

STATE OF NEW YORK

9097

IN ASSEMBLY

February 7, 2024

Introduced by M. of A. SOLAGES -- read once and referred to the Committee on Correction

AN ACT to amend the executive law, in relation to renaming the state board of parole; and to amend the correction law, the criminal procedure law, the judiciary law, the mental hygiene law, the public health law and the penal law, in relation to making conforming changes

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

1 Section 1. The article heading of article 12-B of the executive law,
2 as amended by section 105 of subpart B of part C of chapter 62 of the
3 laws of 2011, is amended to read as follows:

4 STATE BOARD OF [~~PAROLE~~] RE-ENTRY

5 § 2. Paragraphs (c) and (e) of subdivision 1 of section 169 of the
6 executive law, paragraph (c) as amended by section 9 of part A of chap-
7 ter 60 of the laws of 2012 and paragraph (e) as amended by section 2-a
8 of part AA of chapter 56 of the laws of 2019, are amended to read as
9 follows:

10 (c) commissioner of agriculture and markets, commissioner of alcohol-
11 ism and substance abuse services, adjutant general, commissioner and
12 president of state civil service commission, commissioner of economic
13 development, chair of the energy research and development authority,
14 president of higher education services corporation, commissioner of
15 motor vehicles, member-chair of board of [~~parole~~] re-entry, chair of
16 public employment relations board, secretary of state, commissioner of
17 alcoholism and substance abuse services, executive director of the hous-
18 ing finance agency, commissioner of housing and community renewal, exec-
19 utive director of state insurance fund, commissioner-chair of state
20 liquor authority, and chair of the workers' compensation board;

21 (e) chairperson of state athletic commission, director of the office
22 of victim services, chairperson of human rights appeal board, chair-
23 person of the industrial board of appeals, chairperson of the state
24 commission of correction, members of the board of [~~parole~~] re-entry,
25 member-chairperson of unemployment insurance appeal board, director of

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

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1 veterans' services, and vice-chairperson of the workers' compensation
2 board;

3 § 3. Section 244 of the executive law, as amended by section 19 of
4 part A of chapter 56 of the laws of 2010, is amended to read as follows:

5 § 244. Hostels and foster homes. 1. The office is hereby authorized to
6 provide or to pay for care in a hostel or foster home approved by the
7 office as suitable for such cases for any probationer or parolee under
8 the age of twenty-one years when the [~~parole~~] board of re-entry or a
9 judge of a court determines that there is no other suitable home for
10 such probationer or parolee and that such probationer or parolee should
11 be placed in such hostel or foster home. In addition to payment for such
12 care, when ordered by the board or court, the office is authorized to
13 provide or pay for clothing and other necessities, including medical and
14 psychiatric treatment, required for the welfare of such probationer or
15 parolee. The office may also provide or contract for such care in any
16 suitable facility operated by a department of correction or by any other
17 public or voluntary social welfare agency, institution or organization.
18 A court with respect to such a probationer and the [~~parole~~] board of
19 re-entry with respect to such a parolee shall, subject to regulation by
20 the division control admissions to and discharges from such hostels and
21 foster homes. When placement is made in any hostel or foster home, or
22 in any facility other than a public institution, such placement whenever
23 practicable shall be in a hostel, or facility operated by or in the home
24 of a person or persons of the same religious faith as the probationer or
25 parolee.

26 2. The office shall have authority and the duty to stimulate programs
27 for the development of hostels and foster homes for the care of proba-
28 tioners and parolees under the age of twenty-one years.

29 § 4. Subdivision 1 of section 259 of the executive law, as added by
30 section 37 of subpart A of part C of chapter 62 of the laws of 2011, is
31 amended and a new subdivision 9 is added to read as follows:

32 1. "Board" means the state board of [~~parole~~] re-entry.

33 9. "Division" means the division of criminal justice services.

34 § 5. Section 259-a of the executive law, as added by section 38 of
35 subpart A of part C of chapter 62 of the laws of 2011, is amended to
36 read as follows:

37 § 259-a. State board of [~~parole~~] re-entry; funding. The annual budget
38 submitted by the governor shall separately state the recommended appro-
39 priations for the state board of [~~parole~~] re-entry. Upon enactment,
40 these separately stated appropriations for the state board of [~~parole~~]
41 re-entry shall not be decreased by interchange with any other appropri-
42 ation, notwithstanding section fifty-one of the state finance law.

43 § 6. The section heading and subdivisions 1 and 3 of section 259-b of
44 the executive law, the section heading and subdivision 1 as amended by
45 section 38-a of subpart A of part C of chapter 62 of the laws of 2011
46 and subdivision 3 as amended by chapter 135 of the laws of 2013, are
47 amended to read as follows:

48 State board of [~~parole~~] re-entry; organization. 1. There shall be in
49 the department a state board of [~~parole~~] re-entry which shall possess
50 the powers and duties hereinafter specified. The board shall function
51 independently of the department regarding all of its decision-making
52 functions, as well as any other powers and duties specified in this
53 article, provided, however, that administrative matters of general
54 applicability within the department shall be applicable to the board.
55 Such board shall consist of not more than nineteen members appointed by
56 the governor with the advice and consent of the senate. The term of

1 office of each member of such board shall be for six years; provided,
2 however, that any member chosen to fill a vacancy occurring otherwise
3 than by expiration of term shall be appointed for the remainder of the
4 unexpired term of the member whom he or she is to succeed. In the event
5 of the inability to act of any member, the governor may appoint some
6 competent informed person to act in his or her stead during the contin-
7 uance of such disability.

8 3. The governor shall designate one of the members of the board as
9 [~~chairman~~] chairperson to serve in such capacity at the pleasure of the
10 governor or until the member's term of office expires and a successor is
11 designated in accordance with law, whichever first occurs. The [~~chair-~~
12 ~~man~~] chairperson shall be responsible for the administrative functions
13 and daily operations of the [~~parole~~] board and its staff, except as
14 otherwise provided by law.

15 § 7. The section heading, the opening paragraph and subdivisions 4, 12
16 and 13 of section 259-c of the executive law, the section heading and
17 the opening paragraph as amended by section 38-b of subpart A of part C
18 of chapter 62 of the laws of 2011, subdivisions 4 and 12 as amended by
19 chapter 322 of the laws of 2021 and subdivision 13 as amended by chapter
20 292 of the laws of 2018, are amended to read as follows:

21 State board of [~~parole~~] re-entry; functions, powers and duties. The
22 state board of [~~parole~~] re-entry shall:

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

30 12. to facilitate the supervision of all incarcerated individuals
31 released on community supervision the [~~chairman~~] chairperson of the
32 state board of [~~parole~~] re-entry shall consider the implementation of a
33 program of graduated sanctions, including but not limited to the utili-
34 zation of a risk and needs assessment instrument that would be adminis-
35 tered to all incarcerated individuals eligible for parole supervision.
36 Such a program would include various components including the use of
37 alternatives to incarceration for technical parole violations;

38 13. transmit a report of the work of the state board of [~~parole~~]
39 re-entry for the preceding calendar year to the governor and the legis-
40 lature annually. Such report shall include statistical information
41 regarding the demographics of persons granted release and considered for
42 release to community supervision or deportation, including but not
43 limited to age, gender, race, ethnicity, region of commitment and other
44 relevant categories of classification and commitment;

45 § 8. Subdivision 1 of section 259-d of the executive law, as amended
46 by section 38-b-2 of subpart A of part C of chapter 62 of the laws of
47 2011, is amended to read as follows:

48 1. The state board of [~~parole~~] re-entry shall appoint and shall have
49 the power to remove, in accordance with the provisions of the civil
50 service law, hearing officers who shall be authorized to conduct parole
51 revocation proceedings. Hearing officers shall function independently of
52 the department regarding all of their decision-making functions, and
53 shall report directly to the board, provided, however, that administra-
54 tive matters of general applicability within the department shall be
55 applicable to all hearing officers. A hearing officer conducting such
56 proceedings shall, when delegated such authority by the board in rules

1 adopted by the board, be required to make a written decision in accord-
2 ance with standards and rules adopted by the board. Nothing in this
3 article shall be deemed to preclude a member of the state board of
4 [parole] re-entry from exercising all of the functions, powers and
5 duties of a hearing officer upon request of the [chairman] chairperson.

6 § 9. Section 259-e of the executive law, as amended by chapter 322 of
7 the laws of 2021, is amended to read as follows:

8 § 259-e. Institutional parole services. The department shall provide
9 institutional parole services. Such services shall include preparation
10 of reports and other data required by the state board of [parole] re-en-
11 try in the exercise of its functions with respect to release on presump-
12 tive release, parole, conditional release or post-release supervision of
13 incarcerated individuals. Additionally, the department shall determine
14 which incarcerated individuals are in need of a deaf language interpret-
15 er or an English language interpreter, and shall inform the board of
16 such need within a reasonable period of time prior to an incarcerated
17 individual's scheduled appearance before the board. Employees of the
18 department who collect data, interview incarcerated individuals and
19 prepare reports for the state board of [parole] re-entry in institutions
20 under the jurisdiction of the department shall work under the direct
21 supervision of the deputy commissioner of the department in charge of
22 program services. Data and reports submitted to the board shall address
23 the statutory factors to be considered by the board pursuant to the
24 relevant provisions of section two hundred fifty-nine-i of this article.

25 § 10. Subdivision 5 of section 259-h of the executive law, as amended
26 by chapter 322 of the laws of 2021, is amended to read as follows:

27 5. The provisions of this section shall not be construed as diminish-
28 ing the discretionary authority of the board of [parole] re-entry to
29 determine whether or not an incarcerated individual is to be paroled.

30 § 11. Subparagraph (iii) of paragraph (f) of subdivision 3, paragraph
31 (b) of subdivision 6 and subdivision 8 of section 259-i of the executive
32 law, subparagraph (iii) of paragraph (f) of subdivision 3 as amended by
33 chapter 427 of the laws of 2021, paragraph (b) of subdivision 6 as
34 added by section 1 of part T of chapter 62 of the laws of 2003 and
35 subdivision 8 as amended by chapter 9 of the laws of 2017, are amended
36 to read as follows:

37 (iii) Both the alleged violator and an attorney who has filed a notice
38 of appearance on his or her behalf in accordance with the rules of the
39 board of [parole] re-entry shall be given written notice of the date,
40 place and time of the hearing pursuant to subparagraph (ix) of paragraph
41 (c) of this subdivision.

42 (b) The [chairman] chairperson of the board of [parole] re-entry shall
43 maintain records of all parole interviews and hearings for a period of
44 twenty-five years from the date of the parole release interview or until
45 expiration of the maximum term of sentence.

46 8. Foreign born or non-English speaking person before the board. Upon
47 notification from the department pursuant to section two hundred fifty-
48 nine-e of this article, or upon the request of any foreign born or non-
49 English speaking person who is scheduled to participate in an interview,
50 parole release hearing, preliminary hearing or revocation hearing, there
51 shall be appointed from the New York state office of general services
52 statewide administrative services contract, a qualified interpreter to
53 interpret the proceedings to and the statements or testimony of such
54 person. The board shall determine a reasonable fee for all such inter-
55 preting services, the cost of which shall be a charge upon the board of

1 [~~parole~~] re-entry. No such request or appointment shall cause a delay of
2 release from incarceration of such person.

3 § 12. Subdivisions 1, 2 and 3 of section 259-j of the executive law,
4 as amended by section 38-g of subpart A of part C of chapter 62 of the
5 laws of 2011, are amended to read as follows:

6 1. Except where a determinate sentence was imposed for a felony other
7 than a felony defined in article two hundred twenty [~~or article two~~
8 ~~hundred twenty-one~~] of the penal law, if the board of [~~parole~~] re-entry
9 is satisfied that an absolute discharge from presumptive release,
10 parole, conditional release or release to a period of post-release
11 supervision is in the best interests of society, the board may grant
12 such a discharge prior to the expiration of the full term or maximum
13 term to any person who has been on unrevoked community supervision for
14 at least three consecutive years. A discharge granted under this section
15 shall constitute a termination of the sentence with respect to which it
16 was granted. No such discharge shall be granted unless the board is
17 satisfied that the parolee or releasee, otherwise financially able to
18 comply with an order of restitution and the payment of any mandatory
19 surcharge, sex offender registration fee or DNA databank fee previously
20 imposed by a court of competent jurisdiction, has made a good faith
21 effort to comply therewith.

22 2. The [~~chairman~~] chairperson of the board of [~~parole~~] re-entry shall
23 promulgate rules and regulations governing the issuance of discharges
24 from community supervision pursuant to this section to assure that such
25 discharges are consistent with public safety.

26 3. Notwithstanding any other provision of this section to the contra-
27 ry, where a term of post-release supervision in excess of five years has
28 been imposed on a person convicted of a crime defined in article one
29 hundred thirty of the penal law, including a sexually motivated felony,
30 the board of [~~parole~~] re-entry may grant a discharge from post-release
31 supervision prior to the expiration of the maximum term of post-release
32 supervision. Such a discharge may be granted only after the person has
33 served at least five years of post-release supervision, and only to a
34 person who has been on unrevoked post-release supervision for at least
35 three consecutive years. No such discharge shall be granted unless the
36 board of [~~parole~~] re-entry or the department acting pursuant to its
37 responsibility under subdivision one of section two hundred one of the
38 correction law consults with any licensed psychologist, qualified
39 psychiatrist, or other mental health professional who is providing care
40 or treatment to the supervisee; and the board: (a) determines that a
41 discharge from post-release supervision is in the best interests of
42 society; and (b) is satisfied that the supervisee, otherwise financially
43 able to comply with an order of restitution and the payment of any
44 mandatory surcharge, sex offender registration fee, or DNA data bank fee
45 previously imposed by a court of competent jurisdiction, has made a good
46 faith effort to comply therewith. Before making a determination to
47 discharge a person from a period of post-release supervision, the board
48 of [~~parole~~] re-entry may request that the commissioner of the office of
49 mental health arrange a psychiatric evaluation of the supervisee. A
50 discharge granted under this section shall constitute a termination of
51 the sentence with respect to which it was granted.

52 § 13. Subdivisions 1, 2 and 4 of section 259-k of the executive law,
53 as amended by section 38-i of subpart A of part C of chapter 62 of the
54 laws of 2011, are amended to read as follows:

55 1. All case files shall be maintained by the department for use by the
56 department and board. The department and board and authorized officers

1 and employees thereof shall have complete access to such files and the
2 board of [~~parole~~] re-entry shall have the right to make such entries as
3 the board of [~~parole~~] re-entry shall deem appropriate in accordance with
4 law.

5 2. The board shall make rules for the purpose of maintaining the
6 confidentiality of records, information contained therein and informa-
7 tion obtained in an official capacity by officers, employees or members
8 of the board of [~~parole~~] re-entry.

9 4. Upon a determination by the department and board of [~~parole~~] re-en-
10 try that records regarding an individual presently under the supervision
11 of the department are relevant to an investigation of child abuse or
12 maltreatment conducted by a child protective service pursuant to title
13 six of article six of the social services law, the department and board
14 shall provide the records determined to be relevant to the child protec-
15 tive service conducting the investigation. The department and board
16 shall promulgate rules for the transmission of records required to be
17 provided under this section.

18 § 14. Subdivisions 1 and 2 of section 259-1 of the executive law,
19 subdivision 1 as amended by chapter 322 of the laws of 2021 and subdivi-
20 sion 2 as amended by section 38-j of subpart A of part C of chapter 62
21 of the laws of 2011, are amended to read as follows:

22 1. It shall be the duty of the commissioner of corrections and commu-
23 nity supervision to ensure that all officers and employees of the
24 department shall at all times cooperate with the board of [~~parole~~]
25 re-entry and shall furnish to such members of the board and employees of
26 the board such information as may be appropriate to enable them to
27 perform their independent decision making functions. It is also his or
28 her duty to ensure that the functions of the board of [~~parole~~] re-entry
29 are not hampered in any way, including but not limited to: a restriction
30 of resources including staff assistance; limited access to vital infor-
31 mation; and presentation of an incarcerated individual's information in
32 a manner that may inappropriately influence the board in its decision
33 making. Where an incarcerated individual has appeared before the board
34 prior to having completed any program assigned by the department, and
35 such program remains incomplete by no fault of the incarcerated individ-
36 ual, and where the board has denied such incarcerated individual release
37 pursuant to paragraph (a) of subdivision two of section two hundred
38 fifty-nine-i of this article, the department shall prioritize such an
39 incarcerated individual's placement into the assigned program.

40 2. The official in charge of each institution wherein any person is
41 confined under a definite sentence of imprisonment, all officers and
42 employees thereof and all other public officials shall at all times
43 cooperate with the board of [~~parole~~] re-entry, and shall furnish to such
44 board, its officers and employees such information as may be required by
45 the board to perform its functions hereunder. The members of the board,
46 its officers and employees shall at all times be given free access to
47 all persons confined in any such institution under such sentence and
48 shall be furnished with appropriate working space in such institution
49 for such purpose without charge therefor.

50 § 15. Subdivision 2 of section 259-m of the executive law, as added by
51 chapter 904 of the laws of 1977, is amended to read as follows:

52 2. The [~~chairman~~] chairperson of the board of [~~parole~~] re-entry shall
53 have power and shall be charged with the duty of promulgating such rules
54 and regulations as may be deemed necessary to carry out the terms of a
55 compact entered into by the state pursuant to this section.

1 § 16. Subdivision 3 of section 259-o of the executive law, as amended
2 by chapter 211 of the laws of 1985, is amended to read as follows:

3 3. Whenever there is reasonable cause to believe that a person
4 released on parole in this state but under the parole supervision of
5 another state pursuant to section two hundred fifty-nine-m of this arti-
6 cle has violated the conditions thereof, any person duly authorized in
7 such other state to conduct preliminary violation hearings, upon request
8 of the [~~chairman~~] chairperson of the board of [~~parole~~] re-entry, may
9 conduct such hearing, unless such hearing is waived by the parolee. The
10 preliminary violation hearing and the determinations made thereat shall
11 have the same force and effect as preliminary violation hearing
12 conducted in this state by the board of [~~parole~~] re-entry or a member,
13 hearing officer or panel thereof.

14 § 17. Subdivisions 1, 2, 3, 4 and 6 of section 259-q of the executive
15 law, subdivisions 1, 2 and 6 and paragraph (b) of subdivision 4 as
16 amended by section 38-k-1 of subpart A of part C of chapter 62 of the
17 laws of 2011, subdivision 3 as amended by chapter 120 of the laws of
18 2017, and subdivision 4 as added by chapter 466 of the laws of 1978, are
19 amended to read as follows:

20 1. No civil action shall be brought in any court of the state, except
21 by the attorney general on behalf of the state, against any officer or
22 employee of the board of [~~parole~~] re-entry or former division of parole,
23 in his or her personal capacity, for damages arising out of any act done
24 or the failure to perform any act within the scope of the employment and
25 in the discharge of the duties by such officer or employee.

26 2. Any claim for damages arising out of any act done or the failure to
27 perform any act within the scope of the employment and in the discharge
28 of the duties of any officer or employee of the board of [~~parole~~] re-en-
29 try or former division of parole shall be brought and maintained in the
30 court of claims as a claim against the state.

31 3. The state shall save harmless and indemnify any officer or employee
32 of the board of [~~parole~~] re-entry or former division of parole from
33 financial loss resulting from a claim filed in a court of the United
34 States for damages arising out of an act done or the failure to perform
35 any act that was (a) within the scope of the employment and in the
36 discharge of the duties of such officer or employee, and (b) not done or
37 omitted with the intent to violate any rule or regulation of the depart-
38 ment, board or former division or of any statute or governing case law
39 of the state or of the United States at the time the damages were
40 sustained; provided that the officer or employee shall comply with the
41 provisions of subdivision four of section seventeen of the public offi-
42 cers law.

43 4. (a) The provisions of this section shall supplement, and be avail-
44 able in addition to, the provisions of section seventeen of the public
45 officers law and, insofar as this section is inconsistent with section
46 seventeen of the public officers law, the provisions of this section
47 shall be controlling.

48 (b) The provisions of this section shall not be construed in any way
49 to impair, modify or abrogate any immunity available to any officer or
50 employee of the board of [~~parole~~] re-entry or former division of parole
51 under the statutory or decisional law of the state or the United States.

52 6. The benefits of subdivision three [~~hereof~~] of this section shall
53 inure only to officers and employees of the board of [~~parole~~] re-entry
54 or former division of parole and shall not enlarge or diminish the
55 rights of any other party.

1 § 18. Subdivisions 10 and 11 of section 259-r of the executive law,
2 as amended by chapter 322 of the laws of 2021, are amended to read as
3 follows:

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

17 11. (a) After the commissioner has made a determination to grant
18 medical parole pursuant to subdivision ten of this section, the commis-
19 sioner shall notify the chairperson of the board of [~~parole~~] re-entry,
20 or their designee who shall be a member of the board of [~~parole~~] re-en-
21 try, and provide him or her with all relevant records, files, informa-
22 tion and documentation, which includes but is not limited to the crimi-
23 nal history, medical diagnosis and treatment pertaining to the
24 terminally ill incarcerated individual no more than five days from the
25 date of the determination. (b) The chairperson or his or her designee
26 shall either accept the commissioner's grant of medical parole, in which
27 case the incarcerated individual may be released by the commissioner, or
28 conduct further review. This decision or review shall be made within
29 five days of the receipt of the relevant records, files, information and
30 documentation from the commissioner. The chairperson's further review
31 may include, but not be limited to, an appearance by the terminally ill
32 incarcerated individual before the chairperson or his or her designee.
33 (c) After this further review, the chairperson shall either accept the
34 commissioner's grant of medical parole, in which case the incarcerated
35 individual may be released by the commissioner, or the chairperson shall
36 schedule an appearance for the terminally ill incarcerated individual
37 before the board of [~~parole~~] re-entry.

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

43 § 19. Paragraph (b) of subdivision 2 of section 259-s of the executive
44 law, as amended by chapter 322 of the laws of 2021, is amended to read
45 as follows:

46 (b) The commissioner, or the commissioner's designee, shall review the
47 diagnosis and may certify that the incarcerated individual is suffering
48 from such condition, disease or syndrome and that the incarcerated indi-
49 vidual is so debilitated or incapacitated as to create a reasonable
50 probability that he or she is physically or cognitively incapable of
51 presenting any danger to society. If the commissioner does not so certi-
52 fy then the incarcerated individual shall not be referred to the board
53 for consideration for release on medical parole. If the commissioner
54 does so certify, then the commissioner shall, within seven working days
55 of receipt of such diagnosis, refer the incarcerated individual to the
56 board for consideration for release on medical parole. However, no such

1 referral of an incarcerated individual to the board of [~~parole~~] re-entry
2 shall be made unless the incarcerated individual has been examined by a
3 physician and diagnosed as having a condition, disease or syndrome as
4 previously described herein at some time subsequent to such incarcerated
5 individual's admission to a facility operated by the department.

6 § 20. Section 259-t of the executive law, as added by chapter 487 of
7 the laws of 2021, is amended to read as follows:

8 § 259-t. Permitted activities. Where any person is granted presumptive
9 release, parole, conditional release, release to post-release super-
10 vision or any other type of supervised release, the state board of
11 [~~parole~~] re-entry shall not deem a person to be in violation of and the
12 state board of [~~parole~~] re-entry shall not terminate such granted
13 presumptive release, parole, conditional release, release to post-re-
14 lease supervision or any other type of supervised release solely because
15 such person engaged in bona fide work for an employer, including travel
16 time to or from bona fide work, during curfew times set by conditions of
17 probation, parole, presumptive release, conditional release or release
18 to post-release supervision. For purposes of this section, bona fide
19 work is work performed as an employee for an employer, as defined in
20 section two of the labor law.

21 § 21. Section 259-t of the executive law, as added by chapter 492 of
22 the laws of 2021, is amended to read as follows:

23 § [~~259-t~~] 259-u. Permitted activities. Where any person is granted
24 presumptive release, parole, conditional release, release to post-re-
25 lease supervision or any other type of supervised release, the state
26 board of [~~parole~~] re-entry shall not deem a person to be in violation of
27 and the state board of [~~parole~~] re-entry shall not terminate such grant-
28 ed presumptive release, parole, conditional release, release to post-re-
29 lease supervision or any other type of supervised release solely because
30 such person participated in work related labor protests, or in a lawful
31 labor dispute, strike or other concerted stoppage of work or slowdown
32 pursuant to article twenty of the labor law or the national labor
33 relations act (29 U.S.C. sections 151 et. seq.).

34 § 22. Subparagraph (iii) of paragraph (c) of subdivision 1 of section
35 632-a of the executive law, as amended by section 100 of subpart B of
36 part C of chapter 62 of the laws of 2011, is amended to read as follows:

37 (iii) is no longer subject to a sentence of probation or conditional
38 discharge or indeterminate, determinate or definite term of imprisonment
39 or period of post-release supervision or term of supervised release, and
40 where within the previous three years: the full or maximum term or peri-
41 od terminated or expired or such person was granted a discharge by the
42 state board of [~~parole~~] re-entry or the department of corrections and
43 community supervision pursuant to applicable law, or granted a discharge
44 or termination from probation pursuant to applicable law or granted a
45 discharge or termination under applicable federal or state law, rules or
46 regulations prior to the expiration of such full or maximum term or
47 period; and includes only: (A) those funds paid to such person as a
48 result of any interest, right, right of action, asset, share, claim,
49 recovery or benefit of any kind that the person obtained, or that
50 accrued in favor of such person, prior to the expiration of such
51 sentence, term or period; (B) any recovery or award collected in a
52 lawsuit after expiration of such sentence where the right or cause of
53 action accrued prior to the expiration or service of such sentence; and
54 (C) earned income earned during a period in which such person was not in
55 compliance with the conditions of his or her probation, parole, condi-
56 tional release, period of post-release supervision by the department of

1 corrections and community supervision or term of supervised release with
2 the United States probation office or United States parole commission.
3 For purposes of this subparagraph, such period of non-compliance shall
4 be measured, as applicable, from the earliest date of delinquency deter-
5 mined by the department of corrections and community supervision, or
6 from the earliest date on which a declaration of delinquency is filed
7 pursuant to section 410.30 of the criminal procedure law and thereafter
8 sustained, or from the earliest date of delinquency determined in
9 accordance with applicable federal law, rules or regulations, and shall
10 continue until a final determination sustaining the violation has been
11 made by the trial court, the department of corrections and community
12 supervision, or appropriate federal authority.

13 § 23. Subdivision 9 of section 2 of the correction law, as amended by
14 chapter 476 of the laws of 1970, is amended to read as follows:

15 9. "Diagnostic and treatment center". A correctional facility operated
16 for the purpose of providing intensive physical, mental and sociological
17 diagnostic and treatment services including pre-parole diagnostic evalu-
18 ation, where requested by the board of [~~parole~~] re-entry, and scientific
19 study of the social and mental aspects of the causes of crime.

20 § 24. Subdivision 1 of section 24 of the correction law, as amended by
21 section 11 of subpart A of part C of chapter 62 of the laws of 2011, is
22 amended to read as follows:

23 1. No civil action shall be brought in any court of the state, except
24 by the attorney general on behalf of the state, against any officer or
25 employee of the department, which for purposes of this section shall
26 include members of the state board of [~~parole~~] re-entry, in his or her
27 personal capacity, for damages arising out of any act done or the fail-
28 ure to perform any act within the scope of the employment and in the
29 discharge of the duties by such officer or employee.

30 § 25. Subdivision 2 of section 29 of the correction law, as amended by
31 section 12 of subpart A of part C of chapter 62 of the laws of 2011, is
32 amended to read as follows:

33 2. The commissioner shall make rules as to the privacy of records,
34 statistics and other information collected, obtained and maintained by
35 the department, its institutions or the board of [~~parole~~] re-entry and
36 information obtained in an official capacity by officers, employees or
37 members thereof.

38 § 26. Section 71-a of the correction law, as amended by chapter 322 of
39 the laws of 2021, is amended to read as follows:

40 § 71-a. Transitional accountability plan. Upon admission of an incar-
41 cerated individual committed to the custody of the department under an
42 indeterminate or determinate sentence of imprisonment, the department
43 shall develop a transitional accountability plan. Such plan shall be a
44 comprehensive, dynamic and individualized case management plan based on
45 the programming and treatment needs of the incarcerated individual. The
46 purpose of such plan shall be to promote the rehabilitation of the
47 incarcerated individual and their successful and productive reentry and
48 reintegration into society upon release. To that end, such plan shall be
49 used to prioritize programming and treatment services for the incarcer-
50 ated individual during incarceration and any period of community super-
51 vision. The commissioner may consult with the office of mental health,
52 the office of [~~alcoholism and substance abuse~~] addiction services and
53 supports, the board of [~~parole~~] re-entry, the department of health, and
54 other appropriate agencies in the development of transitional case
55 management plans.

1 § 27. Subdivisions 6 and 8 of section 73 of the correction law, as
2 amended by chapter 322 of the laws of 2021, is amended to read as
3 follows:

4 6. Where a person who is an incarcerated individual of a residential
5 treatment facility absconds, or fails to return thereto as specified in
6 the program approved for him or her, he or she may be arrested and
7 returned by an officer or employee of the department or by any peace
8 officer, acting pursuant to his or her special duties, or police officer
9 without a warrant; or a member of the board of [~~parole~~] re-entry or an
10 officer designated by such board may issue a warrant for the retaking of
11 such person. A warrant issued pursuant to this subdivision shall have
12 the same force and effect, and shall be executed in the same manner, as
13 a warrant issued for violation of community supervision.

14 8. The state board of [~~parole~~] re-entry may grant parole to any incar-
15 cerated individual of a residential treatment facility at any time after
16 he or she becomes eligible therefor. Such parole shall be in accordance
17 with provisions of law that would apply if the person were still
18 confined in the facility from which he or she was transferred, except
19 that any personal appearance before the board may be at any place desig-
20 nated by the board.

21 § 28. Subdivision 1 of section 89-e of the correction law, as amended
22 by section 47 of part A of chapter 56 of the laws of 2010, is amended to
23 read as follows:

24 1. The alternate correctional facility review panel is hereby estab-
25 lished and shall consist of the commissioner, the chairman of the state
26 commission of correction, the chairman of the board of [~~parole~~]
27 re-entry, the director of the office of probation and correctional
28 alternatives, the commissioner of correction of the city of New York,
29 the president of the New York State Sheriffs' Association Institute,
30 Inc., and the president of the Correctional Association of New York or
31 their designees. The governor shall appoint a chairman and vice-chairman
32 from among the members.

33 § 29. Subdivision 4 of section 112 of the correction law, as amended
34 by chapter 322 of the laws of 2021, is amended to read as follows:

35 4. The commissioner and the chair of the [~~parole~~] board of re-entry
36 shall work jointly to develop and implement, as soon as practicable, a
37 risk and needs assessment instrument or instruments, which shall be
38 empirically validated, that would be administered to incarcerated indi-
39 viduals upon reception into a correctional facility, and throughout
40 their incarceration and release to community supervision, to facilitate
41 appropriate programming both during an incarcerated individual's incar-
42 ceration and community supervision, and designed to facilitate the
43 successful integration of incarcerated individuals into the community.

44 § 30. Section 168-m of the correction law, as amended by section 20 of
45 subpart B of part C of chapter 62 of the laws of 2011, is amended to
46 read as follows:

47 § 168-m. Review. Notwithstanding any other provision of law to the
48 contrary, any state or local correctional facility, hospital or institu-
49 tion, district attorney, law enforcement agency, probation department,
50 state board of [~~parole~~] re-entry, court or child protective agency shall
51 forward relevant information pertaining to a sex offender to be
52 discharged, paroled, released to post-release supervision or released to
53 the board for review no later than one hundred twenty days prior to the
54 release or discharge and the board shall make recommendations as
55 provided in subdivision six of section one hundred sixty-eight-1 of this
56 article within sixty days of receipt of the information. Information may

1 include, but may not be limited to all or a portion of the arrest file,
2 prosecutor's file, probation or parole file, child protective file,
3 court file, commitment file, medical file and treatment file pertaining
4 to such person. Such person shall be permitted to submit to the board
5 any information relevant to the review. Upon application of the sex
6 offender or the district attorney, the court shall seal any portion of
7 the board's file pertaining to the sex offender that contains material
8 that is confidential under any state or federal law; provided, however,
9 that in any subsequent proceedings in which the sex offender who is the
10 subject of the sealed record is a party and which requires the board to
11 provide a recommendation to the court pursuant to this article, such
12 sealed record shall be available to the sex offender, the district
13 attorney, the court and the attorney general where the attorney general
14 is a party, or represents a party, in the proceeding.

15 § 31. Subdivision 1 of section 201 of the correction law, as added by
16 section 32 of subpart A of part C of chapter 62 of the laws of 2011, is
17 amended to read as follows:

18 1. The department shall have responsibility for the preparation of
19 reports and other data required by the state board of [~~parole~~] re-entry
20 in the exercise of its independent decision making functions.

21 § 32. Subdivision 5 of section 205 of the correction law, as added by
22 section 32 of subpart A of part C of chapter 62 of the laws of 2011, is
23 amended to read as follows:

24 5. The commissioner, in consultation with the chairman of the board of
25 [~~parole~~] re-entry, shall promulgate rules and regulations governing the
26 issuance of merit terminations of sentence and discharges from presump-
27 tive release, parole, conditional release or post-release supervision to
28 assure that such terminations and discharges are consistent with public
29 safety. The board of [~~parole~~] re-entry shall have access to merit termi-
30 nation application case files and corresponding decisions to assess the
31 effectiveness of the rules and regulations in ensuring public safety.
32 Such review will in no manner effect the decisions made with regard to
33 individual merit termination determinations.

34 § 33. Subdivision 1 of section 206 of the correction law, as added by
35 section 32 of subpart A of part C of chapter 62 of the laws of 2011, is
36 amended to read as follows:

37 1. All requests for presumptive release or conditional release shall
38 be made in writing on forms prescribed and furnished by the department.
39 Within one month from the date any such application is received, if it
40 appears that the applicant is eligible for presumptive release or condi-
41 tional release or will be eligible for such release during such month,
42 the conditions of release shall be fixed in accordance with rules
43 prescribed by the board of [~~parole~~] re-entry. Such conditions shall be
44 substantially the same as conditions imposed upon parolees.

45 § 34. Section 207 of the correction law, as amended by chapter 322 of
46 the laws of 2021, is amended to read as follows:

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

1 information in a manner that may inappropriately influence the board in
2 its decision making.

3 § 35. Section 405 of the correction law, as amended by chapter 766 of
4 the laws of 1976, is amended to read as follows:

5 § 405. Duty of the department to the director of a hospital. The
6 department shall notify the director of a hospital in advance of hear-
7 ings to be held at such hospital as may be necessary to carry out the
8 duties of the board of [~~parole~~] re-entry or the department. The depart-
9 ment shall assist the department of mental hygiene in establishing or
10 continuing the operation of grievance procedures at such hospital. Where
11 the subject matter of the grievance primarily involves a policy or prac-
12 tice of the department of mental hygiene, the commissioner shall trans-
13 fer the review of the grievance to the commissioner of mental hygiene
14 for resolution pursuant to subdivision three of section one hundred
15 thirty-nine of [~~the correction law~~] this chapter.

16 § 36. Section 705 of the correction law, as amended by section 36 of
17 subpart B of part C of chapter 62 of the laws of 2011, is amended to
18 read as follows:

19 § 705. Forms and filing. 1. All applications, certificates and orders
20 of revocation necessary for the purposes of this article shall be upon
21 forms prescribed pursuant to agreement among the state commissioner of
22 corrections and community supervision, the [~~chairman~~] chairperson of the
23 state board of [~~parole~~] re-entry and the administrator of the state
24 judicial conference. Such forms relating to certificates of relief from
25 disabilities shall be distributed by the office of probation and correc-
26 tional alternatives and forms relating to certificates of good conduct
27 shall be distributed by the commissioner of the department of
28 corrections and community supervision.

29 2. Any court or department issuing or revoking any certificate pursu-
30 ant to this article shall immediately file a copy of the certificate, or
31 of the order of revocation, with the New York state identification and
32 intelligence system.

33 § 37. Section 805 of the correction law, as amended by section 226 of
34 chapter 322 of the laws of 2021, is amended to read as follows:

35 § 805. Earned eligibility program. Persons committed to the custody of
36 the department under an indeterminate or determinate sentence of impri-
37 sonment shall be assigned a work and treatment program as soon as prac-
38 ticable. No earlier than two months prior to the incarcerated individ-
39 ual's eligibility to be paroled pursuant to subdivision one of section
40 70.40 of the penal law, the commissioner shall review the incarcerated
41 individual's institutional record to determine whether he or she has
42 complied with the assigned program. If the commissioner determines that
43 the incarcerated individual has successfully participated in the program
44 he or she may issue the incarcerated individual a certificate of earned
45 eligibility. Notwithstanding any other provision of law, an incarcerated
46 individual who is serving a sentence with a minimum term of not more
47 than eight years and who has been issued a certificate of earned eligi-
48 bility, shall be granted parole release at the expiration of his or her
49 minimum term or as authorized by subdivision four of section eight
50 hundred sixty-seven of this chapter unless the board of [~~parole~~] re-en-
51 try determines that there is a reasonable probability that, if such
52 incarcerated individual is released, he or she will not live and remain
53 at liberty without violating the law and that his or her release is not
54 compatible with the welfare of society. Any action by the commissioner
55 pursuant to this section shall be deemed a judicial function and shall
56 not be reviewable if done in accordance with law.

1 § 37-a. Section 805 of the correction law, as amended by section 226-a
2 of chapter 322 of the laws of 2021, is amended to read as follows:

3 § 805. Earned eligibility program. Persons committed to the custody of
4 the department under an indeterminate sentence of imprisonment shall be
5 assigned a work and treatment program as soon as practicable. No earlier
6 than two months prior to the expiration of an incarcerated individual's
7 minimum period of imprisonment, the commissioner shall review the incar-
8 cerated individual's institutional record to determine whether he or she
9 has complied with the assigned program. If the commissioner determines
10 that the incarcerated individual has successfully participated in the
11 program he or she may issue the incarcerated individual a certificate of
12 earned eligibility. Notwithstanding any other provision of law, an
13 incarcerated individual who is serving a sentence with a minimum term of
14 not more than six years and who has been issued a certificate of earned
15 eligibility, shall be granted parole release at the expiration of his or
16 her minimum term or as authorized by subdivision four of section eight
17 hundred sixty-seven of this chapter unless the board of [~~parole~~] re-en-
18 try determines that there is a reasonable probability that, if such
19 incarcerated individual is released, he or she will not live and remain
20 at liberty without violating the law and that his or her release is not
21 compatible with the welfare of society. Any action by the commissioner
22 pursuant to this section shall be deemed a judicial function and shall
23 not be reviewable if done in accordance with law.

24 § 38. The opening paragraph of subdivision 2 of section 851 of the
25 correction law, as amended by section 228 of chapter 322 of the laws of
26 2021, is amended to read as follows:

27 "Eligible incarcerated individual" means: a person confined in an
28 institution who is eligible for release on parole or who will become
29 eligible for release on parole or conditional release within two years.
30 Provided, however, that a person under sentence for an offense defined
31 in paragraphs (a) and (b) of subdivision one of section 70.02 of the
32 penal law, where such offense involved the use or threatened use of a
33 deadly weapon or dangerous instrument shall not be eligible to partic-
34 ipate in a work release program until he or she is eligible for release
35 on parole or who will be eligible for release on parole or conditional
36 release within eighteen months. Provided, further, however, that a
37 person under a determinate sentence as a second felony drug offender for
38 a class B felony offense defined in article two hundred twenty of the
39 penal law, who was sentenced pursuant to section 70.70 of such law,
40 shall not be eligible to participate in a temporary release program
41 until the time served under imprisonment for his or her determinate
42 sentence, including any jail time credited pursuant to the provisions of
43 article seventy of the penal law, shall be at least eighteen months. In
44 the case of a person serving an indeterminate sentence of imprisonment
45 imposed pursuant to the penal law in effect after September one, nine-
46 teen hundred sixty-seven, for the purposes of this article parole eligi-
47 bility shall be upon the expiration of the minimum period of imprison-
48 ment fixed by the court or where the court has not fixed any period,
49 after service of the minimum period fixed by the state board of [~~parole~~]
50 re-entry. If an incarcerated individual is denied release on parole,
51 such incarcerated individual shall not be deemed an eligible incarcerat-
52 ed individual until he or she is within two years of his or her next
53 scheduled appearance before the state [~~parole~~] re-entry board. In any
54 case where an incarcerated individual is denied release on parole while
55 participating in a temporary release program, the department shall
56 review the status of the incarcerated individual to determine if contin-

1 ued placement in the program is appropriate. No person convicted of any
2 escape or absconding offense defined in article two hundred five of the
3 penal law shall be eligible for temporary release. Further, no person
4 under sentence for aggravated harassment of an employee by an incarcer-
5 ated individual as defined in section 240.32 of the penal law for, any
6 homicide offense defined in article one hundred twenty-five of the penal
7 law, for any sex offense defined in article one hundred thirty of the
8 penal law, or for an offense defined in section 255.25, 255.26 or 255.27
9 of the penal law shall be eligible to participate in a work release
10 program as defined in subdivision three of this section. Nor shall any
11 person under sentence for any sex offense defined in article one hundred
12 thirty of the penal law be eligible to participate in a community
13 services program as defined in subdivision five of this section.
14 Notwithstanding the foregoing, no person who is an otherwise eligible
15 incarcerated individual who is under sentence for a crime involving: (a)
16 infliction of serious physical injury upon another as defined in the
17 penal law or (b) any other offense involving the use or threatened use
18 of a deadly weapon may participate in a temporary release program with-
19 out the written approval of the commissioner. The commissioner shall
20 promulgate regulations giving direction to the temporary release commit-
21 tee at each institution in order to aid such committees in carrying out
22 this mandate.

23 § 38-a. The opening paragraph of subdivision 2 of section 851 of the
24 correction law, as amended by section 228-b of chapter 322 of the laws
25 of 2021, is amended to read as follows:

26 "Eligible incarcerated individual" means: a person confined in an
27 institution who is eligible for release on parole or who will become
28 eligible for release on parole or conditional release within two years.
29 Provided, that a person under a determinate sentence as a second felony
30 drug offender for a class B felony offense defined in article two
31 hundred twenty of the penal law, who was sentenced pursuant to section
32 70.70 of such law, shall not be eligible to participate in a temporary
33 release program until the time served under imprisonment for his or her
34 determinate sentence, including any jail time credited pursuant to the
35 provisions of article seventy of the penal law, shall be at least eigh-
36 teen months. In the case of a person serving an indeterminate sentence
37 of imprisonment imposed pursuant to the penal law in effect after
38 September one, nineteen hundred sixty-seven, for the purposes of this
39 article parole eligibility shall be upon the expiration of the minimum
40 period of imprisonment fixed by the court or where the court has not
41 fixed any period, after service of the minimum period fixed by the state
42 board of [~~parole~~] re-entry. If an incarcerated individual is denied
43 release on parole, such incarcerated individual shall not be deemed an
44 eligible incarcerated individual until he or she is within two years of
45 his or her next scheduled appearance before the state [~~parole~~] re-entry
46 board. In any case where an incarcerated individual is denied release on
47 parole while participating in a temporary release program, the depart-
48 ment shall review the status of the incarcerated individual to determine
49 if continued placement in the program is appropriate. No person
50 convicted of any escape or absconding offense defined in article two
51 hundred five of the penal law shall be eligible for temporary release.
52 Nor shall any person under sentence for any sex offense defined in arti-
53 cle one hundred thirty of the penal law be eligible to participate in a
54 community services program as defined in subdivision five of this
55 section. Notwithstanding the foregoing, no person who is an otherwise
56 eligible incarcerated individual who is under sentence for a crime

1 involving: (a) infliction of serious physical injury upon another as
2 defined in the penal law, (b) a sex offense involving forcible compul-
3 sion, or (c) any other offense involving the use or threatened use of a
4 deadly weapon may participate in a temporary release program without the
5 written approval of the commissioner. The commissioner shall promulgate
6 regulations giving direction to the temporary release committee at each
7 institution in order to aid such committees in carrying out this
8 mandate.

9 § 39. Subdivision 1 of section 852 of the correction law, as added by
10 chapter 472 of the laws of 1969, is amended to read as follows:

11 1. The commissioner of correction shall designate one or more insti-
12 tutions for the conduct of work release programs. Upon such designation
13 the commissioner, with the approval of the [~~chairman~~] chairperson of the
14 board of [~~parole~~] re-entry, shall promulgate rules and regulations
15 consistent with the provisions of this article for the administration of
16 work release programs at any institution designated, and shall appoint
17 or cause to be appointed a work release committee for such institution.

18 § 40. Subdivision 6 of section 855 of the correction law, as amended
19 by section 231-a of chapter 322 of the laws of 2021, is amended to read
20 as follows:

21 6. Participation in a work release program shall be a privilege. Noth-
22 ing contained in this article may be construed to confer upon any incar-
23 cerated individual the right to participate, or to continue to partic-
24 ipate, in a work release program. The warden of the institution may at
25 any time, and upon recommendation of the work release committee or of
26 the [~~chairman~~] chairperson of the state board of [~~parole~~] re-entry or
27 his or her designee shall, revoke any incarcerated individual's privi-
28 lege to participate in a program of work release.

29 § 41. Subdivision 9 of section 855 of the correction law, as amended
30 by section 231 of chapter 322 of the laws of 2021, is amended to read as
31 follows:

32 9. Participation in a temporary release program shall be a privilege.
33 Nothing contained in this article may be construed to confer upon any
34 incarcerated individual the right to participate, or to continue to
35 participate, in a temporary release program. The superintendent of the
36 institution may at any time, and upon recommendation of the temporary
37 release committee or of the commissioner or of the [~~chairman~~] chair-
38 person of the state board of [~~parole~~] re-entry or his or her designee
39 shall, revoke any incarcerated individual's privilege to participate in
40 a program of temporary release in accordance with regulations promulgat-
41 ed by the commissioner.

42 § 42. Subdivisions 2 and 5 of section 856 of the correction law, as
43 amended by section 232 of chapter 322 of the laws of 2021, are amended
44 to read as follows:

45 2. If the incarcerated individual violates any provision of the
46 program, or any rule or regulation promulgated by the commissioner for
47 conduct of incarcerated individuals participating in temporary release
48 programs, such incarcerated individual shall be subject to disciplinary
49 measures to the same extent as if he or she violated a rule or regu-
50 lation of the commissioner for conduct of incarcerated individuals with-
51 in the premises of the institution. The failure of an incarcerated indi-
52 vidual to voluntarily return to the institution of his or her
53 confinement more than ten hours after his or her prescribed time of
54 return shall create a rebuttable presumption that the failure to return
55 was intentional. Any incarcerated individual who is found to have inten-
56 tionally failed to return pursuant to this subdivision shall be an

1 absconder in violation of his or her temporary release program and will
2 not be an eligible incarcerated individual as defined in subdivision two
3 of section eight hundred fifty-one of this [~~chapter~~] article. The
4 creation of such rebuttable presumption shall not be admissible in any
5 court of law as evidence of the commission of any crime defined in the
6 penal law. A full report of any such violation, a summary of the facts
7 and findings of the disciplinary hearing and disciplinary measures
8 taken, shall be made available to the board for the incarcerated indi-
9 vidual's next scheduled appearance before the state board of [~~parole~~]
10 re-entry including any defense or explanation offered by the incarcerat-
11 ed individual in response at such hearing.

12 5. Upon the conclusion or termination of a temporary release program,
13 a full report of the incarcerated individual's performance in such
14 program shall be prepared in accordance with regulations of the commis-
15 sioner. Such report shall include but not be limited to: adjustment to
16 release, supervision contacts, statement of any violations of the terms
17 and conditions of release and of any disciplinary actions taken, and an
18 assessment of the incarcerated individual's suitability for parole. Such
19 report shall be made available to the state board of [~~parole~~] re-entry
20 for the incarcerated individual's next scheduled appearance before such
21 board.

22 § 43. Paragraph (d) of subdivision 1 of section 160.50 of the criminal
23 procedure law, as amended by chapter 449 of the laws of 2015, is amended
24 to read as follows:

25 (d) such records shall be made available to the person accused or to
26 such person's designated agent, and shall be made available to (i) a
27 prosecutor in any proceeding in which the accused has moved for an order
28 pursuant to section 170.56 or 210.46 of this chapter, or (ii) a law
29 enforcement agency upon ex parte motion in any superior court, or in any
30 district court, city court or the criminal court of the city of New York
31 provided that such court sealed the record, if such agency demonstrates
32 to the satisfaction of the court that justice requires that such records
33 be made available to it, or (iii) any state or local officer or agency
34 with responsibility for the issuance of licenses to possess guns, when
35 the accused has made application for such a license, or (iv) the New
36 York state department of corrections and community supervision when the
37 accused is on parole supervision as a result of conditional release or a
38 parole release granted by the New York state board of [~~parole~~] re-entry,
39 and the arrest which is the subject of the inquiry is one which occurred
40 while the accused was under such supervision, or (v) any prospective
41 employer of a police officer or peace officer as those terms are defined
42 in subdivisions thirty-three and thirty-four of section 1.20 of this
43 chapter, in relation to an application for employment as a police offi-
44 cer or peace officer; provided, however, that every person who is an
45 applicant for the position of police officer or peace officer shall be
46 furnished with a copy of all records obtained under this paragraph and
47 afforded an opportunity to make an explanation thereto, or (vi) the
48 probation department responsible for supervision of the accused when the
49 arrest which is the subject of the inquiry is one which occurred while
50 the accused was under such supervision; and

51 § 44. Paragraph (d) of subdivision 1 of section 160.55 of the criminal
52 procedure law, as amended by chapter 449 of the laws of 2015, is amended
53 to read as follows:

54 (d) the records referred to in paragraph (c) of this subdivision shall
55 be made available to the person accused or to such person's designated
56 agent, and shall be made available to (i) a prosecutor in any proceeding

1 in which the accused has moved for an order pursuant to section 170.56
2 or 210.46 of this chapter, or (ii) a law enforcement agency upon ex
3 parte motion in any superior court, or in any district court, city court
4 or the criminal court of the city of New York provided that such court
5 sealed the record, if such agency demonstrates to the satisfaction of
6 the court that justice requires that such records be made available to
7 it, or (iii) any state or local officer or agency with responsibility
8 for the issuance of licenses to possess guns, when the accused has made
9 application for such a license, or (iv) the New York state department of
10 corrections and community supervision when the accused is under parole
11 supervision as a result of conditional release or parole release granted
12 by the New York state board of [~~parole~~] re-entry and the arrest which is
13 the subject of the inquiry is one which occurred while the accused was
14 under such supervision, or (v) the probation department responsible for
15 supervision of the accused when the arrest which is the subject of the
16 inquiry is one which occurred while the accused was under such super-
17 vision, or (vi) a police agency, probation department, sheriff's office,
18 district attorney's office, department of correction of any municipality
19 and parole department, for law enforcement purposes, upon arrest in
20 instances in which the individual stands convicted of harassment in the
21 second degree, as defined in section 240.26 of the penal law, committed
22 against a member of the same family or household as the defendant, as
23 defined in subdivision one of section 530.11 of this chapter, and deter-
24 mined pursuant to subdivision eight-a of section 170.10 of this title;
25 and

26 § 45. Paragraph (a) of subdivision 2 of section 390.50 of the criminal
27 procedure law, as amended by chapter 31 of the laws of 2019, is amended
28 to read as follows:

29 (a) Not less than one court day prior to sentencing, unless such time
30 requirement is waived by the parties, the pre-sentence report or memo-
31 randum shall be made available by the court for examination and for
32 copying by the defendant's attorney, the defendant himself or herself,
33 if he or she has no attorney, and the prosecutor. In its discretion, the
34 court may except from disclosure a part or parts of the report or memo-
35 randa which are not relevant to a proper sentence, or a diagnostic opin-
36 ion which might seriously disrupt a program of rehabilitation, or sourc-
37 es of information which have been obtained on a promise of
38 confidentiality, or any other portion thereof, disclosure of which would
39 not be in the interest of justice. In all cases where a part or parts of
40 the report or memoranda are not disclosed, the court shall state for the
41 record that a part or parts of the report or memoranda have been
42 excepted and the reasons for its action. The action of the court except-
43 ing information from disclosure shall be subject to appellate review.
44 The pre-sentence report shall be made available by the court for exam-
45 ination and copying in connection with any appeal in the case, including
46 an appeal under this subdivision. Upon written request, the court shall
47 make a copy of the presentence report, other than a part or parts of the
48 report redacted by the court pursuant to this paragraph, available to
49 the defendant for use before the [~~parole~~] board of re-entry for release
50 consideration or an appeal of a [~~parole~~] board of re-entry determination
51 or an application for resentencing pursuant to section 440.46 or 440.47
52 of this chapter. In his or her written request to the court the defend-
53 ant shall affirm that he or she anticipates an appearance before the
54 [~~parole~~] board of re-entry or intends to file an administrative appeal
55 of a [~~parole~~] board of re-entry determination or meets the eligibility
56 criteria for and intends to file a motion for resentencing pursuant to

1 440.46 of this chapter or has received notification from the court which
2 received his or her request to apply for resentencing pursuant to
3 section 440.47 of this chapter confirming that he or she is eligible to
4 submit an application for resentencing pursuant to section 440.47 of
5 this chapter. The court shall respond to the defendant's written request
6 within twenty days from receipt of the defendant's written request.

7 § 46. Subdivision 6 of section 410.91 of the criminal procedure law,
8 as amended by section 76 of subpart B of part C of chapter 62 of the
9 laws of 2011, is amended to read as follows:

10 6. Upon delivery of the defendant to the reception center, he or she
11 shall be given a copy of the conditions of parole by a representative of
12 the department of corrections and community supervision and shall
13 acknowledge receipt of a copy of the conditions in writing. The condi-
14 tions shall be established in accordance with article twelve-B of the
15 executive law and the rules and regulations of the board of [~~parole~~
16 ~~re-entry~~]. Thereafter and while the parolee is participating in the
17 intensive drug treatment program provided at the drug treatment campus,
18 the department of corrections and community supervision shall assess the
19 parolee's special needs and shall develop an intensive program of parole
20 supervision that will address the parolee's substance abuse history and
21 which shall include periodic urinalysis testing. Unless inappropriate,
22 such program shall include the provision of treatment services by a
23 community-based substance abuse service provider which has a contract
24 with the department of corrections and community supervision.

25 § 47. Paragraph (a) of subdivision 5 of section 430.20 of the criminal
26 procedure law, as amended by chapter 788 of the laws of 1971, is amended
27 to read as follows:

28 (a) If the sentence also includes a term of imprisonment, commitment
29 must be to the same institution as is designated for service of the term
30 of imprisonment, and the period of commitment commences (i) when the
31 term of imprisonment is satisfied, or (ii) with the approval of the
32 state board of [~~parole~~ ~~re-entry~~], when the defendant becomes eligible
33 for parole, or (iii) when the defendant becomes eligible for conditional
34 release, whichever occurs first; provided, however, that the court may
35 direct that the period of imprisonment for the fine run concurrently
36 with the term of imprisonment; and

37 § 48. Subdivision 1 of section 440.50 of the criminal procedure law,
38 as amended by chapter 322 of the laws of 2021, is amended to read as
39 follows:

40 1. Upon the request of a victim of a crime, or in any event in all
41 cases in which the final disposition includes a conviction of a violent
42 felony offense as defined in section 70.02 of the penal law, a felony
43 defined in article one hundred twenty-five of such law, or a felony
44 defined in article one hundred thirty of such law, the district attorney
45 shall, within sixty days of the final disposition of the case, inform
46 the victim by letter of such final disposition. If such final disposi-
47 tion results in the commitment of the defendant to the custody of the
48 department of corrections and community supervision for an indeterminate
49 sentence, the notice provided to the crime victim shall also inform the
50 victim of his or her right to submit a written, audiotaped, or vide-
51 otaped victim impact statement to the department of corrections and
52 community supervision or to meet personally with a member of the state
53 board of [~~parole~~ ~~re-entry~~] at a time and place separate from the
54 personal interview between a member or members of the board and the
55 incarcerated individual and make such a statement, subject to procedures
56 and limitations contained in rules of the board, both pursuant to subdi-

1 vision two of section two hundred fifty-nine-i of the executive law. A
2 copy of such letter shall be provided to the board of [~~parole~~] re-entry.
3 The right of the victim under this subdivision to submit a written
4 victim impact statement or to meet personally with a member of the state
5 board of [~~parole~~] re-entry applies to each personal interview between a
6 member or members of the board and the incarcerated individual.

7 § 49. Subdivision 5 of section 190 of the judiciary law, as added by
8 chapter 477 of the laws of 1988, is amended to read as follows:

9 5. Notwithstanding any other provision of law to the contrary, any
10 proceeding which the supreme court has jurisdiction to entertain to
11 review the actions or determinations of the state board of [~~parole~~]
12 re-entry.

13 § 50. Paragraph 1 of subdivision (d) of section 10.11 of the mental
14 hygiene law, as amended by section 118-e of subpart B of part C of chap-
15 ter 62 of the laws of 2011, is amended to read as follows:

16 (1) A person's regimen of strict and intensive supervision and treat-
17 ment may be revoked if such a person violates a condition of strict and
18 intensive supervision. If a parole officer has reasonable cause to
19 believe that the person has violated a condition of the regimen of
20 strict and intensive supervision and treatment or, if there is an oral
21 or written evaluation or report by a treating professional indicating
22 that the person may be a dangerous sex offender requiring confinement, a
23 parole officer authorized in the same manner as provided in subparagraph
24 (i) of paragraph (a) of subdivision three of section two hundred fifty-
25 nine-i of the executive law may take the person into custody and trans-
26 port the person for lodging in a secure treatment facility or a local
27 correctional facility for an evaluation by a psychiatric examiner, which
28 evaluation shall be conducted within five days. A parole officer may
29 take the person, under custody, to a psychiatric center for prompt eval-
30 uation, and at the end of the examination, return the person to the
31 place of lodging. A parole officer, as authorized by this paragraph, may
32 direct a peace officer, acting pursuant to his or her special duties, or
33 a police officer who is a member of an authorized police department or
34 force or of a sheriff's department, to take the person into custody and
35 transport the person as provided in this paragraph. It shall be the duty
36 of such peace officer or police officer to take into custody and trans-
37 port any such person upon receiving such direction. The department of
38 corrections and community supervision shall promptly notify the attorney
39 general and the mental hygiene legal service, when a person is taken
40 into custody pursuant to this paragraph. No provision of this section
41 shall preclude the board of [~~parole~~] re-entry from proceeding with a
42 revocation hearing as authorized by subdivision three of section two
43 hundred fifty-nine-i of the executive law.

44 § 51. Subdivision 2 of section 579 of the public health law, as
45 amended by chapter 322 of the laws of 2021, is amended to read as
46 follows:

47 2. This title shall not be applicable to and the department shall not
48 have the power to regulate pursuant to this title: (a) any examination
49 performed by a state or local government of materials derived from the
50 human body for use in criminal identification or as evidence in a crimi-
51 nal proceeding or for investigative purposes; (b) any test conducted
52 pursuant to paragraph (c) of subdivision four of section eleven hundred
53 ninety-four of the vehicle and traffic law and paragraph (c) of subdivi-
54 sion eight of section 25.24 of the parks, recreation and historic pres-
55 ervation law; (c) any examination performed by a state or local agency
56 of materials derived from the body of an incarcerated individual,

1 pretrial releasee, parolee, conditional releasee or probationer to (i)
2 determine, measure or otherwise describe the presence or absence of any
3 substance whose possession, ingestion or use is prohibited by law, the
4 rules of the department of corrections and community supervision, the
5 conditions of release established by the board of [parole] re-entry, the
6 conditions of release established by a court or a local conditional
7 release commission or the conditions of any program to which such indi-
8 viduals are referred and (ii) to determine whether there has been a
9 violation thereof; or (d) any examination performed by a coroner or
10 medical examiner for the medical-legal investigation of a death. Nothing
11 herein shall prevent the department from consulting with the division of
12 criminal justice services, the department of corrections and community
13 supervision, the state police, or any other state agency or commission,
14 at the request of the division of criminal justice services, the depart-
15 ment of corrections and community supervision, the state police, or such
16 other agency or commission, concerning examination of materials for
17 purposes other than public health.

18 § 52. The opening paragraph of subdivision 3 of section 70.30 of the
19 penal law, as amended by chapter 1 of the laws of 1998, is amended to
20 read as follows:

21 The term of a definite sentence, a determinate sentence, or the maxi-
22 mum term of an indeterminate sentence imposed on a person shall be cred-
23 ited with and diminished by the amount of time the person spent in
24 custody prior to the commencement of such sentence as a result of the
25 charge that culminated in the sentence. In the case of an indeterminate
26 sentence, if the minimum period of imprisonment has been fixed by the
27 court or by the board of [parole] re-entry, the credit shall also be
28 applied against the minimum period. The credit herein provided shall be
29 calculated from the date custody under the charge commenced to the date
30 the sentence commences and shall not include any time that is credited
31 against the term or maximum term of any previously imposed sentence or
32 period of post-release supervision to which the person is subject. Where
33 the charge or charges culminate in more than one sentence, the credit
34 shall be applied as follows:

35 § 52-a. The opening paragraph of subdivision 3 of section 70.30 of the
36 penal law, as separately amended by chapter 648 of the laws of 1979 and
37 chapter 1 of the laws of 1998, is amended to read as follows:

38 The term of a definite sentence or the maximum term of an indetermi-
39 nate sentence imposed on a person shall be credited with and diminished
40 by the amount of time the person spent in custody prior to the commence-
41 ment of such sentence as a result of the charge that culminated in the
42 sentence. In the case of an indeterminate sentence, if the minimum peri-
43 od of imprisonment has been fixed by the court or by the board of
44 [parole] re-entry, the credit shall also be applied against the minimum
45 period. The credit herein provided shall be calculated from the date
46 custody under the charge commenced to the date the sentence commences
47 and shall not include any time that is credited against the term or
48 maximum term of any previously imposed sentence or period of post-re-
49 lease supervision to which the person is subject. Where the charge or
50 charges culminate in more than one sentence, the credit shall be applied
51 as follows:

52 § 53. The opening paragraph of paragraph (a), paragraph (b) and para-
53 graph (c) of subdivision 1, and subdivisions 2 and 3 of section 70.40 of
54 the penal law, the opening paragraph of paragraph (a) as amended by
55 section 127-c, paragraph (b) as amended by section 127-d-1 and paragraph
56 (c) as amended by section 127-f of subpart B of part C of chapter 62 of

1 the laws of 2011, subdivision 2 as amended by section 127-g of subpart B
2 of part C of chapter 62 of the laws of 2011, and subdivision 3 as
3 amended by chapter 427 of the laws of 2021, are amended to read as
4 follows:

5 Release on parole shall be in the discretion of the state board of
6 [~~parole~~] re-entry, and such person shall continue service of his or her
7 sentence or sentences while on parole, in accordance with and subject to
8 the provisions of the executive law and the correction law.

9 (b) A person who is serving one or more than one indeterminate or
10 determinate sentence of imprisonment shall, if he or she so requests, be
11 conditionally released from the institution in which he or she is
12 confined when the total good behavior time allowed to him or her, pursu-
13 ant to the provisions of the correction law, is equal to the unserved
14 portion of his or her term, maximum term or aggregate maximum term;
15 provided, however, that (i) in no event shall a person serving one or
16 more indeterminate sentence of imprisonment and one or more determinate
17 sentence of imprisonment which run concurrently be conditionally
18 released until serving at least six-sevenths of the determinate term of
19 imprisonment which has the longest unexpired time to run and (ii) in no
20 event shall a person be conditionally released prior to the date on
21 which such person is first eligible for discretionary parole release.
22 The conditions of release, including those governing post-release super-
23 vision, shall be such as may be imposed by the state board of [~~parole~~]
24 re-entry in accordance with the provisions of the executive law.

25 Every person so released shall be under the supervision of the state
26 department of corrections and community supervision for a period equal
27 to the unserved portion of the term, maximum term, aggregate maximum
28 term, or period of post-release supervision.

29 (c) A person who is serving one or more than one indeterminate
30 sentence of imprisonment shall, if he or she so requests, be released
31 from the institution in which he or she is confined if granted presump-
32 tive release pursuant to section eight hundred six of the correction
33 law. The conditions of release shall be such as may be imposed by the
34 state board of [~~parole~~] re-entry in accordance with the provisions of
35 the executive law. Every person so released shall be under the super-
36 vision of the department of corrections and community supervision for a
37 period equal to the unserved portion of his or her maximum or aggregate
38 maximum term unless discharged in accordance with law.

39 2. Definite sentence. A person who is serving one or more than one
40 definite sentence of imprisonment with a term or aggregate term in
41 excess of ninety days, and is eligible for release according to the
42 criteria set forth in paragraphs (a), (b) and (c) of subdivision one of
43 section two hundred seventy-three of the correction law, may, if he or
44 she so requests, be conditionally released from the institution in which
45 he or she is confined at any time after service of sixty days of that
46 term, exclusive of credits allowed under subdivisions four and six of
47 section 70.30 of this article. In computing service of sixty days, the
48 credit allowed for jail time under subdivision three of section 70.30 of
49 this article shall be calculated as time served. Conditional release
50 from such institution shall be in the discretion of the [~~parole~~] board
51 of re-entry, or a local conditional release commission established
52 pursuant to article twelve of the correction law, provided, however that
53 where such release is by a local conditional release commission, the
54 person must be serving a definite sentence with a term in excess of one
55 hundred twenty days and may only be released after service of ninety
56 days of such term. In computing service of ninety days, the credit

1 allowed for jail time under subdivision three of section 70.30 of this
2 article shall be calculated as time served. A conditional release grant-
3 ed under this subdivision shall be upon such conditions as may be
4 imposed by the [~~parole~~] board of re-entry, in accordance with the
5 provisions of the executive law, or a local conditional release commis-
6 sion in accordance with the provisions of the correction law.

7 Conditional release shall interrupt service of the sentence or
8 sentences and the remaining portion of the term or aggregate term shall
9 be held in abeyance. Every person so released shall be under the super-
10 vision of the department of corrections and community supervision or a
11 local probation department and in the custody of the local conditional
12 release commission in accordance with article twelve of the correction
13 law, for a period of one year. The local probation department shall
14 cause complete records to be kept of every person released to its super-
15 vision pursuant to this subdivision. The department of corrections and
16 community supervision may supply to a local probation department and the
17 local conditional release commission custody information and records
18 maintained on persons under the supervision of such local probation
19 department to aid in the performance of its supervision responsibil-
20 ities. Compliance with the conditions of release during the period of
21 supervision shall satisfy the portion of the term or aggregate term that
22 has been held in abeyance.

23 3. Delinquency. (a) When a person is alleged to have violated the
24 terms of presumptive release or parole by absconding, and the state
25 board of [~~parole~~] re-entry has declared such person to be delinquent,
26 the declaration of delinquency shall interrupt the person's sentence as
27 of the date of the delinquency and such interruption shall continue
28 until the releasee's appearance in response to a notice of violation or
29 the date of the execution of a warrant, whichever is earlier.

30 (b) When a person is alleged to have violated the terms of his or her
31 conditional release or post-release supervision by absconding and has
32 been declared delinquent by the [~~parole~~] board of re-entry or the local
33 conditional release commission having supervision over such person, the
34 declaration of delinquency shall interrupt the period of supervision or
35 post-release supervision as of the date of the delinquency. For a condi-
36 tional release, such interruption shall continue until the releasee's
37 appearance in response to a notice of violation or the date of the
38 execution of a warrant, whichever is earlier. For a person released to
39 post-release supervision, the provisions of section 70.45 of this arti-
40 cle shall apply.

41 (c) Any time spent by a person in custody from the time of execution
42 of a warrant pursuant to paragraph (a) of subdivision three of section
43 two hundred fifty-nine-i of the executive law to the time service of the
44 sentence resumes shall be credited against the term or maximum term of
45 the interrupted sentence.

46 § 53-a. Subparagraph (i) of paragraph (a) and paragraph (b) of subdivi-
47 sion 1 of section 70.40 of the penal law, subparagraph (i) of para-
48 graph (a) as amended by section 127-d and paragraph (b) as amended by
49 section 127-e of subpart B of part C of chapter 62 of the laws of 2011,
50 are amended to read as follows:

51 (i) A person who is serving one or more than one indeterminate
52 sentence of imprisonment may be paroled from the institution in which he
53 or she is confined at any time after the expiration of the minimum or
54 the aggregate minimum period of imprisonment of the sentence or
55 sentences or after the successful completion of a shock incarceration
56 program, as defined in article twenty-six-A of the correction law,

1 whichever is sooner. Release on parole shall be in the discretion of the
2 state board of [~~parole~~] re-entry, and such person shall continue service
3 of his or her sentence or sentences while on parole, in accordance with
4 and subject to the provisions of the executive law and the correction
5 law.

6 (b) A person who is serving one or more than one indeterminate
7 sentence of imprisonment shall, if he or she so requests, be condi-
8 tionally released from the institution in which he or she is confined
9 when the total good behavior time allowed to him or her, pursuant to the
10 provisions of the correction law, is equal to the unserved portion of
11 his or her maximum or aggregate maximum term. The conditions of release,
12 including those governing post-release supervision, shall be such as may
13 be imposed by the state board of [~~parole~~] re-entry in accordance with
14 the provisions of the executive law.

15 Every person so released shall be under the supervision of the depart-
16 ment of corrections and community supervision for a period equal to the
17 unserved portion of the maximum, aggregate maximum term, or period of
18 post-release supervision.

19 § 54. Subdivisions 1-a and 3 of section 70.45 of the penal law, subdi-
20 vision 1-a as added by chapter 7 of the laws of 2007 and subdivision 3
21 as added by chapter 1 of the laws of 1998, are amended to read as
22 follows:

23 1-a. When, following a final hearing, a time assessment has been
24 imposed upon a person convicted of a felony sex offense who owes three
25 years or more on a period of post-release supervision, imposed pursuant
26 to subdivision two-a of this section, such defendant, after serving
27 three years of the time assessment, shall be reviewed by the board of
28 [~~parole~~] re-entry and may be re-released to post-release supervision
29 only upon a determination by the board of [~~parole~~] re-entry made in
30 accordance with subdivision two of section two hundred fifty-nine-i of
31 the executive law. If re-release is not granted, the board shall specify
32 a date not more than twenty-four months from such determination for
33 reconsideration, and the procedures to be followed upon reconsideration
34 shall be the same. If a time assessment of less than three years is
35 imposed upon such a defendant, the defendant shall be released upon the
36 expiration of such time assessment, unless he or she is subject to
37 further imprisonment or confinement under any provision of law.

38 3. Conditions of post-release supervision. The board of [~~parole~~]
39 re-entry shall establish and impose conditions of post-release super-
40 vision in the same manner and to the same extent as it may establish and
41 impose conditions in accordance with the executive law upon persons who
42 are granted parole or conditional release; provided that, notwithstand-
43 ing any other provision of law, the board of [~~parole~~] re-entry may
44 impose as a condition of post-release supervision that for a period not
45 exceeding six months immediately following release from the underlying
46 term of imprisonment the person be transferred to and participate in the
47 programs of a residential treatment facility as that term is defined in
48 subdivision six of section two of the correction law. Upon release from
49 the underlying term of imprisonment, the person shall be furnished with
50 a written statement setting forth the conditions of post-release super-
51 vision in sufficient detail to provide for the person's conduct and
52 supervision.

53 § 55. Section 240.32 of the penal law, as amended by chapter 322 of
54 the laws of 2021, is amended to read as follows:

55 § 240.32 Aggravated harassment of an employee by an incarcerated indi-
56 vidual.

1 An incarcerated individual or respondent is guilty of aggravated
2 harassment of an employee by an incarcerated individual when, with
3 intent to harass, annoy, threaten or alarm a person in a facility whom
4 he or she knows or reasonably should know to be an employee of such
5 facility or the board of [~~parole~~] ~~re-entry~~ or the office of mental
6 health, or a probation department, bureau or unit or a police officer,
7 he or she causes or attempts to cause such employee to come into contact
8 with blood, seminal fluid, urine, feces, or the contents of a toilet
9 bowl, by throwing, tossing or expelling such fluid or material.

10 For purposes of this section, "incarcerated individual" means an
11 incarcerated individual or detainee in a correctional facility, local
12 correctional facility or a hospital, as such term is defined in subdivi-
13 sion two of section four hundred of the correction law. For purposes of
14 this section, "respondent" means a juvenile in a secure facility oper-
15 ated and maintained by the office of children and family services who is
16 placed with or committed to the office of children and family services.
17 For purposes of this section, "facility" means a correctional facility
18 or local correctional facility, hospital, as such term is defined in
19 subdivision two of section four hundred of the correction law, or a
20 secure facility operated and maintained by the office of children and
21 family services.

22 Aggravated harassment of an employee by an incarcerated individual is
23 a class E felony.

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

25 (a) the amendments to subdivision 2 of section 259-m of the executive
26 law made by section fifteen of this act shall be subject to the repeal
27 of such section pursuant to section 3 of chapter 688 of the laws of
28 2003, as amended, and shall be deemed repealed therewith;

29 (b) the amendments to subdivision 6 of section 710.91 of the criminal
30 procedure law made by section twenty-eight of this act shall not affect
31 the repeal of such section and shall be deemed repealed therewith;

32 (c) the amendments to section 805 of the correction law made by
33 section thirty-seven of this act shall be subject to the expiration and
34 reversion of such section pursuant to chapter 261 of the laws of 1987
35 and subdivision d of section 74 of chapter 3 of the laws of 1995, as
36 amended, when upon such date the provisions of section thirty-seven-a of
37 this act shall take effect;

38 (d) the amendments to subdivision 2 of section 851 of the correction
39 law made by section thirty-eight of this act shall be subject to the
40 expiration of such subdivision and section pursuant to subdivision (c)
41 of section 46 of chapter 60 of the laws of 1994 and section 10 of chap-
42 ter 339 of the laws of 1972, as amended, when upon such date the
43 provisions of section thirty-eight-a of this act shall take effect;

44 (e) section thirty-nine of this act shall take effect on the same date
45 as the reversion of subdivision 1 of section 852 of the correction law
46 as provided by section 10 of chapter 339 of the laws of 1972, as
47 amended;

48 (f) section forty of this act shall take effect on the same date as
49 the reversion of subdivision 6 of section 855 of the correction law as
50 provided by section 10 of chapter 339 of the laws of 1972, as amended;

51 (g) the amendments to subdivision 9 of section 855 of the correction
52 law, made by section forty-one of this act, shall not affect the expira-
53 tion of such section and shall expire therewith;

54 (h) the amendments to subdivisions 2 and 5 of section 856 of the
55 correction law made by section forty-two of this act shall not affect
56 the expiration of such section and shall expire therewith;

1 (i) the amendments to the opening paragraph of subdivision 3 of
2 section 70.30 of the penal law made by section fifty-two of this act
3 shall be subject to the reversion of such subdivision pursuant to subdivi-
4 sion d of section 74 of chapter 3 of the laws of 1995, as amended,
5 when upon such date the provisions of section fifty-two-a of this act
6 shall take effect;

7 (j) the amendments to the opening paragraph of paragraph (a) and para-
8 graph (b) of subdivision 1 of section 70.40 of the penal law made by
9 section fifty-three of this act shall be subject to the reversion of
10 such subdivision pursuant to subdivision d of section 74 of chapter 3 of
11 the laws of 1995, as amended, when upon such date the provisions of
12 section fifty-three-a of this act shall take effect; and

13 (k) the amendments to paragraph (c) of subdivision 1 of section 70.40
14 of the penal law made by section fifty-three of this act shall not
15 affect the repeal of such paragraph and shall be deemed repealed there-
16 with.

17 Effective immediately, the addition, amendment and/or repeal of any
18 rule or regulation necessary for the implementation of this act on its
19 effective date are authorized to be made and completed on or before such
20 effective date.