprived of or restricted in his **or her** exercise of any power in respect to any [~~inmate~~] **incarcerated individual** confined pursuant to the terms of this compact.

§ 150. Section 105 of the correction law, as added by chapter 400 of the laws of 1984, is amended to read as follows:

§ 105. Acts not reviewable in receiving state; extradition. (a) Any decision of the sending state in respect to any matter over which it retains jurisdiction pursuant to this compact shall be conclusive upon and not reviewable within the receiving state, but if at the time the sending state seeks to remove an [~~inmate~~] **incarcerated individual** from an institution in the receiving state there is pending against the [~~inmate~~] **incarcerated individual** within such state any criminal charge or if the [~~inmate~~] **incarcerated individual** is formally accused of having committed within such state a criminal offense, the [~~inmate~~] **incarcerated individual** shall not be returned without the consent of the receiving state until discharged from prosecution or other form of proceeding, imprisonment or detention for such offense. The duly accredited officers of the sending state shall be permitted to transport [~~inmates~~] **incarcerated individuals** pursuant to this compact through any and all states party to this compact without interference.

(b) Any [~~inmate~~] **incarcerated individual** who escapes from an institution in which he **or she** is confined pursuant to this compact shall be deemed a fugitive from the sending state and from the state in which the institution is situated. In the case of any escape to a jurisdiction other than the sending or receiving state, the responsibility for institution of extradition or rendition proceedings shall be that of the sending state, but nothing contained herein shall be construed to prevent or affect the activities of officers and agencies of any jurisdiction directed toward the apprehension and return of the escapee.

§ 151. Section 106 of the correction law, as added by chapter 400 of the laws of 1984, is amended to read as follows:

§ 106. Federal aid. Any state party to this compact may accept federal aid for use in connection with any institution or program, the use of which is or may be affected by this compact or any contract pursuant hereto and any [~~inmate~~] **incarcerated individual** in a receiving state pursuant to this compact may participate in any such federally aided program or activity for which the sending and receiving states have made contractual provision, provided that if such program or activity is not part of the customary correctional regimen, the express consent of the appropriate official of the sending state shall be required therefor.

§ 152. Section 108 of the correction law, as added by chapter 400 of the laws of 1984, is amended to read as follows:

§ 108. Withdrawal and termination. This compact shall continue in force and remain binding upon a party state until it shall have enacted a statute repealing the same and providing for the sending of formal written notice of withdrawal from the compact to the appropriate offi-

cials of all other party states. An actual withdrawal shall not take effect until one year after the notices provided in said statute have been sent. Such withdrawal shall not relieve the withdrawing state from its obligations assumed hereunder prior to the effective date of withdrawal. Before the effective date of withdrawal, a withdrawing state shall remove to its territory, at its own expense, such [~~inmates~~] **incarcerated individuals** as it may have confined pursuant to the provisions of this compact.

§ 153. Subdivision (a) of section 109 of the correction law, as added by chapter 400 of the laws of 1984, is amended to read as follows:

(a) Nothing contained in this compact shall be construed to abrogate or impair any agreement or other arrangement which a party state may have with a nonparty state for the confinement, rehabilitation or treatment of [~~inmates~~] **incarcerated individuals** nor to repeal any other laws of a party state authorizing the making of cooperative institutional arrangements.

§ 154. Subdivisions 1, 2, 4 and 5 of section 112 of the correction law, subdivisions 1 and 2 as amended and subdivision 4 as added by section 19 of subpart A of part C of chapter 62 of the laws of 2011, and subdivision 5 as added by chapter 211 of the laws of 2020, are amended to read as follows:

1. The commissioner of corrections and community supervision shall have the superintendence, management and control of the correctional facilities in the department and of the [~~inmates~~] **incarcerated individuals** confined therein, and of all matters relating to the government, discipline, policing, contracts and fiscal concerns thereof. He or she shall have the power and it shall be his or her duty to inquire into all matters connected with said correctional facilities. He or she shall make such rules and regulations, not in conflict with the statutes of this state, for the government of the officers and other employees of the department assigned to said facilities, and in regard to the duties to be performed by them, and for the government and discipline of each correctional facility, as he or she may deem proper, and shall cause such rules and regulations to be recorded by the superintendent of the facility, and a copy thereof to be furnished to each employee assigned to the facility. He or she shall also prescribe a system of accounts and records to be kept at each correctional facility, which system shall be uniform at all of said facilities, and he or she shall also make rules and regulations for a record of photographs and other means of identifying each [~~inmate~~] **incarcerated individual** received into said facilities. He or she shall appoint and remove, subject to the civil service law [~~and rules~~], subordinate officers and other employees of the department who are assigned to correctional facilities.

2. The commissioner shall have the management and control of persons released on community supervision and of all matters relating to such persons' effective reentry into the community, as well as all contracts and fiscal concerns thereof. The commissioner shall have the power and it shall be his or her duty to inquire into all matters connected with said community supervision. The commissioner shall make such rules and regulations, not in conflict with the statutes of this state, for the governance of the officers and other employees of the department assigned to said community supervision, and in regard to the duties to be performed by them, as he or she deems proper and shall cause such rules and regulations to be furnished to each employee assigned to perform community supervision. The commissioner shall also prescribe a system of accounts and records to be kept, which shall be uniform. The

commissioner shall also make rules and regulations for a record of photographs and other means of identifying each [~~inmate~~] **incarcerated individual** released to community supervision. The commissioner shall appoint officers and other employees of the department who are assigned to perform community supervision.

4. The commissioner and the chair of the parole board shall work jointly to develop and implement, as soon as practicable, a risk and needs assessment instrument or instruments, which shall be empirically validated, that would be administered to [~~inmates~~] **incarcerated individuals** upon reception into a correctional facility, and throughout their incarceration and release to community supervision, to facilitate appropriate programming both during an [~~inmate's~~] **incarcerated individual's** incarceration and community supervision, and designed to facilitate the successful integration of [~~inmates~~] **incarcerated individuals** into the community.

5. (a) The commissioner shall not make or promulgate any policy and/or regulation requiring an [~~inmate~~] **incarcerated individual** to waive any religious right, including, but not limited to, daily prayer as a condition for participation in any [~~inmate~~] **incarcerated individual** program including any such program developed and/or implemented pursuant to subdivision four of this section including, but not limited to, the shock program and the industrial training program.

(b) Upon request, [~~inmates~~] **incarcerated individuals** shall be granted exemptions for activities, including jobs, that coincide with the Sabbath and other work proscription days, including those set forth in the religious calendar.

§ 155. Section 113 of the correction law, as amended by section 20 of subpart A of part C of chapter 62 of the laws of 2011, is amended to read as follows:

§ 113. Absence of [~~inmate~~] **incarcerated individual** for funeral and deathbed visits authorized. The commissioner may permit any [~~inmate~~] **incarcerated individual** confined by the department except one awaiting the sentence of death to attend the funeral of his or her father, mother, guardian or former guardian, child, brother, sister, husband, wife, grandparent, grandchild, ancestral uncle or ancestral aunt within the state, or to visit such individual during his or her illness if death be imminent; but the exercise of such power shall be subject to such rules and regulations as the commissioner shall prescribe, respecting the granting of such permission, duration of absence from the institution, custody, transportation and care of the [~~inmate~~] **incarcerated individual**, and guarding against escape. Any expense incurred under the provisions of this section, with respect to any [~~inmate~~] **incarcerated individual** permitted to attend a funeral or visit a relative during last illness, shall be deemed an expense of maintenance of the institution and be paid from moneys available therefor; but the superintendent, if the rules and regulations of the commissioner shall so provide, may allow the [~~inmate~~] **incarcerated individual** or anyone in his **or her** behalf to reimburse the state for such expense.

§ 156. Section 114 of the correction law, as added by chapter 372 of the laws of 2018, is amended to read as follows:

§ 114. Rehabilitation programs for women; to be commensurate to those afforded men. It shall be the duty of the commissioner to assure an array of rehabilitation programs are provided among the correctional facilities in which female [~~inmates~~] **incarcerated individuals** are confined, within the appropriations made therefor, including but not limited to vocational, academic and industrial programs, which are

comparable to the programs provided to male [~~inmates~~] **incarcerated individuals** during the course of their incarceration.

§ 157. Section 116 of the correction law, as amended by section 14 of subpart B of part C of chapter 62 of the laws of 2011, is amended to read as follows:

§ 116. [~~Inmates'~~] **incarcerated individuals'** funds. The warden or superintendent of each of the institutions within the jurisdiction of the department of corrections and community supervision shall deposit at least once in each week to his or her credit as such warden, or superintendent, in such bank or banks as may be designated by the comptroller, all the moneys received by him or her as such warden, or superintendent, as [~~inmates'~~] **incarcerated individuals'** funds, and send to the comptroller and also to the commissioner monthly, a statement showing the amount so received and deposited. Such statement of deposits shall be certified by the proper officer of the bank receiving such deposit or deposits. The warden, or superintendent, shall also verify by his or her affidavit that the sum so deposited is all the money received by him or her as [~~inmates'~~] **incarcerated individuals'** funds during the month. Any bank in which such deposits shall be made shall, before receiving any such deposits, file a bond with the comptroller of the state, subject to his or her approval, for such sum as he or she shall deem necessary. Upon a certificate of approval issued by the director of the budget, pursuant to the provisions of section fifty-three of the state finance law, the amount of interest, if any, heretofore accrued and hereafter to accrue on moneys so deposited, heretofore and hereafter credited to the warden, or superintendent, by the bank from time to time, shall be available for expenditure by the warden, or superintendent, subject to the direction of the commissioner, for welfare work among the [~~inmates~~] **incarcerated individuals** in his **or her** custody. The withdrawal of moneys so deposited by such warden, or superintendent, as [~~inmates'~~] **incarcerated individuals'** funds, including any interest so credited, shall be subject to his or her check. Each warden, or superintendent, shall each month provide the comptroller and also the commissioner with a record of all withdrawals from [~~inmates'~~] **incarcerated individuals'** funds. As used in this section, the term "[~~inmates'~~] **incarcerated individuals'** funds" means the funds in the possession of the [~~inmate~~] **incarcerated individual** at the time of his or her admission into the institution, funds earned by him or her as provided in section one hundred eighty-seven of this chapter and any other funds received by him or her or on his or her behalf and deposited with such warden or superintendent in accordance with the rules and regulations of the commissioner. Whenever the total unencumbered value of funds in an [~~inmate's~~] **incarcerated individual's** account exceeds ten thousand dollars, the superintendent shall give written notice to the office of victim services.

§ 158. Section 119 of the correction law, as amended by chapter 476 of the laws of 1970, is amended to read as follows:

§ 119. Daily report concerning [~~inmates~~] **incarcerated individuals**. The superintendent of each correctional facility shall make a daily report to the commissioner of correction, stating the names of all [~~inmates~~] **incarcerated individuals** received into the facility during the preceding day, the counties in which they were tried, the crimes of which they were convicted, the nature and duration of their sentences, their former trade, employment or occupation, their habits, color, age, place of nativity, degree of instruction, and a description of their persons, and also stating whether any such [~~inmates~~] **incarcerated indi-**

viduals have ever been confined in any state or county correctional institution, and if so, stating the offense for which they were confined, and the duration of their punishment, and also stating in such report the names of all the [~~inmates~~] incarcerated individuals transferred or released to the community or delivered to other governmental authority on the preceding day, and all other particulars in relation to such persons that are required to be stated in relation to the [~~inmates~~] incarcerated individuals received in the facility.

§ 159. Subdivision 2 of section 120 of the correction law, as amended by section 15 of subpart B of part C of chapter 62 of the laws of 2011, is amended to read as follows:

2. Nothing in this section shall limit in any way the authority of the commissioner, or any county or the city of New York, to enter into any contract authorized by subdivision eighteen of section two, section seventy-two-a, section seventy-three, section ninety-five, article five-A or article twenty-six of this chapter, or to limit the responsibility of the department of corrections and community supervision to supervise [~~inmates~~] incarcerated individuals or persons released to community supervision while away from an institution pursuant to section seventy-two-a, section seventy-three or article twenty-six of this chapter or while confined at a drug treatment campus as defined in subdivision twenty of section two of this chapter.

§ 160. Section 121 of the correction law, as added by chapter 202 of the laws of 2007, is amended to read as follows:

§ 121. Private ownership or operation of correctional facilities. Except as otherwise provided in subdivisions two, three and four of section one hundred twenty of this article or in federal law, the private operation or management of a correctional facility as defined in subdivision four of section two of this chapter or a local correctional facility, as defined in subdivision sixteen of section two of this chapter, the private ownership or operation of a facility for housing state or local [~~inmates~~] incarcerated individuals or the private ownership or operation of a facility for the incarceration of other state's [~~inmates~~] incarcerated individuals is prohibited.

§ 161. Section 125 of the correction law, as amended by chapter 476 of the laws of 1970, subdivision 2 as amended by section 21 of subpart A of part C of chapter 62 of the laws of 2011, and subdivision 3 as amended by chapter 55 of the laws of 1992, is amended to read as follows:

§ 125. [~~Inmates'~~] Incarcerated individuals' money, clothing and other property; what to be furnished them on their release. 1. The superintendent, or an employee covered by bond who is designated by the superintendent, of each correctional facility shall take charge of all moneys and other articles which may be brought to the facility by the [~~inmates~~] incarcerated individuals, and shall cause the same, immediately upon the receipt thereof, to be entered among the receipts of the facility; which money and other articles, whenever the [~~inmate~~] incarcerated individual from whom the same was received shall be discharged from the custody of the department, or the same shall be otherwise legally demanded, shall be returned by the said superintendent to such [~~inmate~~] incarcerated individual or other person legally entitled to the same, and vouchers shall be taken therefor. The commissioner shall promulgate rules and regulations concerning the custody and transfer of such money and other articles in cases where [~~inmates~~] incarcerated individuals are transferred from one facility to another.

2. The superintendent of each of said facilities shall furnish to each [~~inmate~~] incarcerated individual who shall be discharged or released

from said facility by pardon, parole, conditional release or otherwise, except such [~~inmates~~] **incarcerated individuals** as are released for return for resentence or new trial or upon a certificate of reasonable doubt, and except such [~~inmates~~] **incarcerated individuals** who are released to participate in a program outside the facility who are required to return to the facility, suitable clothing adapted to the season in which he or she is discharged not to exceed sixty-five dollars in value and transportation to the county of his or her conviction or to such other place as the commissioner may designate. In addition, the commissioner shall take such steps as are necessary to ensure that [~~inmates~~] **incarcerated individuals** have at least forty dollars available upon release.

3. In any case where an [~~inmate~~] **incarcerated individual** is not entitled to receive clothing and transportation under subdivision two of this section, the superintendent, in his **or her** discretion, but subject to the rules of the department, may furnish an [~~inmate~~] **incarcerated individual** who is released from a facility with clothing or transportation not in excess of the value for each item specified in subdivision two of this section.

§ 162. Section 130 of the correction law, as amended by chapter 476 of the laws of 1970, is amended to read as follows:

§ 130. Custody of [~~inmate~~] **incarcerated individual** sentenced to death and commuted by governor. The commissioner shall designate appropriate correctional facilities to receive, on the order of the governor, any person convicted of any crime punishable by death, or who shall be pardoned, on condition of being confined either for life or a term of years in a correctional facility, and such person shall be confined according to the terms of such condition.

§ 163. Section 132 of the correction law, as amended by chapter 843 of the laws of 1980, is amended to read as follows:

§ 132. Retaking of an escaped [~~inmate~~] **incarcerated individual**. If an [~~inmate~~] **incarcerated individual** escapes from a correctional facility, he **or she** may be arrested and returned by the superintendent or by an officer or employee of the department or by any peace officer, acting pursuant to his **or her** special duties, or police officer without a warrant; or a magistrate may cause such escaped [~~inmate~~] **incarcerated individual** to be arrested and held in custody until he **or she** can be removed to a correctional facility, as in the case of a commitment. Rewards for the taking of such escaped [~~inmates~~] **incarcerated individuals** may be provided for by the rules of the department.

§ 164. Section 133 of the correction law, as amended by chapter 550 of the laws of 1978, is amended to read as follows:

§ 133. Superintendent to report concerning [~~inmate~~] **incarcerated individual** believed mentally ill when crime was committed. Whenever the superintendent of a correctional facility shall have reason to believe that any [~~inmate~~] **incarcerated individual** in the facility was mentally ill at the time he **or she** committed the offense for which he **or she** was sentenced, such superintendent shall communicate in writing to the commissioner of correction his **or her** reason for such opinion, and shall refer the commissioner of correction to all the sources of information with which he **or she** may be acquainted in relation to the mental illness of such [~~inmate~~] **incarcerated individual**. The commissioner of correction shall then transmit such opinion and information to the governor with his **or her** recommendations thereon.

§ 165. Section 136 of the correction law, as amended by chapter 431 of the laws of 2015, is amended to read as follows:

§ 136. Correctional education. 1. The objective of correctional education in its broadest sense should be the socialization of the [~~inmates~~] **incarcerated individuals** through varied impressional and expressional activities, with emphasis on individual [~~inmate~~] **incarcerated individual** needs. The objective of this program shall be the return of these [~~inmates~~] **incarcerated individuals** to society with a more wholesome attitude toward living, with a desire to conduct themselves as good citizens, and with the skill and knowledge which will give them a reasonable chance to maintain themselves and their dependents through honest labor. To this end each [~~inmate~~] **incarcerated individual** shall be given a program of education which, on the basis of available data, seems most likely to further the process of socialization and rehabilitation. Provided that, the commissioner, in consultation with the commissioner of education, shall develop a curricula for and require provision of an education program to all [~~inmates~~] **incarcerated individual**, on a periodic basis, on the consequences and prevention of shaken baby syndrome which may include the viewing of a video presentation thereon. The time daily devoted to such education shall be such as is required for meeting the above objectives. The director of education, subject to the direction of the commissioner and after consultation with the commissioner of education, shall develop the curricula and the education programs that are required to meet the special needs of each correctional facility in the department. The commissioner of education, in cooperation with the commissioner and the director of education, shall set up the educational requirements for the certification of teachers in all such correctional facilities. Such educational requirements shall be sufficiently broad and comprehensive to include training in penology, sociology, psychology, philosophy, in the special subjects to be taught, and in any other professional courses as may be deemed necessary by the responsible officers, and shall include training relating to the consequences and prevention of shaken baby syndrome which may include the viewing of a video presentation thereon. No certificates for teaching service in the state institutions shall be issued unless a minimum of four years of training beyond the high school has been secured, or an acceptable equivalent. Existing requirements for the certification of teachers in the institutions shall continue in force until changed pursuant to the provisions of this section.

2. All [~~inmates~~] **incarcerated individuals** admitted to the department serving a determinate term of imprisonment, or an indeterminate sentence of imprisonment other than a sentence of life imprisonment without parole, who have been evaluated upon admission pursuant to subdivision one of section one hundred thirty-seven of this article and are determined to be capable of successfully completing the academic course work required for the test assessing secondary completion, shall be provided with the opportunity to complete such course work at least two months prior to the date on which such [~~inmate~~] **incarcerated individual** may be paroled, conditionally released, released to post-release supervision pursuant to section 70.40 of the penal law, or presumptively released, pursuant to section eight hundred three of this chapter. Upon admission to the department, such [~~inmates~~] **incarcerated individuals** will be provided with written notice that the test assessing secondary completion programs are available for all [~~inmates~~] **incarcerated individuals** who so apply.

3. The department shall ensure that academic education programs which provide the appropriate curriculum and certified academic staff for the test assessing secondary completion instruction are available at all

correctional facilities housing [~~inmates~~] **incarcerated individuals** who are eligible as specified in subdivision two of this section. The department shall provide academic staff who are qualified to provide such instruction and who are members of the competitive class of the civil service of New York state. The department shall develop a plan for implementation of the test assessing secondary completion requirement which shall be presented to the assembly standing committee on correction and the senate standing committee on crime victims, crime and correction on or before April first, two thousand nineteen.

§ 166. Section 137 of the correction law, as added by section 476 of the laws of 1970, subdivision 1 as amended by chapter 476 of the laws of 2017, subdivision 6 as amended by chapter 490 of the laws of 1974, the opening paragraph and paragraph (f) of subdivision 6 as amended and paragraphs (d) and (e) of subdivision b of subdivision 6 as added by chapter 1 of the laws of 2008, paragraph (g) of subdivision 6 as added by chapter 261 of the laws of 2019, is amended to read as follows:

§ 137. Program of treatment, control, discipline at correctional facilities. 1. The commissioner shall establish program and classification procedures designed to assure the complete study of the background and condition of each [~~inmate~~] **incarcerated individual** in the care or custody of the department and the assignment of such [~~inmate~~] **incarcerated individual** to a program that is most likely to be useful in assisting him **or her** to refrain from future violations of the law. Such procedures shall be incorporated into the rules and regulations of the department and shall require among other things: consideration of the physical, mental and emotional condition of the [~~inmate~~] **incarcerated individual**; consideration of his **or her** educational and vocational needs; enrollment of each [~~inmate~~] **incarcerated individual** in assigned programs as soon as practicable; consideration of the danger he **or she** presents to the community or to other [~~inmates~~] **incarcerated individuals**; the recording of continuous case histories including notations as to apparent success or failure of treatment employed; and periodic review of case histories and treatment methods used.

2. The commissioner shall provide for such measures as he **or she** may deem necessary or appropriate for the safety, security and control of correctional facilities and the maintenance of order therein.

3. Each [~~inmate~~] **incarcerated individual** shall be entitled to clothing suited to the season and weather conditions and to a sufficient quantity of wholesome and nutritious food. To the extent practicable, the clothing and bedding of [~~inmates~~] **incarcerated individuals** shall be manufactured and laundered in institutions in the department.

4. Whenever there shall be a sufficient number of cells or rooms in a correctional facility, each [~~inmate~~] **incarcerated individual** shall be given sleeping accommodations in a separate cell or room, provided, however, that nothing herein contained shall be construed so as to limit the right of the department to utilize dormitory-type accommodations where necessary or where appropriate to a program of treatment.

5. No [~~inmate~~] **incarcerated individual** in the care or custody of the department shall be subjected to degrading treatment, and no officer or other employee of the department shall inflict any blows whatever upon any [~~inmate~~] **incarcerated individual**, unless in self defense, or to suppress a revolt or insurrection. When any [~~inmate~~] **incarcerated individual**, or group of [~~inmates~~] **incarcerated individuals**, shall offer violence to any person, or do or attempt to do any injury to property, or attempt to escape, or resist or disobey any lawful direction, the officers and employees shall use all suitable means to defend them-

selves, to maintain order, to enforce observation of discipline, to secure the persons of the offenders and to prevent any such attempt or escape.

6. Except as provided in paragraphs (d) and (e) of this subdivision, the superintendent of a correctional facility may keep any [~~inmate~~] **incarcerated individual** confined in a cell or room, apart from the accommodations provided for [~~inmates~~] **incarcerated individuals** who are participating in programs of the facility, for such period as may be necessary for maintenance of order or discipline, but in any such case the following conditions shall be observed:

(a) The [~~inmate~~] **incarcerated individual** shall be supplied with a sufficient quantity of wholesome and nutritious food, provided, however, that such food need not be the same as the food supplied to [~~inmates~~] **incarcerated individuals** who are participating in programs of the facility;

(b) Adequate sanitary and other conditions required for the health of the [~~inmate~~] **incarcerated individual** shall be maintained;

(c) Where such confinement is for a period in excess of twenty-four hours, the superintendent shall arrange for the facility health services director, or a registered nurse or physician's associate approved by the facility health services director to visit such [~~inmate~~] **incarcerated individual** at the expiration of twenty-four hours and at least once in every twenty-four hour period thereafter, during the period of such confinement, to examine into the state of health of the [~~inmate~~] **incarcerated individual**, and the superintendent shall give full consideration to any recommendation that may be made by the facility health services director for measures with respect to dietary needs or conditions of confinement of such [~~inmate~~] **incarcerated individual** required to maintain the health of such [~~inmate~~] **incarcerated individual**; and

(d) (i) Except as set forth in clause (E) of subparagraph (ii) of this paragraph, the department, in consultation with mental health clinicians, shall divert or remove [~~inmates~~] **incarcerated individuals** with serious mental illness, as defined in paragraph (e) of this subdivision, from segregated confinement, where such confinement could potentially be for a period in excess of thirty days, to a residential mental health treatment unit. Nothing in this paragraph shall be deemed to prevent the disciplinary process from proceeding in accordance with department rules and regulations for disciplinary hearings.

(ii) (A) Upon placement of an [~~inmate~~] **incarcerated individual** into segregated confinement at a level one or level two facility, a suicide prevention screening instrument shall be administered by staff from the department or the office of mental health who has been trained for that purpose. If such a screening instrument reveals that the [~~inmate~~] **incarcerated individual** is at risk of suicide, a mental health clinician shall be consulted and appropriate safety precautions shall be taken. Additionally, within one business day of the placement of such an [~~inmate~~] **incarcerated individual** into segregated confinement at a level one or level two facility, the [~~inmate~~] **incarcerated individual** shall be assessed by a mental health clinician.

(B) Upon placement of an [~~inmate~~] **incarcerated individual** into segregated confinement at a level three or level four facility, a suicide prevention screening instrument shall be administered by staff from the department or the office of mental health who has been trained for that purpose. If such a screening instrument reveals that the [~~inmate~~] **incarcerated individual** is at risk of suicide, a mental health clinician shall be consulted and appropriate safety precautions shall be taken.

All [~~inmates~~] **incarcerated individuals** placed in segregated confinement at a level three or level four facility shall be assessed by a mental health clinician, within fourteen days of such placement into segregated confinement.

(C) At the initial assessment, if the mental health clinician finds that an [~~inmate~~] **incarcerated individual** suffers from a serious mental illness, a recommendation shall be made whether exceptional circumstances, as described in clause (E) of this subparagraph, exist. In a facility with a joint case management committee, such recommendation shall be made by such committee. In a facility without a joint case management committee, the recommendation shall be made jointly by a committee consisting of the facility's highest ranking mental health clinician, the deputy superintendent for security, and the deputy superintendent for program services, or their equivalents. Any such recommendation shall be reviewed by the joint central office review committee. The administrative process described in this clause shall be completed within fourteen days of the initial assessment, and if the result of such process is that the [~~inmate~~] **incarcerated individual** should be removed from segregated confinement, such removal shall occur as soon as practicable, but in no event more than seventy-two hours from the completion of the administrative process.

(D) If an [~~inmate~~] **incarcerated individual** with a serious mental illness is not diverted or removed to a residential mental health treatment unit, such [~~inmate~~] **incarcerated individual** shall be reassessed by a mental health clinician within fourteen days of the initial assessment and at least once every fourteen days thereafter. After each such additional assessment, a recommendation as to whether such [~~inmate~~] **incarcerated individual** should be removed from segregated confinement shall be made and reviewed according to the process set forth in clause (C) of this subparagraph.

(E) A recommendation or determination whether to remove an [~~inmate~~] **incarcerated individual** from segregated confinement shall take into account the assessing mental health clinicians' opinions as to the [~~inmate's~~] **incarcerated individual's** mental condition and treatment needs, and shall also take into account any safety and security concerns that would be posed by the [~~inmate's~~] **incarcerated individual's** removal, even if additional restrictions were placed on the [~~inmate's~~] **incarcerated individual's** access to treatment, property, services or privileges in a residential mental health treatment unit. A recommendation or determination shall direct the [~~inmate's~~] **incarcerated individual's** removal from segregated confinement except in the following exceptional circumstances: (1) when the reviewer finds that removal would pose a substantial risk to the safety of the [~~inmate~~] **incarcerated individual** or other persons, or a substantial threat to the security of the facility, even if additional restrictions were placed on the [~~inmate's~~] **incarcerated individual's** access to treatment, property, services or privileges in a residential mental health treatment unit; or (2) when the assessing mental health clinician determines that such placement is in the [~~inmate's~~] **incarcerated individual's** best interests based on his or her mental condition and that removing such [~~inmate~~] **incarcerated individual** to a residential mental health treatment unit would be detrimental to his or her mental condition. Any determination not to remove an [~~inmate~~] **incarcerated individual** with serious mental illness from segregated confinement shall be documented in writing and include the reasons for the determination.

(iii) [~~Inmates~~] **Incarcerated individuals** with serious mental illness who are not diverted or removed from segregated confinement shall be offered a heightened level of care, involving a minimum of two hours each day, five days a week, of out-of-cell therapeutic treatment and programming. This heightened level of care shall not be offered only in the following circumstances:

(A) The heightened level of care shall not apply when an [~~inmate~~] **incarcerated individual** with serious mental illness does not, in the reasonable judgment of a mental health clinician, require the heightened level of care. Such determination shall be documented with a written statement of the basis of such determination and shall be reviewed by the Central New York Psychiatric Center clinical director or his or her designee. Such a determination is subject to change should the [~~inmate's~~] **incarcerated individual's** clinical status change. Such determination shall be reviewed and documented by a mental health clinician every thirty days, and in consultation with the Central New York Psychiatric Center clinical director or his or her designee not less than every ninety days.

(B) The heightened level of care shall not apply in exceptional circumstances when providing such care would create an unacceptable risk to the safety and security of [~~inmates~~] **incarcerated individuals** or staff. Such determination shall be documented by security personnel together with the basis of such determination and shall be reviewed by the facility superintendent, in consultation with a mental health clinician, not less than every seven days for as long as the [~~inmate~~] **incarcerated individual** remains in segregated confinement. The facility shall attempt to resolve such exceptional circumstances so that the heightened level of care may be provided. If such exceptional circumstances remain unresolved for thirty days, the matter shall be referred to the joint central office review committee for review.

(iv) [~~Inmates~~] **Incarcerated individuals** with serious mental illness who are not diverted or removed from segregated confinement shall not be placed on a restricted diet, unless there has been a written determination that the restricted diet is necessary for reasons of safety and security. If a restricted diet is imposed, it shall be limited to seven days, except in the exceptional circumstances where the joint case management committee determines that limiting the restricted diet to seven days would pose an unacceptable risk to the safety and security of [~~inmates~~] **incarcerated individuals** or staff. In such case, the need for a restricted diet shall be reassessed by the joint case management committee every seven days.

(v) All [~~inmates~~] **incarcerated individuals** in segregated confinement in a level one or level two facility who are not assessed with a serious mental illness at the initial assessment shall be offered at least one interview with a mental health clinician within fourteen days of their initial mental health assessment, and additional interviews at least every thirty days thereafter, unless the mental health clinician at the most recent interview recommends an earlier interview or assessment. All [~~inmates~~] **incarcerated individuals** in segregated confinement in a level three or level four facility who are not assessed with a serious mental illness at the initial assessment shall be offered at least one interview with a mental health clinician within thirty days of their initial mental health assessment, and additional interviews at least every ninety days thereafter, unless the mental health clinician at the most recent interview recommends an earlier interview or assessment.

(e) An [~~inmate~~] **incarcerated individual** has a serious mental illness when he or she has been determined by a mental health clinician to meet at least one of the following criteria:

(i) he or she has a current diagnosis of, or is diagnosed at the initial or any subsequent assessment conducted during the [~~inmate's~~] **incarcerated individual's** segregated confinement with, one or more of the following types of Axis I diagnoses, as described in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders, and such diagnoses shall be made based upon all relevant clinical factors, including but not limited to symptoms related to such diagnoses:

(A) schizophrenia (all sub-types),

(B) delusional disorder,

(C) schizophreniform disorder,

(D) schizoaffective disorder,

(E) brief psychotic disorder,

(F) substance-induced psychotic disorder (excluding intoxication and withdrawal),

(G) psychotic disorder not otherwise specified,

(H) major depressive disorders, or

(I) bipolar disorder I and II;

(ii) he or she is actively suicidal or has engaged in a recent, serious suicide attempt;

(iii) he or she has been diagnosed with a mental condition that is frequently characterized by breaks with reality, or perceptions of reality, that lead the individual to experience significant functional impairment involving acts of self-harm or other behavior that have a seriously adverse effect on life or on mental or physical health;

(iv) he or she has been diagnosed with an organic brain syndrome that results in a significant functional impairment involving acts of self-harm or other behavior that have a seriously adverse effect on life or on mental or physical health;

(v) he or she has been diagnosed with a severe personality disorder that is manifested by frequent episodes of psychosis or depression, and results in a significant functional impairment involving acts of self-harm or other behavior that have a seriously adverse effect on life or on mental or physical health; or

(vi) he or she has been determined by a mental health clinician to have otherwise substantially deteriorated mentally or emotionally while confined in segregated confinement and is experiencing significant functional impairment indicating a diagnosis of serious mental illness and involving acts of self-harm or other behavior that have a serious adverse effect on life or on mental or physical health.

(f) The superintendent shall make a full report to the commissioner at least once a week concerning the condition of such [~~inmate~~] **incarcerated individual** and shall forthwith report to the commissioner any recommendation relative to health maintenance or health care delivery made by the facility health services director and any recommendation relative to mental health treatment or confinement of an [~~inmate~~] **incarcerated individual** with a serious mental illness made by the mental health clinician pursuant to paragraphs (d) and (e) of this subdivision that is not endorsed or carried out, as the case may be, by the superintendent.

(g) Within twenty-four hours of disciplinary confinement, keeplock pending a disciplinary hearing, placement in a segregated confinement unit for administrative purposes, or placement in a residential mental health treatment unit, and at weekly intervals thereafter for the dura-

tion of such confinement, an [~~inmate~~] **incarcerated individual** shall be permitted to make at least one personal phone call, except when to do so would create an unacceptable risk to the safety and security of [~~inmates~~] **incarcerated individuals** or staff.

§ 167. Section 138 of the correction law, as added by chapter 231 of the laws of 1975, and subdivision 6 as amended by section 22 of subpart A of part C of chapter 62 of the laws of 2011, is amended to read as follows:

§ 138. Institutional rules and regulations for [~~inmates~~] **incarcerated individuals** at all correctional facilities. 1. All institutional rules and regulations defining and prohibiting [~~inmates~~] **incarcerated individuals** misconduct shall be published and posted in prominent locations within the institution and set forth in both the English and Spanish language.

2. All [~~inmates~~] **incarcerated individuals** shall be provided with written copies of these rules and regulations upon admission to the institution and all [~~inmates~~] **incarcerated individuals** presently incarcerated in a correctional facility shall be provided with written copies of these rules and regulations.

3. Facility rules shall be specific and precise giving all [~~inmates~~] **incarcerated individuals** actual notice of the conduct prohibited. Facility rules shall state the range of disciplinary sanctions which can be imposed for violation of each rule.

4. [~~Inmates~~] **Incarcerated individuals** shall not be disciplined for making written or oral statements, demands, or requests involving a change of institutional conditions, policies, rules, regulations, or laws affecting an institution.

5. No [~~inmate~~] **incarcerated individual** shall be disciplined except for a violation of a published and posted written rule or regulation, a copy of which has been provided the [~~inmate~~] **incarcerated individual**.

6. All rules and regulations pertaining to [~~inmates~~] **incarcerated individuals** established by the department of corrections and community supervision and all rules and regulations pertaining to [~~inmates~~] **incarcerated individuals** established by any institutional staff at any state correctional facility shall be reviewed annually by the commissioner of the department of corrections and community supervision.

§ 168. Subdivisions 1 and 5 of section 139 of the correction law, subdivision 1 as amended by chapter 867 of the laws of 1975 and subdivision 5 as added by chapter 373 of the laws of 1990, are amended to read as follows:

1. The commissioner shall establish, in each correctional institution under his **or her** jurisdiction, grievance resolution committees to resolve grievances of persons within such correctional institution. Such grievance resolution committees shall consist of five persons four of whom shall be entitled to vote, two of whom shall be [~~inmates~~] **incarcerated individuals** of such correctional institution, and a non-voting chairman.

5. The commissioner shall semi-annually report to the chairmen of the senate codes and crime and corrections committees and the assembly codes and correction committees on the nature and type of [~~inmate~~] **incarcerated individual** grievances and unusual incidents, by facility.

§ 169. Subdivisions 1, 3 and 4 of section 140 of the correction law, as added by chapter 516 of the laws of 1995, are amended to read as follows:

1. Where an [~~inmate~~] **incarcerated individual** who is not yet eighteen years of age has been committed or transferred to the custody of the

department and no medical consent has been obtained prior to commitment or transfer, the commitment order shall be deemed to grant to the minor the capacity to consent to routine medical, dental and mental health services and treatment to such an individual.

3. (a) At any time prior to the date the [~~inmate~~] **incarcerated individual** becomes eighteen years of age, the [~~inmate's~~] **incarcerated individual's** parent or legal guardian may institute legal proceedings pursuant to section 70.20 of the penal law objecting to the provision of routine medical, dental or mental health services and treatment being provided to the [~~inmate~~] **incarcerated individual**.

(b) Such notice of motion shall be served on the [~~inmate~~] **incarcerated individual**, the facility and the department not less than seven days prior to the return date of the motion. The persons on whom the notice of motion is served shall answer the motion not less than two days before the return date. On examining the motion and answer and, in its discretion, after hearing argument, the court shall enter an order, granting or denying the motion.

4. Nothing in this section shall preclude an [~~inmate~~] **incarcerated individual** from consenting on his or her own behalf to any medical, dental or mental health service and treatment where otherwise authorized by law to do so.

§ 170. Section 141 of the correction law, as amended by chapter 476 of the laws of 1970, is amended to read as follows:

§ 141. Contagious disease in facility. In case any pestilence or contagious disease shall break out among the [~~inmates~~] **incarcerated individuals** in any of the correctional facilities, or in the vicinity of such facilities, the commissioner of correction may cause the [~~inmates~~] **incarcerated individuals** confined in such facility, or any of them, to be removed to some suitable place of security, where such of them as may be sick shall receive all necessary care and medical assistance; such [~~inmates~~] **incarcerated individuals** shall be returned as soon as may be feasible to the facility from which they were taken, to be confined therein according to their respective sentences.

§ 171. Section 142 of the correction law, as amended by chapter 476 of the laws of 1970, is amended to read as follows:

§ 142. Fire in facility. Whenever by reason of any correctional facility, or any building contiguous to such facility, being on fire, there shall be reason to apprehend that the [~~inmates~~] **incarcerated individuals** may be injured or endangered by such fire, or may escape, it shall be the duty of the superintendent of such facility to remove such [~~inmates~~] **incarcerated individuals** to some safe and convenient place, and there confine them until the necessity of such removal shall have ceased.

§ 172. Section 143 of the correction law, as added by chapter 476 of the laws of 1970, is amended to read as follows:

§ 143. Custody of persons convicted of crimes against the United States. The commissioner is authorized to enter into agreements for the care and custody of persons convicted and sentenced to imprisonment by the United States courts in this state. Persons may be confined in correctional facilities pursuant to any such agreement and all provisions of law applicable to the care and custody of [~~inmates~~] **incarcerated individuals** sentenced by courts of this state, except provisions governing the duration of sentence and other related incidents of the sentence provided by federal law, shall apply to the care and custody of such persons.

§ 173. Subdivision 2 of section 146 of the correction law, as added by section 3 of part E of chapter 56 of the laws of 2005, is amended to read as follows:

2. Notwithstanding any other provision of law to the contrary, on each September thirteenth anniversary date of the nineteen hundred seventy-one retaking of Attica correctional facility, in the absence of an emergency situation or other exigent circumstance, the commissioner shall ensure that any surviving state employees who were held as hostages and any immediate family members, as that term is defined in subdivision four of section 120.40 of the penal law, of any of the state employees who were held hostage for any period by rioting [~~inmates~~] **incarcerated individuals** during the period from September ninth through September thirteenth, nineteen hundred seventy-one, shall be afforded access to the outside grounds of Attica correctional facility to conduct a private commemorative ceremony in front of the Attica monument upon which are inscribed the names of employees who died as a result of the uprising and subsequent retaking.

§ 174. Section 147 of the correction law, as amended by chapter 476 of the laws of 1970, is amended to read as follows:

§ 147. Alien [~~inmates~~] **incarcerated individuals** of correctional facilities. The commissioner shall within three months after admission of an alien [~~inmate~~] **incarcerated individual** to a correctional facility cause an investigation to be made of the record and past history of such alien and shall upon the termination of such investigation cause the record of such alien, together with all facts disclosed by such investigation, and his **or her** recommendations as to deportation, to be forwarded to the United States immigration authorities having such matters in charge.

§ 175. Section 148 of the correction law, as amended by section 17 of subpart B of part C of chapter 62 of the laws of 2011, is amended to read as follows:

§ 148. Psychiatric and diagnostic clinics. The commissioner of corrections and community supervision is hereby authorized and directed to assist and cooperate with the commissioner of mental health in the establishment and conduct of such psychiatric and diagnostic clinics in the institutions and facilities under their jurisdiction as such commissioners may deem necessary within the amount appropriated therefor. The persons conducting the work of such clinics shall determine the physical and mental condition of all [~~inmates~~] **incarcerated individuals** serving an indeterminate term, having a minimum of one day and a maximum of natural life, and of such other [~~inmates~~] **incarcerated individuals** whose criminal record, behavior or other factors indicate to those in charge of such clinics the need of study and treatment. The work of the clinics shall include scientific study and psychiatric evaluation of each such [~~inmate~~] **incarcerated individual**, including his or her career and life history, investigation of the cause of the crime and recommendations for the care, training and employment of such [~~inmates~~] **incarcerated individuals** with a view to their reformation and to the protection of society. Each of the different phases of the work of the clinics shall be so coordinated with all the other phases of clinic work as to be a part of a unified and comprehensive scheme in the study and treatment of such [~~inmates~~] **incarcerated individuals**. After classification in the clinics the [~~inmate~~] **incarcerated individual** sentenced to state prison shall be certified to the warden and recommendation made to the commissioner of corrections and community supervision as to their disposition.

§ 176. Section 149 of the correction law, as amended by chapter 302 of the laws of 2008, is amended to read as follows:

§ 149. Released [~~inmates~~] **incarcerated individuals**; notification to sheriff, police, and district attorney. In the case of any [~~inmate~~] **incarcerated individual** convicted of a felony, it shall be the duty of the department at least forty-eight hours prior to the release of any such [~~inmate~~] **incarcerated individual** from a correctional facility to notify the chief of police both of the city, town or village in which such [~~inmate~~] **incarcerated individual** proposes to reside and of the city, town or village in which such [~~inmate~~] **incarcerated individual** resided at the time of his or her conviction and the district attorney of the county where the offense for which the [~~inmate~~] **incarcerated individual** is incarcerated was prosecuted, of the contemplated release of such [~~inmate~~] **incarcerated individual**, informing such chief of police and the district attorney of the name and aliases of the [~~inmate~~] **incarcerated individual**, the address at which he or she proposes to reside, the amount of time remaining to be served, if any, on the full term for which he or she was sentenced, and the nature of the crime for which he or she was sentenced, transmitting at the same time to the chief of police a copy of such [~~inmate's~~] **incarcerated individual's** fingerprints and photograph. Where such [~~inmate~~] **incarcerated individual** proposes to reside outside of a city, such notification shall be sent to the sheriff of the county in which such [~~inmate~~] **incarcerated individual** proposes to reside. Such notification may be provided by electronic transmission to those willing jurisdictions that have the capability of receiving electronic transmission notification. Any chief of police or sheriff who receives notification of a released [~~inmate~~] **incarcerated individual** pursuant to this section may request and receive from the division of criminal justice services a report containing a summary of such [~~inmate's~~] **incarcerated individual's** criminal record.

§ 177. Section 170 of the correction law, as amended by chapter 166 of the laws of 1991, subdivision 1 as amended by chapter 371 of the laws of 2012 and subdivision 3 as added by chapter 256 of the laws of 2010, is amended to read as follows:

§ 170. Contracts prohibited. 1. The commissioner shall not, nor shall any other authority whatsoever, make any contract by which the labor or time of any [~~inmate~~] **incarcerated individual** in any state or local correctional facility in this state, or the product or profit of his **or her** work, shall be contracted, let, farmed out, given or sold to any person, firm, association or corporation; except that the [~~inmates~~] **incarcerated individuals** in said correctional institutions may work for, and the products of their labor may be disposed of to, the state or any political subdivision thereof, any public institution owned or managed and controlled by the state, or any political subdivision thereof, provided that no [~~inmate~~] **incarcerated individual** shall be employed or assigned to engage in any activity that involves obtaining access to, collecting or processing social security account numbers of other individuals.

2. Notwithstanding any other provision of law, it shall be lawful for an [~~inmate~~] **incarcerated individual** of the department to work in an institution of the department in the manufacture and production of goods, including but not limited to, license plates, identification plates and insignia for vehicles, and for the department to sell or otherwise dispose of for profit such goods to the government of the United States or to any state of the United States, or political subdivision thereof, or any public corporation or eleemosynary association or corporation funded in whole or in part by any federal, state or local funds.

3. Notwithstanding any other provision of law, an [~~inmate~~] **incarcerated individual** may be permitted to leave the institution under guard to voluntarily perform work for a nonprofit organization. As used in this section, the term "nonprofit organization" means an organization operated exclusively for religious, charitable, or educational purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

§ 178. The section heading and subdivision 1 of section 171 of the correction law, the section heading as amended by chapter 364 of the laws of 1983 and subdivision 1 as amended by section 24 of subpart A of part C of chapter 62 of the laws of 2011, are amended to read as follows:

[~~Inmates~~] **Incarcerated individuals** to be employed; products of labor of [~~inmates~~] **incarcerated individuals**. 1. The commissioner and the superintendents and officials of all penitentiaries in the state may cause [~~inmates~~] **incarcerated individuals** in the state correctional facilities and such penitentiaries who are physically capable thereof to be employed for not to exceed eight hours of each day other than Sundays and public holidays. Notwithstanding any other provision of this section, however, the commissioner and superintendents of state correctional facilities may employ [~~inmates~~] **incarcerated individuals** on a volunteer basis on Sundays and public holidays in specialized areas of the facility, including kitchen areas, vehicular garages, rubbish pickup and grounds maintenance, providing, however, that [~~inmates~~] **incarcerated individuals** so employed shall be allowed an alternative free day within the normal work week.

§ 179. The section heading and subdivisions 1, 2, 3, 4 and 6 of section 177 of the correction law, the section heading and subdivisions 1, 2 and 4 as amended by chapter 166 of the laws of 1991, subdivision 3 as amended by section 25 of subpart A of part C of chapter 62 of the laws of 2011 and subdivision 6 as added by chapter 256 of the laws of 2010, are amended to read as follows:

Labor of [~~inmates~~] **incarcerated individuals** in state and local correctional facilities. 1. The labor of [~~inmates~~] **incarcerated individuals** in the state correctional facilities, after the necessary labor for and manufacture of all needed supplies for said institutions, shall be primarily devoted to the state, the public buildings and institutions thereof, and the manufacture of supplies for the state, and public institutions thereof, and secondly to the political subdivisions of the state, and public institutions thereof;

2. The labor of [~~inmates~~] **incarcerated individuals** in local correctional facilities after the necessary labor for and manufacture of all needed supplies for the same, shall be primarily devoted to the counties, respectively, in which said local correctional facilities are located, and the towns, cities and villages therein, and to the manufacture of supplies for the public institutions of the counties, or the political subdivisions thereof, and secondly to the state and the public institutions thereof;

3. However, for the purpose of distributing, marketing or sale of the whole or any part of the product of any correctional facility in the state, other than by said state correctional facilities, to the state or to any political subdivisions thereof or to any public institutions owned or managed and controlled by the state, or by any political subdivisions thereof, or to any public corporation, authority, or eleemosynary association funded in whole or in part by any federal, state or local funds, the sheriff of any such local correctional facility and the

commissioner of corrections and community supervision may enter into a contract or contracts which may determine the kinds and qualities of articles to be produced by such institution and the method of distribution and sale thereof by the commissioner of corrections and community supervision or under his or her direction, either in separate lots or in combination with the products of other such institutions and with the products produced by [~~inmates~~] **incarcerated individuals** in state correctional facilities. Such contracts may fix and determine any and all terms and conditions for the disposition of such products and the disposition of proceeds of sale thereof and any and all other terms and conditions as may be agreed upon, not inconsistent with the constitution. However, no such contract shall be for a period of more than one year and any prices fixed by such contract shall be the prices established pursuant to section one hundred eighty-six of this article for like articles or shall be approved by the department of corrections and community supervision and the director of the budget on presentation to them of a copy of such contract or proposed contract, and provided further that any distribution or diversification of industries provided for by such contract shall be in accordance with the rules and regulations established by the department of corrections and community supervision or shall be approved by such department on presentation to it of a copy of such contract or proposed contract.

4. No product manufactured in whole or in part by [~~inmates~~] **incarcerated individuals** in any correctional facility of the state or of a political subdivision thereof, shall be sold, or otherwise disposed of for profit, by any officer, or administrative body, of such institution, or by any officer, or administrative body of the state, or of a political subdivision thereof, except to the state itself or to a political subdivision thereof, the government of the United States or to any state of the United States, or to an officer or administrative body of the state, or of a political subdivision thereof, or to or for a public institution owned or managed and controlled by the state or by any political subdivision thereof, or to a public corporation, authority, or eleemosynary association funded in whole or in part by federal, state or local funds. In no case shall said products be purchased for the purpose of resale or for their disposition for profit in a manner not herein provided for in the first instance.

6. Notwithstanding any other provision of law, an [~~inmate~~] **incarcerated individual** may be permitted to leave the institution under guard to voluntarily perform work for a nonprofit organization. As used in this section, the term "nonprofit organization" means an organization operated exclusively for religious, charitable, or educational purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

§ 180. Section 178 of the correction law, as added by chapter 476 of the laws of 1970, is amended to read as follows:

§ 178. Participation in work release and other community activities. Nothing contained in this article shall be construed or applied so as to prohibit private employment of [~~inmates~~] **incarcerated individuals** in the community under a work release program, or a residential treatment facility program formulated pursuant to any provision of this chapter.

§ 181. Section 184 of the correction law, as amended by chapter 166 of the laws of 1991, subdivision 1 as amended by section 21 of subpart B of part C of chapter 62 of the laws of 2011 and subdivision 2 as amended by section 27 of subpart A of part C of chapter 62 of the laws of 2011, is amended to read as follows:

§ 184. Articles manufactured to be furnished to the state or subdivisions thereof. 1. The commissioner is authorized and directed to cause to be manufactured or prepared by the [~~inmates~~] **incarcerated individuals** in the state correctional facilities, such articles as are needed and used therein, and also, such articles as are required by the state or political subdivisions thereof, and in the buildings, offices and public institutions owned or managed and controlled by the state, including articles and materials to be used in the erection of the buildings, and including material for the construction, improvement or repair of highways, streets and roads.

2. All such articles manufactured or prepared in the state correctional facilities, or by [~~inmates~~] **incarcerated individuals**, and not required for use therein, shall be of the styles, patterns, designs and qualities fixed by the department of corrections and community supervision, except where the same have been or may be fixed by the office of general services in the executive department. Such articles may be furnished to the state, or to any political subdivision thereof, or for or to any public institution owned or managed and controlled by the state, or any political subdivision thereof, government of the United States or to any state of the United States or subdivision thereof or to any public corporation, authority, or eleemosynary association funded in whole or in part by any federal, state or local funds, at and for such prices as shall be fixed and determined as hereinafter provided, upon the requisitions of the proper officials thereof. No article so manufactured or prepared shall be purchased from any other source, for the state or public institutions of the state, or the political subdivisions thereof, or public benefit corporations, authorities or commissions, unless the commissioner of corrections and community supervision shall certify that the same can not be furnished upon such requisition, and no claim therefor shall be audited or paid without such certificate.

§ 182. Section 187 of the correction law, as amended by section 30 of subpart A of part C of chapter 62 of the laws of 2011, is amended to read as follows:

§ 187. Earnings of [~~inmates~~] **incarcerated individuals**. 1. Every [~~inmate~~] **incarcerated individual** confined in a state correctional facility, subject to the rules and regulations of the department of corrections and community supervision, and every [~~inmate~~] **incarcerated individual** confined in a local correctional facility, in the discretion of the sheriff thereof, may receive compensation for work performed during his or her imprisonment. Such compensation shall be graded by the department of corrections and community supervision with regard to [~~inmates~~] **incarcerated individuals** employed in prison industries, based upon the work performed by such prisoners for prisoners confined in state correctional facilities, and by the sheriffs in all local correctional facilities for [~~inmates~~] **incarcerated individuals** confined therein.

2. The department of corrections and community supervision shall adopt rules, subject to the approval of the director of the budget, for establishing in all of the state correctional facilities a system of compensation for the [~~inmates~~] **incarcerated individuals** confined therein. Such rules shall provide for the payment of compensation to each [~~inmate~~] **incarcerated individual**, who shall meet the requirements established by the department of corrections and community supervision, based upon the work performed by such [~~inmates~~] **incarcerated individuals**.

3. The department shall prepare graded wage schedules for [~~inmates~~] **incarcerated individuals**, which schedules shall be based upon classi-

fications according to the value of work performed by each. Such schedules need not be uniform in all institutions. The rules of the department shall also provide for the establishment of a credit system for each [~~inmate~~] incarcerated individual and the manner in which such earnings shall be paid to the [~~inmate~~] incarcerated individual or his or her dependents or held in trust for him or her until his or her release.

4. Any compensation paid to an [~~inmate~~] incarcerated individual under this article shall be based on the work performed by such [~~inmate~~] incarcerated individual. Compensation may be paid from moneys appropriated to the department and available to facilities for nonpersonal service.

§ 183. Section 197 of the correction law, as added by chapter 831 of the laws of 1959, is amended to read as follows:

§ 197. Occupational therapy. Nothing in this article contained shall be deemed to apply to occupational therapy in any penal or correctional institution, or to prohibit the sale of the products resulting therefrom. Such sale and the disposition of the proceeds thereof shall be governed by rules and regulations of the head of the department or other like governmental authority having jurisdiction. For the purpose of this section, occupational therapy is defined as any activity in the nature of individual art or handicraft, prescribed, guided or supervised for the purpose of contributing to the welfare or rehabilitation of any [~~inmate~~] incarcerated individual or [~~inmates~~] incarcerated individuals of such institutions.

§ 184. Section 198 of the correction law, as amended by section 31 of subpart A of part C of chapter 62 of the laws of 2011, is amended to read as follows:

§ 198. [~~Inmate~~] Incarcerated individual occupational therapy fund. 1. The commissioner of corrections and community supervision may authorize the superintendent or director of any correctional institution to establish an [~~inmate~~] incarcerated individual occupational therapy fund for the receipt of proceeds from a product sold, as authorized by section one hundred ninety-seven of this article, by one or more [~~inmates~~] incarcerated individuals as incident to an avocational or vocational project approved by the commissioner, including but not limited to, art, music, drama, handicraft, or sports.

2. Pursuant to rules, regulations or directions of the commissioner, moneys of the fund may: (a) be made available to the superintendent or director to be used for the general benefit of the [~~inmates~~] incarcerated individuals of the correctional institution wherein the product was produced, including but not limited to, furnishing materials and supplies to an [~~inmate~~] incarcerated individual or [~~inmates~~] incarcerated individuals for an avocational or vocational project and the transporting of a product thereof for sale, display or otherwise and for recreational activities; or (b) be disbursed as follows: (i) an amount equal to the proceeds from the sale of a product produced by one [~~inmate~~] incarcerated individual may be deposited to the account of such [~~inmate~~] incarcerated individual pursuant to section one hundred sixteen of this chapter; or (ii) an amount equal to the proceeds from the sale of a product produced by two or more [~~inmates~~] incarcerated individuals may be divided equally among such [~~inmates~~] incarcerated individuals and deposited to their respective accounts pursuant to section one hundred sixteen of this chapter.

3. In determining the amount of the proceeds from a sale of a product that may be deposited to the account of an [~~inmate~~] incarcerated individual, the commissioner may provide for the deduction from the sum of

the proceeds the reasonable expenses of the department of corrections and community supervision incident to the sale, including but not limited to, the value of materials and supplies for the production of the product supplied without financial charge to the [~~inmate~~] **incarcerated individual** and the expenses of transporting the product for sale or display or otherwise.

§ 185. Subdivisions 1, 2, 3 and 4 of section 200 of the correction law, subdivisions 1 and 2 as amended by chapter 301 of the laws of 1996, and subdivisions 3 and 4 as added by chapter 536 of the laws of 1974, are amended to read as follows:

1. For the purpose of this section the term "incentive allowance" means monies allowed an [~~inmate~~] **incarcerated individual** of a state correctional institution for the efficient and willing performance of duties assigned or progress and achievement in educational, career and industrial training programs.

2. In lieu of the system of labor in correctional institutions established by this article, the commissioner may, in order to facilitate an [~~inmate's~~] **incarcerated individual's** eventual reintegration into society, establish for the [~~inmates~~] **incarcerated individuals** in one or more state correctional institutions a system of educational, career and industrial training programs, and of incentive allowances for each such program.

3. For each institution wherein such system is established the commissioner shall prepare, and may at times revise, graded incentive allowance schedules for the [~~inmates~~] **incarcerated individuals** within each such program based upon the levels of performance and achievement by an [~~inmate~~] **incarcerated individual** in a program to which he **or she** has been assigned. Upon the approval of the director of the budget such schedules or revisions thereof may be promulgated.

4. The commissioner shall also provide for the establishment of a credit system for each [~~inmate~~] **incarcerated individual** and the manner in which incentive allowances shall be paid to the [~~inmate~~] **incarcerated individual** or his **or her** dependents or held in trust for him **or her** until his **or her** release. The amount of incentive allowed to the credit of any [~~inmate~~] **incarcerated individual** shall be disposed of as provided by section one hundred eighty-nine **of this article**.

§ 186. Subdivisions 2, 3, 5 and 6 of section 201 of the correction law, as added by section 32 of subpart A of part C of chapter 62 of the laws of 2011, are amended to read as follows:

2. In accordance with the provisions of this chapter, the department shall supervise [~~inmates~~] **incarcerated individuals** released to community supervision, except that the department may consent to the supervision of a released [~~inmate~~] **incarcerated individual** by the United States parole commission pursuant to the witness security act of nineteen hundred eighty-four.

3. To facilitate the supervision of all [~~inmates~~] **incarcerated individuals** released to community supervision, the commissioner shall consider the implementation of a program of graduated sanctions, including but not limited to the utilization of a risk and needs assessment instrument that would be administered to all [~~inmates~~] **incarcerated individuals** eligible for community supervision. Such a program would include various components including approaches that concentrate supervision on new releases, alternatives to incarceration for technical parole violators and the use of enhanced technologies.

5. The department shall assist [~~inmates~~] **incarcerated individuals** eligible for community supervision and [~~inmates~~] **incarcerated individ-**

uals who are on community supervision to secure employment, educational or vocational training, and housing.

6. The department shall have the duty to provide written notice to [~~inmates~~] incarcerated individuals prior to release to community supervision or pursuant to subdivision six of section 410.91 of the criminal procedure law of any requirement to report to the office of victim services any funds of a convicted person as defined in section six hundred thirty-two-a of the executive law, the procedure for such reporting and any potential penalty for a failure to comply.

§ 187. Subdivision 2 of section 203 of the correction law, as added by section 32 of subpart A of part C of chapter 62 of the laws of 2011, is amended to read as follows:

2. The department shall have the duty, prior to the release to community supervision of an [~~inmate~~] incarcerated individual designated a level two or three sex offender pursuant to the sex offender registration act, to provide notification to the local social services district in the county in which the [~~inmate~~] incarcerated individual expects to reside, when information available or any other pre-release procedures indicates that such [~~inmate~~] incarcerated individual is likely to seek to access local social services for homeless persons. The department shall provide such notice, when practicable, thirty days or more before such [~~inmate's~~] incarcerated individual's release, but in any event, in advance of such [~~inmate's~~] incarcerated individual's arrival in the jurisdiction of such local social services district.

§ 188. Section 207 of the correction law, as added by section 32 of subpart A of part C of chapter 62 of the laws of 2011, is amended to read as follows:

§ 207. Cooperation. It shall be the duty of the commissioner of corrections and community supervision to insure that all officers and employees of the department shall at all times cooperate with the board of parole and shall furnish to such members and employees of the board of parole such information as may be appropriate to enable them to perform their independent decision making functions. It is also his or her duty to ensure that the functions of the board of parole are not hampered in any way, including but not limited to: a restriction of resources including staff assistance; limited access to vital information; and presentation of [~~inmate~~] incarcerated individual information in a manner that may inappropriately influence the board in its decision making.

§ 189. Subdivision 2 of section 272 of the correction law, as added by section 1 of part SS of chapter 56 of the laws of 2009, is amended to read as follows:

2. have the power to determine, as each [~~inmate~~] incarcerated individual applies for conditional release, the need for supplemental investigation of the background of such [~~inmate~~] incarcerated individual and cause such investigation as may be necessary to be made as soon as practicable. The commission may require that the probation department located in the jurisdiction of the commission conduct such supplemental investigation. The results of such investigation together with all other information compiled by the local correctional facility and the complete criminal record and family court record of such [~~inmate~~] incarcerated individual shall be readily available when the conditional release of such [~~inmate~~] incarcerated individual is being considered. Such information shall include a complete statement of the crime for which the [~~inmate~~] incarcerated individual has been sentenced, the circumstances of such crime, all presentence memoranda, the nature of the sentence,

the court in which such [~~inmate~~] **incarcerated individual** was sentenced, the name of the judge and district attorney and copies of such probation reports as may have been made as well as reports as to the [~~inmate's~~] **incarcerated individual's** social, physical, mental and psychiatric condition and history;

§ 190. The opening paragraph and paragraph (a) of subdivision 1 and subdivisions 2 and 6 of section 273 of the correction law, as added by section 1 of part SS of chapter 56 of the laws of 2009, are amended to read as follows:

Any [~~inmate~~] **incarcerated individual** who is eligible for conditional release by a commission pursuant to subdivision two of section 70.40 of the penal law and who has served a minimum period of sixty days in a local correctional facility may apply for conditional release. Eligibility criteria shall be limited to [~~inmates~~] **incarcerated individuals**:

(a) who have not been previously convicted and who do not stand convicted of any crime which would make such [~~inmate~~] **incarcerated individual** ineligible for the receipt of merit time pursuant to section eight hundred three of this chapter, any crime pursuant to article two hundred thirty-five of the penal law when the victim of such offense was under the age of eighteen at the time of the offense, or any crime which the commission determines constituted a crime of domestic violence;

2. The commission shall review and make a determination on each application within thirty days of receipt of such application. No determination granting or denying such application shall be valid unless made by a majority vote of at least three commission members present. No release shall be granted unless there is a reasonable probability that, if such [~~inmate~~] **incarcerated individual** is released, he or she shall live and remain at liberty without violating the law, and that his or her release is not incompatible with the welfare of society and shall not so deprecate the seriousness of his or her crime as to undermine respect for law.

6. If conditional release is not granted, the commission shall inform the person in writing of the factors and reasons for such denial of conditional release within fifteen days of the decision. Such reasons shall be given in detail and not in conclusory terms. [~~Inmates~~] **Incarcerated individuals** denied conditional release are eligible to reapply sixty days after the date of the denial.

§ 191. The article heading of article 16 of the correction law, as added by chapter 766 of the laws of 1976, is amended to read as follows:

PROVISIONS RELATING TO MENTALLY ILL [~~INMATES~~] **INCARCERATED INDIVIDUALS**

§ 192. Subdivisions 1, 2, 3 and 5 of section 400 of the correction law, subdivisions 1, 2 and 3 as added by chapter 766 of the laws of 1976 and subdivision 5 as amended by section 35 of subpart A of part C of chapter 62 of the laws of 2011, are amended to read as follows:

(1) "Examining physician" means a physician licensed to practice medicine in the state of New York, but who is not on the staff of the facility where the [~~inmate~~] **incarcerated individual** is confined.

(2) "Hospital" means a hospital in the department of mental hygiene which is designated as such by the commissioner of mental hygiene for the care and treatment of mentally ill [~~inmates~~] **incarcerated individuals**.

(3) "In immediate need of care and treatment" means that the [~~inmate~~] **incarcerated individual** is apparently mentally ill and is not able to be properly cared for at the place where he **or she** is confined and is in need of immediate care and treatment in a hospital.

(5) "[~~Inmate~~] **Incarcerated individual**" means a person committed to the custody of the department of corrections and community supervision, or a person convicted of a crime and committed to the custody of the sheriff, the county jail, or a local department of correction.

§ 193. Section 401 of the correction law, as amended by chapter 1 of the laws of 2008, subdivision 6 as amended by chapter 20 of the laws of 2016, is amended to read as follows:

§ 401. Establishment of programs inside correctional facilities. 1. The commissioner, in cooperation with the commissioner of mental health, shall establish programs, including but not limited to residential mental health treatment units, in such correctional facilities as he or she may deem appropriate for the treatment of mentally ill [~~inmates~~] **incarcerated individuals** confined in state correctional facilities who are in need of psychiatric services but who do not require hospitalization for the treatment of mental illness. [~~Inmates~~] **Incarcerated individuals** with serious mental illness shall receive therapy and programming in settings that are appropriate to their clinical needs while maintaining the safety and security of the facility. The administration and operation of programs established pursuant to this section shall be the joint responsibility of the commissioner of mental health and the commissioner. The professional mental health care personnel, and their administrative and support staff, for such programs shall be employees of the office of mental health. All other personnel shall be employees of the department.

2. (a) (i) In exceptional circumstances, a mental health clinician, or the highest ranking facility security supervisor in consultation with a mental health clinician who has interviewed the [~~inmate~~] **incarcerated individual**, may determine that an [~~inmate's~~] **incarcerated individual's** access to out-of-cell therapeutic programming and/or mental health treatment in a residential mental health treatment unit presents an unacceptable risk to the safety of [~~inmates~~] **incarcerated individuals** or staff. Such determination shall be documented in writing and alternative mental health treatment and/or other therapeutic programming, as determined by a mental health clinician, shall be provided.

(ii) Any determination to restrict out-of-cell therapeutic programming and/or mental health treatment shall be reviewed at least every fourteen days by the joint case management committee or, if no such committee is available, by the treatment team assigned to the [~~inmate's~~] **incarcerated individual's** residential mental health treatment unit.

(iii) The determination whether to restrict out-of-cell therapeutic programming and/or mental health treatment shall take into account the [~~inmate's~~] **incarcerated individual's** mental condition and any safety and security concerns that would be posed by the [~~inmate's~~] **incarcerated individual's** access to such out-of-cell therapeutic programming. The joint case management committee or treatment team shall recommend that the [~~inmate~~] **incarcerated individual** shall have access to out-of-cell therapeutic programming and/or mental health treatment unless in exceptional circumstances such access would pose an unacceptable risk to the safety of the [~~inmate~~] **incarcerated individual** or other persons. Such recommendation shall be reviewed by the facility superintendent, and if the superintendent makes a determination not to accept such recommendation, the matter shall be referred to the joint central office review committee for resolution. Such resolution shall be made no later than twenty-one days after the imposition of the restriction.

(b) [~~Inmates~~] **Incarcerated individuals** in a residential mental health treatment unit shall receive property, services and privileges similar

to [~~inmates~~] **incarcerated individuals** confined in the general prison population, provided however, the department may impose general limitations on the quantity and type of property all [~~inmates~~] **incarcerated individuals** on the unit are permitted to have in their cells and [~~inmate~~] **incarcerated individual** access to programs that are more restrictive than for general population [~~inmates~~] **incarcerated individuals** in order to maintain security and order on the unit. Further, in consultation with a mental health clinician, the department may make an individual determination to impose restrictions on property, services or privileges for an [~~inmate~~] **incarcerated individual** on the unit for therapeutic and/or security reasons which are not inconsistent with the [~~inmate's~~]**incarcerated individual's** mental health needs. If any such restrictions on property, services or privileges are imposed on a particular [~~inmate~~] **incarcerated individual**, they shall be documented in writing and shall be reviewed by the joint case management committee not less than every thirty days. A disciplinary sanction of restricted diet shall not be imposed on any [~~inmate~~] **incarcerated individual** who is housed in a residential mental health treatment unit.

3. Misbehavior reports will not be issued to [~~inmates~~] **incarcerated individuals** with serious mental illness for refusing treatment or medication, however, an [~~inmate~~] **incarcerated individual** may be subject to the disciplinary process for refusing to go to the location where treatment is provided or medication is dispensed. In addition, there will be a presumption against imposition and pursuit of disciplinary charges for self-harming behavior and threats of self-harming behavior, including related charges for the same behaviors, such as destruction of state property, except in exceptional circumstances.

4. A disciplinary sanction imposed on an [~~inmate~~] **incarcerated individual** requiring confinement to a cell or room shall continue to run while the [~~inmate~~] **incarcerated individual** is placed in residential mental health treatment in a residential mental health unit model or a behavioral health unit model. Such disciplinary sanction shall be reviewed by the joint case management committee or, if no such committee is available, by the treatment team assigned to the [~~inmate's~~] **incarcerated individual's** residential mental health treatment unit at least once every three months to determine whether based upon the [~~inmate's~~] **incarcerated individual's** mental health status and safety and security concerns, the [~~inmate's~~] **incarcerated individual's** disciplinary sanction should be reduced and/or the [~~inmate~~] **incarcerated individual** should be transferred to a less restrictive setting. Nothing in this subdivision shall be deemed to preclude the department from granting reductions of disciplinary sanctions to [~~inmates~~] **incarcerated individuals** in other residential mental health treatment unit models.

5. (a) An [~~inmate~~] **incarcerated individual** in a residential mental health treatment unit shall not be sanctioned with segregated confinement for misconduct on the unit, or removed from the unit and placed in segregated confinement, except in exceptional circumstances where such [~~inmate's~~] **incarcerated individual's** conduct poses a significant and unreasonable risk to the safety of [~~inmates~~] **incarcerated individuals** or staff, or to the security of the facility. Further, in the event that such a sanction is imposed, an [~~inmate~~] **incarcerated individual** shall not be required to begin serving such sanction until the reviews required by paragraph (b) of this subdivision have been completed; provided, however that in extraordinary circumstances where an [~~inmate's~~] **incarcerated individual's** conduct poses an immediate unacceptable threat to the safety of [~~inmates~~] **incarcerated individuals** or

staff, or to the security of the facility an [~~inmate~~] **incarcerated individual** may be immediately moved to segregated confinement. The determination that an immediate transfer to segregated confinement is necessary shall be made by the highest ranking facility security supervisor in consultation with a mental health clinician.

(b) The joint case management committee shall review any disciplinary disposition imposing a sanction of segregated confinement at its next scheduled meeting. Such review shall take into account the [~~inmate's~~] **incarcerated individual's** mental condition and safety and security concerns. The joint case management committee may only thereafter recommend the removal of the [~~inmate~~] **incarcerated individual** in exceptional circumstances where the [~~inmate~~] **incarcerated individual** poses a significant and unreasonable risk to the safety of [~~inmates~~] **incarcerated individuals** or staff or to the security of the facility. In the event that the [~~inmate~~] **incarcerated individual** was immediately moved to segregated confinement, the joint case management committee may recommend that the [~~inmate~~] **incarcerated individual** continue to serve such sanction only in exceptional circumstances where the [~~inmate~~] **incarcerated individual** poses a significant and unreasonable risk to the safety of [~~inmates~~] **incarcerated individuals** or staff or to the security of the facility. If a determination is made that the [~~inmate~~] **incarcerated individual** shall not be required to serve all or any part of the segregated confinement sanction, the joint case management committee may instead recommend that a less restrictive sanction should be imposed. The recommendations made by the joint case management committee under this paragraph shall be documented in writing and referred to the superintendent for review and if the superintendent disagrees, the matter shall be referred to the joint central office review committee for a final determination. The administrative process described in this paragraph shall be completed within fourteen days. If the result of such process is that an [~~inmate~~] **incarcerated individual** who was immediately transferred to segregated confinement should be removed from segregated confinement, such removal shall occur as soon as practicable, and in no event longer than seventy-two hours from the completion of the administrative process.

6. The department shall ensure that the curriculum for new correction officers, and other new department staff who will regularly work in programs providing mental health treatment for [~~inmates~~] **incarcerated individuals**, shall include at least eight hours of training about the types and symptoms of mental illnesses, the goals of mental health treatment, the prevention of suicide and training in how to effectively and safely manage [~~inmates~~] **incarcerated individuals** with mental illness. Such training may be provided by the office of mental health or the justice center for the protection of people with special needs. All department staff who are transferring into a residential mental health treatment unit shall receive a minimum of eight additional hours of such training, and eight hours of annual training as long as they work in such a unit. All security, program services, mental health and medical staff with direct [~~inmate~~] **incarcerated individual** contact shall receive training each year regarding identification of, and care for, [~~inmates~~] **incarcerated individuals** with mental illnesses. The department shall provide additional training on these topics on an ongoing basis as it deems appropriate.

§ 194. Section 401-a of the correction law, as amended by section 6 of part A of chapter 501 of the laws of 2012 and subdivision 1 as amended by chapter 126 of the laws of 2014, is amended to read as follows:

§ 401-a. Oversight responsibilities of the justice center for the protection of people with special needs. 1. The justice center for the protection of people with special needs shall be responsible for monitoring the quality of mental health care provided to [~~inmates~~] **incarcerated individuals** pursuant to article twenty of the executive law. The justice center shall have direct and immediate access to all areas where state prisoners are housed, and to clinical and department records relating to [~~inmates'~~] **incarcerated individuals'** clinical conditions. The justice center shall maintain the confidentiality of all patient-specific information.

2. The justice center shall monitor the quality of care in residential mental health treatment programs and shall ensure compliance with paragraphs (d) and (e) of subdivision six of section one hundred thirty-seven of this chapter and section four hundred one of this article. The justice center may recommend to the department and the office of mental health that [~~inmates~~] **incarcerated individuals** in segregated confinement pursuant to subdivision six of section one hundred thirty-seven of this chapter be evaluated for placement in a residential mental health treatment unit. It may also recommend ways to further the goal of diverting and removing [~~inmates~~] **incarcerated individuals** with serious mental illness from segregated confinement to residential mental health treatment units. The justice center shall include in its annual report to the governor and the legislature pursuant to section five hundred sixty of the executive law, a description of the state's progress in complying with this article, which shall be publicly available.

3. The justice center shall appoint an advisory committee on psychiatric correctional care ("committee"), which shall be composed of independent mental health experts and mental health advocates, and may include family members of former [~~inmates~~] **incarcerated individuals** with serious mental illness. Such committee shall advise the justice center on its oversight responsibilities pursuant to this section. The committee may also make recommendations to the justice center regarding improvements to prison-based mental health care. Nothing in this subdivision shall be deemed to authorize members of the committee to have access to a correctional or mental hygiene facility or any part of such a facility. Provided, however, newly appointed members of the advisory committee shall be provided with a tour of a segregated confinement unit and a residential mental health treatment unit, as selected by the commissioner. Any such tour shall be arranged on a date and at a time selected by the commissioner and upon such terms and conditions as are within the sole discretion of the commissioner.

§ 195. The section heading and subdivisions 1, 2, 3, 9 and 13 of section 402 of the correction law, the section heading and subdivisions 1 and 2 as added by chapter 766 of the laws of 1976, subdivision 3 as amended by chapter 789 of the laws of 1985, subdivision 9 as amended by chapter 164 of the laws of 1986, and subdivision 13 as added by chapter 7 of the laws of 2007, are amended to read as follows:

Commitment of Mentally ill [~~inmates~~] **incarcerated individuals**. 1. Whenever the physician of any correctional facility, any county penitentiary, county jail or workhouse, any reformatory for women, or of any other correctional institution, shall report in writing to the superintendent that any person undergoing a sentence of imprisonment or adjudicated to be a youthful offender or juvenile delinquent confined therein is, in his **or her** opinion, mentally ill, such superintendent shall apply to a judge of the county court or justice of the supreme court in the county to cause an examination to be made of such person by two

examining physicians. Such physicians shall be designated by the judge to whom the application is made. Each such physician, if satisfied, after a personal examination, that such [~~inmate~~] **incarcerated individual** is mentally ill and in need of care and treatment, shall make a certificate to such effect. Before making such certificate, however, he **or she** shall consider alternative forms of care and treatment available during confinement in such correctional facility, penitentiary, jail, reformatory or correctional institution that might be adequate to provide for such [~~inmate's~~] **incarcerated individual's** needs without requiring hospitalization. If the examining physician knows that the person he **or she** is examining has been under prior treatment, he **or she** shall, insofar as possible, consult with the physician or psychologist furnishing such prior treatment prior to making his **or her** certificate.

2. In the city of New York, if the physician of a workhouse, city prison, jail, penitentiary or reformatory reports in writing to the superintendent of such institution that a prisoner confined therein, serving a sentence of imprisonment, is in his **or her** opinion mentally ill, the superintendent of said institution shall either transfer said prisoner to Bellevue or Kings county hospital for observation as to his **or her** mental condition by two examining physicians or shall secure two examining physicians to make such examination in his institution. Each such physician, if satisfied after a personal examination and observation that the prisoner is mentally ill and in need of care and treatment, shall make a certificate to such effect. Before making such certificate, however, he **or she** shall consider alternative forms of care and treatment available during confinement in such correctional facility, penitentiary, jail, reformatory or correctional institution that might be adequate to provide for such [~~inmate's~~] **incarcerated individual's** needs without requiring hospitalization. If the examining physician knows that the person he **or she** is examining has been under prior treatment, he **or she** shall, insofar as possible, consult with the physician or psychologist furnishing such prior treatment prior to making his **or her** certificate.

3. Upon such certificates of the examining physicians being so made, it shall be delivered to the superintendent who shall thereupon apply by petition forthwith to a judge of the county court or justice of the supreme court in the county, annexing such certificate to his **or her** petition, for an order committing such [~~inmate~~] **incarcerated individual** to a hospital for the mentally ill. Upon every such application for such an order of commitment, notice thereof in writing, of at least five days, together with a copy of the petition, shall be served personally upon the alleged mentally ill person, and in addition thereto such notice and a copy of the petition shall be served upon either the wife, the husband, the father or mother or other nearest relative of such alleged mentally ill person, if there be any such known relative within the state; and if not, such notice shall be served upon any known friend of such alleged mentally ill person within the state. If there be no such known relative or friend within the state, the giving of such notice shall be dispensed with, but in such case the petition for the commitment shall recite the reasons why service of such notice on a relative or friend of the alleged mentally ill person was dispensed with and, in such case, the order for commitment shall recite why service of such a notice on a relative or friend of the alleged mentally ill person was dispensed with. Copies of the notice, the petition and the certificates of the examining physicians shall also be given the mental hygiene legal service. The mental hygiene legal service shall inform the

[~~inmate~~] incarcerated individual and, in proper cases, others interested in the [~~inmate's~~] incarcerated individual's welfare, of the procedures for placement in a hospital and of the [~~inmate's~~] incarcerated individual's right to have a hearing, to have judicial review with a right to a jury trial, to be represented by counsel and to seek an independent medical opinion. The mental hygiene legal service shall have personal access to such [~~inmate~~] incarcerated individual for such purposes.

9. Except as provided in subdivision two of this section pertaining to prisoners confined in the city of New York, an [~~inmate~~] incarcerated individual of a correctional facility or a county jail may be admitted on an emergency basis to the Central New York Psychiatric Center upon the certification by two examining physicians, including physicians employed by the office of mental health and associated with the correctional facility in which such [~~inmate~~] incarcerated individual is confined, that the [~~inmate~~] incarcerated individual suffers from a mental illness which is likely to result in serious harm to himself, herself or others as defined in subdivision (a) of section 9.39 of the mental hygiene law. Any person so committed shall be delivered by the superintendent within a twenty-four hour period, to the director of the appropriate hospital as designated in the rules and regulations of the office of mental health. Upon delivery of such person to a hospital operated by the office of mental health, a proceeding under this section shall immediately be commenced.

13. Notwithstanding any provision of law to the contrary, when an [~~inmate~~] incarcerated individual is being examined in anticipation of his or her conditional release, release to parole supervision, or when his or her sentence to a term of imprisonment expires, the provisions of subdivision one of section four hundred four of this article shall be applicable and such commitment shall be effectuated in accordance with the provisions of article nine or ten of the mental hygiene law, as appropriate.

§ 196. Section 403 of the correction law, as added by chapter 766 of the laws of 1976, is amended to read as follows:

§ 403. Department or superintendent to provide certain records. The department or superintendent shall furnish to the department of mental hygiene a copy of the health and psychiatric records and a sentence calculation for each [~~inmate~~] incarcerated individual placed in a hospital. The sentence calculation shall include the maximum expiration date and tentative conditional release date and the parole eligibility or release consideration hearing date. Such records shall be furnished to the director of the hospital upon delivery of the [~~inmate~~] incarcerated individual.

§ 197. Section 404 of the correction law, as added by chapter 766 of the laws of 1976, subdivision 1 as amended by chapter 7 of the laws of 2007, subdivision 3 as added by chapter 1 of the laws of 2013, and subdivision 4 as added by chapter 548 of the laws of 2014, is amended to read as follows:

§ 404. Disposition of mentally ill [~~inmates~~] incarcerated individuals upon release to parole, conditional release, or expiration of sentence. 1. Whenever an [~~inmate~~] incarcerated individual committed to a hospital in the department of mental hygiene or whenever an [~~inmate~~] incarcerated individual is examined in anticipation of his or her conditional release, release to parole supervision, or when his or her sentence to a term of imprisonment expires and such [~~inmate~~] incarcerated individual shall continue to be mentally ill and in need of care and treatment at the time of his or her conditional release, release to parole super-

vision, or when his or her sentence to a term of imprisonment expires, the director of the hospital or the superintendent of a correctional facility may apply for the person's admission to a hospital for the care and treatment of the mentally ill in the department of mental hygiene pursuant to article nine of the mental hygiene law, or alternatively, the commissioner may apply for the person's admission to a secure treatment facility pursuant to article ten of the mental hygiene law.

2. The director may discharge any [~~inmate~~] **incarcerated individual** at the expiration of the term for which he **or she** was sentenced who is still mentally ill, but who, in the opinion of the director, is reasonably safe to be at large. Such discharged [~~inmate~~] **incarcerated individual** shall be entitled to suitable clothing adapted to the season in which he **or she** is discharged, and if it cannot be otherwise obtained, the business officer, or other officer having like duties shall, upon the order of the director, or of the commissioner of mental hygiene, as the case may be, furnish the same, and money in an amount to be fixed by such commissioner with the approval of the director of the budget, to defray his **or her** expenses until he **or she** can reach his **or her** relatives or friends, or find employment to earn a subsistence.

3. Within a reasonable period prior to discharge of an [~~inmate~~] **incarcerated individual** committed from a state correctional facility from a hospital in the department of mental hygiene to the community, the director shall ensure that a clinical assessment has been completed to determine whether the [~~inmate~~] **incarcerated individual** meets the criteria for assisted outpatient treatment pursuant to subdivision (c) of section 9.60 of the mental hygiene law. If, as a result of such assessment, the director determines that the [~~inmate~~] **incarcerated individual** meets such criteria, prior to discharge the director of the hospital shall either petition for a court order pursuant to section 9.60 of the mental hygiene law, or report in writing to the director of community services of the local governmental unit in which the [~~inmate~~] **incarcerated individual** is expected to reside so that an investigation may be conducted pursuant to section 9.47 of the mental hygiene law.

4. Every [~~inmate~~] **incarcerated individual** who has received mental health treatment pursuant to this article within three years of his or her anticipated release date from a state correctional facility shall be provided with mental health discharge planning and, when necessary, an appointment with a mental health professional in the community who can prescribe medications following discharge and sufficient mental health medications and prescriptions to bridge the period between discharge and such time as such mental health professional may assume care of the patient. [~~Inmates~~] **Incarcerated individuals** who have refused mental health treatment may also be provided mental health discharge planning and any necessary appointment with a mental health professional.

§ 198. The opening paragraph of paragraph (a), subparagraphs 4 and 8 of paragraph (b) and subparagraph 2 of paragraph (c) of subdivision 7, the opening paragraph of paragraph (c) and the closing paragraph of subdivision 8, the opening paragraph of subdivision 9 and subdivision 13 of section 500-b of the correction law, subparagraphs 4 and 8 of paragraph (b) of subdivision 7 and the opening paragraph of paragraph (c) of subdivision 8 as added by chapter 907 of the laws of 1984, the opening paragraph of paragraph (a) and subparagraph 2 of paragraph (c) of subdivision 7, the closing paragraph of subdivision 8 and the opening paragraph of subdivision 9 as amended by chapter 574 of the laws of 1985, and subdivision 13 as amended by section 3 of part M of chapter 55 of the laws of 2014, are amended to read as follows:

Consistent with the commission's rules and regulations regarding the assignment of [~~inmates~~] **incarcerated individuals** to housing units, the chief administrative officer shall exercise good judgment and discretion and shall take all reasonable steps to ensure that the assignment of persons to facility housing units:

(4) prior history of a hostile relationship with another [~~inmate~~] **incarcerated individual**;

(8) any other information concerning the safety or welfare of the [~~inmate~~] **incarcerated individual**.

(2) determinations made upon an interview with an [~~inmate~~] **incarcerated individual** at the time of classification;

where it is determined that the county does not have an approved service plan in effect pursuant to article thirteen-A of the executive law or is found to be in non-compliance therewith, as provided in section two hundred sixty-three of such law, it shall prohibit the commingling of any of the following categories of [~~inmates~~] **incarcerated individuals**:

Notwithstanding the provisions of this subdivision to the contrary, classification as authorized pursuant to this section may occur without compliance with paragraphs (b) and (c) of this subdivision for a period not to exceed six months immediately following the submission of a plan to the division pursuant to section two hundred sixty-two of the executive law. During such six month period the commission shall undertake to review, observe and assess the classification of [~~inmates~~] **incarcerated individuals** in local correctional facilities as authorized under this section to thereby ascertain safeguards which should be incorporated in its rules and regulations. Further, during such six month period in which such classification shall be permitted pursuant to this subdivision, the commission shall evaluate whether a local correctional facility is in substantial noncompliance with rules and regulations regarding the requirements specified in paragraphs (a), (b) and (c) of this subdivision and shall determine at the end of such six month period whether substantial noncompliance exists. At the expiration of the six month period if the commission finds a local facility in substantial noncompliance, the commission shall order that the prohibition set forth in this subdivision immediately take effect. The commissioner shall advise the chief administrative officer of such facility of the specific nature of the noncompliance and the specific measures which should be undertaken to remedy the noncompliance. When such measures have been implemented, the chief administrative officer shall certify same to the commissioner and upon the verification thereof by the commissioner, shall permit the chief administrative officer to classify [~~inmates~~] **incarcerated individuals** as provided under this section. In the event substantial noncompliance is not found at the expiration of the six month period, then the local correctional facility may continue to classify [~~inmates~~] **incarcerated individuals** as authorized in this section.

The chief administrative officer shall forward to the commission a quarterly report relative to the housing of [~~inmates~~] **incarcerated individuals**. The report shall include, but not be limited to:

13. Where in the opinion of the chief administrative officer an emergency overcrowding condition exists in a local correctional facility caused in part by the prohibition against the commingling of persons under eighteen years of age with persons eighteen years of age or older or the commingling of persons eighteen years of age or older with persons under eighteen years of age, the chief administrative officer may apply to the commission for permission to commingle the aforemen-

tioned categories of [~~inmates~~] **incarcerated individuals** for a period not to exceed thirty days as provided herein. The commission shall acknowledge to the chief administrative officer the receipt of such application upon its receipt. The chief administrative officer shall be permitted to commingle such [~~inmates~~] **incarcerated individuals** upon acknowledgment of receipt of the application by the commission. The commission shall assess the application within seven days of receipt. The commission shall deny any such application and shall prohibit the continued commingling of such [~~inmates~~] **incarcerated individuals** where it has found that the local correctional facility does not meet the criteria set forth in this subdivision and further is in substantial noncompliance with minimum staffing requirements as provided in commission rules and regulations. In addition, the commission shall determine whether the commingling of such [~~inmates~~] **incarcerated individuals** presents a danger to the health, safety or welfare of any such [~~inmate~~] **incarcerated individual**. If no such danger exists the chief administrative officer may continue the commingling until the expiration of the aforementioned thirty day period or until such time as he **or she** determines that the overcrowding which necessitated the commingling no longer exists, whichever occurs first. In the event the commission determines that such danger exists, it shall immediately notify the chief administrative officer, and the commingling of such [~~inmates~~] **incarcerated individuals** shall cease. Such notification shall include specific measures which should be undertaken by the chief administrative officer, to correct such dangers. The chief administrative officer may correct such dangers and reapply to the commission for permission to commingle; however, no commingling may take place until such time as the commission certifies that the facility is now in compliance with the measures set forth in the notification under this subdivision. When such certification has been received by the chief administrative officer, the commingling may continue for thirty days, less any time during which the chief administrative officer commingled such [~~inmates~~] **incarcerated individuals** following his **or her** application to the commission, or until such time as he determines that the overcrowding which necessitated the commingling no longer exists, whichever occurs first. The chief administrative officer may apply for permission to commingle such [~~inmates~~] **incarcerated individuals** for up to two additional thirty day periods, in conformity with the provisions and the requirements of this subdivision, in a given calendar year. For the period ending December thirtieth, nineteen hundred eighty-four, a locality may not apply for more than one thirty day commingling period.

§ 199. Subdivisions 7 and 8 of section 500-c of the correction law, as amended by section 43 of part A-1 of chapter 56 of the laws of 2010, are amended to read as follows:

7. A sheriff, the New York city commissioner of correction, or the Westchester county commissioner of correction, as the case may be, shall maintain an institutional fund account on behalf of every lawfully sentenced [~~inmate~~] **incarcerated individual** or prisoner in his **or her** custody and shall for the benefit of the person make deposits into said accounts of any prisoner funds. As used in this section, the term "prisoner funds" means (i) funds in the possession of the prisoner at the time of admission into the institution; (ii) funds earned by a prisoner as provided in section one hundred eighty-seven of this chapter; and (iii) any other funds received by or on behalf of the prisoner and deposited with such sheriff or municipal official in accordance with the written procedures established by the commission. Whenever the total

value of unencumbered funds in a prisoner's account exceeds ten thousand dollars, such sheriff or official shall give written notice to the office of victim services.

8. A sheriff, the New York city commissioner of correction, or the Westchester county commissioner of correction, as the case may be, shall provide written notice to all [~~inmates~~] **incarcerated individuals** serving a definite sentence for a specified crime defined in paragraph (e) of subdivision one of section six hundred thirty-two-a of the executive law who may be subject to any requirement to report to the office of victim services any funds of a convicted person as defined in section six hundred thirty-two-a of the executive law, the procedures for such reporting and any potential penalty for a failure to comply.

§ 200. Subdivision 3 of section 500-d of the correction law, as amended by chapter 256 of the laws of 2010, is amended to read as follows:

(3) Such keeper may, with the consent of the board of supervisors of the county, or the county judge, from time to time, cause such of the convicts under his **or her** charge as are capable of hard labor, to be employed outside of the jail in the same, or in an adjoining county, upon such terms as may be agreed upon between the keepers and the officers, or persons, under whose direction such convicts shall be placed, subject to such regulations as the board or judge may prescribe; and the board of supervisors of the several counties are authorized to employ convicts under sentence to confinement in the county jails, in building and repairing penal institutions of the county and in building and repairing the highways in their respective counties or in preparing the materials for such highways for sale to and for the use of the state, counties, towns, villages or cities, and in cutting wood and performing other work which is commonly carried on at a prison camp, and to make rules and regulations for their employment; and the said board of supervisors are hereby authorized to cause money to be raised by taxation for the purpose of furnishing materials and carrying this provision into effect; and the courts of this state are hereby authorized to sentence convicts committed to detention in the county jails to such hard labor as may be provided for them by the boards of supervisors. This section as amended shall not affect a county wholly included within a city. Notwithstanding any other provision of law, an [~~inmate~~] **incarcerated individual** may be permitted to leave the institution under guard to voluntarily perform work for a nonprofit organization pursuant to this subdivision. As used in this section, the term "nonprofit organization" means an organization operated exclusively for religious, charitable, or educational purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

§ 201. Section 500-h of the correction law, as added by chapter 481 of the laws of 1991, is amended to read as follows:

§ 500-h. Payment of costs for medical and dental services. 1. Diagnoses, tests, studies or analyses for the diagnosis of a disease or disability, and care and treatment by a hospital, as defined in article twenty-eight of the public health law, or by a physician, or by a dentist to [~~inmates~~] **incarcerated individuals** of a local correctional facility which are provided by a county or the city of New York shall be available without cost or charge to the [~~inmates~~] **incarcerated individuals** receiving such examinations, care or treatment.

2. Notwithstanding the provisions of subdivision one of this section, any county or the city of New York may, by local law, provide that such entity may be reimbursed for costs paid pursuant to subdivision one of

this section from any third party coverage or indemnification carried by an [~~inmate~~] **incarcerated individual**. Such third party coverage or indemnification shall first be applied against the total cost to the hospital or other provider as established in accordance with the provisions of section twenty-eight hundred seven of the public health law relating to rates of payment of an individual's care and treatment, as provided herein.

§ 202. Section 500-k of the correction law, as amended by chapter 2 of the laws of 2008, is amended to read as follows:

§ 500-k. Treatment of [~~inmates~~] **incarcerated individuals**. Subdivisions five and six of section one hundred thirty-seven of this chapter, except paragraphs (d) and (e) of subdivision six of such section, relating to the treatment of [~~inmates~~] **incarcerated individuals** in state correctional facilities are applicable to [~~inmates~~] **incarcerated individuals** confined in county jails; except that the report required by paragraph (f) of subdivision six of such section shall be made to a person designated to receive such report in the rules and regulations of the state commission of correction, or in any county or city where there is a department of correction, to the head of such department.

§ 203. The section heading and subdivision 2 of section 500-o of the correction law, as added by chapter 573 of the laws of 2011, are amended to read as follows:

Agreements for custody of [~~inmates~~] **incarcerated individuals** from other states.

2. [~~Inmates~~] **Incarcerated individuals** who are confined in a local correctional facility pursuant to an agreement under this section shall be dealt with in all respects in the same manner as [~~inmates~~] **incarcerated individuals** committed to the custody of a local correctional facility pursuant to paragraph (e) **of subdivision one** of section five hundred-a of this article. All rules and regulations promulgated by the commission regarding the treatment of [~~inmates~~] **incarcerated individuals** confined in a local correctional facility shall be applicable to [~~inmates~~] **incarcerated individuals** confined pursuant to this section. An [~~inmate~~] **incarcerated individual** confined in a local correctional facility pursuant to an agreement under this section shall not be deprived of any legal rights which such [~~inmate~~] **incarcerated individual** would have had if confined in a correctional institution in the jurisdiction in which he or she was convicted.

§ 204. Subdivision 2 of section 501 of the correction law, as added by chapter 122 of the laws of 2017, is amended to read as follows:

2. Notwithstanding subdivision one of this section, a county board of supervisors may instead procure the services of a professional partnership, a professional service corporation, a professional service limited liability company or a registered limited liability company, duly authorized to practice medicine in the state, for the purpose of providing health services to the [~~inmates~~] **incarcerated individuals** of the jail, provided that one physician from any such professional partnership, professional services corporation, professional service limited liability company or registered limited liability company shall be designated by the board to act as the chief medical officer of the jail.

§ 205. Subdivisions 1 and 2 of section 504 of the correction law, subdivision 1 as amended by chapter 305 of the laws of 2019 and subdivision 2 as amended by section 28 of subpart B of part C of chapter 62 of the laws of 2011, are amended to read as follows:

1. (a) If there is no jail in a county, or the jail becomes unfit or unsafe for the confinement of some or all of the [~~inmates~~] **incarcerated**

individuals, civil or criminal, or is destroyed by fire or otherwise, or if a pestilential disease breaks out in the jail or in the vicinity of the jail and the physician to the jail certifies that it is likely to endanger the health of any or all of the [~~inmates~~] incarcerated individuals in the jail, the state commission of correction, upon application, must, by an instrument in writing, filed with the clerk of the county, designate another suitable place within the county, or the jail of any other county, for the confinement of some or all of the [~~inmates~~] incarcerated individuals, as the case requires. The place so designated thereupon becomes, to all intents and purposes, except as otherwise prescribed in this article, the jail of the county for which it has been so designated, and the purposes expressed in the instrument designating the same. The designation may be amended, modified or revoked by the state commission of correction by a subsequent instrument in writing filed with the clerk of the county.

(b) If transfer to the jail of another county would allow for an [~~inmate's~~] incarcerated individual's participation in beneficial programming, the state commission of correction, upon application and the consent of such [~~inmate~~] incarcerated individual and any involved sheriff, may, by an instrument in writing, filed with the clerk of the county, designate the jail of such other county, for the confinement of such [~~inmate~~] incarcerated individual, as the case requires. The jail so designated thereupon becomes, to all intents and purposes, except as otherwise prescribed in this article, the jail of the county for which it has been so designated, and the purposes expressed in the instrument designating the same. The designation may be amended, modified or revoked by the state commission of correction by a subsequent instrument in writing filed with the clerk of the county.

2. Where the jail in a county becomes unfit or unsafe for the confinement of some or all of the [~~inmates~~] incarcerated individuals due to an [~~inmate~~] incarcerated individual disturbance or other extraordinary circumstances, including but not limited to a natural disaster, unanticipated deficiencies in the structural integrity of a facility or the inability to provide one or more [~~inmates~~] incarcerated individuals with essential services such as medical care, upon the request of the municipal official as defined in subdivision four of section forty of this chapter and no other suitable place within the county nor the jail of any other county is immediately available to house some or all of the [~~inmates~~] incarcerated individuals, the commissioner of corrections and community supervision may, in his or her sole discretion, make available, upon such terms and conditions as he or she may deem appropriate, all or any part of a state correctional institution for the confinement of some or all of such [~~inmates~~] incarcerated individuals as an adjunct to the county jail for a period not to exceed thirty days. However, if the county jail remains unfit or unsafe for the confinement of some or all of such [~~inmates~~] incarcerated individuals beyond thirty days, the state commission of correction, with the consent of the commissioner of corrections and community supervision, may extend the availability of a state correctional institution for one or more additional thirty day periods. The state commission of correction shall promulgate rules and regulations governing the temporary transfer of [~~inmates~~] incarcerated individuals to state correctional institutions from county jails, including but not limited to provisions for confinement of such [~~inmates~~] incarcerated individuals in the nearest correctional facility, to the maximum extent practicable, taking into account necessary security. The commissioner of corrections and community supervision may, in

his or her sole discretion, based on standards promulgated by the department, determine whether a county shall reimburse the state for any or all of the actual costs of confinement as approved by the director of the division of the budget. On or before the expiration of each thirty day period, the state commission of correction must make an appropriate designation pursuant to subdivision one **of this section** if the county jail remains unfit or unsafe for the confinement of some or all of the [~~inmates~~] **incarcerated individuals** and consent to the continued availability of a state correctional institution as required for herein. The superintendence, management and control of a state correctional institution or part thereof made available pursuant hereto and the [~~inmates~~] **incarcerated individuals** housed therein shall be as directed by the commissioner of corrections and community supervision.

§ 206. Subdivisions 1, 3 and 4 of section 505 of the correction law, as added by chapter 437 of the laws of 2013, are amended to read as follows:

1. Where an [~~inmate~~] **incarcerated individual** who is not yet eighteen years of age has been committed to the custody of the sheriff or other person in charge of a local correctional facility and no medical consent has been obtained prior to commitment, the commitment order shall be deemed to grant to the minor the capacity to consent to routine medical, dental and mental health services and treatment to himself or herself.

3. (a) At any time prior to the date the [~~inmate~~] **incarcerated individual** becomes eighteen years of age, the [~~inmate's~~] **incarcerated individual's** parent or legal guardian may institute legal proceedings pursuant to section 70.20 of the penal law objecting to the provision of routine medical, dental or mental health services and treatment being provided to the [~~inmate~~] **incarcerated individual**.

(b) A notice of motion shall be served on the [~~inmate~~] **incarcerated individual** and the sheriff or other person in charge of the local correctional facility not less than seven days prior to the return date of the motion. The person on whom the notice of motion is served shall answer the motion not less than two days before the return date. On examining the motion and answer and, in its discretion, after hearing argument, the court shall enter an order, granting or denying the motion.

4. Nothing in this section shall preclude an [~~inmate~~] **incarcerated individual** from consenting on his or her own behalf to any medical, dental or mental health services and treatment where otherwise authorized by law to do so.

§ 207. Subdivision 1 and paragraph a of subdivision 2 of section 508 of the correction law, as amended by chapter 196 of the laws of 2017, are amended to read as follows:

1. A sheriff, in his or her discretion, may by written order permit [~~inmates~~] **incarcerated individuals** confined in a local correctional facility to receive medical diagnosis and treatment in outside hospitals, upon the determination that such outside treatment and diagnosis is necessary by reason of inadequate facilities within the local correctional facility. Such [~~inmates~~] **incarcerated individuals** shall remain under the jurisdiction and in the custody of said sheriff while in a hospital, other than a secure facility, as such term is defined in paragraph b of subdivision two of this section, and said sheriff shall enforce proper measures in each case to safely maintain such jurisdiction and custody.

a. If a physician to a jail or in case of a vacancy a physician acting as such and the warden or jailer certify in writing that a prisoner

confined in a jail, either in a civil cause or upon a criminal charge, is in such a state of mental health that he or she is in need of involuntary care and treatment and in their opinion should be removed to a psychiatric hospital for treatment, the warden or jailer shall immediately notify the director who shall have the responsibility for providing treatment for such prisoner. If such director after examination of the prisoner by an examining physician designated by him or her shall determine that such prisoner is in need of involuntary care and treatment, the director shall file an application for the involuntary hospitalization of such prisoner pursuant to article nine of the mental hygiene law in a hospital or secure facility, as defined in paragraph b of this subdivision, operated by the office of mental health or in the case of a prisoner confined in a jail in a city or county which maintains or operates a general hospital containing a psychiatric prison ward approved by the office of mental health to such prison ward for care and treatment or to any other psychiatric hospital if such prison ward is filled to capacity. Such application shall be supported by the certificate of two physicians in accordance with the requirements of section 9.27 of the mental hygiene law and thereupon such prisoner shall be admitted forthwith to the hospital or secure facility in which such application is filed, and the procedures of the mental hygiene law governing the hospitalization of such prisoner. The jailer or warden having custody of the prisoner shall deliver the prisoner to the hospital or secure facility with which the director has filed the application. If such jailer or warden shall certify that such prisoner has a mental illness which is likely to result in serious harm to himself, herself or others and for which care in a psychiatric hospital is appropriate such jailer or warden shall effect the admission of such prisoner to a hospital or secure facility forthwith in accordance with the provisions of section 9.37 or 9.39 of the mental hygiene law and the hospital shall admit such prisoner. Upon admission of the prisoner, pursuant to section 9.37 or 9.39 of the mental hygiene law, the jailer or warden shall notify the director, the prisoner's attorney, and his or her family, where information about the family is available. While the prisoner is in the hospital, other than a secure facility, he or she shall remain in the custody under sufficient guard of the jailer or warden in charge of the jail from which he or she came. When the prisoner is in a secure facility, the jailer or warden may transfer custody of the [~~inmate~~] incarcerated individual to the commissioner of mental health, pursuant to an agreement between such jailer or warden and such commissioner. A prisoner admitted to a psychiatric hospital pursuant to section 9.27, 9.37 or 9.39 of the mental hygiene law may be retained at the hospital or secure facility pursuant to the provisions of the mental hygiene law until he or she has improved sufficiently in his or her mental illness so that hospitalization is no longer necessary or until ordered by the court to be returned to the jail whichever comes first and in either event, the prisoner shall thereupon be returned to jail. The cost of the care and treatment of such prisoners in the hospital or secure facility shall be defrayed in accordance with the provisions of the mental hygiene law in such cases provided.

From the time of admission of a prisoner to a hospital under this section the retention of such prisoner for care and treatment shall be subject to the provisions for notice, hearing, review and judicial approval of continued retention or transfer and continued retention provided by article nine of the mental hygiene law for the admission and retention of involuntary patients.

§ 208. Section 509 of the correction law, as amended by chapter 419 of the laws of 1989, is amended to read as follows:

§ 509. Absence of [~~inmate~~] **incarcerated individual** for funeral and deathbed visits. The sheriff of a local correctional facility or his **or her** designee may permit any [~~inmate~~] **incarcerated individual** confined in his **or her** local correctional facility to attend the funeral of his or her father, mother, guardian or former guardian, child, brother, sister, husband, wife, grandparent, grandchild, ancestral uncle or ancestral aunt within the state, or to visit such individual during his or her illness if death be imminent; but the exercise of such power shall be subject to such rules and regulations as the commission shall prescribe, respecting the granting of such permission, duration of absence from the institution, custody, transportation and care of the [~~inmate~~] **incarcerated individual**, and guarding against escape.

§ 209. The section heading, subdivisions (a), (b) and (e) of section 601 of the correction law, the section heading and subdivision (b) as amended by chapter 39 of the laws of 1977, subdivision (a) as amended by section 5 of chapter 177 of the laws of 2011, and subdivision (e) as added by section 2 of part D of chapter 56 of the laws of 2008, are amended to read as follows:

Delivery of commitment with [~~inmate~~] **incarcerated individual**; payment of fees for transportation.

(a) Whenever an [~~inmate~~] **incarcerated individual** shall be delivered to the superintendent of a state correctional facility pursuant to an indeterminate or determinate sentence, the officer so delivering such [~~inmate~~] **incarcerated individual** shall deliver to such superintendent, the sentence and commitment or certificate of conviction, or a certified copy thereof, and a copy of any order of protection pursuant to section 380.65 of the criminal procedure law received by such officer from the clerk of the court by which such [~~inmate~~] **incarcerated individual** shall have been sentenced, a copy of the report of the probation officer's investigation and report or a detailed statement covering the facts relative to the crime and previous history certified by the district attorney, a copy of the [~~inmate's~~] **incarcerated individual's** fingerprint records, a detailed summary of available medical records, psychiatric records and reports relating to assaults, or other violent acts, attempts at suicide or escape by the [~~inmate~~] **incarcerated individual** while in the custody of the local correctional facility; any such medical or psychiatric records in the possession of a health care provider other than the local correctional facility shall be summarized in detail and forwarded by such health care provider to the medical director of the appropriate state correctional facility upon request; the superintendent shall present to such officer a certificate of the delivery of such [~~inmate~~] **incarcerated individual**, and the fees of such officer for transporting such [~~inmate~~] **incarcerated individual** shall be paid from the treasury upon the audit and warrant of the comptroller. Whenever an [~~inmate~~] **incarcerated individual** of the state is delivered to a local facility, the superintendent shall forward summaries of such records to the local facility with the [~~inmate~~] **incarcerated individual**.

(b) Whenever an [~~inmate~~] **incarcerated individual** is sentenced by a court of this state to an indeterminate sentence, but the [~~inmate~~] **incarcerated individual** is immediately returned to a correctional facility under the jurisdiction of the United States or of a sister state, the clerk of the court shall immediately send to the commissioner of the department a certified copy of the sentence, a copy of the probation

report and a copy of the fingerprint records of the [~~inmate~~] incarcerated individual.

(e) A copy of any order of protection issued by any court against such [~~inmate~~] incarcerated individual pursuant to article five hundred thirty of the criminal procedure law or article eight of the family court act at the time of sentencing or which thereafter be issued shall accompany any commitment.

§ 209-a. Subdivisions (a) and (b) of section 601 of the correction law, subdivision (a) as amended by section 6 of chapter 177 of the laws of 2011 and subdivision (b) as amended by chapter 738 of the laws of 2004, are amended to read as follows:

(a) Whenever an [~~inmate~~] incarcerated individual shall be delivered to the superintendent of a state correctional facility pursuant to an indeterminate or determinate sentence, the officer so delivering such [~~inmate~~] incarcerated individual shall deliver to such superintendent, the sentence and commitment or certificate of conviction, or a certified copy thereof, and a copy of any order of protection pursuant to section 380.65 of the criminal procedure law received by such officer from the clerk of the court by which such [~~inmate~~] incarcerated individual shall have been sentenced, a copy of the report of the probation officer's investigation and report or a detailed statement covering the facts relative to the crime and previous history certified by the district attorney, a copy of the [~~inmate's~~] incarcerated individual's fingerprint records, a detailed summary of available medical records, psychiatric records and reports relating to assaults, or other violent acts, attempts at suicide or escape by the [~~inmate~~] incarcerated individual while in the custody of the local correctional facility; any such medical or psychiatric records in the possession of a health care provider other than the local correctional facility shall be summarized in detail and forwarded by such health care provider to the medical director of the appropriate state correctional facility upon request; the superintendent shall present to such officer a certificate of the delivery of such [~~inmate~~] incarcerated individual, and the fees of such officer for transporting such [~~inmate~~] incarcerated individual shall be paid from the treasury upon the audit and warrant of the comptroller. Whenever an [~~inmate~~] incarcerated individual of the state is delivered to a local facility, the superintendent shall forward summaries of such records to the local facility with the [~~inmate~~] incarcerated individual.

(b) Whenever an [~~inmate~~] incarcerated individual is sentenced by a court of this state to an indeterminate or determinate sentence, but the [~~inmate~~] incarcerated individual is immediately returned to a correctional facility under the jurisdiction of the United States or of a sister state, the clerk of the court shall immediately send to the commissioner of the department a certified copy of the sentence, a copy of the probation report and a copy of the fingerprint records of the [~~inmate~~] incarcerated individual.

§ 210. The opening paragraph and subdivision 2 of section 601-d of the correction law, as amended by section 29 of subpart B of part C of chapter 62 of the laws of 2011, are amended to read as follows:

This section shall apply only to [~~inmates~~] incarcerated individuals in the custody of the commissioner, and releasees under the supervision of the department, upon whom a determinate sentence was imposed between September first, nineteen hundred ninety-eight, and the effective date of this section, which was required by law to include a term of post-release supervision:

2. Whenever it shall appear to the satisfaction of the department that an [~~inmate~~] **incarcerated individual** in its custody or that a releasee under its supervision, is a designated person, the department shall make notification of that fact to the court that sentenced such person, and to the [~~inmate~~] **incarcerated individual** or releasee.

§ 211. Section 605-a of the correction law, as amended by section 30 of subpart B of part C of chapter 62 of the laws of 2011, is amended to read as follows:

§ 605-a. Transportation of female [~~inmates~~] **incarcerated individuals**. Whenever any female [~~inmate~~] **incarcerated individual** is conveyed to an institution under the jurisdiction of the state department of corrections and community supervision pursuant to sentence or commitment, such female [~~inmate~~] **incarcerated individual** shall be accompanied by at least one female officer.

§ 212. The section heading and subdivision 1 of section 606 of the correction law, as added by chapter 824 of the laws of 1985, are amended to read as follows:

Payment of costs for prosecution of [~~inmates~~] **incarcerated individuals**. 1. When an [~~inmate~~] **incarcerated individual** of an institution of the department is alleged to have committed an offense while an [~~inmate~~] **incarcerated individual** of such institution, the state shall pay all reasonable costs for the prosecution of such offense, including but not limited to, costs for: a grand jury impaneled to hear and examine evidence of such offense, petit jurors, witnesses, the defense of any [~~inmate~~] **incarcerated individual** financially unable to obtain counsel in accordance with the provisions of the county law, the district attorney, the costs of the sheriff and the appointment of additional court attendants, officers or other judicial personnel.

§ 213. Subdivisions 2 and 3 of section 610 of the correction law, as amended by chapter 268 of the laws of 1969, are amended to read as follows:

2. This section shall be deemed to apply to every incorporated or unincorporated society for the reformation of its [~~inmates~~] **incarcerated individuals**, as well as houses of refuge, penitentiaries, protectories, reformatories or other correctional institutions, continuing to receive for its use, either public moneys, or a per capita sum from any municipality for the support of [~~inmates~~] **incarcerated individuals**.

3. The rules and regulations established for the government of the institutions mentioned in this section shall recognize the right of the [~~inmates~~] **incarcerated individuals** to the free exercise of their religious belief, and to worship God according to the dictates of their consciences, including baptism by immersion, in accordance with the provisions of the constitution; and shall allow religious services on Sunday and for private ministration to the [~~inmates~~] **incarcerated individuals** in such manner as may best carry into effect the spirit and intent of this section and be consistent with the proper discipline and management of the institution; and the [~~inmates~~] **incarcerated individuals** of such institutions shall be allowed such religious services and spiritual advice and spiritual ministration from some recognized clergyman of the denomination or church which said [~~inmates~~] **incarcerated individuals** may respectively prefer or to which they may have belonged prior to their being confined in such institutions; but if any of such [~~inmates~~] **incarcerated individuals** shall be minors under the age of sixteen years, then such services, advice and spiritual ministration shall be allowed in accordance with the methods and rites of the particular denomination or church which the parents or guardians of such

minors may select; such services to be held and such advice and minis-
tration to be given within the buildings or grounds, whenever possible,
where the [~~inmates~~] **incarcerated individuals** are required by law to be
confined, in such manner and at such hours as will be in harmony, as
aforesaid, with the discipline and the rules and regulations of the
institution and secure to such [~~inmates~~] **incarcerated individuals** free
exercise of their religious beliefs in accordance with the provisions of
this section. In case of a violation of any of the provisions of this
section any person feeling himself **or herself** aggrieved thereby may
institute proceedings in the supreme court of the district where such
institution is situated, which is hereby authorized and empowered to
enforce the provisions of this section.

§ 214. The section heading, paragraph (c) of subdivision 1 and subdi-
vision 2 of section 611 of the correction law, the section heading and
subdivision 2 as amended by chapter 242 of the laws of 1930, and para-
graph (c) of subdivision 1 as amended by chapter 17 of the laws of 2016,
are amended to read as follows:

Births to [~~inmates~~] **incarcerated individuals** of correctional insti-
tutions and care of children of [~~inmates~~] **incarcerated individuals** of
correctional institutions.

(c) No restraints of any kind shall be used when such woman is in
labor, admitted to a hospital, institution or clinic for delivery, or
recovering after giving birth. Any such personnel as may be necessary to
supervise the woman during transport to and from and during her stay at
the hospital, institution or clinic shall be provided to ensure adequate
care, custody and control of the woman, except that no correctional
staff shall be present in the delivery room during the birth of a baby
unless requested by the medical staff supervising such delivery or by
the woman giving birth. The superintendent or sheriff or his or her
designee shall cause such woman to be subject to return to such institu-
tion or local correctional facility as soon after the birth of her child
as the state of her health will permit as determined by the medical
professional responsible for the care of such woman. If such woman is
confined in a local correctional facility, the expense of such accommo-
dation, maintenance and medical care shall be paid by such woman or her
relatives or from any available funds of the local correctional facility
and if not available from such sources, shall be a charge upon the coun-
ty, city or town in which is located the court from which such [~~inmate~~]
incarcerated individual was committed to such local correctional facili-
ty. If such woman is confined in any institution under the control of
the department, the expense of such accommodation, maintenance and
medical care shall be paid by such woman or her relatives and if not
available from such sources, such maintenance and medical care shall be
paid by the state. In cases where payment of such accommodations, main-
tenance and medical care is assumed by the county, city or town from
which such [~~inmate~~] **incarcerated individual** was committed the payor
shall make payment by issuing payment instrument in favor of the agency
or individual that provided such accommodations and services, after
certification has been made by the head of the institution to which the
[~~inmate~~] **incarcerated individual** was legally confined, that the charges
for such accommodations, maintenance and medical care were necessary and
are just, and that the institution has no available funds for such
purpose.

2. A child so born may be returned with its mother to the correctional
institution in which the mother is confined unless the chief medical
officer of the correctional institution shall certify that the mother is

physically unfit to care for the child, in which case the statement of the said medical officer shall be final. A child may remain in the correctional institution with its mother for such period as seems desirable for the welfare of such child, but not after it is one year of age, provided, however, if the mother is in a state reformatory and is to be paroled shortly after the child becomes one year of age, such child may remain at the state reformatory until its mother is paroled, but in no case after the child is eighteen months old. The officer in charge of such institution may cause a child cared for therein with its mother to be removed from the institution at any time before the child is one year of age. He shall make provision for a child removed from the institution without its mother or a child born to a woman [~~inmate~~] **incarcerated individual** who is not returned to the institution with its mother as hereinafter provided. He may, upon proof being furnished by the father or other relatives of their ability to properly care for and maintain such child, give the child into the care and custody of such father or other relatives, who shall thereafter maintain the same at their own expense. If it shall appear that such father or other relatives are unable to properly care for and maintain such child, such officer shall place the child in the care of the commissioner of public welfare or other officer or board exercising in relation to children the power of a commissioner of public welfare of the county from which such [~~inmate~~] **incarcerated individual** was committed as a charge upon such county. The officer in charge of the correctional institution shall send to such commissioner, officer or board a report of all information available in regard to the mother and the child. Such commissioner of public welfare or other officer or board shall care for or place out such child as provided by law in the case of a child becoming dependent upon the county.

§ 215. Subdivisions 1 and 2 of section 618 of the correction law, subdivision 1 as amended by chapter 413 of the laws of 1993 and subdivision 2 as amended by chapter 654 of the laws of 1974, are amended to read as follows:

1. It shall also be the duty of the commissioner to continue to make or have impressions made of the finger and thumbprints of all [~~inmates~~] **incarcerated individuals** in any of the institutions under the jurisdiction of the department; in his **or her** discretion, to cause said [~~inmates~~] **incarcerated individuals** to be measured and described; and to cause to be obtained and recorded, so far as possible, modus operandi statements of said [~~inmates~~] **incarcerated individuals**. The commissioner shall cause such impressions and measurements of persons confined in state correctional institutions to be made by a person or persons in the official service of the state in conformity with the system now in use in the division of criminal justice services, and shall prescribe rules and regulations for obtaining and recording such modus operandi statements, and for keeping accurate records of such impressions, measurements and statements, in the offices of such institutions.

2. It is hereby made the duty of the officials having charge of all the penitentiaries and county jails in the state to cause [~~inmates~~] **incarcerated individuals** confined therein under sentence for any crime to be measured and described and the fingerprint impressions of such [~~inmates~~] **incarcerated individuals** to be made according to the rules and methods prescribed by the commissioner of criminal justice services. It shall also be the duty of such officials in charge of such institutions to procure so far as possible modus operandi statements from all such prisoners. And it shall be the duty of such officials to cause dupli-

cate records of such measurements, impressions and statements to be made, two copies to be transmitted to the division of criminal justice services within twenty-four hours following the time of the reception of such [~~inmates~~] **incarcerated individuals** in said institutions.

§ 216. Section 619 of the correction law, as amended by section 31 of subpart B of part C of chapter 62 of the laws of 2011, is amended to read as follows:

§ 619. Cooperation with authorized agencies of the department of social services. It shall be the duty of an official of any institution under the jurisdiction of the commissioner of corrections and community supervision to cooperate with an authorized agency of the department of social services in making suitable arrangements for an [~~inmate~~] **incarcerated individual** confined therein to visit with his or her child pursuant to subdivision seven of section three hundred eighty-four-b of the social services law.

§ 217. Section 622 of the correction law, as added by chapter 7 of the laws of 2007, subdivision 6 as amended by chapter 672 of the laws of 2019, is amended to read as follows:

§ 622. Sex offender treatment program. 1. The department shall make available a sex offender treatment program for those [~~inmates~~] **incarcerated individuals** who are serving sentences for felony sex offenses, or for other offenses defined in subdivision (p) of section 10.03 of the mental hygiene law, and are identified as having a need for such program in accordance with sections eight hundred three and eight hundred five of this chapter. In developing the treatment program, the department shall give due regard to standards, guidelines, best practices, and qualifications recommended by the office of sex offender management. The department shall make such treatment programs available sufficiently in advance of the time of the [~~inmate's~~] **incarcerated individual's** consideration by the case review team, pursuant to section 10.05 of the mental hygiene law, so as to allow the [~~inmate~~] **incarcerated individual** to complete the treatment program prior to that time.

2. The primary purpose of the program shall be to reduce the likelihood of reoffending by assisting such offenders to control their chain of behaviors that lead to sexual offending. The length of participation for each [~~inmate~~] **incarcerated individual** to achieve successful completion shall be dependent upon the initial assessment of the [~~inmate's~~] **incarcerated individual's** specific needs and the degree of progress made by the [~~inmate~~] **incarcerated individual** as a participant but shall not be less than six months.

3. The department's sex offender treatment program shall include residential programs, which shall require that at each correctional facility where the residential program is provided, [~~inmate~~] **incarcerated individual** participants shall be housed within the same housing area in order to provide clinically appropriate treatment, and to provide a more structured and controlled setting.

4. Each residential program shall be staffed with a licensed psychologist who shall provide clinical supervision to the treatment staff, review, approve and modify treatment plans as appropriate for individual [~~inmates~~] **incarcerated individuals**, provide clinical assessments for participating [~~inmates~~] **incarcerated individuals**, observe and participate in group sessions and make treatment recommendations. Each residential program shall also be staffed with a licensed clinical social worker or other mental health professional who shall be knowledgeable about the administration of testing instruments that are designed to measure the degree of a sex offender's psychopathy and his or her

program needs. The assigned licensed psychologist shall also be knowledgeable about the application of such testing instruments.

5. Any [~~inmate~~] **incarcerated individual** committed to the custody of the department on or after the effective date of this section for a felony sex offense, or for any of the other offenses listed in subdivision (p) of section 10.03 of the mental hygiene law, shall, as soon as practicable, be initially assessed by staff of the office of mental health who shall be knowledgeable regarding the diagnosis, treatment, assessment or evaluation of sex offenders. The assessment shall include, but not be limited to, the determination of the degree to which the [~~inmate~~] **incarcerated individual** presents a risk of violent sexual recidivism and his or her need for sex offender treatment while in prison.

6. Staff of the office of mental health and the office for people with developmental disabilities may be consulted about the [~~inmate's~~] **incarcerated individual's** treatment needs and may assist in providing any additional treatment services determined to be clinically appropriate to address the [~~inmate's~~] **incarcerated individual's** underlying mental abnormality or disorder. Such treatment services shall be provided using professionally accepted treatment protocols.

§ 218. Section 623 of the correction law, as added by chapter 240 of the laws of 2007, is amended to read as follows:

§ 623. [~~Inmate~~] **Incarcerated individual** telephone services. 1. Telephone services contracts for [~~inmates~~] **incarcerated individuals** in state correctional facilities shall be subject to the procurement provisions as set forth in article eleven of the state finance law provided, however, that when determining the best value of such telephone service, the lowest possible cost to the telephone user shall be emphasized.

2. The department shall make available either a "prepaid" or "collect call" system, or a combination thereof, for telephone service. Under the "prepaid" system, funds may be deposited into an account in order to pay for station-to-station calls, provided that nothing in this subdivision shall require the department to provide or administer a prepaid system. Under a "collect call" system, call recipients are billed for the cost of an accepted telephone call initiated by an [~~inmate~~] **incarcerated individual**. Under such "collect call" system, the provider of [~~inmate~~] **incarcerated individual** telephone service, as an additional means of payment, must permit the recipient of [~~inmate~~] **incarcerated individual** calls to establish an account with such provider in order to deposit funds to pay for such collect calls in advance.

3. The department shall not accept or receive revenue in excess of its reasonable operating cost for establishing and administering such telephone system services as provided in subdivisions one and two of this section.

4. The department shall establish rules and regulations or departmental procedures to ensure that any [~~inmate~~] **incarcerated individual** phone call system established by this section provides reasonable security measures to preserve the safety and security of each correctional facility, all staff and all persons outside a facility who may receive [~~inmate~~] **incarcerated individual** phone calls.

§ 219. Section 624 of the correction law, as added by chapter 447 of the laws of 2016, is amended to read as follows:

§ 624. Next of kin; death of [~~inmate~~] **incarcerated individual**. The department shall be responsive to inquiries from the next of kin and other person designated as the representative of any [~~inmate~~] **incarcerated individual** whose death takes place during custody regarding the circumstances surrounding the death of such [~~inmate~~] **incarcerated indi-**

vidual, the medical procedures used and the cause of death including preliminary determinations and final determination as reported by an autopsy report. The next of kin and other person designated as a representative shall be identified from the emergency contact information previously provided by the [inmate] incarcerated individual to the department.

§ 220. Subdivisions 2, 3 and 4 of section 631 of the correction law, subdivision 2 as separately amended by chapters 411 and 622 of the laws of 1973 and subdivisions 3 and 4 as amended by chapter 622 of the laws of 1973, are amended to read as follows:

2. "Eligible [inmate] incarcerated individual" means a person confined in a city prison or reformatory in a city having a population of one million or more or in a county jail and penitentiaries of a county which elects to have this article apply thereto where a furlough program has been established who is sentenced to a definite period of six months or more or to a reformatory sentence of imprisonment and has served a minimum of six months of any such sentence.

3. "Furlough program" means a program under which eligible [inmates] incarcerated individuals may be granted the privilege of leaving the premises of a prison for a period not exceeding seventy-two hours for the purpose of seeking employment, maintaining family ties, solving family problems, to undergo surgery or to receive medical treatment or dental treatment not available in the correctional institution, or for any matter necessary to the furtherance of any such purposes.

4. "Extended bounds of confinement" means the area in which an [inmate] incarcerated individual participating in a furlough program may travel, the routes he or she is permitted to use, the places he or she is authorized to visit, and the hours, days, or specially defined period during which he or she is permitted to be absent from the premises of the institution. An extension of limits shall be under such prescribed conditions as the commissioner deems necessary. Such extension of limits may be withdrawn at any time.

§ 221. Section 632 of the correction law, as added by chapter 886 of the laws of 1972, is amended to read as follows:

§ 632. Establishment of a furlough program. [1.] The commissioner shall designate, in the rules and regulations of the department; appropriate employees or an appropriate unit of the department, to be responsible for [(a)] (i) securing education, on-the-job training and employment opportunities for [inmates] incarcerated individuals who are eligible to participate in a furlough program and [(b)] (ii) supervising [inmates] incarcerated individuals during their participation in a furlough program outside the premises of the institution.

§ 222. The section heading and subdivisions 1, 2, 6 and 7 of section 633 of the correction law, the section heading and subdivisions 2, 6 and 7 as added by chapter 886 of the laws of 1972, and subdivision 1 as amended by chapter 622 of the laws of 1973, are amended to read as follows:

Procedure for furlough release of eligible [inmates] incarcerated individuals. 1. A person confined in a city prison or a county jail and penitentiaries of a county which elects to have this article apply thereto who is, or who within thirty days will become, an eligible [inmate] incarcerated individual, may make application to the furlough release committee of the institution for permission to participate in a furlough program.

2. Any eligible [inmate] incarcerated individual may make application to the furlough committee for leave of absence provided, however, that

in exigent circumstances such application may be made directly to the warden of the institution and the warden may exercise all of the powers of the furlough committee subject, however, to any limitations or requirements set forth in the rules and regulations of the department and subject further to the discretion of the commissioner.

6. After approving the program of furlough, the warden may then permit an eligible [~~inmate~~] **incarcerated individual** who has accepted such program to go outside the premises of the institution within the limits of the extended bounds of confinement described in the memorandum; provided, however, that no such permission shall become effective in the case of a furlough program prior to the time at which the person to be released becomes an eligible [~~inmate~~] **incarcerated individual**.

7. Participation in a furlough release program shall be a privilege. Nothing contained in this article may be construed to confer upon any [~~inmate~~] **incarcerated individual** the right to participate, or to continue to participate in a furlough program. The warden of the institution may at any time, and upon recommendation of the furlough committee or of the commissioner, revoke any [~~inmate's~~] **incarcerated individual's** privilege to participate in a program of furlough.

§ 223. Section 634 of the correction law, as added by chapter 886 of the laws of 1972, subdivisions 1 and 4 as amended by chapter 843 of the laws of 1980 and subdivision 2 as amended by chapter 622 of the laws of 1973, is amended to read as follows:

§ 634. Conduct of [~~inmates~~] **incarcerated individuals** participating in furlough program. 1. An [~~inmate~~] **incarcerated individual** who is permitted to leave the premises of an institution to participate in a furlough program shall have on his **or her** person a copy of the memorandum of that program as signed by the warden of the institution and shall exhibit such copy to any peace officer or police officer upon request of such officer.

2. If the [~~inmate~~] **incarcerated individual** violates any provision of the program, or any rule, or regulation promulgated by the commissioner for conduct of [~~inmates~~] **incarcerated individuals** participating in furlough programs, he **or she** shall be subject to disciplinary measures to the same extent as if he **or she** violated a rule or regulation of the commissioner for conduct of [~~inmates~~] **incarcerated individuals** within the premises of the institution.

3. The provisions of this section relating to good behavior of [~~inmates~~] **incarcerated individuals** while participating in furlough programs outside the premises of institutions, and such allowances may be granted, withheld, forfeited or cancelled in whole or part for behavior outside the premises of an institution to the same extent and in the same manner as is provided for behavior of [~~inmates~~] **incarcerated individuals** within the premises of the institutions.

4. An [~~inmate~~] **incarcerated individual** who is in violation of the provisions of his **or her** furlough program may be taken into custody by any peace officer or police officer and, in such event the [~~inmate~~] **incarcerated individual** shall be returned forthwith to the institution that released him **or her**. In any case where the institution is in a county other than the one in which the [~~inmate~~] **incarcerated individual** is apprehended, the officer may deliver the [~~inmate~~] **incarcerated individual** to the nearest institution, jail or lockup and it shall be the duty of the person in charge of said facility to hold such [~~inmate~~] **incarcerated individual** securely until such time as he **or she** is delivered into the custody of an officer of the institution from which he **or she** was released. Upon delivering the [~~inmate~~] **incarcerated individual**

to an institution, jail or lockup, other than the one from which he **or she** was released, the officer who apprehended the [~~inmate~~] **incarcerated individual** shall forthwith notify the warden of the institution from which the [~~inmate~~] **incarcerated individual** was released and it shall be the duty of the warden to effect the expeditious return of the [~~inmate~~] **incarcerated individual** to the institution.

§ 224. Subparagraphs (ii) and (iv) of paragraph (d) of subdivision 1 of section 803 of the correction law, as added by section 7 of chapter 738 of the laws of 2004, are amended to read as follows:

(ii) Such merit time allowance shall not be available to any person serving an indeterminate sentence authorized for an A-I felony offense, other than an A-I felony offense defined in article two hundred twenty of the penal law, or any sentence imposed for a violent felony offense as defined in section 70.02 of the penal law, manslaughter in the second degree, vehicular manslaughter in the second degree, vehicular manslaughter in the first degree, criminally negligent homicide, an offense defined in article one hundred thirty of the penal law, incest, or an offense defined in article two hundred sixty-three of the penal law, or aggravated harassment of an employee by an [~~inmate~~] **incarcerated individual**.

(iv) Such merit time allowance may be granted when an [~~inmate~~] **incarcerated individual** successfully participates in the work and treatment program assigned pursuant to section eight hundred five of this article and when such [~~inmate~~] **incarcerated individual** obtains a general equivalency diploma, an alcohol and substance abuse treatment certificate, a vocational trade certificate following at least six months of vocational programming or performs at least four hundred hours of service as part of a community work crew.

Such allowance shall be withheld for any serious disciplinary infraction or upon a judicial determination that the person, while an [~~inmate~~] **incarcerated individual**, commenced or continued a civil action, proceeding or claim that was found to be frivolous as defined in subdivision (c) of section eight thousand three hundred three-a of the civil practice law and rules, or an order of a federal court pursuant to rule 11 of the federal rules of civil procedure imposing sanctions in an action commenced by a person, while an [~~inmate~~] **incarcerated individual**, against a state agency, officer or employee.

§ 224-a. Subparagraphs (ii) and (iv) of paragraph (d) of subdivision 1 of section 803 of the correction law, as added by section 10-a of chapter 738 of the laws of 2004, are amended to read as follows:

(ii) Such merit time allowance shall not be available to any person serving an indeterminate sentence authorized for an A-I felony offense, other than an A-I felony offense defined in article two hundred twenty of the penal law, or any sentence imposed for a violent felony offense as defined in section 70.02 of the penal law, manslaughter in the second degree, vehicular manslaughter in the second degree, vehicular manslaughter in the first degree, criminally negligent homicide, an offense defined in article one hundred thirty of the penal law, incest, or an offense defined in article two hundred sixty-three of the penal law, or aggravated harassment of an employee by an [~~inmate~~] **incarcerated individual**.

(iv) Such merit time allowance may be granted when an [~~inmate~~] **incarcerated individual** successfully participates in the work and treatment program assigned pursuant to section eight hundred five of this article and when such [~~inmate~~] **incarcerated individual** obtains a general equivalency diploma, an alcohol and substance abuse treatment certificate, a

vocational trade certificate following at least six months of vocational programming or performs at least four hundred hours of service as part of a community work crew.

Such allowance shall be withheld for any serious disciplinary infraction or upon a judicial determination that the person, while an [~~inmate~~] **incarcerated individual**, commenced or continued a civil action, proceeding or claim that was found to be frivolous as defined in subdivision (c) of section eight thousand three hundred three-a of the civil practice law and rules, or an order of a federal court pursuant to rule 11 of the federal rules of civil procedure imposing sanctions in an action commenced by a person, while an [~~inmate~~] **incarcerated individual**, against a state agency, officer or employee.

§ 225. The section heading, clauses (A) and (C) of subparagraph (ii) of paragraph (b), paragraphs (c) and (e) of subdivision 1 and subdivision 3 of section 803-b of the correction law, the section heading, clauses (A) and (C) of subparagraph (ii) of paragraph (b), paragraph (e) of subdivision 1 and subdivision 3 as added by section 4 of part L of chapter 56 of the laws of 2009, paragraph (c) of subdivision 1 as amended by section 1 of part E of chapter 55 of the laws of 2017, and subparagraph (ii) of paragraph (c) of subdivision 1 as amended by chapter 35 of the laws of 2020, are amended to read as follows:

Limited credit time allowances for [~~inmates~~] **incarcerated individuals** serving indeterminate or determinate sentences imposed for specified offenses.

(A) in the case of an eligible offender who is not subject to an indeterminate sentence with a maximum term of life imprisonment, such offender shall be eligible for conditional release six months earlier than as provided by paragraph (b) of subdivision one of section 70.40 of the penal law, provided that the department determines such offender has earned the full amount of good time authorized by section eight hundred three of this article; the withholding of any good behavior time credit by the department shall render an [~~inmate~~] **incarcerated individual** ineligible for the credit defined herein;

(C) an [~~inmate~~] **incarcerated individual** shall not be eligible for the credit defined herein if he or she is returned to the department pursuant to a revocation of presumptive release, parole, conditional release, or post-release supervision and has not been sentenced to an additional indeterminate or determinate term of imprisonment.

(c) "significant programmatic accomplishment" means that the [~~inmate~~] **incarcerated individual**:

(i) participates in no less than two years of college programming; or

(ii) obtains an associate degree, bachelor's degree, master's degree or doctoral degree by completing a registered program from a New York state degree-granting institution, or a program offered by an out-of-state institution of higher education authorized to offer post-secondary distance education in New York state pursuant to applicable rules and regulations promulgated by the education department of the state of New York; or

(iii) successfully participates as an [~~inmate~~] **incarcerated individual** program associate for no less than two years; or

(iv) receives a certification from the state department of labor for his or her successful participation in an apprenticeship program; or

(v) successfully works as an [~~inmate~~] **incarcerated individual** hospice aid for a period of no less than two years; or

(vi) successfully works in the division of correctional industries' optical program for no less than two years and receives a certification as an optician from the American board of opticianry; or

(vii) receives an asbestos handling certificate from the department of labor upon successful completion of the training program and then works in the division of correctional industries' asbestos abatement program as a hazardous materials removal worker or group leader for no less than eighteen months; or

(viii) successfully completes the course curriculum and passes the minimum competency screening process performance examination for sign language interpreter, and then works as a sign language interpreter for deaf [~~inmates~~] **incarcerated individuals** for no less than one year; or

(ix) successfully works in the puppies behind bars program for a period of no less than two years; or

(x) successfully participates in a vocational culinary arts program for a period of no less than two years and earns a servsafe certificate that is recognized by the national restaurant association; or

(xi) successfully completes the four hundred ninety hour training program while assigned to a department of motor vehicles call center, and continues to work at such call center for an additional twenty-one months; or

(xii) receives a certificate from the food production center in an assigned position following the completion of no less than eight hundred hours of work in such position, and continues to work for an additional eighteen months at the food production center.

(e) "disqualifying judicial determination" means a judicial determination that the person, while an [~~inmate~~] **incarcerated individual**, commenced or continued a civil action or proceeding or claim that was found to be frivolous as defined in subdivision (c) of section eight thousand three hundred three-a of the civil practice law and rules, or an order of a federal court pursuant to rule 11 of the federal rules of civil procedure imposing sanctions in an action commenced by a person while an [~~inmate~~] **incarcerated individual** against a state agency, officer or employee.

3. No person shall have the right to demand or require the credit authorized by this section. The commissioner may revoke at any time such credit for any disciplinary infraction committed by the [~~inmate~~] **incarcerated individual** or for any failure to continue to participate successfully in any assigned work and treatment program after the certificate of earned eligibility has been awarded. Any action by the commissioner pursuant to this section shall be deemed a judicial function and shall not be reviewable if done in accordance with law.

§ 226. Section 805 of the correction law, as amended by section 4 of part E of chapter 62 of the laws of 2003, is amended to read as follows:

§ 805. Earned eligibility program. Persons committed to the custody of the department under an indeterminate or determinate sentence of imprisonment shall be assigned a work and treatment program as soon as practicable. No earlier than two months prior to the [~~inmate's~~] **incarcerated individual's** eligibility to be paroled pursuant to subdivision one of section 70.40 of the penal law, the commissioner shall review the [~~inmate's~~] **incarcerated individual's** institutional record to determine whether he **or she** has complied with the assigned program. If the commissioner determines that the [~~inmate~~] **incarcerated individual** has successfully participated in the program he **or she** may issue the [~~inmate~~] **incarcerated individual** a certificate of earned eligibility. Notwithstanding any other provision of law, an [~~inmate~~] **incarcerated individual**

who is serving a sentence with a minimum term of not more than eight years and who has been issued a certificate of earned eligibility, shall be granted parole release at the expiration of his **or her** minimum term or as authorized by subdivision four of section eight hundred sixty-seven of this chapter unless the board of parole determines that there is a reasonable probability that, if such [~~inmate~~] **incarcerated individual** is released, he **or she** will not live and remain at liberty without violating the law and that his **or her** release is not compatible with the welfare of society. Any action by the commissioner pursuant to this section shall be deemed a judicial function and shall not be reviewable if done in accordance with law.

§ 226-a. Section 805 of the correction law, as amended by chapter 262 of the laws of 1987, is amended to read as follows:

§ 805. Earned eligibility program. Persons committed to the custody of the department under an indeterminate sentence of imprisonment shall be assigned a work and treatment program as soon as practicable. No earlier than two months prior to the expiration of an [~~inmate's~~] **incarcerated individual's** minimum period of imprisonment, the commissioner shall review the [~~inmate's~~] **incarcerated individual's** institutional record to determine whether he **or she** has complied with the assigned program. If the commissioner determines that the [~~inmate~~] **incarcerated individual** has successfully participated in the program he **or she** may issue the [~~inmate~~] **incarcerated individual** a certificate of earned eligibility. Notwithstanding any other provision of law, an [~~inmate~~] **incarcerated individual** who is serving a sentence with a minimum term of not more than six years and who has been issued a certificate of earned eligibility, shall be granted parole release at the expiration of his **or her** minimum term or as authorized by subdivision four of section eight hundred sixty-seven unless the board of parole determines that there is a reasonable probability that, if such [~~inmate~~] **incarcerated individual** is released, he **or she** will not live and remain at liberty without violating the law and that his **or her** release is not compatible with the welfare of society. Any action by the commissioner pursuant to this section shall be deemed a judicial function and shall not be reviewable if done in accordance with law.

§ 227. Section 806 of the correction law, as added by section 5 of part E of chapter 62 of the laws of 2003, subdivision 3 as amended by section 40 of subpart B of part C of chapter 62 of the laws of 2011 and subdivision 6 as amended by chapter 45 of the laws of 2012, is amended to read as follows:

§ 806. Presumptive release program for nonviolent [~~inmates~~] **incarcerated individuals**. 1. Notwithstanding any other provision of law to the contrary and except as provided in subdivision two of this section, an [~~inmate~~] **incarcerated individual** who has been awarded a certificate of earned eligibility by the commissioner as set forth in section eight hundred five of this article may be entitled to presumptive release at the expiration of the minimum or aggregate minimum period of his or her indeterminate term of imprisonment, provided that:

(i) the [~~inmate~~] **incarcerated individual** has not been convicted previously of, nor is presently serving a sentence imposed for a class A-I felony, a violent felony offense as defined in section 70.02 of the penal law, manslaughter in the second degree, vehicular manslaughter in the second degree, vehicular manslaughter in the first degree, criminally negligent homicide, an offense defined in article one hundred thirty of the penal law, incest, or an offense defined in article two hundred sixty-three of the penal law,

(ii) the [~~inmate~~] **incarcerated individual** has not committed any serious disciplinary infraction, and

(iii) there has been no judicial determination that the person while an [~~inmate~~] **incarcerated individual** commenced or continued a civil action, proceeding or claim that was found to be frivolous as defined in subdivision (c) of section eight thousand three hundred three-a of the civil practice law and rules, or an order has not been issued by a federal court pursuant to rule 11 of the federal rules of civil procedure imposing sanctions in an action commenced by the [~~inmate~~] **incarcerated individual** against a state agency, officer or employee.

2. In the case of an [~~inmate~~] **incarcerated individual** who meets the criteria set forth in subdivision one of this section and who also meets the criteria for merit time as provided for in paragraph (d) of subdivision one of section eight hundred three of this article, such [~~inmate~~] **incarcerated individual** may be entitled to presumptive release, as provided in this section, at the expiration of five-sixths of the minimum or aggregate minimum period of his or her indeterminate term of imprisonment.

3. Any [~~inmate~~] **incarcerated individual** eligible for presumptive release pursuant to this section shall be required to apply for such release pursuant to section two hundred six of this chapter.

4. The commissioner shall promulgate rules and regulations for the granting, withholding, cancellation and recission of presumptive release authorized by this section in accordance with law.

5. No person shall have the right to demand or require presumptive release authorized by this section. The commissioner may revoke at any time an [~~inmate's~~] **incarcerated individual's** scheduled presumptive release pursuant to this section for any disciplinary infraction committed by the [~~inmate~~] **incarcerated individual** or for any failure to continue to participate successfully in any assigned work and treatment program after the certificate of earned eligibility has been awarded. The commissioner may deny presumptive release to any [~~inmate~~] **incarcerated individual** whenever the commissioner determines that such release may not be consistent with the safety of the community or the welfare of the [~~inmate~~] **incarcerated individual**. Any action by the commissioner pursuant to this section shall be deemed a judicial function and shall not be reviewable if done in accordance with law.

6. Any eligible [~~inmate~~] **incarcerated individual** who is not released pursuant to subdivision one or two of this section shall be considered for discretionary release on parole pursuant to the provisions of section eight hundred five of this article or section two hundred fifty-nine-i of the executive law, whichever is applicable.

7. Any reference to parole and conditional release in this chapter shall also be deemed to include presumptive release.

§ 228. Subdivision 2 of section 851 of the correction law, as amended by chapter 60 of the laws of 1994, the opening paragraph as amended by chapter 320 of the laws of 2006 and the closing paragraph as amended by section 42 of subpart B of part C of chapter 62 of the laws of 2011, is amended to read as follows:

2. "Eligible [~~inmate~~] **incarcerated individual**" means: a person confined in an institution who is eligible for release on parole or who will become eligible for release on parole or conditional release within two years. Provided, however, that a person under sentence for an offense defined in paragraphs (a) and (b) of subdivision one of section 70.02 of the penal law, where such offense involved the use or threatened use of a deadly weapon or dangerous instrument shall not be eligi-

ble to participate in a work release program until he or she is eligible for release on parole or who will be eligible for release on parole or conditional release within eighteen months. Provided, further, however, that a person under a determinate sentence as a second felony drug offender for a class B felony offense defined in article two hundred twenty of the penal law, who was sentenced pursuant to section 70.70 of such law, shall not be eligible to participate in a temporary release program until the time served under imprisonment for his or her determinate sentence, including any jail time credited pursuant to the provisions of article seventy of the penal law, shall be at least eighteen months. In the case of a person serving an indeterminate sentence of imprisonment imposed pursuant to the penal law in effect after September one, nineteen hundred sixty-seven, for the purposes of this article parole eligibility shall be upon the expiration of the minimum period of imprisonment fixed by the court or where the court has not fixed any period, after service of the minimum period fixed by the state board of parole. If an [~~inmate~~] **incarcerated individual** is denied release on parole, such [~~inmate~~] **incarcerated individual** shall not be deemed an eligible [~~inmate~~] **incarcerated individual** until he or she is within two years of his or her next scheduled appearance before the state parole board. In any case where an [~~inmate~~] **incarcerated individual** is denied release on parole while participating in a temporary release program, the department shall review the status of the [~~inmate~~] **incarcerated individual** to determine if continued placement in the program is appropriate. No person convicted of any escape or absconding offense defined in article two hundred five of the penal law shall be eligible for temporary release. Further, no person under sentence for aggravated harassment of an employee by an [~~inmate~~] **incarcerated individual** as defined in section 240.32 of the penal law for, any homicide offense defined in article one hundred twenty-five of the penal law, for any sex offense defined in article one hundred thirty of the penal law, or for an offense defined in section 255.25, 255.26 or 255.27 of the penal law shall be eligible to participate in a work release program as defined in subdivision three of this section. Nor shall any person under sentence for any sex offense defined in article one hundred thirty of the penal law be eligible to participate in a community services program as defined in subdivision five of this section. Notwithstanding the foregoing, no person who is an otherwise eligible [~~inmate~~] **incarcerated individual** who is under sentence for a crime involving: (a) infliction of serious physical injury upon another as defined in the penal law or (b) any other offense involving the use or threatened use of a deadly weapon may participate in a temporary release program without the written approval of the commissioner. The commissioner shall promulgate regulations giving direction to the temporary release committee at each institution in order to aid such committees in carrying out this mandate.

The governor, by executive order, may exclude or limit the participation of any class of otherwise eligible [~~inmates~~] **incarcerated individuals** from participation in a temporary release program. Nothing in this paragraph shall be construed to affect either the validity of any executive order previously issued limiting the participation of otherwise eligible [~~inmates~~] **incarcerated individuals** in such program or the authority of the commissioner to impose appropriate regulations limiting such participation.

§ 228-a. Subdivisions 2-a, 3, 4, 5, 6, 7, 8 and 10 of section 851 of the correction law, subdivision 2-a as added by chapter 251 of the laws

of 2002, subdivision 3 as amended by chapter 60 of the laws of 1994, subdivisions 4, 5, 6, 7, 8 and 10 as amended by chapter 691 of the laws of 1977 and paragraph (a) of subdivision 6 as amended by chapter 107 of the laws of 1983, are amended to read as follows:

2-a. Notwithstanding subdivision two of this section, the term "eligible [~~inmate~~] **incarcerated individual**" shall also include a person confined in an institution who is eligible for release on parole or who will become eligible for release on parole or conditional release within two years, and who was convicted of a homicide offense as defined in article one hundred twenty-five of the penal law or an assault offense defined in article one hundred twenty of the penal law, and who can demonstrate to the commissioner that: (a) the victim of such homicide or assault was a member of the [~~inmate's~~] **incarcerated individual's** immediate family as that term is defined in section 120.40 of the penal law or had a child in common with the [~~inmate~~] **incarcerated individual**; (b) the [~~inmate~~] **incarcerated individual** was subjected to substantial physical, sexual or psychological abuse committed by the victim of such homicide or assault; and (c) such abuse was a substantial factor in causing the [~~inmate~~] **incarcerated individual** to commit such homicide or assault. With respect to an [~~inmate's~~] **incarcerated individual's** claim that he or she was subjected to substantial physical, sexual or psychological abuse committed by the victim, such demonstration shall include corroborative material that may include, but is not limited to, witness statements, social services records, hospital records, law enforcement records and a showing based in part on documentation prepared at or near the time of the commission of the offense or the prosecution thereof tending to support the [~~inmate's~~] **incarcerated individual's** claim. Prior to making a determination under this subdivision, the commissioner is required to request and take into consideration the opinion of the district attorney who prosecuted the underlying homicide or assault offense and the opinion of the sentencing court. If such opinions are received within forty-five days of the request, the commissioner shall take them into consideration. If such opinions are not so received, the commissioner may proceed with the determination. Any action by the commissioner pursuant to this subdivision shall be deemed a judicial function and shall not be reviewable in any court.

3. "Work release program" means a program under which eligible [~~inmates~~] **incarcerated individuals** may be granted the privilege of leaving the premises of an institution for a period not exceeding fourteen hours in any day for the purpose of on-the-job training or employment, or for any matter necessary to the furtherance of any such purposes. No person shall be released into a work release program unless prior to release such person has a reasonable assurance of a job training program or employment. If after release, such person ceases to be employed or ceases to participate in the training program, the [~~inmate's~~] **incarcerated individual's** privilege to participate in such work release program may be revoked in accordance with rules and regulations promulgated by the commissioner.

4. "Furlough program" means a program under which eligible [~~inmates~~] **incarcerated individuals** may be granted the privilege of leaving the premises of an institution for a period not exceeding seven days for the purpose of seeking employment, maintaining family ties, solving family problems, seeking post-release housing, attending a short-term educational or vocational training course, or for any matter necessary to the furtherance of any such purposes.

5. "Community services program" means a program under which eligible [~~inmates~~] **incarcerated individuals** may be granted the privilege of leaving the premises of an institution for a period not exceeding fourteen hours in any day for the purpose of participation in religious services, volunteer work, or athletic events, or for any matter necessary to the furtherance of any such purposes.

6. "Leave of absence" means a privilege granted to an [~~inmate~~] **incarcerated individual**, who need not be an "eligible [~~inmate~~] **incarcerated individual**," to leave the premises of an institution for the period of time necessary:

(a) to visit his or her spouse, child, brother, sister, grandchild, parent, grandparent or ancestral aunt or uncle during his or her last illness if death appears to be imminent;

(b) to attend the funeral of such individual;

(c) to undergo surgery or to receive medical or dental treatment not available in the correctional institution only if deemed absolutely necessary to the health and well-being of the [~~inmate~~] **incarcerated individual** and whose approval is granted by the commissioner or his **or her** designated representative.

7. "Educational leave" means a privilege granted to an eligible [~~inmate~~] **incarcerated individual** to leave the premises of an institution for a period not exceeding fourteen hours in any day for the purpose of education or vocational training, or for any matter necessary to the furtherance of any such purposes.

8. "Industrial training leave" means a privilege granted to an eligible [~~inmate~~] **incarcerated individual** to leave the premises of an institution for a period not exceeding fourteen hours in any day for the purpose of participating in an industrial training program, or for any matter necessary to the furtherance of any such purpose.

10. "Extended bounds of confinement" means the area in which an [~~inmate~~] **incarcerated individual** participating in a temporary release program may travel, the routes he or she is permitted to use, the places he or she is authorized to visit, and the hours, days, or specially defined period during which he or she is permitted to be absent from the premises of the institution.

§ 228-b. Subdivision 2 of section 851 of the correction law, as amended by chapter 447 of the laws of 1991, the opening paragraph as amended by chapter 252 of the laws of 2005 and the closing paragraph as amended by section 43 of subpart B of part C of chapter 62 of the laws of 2011, is amended to read as follows:

2. "Eligible [~~inmate~~] **incarcerated individual**" means: a person confined in an institution who is eligible for release on parole or who will become eligible for release on parole or conditional release within two years. Provided, that a person under a determinate sentence as a second felony drug offender for a class B felony offense defined in article two hundred twenty of the penal law, who was sentenced pursuant to section 70.70 of such law, shall not be eligible to participate in a temporary release program until the time served under imprisonment for his or her determinate sentence, including any jail time credited pursuant to the provisions of article seventy of the penal law, shall be at least eighteen months. In the case of a person serving an indeterminate sentence of imprisonment imposed pursuant to the penal law in effect after September one, nineteen hundred sixty-seven, for the purposes of this article parole eligibility shall be upon the expiration of the minimum period of imprisonment fixed by the court or where the court has not fixed any period, after service of the minimum period fixed by the

state board of parole. If an [~~inmate~~] **incarcerated individual** is denied release on parole, such [~~inmate~~] **incarcerated individual** shall not be deemed an eligible [~~inmate~~] **incarcerated individual** until he or she is within two years of his or her next scheduled appearance before the state parole board. In any case where an [~~inmate~~] **incarcerated individual** is denied release on parole while participating in a temporary release program, the department shall review the status of the [~~inmate~~] **incarcerated individual** to determine if continued placement in the program is appropriate. No person convicted of any escape or absconding offense defined in article two hundred five of the penal law shall be eligible for temporary release. Nor shall any person under sentence for any sex offense defined in article one hundred thirty of the penal law be eligible to participate in a community services program as defined in subdivision five of this section. Notwithstanding the foregoing, no person who is an otherwise eligible [~~inmate~~] **incarcerated individual** who is under sentence for a crime involving: (a) infliction of serious physical injury upon another as defined in the penal law, (b) a sex offense involving forcible compulsion, or (c) any other offense involving the use or threatened use of a deadly weapon may participate in a temporary release program without the written approval of the commissioner. The commissioner shall promulgate regulations giving direction to the temporary release committee at each institution in order to aid such committees in carrying out this mandate.

The governor, by executive order, may exclude or limit the participation of any class of otherwise eligible [~~inmates~~] **incarcerated individuals** from participation in a temporary release program. Nothing in this paragraph shall be construed to affect either the validity of any executive order previously issued limiting the participation of otherwise eligible [~~inmates~~] **incarcerated individuals** in such program or the authority of the commissioner to impose appropriate regulations limiting such participation.

§ 228-c. Subdivisions 3, 4, 5, 6, 7, 8 and 10 of section 851 of the correction law, subdivision 3 as added by chapter 60 of the laws of 1994, subdivisions 4, 5, 6, 7, 8 and 10 as amended by chapter 691 of the laws of 1977 and paragraph (a) of subdivision 6 as amended by chapter 107 of the laws of 1983, are amended to read as follows:

3. "Work release program" means a program under which eligible [~~inmates~~] **incarcerated individuals** may be granted the privilege of leaving the premises of an institution for a period not exceeding fourteen hours in any day for the purpose of on-the-job training or employment, or for any matter necessary to the furtherance of any such purposes. No person shall be released into a work release program unless prior to release such person has a reasonable assurance of a job training program or employment. If after release, such person ceases to be employed or ceases to participate in the training program, the [~~inmate's~~] **incarcerated individual's** privilege to participate in such work release program may be revoked in accordance with rules and regulations promulgated by the commissioner.

4. "Furlough program" means a program under which eligible [~~inmates~~] **incarcerated individuals** may be granted the privilege of leaving the premises of an institution for a period not exceeding seven days for the purpose of seeking employment, maintaining family ties, solving family problems, seeking post-release housing, attending a short-term educational or vocational training course, or for any matter necessary to the furtherance of any such purposes.

5. "Community services program" means a program under which eligible [~~inmates~~] **incarcerated individuals** may be granted the privilege of leaving the premises of an institution for a period not exceeding fourteen hours in any day for the purpose of participation in religious services, volunteer work, or athletic events, or for any matter necessary to the furtherance of any such purposes.

6. "Leave of absence" means a privilege granted to an [~~inmate~~] **incarcerated individual**, who need not be an "eligible [~~inmate~~] **incarcerated individual**," to leave the premises of an institution for the period of time necessary:

(a) to visit his or her spouse, child, brother, sister, grandchild, parent, grandparent or ancestral aunt or uncle during his or her last illness if death appears to be imminent;

(b) to attend the funeral of such individual;

(c) to undergo surgery or to receive medical or dental treatment not available in the correctional institution only if deemed absolutely necessary to the health and well-being of the [~~inmate~~] **incarcerated individual** and whose approval is granted by the commissioner or his **or her** designated representative.

7. "Educational leave" means a privilege granted to an eligible [~~inmate~~] **incarcerated individual** to leave the premises of an institution for a period not exceeding fourteen hours in any day for the purpose of education or vocational training, or for any matter necessary to the furtherance of any such purposes.

8. "Industrial training leave" means a privilege granted to an eligible [~~inmate~~] **incarcerated individual** to leave the premises of an institution for a period not exceeding fourteen hours in any day for the purpose of participating in an industrial training program, or for any matter necessary to the furtherance of any such purpose.

10. "Extended bounds of confinement" means the area in which an [~~inmate~~] **incarcerated individual** participating in a temporary release program may travel, the routes he or she is permitted to use, the places he or she is authorized to visit, and the hours, days, or specially defined period during which he or she is permitted to be absent from the premises of the institution.

§ 228-d. Subdivisions 2, 3 and 4 of section 851 of the correction law, as added by chapter 472 of the laws of 1969, are amended to read as follows:

2. "Eligible [~~inmate~~] **incarcerated individual**" means a person confined in an institution where a work release program has been established who is eligible for release on parole or who will become eligible for release on parole within one year.

3. "Work release program" means a program under which eligible [~~inmates~~] **incarcerated individual** may be granted the privilege of leaving the premises of an institution for the purpose of education, on-the-job training or employment.

4. "Extended bounds of confinement" means the area in which an [~~inmate~~] **incarcerated individual** participating in a work release program may travel, the routes he **or she** is permitted to use, the places he **or she** is authorized to visit, and the hours, not exceeding fourteen hours in any day, he **or she** is permitted to be absent from the premises of the institution.

§ 229. Subdivisions 1, 3, 4 and 5 of section 852 of the correction law, subdivisions 1, 3 and 4 as amended by chapter 691 of the laws of 1977 and subdivision 5 as amended by section 44 of subpart B of part C of chapter 62 of the laws of 2011, are amended to read as follows:

1. The commissioner, guided by consideration for the safety of the community and the welfare of the [~~inmate~~] **incarcerated individual**, shall review and evaluate all existing rules, regulations and directives relating to current temporary release programs and consistent with the provisions of this article for the administration of temporary release programs shall by January first, nineteen hundred seventy-eight promulgate new rules and regulations for the various forms of temporary release. Such rules and regulations shall reflect the purposes of the different programs and shall include but not be limited to selection criteria, supervision and procedures for the disposition of each application.

3. Work release programs may be established only at institutions classified by the commissioner as work release facilities. Educational release programs may be established only at those educational institutions which shall maintain attendance records for participating [~~inmates~~] **incarcerated individuals**.

4. The commissioner shall designate in the rules and regulations of the department appropriate employees or an appropriate unit of the department to be responsible for (a) securing education, on-the-job training and employment opportunities for [~~inmates~~] **incarcerated individuals** who are eligible to participate in a work release program, and (b) assisting such [~~inmates~~] **incarcerated individuals** in such other manner as necessary or desirable to assure the success of the program.

5. All [~~inmates~~] **incarcerated individuals** participating in temporary release programs shall be assigned to parole officers for supervision. As part of the parole officer's supervisory functions he or she shall be required to provide reports every two months on each [~~inmate~~] **incarcerated individual** under his or her supervision. Such reports shall include but not be limited to:

(a) an evaluation of the individual's participation in such program;

(b) a statement of any problems and the manner in which such problems were resolved relative to an individual's participation in such programs; and

(c) a recommendation with respect to the individual's continued participation in the program.

§ 229-a. Subdivision 2 of section 852 of the correction law, as amended by section 45 of subpart B of part C of chapter 62 of the laws of 2011, is amended to read as follows:

2. The department shall be responsible for securing appropriate education, on-the-job training and employment opportunities for eligible [~~inmates~~] **incarcerated individuals** and shall supervise [~~inmates~~] **incarcerated individuals** during their participation in work release programs outside the premises of institutions.

§ 230. Subdivisions (a), (b), (e) and (f) of section 853 of the correction law, as amended by chapter 757 of the laws of 1981, are amended to read as follows:

(a) number of [~~inmate~~] **incarcerated individual** participants in each temporary release program;

(b) number of [~~inmates~~] **incarcerated individuals** participating in temporary release for whom written approval of the commissioner was required pursuant to subdivision two of section eight hundred fifty-one of this chapter;

(e) number of [~~inmates~~] **incarcerated individuals** arrested;

(f) [~~inmates~~] **incarcerated individuals** involuntarily returned for violations by institution;

§ 231. Section 855 of the correction law, as amended by chapter 691 of the laws of 1977, subdivision 6 as amended by section 47 of subpart B of part C of chapter 62 of the laws of 2011, is amended to read as follows:

§ 855. Procedure for temporary release of [~~inmates~~] **incarcerated individuals**. 1. A person confined in an institution designated for the conduct of work release programs who is an eligible [~~inmate~~] **incarcerated individual**, may make application to the temporary release committee of the institution for permission to participate in a work release program.

2. Any eligible [~~inmate~~] **incarcerated individual** may make application to the temporary release committee for participation in a furlough program or community services program, or for an industrial training leave or educational leave.

3. Any [~~inmate~~] **incarcerated individual** may make application to the temporary release committee for a leave of absence provided, however, that in exigent circumstances such application may be made directly to the superintendent of the institution and the superintendent may exercise all of the powers of the temporary release committee subject, however, to any limitation or requirement set forth in the rules and regulations of the department and subject further to the discretion of the commissioner. All leave of absences provided in exigent circumstances shall state the reasons for approval or disapproval of the application and shall be included in the [~~inmate's~~] **incarcerated individual's** institutional parole file.

4. If the temporary release committee determines that a temporary release program for the applicant is consistent with the safety of the community and the welfare of the applicant, and is consistent with rules and regulations of the department, the committee, with the assistance of the employees or unit designated by the commissioner pursuant to subdivision four of section eight hundred fifty-two of this article, shall develop a suitable program of temporary release for the applicant. Consistent with these provisions, any educational leave program shall consider the scheduling of classes to insure a reduction of release time not spent in educational pursuits.

5. The committee shall then prepare a memorandum setting forth the details of the temporary release program including the extended bounds of confinement and any other matter required by rules or regulations of the department. Such memorandum shall be transmitted to the superintendent who may approve or reject the program, subject to rules and regulations promulgated by the commissioner. If the superintendent approves the program, he **or she** shall indicate such approval in writing by signing the memorandum. If the superintendent rejects the program, he **or she** shall state his **or her** reasons in writing and a copy of his **or her** statement shall be given to the [~~inmate~~] **incarcerated individual** and to the commissioner and such decision shall be reviewed by the commissioner. If the commissioner rejects the program, he **or she** shall state his **or her** reasons in writing. A copy of such statement shall be filed in the [~~inmate's~~] **incarcerated individual's** institutional file.

6. In order for an applicant to accept a program of temporary release, such [~~inmate~~] **incarcerated individual** shall agree to be bound by all the terms and conditions thereof and shall indicate such agreement by signing the memorandum of the program immediately below a statement reading as follows: "I accept the foregoing program and agree to be bound by the terms and conditions thereof. I understand that I will be under the supervision of the state department of corrections and community supervision while I am away from the premises of the institution and I agree

to comply with the instructions of any parole officer or other employee of the department assigned to supervise me. I understand that my participation in the program is a privilege which may be revoked at any time, and that if I violate any provision of the program I may be taken into custody by any peace officer or police officer and I will be subject to disciplinary procedures. I further understand that if I intentionally fail to return to the institution at or before the time specified in the memorandum I may be found guilty of a felony." Such agreement shall be placed on file at the institution from which such temporary release is granted.

7. After approving the program of temporary release, the superintendent may then permit an [~~inmate~~] **incarcerated individual** who has accepted such program to go outside the premises of the institution within the limits of the extended bounds of confinement described in the memorandum; provided, however, that no such permission shall become effective in the case of a work release or furlough program prior to the time at which the person to be released becomes an eligible [~~inmate~~] **incarcerated individual**.

8. At least three days before releasing an [~~inmate~~] **incarcerated individual** on a temporary release program, the superintendent shall notify in writing the sheriff or chief of police of the community into which the [~~inmate~~] **incarcerated individual** is to be released.

9. Participation in a temporary release program shall be a privilege. Nothing contained in this article may be construed to confer upon any [~~inmate~~] **incarcerated individual** the right to participate, or to continue to participate, in a temporary release program. The superintendent of the institution may at any time, and upon recommendation of the temporary release committee or of the commissioner or of the chairman of the state board of parole or his **or her** designee shall, revoke any [~~inmate's~~] **incarcerated individual's** privilege to participate in a program of temporary release in accordance with regulations promulgated by the commissioner.

§ 231-a. The section heading, subdivisions 1, 5 and 6 of section 853 of the correction law, as added by chapter 472 of the laws of 1969, are amended to read as follows:

Procedure for release of eligible [~~inmates~~] **incarcerated individuals**.

1. A person confined in an institution designated for the conduct of work release programs who is, or who within ninety days will become, an eligible [~~inmate~~] **incarcerated individual**, may make application to the work release committee of the institution for permission to participate in a work release program.

5. After approving the program of work release, the warden may then permit an eligible [~~inmate~~] **incarcerated individual** who has accepted such program to go outside the premises of the institution within the limits of the extended bounds of confinement described in the memorandum.

6. Participation in a work release program shall be a privilege. Nothing contained in this article may be construed to confer upon any [~~inmate~~] **incarcerated individual** the right to participate, or to continue to participate, in a work release program. The warden of the institution may at any time, and upon recommendation of the work release committee or of the chairman of the state board of parole or his **or her** designee shall, revoke any [~~inmate's~~] **incarcerated individual's** privilege to participate in a program of work release.

§ 232. Section 856 of the correction law, as amended by chapter 691 of the laws of 1977, subdivisions 1 and 4 as amended by chapter 843 of the laws of 1980, is amended to read as follows:

§ 856. Conduct of [~~inmates~~] **incarcerated individuals** participating in a temporary release program. 1. An [~~inmate~~] **incarcerated individual** who is permitted to leave the premises of an institution to participate in a temporary release program shall have on his or her person a card identifying him or her as a participant in a temporary release program as signed by the superintendent of the institution at all times while outside the premises of the institution and shall exhibit such card to any peace officer or police officer upon request of such officer. The commissioner may, by regulation, require such information, including effective dates, to be included in such card as he **or she** shall deem necessary and proper.

2. If the [~~inmate~~] **incarcerated individual** violates any provision of the program, or any rule or regulation promulgated by the commissioner for conduct of [~~inmates~~] **incarcerated individuals** participating in temporary release programs, such [~~inmate~~] **incarcerated individual** shall be subject to disciplinary measures to the same extent as if he or she violated a rule or regulation of the commissioner for conduct of [~~inmates~~] **incarcerated individuals** within the premises of the institution. The failure of an [~~inmate~~] **incarcerated individual** to voluntarily return to the institution of his **or her** confinement more than ten hours after his **or her** prescribed time of return shall create a rebuttable presumption that the failure to return was intentional. Any [~~inmate~~] **incarcerated individual** who is found to have intentionally failed to return pursuant to this subdivision shall be an absconder in violation of his **or her** temporary release program and will not be an eligible [~~inmate~~] **incarcerated individual** as defined in subdivision two of section eight hundred fifty-one of this chapter. The creation of such rebuttable presumption shall not be admissible in any court of law as evidence of the commission of any crime defined in the penal law. A full report of any such violation, a summary of the facts and findings of the disciplinary hearing and disciplinary measures taken, shall be made available to the board for the [~~inmate's~~] **incarcerated individual's** next scheduled appearance before the state board of parole including any defense or explanation offered by the [~~inmate~~] **incarcerated individual** in response at such hearing.

3. The provisions of this chapter relating to good behavior allowances shall apply to behavior of [~~inmates~~] **incarcerated individuals** while participating in temporary release programs outside the premises of institutions, and such allowances may be granted, withheld, forfeited or cancelled in whole or in part for behavior outside the premises of an institution to the same extent and in the same manner as is provided for behavior of [~~inmates~~] **incarcerated individuals** within the premises of institutions.

4. An [~~inmate~~] **incarcerated individual** who is in violation of the provisions of his or her temporary release program may be taken into custody by any peace officer or police officer and, in such event, the [~~inmate~~] **incarcerated individual** shall be returned forthwith to either the institution that released him or her, or to the nearest secure facility where greater security is indicated. In any case where the institution is in a county other than the one in which the [~~inmate~~] **incarcerated individual** is apprehended, the officer may deliver the [~~inmate~~] **incarcerated individual** to the nearest institution, jail or lockup and it shall be the duty of the person in charge of said facility

to hold such [~~inmate~~] incarcerated individual securely until such time as he or she is delivered into the custody of an officer of the institution from which he or she was released. Upon delivering the [~~inmate~~] incarcerated individual to an institution, jail or lockup, other than the one from which the [~~inmate~~] incarcerated individual was released, the officer who apprehended the [~~inmate~~] incarcerated individual shall forthwith notify the superintendent of the institution from which the [~~inmate~~] incarcerated individual was released and it shall be the duty of the superintendent to effect the expeditious return of the [~~inmate~~] incarcerated individual to the institution.

5. Upon the conclusion or termination of a temporary release program, a full report of the [~~inmate's~~] incarcerated individual's performance in such program shall be prepared in accordance with regulations of the commissioner. Such report shall include but not be limited to: adjustment to release, supervision contacts, statement of any violations of the terms and conditions of release and of any disciplinary actions taken, and an assessment of the [~~inmate's~~] incarcerated individual's suitability for parole. Such report shall be made available to the state board of parole for the [~~inmate's~~] incarcerated individual's next scheduled appearance before such board.

§ 232-a. Section 854 of the correction law, as added by chapter 472 of the laws of 1969, subdivision 2 as amended by section 46 of subpart B of part C of section 62 of the laws of 2011, is amended to read as follows:

§ 854. Conduct of [~~inmates~~] incarcerated individuals participating in work release program. 1. An [~~inmate~~] incarcerated individual who is permitted to leave the premises of an institution to participate in a program of work release shall have on his or her person a copy of the memorandum of that program as signed by the warden of the institution at all times while outside the premises of the institution and shall exhibit such copy to any peace officer upon request of the officer.

2. If the [~~inmate~~] incarcerated individual violates any provision of the program, or any rule or regulation promulgated by the commissioner of corrections and community supervision for conduct of [~~inmates~~] incarcerated individuals participating in work release programs, he or she shall be subject to disciplinary measures to the same extent as if he or she violated a rule or regulation of the commissioner for conduct of [~~inmates~~] incarcerated individuals within the premises of the institution.

3. The provisions of this chapter relating to good behavior allowances shall apply to behavior of [~~inmates~~] incarcerated individuals while participating in work release programs outside the premises of institutions, and such allowances may be granted, withheld, forfeited or cancelled in whole or in part for behavior outside the premises of an institution to the same extent and in the same manner as is provided for behavior of [~~inmates~~] incarcerated individuals within the premises of institutions.

4. An [~~inmate~~] incarcerated individual who is in violation of the provisions of his or her work release program may be taken into custody by any peace officer and, in such event, the [~~inmate~~] incarcerated individual shall be returned forthwith to the institution that released him or her. In any case where the institution is in a county other than the one in which the [~~inmate~~] incarcerated individual is apprehended, the officer may deliver the [~~inmate~~] incarcerated individual to the nearest institution, jail or lockup and it shall be the duty of the person in charge of said facility to hold such [~~inmate~~] incarcerated individual securely until such time as he or she is delivered into custody of an

officer of the institution from which he **or she** was released. Upon delivering the [~~inmate~~] **incarcerated individual** to an institution, jail or lockup, other than the one from which he **or she** was released, the peace officer who apprehended the [~~inmate~~] **incarcerated individual** shall forthwith notify the warden of the institution from which the [~~inmate~~] **incarcerated individual** was released and it shall be the duty of the warden to effect the expeditious return of the [~~inmate~~] **incarcerated individual** to the institution.

§ 233. Section 858 of the correction law, as added by chapter 472 of the laws of 1969 and as renumbered by chapter 691 of the laws of 1977, is amended to read as follows:

§ 858. Application of labor laws. The laws of the state and its political subdivisions with respect to employment conditions shall apply to [~~inmates~~] **incarcerated individuals** participating in work release programs.

§ 234. Section 859 of the correction law, as added by chapter 472 of the laws of 1969 and as renumbered by chapter 691 of the laws of 1977, is amended to read as follows:

§ 859. When employment prohibited. No employment under a work release program may be approved or continued if (a) such employment results in the displacement of employed workers, or is applied in skills, crafts or trades in which there is a surplus of available labor in the locality, or (b) the rates of pay and other conditions of employment are not at least equal to those paid or provided for work of similar nature in the locality in which the work is to be performed, or (c) there is any labor strike or lockout in the establishment in which the [~~inmate~~] **incarcerated individual** is employed.

§ 235. Section 860 of the correction law, as added by chapter 472 of the laws of 1969 and as renumbered by chapter 691 of the laws of 1977, subdivision 4 as added and subdivision 5 as renumbered by chapter 233 of the laws of 1985, is amended to read as follows:

§ 860. Disposition of earnings. The earnings of an [~~inmate~~] **incarcerated individual** participating in a work release program, less any payroll deductions required or authorized by law, shall be turned over to the warden who shall deposit such receipts as [~~inmates'~~] **incarcerated individuals'** funds pursuant to section one hundred sixteen of this chapter. Such receipts shall not be subject to attachment or garnishment in the hands of the warden. The commissioner of correction may authorize the warden to make disbursements of such receipts, and such receipts may be disbursed, for any or all of the following purposes:

1. Appropriate and reasonable costs related to the [~~inmate's~~] **incarcerated individual's** participation in the work release program;

2. Support of the [~~inmate's~~] **incarcerated individual's** dependents;

3. Payment of fines imposed by any court;

4. Payment of any court ordered restitution or reparation to the victim of the [~~inmate's~~] **incarcerated individual's** crime.

5. Purchases by the [~~inmate~~] **incarcerated individual** from the commissary of the institution.

The balance of such receipts, if any, after disbursements for the foregoing purposes shall be paid to the [~~inmate~~] **incarcerated individual** upon termination of his **or her** imprisonment.

§ 236. Section 861 of the correction law, as added by chapter 472 of the laws of 1969 and as renumbered by chapter 691 of the laws of 1977, is amended to read as follows:

§ 861. [~~Inmate~~] **Incarcerated individual** not agent of state. An [~~inmate~~] **incarcerated individual** participating in a work release program

shall not, merely by reason of such participation, be deemed an agent, employee or servant of the state while outside the premises of an institution pursuant to the terms of a work release program.

§ 237. Subdivisions 1 and 2 of section 865 of the correction law, subdivision 1 as amended by section 2 of part KK of chapter 55 of the laws of 2019 and subdivision 2 as amended by section 2 of part L of chapter 56 of the laws of 2009, are amended to read as follows:

1. "Eligible [~~inmate~~] **incarcerated individual**" means a person sentenced to an indeterminate term of imprisonment who will become eligible for release on parole within three years or sentenced to a determinate term of imprisonment who will become eligible for conditional release within three years, who has not reached the age of fifty years, who has not previously been convicted of a violent felony as defined in article seventy of the penal law, or a felony in any other jurisdiction which includes all of the essential elements of any such violent felony, upon which an indeterminate or determinate term of imprisonment was imposed and who was between the ages of sixteen and fifty years at the time of commission of the crime upon which his or her present sentence was based. Notwithstanding the foregoing, no person who is convicted of any of the following crimes shall be deemed eligible to participate in this program: (a) a violent felony offense as defined in article seventy of the penal law; provided, however, that a person who is convicted of burglary in the second degree as defined in subdivision two of section 140.25 of the penal law, or robbery in the second degree as defined in subdivision one of section 160.10 of the penal law, or an attempt thereof, is eligible to participate, (b) an A-I felony offense, (c) any homicide offense as defined in article one hundred twenty-five of the penal law, (d) any felony sex offense as defined in article one hundred thirty of the penal law and (e) any escape or absconding offense as defined in article two hundred five of the penal law.

2. "Shock incarceration program" means a program pursuant to which eligible [~~inmates~~] **incarcerated individuals** are selected to participate in the program and serve a period of six months in a shock incarceration facility, which shall provide rigorous physical activity, intensive regimentation and discipline and rehabilitation therapy and programming. Such [~~inmates~~] **incarcerated individuals** may be selected either: (i) at a reception center; or (ii) at a general confinement facility when the otherwise eligible [~~inmate~~] **incarcerated individual** then becomes eligible for release on parole within three years in the case of an indeterminate term of imprisonment, or then becomes eligible for conditional release within three years in the case of a determinate term of imprisonment.

§ 238. Subdivisions 1 and 2 of section 866 of the correction law, subdivision 1 as added by chapter 261 of the laws of 1987 and subdivision 2 as amended by section 3 of part L of chapter 56 of the laws of 2009, are amended to read as follows:

1. The commissioner, guided by consideration for the safety of the community and the welfare of the [~~inmate~~] **incarcerated individual**, shall promulgate rules and regulations for the shock incarceration program. Such rules and regulations shall reflect the purpose of the program and shall include, but not be limited to, selection criteria, [~~inmate~~] **incarcerated individual** discipline, programming and supervision, and program structure and administration.

2. The commissioner shall appoint or cause to be appointed a shock incarceration selection committee at one or more designated correctional facilities, which shall meet on a regularly scheduled basis to review

all eligible [~~inmates~~] **incarcerated individuals** transferred to such facility for screening and all applications for the shock incarceration program.

§ 239. Section 867 of the correction law, as added by chapter 261 of the laws of 1987, subdivision 1 as amended by chapter 55 of the laws of 1992, subdivision 2-a as added by section 2 of part AAA of chapter 56 of the laws of 2009 and subdivision 4 as amended by chapter 738 of the laws of 2004, is amended to read as follows:

§ 867. Procedure for selection of participants in shock incarceration program. 1. An eligible [~~inmate~~] **incarcerated individual** may make an application to the shock incarceration screening committee for permission to participate in the shock incarceration program.

2. If the shock incarceration screening committee determines that an [~~inmate's~~] **incarcerated individual's** participation in the shock incarceration program is consistent with the safety of the community, the welfare of the applicant and the rules and regulations of the department, the committee shall forward the application to the commissioner or his designee for approval or disapproval.

2-a. Subdivisions one and two of this section shall apply to a judicially sentenced shock incarceration [~~inmate~~] **incarcerated individual** only to the extent that the screening committee may determine whether the [~~inmate~~] **incarcerated individual** has a medical or mental health condition that will render the [~~inmate~~] **incarcerated individual** unable to successfully complete the shock incarceration program, and the facility in which the [~~inmate~~] **incarcerated individual** will participate in such program. Notwithstanding subdivision five of this section, an [~~inmate~~] **incarcerated individual** sentenced to shock incarceration shall promptly commence participation in the program when such [~~inmate~~] **incarcerated individual** is an eligible [~~inmate~~] **incarcerated individual** pursuant to subdivision one of section eight hundred sixty-five of this article.

3. Applicants cannot participate in the shock incarceration program unless they agree to be bound by all the terms and conditions thereof and indicate such agreement by signing the memorandum of the program immediately below a statement reading as follows:

"I accept the foregoing program and agree to be bound by the terms and conditions thereof. I understand that my participation in the program is a privilege that may be revoked at any time at the sole discretion of the commissioner. I understand that I must successfully complete the entire program to obtain a certificate of earned eligibility upon the completion of said program, and in the event that I do not successfully complete said program, for any reason, I will be transferred to a nonshock incarceration correctional facility to continue service of my sentence."

4. An [~~inmate~~] **incarcerated individual** who has successfully completed a shock incarceration program shall be eligible to receive such a certificate of earned eligibility pursuant to section eight hundred five of this chapter. Notwithstanding any other provision of law, an [~~inmate~~] **incarcerated individual** sentenced to a determinate sentence of imprisonment who has successfully completed a shock incarceration program shall be eligible to receive such a certificate of earned eligibility and shall be immediately eligible to be conditionally released.

5. Participation in the shock incarceration program shall be a privilege. Nothing contained in this article may be construed to confer upon any [~~inmate~~] **incarcerated individual** the right to participate or continue to participate therein.

§ 240. Paragraph (h) of subdivision 5 of section 220.10 of the criminal procedure law, as added by chapter 92 of the laws of 1996, is amended to read as follows:

(h) Where the indictment charges the class E felony offense of aggravated harassment of an employee by an [~~inmate~~] **incarcerated individual** as defined in section 240.32 of the penal law, then a plea of guilty must include at least a plea of guilty to a class E felony.

§ 241. The closing paragraph of subdivision 5 of section 420.10 of the criminal procedure law, as separately amended by chapters 233 and 506 of the laws of 1985, is amended to read as follows:

For the purposes of this subdivision, the court shall not determine that the defendant is unable to pay the fine, restitution or reparation ordered solely because of such defendant's incarceration but shall consider all the defendant's sources of income including, but not limited to, moneys in the possession of an [~~inmate~~] **incarcerated individual** at the time of his **or her** admission into such facility, funds earned by him **or her** in a work release program as defined in subdivision four of section one hundred fifty of the correction law, funds earned by him **or her** as provided for in section one hundred eighty-seven of the correction law and any other funds received by him **or her** or on his **or her** behalf and deposited with the superintendent or the municipal official of the facility where the person is confined.

§ 242. Subdivision 1 of section 440.50 of the criminal procedure law, as amended by chapter 193 of the laws of 2017, is amended to read as follows:

1. Upon the request of a victim of a crime, or in any event in all cases in which the final disposition includes a conviction of a violent felony offense as defined in section 70.02 of the penal law, a felony defined in article one hundred twenty-five of such law, or a felony defined in article one hundred thirty of such law, the district attorney shall, within sixty days of the final disposition of the case, inform the victim by letter of such final disposition. If such final disposition results in the commitment of the defendant to the custody of the department of corrections and community supervision for an indeterminate sentence, the notice provided to the crime victim shall also inform the victim of his or her right to submit a written, audiotaped, or videotaped victim impact statement to the department of corrections and community supervision or to meet personally with a member of the state board of parole at a time and place separate from the personal interview between a member or members of the board and the [~~inmate~~] **incarcerated individual** and make such a statement, subject to procedures and limitations contained in rules of the board, both pursuant to subdivision two of section two hundred fifty-nine-i of the executive law. A copy of such letter shall be provided to the board of parole. The right of the victim under this subdivision to submit a written victim impact statement or to meet personally with a member of the state board of parole applies to each personal interview between a member or members of the board and the [~~inmate~~] **incarcerated individual**.

§ 243. Article VIII and paragraph 5 of article IX of section 580.20 of the criminal procedure law are amended to read as follows:

ARTICLE VIII

This agreement shall enter into full force and effect as to a party state when such state has enacted the same into law. A state party to this agreement may withdraw herefrom by enacting a statute repealing the same. However, the withdrawal of any state shall not affect the status of any proceedings already initiated by [~~inmates~~] **incarcerated individ-**

uals or by state officers at the time such withdrawal takes effect, nor shall it affect their rights in respect thereof.

5. It shall be lawful and mandatory upon the warden or other official in charge of a penal or correctional institution in this state to give over the person of any [~~inmate~~] incarcerated individual thereof whenever so required by the operation of the agreement on detainers.

§ 244. Section 2222-a of the surrogate's court procedure act, as amended by section 167 of subpart B of part C of chapter 62 of the laws of 2011, is amended to read as follows:

§ 2222-a. Notice of legacy or distributive share payable to [~~inmate~~] incarcerated individual or prisoner

Where the legatee, distributee or beneficiary is an [~~inmate~~] incarcerated individual serving a sentence of imprisonment with the state department of corrections and community supervision or a prisoner confined at a local correctional facility, the court shall give prompt written notice to the office of victim services, and at the same time direct that no payment be made to such [~~inmate~~] incarcerated individual or prisoner for a period of thirty days following the date of entry of the order containing such direction.

§ 245. Section 85 of the New York city criminal court act is amended to read as follows:

§ 85. Segregation of certain women. Whenever any woman is accused or convicted before the court of any crime arising out of an industrial dispute, such woman shall be segregated from the other [~~inmates~~] incarcerated individuals thereof in any jail, prison or institution to which she may be committed.

§ 246. Subdivision 9 of section 10 of the court of claims act, as amended by section 67 of subpart B of part C of chapter 62 of the laws of 2011, is amended to read as follows:

9. A claim of any [~~inmate~~] incarcerated individual in the custody of the department of corrections and community supervision for recovery of damages for injury to or loss of personal property may not be filed unless and until the [~~inmate~~] incarcerated individual has exhausted the personal property claims administrative remedy, established for [~~inmates~~] incarcerated individuals by the department. Such claim must be filed and served within one hundred twenty days after the date on which the [~~inmate~~] incarcerated individual has exhausted such remedy.

§ 247. Subdivision 6-a of section 20 of the court of claims act, as amended by section 68 of subpart B of part C of chapter 62 of the laws of 2011, is amended to read as follows:

6-a. Notwithstanding the provisions of subdivisions five, five-a and six of this section, in any case where a judgment or any part thereof is to be paid to an [~~inmate~~] incarcerated individual serving a sentence of imprisonment with the state department of corrections and community supervision or to a prisoner confined at a local correctional facility, the comptroller shall give written notice, if required pursuant to subdivision two of section six hundred thirty-two-a of the executive law, to the office of victim services that such judgment shall be paid thirty days after the date of such notice.

§ 248. Section 20-a of the court of claims act, as amended by section 69 of subpart B of part C of chapter 62 of the laws of 2011, is amended to read as follows:

§ 20-a. Settlement of claims. Notwithstanding any inconsistent provision of this act or of the state finance law, the comptroller shall examine, audit, and certify for payment the settlement of any claim filed in the court of claims for injuries to personal property, real

property, or for personal injuries caused by the tort of an officer or employee of the state while acting as such officer or employee, provided that a stipulation of settlement executed by the parties shall have been approved by order of the court. No such stipulation shall be executed on behalf of the state without, after consultation with the director of the budget, the approval of the head of the department or agency having supervision of the officer or employee alleged to have caused the injuries and of the attorney general. The attorney general shall cause a review to be made within the department of law of all cases filed in the court of claims to determine which cases are appropriate for possible settlement. Payment of any claim made pursuant to the approval of a settlement by the court shall be made from the funds appropriated for the purpose of payment of judgments against the state pursuant to section twenty of this act. In any case where payment is to be made to an [~~inmate~~] **incarcerated individual** serving a sentence of imprisonment with the state department of corrections and community supervision or to a prisoner confined at a local correctional facility, the procedures set forth in subdivision six-a of section twenty of this article shall be followed. On or before January fifteenth the comptroller, in consultation with the department of law and other agencies as may be appropriate, shall submit to the governor and the legislature an annual accounting of settlements paid pursuant to this section during the preceding and current fiscal years. Such accounting shall include, but not be limited to the number, type and amount of claims so paid, as well as an estimate of claims to be paid during the remainder of the current fiscal year and during the following fiscal year.

§ 249. Subdivision (f) of section 1101 of the civil practice law and rules, as added by section 1 of part D of chapter 412 of the laws of 1999, subparagraph (i) of paragraph 1 and paragraph 3 as amended by section 51 of subpart B of part C of chapter 62 of the laws of 2011, is amended to read as follows:

(f) Fees for [~~inmates~~] **incarcerated individuals**. 1. Notwithstanding any other provision of law to the contrary, a federal, state or local [~~inmate~~] **incarcerated individual** under sentence for conviction of a crime may seek to commence his or her action or proceeding by paying a reduced filing fee as provided in paragraph two of this subdivision. Such [~~inmate~~] **incarcerated individual** shall file the form affidavit referred to in subdivision (d) of this section along with the summons and complaint or summons with notice or third-party summons and complaint or petition or notice of petition or order to show cause. As part of such application, the [~~inmate~~] **incarcerated individual** shall indicate the name and mailing address of the facility at which he or she is confined along with the name and mailing address of any other federal, state or local facility at which he or she was confined during the preceding six month period. The case will be given an index number if applicable, or, in courts other than the supreme or county courts, any necessary filing number and the application will be submitted to a judge of the court. Upon receipt of the application, the court shall obtain from the appropriate official of the facility at which the [~~inmate~~] **incarcerated individual** is confined a certified copy of the [~~inmate's~~] **incarcerated individual's** trust fund account statement (or institutional equivalent) for the six month period preceding filing of the [~~inmate's~~] **incarcerated individual's** application. If the [~~inmate~~] **incarcerated individual** has been confined for less than six months at such facility, the court shall obtain additional information as follows:

(i) in the case of a state [~~inmate~~] **incarcerated individual** who has been transferred from another state correctional facility, the court shall obtain a trust fund account statement for the six month period from the central office of the department of corrections and community supervision in Albany; or

(ii) in the case of a state [~~inmate~~] **incarcerated individual** who is newly transferred from a federal or local correctional facility, the court shall obtain any trust fund account statement currently available from such facility. The court may, in its discretion, seek further information from the prior or current facility.

2. If the court determines that the [~~inmate~~] **incarcerated individual** has insufficient means to pay the full filing fee, the court may permit the [~~inmate~~] **incarcerated individual** to pay a reduced filing fee, the minimum of which shall not be less than fifteen dollars and the maximum of which shall not be more than fifty dollars. The court shall require an initial payment of such portion of the reduced filing fee as the [~~inmate~~] **incarcerated individual** can reasonably afford or shall authorize no initial payment of the fee if exceptional circumstances render the [~~inmate~~] **incarcerated individual** unable to pay any fee; provided however, that the difference between the amount of the reduced filing fee and the amount paid by the [~~inmate~~] **incarcerated individual** in the initial partial payment shall be assessed against the [~~inmate~~] **incarcerated individual** as an outstanding obligation to be collected either by the superintendent or the municipal official of the facility at which the [~~inmate~~] **incarcerated individual** is confined, as the case may be, in the same manner that mandatory surcharges are collected as provided for in subdivision five of section 60.35 of the penal law. The court shall notify the superintendent or the municipal official of the facility where the [~~inmate~~] **incarcerated individual** is housed of the amount of the reduced filing fee that was not directed to be paid by the [~~inmate~~] **incarcerated individual**. Thereafter, the superintendent or the municipal official shall forward to the court any fee obligations that have been collected, provided however, that:

(i) in no event shall the filing fee collected exceed the amount of fees required for the commencement of an action or proceeding; and

(ii) in no event shall an [~~inmate~~] **incarcerated individual** be prohibited from proceeding for the reason that the [~~inmate~~] **incarcerated individual** has no assets and no means by which to pay the initial partial filing fee.

3. The institution at which an [~~inmate~~] **incarcerated individual** is confined, or the central office for the department of corrections and community supervision, whichever is applicable, shall promptly provide the trust fund account statement to the [~~inmate~~] **incarcerated individual** as required by this subdivision.

4. Whenever any federal, state or local [~~inmate~~] **incarcerated individual** obtains a judgment in connection with any action or proceeding which exceeds the amount of the filing fee, paid in accordance with the provisions of this subdivision for commencing such action or proceeding, the court shall award to the prevailing [~~inmate~~] **incarcerated individual**, as a taxable disbursement, the actual amount of any fee paid to commence the action or proceeding.

5. The provisions of this subdivision shall not apply to a proceeding commenced pursuant to article seventy-eight of this chapter which alleges a failure to correctly award or certify jail time credit due an [~~inmate~~] **incarcerated individual**, in violation of section six hundred-a of the correction law and section 70.30 of the penal law.

§ 250. Section 5011 of the civil practice law and rules, as amended by section 52 of subpart B of part C of chapter 62 of the laws of 2011, is amended to read as follows:

§ 5011. Definition and content of judgment. A judgment is the determination of the rights of the parties in an action or special proceeding and may be either interlocutory or final. A judgment shall refer to, and state the result of, the verdict or decision, or recite the default upon which it is based. A judgment may direct that property be paid into court when the party would not have the benefit or use or control of such property or where special circumstances make it desirable that payment or delivery to the party entitled to it should be withheld. In any case where damages are awarded to an [~~inmate~~] **incarcerated individual** serving a sentence of imprisonment with the state department of corrections and community supervision or to a prisoner confined at a local correctional facility, the court shall give prompt written notice to the office of victim services, and at the same time shall direct that no payment be made to such [~~inmate~~] **incarcerated individual** or prisoner for a period of thirty days following the date of entry of the order containing such direction.

§ 251. Paragraph 5 of subdivision (b) of section 7002 of the civil practice law and rules, as amended by chapter 355 of the laws of 1986, is amended to read as follows:

5. in a city having a population of one million or more inhabitants, a person held as a trial [~~inmate~~] **incarcerated individual** in a city detention institution shall petition for a writ to the supreme court in the county in which the charge for which the [~~inmate~~] **incarcerated individual** is being detained is pending. Such [~~inmate~~] **incarcerated individual** may also petition for a writ to the appellate division in the department in which he is detained or to any justice of the supreme court provided that the writ shall be made returnable before a justice of the supreme court held in the county in which the charge for which the [~~inmate~~] **incarcerated individual** is being detained is pending.

§ 252. Subdivision 2 of section 61 of the civil rights law, as amended by section 54 of subpart B of part C of chapter 62 of the laws of 2011, is amended to read as follows:

2. If the petitioner stands convicted of a violent felony offense as defined in section 70.02 of the penal law or a felony defined in article one hundred twenty-five of such law or any of the following provisions of such law sections 130.25, 130.30, 130.40, 130.45, 255.25, 255.26, 255.27, article two hundred sixty-three, 135.10, 135.25, 230.05, 230.06, subdivision two of section 230.30 or 230.32, and is currently confined as an [~~inmate~~] **incarcerated individual** in any correctional facility or currently under the supervision of the department of corrections and community supervision or a county probation department as a result of such conviction, the petition shall for each such conviction specify such felony conviction, the date of such conviction or convictions, and the court in which such conviction or convictions were entered.

§ 253. Subdivision 2 of section 62 of the civil rights law, as amended by section 55 of subpart B of part C of chapter 62 of the laws of 2011, is amended to read as follows:

2. If the petition be to change the name of a person currently confined as an [~~inmate~~] **incarcerated individual** in any correctional facility or currently under the supervision of the department of corrections and community supervision or a county probation department as a result of a conviction for a violent felony offense as defined in section 70.02 of the penal law or a felony defined in article one

hundred twenty-five of such law or any of the following provisions of such law sections 130.25, 130.30, 130.40, 130.45, 255.25, 255.26, 255.27, article two hundred sixty-three, 135.10, 135.25, 230.05, 230.06, subdivision two of section 230.30 or 230.32, notice of the time and place when and where the petition will be presented shall be served, in like manner as a notice of a motion upon an attorney in an action, upon the district attorney of every county in which such person has been convicted of such felony and upon the court or courts in which the sentence for such felony was entered. Unless a shorter period of time is ordered by the court, said notice shall be served upon each such district attorney and court or courts not less than sixty days prior to the date on which such petition is noticed to be heard.

§ 254. Subdivisions 2 and 3 of section 79 of the civil rights law, subdivision 2 and paragraph (a) of subdivision 3 as amended by section 56 of subpart B of part C of chapter 62 of the laws of 2011 and subdivision 3 as amended by chapter 687 of the laws of 1973, are amended to read as follows:

2. A sentence of imprisonment in a state correctional institution for any term less than for life or a sentence of imprisonment in a state correctional institution for an indeterminate term, having a minimum of one day and a maximum of natural life shall not be deemed to suspend the right or capacity of any person so sentenced to commence and prosecute an action or proceeding in any court within this state or before a body or officer exercising judicial, quasi-judicial or administrative functions within this state; provided, however, that where at the time of the commencement and during the prosecution of such action or proceeding such person is an [~~inmate~~] **incarcerated individual** of a state correctional institution, he **or she** shall not appear at any place other than within the institution for any purpose related to such action or proceeding unless upon a subpoena issued by the court before whom such action or proceeding is pending or, where such action or proceeding is pending before a body or officer, before a judge to whom a petition for habeas corpus could be made under subdivision (b) of section seven thousand two of the civil practice law and rules upon motion of any party and upon a determination that such person's appearance is essential to the proper and just disposition of the action or proceeding. Unless the court orders otherwise, a motion for such subpoena shall be made on at least two days' notice to the commissioner of corrections and community supervision.

3. (a) Except as provided in paragraph (b) **of this subdivision**, the state shall not be liable for any expense of or related to any such action or proceeding, including but not limited to the expense of or related to transporting the [~~inmate~~] **incarcerated individual** to, or lodging or guarding him **or her** at any place other than in a state correctional institution. The department of corrections and community supervision shall not be required to perform any services related to such action or proceeding, including but not limited to transporting the [~~inmate~~] **incarcerated individual** to or lodging or guarding him at any place other than a state correctional institution unless and until the department has received payment for such services.

(b) Where the [~~inmate~~] **incarcerated individual** is permitted in accordance with any other law to proceed with the action or proceeding as a poor person the expense of transporting the [~~inmate~~] **incarcerated individual** to, or lodging or guarding him **or her** at any place other than in a state correctional institution or any other expense relating thereto shall be a state charge; provided, however, that where an [~~inmate~~]

incarcerated individual has been granted such permission and a recovery by judgment or by settlement is had in his **or her** favor, the court may direct him **or her** to pay out of the recovery all or part of any sum expended by the state.

§ 255. Subdivisions 2 and 3 of section 79-a of the civil rights law, subdivision 2 and paragraph (a) of subdivision 3 as amended by section 57 of subpart B of part C of chapter 62 of the laws of 2011 and subdivision 3 as added by chapter 687 of the laws of 1973, are amended to read as follows:

2. A sentence to imprisonment for life shall not be deemed to suspend the right or capacity of any person so sentenced to commence, prosecute or defend an action or proceeding in any court within this state or before a body or officer exercising judicial, quasi-judicial or administrative functions within this state; provided, however, that where at the time of the commencement and during the prosecution or defense of such action or proceeding such person is an [~~inmate~~] **incarcerated individual** of a state correctional institution, he or she shall not appear at any place other than within the institution for any purpose related to such action or proceeding unless upon a subpoena issued by the court before whom such action or proceeding is pending or, where such action or proceeding is pending before a body or officer, before a judge to whom a petition for habeas corpus could be made under subdivision (b) of section seven thousand two of the civil practice law and rules upon motion of any party and upon a determination that such person's appearance is essential to the proper and just disposition of the action or proceeding. Unless the court orders otherwise, a motion for such subpoena shall be made on at least two days' notice to the commissioner of corrections and community supervision.

3. (a) Except as provided in paragraph (b) **of this subdivision**, the state shall not be liable for any expense of or related to any such action or proceeding, including but not limited to the expense of or related to transporting the [~~inmate~~] **incarcerated individual** to, or lodging or guarding him or her at any place other than in a state correctional institution. The department of corrections and community supervision shall not be required to perform any services related to such action or proceeding, including but not limited to transporting the [~~inmate~~] **incarcerated individual** to or lodging or guarding him or her at any place other than a state correctional institution unless and until the department has received payment for such services.

(b) Where the [~~inmate~~] **incarcerated individual** is permitted in accordance with any other law to proceed with the action or proceeding as a poor person the expense of transporting the [~~inmate~~] **incarcerated individual** to, or lodging or guarding him **or her** at any place other than in a state correctional institution or any other expense relating thereto shall be a state charge; provided, however, that where an [~~inmate~~] **incarcerated individual** has been granted such permission and a recovery by judgment or by settlement is had in his **or her** favor, the court may direct him **or her** to pay out of the recovery all or part of any sum expended by the state.

§ 256. Intentionally omitted.

§ 257. Intentionally omitted.

§ 258. Intentionally omitted.

§ 259. Intentionally omitted.

§ 260. Subdivision 7 of section 40 of chapter 784 of the laws of 1951, constituting the New York state defense emergency act, is amended to read as follows:

7. Heads of departments in charge of institutions shall have such power with respect to health or safety of [~~inmates~~] **incarcerated individuals** thereof, including transportation of [~~inmates~~] **incarcerated individuals** to, from and between such institutions.

§ 261. Intentionally omitted.

§ 262. Intentionally omitted.

§ 263. The section heading of section 9-104 of the administrative code of the city of New York is amended to read as follows:

Transfer of [~~inmates~~] **incarcerated individuals** by commissioner of correction.

§ 264. Intentionally omitted.

§ 265. Section 9-109 of the administrative code of the city of New York is amended to read as follows:

§ 9-109 Classification. The commissioner of correction shall so far as practicable classify all felons, misdemeanants and violators of local laws under the commissioner's charge, so that the youthful or less hardened offenders shall be segregated from the older or more hardened offenders. The commissioner of correction may set apart one or more of the penal institutions for the custody of such youthful or less hardened offenders, and he or she is empowered to transfer such offenders thereto from any penal institution of the city. The commissioner of correction is empowered to classify the transferred [~~inmates~~] **incarcerated individuals**, so far as practicable, with regard to age, nature of offense, or other fact, and to separate or group such offenders according to such classification.

§ 266. Section 9-110 of the administrative code of the city of New York, as amended by local law number 170 of the city of New York for the year 2017, is amended to read as follows:

§ 9-110 Education and programming.

The commissioner of correction may establish and maintain schools or classes for the instruction and training of the [~~inmates~~] **incarcerated individuals** of any institution under the commissioner's charge, and shall offer to all [~~inmates~~] **incarcerated individuals** incarcerated for more than 10 days a minimum of five hours per day of [~~inmate~~] **incarcerated individuals** programming or education, excluding weekends and holidays. Such programming or education may be provided by the department or by another provider, and need not be offered to [~~inmates~~] **incarcerated individuals** in punitive segregation, or to [~~inmates~~] **incarcerated individuals** who may be ineligible or unavailable for such programming or education, or where offering such programming or education would not be consistent with the safety of the [~~inmate~~] **incarcerated individual**, staff or facility. Nothing in this section shall prohibit the department from offering such programming or education on the basis of incentive-based criteria developed by the department. For the purposes of this section, the term "[~~inmate~~] **incarcerated individual** programming" has the same meaning as in section 9-144.

§ 267. Subdivision a of section 9-111 of the administrative code of the city of New York is amended to read as follows:

a. The commissioner of correction is empowered to set aside in the city prison a sufficient space for the purposes of installing a library for the [~~inmates~~] **incarcerated individuals**. The commissioner of correction may do likewise in any other place in which persons are held for infractions of the law pending a determination by a court.

§ 268. The section heading and the opening paragraph of subdivision a of section 9-114 of the administrative code of the city of New York are amended to read as follows:

Discipline of [~~inmates~~] **incarcerated individuals**.

Officers in any institution in the department of correction shall use all suitable means to defend themselves, to enforce discipline, and to secure the persons of [~~inmates~~] **incarcerated individuals** who shall:

§ 269. The fourth undesignated paragraph of subdivision c of section 9-116 of the administrative code of the city of New York, as amended by local law number 43 of the city of New York for the year 2006, is amended to read as follows:

None of the foregoing provisions of this section shall apply to or govern the rotation of tours of duty of custodial officers who may be detailed or assigned to an institution wherein no [~~inmates~~] **incarcerated individuals** are detained overnight.

§ 270. Paragraph 3 of subdivision b of section 9-117 of the administrative code of the city of New York, as added by chapter 629 of the laws of 2003, is amended to read as follows:

3. Nothing in this subdivision shall limit in any way persons who are or will be employed by or under contract with the department of correction from maintaining incidental supervision and custody of an [~~inmate~~] **incarcerated individual**, where the primary duties and responsibilities of such persons and contractors consist of administering or providing programs and services to persons detained or confined in any of its facilities; nor shall anything in this subdivision be construed to limit or affect the existing authority of the mayor and commissioner to appoint non-uniformed persons, whose duties include overall security of the department of correction, to positions of authority.

§ 271. Subdivisions a and c of section 9-118 of the administrative code of the city of New York are amended to read as follows:

a. The commissioner of correction may establish a commissary in any institution under the commissioner's jurisdiction for the use and benefit of the [~~inmates~~] **incarcerated individuals** and employees thereof. All moneys received from the sales of such commissaries shall be paid over semi-monthly to the commissioner of finance without deduction. Except as otherwise provided in this subdivision, the provisions of section 12-114 of the code shall apply to every officer or employee who receives such moneys in the performance of his or her duties in any such commissary. The accounts of the commissaries shall be subject to supervision, examination and audit by the comptroller and all other powers of the comptroller in accordance with the provisions of the charter and code.

c. Any surplus remaining in the commissary fund after deducting all items described in subdivision b hereof shall be used for the general welfare of the [~~inmates~~] **incarcerated individuals** of the institutions under the jurisdiction of the department of correction. In the event such fund at any time exceeds one hundred thousand dollars, the excess shall be transferred to the general fund.

§ 272. The section heading of section 9-121 of the administrative code of the city of New York is amended to read as follows:

Records of [~~inmates~~] **incarcerated individuals** of institutions.

§ 273. Section 9-122 of the administrative code of the city of New York is amended to read as follows:

§ 9-122 Labor of prisoners in other agencies; correction officers. A correction officer or correction officers from the department of correction shall at all times direct and guard all [~~inmates~~] **incarcerated individuals** of any of the institutions in the department of correction who are performing work for any other agency.

§ 274. Subdivision b of section 9-127 of the administrative code of the city of New York, as added by local law number 54 of the city of New York for the year 2004, is amended to read as follows:

b. The department of correction shall collect, from any sentenced [~~inmate~~] **incarcerated individual** who will serve, after sentencing, ten days or more in any city correctional institution, information relating to such [~~inmate's~~] **incarcerated individual's** housing, employment and sobriety needs. The department of correction shall, with the consent of such [~~inmate~~] **incarcerated individual**, provide such information to any social service organization that is providing discharge planning services to such [~~inmate~~] **incarcerated individual** under contract with the department of correction. For the purposes of this section and sections 9-128 and 9-129 of this title, "discharge planning" shall mean the creation of a plan for post-release services and assistance with access to community-based resources and government benefits designed to promote an [~~inmate's~~] **incarcerated individual's** successful reintegration into the community.

§ 275. Section 9-127.1 of the administrative code of the city of New York, as added by local law number 167 of the city of New York for the year 2017, is amended to read as follows:

§ 9-127.1[~~.~~] Discharge planning. a. As used in this section, the following terms have the following meanings:

Discharge plan. The term "discharge plan" means a plan describing the manner in which an eligible [~~inmate~~] **incarcerated individual** will be able to receive re-entry services upon release from the custody of the department to the community. A discharge plan shall, to the extent practicable, be designed to address the unique needs of each eligible [~~inmate~~] **incarcerated individual**, including but not limited to the [~~inmate's~~] **incarcerated individual's** geographic location upon release from the custody of the department, specific social service needs if applicable, prior criminal history, and employment needs.

Eligible [~~inmate~~] **incarcerated individual**. The term "eligible [~~inmate~~] **incarcerated individual**" means a person who served a sentence of 30 days or more in the custody of the department, and who is being released from the custody of the department to the community.

Re-entry services. The term "re-entry services" means appropriate programming and support planning offered to an [~~inmate~~] **incarcerated individual** upon release from the custody of the department to the community, as well as follow-up support offered to the [~~inmate~~] **incarcerated individual** after his or her release. Such programming, support planning, and follow-up support shall include case management and connections to employment, and other social services that may be available to such [~~inmate~~] **incarcerated individual** upon his or her release.

b. Prior to the release of an eligible [~~inmate~~] **incarcerated individual** from the custody of the department, a designee of the department shall to the extent practicable develop and offer to such [~~inmate~~] **incarcerated individual** a discharge plan. Discharge plans developed pursuant to this section shall not be required when, upon release from the custody of the department, an [~~inmate~~] **incarcerated individual** is transferred to the custody of another government agency or to the custody of a hospital or healthcare provider, or where a discharge plan is otherwise required by law.

§ 276. Subdivisions a and b of section 9-128 of the administrative code of the city of New York, as added by local law number 54 of the city of New York for the year 2004, are amended to read as follows:

a. The department of correction shall make applications for government benefits available to [~~inmates~~] **incarcerated individuals** by providing such applications in areas accessible to [~~inmates~~] **incarcerated individuals** in city correctional institutions.

b. The department of correction shall provide assistance with the preparation of applications for government benefits and identification to sentenced [~~inmates~~] **incarcerated individuals** who will serve, after sentencing, thirty days or more in any city correctional institution and who receive discharge planning services from the department of correction or any social services organization under contract with the department of correction, and, in its discretion, to any other [~~inmate~~] **incarcerated individual** who may benefit from such assistance.

§ 277. Section 9-129 of the administrative code of the city of New York, as added by local law number 54 of the city of New York for the year 2004, is amended to read as follows:

§ 9-129 Reporting. The commissioner of correction shall submit a report to the mayor and the council by October first of each year regarding implementation of sections 9-127 and 9-128 of this title and other discharge planning efforts, and, beginning October first, two thousand eight and annually thereafter, regarding recidivism among [~~inmates~~] **incarcerated individuals** receiving discharge planning services from the department of correction or any social services organization under contract with the department of correction.

§ 278. Section 9-130 of the administrative code of the city of New York, as added by local law number 33 of the city of New York for the year 2016, paragraph 23 as amended and paragraph 24 of subdivision c as added by local law number 145 for the year of 2018, is amended to read as follows:

§ 9-130 Jail data reporting.

a. Definitions. For purposes of this section, the following terms have the following meanings:

Adolescent. The term "adolescent" means an [~~inmate~~] **incarcerated individual** 16 or 17 years of age.

Adult. The term "adult" means an [~~inmate~~] **incarcerated individual** 22 years of age or older.

Assault. The term "assault" means any action taken with intent to cause physical injury to another person.

Department. The term "department" means the New York city department of correction.

Hospital. The term "hospital" includes any hospital setting, whether a hospital outside of the department's jurisdiction or a correction unit operated by the department within a hospital.

Serious injury. The term "serious injury" means a physical injury that (i) creates a substantial risk of death or disfigurement; (ii) is a loss or impairment of a bodily organ; (iii) is a fracture or break to a bone other than fingers and toes; or (iv) is an injury defined as serious by a physician.

Sexual abuse. The term "sexual abuse" has the same meaning as set forth in section 115.6 of title 28 of the code of federal regulations, or successor regulation, promulgated pursuant to the federal prison rape elimination act of 2003.

Staff. The term "staff" means anyone other than an [~~inmate~~] **incarcerated individual** who works at a facility operated by the department.

Young adult. The term "young adult" means an [~~inmate~~] **incarcerated individual** 18 to 21 years of age.

Use of force A. The term "use of force A" means a use of force by staff on an [~~inmate~~] **incarcerated individual** resulting in an injury that requires medical treatment beyond the prescription of over-the-counter analgesics or the administration of minor first aid, including those uses of force resulting in one or more of the following: (i) multiple abrasions and/or contusions; (ii) chipped or cracked tooth; (iii) loss of tooth; (iv) laceration; (v) puncture; (vi) fracture; (vii) loss of consciousness, including a concussion; (viii) suture; (ix) internal injuries, including but not limited to ruptured spleen or perforated eardrum; or (x) admission to a hospital.

Use of force B. The term "use of force B" means a use of force by staff on an [~~inmate~~] **incarcerated individual** which does not require hospitalization or medical treatment beyond the prescription of over-the-counter analgesics or the administration of minor first aid, including the following: (i) a use of force resulting in a superficial bruise, scrape, scratch, or minor swelling; and (ii) the forcible use of mechanical restraints in a confrontational situation that results in no or minor injury.

Use of force C. The term "use of force C" means a use of force by staff on an [~~inmate~~] **incarcerated individual** resulting in no injury to staff or [~~inmate~~] **incarcerated individual**, including an incident where the use of oleoresin capsicum spray results in no injury, beyond irritation that can be addressed through decontamination.

b. No later than 20 days after the end of each month, the department shall post on its website a report containing the following information for the prior month, in total and by indicating the rate per 100 [~~inmates~~] **incarcerated individuals** in the custody of the department during such prior month:

1. fight infractions written against [~~inmates~~] **incarcerated individuals**;

2. assaults on [~~inmates~~] **incarcerated individuals** by [~~inmates~~] **incarcerated individuals** involving stabbings, shootings or slashings;

3. assaults on [~~inmates~~] **incarcerated individuals** by [~~inmates~~] **incarcerated individuals** in which an [~~inmate~~] **incarcerated individual** suffered a serious injury, excluding assaults involving stabbings, shootings or slashings;

4. actual incidents of use of force A;

5. actual incidents of use of force B;

6. actual incidents of use of force C;

7. assaults on staff by [~~inmates~~] **incarcerated individuals** in which staff suffered serious injury.

c. No later than 45 days after the end of each quarter ending March 31, June 30, September 30 and December 31, the department shall post on its website a report containing the following information for the prior quarter, in total and by indicating the rate per 100 [~~inmates~~] **incarcerated individuals** in the custody of the department during such prior quarter. Such report shall also disaggregate the following information by listing adults, young adults, and adolescent [~~inmates~~] **incarcerated individuals** separately:

1. fight infractions written against [~~inmates~~] **incarcerated individuals**;

2. assaults on [~~inmates~~] **incarcerated individuals** by [~~inmates~~] **incarcerated individuals** in which an [~~inmate~~] **incarcerated individual** suffered a serious injury, excluding assaults involving stabbings, shootings or slashings;

3. assaults on [~~inmates~~] incarcerated individuals by [~~inmates~~] incarcerated individuals involving stabbings;

4. assaults on [~~inmates~~] incarcerated individuals by [~~inmates~~] incarcerated individuals involving shootings;

5. assaults on [~~inmates~~] incarcerated individuals by [~~inmates~~] incarcerated individuals involving slashings;

6. total number of assaults on [~~inmates~~] incarcerated individuals by [~~inmates~~] incarcerated individuals involving stabbings, shootings or slashings;

7. total number of assaults on [~~inmates~~] incarcerated individuals by [~~inmates~~] incarcerated individuals involving stabbings, shootings or slashings in which an [~~inmate~~] incarcerated individual suffered a serious injury;

8. assaults on [~~inmates~~] incarcerated individuals by [~~inmates~~] incarcerated individuals in which an [~~inmate~~] incarcerated individual was admitted to a hospital as a result;

9. homicides of [~~inmates~~] incarcerated individuals by [~~inmates~~] incarcerated individuals;

10. attempted suicides by [~~inmates~~] incarcerated individuals;

11. suicides by [~~inmates~~] incarcerated individuals;

12. assaults on staff by [~~inmates~~] incarcerated individuals;

13. assaults on staff by [~~inmates~~] incarcerated individuals in which staff suffered serious injury;

14. assaults on staff by [~~inmates~~] incarcerated individuals in which the staff was transported to a hospital as a result;

15. incidents in which an [~~inmate~~] incarcerated individual splashed staff;

16. allegations of use of force A;

17. actual incidents of use of force A;

18. [~~inmate~~] incarcerated individual hospitalization as a result of use of force A;

19. allegations of use of force B;

20. actual incidents of use of force B;

21. allegations of use of force C;

22. actual incidents of use of force C;

23. incidents of use of force C in which chemical agents were used;

24. incidents of use of force in which staff uses any device capable of administering an electric shock.

d. Beginning July 1, 2016 and every July first thereafter, the department shall post on its website a report for the prior calendar year containing information pertaining to (1) allegations of sexual abuse of an [~~inmate~~] incarcerated individual by an [~~inmate~~] incarcerated individual; (2) substantiated incidents of sexual abuse of an [~~inmate~~] incarcerated individual by an [~~inmate~~] incarcerated individual; (3) allegations of sexual abuse of an [~~inmate~~] incarcerated individual by staff; and (4) substantiated incidents of sexual abuse of an [~~inmate~~] incarcerated individual by staff.

e. The information in subdivisions b, c and d of this section shall be compared to previous reporting periods, and shall be permanently stored on the department's website.

§ 279. Section 9-134 of the administrative code of the city of New York, as amended by local law number 90 of the city of New York for the year 2015, is amended to read as follows:

§ 9-134 Jail segregated housing statistics. a. Definitions. For the purposes of this section, the following terms have the following meanings:

Department. The term "department" means the New York city department of correction.

[~~Inmate~~] **Incarcerated individual** recreation day. The term "[~~inmate~~] **incarcerated individual** recreation day" means one day per each individual for every day in punitive segregation during each quarter.

[~~Inmate~~] **Incarcerated individual** shower day. The term "[~~inmate~~] **incarcerated individual** shower day" means one day per each individual for every day in punitive segregation during each quarter.

Mental health unit ("MHU"). The term "mental health unit" ("MHU") means any separate housing area staffed by mental health clinicians where [~~inmates~~] **incarcerated individuals** with mental illness who have been found guilty of violating department rules are housed, including but not limited to restricted housing units and clinical alternative to punitive segregation units.

Segregated housing unit. The term "segregated housing unit" means any city jail housing units in which [~~inmates~~] **incarcerated individuals** are regularly restricted to their cells more than the maximum number of hours as set forth in subdivision (b) of section 1-05 of chapter 1 of title 40 of the rules of the city of New York, or any successor rule establishing such maximum number of hours for the general population of [~~inmates~~] **incarcerated individuals** in city jails. Segregated housing units do not include mental health units. Segregated housing units include, but are not limited to, punitive segregation housing and enhanced supervision housing.

Serious injury. The term "serious injury" means a physical injury that includes: (i) a substantial risk of death or disfigurement; (ii) loss or impairment of a bodily organ; (iii) a fracture or break to a bone, excluding fingers and toes; (iv) an injury defined as serious by a physician; and (v) any additional serious injury as defined by the department.

Staff. The term "staff" means anyone, other than an [~~inmate~~] **incarcerated individual**, working at a facility operated by the department.

Use of force. The term "use of force" means an instance where staff used their hands or other parts of their body, objects, instruments, chemical agents, electric devices, firearm, or any other physical method to restrain, subdue, or compel an [~~inmate~~] **incarcerated individual** to act in a particular way, or stop acting in a particular way. This term shall not include moving, escorting, transporting, or applying restraints to a compliant [~~inmate~~] **incarcerated individual**.

Use of force A. The term "use of force A" means a use of force resulting in an injury that requires medical treatment beyond the prescription of over-the-counter analgesics or the administration of minor first aid, including, but not limited to: (i) multiple abrasions and/or contusions; (ii) chipped or cracked tooth; (iii) loss of tooth; (iv) laceration; (v) puncture; (vi) fracture; (vii) loss of consciousness, including a concussion; (viii) suture; (ix) internal injuries, including but not limited to ruptured spleen or perforated eardrum; or (x) admission to a hospital.

Use of force B. The term "use of force B" means a use of force resulting in an injury that does not require hospitalization or medical treatment beyond the prescription of over-the-counter analgesics or the administration of minor first aid.

Use of force C. The term "use of force C" means a use of force resulting in no injury to staff or [~~inmates~~] **incarcerated individuals**.

b. For the quarter beginning October first, two thousand fourteen, commencing on or before January twentieth, two thousand fifteen, and on

or before the twentieth day of each quarter thereafter, the commissioner of correction shall post a report on the department website containing information relating to the use of segregated housing units and MHU in city jails for the previous quarter. Such quarterly report shall include separate indicators, disaggregated by facility and housing category for the total number of [~~inmates~~] incarcerated individuals housed in segregated housing units and MHU. Such quarterly report shall also include the following information regarding the segregated housing unit and MHU population: (i) the number of [~~inmates~~] incarcerated individuals in each security risk group as defined by the department's classification system directive, (ii) the number of [~~inmates~~] incarcerated individuals subject to enhanced restraints, including but not limited to, shackles, waist chains and hand mittens, (iii) the number of [~~inmates~~] incarcerated individuals sent to segregated housing units and MHU during the period, (iv) the number of [~~inmates~~] incarcerated individuals sent to segregated housing units and MHU from mental observation housing areas, (v) the number of [~~inmates~~] incarcerated individuals, by highest infraction offense grade as classified by the department, (grade one, two, or three), (vi) the number of [~~inmates~~] incarcerated individuals serving punitive segregation in the following specified ranges: less than ten days, ten to thirty days, thirty-one to ninety days, ninety-one to one hundred eighty days, one hundred eighty-one to three hundred sixty-five days, and more than three hundred sixty-five days, (vii) the number of [~~inmates~~] incarcerated individuals receiving mental health services, (viii) the number of [~~inmates~~] incarcerated individuals twenty-one years of age and under, (ix) the number of [~~inmates~~] incarcerated individuals over twenty-one years of age in ten-year intervals, (x) the race and gender of [~~inmates~~] incarcerated individuals, (xi) the number of [~~inmates~~] incarcerated individuals who received infractions while in segregated housing units or MHU, (xii) the number of [~~inmates~~] incarcerated individuals who received infractions that led to the imposition of additional punitive segregation time, (xiii) the number of [~~inmates~~] incarcerated individuals who committed suicide, (xiv) the number of [~~inmates~~] incarcerated individuals who attempted suicide, (xv) the number of [~~inmates~~] incarcerated individuals on suicide watch, (xvi) the number of [~~inmates~~] incarcerated individuals who caused injury to themselves (excluding suicide attempt), (xvii) the number of [~~inmates~~] incarcerated individuals seriously injured while in segregated housing units or MHU, (xviii) the number of [~~inmates~~] incarcerated individuals who were sent to non-psychiatric hospitals outside the city jails, (xix) the number of [~~inmates~~] incarcerated individuals who died (non-suicide), (xx) the number of [~~inmates~~] incarcerated individuals transferred to a psychiatric hospital from segregated housing units, (xxi) the number of [~~inmates~~] incarcerated individuals transferred to a psychiatric hospital from MHU, disaggregated by program, (xxii) the number of [~~inmates~~] incarcerated individuals moved from general punitive segregation to MHU, disaggregated by program, (xxiii) the number of [~~inmates~~] incarcerated individuals placed into MHU following a disciplinary hearing, disaggregated by program, (xxiv) the number of [~~inmates~~] incarcerated individuals moved from MHU to a segregated housing unit, disaggregated by segregated housing unit type, (xxv) the number of [~~inmates~~] incarcerated individuals prescribed anti-psychotic medications, mood stabilizers or anti-anxiety medications, disaggregated by the type of medication, (xxvi) the number of requests made by [~~inmates~~] incarcerated individuals for medical or mental health treatment and the number granted, (xxvii) the number of requests made by [~~inmates~~] incarcerated individuals to

attend congregate religious services and the number granted, (xxviii) the number of requests made by [~~inmates~~] **incarcerated individuals** for assistance from the law library and the number granted, (xxix) the number of requests made by [~~inmates~~] **incarcerated individuals** to make telephone calls and the number granted, disaggregated by weekly personal calls and other permissible daily calls, (xxx) the number of [~~inmate~~] **incarcerated individual** recreation days and the number of recreation hours attended, (xxxi) the number of individual recreation hours that were offered to [~~inmates~~] **incarcerated individuals** prior to six a.m., (xxxii) the number of [~~inmate~~] **incarcerated individual** shower days and the number of showers taken, (xxxiii) the number of [~~inmates~~] **incarcerated individuals** who received visits, (xxxiv) the number of instances of allegations of use of force, (xxxv) the number of instances of use of force A, (xxxvi) the number of instances of use of force B, (xxxvii) the number of instances of use of force C, (xxxviii) the number of instances in which contraband was found, (xxxix) the number of instances of allegations of staff on [~~inmate~~] **incarcerated individual** sexual assault, (xl) the number of instances of substantiated staff on [~~inmate~~] **incarcerated individual** sexual assault, (xli) the number of instances of allegations of [~~inmate~~] **incarcerated individual** on staff sexual assault, and (xlii) the number of instances of substantiated [~~inmate~~] **incarcerated individual** on staff sexual assault.

§ 280. Intentionally omitted.

§ 281. Intentionally omitted.

4. The number of [~~inmates~~] **incarcerated individuals** that submitted grievances.

§ 282. Section 9-137 of the administrative code of the city of New York, as added by local law number 88 of the city of New York for the year 2015, is amended to read as follows:

§ 9-137 Jail population statistics.

a. Within 45 days of the end of each quarter of the fiscal year, the department shall post a report on its website containing information related to the [~~inmate~~] **incarcerated individual** population in city jails for the preceding quarter. Such quarterly report shall include the following information based on the number of [~~inmate~~] **incarcerated individual** admissions during the reporting period, and based on the average daily population of the city's jails for the preceding quarter in total, and as a percentage of the average daily population of [~~inmates~~] **incarcerated individuals** in the department's custody during the reporting period:

1. Age, in years, disaggregated as follows: 16-17, 18-21, 22-25, 26-29, 30-39, 40-49, 50-59, 60-69, 70 or older.

2. Gender, including a separate category for those [~~inmates~~] **incarcerated individuals** housed in any transgender housing unit.

3. Race of [~~inmates~~] **incarcerated individuals**, categorized as follows: African-American, Hispanic, Asian, white, or any other race.

4. The borough in which the [~~inmate~~] **incarcerated individual** was arrested.

5. Educational background as self-reported by [~~inmates~~] **incarcerated individuals** after admission to the custody of the department, categorized as follows based on the highest level of education achieved: no high school diploma or general education diploma, a general education diploma, a high school diploma, some college but no degree, an associate's degree, a bachelor's degree, or a post-collegiate degree.

6. The number of [~~inmates~~] **incarcerated individuals** identified by the department as a member of a security risk group, as defined by the department.

§ 283. Section 9-138 of the administrative code of the city of New York, as added by local law number 89 of the city of New York for the year 2015, is amended to read as follows:

§ 9-138 Use of force directive. The commissioner shall post on the department's website the directive stating the department's current policies regarding the use of force by departmental staff on [~~inmates~~] **incarcerated individuals**, including but not limited to the circumstances in which any use of force is justified, the circumstances in which various levels of force or various uses of equipment are justified, and the procedures staff must follow prior to using force. The commissioner may redact such directive as necessary to preserve safety and security in the facilities under the department's control.

§ 284. Intentionally omitted.

§ 285. Subdivision b of section 9-140 of the administrative code of the city of New York, as added by local law number 85 of the city of New York for the year 2015, is amended to read as follows:

b. The commissioner shall post on the department website on a quarterly basis, within 30 days of the beginning of each quarter, a report containing information pertaining to the visitation of the [~~inmate~~] **incarcerated individual** population in city jails for the prior quarter. Such quarterly report shall include the following information in total and disaggregated by whether the visitor is a professional, and also disaggregated by the type of services the professional provides:

1. The total number of visitors to city jails, the total number of visitors to borough jail facilities, and the total number of visitors to city jails on Rikers Island.

2. The total number of visitors that visited an [~~inmate~~] **incarcerated individual** at city jails, the total number of visitors that visited an [~~inmate~~] **incarcerated individual** at borough jail facilities, and the total number of visitors that visited an [~~inmate~~] **incarcerated individual** at city jails on Rikers Island.

3. The number of visitors unable to visit an [~~inmate~~] **incarcerated individual** at any city jail, in total and disaggregated by the reason such visit was not completed.

4. The [~~inmate~~] **incarcerated individual** visitation rate, which shall be calculated by dividing the average daily number of visitors who visited [~~inmates~~] **incarcerated individuals** at city jails during the reporting period by the average daily [~~inmate~~] **incarcerated individual** population of city jails during the reporting period.

5. The borough jail facility visitation rate, which shall be calculated by dividing the average daily number of visitors who visited [~~inmates~~] **incarcerated individuals** at borough jail facilities during the reporting period by the average daily [~~inmate~~] **incarcerated individual** population of borough jail facilities during the reporting period.

6. The Rikers Island visitation rate, which shall be calculated by dividing the average daily number of visitors who visited [~~inmates~~] **incarcerated individuals** at city jails on Rikers Island during the reporting period by the average daily [~~inmate~~] **incarcerated individual** population of city jails on Rikers Island during the reporting period.

§ 286. Section 9-141 of the administrative code of the city of New York, as added by local law number 82 of the city of New York for the year 2016, is amended to read as follows:

§ 9-141 Feminine hygiene products. All female [~~inmates~~] **incarcerated individuals** in the custody of the department shall be provided, at the department's expense, with feminine hygiene products as soon as practicable upon request. All female individuals arrested and detained in the custody of the department for at least 48 hours shall be provided, at the department's expense, with feminine hygiene products as soon as practicable upon request. For purposes of this section, "feminine hygiene products" means tampons and sanitary napkins for use in connection with the menstrual cycle.

§ 287. Subdivisions a and c and paragraphs 6 and 7 of subdivision d of section 9-142 of the administrative code of the city of New York, as added by local law number 120 of the city of New York for the year 2016, are amended to read as follows:

a. Definitions. For the purposes of this section, the following terms shall have the following meanings:

Child. The term "child" means any person one year of age or younger whose mother is in the custody of the department.

Nursery. The term "nursery" means any department facility designed to accommodate newborn children of incarcerated mothers, pursuant to New York state correctional law section 611 or any successor statute.

Staff. The term "staff" means anyone, other than an [~~inmate~~] **incarcerated individual**, working at a facility operated by the department.

Use of force A. The term "use of force A" means a use of force by staff on an [~~inmate~~] **incarcerated individual** resulting in an injury to staff or [~~inmate~~] **incarcerated individual** that requires medical treatment beyond the prescription of over-the-counter analgesics or the administration of minor first aid, including those uses of force resulting in one or more of the following treatments/injuries: (i) multiple abrasions and/or contusions; (ii) chipped or cracked tooth; (iii) loss of tooth; (iv) laceration; (v) puncture; (vi) fracture; (vii) loss of consciousness; including a concussion; (viii) suture; (ix) internal injuries, including but not limited to, ruptured spleen or perforated eardrum; and (x) admission to a hospital.

Use of force B. The term "use of force B" means a use of force by staff on an [~~inmate~~] **incarcerated individual** resulting in an injury to staff or [~~inmate~~] **incarcerated individual** that does not require hospitalization or medical treatment beyond the prescription of over-the-counter analgesics or the administration of minor first aid, including the following: (i) a use of force resulting in a superficial bruise, scrape, scratch, or minor swelling; and (ii) the forcible use of mechanical restraints in a confrontational situation that results in no or minor injury.

Use of force C. The term "use of force C" means a use of force by staff on an [~~inmate~~] **incarcerated individual** resulting in no injury to staff or [~~inmate~~] **incarcerated individual**, including incidents where use of oleoresin capsicum spray results in no injury, beyond irritation that can be addressed through decontamination.

c. Children and their mothers shall be housed in the nursery unless the department determines that such housing would not be in the best interest of such child pursuant to section 611 of the correction law or any successor statute. The department shall maintain formal written procedures consistent with this policy and with the following provisions:

1. The warden of the facility in which the nursery is located may deny a child admission to the nursery only if a consideration of all relevant

evidence indicates that such admission would not be in the best interest of the child.

2. Any [~~inmate~~] **incarcerated individual** whose child is denied admission to the nursery shall be provided with a written determination specifying the facts and reasons underlying such determination. Such notice shall indicate that this determination may be appealed, and describe the appeals process in plain and simple language.

3. An [~~inmate~~] **incarcerated individual** may appeal such determination. The appeal shall be decided by the commissioner or the chief of the department, in consultation with a person who has expertise in early childhood development. Any denial of an appeal shall include a specific statement of the reasons for denial. A copy of this determination on the appeal shall be provided to such [~~inmate~~] **incarcerated individual**.

4. [~~Inmates~~] **Incarcerated individuals** who are unable to read or understand the procedures in this subdivision shall be provided with necessary assistance.

6. The programming and services available to [~~inmates~~] **incarcerated individuals** and children in the nursery, including but not limited to the following categories: parenting, health and mental health, drug and/or alcohol addiction, vocational, educational, recreational, or other life skills; and

7. The following information by indicating the rate per 100 female [~~inmates~~] **incarcerated individuals** in the custody of the department, disaggregated by whether or not the incident took place in the nursery: (i) incidents of use of force A, (ii) incidents of use of force B, (iii) incidents of use of force C, and (iv) incidents of use of force C in which chemical agents are used.

§ 288. The section heading and subdivisions a and b of section 9-143 of the administrative code of the city of New York, as added by local law number 121 of the city of New York for the year 2016, are amended to read as follows:

Annual report on mentally ill [~~inmates~~] **incarcerated individuals** and recidivism.

a. Definitions. For the purposes of this section, the following terms have the following meanings:

Eligible [~~inmate~~] **incarcerated individual**. The term "eligible [~~inmate~~] **incarcerated individual**" means an [~~inmate~~] **incarcerated individual** whose period of confinement in a city correctional facility lasts 24 hours or longer, and who, during such confinement, receives treatment for a mental illness, but does not include [~~inmates~~] **incarcerated individuals** seen by mental health staff on no more than two occasions during their confinement and assessed on the latter of those occasions as having no need for further treatment in any city correctional facility or upon their release from any such facility.

Reporting period. The term "reporting period" means the calendar year two years prior to the year in which the report issued pursuant to this section is issued.

b. No later than March 31 of each year, beginning in 2017, the department shall post on its website a report regarding mentally ill [~~inmates~~] **incarcerated individuals** and recidivism. Such report shall include but not be limited to the following information:

1. The number of [~~inmates~~] **incarcerated individuals** released by the department to the community during the reporting period, the number of eligible inmates released to the community by the department during the reporting period, and the percentage of [~~inmates~~] **incarcerated individuals** released to the community by the department who were eligible

during the reporting period, provided that such report shall count each individual released during the reporting period only once; and

2. The number and percentage of [~~inmates~~] **incarcerated individuals** released to the community by the department during the reporting period who returned to the custody of the department within one year of their discharge, and the number and percentage of eligible [~~inmates~~] **incarcerated individuals** released to the community by the department during the reporting period who returned to the custody of the department within one year of their discharge, provided that such report shall count each individual released during the reporting period only once.

§ 289. Subdivision a of section 9-144 of the administrative code of the city of New York, as added by local law number 122 of the city of New York for the year 2016, is amended to read as follows:

[~~a.~~] The department shall evaluate [~~inmate~~] **incarcerated individual** programming each calendar year. For purposes of this section, "[~~inmate~~] **incarcerated individual** programming" includes but is not limited to any structured services offered directly to [~~inmates~~] **incarcerated individuals** for the purposes of vocational training, counseling, cognitive behavioral therapy, addressing drug dependencies, or any similar purpose. No later than April 1 of each year, beginning in 2017, the department shall submit a summary of each evaluation to the mayor and the council, and post such summary to the department's website. This summary shall include factors determined by the department, including, but not be limited to, information related to the following for each such program: (i) the amount of funding received; (ii) estimated number of [~~inmates~~] **incarcerated individuals** served; (iii) a brief description of the program including the estimated number of hours of programming offered and utilized, program length, goals, target populations, effectiveness, and outcome measurements, where applicable; and (iv) successful completion and compliance rates, if applicable. Such summary shall be permanently accessible from the department's website and shall be provided in a format that permits automated processing, where appropriate. Each yearly summary shall include a comparison of the current year with the prior five years, where such information is available.

§ 290. The second undesignated paragraph of subdivision a of section 9-145 of the administrative code of the city of New York, as added by local law number 123 of the city of New York for the year 2016, is amended to read as follows:

Staff. The term "staff" means any employee of the department or any person who regularly provides health or counseling services directly to [~~inmates~~] **incarcerated individuals**.

§ 291. The section heading and subdivisions a and b of section 9-146 of the administrative code of the city of New York, as added by local law number 178 of the city of New York for the year 2016, are amended to read as follows:

[~~Inmate court~~] **Court** appearance transportation **for incarcerated individuals**. a. By April 1, 2017 and upon gaining access to such database described in subdivision c of this section, the department shall, within 48 hours of admission of an [~~inmate~~] **incarcerated individual** to the custody of the department, determine whether an [~~inmate~~] **incarcerated individual** has any pending court appearances scheduled in New York city criminal court or the criminal term of New York state supreme court other than those appearances for cases for which such defendant is admitted to the custody of the department or that pertain solely to the payment of court surcharges.

b. In complying with subdivision a **of this section**, the department shall:

1. notify the office of court administration that such [~~inmate~~] **incarcerated individual** is in department custody upon determination of such court appearance, pursuant to subdivision a **of this section**; and

2. provide, as required by the court, transportation for every [~~inmate~~] **incarcerated individual** for all such court appearances.

§ 292. Section 9-147 of the administrative code of the city of New York, as added by local law number 180 of the city of New York for the year 2016, is amended to read as follows:

§ 9-147 [~~Inmate court~~] **Court** appearance clothing **for incarcerated individuals**. Except as provided elsewhere in this section, the department shall provide every [~~inmate~~] **incarcerated individual** appearing for a trial or before a grand jury with access to clothing in their personal property prior to transport for such appearance, and produce all such [~~inmates~~] **incarcerated individuals** for such appearances in such clothing. If such clothing is not available, or if an [~~inmate~~] **incarcerated individual** chooses not to wear their personal clothing, the department shall provide such [~~inmate~~] **incarcerated individual** with new or gently used, size appropriate clothing of a kind customarily worn by persons not in the custody of the department, unless (i) such [~~inmate~~] **incarcerated individual** chooses to wear the uniform issued by the department, or (ii) such [~~inmate~~] **incarcerated individual** is required to wear such uniform by an order of the court. The department shall permit personal clothing to be delivered to an [~~inmate~~] **incarcerated individual** during such time as packages are permitted to be delivered under title 40 of the rules of the city of New York or during reasonable hours the day before an [~~inmate's~~] **incarcerated individual's** scheduled appearance for a trial or before a grand jury. New or gently used, weather- and size-appropriate clothing of a kind customarily worn by persons not in the custody of the department shall be offered to any [~~inmate~~] **incarcerated individual** released from the custody of the department from a court, unless the [~~inmate~~] **incarcerated individual** is wearing the [~~inmate's~~] **incarcerated individual's** own personal clothing.

§ 293. Subdivisions a, b and c of section 9-148 of the administrative code of the city of New York, as added by local law number 123 of the city of New York for the year 2017, are amended to read as follows:

a. The department shall accept cash bail payments immediately and continuously after an [~~inmate~~] **incarcerated individual** is admitted to the custody of the department, except on such dates on which an [~~inmate~~] **incarcerated individual** appears in court other than an arraignment in criminal court.

b. The department shall release any [~~inmate~~] **incarcerated individual** for whom bail or bond has been paid or posted within the required time period of the later of such payment being made or the department's receipt of notice thereof, provided that if an [~~inmate~~] **incarcerated individual** cannot be released within the required time period due to extreme and unusual circumstances then such [~~inmate~~] **incarcerated individual** shall be released as soon as possible. Such timeframe may be extended when any of the following occurs, provided that the [~~inmate's~~] **incarcerated individual's** release shall be forthwith as that term is used in section 520.15 of the criminal procedure law:

1. The [~~inmate~~] **incarcerated individual** receives discharge planning services prior to release;

2. The [~~inmate~~] **incarcerated individual** has a warrant or hold from another jurisdiction or agency;

3. The [~~inmate~~] **incarcerated individual** is being transported at the time bail or bond is paid or posted;

4. The [~~inmate~~] **incarcerated individual** is not in departmental custody at the time bail or bond is paid or posted;

5. The [~~inmate~~] **incarcerated individual** requires immediate medical or mental health treatment; or

6. Section 520.30 of the criminal procedure law necessitates a delay.

c. The department shall accept or facilitate the acceptance of cash bail payments for [~~inmates~~] **incarcerated individuals** in the custody of the department: (i) at any courthouse of the New York City Criminal Court, (ii) at any location within one half mile of any such courthouse during all operating hours of such courthouse and at least two hours subsequent to such courthouse's closing, or (iii) online.

§ 294. Subdivision a, the opening paragraph of subdivision b, subdivisions c and d of section 9-149 of the administrative code of the city of New York, as added by local law number 124 of the city of New York for the year 2017, are amended to read as follows:

a. In order to facilitate the posting of bail, the department may delay the transportation of an [~~inmate~~] **incarcerated individual** for admission to a housing facility for not less than four and not more than 12 hours following the inmate's arraignment in criminal court if requested by either the department or a not-for-profit corporation under contract with the city to provide pretrial and other criminal justice services, including interviewing adult defendants either before or after such persons are arraigned on criminal charges, has made direct contact with a person who reports that he or she will post bail for the [~~inmate~~] **incarcerated individual**.

Such delay is not permissible for any [~~inmate~~] **incarcerated individual** who:

c. This section does not require the department to exceed the lawful capacity of any structure or unit, or require the department to detain [~~inmates~~] **incarcerated individuals** in courthouse facilities during such times as correctional staff are not regularly scheduled to detain [~~inmates~~] **incarcerated individuals** provided that the department must provide for the regular staffing of courthouse facilities for at least one hour after the last [~~inmate~~] **incarcerated individual** was taken into custody on bail.

d. Beginning July 1, 2018, the department or its designee shall submit to the council an annual report regarding the implementation of subdivisions a and b of this section. Such report shall include the following information:

1. The locations in which the department has implemented the provisions of this section;

2. In such locations, the number of [~~inmates~~] **incarcerated individuals** whose admission to a housing facility was delayed pursuant to this section;

3. The number and percentage of such [~~inmates~~] **incarcerated individuals** who posted bail during such delay and the number and percentage of such [~~inmates~~] **incarcerated individuals** who posted bail during the two calendar days following such [~~inmates'~~] **incarcerated individuals'** arraignment; and

4. The number of [~~inmates~~] **incarcerated individuals** whose admission to a housing facility was delayed and who required medical treatment during such period of delay.

§ 295. Intentionally omitted.

§ 296. Subdivision d of section 9-151 of the administrative code of the city of New York, as added by local law number 168 of the city of New York for the year 2017, is amended to read as follows:

d. The department of correction report shall include, but need not be limited to, the following information, which shall be produced in a format that protects the privacy interests of [~~inmates~~] **incarcerated individuals**, including but not limited to those who have juvenile records and sealed criminal records or are otherwise protected by state or federal law. The student age as of the incident date will be used to categorize the student as adolescent or young adult, for the purposes of this reporting.

§ 297. The second undesignated paragraph of subdivision a of section 9-152 of the administrative code of the city of New York, as added by local law number 216 of the city of New York for the year 2017, is amended to read as follows:

Incident. The term "incident" means any incident in which staff used force on an [~~inmate~~] **incarcerated individual**.

§ 298. The opening paragraph and paragraphs 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 12, 13, 14, 15, 33 and the opening paragraphs of paragraphs 11 and 16 of subdivision a of section 9-306 of the administrative code of the city of New York, as added by local law number 86 of the city of New York for the year 2015 and such section as renumbered by local law number 25 of the city of New York for the year 2018, are amended to read as follows:

Within 90 days of the beginning of each reporting period, the office of criminal justice shall post on its website a report regarding bail and the criminal justice system for the preceding reporting period. The reporting period for paragraphs 1, 3, 14, and 15 of this subdivision is quarterly, the reporting period for paragraphs 2, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, and 16 is semi-annually, and the reporting period for paragraphs 17 through 33 is annually. For the purposes of this subdivision, any [~~inmate~~] **incarcerated individual** incarcerated on multiple charges shall be deemed to be incarcerated only on the most serious charge, a violent felony shall be deemed to be more serious than a non-violent felony of the same class, any [~~inmate~~] **incarcerated individual** incarcerated on multiple charges of the same severity shall be deemed to be held on each charge, any [~~inmate~~] **incarcerated individual** incarcerated on multiple bail amounts shall be deemed to be held only on the highest bail amount, any [~~inmate~~] **incarcerated individual** held on pending criminal charges who has a parole hold shall be deemed to be held only on the parole hold, any [~~inmate~~] **incarcerated individual** held on pending criminal charges who has any other hold shall be deemed to be held only on the pending criminal charges, and any [~~inmate~~] **incarcerated individual** incarcerated on multiple cases in which sentence has been imposed on at least one of such cases shall be deemed to be sentenced. Such report shall contain the following information, for the preceding reporting period or for the most recent reporting period for which such information is available, to the extent such information is available:

1. The average daily population of [~~inmates~~] **incarcerated individuals** in the custody of the department of correction.

2. The number of [~~inmates~~] **incarcerated individuals** admitted to the custody of the department of correction during the reporting period who had been sentenced to a definite sentence, the number held on pending criminal charges, and the number in any other category.

3. Of the number of [~~inmates~~] **incarcerated individuals** in the custody of the department of correction on the last Friday of each calendar

month of the reporting period, the percentage who had been sentenced to a definite sentence, the percentage held on pending criminal charges, and the percentage in any other category.

4. Of the number of [~~inmates~~] **incarcerated individuals** in the custody of the department of correction on the last Friday of each calendar month of the reporting period held on pending criminal charges, the percentage who were remanded without bail.

5. The number of [~~inmates~~] **incarcerated individuals** in the custody of the department of correction who were sentenced to a definite sentence during the reporting period of the following length: (a) 1-15 days; (b) 16-30 days; (c) 31-90 days; (d) 91-180 days; or (e) more than 180 days.

6. Of the number [~~inmates~~] **of incarcerated individuals** in the custody of the department of correction on the last Friday of each calendar month of the reporting period who were sentenced to a definite sentence, the percentage of [~~inmates~~] **incarcerated individuals** whose sentences were of the following lengths: (a) 1-15 days; (b) 16-30 days; (c) 31-90 days; (d) 91-180 days; or (e) more than 180 days.

7. The number of [~~inmates~~] **incarcerated individuals** admitted to the custody of the department of correction during the reporting period on pending criminal charges who were charged with offenses of the following severity: (a) class A felonies; (b) class B or C felonies; (c) class D or E felonies; (d) misdemeanors; or (e) non-criminal charges.

8. Of the number of [~~inmates~~] **incarcerated individuals** in the custody of the department of correction on the last Friday of each calendar month of the reporting period held on pending criminal charges, the percentage charged with offenses of the following severity: (a) class A felonies; (b) class B or C felonies; (c) class D or E felonies; (d) misdemeanors; or (e) non-criminal charges.

9. The number of [~~inmates~~] **incarcerated individuals** admitted to the custody of the department of correction during the reporting period on pending criminal charges who were charged with offenses of the following severity: (a) class A felonies disaggregated by offense; (b) violent felonies as defined in section 70.02 of the penal law; (c) non-violent felonies as defined in section 70.02 of the penal law; (d) misdemeanors; or (e) non-criminal charges.

10. Of the number of [~~inmates~~] **incarcerated individuals** in the custody of the department of correction on the last Friday of each calendar month of the reporting period held on pending criminal charges, the percentage charged with offenses of the following severity: (a) class A felonies disaggregated by offense; (b) violent felonies as defined in section 70.02 of the penal law; (c) non-violent felonies as defined in section 70.02 of the penal law; (d) misdemeanors; or (e) non-criminal charges.

Of the number of [~~inmates~~] **incarcerated individuals** in the custody of the department of correction on the last Friday of each calendar month of the reporting period held on pending criminal charges, the percentage charged with offenses of the following type, including the attempt to commit any of such offense as defined in [~~section~~] **article** 110 of the penal law:

12. The number of [~~inmates~~] **incarcerated individuals** admitted to the custody of the department of correction during the reporting period on pending criminal charges who were charged with offenses in the categories defined in subparagraphs a, b, and c of paragraph 11 of this subdivision.

13. The number of [~~inmates~~] **incarcerated individuals** admitted to the custody of the department of correction during the reporting period on

pending criminal charges who had bail fixed in the following amounts: (a) $1; (b) $2-$500; (c) $501-$1000; (d) $1001-$2500; (e) $2501-$5000; (f) $5001-$10,000; (g) $10,001-$25,000; (h) $25,001-$50,000; (i) $50,001-$100,000; or (j) more than $100,000.

14. Of the number of [~~inmates~~] **incarcerated individuals** in the custody of the department of correction on the final Friday of each calendar month of the reporting period who were held on pending criminal charges, the percentage who had bail fixed in the following amounts: (a) $1; (b) $2-$500; (c) $501-$1000; (d) $1001-$2500; (e) $2501-$5000; (f) $5001-$10,000; (g) $10,001-$25,000; (h) $25,001-$50,000; (i) $50,001-$100,000; or (j) more than $100,000.

15. Of the number of [~~inmates~~] **incarcerated individuals** in the custody of the department of correction on the final day of the reporting period who were held on pending criminal charges, the percentage who had been incarcerated for the following lengths of time: (a) 1-2 days; (b) 3-5 days; (c) 6-15 days; (d) 16-30 days; (e) 31-90 days; (f) 91-180 days; (g) 180-365 days; or (h) more than 365 days.

The information in paragraphs 1, 5, 7, 9, 13, 15, 30, 31, 32, and 33 of this subdivision disaggregated by the borough in which the [~~inmate's~~] **incarcerated individual's** case was pending. This data shall be listed separately and shall also be compared to the following crime rates disaggregated by borough:

33. Of the number of [~~inmates~~] **incarcerated individuals** in the custody of the department of correction on the last Friday of each calendar month who were held on pending criminal charges during the reporting period, the percentage in which the status of the criminal case on the final day of the reporting period is as follows: (a) the charges are pending and the defendant was released by posting bail; (b) the charges are pending and the defendant was released by court order; (c) the charges are pending and the defendant was not released; (d) conviction for a violent felony; (e) conviction for a non-violent felony; (f) conviction for a misdemeanor; (g) conviction for a non-criminal offense; (h) charges dismissed or adjourned in contemplation of dismissal; or (i) any other disposition.

§ 299. Subdivision (e) of section 11-4021 of the administrative code of the city of New York, as amended by chapter 556 of the laws of 2011, is amended to read as follows:

(e) In the alternative, the commissioner of finance may dispose of any cigarettes seized pursuant to this section, except those that violate, or are suspected of violating, federal trademark laws or import laws, by transferring them to the department of correction for sale to or use by [~~inmates~~] **incarcerated individuals** in such institutions.

§ 300. Subdivision b of section 14-140 of the administrative code of the city of New York, as amended by local law number 28 of the city of New York for the year 1987, is amended to read as follows:

b. Custody of property and money. All property or money taken from the person or possession of a prisoner, all property or money suspected of having been unlawfully obtained or stolen or embezzled or of being the proceeds of crime or derived through crime or derived through the conversion of unlawfully acquired property or money or derived through the use or sale of property prohibited by law from being held, used or sold, all property or money suspected of having been used as a means of committing crime or employed in aid or furtherance of crime or held, used or sold in violation of law, all money or property suspected of being the proceeds of or derived through bookmaking, policy, common gambling, keeping a gambling place or device, or any other form of ille-

gal gambling activity and all property or money employed in or in connection with or in furtherance of any such gambling activity, all property or money taken by the police as evidence in a criminal investigation or proceeding, all property or money taken from or surrendered by a pawnbroker on suspicion of being the proceeds of crime or of having been unlawfully obtained, held or used by the person who deposited the same with the pawnbroker, all property or money which is lost or abandoned, all property or money left uncared for upon a public street, public building or public place, all property or money taken from the possession of a person appearing to be insane, intoxicated or otherwise incapable of taking care of himself or herself, that shall come into the custody of any member of the police force or criminal court, and all property or money of [~~inmates~~] **incarcerated individuals** of any city hospital, prison or institution except the property found on deceased persons that shall remain unclaimed in its custody for a period of one month, shall be given, as soon as practicable, into the custody of and kept by the property clerk except that vehicles suspected of being stolen or abandoned and evidence vehicles as defined in subdivision b of section 20-495 of the code may be taken into custody in the manner provided for in subdivision b of section 20-519 of the code.

§ 301. Intentionally omitted.

§ 302. Intentionally omitted.

§ 303. Intentionally omitted.

§ 304. The opening paragraph of subdivision a of section 17-199 of the administrative code of the city of New York, as added by local law number 58 of the city of New York for the year 2015, is amended to read as follows:

The department shall submit to the mayor and the speaker of the council no later than July 15, 2015, and every three months thereafter, a report regarding the medical and mental health services provided to [~~inmates~~] **incarcerated individuals** in city correctional facilities during the previous three calendar months that includes, but need not be limited to:

§ 305. The fourth undesignated paragraph of section 17-1801 of the administrative code of the city of New York, as added by local law number 124 of the city of New York for the year 2016, is amended to read as follows:

Health evaluation. The term "health evaluation" means any evaluation of an [~~inmate's~~] **incarcerated individual's** health and mental health upon their admission to the custody of the department of correction pursuant to minimum standards of [~~inmate~~] **incarcerated individual** care established by the board of correction.

§ 306. Intentionally omitted.

§ 307. Section 17-1804 of the administrative code of the city of New York, as added by local law number 124 of the city of New York for the year 2016, the section heading as amended by local law number 190 of the city of New York for the year 2019, is amended to read as follows:

§ 17-1804 Health information exchange for incarcerated individuals. The department or its designee shall establish procedures to obtain the pre-arraignment screening record created pursuant to section 17-1802 and any medical records created and maintained by any hospital in connection with treatment provided to an arrestee who subsequently enters the custody of the department of correction, at the request of any health care provider conducting a health evaluation of such [~~inmate~~] **incarcerated individuals**.

§ 308. Intentionally omitted.

§ 309. Intentionally omitted.
§ 310. Intentionally omitted.
§ 311. Intentionally omitted.
§ 312. Section 27-260 of the administrative code of the city of New York is amended to read as follows:
§ 27-260 Classification. Buildings and spaces shall be classified in the institutional occupancy group when persons suffering from physical limitations because of health or age are harbored therein for care or treatment; when persons are detained therein for penal or correctional purposes; or when the liberty of the [~~inmates~~] **incarcerated individuals** is restricted. The institutional occupancy group consists of sub groups H-1 and H-2.
§ 313. Subdivision b of section 403.4.1 of chapter 4 of the New York city plumbing code, as amended by local law number 79 of the city of New York for the year 2016, is amended to read as follows:
b. Toilet facilities for employees shall be separate from facilities for [~~inmates~~] **incarcerated individuals** or patients.
§ 314. Subdivision e of section 13-c of the New York city charter, as added by local law number 103 of the city of New York for the year 2016, is amended to read as follows:
e. Four-year plan. Within one year after the completion of the first biennial report required by subdivision d of this section, and in every fourth calendar year thereafter, the coordinator shall prepare and submit to the mayor and the council a four-year plan for providing reentry services to those city residents who need such services. Such plan may include recommendations for approaches to serving city residents in need of reentry services, including the establishment of an initial point of access for individuals immediately upon their release from the custody of the department of correction in a location adjacent to Rikers Island or to the correctional facility that releases the most [~~inmates~~] **incarcerated individuals** daily. Such report and plan shall also identify obstacles to making such services available to all those who need them and describe what additional resources would be necessary to do so.
§ 315. Paragraph 8 of subdivision d of section 556 of the New York city charter, as added by a vote of the people of the city of New York at the general election held in November of 2001, section 11 of proposal number 5, is amended to read as follows:
(8) promote or provide medical and health services for the [~~inmates~~] **incarcerated individuals** of prisons maintained and operated by the city;
§ 316. Section 625 of the New York city charter is amended to read as follows:
§ 625. Labor of prisoners. Every [~~inmate~~] **incarcerated individual** of an institution under the authority of the commissioner shall be employed in some form of industry, in farming operations or other employment, and products thereof shall be utilized in the institutions under the commissioner or in any other agency. Those persons held for trial may be employed in the same manner as sentenced prisoners, provided they give their consent in writing. Such [~~inmates~~] **incarcerated individuals** or prisoners held for trial may be detailed by the commissioner to perform work or service on the grounds and buildings or on any public improvement under the charge of any other agency.
§ 317. Paragraph 1 of subdivision d of section 803 of the New York city charter, as added by local law number 165 of the city of New York for the year 2016, is amended to read as follows:

1. The commissioner shall, immediately upon appointment of the individual described in paragraph 2 of this subdivision, in addition to the investigatory work done in the normal course of the commissioner's duties, on an ongoing basis, conduct system-wide investigations, reviews, studies, and audits, and make recommendations regarding system-wide operations, policies, programs, and practices of the department of correction, with the goal of improving conditions in city jails, including but not limited to, reducing violence in departmental facilities, protecting the safety of departmental employees and [~~inmates~~] **incarcerated individuals**, protecting the rights of [~~inmates~~] **incarcerated individuals**, and increasing the public's confidence in the department of correction. The commissioner may consider, in addition to any other information the commissioner deems relevant, information regarding civil actions filed in state or federal court against individual correction officers or the city regarding the department of correction, notices of claim received by the comptroller filed against individual correction officers or the city regarding the department of correction, settlements by the comptroller of claims filed against individual correction officers or the city regarding the department of correction, complaints received and investigations conducted by the board of correction, complaints received and any investigations regarding such complaints conducted by the department of correction, complaints received pursuant to section 804 **of this chapter**, and any criminal arrests or investigations of individual correction officers known to the department of investigation in its ongoing review of the department of correction.

§ 318. Subdivision 9 of section 1057-a of the New York city charter, as added by local law number 138 of the city of New York for the year 2016, is amended to read as follows:

9. In addition to the other requirements of this section, the department of correction shall implement and administer a program of distribution and submission of absentee ballot applications, and subsequently received absentee ballots, for eligible [~~inmates~~] **incarcerated individuals**. Such department shall offer, to all [~~inmates~~] **incarcerated individuals** who are registered to vote, absentee ballot applications, and a means to complete them, during the period from sixty days prior to any primary, special, or general election in the city of New York until two weeks prior to any such election. Such department shall subsequently provide any absentee ballot received from the board of elections in response to any such application to the applicable [~~inmate~~] **incarcerated individual**, as well as a means to complete it. Such department shall provide assistance to any such [~~inmate~~] **incarcerated individual** in filling out such application or ballot upon request. Such department shall, not later than five days after receipt, transmit such completed applications and ballots from any [~~inmate~~] **incarcerated individual** who wishes to have them transmitted to the board of elections for the city of New York. The provisions of this subdivision shall not apply in any specific instance in which the department deems it unsafe to comply therewith.

§ 319. Whenever the term "inmate" or any equivalent expression thereof is used in any provision of law, such term shall be deemed to mean and refer to an "incarcerated individual" or variation thereof.

§ 320. Any provision of any act of the legislature enacted in the calendar year in which this act is enacted, which contains a reference to an inmate or an equivalent expression thereof shall be deemed to mean or refer to an incarcerated individual as the context requires pursuant to the provisions of this act.

§ 321. The commissioner of the department of corrections and community supervision and the commissioner of the department of criminal justice services shall act to remove references to "inmate" or an equivalent expression thereof from internal documents and replace such references to "incarcerated individual" as the context requires.

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

1. the amendments to subdivision 1 of section 259-c of the executive law made by section eight of this act shall be subject to the expiration and reversion of such subdivision pursuant to subdivision d of section 74 of chapter 3 of the laws of 1995, as amended, when upon such date the provisions of section eight-a of this act shall take effect;

2. the amendments to subdivision 2 of section 259-c of the executive law made by section eight-b of this act shall take effect on the same date and in the same manner as section 38-b of subpart A of part C of chapter 62 of the laws of 2011, takes effect;

3. the amendments to paragraph (a) of subdivision 2 and paragraph (d) of subdivision 3 of section 259-i of the executive law made by section eleven of this act shall be subject to the expiration and reversion of such paragraphs pursuant to subdivision d of section 74 of chapter 3 of the laws of 1995, as amended, when upon such date the provisions of section eleven-a of this act shall take effect;

4. the amendments to paragraph (a) of subdivision 1 of section 259-r of the executive law made by section fourteen of this act shall be subject to the expiration and reversion of such paragraph pursuant to subdivision d of section 74 of chapter 3 of the laws of 1995, as amended, when upon such date the provisions of section fourteen-a of this act shall take effect;

5. the amendments to paragraph b of subdivision 2 of section 265 of the executive law made by section sixteen of this act shall not affect the repeal of such section and shall be deemed repealed therewith;

6. the amendments to paragraph (a-1) of subdivision 1 of section 2807-c of the public health law made by section fifty-three of this act shall be subject to the expiration and reversion of such paragraph pursuant to subdivision 5 of section 168 of chapter 639 of the laws of 1996, as amended, when upon such date the provisions of section fifty-three-a of this act shall take effect;

7. the amendments to subdivision 5 of section 60.35 of the penal law made by section one hundred three of this act shall be subject to the expiration and reversion of such subdivision pursuant to subdivision h of section 74 of chapter 3 of the laws of 1995, as amended, when upon such date the provisions of section one hundred three-a of this act shall take effect;

8. the amendments to paragraph (d) of subdivision 1 of section 70.20 of the penal law made by section one hundred four of this act shall be subject to the expiration and reversion of such subdivision pursuant to subdivision d of section 74 of chapter 3 of the laws of 1995, as amended, when upon such date the provisions of section one hundred four-a of this act shall take effect;

9. the amendments to subdivision 18 of section 2 of the correction law made by section one hundred seven of this act shall be subject to the expiration and reversion of such subdivision pursuant to subdivision (q) of section 427 of chapter 55 of the laws of 1992, as amended, when upon such date the provisions of section one hundred seven-a of this act shall take effect;

10. the amendments to subdivision 17 of section 45 of the correction law made by section one hundred twenty-one of this act shall not affect the repeal of such subdivision and shall be deemed repealed therewith;

11. the amendments to subdivision 5 of section 72 of the correction law made by section one hundred twenty-eight of this act shall be subject to the expiration and reversion of such subdivision pursuant to section 10 of chapter 339 of the laws of 1972, as amended, when upon such date the provisions of section one hundred twenty-eight-a of this act shall take effect;

12. the amendments to section 72-a of the correction law made by section one hundred twenty-nine of this act shall not affect the expiration of such section and shall be deemed to expire therewith;

13. the amendments to section 91 of the correction law made by section one hundred forty-two of this act shall be subject to the expiration and reversion of such section pursuant to section 8 of part H of chapter 56 of the laws of 2009, as amended, when upon such date the provisions of section one hundred forty-two-a of this act shall take effect;

14. the amendments to section 92 of the correction law made by section one hundred forty-three of this act shall be subject to the expiration and reversion of such section pursuant to section 8 of part H of chapter 56 of the laws of 2009, as amended, when upon such date the provisions of section one hundred forty-three-a of this act shall take effect;

15. the amendments to sections 500-b, 500-c, and 500-o of the correction law made by sections one hundred ninety-eight, one hundred ninety-nine, and two hundred three of this act shall not affect the repeal of such sections and shall be deemed repealed therewith;

16. the amendments to subdivision (a) of section 601 of the correction law made by section two hundred nine of this act shall be subject to the expiration and reversion of such subdivision pursuant to subdivision d of section 74 of chapter 3 of the laws of 1995, as amended, when upon such date the provisions of section two hundred nine-a of this act shall take effect;

17. the amendments to subdivision (b) of section 601 of the correction law made by section two hundred nine-a of this act shall take effect on the same date and in the same manner as section 6 of chapter 738 of the laws of 2004, takes effect;

18. the amendments to article 22-A of the correction law made by sections two hundred twenty, two hundred twenty-one, two hundred twenty-two and two hundred twenty-three of this act shall not affect the expiration of such article and shall be deemed to expire therewith;

19. the amendments to section 803 of the correction law made by section two hundred twenty-four of this act shall be subject to the expiration and reversion of such section pursuant to subdivision d of section 74 of chapter 3 of the laws of 1995, as amended, when upon such date the provisions of section two hundred twenty-four-a of this act shall take effect;

20. the amendments to section 805 of the correction law made by section two hundred twenty-six of this act shall be subject to the expiration and reversion of such section pursuant to subdivision d of section 74 of chapter 3 of the laws of 1995, as amended, when upon such date the provisions of section two hundred twenty-six-a of this act shall take effect;

21. the amendments to section 806 of the correction law made by section two hundred twenty-seven of this act shall not affect the repeal of such section and shall be deemed repealed therewith;

22. the amendments to subdivision 2 of section 851 of the correction law made by section two hundred twenty-eight of this act shall be subject to the expiration and reversion of such subdivision and section pursuant to subdivision (c) of section 46 of chapter 60 of the laws of 1994 and section 10 of chapter 339 of the laws of 1972, as amended, when upon such date the provisions of section two hundred twenty-eight-b of this act shall take effect;

23. the amendments to section 851 of the correction law made by sections two hundred twenty-eight-b and two hundred twenty-eight-c of this act shall be subject to the expiration and reversion of such section pursuant to subdivision (c) of section 46 of chapter 60 of the laws of 1994, section 10 of chapter 339 of the laws of 1972, and section 5 of chapter 554 of the laws of 1986, as amended, when upon such date section two hundred twenty-eight-d of this act shall take effect;

24. the amendments to section 851 of the correction law, made by section two hundred twenty-eight-a of this act, shall not affect the expiration and reversion of such section pursuant to chapter 339 of the laws of 1972, as amended, and shall expire therewith, when upon such date section two hundred twenty-eight-c of this act shall take effect;

25. the amendments to section 852 of the correction law, made by section two hundred twenty-nine of this act shall be subject to the expiration and reversion of such section pursuant to chapter 339 of the laws of 1972, as amended, when upon such date the provisions of section two hundred twenty-nine-a of this act shall take effect;

26. the amendments to section 855 of the correction law, made by section two hundred thirty-one of this act, shall not affect the expiration and reversion of such section pursuant to chapter 339 of the laws of 1972, as amended, and shall expire therewith, when upon such date the provisions of section two hundred thirty-one-a of this act shall take effect;

27. the amendments to section 856 of the correction law made by section two hundred thirty-two of this act shall be subject to the expiration and reversion of such section pursuant to chapter 339 of the laws of 1972, as amended, when upon such date the provisions of section two hundred thirty-two-a of this act shall take effect;

27-a. the amendments to section 865 of the correction law made by section two hundred thirty-seven of this act shall take effect on the same date and in the same manner as section 2 of part KK of chapter 55 of the laws of 2019, takes effect;

28. the amendments to subdivision 9 of section 10 of the court of claims act made by section two hundred forty-six of this act shall not affect the expiration of such subdivision and shall be deemed to expire therewith;

29. the amendments to subdivision (f) of section 1101 of the civil practice law and rules made by section two hundred forty-nine of this act shall not affect the expiration of such subdivision and shall be deemed to expire therewith; and

30. the amendments to subdivision d of section 9-149 of the administrative code of the city of New York made by section two hundred ninety-four of this act shall not affect the repeal of such subdivision and shall be deemed repealed therewith.