

STATE OF NEW YORK

6263

2025-2026 Regular Sessions

IN ASSEMBLY

February 27, 2025

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:

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

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

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

(c) commissioner of agriculture and markets, commissioner of alcoholism and substance abuse services, adjutant general, commissioner and president of state civil service commission, commissioner of economic development, chair of the energy research and development authority, president of higher education services corporation, commissioner of motor vehicles, member-chair of board of [~~parole~~] **re-entry**, chair of public employment relations board, secretary of state, commissioner of [~~alcoholism and substance abuse~~] **addiction services and supports**, executive director of the housing finance agency, commissioner of housing and community renewal, executive director of state insurance fund, commissioner-chair of state liquor authority, and chair of the workers' compensation board;

(e) chairperson of state athletic commission, director of the office of victim services, chairperson of human rights appeal board, chair-

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

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1 person of the industrial board of appeals, chairperson of the state
2 commission of correction, members of the board of [parole] re-entry,
3 member-chairperson of unemployment insurance appeal board, director of
4 veterans' services, and vice-chairperson of the workers' compensation
5 board;

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

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

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

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

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

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

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

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

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

51 State board of [parole] re-entry; organization. 1. There shall be in
52 the department a state board of [parole] re-entry which shall possess
53 the powers and duties hereinafter specified. The board shall function
54 independently of the department regarding all of its decision-making
55 functions, as well as any other powers and duties specified in this
56 article, provided, however, that administrative matters of general

1 applicability within the department shall be applicable to the board.
2 Such board shall consist of not more than nineteen members appointed by
3 the governor with the advice and consent of the senate. The term of
4 office of each member of such board shall be for six years; provided,
5 however, that any member chosen to fill a vacancy occurring otherwise
6 than by expiration of term shall be appointed for the remainder of the
7 unexpired term of the member whom ~~[he]~~ such member is to succeed. In the
8 event of the inability to act of any member, the governor may appoint
9 some competent informed person to act in ~~[his]~~ the member's stead during
10 the continuance of such disability.

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

18 § 7. The section heading, the opening paragraph and subdivisions 4, 12
19 and 13 of section 259-c of the executive law, the section heading and
20 the opening paragraph as amended by section 38-b of subpart A of part C
21 of chapter 62 of the laws of 2011, subdivisions 4 and 12 as amended by
22 chapter 322 of the laws of 2021 and subdivision 13 as amended by chapter
23 292 of the laws of 2018, are amended to read as follows:

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

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

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

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

48 § 8. Subdivision 1 of section 259-d of the executive law, as amended
49 by section 38-b-2 of subpart A of part C of chapter 62 of the laws of
50 2011, is amended to read as follows:

51 1. The state board of ~~[parole]~~ re-entry shall appoint and shall have
52 the power to remove, in accordance with the provisions of the civil
53 service law, hearing officers who shall be authorized to conduct parole
54 revocation proceedings. Hearing officers shall function independently of
55 the department regarding all of their decision-making functions, and
56 shall report directly to the board, provided, however, that administra-

tive matters of general applicability within the department shall be applicable to all hearing officers. A hearing officer conducting such proceedings shall, when delegated such authority by the board in rules adopted by the board, be required to make a written decision in accordance with standards and rules adopted by the board. Nothing in this article shall be deemed to preclude a member of the state board of [parole] re-entry from exercising all of the functions, powers and duties of a hearing officer upon request of the [chairman] chairperson.

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

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

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

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

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

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

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

8. Foreign born or non-English speaking person before the board. Upon notification from the department pursuant to section two hundred fifty-nine-e of this article, or upon the request of any foreign born or non-English speaking person who is scheduled to participate in an interview, parole release hearing, preliminary hearing or revocation hearing, there shall be appointed from the New York state office of general services statewide administrative services contract, a qualified interpreter to interpret the proceedings to and the statements or testimony of such

1 person. The board shall determine a reasonable fee for all such inter-
2 preting services, the cost of which shall be a charge upon the board of
3 ~~[parole]~~ re-entry. No such request or appointment shall cause a delay of
4 release from incarceration of such person.

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

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

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

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

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

1 1. All case files shall be maintained by the department for use by the
2 department and board. The department and board and authorized officers
3 and employees thereof shall have complete access to such files and the
4 board of [parole] re-entry shall have the right to make such entries as
5 the board of [parole] re-entry shall deem appropriate in accordance with
6 law.

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

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

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

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

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

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

55 2. The [chairman] chairperson of the board of [parole] re-entry shall
56 have power and shall be charged with the duty of promulgating such rules

1 and regulations as may be deemed necessary to carry out the terms of a
2 compact entered into by the state pursuant to this section.

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

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

16 § 17. Subdivisions 1, 2, 3, 4 and 6 of section 259-q of the executive
17 law, subdivisions 1, 2 and 6 and paragraph (b) of subdivision 4 as
18 amended by section 38-k-1 of subpart A of part C of chapter 62 of the
19 laws of 2011, subdivision 3 as amended by chapter 120 of the laws of
20 2017, and subdivision 4 as added by chapter 466 of the laws of 1978, are
21 amended to read as follows:

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

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

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

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

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

54 6. The benefits of subdivision three [~~hereof~~] of this section shall
55 inure only to officers and employees of the board of [~~parole~~] re-entry

1 or former division of parole and shall not enlarge or diminish the
2 rights of any other party.

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

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

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

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

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

49 (b) The commissioner, or the commissioner's designee, shall review the
50 diagnosis and may certify that the incarcerated individual is suffering
51 from such condition, disease or syndrome and that the incarcerated indi-
52 vidual is so debilitated or incapacitated as to create a reasonable
53 probability that ~~[he or she]~~ the incarcerated individual is physically
54 or cognitively incapable of presenting any danger to society. If the
55 commissioner does not so certify then the incarcerated individual shall
56 not be referred to the board for consideration for release on medical

1 parole. If the commissioner does so certify, then the commissioner
2 shall, within seven working days of receipt of such diagnosis, refer the
3 incarcerated individual to the board for consideration for release on
4 medical parole. However, no such referral of an incarcerated individual
5 to the board of [~~parole~~] re-entry shall be made unless the incarcerated
6 individual has been examined by a physician and diagnosed as having a
7 condition, disease or syndrome as previously described herein at some
8 time subsequent to such incarcerated individual's admission to a facili-
9 ty operated by the department.

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

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

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

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

38 § 22. Subparagraph (iii) of paragraph (c) of subdivision 1 of section
39 632-a of the executive law, as amended by section 100 of subpart B of
40 part C of chapter 62 of the laws of 2011, is amended to read as follows:

41 (iii) is no longer subject to a sentence of probation or conditional
42 discharge or indeterminate, determinate or definite term of imprisonment
43 or period of post-release supervision or term of supervised release, and
44 where within the previous three years: the full or maximum term or peri-
45 od terminated or expired or such person was granted a discharge by the
46 state board of [~~parole~~] re-entry or the department of corrections and
47 community supervision pursuant to applicable law, or granted a discharge
48 or termination from probation pursuant to applicable law or granted a
49 discharge or termination under applicable federal or state law, rules or
50 regulations prior to the expiration of such full or maximum term or
51 period; and includes only: (A) those funds paid to such person as a
52 result of any interest, right, right of action, asset, share, claim,
53 recovery or benefit of any kind that the person obtained, or that
54 accrued in favor of such person, prior to the expiration of such
55 sentence, term or period; (B) any recovery or award collected in a
56 lawsuit after expiration of such sentence where the right or cause of

1 action accrued prior to the expiration or service of such sentence; and
2 (C) earned income earned during a period in which such person was not in
3 compliance with the conditions of [~~his or her~~] probation, parole, condi-
4 tional release, period of post-release supervision by the department of
5 corrections and community supervision or term of supervised release with
6 the United States probation office or United States parole commission.
7 For purposes of this subparagraph, such period of non-compliance shall
8 be measured, as applicable, from the earliest date of delinquency deter-
9 mined by the department of corrections and community supervision, or
10 from the earliest date on which a declaration of delinquency is filed
11 pursuant to section 410.30 of the criminal procedure law and thereafter
12 sustained, or from the earliest date of delinquency determined in
13 accordance with applicable federal law, rules or regulations, and shall
14 continue until a final determination sustaining the violation has been
15 made by the trial court, the department of corrections and community
16 supervision, or appropriate federal authority.

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

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

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

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

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

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

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

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

1 supports, the board of [~~parole~~] re-entry, the department of health, and
2 other appropriate agencies in the development of transitional case
3 management plans.

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

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

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

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

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

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

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

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

51 § 168-m. Review. Notwithstanding any other provision of law to the
52 contrary, any state or local correctional facility, hospital or institu-
53 tion, district attorney, law enforcement agency, probation department,
54 state board of [~~parole~~] re-entry, court or child protective agency shall
55 forward relevant information pertaining to a sex offender to be
56 discharged, paroled, released to post-release supervision or released to

1 the board for review no later than one hundred twenty days prior to the
2 release or discharge and the board shall make recommendations as
3 provided in subdivision six of section one hundred sixty-eight-1 of this
4 article within sixty days of receipt of the information. Information may
5 include, but may not be limited to all or a portion of the arrest file,
6 prosecutor's file, probation or parole file, child protective file,
7 court file, commitment file, medical file and treatment file pertaining
8 to such person. Such person shall be permitted to submit to the board
9 any information relevant to the review. Upon application of the sex
10 offender or the district attorney, the court shall seal any portion of
11 the board's file pertaining to the sex offender that contains material
12 that is confidential under any state or federal law; provided, however,
13 that in any subsequent proceedings in which the sex offender who is the
14 subject of the sealed record is a party and which requires the board to
15 provide a recommendation to the court pursuant to this article, such
16 sealed record shall be available to the sex offender, the district
17 attorney, the court and the attorney general where the attorney general
18 is a party, or represents a party, in the proceeding.

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

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

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

28 5. The commissioner, in consultation with the [~~chairman~~] chairperson
29 of the board of [~~parole~~] re-entry, shall promulgate rules and regu-
30 lations governing the issuance of merit terminations of sentence and
31 discharges from presumptive release, parole, conditional release or
32 post-release supervision to assure that such terminations and discharges
33 are consistent with public safety. The board of [~~parole~~] re-entry shall
34 have access to merit termination application case files and correspond-
35 ing decisions to assess the effectiveness of the rules and regulations
36 in ensuring public safety. Such review will in no manner effect the
37 decisions made with regard to individual merit termination determi-
38 nations.

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

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

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

52 § 207. Cooperation. It shall be the duty of the commissioner of
53 corrections and community supervision to insure that all officers and
54 employees of the department shall at all times cooperate with the board
55 of [~~parole~~] re-entry and shall furnish to such members and employees of
56 the board of [~~parole~~] re-entry such information as may be appropriate to

1 enable them to perform their independent decision making functions. It
2 is also ~~[his or her]~~ the commissioner's duty to ensure that the func-
3 tions of the board of ~~[parole]~~ re-entry are not hampered in any way,
4 including but not limited to: a restriction of resources including staff
5 assistance; limited access to vital information; and presentation of
6 incarcerated individual information in a manner that may inappropriately
7 influence the board in its decision making.

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

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

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

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

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

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

40 § 805. Earned eligibility program. Persons committed to the custody of
41 the department under an indeterminate or determinate sentence of impri-
42 sonment shall be assigned a work and treatment program as soon as prac-
43 ticable. No earlier than two months prior to the incarcerated individ-
44 ual's eligibility to be paroled pursuant to subdivision one of section
45 70.40 of the penal law, the commissioner shall review the incarcerated
46 individual's institutional record to determine whether ~~[he or she]~~ the
47 incarcerated individual has complied with the assigned program. If the
48 commissioner determines that the incarcerated individual has successful-
49 ly participated in the program ~~[he or she]~~ the commissioner may issue
50 the incarcerated individual a certificate of earned eligibility. Notwith-
51 standing any other provision of law, an incarcerated individual
52 who is serving a sentence with a minimum term of not more than eight
53 years and who has been issued a certificate of earned eligibility, shall
54 be granted parole release at the expiration of ~~[his or her]~~ the incar-
55 cerated individual's minimum term or as authorized by subdivision four
56 of section eight hundred sixty-seven of this chapter unless the board of

1 ~~[parole]~~ re-entry determines that there is a reasonable probability
2 that, if such incarcerated individual is released, ~~[he or she]~~ the
3 incarcerated individual will not live and remain at liberty without
4 violating the law and that ~~[his or her]~~ the incarcerated individual
5 release is not compatible with the welfare of society. Any action by the
6 commissioner pursuant to this section shall be deemed a judicial func-
7 tion and shall not be reviewable if done in accordance with law.

8 § 37-a. Section 805 of the correction law, as amended by section 226-a
9 of chapter 322 of the laws of 2021, is amended to read as follows:

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

33 § 38. The opening paragraph of subdivision 2 of section 851 of the
34 correction law, as amended by section 228 of chapter 322 of the laws of
35 2021, is amended to read as follows:

36 "Eligible incarcerated individual" means: a person confined in an
37 institution who is eligible for release on parole or who will become
38 eligible for release on parole or conditional release within two years.
39 Provided, however, that a person under sentence for an offense defined
40 in paragraphs (a) and (b) of subdivision one of section 70.02 of the
41 penal law, where such offense involved the use or threatened use of a
42 deadly weapon or dangerous instrument shall not be eligible to partic-
43 ipate in a work release program until ~~[he or she]~~ such person is eligi-
44 ble for release on parole or who will be eligible for release on parole
45 or conditional release within eighteen months. Provided, further, howev-
46 er, that a person under a determinate sentence as a second felony drug
47 offender for a class B felony offense defined in article two hundred
48 twenty of the penal law, who was sentenced pursuant to section 70.70 of
49 such law, shall not be eligible to participate in a temporary release
50 program until the time served under imprisonment for ~~[his or her]~~ such
51 person's determinate sentence, including any jail time credited pursuant
52 to the provisions of article seventy of the penal law, shall be at least
53 eighteen months. In the case of a person serving an indeterminate
54 sentence of imprisonment imposed pursuant to the penal law in effect
55 after September one, nineteen hundred sixty-seven, for the purposes of
56 this article parole eligibility shall be upon the expiration of the

1 minimum period of imprisonment fixed by the court or where the court has
2 not fixed any period, after service of the minimum period fixed by the
3 state board of ~~[parole]~~ re-entry. If an incarcerated individual is
4 denied release on parole, such incarcerated individual shall not be
5 deemed an eligible incarcerated individual until ~~[he or she]~~ such person
6 is within two years of ~~[his or her]~~ their next scheduled appearance
7 before the state ~~[parole]~~ re-entry board. In any case where an incarcer-
8 ated individual is denied release on parole while participating in a
9 temporary release program, the department shall review the status of the
10 incarcerated individual to determine if continued placement in the
11 program is appropriate. No person convicted of any escape or absconding
12 offense defined in article two hundred five of the penal law shall be
13 eligible for temporary release. Further, no person under sentence for
14 aggravated harassment of an employee by an incarcerated individual as
15 defined in section 240.32 of the penal law for, any homicide offense
16 defined in article one hundred twenty-five of the penal law, for any sex
17 offense defined in article one hundred thirty of the penal law, or for
18 an offense defined in section 255.25, 255.26 or 255.27 of the penal law
19 shall be eligible to participate in a work release program as defined in
20 subdivision three of this section. Nor shall any person under sentence
21 for any sex offense defined in article one hundred thirty of the penal
22 law be eligible to participate in a community services program as
23 defined in subdivision five of this section. Notwithstanding the forego-
24 ing, no person who is an otherwise eligible incarcerated individual who
25 is under sentence for a crime involving: (a) infliction of serious phys-
26 ical injury upon another as defined in the penal law or (b) any other
27 offense involving the use or threatened use of a deadly weapon may
28 participate in a temporary release program without the written approval
29 of the commissioner. The commissioner shall promulgate regulations
30 giving direction to the temporary release committee at each institution
31 in order to aid such committees in carrying out this mandate.

32 § 38-a. The opening paragraph of subdivision 2 of section 851 of the
33 correction law, as amended by section 228-b of chapter 322 of the laws
34 of 2021, is amended to read as follows:

35 "Eligible incarcerated individual" means: a person confined in an
36 institution who is eligible for release on parole or who will become
37 eligible for release on parole or conditional release within two years.
38 Provided, that a person under a determinate sentence as a second felony
39 drug offender for a class B felony offense defined in article two
40 hundred twenty of the penal law, who was sentenced pursuant to section
41 70.70 of such law, shall not be eligible to participate in a temporary
42 release program until the time served under imprisonment for ~~[his or~~
43 ~~her]~~ such person's determinate sentence, including any jail time credit-
44 ed pursuant to the provisions of article seventy of the penal law, shall
45 be at least eighteen months. In the case of a person serving an indeter-
46 minate sentence of imprisonment imposed pursuant to the penal law in
47 effect after September one, nineteen hundred sixty-seven, for the
48 purposes of this article parole eligibility shall be upon the expiration
49 of the minimum period of imprisonment fixed by the court or where the
50 court has not fixed any period, after service of the minimum period
51 fixed by the state board of ~~[parole]~~ re-entry. If an incarcerated indi-
52 vidual is denied release on parole, such incarcerated individual shall
53 not be deemed an eligible incarcerated individual until ~~[he or she]~~ such
54 person is within two years of ~~[his or her]~~ their next scheduled appear-
55 ance before the state ~~[parole]~~ re-entry board. In any case where an
56 incarcerated individual is denied release on parole while participating

1 in a temporary release program, the department shall review the status
2 of the incarcerated individual to determine if continued placement in
3 the program is appropriate. No person convicted of any escape or
4 absconding offense defined in article two hundred five of the penal law
5 shall be eligible for temporary release. Nor shall any person under
6 sentence for any sex offense defined in article one hundred thirty of
7 the penal law be eligible to participate in a community services program
8 as defined in subdivision five of this section. Notwithstanding the
9 foregoing, no person who is an otherwise eligible incarcerated individ-
10 ual who is under sentence for a crime involving: (a) infliction of seri-
11 ous physical injury upon another as defined in the penal law, (b) a sex
12 offense involving forcible compulsion, or (c) any other offense involv-
13 ing the use or threatened use of a deadly weapon may participate in a
14 temporary release program without the written approval of the commis-
15 sioner. The commissioner shall promulgate regulations giving direction
16 to the temporary release committee at each institution in order to aid
17 such committees in carrying out this mandate.

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

20 1. The commissioner of correction shall designate one or more insti-
21 tutions for the conduct of work release programs. Upon such designation
22 the commissioner, with the approval of the ~~[chairman]~~ chair of the board
23 of ~~[parole]~~ re-entry, shall promulgate rules and regulations consistent
24 with the provisions of this article for the administration of work
25 release programs at any institution designated, and shall appoint or
26 cause to be appointed a work release committee for such institution.

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

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

40 § 41. Subdivision 6 of section 853 of the correction law, as amended
41 by section 231-a of chapter 322 of the laws of 2021, is amended to read
42 as follows:

43 6. Participation in a work release program shall be a privilege. Noth-
44 ing contained in this article may be construed to confer upon any incar-
45 cerated individual the right to participate, or to continue to partic-
46 ipate, in a work release program. The warden of the institution may at
47 any time, and upon recommendation of the work release committee or of
48 the ~~[chairman]~~ chairperson of the state board of ~~[parole]~~ re-entry or
49 ~~[his or her]~~ the chairperson's designee shall, revoke any incarcerated
50 individual's privilege to participate in a program of work release.

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

54 2. If the incarcerated individual violates any provision of the
55 program, or any rule or regulation promulgated by the commissioner for
56 conduct of incarcerated individuals participating in temporary release

1 programs, such incarcerated individual shall be subject to disciplinary
2 measures to the same extent as if ~~[he or she]~~ the incarcerated individ-
3 ual violated a rule or regulation of the commissioner for conduct of
4 incarcerated individuals within the premises of the institution. The
5 failure of an incarcerated individual to voluntarily return to the
6 institution of ~~[his or her]~~ the incarcerated individual's confinement
7 more than ten hours after ~~[his or her]~~ the prescribed time of return
8 shall create a rebuttable presumption that the failure to return was
9 intentional. Any incarcerated individual who is found to have inten-
10 tionally failed to return pursuant to this subdivision shall be an
11 absconder in violation of ~~[his or her]~~ the incarcerated individual's
12 temporary release program and will not be an eligible incarcerated indi-
13 vidual as defined in subdivision two of section eight hundred fifty-one
14 of this ~~[chapter]~~ article. The creation of such rebuttable presumption
15 shall not be admissible in any court of law as evidence of the commis-
16 sion of any crime defined in the penal law. A full report of any such
17 violation, a summary of the facts and findings of the disciplinary hear-
18 ing and disciplinary measures taken, shall be made available to the
19 board for the incarcerated individual's next scheduled appearance before
20 the state board of ~~[parole]~~ re-entry including any defense or explana-
21 tion offered by the incarcerated individual in response at such hearing.

22 5. Upon the conclusion or termination of a temporary release program,
23 a full report of the incarcerated individual's performance in such
24 program shall be prepared in accordance with regulations of the commis-
25 sioner. Such report shall include but not be limited to: adjustment to
26 release, supervision contacts, statement of any violations of the terms
27 and conditions of release and of any disciplinary actions taken, and an
28 assessment of the incarcerated individual's suitability for parole. Such
29 report shall be made available to the state board of ~~[parole]~~ re-entry
30 for the incarcerated individual's next scheduled appearance before such
31 board.

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

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

1 afforded an opportunity to make an explanation thereto, or (vi) the
2 probation department responsible for supervision of the accused when the
3 arrest which is the subject of the inquiry is one which occurred while
4 the accused was under such supervision; and

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

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

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

39 (a) Not less than one court day prior to sentencing, unless such time
40 requirement is waived by the parties, the pre-sentence report or memo-
41 randum shall be made available by the court for examination and for
42 copying by the defendant's attorney, the defendant [himself], if [he]
43 the defendant has no attorney, and the prosecutor. In its discretion,
44 the court may except from disclosure a part or parts of the report or
45 memoranda which are not relevant to a proper sentence, or a diagnostic
46 opinion which might seriously disrupt a program of rehabilitation, or
47 sources of information which have been obtained on a promise of confi-
48 dentiality, or any other portion thereof, disclosure of which would not
49 be in the interest of justice. In all cases where a part or parts of the
50 report or memoranda are not disclosed, the court shall state for the
51 record that a part or parts of the report or memoranda have been
52 excepted and the reasons for its action. The action of the court except-
53 ing information from disclosure shall be subject to appellate review.
54 The pre-sentence report shall be made available by the court for exam-
55 ination and copying in connection with any appeal in the case, including
56 an appeal under this subdivision. Upon written request, the court shall

1 make a copy of the presentence report, other than a part or parts of the
2 report redacted by the court pursuant to this paragraph, available to
3 the defendant for use before the [parole] board of re-entry for release
4 consideration or an appeal of a [parole] board of re-entry determination
5 or an application for resentencing pursuant to section 440.46 or 440.47
6 of this chapter. In ~~[his or her]~~ a written request to the court the
7 defendant shall affirm that ~~[he or she]~~ the defendant anticipates an
8 appearance before the [parole] board of re-entry or intends to file an
9 administrative appeal of a [parole] board of re-entry determination or
10 meets the eligibility criteria for and intends to file a motion for
11 resentencing pursuant to 440.46 of this chapter or has received notifi-
12 cation from the court which received ~~[his or her]~~ the defendant's
13 request to apply for resentencing pursuant to section 440.47 of this
14 chapter confirming that ~~[he or she]~~ the defendant is eligible to submit
15 an application for resentencing pursuant to section 440.47 of this chap-
16 ter. The court shall respond to the defendant's written request within
17 twenty days from receipt of the defendant's written request.

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

21 6. Upon delivery of the defendant to the reception center, ~~[he or she]~~
22 the defendant shall be given a copy of the conditions of parole by a
23 representative of the department of corrections and community super-
24 vision and shall acknowledge receipt of a copy of the conditions in
25 writing. The conditions shall be established in accordance with article
26 twelve-B of the executive law and the rules and regulations of the board
27 of [parole] re-entry. Thereafter and while the parolee is participating
28 in the intensive drug treatment program provided at the drug treatment
29 campus, the department of corrections and community supervision shall
30 assess the parolee's special needs and shall develop an intensive
31 program of parole supervision that will address the parolee's substance
32 abuse history and which shall include periodic urinalysis testing.
33 Unless inappropriate, such program shall include the provision of treat-
34 ment services by a community-based substance abuse service provider
35 which has a contract with the department of corrections and community
36 supervision.

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

40 (a) If the sentence also includes a term of imprisonment, commitment
41 must be to the same institution as is designated for service of the term
42 of imprisonment, and the period of commitment commences (i) when the
43 term of imprisonment is satisfied, or (ii) with the approval of the
44 state board of [parole] re-entry, when the defendant becomes eligible
45 for parole, or (iii) when the defendant becomes eligible for conditional
46 release, whichever occurs first; provided, however, that the court may
47 direct that the period of imprisonment for the fine run concurrently
48 with the term of imprisonment; and

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

52 1. Upon the request of a victim of a crime, or in any event in all
53 cases in which the final disposition includes a conviction of a violent
54 felony offense as defined in section 70.02 of the penal law, a felony
55 defined in article one hundred twenty-five of such law, or a felony
56 defined in article one hundred thirty of such law, the district attorney

1 shall, within sixty days of the final disposition of the case, inform
2 the victim by letter of such final disposition. If such final disposi-
3 tion results in the commitment of the defendant to the custody of the
4 department of corrections and community supervision for an indeterminate
5 sentence, the notice provided to the crime victim shall also inform the
6 victim of ~~[his or her]~~ the victim's right to submit a written, audio-
7 taped, or videotaped victim impact statement to the department of
8 corrections and community supervision or to meet personally with a
9 member of the state board of ~~[parole]~~ re-entry at a time and place sepa-
10 rate from the personal interview between a member or members of the
11 board and the incarcerated individual and make such a statement, subject
12 to procedures and limitations contained in rules of the board, both
13 pursuant to subdivision two of section two hundred fifty-nine-i of the
14 executive law. A copy of such letter shall be provided to the board of
15 ~~[parole]~~ re-entry. The right of the victim under this subdivision to
16 submit a written victim impact statement or to meet personally with a
17 member of the state board of ~~[parole]~~ re-entry applies to each personal
18 interview between a member or members of the board and the incarcerated
19 individual.

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

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

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

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

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

2. This title shall not be applicable to and the department shall not have the power to regulate pursuant to this title: (a) any examination performed by a state or local government of materials derived from the human body for use in criminal identification or as evidence in a criminal proceeding or for investigative purposes; (b) any test conducted pursuant to paragraph (c) of subdivision four of section eleven hundred ninety-four of the vehicle and traffic law and paragraph (c) of subdivision eight of section 25.24 of the parks, recreation and historic preservation law; (c) any examination performed by a state or local agency of materials derived from the body of an incarcerated individual, pretrial releasee, parolee, conditional releasee or probationer to (i) determine, measure or otherwise describe the presence or absence of any substance whose possession, ingestion or use is prohibited by law, the rules of the department of corrections and community supervision, the conditions of release established by the board of ~~parole~~ re-entry, the conditions of release established by a court or a local conditional release commission or the conditions of any program to which such individuals are referred and (ii) to determine whether there has been a violation thereof; or (d) any examination performed by a coroner or medical examiner for the medical-legal investigation of a death. Nothing herein shall prevent the department from consulting with the division of criminal justice services, the department of corrections and community supervision, the state police, or any other state agency or commission, at the request of the division of criminal justice services, the department of corrections and community supervision, the state police, or such other agency or commission, concerning examination of materials for purposes other than public health.

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

The term of a definite sentence, a determinate sentence, or the maximum term of an indeterminate sentence imposed on a person shall be credited with and diminished by the amount of time the person spent in custody prior to the commencement of such sentence as a result of the charge that culminated in the sentence. In the case of an indeterminate sentence, if the minimum period of imprisonment has been fixed by the court or by the board of ~~parole~~ re-entry, the credit shall also be applied against the minimum period. The credit herein provided shall be calculated from the date custody under the charge commenced to the date the sentence commences and shall not include any time that is credited against the term or maximum term of any previously imposed sentence or period of post-release supervision to which the person is subject. Where the charge or charges culminate in more than one sentence, the credit shall be applied as follows:

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

The term of a definite sentence or the maximum term of an indeterminate sentence imposed on a person shall be credited with and diminished by the amount of time the person spent in custody prior to the commencement of such sentence as a result of the charge that culminated in the sentence. In the case of an indeterminate sentence, if the minimum period of imprisonment has been fixed by the court or by the board of

1 ~~[parole]~~ re-entry, the credit shall also be applied against the minimum
2 period. The credit herein provided shall be calculated from the date
3 custody under the charge commenced to the date the sentence commences
4 and shall not include any time that is credited against the term or
5 maximum term of any previously imposed sentence or period of post-re-
6 lease supervision to which the person is subject. Where the charge or
7 charges culminate in more than one sentence, the credit shall be applied
8 as follows:

9 § 53. The opening paragraph of paragraph (a), paragraph (b) and para-
10 graph (c) of subdivision 1, and subdivisions 2 and 3 of section 70.40 of
11 the penal law, the opening paragraph of paragraph (a) as amended by
12 section 127-c, paragraph (b) as amended by section 127-d-1 and paragraph
13 (c) as amended by section 127-f of subpart B of part C of chapter 62 of
14 the laws of 2011, subdivision 2 as amended by section 127-g of subpart B
15 of part C of chapter 62 of the laws of 2011, and subdivision 3 as
16 amended by chapter 427 of the laws of 2021, are amended to read as
17 follows:

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

22 (b) A person who is serving one or more than one indeterminate or
23 determinate sentence of imprisonment shall, if ~~[he-or-she]~~ such person
24 so requests, be conditionally released from the institution in which ~~[he~~
25 ~~or-she]~~ such person is confined when the total good behavior time
26 allowed to ~~[him-or-her]~~, pursuant to the provisions of the correction
27 law, is equal to the unserved portion of ~~[his-or-her]~~ such person's
28 term, maximum term or aggregate maximum term; provided, however, that
29 (i) in no event shall a person serving one or more indeterminate
30 sentence of imprisonment and one or more determinate sentence of impri-
31 sonment which run concurrently be conditionally released until serving
32 at least six-sevenths of the determinate term of imprisonment which has
33 the longest unexpired time to run and (ii) in no event shall a person be
34 conditionally released prior to the date on which such person is first
35 eligible for discretionary parole release. The conditions of release,
36 including those governing post-release supervision, shall be such as may
37 be imposed by the state board of ~~[parole]~~ re-entry in accordance with
38 the provisions of the executive law.

39 Every person so released shall be under the supervision of the state
40 department of corrections and community supervision for a period equal
41 to the unserved portion of the term, maximum term, aggregate maximum
42 term, or period of post-release supervision.

43 (c) A person who is serving one or more than one indeterminate
44 sentence of imprisonment shall, if ~~[he-or-she]~~ such person so requests,
45 be released from the institution in which ~~[he-or-she]~~ such person is
46 confined if granted presumptive release pursuant to section eight
47 hundred six of the correction law. The conditions of release shall be
48 such as may be imposed by the state board of ~~[parole]~~ re-entry in
49 accordance with the provisions of the executive law. Every person so
50 released shall be under the supervision of the department of corrections
51 and community supervision for a period equal to the unserved portion of
52 ~~[his-or-her]~~ such person's maximum or aggregate maximum term unless
53 discharged in accordance with law.

54 2. Definite sentence. A person who is serving one or more than one
55 definite sentence of imprisonment with a term or aggregate term in
56 excess of ninety days, and is eligible for release according to the

criteria set forth in paragraphs (a), (b) and (c) of subdivision one of section two hundred seventy-three of the correction law, may, if [~~he or she~~] such person so requests, be conditionally released from the institution in which [~~he or she~~] such person is confined at any time after service of sixty days of that term, exclusive of credits allowed under subdivisions four and six of section 70.30 of this article. In computing service of sixty days, the credit allowed for jail time under subdivision three of section 70.30 of this article shall be calculated as time served. Conditional release from such institution shall be in the discretion of the [~~parole~~] board of re-entry, or a local conditional release commission established pursuant to article twelve of the correction law, provided, however that where such release is by a local conditional release commission, the person must be serving a definite sentence with a term in excess of one hundred twenty days and may only be released after service of ninety days of such term. In computing service of ninety days, the credit allowed for jail time under subdivision three of section 70.30 of this article shall be calculated as time served. A conditional release granted under this subdivision shall be upon such conditions as may be imposed by the [~~parole~~] board of re-entry, in accordance with the provisions of the executive law, or a local conditional release commission in accordance with the provisions of the correction law.

Conditional release shall interrupt service of the sentence or sentences and the remaining portion of the term or aggregate term shall be held in abeyance. Every person so released shall be under the supervision of the department of corrections and community supervision or a local probation department and in the custody of the local conditional release commission in accordance with article twelve of the correction law, for a period of one year. The local probation department shall cause complete records to be kept of every person released to its supervision pursuant to this subdivision. The department of corrections and community supervision may supply to a local probation department and the local conditional release commission custody information and records maintained on persons under the supervision of such local probation department to aid in the performance of its supervision responsibilities. Compliance with the conditions of release during the period of supervision shall satisfy the portion of the term or aggregate term that has been held in abeyance.

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

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

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

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

(i) A person who is serving one or more than one indeterminate sentence of imprisonment may be paroled from the institution in which ~~[he or she]~~ such person is confined at any time after the expiration of the minimum or the aggregate minimum period of imprisonment of the sentence or sentences or after the successful completion of a shock incarceration program, as defined in article twenty-six-A of the correction law, whichever is sooner. Release on parole shall be in the discretion of the state board of ~~[parole]~~ re-entry, and such person shall continue service of ~~[his or her]~~ their sentence or sentences while on parole, in accordance with and subject to the provisions of the executive law and the correction law.

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

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

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

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

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

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

§ 240.32 Aggravated harassment of an employee by an incarcerated individual.

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

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

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

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

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

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

(c) the amendments to subdivision 2 of section 851 of the correction law made by section thirty-eight of this act shall be subject to the

1 expiration of such subdivision and section pursuant to subdivision (c)
2 of section 46 of chapter 60 of the laws of 1994 and section 10 of chap-
3 ter 339 of the laws of 1972, as amended, when upon such date the
4 provisions of section thirty-eight-a of this act shall take effect;

5 (d) the amendments to subdivision 2 of section 851 of the correction
6 law made by section thirty-eight-a of this act shall not affect the
7 expiration of such section and shall expire therewith;

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

12 (f) the amendments to subdivision 9 of section 855 of the correction
13 law, made by section forty of this act, shall not affect the expiration
14 of such section and shall expire therewith;

15 (g) section forty-one of this act shall take effect on the same date
16 as the reversion of subdivision 6 of section 853 of the correction law
17 as provided by section 10 of chapter 339 of the laws of 1972, as
18 amended;

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

22 (i) the amendments to subdivision 6 of section 410.91 of the criminal
23 procedure law made by section forty-six of this act shall not affect the
24 repeal of such section and shall be deemed repealed therewith;

25 (j) the amendments to the opening paragraph of subdivision 3 of
26 section 70.30 of the penal law made by section fifty-two of this act
27 shall be subject to the reversion of such subdivision pursuant to subdivi-
28 sion d of section 74 of chapter 3 of the laws of 1995, as amended,
29 when upon such date the provisions of section fifty-two-a of this act
30 shall take effect;

31 (k) the amendments to the opening paragraph of paragraph (a) and para-
32 graph (b) of subdivision 1 of section 70.40 of the penal law made by
33 section fifty-three of this act shall be subject to the reversion of
34 such subdivision pursuant to subdivision d of section 74 of chapter 3 of
35 the laws of 1995, as amended, when upon such date the provisions of
36 section fifty-three-a of this act shall take effect;

37 (l) the amendments to paragraph (c) of subdivision 1 of section 70.40
38 of the penal law made by section fifty-three of this act shall not
39 affect the repeal of such paragraph and shall be deemed repealed there-
40 with; and

41 (m) the amendments to subparagraph (i) of paragraph (a) of subdivision
42 1 of section 70.40 of the penal law made by section fifty-three-a of
43 this act shall not affect the expiration of such subparagraph and shall
44 expire therewith.

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