*** § 410.91 Sentence of parole supervision.**

1. A sentence of parole supervision is an indeterminate sentence of imprisonment, or a determinate sentence of imprisonment imposed pursuant to paragraphs (b) and (d) of subdivision three of section 70.70 of the penal law, which may be imposed upon an eligible defendant, as defined in subdivision two of this section. If an indeterminate sentence, such sentence shall have a minimum term and a maximum term within the ranges specified by subdivisions three and four of section 70.06 of the penal law. If a determinate sentence, such sentence shall have a term within the ranges specified by subparagraphs (iii) and (iv) of paragraph (b) of subdivision three of section 70.70 of the penal law. Provided, however, if the court directs that the sentence be executed as a sentence of parole supervision, it shall remand the defendant for immediate delivery to a reception center operated by the state department of corrections and community supervision, in accordance with section 430.20 of this chapter and section six hundred one of the correction law, for a period not to exceed ten days. An individual who receives such a sentence shall be placed under the immediate supervision of the department of corrections and community supervision and must comply with the conditions of parole, which shall include an initial placement in a drug treatment campus for a period of ninety days at which time the defendant shall be released therefrom.

2. A defendant is an "eligible defendant" for purposes of a sentence of parole supervision when such defendant is a felony offender convicted of a specified offense or offenses as defined in subdivision five of this section, who stands convicted of no other felony offense, who has not previously been convicted of either a violent felony offense as defined in section 70.02 of the penal law, a class A felony offense or a class B felony offense other than a class B felony offense defined in article two hundred twenty of the penal law, and is not subject to an undischarged term of imprisonment.

3. When an indeterminate or determinate sentence of imprisonment is imposed upon an eligible defendant for a specified offense, as defined in subdivision five of this section, the court may direct that such

sentence be executed as a sentence of parole supervision if the court finds (i) that the defendant has a history of controlled substance dependence that is a significant contributing factor to such defendant's criminal conduct; (ii) that such defendant's controlled substance dependence could be appropriately addressed by a sentence of parole supervision; and (iii) that imposition of such a sentence would not have an adverse effect on public safety or public confidence in the integrity of the criminal justice system.

** 5. For the purposes of this section, a "specified offense" is an offense defined by any of the following provisions of the penal law: burglary in the third degree as defined in section 140.20, criminal mischief in the third degree as defined in section 145.05, criminal mischief in the second degree as defined in section 145.10, grand larceny in the fourth degree as defined in subdivision one, two, three, four, five, six, eight, nine or ten of section 155.30, grand larceny in the third degree as defined in section 155.35 (except where the property consists of one or more firearms, rifles or shotguns), unauthorized use of a vehicle in the second degree as defined in section 165.06, criminal possession of stolen property in the fourth degree as defined in subdivision one, two, three, five or six of section 165.45, criminal possession of stolen property in the third degree as defined in section 165.50 (except where the property consists of one or more firearms, rifles or shotguns), forgery in the second degree as defined in section 170.10, criminal possession of a forged instrument in the second degree as defined in section 170.25, unlawfully using slugs in the first degree as defined in section 170.60, criminal diversion of medical marihuana in the first degree as defined in section 179.10 or an attempt to commit any of the aforementioned offenses if such attempt constitutes a felony offense; or a class B felony offense defined in article two hundred twenty where a sentence is imposed pursuant to paragraph (a) of subdivision two of section 70.70 of the penal law; or any class C, class D or class E controlled substance or marihuana felony offense as defined in article two hundred twenty or two hundred twenty-one.

* NB Effective until July 5, 2028

** 5. For the purposes of this section, a "specified offense" is an offense defined by any of the following provisions of the penal law: burglary in the third degree as defined in section 140.20, criminal

mischief in the third degree as defined in section 145.05, criminal mischief in the second degree as defined in section 145.10, grand larceny in the fourth degree as defined in subdivision one, two, three, four, five, six, eight, nine or ten of section 155.30, grand larceny in the third degree as defined in section 155.35 (except where the property consists of one or more firearms, rifles or shotguns), unauthorized use of a vehicle in the second degree as defined in section 165.06, criminal possession of stolen property in the fourth degree as defined in subdivision one, two, three, five or six of section 165.45, criminal possession of stolen property in the third degree as defined in section 165.50 (except where the property consists of one or more firearms, rifles or shotguns), forgery in the second degree as defined in section 170.10, criminal possession of a forged instrument in the second degree as defined in section 170.25, unlawfully using slugs in the first degree as defined in section 170.60, or an attempt to commit any of the aforementioned offenses if such attempt constitutes a felony offense; or a class B felony offense defined in article two hundred twenty where a sentence is imposed pursuant to paragraph (a) of subdivision two of section 70.70 of the penal law; or any class C, class D or class E controlled substance or marihuana felony offense as defined in article two hundred twenty or two hundred twenty-one.

** NB Effective July 5, 2028

6. Upon delivery of the defendant to the reception center, he or she shall be given a copy of the conditions of parole by a representative of the department of corrections and community supervision and shall acknowledge receipt of a copy of the conditions in writing. The conditions shall be established in accordance with article twelve-B of the executive law and the rules and regulations of the board of parole. Thereafter and while the parolee is participating in the intensive drug treatment program provided at the drug treatment campus, the department of corrections and community supervision shall assess the parolee's special needs and shall develop an intensive program of parole supervision that will address the parolee's substance abuse history and which shall include periodic urinalysis testing. Unless inappropriate, such program shall include the provision of treatment services by a community-based substance abuse service provider which has a contract

with the department of corrections and community supervision.

7. Upon completion of the drug treatment program at the drug treatment campus, a parolee will be furnished with money, clothing and transportation in a manner consistent with section one hundred twenty-five of the correction law to permit the parolee's travel from the drug treatment campus to the county in which the parolee's supervision will continue.

8. If the parole officer having charge of a person sentenced to parole supervision pursuant to this section has reasonable cause to believe that such person has violated the conditions of his or her parole, the procedures of subdivision three of section two hundred fifty-nine-i of the executive law shall apply to the issuance of a warrant and the conduct of further proceedings; provided, however, that a parole violation warrant issued for a violation committed while the parolee is being supervised at a drug treatment campus shall constitute authority for the immediate placement of the parolee into a correctional facility operated by the department of corrections and community supervision, which to the extent practicable shall be reasonably proximate to the place at which the violation occurred, to hold in temporary detention pending completion of the procedures required by subdivision three of section two hundred fifty-nine-i of the executive law.

* NB Repealed September 1, 2027