CHAPTER 800

AN ACT in relation to executive officers, constituting chapter eighteen of the consolidated laws

Became a law April 13, 1951, with the approval of the Governor. Passed, by a majority vote, three-fifths being present

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

CHAPTER EIGHTEEN OF THE CONSOLIDATED LAWS

EXECUTIVE LAW

Article 1. Short title (§ 1).
2. Governor (§§ 2-12).
2-A. Reprieves, commutations and pardons (§§ 15-19).
2-B. State and local natural and man-made disaster preparedness (§§ 20--29-l).
3. Executive department (§§ 30-32).
4. Department of audit and control (§§ 40-50).
4-A. Office of the state inspector general (§§ 51-55).
4-B. Office of the inspector general of New York for transportation (§§ 56-58).
5. Department of law (§§ 60-75).
6. Department of state (§§ 90-144-a).
6-A. State register (§§ 145-149).
6-B. Services to localities (§§ 150-153).
6-C. Office of fire prevention and control (§§ 155--159-d).
6-D. Community services block grant program (§§ 159-e--159-l).
6-E. State certified and licensed real estate appraisers (§§ 160--160-bb).
6-F. New York Black Car operators' injury compensation fund, Inc. (§§ 160-cc--160-oo).
6-G. Independent Livery Driver benefit fund (§§ 160-aaa--160-iii).
6-H. Real estate appraisal management companies (§§ 160-aaaa-- 160-xxxx).
7. Miscellaneous provisions (§§ 161-171).
7-A. Solicitation and collection of funds for charitable purposes (§§ 171-a--177).

8. Division of budget (§§ 180-183).
9. Division of military and naval affairs (§§ 190-191).
10. Office of general services (§§ 200--203-b).
10-B. New York State office of science, technology and academic research (§§ 209--209-t).
11. Division of state police (§§ 210-235).
12. Division of probation and correctional alternatives (§§ 240-249).
12-A. Probation officers and related matters (§§ 255-258).
12-B. State division of parole (§§ 259--259-t).
13. Division of housing (§ 260).
13-A. Alternatives to incarceration service plans (§§ 261-267).
14. Division of alcoholic beverage control (§§ 270-274).
15. Human rights law (§§ 290-301).
15-A. Participation by minority group members and women with respect to state contracts (§§ 310-318).
15-AA. Restrictions on immigration enforcement by state employers (§§ 319--319-a).
15-B. New York State Martin Luther King, Jr. Institute for Nonviolence Act (§§ 320-327).
15-C. Religious accommodation for licensing examinations (§§ 328--328-a).
16. Martin Luther King, Jr. commission (§ 329).
16-A. Highway safety (§§ 330-334).
18. New York state uniform fire prevention and building code act (§§ 370-383).
18-A. Display of flag on uniforms (§ 390).
19. Display and use of the flag of the United States of America in parks and on public buildings (§§ 400--403-b).
19-A. Delinquency and youth crime prevention (§§ 411-426).
19-B. State bingo control commission (§§ 430--439-a).
19-D. Developmental disabilities planning council (§ 450).
19-F. Rural Affairs Act (§§ 480-491).
19-G. Office of children and family services (§§ 500-531).
19-H. Runaway and homeless youth act of nineteen hundred

seventy-eight (§§ 532--532-f).

19-I. Waterfront commission act (§§ 534--534-z).

19-L. New York state neighborhood based initiatives act (§§ 548-a--548-h).

20. Protection of people with special needs (§§ 550-562).

21. New York state office for the prevention of domestic violence (§§ 575-576).

21-A. Emergency services council (§ 580).

21-B. Manufactured homes (§§ 600-617)

22. Crime victims board (§§ 620-636).

23. Fair treatment standards for crime victims (§§ 640-649).

24. Office of employee relations (§§ 650-654).

25. Most integrated setting coordinating council (§§ 700-703).

26. Division of homeland security and emergency services (§§ 709-719).

26-B. Board of social welfare (§§ 740-750).

27. Adirondack park agency (§§ 800-820).

28. Workforce diversity program (§§ 821-826).

30. Indigent legal services (§§ 832-833).

35. Division of criminal justice services (§§ 835-846).

36. Neighborhood preservation crime prevention act (§§ 846-a--846-h).

36-A. New York motor vehicle theft and insurance fraud prevention demonstration program (§§ 846-i--846-m)

37. Tug Hill Commission (§§ 847-a--847-f).

38. National crime prevention and privacy compact (§ 850).

39. Office of business permits (§§ 875-893).

41. Office of urban revitalization (§§ 894-907).

42. Waterfront revitalization of coastal areas and inland waterways (§§ 910-922).

44. Council on professional career opportunity (§§ 940-943).

45. Internal control responsibilities of state agencies (§§ 950-954).

45-A. Temporary statewide health advisory board (§ 957).

45-B. Lyme and tick-borne diseases working group (§ 958).

46. Long Island South Shore Estuary Reserve (§§ 960--970-a).

48. Job training coordination (§§ 970*2-975).
49. Workforce preparation evaluation act (§§ 980-982).
49-A. New York state family policy (§§ 990-992).
49-B. Commission on forensic science and establishment of DNA identification index (§§ 995--995-f).
50. Interpretation (§§ 1000-1003).

ARTICLE 1

SHORT TITLE

Section 1. Short title.

§ 1. This chapter shall be known as the "Executive Law."

ARTICLE 2

GOVERNOR

Section 2. Office and residence of governor.
3. Acting governor.
4. Secretary and counsel to the governor.
4-a. Chief diversity officer.
4-b. Chief disability officer.
5. Executive records.
6. Examination and inspection by the governor.
7. Limited operation of holiday.
9. Lease or loan of state property; temporary transfer of personnel.
11. Indian settlement agreements.
12. Tribal-state compact.

§ 2. Office and residence of governor. The office of the governor shall be known as the executive chamber, and his residence, as the executive mansion.

§ 3. Acting governor. Every provision of law relating to the governor shall extend to the lieutenant-governor, to the president of the senate, and to the speaker of the assembly respectively, while acting as governor in pursuance of law.

§ 4. Secretary and counsel to the governor. A secretary to the governor shall be appointed by the governor, and shall receive a salary to be fixed by the governor within the amount appropriated therefor. It shall be the duty of such secretary to assist the governor in matters pertaining to the executive department and perform such duties as the governor may assign to him. The governor may also appoint and at pleasure remove a counsel to the governor who shall receive a salary to be fixed by the governor within the amount appropriated therefor. It shall be the duty of such counsel to advise the governor in regard to the constitutionality, consistency and legal effect of bills presented to the governor for his approval and on matters involving the exercise of executive clemency and such other legal matters as may be referred to him by the governor.

§ 4-a. Chief diversity officer. A chief diversity officer for the state shall be appointed by the governor and shall receive a salary to be fixed by the governor within the amount appropriated therefor. The chief diversity officer's responsibilities shall include the following:

1. Advise and assist the governor in formulating policies relating to workforce diversity and minority and women's business enterprises;

2. Work with the director of the division of minority and women's business development to prepare an annual plan for ensuring full compliance with article fifteen-a of the executive law by state agencies and the use of diversity practices by such agencies;

3. Advise the governor and the agencies regarding any measures necessary to ensure full compliance with article fifteen-a of this chapter and use of diversity practices by state public authorities;

4. Serve as a member of the state procurement council established under section one hundred sixty-one of the state finance law;

5. Serve as the governor's liaison with organizations representing minority and women-owned business enterprises and other organizations related to diversity in the state workforce and in state contracting;

6. Serve as the governor's liaison to the small business advisory council for issues related to the creation of a diverse workforce and state procurement practices relating to minority and women-owned business enterprises;

7. Review and consult with the director of minority and women's business development regarding policies relating to minority and women-owned business enterprise contract specialists at state agencies; and

8. Engage in other actions assigned to him or her by the governor relating to diversity in hiring or promotion of the state workforce and in encouraging diversity practices and compliance with article fifteen-a of this chapter in procurement.

§ 4-b. Chief disability officer. 1. Persons with disabilities comprise a major segment of the state of New York's population and their particular needs and concerns must be considered as an integral part of the planning and implementation of all state programs and services affecting their lives and well-being. The office of the chief disability officer shall advocate on behalf of persons with disabilities and ensure that persons with disabilities are afforded the opportunity to exercise all of the rights and responsibilities accorded to citizens of this state.

2. For purposes of this article:

(a) "Persons with disabilities" shall mean any person who has a disability as defined in subdivision twenty-one of section two hundred

ninety-two of this chapter.

(b) "State agency" or "state agencies" shall mean any state department, board, bureau, division, commission, committee, public authority, public corporation, council, office or other governmental entity performing a governmental or proprietary function for the state, except the judiciary or the state legislature.

3. (a) The governor shall appoint a chief disability officer. The chief disability officer shall advise and assist state agencies in developing policies designed to help meet the needs of persons with disabilities. The chief disability officer shall be appointed by the governor and receive a salary to be fixed by the governor within the amounts appropriated therefor.

(b) The chief disability officer shall: (i) be the state's coordinator for the implementation of the Americans with Disabilities Act; (ii) coordinate state activities to ensure that state programs do not discriminate against and are accessible to persons with disabilities; (iii) ensure that such programs provide services to individuals with disabilities in the most integrated setting appropriate to their needs; and (iv) work with state agencies to develop legislation and potential regulatory changes to help effectuate the duties and responsibilities required in this article, and any other changes that may significantly affect the lives of persons with disabilities in the state.

(c) The chief disability officer shall, to the extent practicable, review and report to the governor upon proposed legislation and regulations. The chief disability officer shall submit comments, where appropriate, to the state agency which referred such proposed legislation and regulations evaluating: (i) the impact of the proposed legislation or regulation upon persons with disabilities; (ii) the relationship and impact of such proposed legislation or regulation on existing programs affecting persons with disabilities; and (iii) any modifications that would help persons with disabilities or aid in the implementation of the new proposal. All state agencies shall cooperate with the chief disability officer to ensure that the chief disability officer is able to fulfill the requirements under this section.

§ 5. Executive records. The governor shall cause to be kept in the executive chamber or in the appropriate state office:

1. Journals of the daily transactions of his office.

2. Registers, containing classified statements of such transactions.

3. Separate registers containing classified statements of all applications for pardon, commutation or other executive clemency, and of his action thereon.

4. An account of his official expenses and disbursements, including the incidental expenses of his department.

5. Files of all official records upon which applications for executive clemency are founded; of statements made by judges to him; of sentences to death and of the testimony in capital cases; and of such other papers relating to the transactions of his office as are deemed by him of sufficient value for preservation.

§ 6. Examination and inspection by the governor. The governor is authorized at any time, either in person or by one or more persons appointed by him for the purpose, to examine and investigate the management and affairs of any department, board, bureau or commission of the state. The governor and the persons so appointed by him are empowered to subpoena and enforce the attendance of witnesses, to administer oaths and examine witnesses under oath and to require the production of any books or papers deemed relevant or material. Whenever any person so appointed shall not be regularly in the service of the state his compensation for such services shall be fixed by the governor, and said compensation and all necessary expenses of such examinations and investigations shall be paid from the treasury out of any appropriations made for the purpose upon the order of the governor and the audit and warrant of the comptroller.

Notwithstanding any inconsistent provision of any general, special or

local law, charter, administrative code or other statute, service rendered by a person appointed by the governor pursuant to this section shall not constitute or be deemed state service or re-entry into state service under the civil service law, the retirement and social security law or under any charter, administrative code, or other general, special or local law relating to a state or municipal retirement or pension system so as to suspend, impair or otherwise affect or interfere with the pension or retirement status, rights, privileges and benefits of such person under any such system or to interfere with the right of such person or his beneficiary to receive any pension or annuity benefits or death benefits by reason of the selection of any option under any such system.

§ 7. Limited operation of holiday. The governor in issuing any proclamation appointing any day as a holiday or as a day of thanksgiving or fasting and prayer or other religious observance, under section twenty-four of the general construction law is authorized, in his discretion, to limit or restrict the effect and operation of such proclamation to any city or county to be designated by him in such proclamation.

§ 9. Lease or loan of state property; temporary transfer of personnel. Notwithstanding any inconsistent provisions of law, general, special or local

1. (a) The governor, from time to time, whenever he deems it to be in the public interest, may authorize any department or agency of the state to lease or lend to the army, navy or any branch of the armed forces of the United States, any real or personal property of the state, on such terms and conditions as he may deem necessary to promote the public welfare and protect the interests of the state, making an adequate and appropriate provision to reimburse the state for any cost of maintenance and operation and for depreciation and waste. He may also authorize such department or agency to lease or lend such property to any other agency of the United States of America performing functions occasioned by the

war or defense effort, or to any other organization subsidized or authorized directly or indirectly by the United States of America to perform work or render services occasioned by the war or defense effort, provided, however, that such lease or loan of property shall be on terms and conditions which fully compensate the state for its loss or use of such property. Such compensation shall, in addition to the cost of maintenance and operation, include, but not be limited to, depreciation and waste or debt service incidental thereto. Notwithstanding the foregoing provisions, however, the division of military and naval affairs of the executive department may be authorized pursuant to this section to lease or lend armories or other real or personal property under its jurisdiction to the army, navy or any other branch of the armed forces of the United States of America for military purposes without provision for reimbursement to the state for depreciation and waste or debt service. Any renewal of an agreement or lease heretofore made pursuant to the provisions of paragraph (a) of subdivision one of section thirty-six of the New York state war emergency act or to the provisions of chapter two hundred seventy-seven of the laws of nineteen hundred forty-two prior to the repeal of such provisions shall be made in compliance with this paragraph.

(b) The governor, from time to time, whenever he deems it to be in the public interest, is hereby authorized to enter into a contract on behalf of the state for the lease or loan, on such terms and conditions as he may deem necessary to promote the public welfare and protect the interests of the state, of any real or personal property of the state, or the temporary transfer or employment of personnel of the state to any municipal subdivision or other public corporation of the state.

2. (a) The chief executive of any such municipal subdivision or the board, commission or other head of any other public corporation is hereby authorized to enter into a contract and to execute any such lease or to accept any such loan or to employ such personnel, and such municipal subdivision or other public corporation is further authorized to equip, maintain, utilize and operate any such property and to employ necessary personnel therefor in accordance with the purposes for which such contract is executed.

(b) The chief executive of any such municipal subdivision or the

board, commission or other head of such other public corporation is empowered to do all things and perform any and all acts which he or it may deem necessary to effectuate the purposes for which such contract was entered into.

§ 11. Indian settlement agreements. 1. Oneida settlement agreement. Notwithstanding any other provision of law, upon filing with the secretary of state, the settlement agreement executed between the governor, the counties of Oneida and Madison, and the Oneida Nation of New York dated the sixteenth day of May, two thousand thirteen, to be known as the Oneida Settlement Agreement, including, without limitation, the provisions contained therein relating to arbitration and judicial review in state or federal courts and, for the sole purpose thereof, a limited waiver of the state's Eleventh Amendment sovereign immunity from suit, shall upon its effective date be deemed approved, ratified, validated and confirmed by the legislature. It is the intention of the legislature in enacting this section to ensure that the settlement agreement shall be fully enforceable in all respects as to the rights, benefits, responsibilities and privileges of all parties thereto.

§ 12. Tribal-state compact. (a) Notwithstanding any other law, the state, through the governor, may execute a tribal-state compact with the Seneca Nation of Indians pursuant to the Indian Gaming Regulatory Act of 1988 (P.L. 100-497; 25 U.S.C. §§ 2701-2721 and 18 U.S.C. §§ 1166-1168) consistent with a memorandum of understanding between the governor and the president of the Seneca Nation of Indians executed on June twentieth, two thousand one and filed with the department of state on June twenty-first, two thousand one. Such tribal-state compact shall be deemed ratified by the legislature upon the governor's certification to the temporary president of the senate, the speaker of the assembly, and the secretary of state, that such compact, through its terms, by a memorandum of understanding or other agreement between the state and Nation, by a Nation's ordinance or resolution, by statute, by executive order, or by the terms of any other agreement entered into by or on behalf of the Nation, provides: (i) assurances that the Nation will

provide (1) reasonable access to the gaming and related facilities to labor union organizers for purposes of a campaign to solicit employee support for labor union representation; (2) permission for labor union organizers to distribute labor union authorization cards on site for the purpose of soliciting employee support for labor union representation; and (3) recognition of labor unions as the exclusive collective bargaining representatives of employees in appropriate bargaining units based upon a demonstration of majority employee support of such labor unions by union authorization card check as verified, if necessary, by an independent arbitrator appointed by the Public Employment Relations Board in consultation with the Nation and the labor union; (ii) assurances that the Nation has an adequate civil recovery system which guarantees fundamental due process to visitors and guests of the facility and related facilities; and (iii) assurances that the Nation will maintain during the term of the compact sufficient liability insurance to assure that visitors and guests will be compensated for their injuries.

(b) Notwithstanding any other law, the state, through the governor, may execute tribal-state compacts pursuant to the Indian Gaming Regulatory Act of 1988 (P.L. 100-497; 25 U.S.C. §§ 2701-2721 and 18 U.S.C. §§ 1166-1168) authorizing up to three Class III gaming facilities in the counties of Sullivan and Ulster. Such tribal-state compact shall be deemed ratified by the legislature upon the governor's certification to the temporary president of the senate, the speaker of the assembly and the secretary of state, that such compact, through its terms, by a memorandum of understanding or other agreement between the state and Nation, by a Nation's ordinance or resolution, by statute, by executive order, or by the terms of any other agreement entered into by or on behalf of the Nation, provides: (i) assurances that the Nation will provide (1) reasonable access to the gaming and related facilities to labor union organizers for purposes of a campaign to solicit employee support for labor union representation; (2) permission for labor union organizers to distribute labor union authorization cards on site for the purpose of soliciting employee support for labor union representation; (3) provision of employees' names and addresses to labor union representatives and tribal/employer/management neutrality in labor union organizing campaigns; (4) recognition of labor unions as the exclusive

collective bargaining representatives of employees in appropriate bargaining units based upon a demonstration of majority employee support of such labor unions by union authorization card check as verified, if necessary, by an independent arbitrator appointed by the Public Employment Relations Board in consultation with the Nation and the labor union; and (5) final and binding arbitration of organized labor matters or disputes including negotiations for collective bargaining agreements with arbitrators' awards enforceable in a state or federal court of competent jurisdiction; (ii) assurances that the Nation has an adequate civil recovery system which guarantees fundamental due process to visitors and guests of the facility and related facilities; and (iii) assurances that the Nation will maintain during the term of the compact sufficient liability insurance to assure that visitors and guests will be compensated for their injuries.

(c) Except as otherwise specifically provided in the compact, the state specifically reserves all its rights, as attributes of its inherent sovereignty, recognized by the tenth and eleventh amendments to the United States Constitution. Nothing in this section shall be construed to affect the existing authority of the governor under the constitution and laws of this state to execute tribal-state compacts.

ARTICLE 2-A

REPRIEVES, COMMUTATIONS AND PARDONS

Section 15. Power of governor to grant reprieves, commutations and pardons.
16. His power; in respect to convictions for treason; duty of the legislature, in such cases.
17. Governor to communicate annually to legislature, reprieves, commutations and pardons.
18. Conditional pardon; procedure on violation of.
19. Setting aside judgment of conviction and dismissing indictment, information or complaint in case of pardon of defendant on ground of innocence.

§ 15. Power of governor to grant reprieves, commutations and pardons.

The governor has power to grant reprieves, commutations and pardons, after conviction, for all offenses, except treason and cases of impeachment, upon such conditions, and with such restrictions and limitations, as he may think proper, subject to the regulations provided in this article.

§ 16. His power; in respect to convictions for treason; duty of the legislature, in such cases. He may also suspend the execution of the sentence, upon a conviction for treason, until the case can be reported to the legislature, at its next meeting, when the legislature must either pardon or commute the sentence, direct the execution thereof, or grant a further reprieve.

§ 17. Governor to communicate annually to legislature, reprieves, commutations and pardons. He must annually communicate to the legislature, each case of reprieve, commutation or pardon; stating the name of the convict, the crime of which he was convicted, the sentence and its date, and the date of the commutation, pardon or reprieve.

§ 18. Conditional pardon; procedure on violation of. If any person who has been discharged from imprisonment, by virtue of any parole, conditional pardon, or conditional commutation of his sentence, shall violate such condition or neglect to perform it, his parole, pardon or commutation shall be void and he shall be remanded to the place of his former imprisonment and there confined for the unexpired term for which he had been sentenced. Determination of the violation of such parole, pardon or commutation and reincarceration therefor shall be had in the manner prescribed in the correction law.

§ 19. Setting aside judgment of conviction and dismissing indictment, information or complaint in case of pardon of defendant on ground of innocence. Upon motion duly made therefor, the judgment of conviction must be set aside and the indictment, information or complaint dismissed

by the court in which the defendant was convicted, in a case where the defendant shall receive a pardon from the governor stating that such pardon is issued on the ground of innocence of the crime for which he was convicted and further stating that such finding of innocence is based upon evidence discovered after the judgment of conviction was rendered and after the time within which to make a motion for a new trial on newly discovered evidence had expired. Such setting aside of a judgment of conviction and dismissal of an indictment, information or complaint against a defendant shall place the defendant in the same position as if the indictment, information or complaint had been dismissed at the conclusion of the trial by the court because of the failure to establish the defendant's guilt beyond a reasonable doubt.

ARTICLE 2-B

STATE AND LOCAL NATURAL AND MAN-MADE DISASTER PREPAREDNESS

Section 20. Natural and man-made disasters; policy; definitions.
21. Disaster preparedness commission established; meetings; powers and duties.
22. State disaster preparedness plans.
23. Local comprehensive emergency management plans.
23-a. County registry of disabled persons; notice.
23-b. Nursing home and assisted living facility plans.
23-c. Consistency among local disaster preparedness plans.
24. Local state of emergency; local emergency orders by chief executive.
25. Use of local government resources in a disaster.
26. Coordination of local disaster preparedness forces and local civil defense forces in disasters.
27. Continuity of local governments.
28. State declaration of disaster emergency.
28-a. Post disaster recovery planning.
29. Direction of state agency assistance in a disaster emergency.
29-a. Suspension of other laws.
29-b. Use of disaster emergency response personnel in disasters.
29-c. Radiological preparedness.

29-d. Reports.
29-e. New York state emergency assistance program.
29-g. Emergency management assistance compact.
29-h. Intrastate mutual aid program.
29-i. Immunity from liability for emergency alerts.
29-j. Acceptance of gifts.
29-k. Northern emergency management assistance compact.
29-l. International Emergency Management Assistance Compact.

§ 20. Natural and man-made disasters; policy; definitions. 1. It shall be the policy of the state that:

a. local government and emergency service organizations continue their essential role as the first line of defense in times of disaster, and that the state provide appropriate supportive services to the extent necessary;

b. local chief executives take an active and personal role in the development and implementation of disaster preparedness programs and be vested with authority and responsibility in order to insure the success of such programs;

c. state and local natural disaster and emergency response functions be coordinated using recognized practices in incident management in order to bring the fullest protection and benefit to the people;

d. state resources be organized and prepared for immediate effective response to disasters which are beyond the capability of local governments and emergency service organizations; and

e. state and local plans, organizational arrangements, and response capability required to execute the provisions of this article shall at all times be the most effective that current circumstances and existing resources allow.

2. As used in this article the following terms shall have the

following meanings:

a. "disaster" means occurrence or imminent, impending or urgent threat of wide spread or severe damage, injury, or loss of life or property resulting from any natural or man-made causes, including, but not limited to, fire, flood, earthquake, hurricane, tornado, high water, landslide, mudslide, wind, storm, wave action, volcanic activity, epidemic, disease outbreak, air contamination, terrorism, cyber event, blight, drought, infestation, explosion, radiological accident, nuclear, chemical, biological, or bacteriological release, water contamination, bridge failure or bridge collapse.

b. "state disaster emergency" means a period beginning with a declaration by the governor that a disaster exists and ending upon the termination thereof.

c. "municipality" means a public corporation as defined in subdivision one of section sixty-six of the general construction law and a special district as defined in subdivision sixteen of section one hundred two of the real property tax law.

d. "commission" means the disaster preparedness commission created pursuant to section twenty-one of this article.

e. "emergency services organization" means a public or private agency, voluntary organization or group organized and functioning for the purpose of providing fire, medical, ambulance, rescue, housing, food or other services directed toward relieving human suffering, injury or loss of life or damage to property as a result of an emergency, including non-profit and governmentally-supported organizations, but excluding governmental agencies.

f. "chief executive" means:

(1) a county executive or manager of a county;

(2) in a county not having a county executive or manager, the chairman or other presiding officer of the county legislative body;

(3) a mayor of a city or village, except where a city or village has a

manager, it shall mean such manager; and

(4) a supervisor of a town, except where a town has a manager, it shall mean such manager.

g. "Disaster emergency response personnel" means agencies, public officers, employees, or affiliated volunteers having duties and responsibilities under or pursuant to a comprehensive emergency management plan.

h. "Emergency management director" means the government official responsible for emergency preparedness, response and recovery for a county, city, town, or village.

i. "incident management team" means a state certified team of trained personnel from different departments, organizations, agencies, and jurisdictions within the state, or a region of the state, activated to support and manage major and/or complex incidents requiring a significant number of local, regional, and state resources.

j. "executive level officer" means a state agency officer with the authority to deploy agency assets and resources and make decisions binding a state agency.

k. "third party non-state resources" means any contracted resource that is not owned or controlled by the state or a political subdivision including, but not limited to, ambulances, construction crews, or contractors.

§ 21. Disaster preparedness commission established; meetings; powers and duties. 1. There is hereby created in the executive department a disaster preparedness commission consisting of the commissioners of transportation, health, division of criminal justice services, education, economic development, agriculture and markets, housing and community renewal, general services, labor, environmental conservation, mental health, addiction services and supports, parks, recreation and historic preservation, corrections and community supervision, children

and family services, homeland security and emergency services, and people with developmental disabilities, the president of the New York state energy research and development authority, the superintendents of state police and financial services, the secretary of state, the state fire administrator, the chair of the public service commission, the adjutant general, the office of information technology services, and the office of victim services, the chairs of the thruway authority, the office for the aging, the metropolitan transportation authority, the port authority of New York and New Jersey, the chief professional officer of the state coordinating chapter of the American Red Cross, the chief professional officer of 2-1-1 New York state and three additional members, to be appointed by the governor, two of whom shall be chief executives. Each member agency may designate an executive level officer of that agency, with responsibility for disaster preparedness matters, who may represent that agency on the commission. The commissioner of the division of homeland security and emergency services shall serve as chair of the commission, and the governor shall designate the vice chair of the commission. The members of the commission, except those who serve ex officio, shall be allowed their actual and necessary expenses incurred in the performance of their duties under this article but shall receive no additional compensation for services rendered pursuant to this article.

2. The commission, on call of the chairperson, shall meet at least twice each year and at such other times as may be necessary. The agenda and meeting place of all regular meetings shall be made available to the public in advance of such meetings and all such meetings shall be open to the public. The commission shall establish quorum requirements and other rules and procedures regarding conduct of its meetings and other affairs.

3. The commission shall have the following powers and responsibilities:

a. study all aspects of man-made or natural disaster prevention, response and recovery;

b. request and obtain from any state or local officer or agency any information necessary to the commission for the exercise of its responsibilities;

c. prepare and, as appropriate, revise a state comprehensive emergency management plan. The commission shall report all revisions to such plan by March thirty-first of each year to the governor, the legislature and the chief judge of the state, unless a current version of the plan is available to the public on the website of the division of homeland security and emergency services. In preparing such plans, the commission shall consult with federal and local officials, emergency service organizations including both volunteer and commercial emergency response organizations, and the public as it deems appropriate. To the extent such plans impact upon administration of the civil and criminal justice systems of the state, including their operational and fiscal needs in times of disaster emergency, the commission, its staff and any working group, task force, agency or other instrumentality to which it may delegate responsibility to assist it in its duties shall consult with the chief administrator of the courts and coordinate their preparation with him or her or with his or her representatives;

d. prepare, keep current and distribute to chief executives and others an inventory of programs directly relevant to prevention, minimization of damage, readiness, operations during disasters, and recovery following disasters;

e. direct state disaster operations and coordinate state disaster operations with local disaster operations following the declaration of a state disaster emergency;

f. (1) unless it deems it unnecessary, create, following the declaration of a state disaster emergency, a temporary organization in the disaster area to provide for integration and coordination of efforts among the various federal, state, municipal and private agencies involved. The commission, upon a request from a municipality and with the approval of the governor, shall direct the temporary organization to assume direction of the local disaster operations of such municipality,

for a specified period of time not to exceed thirty days, and in such cases such temporary organization shall assume direction of such local disaster operations, subject to the supervision of the commission. Upon the expiration of the thirty day period the commission, at the request of the municipality, may extend the temporary organization's direction of such local disaster operations for additional periods not to exceed thirty days. The commission, upon a finding that a municipality is unable to manage local disaster operations, may, with the approval of the governor, direct the temporary organization to assume direction of the local disaster operations of such municipality, for a specified period of time not to exceed thirty days, and in such cases such temporary organization shall assume direction of such local disaster operations, subject to the supervision of the commission. Upon expiration of the thirty day period the commission, after consultation with the municipality, and with the approval of the governor, may extend the temporary organization's direction of such local disaster operations for additional periods not to exceed thirty days. In such event, such temporary organization may utilize such municipality's local resources, provided, however, that the state shall not be liable for any expenses incurred in using such municipality's resources. The state shall not be liable for the expenses incurred in using third party, non-state resources deployed to the affected area by the temporary organization, which are necessary to protect life and safety;

(2) The state incident management team shall have the authority to act as the operational arm of the temporary organization. When called to duty and deployed by the state, members of any state or local incident management team shall be deemed temporary employees of the state and shall have the same privileges and immunities afforded to regular state employees, subject to the rules and regulations promulgated by the president of the state civil service commission pursuant to section one hundred sixty-three of the civil service law;

g. assist in the coordination of federal recovery efforts and coordinate recovery assistance by state and private agencies;

h. provide for periodic briefings, drills, exercises or other means to assure that all state personnel with direct responsibilities in the

event of a disaster are fully familiar with response and recovery plans and the manner in which they shall carry out their responsibilities, and coordinate with federal, local or other state personnel. Such activities may take place on a regional or county basis, and local and federal participation shall be invited and encouraged;

i. submit to the governor, the legislature and the chief judge of the state by March thirty-first of each year an annual report which shall include but need not be limited to:

(1) a summary of commission and state agency activities for the year and plans for the ensuing year with respect to the duties and responsibilities of the commission;

(2) recommendations on ways to improve state and local capability to prevent, prepare for, respond to and recover from disasters;

(3) the status of the state and local plans for disaster preparedness and response, including the name of any locality which has failed or refused to develop and implement its own disaster preparedness plan and program; and the extent to which all forms of local emergency response assets have been included, and accounted for in planning and preparation for disaster preparedness and response; and

j. develop public service announcements to be distributed to television and radio stations and other media throughout the state informing the public how to prepare and respond to disasters. Such public service announcements shall be distributed in English and such other languages as such commission deems appropriate.

4. All powers of the state civil defense commission are assigned to the commission.

5. The state office of emergency management within the division of homeland security and emergency services shall serve as the operational arm of the commission and shall be responsible for implementing provisions of this article and the rules and policies adopted by the commission. The director of the state office of emergency management within the division of homeland security and emergency services shall exercise the authority given to the disaster preparedness commission in

section twenty-nine of this article, to coordinate and direct state agencies and assets in response to a state disaster emergency, through their respective agency heads, on behalf of the governor and the chair of the disaster preparedness commission, when the governor, the lieutenant governor, and the chair of the disaster preparedness commission are incapacitated or without an available means of reliable communication with the state office of emergency management. If the director of the state office of emergency management is unable to exercise this authority, then the executive deputy commissioner of the division of homeland security and emergency services shall act in this capacity. In the event that the executive deputy commissioner is unable to exercise this authority, then such authority shall be exercised by the official willing and able to do so in the following order: the superintendent of the division of state police; the state fire administrator; or the director of the office of counterterrorism within the division of homeland security and emergency services. Nothing in this subdivision shall be construed to limit the authority of the governor, lieutenant governor, or the chair of the disaster preparedness commission to oversee the director of the state office of emergency management within the division of homeland security and emergency services or any official exercising authority given to the disaster preparedness commission in section twenty-nine of this article.

§ 22. State disaster preparedness plans. 1. The commission shall prepare a state disaster preparedness plan and submit such plan to the governor for approval no later than one year following the effective date of this act. The governor shall act upon such plan by July first of that year. The commission shall review such plans annually.

2. The purpose of such plans shall be to minimize the effects of disasters by: (i) identifying appropriate measures to prevent disasters, (ii) developing mechanisms to coordinate the use of resources and manpower for service during and after disaster emergencies and the delivery of services to aid citizens and reduce human suffering resulting from a disaster, and (iii) provide for recovery and redevelopment after disaster emergencies.

3. Such plans shall be prepared with such assistance from other agencies as the commission deems necessary, and shall include, but not be limited to:

a. Disaster prevention and mitigation. Plans to prevent and minimize the effects of disasters shall include, but not be limited to:

(1) identification of hazards and assessment of risk;

(2) recommended disaster prevention and mitigation projects, policies, priorities and programs, with suggested implementation schedules, which outline federal, state and local roles;

(3) suggested revisions and additions to building and safety codes, and zoning and other land use programs;

(4) suggested ways in which state agencies can provide technical assistance to municipalities in the development of local disaster prevention and mitigation plans and programs;

(5) such other measures as reasonably can be taken to protect lives, prevent disasters, and reduce the impact of disasters.

b. Disaster response. Plans to coordinate the use of resources and manpower for service during and after disaster emergencies and to deliver services to aid citizens and reduce human suffering resulting from a disaster emergency shall include, but not be limited to:

(1) coordination of resources, manpower and services, using recognized practices in incident management and utilizing existing organizations and lines of authority and centralized direction of requests for assistance;

(2) the location, procurement, construction, processing, transportation, storing, maintenance, renovation, distribution, disposal or use of materials, including those donated, and facilities and services;

(3) a system for warning populations who are or may be endangered;

(4) arrangements for activating state, municipal and volunteer forces, through normal chains of command so far as possible and for continued communication and reporting;

(5) a specific plan for rapid and efficient communication, and for the integration of state communication facilities during a state disaster

emergency, including the assignment of responsibilities and the establishment of communication priorities, and liaison with municipal, private and federal communication facilities;

(6) a plan for coordinated evacuation procedures, including the establishment of temporary housing and other necessary facilities;

(7) criteria for establishing priorities with respect to the restoration of vital services and debris removal;

(8) plans for the continued effective operation of the civil and criminal justice systems;

(9) provisions for training state and local government personnel and volunteers in disaster response operations;

(10) providing information to the public, including coordination with any state recognized information and referral services;

(11) care for the injured and needy and identification and disposition of the dead;

(12) utilization and coordination of programs to assist victims of disasters, with particular attention to the needs of the poor, the elderly, individuals with disabilities and other groups which may be especially affected;

(13) control of ingress and egress to and from a disaster area, including but not limited to, exempting from travel bans those essential private and public personnel, as determined by the commission, who are summoned by their employers to assist in emergency services, such as utility and other workers who need to reach declared emergency areas in order to perform tasks related to the restoration and/or maintenance of energy and communications infrastructure;

(14) a plan for the delivery of medical supplies and medications to pharmacies, hospitals and nursing homes located within the area declared to be experiencing a disaster emergency.

(15) arrangements to administer federal disaster assistance;

(16) a system for obtaining and coordinating situational awareness including the centralized assessment of disaster effects and resultant needs; and

(17) utilization and coordination of programs to assist individuals with household pets and service animals following a disaster, with particular attention to means of evacuation, shelter and transportation options.

c. Recovery. Plans to provide for recovery and redevelopment after disaster emergencies shall include, but not be limited to:

(1) measures to coordinate state agency assistance in recovery efforts;

(2) arrangements to administer federal recovery assistance; and

(3) such other measures as reasonably can be taken to assist in the development and implementation of local disaster recovery plans.

§ 23. Local comprehensive emergency management plans. 1. Each county, except those contained within the city of New York, and each city with a population of one million or more, shall prepare a comprehensive emergency management plan. Each city with a population of less than one million, town and village is authorized to prepare a comprehensive emergency management plan. The disaster preparedness commission shall provide assistance and advice for the development of such plans. Each city with a population of less than one million, town and village plan shall be coordinated with the county plan.

2. The purpose of such plans shall be to minimize the effect of disasters by (i) identifying appropriate local measures to prevent disasters, (ii) developing mechanisms to coordinate the use of local resources and manpower for service during and after disasters and the delivery of services to aid citizens and reduce human suffering resulting from a disaster, and (iii) providing for recovery and redevelopment after disasters.

3. Plans for coordination of resources, manpower and services shall provide for a centralized coordination and direction of requests for assistance.

4. Plans for coordination of assistance shall provide for utilization of existing organizations and lines of authority.

5. In preparing such plans, cooperation, advice and assistance shall be sought from local government officials, regional and local planning

agencies, police agencies, fire departments and fire companies, local emergency management agencies, commercial and volunteer ambulance services, health and social services officials, community action agencies, the chief administrator of the courts, organizations for the elderly and the handicapped, agencies and organizations that provide home health care services, agencies and organizations that provide hospice services, other interested groups and the general public. Such advice and assistance may be obtained through public hearings held on public notice, or through other appropriate and practical methods, through which such aforementioned groups may offer their input for consideration on issues that support the effective preparation and execution of the plan. In addition, in the case of home care and hospice, such input may address procedures by which such providers may be granted essential access to care for such patients during an emergency.

6. All plans for comprehensive emergency management developed by local governments or any revisions thereto shall be submitted to the commission by December thirty-first of each year to facilitate state coordination of disaster operations.

7. Such plans shall include, but not be limited to:

a. Disaster prevention and mitigation. Plans to prevent and minimize the effects of disasters shall include, but not be limited to:

(1) identification of hazards and assessment of risk;

(2) recommended disaster prevention and mitigation projects, policies, priorities and programs, with suggested implementation schedules, which outline federal, state and local roles;

(3) suggested revisions and additions to building and safety codes and zoning and other land use programs;

(4) such other measures as reasonably can be taken to protect lives, prevent disasters, and reduce their impact.

b. Disaster response. Plans to coordinate the use of resources and manpower for service during and after disasters and to deliver services to aid citizens and reduce human suffering resulting from a disaster

shall include, but not be limited to:

(1) coordination of resources, manpower and services, using recognized practices in incident management, utilizing existing organizations and lines of authority and centralized direction of requests for assistance;

(2) the location, procurement, construction, processing, transportation, storing, maintenance, renovation, distribution, disposal or use of materials, including those donated, and facilities and services which may be required in time of disaster;

(3) a system for warning populations who are or may be endangered;

(4) arrangements for activating municipal and volunteer forces, through normal chains of command so far as possible, and for continued communication and reporting;

(5) a specific plan for rapid and efficient communication and for the integration of local communication facilities during a disaster including the assignment of responsibilities and the establishment of communication priorities and liaison with municipal, private, state and federal communication facilities;

(6) a plan for coordination evacuation procedures including the establishment of temporary housing and other necessary facilities;

(7) criteria for establishing priorities with respect to the restoration of vital services and debris removal;

(8) plans for the continued effective operation of the civil and criminal justice systems;

(9) provisions for training local government personnel and volunteers in disaster response operations;

(10) providing information to the public;

(11) care for the injured and needy and identification and disposition of the dead;

(12) utilization and coordination of programs to assist victims of disasters, with particular attention to the needs of the poor, the elderly, individuals with disabilities and other groups which may be especially affected;

(13) control of ingress and egress to and from a disaster area, including but not limited to, exempting from travel bans those essential private and public personnel, as determined by the commission, who are summoned by their employers to assist in emergency services, such as utility and other workers who need to reach declared emergency areas in

order to perform tasks related to the restoration and/or maintenance of energy and communications infrastructure;

(14) arrangements to administer state and federal disaster assistance;

(15) procedures under which the county, city, town, village or other political subdivision and emergency organization personnel and resources will be used in the event of a disaster;

(16) a system for obtaining and coordinating disaster information including the centralized assessment of local disaster effects and resultant needs;

(17) continued operation of governments of political subdivisions; and

(18) utilization and coordination of programs to assist individuals with household pets and service animals following a disaster, with particular attention to means of evacuation, shelter and transportation options.

c. Recovery. Local plans to provide for recovery and redevelopment after disasters shall include, but not be limited to:

(1) recommendations for replacement, reconstruction, removal or relocation of damaged or destroyed public or private facilities, proposed new or amendments to zoning, subdivision, building, sanitary or fire prevention regulations and recommendations for economic development and community development in order to minimize the impact of any potential future disasters on the community.

(2) provision for cooperation with state and federal agencies in recovery efforts.

(3) provisions for training and educating local disaster officials or organizations in the preparation of applications for federal and state disaster recovery assistance.

§ 23-a. County registry of disabled persons; notice. 1. In each county having a local disaster preparedness plan pursuant to section twenty-three of this article, in order to meet the special needs of persons who would need assistance during evacuations and sheltering because of physical or mental handicaps, it is recommended that each chief executive maintain a registry of disabled persons located within the county. The registration shall identify those persons in need of

assistance and plan for resource allocation to meet those identified needs. To assist the chief executive in identifying such persons, the county department of health, or such other county department or agency as designated by the chief executive, shall provide voluntary registration information to all of its special needs clients and to all incoming clients as part of the intake process. The registry shall be updated annually. The registration program shall give disabled persons the option of pre-authorizing emergency response personnel to enter their homes during search and rescue operations if necessary to assure their safety and welfare during disasters.

2. Upon the establishment of a voluntary registry of disabled persons as provided in subdivision one of this section, the chief executive shall make such registry available to the appropriate county, state and federal agencies for their use in delivering services in the event of a local or state disaster. The chief executive shall, upon the request of the state emergency management office, provide such registry information to such office. The chief executive may, at his discretion, use the registry information for local disaster preparedness only in coordination with other political subdivisions of the state.

3. Upon the establishment of a voluntary registry of disabled persons as provided in subdivision one of this section, at least semi-annually, each chief executive shall cause to be published in a newspaper of general circulation within the county a notice of the availability of the voluntary registration program.

4. All records, data, information, correspondence and communications relating to the registration of disabled persons as provided in subdivision one of this section are confidential, except that such information shall be available to other county chief executives for local disaster preparedness only as the chief executive of the county maintaining such registry deems necessary. Provided, however, the individual file of a person having registered with the registry of disabled persons shall be made available to that person upon request.

5. All community-based services providers, including home health care

providers, shall assist the chief executive by collecting registration information for people with special needs as part of program intake processes, establishing programs to increase the awareness of the registration process, and educating clients about the procedures that may be necessary for their safety during disasters.

6. A county shall not be liable for any claim based upon the good faith exercise or performance or the good faith failure to exercise or perform a function or duty on the part of any officer or employee in carrying out a local disaster preparedness plan.

§ 23-b. Nursing home and assisted living facility plans. 1. After consultation with the commissioner of health, the director of the office for the aging, and the director of the state office of homeland security, the commission shall establish standards for nursing homes, adult homes, enriched housing programs and assisted living residences regarding disaster preparedness.

2. Each such facility shall be assisted in the establishment of a disaster preparedness plan. The plan shall include, but not be limited to, the following:

(a) Maintaining a supply of food, water and to the extent deemed necessary and feasible in the reasonable judgment of the operator of the facility, medication in reserve in the event that obtaining such items should become difficult or impossible.

(b) In the reasonable judgment of the facility, having access to a generator or generators sufficient to supply electrical power to the facility.

(c) Establishing an evacuation plan for residents including an alternative site suitable for temporary use.

(d) Establishing staffing plans during a disaster.

3. Such plans shall be made available to the county emergency management office.

4. Nothing in this section shall be deemed to modify or override any

requirements in regulations duly promulgated by a state agency, or to limit any lawful authority of a state agency to promulgate regulations, with respect to disaster preparedness of such facilities, the contents of their disaster preparedness plans or the process for approval of those plans.

§ 23-c. Consistency among local disaster preparedness plans. 1. The local disaster preparedness plans for each county, city, town, or village shall be so developed that no part of the local disaster preparedness plan of any county or any city, town, or village within such county conflicts with any part of the local disaster preparedness plan of any of the other said entities within such county or such county itself. In the event of any such conflict, such conflict shall be resolved by such county. The provisions of this subdivision shall not apply to a city wholly containing more than one county or to any county wholly contained within any such city.

2. In the event that any part of the local disaster preparedness plan of any county or any city, town, or village within such county conflicts with any part of the local disaster preparedness plan of any other county or any city, town, or village within any such other county, such conflict shall be resolved by the state emergency management office, as defined in paragraph (e) of subdivision one of section twenty-nine-e of this article. The provisions of this subdivision shall not apply to any county wholly contained within a city wholly containing more than one county. Any city wholly containing more than one county shall be subject to the provisions of this subdivision as if it were a county.

3. Said state emergency management office is hereby authorized and directed to promulgate any rules or regulations or take any other measures necessary to effectuate the provisions of this section.

§ 24. Local state of emergency; local emergency orders by chief executive. 1. Notwithstanding any inconsistent provision of law, general or special, in the event of a disaster, rioting, catastrophe, or similar

public emergency within the territorial limits of any county, city, town or village, or in the event of reasonable apprehension of immediate danger thereof, and upon a finding by the chief executive thereof that the public safety is imperiled thereby, such chief executive may proclaim a local state of emergency within any part or all of the territorial limits of such local government; provided, however, that in the event of a radiological accident as defined in section twenty-nine-c of this article, such chief executive may request of the governor a declaration of disaster emergency. Such proclamation shall remain in effect for a period not to exceed thirty days or until rescinded by the chief executive, whichever occurs first. The chief executive may issue additional proclamations to extend the state of emergency for additional periods not to exceed thirty days. Following such proclamation and during the continuance of such local state of emergency, the chief executive may promulgate local emergency orders to protect life and property or to bring the emergency situation under control. As illustration, such orders may, within any part or all of the territorial limits of such local government, provide for:

a. the establishment of a curfew and the prohibition and control of pedestrian and vehicular traffic, except essential emergency vehicles and personnel;

b. the designation of specific zones within which the occupancy and use of buildings and the ingress and egress of vehicles and persons may be prohibited or regulated;

c. the regulation and closing of places of amusement and assembly;

d. the suspension or limitation of the sale, dispensing, use or transportation of alcoholic beverages, firearms, explosives, and flammable materials and liquids;

e. the prohibition and control of the presence of persons on public streets and places;

f. the establishment or designation of emergency shelters, emergency

medical shelters, and in consultation with the state commissioner of health, community based care centers;

g. the suspension within any part or all of its territorial limits of any of its local laws, ordinances or regulations, or parts thereof subject to federal and state constitutional, statutory and regulatory limitations, which may prevent, hinder, or delay necessary action in coping with a disaster or recovery therefrom whenever (1) a request has been made pursuant to subdivision seven of this section, or (2) whenever the governor has declared a state disaster emergency pursuant to section twenty-eight of this article. Suspension of any local law, ordinance or regulation pursuant to this paragraph shall be subject to the following standards and limits:

(i) no suspension shall be made for a period in excess of five days, provided, however, that upon reconsideration of all the relevant facts and circumstances, a suspension may be extended for additional periods not to exceed five days each during the pendency of the state of emergency;

(ii) no suspension shall be made which does not safeguard the health and welfare of the public and which is not reasonably necessary to the disaster effort;

(iii) any such suspension order shall specify the local law, ordinance or regulation, or part thereof suspended and the terms and conditions of the suspension;

(iv) the order may provide for such suspension only under particular circumstances, and may provide for the alteration or modification of the requirements of such local law, ordinance or regulation suspended, and may include other terms and conditions;

(v) any such suspension order shall provide for the minimum deviation from the requirements of the local law, ordinance or regulation suspended consistent with the disaster action deemed necessary; and

(vi) when practicable, specialists shall be assigned to assist with the related emergency actions to avoid adverse effects resulting from such suspension.

2. A local emergency order shall be effective from the time and in the manner prescribed in the order and shall be published as soon as

practicable in a newspaper of general circulation in the area affected by such order and transmitted to the radio and television media for publication and broadcast. Such orders may be amended, modified and rescinded by the chief executive during the pendency or existence of the state of emergency. Such orders shall cease to be in effect five days after promulgation or upon declaration by the chief executive that the state of emergency no longer exists, whichever occurs sooner. The chief executive nevertheless, may extend such orders for additional periods not to exceed five days each during the pendency of the local state of emergency.

3. The proclamation of a local state of emergency and local emergency orders of a chief executive of a county shall be executed in quadruplicate and shall be filed within seventy-two hours or as soon thereafter as practicable in the office of the clerk of the governing board of the county, the office of the county clerk, the office of the secretary of state and the state office of emergency management within the division of homeland security and emergency services. The proclamation of a local state of emergency and local emergency orders of a chief executive of a city, town or village shall be executed in quadruplicate and shall be filed within seventy-two hours or as soon thereafter as practicable in the office of the clerk of such municipal corporation, the office of the county clerk, the office of the secretary of state and the state office of emergency management within the division of homeland security and emergency services.

4. Nothing in this section shall be deemed to limit the power of any local government to confer upon its chief executive any additional duties or responsibilities deemed appropriate.

5. Any person who knowingly violates any local emergency order of a chief executive promulgated pursuant to this section is guilty of a class B misdemeanor.

6. Whenever a local state of emergency is declared by the chief executive of a local government pursuant to this section, the chief executive of the county in which such local state of emergency is

declared, or where a county is wholly contained within a city, the mayor of such city, may request the governor to remove all or any number of sentenced incarcerated individuals from institutions maintained by such county in accordance with section ninety-three of the correction law.

7. Whenever a local state of emergency has been declared pursuant to this section, the chief executive of the county in which the local state of emergency has been declared, or where a county is wholly contained within a city, the chief executive of the city, may request the governor to provide assistance under this chapter, provided that such chief executive determines that the disaster is beyond the capacity of local government to meet adequately and state assistance is necessary to supplement local efforts to save lives and to protect property, public health and safety, or to avert or lessen the threat of a disaster.

8. The legislature may terminate by concurrent resolution, such emergency orders at any time.

9. a. Whenever a local state of emergency is declared pursuant to this section and upon receipt of notification by an electric corporation or the service provider, pursuant to section seventy-three-a of the public service law or section one thousand twenty-mm of the public authorities law, the chief executive shall coordinate with affected police departments, fire departments, ambulance services and advanced life support first response services prewired with an appropriate transfer switch for using an alternate generated power source for the emergency deployment of alternate generated power sources.

b. For the purposes of this section, "alternate generated power source" shall mean electric generating equipment that is of the capacity that is capable of providing adequate electricity to operate all life safety systems and the basic operations of a police department, fire department, ambulance service or advanced life support first response service.

§ 25. Use of local government resources in a disaster. 1. Upon the

threat or occurrence of a disaster, the chief executive of any political subdivision is hereby authorized and empowered to and shall use any and all facilities, equipment, supplies, personnel and other resources of his political subdivision in such manner as may be necessary or appropriate to cope with the disaster or any emergency resulting therefrom.

2. Upon the threat or occurrence of a disaster, a chief executive may request and accept assistance which is coordinated and directed by the county chief executive as provided in section twenty-six of this article.

3. A chief executive may also request and accept assistance from any other political subdivision and may receive therefrom and utilize any real or personal property or the service of any personnel thereof on such terms and conditions as may be mutually agreed to by the chief executives of the requesting and assisting political subdivisions.

4. Upon the receipt of a request for assistance made pursuant to subdivision two or three of this section, the chief executive of any political subdivision may give, lend or lease, on such terms and conditions as he may deem necessary to promote the public welfare and protect the interests of such political subdivision, any services, equipment, facilities, supplies or other resources of his political subdivision. Any lease or loan of real or personal property pursuant to this subdivision, or any transfer of personnel pursuant hereto, shall be only for the purpose of assisting a political subdivision in emergency relief, reconstruction, or rehabilitation made necessary by the disaster.

5. A political subdivision shall not be liable for any claim based upon the exercise or performance or the failure to exercise or perform a discretionary function or duty on the part of any officer or employee in carrying out the provisions of this section.

6. The chief executive, when requesting assistance pursuant to this section may request assistance from the civil defense and disaster

preparedness forces of any other political subdivision, but only if the civil defense and disaster preparedness forces of the type being requested have already been activated within the political subdivisions requesting assistance. The chief executive of any political subdivision receiving such a request is hereby authorized and empowered, subject to the provisions of section twenty-six of this article, to respond thereto.

7. Any power or authority conferred upon any political subdivision by this section shall be in addition to and not in substitution for or limitation of any powers or authority otherwise vested in such subdivision or any officer thereof.

§ 26. Coordination of local disaster preparedness forces and local civil defense forces in disasters. 1. Upon the threat or occurrence of a disaster, the chief executive of a county may coordinate responses for requests for assistance made by the chief executive of any political subdivision within the county.

2. Coordination of assistance shall utilize existing organizations and lines of authority and shall utilize any comprehensive emergency management plans prepared by the affected municipality.

3. A chief executive or any elected or appointed county, city, town or village official shall not be held responsible for acts or omissions of municipal employees, disaster preparedness forces or civil defense forces when performing disaster assistance pursuant to a declared disaster emergency or when exercising comprehensive emergency management plans.

§ 27. Continuity of local governments. 1. Every county, except those wholly contained within a city, every city, every town and every village shall have power to provide by local law, and every other public corporation, district corporation or public benefit corporation shall have power to provide by resolution, for its continuity and that of its

elective and appointive officers, including members of its legislative or governing body when, in the event of a disaster and the emergency conditions caused thereby, any of such officers is unable to discharge the powers and duties of his office or is absent from the political subdivision. In any such local law or resolution, provision may be made that the removal of a disability or the termination of an absence from the political subdivision of an officer higher on a list or order of succession provided therein to an office shall not terminate the service in such office of an individual lower on such list or order of succession who is temporarily filling such office. Notwithstanding the provisions of any general or special law or city or village charter, a local law or resolution adopted pursuant to this section may be made effective without approval at a mandatory or permissive referendum but in no case shall such local law or resolution become effective until one certified copy thereof has been filed with the clerk of the political subdivision or other appropriate official designated for such purpose by the respective legislative or governing body, one certified copy thereof has been filed in the office of the state comptroller and three certified copies thereof have been filed in the office of the secretary of state.

No provision of this subdivision shall be construed or interpreted as affecting the validity of any ordinance, local law or resolution enacted prior to April first, nineteen hundred seventy-nine or actions taken thereunder by the government of any county, city, town or village.

2. The provisions of this section shall not be applicable in any case where the continuity of the government of a political subdivision or that of any of its elective or appointive officers is otherwise provided for by or pursuant to law.

3. This section shall be construed liberally. The powers herein granted shall be in addition to and not in substitution of any power granted, procedure provided or provision made in any other law.

§ 28. State declaration of disaster emergency. 1. Whenever the

governor, on his own initiative or pursuant to a request from one or more chief executives, finds that a disaster has occurred or may be imminent for which local governments are unable to respond adequately, he shall declare a disaster emergency by executive order.

2. Upon declaration of a disaster arising from a radiological accident, the governor or his designee, shall direct one or more chief executives and emergency services organizations to:

(a) notify the public that an emergency exists; and

(b) take appropriate protective actions pursuant to the radiological emergency preparedness plan approved pursuant to sections twenty-two and twenty-three of this article. The governor, or his designee, shall also have authority to direct that other actions be taken by such chief executives pursuant to their authority under section twenty-four of this article.

3. The executive order shall include a description of the disaster, and the affected area. Such order or orders shall remain in effect for a period not to exceed six months or until rescinded by the governor, whichever occurs first. The governor may issue additional orders to extend the state disaster emergency for additional periods not to exceed six months.

4. Whenever the governor shall find that a disaster is of such severity and magnitude that effective response is beyond the capabilities of the state and the affected jurisdictions, he shall make an appropriate request for federal assistance available under federal law, and may make available out of any funds provided under the governmental emergency fund or such other funds as may be available, sufficient funds to provide the required state share of grants made under any federal program for meeting disaster related expenses including those available to individuals and families.

5. The legislature may terminate at any time a state disaster emergency issued under this section by concurrent resolution.

§ 28-a. Post disaster recovery planning. 1. Whenever a state disaster emergency has been declared any county, city, town or village included in such disaster area shall prepare a local recovery and redevelopment plan, unless the legislative body of the municipality shall determine such plan to be unnecessary or impractical. Prior to making such determination, the municipality shall notify the commission of its intent to forego preparation and provide an opportunity to comment to the commission. Within fifteen days after the declaration of a state disaster, any county, city, town or village included in such disaster area shall report to the commission whether the preparation of a recovery and redevelopment plan has been commenced, and if not, the reasons for not preparing such plan. Within sixty days after the declaration of a state disaster, the commission shall report to the governor and the legislature the status of local recovery and redevelopment plans, including the name of any municipality which has failed or refused to commence the development of a recovery and redevelopment plan.

2. The commission shall provide technical assistance in the development of such plans upon the request of such county, city, town or village.

3. A local recovery and redevelopment plan shall include, but need not be limited to: plans for replacement, reconstruction, removal or relocation of damaged or destroyed facilities; proposed new or amended regulations such as zoning, subdivision, building or sanitary ordinances and codes; and plans for economic recovery and community development. Such plans shall take into account and to the extent practicable incorporate relevant existing plans and policies and such plans shall take into account the need to minimize the potential impact of any future disasters on the community.

4. Proposed plans shall be presented at a public hearing upon five days notice published in a newspaper of general circulation in the area affected and transmitted to the radio and television media for publication and broadcast. Such notice shall state the time and place of the hearing and indicate where copies of the proposed plan may be

inspected or obtained. Any county, city, town, or village preparing a recovery and redevelopment plan pursuant to this subdivision may, upon mutual agreement with any other such county, city, town or village, hold a joint hearing to consider such recovery and redevelopment plan.

5. Such plans shall be prepared within forty-five days after the declaration of a state disaster and shall be transmitted to the commission. The commission shall provide its comments on the plan within ten days after receiving such plan.

6. A plan shall be adopted by such county, city, town or village within ten days after receiving the comments of the commission. The adopted plan may be amended at any time in the same manner as originally prepared, revised and adopted.

7. The adopted plan shall be the official policy for recovery and redevelopment within the municipality.

8. Nothing in this section shall preclude any municipality from applying for or accepting and receiving any federal funds.

§ 29. Direction of state agency assistance in a disaster emergency. Upon the declaration of a state disaster emergency the governor may direct any and all agencies of the state government to provide assistance under the coordination of the disaster preparedness commission. Such state assistance may include: (1) utilizing, lending, or giving to political subdivisions, with or without compensation therefor, equipment, supplies, facilities, services of state personnel, and other resources, other than the extension of credit; (2) distributing medicine, medical supplies, food and other consumable supplies through any public or private agency authorized to distribute the same; (3) performing on public or private lands temporary emergency work essential for the protection of public health and safety, clearing debris and wreckage, making emergency repairs to and temporary replacements of public facilities of political subdivisions damaged or destroyed as a result of such disaster; and (4) making such other use of

their facilities, equipment, supplies and personnel as may be necessary to assist in coping with the disaster or any emergency resulting therefrom.

§ 29-a. Suspension of other laws. 1. Subject to the state constitution, the federal constitution and federal statutes and regulations, the governor may by executive order temporarily suspend specific provisions of any statute, local law, ordinance, or orders, rules or regulations, or parts thereof, of any agency during a state disaster emergency, if compliance with such provisions would prevent, hinder, or delay action necessary to cope with the disaster.

2. Suspensions pursuant to subdivision one of this section shall be subject to the following standards and limits:

a. no suspension shall be made for a period in excess of thirty days, provided, however, that upon reconsideration of all of the relevant facts and circumstances, the governor may extend the suspension for additional periods not to exceed thirty days each;

b. no suspension shall be made which does not safeguard the health and welfare of the public and which is not reasonably necessary to the disaster effort;

c. any such suspension order shall specify the statute, local law, ordinance, order, rule or regulation or part thereof to be suspended and the terms and conditions of the suspension;

d. the order may provide for such suspension only under particular circumstances, and may provide for the alteration or modification of the requirements of such statute, local law, ordinance, order, rule or regulation suspended, and may include other terms and conditions;

e. any such suspension order shall provide for the minimum deviation from the requirements of the statute, local law, ordinance, order, rule or regulation suspended consistent with the disaster action deemed

necessary; and

f. when practicable, specialists shall be assigned to assist with the related emergency actions to avoid needless adverse effects resulting from such suspension.

3. Such suspensions shall be effective from the time and in the manner prescribed in such orders and shall be published as soon as practicable in the state bulletin.

4. The legislature may terminate by concurrent resolution executive orders issued under this section at any time.

§ 29-b. Use of disaster emergency response personnel in disasters. 1. State use of disaster emergency response personnel and non-state resource providers. a. The governor may, in their discretion, direct the state disaster preparedness commission to conduct an emergency exercise or drill, under its direction, in which all or any of the personnel and resources of the agencies of the commission of the state may be utilized to perform the duties assigned to them in a disaster, for the purpose of protecting and preserving human life or property in a disaster. During a disaster or such drill or exercise, disaster emergency response personnel in the state shall operate under the direction and command of the chair of such commission, and shall possess the same powers, duties, rights, privileges and immunities as are applicable in a civil defense drill held at the direction of the state civil defense commission under the provisions of the New York state defense emergency act.

b. The governor may deploy non-state resource providers to another compact member jurisdiction under any compact in this article. When authorized to provide assistance and deployed by the legally designated state official or officials, non-state resource providers shall be deemed agents of the state for purposes of the deployment and shall be entitled to the rights and benefits provided to state resource providers by the compact, subject to any terms and conditions of the requesting state. Non-state resource providers shall not offer assistance to, or

request assistance from, another compact member jurisdiction. The division of homeland security and emergency services shall serve as the coordinator for offers and requests for assistance and facilitator of the reimbursement of non-state resource providers by the requesting state. The division of homeland security and emergency services shall not be responsible for reimbursement until the division receives payment from the requesting compact member jurisdiction.

2. Local use of disaster emergency response personnel. a. Upon the threat or occurrence of a disaster, and during and immediately following the same, and except as otherwise provided in paragraph d of this subdivision, the county chief executive may direct the emergency management director of a county to assist in the protection and preservation of human life or property by calling upon disaster emergency response personnel employed by or supporting that county, as specified in the county comprehensive emergency management plan, to perform the emergency response duties assigned to them.

b. The disaster emergency response personnel of the county shall be regarded as a reserve disaster force to be activated, in whole or in part, by the county emergency management director upon the direction of the county chief executive when the county chief executive, in his or her discretion, is convinced that the personnel and resources of local municipal and private agencies normally available for disaster assistance are insufficient adequately to cope with the disaster.

c. Except as provided in paragraph d of this subdivision, the county chief executive may exercise the power conferred upon him in paragraph a of this subdivision, or may deactivate the disaster emergency response personnel of the county in whole or in part, on his own motion or upon the request of the chief executive officer of a village, town or city located within the county of which he is an officer.

d. Where the local office of public safety or emergency management in a city is independent of the county office of public safety or emergency management and is not consolidated therewith, the county chief executive may direct the emergency management director of the county to render

assistance within such city only when the chief executive officer of such city has certified to him that the disaster emergency response personnel of the city have been activated pursuant to the provisions of subdivision three of this section and that all resources available locally are insufficient adequately to cope with the disaster.

e. When performing disaster assistance pursuant to this section, county disaster emergency response personnel shall operate under the direction and command of the county emergency management director and his or her duly authorized deputies, and shall possess the same powers, duties, rights, privileges and immunities they would possess when performing their duties in a locally sponsored civil defense drill or training exercise in the civil or political subdivision in which they are enrolled, employed or assigned emergency response responsibilities.

f. The chief executive officer of a city shall be responsible for the conduct of disaster operations within the city, including the operations directed by the county emergency management director when rendering disaster assistance within a city pursuant to this section.

g. Outside of a city, the sheriff of the county, and in Nassau county the commissioner of police of the county of Nassau, shall supervise the operations of the emergency management director when rendering peace officer duties incident to disaster assistance. The sheriff and such commissioner may delegate such supervisory power to an elected or appointed town or village official in the area affected.

h. Neither the chief executive officer of a city, nor the county chief executive, nor any elected or appointed town or village official to whom the county chief executive has delegated supervisory power as aforesaid shall be held responsible for acts or omissions of disaster emergency response personnel when performing disaster assistance.

3. City use of disaster emergency response personnel. a. Upon the threat or occurrence of a disaster, and during and immediately following the same, and except as otherwise provided in paragraph d of this subdivision, the chief executive of a city may direct the emergency

management director of the city to assist in the protection and preservation of human life or property by calling upon city disaster emergency response personnel to perform the emergency response duties assigned to them.

b. The disaster emergency response personnel of the city shall be regarded as a reserve disaster force to be activated, in whole or in part, by the city emergency management director upon the direction of the chief executive officer of the city when the latter, in his or her discretion, is convinced that the personnel and resources of local municipal and private agencies normally available for disaster assistance are insufficient adequately to cope with the disaster.

c. Except as provided in paragraph d of this subdivision, the chief executive officer of a city may exercise the power conferred upon him in paragraph a of this subdivision, or may deactivate the disaster emergency response personnel of the city in whole or in part, on his own motion or upon the request of the head of the city police force.

d. Where the local office of emergency management in a city is under the jurisdiction of a consolidated county office of civil defense as provided in the New York state defense emergency act, the chief executive officer of such city seeking the assistance of disaster emergency response personnel in the protection and preservation of human life or property within such city because of such disaster, must request the same from the county chief executive in which such city is located, in the same manner as provided for assistance to towns and villages in subdivision two of this section.

e. When performing disaster assistance pursuant to this subdivision, disaster emergency response personnel shall operate under the direction and command of the city emergency management director and his or her duly authorized deputies, and shall possess the same powers, duties, rights, privileges, and immunities they would possess when performing their duties in a locally sponsored civil defense drill or training exercise in the city in which they are enrolled, employed or assigned emergency response responsibilities.

f. Where the city disaster emergency response personnel have been directed to assist in local disaster operations pursuant to paragraph a of this subdivision, and the chief executive officer of the city is convinced that the personnel and resources of local municipal and private agencies normally available for disaster assistance, including local disaster emergency response personnel, are insufficient adequately to cope with the disaster, he or she may certify the fact to the county chief executive and request the county chief executive to direct the county emergency management director to render assistance in the city, as provided in subdivision two of this section.

g. The chief executive officer of a city shall be responsible for the conduct of disaster operations within the city, including the operations directed by the county emergency management director, when rendering disaster assistance within a city pursuant to this subdivision.

h. Neither the chief executive officer of a city, nor the county chief executive, shall be held responsible for acts or omissions of disaster emergency response personnel when performing disaster assistance.

§ 29-c. Radiological preparedness. 1. The commission:

(a) may monitor directly and record the off-site presence of radioactive material in the vicinity of nuclear electric generating facilities located in the state of New York;

(b) shall obtain from the licensees, United States nuclear regulatory commission-required high range radiation, temperature and pressure levels in the containment buildings and in the containment building vents of nuclear electric generating facilities located in the state of New York; and,

(c) shall obtain, subject to the approval of the United States nuclear regulatory commission, any reactor data provided by the licensee to the United States nuclear regulatory commission, which the disaster preparedness commission determines, as a result of the report issued pursuant to section twenty-nine-d of this article, to be a reliable indicator of a possible radiological accident.

Upon the occurrence of a radiological accident, the commission shall promptly provide appropriate and available radioactivity monitoring data to any chief executive who requests it. For the purposes of this section, the term "radiological accident" shall be limited to a radiological accident occurring at a nuclear electric generating facility.

2. (a) Any licensee of the United States nuclear regulatory commission for a nuclear electric generating facility shall be liable for an annual fee to support state and local governmental responsibilities under accepted radiological emergency preparedness plans related to the facility operated by such licensee.

(b) The amount of such fee shall be one million dollars. Such fee, which shall be payable to the commission on or before December first, shall be expended or distributed only by appropriation.

3. Such fees shall be expended by the commission for purposes of supporting state and local government responsibilities under accepted radiological emergency preparedness plans, including:

(a) purchase, installation, maintenance and operation of equipment used by the commission and local governments to monitor and record the potential and actual presence of radioactive materials within the appropriate planning radius from a nuclear electric generating facility;

(b) purchase, storage and distribution by the commission of equipment, drugs or other material for the purpose of protecting public health and safety;

(c) personal service, administrative costs and contractual services;

(d) emergency services personnel training and the plans, development, implementation, testing and revisions; and,

(e) the state or local share when applying for matching funds.

3-a. (a) Notwithstanding the provisions of subdivision three of this section, the New York state emergency management office (SEMO) and the coalition of nuclear counties, which constitutes the counties of Monroe, Wayne, Oswego, Orange, Putnam, Rockland and Westchester, shall each receive an equal one-half portion of the total amount of proceeds

resulting from the total assessments and contributions made pursuant to this section.

(b) The one-half portion of the proceeds resulting from the total assessments and contributions made pursuant to this section received by the coalition of nuclear counties shall be distributed pursuant to the following formula:

Monroe county 12.3%

Orange county 10%

Oswego county 12.5%

Putnam county 9.8%

Rockland county 18%

Wayne county 12.4%

Westchester county 25%

§ 29-d. Reports. In order to assess the present preparedness in the state for any radiological accident and to determine the need for, and appropriateness of, any additional specific steps by state government, the commission shall report to the governor and the legislature by January first, nineteen hundred eighty-two, its findings, recommendations and proposed legislation where appropriate concerning:

1. The need for and appropriateness of additional specific state activities or programs beyond those required by the accepted radiological emergency preparedness plans or provided for under existing law, including but not limited to:

(a) radiological monitoring equipment;

(b) warning systems and equipment;

(c) medical technologies and equipment;

(d) plume transport and dose assessment models; and

(e) nuclear fuel cycle and materials licensees other than electric generating facilities.

2. Any such recommendations shall be developed in consultation with all concerned public and private parties and shall:

(a) take into account proven safety effectiveness;

(b) outline any proposed costs and the means for meeting such costs;

(c) consider related activities of the United States nuclear regulatory commission or others; and

(d) when appropriate, discuss alternatives and various implementation stages.

§ 29-e. New York state emergency assistance program. 1. For purposes of this section the following terms shall have the following meanings:

(a) "Infrastructure" shall mean and include publicly owned storm and sanitary sewers, water supply systems, drainage systems, transportation systems, roads and bridges.

(b) "Municipality" shall mean any county, city, village, or town of the state.

(c) "Public facilities" shall mean and include publicly owned buildings, including traditional government buildings, such as courthouses, firehouses, police stations, parks, recreational facilities, and correctional facilities.

(d) "Fund" shall mean the state's contingency reserve fund established by law.

(e) "The office of emergency management" shall mean the office within the division of homeland security and emergency services.

2. The governor may, upon a finding that a municipality in the state has suffered substantial damage by an unanticipated natural disaster which has resulted in significant economic distress within such municipality, issue a declaration of significant economic distress in accordance with the provisions herein. In determining whether such significant economic distress exists, the governor shall consider whether the following criteria have been met:

(a) the municipality suffered a substantial loss of assessed value;

(b) substantial damage has occurred to municipal buildings, facilities and infrastructure;

(c) the cost incurred by the municipality for clean-up operations is significant;

(d) businesses within the municipality have experienced significant economic loss due to the inability to conduct normal business due to the disaster;

(e) a significant increase in unemployment claims filed by persons employed within the municipality has occurred; and

(f) the county or the county within which the municipality is located has been declared eligible by the United States small business administration for physical disaster and economic injury disaster loans. In addition, the governor shall also consider the extent that other financial resources, including federal assistance and insurance, are available to assist the municipality to repair damage caused by the disaster.

3. (a) Upon the issuance of a declaration of significant economic distress due to unanticipated natural disaster by the governor, a municipality recognized by the governor as being affected by such disaster which occurred on or after December first, nineteen hundred ninety-two, may apply to the division of homeland security and emergency services on a form prescribed by such office, for reimbursement from the state's contingency reserve fund for reimbursement of extraordinary and unanticipated costs associated with the reconstruction or repair of public buildings, facilities or infrastructure.

(b) Where the municipality applying for assistance authorized pursuant to this section is a city, and such application pertains to a county wholly contained within such city, such city may submit separate applications for such assistance for each such county.

(c) Such municipality shall be granted the assistance provided pursuant to this section, within the amounts made available by appropriation from the fund, upon approval of such application, provided that such municipality agrees to have a local disaster preparedness plan pursuant to section twenty-three of this article in effect by December thirty-first, nineteen hundred ninety-three. On or after December thirty-first, nineteen hundred ninety-three, no municipality shall be

eligible for reimbursement of such expenses unless such plan is in effect.

(d) Municipalities which have received assistance pursuant to this section shall, as soon thereafter as may be possible, amend their respective local disaster preparedness plans to include corrective measures that must be taken in order to avoid, to the extent possible, similar emergencies in the future.

(e) Municipalities applying for assistance pursuant to this section shall accurately describe the emergency conditions which necessitate the expenditure of funds for which reimbursement is being sought pursuant to this section.

(f) In providing assistance pursuant to this section, the division of homeland security and emergency services may give preference to applicants which demonstrate the greatest need or which document that such assistance will be utilized to bring the applicant into compliance with federal or state law.

(g) In the event that amounts appropriated are insufficient to provide for full reimbursement of all extraordinary and unanticipated costs incurred by such municipality approved for reimbursement pursuant to this section, the division of homeland security and emergency services is authorized to provide a pro rata share of the appropriations, appropriated herein, to such municipality.

4. (a) The commissioner of the division of homeland security and emergency services as defined in article twenty-six of this chapter with the advice and consent of the disaster preparedness commission created pursuant to this article, shall have the power to make such rules and regulations as may be necessary and proper to effectuate the purposes of this section.

(b) The commissioner of the division of homeland security and emergency services shall by March fifteenth of each year report to the governor and the legislature describing the activities and operation of the program authorized by this section. Such report shall set forth the number of reimbursement applications received and approved; the identities of the counties, cities, towns and villages receiving reimbursement together with the amount and purpose of the reimbursement.

§ 29-g. Emergency management assistance compact. 1. The emergency management assistance compact is made and entered into by and between the participating member states which enact this compact, hereinafter called party states. For the purposes of this agreement, the term "states" is taken to mean the several states, the commonwealth of Puerto Rico, the District of Columbia, and all United States territorial possessions.

The purpose of this compact is to provide for mutual assistance between the states entering into this compact in managing any emergency or disaster that is duly declared by the governor of the affected state or states, whether arising from natural disaster, technological hazard, man-made disaster, civil emergency aspects of resource shortages, community disorders, insurgency or enemy attack.

This compact shall also provide for mutual cooperation in emergency-related exercises, testing or other training activities using equipment and personnel simulating performance of any aspect of the giving and receiving of aid by party states or subdivisions of party states during emergencies, such actions occurring outside actual declared emergency periods. Mutual assistance in this compact may include the use of the states' national guard forces, either in accordance with the national guard mutual assistance compact or by mutual agreement between states.

2. Each party state entering into this compact recognizes that many emergencies transcend political jurisdictional boundaries and that intergovernmental coordination is essential in managing these and other emergencies under this compact. Each state further recognizes that there will be emergencies which require immediate access and present procedures to apply outside resources to make a prompt and effective response to such an emergency. This is because few, if any, individual states have all the resources they may need in all types of emergencies or the capability of delivering resources to areas where emergencies exist.

The prompt, full and effective utilization of resources of the participating states, including any resources on hand or available from the federal government or any other source, that are essential to the safety, care and welfare of the people in the event of any emergency or disaster declared by a party state, shall be the underlying principle on which all provisions of this compact shall be understood.

On behalf of the governor of each state participating in the compact, the legally designated state official who is assigned responsibility for emergency management will be responsible for formulation of the appropriate interstate mutual aid plans and procedures necessary to implement this compact.

3. (a) It shall be the responsibility of each party state to formulate procedural plans and programs for interstate cooperation in the performance of the responsibilities listed in this section. In formulating such plans, and in carrying them out, the party states, insofar as practical, shall:

(1) Review individual state hazard analysis and, to the extent reasonably possible, determine all those potential emergencies the party states might jointly suffer, whether due to natural disaster, technological hazard, man-made disaster, emergency aspects or resource shortages, civil disorders, insurgency or enemy attack.

(2) Review party states' individual emergency plans and develop a plan which will determine the mechanism for the interstate management and provision of assistance concerning any potential emergency.

(3) Develop interstate procedures to fill any identified gaps and to resolve any identified inconsistencies or overlaps in existing or developed plans.

(4) Assist in warning communities adjacent to or crossing the state boundaries.

(5) Protect and assure uninterrupted delivery of services, medicines, water, food, energy and fuel, search and rescue and critical lifeline equipment, services and resources, both human and material.

(6) Inventory and set procedures for the interstate loan and delivery of human material resources, together with procedures for reimbursement or forgiveness.

(7) Provide, to the extent authorized by law, for temporary suspension of any statutes or ordinances that restrict the implementation of the above responsibilities.

(b) The authorized representative of a party state may request assistance of another party state by contacting the authorized representative of that state. The provisions of this agreement shall only apply to requests for assistance made by and to authorized representatives. Requests may be verbal or in writing. If verbal, the request shall be confirmed in writing within thirty days of the verbal request. Requests shall provide the following information:

(1) A description of the emergency service function for which assistance is needed, such as, but not limited to, fire services, law enforcement, emergency medical, transportation, communications, public works and engineering, building inspection, planning and information assistance, mass care, resource support, health and medical services, and search and rescue.

(2) The amount and type of personnel, equipment, materials and supplies needed, and a reasonable estimate of the length of time that they will be needed.

(3) The specific place and time for staging of the assisting party's response and a point of contact at that location.

(c) There shall be frequent consultation between state officials who have assigned emergency management responsibilities and other appropriate representatives of the party states with affected jurisdictions and the United States government, with free exchange of information, plans and resource records relating to emergency capabilities.

4. Any party state requested to render mutual aid or conduct exercises and training for mutual aid shall take such action as is necessary to provide and make available the resources covered by this compact in accordance with the terms hereof provided, that it is understood that the state rendering aid may withhold resources to the extent necessary to provide reasonable protection for such state.

Each party state shall afford to the emergency forces of any party state, while operating within its state limits under the terms and

conditions of this compact, the same powers (except that of arrest unless specifically authorized by the receiving state), duties, rights and privileges as are afforded forces of the state in which they are performing emergency services. Emergency forces will continue under the command and control of their regular leaders, but the organizational units will come under the operational control of the emergency services authorities of the state receiving assistance. These conditions may be activated, as needed, only subsequent to a declaration of a state of emergency or disaster by the governor of the party state that is to receive assistance or commencement of exercises or training for mutual aid and shall continue so long as the exercises or training for mutual aid are in progress, the state, or states, of emergency or disaster remains in effect or loaned resources remain in the receiving states, whichever is longer.

5. Whenever any person holds a license, certificate or other permit issued by any state party to the compact evidencing the meeting of qualifications for professional, mechanical or other skills, and when such assistance is requested by the receiving party state, such person shall be deemed licensed, certified, or permitted by the state requesting assistance to render aid involving such skill to meet a declared emergency or disaster, subject to such limitations and conditions as the governor of the requesting state may prescribe by executive order or otherwise.

6. Officers or employees of a party state rendering aid in another state pursuant to this compact shall be considered agents of the requesting state for tort liability and immunity purposes and no party state or its officers or employees rendering aid in another state pursuant to this compact shall be liable on account or any act or omission in good faith on the part of such forces while so engaged or on account of the maintenance or use of any equipment or supplies in connection therewith. Good faith shall not include willful misconduct, gross negligence or recklessness.

7. Inasmuch as it is probable that the pattern and detail of the machinery for mutual aid among two or more states may differ from that

among the states that are parties hereto, this instrument contains elements of a broad base common to all states, and nothing contained herein shall preclude any state from entering into supplementary agreements with another state or affect any other agreements already in force between states. Supplementary agreements may comprehend, but shall not be limited to, provisions for evacuation and reception of injured and other persons and the exchange of medical, fire, police, public utility, reconnaissance, welfare, transportation and communications personnel, and equipment and supplies.

8. Each party state shall provide for the payment of compensation and death benefits to injured members of the emergency forces of that state and representatives of deceased members of such forces in case such members sustain injuries or are killed while rendering aid pursuant to this compact, in the same manner and on the same terms as if the injury or death were sustained within their own state.

9. Any party state rendering aid in another state pursuant to this compact shall be reimbursed by the party state receiving such aid for any loss or damage to or expense incurred in the operation of any equipment and the provision of any service in answering a request for aid and for the costs incurred in connection with such requests provided, that any aiding party state may assume, in whole or in part, such loss, damage, expense or other cost, or may loan such equipment or donate such services to the receiving party state without charge or cost provided, however, that any two or more party states may enter into supplementary agreements establishing a different allocation of costs among those states. Expenses under subdivision eight of this section shall not be reimbursable under this provision.

10. Plans for the orderly evacuation and interstate reception of portions of the civilian population as the result of any emergency or disaster of sufficient proportions to so warrant, shall be worked out and maintained between the party states and the emergency management/services directors of the various jurisdictions where any type of incident requiring evacuations might occur. Such plans shall be put into effect by request of the state from which evacuees come and

shall include the manner of transporting such evacuees, the number of evacuees to be received in different areas, the manner in which food, clothing, housing and medical care will be provided, the registration of the evacuees, the providing of facilities for the notification of relatives or friends, and the forwarding of such evacuees to other areas or the bringing in of additional materials, supplies and all other relevant factors. Such plans shall provide that the party state receiving evacuees and the party state from which the evacuees come shall mutually agree as to reimbursement of out-of-pocket expenses incurred in receiving and caring for such evacuees, for expenditures for transportation, food, clothing, medicines and medical care, and like items. Such expenditures shall be reimbursed as agreed by the party state from which the evacuees come. After the termination of the emergency or disaster, the party state from which the evacuees come shall assume the responsibility for the ultimate support of repatriation of such evacuees.

11. (a) This compact shall become operative immediately upon its enactment into law by any two states; thereafter, this compact shall become effective as to any other state upon its enactment by such state.

(b) Any party state may withdraw from this compact by enacting a statute repealing the same, but no such withdrawal shall take effect until thirty days after the governor of the withdrawing state has given notice in writing of such withdrawal to the governors of all other party states. Such action shall not relieve the withdrawing state from obligations assumed hereunder prior to the effective date of withdrawal.

(c) Duly authenticated copies of this compact and of such supplementary agreements as may be entered into shall, at the time of their approval be deposited with each of the party states and with the federal emergency management agency and other appropriate agencies of the United States government.

12. This compact shall be construed to effectuate the purposes stated in subdivision one of this section. If any provision of this compact is declared unconstitutional, or the applicability thereof to any person or circumstances is held invalid, the constitutionality of the remainder of this compact and the applicability thereof to other persons and

circumstances shall not be affected thereby.

13. Nothing in this compact shall authorize or permit the use of military forces by the National Guard of a state at any place outside the state in any emergency for which the president is authorized by law to call into federal service the militia, or for any purposes for which the use of the army or the air force would in the absence of express statutory authorization be prohibited under section 1385 of title 18, United States code.

14. The legally designated state official who is assigned responsibility for emergency management shall not offer resources to, or request resources from, another compact member state, without prior discussion with and concurrence from the state agency, department, office, division, board, bureau, commission or authority that may be asked to provide resources or that may utilize resources from another compact member state.

15. The director of the state emergency management office shall, on or before the first day of January, two thousand two, provide to the legislature and the governor copies of all mutual aid plans and procedures promulgated, developed or entered into after the effective date of this section. The director of the state emergency management office shall annually hereafter provide the legislature and governor with copies of all new or amended mutual aid plans and procedures on or before the first day of January of each year.

§ 29-h. Intrastate mutual aid program. 1. Creation. There is hereby created the intrastate mutual aid program to complement existing mutual aid agreements in the event of a disaster that results in a formal declaration of an emergency by a participating local government. All local governments within the state, excepting those which affirmatively choose not to participate in accordance with subdivision four of this section, are deemed to be participants in the program; provided, however, with respect to school districts and boards of cooperative educational services, such participation shall be limited to the sharing

of facilities management and administrative personnel and equipment.

2. Definitions. As used in this section, the following terms shall have the following meanings:

a. "Employee" means any person holding a position by election, appointment, or employment by a local government;

b. "Local government" means any county, city, town, village, school district or board of cooperative educational services of the state;

c. "Local emergency management director" means the local government official responsible for emergency preparedness, response and recovery;

d. "Requesting local government" means the local government that asks another local government for assistance during a declared emergency, or for the purposes of conducting training, or undertaking a drill or exercise;

e. "Assisting local government" means one or more local governments that provide assistance pursuant to a request for assistance from a requesting local government during a declared emergency, or for the purposes of conducting training, or undertaking a drill or exercise;

f. "Disaster" shall have the same meaning as in section twenty of this article;

g. "School district" shall have the same meaning as in title two of the education law, including any public school district and any special act school district as defined in section four thousand one of the education law; and

h. "Board of cooperative educational services" shall have the same meaning as in section nineteen hundred fifty of the education law.

3. Intrastate mutual aid program committee established; meetings; powers and duties. a. There is hereby created within the disaster

preparedness commission an intrastate mutual aid program committee, for purposes of this section to be referred to as the committee, which shall be chaired by the commissioner of the division of homeland security and emergency services, and shall include the state fire administrator, the commissioner of health, the commissioner of education and the commissioner of agriculture and markets, provided that each such official may appoint a designee to serve in his or her place on the committee. The committee shall also include five representatives from local public safety or emergency response agencies and one representative from a school district or board of cooperative educational services. Such representatives, who shall serve a maximum two-year term, shall be appointed by the commissioner of the division of homeland security and emergency services, with regard to a balance of geographic representation and discipline expertise.

b. The committee, on the call of the chairperson, shall meet at least twice each year and at such other times as may be necessary. The agenda and meeting place of all regular meetings shall be made available to the public in advance of such meetings and all such meetings shall be open to the public.

c. The committee shall have the following powers and responsibilities:

(1) to promulgate rules and regulations, acting through the division of homeland security and emergency services, to implement the intrastate mutual aid program as described in this section;

(2) to develop policies, procedures and guidelines associated with the program, including a process for the reimbursement of assisting local governments by requesting local governments;

(3) to evaluate the use of the intrastate mutual aid program;

(4) to examine issues facing participating local governments regarding the implementation of the intrastate mutual aid program; and

(5) to prepare reports to the disaster preparedness commission discussing the effectiveness of mutual aid in the state and making recommendations for improving the efficacy of the system, if appropriate.

4. Local government participation in the intrastate mutual aid

program. a. A local government may elect not to participate in the intrastate mutual aid program, or to withdraw from the program, by its governing body enacting a resolution declaring that it elects not to participate in the program and providing such resolution to the division of homeland security and emergency services. Participation in the program will continue until a copy of such resolution is received and confirmed by the division of homeland security and emergency services.

b. A local government that has declined to participate in the program may, acting by resolution through its governing body and providing a copy of the resolution to the division of homeland security and emergency services, elect to participate in the program.

c. Nothing in this section shall preclude a local government from entering into mutual aid agreements with other local governments or other entities with terms that supplement or differ from the provisions of this section.

d. Nothing in this section shall affect any other agreement to which a local government may currently be a party, or later enter into, including, but not limited to, the state fire mobilization and mutual aid plan.

5. Fire related resources. Notwithstanding the authority vested pursuant to this section, all fire related resources shall be administered pursuant to section two hundred nine-e of the general municipal law.

6. Requesting assistance under the intrastate mutual aid program. a. Subject to the restrictions on school districts and boards of cooperative educational services set forth in subdivision one of this section, the state or a participating local government may request assistance of other participating local governments in preventing, mitigating, responding to and recovering from disasters that result in the declaration of a state disaster emergency or locally-declared emergencies, or for the purpose of conducting multi-jurisdictional or regional training, drills or exercises. Requests for assistance may be

made verbally or in writing; verbal requests shall be memorialized in writing as soon thereafter as is practicable. Notwithstanding the provisions of section twenty-five of this article, the local emergency management director shall have the authority to request and accept assistance and deploy the local resources of his or her jurisdiction under the intrastate mutual aid program. The director of the state office of emergency management is authorized to request and accept assistance pursuant to this section.

b. Once an emergency is declared at the county level, all requests and offers for assistance, to the extent practical, shall be made through the county emergency management office, or in the case of the city of New York, through the city emergency management office. All requests for assistance should include:

(1) a description of the disaster;

(2) a description of the assistance needed;

(3) a description of the mission for which assistance is requested;

(4) an estimate of the length of time the assistance will be needed;

(5) the specific place and time for staging of the assistance and a point of contact at that location; and

(6) any other information that will enable an assisting local government to respond appropriately to the request.

c. Assisting local governments shall submit to the state or requesting local government an inventory of the resources being deployed.

d. The written request for assistance and all inventories of resources being deployed shall be submitted to the division of homeland security and emergency services within three calendar days of the request for or deployment of such resources.

7. Division of homeland security and emergency services responsibilities under the intrastate mutual aid program. The division of homeland security and emergency services shall provide notification by mail to each local government with a comprehensive description of the intrastate mutual aid program, including a statement that all local governments are participants of the program unless they expressly opt

out pursuant to subdivision four of this section; maintain a current list of participating local governments with their authorized representatives and contact information, and provide a copy of the list to each of the participating local governments on an annual basis during the second quarter of each calendar year; monitor and report to the intrastate mutual aid program committee on the use of the intrastate mutual aid program; coordinate the provision of mutual aid resources in accordance with the comprehensive emergency management plan and supporting protocols; identify mutual aid best practices; when practical, provide the committee with statistical information related to the use of mutual aid during recent regional disaster responses; and assist with the development, implementation and management of a state-wide resource typing system.

8. Reimbursement of assisting local government by the state or requesting local government; resolving disputes regarding reimbursement. a. Any assisting local government requesting reimbursement under this program for loss, damage or expenses incurred in connection with the provision of assistance that seeks reimbursement by the state or requesting local government shall make such request in accordance with procedures developed by the intrastate mutual aid committee.

b. Notwithstanding the provisions of section twenty-five of this article or any inconsistent provision of law to the contrary, the state or any requesting local government requesting assistance under this program shall be liable and responsible to the assisting local government for any loss or damage to equipment or supplies and shall bear and pay the expense incurred in the operation and maintenance of any equipment and the cost of materials and supplies used in rendering assistance under this section.

c. The assisting local government shall be liable for salaries or other compensation for its employees deployed to the state or a requesting local government during the time they are not rendering assistance pursuant to such request, and shall defray the actual traveling and maintenance expense of its employees and equipment while they are rendering assistance under this section. The state or

requesting local government shall reimburse the assisting local government for any moneys paid for such salaries or other compensation and traveling and maintenance expenses incurred from activities performed while rendering assistance under this program.

d. Notwithstanding paragraph c of this subdivision, any voluntary ambulance service rendered pursuant to a request for assistance under this program that affects a volunteer ambulance workers service award or supplemental service award from a service award program or a supplemental service award program established pursuant to article eleven-aa, article eleven-aaa, or article eleven-aaaa of the general municipal law shall be the responsibility of the political subdivision which adopted the service award program or supplemental service award program and not the responsibility of the state or requesting local government.

e. Where a dispute arises between an assisting local government and the state or a requesting local government regarding reimbursement for loss, damages or expenses incurred in connection with the provision of aid, the parties will make every effort to resolve the dispute within thirty business days of written notice of the dispute by the party asserting noncompliance.

9. Performance of services. a. (1) Employees of an assisting local government shall continue under the administrative control of their home jurisdiction. However, in all other cases where not prohibited by general, special or local law, rule or regulation, employees of an assisting local government shall be under the direction and control of the director of the state office of emergency management, local emergency management director or other official charged with performing emergency management functions for the state or requesting local government;

(2) Performance by employees of an assisting local government of services for the state or a requesting local government pursuant to this section shall have no impact upon whether negotiating unit employees represented by an employee organization, recognized or certified pursuant to section two hundred six or two hundred seven of the civil

service law, exclusively perform such services, as that phrase is used by the public employment relations board, on behalf of the state or requesting local government;

b. Assets and equipment of an assisting local government shall continue under the ownership of the assisting local government, but shall be under the direction and control of the director of the state office of emergency management, local emergency management director or other official charged with performing emergency management functions for the state or requesting local government.

10. Liability. a. Each local government is responsible for procuring and maintaining insurance or other coverage as it deems appropriate.

b. While rendering assistance under the intrastate mutual aid program, employees of the assisting local government shall have the same immunities and privileges as if such duties were performed within their home jurisdiction. An assisting local government providing assistance pursuant to the intrastate mutual aid program shall be liable for the negligence of its employees, which occurs in the performance of their duties in the same manner and to the same extent as if such negligence occurred in the performance of their duties in their home jurisdiction.

c. Employees of an assisting local government responding to or rendering assistance pursuant to a request for assistance who sustain injury or death in the course of, and arising out of, their response are entitled to all applicable benefits as if they were responding in their home jurisdiction. The assisting local government shall be liable for all costs or payments for such benefits as required by law.

d. Nothing in this section shall be construed to prevent the assisting and requesting local governments from agreeing to other terms related to liability and compensation. Local governments may choose to enter into an agreement, at any time, to alter these terms as they deem necessary.

e. Nothing in this section shall be construed to provide any protection against liability, or to create any liability, for an

individual who responds to a state of emergency where aid has not been requested, or where aid has not been authorized by the individual's home jurisdiction.

11. Obligation of insurers. Nothing in this section shall impair, alter, limit or modify the rights or obligations of any insurer under any policy of insurance.

12. License, certificate and permit portability. a. State certified emergency medical services providers who respond outside of their normal jurisdiction pursuant to a request for assistance under this program shall follow their normal operating protocols as if they were responding and rendering services in their home jurisdiction.

b. Any other individual authorized and deployed by a participating local government when responding pursuant to a request for assistance under this program shall have the same powers and duties as if they were responding in their home jurisdiction.

§ 29-i. Immunity from liability for emergency alerts. Any provider of mobile services, as defined in 47 U.S.C. 153, including its officers, directors, employees, affiliates, vendors and agents, acting on behalf of the state, and any third-party intermediary transmission service provider, including such third-party intermediary transmission service provider's affiliates, officers, directors, employees, vendors and agents, acting directly or indirectly on behalf of the state or on behalf of any such provider of mobile services, that transmits emergency alerts similar to those described in 47 CFR 10.10 and 10.400, or that transmits any other type or form of emergency alert messages, shall not be liable for any act or omission related to or any harm resulting from the transmission of, or failure to transmit, an emergency alert, provided that such provider, officer, director, employee, affiliate, vendor or agent acted reasonably and in good faith.

§ 29-j. Acceptance of gifts. 1. The state office of emergency

management within the division of homeland security and emergency services may accept any assistance, including but not limited to gifts or grants of real or personal property, but not including money, from any public or private source for the purpose of preparing for, responding to, or recovering from a state disaster emergency. Such assistance may be used to support state and local disaster operations or distributed to disaster response organizations supporting local disaster response operations. To the extent practicable, the office of emergency management shall distribute such assistance in consultation with local governments, not-for-profit organizations, and other disaster response organizations that have experience responding to state disaster emergencies.

2. The state office of emergency management shall maintain a database of all assistance accepted during the state disaster emergency and shall make such information available to the public on its website. The database shall include, but is not limited to, the name of the donor, type of assistance provided, value of the assistance, recipient of the assistance (if available), date of the donation and date of distribution.

3. The director of the office of emergency management, in consultation with the commissioner of the division of homeland security and emergency services, may promulgate rules and regulations necessary to implement this section.

§ 29-k. Northern emergency management assistance compact. Notwithstanding any other law, the state, through the governor, may enter the northern emergency management assistance compact (P.L. 112-282, ratified by Congress on January fourteenth, two thousand thirteen). Such compact shall be deemed ratified by the legislature upon the governor's certification to the temporary president of the senate, the speaker of the assembly, and the secretary of state, that New York has entered into the compact.

§ 29-l. International Emergency Management Assistance Compact. Notwithstanding any other law, the state, through the governor, may enter the compact established by the emergency management assistance memorandum of understanding (executed on July eighteenth, two thousand by the states of Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont and the Canadian provinces of New Brunswick, Newfoundland, Nova Scotia, Prince Edward Island, and Quebec) at the twenty-fifth conference of New England Governors and Eastern Canadian Premiers, as authorized by Article II(j) of the Agreement between the Government of the United States and the Government of Canada on Cooperation in Comprehensive Emergency Planning and Management renewed on December second, nineteen ninety-eight. Such compact shall be deemed ratified by the legislature upon the governor's certification to the temporary president of the senate, the speaker of the assembly, and the secretary of state, that New York has entered into the compact.

ARTICLE 3
EXECUTIVE DEPARTMENT

Section 30. Executive department.
31. Divisions.
32. Authority not to renew.

§ 30. Executive department. There shall continue to be in the state government an executive department. The head of the executive department shall be the governor. The governor may appoint such subordinates and employees as may be necessary for the exercise of his powers and the performance of his duties as head of the executive department, and may prescribe their duties and fix their compensation within the amounts appropriated therefor.

§ 31. Divisions. There shall be in the executive department the following divisions:

1. The division of the budget.

2. The division of military and naval affairs.

3. The office of general services.

4. The division of state police.

5. The division of housing.

6. The division of alcoholic beverage control.

7. The division of human rights.

8. The division of homeland security and emergency services.

9. Office of information technology services.

The governor may establish, consolidate, or abolish additional divisions and bureaus.

§ 32. Authority not to renew. 1. For the purposes of this section, "state agency" shall mean any state department, board, bureau, division, commission, committee, public authority, public benefit corporation, council, office, or other governmental entity performing a governmental or proprietary function for the state.

2. Notwithstanding any other provision of law, when a state agency levies fees or assesses civil fines or penalties for licensing or regulatory matters, such state agency shall, following consultation with the state department of law and after such appropriate due process as required by the provisions of law applicable to such state agency and to such licensing or regulatory matters, not be required to renew any license, permit, or certificate of qualification, authority, or operation, of any business, individual, or other entity, which is not a state agency, municipal corporation or district corporation, if such business, individual or other entity has failed to pay or enter into a

written agreement to settle outstanding fees, civil penalties or fines assessed by such state agency.

ARTICLE 4

DEPARTMENT OF AUDIT AND CONTROL

Section 40. Department of audit and control; comptroller.
41. Deputies and assistants; undertakings.
41-a. Deputy comptroller for the city of New York.
42. Supervision of money paid into court.
43. Examiners.
44. Records and data in aid of audit; destruction of certain papers.
45. Authority to represent the state as owner of abutting property.
46. Office of welfare inspector general.
47. Organization of offices; officers and employees.
48. General functions, powers and duties of office of welfare inspector general.
49. Cooperation and assistance of other agencies.
50. Referral of evidence.

§ 40. Department of audit and control; comptroller. There shall continue to be in the state government a department of audit and control.

1. The head of the department of audit and control shall be the comptroller. He shall be paid an annual salary of one hundred fifty-one thousand five hundred dollars.

2. The organization of the department of audit and control is continued until changed by or pursuant to law. The comptroller may establish such divisions, bureaus, sections and units in the department as he may deem necessary and may consolidate, alter or abolish any of them.

3. The functions of the comptroller, and his powers and duties pertaining thereto, shall be exercised and performed in the department of audit and control by the comptroller and by such divisions, bureaus, sections, units and officers in the department as he may designate.

§ 41. Deputies and assistants; undertakings. 1. The comptroller shall appoint eight deputies, one of whom shall be the first deputy comptroller. Such deputies shall receive annual salaries to be fixed by the comptroller within amounts appropriated therefor. Each of such deputies may perform any of the powers or duties of the comptroller.

2. The comptroller also may appoint such other officers, assistants and employees as he may deem necessary for the exercise and performance of his powers and duties and those of the department. Such officers, assistants and employees shall receive such compensation as may be fixed by the comptroller within the amounts appropriated therefor.

§ 41-a. Deputy comptroller for the city of New York. In addition to the deputies otherwise authorized by law, the comptroller shall, by and with the advice and consent of the senate, appoint a deputy comptroller for the city of New York. Such deputy may be removed or replaced by the comptroller and shall receive an annual salary to be fixed by the comptroller within the amounts appropriated therefor. Such deputy may perform any of the powers or duties of the comptroller and he shall assist the New York state financial control board created pursuant to section five of the New York state financial emergency act for the city of New York in carrying out and exercising the responsibilities assigned and powers granted to such board.

§ 42. Supervision of money paid into court. The comptroller shall have power, at any time, to examine the books, papers, records and accounts of any public office or officer of the state, or of any subdivision of the state in anywise relating to moneys or securities paid into court or ordered by any court of record or required by statute

to be so paid.

§ 43. Examiners. 1. Whenever the comptroller may deem it necessary to enable him to perform the duties imposed upon him by law with regard to the inspection, examination and audit of the fiscal affairs of the state or of the several officers, departments, institutions, public corporations or political subdivisions thereof, he may assign the work of such inspection, audit and examination to any examiner or examiners appointed by him pursuant to law.

2. The comptroller is authorized to employ such examiners as he may deem necessary to carry out the provisions of law in relation to his duty as to money paid into court.

§ 44. Records and data in aid of audit; destruction of certain papers. 1. Where powers and duties of the comptroller relate to moneys, funds or securities of the state, or to state appropriations, or to funds and securities administered under state supervision, or to obligations of the state or of state agencies, the comptroller, except as provided in subdivision two of this section, shall preserve all data and records pertaining to his acts and proceedings in the exercise and performance of such powers and duties, and of his transactions with other public officers, and with corporations and individuals, in connection therewith, to the end that the necessary information acquired by him through such acts, proceedings and transactions may be at all times available as an aid to the comptroller and his successors in exercising the functions of audit of vouchers, official accounts, accrual and collection of revenues and receipts, and of prescribed methods of accounting.

2. Notwithstanding any other provision of this article, the comptroller may destroy any of the following described papers now or hereafter in the custody of the department of audit and control after they have been in such custody six years or more:

a. Estimates and requisitions of state departments, commissions, boards, bodies, officers and institutions;

b. Working papers;

c. Unsuccessful bids;

d. Any other papers which, in the judgment of the comptroller, are not and will not be of use in connection with audits, accounts and accountings, accrual and collection of revenues and receipts or payments of moneys from the state treasury or from any fund or funds in his custody.

The comptroller shall not destroy any papers which in his judgment might be of historic value without first submitting a description thereof to the commissioner of education and obtaining his consent to their destruction. This subdivision shall not authorize the destruction of any papers the preservation or production of which shall have been directed by a court or judge for the purposes of an action or proceeding.

§ 45. Authority to represent the state as owner of abutting property. Whenever by law owners of property abutting upon a street or highway, or any number or percentage thereof, are authorized to petition or otherwise initiate any proceeding respecting the use, occupation or improvement of such street or highway, or the consent of such owners or of any number or percentage thereof is a prerequisite to the use, occupation or improvement of a street or highway, the comptroller in behalf of the state, upon the approval of the attorney-general, is authorized to join in any petition, take any action or consent to the use, occupation or improvement of such a street or highway, affecting the property of the state abutting upon such street or highway, with the same force and effect, and subject to the same limitations and conditions, as the owners of other property abutting upon such street or highway.

§ 46. Office of welfare inspector general. 1. There is hereby created in the department of audit and control an office of welfare inspector general. The head of the office shall be the welfare inspector general, who shall be appointed by the comptroller, by and with the advice and consent of the senate.

2. The comptroller shall fix the compensation of the welfare inspector general within the amounts appropriated therefor.

§ 47. Organization of offices; officers and employees. 1. Notwithstanding any inconsistent provision of law, the welfare inspector general may, from time to time, subject to the approval of the state comptroller, create, abolish, transfer and consolidate divisions, bureaus and other units within the office as he may determine necessary for the efficient operation of the office.

2. The welfare inspector general may, subject to the approval of the state comptroller, appoint such deputies, directors, assistants and other officers and employees as may be needed for the performance of his duties and may prescribe their powers and fix their compensation within the amounts appropriated therefor.

§ 48. General functions, powers and duties of office of welfare inspector general. The office of welfare inspector general, by and through the welfare inspector general, or his duly authorized deputy, director, assistant, officer or employee, shall have the following functions, powers and duties notwithstanding section one hundred thirty-six of the social services law:

1. To receive and investigate complaints from the public or any other source concerning alleged abuses, suspected frauds, and other violations of the welfare system which shall be deemed to include medical assistance. As used in this article, the term "medical assistance" shall have the same meaning contained in section three hundred sixty-five-a of

the social services law.

2. To receive complaints of alleged failures to prosecute frauds against the welfare system which shall be deemed to include medical assistance and to investigate the same.

3. To receive complaints of alleged failures to enforce the state's laws regarding the employment of welfare recipients in available employment, and to investigate the same.

4. To receive complaints of alleged failures of local officials and employees to comply with state laws and regulations regarding welfare administration which shall be deemed to include medical assistance, and to investigate the same.

5. On the initiative of the office and at the direction of the welfare inspector general, to conduct any investigation: of the operations of the state social services department and local social services districts, the state health department and local health departments, and the state department of mental hygiene and community mental health boards in order to insure proper expenditure of welfare funds; of violations of the welfare system; of failure to prosecute welfare frauds; of failure to enforce the state's laws regarding the employment of welfare recipients in available employment; of failure of local officials and employees to comply with state law, rules, and regulations regarding welfare administration which shall be deemed to include medical assistance, and other matters relating thereto.

6. To exercise and perform such other functions, powers and duties as may from time to time be conferred or imposed by law.

7. To make an annual report to the governor, the comptroller and the legislature concerning its work during the preceding year, and to make such further interim reports to them as they or any of them shall deem advisable or require.

8. To conduct any inquiry pertinent or material to the discharge of

the functions, powers and duties imposed by law; and through designated members of the staff, to subpoena witnesses, administer oaths, take testimony and compel the production of such books, papers, records and documents as may be relevant to any such inquiry and investigation.

9. To do all things necessary or convenient to carry out the functions, powers and duties set forth in this article, to the extent they conform with applicable federal requirements, if any.

10. To make, amend or repeal such rules and regulations as may be necessary with the approval of the state comptroller, for the performance of the duties imposed hereunder.

§ 49. Cooperation and assistance of other agencies. The office of welfare inspector general may request from any department, board, bureau, commission or other agency of the state and its political subdivisions, and the same are authorized and directed to provide, such cooperation and assistance, services and data as will enable the office properly to carry out its functions, powers and duties. As an incident to rendering such cooperation and assistance, all governmental agencies shall be required to submit a written response to the office of welfare inspector general respecting its reports and findings when so requested by said office. Section one hundred thirty-six of the social services law shall in no way be construed to restrict any person or governmental body from cooperating and assisting the welfare inspector general hereunder. Section six hundred ninety-seven or any other provision of the tax law shall in no way be construed to restrict the office of welfare inspector general from obtaining the name, address, social security number, employment history and number of dependents claimed for any individual certified by the welfare inspector general, or his designee, to be a welfare recipient and suspected of abusing, defrauding or otherwise violating the welfare system.

§ 50. Referral of evidence. 1. Upon the discovery of evidence of the commission of a crime by any person, the welfare inspector general shall

refer such evidence to the district attorney of the county in which the alleged crime occurred, for the appropriate action of such district attorney.

2. Upon the discovery of evidence of a violation by a social services official or employee of the laws, rules or regulations of the state regarding welfare administration, the welfare inspector general shall refer such evidence to the state commissioner of social services for appropriate action of such commissioner.

ARTICLE 4-A
OFFICE OF THE STATE INSPECTOR GENERAL

Section 51. Jurisdiction.
52. Establishment and organization.
53. Functions and duties.
54. Powers.
55. Responsibilities of covered agencies, state officers and employees.

§ 51. Jurisdiction. This article shall, subject to the limitations contained herein, confer upon the office of the state inspector general, jurisdiction over all covered agencies. For the purposes of this article "covered agency" shall include all executive branch agencies, departments, divisions, officers, boards and commissions, public authorities (other than multi-state or multi-national authorities), and public benefit corporations, the heads of which are appointed by the governor and which do not have their own inspector general by statute. Wherever a covered agency is a board, commission, a public authority or public benefit corporation, the head of the agency is the chairperson thereof.

§ 52. Establishment and organization. 1. There is hereby established the office of the state inspector general in the executive department. The head of the office shall be the state inspector general who shall be

appointed by the governor.

2. The state inspector general shall hold office until the end of the term of the governor by whom he or she was appointed and until his or her successor is appointed and has qualified.

3. The state inspector general shall report to the secretary to the governor.

4. The state inspector general may appoint one or more deputy inspectors general to serve at his or her pleasure, who shall be responsible for conducting investigations in the agencies to which they are designated and in which they are deemed employed.

5. The salary of the inspector general shall be established by the governor within the limit of funds available therefore; provided, however, such salary shall be no less than the salaries of certain state officers holding the positions indicated in paragraph (a) of subdivision one of section one hundred sixty-nine of the executive law.

§ 53. Functions and duties. The state inspector general shall have the following duties and responsibilities:

1. receive and investigate complaints from any source, or upon his or her own initiative, concerning allegations of corruption, fraud, criminal activity, conflicts of interest or abuse in any covered agency;

1-a. receive and investigate complaints from any source, or upon his or her own initiative, concerning allegations of corruption, fraud, use of excessive force, criminal activity, conflicts of interest or abuse by any police officer in a covered agency and promptly inform the division of criminal justice services, in the form and manner as prescribed by the division, of such allegations and the progress of investigations related thereto unless special circumstances require confidentiality. Nothing in this subdivision shall require the division of criminal justice services to participate in the investigation of such allegations

or take action or prevent the division of criminal justice services from taking action authorized pursuant to subdivision three of section eight hundred forty-five of this chapter in the time and manner determined by the commissioner of the division of criminal justice services.

2. inform the heads of covered agencies of such allegations and the progress of investigations related thereto, unless special circumstances require confidentiality;

3. determine with respect to such allegations whether disciplinary action, civil or criminal prosecution, or further investigation by an appropriate federal, state or local agency is warranted, and to assist in such investigations;

4. prepare and release to the public written reports of such investigations, as appropriate and to the extent permitted by law, subject to redaction to protect the confidentiality of witnesses. The release of all or portions of such reports may be deferred to protect the confidentiality of ongoing investigations;

5. review and examine periodically the policies and procedures of covered agencies with regard to the prevention and detection of corruption, fraud, criminal activity, conflicts of interest or abuse;

6. recommend remedial action to prevent or eliminate corruption, fraud, criminal activity, conflicts of interest or abuse in covered agencies;

7. establish programs for training state officers and employees regarding the prevention and elimination of corruption, fraud, criminal activity, conflicts of interest or abuse in covered agencies.

§ 54. Powers. The state inspector general shall have the power to:

1. subpoena and enforce the attendance of witnesses;

2. administer oaths or affirmations and examine witnesses under oath;

3. require the production of any books and papers deemed relevant or material to any investigation, examination or review;

4. notwithstanding any law to the contrary, examine and copy or remove documents or records of any kind prepared, maintained or held by any covered agency;

5. require any officer or employee in a covered agency to answer questions concerning any matter related to the performance of his or her official duties. No statement or other evidence derived therefrom may be used against such officer or employee in any subsequent criminal prosecution other than for perjury or contempt arising from such testimony. The refusal of any officer or employee to answer questions shall be cause for removal from office or employment or other appropriate penalty;

6. monitor the implementation by covered agencies of any recommendations made by state inspector general;

7. perform any other functions that are necessary or appropriate to fulfill the duties and responsibilities of office.

* 8. Appoint an independent monitor to provide guidance and technical assistance related to the policies, practices, programs and decisions of the Orange county industrial development agency and the funding corporation, as authorized in subdivisions two, three, four, five, six, seven and eight of section nine hundred twelve-b of the general municipal law.

* NB Repealed May 3, 2030

§ 55. Responsibilities of covered agencies, state officers and employees. 1. Every state officer or employee in a covered agency shall report promptly to the state inspector general any information concerning corruption, fraud, criminal activity, conflicts of interest or abuse by another state officer or employee relating to his or her

office or employment, or by a person having business dealings with a covered agency relating to those dealings. The knowing failure of any officer or employee to so report shall be cause for removal from office or employment or other appropriate penalty. Any officer or employee who acts pursuant to this subdivision by reporting to the state inspector general improper governmental action as defined in section seventy-five-b of the civil service law shall not be subject to dismissal, discipline or other adverse personnel action.

2. The head of any covered agency shall advise the governor within ninety days of the issuance of a report by the state inspector general as to the remedial action that the agency has taken in response to any recommendation for such action contained in such report.

ARTICLE 4-B

OFFICE OF THE INSPECTOR GENERAL OF NEW YORK FOR TRANSPORTATION

Section 56. Jurisdiction.
57. Establishment and organization.
58. Functions and duties.

§ 56. Jurisdiction. 1. This article shall, subject to the limitations contained herein, confer upon the office of the inspector general of New York for transportation investigative and prosecutorial power over criminal and unethical conduct involving individuals serving at a senior level in operations, financing or management of a transportation entity located in a city of a population of one million or more where such action or actions occurred within the state; and investigative and prosecutorial power of criminal and unethical conduct involving managerial appointees or managerial employees of any transportation entity where such action or actions occurred within the state.

2. For the purposes of this article: (a) "transportation entity" shall mean any public entity located within a city of one million or more involved in the transportation of persons, goods or other items within or to and from the state of New York where at least one individual

involved at a senior level in operations, financing or management of such entity is appointed by the governor;

(b) "individuals involved at a senior level in operations, financing or management" shall mean individuals that exert full or partial control over formal actions taken by a transportation entity or on behalf of such entity, or exert independent judgment in the fulfillment of their duties and obligations, but shall not include individuals whose actions are of a routine or clerical nature; and

(c) "managerial appointee" or "managerial employee" shall mean any individual who (i) participates directly or as part of a team in formulating policy; (ii) may reasonably be required to assist directly in the preparation for and conduct of negotiations concerning major fiscal matters, procurements or expenditures in excess of one hundred thousand dollars provided that such role is not of a routine or clerical nature and requires the exercise of independent judgment; or (iii) has a major role in the administration of personnel agreements or in personnel administration, provided that such role is not of a routine or clerical nature and requires the exercise of independent judgment.

3. Nothing contained in this section shall replace or diminish the jurisdiction of the attorney general or any district attorney, or the inspector general of any transportation entity.

4. The inspector general shall be authorized to:

(a) receive, investigate and prosecute complaints regarding any individuals involved at a senior level in operations, financing or management or managerial appointee or managerial employee of any transportation entity concerning corruption, conflicts of interest, fraud, waste and abuse, recusals or failure to recuse, or criminal activity in any case where such conduct, action or failure occurred before or after the effective date of the chapter of the laws of two thousand seventeen that added this article and where such conduct, action or failure occurred in New York;

(b) represent the state in any administrative hearing or administrative proceeding involving any criminal or unethical conduct of individuals involved at a senior level in operations, financing or management or a managerial appointee or managerial employee of a

transportation entity where such conduct occurred in New York; and

(c) represent the state in civil actions involving any criminal or unethical conduct of individuals involved at a senior level in operations, financing or management or a managerial appointee or managerial employee of a transportation entity where such conduct occurred in New York.

§ 57. Establishment and organization. 1. There shall be an office of the inspector general of New York for transportation in the executive department. The head of the office shall be the inspector general of New York for transportation.

2. The inspector general shall be appointed by the governor and shall hold office until the end of the term of the governor by whom he or she is appointed and until his or her successor is appointed.

3. The inspector general may appoint a deputy inspector general to serve at his or her pleasure, who shall be responsible for conducting investigations and prosecuting violations of law. The inspector general shall identify a process for a coordinated approach with prosecutors to avoid duplication and provide for a timely response to alleged violations.

4. The salary of the inspector general shall be established by the governor within the limit of funds available therefore.

§ 58. Functions and duties. The inspector general of New York for transportation shall have the following duties and responsibilities:

1. receive, investigate, and prosecute complaints from any source, or upon his or her own initiative, concerning allegations of corruption, conflicts of interest, fraud, waste and abuse, recusals or failure to recuse, or criminal activity regarding any transportation entity, conduct or activity or failure to act by any individuals involved at a senior level in operations, financing or management or managerial

appointee or managerial employee of a transportation entity occurring before or after the effective date of the chapter of the laws of two thousand seventeen that added this article, in violation of New York law and occurring in New York;

2. inform the transportation entity of such allegations and the progress of investigations related thereto, unless special circumstances require confidentiality, provided that the inspector general shall maintain a written record that specifies the reason confidentiality is necessary under this paragraph;

3. issue a subpoena or subpoenas requiring a person or persons to appear before the grand jury, trial court, produce documents, provide a sworn statement under oath and be examined in reference to any matter within the jurisdiction of the inspector general. A subpoena issued under this section shall be governed by article twenty-three of the civil practice law and rules or articles one hundred ninety or six hundred ten of the criminal procedure law. The inspector general or his or her deputy or any person designated in writing by them may administer an oath to a witness in any such investigation or prosecution and may seek to confer immunity for compelled testimony pursuant to article fifty of the criminal procedure law;

4. determine with respect to such allegations whether to initiate civil or criminal prosecution, or make a referral for further investigation by an appropriate federal, state or local agency or any other office of inspector general as is warranted, and to assist in such investigations; and

5. prepare and release to the public written reports of such investigations, as appropriate and to the extent permitted by law, subject to redaction to protect the confidentiality of witnesses. The release of all or portions of such reports may be deferred to protect the confidentiality of ongoing investigations, provided that the inspector general shall maintain a written record that specifies the reason confidentiality is necessary under this subdivision.

ARTICLE 5

DEPARTMENT OF LAW

Section 60. Department of law.
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72. When costs payable to relator.
73. Power to administer oaths and take acknowledgements.
74. Welfare inspector general.
75. Law enforcement misconduct investigative office.

§ 60. Department of law. There shall continue to be in the state government a department of law. The head of the department of law shall be the attorney-general who shall receive an annual salary of one

hundred fifty-one thousand five hundred dollars.

§ 61. Solicitor general. There shall be in the department of law a solicitor general who shall be appointed by the attorney-general and who shall perform such duties in the place and stead of the attorney-general as may lawfully be assigned to him. The attorney-general shall fix his compensation within the amounts appropriated therefor.

§ 62. Assistants. 1. The attorney-general may appoint such assistant attorneys-general, deputy assistant attorneys-general and attorneys as he may deem necessary and fix their compensation within the amounts appropriated therefor. Whenever deputy or deputy attorney-general is referred to or designated in any law, contract or document such references or designations shall be deemed to refer to and include assistant attorneys-general, deputy assistant attorneys-general or attorneys appointed by the attorney-general.

§ 63. General duties. The attorney-general shall:

1. Prosecute and defend all actions and proceedings in which the state is interested, and have charge and control of all the legal business of the departments and bureaus of the state, or of any office thereof which requires the services of attorney or counsel, in order to protect the interest of the state, but this section shall not apply to any of the military department bureaus or military offices of the state. No action or proceeding affecting the property or interests of the state shall be instituted, defended or conducted by any department, bureau, board, council, officer, agency or instrumentality of the state, without a notice to the attorney-general apprising him of the said action or proceeding, the nature and purpose thereof, so that he may participate or join therein if in his opinion the interests of the state so warrant.

2. Whenever required by the governor, attend in person, or by one of his deputies, any term of the supreme court or appear before the grand

jury thereof for the purpose of managing and conducting in such court or before such jury criminal actions or proceedings as shall be specified in such requirement; in which case the attorney-general or his deputy so attending shall exercise all the powers and perform all the duties in respect of such actions or proceedings, which the district attorney would otherwise be authorized or required to exercise or perform; and in any of such actions or proceedings the district attorney shall only exercise such powers and perform such duties as are required of him by the attorney-general or the deputy attorney-general so attending. In all such cases all expenses incurred by the attorney-general, including the salary or other compensation of all deputies employed, shall be a county charge.

3. Upon request of the governor, comptroller, secretary of state, commissioner of transportation, superintendent of financial services, commissioner of taxation and finance, commissioner of motor vehicles, or the state inspector general, or the head of any other department, authority, division or agency of the state, investigate the alleged commission of any indictable offense or offenses in violation of the law which the officer making the request is especially required to execute or in relation to any matters connected with such department, and to prosecute the person or persons believed to have committed the same and any crime or offense arising out of such investigation or prosecution or both, including but not limited to appearing before and presenting all such matters to a grand jury.

4. Cause all persons indicted for corrupting or attempting to corrupt any member or member-elect of the legislature, or the commissioner of general services, to be brought to trial.

5. When required by the comptroller or the superintendent of public works, prepare proper drafts for contracts, obligations and other instruments for the use of the state.

6. Upon receipt thereof, pay into the treasury all moneys received by him for debts due or penalties forfeited to the people of the state.

7. He may, on behalf of the state, agree upon a case containing a statement of the facts and submit a controversy for decision to a court of record which would have jurisdiction of an action brought on the same case. He may agree that a referee, to be appointed in an action to which the state is a party, shall receive such compensation at such rate per day as the court in the order of reference may specify. He may with the approval of the governor retain counsel to recover moneys or property belonging to the state, or to the possession of which the state is entitled, upon an agreement that such counsel shall receive reasonable compensation, to be fixed by the attorney-general, out of the property recovered, and not otherwise.

8. Whenever in his judgment the public interest requires it, the attorney-general may, with the approval of the governor, and when directed by the governor, shall, inquire into matters concerning the public peace, public safety and public justice. For such purpose he may, in his discretion, and without civil service examination, appoint and employ, and at pleasure remove, such deputies, officers and other persons as he deems necessary, determine their duties and, with the approval of the governor, fix their compensation. All appointments made pursuant to this subdivision shall be immediately reported to the governor, and shall not be reported to any other state officer or department. Payments of salaries and compensation of officers and employees and of the expenses of the inquiry shall be made out of funds provided by the legislature for such purposes, which shall be deposited in a bank or trust company in the names of the governor and the attorney-general, payable only on the draft or check of the attorney-general, countersigned by the governor, and such disbursements shall be subject to no audit except by the governor and the attorney-general. The attorney-general, his deputy, or other officer, designated by him, is empowered to subpoena witnesses, compel their attendance, examine them under oath before himself or a magistrate and require that any books, records, documents or papers relevant or material to the inquiry be turned over to him for inspection, examination or audit, pursuant to the civil practice law and rules. If a person subpoenaed to attend upon such inquiry fails to obey the command of a subpoena without reasonable cause, or if a person in attendance

upon such inquiry shall, without reasonable cause, refuse to be sworn or to be examined or to answer a question or to produce a book or paper, when ordered so to do by the officer conducting such inquiry, he shall be guilty of a misdemeanor. It shall be the duty of all public officers, their deputies, assistants and subordinates, clerks and employees, and all other persons, to render and furnish to the attorney-general, his deputy or other designated officer, when requested, all information and assistance in their possession and within their power. Each deputy or other officer appointed or designated to conduct such inquiry shall make a weekly report in detail to the attorney-general, in form to be approved by the governor and the attorney-general, which report shall be in duplicate, one copy of which shall be forthwith, upon its receipt by the attorney-general, transmitted by him to the governor. Any officer participating in such inquiry and any person examined as a witness upon such inquiry who shall disclose to any person other than the governor or the attorney-general the name of any witness examined or any information obtained upon such inquiry, except as directed by the governor or the attorney-general, shall be guilty of a misdemeanor.

9. Bring and prosecute or defend upon request of the commissioner of labor or the state division of human rights, any civil action or proceeding, the institution or defense of which in his judgment is necessary for effective enforcement of the laws of this state against discrimination by reason of age, race, sex, creed, color, national origin, sexual orientation, gender identity or expression, military status, disability, predisposing genetic characteristics, familial status, marital status, citizenship or immigration status, or domestic violence victim status, or for enforcement of any order or determination of such commissioner or division made pursuant to such laws.

10. Prosecute every person charged with the commission of a criminal offense in violation of any of the laws of this state against discrimination because of age, race, sex, creed, color, national origin, sexual orientation, gender identity or expression, military status, disability, predisposing genetic characteristics, familial status, marital status, citizenship or immigration status, or domestic violence victim status, in any case where in his judgment, because of the extent

of the offense, such prosecution cannot be effectively carried on by the district attorney of the county wherein the offense or a portion thereof is alleged to have been committed, or where in his judgment the district attorney has erroneously failed or refused to prosecute. In all such proceedings, the attorney-general may appear in person or by his deputy or assistant before any court or any grand jury and exercise all the powers and perform all the duties in respect of such actions or proceedings which the district attorney would otherwise be authorized or required to exercise or perform.

11. Prosecute and defend all actions and proceedings in connection with safeguarding and enforcing the state's remainder interest in any trust which meets the requirements of subparagraph two of paragraph (b) of subdivision two of section three hundred sixty-six of the social services law.

12. Whenever any person shall engage in repeated fraudulent or illegal acts or otherwise demonstrate persistent fraud or illegality in the carrying on, conducting or transaction of business, the attorney general may apply, in the name of the people of the state of New York, to the supreme court of the state of New York, on notice of five days, for an order enjoining the continuance of such business activity or of any fraudulent or illegal acts, directing restitution and damages and, in an appropriate case, cancelling any certificate filed under and by virtue of the provisions of section four hundred forty of the former penal law or section one hundred thirty of the general business law, and the court may award the relief applied for or so much thereof as it may deem proper. The word "fraud" or "fraudulent" as used herein shall include any device, scheme or artifice to defraud and any deception, misrepresentation, concealment, suppression, false pretense, false promise or unconscionable contractual provisions. The term "persistent fraud" or "illegality" as used herein shall include continuance or carrying on of any fraudulent or illegal act or conduct. The term "repeated" as used herein shall include repetition of any separate and distinct fraudulent or illegal act, or conduct which affects more than one person. Notwithstanding any law to the contrary, all monies recovered or obtained under this subdivision by a state agency or state

official or employee acting in their official capacity shall be subject to subdivision eleven of section four of the state finance law.

In connection with any such application, the attorney general is authorized to take proof and make a determination of the relevant facts and to issue subpoenas in accordance with the civil practice law and rules. Such authorization shall not abate or terminate by reason of any action or proceeding brought by the attorney general under this section.

13. Prosecute any person for perjury committed during the course of any investigation conducted by the attorney-general pursuant to statute. In all such proceedings, the attorney-general may appear in person or by his deputy or assistant before any court or any grand jury and exercise all the powers and perform all the duties necessary or required to be exercised or performed in prosecuting any such person for such offense.

15. In any case where the attorney general has authority to institute a civil action or proceeding in connection with the enforcement of a law of this state, in lieu thereof he may accept an assurance of discontinuance of any act or practice in violation of such law from any person engaged or who has engaged in such act or practice. Such assurance may include a stipulation for the voluntary payment by the alleged violator of the reasonable costs and disbursements incurred by the attorney general during the course of his investigation. Evidence of a violation of such assurance shall constitute prima facie proof of violation of the applicable law in any civil action or proceeding thereafter commenced by the attorney general.

16. (a) Notwithstanding any other law to the contrary, in resolving, by agreed judgment, stipulation, decree, agreement to settle, assurance of discontinuance or otherwise, any claim or cause of action, whether filed or unfiled, actual or potential, and whether arising under common law, equity, or any provision of law, a state agency or a state official or employee acting in their official capacity shall not have the authority to include or agree to include in such resolution any term or condition that would provide the state agency, official, or employee, their agent or designee, the settling party, or any third party with

control or discretion over how any moneys to be paid by the settling party would be used, spent, or allocated.

(b) Paragraph (a) of this subdivision shall not apply to any provision in the resolution of a claim or cause of action providing (1) moneys to be distributed to the federal government, to a local government, or to any holder of a bond or other debt instrument issued by the state, any public authority, or any public benefit corporation; (2) moneys to be distributed solely or exclusively as a payment of damages or restitution to individuals or entities that were specifically injured or harmed by the defendant's or settling party's conduct and that are identified in, or can be identified by the terms of, the relevant judgment, stipulation, decree, agreement to settle, assurance of discontinuance, or relevant instrument resolving the claim or cause of action; (3) moneys recovered or obtained by the attorney general where application of paragraph (a) of this subdivision is prohibited by federal law, rule, or regulation, or would result in the reduction or loss of federal funds or eligibility for federal benefits pursuant to federal law, rule, or regulation; (4) moneys recovered or obtained by or on behalf of a public authority, a public benefit corporation, the department of taxation and finance, the workers' compensation board, the New York state higher education services corporation, the tobacco settlement financing corporation, a state or local retirement system, an employee health benefit program administered by the New York state department of civil service, the Title IV-D child support fund, the lottery prize fund, the abandoned property fund, or an endowment of the state university of New York or any unit thereof or any state agency, provided that all of the moneys received or recovered are immediately transferred to the relevant public authority, public benefit corporation, department, fund, program, or endowment; (5) moneys to be refunded to an individual or entity as (i) an overpayment of a tax, fine, penalty, fee, insurance premium, loan payment, charge or surcharge; (ii) a return of seized assets; or (iii) a payment made in error; (6) moneys to be used to prevent, abate, restore, mitigate or control any identifiable instance of prior or ongoing water, land or air pollution; and/or (7) state moneys received as part of any statewide opioid settlement agreements as defined in section 25.18 of the mental hygiene law, to be spent on eligible expenditures as defined in section 25.18 of the mental hygiene law.

(c) Where an agreed judgment, stipulation, decree, agreement to settle, assurance of discontinuance or other legal instrument resolves (1) any claim or any cause of action asserted by a state agency or a state official or employee acting in their official capacity and (2) any claim or cause of action asserted by one or more foreign jurisdictions or third parties, paragraph (a) of this subdivision shall only apply to the resolution of the claim or cause of action asserted by the state agency, official, or employee.

17. The attorney general may investigate and prosecute every person or entity charged with the commission of a criminal offense in violation of the laws of this state applicable to any crime that affects the title to, encumbrance of, or the possession of real property, including but not limited to deed theft, larceny, criminal possession of stolen property, offering a false instrument for filing, falsifying business records, residential mortgage fraud, or scheme to defraud. In all such proceedings, the attorney general may appear in person or by the attorney general's deputy before any court of record or any grand jury and exercise all the powers and perform all the duties in respect of such actions or proceedings which the district attorney would otherwise be authorized or required to exercise or perform. Nothing herein shall in any way abrogate, supersede, or interfere with the authority of the district attorney of a county in which an offense occurs to investigate, initiate and/or prosecute any such crime.

18. Notwithstanding any other law to the contrary, in any civil enforcement action initiated by the attorney-general, neither the attorney-general nor the department of law has, or shall be deemed to have, possession, custody, or control of, or the right, authority, or practical ability to obtain documents, communications, other information, or personnel of any agency, entity, or authority other than the department of law.

§ 63-a. Action by attorney-general for forfeiture of public office. The attorney-general may maintain an action, upon his own information or upon the complaint of a private person, against a public officer, civil

or military, who has done or suffered an act which by law works a forfeiture of his office.

§ 63-b. Action by attorney-general against usurper of office or franchise. 1. The attorney-general may maintain an action, upon his own information or upon the complaint of a private person, against a person who usurps, intrudes into, or unlawfully holds or exercises within the state a franchise or a public office, civil or military, or an office in a domestic corporation. The attorney-general may set forth in the complaint, in his discretion, the name of the person rightfully entitled to the office and facts showing his right thereto. Judgment may be rendered upon the right of the defendant and of the party so alleged to be entitled, or only upon the right of the defendant, as justice requires. Where two or more persons claim to be entitled to the same office or franchise, the attorney-general may bring the action against all to determine their respective rights thereto.

2. If the complaint sets forth the name of the person rightfully entitled to the office and the facts showing his right thereto, a provisional order to arrest the defendant may be granted by the court if the defendant by means of his usurpation or intrusion has received any fees or emoluments belonging to the office.

3. Where a defendant is adjudged to be guilty of usurping or intruding into or unlawfully holding or exercising an office, franchise or privilege, final judgment shall be rendered, ousting and excluding him therefrom, and in favor of the state or the relator, as the case requires, for the costs of the action. As a part of the final judgment in an action for usurping or intruding into or unlawfully holding or exercising an office, franchise or privilege, the court, in its discretion, also may award that the defendant, or, where there are two or more defendants, that one or more of them, pay to the state a fine not exceeding two thousand dollars. The judgment for the fine may be docketed and execution may be issued thereupon in favor of the state, as if it had been rendered in an action to recover the fine.

4. Where final judgment has been rendered upon the right and in favor of the person alleged in the complaint to be entitled to an office, he may recover, by action against the defendant, the damages which he has sustained in consequence of the defendant's usurpation, intrusion into, unlawful holding or exercise of the office.

§ 63-c. Action by the people for illegal receipt or disposition of public funds or other property. 1. Where any money, funds, credits, or other property, held or owned by the state, or held or owned officially or otherwise for or in behalf of a governmental or other public interest, by a domestic, municipal, or other public corporation, or by a board, officer, custodian, agency, or agent of the state, or of a city, county, town, village or other division, subdivision, department, or portion of the state, has heretofore been, or is hereafter, without right obtained, received, converted, or disposed of, an action to recover the same, or to recover damages or other compensation for so obtaining, receiving, paying, converting, or disposing of the same, or both, may be maintained by the state in any court of the state, or before any court or tribunal of the United States, or of any other state, or of any territory of the United States, or of any foreign country, having jurisdiction thereof, although a right of action for the same cause exists by law in some other public authority, and whether an action therefor in favor of the latter is or is not pending when the action in favor of the state is commenced. The attorney-general shall commence an action, suit or other judicial proceeding, as prescribed in this section, whenever he deems it for the interests of the state so to do; or whenever he is so directed, in writing, by the governor.

2. Upon the commencement by the state of any action, suit or other judicial proceeding, as prescribed in this section, the entire cause of action, including the title to the money, funds, credits, or other property, with respect to which the suit or action is brought, and to the damages or other compensation recoverable for the obtaining, receipt, payment, conversion or disposition thereof, if not previously so vested, is transferred to and becomes absolutely vested in the state.

3. Any court of the state in which an action is brought by the state, as prescribed in this section, may direct, by the final judgment therein, or by a subsequent order, that any money, funds, damages, credits, or other property, recovered by or awarded to the plaintiff therein, which, if that action had not been brought, would not have vested in the state, be disposed of, as justice requires, in such a manner as to reinstate the lawful custody thereof, or to apply the same or the proceeds thereof to the objects and purposes for which they were authorized to be raised or procured; after paying into the state treasury out of the proceeds of the recovery all expenses incurred by the state in the action.

4. Any corporation, board, officer, custodian, agency, or agent, in behalf of any city, county, town, village, or other division, subdivision, department, or portion of the state, which was not a party to an action, brought as prescribed in this section, and which claims to be entitled to the custody or disposition of any of the money, funds, damages, credits, or other property, recovered by, or awarded to the plaintiff, by the final judgment in the action, or any of the proceeds thereof, and not disposed of as prescribed in subdivision three, may bring a special proceeding against the attorney-general at any time after the actual collection of the money and its payment into the state treasury, or the actual receipt of the property by the state, in the supreme court, county of Albany, seeking disposition of the money or other property.

5. Notwithstanding any other law to the contrary, including without limitation; section sixty-four of this article; the education law; the retirement and social security law and the administrative code of the city of New York, the portion of all money received by the attorney general in connection with the settlement of an action arising out of the management, operation, investments of or otherwise in connection with a retirement or other fund established pursuant to the education law, the retirement and social security law or the administrative code of the city of New York attributable to the harm suffered by such fund shall be deposited into such fund.

§ 63-d. Attorney-general; death penalty prosecutions. 1. The attorney-general shall, whenever required by the governor or his designee after a request of the governor by a district attorney, direct that the resources and personnel of the department of law be used to provide assistance relating to the prosecution or appeal of any case where the defendant may be subject to the penalty of death. Such assistance shall include the use of any department resource or services, which the attorney-general deems proper, and may be performed or provided by the attorney-general or any employee of the department of law. Assistance pursuant to this section may only be provided with respect to proceedings where:

(i) the defendant is represented by counsel appointed pursuant to the provisions of section thirty-five-b of the judiciary law or the defendant is receiving expert, investigative or other services pursuant to such section, or

(ii) the defendant, through counsel retained privately by the defendant through his or her own means or through the means of a person other than the defendant, or through representation by pro bono counsel, is able to marshal substantially greater legal and investigatory resources than those reasonably available to the district attorney.

2. A request of the governor made by a district attorney for assistance in a death penalty case shall be accompanied by a certificate of need stating that as a result of cases where the defendant may be subject to the penalty of death additional resources or personnel are needed to supplement the district attorney's staff and available resources in order to fulfill such district attorney's responsibilities.

§ 63-e. Office of immigrant trust. 1. (a) There is hereby established an immigrant trust office in the department of law. The head of the unit shall be appointed by the attorney general.

(b) Notwithstanding any other provision of law, rule, or regulation to the contrary, the attorney general shall establish, through executive order, processes and procedures for screening such unit head and the entire unit from records, communication, and information related to the

civil defense of state officials and employees, and persons involved in the civil defense of state officials and employees from records, communication, and information relating to an investigation or investigations by such unit relating to potential violation of this law. The executive order establishing screens shall be sufficient to satisfy the rules of professional conduct regarding conflicts and to protect the rights of state officials and employees who are the subject of an investigation or civil action under this section by ensuring that the individuals conducting or otherwise involved in such investigation or civil action do not have access to any non-public records or information obtained in the course of the office's civil defense of state employees.

2. Notwithstanding any other provision of law, the immigrant trust office shall establish and maintain a process to solicit and receive complaints from the public alleging knowing, intentional, or willful violations of article fifteen-AA of this chapter, section one hundred seventy-k of this chapter, article nineteen-D of the general municipal law, and section thirty-two hundred one-b of the education law, by state and local entities, officers, or employees, or their contractors, including the improper or unlawful use of state or local resources for immigration enforcement and the improper or unlawful sharing of information by state or local entities, officers, or employees, or their contractors, with federal immigration authorities.

3. (a) The immigrant trust office shall have the power to investigate complaints or violations of article fifteen-AA of this chapter, section one hundred seventy-k of this chapter, article nineteen-D of the general municipal law, and section thirty-two hundred one-b of the education law. Such power shall also include the ability to:

(i) take proof and issue subpoenas in accordance with the civil practice law and rules;

(ii) subpoena and enforce the attendance of witnesses;

(iii) administer oaths or affirmations and examine witnesses under oath;

(iv) notwithstanding any laws to the contrary, examine and copy or remove documents or records of any kind prepared, maintained, or held by any employer or agency;

(v) visit and inspect all local correctional facilities, and speak with people detained therein for the purposes of investigating potential violations and ensuring compliance with this section; and

(vi) perform any other functions that are necessary or appropriate to fulfill the duties and responsibilities of office.

(b) The attorney general shall have the powers enumerated under paragraph (a) of this subdivision with respect to any entity covered by article fifteen-AA of this chapter, section one hundred seventy-k of this chapter, article nineteen-D of the general municipal law, and section thirty-two hundred one-b of the education law, and its employees and agents as outlined in this section, except:

(i) agencies under the executive authority of the governor;

(ii) entities that are statutorily entitled to representation by the department of law;

(iii) entities whose officers and employees are statutorily entitled to representation by the department of law; and

(iv) entities that are subject to the jurisdiction of the New York court of claims.

(c) Upon referral by the governor, the attorney general shall have the powers enumerated under paragraph (a) of this subdivision with regard to employees and agents of:

(i) agencies under the executive authority of the governor;

(ii) entities that are statutorily entitled to representation by the department of law pursuant to section seventeen of the public officers law;

(iii) entities whose officers and employees are statutorily entitled to representation by the department of law; and

(iv) entities that are subject to the jurisdiction of the New York court of claims.

(d) Nothing in this section shall in any way limit rights or remedies which are otherwise available under law to the attorney general or any other person.

4. Upon receipt and review of a complaint, deemed credible, of a violation of article fifteen-AA of this chapter, or section one hundred seventy-k of this chapter, or upon its own initiative when the office learns through the regular course of its duties of a suspected violation

of article fifteen-AA of this chapter, or section one hundred seventy-k of this chapter, the office shall, where the alleged violation involves a state agency or a state employee, transmit a request for a referral regarding such credible complaint to the governor. The governor shall review such request and make a determination on whether to refer the matter to the office for investigation, and upon such referral back to the office, the office shall investigate the alleged violation and, if warranted, may commence a civil action for appropriate injunctive or declaratory relief, enter into assurances of discontinuance, or seek the imposition of a period of monitoring of the state entity by the office.

5. Upon receipt of a complaint deemed credible of a violation of article nineteen-D of the general municipal law, or section one hundred seventy-k of this chapter, or upon its own initiative when the office learns through the regular course of its duties of a suspected violation of article nineteen-D of the general municipal law, or section one hundred seventy-k of this chapter that involves a county, locality, or municipal corporation entity or employee, the office shall, notwithstanding any other provision of law, investigate the matter and, if warranted, may commence a civil action for appropriate injunctive or declaratory relief, enter into assurances of discontinuance, or seek the imposition of a period of monitoring of the municipal government entity by the office.

6. Upon receipt of a complaint deemed credible of a violation of section thirty-two hundred one-b of the education law or upon its own initiative when the office learns through the regular course of its duties of a suspected violation of such section, the office shall, notwithstanding any other provision of law, investigate the matter and, if warranted, may commence a civil action for appropriate injunctive or declaratory relief, enter into assurances of discontinuance, or seek the imposition of a period of monitoring of the school by the office.

§ 64. Costs recovered. Costs recovered by the attorney-general may be applied by him in payment of the expenses incurred by him in the action or proceeding in which they are received, or of any expenditure which he

is authorized to incur not otherwise provided for. He shall, at the close of each fiscal year, render to the comptroller an account of such costs received, with vouchers of such expenditures. During the fiscal year, the comptroller is authorized to transfer any amount available within the account dedicated for this purpose to the general fund, upon the request of the director of the budget. In the event insufficient cash remains in such account to meet expenditures against available appropriations from such account, the comptroller is authorized to transfer the amounts necessary to meet such expenditures from the general fund; provided however that in no event shall the cumulative value of any such transfers from the general fund made to such account within a single fiscal year exceed ten percent of the value of the appropriations made in such fiscal year from such account or the cumulative balance of transfers from the account to the general fund. The comptroller shall establish such accounts and records as are necessary to provide an accurate accounting and reporting of the transfers to or from the general fund.

§ 65. Register. The attorney-general shall keep a register of all actions and proceedings prosecuted or defended by him, and of all proceedings in relation thereto, and shall deliver the same to his successor.

§ 66. Destruction of certain records, books and other data by the attorney-general. In any action or proceeding or by other process of law, in which a money judgment or award shall have been procured in favor of the people of the state of New York, any department of the state of New York, or duly constituted division, bureau or board thereof, and which judgment or award has been duly paid and satisfied, the department of law, with the consent of the commissioner of education as provided by section one hundred forty-seven of the education law, may after the expiration of six years from the time of payment of said judgment or award destroy all statistics, documents and papers filed with or used by the department of law in procuring said judgment or award.

§ 67. Additional counsel. The governor or attorney-general may designate and employ such additional attorneys or counsel as may be necessary to assist in the transaction of any of the legal business mentioned in section sixty-three of this chapter and such attorneys or counsel shall be paid a reasonable fee upon the certificate of the governor and attorney-general, the amount thereof to be audited and allowed by them or to be paid by the attorney-general out of costs, penalties and judgments collected by him, prior to the payment thereof into the state treasury as required by section one hundred twenty-one of the state finance law.

§ 70. Deputy attorney-general to act as special district attorney.

Whenever the governor shall advise the attorney-general that he has reason to doubt whether in any county the law relating to crimes against the elective franchise is properly enforced, the attorney-general shall require from the district attorney of such county, and it shall be the duty of such district attorney forthwith to make to the attorney-general a report of all prosecutions and complaints within his county during the year then last past for offenses under the election law and of the action had thereon.

The attorney-general shall assign one or more of his deputies to take charge of prosecutions under the election law. Such deputy shall represent the people of this state in all such prosecutions before all magistrates and in all courts and before any grand jury having cognizance thereof. The deputies so assigned shall be appointed pursuant to section sixty-two of this chapter. They may be especially appointed thereunder for the purpose of such assignment and for the performance of the duties herein described.

Whenever the attorney-general shall advise the governor that there is occasion for an extraordinary term in any such county to inquire into and try cases arising under article sixteen of the election law, the

governor may appoint an extraordinary term of the supreme court to be constituted and held for the trial of criminal cases in such county, pursuant to section one hundred forty-nine of the judiciary law. Grand and petit juries shall be drawn and summoned for said term in the manner provided by law, and such cases shall be brought before such inquest and court as the attorney-general shall direct. All the provisions of sections sixty-three and sixty-seven of this chapter shall apply to such extraordinary term.

It shall be the duty of the district attorney of the county, and of the assistants, clerks and employees in his office, and of all police authorities, officers and men within any such county, to render to the attorney-general and his deputy whenever requested, all aid and assistance within their power in such prosecutions and in the conduct of such cases. The jurisdiction conferred upon the attorney-general herein to prosecute crimes, is concurrent in each county with that of the district attorney; but whichever of such officers shall first assume jurisdiction of a particular offense shall have exclusive jurisdiction to prosecute for the same unless or until the governor shall, by written order filed with both such officers, give such jurisdiction to the other.

§ 70-a. Statewide organized crime task force. 1. There shall be established within the department of law a statewide organized crime task force which, pursuant to the provisions of this section, shall have the duty and power:

(a) To conduct investigations and prosecutions of organized crime activities carried on either between two or more counties of this state or between this state and another jurisdiction;

(b) To cooperate with and assist district attorneys and other local law enforcement officials in their efforts against organized crime.

2. Notwithstanding any other provision of law, the governor and the attorney general may, and without civil service examination, jointly appoint and employ, fix his compensation, and at pleasure remove, a deputy attorney general in charge of the organized crime task force. The

attorney general may, and without civil service examination, appoint and employ, and at pleasure remove, such assistant deputies, accountants and other persons as he deems necessary, determine their duties and, with the approval of the governor, fix their compensation. The payments of salaries and compensation of such officers and employees shall be in the same manner as is prescribed in subdivision eight of section sixty-three of this chapter.

3. The deputy attorney general in charge of the organized crime task force may request and shall receive from the division of state police, the state department of taxation and finance, the state department of labor, the temporary state commission of investigation, and from every department, division, board, bureau, commission or other agency of the state, or of any political subdivision thereof, cooperation and assistance in the performance of his duties. Such deputy attorney general may provide technical and other assistance to any district attorney or other local law enforcement official requesting such assistance in the investigation or prosecution of organized crime cases.

4. The deputy attorney general in charge of the organized crime task force is empowered to conduct hearings at any place within the state, to administer oaths or affirmations, subpoena witnesses, compel their attendance, examine them under oath or affirmation, and require the production of any books, records, documents or other evidence he may deem relevant or material to an investigation. He is empowered to apply for search warrants pursuant to article six hundred ninety of the criminal procedure law, and, except in exigent circumstances, shall give prior notice of the application to the district attorney of the county in which such a warrant is to be executed, and in such circumstances, shall give such notice as soon thereafter as practicable; provided, however, that the failure to give notice of a search warrant application to a district attorney shall not be a ground to suppress the evidence seized in executing the warrant. He may designate an assistant to exercise any such powers. Every witness attending before such deputy attorney general or his assistant shall be examined privately and the particulars of such examination shall not be made public. If a person subpoenaed to attend upon such inquiry fails to obey the command of a

subpoena without reasonable cause, or if a person in attendance upon such inquiry shall, without reasonable cause, refuse to be sworn or to be examined or to answer a question or to produce a book or paper, when ordered so to do by the officer conducting such inquiry, he shall be guilty of a class A misdemeanor.

5. Upon the application of the deputy attorney general in charge of the organized crime task force, the supreme court or a justice thereof may impound any exhibit marked in evidence in any hearing held in connection with an investigation conducted by such deputy attorney general, and may order such exhibit to be retained by, or delivered to and placed in the custody of, such deputy. When so impounded, such exhibit shall not be taken from the custody of such deputy except upon further order of the court or a justice thereof made upon five days notice to such deputy, or upon his application or with his consent.

6. In any hearing held in connection with an investigation conducted by the deputy attorney general in charge of the organized crime task force, the attorney general may confer immunity in accordance with the provisions of section 50.20 of the criminal procedure law, but only after affording the appropriate district attorney the opportunity to be heard in respect to any objections which he may have to the granting of such immunity.

7. With the approval of the governor and with the approval or upon the request of the appropriate district attorney, the deputy attorney general in charge of the organized crime task force, or one of his assistants, may attend in person any term of the county court or supreme court having appropriate jurisdiction, including an extraordinary special or trial term of the supreme court when one is appointed pursuant to section one hundred forty-nine of the judiciary law, or appear before the grand jury thereof, for the purpose of managing and conducting in such court or before such jury a criminal action or proceeding concerned with an offense where any conduct constituting or requisite to the completion of or in any other manner related to such offense occurred either in two or more counties of this state, or both within and outside this state. In such case, such deputy attorney

general or his assistant so attending shall exercise all the powers and perform all the duties in respect of such actions or proceedings, which the district attorney would otherwise be authorized or required to exercise or perform. In any of such actions or proceedings the district attorney shall only exercise such powers and perform such duties as are required of him by such deputy attorney general.

§ 70-b. Office of special investigation. 1. There shall be established within the office of the attorney general an office of special investigation. Notwithstanding any other provision of law, the office of special investigation shall investigate and, if warranted, prosecute any alleged criminal offense or offenses committed by a person, whether or not formally on duty, who is a police officer, as defined in subdivision thirty-four of section 1.20 of the criminal procedure law, or a peace officer as defined in section 2.10 of the criminal procedure law, provided that such peace officer is employed or contracted by an education, public health, social service, parks, housing or corrections agency, or is a peace officer as defined in subdivision twenty-five of section 2.10 of the criminal procedure law, concerning any incident in which the death of a person, whether in custody or not, is caused by an act or omission of such police officer or peace officer or in which the attorney general determines there is a question as to whether the death was in fact caused by an act or omission of such police officer or peace officer.

2. The attorney general has investigative authority and criminal jurisdiction under this section at the time of the death of the person and the attorney general retains investigative authority and criminal jurisdiction over the incident unless the attorney general determines that such incident does not meet the requirements of this section. If the attorney general determines the incident does not meet the requirements for the attorney general to have investigative authority and criminal jurisdiction pursuant to this section, the attorney general shall, as soon as practicable, provide written notice of such determination to the district attorney for the county in which the incident occurred.

3. In connection with any particular incident encompassed by this section, the attorney general shall conduct a full, reasoned and independent investigation, including but not limited to: (a) gathering and analyzing evidence; (b) conducting witness interviews; (c) reviewing and commissioning any necessary investigative and scientific reports; and (d) reviewing audio and video-recordings. The attorney general shall be empowered to subpoena witnesses, compel their attendance, examine them under oath before himself or herself or a magistrate and require that any books, records, documents or papers relevant or material to the inquiry be turned over to him or her for inspection, examination or audit, pursuant to the civil practice law and rules, in connection with such incident.

3-a. (a) The attorney general shall maintain the confidentiality of all video footage and audio recordings received and reviewed.

(b) Disclosure of any audio recordings or video footage shall be delayed, at the attorney general's discretion, only if such a disclosure would compromise an ongoing criminal investigation or prosecution, or at the request of the decedent's family.

(c) Redactions of audio records or video footage shall be made pursuant to its video release policy.

(d) Nothing in this subdivision shall be construed to prohibit or restrict the disclosure of audio recordings or video footage to any person or entity otherwise lawfully entitled to receive such recordings or footage pursuant to law, court order, or lawful process.

4. The attorney general shall have criminal jurisdiction over any criminal conduct arising from any incident herein, and shall exercise all of the powers and perform all of the duties with respect to such actions or proceedings that a district attorney would otherwise be authorized or required to exercise or perform, including all the powers necessary to prosecute acts and omissions and alleged acts and omissions to obstruct, hinder or interfere with any inquiry, prosecution, trial or judgment arising from the incident. The criminal jurisdiction of the office of special investigation shall displace and supersede the jurisdiction of the district attorney where the incident occurred; and

such district attorney shall only have the powers and duties reserved to him or her in writing by the attorney general.

5. The attorney general shall designate a deputy attorney general for special investigation to exercise the powers and duties of the office of special investigation, who shall be in the exempt class of the civil service. The deputy attorney general may designate deputies or assistants, who shall be in the exempt class of the civil service, as necessary and appropriate. The other employees of the office of special investigation within the department of law, who are not otherwise exempt, shall all be in the competitive class of the civil service and shall be considered for purposes of article fourteen of the civil service law to be public employees in the civil service of the state, and shall be assigned to the appropriate collective bargaining unit. Employees serving in positions in newly created titles shall be assigned to the same collective bargaining units as they would have been assigned to were such titles created prior to the establishment of the office of special investigation within the department of law by this chapter. The deputy attorney general for special investigation may appear and conduct proceedings in person or by his or her deputy or assistant before any court or grand jury in connection with proceedings under this section.

6. (a) For any incident under this section, the office of special investigation shall issue a public report and post the report on its website whenever the office of special investigation initiates an investigation and (i) the office of special investigation declines to present evidence to a grand jury or (ii) the office of special investigation does present evidence to a grand jury but the grand jury declines to return indictment on any charges. The report will include, to the extent possible and lawful, the results of the investigation of the incident.

(b) The report shall also include: (i) with respect to subparagraph (i) of paragraph (a) of this subdivision, an explanation as to why the office of special investigation declined to present evidence to a grand jury; and (ii) any recommendations for systemic or other reforms arising from the investigation.

7. Six months after this subdivision takes effect, and annually on such date thereafter, the office of special investigation shall issue a report, which shall be made available to the public and posted on the website of the department of law, which shall provide information on the matters investigated by such office during such reporting period. The information presented shall include, but not be limited to: the county and geographic location of each matter investigated; a description of the circumstances of each case; racial, ethnic, age, gender and other demographic information concerning the persons involved or alleged to be involved; information concerning whether a criminal charge or charges were filed against any person involved or alleged to be involved in such matter; the nature of such charges; and the status or, where applicable, outcome with respect to all such criminal charges. Such report shall also include recommendations for any systemic or other reforms recommended as a result of such investigations.

8. (a) Notwithstanding any other provision of law, rule or regulation to the contrary, in a matter in which the attorney general's authority established under this section conflicts, or has a reasonable risk of conflicting, with the attorney general's representation of state employees in civil litigation under section seventeen of the public officers law, the attorney general may designate a deputy attorney general or assistant attorney general, including any person designated under subdivision five of this section, as provided by section nine of the public officers law, to act as attorney general for that matter in the attorney general's stead.

(b) Notwithstanding any other provision of law, rule or regulation to the contrary, the attorney general shall establish through rules and regulations, processes and procedures for screening (i) the person so designated pursuant to paragraph (a) of this subdivision, and the entire prosecution team, from records, communication, and information related to the civil defense of a police officer or peace officer as defined in subdivision one of this section, and (ii) persons involved in the civil defense of a police officer or peace officer as defined in subdivision one of this section from records, communication, and information related to the investigation and, where appropriate, prosecution of state peace or police officers under this section. The rules and regulations

establishing screens shall be sufficient to satisfy the rules of professional conduct regarding conflicts and to protect the rights of state peace and police officers who are the subject of an investigation or prosecution under this section by ensuring that the individuals conducting or otherwise involved in such investigation or prosecution do not have access to any confidential information obtained in the course of the office's civil defense of state employees.

§ 70-c. Task force on social media and violent extremism. 1. Establishment and organization. (a) There is hereby established a task force on social media and violent extremism within the department of law.

(b) The attorney general may appoint or assign a deputy attorney general and/or one or more assistants to serve on the task force.

(c) The mission of the task force on social media and violent extremism shall be to study, investigate, and make recommendations relating to the use, operations, policies, programs, and practices of online social media companies and any role they may have in promoting, facilitating, and providing platforms for individuals and groups to plan and promote acts of violence, including but not limited to, the use of such platforms to: initiate threats against public safety or against a specific group of individuals based on an actual or perceived classification or characteristic; communicate or plan for criminal activity, including but not limited to, hate crimes, acts of domestic terrorism, or acts of domestic terrorism motivated by hate; spread extremist content; and aid in the radicalization and mobilization of extremist individuals or groups.

2. Functions and duties. Subject to appropriations made available therefor, the task force shall have the following duties and responsibilities:

(a) to receive and investigate complaints from any source, or upon its own initiative, allegations involving the use and role of social media platforms in broadcasting, streaming, promoting, or otherwise facilitating acts of violence as described in paragraph (c) of subdivision one of this section;

(b) to determine, with respect to such allegations, whether social media companies may be civilly or criminally liable for their role in promoting, facilitating, or providing a platform for individuals and groups to plan and promote acts of violence as described in paragraph (c) of subdivision one of this section, or whether further investigation by the department of law is warranted or whether a referral to an appropriate federal, state or local law enforcement agency is necessary, and to assist in such investigations, if requested by a federal, state, or local law enforcement agency;

(c) to prepare and make public reports regarding the work of the task force, provided, however that such reports shall not include confidential or other protected information or any information that pertains to or may interfere with ongoing or future investigations;

(d) to review and examine periodically the use, operations, policies, programs, and practices of social media companies and any role they may have in promoting, facilitating, and providing platforms for individuals and groups to plan and promote acts of violence as described in paragraph (c) of subdivision one of this section;

(e) to cooperate with and assist the division of homeland security and emergency services or any other state or local agency as may be appropriate in their efforts to counter acts of violence as described in paragraph (c) of subdivision one of this section;

(f) to review the final report of the domestic terrorism task force established pursuant to section six of part R of chapter fifty-five of the laws of two thousand twenty, setting forth the findings, conclusions, recommendations, and activities of the task force, to examine and evaluate how to prevent mass shootings by domestic terrorists in New York state in furtherance of the goals of the task force on social media and violent extremism;

(g) to recommend remedial action to prevent the use of social media platforms by individuals and groups to plan and promote acts of violence as described in paragraph (c) of subdivision one of this section;

(h) on an annual basis, to submit to the governor, the temporary president of the senate, the speaker of the assembly, the minority leader of the senate and the minority leader of the assembly, no later than December thirty-first, a report summarizing the activities of the task force and recommending specific changes to state law to further the

mission of the task force on social media and violent extremism; and

(i) to perform any other functions and duties that are necessary or appropriate to fulfill the duties and responsibilities of the task force.

3. Powers. In executing its duties under subdivision two of this section, the task force shall have the power to:

(a) subpoena and enforce the attendance of witnesses;

(b) administer oaths or affirmations and examine witnesses under oath;

(c) request and receive from the division of homeland security and emergency services, the division of state police, the division of criminal justice services, and from every department, division, board, bureau, commission or other agency of the state, or of any political subdivision thereof, cooperation and assistance in the performance of its duties;

(d) provide technical and other assistance to any district attorney or other local law enforcement official requesting such assistance in the investigation or prosecution of cases involving the role of social media platforms in broadcasting, streaming, promoting, or otherwise facilitating acts of violence as described in paragraph (c) of subdivision one of this section; and

(e) conduct hearings at any place within the state and require the production of any books, records, documents or other evidence he or she may deem relevant or material to an investigation.

§ 71. Attorney-general authorized to appear in cases involving the constitutionality of an act of the legislature, or a rule or regulation adopted pursuant thereto. 1. Whenever the constitutionality of a statute, or a rule or regulation adopted pursuant thereto is brought into question upon the trial, hearing or appeal of any action or proceeding, civil or criminal, in any court of record of original or appellate jurisdiction, and proof of the notice of such constitutional challenge, as required by paragraph one of subdivision (b) of section one thousand twelve of the civil practice law and rules, has not been filed, the court or justice before whom such action or proceeding is pending, shall make an order, directing the party desiring to raise such

question, to serve notice thereof on the attorney-general, and providing that the attorney-general be permitted to appear at any such trial or hearing in support of the constitutionality of such statute, or rule or regulation adopted pursuant thereto. The court or justice before whom any such action or proceeding is pending may also make such order upon the application of any party thereto, and the court shall make such order in any such action or proceeding upon motion of the attorney-general. When such order has been made in any manner mentioned in this section and notice pursuant to such order has been given, the attorney-general shall be permitted to appear in such action or proceeding in support of the constitutionality of such statute, or a rule or regulation adopted pursuant thereto.

2. In the event the constitutionality of a statute, or rule or regulation adopted pursuant thereto is brought into question and the party questioning such constitutionality, or any other party to the action or proceeding serves the attorney-general pursuant to paragraph one of subdivision (b) of section one thousand twelve of the civil practice law and rules, proof of such service upon the attorney-general shall be accepted by the court in satisfaction of the provisions of subdivision one of this section.

3. The court having jurisdiction in an action or proceeding in which the constitutionality of a statute, rule or regulation is challenged, shall not consider any challenge to the constitutionality of such statute, rule or regulation unless proof of service of the notice required by this section or required by subdivision (b) of section one thousand twelve of the civil practice law and rules is filed with such court.

§ 72. When costs payable to relator. Where security is given by relator in an action brought by the attorney-general on the relation or information of a person having an interest, all costs and disbursements taxed in favor of the plaintiff shall be payable to the relator.

§ 73. Power to administer oaths and take acknowledgments. The attorney-general of the state of New York and all deputies and assistants appointed by him pursuant to section sixty-two of the executive law, who have duly qualified, shall have the power, while acting as such, to administer oaths and take affidavits and acknowledgments and proofs of written instruments to be read in evidence, anywhere within the state of New York, except such instruments as now are required by law to be recorded to create constructive notice thereof.

§ 74. Welfare inspector general. 1. Definitions. For the purposes of this section, the following definitions shall apply:

a. "Inspector" means the welfare inspector general created by this section.

b. "Investigation" means, investigations of fraud, abuse, or illegal acts perpetrated within the department of social services or local social services districts, or by contractees or recipients of public assistance services as provided by the department of social services.

c. "Office" means the office of the welfare inspector general created by this section.

2. a. There is hereby created in the department of law within the office of the deputy attorney general for medicaid fraud control an office of welfare inspector general. The head of the office shall be the welfare inspector general, who shall be appointed by the governor, by and with the advice and consent of the senate.

b. The inspector shall serve for a term of five years unless removed by the governor for neglect or malfeasance in office, and may also be removed for neglect or malfeasance by the senate upon a vote of two-thirds of its members. An inspector removed from office may not be reappointed to such office.

c. The inspector may not be employed with the department of social services during his employment with the office or within two years after terminating employment with the office.

3. Functions, duties and responsibilities. The inspector shall have the following functions, duties and responsibilities:

a. to appoint such deputies, directors, assistants and other officers and employees as may be needed for the performance of his duties and may prescribe their powers and fix their compensation within the amounts appropriated therefor;

b. to conduct and supervise investigations relating to the programs of the department of social services and, to the greatest extent possible, to coordinate such activities with the deputy attorney general for medicaid fraud control, the commissioner of social services, the commissioner of health, the commissioner of education, the fiscal agent employed to operate the medicaid management information system, and the state comptroller;

c. to keep the governor, attorney general, state comptroller, president pro tem and minority leader of the senate, the speaker and the minority and majority leaders of the assembly, apprised of fraud and abuse;

d. to prosecute fraud, abuse or illegal acts perpetrated within the department of social services or local social services districts, or by contractees or recipients of public assistance services;

e. to make information and evidence relating to criminal acts which he may obtain in carrying out his duties available to appropriate law enforcement officials and to consult with the deputy attorney general for medicaid fraud control and local district attorneys to coordinate investigations and criminal prosecutions;

f. to subpoena witnesses, administer oaths or affirmations, take testimony and compel the production of such books, papers, records and

documents as he may deem to be relevant to an investigation undertaken pursuant to this section;

g. to monitor the implementation by the relevant office of his recommendations and those of other investigative agencies;

h. to recommend policies relating to the prevention and detection of fraud and abuse or the identification and prosecution of participants in such fraud or abuse; and

i. to receive complaints of alleged failures of state and local officials to prevent, detect and prosecute fraud and abuse.

4. Cooperation of agency officials and employees. a. In addition to the authority otherwise provided by this section, the inspector, in carrying out the provisions of this section, is authorized:

(i) to have full and unrestricted access to all records, reports, audits, reviews, documents, papers, recommendations or other material available to the department of social services and local social services districts relating to programs and operations with respect to which the inspector has responsibilities under this section;

(ii) to make such investigations relating to the administration of the programs and operations of the department of social services as are, in the judgment of the inspector, necessary or desirable; and

(iii) to request such information, assistance and cooperation from any federal, state or local governmental department, board, bureau, commission, or other agency or unit thereof as may be necessary for carrying out the duties and responsibilities enjoined upon him by this section. State and local agencies or units thereof are hereby authorized and directed to provide such information, assistance and cooperation.

b. Notwithstanding any other provision of law, rule or regulation to the contrary, no person shall prevent, seek to prevent, interfere with, obstruct or otherwise hinder any investigation being conducted pursuant to this section. Section one hundred thirty-six of the social services law shall in no way be construed to restrict any person or governmental body from cooperating and assisting the inspector or his employees in

carrying out their duties under this section. Any violation of this paragraph shall constitute cause for suspension or removal from office or employment.

5. Establishment period. The governor shall nominate the initial inspector as soon as is practicable but in no event later than sixty days after the effective date of this section.

6. Reports required of the inspector. The inspector shall, no later than February first of each year submit to the governor, the state comptroller, the attorney general and the legislature a report summarizing the activities of the office during the preceding calendar year.

7. Disclosure of information. a. The inspector shall not publicly disclose information which is:

(i) a part of any ongoing investigation; or

(ii) specifically prohibited from disclosure by any other provision of law.

b. Notwithstanding paragraph a of this subdivision, any report under this section may be disclosed to the public in a form which includes information with respect to a part of an ongoing criminal investigation if such information has been included in a public record.

§ 75. Law enforcement misconduct investigative office. 1. Jurisdiction. This section shall, subject to the limitations contained in this section, confer upon the law enforcement misconduct investigative office jurisdiction over all covered agencies. For the purposes of this section "covered agency" means an agency of any political subdivision within the state maintaining a police force or police forces of individuals defined as police officers in section 1.20 of the criminal procedure law, provided however, covered agency does not include any agency, public authority, or other entity under the jurisdiction of the state inspector general pursuant to article four-A of the executive law, the metropolitan transportation authority

inspector general pursuant to section one thousand two hundred seventy-nine of the public authorities law, or the port authority inspector general pursuant to chapter one hundred fifty-four of the laws of nineteen twenty-one.

2. Establishment and organization. (a) There is hereby established the law enforcement misconduct investigative office in the department of law. The head of the office shall be a deputy attorney general who shall be appointed by the attorney general.

(b) Such deputy attorney general may appoint one or more assistants to serve at his or her pleasure.

(c) The salary for the head of such office shall be established within the limit of funds available therefore; provided, however, such salary shall be no less than the salaries of certain state officers holding the positions indicated in paragraph (a) of subdivision one of section one hundred sixty-nine of this chapter.

(d) The mission of the law enforcement misconduct investigative office shall be to review, study, audit and make recommendations relating to the operations, policies, programs and practices, including ongoing partnerships with other law enforcement agencies, of state and local law enforcement agencies with the goal of enhancing the effectiveness of law enforcement, increasing public safety, protecting civil liberties and civil rights, ensuring compliance with constitutional protections and local, state and federal laws, and increasing the public's confidence in law enforcement.

3. Functions and duties. The deputy attorney general shall have the following duties and responsibilities:

(a) receive and investigate complaints from any source, or upon his or her own initiative, concerning allegations of corruption, fraud, use of excessive force, criminal activity, conflicts of interest or abuse in any covered agency;

(b) inform the heads of covered agencies of such allegations and the progress of investigations related thereto, unless special circumstances require confidentiality;

(b-1) promptly inform the division of criminal justice services, in the form and manner prescribed by the division, of such allegations and

the progress of investigations related thereto unless special circumstances require confidentiality. Nothing in this paragraph shall require the division of criminal justice services to participate in the investigation of such allegations or take action or prevent the division of criminal justice services from taking action authorized pursuant to subdivision three of section eight hundred forty-five of this chapter in the time and manner determined by the commissioner of the division of criminal justice services;

(c) determine with respect to such allegations whether disciplinary action, civil or criminal prosecution, or further investigation by an appropriate federal, state or local agency is warranted, and to assist in such investigations, if requested by such federal, state, or local agency;

(d) prepare and release to the public written reports of investigations, as appropriate and to the extent permitted by law, subject to redaction to protect the confidentiality of witnesses and other information that would be exempt from disclosure under article six of the public officers law. The release of all or portions of such reports may be temporarily deferred to protect the confidentiality of ongoing investigations;

(e) review and examine periodically the policies and procedures of covered agencies with regard to the prevention and detection of corruption, fraud, use of excessive force, criminal activity, conflicts of interest and abuse;

(f) recommend remedial action to prevent or eliminate corruption, fraud, use of excessive force, criminal activity, conflicts of interest and abuse in covered agencies; and

(g) investigate patterns, practices, systemic issues, or trends identified by analyzing actions, claims, complaints, and investigations, including, but not limited to, any patterns or trends regarding departments, precincts, and commands; and

(h) on an annual basis, submit to the governor, the attorney general, the temporary president of the senate, the speaker of the assembly, the minority leader of the senate and the minority leader of the assembly, no later than December thirty-first, a report summarizing the activities of the office and recommending specific changes to state law to further the mission of the law enforcement misconduct investigative office.

4. Powers. The deputy attorney general shall have the power to:

(a) subpoena and enforce the attendance of witnesses;

(b) administer oaths or affirmations and examine witnesses under oath;

(c) require the production of any books and papers deemed relevant or material to any investigation, examination or review;

(d) notwithstanding any law to the contrary, examine and copy or remove documents or records of any kind prepared, maintained or held by any covered agency;

(e) require any officer or employee in a covered agency to answer questions concerning any matter related to the performance of his or her official duties. No statement or other evidence derived therefrom may be used against such officer or employee in any subsequent criminal prosecution other than for perjury or contempt arising from such testimony. The refusal of any officer or employee to answer questions shall be cause for removal from office or employment or other appropriate penalty;

(f) monitor the implementation by covered agencies of any recommendations made by the law enforcement misconduct investigative office; and

(g) perform any other functions that are necessary or appropriate to fulfill the duties and responsibilities of office.

5. Responsibilities of covered agencies, officers and employees. (a) Every officer or employee in a covered agency shall report promptly to the law enforcement misconduct investigative office any information concerning corruption, fraud, use of excessive force, criminal activity, conflicts of interest or abuse by another officer or employee relating to his or her office or employment, or by a person having business dealings with a covered agency relating to those dealings. The knowing failure of any officer or employee to so report shall be cause for removal from office or employment or other appropriate penalty. Any officer or employee who acts pursuant to this subdivision by reporting to the law enforcement misconduct investigative office shall not be subject to dismissal, discipline or other adverse personnel action.

(b) Upon receiving at least five complaints from five or more individuals relating to at least five separate incidents involving a

certain officer or employee within two years, the head of any covered agency shall refer such complaints to the law enforcement misconduct investigative office for review. The law enforcement misconduct investigative office shall investigate such complaints to determine whether the subject officer or employee has engaged in a pattern or practice of misconduct, use of excessive force, or acts of dishonesty. The referral and investigation pursuant to this subdivision shall be in addition to and shall not supersede any civil, criminal, administrative or other action or proceeding relating to such complaints or the subject officer or employee.

(c) The head of any covered agency shall advise the governor, the temporary president of the senate, the speaker of the assembly, the minority leader of the senate, the minority leader of the assembly and the division of criminal justice services within ninety days of the issuance of a report by the law enforcement misconduct investigative office as to the remedial action that the agency has taken in response to any recommendation for such action contained in such report.

(d) Nothing in this section shall be construed to impede, infringe, or diminish the rights, privileges, benefits or remedies that accrue to any employee pursuant to any agreement entered into pursuant to article fourteen of the civil service law.

ARTICLE 6

DEPARTMENT OF STATE

Section 90. Department of state; secretary of state.
91. Rules.
92. Deputies.
93. Custody of records.
93-a. Examination of reports.
94. Commission on ethics and lobbying in government.
94-a. Consumer protection division.
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95. Legislative manual.
96. Fees and refunds.
96-a. Fees for services rendered pursuant to the uniform

commercial code.
97. Completing unfinished papers.
97-a. Affirmation in lieu of oath.
98. Copies of amendments to rules for admission of attorneys.
99. Central state registry of security guards.
100. Central state registry of armored car guards.
100-a. Information on state agencies pertaining to persons subjected to section seventy-three-a of the public officers law and who hold policy-making positions.
101. Accessibility, rules and regulations.
101-a. Legislative notification of the proposed adoption, amendment, suspension or repeal of agency rules.
101-b. Application by municipal corporations for the suspension of certain rules.
102. Filing and publication of codes, rules and regulations.
103. Future editions and supplements of official compilations.
104. Departmental cooperation.
104-a. Departmental cooperation regarding water quality.
105. Changes in codes, rules or regulations.
106. Proof of codes, rules and regulations.
106-a. Internet access to the New York code, rules and regulations.
107. Intergovernmental agreements.
108. Address confidentiality program.
109. Registration of certain service providers.
110. Administration of certain monies.
130. Appointment of notaries public.
131. Procedure of appointment; fees and commissions; fee payment methods.
132. Certificates of official character of notaries public.
133. Certification of notarial signatures.
134. Signature and seal of county clerk.
135. Powers and duties; in general; of notaries public who are attorneys at law.
135-a. Notary public or commissioner of deeds; acting without appointment; fraud in office.
135-b. Advertising by notaries public.

135-c. Electronic notarization.
136. Notarial fees.
137. Statement as to authority of notaries public.
138. Powers of notaries public or other officers who are stockholders, directors, officers or employees of a corporation.
139. Commissioners of deeds within the state.
140. Commissioners of deeds in the city of New York.
141. Commissioners of deeds in other states, territories and foreign countries.
142. Powers of such commissioners.
142-a. Validity of act of notaries public and commissioners of deeds notwithstanding certain defects.
143. Fees of such commissioners.
144. Saving clause.
144-a. Eligible professions for the purchase, sale, and use of body armor.

§ 90. Department of state; secretary of state. There shall be in the state government a department of state. The head of the department shall be the secretary of state who shall be appointed by the governor by and with the advice and consent of the senate and hold office until the end of the term of the governor by whom he was appointed and until his successor is appointed and has qualified. The secretary of state shall receive an annual salary within the amount appropriated therefor and his reasonable expenses when necessarily absent on public business pertaining to the duties of his office.

In addition to those divisions created and continued within the Department of State by other statutes, the secretary of state may establish such other divisions and bureaus in the department of state as he may deem necessary. He may prescribe the duties and powers of such divisions and bureaus which shall be exercised and performed under his supervision.

§ 91. Rules. Subject to and in conformity with the provisions of the constitution and laws of the state, the secretary of state may adopt and promulgate such rules which shall regulate and control the exercise of the powers of the department of state and the performance of the duties of officers, agents and other employees thereof.

§ 92. Deputies. The secretary of state shall appoint a deputy, who may perform all the duties of the secretary of state. Any such deputy shall receive an annual salary to be fixed by the secretary of state within the amount appropriated therefor. The secretary of state may also appoint and fix the compensation of such other deputies, assistants and employees as he shall deem necessary within the amount appropriated therefor and prescribe their powers and duties.

§ 93. Custody of records. 1. The secretary of state shall have the custody of all laws and concurrent resolutions of the legislature, all documents issued under the great seal, all books, records, deeds, parchments, maps and papers deposited or kept in his or her office, and shall properly arrange and preserve them.

2. The records in the custody of the secretary of state need not be retained in the form in which the record is received so long as the technology used to retain such record results in a permanent record which may be accurately reproduced during the period for which the record is required to be retained. The secretary of state may promulgate rules and regulations relating to the use by the department of state of automatic data processing, telecommunications and other information technologies for the processing of records for retention by the department of state.

§ 93-a. Examination of reports. The secretary of state shall examine all reports required to be filed with the department of state pursuant to article seven-A of this chapter in order to determine the nature and extent of the in-kind support provided by any covered entity to one or

more recipient entities, as such terms are defined in section one hundred seventy-two-e of this chapter, and the nature and extent of covered communications by any covered entity, as such terms are defined in section one hundred seventy-two-f of this chapter. Notwithstanding any inconsistent provision of law, whenever the secretary of state, in consultation with the department of taxation and finance or the department of law, determines that the nature and extent of a covered entity's in-kind support to other entities or the nature and extent of a covered entity's spending on covered communications is inconsistent with the charitable purposes of such covered entity, the secretary shall cause the reports required by article seven-A of this chapter filed by such entity to be published on the website of the department of state upon such finding. Provided, however, that such publishing shall not include the names and addresses of individual donors to covered entities nor shall such publishing include the covered entity's Internal Revenue Service Form 990 Schedule B. The secretary shall report to the governor, the temporary president of the senate and the speaker of the assembly, by December thirty-first, two thousand twenty-two, and annually thereafter, on topics including but not limited to: the nature and extent of in-kind support provided by covered entities to recipient entities, as such terms are defined in section one hundred seventy-two-e of this chapter and the nature and extent of expenditures for covered communications. The secretary may request the assistance of the department of taxation and finance or the department of law in order to complete this report. Provided however that such report shall not include the names and addresses of individual donors to covered entities nor shall such report include the covered entity's Internal Revenue Service Form 990 Schedule B.

§ 94. Commission on ethics and lobbying in government. 1. (a) Commission established. There is hereby established within the department of state, a commission on ethics and lobbying in government, an agency responsible for administering, enforcing, and interpreting New York state's ethics and lobbying laws. The commission shall have and exercise the powers and duties set forth in this section with respect to statewide elected officials, members of the legislature and employees of

the legislature, and state officers and employees as defined in sections seventy-three, seventy-three-a, and seventy-four of the public officers law, candidates for statewide elected office and for the senate or assembly, and the political party chair as is defined in section seventy-three of the public officers law, lobbyists and the clients of lobbyists as defined in section one-c of the legislative law, and individuals who have formerly held such positions, were lobbyists or clients of lobbyists as defined in section one-c of the legislative law, or who have formerly been such candidates.

(b) The commission shall provide for the transfer, assumption or other disposition of the records, property, and personnel affected by this section, and it is further provided, should any employees be transferred from the joint commission on public ethics ("JCOPE"), the predecessor ethics agency, to the commission, that such transfer will be without further examination or qualification and such employees shall retain their respective civil service classifications, status and collective bargaining agreements.

(c) The commission shall review any pending inquiries or matters affected by this section and shall establish policies to address them.

(d) The commission shall undertake a comprehensive review of all regulations in effect upon the effective date of this section; and review of all advisory opinions of predecessor ethics agencies, including JCOPE, the legislative ethics commission, the commission on public integrity, the state ethics commission, and the temporary lobbying commission, which will address the consistency of such regulations and advisory opinions among each other and with the new statutory language, and of the effectiveness of the existing laws, regulations, guidance and ethics enforcement structure.

(e) This section shall not be deemed to have revoked or rescinded any regulations or advisory opinions in effect on the effective date of this section that were issued by predecessor ethics and lobbying bodies. The commission shall cooperate, consult, and coordinate with the legislative ethics commission, to the extent possible, to administer and enforce the laws under its jurisdiction.

(f) The annual budget submitted by the governor shall separately state the recommended appropriations for the commission on ethics and lobbying in government. Upon enactment, these separately stated appropriations

for the commission on ethics and lobbying in government shall not be decreased by interchange with any other appropriation, notwithstanding section fifty-one of the state finance law.

2. Definitions. For the purposes of this section, the following terms shall have the following meanings:

(a) "commission" means the commission on ethics and lobbying in government established pursuant to subdivision one of this section.

(b) "selection members" means the governor, speaker of the assembly, temporary president of the senate, minority leader of the senate, minority leader of the assembly, comptroller, and the attorney general.

(c) "independent review committee" means the committee of the American Bar Association accredited New York state law school deans or interim deans, or their designee who is an associate dean of their respective law school, tasked with reviewing, approving, or denying the members of the commission as nominated by the selection members and other tasks pursuant to this section.

(d) "respondent" means the individual or individuals or organization or organizations subject to an inquiry, investigation, or enforcement action.

(e) "victim" means any individual that has suffered or alleged to have suffered direct harm from any violation of law that is subject to investigation under the jurisdiction of the commission.

3. Nomination and appointment of the commission. (a) The commission shall consist of eleven members, to be nominated by the selection members as follows: three members by the governor; two members by the temporary president of the senate; one member by the minority leader of the senate; two members by the speaker of the assembly; one member by the minority leader of the assembly; one member by the attorney general; and one member by the comptroller.

(b) The independent review committee shall within thirty days review the qualifications of the nominated candidates and approve or deny each candidate nominated by their respective selection member.

(c) The independent review committee shall publish on its website a procedure by which it will review the qualifications of the nominated candidate and approve or deny each candidate.

(d) Those candidates that the independent review committee deems to meet the qualifications necessary for the services required based on their background and expertise that relate to the candidate's potential service on the commission shall be appointed as a commission member. The nominating selection member shall nominate a new candidate for those that are denied by the independent review committee.

(e) No individual shall be eligible for nomination and appointment as a member of the commission who is currently, or has within the last two years:

(i) been registered as a lobbyist in New York state;

(ii) been a member or employee of the New York state legislature, a statewide elected official, or a commissioner of an executive agency appointed by the governor;

(iii) been a political party chair, as defined in section seventy-three of the public officers law; or

(iv) been a state officer or employee as defined in section seventy-three of the public officers law.

(f) The independent review committee shall convene as needed or as requested by the selection members. The chair of the independent review committee shall be elected from the members of the independent review committee.

(g) Appropriate staffing and other resources shall be provided for in the commission's budget for the independent review committee to carry out its powers, functions, and duties. The independent review committee shall publish on the commission's website a procedure by which it will review and select the commission members and other processes to effectuate its responsibilities under this section.

(h) The majority of the independent review committee shall constitute a quorum to hold a meeting and conduct official business.

(i) During the pendency of the review and approval or denial of the candidates, the independent review committee shall be subject to and maintain confidentiality in all independent review committee processes, reviews, analyses, approvals, and denials. A member of the independent review committee may be removed by majority vote of the committee for substantial neglect of duty, misconduct, violation of the confidentiality restrictions set forth in this section, inability to discharge the powers or duties of the committee or violation of this

section, after written notice and opportunity for a reply.

(j) Upon the receipt of the selection members' appointments, members of the independent review committee shall disclose to the independent review committee any personal, professional, financial, or other direct or indirect relationships a member of the independent review committee may have with an appointee. If the independent review committee determines a conflict of interest exists, such independent review committee member shall, in writing, notify the other members of the independent review committee of the possible conflict. The member may recuse themself from all subsequent involvement in the consideration of and action upon the appointment. If, after disclosure, the member does not recuse themself from the matter, the independent review committee, by majority vote finding the disclosed information creates a substantial conflict of interest, may remove the conflicted member from further consideration of and action upon the appointment.

(k) Notwithstanding the provisions of article seven of the public officers law, no meeting or proceeding of the independent review committee shall be open to the public, except the applicable records pertaining to the review and selection process for a member's seat shall be subject to disclosure pursuant to article six of the public officers law only after an individual member is appointed to the commission. Requests for such records shall be made to, and processed by, the commission's records access officer.

(l) The independent review committee shall neither be public officers nor be subject to the requirements of the public officers law.

(m) Notwithstanding subdivision (l) of this section, the independent review committee members shall be entitled to representation, indemnification, and to be held harmless to the same extent as any other person employed in service of the state and entitled to such coverage under sections seventeen and nineteen of the public officers law, provided however, that any independent review committee member removed due to a violation of paragraph (i) of this subdivision shall not qualify for such entitlements.

4. Commission. (a) The first class of members of the commission shall serve staggered terms to ensure continuity. For the first class of the commission, the governor's first appointee shall serve an initial term

of four years, their second appointee shall serve an initial term of two years, and their third appointee shall serve an initial term of one year; the attorney general's appointee shall serve an initial term of four years; the comptroller's appointee shall serve an initial term of four years; the temporary president of the senate's first appointee shall serve an initial term of four years and their second appointee shall serve a term of two years; the minority leader of the senate's appointee shall serve an initial term of four years; the speaker of the assembly's first appointee shall serve initial terms of four years and their second appointee shall serve a term of two years; and the minority leader of the assembly's appointee shall serve a term of four years. All subsequent members shall serve a term of four years. No member shall be selected to the commission for more than two full consecutive terms, except that a member who has held the position by filling a vacancy can only be selected to the commission for an additional two full consecutive terms.

(b) The commission by majority vote shall elect a chairperson from among its members for a term of two years. A chairperson may be elected to no more than two terms for such office.

(c) Members of the commission may be removed by majority vote of the commission for substantial neglect of duty, misconduct in office, violation of the confidentiality restrictions set forth in this section, inability to discharge the powers or duties of office or violation of this section, after written notice and opportunity for a reply.

(d) Any vacancy occurring on the commission shall be filled within thirty days of its occurrence in the same manner as a member is initially selected to complete the vacant term.

(e) During the period of a member's service as a member of the commission, the member shall refrain from making, or soliciting from other persons, any contributions to candidates, political action committees, political parties or committees, newsletter funds, or political advertisements for election to the offices of governor, lieutenant governor, member of the assembly or the senate, attorney general or state comptroller.

(f) Members of the commission shall receive a per diem allowance equal to the salary of a justice of the supreme court divided by two hundred twenty for each day or each pro-rated day actually spent in the

performance of the member's duties under this section, and, in addition thereto, shall be reimbursed for all reasonable expenses actually and necessarily incurred by the member in the performance of the member's duties under this section. For the purposes of this subdivision, a day shall consist of at least seven and one-half hours spent in the performance of the member's duties under this section.

(g) The commission shall meet at least quarterly and additionally as called by the chairperson, or upon the call of a majority of the members of the commission. The commission shall be subject to articles six and seven of the public officers law.

(h) A majority of the members of the commission shall constitute a quorum, and the commission shall have the power to act by majority vote of the total number of members of the commission without vacancy.

(i) The commission shall hold a public hearing at least once each calendar year to take testimony regarding the operation of the commission and solicit public input regarding potential or proposed changes in the laws under its jurisdiction.

5. Powers. (a) The commission has the authority to: (i) adopt, amend, and rescind any rules and regulations pertaining to section seventy-three, seventy-three-a or seventy-four of the public officers law, article one-A of the legislative law, or section one hundred seven of the civil service law; (ii) adopt, amend, and rescind any procedures of the commission, including but not limited to, procedures for advice and guidance, training, filing, review, and enforcement of financial disclosure statements, investigations, enforcement, and due process hearings; and (iii) develop and promulgate any programs for reviews, training, and guidance to carry out the commission's mission.

(b) The commission shall adopt and post on its website guidance documents detailing the processes and procedures of an investigation, including the stages of an investigation; timelines, including the reasons for any potential delays in an investigation; the hearing and adjudication process; outcomes of an investigation; and, anything else the commission deems necessary to inform the public as well as relevant parties to an investigation including complainants, respondents, victims, if any, and witnesses as to such processes and procedures. The guidance documents shall delineate the processes and procedures that

apply to the relevant parties, including, where applicable, the due process and any other rights or remedies that the relevant party may have under the commission's procedures or any other area of law. The guidance documents shall be provided to the relevant party of an investigation upon such party's involvement in such investigation.

(c) The commission has the authority to compel the testimony of witnesses, and may administer oaths or affirmations, subpoena witnesses, compel their attendance and require the production of any books or records which it may deem relevant or material.

6. Executive director and commission staff. The commission shall:

(a) (i) Appoint an executive director through a majority vote of the members of the commission, who shall act in accordance with the policies of the commission. The executive director shall be appointed without regard to political affiliation and solely on the basis of fitness to perform the duties assigned by this section, and meet the qualifications necessary for the services required based on their background and expertise that relate to the candidate's potential service to the commission. No individual shall be eligible to be appointed as an executive director if the individual is currently, or within the last two years has been:

(1) registered as a lobbyist in New York state;

(2) a member or employee of the New York state legislature or a statewide elected official, or a commissioner of an executive agency appointed by the governor; or

(3) a political party chair, as defined in section seventy-three of the public officers law.

(ii) The appointment and removal of the executive director shall be made by a majority vote of the commission.

(iii) The term of office of the executive director shall be four years from the date of appointment. The salary of the executive director shall be determined by the members of the commission based on experience.

(iv) The commission may remove the executive director for neglect of duty, misconduct in office, violation of the confidentiality restrictions in this section, or inability or failure to discharge the powers or duties of office, including the failure to follow the lawful instructions of the commission.

(b) The commission may delegate authority to the executive director to act in the name of the commission between meetings of the commission provided such delegation is in writing, the specific powers to be delegated are enumerated, and the commission shall not delegate any decisions specified in this section that require a vote of the commission.

(c) The commission, through the executive director, shall establish units within the commission to carry out it duties, including, but not limited to, (i) an advice and guidance unit, (ii) a training unit, (iii) a financial disclosure unit, (iv) a lobbying unit, and (v) an investigations and enforcement unit.

(d) The commission, through the executive director, shall appoint such other staff as are necessary to carry out its duties under this section, including, but not limited to, a deputy director of an advice and guidance unit to provide timely confidential advice to persons subject to the commission's jurisdiction, a deputy director for training, a deputy director for investigations and enforcement, and a deputy director for lobbying.

(e) In addition to meeting the qualifications necessary for the services required for the position, the deputy director for investigations and enforcement shall have completed substantial training and have experience in trauma-informed approaches to investigations and enforcement. The deputy director for investigations and enforcement shall complete a minimum of four hours of training annually in trauma-informed approaches to investigations and enforcement. Such trainings may include, but not be limited to, the impact of trauma, first impression matters, victim interviews, investigative strategies, and alcohol and drug facilitated cases.

(f) The commission, through the executive director, shall review and approve a staffing plan provided and prepared by the executive director which shall contain, at a minimum, a list of the various units and divisions as well as the number of positions in each unit, titles and their duties, and salaries, as well as the various qualifications for each position.

7. Advice and guidance. (a) The commission shall establish a unit or units solely for ethics and lobbying guidance, and give such prompt,

informal advice to persons whose conduct it oversees, except with respect to members of the legislature and legislative staff, who shall seek advice from the legislative ethics commission in the first instance.

(b) Persons receiving such informal advice may rely on that advice absent misrepresentation or omission of material facts to the commission and such communications with the commission shall be treated as confidential, except as disclosure is needed to prevent or rectify a crime or fraud, or prevent a substantial threat to public health or safety or if required by court order.

(c) The commission may also render, on written request or on its own initiative, advisory opinions, and may allow for public comment before issuance of an advisory opinion. Such an opinion rendered by the commission shall be relied on by those subject to the commission's jurisdiction and until, or unless, amended, superseded, or revoked. Such opinion may also be relied upon by any such person, and may be introduced and shall be a defense, in any criminal or civil action.

8. Training. The commission shall establish a training unit and shall develop and administer an on-going program for the education and training in ethics and lobbying for those subject to the provisions of this section, as follows:

(a) The commission shall develop and administer a comprehensive and interactive live-in person or live-online ethics training course and shall designate and train instructors to conduct such training. Such live course shall be designed to include practical application of the material covered and a question-and-answer participatory segment. Unless the commission grants an extension or waiver for good cause shown, statewide elected officials, members of the legislature and employees of the legislature, and state officers and employees as defined in sections seventy-three, seventy-three-a, and seventy-four of the public officers law, and the political party chair as is defined in section seventy-three of the public officers law, shall complete the live course within ninety days of appointment or employment and shall complete the live course every two years subsequently.

(b) The commission shall develop and administer an online ethics refresher course for all individuals listed under subparagraph (i) of

this paragraph who have previously completed the live course. Such refresher course shall be designed to include any changes in law, regulation, or policy or in the interpretation thereof, and practical application of the material covered. Unless the commission grants an extension or waiver for good cause shown, such individuals shall take such refresher course once every year after having completed the live course under paragraph (a) of this subdivision.

(c) The commission shall develop and administer an online live question and answer course for agency ethics officers.

(d) The commission shall develop and administer training courses for lobbyists and clients of lobbyists and adopt regulations and procedures related to such training courses including, but not limited to, establishing deadlines for training course completion.

(d-1) The commission may impose a fee upon lobbyists and clients of lobbyists for late completion of the training course required by this subdivision, as set forth in section one-d of the legislative law.

(e) The provisions of this subdivision shall be applicable to the legislature except to the extent that an ethics training program is otherwise established by the assembly and/or senate for their respective members and employees and such program meets or exceeds each of the requirements set forth in this subdivision.

(f) On an annual basis, the commission, in coordination with the legislative ethics commission, shall determine the status of compliance with the training requirements under this subdivision by each state agency and by the senate and the assembly. Such determination shall include aggregate statistics regarding participation in such training and shall be reported on a quarterly basis to the governor and the legislature in writing.

9. Financial disclosure statements. (a) The commission may delegate all or part of review, inquiry and advice in this section to the staff under the supervision of the executive director.

(b) The commission shall make available forms for annual statements of financial disclosure required to be filed pursuant to section seventy-three-a of the public officers law.

(c) The commission shall review the financial disclosure statements of the statewide elected officials and members of the legislature within

sixty days of their filings to determine, among other things, deficiencies and conflicts.

(d) The commission shall review on a random basis the financial disclosure statements for filers who are not statewide elected officials and members of the legislature.

(e) The commission shall review financial disclosure statements filed in accordance with the provisions of this section and (i) inquire into any disclosed conflict to recommend how best to address such conflict; and

(ii) ascertain whether any person subject to the reporting requirements of section seventy-three-a of the public officers law has failed to file such a statement, has filed a deficient statement or has filed a statement which reveals a possible violation of section seventy-three, seventy-three-a or seventy-four of the public officers law.

(f) If a person required to file a financial disclosure statement with the commission has failed to file a disclosure statement or has filed a deficient statement, the commission shall notify the reporting person in writing, state the failure to file or detail the deficiency, provide the person with a fifteen-day period to cure the deficiency, and advise the person of the penalties for failure to comply with the reporting requirements. This first notice of deficiency shall be confidential. If the person fails to make such filing or fails to cure the deficiency within the specified time period, the commission shall send a notice of delinquency (i) to the reporting person; (ii) in the case of a statewide elected official, to the chief of staff or counsel to the statewide elected official; (iii) in the case of a member of the legislature or a legislative employee, to the temporary president of the senate and the speaker of the assembly; and (iv) in the case of a state officer, employee or board member, to the appointing authority for such person. Such notice of delinquency may be sent at any time during the reporting person's service as a statewide elected official, state officer or employee, member of the assembly or the senate, or a legislative employee or a political party chair or while a candidate for statewide office, or within one year after termination of such service or candidacy. A copy of any notice of delinquency or report shall be included in the reporting person's file and be available for public

inspection and copying pursuant to the provisions of this section. The jurisdiction of the commission, when acting pursuant to this subdivision with respect to financial disclosure, shall continue for two years notwithstanding that the reporting person separates from state service, or ceases to hold public or political party office, or ceases to be a candidate, provided the commission notifies such person of the alleged failure to file or deficient filing pursuant to this subdivision.

(g) The commission shall adopt a procedure whereby a person who is required to file an annual financial disclosure statement with the commission may request an additional period of time within which to file such statement, other than members of the legislature, candidates for members of the legislature and legislative employees, due to justifiable cause or undue hardship.

(h) The commission may permit any person who is required to file a financial disclosure statement with the commission to request that the commission delete from the copy thereof made available for public inspection and copying one or more items of information which may be deleted by the commission upon a finding by the commission that the information which would otherwise be required to be made available for public inspection and copying will have no material bearing on the discharge of the reporting person's official duties. If such request for deletion is denied, the commission, in its notification of denial, shall inform the person of their right to appeal the commission's determination in a proceeding commenced against the commission, pursuant to article seventy-eight of the civil practice law and rules.

(i) The commission may permit any person who is required to file a financial disclosure statement with the commission to request an exemption from any requirement to report one or more items of information which pertain to such person's spouse, domestic partner, or unemancipated children which item or items may be exempted by the commission upon a finding by the commission that the reporting individual's spouse, domestic partner, on their own behalf, or on behalf of an unemancipated child, objects to providing the information necessary to make such disclosure and that the information which would otherwise be required to be reported shall have no material bearing on the discharge of the reporting person's official duties. If such request for exemption is denied, the commission, in its notification of denial,

shall inform the person of their right to appeal the commission's determination, pursuant to article seventy-eight of the civil practice law and rules.

(j) The commission may permit any person required to file a financial disclosure statement to request an exemption from any requirement to report the identity of a client pursuant to the question under subparagraph (b) of paragraph eight of subdivision three of section seventy-three-a of the public officers law in such statement based upon an exemption set forth in such question. The reporting individual need not seek an exemption to refrain from disclosing the identity of any client with respect to any matter where they or their firm provided legal representation to the client in connection with an investigation or prosecution by law enforcement authorities, bankruptcy, or domestic relations matters. In addition, clients or customers receiving medical or dental services, mental health services, residential real estate brokering services, or insurance brokering services need not be disclosed. Pending any application for deletion or exemption to the commission relating to the filing of a financial disclosure statement, all information which is the subject or part of the application shall remain confidential. Upon an adverse determination by the commission, the reporting individual may request, and upon such request the commission shall provide, that any information that is the subject or part of the application remain confidential for a period of thirty days following notice of such determination. In the event that the reporting individual resigns their office and holds no other office subject to the jurisdiction of the commission, the information shall not be made public and shall be expunged in its entirety.

(k) The commission shall permit any person who has not been determined by the person's appointing authority to hold a policy-making position, but who is otherwise required to file a financial disclosure statement to request an exemption from such requirement in accordance with rules and regulations governing such exemptions. Such rules and regulations shall provide for exemptions to be granted either on the application of an individual or on behalf of persons who share the same job title or employment classification which the commission deems to be comparable for purposes of this section. Such rules and regulations may permit the granting of an exemption where, in the discretion of the commission, the

public interest does not require disclosure and the applicant's duties do not involve the negotiation, authorization or approval of:

(i) contracts, leases, franchises, revocable consents, concessions, variances, special permits, or licenses as such terms are defined in section seventy-three of the public officers law;

(ii) the purchase, sale, rental or lease of real property, goods or services, or a contract therefor;

(iii) the obtaining of grants of money or loans; or

(iv) the adoption or repeal of any rule or regulation having the force and effect of law.

10. Investigation and enforcement. (a) The commission shall receive complaints and referrals alleging violations of section seventy-three, seventy-three-a or seventy-four of the public officers law, article one-A and section five-b of the legislative law, or section one hundred seven of the civil service law.

(b) Upon the receipt of a complaint, referral, or the commencement of an investigation, members of the commission shall disclose to the commission any personal, professional, financial, or other direct or indirect relationships a member of the commission may have with a complainant or respondent. If any commissioner determines a conflict of interest may exist, the commissioner shall, in writing, notify the other members of the commission setting forth the possible conflict of interest. The commissioner may recuse themself from all subsequent involvement in the consideration and determination of the matter. If, after the disclosure, the commissioner does not recuse themself from the matter, the commission, by a majority vote finding that the disclosed information creates a substantial conflict of interest, shall remove the conflicted commissioner from all subsequent involvement in the consideration and determination of the matter, provided the reason for the decision is clearly stated in the determination of the commission.

(c) The commission shall conduct any investigation necessary to carry out the provisions of this section. Pursuant to this power and duty, the commission may administer oaths or affirmations, subpoena witnesses, compel their attendance and testimony, and require the production of any books or records which it may deem relevant or material. The commission may, by a majority vote and pursuant to regulations adopted pursuant to

the state administrative procedure act, delegate to the executive director the authority to issue subpoenas, provided that the executive director first notify the chair of the commission.

(d) The commission staff shall review and investigate, as appropriate, any information in the nature of a complaint or referral received by the commission or initiated by the commission, including through its review of media reports and other information, where there is specific and credible evidence that a violation of section seventy-three, seventy-three-a, or seventy-four of the public officers law, section one hundred seven of the civil service law or article one-A of the legislative law by a person or entity subject to the jurisdiction of the commission including members of the legislature and legislative employees and candidates for members of the legislature.

(e) The commission shall notify the complainant, if any, that the commission has received their complaint.

(f) If, following a preliminary review of any complaint or referral, the commission or commission staff decides to elevate such preliminary review into an investigation, written notice shall be provided to the respondent setting forth, to the extent the commission is able to, the possible or alleged violation or violations of such law and a description of the allegations against the respondent and the evidence, if any, already gathered pertaining to such allegations, provided however that any information that may, in the judgment of the commission or staff, either be prejudicial to the complainant or compromise the investigation shall be redacted. The respondent shall have fifteen days from receipt of the written notice to provide any preliminary response or information the respondent determines may benefit the commission or commission staff in its work. After the review and investigation, the staff shall prepare a report to the commission setting forth the allegation or allegations made, the evidence gathered in the review and investigation tending to support and disprove, if any, the allegation or allegations, the relevant law, and a recommendation for the closing of the matter as unfounded or unsubstantiated, for settlement, for guidance, or moving the matter to a confidential due process hearing. The commission shall, by majority vote, return the matter to the staff for further investigation or accept or reject the staff recommendation.

(g) In an investigation involving a victim the commission shall ensure

that any interview of such victim is upon such victim's consent and that the investigator or investigators interviewing such victim have adequate trauma informed and victim centered investigative training. If a victim is requested to testify at a hearing, the commission shall provide sufficient notice to the victim of such request. Regardless of whether a victim is requested to or testifies at a hearing, the victim shall be informed as to how any statements made or information provided will be used in an investigation.

(h) Upon the conclusion of an investigation, if the commission, after consideration of a staff report, determines by majority vote that there is credible evidence of a violation of the laws under its jurisdiction, it shall provide the respondent timely notice for a due process hearing. The commission shall also inform the respondent of its rules regarding the conduct of adjudicatory proceedings and appeals and the other due process procedural mechanisms available to the respondent. If after a hearing the complaint is unsubstantiated or unfounded, the commission shall provide written notice to the respondent, complainant, if any, and victim, if any, provided that such notice shall not include any personally identifying information or information tending to identify any party involved in an investigation.

(i) The hearing shall be conducted before an independent arbitrator. Such hearing shall afford the respondent with a reasonable opportunity to appear in person, and by attorney, give sworn testimony, present evidence, and cross-examine witnesses.

(j) The commission may, at any time, develop procedures and rules for resolution of de minimus or minor violations that can be resolved outside of the enforcement process, including the sending of a confidential guidance or educational letter.

(k) The jurisdiction of the commission when acting pursuant to this section shall continue notwithstanding that a statewide elected official or a state officer or employee or member of the legislature or legislative employee separates from state service, or a political party chair ceases to hold such office, or a candidate ceases to be a candidate, or a lobbyist or client of a lobbyist ceases to act as such, provided that the commission notifies such individual or entity of the alleged violation of law within two years from the individual's separation from state service or termination of party service or

candidacy, or from the last report filed pursuant to article one-A of the legislative law. Nothing in this section shall serve to limit the jurisdiction of the commission in enforcement of subdivision eight of section seventy-three of the public officers law.

(l) If the commission's vote to proceed to a due process hearing after the completion of an investigation does not carry, the commission shall provide written notice of the decision to the respondent, complainant, if any, and victim, if any, provided that such notice shall not include any personally identifying information or information tending to identify any party involved in an investigation.

(m) If the commission determines a complaint or referral lacks specific and credible evidence of a violation of the laws under its jurisdiction, or a matter is closed due to the allegations being unsubstantiated prior to a vote by the commission, such records and all related material shall be exempt from public disclosure under article six of the public officers law, except the commission's vote shall be publicly disclosed in accordance with articles six and seven of the public officers law. The commission shall provide written notice of such closure to the respondent, complainant, if any, or victim, if any, provided that such notice shall not include any personally identifying information or information tending to identify any party involved in an investigation.

(n) (i) An individual subject to the jurisdiction of the commission who knowingly and intentionally violates the provisions of subdivisions two through five-a, seven, eight, twelve or fourteen through seventeen of section seventy-three of the public officers law, section one hundred seven of the civil service law, or a reporting individual who knowingly and willfully fails to file an annual statement of financial disclosure or who knowingly and willfully with intent to deceive makes a false statement or fraudulent omission or gives information which such individual knows to be false on such statement of financial disclosure filed pursuant to section seventy-three-a of the public officers law, shall be subject to a civil penalty in an amount not to exceed forty thousand dollars and the value of any gift, compensation or benefit received as a result of such violation.

(ii) An individual who knowingly and intentionally violates the provisions of paragraph a, b, c, d, e, g, or i of subdivision three of

section seventy-four of the public officers law, shall be subject to a civil penalty in an amount not to exceed ten thousand dollars and the value of any gift, compensation or benefit received as a result of such violation.

(iii) An individual subject to the jurisdiction of the commission who knowingly and willfully violates article one-A of the legislative law shall be subject to civil penalty as provided for in that article.

(iv) With respect to a potential violation of any criminal law where the commission finds sufficient cause by a majority vote, it shall refer such matter to the appropriate law enforcement authority for further investigation.

(v) In assessing the amount of the civil penalties to be imposed, the commission shall consider the seriousness of the violation, the amount of gain to the individual and whether the individual previously had any civil or criminal penalties imposed pursuant to this section, and any other factors the commission deems appropriate.

(vi) A civil penalty for false filing shall not be imposed under this subdivision in the event a category of "value" or "amount" reported hereunder is incorrect unless such reported information is falsely understated.

(vii) Notwithstanding any other provision of law to the contrary, no other penalty, civil or criminal may be imposed for a failure to file, or for a false filing, of such statement, or a violation of subdivision six of section seventy-three of the public officers law or section one hundred seven of the civil service law, except that the commission may recommend that the individual in violation of such subdivision or section be disciplined.

(o) The commission shall be deemed to be an agency within the meaning of article three of the state administrative procedure act and shall adopt rules governing the conduct of adjudicatory proceedings and appeals taken pursuant to a proceeding commenced under article seventy-eight of the civil practice law and rules relating to the assessment of the civil penalties or the recommendation of employee discipline herein authorized. Such rule shall provide for due process procedural mechanisms substantially similar to those set forth in article three of the state administrative procedure act but such mechanisms need not be identical in terms or scope.

(p) (i) The commission shall have jurisdiction to investigate, but shall have no jurisdiction to impose penalties or discipline upon members of or candidates for member of the legislature or legislative employees for any violation of the public officers law or section one hundred seven of the civil service law. If, after investigation and a due process hearing, the commission has found, by a majority vote, a substantial basis to conclude that a member of the legislature or a legislative employee or candidate for member of the legislature has violated any provisions of such laws, it shall prepare a written report of its findings and provide a copy of that report to the legislative ethics commission, and to such individual in violation of such law. The commission shall provide to the legislative ethics commission copies of the full investigative file and hearing record.

(ii) With respect to the investigation of any individual who is not a member of the legislature or a legislative employee or candidate for member of the legislature, if after its investigation and due process hearing, the commission has found, by a majority vote, a substantial basis to conclude that the individual or entity has violated the public officers law, section one hundred seven of the civil service law, or the legislative law, the commission shall determine whether, in addition to or in lieu of any fine authorized by this article, the matter should be referred to their employer for discipline with a warning, admonition, censure, suspension or termination or other appropriate discipline. With regard to statewide elected officials, the commission may not order suspension or termination but may recommend impeachment. The commission shall then issue a report containing its determinations including its findings of fact and conclusions of law to the complainant and respondent. The commission shall publish such report on its website within twenty days of its delivery to the complainant and respondent.

11. Confidentiality. (a) When an individual becomes a commissioner or staff of the commission, such individual shall be required to sign a non-disclosure statement.

(b) Except as otherwise required or provided by law, or when necessary to inform the complainant or respondent of the alleged violation of law, if any, of the status of an investigation, testimony received, or any other information obtained by a commissioner or staff of the commission,

shall not be disclosed by any such individual to any person or entity outside of the commission during the pendency of any matter. Any confidential communication to any person or entity outside the commission related to the matters before the commission shall occur only as authorized by the commission. For the purposes of this paragraph, "matter" shall mean any complaint, review, inquiry, or investigation into alleged violations of this chapter.

(c) The commission shall establish procedures necessary to prevent the unauthorized disclosure of any information received by any member of the commission or staff of the commission. Any breaches of confidentiality may be investigated by the New York state office of the inspector general, attorney general, or other appropriate law enforcement authority upon a majority vote of the commission to refer, and appropriate action shall be taken.

(d) Any commission member or person employed by the commission who intentionally and without authorization releases confidential information received or generated by the commission shall be guilty of a class A misdemeanor.

12. Annual report. (a) The commission shall make an annual public report summarizing the activities of the commission during the previous year and recommending any changes in the laws governing the conduct of persons subject to the jurisdiction of the commission, or the rules, regulations and procedures governing the commission's conduct. Such report shall include, but is not limited to:

(i) information on the number and type of complaints received by the commission and the status of such complaints;

(ii) information on the number of investigations pending and nature of such investigations;

(iii) where a matter has been resolved, the date and nature of the disposition and any sanction imposed; provided, however, that such annual report shall not contain any information for which disclosure is not permitted pursuant to this section or other laws;

(iv) information regarding financial disclosure compliance for the preceding year; and

(v) information regarding lobbying law filing compliance for the preceding year.

(b) Such a report shall be filed in the office of the governor and with the legislature on or before the first day of April for the preceding year.

13. Website. (a) Within one hundred twenty days of the effective date of this section, the commission shall update JCOPE's publicly accessible website which shall set forth the procedure for filing a complaint with the commission, the filing of financial disclosure statements filed by state officers or employees or legislative employees, the filing of statements required by article one-A of the legislative law, and any other records or information which the commission determines to be appropriate.

(b) The commission shall post on its website the following documents:

(i) the information set forth in an annual statement of financial disclosure filed pursuant to section seventy-three-a of the public officers law except information deleted pursuant to paragraph (g) of subdivision nine of this section of statewide elected officials and members of the legislature;

(ii) notices of delinquency sent under subdivision nine of this section;

(iii) notices of civil assessments imposed under this section which shall include a description of the nature of the alleged wrongdoing, the procedural history of the complaint, the findings and determinations made by the commission, and any sanction imposed;

(iv) the terms of any settlement or compromise of a complaint or referral which includes a fine, penalty or other remedy;

(v) those required to be held or maintained publicly available pursuant to article one-A of the legislative law; and

(vi) reports issued by the commission pursuant to this section.

14. Additional powers. In addition to any other powers and duties specified by law, the commission shall have the power and duty to administer and enforce all the provisions of this section.

15. Severability. If any part or provision of this section or the application thereof to any person or organization is adjudged by a court of competent jurisdiction to be unconstitutional or otherwise invalid,

such judgment shall not affect or impair any other part or provision or the application thereof to any other person or organization, but shall be confined in its operation to such part or provision.

§ 94-a. Consumer protection division. 1. Legislative declaration. The legislature hereby finds and declares that the consumption of goods and services is an economic activity that affects the life of every citizen. The legislature further finds that unscrupulous and questionable business practices are detrimental to the economic well-being of the citizens of this state. In order to protect the people of New York state from economic harm the legislature finds that it is appropriate that the responsibilities of the consumer protection board be consolidated into a new consumer protection division under the supervision of the secretary.

2. Consumer protection division. (a) The secretary shall establish a consumer protection division in the department.

(b) The secretary is authorized to establish within the consumer protection division one or more units and assign appropriate functions to any such unit and may appoint such staff as necessary and prescribe their duties and fix their compensation within the appropriation provided by law.

(c) The secretary shall establish a public education and outreach campaign to publicize the consumer protection division so as to maximize public awareness of, and the services provided by, such division.

3. Powers of the consumer protection division. (a) The division shall have the power and duty to:

(1) receive complaints of consumers, attempt to mediate such complaints where appropriate, and refer complaints to the appropriate unit of the department, or federal, state or local agency authorized by law for appropriate action on such complaints;

(2) coordinate the activities of all state agencies performing consumer protection functions;

(3) initiate and encourage consumer education programs;

(4) conduct investigations, research, studies and analyses of matters affecting the interests of consumers;

(5) cooperate with and assist the attorney general and the department of financial services in the carrying out of legal enforcement responsibilities for the protection of consumers;

(6) implement other powers and duties by regulation and otherwise as prescribed by any provision of law;

(7) (i) advise and make recommendations to the governor on matters affecting the consumers of the state and promote and encourage the protection of the legitimate interests of consumers within the state;

(ii) study the operation of consumer protection laws and recommend to the governor new laws and amendments of laws for consumer protection;

(8) represent the interests of consumers of the state before federal, state and local administrative and regulatory agencies;

(9) establish a process by which victims of identity theft will receive assistance and information to resolve complaints. To implement the process the secretary shall have the authority to:

(i) promulgate rules and regulations to administer the identity theft prevention and mitigation program; and

(ii) act as a liaison between the victim and any state agency, public authority, or any municipal department or agency, the division of state police, and county or municipal police departments, and any non-governmental entity, including but not limited to, consumer credit reporting agencies, to facilitate the victim obtaining such assistance and data as will enable the program to carry out its duties to help consumers resolve the problems that have resulted from the identity theft. Trade secrets and proprietary business information contained in the documents or records that may be received by the division shall be exempt from disclosure to the extent allowed by article six of the public officers law;

(10) undertake activities to encourage business and industry to maintain high standards of honesty, fair business practices, and public responsibility in the production, promotion and sale of consumer goods and services;

(11) conduct product research and testing and, where appropriate, contract with private agencies and firms for the performance of such services;

(12) cooperate with and assist local governments in the development of consumer protection activities;

(13) establish advisory councils to assist in policy formulation on specific consumer problems;

(14) cooperate with and assist consumers in class actions in proper cases;

(15) create an internet website or webpage pursuant to section three hundred ninety-c of the general business law, as added by chapter five hundred nine of the laws of two thousand seven; and

(16) exercise such powers and duties granted to the secretary by article sixteen of the energy law as the secretary may direct, including, but not limited to: consult with such president of the New York state energy research and development authority in connection with investigations conducted by such president pursuant to article sixteen of the energy law; make determinations relating to compliance by products with the standards adopted pursuant to article sixteen of the energy law; order the immediate cessation of any distribution, sale or offer for sale, import, or installation of any product that does not meet such standards; and impose civil penalties as contemplated by article sixteen of the energy law.

4. Utility intervention unit. (a) There is established within the division a state utility intervention unit.

(b) The utility intervention unit shall have the power and duty to:

(i) on behalf of the secretary, initiate, intervene in, or participate in any proceedings before the public service commission or the department of public service, to the extent authorized by sections three-b, twenty-four-a, seventy-one, eighty-four or ninety-six of the public service law or any other applicable provision of law, where he or she deems such initiation, intervention or participation to be necessary or appropriate;

(ii) represent the interests of consumers of the state before federal, state and local administrative and regulatory agencies engaged in the regulation of energy services;

(iii) accept and investigate complaints of any kind from Long Island power authority consumers, attempt to mediate such complaints where appropriate directly with such authority and refer complaints to the appropriate state or local agency authorized by law to take action with respect to such complaints; and

(iv) hold regular forums in each of the service territories of the combination gas and electric corporations, as defined under section two of the public service law, and the Long Island power authority to educate consumers about utility-related matters and the regulatory process, opportunities to lower energy costs, including through energy efficiency and distributed generation, and other matters affecting consumers.

5. Reports. (a) No later than March fifteenth of each year, beginning in two thousand twelve, the secretary shall furnish to the governor, the speaker of the assembly and the temporary president of the senate a report describing the activities of the consumer protection division. The secretary shall prepare quarterly a report to the governor, the speaker of the assembly and the temporary president of the senate of the category and number of complaints received by the division during the previous quarter in sufficient detail to assist the recipients in determining the need for additional laws for the protection of the consumer. Additionally, all such complaints received by the division shall be maintained on a category by category basis.

(b) No later than January first, two thousand twelve, the secretary shall furnish to the governor, the speaker of the assembly and the temporary president of the senate a report describing the activities of the consumer protection division regarding the public education and outreach campaign required pursuant to paragraph (c) of subdivision two of this section.

§ 94-b. Office for new Americans. 1. Legislative intent. The legislature hereby finds and declares that, according to the 2010 census, approximately twenty-two percent of New Yorkers were not born in the United States, nine percent above the national average. For years immigrants have come to the United States to make a better life for themselves. It is of utmost importance to the state that these new Americans be given the tools to assist them in making a better life for themselves, particularly through programs that help develop and leverage their skills and strengthen their connections with their communities and through programs to reduce exploitation of vulnerable immigrant

populations.

2. Definitions. For the purposes of this section, the terms "new American" and "immigrant" shall refer to non-citizen domicilaries of New York state whose country of origin is other than the United States.

3. Office for new Americans; director. There is hereby created within the department of state the office for new Americans. The secretary shall appoint a director of the office to accomplish the responsibilities set forth in this section. Such director shall receive an annual salary within amounts appropriated and shall serve at the pleasure of the secretary.

4. Organization of the office for new Americans. The secretary shall have the power to establish, consolidate, reorganize, or abolish any organizational units within the office as he or she determines to be necessary for efficient operation thereof. The secretary shall assign functions to any such unit and may appoint staff, agents, and consultants, prescribe their duties, and fix their compensation within amounts appropriated.

5. Powers and duties of the office for new Americans. The office for new Americans shall have the power and responsibility to:

(a) Create a network of neighborhood-based opportunity centers;

(b) Increase access to English-for-speakers-of-other-languages (ESOL) training, including by engaging not-for-profit organizations and other qualified providers of ESOL training services;

(c) Assist immigrants in matters relating to immigration status, including but not limited to assisting with the naturalization process and applications for deferred action for childhood arrivals;

(d) Connect immigrants to business resources that harness their skills, employment referral programs, and other workforce development programs;

(e) Develop and leverage the skills of immigrants to benefit their communities and the state;

(f) Strengthen the connections between immigrants and their communities through civic engagement;

(g) Reduce exploitation of immigrants;

(h) Establish a toll-free multi-lingual hotline and a website for purposes including but not limited to dissemination of information about the programs and services offered by the office for new Americans, referral for services, and receipt of complaints relating to fraud and other related crimes against immigrants;

(i) Ensure that individuals referred by the office are directed to service providers who are in compliance with article twenty-eight-C of the general business law or providers certified by the bureau of immigration appeals;

(j) Using information developed by the office through the hotline, assist law enforcement in combatting crimes against immigrants;

(k) Advise the governor and secretary concerning matters affecting immigrants in the state in order to promote and encourage the full participation of immigrants in the state's civic and economic life;

(l) Coordinate with other state agencies and otherwise marshal the resources of the state to serve the needs of immigrants;

(m) Encourage and assist local governments in the development of activities to enhance civic engagement among immigrants and in immigrant communities;

(n) Beginning in two thousand fifteen, by June fifteenth of each year, produce a report to the governor, the speaker of the assembly, and the temporary president of the senate describing the activities of the office, including but not limited to, summarizing calls received through the hotline and website, information on ESOL training services provided by the office, the number of immigrants assisted through the opportunity centers, or an estimation thereof, the status of any workforce development programs, and any other relevant information;

(o) Encourage the development of and provide for the establishment of a state military immigrant family legacy program liaison, as provided in section twenty-nine-b of the veterans' services law; and

(p) Request individuals seeking assistance from the office answer the following questions: "Have you served in the United States military?" "Has someone in your family served in the United States military?" Individuals identifying themselves or a family member as "intended recipients" of the staff sergeant Alex R. Jimenez New York state military immigrant family legacy program as such term is defined in

paragraph (e) of subdivision one of section twenty-nine-b of the veterans' services law, shall be advised of such program. In addition, such individuals shall be informed that the department of veterans' services and local veterans' service agencies established pursuant to section seventeen of the veterans' services law provide assistance to uniformed service members, veterans and their families regarding benefits available under federal and state law. Information regarding veterans and military status provided by assisted individuals shall be protected as personal confidential material, and used only to identify such individuals as "intended recipients" of the staff sergeant Alex R. Jimenez New York State military immigrant family legacy program, and to assist such individuals in matters relating to immigration status and citizenship, and in referring such individuals to the department of veterans' services or local veterans' service agencies for information and assistance with regard to benefits and entitlements under federal and state law.

*** § 94-d. New York Asian American and Pacific Islander commission.** 1. (a) There is hereby established within the department of state the New York Asian American and Pacific Islander commission. The commission shall consist of thirteen members representative of Asian American and Pacific Islander communities which may include, but not be limited to: the Bangladeshi, Bhutanese, Cambodian, Chinese, Filipino, Hmong, Indian, Indonesian, Japanese, Korean, Laotian, Malaysian, Mongolian, Nepalese, Pakistani, Singaporean, Sri Lankan, Taiwanese, Thai, and Vietnamese communities. Such members shall have experience advocating on behalf of their community, and shall be appointed as follows:

(1) seven members shall be appointed by the governor;

(2) two members shall be appointed by the temporary president of the senate;

(3) two members shall be appointed by the speaker of the assembly;

(4) one member shall be appointed by the minority leader of the senate; and

(5) one member shall be appointed by the minority leader of the assembly.

The secretary of state, or their designee, shall serve as chair of the commission.

(b) Each member of the commission shall serve a term of three years, except that in making the first appointments to the commission, four members shall be appointed to serve for one year, four for two years, and five for three years. The first appointments made by the temporary president of the senate and speaker of the assembly shall be allocated equally between the one-year and two-year terms of service. The first appointments made by the minority leaders shall serve for three years. The first appointments made by the governor shall be as follows: two members shall be appointed to serve for one year, two members shall be appointed to serve for two years, and three members shall be appointed to serve for three years. The members shall be eligible for reappointment and shall serve until their successors are appointed and qualified, and the term of the successor of any incumbent shall be calculated from the expiration of the term of that incumbent. A vacancy occurring other than by expiration of term shall be filled in the same manner as the original appointment, but for the unexpired term only.

(c) A majority of the members of the commission shall constitute a quorum for the purpose of conducting the business thereof and a majority vote of all the members in office shall be necessary for action.

2. The commission shall make recommendations regarding the following:

(a) policies to improve the community, economic and social well-being, and the health and educational needs important to Asian American and Pacific Islander communities in the state;

(b) statewide programs, recognizing the continuing contributions of Asian American and Pacific Islander individuals in the state;

(c) public education campaigns regarding Asian American and Pacific Islander issues and culture;

(d) ways to increase the awareness among Asian American and Pacific Islander individuals of state and local resources that may benefit Asian American and Pacific Islander individuals and communities as a whole.

3. The members of the commission shall serve without compensation, but they shall be entitled to reimbursement for all necessary expenses incurred in the performance of their duties.

4. The commission shall submit an annual report on its activities to the governor and the legislature.

* NB Repealed November 17, 2028

§ 95. Legislative manual. The secretary of state, at the expense of the state, may in each odd-numbered year prepare and publish the legislative manual. The manual shall contain the constitution of the United States and of the state of New York, diagrams of the senate and assembly chambers, and such other information of the nature heretofore published therein, as the secretary may consider useful, and shall be printed and bound in substantially the same style as heretofore. As soon as printed, the secretary shall deliver a copy of the manual to each member and officer of the legislature, and to each state officer entitled to the session laws.

§ 96. Fees and refunds. Except as otherwise provided by section ninety-six-a of this chapter, the department of state shall collect the following fees:

1. For searching the records of the department for the availability of a corporate, limited partnership or limited liability company name, five dollars for each name submitted.

2. For searching the records of the department other than as set forth in subdivision one hereof, five dollars for each name in excess of five submitted by or on behalf of an applicant for a search.

3. For a copy of any paper or record not required to be certified or otherwise authenticated, fifty cents per page; except that the fee for a copy of any paper or record not required to be certified or otherwise authenticated which is furnished by the bureau of corporations of the department of state, shall be five dollars, regardless of the number of pages.

4. For a certified or exemplified copy of any law, record or paper, except a photostatic copy furnished by the department of state, one dollar per page; for a certified or exemplified copy of any law, record or paper reproduced by photostat by the department of state, fifty cents per page and in either case five dollars additional for the certificate under the official seal of the department of state, affixed thereto; except that the fee for a certified or exemplified copy of any record or paper which is furnished by the bureau of corporations of the department of state, shall be ten dollars, regardless of the number of pages or regardless of whether such document is reproduced by photostat.

5. For a certificate or authentication under the great seal of the state, ten dollars.

6. For a certificate as to the official character of a commissioner of deeds residing in another state or foreign country, one dollar.

7. For every other certificate under the official seal of the department of state, twenty-five dollars.

8. For registering and recording a notice of a mining claim as required by section eighty-two of the public lands law, fifty dollars.

9. (a) For filing under the general associations law or any corporation law, except the business corporation law and not-for-profit corporation law: a certificate of incorporation, one hundred twenty-five dollars; a certificate or report of voluntary dissolution, including the issuance of duplicate certificates by the secretary of state, and a certified copy of an order or judgment of dissolution, sixty dollars; the statement and designation of a foreign corporation, including the issuance of a certificate of authority, two hundred twenty-five dollars; a certificate of designation or change of address or any certificate of change of mailing address or office of a foreign corporation, other than a moneyed corporation, thirty dollars; any other certificate or instrument, sixty dollars.

(b) For filing under the business corporation law and the not-for-profit corporation law as set forth in those chapters.

10. For service of process on the secretary of state, acting as agent for a third party pursuant to law, except as otherwise specifically provided by law, forty dollars. No fee shall be collected for process served on behalf of a county, city, town or village or other political subdivision of the state. The fees paid the secretary of state shall be a taxable disbursement.

11. (a) For the special handling of requests made to the division of corporations of the department of state for any service for which a fee is collected as prescribed by law, twenty-five dollars. For the purposes of this section the term "special handling" shall mean the completion of the request within twenty-four hours of receipt of the request, except in those cases where the twenty-four hour period shall end on a Saturday, Sunday, holiday or day on which the division of corporations of the department of state is not open for business, in which case the twenty-four hour period shall be extended to the appropriate hour of the next succeeding business day on which such division is open for business.

(b) For the same day expedited handling of requests made to the division of corporations of the department of state for any service for which a fee is collected as prescribed by law, seventy-five dollars. For the purposes of this section the term "same day expedited handling" shall mean the completion of the request on the same day as the day of request.

(c) For the two hour priority handling of requests made to the division of corporations of the department of state for any service for which a fee is collected as prescribed by law, one hundred fifty dollars. For the purposes of this section the term "two hour priority handling" shall mean the completion of the request within two hours on the same day as the day of the request.

(d) For handling of non-expedited requests made to the division of corporations of the department of state for any service for which a fee is collected as prescribed by law, the completion of such request shall be accomplished within seven business days.

12. For the filing, recording or registering of any certificate,

notice or other paper required to be filed, recorded or registered, the fee for which is not otherwise prescribed by law, twenty-five dollars.

13. Except as otherwise specifically provided by law, the department of state may refund, within three years from the date of payment and upon audit of the state comptroller, any fee or portion of a fee paid pursuant to any of the statutes which the department is charged by law to administer, in any case in which:

a. the license, permit, or certificate applied for is not issued, or does not take effect, or

b. the filing or certification requested is not made, or

c. the service requested is not rendered, or

d. the payment made is in excess of the amount prescribed by such statute, or

e. the licensee has entered the active armed services of the United States in which event the refund shall be such proportion of the license fee paid as the number of full months remaining unexpired of the license period bears to the total number of months in such period.

14. No fee shall be collected for copies of records furnished to state officers as defined in the public officers law, section two, for use in their official capacity.

15. The department of state shall on or before the tenth day of each month, out of the moneys collected during the preceding month pursuant to subdivision nine of this section, pay over to each county clerk in whose office a certified copy of a corporation certificate or other instrument relating to a domestic or foreign corporation shall have been filed by the department during the preceding month pursuant to law the sum of six dollars for each such copy of a corporation certificate or other instrument for which the department shall have collected a filing fee of thirty dollars or more, and the sum of one dollar for each such

copy of a corporation certificate or other instrument for which the department shall have collected a sum of less than thirty dollars, and such payment shall be received by the county clerk in full satisfaction of all fees for filing such copy, any other general or special law to the contrary notwithstanding. All such moneys remaining after such payments to the county clerks shall be paid pursuant to section one hundred twenty-one of the state finance law.

16. Consistent with the provisions of the corporate laws of the state of New York, the department of state shall produce or reproduce the content of any informational systems maintained pursuant to such laws. The secretary of state shall establish the type and amount of the reasonable fees to be collected by the department of state for such informational systems. Such fees shall be subject to approval of the director of the budget and shall be promulgated in the official rules and regulations of the department of state in accordance with the provisions of the state administrative procedure act.

17. For receipt of a village incorporation petition pursuant to section 2-202 of the village law, two hundred fifty dollars.

§ 96-a. Fees for services rendered pursuant to the uniform commercial code. 1. In case of conflict between this section and any other provision of law, this section shall control.

2. The secretary of state shall determine the type and amount of all fees to be collected by the department of state and other filing offices for services rendered by said department or office pursuant to the provisions of the uniform commercial code and article ten-A of the lien law. Such fees, referred to as processing fees, shall be non-refundable fees paid to the department of state or office at the time that documents are presented to the department of state or office for filing, and will be paid whether or not the documents are accepted for filing. Such fees shall be subject to the approval of the director of the budget and shall be promulgated in the official rules and regulations of the department of state in accordance with the provisions of the state

administrative procedure act. Nothing contained in this subdivision shall preclude the secretary of state from periodically changing such fees, subject to the approval of the director of the budget, and from periodically amending the official rules and regulations of the department of state in accordance with the provisions of the state administrative procedure act.

3. Consistent with the provisions of article nine of the uniform commercial code and article ten-A of the lien law, the department of state and other filing offices shall produce or reproduce the content of any informational systems maintained pursuant to such laws. The secretary of state and other filing offices shall establish reasonable fees for information so produced or reproduced. Notwithstanding any other provisions of law, the availability of such information shall be determined solely by the provisions of the uniform commercial code.

§ 97. Completing unfinished papers. The secretary of state shall have power to complete and sign and certify in his own name, adding to his signature the date of so doing, all records of incorporation papers and other papers left incomplete or unsigned by any of his predecessors, with the same force and effect as though said records had been duly signed by such predecessors.

§ 97-a. Affirmation in lieu of oath. Any application for a license or registration required by law to be filed with the department of state may, in lieu of being acknowledged or sworn under oath, be subscribed by the applicant and affirmed by him or her as true under penalties of perjury.

§ 98. Copies of amendments to rules for admission of attorneys. The secretary of state must cause to be published in the next ensuing volume of the session laws each amendment of the rules established by the court of appeals for the admission of attorneys and counselors, filed with him pursuant to the judiciary law.

§ 99. Central state registry of security guards. 1. The department shall collect information and maintain, on a current basis, a registry of all security guards and applicants for registration cards in the state. Such registry shall include, but not be limited to, with respect to each security guard or applicant as the case may be, his or her name, address, date of birth, whether a registration card has been issued, denied, suspended or revoked or has expired, and the security guard company or companies by whom he or she is or has been employed and such other information as may in the discretion of the secretary be appropriate; provided, however, that in no case shall such registry include criminal history information.

2. Each security guard company as defined in subdivision five of section eighty-nine-f of the general business law which employs security guards shall transmit to the department, no later than the fifteenth day of January in the year next succeeding the year in which the provisions of this section become effective, a list which shall include but not be limited to the name of every security guard employed by such security guard company indicating with respect to each security guard his or her name, address, date of birth and such other information as may in the discretion of the secretary be appropriate; provided, however, that in no case shall such registry include criminal history information. Each such security guard company shall thereafter, submit to the department the name of each security guard employed or who has retired or resigned or whose employment as a security guard is terminated for any reason, no later than the fifteenth calendar day following such employment, retirement, resignation or termination, and, in the instance of newly appointed security guards, shall include all the information required to be furnished in the initial listing required by this subdivision. The information required to be submitted pursuant to this subdivision which is required by law to be kept confidential shall be kept confidential and all other information shall be released only pursuant to this section.

3. The department shall establish rules and regulations to provide for

a permanent system of identification for each security guard or applicant as the case may be, which will ensure the security and privacy of information contained in the registry and to ensure that such information is made available only to qualified agencies defined in subdivision nine of section eight hundred thirty-five of this chapter and to security guard companies only for the purposes enumerated in subdivision four of this section.

4. Notwithstanding any other provision of law, security guard companies, as defined in subdivision five of section eighty-nine-f of the general business law, shall, upon such terms and conditions as the department shall by rules and regulations prescribe, have timely access to information contained in the registry, with respect to security guards as defined in subdivision six of section eighty-nine-f of the general business law or applicants as defined in subdivision nine of section eighty-nine-f of the general business law, who as certified by such security guard companies making such inquiries are presently employed by or who have applied for employment by such security guard companies as security guards. Such information shall include but not be limited to employment history and such other information as may in the discretion of the secretary be appropriate and relevant to the employment of a security guard.

5. In the event of failure or refusal to comply with the requirements of subdivision two of this section, the secretary may apply to the supreme court for an order directed to the person responsible requiring compliance. Upon such application the court may issue such order as may be just, and a failure to comply with the order of the court shall be a contempt of court and punishable as such.

6. Whenever an applicant for or holder of a security guard registration card has been charged with a serious offense as defined by subdivision thirteen of section eighty-nine-f of the general business law or of a misdemeanor, the division shall notify the department and the department shall notify the security guard company which employs such applicant or which has filed the application on behalf of such applicant of such serious offense or a misdemeanor as provided for in

paragraph a of subdivision three of section eighty-nine-g of this article.

7. In the event that a registration card is not issued within six months following application therefor, or is not reissued within six months following the expiration thereof, unless the registration card has been suspended or revoked, the department shall so notify the division which shall thereupon destroy the set of fingerprints received with the application.

8. The department shall continue to maintain in the registry the information required to be kept pursuant to this article for security guards and applicants for a period of not less than five years following their termination, revocation, resignation, retirement or failure to be hired or renewed at which time the department shall purge from the registry such information.

9. Saving clause. In case it be judicially determined that any of the provisions of this section is unconstitutional or otherwise invalid, such determination shall not affect the validity or effect of the remaining provisions of this section.

§ 100. Central state registry of armored car guards. 1. The secretary of state shall maintain a computerized registry of all individuals who apply for a registration card or have been issued a registration card as an armored car guard pursuant to the provisions of article eight-C of the general business law. An armored car carrier, as that term is defined in subdivision six of section eighty-nine-bbb of the general business law, shall obtain only the name, address and armored car guard registration status of an employee or potential employee listed in such registry.

2. The secretary of state shall maintain all records collected for applicants pursuant to the armored car guard act for a period of five years after the applicant's termination as an armored car guard, retirement, resignation, death, failure to be rehired, or non-renewal of

the applicant's registration card. Every armored car carrier shall file with the secretary, on a monthly basis, a report, stating all armored car guards in their employ who have retired, resigned, died, been terminated, have not been rehired, or have otherwise been removed from active duty, in such form and on such media as approved for such purpose by the secretary.

§ 100-a. Information on state agencies pertaining to persons subjected to section seventy-three-a of the public officers law and who hold policy-making positions. 1. As used in this section "agency" means:

(a) any state department, board, bureau, division, council, committee, commission, or office;

(b) any other similar state public organization established pursuant to state statutes, executive order, or other executive action for the exercise of any function of state government and to which members are appointed or elected; and

(c) any public authority or public benefit corporation a majority of whose members are appointed by the governor or serve as members by virtue of holding state offices to which they were appointed by the governor, or any combination thereof.

2. "Agency" does not include:

(a) any informal advisory organization established exclusively by a state agency to advise a commissioner, secretary, or other director of that agency on an informal basis;

(b) the state legislature; and

(c) any local government or subdivision or entity thereof.

3. The secretary of state shall maintain a compilation of persons subjected to section seventy-three-a of the public officers law and who hold policy-making positions at all state agencies, including state agencies established after the effective date of this section. Such compilation shall identify by agency the persons subjected to section seventy-three-a of the public officers law and who hold policy-making positions, the length of time such positions have been held, and a representation of policy-making positions at such agency held by women

compared to policy-making positions held by men. The secretary of state shall keep such inventory in a public record available for inspection, and updated annually on the department of state website.

4. Each agency shall annually on or before January first, submit to the secretary of state all information required pursuant to this section in a manner specified by the secretary of state to facilitate the publication requirements of this section.

5. For the purposes of this section, "persons subjected to section seventy-three-a of the public officers law and who hold policy-making decisions" shall include, but not be limited to, a commissioner, a superintendent, an executive director, and other chief executive officers, positions appointed by the governor, as well as the appointments of the aforementioned whose function is essential to the policy-making processes of such agency, and any other position whose function is essential to the policy-making processes of such agency.

§ 101. Accessibility, rules and regulations. 1. The secretary of state, in consultation with any other state agency he or she deems necessary, shall promulgate any rules and regulations necessary to remove the word "handicapped" from any signs or other means of communication where such word appears.

2. The secretary of state, in consultation with any other state agency he or she deems necessary, shall promulgate rules and regulations necessary to require that wherever the current universal symbol of access of a figure in a wheelchair appears, such symbol shall instead depict a logo with a dynamic character leaning forward with a sense of movement. Such logo shall be readily identifiable, simply designed with no secondary meaning, and provide for equivalent facilitation and accessibility as the current universal symbol of access. The provisions of this subdivision shall only apply to any new signs being installed or replaced on and after the effective date of this section.

§ 101-a. Legislative notification of the proposed adoption, amendment, suspension or repeal of agency rules.

1. Definitions. As used in this section,

a. "Agency" means any state board, bureau, commission, department, authority, division, or officer authorized by law to make rules.

b. "Rule" means the whole or part of each agency statement of general applicability or regulation or code that implements or applies law, or prescribes the procedure or practice requirements of any agency, including the amendment, suspension or repeal thereof, except such as relates to the organization or internal management of the agency.

2. Except as provided in subdivision three of this section, at least sixty days prior to either the adoption of any rule, or, if a public hearing is required by statute, at least sixty days prior to the first public hearing on a proposed rule, the agency proposing to take such action shall send in writing or may transmit electronically in accordance with article three of the state technology law, a notification of such proposed action to the temporary president of the senate and the speaker of the assembly. This notification shall: (a) refer to the statutory authority under which the action is proposed, (b) give the time and place of any public hearing that may be scheduled concerning the proposed action, or state the manner in which data, views or arguments may be submitted to the agency concerning the proposed action, (c) contain a copy of the complete text of the proposed rule, and (d) contain a fiscal statement setting forth the fiscal consequences of the proposed action on the state and its local governments.

3. If the agency finds that it is necessary for the preservation of the public health, safety or general welfare to dispense with the requirements of subdivision two of this section, the agency may dispense with such requirements and adopt the rule, as an emergency measure. Within five days of the filing of such emergency measure in the office of the department of state, the agency taking such action shall send or transmit, as the case may be, the temporary president of the senate and

the speaker of the assembly a notification containing the information required by subdivision two of this section; provided, however, such notification shall also: (a) include a brief statement setting forth the reasons why the agency finds that it is necessary for the preservation of the public health, safety or general welfare to dispense with the requirements of subdivision two of this section and adopt the rule as an emergency measure, and (b) provide the date the emergency measure will terminate if the agency does not intend to adopt such measure as a permanent rule, or indicate that the agency intends to adopt such measure as a permanent rule, in which case compliance with the notification requirements of this section shall be deemed satisfied. The effectiveness of any such emergency measure, unless adopted as a permanent rule in the manner prescribed by law, shall not exceed ninety days after the filing of such measure in the office of the department of state, provided, however, if such emergency measure is readopted prior to the expiration of such ninety day period such readoption and any subsequent readoptions shall remain in effect for no longer than sixty days.

4. The legislature in the joint rules of the senate and assembly may exempt from the requirements of this section certain rules which have or would have no significant fiscal implications.

5. This section does not relieve any agency from compliance with any statute requiring that its rules be filed with or approved by designated persons or bodies before they become effective.

6. A proceeding to invalidate any rule on the ground of noncompliance with the procedural requirements of this section must be commenced by the temporary president of the senate or the speaker of the assembly within four months from the effective date of the rule. No rule shall be valid unless adopted in substantial compliance with this section; provided, however, that the inadvertent failure to give notice as provided in this section shall not invalidate any rule.

§ 101-b. Application by municipal corporations for the suspension of

certain rules.

1. Definitions. As used in this section,

a. "Agency" means any state board, bureau, commission, department, division or officer authorized by law to adopt rules.

b. "Rule" means the whole or part of each agency statement of general applicability or regulation or code that implements or applies law, including the amendment, suspension or repeal thereof.

c. "Municipal corporation" means a county outside the city of New York, a city, a town, a village or a school district.

d. "Governing body" means:

(1) In a county, a board of supervisors, county legislature or other body vested by its charter, other law or other valid enactment with jurisdiction to enact local laws;

(2) In a city, the board of aldermen, a common council, commission or other body vested by its charter or other law with jurisdiction to enact ordinances or local laws;

(3) In a town, the town board;

(4) In a village, the board of trustees; and

(5) In a school district, the board of education, board of trustees or sole trustee.

2. A municipal corporation may, by resolution adopted by its governing body, apply to the agency which has adopted a rule for the mandatory suspension of such rule for the balance of the municipal corporation's current fiscal year, provided the rule was filed in the office of the secretary of state after the commencement of the municipal corporation's current fiscal year.

3. Upon the receipt of such an application, the agency which adopted the rule shall forthwith by order suspend its applicability to the petitioning municipal corporation for the balance of such corporation's current fiscal year, unless the agency determines by order, within

thirty days of receipt of such application, that the immediate implementation of the rule is necessary for public health, safety or welfare, or that its postponement would be contrary to express provision of law. A copy of any order issued pursuant to this section shall be sent to the temporary president of the senate, the speaker of the assembly and the administrative regulations review commission.

4. This section shall not relieve a municipal corporation from complying with a rule until such time that the agency which has adopted the rule shall issue an order pursuant to this section suspending its applicability to such corporation.

§ 102. Filing and publication of codes, rules and regulations. 1. a. No code, rule or regulation shall become effective until it is filed with the secretary of state, unless a later date is required by statute or is specified by such code, rule or regulation.

b. Each department, board, bureau, officer, authority, commission or other agency of the state, authorized by statute to adopt codes, rules or regulations shall transmit to the secretary of state a certified copy of every such code, rule and regulation except such as relate solely to the organization or internal management of such department, board, bureau, authority, commission or other agency of the state in force at the time of such transmittal or to become effective thereafter, certified by the head of such department, board, bureau, authority, commission or other agency of the state, or if such head is a board or commission, by the chairman or secretary thereof, together with a citation of the statutory authority pursuant to which each such code, rule or regulation was adopted.

c. Any code, rule or regulation which includes in the text thereof any United States statute, or code, rule or regulation previously published in the code of federal regulations or in the federal register, or any previously published data, criteria, standards, specifications, techniques, illustrations or other information reasonably available to regulated parties, shall have set forth in its text a precise

identification of such material, including but not limited to: applicable titles, dates, editions, page numbers, section numbers, and authors, the names and addresses of the publisher from whom a copy may be obtained, and the designated office or offices of the adopting agency at which such material is available for public inspection and copying.

d. No amendment to any material identified pursuant to paragraph c of this subdivision shall be effective unless adopted in compliance with the applicable provisions of law and filed with the secretary of state pursuant to this section.

e. The secretary of state shall promulgate rules establishing procedure, forms, style and font for submission of every such code, rule and regulation required to be submitted by this section.

2. Immediately upon adopting any new code, rule or regulation including any rule as defined in the state administrative procedure act, or any amendment to or repeal thereof, except such as relate solely to the organization or internal management of a department, board, bureau, authority, commission or other agency of the state, the original thereof shall be filed in the office of the department of state. Attached thereto shall be a certificate, in a form prescribed by the secretary of state, citing the statutory authority including particular sections and subdivisions pursuant to which each such change or new code, rule or regulation was adopted, the date of adoption, and the date of publication in the state register of the notice required under the provisions of the state administrative procedure act as well as the date and manner of publication of any additional prior notice required under any other statute. If the action taken shall be exempt from the provisions of the state administrative procedure act and if no other statutory notice requirement shall be applicable the certificate shall so state. Such certificate shall be signed by the head of the department, board, bureau, authority, commission, or other agency of the state, or if such head is a board or commission, by the chairman or secretary thereof, or, in lieu of such signatures, it may be signed by a person designated by such head or chairman aforementioned, provided such designation is made in writing, contains therein the signature of the

person designated, and is filed with the department of state. The secretary of state shall reject any rule submitted for filing in the event that either the notice required by subdivision five or six of section two hundred two of the state administrative procedure act, or the attached certificate, reveals that the rule was not adopted in substantial compliance with section two hundred two of such act.

3. It shall be the duty of the secretary of state to prepare a master compilation of all such codes, rules and regulations in such form and order as he may determine. He shall not, however, change the language of any existing code, rule or regulation except a title or explanatory caption; but he shall recommend any such change as he may deem advisable to the department, board, bureau, officer, authority, commission or other agency of the state authorized to adopt such code, rule or regulation. Such master compilation shall include all codes, rules and regulations except such as relate solely to the organization or internal management of a department, board, bureau, authority, commission or other agency of the state, in effect on the first day of January, nineteen hundred forty-five, and which he shall certify as a true copy of the master compilation prepared by him.

4. Publication of all such codes, rules and regulations filed with the secretary of state pursuant to this section shall be provided in the following manner:

a. the secretary of state shall make readily available in his office, for public inspection and copying, the full text of the master compilation;

b. each agency shall make readily available at a designated office or offices of the agency, for public inspection and copying, the full text of all codes, rules and regulations adopted by the agency;

c. at the same time material identified pursuant to paragraph c of subdivision one of this section is filed with the secretary of state, an agency shall transmit a copy of all such material except material that is: (i) a United States statute or a code, rule or regulation published

in the Code of Federal Regulations or in the Federal Register; or (ii) readily available without charge on the internet to the legislative library and, within each judicial department of the state, one court law library designated by the chief administrator of the courts; provided that for materials readily available on the internet, the agency shall identify the address at which such materials can be accessed;

d. notwithstanding any provisions of law to the contrary, photocopies of any codes, rules and regulations shall be available to the public upon payment of a fee not to exceed twenty-five cents per page; and

e. the secretary of state shall cause such compilation to be printed; however, he may exclude from such printed compilation any previously published portion of a rule which is precisely identified in the text thereof pursuant to paragraph c of subdivision one of this section.

5. The compilation printed pursuant to paragraph e of subdivision four of this section shall be known as the "official compilation of codes, rules and regulations of the state of New York" and shall presumptively establish the codes, rules and regulations of the state of New York, except such as relate solely to the organization or internal management of a department, board, bureau, authority, commission or other agency of the state, in force and effect on the first day of January, nineteen hundred forty-five. The official supplements to such compilation published as hereinafter provided shall presumptively establish any changes in such codes, rules and regulations and any new codes, rules or regulations except such as relate solely to the organization or internal management of a department, board, bureau, authority, commission or other agency of the state, affected by addition, amendment or repeal, or adopted during the period ending on the thirty-first day of December in any year immediately preceding the publication of such supplement. Nothing in such official compilation or any new edition thereof or official supplement thereto shall be construed as repealing or amending any code, rule or regulation adopted by any department, board, bureau, authority, commission or other agency of the state, and in case of any inconsistency arising through omission or otherwise between the official compilation and such codes, rules and regulations as filed in the office

of the secretary of state, the latter shall prevail.

§ 103. Future editions and supplements of official compilations. 1. In any year the secretary of state may, whenever he shall believe that the public interest will be served thereby, cause a new edition of such official compilation or any volume thereof to be published, which compilation shall be published as soon as practicable, and shall set forth the codes, rules and regulations except such as relate solely to the organization or internal management of a department, board, bureau, authority, commission or other agency of the state on file in the office of the department of state on the date as of which such new edition is published.

2. The secretary of state may, whenever he deems it to be necessary, cause to be published an official supplement to the official compilation, showing all new and all changes in existing codes, rules and regulations adopted since the effective date of the codes, rules and regulations embraced in the latest edition of the official compilation or since the end of the period covered by the preceding supplement.

3. Any new edition of such compilation published as heretofore provided, and any supplementation thereof or thereto, shall presumptively establish that the codes, rules and regulations contained therein are on file in the department of state, and are effective, unless otherwise stated, on the date as of which such new edition, or any volume thereof, or a supplementation thereto, is published.

4. Any code, rule or regulation contained in any new edition of the official compilation, or any volume thereof, or any supplementation thereto, shall not be printed in any official supplement published for any period prior to the date as of which such new edition, volume, or supplementation is published.

§ 104. Departmental cooperation. The secretary of state may advise with the several departments, boards, bureaus, officers, authorities,

commissions and other agencies of the state which are authorized by statute to issue codes, rules or regulations, to the end that the same may, so far as possible, be uniform in style and form, be properly numbered and captioned and be free from matter which is obsolete.

§ 104-a. Departmental cooperation regarding water quality. The secretary of state shall cooperate with the environmental facilities corporation to establish methods to facilitate loans to eligible borrowers and to develop educational materials for eligible borrowers about the low-interest loans available through the water pollution control linked deposit program, established by article sixteen of the state finance law, and to develop an application form to be provided to lenders for linked deposit loan requests. For residential and small business on-site wastewater treatment systems projects, the department shall require owners of such systems to submit the results of inspections of such systems at the time of an application for financial assistance pursuant to article sixteen of the state finance law. The department may promulgate rules and regulations necessary and reasonable for the operation of the program, including but not limited to standards for the inspection of residential and small business on-site wastewater treatment systems.

§ 105. Changes in codes, rules or regulations. Changes in any code, rule or regulation except such as relates solely to the organization or internal management of a department, board, bureau, authority, commission or other agency of the state shall be made by a department, board, bureau, officer, authority, commission or other agency of the state only by addition, amendment or repeal. Every resolution or order affecting such an addition, amendment or repeal shall refer to the appropriate title and to the appropriate section or paragraph as published in the official compilation or supplement thereto. In the case of a proposed new code, rule or regulation except such as relates solely to the organization or internal management of a department, board, bureau, authority, commission or other agency of the state for which there is no appropriate title, the head of such department, board,

bureau, authority, commission or other agency of the state shall confer with the secretary of state and shall, prior to the adoption of any resolution establishing such code, rule or regulation, have his approval in writing of the proposed title, captions and numbers of such code, rule or regulation and any parts, paragraphs or sections thereof.

§ 106. Proof of codes, rules and regulations. Any code, rule or regulation of the state of New York may be read in evidence from the official compilation or supplement thereto. To entitle any copy of a code, rule or regulation published, other than those published in such official compilation or supplement thereto, to be read in evidence there shall be contained in the same book or pamphlet a printed certificate of the secretary of state that such copy is a correct transcript of the text of the code, rule or regulation as published in such official compilation or supplement thereto. For such a certificate the secretary of state shall collect such a fee as he shall deem just and reasonable.

§ 106-a. Internet access to the New York code, rules and regulations. The department of state shall post or maintain a link on its website to an unofficial version of the New York codes, rules, and regulations, which shall be provided at no cost to the end users. All state agencies which have adopted rules and regulations shall maintain a link to the department of state website which contains such link.

§ 107. Intergovernmental agreements. 1. The secretary of state shall compile and keep current a list of all interstate compacts and other intergovernmental agreements between or among states, subdivisions of this state and other states, or between this state or any subdivision thereof and the federal government having the force of law to which this state or any subdivision thereof is party. Such list shall contain the citations to the statutes or other official documents of this state containing the text of any such compact or agreement together with a listing of all other jurisdictions party to the compact or agreement, the date on which each such jurisdiction entered into participation in

such compact or agreement with this state or subdivision thereof; the status of each such compact or agreement in respect of withdrawals therefrom and the citations to any act or resolution of the congress of the United States, if any, consenting to such compact or agreement. The list required to be kept pursuant to this subdivision also shall include compacts and agreements adopted by this state or any subdivision thereof but not in effect by reason of the absence of such other parties thereto as may be necessary to make the compact or agreement effective and binding.

2. In any case where the statutes of this state do not contain the full text of a compact or agreement to which subdivision one of this section applies, the secretary of state shall receive a true copy of the compact or agreement and keep the same on file.

3. Any amendment, supplementary agreement or administrative rule or regulation having the force of law implementing, adding to or modifying any such compact or agreement to which this state or a subdivision thereof is party shall be listed or filed in the same manner as the compact or agreement itself.

4. The secretary of state shall make the list maintained by him pursuant to this act and any information contained therein available to any person upon request, but shall not be required to furnish copies of any compact or agreement, unless so required by a provision of law or administrative rule other than this section.

5. The listing and filing requirements of this section shall be in addition to and not in substitution for any requirements for listing or filing, publication or distribution contained in particular compacts or agreements to which this state is or may be a party.

6. Upon receipt by the governor of a formal notice from another state of such state's withdrawal from an interstate compact to which New York is party, the governor shall transmit such notice or a copy thereof to the secretary of state. Any agency or subdivision of this state administering, participating in or entering into any compact or

agreement shall furnish the secretary of state with all information necessary to permit such secretary to perform his duties and responsibilities pursuant to this section.

§ 108. Address confidentiality program. There is created in the office of the secretary of state a program to be known as the "address confidentiality program" to protect victims of domestic violence, victims of human trafficking, victims of kidnapping, victims of a sexual offense, victims of stalking, and reproductive health care services providers, employees, volunteers, patients, or immediate family members of reproductive health care services providers by authorizing the use of designated addresses for such victims and their minor children. The program shall be administered by the secretary of state.

1. Definitions. For the purposes of this section the following words shall, unless the context requires otherwise, have the following meanings:

(a) "Victim of domestic violence" shall have the same meaning as is ascribed to such term by section four hundred fifty-nine-a of the social services law.

(b) "Actual address" means the residential street address, school address or work address of an individual, as specified on his or her application to be a program participant under this section.

(c) "Program participant" means a person certified as a program participant under this section.

(d) "Mail" means first class letters delivered via the United States Postal Service, including priority, express and certified mail, and excluding packages, parcels, periodicals and catalogues, unless they are clearly identifiable as pharmaceuticals or clearly indicate that they are sent by a government agency.

(e) "Substitute address" means the secretary's designated address for the address confidentiality program.

(f) "Secretary" means the secretary of state.

(g) "Public record" means any information kept, held, filed, produced or reproduced by, with or for an agency, in any physical form whatsoever including, but not limited to, reports, statements, examinations,

memoranda, opinions, folders, files, books, manuals, pamphlets, forms, papers, designs, drawings, maps, photos, letters, microfilms, computer tapes or discs, rules, regulations or codes.

(h) "Process" means judicial process and all orders, demands, notices or other papers required or permitted by law to be served on a program participant.

(i) "Victim of a sexual offense" means a victim of any act constituting an offense as defined under article one hundred thirty, and/or sections 245.15, 255.25, 255.26, and 255.27 of the penal law, including threats or attempts to commit such offenses.

(j) "Victim of stalking" means a victim of any act constituting an offense as defined under sections 120.45, 120.50, 120.55 and 120.60 of the penal law.

(k) "Victim of human trafficking" means a victim of any act constituting an offense as defined under section 135.35, 135.37, 230.34, or 230.34-a of the penal law.

* (l) "Reproductive health care services provider, employee, volunteer, or patient" means a person who obtains, provides, or assists, at the request of another person, in obtaining or providing reproductive health care services, or a person who owns or operates a reproductive health care services facility.

* NB There are 2 par (l)'s

* (l) "Victim of kidnapping" means a victim of any act constituting an offense as defined under sections 135.20 and 135.25 of the penal law.

* NB There are 2 par (l)'s

(m) "Reproductive health care services facility" includes a hospital, an office operated by a licensed physician and surgeon, a licensed clinic, or other licensed health care facility that provides reproductive health care services and includes only the building or structure in which the reproductive health care services are actually provided.

(n) "Immediate family member" shall have the same meaning as defined in subdivision eight of section two hundred thirty-eight of the public health law.

2. Address confidentiality program; application; certification. (a) An adult person, a parent or legal guardian acting on behalf of a minor, or

a legal guardian acting on behalf of an incapacitated person, may apply to the secretary to have an address designated by the secretary to serve as the person's address or address of the minor or incapacitated person in lieu of the person's actual address. The secretary shall approve an application if it is filed in the manner and on the form prescribed by the secretary, and if it includes:

(i) a signed written statement affirmed by the applicant that:

(A) the applicant, or the minor or incapacitated person on whose behalf the application is made, is a victim of domestic violence, victim of human trafficking, victim of kidnapping, victim of a sexual offense, victim of stalking, or a reproductive health care services provider, employee, volunteer, patient, or an immediate family member of a reproductive health care services provider;

(B) the applicant, or the minor or incapacitated person on whose behalf the application is made, has left his or her residence because of such violence or acts, provided, however, this clause shall not apply if the applicant is a reproductive health care services provider, employee, volunteer, patient, or an immediate family member of a reproductive health care services provider;

(C) the applicant fears for his or her safety or his or her children's safety, or the safety of the minor or incapacitated person on whose behalf the application is made, or, in the case of a reproductive health care services provider, employee, volunteer, or patient, the applicant fears for his or her safety or the safety of an immediate family member; and

(D) the parent or legal guardian applying on behalf of a minor or incapacitated person has legal authority to act on the person's behalf;

(ii) a designation of the secretary as agent for purposes of service of process and for the purpose of receipt of mail;

(iii) the mailing address where the applicant can be contacted by the secretary and the telephone number or numbers where the applicant can be called by the secretary;

(iv) the actual address or addresses that the applicant requests not be disclosed because of the increased risk of domestic violence, a sexual offense, stalking, physical injury or in the case of reproductive health care services provider, employee, volunteer, patient, or an immediate family member of a reproductive health care services provider,

other threats of violence; and

(v) the name of any person who resides with the applicant who also needs to be a program participant in order to ensure the safety of the applicant and, if the person named in the application is eighteen years of age or older, the consent of such person to be a program participant and designation by such person of the secretary as agent for purposes of service of process and for the purpose of receipt of mail; and

(vi) the signature of the applicant and the name and signature of any individual or representative of any office designated by the secretary under subdivision three of this section who assisted in the preparation of the application, and the date on which the applicant signed the application.

(b) The secretary shall establish, distribute and make available a form for the purpose of making applications pursuant to this section.

(c) Applications shall be filed with the office of the secretary.

(d) Upon receipt of a properly completed application, the secretary shall certify the applicant as a program participant and shall serve as the participant's agent for service of process and receipt of mail for the duration of the term of certification.

(e) Participants shall be certified for four years following the date of filing, unless the certification is withdrawn or cancelled before that date. The secretary shall promulgate rules and regulations for renewal of applications pursuant to this section.

3. Designation of agencies to assist applicants. The secretary shall designate state, local or nonprofit agencies that provide counseling, referral, shelter or other specialized services to victims of domestic violence, victims of human trafficking, victims of kidnapping, victims of a sexual offense, victims of stalking, and reproductive health care services providers, employees, volunteers, patients, or immediate family members of reproductive health care services providers to assist persons applying to be program participants. Such persons providing assistance shall be trained by the secretary. Any assistance and counseling rendered by an officer of the secretary or his or her designees to applicants shall in no way be construed as legal advice.

4. Use and acceptance of substitute address; mail forwarding. (a) A

program participant may request that state and local agencies use the substitute address. When creating, modifying or maintaining a public record, state and local agencies shall accept the substitute address upon demonstration by a program participant of his or her certification in the program, unless the secretary waives this requirement after determining that:

(i) the agency has a bona fide statutory or administrative requirement for the use of the participant's actual address which would otherwise be confidential under this section; and

(ii) the agency has explained how its acceptance of the substitute address will prevent the agency from meeting its obligations under the law and why it cannot meet its statutory or administrative obligation by a change in its internal procedures.

(b) Any agency receiving a waiver shall maintain the confidentiality of the program participant's address by redacting the actual address when the record is released to any person and shall not make the program participant's actual address available for inspection or copying, except under the following circumstances:

(i) there is a bona fide statutory or administrative requirement for the communication of an actual address to another agency that has received a waiver from the secretary, provided that each waiver specifically authorizes such communication with the specified agency; or

(ii) if directed by a court order to a person identified in the order.

(c) Upon receipt by the secretary of a process or mail for a participant, the office of the secretary shall immediately forward all such process or mail to the appropriate program participants at the address specified by the participant for that purpose, and shall record the date of such forwarding. Service of process on a program participant, a program participant's minor child, incapacitated person or other adult member of the program participant's household shall be complete when the secretary receives such process by mail or otherwise.

(d) A program participant may use the substitute address as his or her work address.

(e) The secretary or any member of the department of state who reasonably and in good faith handles any process or mail on behalf of a participant in accordance with this section shall be immune from any civil liability which might otherwise result by reason of such actions.

5. Cancellation of certification. (a) The secretary may cancel a program participant's certification if, after the passage of fourteen days:

(i) from the date of changing his or her name, the program participant does not notify the secretary that he or she has obtained a name change; however, the program participant may reapply under his or her new name;

(ii) from the date of changing his or her actual address, the program participant fails to notify the secretary of the change of such address; or

(iii) from the date the secretary first receives mail, forwarded to the program participant's address, returned as non-deliverable.

(b) The secretary shall cancel certification of a program participant who applies using false information.

(c) The secretary shall cancel certification of a program participant if the participant's certification term has expired and certification renewal has not been completed.

(d) The secretary shall send notice of cancellation to the program participant. Notice of cancellation shall set out the reasons for cancellation. The program participant shall have thirty days to appeal the cancellation decision under procedures developed by the secretary.

(e) Program participants may withdraw from the program by giving the secretary written notice of their withdrawal and his or her current identification card. The secretary shall establish, by rule, a secure procedure for ensuring that the request for withdrawal is legitimate.

(f) Any records or documents pertaining to a program participant shall not be a public record and shall be retained and held confidential for a period of three years after termination of certification and then destroyed.

6. Disclosure of participant information prohibited; exceptions. (a) The secretary shall not make a program participant's information, other than the substitute address, available for inspection or copying, except under any of the following circumstances:

(i) if requested by a law enforcement agency for a legitimate law enforcement purpose as determined by the law enforcement agency; or

(ii) to a person identified in a court order, upon the secretary's

receipt of that court order which specifically orders the disclosure of a particular program participant's address and the reasons stated therefor.

(b) The secretary may verify the participation of a specific program participant, in which case the secretary may only confirm information supplied by the requester.

7. Rules and regulations. The secretary shall promulgate rules and regulations necessary to implement the provisions of this section.

8. Report to the legislature. The secretary shall submit to the legislature, no later than February first of each year, a report that includes for each county, the total number of applications received, the total number of persons participating in the program established by this section during the previous calendar year and the total number of pieces of mail forwarded to program participants during the previous calendar year.

§ 109. Registration of certain service providers. 1. For purposes of this section:

(a) "Client" shall mean a person or entity who in the preceding calendar year retained or hired the political consultant relating to matters before any state or local government agency, authority or official, including services, advice or consultation relating to any state or local government contract for real property, goods or services, an appearance in a ratemaking proceeding, an appearance in a regulatory matter, or an appearance in a legislative matter other than matters described in subparagraph (E) of the second undesignated paragraph of subdivision (c) of section one-c of the legislative law.

(b) "Political consulting services" shall mean services provided by a political consultant to or on behalf of an elected public official in New York state or to or on behalf of a candidate for elected office in New York state, or to or on behalf of a person nominated for elected public office which services: (1) assist or are intended to assist in a campaign for nomination for election or election to office in New York state, including fundraising activities, voter outreach, composition and

distribution of promotional literature, advertisements, or other similar communications, as set forth in section 14-106 of the election law, or (2) consist of political advice to an elected public official or candidate for elected public office in New York state or person nominated for elected public office; provided, however, that political consulting services shall not include bona fide legal work directly related to litigation or legal advice with regard to securing a place on the ballot, the petitioning process, the conduct of an election, or which involves the election law.

(c) "Political consultant" shall mean a person who holds himself or herself out to persons in this state as a person who performs political consulting services in a professional capacity and who is usually compensated, excluding reimbursement for expenses, for such services.

2. The secretary of state shall promulgate rules and regulations prescribing a registration form to be used by any political consultant who provides political consulting services to a sitting elected public official, candidate for elected public office or person nominated for elected public office and who has also been retained by a client for such services.

3. Such registration form shall identify:

(a) the name, address, and telephone number of the political consultant;

(b) the name, address, and telephone number of each sitting elected public official, candidate for elected public office, and person nominated for elected public office who the political consultant provided political consulting services to;

(c) the name, address, and telephone number of each client who retains or hires a political consultant in the preceding calendar year provided, that in the event the client is an entity, at least one natural person who has a controlling interest in such entity shall be identified; and

(d) a brief description of the nature of the political consulting services provided to each identified client.

4. Such registration shall be filed with the department of state and shall cover a six month reporting period. The reporting period shall

mean the six month period within a calendar year starting January first and ending June thirtieth or the six month period within a calendar year starting July first and ending December thirty-first.

5. The secretary of state shall post the completed forms on the department of state's website within thirty days of the close of each reporting period.

6. The department of state may impose a civil penalty of up to seven hundred fifty dollars upon any political consultant who fails to file a registration required by this section provided, however, that the secretary shall provide such political consultant a reasonable opportunity to cure such a failure.

7. The department of state shall adopt, amend and rescind rules and regulations defining the degree and extent of political consulting services necessary to require the reporting pursuant to this section.

§ 110. Administration of certain monies. The secretary or their designee shall administer monies collected pursuant to section 2-202 of the village law and appropriations available for the operations of the village incorporation commission established pursuant to section 2-260 of the village law to ensure that the commission can perform its statutory functions; and provided further, that the secretary or their designee shall distribute funds as required pursuant to section 2-236 of the village law and any relevant appropriations bill.

§ 130. Appointment of notaries public. 1. The secretary of state may appoint and commission as many notaries public for the state of New York as in his or her judgment may be deemed best, whose jurisdiction shall be co-extensive with the boundaries of the state. The appointment of a notary public shall be for a term of four years. An application for an appointment as notary public shall be in form and set forth such matters as the secretary of state shall prescribe. Every person appointed as notary public must, at the time of his or her appointment, be a resident

of the state of New York or have an office or place of business in New York state. A notary public who is a resident of the state and who moves out of the state but still maintains a place of business or an office in New York state does not vacate his or her office as a notary public. A notary public who is a nonresident and who ceases to have an office or place of business in this state, vacates his or her office as a notary public. A notary public who is a resident of New York state and moves out of the state and who does not retain an office or place of business in this state shall vacate his or her office as a notary public. A non-resident who accepts the office of notary public in this state thereby appoints the secretary of state as the person upon whom process can be served on his or her behalf. Before issuing to any applicant a commission as notary public, unless he or she be an attorney and counsellor at law duly admitted to practice in this state or a court clerk of the unified court system who has been appointed to such position after taking a civil service promotional examination in the court clerk series of titles, the secretary of state shall satisfy himself or herself that the applicant is of good moral character, has the equivalent of a common school education and is familiar with the duties and responsibilities of a notary public; provided, however, that where a notary public applies, before the expiration of his or her term, for reappointment with the county clerk or where a person whose term as notary public shall have expired applies within six months thereafter for reappointment as a notary public with the county clerk, such qualifying requirements may be waived by the secretary of state, and further, where an application for reappointment is filed with the county clerk after the expiration of the aforementioned renewal period by a person who failed or was unable to re-apply by reason of his or her induction or enlistment in the armed forces of the United States, such qualifying requirements may also be waived by the secretary of state, provided such application for reappointment is made within a period of one year after the military discharge of the applicant under conditions other than dishonorable, or if the applicant has a qualifying condition, as defined in section one of the veterans' services law, within a period of one year after the applicant has received a discharge other than bad conduct or dishonorable from such service, or if the applicant is a discharged LGBT veteran, as defined in section one of the veterans'

services law, within a period of one year after the applicant has received a discharge other than bad conduct or dishonorable from such service. In any case, the appointment or reappointment of any applicant is in the discretion of the secretary of state. The secretary of state may suspend or remove from office, for misconduct, any notary public appointed by him or her but no such removal shall be made unless the person who is sought to be removed shall have been served with a copy of the charges against him or her and have an opportunity of being heard. No person shall be appointed as a notary public under this article who has been convicted, in this state or any other state or territory, of a crime, unless the secretary makes a finding in conformance with all applicable statutory requirements, including those contained in article twenty-three-A of the correction law, that such convictions do not constitute a bar to appointment.

2. A person regularly admitted to practice as an attorney and counsellor in the courts of record of this state, whose office for the practice of law is within the state, may be appointed a notary public and retain his office as such notary public although he resides in or removes to an adjoining state. For the purpose of this and the following sections of this article such person shall be deemed a resident of the county where he maintains such office.

§ 131. Procedure of appointment; fees and commissions; fee payment methods. 1. New appointment. (a) Applicants for a notary public commission shall submit to the secretary of state with their application, the oath of office, duly executed before any person authorized to administer an oath, together with their signature.

(b) Upon being satisfied of the competency and good character of applicants for appointment as notaries public, the secretary of state shall issue a commission to such persons; and the official signature of the applicants and the oath of office filed with such applications shall take effect.

(c) The secretary of state shall receive a non-refundable application fee of sixty dollars from applicants for appointment, which fee shall be submitted together with the application. No further fee shall be paid

for the issuance of the commission.

(d) A notary public identification card indicating the appointee's name, address, county and commission term shall be transmitted to the appointee.

(e) The commission, duly dated, and a certified copy or the original of the oath of office and the official signature, and twenty dollars apportioned from the application fee shall be transmitted by the secretary of state to the county clerk of the county in which the appointee resides by the tenth day of the following month. Transmission may be accomplished by electronic means that results in a submission of such records and fees by the secretary of state to the county clerk. For purposes of this section, "electronic" shall have the same meaning as set forth in section three hundred two of the state technology law.

(f) The county clerk shall make a proper index of commissions and official signatures transmitted to that office by the secretary of state pursuant to the provisions of this section.

2. Reappointment. (a) Applicants for reappointment of a notary public commission shall submit to the secretary of state with their application the oath of office, duly executed before any person authorized to administer an oath, together with their signature.

(b) Upon being satisfied of the completeness of the application for reappointment, the secretary of state shall issue a commission to such persons; and the official signature of the applicants and the oath of office filed with such applications shall take effect.

(c) The secretary of state shall receive a non-refundable application fee of sixty dollars from each applicant for reappointment, which fee shall be submitted together with the application. No further fee shall be paid for the issuance of the commission.

(d) The commission, duly dated, and a certified or original copy of the oath of office and the official signature, and twenty dollars apportioned from the application fee plus interest as may be required by statute shall be transmitted by the secretary of state to the county clerk of the county in which the appointee resides by the tenth day of the following month. Transmission may be accomplished by electronic means that results in a submission of such records and fees by the secretary of state to the county clerk.

(e) The county clerk shall make a proper record of commissions transmitted to that office by the secretary of state pursuant to the provisions of this section.

3. Electronic notarization. (a) After registration of the capability to perform electronic notarial acts pursuant to section one hundred thirty-five-c of this article, the secretary of state shall transmit to the county clerk the exemplar of the notary public's electronic signature and any change in commission number or expiration date of the notary public's commission. Transmission may be accomplished by electronic means.

(b) Registration of the capability to perform electronic notarizations shall be treated as a new appointment by the secretary of state.

4. Fees. (a) Except for changes made in an application for reappointment, the secretary of state shall receive a non-refundable fee of ten dollars for changing the name or address of a notary public.

(b) The secretary of state may issue a duplicate identification card to a notary public for one lost, destroyed or damaged upon application therefor on a form prescribed by the secretary of state and upon payment of a non-refundable fee of ten dollars. Each such duplicate identification card shall have the word "duplicate" stamped across the face thereof, and shall bear the same number as the one it replaces.

(c) The secretary of state shall accept payment for any fee relating to appointment or reappointment as a notary in the form of cash, money order, certified check, company check, bank check or personal check. The secretary of state may provide for accepting payment of any such fee due by credit or debit card, which may include payment through the internet.

§ 132. Certificates of official character of notaries public. The secretary of state or the county clerk of the county in which the commission of a notary public is filed may certify to the official character of such notary public and any notary public may file their autograph signature and a certificate of official character in the office of any county clerk of any county in the state and in any register's office in any county having a register and thereafter such

county clerk may certify as to the official character of such notary public. The secretary of state shall collect for each certificate of official character issued the sum of one dollar. The county clerk and register of any county with whom a certificate of official character has been filed shall collect for filing the same the sum of ten dollars. For each certificate of official character issued, with seal attached, by any county clerk, the sum of five dollars shall be collected.

§ 133. Certification of notarial signatures. The county clerk of a county in whose office any notary public has qualified or has filed their autograph signature and a certificate of official character, shall, when so requested and upon payment of a fee of three dollars, affix to any certificate of proof or acknowledgment or oath signed by such notary anywhere in the state of New York, a certificate under their hand and seal, stating that a commission or a certificate of official character of such notary with their autograph signature has been filed in the county clerk's office, and that the county clerk was at the time of taking such proof or acknowledgment or oath duly authorized to take the same; that the county clerk is well acquainted with the handwriting of such notary public or has compared the signature on the certificate of proof or acknowledgment or oath with the autograph signature deposited in their office by such notary public and believes that the signature is genuine. An instrument with such certificate of authentication of the county clerk affixed thereto shall be entitled to be read in evidence or to be recorded in any of the counties of this state in respect to which a certificate of a county clerk may be necessary for either purpose. In addition to the foregoing powers, a county clerk of a county in whose office a notary public has qualified may certify the signature of an electronic notary public, registered with the secretary of state pursuant to section one hundred thirty-five-c of this article, provided such county clerk has received from the secretary of state, an exemplar of the notary public's registered electronic signature.

§ 134. Signature and seal of county clerk. The signature and seal of a

county clerk, upon a certificate of official character of a notary public or the signature of a county clerk upon a certificate of authentication of the signature and acts of a notary public or commissioner of deeds, may be a facsimile, printed, stamped, photographed or engraved thereon.

§ 135. Powers and duties; in general; of notaries public who are attorneys at law. Every notary public duly qualified is hereby authorized and empowered within and throughout the state to administer oaths and affirmations, to take affidavits and depositions, to receive and certify acknowledgments or proof of deeds, mortgages and powers of attorney and other instruments in writing; to demand acceptance or payment of foreign and inland bills of exchange, promissory notes and obligations in writing, and to protest the same for non-acceptance or non-payment, as the case may require, and, for use in another jurisdiction, to exercise such other powers and duties as by the laws of nations and according to commercial usage, or by the laws of any other government or country may be exercised and performed by notaries public, provided that when exercising such powers he shall set forth the name of such other jurisdiction.

A notary public who is an attorney at law regularly admitted to practice in this state may, in his discretion, administer an oath or affirmation to or take the affidavit or acknowledgment of his client in respect of any matter, claim, action or proceeding.

For any misconduct by a notary public in the performance of any of his powers such notary public shall be liable to the parties injured for all damages sustained by them. A notary public shall not, directly or indirectly, demand or receive for the protest for the non-payment of any note, or for the non-acceptance or non-payment of any bill of exchange, check or draft and giving the requisite notices and certificates of such protest, including his notarial seal, if affixed thereto, any greater fee or reward than seventy-five cents for such protest, and ten cents for each notice, not exceeding five, on any bill or note. Every notary public having a seal shall, except as otherwise provided, and when

requested, affix his seal to such protest free of expense.

§ 135-a. Notary public or commissioner of deeds; acting without appointment; fraud in office. 1. Any person who holds himself out to the public as being entitled to act as a notary public or commissioner of deeds, or who assumes, uses or advertises the title of notary public or commissioner of deeds, or equivalent terms in any language, in such a manner as to convey the impression that he is a notary public or commissioner of deeds without having first been appointed as notary public or commissioner of deeds, or

2. A notary public or commissioner of deeds, who in the exercise of the powers, or in the performance of the duties of such office shall practice any fraud or deceit, the punishment for which is not otherwise provided for by this act, shall be guilty of a misdemeanor.

§ 135-b. Advertising by notaries public. 1. The provisions of this section shall not apply to attorneys-at-law, admitted to practice in the state of New York.

2. A notary public who advertises his or her services as a notary public in a language other than English shall post with such advertisement a notice in such other language the following statement: "I am not an attorney licensed to practice law and may not give legal advice about immigration or any other legal matter or accept fees for legal advice."

3. A notary public shall not use terms in a foreign language in any advertisement for his or her services as a notary public that mean or imply that the notary public is an attorney licensed to practice in the state of New York or in any jurisdiction of the United States. The secretary shall designate by rule or regulation the terms in a foreign language that shall be deemed to mean or imply that a notary public is licensed to practice law in the state of New York and the use of which shall be prohibited by notary publics who are subject to this section.

4. For purposes of this section, "advertisement" shall mean and include material designed to give notice of or to promote or describe the services offered by a notary public for profit and shall include business cards, brochures, and notices, whether in print or electronic form.

5. Any person who violates any provision of this section or any rule or regulation promulgated by the secretary may be liable for civil penalty of up to one thousand dollars. The secretary of state may suspend a notary public upon a second violation of any of the provisions of this section and may remove from office a notary public upon a third violation of any of the provisions of this section, provided that the notary public shall have been served with a copy of the charges against him or her and been given an opportunity to be heard. The civil penalty provided for by this subdivision shall be recoverable in an action instituted by the attorney general on his or her own initiative or at the request of the secretary.

6. The secretary may promulgate rules and regulations governing the provisions of this section, including the size and type of statements that a notary public is required by this section to post.

§ 135-c. Electronic notarization. 1. Definitions. (a) "Communication technology" means an electronic device or process that: (i) allows a notary public and a remotely located individual to communicate with each other simultaneously by sight and sound; and (ii) when necessary and consistent with other applicable law, facilitates communication with a remotely located individual who has a vision, hearing, or speech impairment.

(b) "Electronic" shall have the same meaning as set forth in subdivision one of section three hundred two of the state technology law.

(c) "Electronic record" means information that is created, generated, sent, communicated, received or stored by electronic means.

(d) "Electronic notarial act" means an official act by a notary

public, physically present in the state of New York, on or involving an electronic record and using means authorized by the secretary of state.

(e) "Electronic notary public" or "electronic notary" means a notary public who has registered with the secretary of state the capability of performing electronic notarial acts.

(f) "Electronic signature" shall have the same meaning as set forth in subdivision three of section three hundred two of the state technology law.

(g) "Principal" means an individual:

(i) whose signature is reflected on a record that is notarized;

(ii) who has taken an oath or affirmation administered by a notary public; or

(iii) whose signature is reflected on a record that is notarized after the individual has taken an oath or affirmation administered by a notary public.

(h) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

2. Any notary public qualified under this article is hereby authorized to perform an electronic notarial act by utilizing audio-video communication technology that allows the notary public to interact with a principal, provided that all conditions of this section are met.

(a) The methods for identifying document signers for an electronic notarization shall be the same as the methods required for a paper-based notarization; provided, however, an electronic notarial act conducted utilizing communication technology shall meet the standards which have been approved through regulation by the secretary of state as acceptable. Such regulations shall include, but not be limited to:

(i) that the signal transmission shall be secure from interception through lawful means by anyone other than the persons communicating;

(ii) that the communication technology shall permit the notary public to communicate with the principal live, in real time;

(iii) that the communication technology shall permit the notary to communicate with and identify the remotely located individual at the time of the notarial act; and

(iv) a standard that requires two or more different processes for

authenticating the identity of a remotely located individual utilizing technology to detect and deter fraud, but which may allow a notary public's personal knowledge of a document signer to satisfy such requirement.

(b) If video and audio conference technology has been used to ascertain a document signer's identity, the electronic notary shall keep a copy of the recording of the video and audio conference and a notation of the type of any other identification used. The recording shall be maintained for a period of at least ten years from the date of transaction.

3. Registration requirements. (a) Before performing any electronic notarial act or acts, a notary public shall register the capability to notarize electronically with the secretary of state on a form prescribed by the secretary of state and upon payment of a fee which shall be set by regulation.

(b) In registering the capability to perform electronic notarial acts, the notary public shall provide the following information to the secretary of state, notary processing unit:

(i) the applicant's name as currently commissioned and complete mailing address;

(ii) the expiration date of the notary public's commission and signature of the commissioned notary public;

(iii) the applicant's e-mail address;

(iv) the description of the electronic technology or technologies to be used in attaching the notary public's electronic signature to the electronic record; and

(v) an exemplar of the notary public's electronic signature, which shall contain the notary public's name and any necessary instructions or techniques that allow the notary public's electronic signature to be read.

4. Types of electronic notarial acts. (a) Any notarial act authorized by section one hundred thirty-five of this article may be performed electronically as prescribed by this section if: (i) for execution of any instrument in writing, under applicable law that document may be signed with an electronic signature and the notary public is reasonably

able to confirm that such instrument is the same instrument in which the principal made a statement or on which the principal executed a signature; and (ii) the electronic notary public is located within the state of New York at the time of the performance of an electronic notarial act using communication technology, regardless of the location of the document signer. If the principal is outside the United States, the record or subject of the notarial act:

(1) is to be filed with or relates to a matter before a public official or court, governmental entity, or other entity subject to the jurisdiction of the United States; or

(2) shall involve property located in the territorial jurisdiction of the United States or shall involve a transaction substantially connected with the United States.

(b) An electronic notarial act performed using communication technology pursuant to this section satisfies any requirement of law of this state that a document signer personally appear before, be in the presence of, or be in a single time and place with a notary public at the time of the performance of the notarial act.

5. Form and manner of performing the electronic notarial act. (a) When performing an electronic notarial act relating to execution of instruments in writing, a notary public shall apply an electronic signature, which shall be attached to the electronic record such that removal or alteration of such electronic signature is detectable and will render evidence of alteration of the document containing the notary signature which may invalidate the electronic notarial act.

(b) The notary public's electronic signature is deemed to be reliable if the standards which have been approved through regulation by the secretary of state have been met. Such regulations shall include, but not be limited to, the requirements that such electronic signature be:

(i) unique to the notary public;

(ii) capable of independent verification;

(iii) retained under the notary public's sole control;

(iv) attached to the electronic record; and

(v) linked to the data in such a manner that any subsequent alterations to the underlying document are detectable and may invalidate the electronic notarial act.

(c) The notary public's electronic signature shall be used only for the purpose of performing electronic notarial acts.

(d) The remote online notarial certificate for an electronic notarial act shall state that the person making the acknowledgement or making the oath appeared through use of communication technology.

(e) The secretary shall adopt rules necessary to establish standards, procedures, practices, forms, and records relating to a notary public's electronic signature. The notary public's electronic signature shall conform to any standards adopted by the secretary.

6. Recording of an electronic record. (a) If otherwise required by law as a condition for recording that a document be an original document, printed on paper or another tangible medium, or be in writing, the requirement is satisfied by paper copy of an electronic record that complies with the requirements of this section.

(b) If otherwise required by law as a condition for recording, that a document be signed, the requirement may be satisfied by an electronic signature.

(c) A requirement that a document or a signature associated with a document be notarized, acknowledged, verified, witnessed, or made under oath is satisfied if the electronic signature of the person authorized to perform that act, and all other information required to be included, is attached to or logically associated with the document or signature. A physical or electronic image of a stamp, impression, or seal need not accompany an electronic signature if the notary has attached an electronic notarial certificate that meets the requirements of this section.

(d) (i) A notary public may certify that a tangible copy of the signature page and document type of an electronic record notarized by such notary public is an accurate copy of such electronic record. Such certification must (1) be dated and signed by the notary public in the same manner as the official signature of the notary public provided to the secretary of state pursuant to section one hundred thirty-one of this article, and (2) comply with section one hundred thirty-seven of this article.

(ii) A county clerk, city registrar, or other recording officer where applicable shall accept for recording a tangible copy of an electronic

record and that is otherwise eligible to be recorded under the laws of this state if the record has been certified by a notary public or other individual authorized to perform a notarial act.

(iii) A certification in substantially the following form is sufficient for the purposes of this subdivision:

CERTIFICATE OF AUTHENTICITY

State of New York)
) ss.:
County of .....)

On this ..... day of ..... in the year ....., I certify that the signature page of the attached record (entitled .....) (dated .....) is a true and correct copy of the signatures affixed to an electronic record printed by me or under my supervision. I further certify that, at the time of printing, no security features present on the electronic record indicated any changes or errors in an electronic signature in the electronic record after its creation or execution.

(Signature and title of notary public)

(official stamp or registration number, with the expiration date of the notary public's commission)

7. Change of e-mail address. Within five days after the change of an electronic notary public's e-mail address, the notary public shall electronically transmit to the secretary of state a notice of the change, signed with the notary public's official electronic signature.

8. No notary public or business employing the services of a notary public operating in the state of New York shall exclusively require notarial transactions to utilize electronic notarization.

9. Nothing in this section shall be construed as requiring any notary public to perform a notarial act using electronic communication technology. A notary public may refuse to perform such a notarial act if the notary public is not satisfied that (a) the principal is competent or has the capacity to execute a record, or (b) the principal's signature is knowingly and voluntarily made.

10. Notwithstanding article nine of the real property law or any other

law to the contrary, any act performed in conformity with this section shall satisfy any requirements at law that a principal personally appear before, be in the presence of, or be in a single time and place with a notary public at the time of the performance of the notarial act, unless a law expressly excludes the authorization provided for in this section.

§ 136. Notarial fees. A notary public shall be entitled to the following fees:

1. For administering an oath or affirmation, and certifying the same when required, except where another fee is specifically prescribed by statute, two dollars.

2. For taking and certifying the acknowledgment or proof of execution of a written instrument, by one person, two dollars, and by each additional person, two dollars, for swearing each witness thereto, two dollars.

3. For electronic notarial services, established in section one hundred thirty-five-c of this chapter, a fee set through regulation by the secretary of state.

§ 137. Statement as to authority of notaries public. In exercising powers pursuant to this article, a notary public, in addition to the venue of the act and signature of such notary public, shall print, typewrite, stamp, or affix by electronic means where performing an electronic notarial act in conformity with section one hundred thirty-five-c of the executive law, beneath their signature in black ink, the notary public's name, the words "Notary Public State of New York," the name of the county in which such notary public originally qualified, and the expiration date of such notary public's commission and, in addition, wherever required, a notary public shall also include the name of any county in which such notary public's certificate of official character is filed, using the words "Certificate filed ..... County." A notary public who is duly licensed as an attorney

and counsellor at law in this state may substitute the words "Attorney and Counsellor at Law" for the words "Notary Public." A notary public who has qualified or who has filed a certificate of official character in the office of the clerk in a county or counties within the city of New York must also affix to each instrument such notary public's official number or numbers in black ink, as assigned by the clerk or clerks of such county or counties at the time such notary qualified in such county or counties and, if the instrument is to be recorded in an office of the register of the city of New York in any county within such city and the notary has been given a number or numbers by such register or his predecessors in any county or counties, when the notary public's autographed signature and certificate are filed in such office or offices pursuant to this chapter, the notary public shall also affix such number or numbers. No official act of such notary public shall be held invalid on account of the failure to comply with these provisions. If any notary public shall willfully fail to comply with any of the provisions of this section, the notary public shall be subject to disciplinary action by the secretary of state. In all the courts within this state the certificate of a notary public, over the signature of the notary public, shall be received as presumptive evidence of the facts contained in such certificate; provided, that any person interested as a party to a suit may contradict, by other evidence, the certificate of a notary public.

§ 138. Powers of notaries public or other officers who are stockholders, directors, officers or employees of a corporation. A notary public, justice of the supreme court, a judge, clerk, deputy clerk, or special deputy clerk of a court, an official examiner of title, or the mayor or recorder of a city, a justice of the peace, surrogate, special surrogate, special county judge, or commissioner of deeds, who is a stockholder, director, officer or employee of a corporation may take the acknowledgment or proof of any party to a written instrument executed to or by such corporation, or administer an oath to any other stockholder, director, officer, employee or agent of such corporation, and such notary public may protest for non-acceptance or non-payment, bills of exchange, drafts, checks, notes and other

negotiable instruments owned or held for collection by such corporation; but none of the officers above named shall take the acknowledgment or proof of a written instrument by or to a corporation of which he is a stockholder, director, officer or employee, if such officer taking such acknowledgment or proof be a party executing such instrument, either individually or as representative of such corporation, nor shall a notary public protest any negotiable instruments owned or held for collection by such corporation, if such notary public be individually a party to such instrument, or have a financial interest in the subject of same. All such acknowledgments or proofs of deeds, mortgages or other written instruments, relating to real property heretofore taken before any of the officers aforesaid are confirmed. This act shall not affect any action or legal proceeding now pending.

§ 139. Commissioners of deeds within the state. 1. Commissioners of deeds in the cities of this state shall be appointed by the common councils of such cities respectively, and shall hold office for the term of two years from the date of their appointment, and until others are appointed in their places. A vacancy occurring during the term for which any commissioner shall be appointed, shall be filled by the common council. The common council of the several cities of this state, except in cities of this state situate in a county which has a population of not less than one hundred and eighty thousand, and not more than six hundred and fifty thousand, according to the last state or federal enumeration, shall at the end of every even numbered year, by resolution of the board, determine the number of commissioners of deeds to be appointed for such cities respectively.

2. The term of office of each commissioner of deeds appointed by the common council in cities of this state situate in a county which has a population of not less than one hundred and eighty thousand, and not more than six hundred and fifty thousand, according to the last state or federal enumeration, shall expire on the thirty-first of December of the even numbered year next after he shall be appointed. The common council of any such city shall in the month of November in every even numbered year, by resolution, determine the number of commissioners of deeds to

be appointed in such cities, respectively, for the next succeeding two years.

3. Any person who resides in or maintains an office or other place of business in any such city and who resides in the county in which said city is situated shall be eligible to appointment. Such commissioners of deeds may be appointed by the common council by resolution, and the city clerk shall immediately after such appointment, file a certificate thereof with the county clerk of the county in which such city is situate, specifying the term for which the said commissioners of deeds shall have been appointed; the county clerk shall thereupon notify such persons of their appointment, and such persons so appointed shall qualify by filing with him his oath of office, duly executed before such county clerk or before any person authorized to administer an oath, together with his official signature, within thirty days from the date of such notice.

4. The county clerk shall make a proper index of certificates of appointment and official signatures filed with him. For filing and indexing the certificate of appointment and official signature, the county clerk shall be paid a fee of one dollar by the appointee, which fee shall include the administration of the oath by the county clerk, should he administer the same.

5. If a person appointed commissioner of deeds shall not file his oath of office as such commissioner of deeds, in the office of the clerk of the county of his residence, within thirty days after the notice of his appointment as above provided, his appointment is deemed revoked and the fee filed with his application forfeited.

6. A commissioner of deeds may file his autograph signature and certificate of appointment in the office of any county clerk, and the county clerk of the county in which such city is located, upon request of any commissioner appointed under the provisions of this section and upon payment of twenty-five cents for each certificate, must make and deliver to such commissioner such number of certificates as may be required. Such certificates shall be issued under the hand and seal of

the county clerk of the county in which such city is located, showing the appointment and term of office of such commissioner and stating the county in which he resides. Such a certificate may be filed in the office of any county clerk upon the payment of one dollar for such filing in each office. The clerks of the counties outside the city of New York, shall each keep a book or card index file in which shall be registered the signature of the commissioners so filing such certificates.

7. The county clerk of the county in which said city is located shall, upon demand and upon payment of the sum of fifty cents, authenticate a certificate of acknowledgment or proof of oath taken before such commissioner of deeds within such city, by subjoining or attaching to the original certificate of acknowledgment or proof of oath a certificate under his hand and official seal specifying that at the time of taking the acknowledgment or proof of oath the officer taking it was duly authorized to take the same; that the authenticating officer is acquainted with the former's handwriting, or has compared the signature on the certificate of acknowledgment or proof of oath with the autograph signature deposited in his office by such officer, and that he verily believes the signature is genuine.

8. Any instrument or paper sworn to, proved or acknowledged before a commissioner of deeds within a city and authenticated as hereinbefore provided by the clerk of a county within which such city is located shall be recorded and read in evidence in any county in this state without further proof; provided, however, that a county clerk's certificate of authentication shall not be necessary to entitle any deed or other instrument or paper so proved or acknowledged to be recorded in any office where such commissioner has filed his autograph signature and certificate of appointment or to be read in evidence in any county in which such commissioner has filed with the county clerk his autograph signature and certificate of appointment, as herein provided.

9. The foregoing provisions of this section shall not apply in the city of New York.

§ 140. Commissioners of deeds in the city of New York. 1. The council of the city of New York is hereby authorized and is empowered to appoint commissioners of deeds in such city from time to time, who shall hold their offices for two years from the date of their appointment.

2. No person shall be appointed a commissioner of deeds except an attorney-at-law unless such person shall have submitted with his application proof of his ability to perform the duties of the office. Applicants serving clerkships in the offices of attorneys, and whose clerkship certificate is on file with the proper officials, shall submit an affidavit to that effect. Other employees of attorneys shall submit an affidavit sworn to by a member of the firm of such attorneys that the applicant is a proper and competent person to perform the duties of a commissioner of deeds. Every other applicant shall furnish a certificate of the city clerk of such city stating that he has examined the applicant and believes such applicant to be competent to perform the duties of a commissioner of deeds; provided, however, that where a commissioner of deeds applies, before the expiration of his term, for a reappointment or where a person whose term as commissioner of deeds shall have expired applies within six months after such expiration for appointment as a commissioner of deeds, such examination shall not be required. Upon any such application for such renewal the city clerk shall furnish the applicant with a certificate stating that the applicant has theretofore qualified for appointment and indicate the date of the applicant's original appointment thereon. The fee for issuing each such certificate shall be fifty cents.

3. Such appointment shall not require the approval of the mayor, and hereafter, at the time of subscribing or filing the oath of office, the city clerk shall collect from each person appointed a commissioner of deeds the sum of twenty-five dollars, and he shall not administer or file such oath unless such fee has been paid.

4. The city clerk shall designate a commissioner of deeds clerk, whose duties shall be to enter the names of commissioners of deeds appointed in a book kept for that purpose, make out certificates of appointment

and discharge such other duties as the city clerk may designate.

5. Any person hereafter appointed to the office of commissioner of deeds in and for the city of New York by the council, before entering upon the discharge of the duties of such office and within thirty days after such appointment, shall take and subscribe before the commissioner of deeds clerk in the office of the city clerk or before any person authorized to administer oaths the following oath of office: that the applicant is a citizen of the United States, and a resident of the state of New York, the city of New York and the county of (naming the county); that he will support the constitution of the United States and the constitution of the state of New York and faithfully discharge the duties of the office of commissioner of deeds. A person regularly admitted to practice as an attorney and counsellor in the courts of record of this state, whose office for the practice of law is within the city of New York, may be appointed a commissioner of deeds in and for the city of New York and may retain his office as such commissioner of deeds although he resides in or removes to another city in this state or to an adjoining state. For the purposes of this and the following sections of this article such person shall be deemed a resident of the county where he maintains such office.

5-a. A person regularly admitted to practice as an attorney and counsellor in the courts of record of this state, whose office for the practice of law is within the city of New York, may be appointed a commissioner of deeds in and for the city of New York and may retain his office as such commissioner of deeds although he resides in or removes to any other county in this state or to an adjoining state. For the purposes of this article such person shall be deemed a resident of the county where he maintains such office.

6. Any commissioner of deeds who may remove from the city of New York during his term of office vacates his office and is hereby required to notify the city clerk of such removal, and immediately upon the receipt of such notice of removal the city clerk shall cause the name of such commissioner to be stricken from the roll of commissioners of deeds of the city.

7. Any person appointed to the office of commissioner of deeds under the provisions of this section, upon qualifying as above provided, may administer oaths and take acknowledgments or proofs of deeds and other instruments in any part of the city of New York.

8. A commissioner of deeds may file his autograph signature and certificate of appointment in the office of any county clerk in the city; and the city clerk, upon request of any commissioner appointed under the provisions of this section and upon payment of twenty-five cents for each certificate, must make and deliver to such commissioner such number of certificates as such commissioner may require. Such certificates shall be issued under the hand and official seal of the city clerk, showing the appointment and term of office of such commissioner and stating the county in which he resides, which certificates may be filed in the office of the several county clerks in the city upon payment of one dollar in each office for filing.

9. The clerks of the counties of New York, Kings, Queens, Richmond and Bronx shall each keep a book or card index file in which shall be registered the signature of the commissioners so filing such certificates; and the county clerk of any county in the city with whom such commissioner has filed a certificate of appointment shall, upon demand and upon payment of the sum of fifty cents, authenticate a certificate of acknowledgment or proof of oath taken before such commissioner of deeds, without regard to the county in the city in which such acknowlgment or proof was taken or oath administered, by subjoining or attaching to the original certificate of acknowledgment or proof or oath a certificate under his hand and official seal specifying that at the time of taking the acknowledgment or proof or oath the officer taking it was duly authorized to take the same; that the authenticating officer is acquainted with the former's handwriting, or has compared the signature on the certificate of acknowledgment, proof or oath with the autograph signature deposited in his office by such officer, and that he verily believes the signature is genuine.

10. Any instrument or paper sworn to, proved or acknowledged before a

commissioner of deeds within the city of New York and authenticated as hereinbefore provided by the clerk of any county within the city with whom such commissioner has filed his autograph signature and certificate of appointment shall be recorded and read in evidence in any county in this state without further proof; provided, however, that a county clerk's certificate of authentication shall not be necessary to entitle any deed or other instrument or paper so proved or acknowledged to be recorded or read in evidence in any office of the county clerks within the city of New York or the office of the register of the city of New York.

11. A commissioner of deeds must affix, in black ink, to each instrument sworn to, acknowledged or proved, in addition to his signature, the date when his term expires and his official number as given to him by the city clerk, and must print, typewrite or stamp his name in black ink beneath his signature.

12. The mayor of the city of New York may remove any commissioner of deeds appointed under the provisions of this section for cause shown; but no such commissioner shall be removed until charges have been duly made against him to the mayor and the commissioner shall have had an opportunity to answer the same. At any proceedings held before the mayor for the removal of such commissioner of deeds the mayor shall have power to subpoena witnesses and to compel the attendance of the same, and to administer oaths, and to compel the production of books and papers, and upon the termination of such proceedings shall make his decision thereon in writing, and cause the same to be filed in the office of the city clerk of the city of New York, provided, however, that the mayor may, whenever a hearing is granted by him on complaint against a commissioner of deeds, designate an assistant corporation counsel to preside who shall have power to subpoena witnesses and to compel the attendance of the same, administer oaths, compel the production of books and papers and receive exhibits; such assistant shall, upon the termination of such proceedings, certify a copy of the stenographer's minutes of such hearing and such exhibits as may be received in evidence, together with his recommendations on the issues presented, whereupon the mayor shall render a decision on all matters presented on such hearing.

13. In case such commissioner shall be removed from office the city clerk, immediately upon the receipt by him of the order of removal signed by the mayor, shall cause the name of such commissioner so removed to be stricken from the roll of commissioners of deeds of the city.

14. No person who has been removed from office as a commissioner of deeds for the city of New York, as hereinbefore provided, shall thereafter be eligible again to be appointed as such commissioner nor, shall he be eligible thereafter to appointment to the office of notary public.

15. Any person who has been removed from office as aforesaid, who shall, after knowledge of such removal, sign or execute any instrument as a commissioner of deeds or notary public shall be deemed guilty of a misdemeanor.

16. In case of the removal for cause, or removal from the city or resignation of a commissioner of deeds, the city clerk shall immediately notify each county clerk and the register of the city of New York of such removal or resignation.

§ 141. Commissioners of deeds in other states, territories and foreign countries. The secretary of state may, in his discretion, appoint and commission in any other state, territory or dependency, or in any foreign country, such number of commissioners of deeds as he may think proper, each of whom shall be a resident of or have his place of business in the city, county, municipality or other political subdivision from which chosen, and shall hold office for the term of four years, unless such appointment shall be sooner revoked by the secretary of state, who shall have power to revoke the same. A person applying for appointment as a commissioner of deeds shall state in his application the city, county, municipality or other political subdivision for which he desires to be appointed, and shall enclose with his application the sum of twenty-five dollars, which sum, if a

commission shall be granted, shall be paid by the secretary of state into the state treasury, and if such commission shall not be granted, then the same shall be returned to the person making the application. Each commissioner, before performing any of the duties or exercising any of the powers of his office, shall take the constitutional oath of office, if appointed for a city or county within the United States, before a justice of the peace or some other magistrate in such city or county; and if for a territory or dependency, before a judge of a court of record in such territory or dependency; and if for a city, municipality or other political subdivision in a foreign country, before a person authorized by the laws of this state to administer an oath in such country, or before a clerk or judge of a court of record in such foreign country; and shall cause to be prepared an official seal on which shall be designated his name, the words, "commissioner of deeds for the state of New York," and the name of the city or county, and the state, country, municipality or other political subdivision from which appointed, and shall file a clear impression of such seal, his written signature and his oath certified by the officer before whom it was taken, in the office of the department of state. The secretary of state upon receipt of such impression, signature and oath, shall forward to such commissioner instructions and forms, and a copy of the appropriate sections of this chapter.

§ 142. Powers of such commissioners. Every such commissioner shall have authority, within the city, county, municipality or other political subdivision for which he is appointed, and in the manner in which such acts are performed by authorized officers within the state:

1. To take the acknowledgment or proof of the execution of a written instrument, except a bill of exchange, promissory note or will, to be read in evidence or recorded in this state.

2. To administer oaths.

3. If such commissioner is also an attorney at law regularly admitted to practice in this state, in his discretion, to the extent authorized

by this section, to administer an oath to or take the acknowledgment of or proof of the execution of an instrument by his client with respect to any matter, claim, action or proceeding.

4. If appointed for a foreign country, to certify to the existence of a patent, record or other document recorded in a public office or under official custody in such foreign country, and to the correctness of a copy of such patent, record or document, or to the correctness of a copy of a certified copy of such patent, record or other document, which has been certified according to the form in use in such foreign country.

5. A written instrument acknowledged or proved, an oath administered, or a copy or a copy of a certified copy of a patent, record or other document certified, as heretofore provided in this section, may be read in evidence or recorded within this state, the same as if taken, administered or certified within the state before an officer authorized to take the acknowledgment or proof of a written instrument, to administer oaths, or to certify to the correctness of a public record, if there shall be annexed or subjoined thereto, or indorsed thereon a certificate of the commissioner before whom such acknowledgment or proof was taken, by whom the oath was administered, or by whom the correctness of such copy is certified, under his hand and official seal. Such certificate shall specify the day on which, and the city or other political subdivision, and the state or country or other place in which, the acknowledgment or proof was taken, or the oath administered, without which specification the certificate shall be void. Except as provided in subdivision five of this section, such certificate shall be authenticated by the certificate of the secretary of state annexed or subjoined to the certificate of such commissioner, that such commissioner was, at the time of taking such acknowledgment or proof, of administering such oath, or of certifying to such patent record or document, or copy thereof, duly authorized therefor, that he is acquainted with the handwriting of such commissioner, or has compared the signature upon the certificate with the signature of such commissioner deposited in his office, that he has compared the impression of the seal affixed to such certificate with the impression of the seal of such commissioner deposited in his office, and that he

believes the signature and the impression of the seal upon such certificate to be genuine. The certificate of a commissioner as to the correctness of a copy of a certified copy of a patent, record or other document, as provided by this section, shall be presumptive evidence that it was certified according to the form in use in such foreign country.

6. A commissioner of deeds appointed pursuant to the preceding section may during his term of office procure from the secretary of state, on payment to him of a fee of two dollars, a certificate of his appointment, prescribed by the secretary of state, stating among other things, the date of his appointment, the date of expiration thereof and the city, county, municipality or other political subdivision for which he is appointed, and containing the signature of the commissioner in his own handwriting and his official seal, and certifying that he has compared the signature on such certificate with the signature of such commissioner deposited in his office, that he has compared the impression of the seal affixed to such certificate with the impression of the seal of such commissioner deposited in his office and that he believes the signature and the impression of the seal upon such certificate to be genuine. Such a certificate may be filed by such commissioner in the office of any county clerk or register in the state upon the payment to such county clerk or register of a fee of two dollars. Upon the filing of such certificate in the office of a county clerk or register in this state, a written instrument acknowledged or proved, an oath administered, or a copy or copy of a certified copy of a patent, record or other document certified, by a commissioner pursuant to this section, shall be entitled to be read in evidence and shall be accepted for filing or recording and filed or recorded, as the case may be, in the office of such county clerk or register, on tender or payment of the lawful fees therefor, without having annexed or subjoined to the certificate of such commissioner contained thereon the authenticating certificate of the secretary of state as required by subdivision five of this section or by subdivision one of section three hundred eleven of the real property law or by any other provision of law.

§ 142-a. Validity of acts of notaries public and commissioners of deeds notwithstanding certain defects. 1. Except as provided in subdivision three of this section, the official certificates and other acts heretofore or hereafter made or performed of notaries public and commissioners of deeds heretofore or hereafter and prior to the time of their acts appointed or commissioned as such shall not be deemed invalid, impaired or in any manner defective, so far as they may be affected, impaired or questioned by reason of defects described in subdivision two of this section.

2. This section shall apply to the following defects:

(a) ineligibility of the notary public or commissioner of deeds to be appointed or commissioned as such;

(b) misnomer or misspelling of name or other error made in his appointment or commission;

(c) omission of the notary public or commissioner of deeds to take or file his official oath or otherwise qualify;

(d) expiration of his term, commission or appointment;

(e) vacating of his office by change of his residence, by acceptance of another public office, or by other action on his part;

(f) the fact that the action was taken outside the jurisdiction where the notary public or commissioner of deeds was authorized to act.

3. No person shall be entitled to assert the effect of this section to overcome a defect described in subdivision two if he knew of the defect or if the defect was apparent on the face of the certificate of the notary public or commissioner of deeds; provided however, that this subdivision shall not apply after the expiration of six months from the date of the act of the notary public or commissioner of deeds.

4. After the expiration of six months from the date of the official certificate or other act of the commissioner of deeds, subdivision one of this section shall be applicable to a defect consisting in omission of the certificate of a commissioner of deeds to state the date on which and the place in which an act was done, or consisting of an error in such statement.

5. This section does not relieve any notary public or commissioner of deeds from criminal liability imposed by reason of his act, or enlarge the actual authority of any such officer, nor limit any other statute or rule of law by reason of which the act of a notary public or commissioner of deeds, or the record thereof, is valid or is deemed valid in any case.

§ 143. Fees of such commissioners. The fees of such commissioners shall be as follows:

1. If appointed for another state, territory or dependency, not to exceed four times the amount allowed by the laws of such state, territory or dependency for like services, and not to exceed in any case one dollar for taking the proof or acknowledgment of a written instrument, or administering an oath;

2. If appointed for Great Britain or Ireland, for administering or certifying an oath, one shilling sterling, and for taking the proof or acknowledgment of a written instrument, or for certifying to the existence or correctness of a copy of a patent, record or document, four shillings sterling;

3. If appointed for France or any other foreign country, for administering and certifying an oath, one franc and twenty-five centimes, and for taking the proof or acknowledgment of a written instrument, or for certifying to the existence or correctness of a copy of a patent, record or document, five francs.

§ 144. Saving clause. In case it be judicially determined that any phrase, clause, part, paragraph or section of any of the provisions of sections one hundred thirty, one hundred thirty-one, one hundred thirty-two, one hundred thirty-three, one hundred thirty-five, one hundred thirty-six, one hundred thirty-seven and one hundred thirty-eight is unconstitutional or otherwise invalid, such determination shall not affect the validity or effect of the remaining

provisions of the aforementioned sections. All persons heretofore appointed and still holding office as notaries public shall continue in such office after the effective date of this article, with the same powers and duties as herein provided until the expiration of the term for which they were appointed.

§ 144-a. Eligible professions for the purchase, sale, and use of body armor. The secretary of state in consultation with the division of criminal justice services, the division of homeland security and emergency services, the department of corrections and community supervision, the division of the state police, and the office of general services shall promulgate rules and regulations to establish criteria for eligible professions requiring the use of body armor, as such term is defined in subdivision two of section 270.20 of the penal law. Such professions shall include those in which the duties may expose the individual to serious physical injury that may be prevented or mitigated by the wearing of body armor. Such rules and regulations shall also include a process by which an individual or entity may request that the profession in which they engage be added to the list of eligible professions, a process by which the department shall approve such professions, and a process by which individuals and entities may present proof of engagement in eligible professions when purchasing body armor.

ARTICLE 6-A

STATE REGISTER

Section 145. Definitions.
146. Publication of certain public notices.
147. Schedule of publication.
148. Distribution and fees.
149. Format of state register.

§ 145. Definitions. As used in this article, unless another meaning is clearly apparent in the language or context:

1. The term "agency" shall mean any department, board, bureau, commission, division, office, council, committee or officer of the state, a public benefit corporation or public authority at least one of whose members is appointed by the governor.

2. The term "public corporation" shall mean and include a municipal corporation, a district corporation, or public benefit corporation except a public benefit corporation at least one of whose members is appointed by the governor.

3. The term "person" shall mean any individual, partnership, corporation, association, or public or private organization of any character, other than an agency or public corporation.

§ 146. Publication of certain public notices. 1. The department of state shall publish, pursuant to the schedule in section one hundred forty-seven of this article, and post on its internet website a publication to be known as the state register, in which shall be published and posted from time to time as received by such department:

(a) rules, orders, designations, and notices submitted by the chief administrator of the courts;

(b) notices and advertisements required by state statute or federal law, rule or regulation to be published by an agency in a newspaper;

(c) notices required by statute to be published in newspapers in actions against foreign corporations;

(d) notices and job impact statements required by the state administrative procedure act to be published in the state register; and

(e) any other matter required by statute to be published in the state register.

2. The secretary of state may, at his or her discretion, publish and post in the state register any notice or information which is not otherwise required by statute to be submitted to him or her by an agency or public corporation for publication in the state register, in instances where such publication and posting will serve the public interest.

3. With regard to rule making notices required to be published and posted in the state register pursuant to article two of the state administrative procedure act, the secretary of state may, at his or her discretion, publish and post the complete text of a proposed or adopted rule, which is not otherwise required to be published and posted in the state register, in instances where such publication and posting will serve the public interest. The secretary of state shall accept from a state agency all rulemaking notices, statements and analyses as required by the state administrative procedure act, data, rules, and regulations as provided for by article three of the state technology law.

4. With regard to a notice of adoption published in the state register pursuant to article two of the state administrative procedure act, for which the corresponding notice of proposed rule making published and posted in the state register included the complete text of the rule, the secretary of state may, at his or her discretion, include only the changes in such text in the notice of adoption.

4-a. Notice of the availability of any state or federal funding which is to be distributed by any agency upon application by any municipality, school board, school district, not-for-profit organization or any other individual or organization entitled to apply for such funding pursuant to any law, rule or regulation governing the distribution of such funds shall be published and posted in the state register. Such notice shall appear in the register no later than forty-five days prior to the last day for receipt of applications for such funding. Such notice shall not be required: (i) whenever a notice has been published in the procurement opportunities newsletter pursuant to article four-C of the economic development law; (ii) for state or federal transportation funding; and (iii) in those instances where an entity has been specifically designated by law or legislative resolution to receive funding. Failure to publish the notice in a timely manner shall not be a basis for setting aside an award or challenging a contract or other legal claim.

5. The publication and posting of notices and advertisements in the state register shall be additional to their publication in newspapers,

whenever publication in newspapers is required by statute.

6. The secretary of state shall promulgate rules establishing procedure, forms, font and style for submission of material by any person, agency or public corporation for publication and posting in the state register.

§ 147. Schedule of publication. 1. The department of state shall publish a regular issue of the state register at least once a week and special issues as directed by statute or as deemed appropriate by the secretary of state.

2. The department of state may publish special issues which shall include information and notices required to be published pursuant to section fourteen hundred two of the abandoned property law, at times specified by such section.

3. The department of state shall publish, quarterly, a special issue which shall:

(a) contain an index of all notices published in the state register pursuant to article two of the state administrative procedure act between January first of the year of publication and the state register issue immediately preceding publication of this special issue;

(b) cite each notice in the index by the identification number described in subdivision three of section one hundred forty-nine of this article and for each such notice cited, the index shall include a description of the subject and purpose of the rule, the date of publication of the notice, and a symbol denoting whether the notice was for (i) a proposed rule making, (ii) an adoption, (iii) an emergency adoption, (iv) an expiration, (v) a revised rule making or (vi) a withdrawal; and

(c) arrange notice citations by agency in alphabetical order and present consecutively all such citations relating to a single rule making.

§ 148. Distribution and fees. 1. a. The department of state shall mail or otherwise deliver a copy of each issue of the state register to the office of the clerk of every county, to every library designated by the commissioner of education, and upon written request, to the office of the clerk of any city, town or village. Such copies shall be made available for public inspection by such offices and libraries for not less than one year.

b. On or before September first, nineteen hundred eighty-three, and annually thereafter, the commissioner of education shall designate a sufficient number of libraries, not to exceed three hundred, to provide a uniform, statewide distribution of copies of each issue of the state register, and shall provide the department of state with a list of such designated libraries.

2. The department of state shall mail or otherwise deliver a copy of each regular issue and the quarterly index required by subdivision three of section one hundred forty-seven of this article to each agency and every state legislator, unless the agency or state legislator has requested that the department discontinue such delivery, and shall provide notice and indicate the availability upon request of any special issue published pursuant to subdivision two of section one hundred forty-seven of this article by placing said notice in the regular issue appearing two weeks prior to the publication date of any such special issue. Such special issues shall be available to each agency and state legislator at no charge.

3. Subscriptions to the state register shall be made available to the public by either first or second class mail, or in electronic form at the election of the subscriber. A reasonable rate for a subscription to printed copies of the regular issue and quarterly index required by subdivision three of section one hundred forty-seven of this article, to be not more than eighty dollars per year for first class mail delivery and not more than forty dollars per year for second class mail delivery, shall be set by the secretary of state. The secretary of state may charge no more than one dollar and fifty cents per single copy of a printed regular issue or quarterly index of the state register. Rates

shall not be set at such a level that the anticipated total subscription revenues exceed the total cost of producing, printing and distributing the state register.

4. Special issues published pursuant to subdivision two of section one hundred forty-seven of this article shall be made available to the public at prices set by the secretary of state to reflect the cost of producing, printing and distributing the special issues. The notice provided in subdivision two of this section shall indicate the prices of the special issues.

4-a. In addition to the state register, the department of state shall make available at no cost an online version of the weekly state register, quarterly index and any special issues as directed by statute or deemed appropriate by the secretary of state.

5. The secretary of state shall be entitled to charge and receive a reasonable sum from any person required by state statute to cause a notice to be published in the state register.

6. All fees set by the secretary of state pursuant to this section are subject to the approval of the director of the budget.

§ 149. Format of state register. 1. The printed version of the state register shall be an eight and one-half by eleven inch booklet with three holes punched in the left hand margin to make such register suitable for storage in an eight and one-half by eleven inch loose-leaf binder.

2. Each regular issue of the state register shall contain:

(a) a table of contents;

(b) a table which includes a general description of the identification number system, the alphanumeric abbreviation assigned to each agency and the symbol to denote the various types of notices pursuant to article two of the state administrative procedure act;

(c) a complete list of all public hearings to be conducted for which a

notice of proposed rule making has been published therein or in any previous issue of the state register. Such list shall include (i) the agency which will conduct the public hearing; (ii) the date, time, place and subject of such public hearing; and (iii) the identification number for the proposed rule making which is the subject of such public hearing;

(d) a presentation of notices, required by article two of the state administrative procedure act and not already published in the state register, in a sequence that provides by agency (i) notices of emergency adoption, (ii) notices of adoption, (iii) notices of expiration, (iv) notices of withdrawal, (v) notices of proposed rule making for which a public hearing is scheduled, (vi) notices of proposed rule making for which no hearing is scheduled and (vii) notices of revised rule making;

(e) an action pending index, in tabular form, by agency in alphabetical order, which shall identify all previously noticed proposed rules for which the secretary of state has not published a notice of expiration, of adoption or of withdrawal, and, with respect to a rule defined in subparagraph (ii) of paragraph (a) of subdivision two of section one hundred two of the state administrative procedure act, for which the secretary of state has not published a notice of adoption or withdrawal for one year after the publication of the proposed rule making notice or two years if such notice has been renewed by the agency. Such action pending index shall include a description of the subject and purpose of the proposed rule and the identification number described in paragraph (a) of subdivision three of this section.

3. With respect to notices published in the state register pursuant to article two of the state administrative procedure act: (a) each notice of proposed rule making shall be identified in the state register by an identification number which shall include a separate alphanumeric abbreviation to identify the agency, the issue number and year of publication of the state register, a consecutive number assigned by the secretary of state to such notice, and a symbol denoting that the notice is for a proposed rule making;

(b) each notice of expiration, revised rule making, withdrawal, adoption or emergency adoption shall be identified by the identification number assigned to the notice of proposed rule making to which it

corresponds, followed by a symbol denoting that such notice is for an expiration, withdrawal, adoption or emergency adoption;

(c) if a notice of emergency adoption does not correspond to a prior notice of proposed rule making, such notice of emergency adoption shall be assigned an identification number in accordance with paragraph (a) of this subdivision, except that the symbol shall denote that the notice is for an emergency adoption.

4. To the extent practicable, every version of the state register transmitted by electronic means shall substantially comply with the provisions of this section.

ARTICLE 6-B
SERVICES TO LOCALITIES

Section 150. Legislative findings.
151. Definitions.
152. General functions, powers and duties.
153. Specific powers, functions and duties.

§ 150. Legislative findings. The legislature hereby finds and declares that:

1. Strong local government has been a major positive factor in the political, economic and social development of the state;

2. The future welfare of the state depends in large measure on the effectiveness of local government and of its relationships to state government;

3. Population shifts and other economic and social trends have brought new problems to local government;

4. The state has the responsibility toward local government to coordinate state services and information for the benefit of local government, to assist in the solution of its problems, and otherwise to

help local government in making itself as strong and effective as possible;

5. The need for a more rational planning process requires a high degree of local, state and interstate cooperation;

6. The need for a single state agency to review and comment on local planning efforts of statewide significance, state agency planning and interstate planning commission programs is recognized;

7. A common data base developed by the official state planning agency in conjunction with planning efforts at all levels of government is essential to effective planning; and

8. State planning and development policies should promote planning programs among state agencies and between levels of government that maximize environmental and economic benefits to the localities.

§ 151. Definitions. As used in this article, the term "municipalities" shall include public corporations as defined in subdivision one of section sixty-six of the general construction law and special districts as defined in subdivision sixteen of section one hundred two of the real property tax law.

§ 152. General functions, powers and duties. The department of state, by and through the secretary of state or duly authorized officers or employees, shall have the following functions, powers and duties:

1. To assist the governor in coordinating the activities and services of those departments and agencies of the state having relationships with municipalities to the end of providing more effective services to such municipalities.

2. To keep the governor informed as to the problems of municipalities and to advise and assist in formulating policies with respect thereto

and utilizing the resources of the state government for the benefit of municipalities.

3. To serve as a clearinghouse, for the benefit of municipalities, regarding information relating to their common problems and to the state and federal services available to assist in the solution of those problems.

4. To refer municipalities to the appropriate departments and agencies of the state and federal governments for advice, assistance and available services in connection with particular problems

5. To advise and assist municipalities in the solution of particular problems.

6. To conduct studies and analyses of the problems of municipalities and to make the results thereof available as the secretary may deem appropriate.

7. To encourage and assist cooperative efforts among municipalities in developing among themselves solutions of their common problems.

8. To encourage expansion and improvement of training made available to municipal officials, in cooperation with municipalities and the organizations representing them.

9. To consult with and cooperate with municipalities and officers, organizations, groups and individuals representing them, to the end of more effectively carrying out the functions, powers and duties of the department.

10. To encourage and facilitate cooperation and collaboration among agencies and levels of government, and between government and the private sector, for the protection and development of human, natural and man-made resources.

11. To advise and assist municipalities in the performance of their

planning and development activities.

12. To aid and assist, in the provision and coordination of state technical assistance and services in connection with the planning and development activities of municipalities.

13. To provide assistance and guidance to municipalities and, as appropriate, to the private sector, through the compilation, formulation and dissemination of necessary information, projections and techniques relating to development of resources.

14. To undertake any studies, inquiries, surveys or analyses necessary for performance of the functions, powers and duties of the department through the personnel of the department or consultants, or in cooperation with any public or private agencies.

15. To adopt, amend or rescind such rules, regulations and orders as may be necessary or convenient for the performance of its functions, powers and duties under this article.

16. To enter into contracts with any persons, firm, corporation or governmental agency, and to do all other things necessary or convenient to carry out the functions, powers and duties expressly set forth in this article.

17. To effectuate the purposes of this article, and to enable the department properly to carry out its functions, powers and duties, the secretary of state may request from any state department or agency or from any municipality, and the same are hereby authorized to provide, appropriate assistance, services and data.

22. To prepare and recommend to the legislature and the governor legislative proposals relating to municipalities.

23. With the approval of the governor, to accept and administer as agent of the state any gift, grant, devise or bequest, whether conditional or unconditional, including federal grants, for any of the

purposes of this article. Any moneys so received may be expended subject to the same limitations as to approval of expenditures and audits as are prescribed for state moneys.

§ 153. Specific powers, functions and duties. The department of state shall have the following specific powers, functions and duties:

1. (a) To act as the official state planning agency for all of the purposes of sections seven hundred one and seven hundred three of the federal housing act of nineteen hundred fifty-four, as heretofore and hereafter amended, except as otherwise provided by law.

(b) To act as agent for, and enter into contracts and otherwise cooperate with, the federal government in connection with the authority referred to in paragraph (a) of this subdivision, and as such agent to administer any grant or advance of funds for the assistance of any such activities to the state, or through the state to the governing bodies of municipalities, legally constituted metropolitan or regional planning agencies, and tribal councils or other legally constituted tribal bodies for planning for an Indian reservation located within the territorial jurisdiction of the state of New York, complying with the provisions of such grants or advances.

(c) To present any claim, other than claims required by law to be presented by the commissioner of transportation, to the federal government or any agency or official thereof with respect to the funds made available for the purposes specified in paragraphs (a) and (b) of this subdivision.

(d) To enter into a contract or contracts with any municipality, legally constituted metropolitan or regional planning agency, or tribal council or other legally constituted tribal body for planning for an Indian reservation located within the territorial jurisdiction of the state of New York, in connection with the authority provided in paragraph (a) of this subdivision for grants to be made to such municipality, planning agency or tribal council or other legally constituted tribal body by the state, within amounts appropriated therefor, for planning projects approved by the secretary, which contracts shall provide that the approved cost of a planning project,

over and above the amount which may be received from federal grants therefor, shall be borne in an amount not to exceed one-half thereof by the state pursuant to such contracts and the remainder thereof out of local funds appropriated therefor by such municipality, planning agency or tribal council or other legally constituted tribal body.

2. To act as the official agent of the state for the purpose of administering, carrying out and otherwise cooperating with the federal government in connection with the provisions of the federal Appalachian regional development act of nineteen hundred sixty-five as heretofore and hereafter amended; to apply for, accept, and expend funds made available by the federal government pursuant to such federal acts and enter into any necessary contracts or compacts in connection therewith; and to take any further action which may be required under the terms of any such federal act.

3. To act as the official agent of the state for the purpose of administering, carrying out and otherwise cooperating with the federal government in connection with the provisions of the federal public works and economic development act of nineteen hundred sixty-five, as heretofore and hereafter amended; to apply for, accept, and expend funds made available by the federal government pursuant to such federal acts and enter into any necessary contracts or compacts in connection therewith; to review and approve overall economic development programs prepared under the provisions of such federal acts as to the qualifications of the area or district organization and the adequacy and reasonableness of such programs, and every political subdivision of the state, or private or public non-profit organization or association submitting an overall economic development program to the federal government must submit such overall economic development program for review by the department of state; to act on behalf of the political subdivisions of the state in connection with making findings that projects for which financial assistance is sought under the provisions of such federal acts are consistent with an overall program for the economic development of the area; and to take any further action which may be required under the terms of any such federal acts, including but not limited to delineating economic development districts and economic

development regions and providing for the administration of such districts and regions in any manner deemed appropriate by the department, except that with regard to section three hundred two of such act, the governor shall designate the official agent of the state for the purpose of administering, carrying out and otherwise cooperating with the federal government in connection with the provisions of such section.

5. (a) To make or contract to make, within appropriations therefor, state grants to municipalities to cover fifty per centum of the costs to municipalities of preparing applications to the federal government for federal assistance for the planning of comprehensive city demonstration programs as authorized under title one of the demonstration cities and metropolitan development act of nineteen hundred sixty-six as modified by the provisions of title I of the housing and community development act of nineteen hundred seventy-four, and any federal laws as heretofore and hereafter amended, as such costs shall be certified by the municipality and approved by the secretary of state.

(b) In the case of municipalities which have contracted with the federal government for a federal grant to assist in financing the costs of planning comprehensive city demonstration programs under the authority referred to in paragraph (a) of this subdivision, to make or contract to make, within appropriations therefor, state grants to such municipalities to cover fifty per centum of the net cost to the municipality of undertaking and completing such planning, exclusive of any federal assistance, as such net cost shall be certified by the municipality and approved by the secretary of state, but in no event shall such state grants exceed one-eighth of the federal grant.

(c) In the case of municipalities which have had applications approved by the federal government for federal assistance for the planning of comprehensive city demonstration programs under the authority referred to in paragraph (a) of this subdivision, but for which federal funds are not then available, to make or contract to make, within appropriations therefor, state grants to such municipalities in an amount not to exceed ninety per centum of the reasonably anticipated costs of undertaking and completing such planning, as such costs shall be certified by the municipality and approved by the secretary of state; provided, however,

that no such grant shall be made unless the municipality agrees to repay such grant out of federal funds made available to the municipality for such planning, when and to the extent such federal funds are made available.

(d) In carrying out the functions, powers and duties prescribed in paragraphs (a), (b) and (c) of this subdivision and in developing plans and applications under title one of the housing and community development act of nineteen hundred seventy-four, to provide such technical assistance to the municipalities as the secretary of state determines to be appropriate.

6. The department of taxation and finance is hereby designated to accept and receive all grants and advances from the federal government pursuant to the provisions of sections seven hundred one and seven hundred three of the federal housing act of nineteen hundred fifty-four and the provisions of the federal Appalachian regional development act of nineteen hundred sixty-five and the federal public works and economic development act of nineteen hundred sixty-five and the federal fire prevention and control act of nineteen hundred seventy-four, as such acts may be amended from time to time, which are provided for the purposes specified in subdivisions one, two, three, four and five of this section and all moneys so accepted and received shall be deposited by the department of taxation and finance in special funds for use exclusively for the purposes for which such grants or advances were made. Payment from such special funds shall be made upon audit and warrant of the comptroller upon vouchers approved by the secretary.

7. Nothing contained in this section shall be deemed to derogate or detract in any way from the functions, powers and duties prescribed by law of any state department or agency or any municipality, nor to interrupt or preclude the direct relationships of any such department or agency with any such municipality for the carrying out of such functions, powers and duties.

ARTICLE 6-C

OFFICE OF FIRE PREVENTION AND CONTROL

Section 155. Office of fire prevention and control; creation; state fire administrator; employees.
155-a. Definitions.
156. Functions, powers and duties of the office.
156-a. Establishment of a specialized hazardous materials emergency response training program.
156-b. Permanent marking indicating location of fire hydrants.
156-c. Fire safety standards for cigarettes.
156-d. Thermal imaging camera grant program.
156-e. College fire safety.
156-f. Evacuation drills.
156-g. Establishment of teams for urban search and rescue, specialty rescue and incident support.
156-h. Registration and fees for manufacturers, distributors, wholesalers, and retailers of sparkling devices.
157. Granting authority.
158. Firefighting training.
159. Advisory council for fire prevention and control.
159-a. Inclusion on the fallen firefighters memorial.
159-c-1. Training; live fire conditions.
159-d. Training for fire chiefs.

§ 155. Office of fire prevention and control; creation; state fire administrator; employees. There is hereby created in the division of homeland security and emergency services an office of fire prevention and control. The head of such office shall be the state fire administrator, who shall be appointed by the governor and shall hold office during the pleasure of the governor. He shall receive an annual salary to be fixed by the commissioner of the division of homeland security and emergency services within the amount available by appropriation. He shall also be entitled to receive reimbursement for expenses actually and necessarily incurred by him in the performance of his duties within the amount available by appropriation.

§ 155-a. Definitions. When used in this article:

1. "Districts" shall mean fire districts created pursuant to article eleven of the town law.

2. "Fire companies" shall mean fire companies governed by the not-for-profit corporation law.

3. "Municipal corporations" shall mean a county, city, town and village.

4. "Municipalities" shall mean municipal corporations.

5. "Sprinkler system" shall mean a system of piping and appurtenances designed and installed in accordance with generally accepted standards so that heat from a fire will automatically cause water to be discharged over the fire area to extinguish it or prevent its further spread.

§ 156. Functions, powers and duties of the office. The office of fire prevention and control, by and through the state fire administrator or his duly authorized officer or employee, shall be empowered to:

1. Advise and assist in coordinating and strengthening the activities, programs and services, and rules and regulations of those departments and agencies of the state which have functions, powers and duties relating to (a) arson suppression, detection, investigation and prosecution, (b) fire prevention and control, and (c) fire service-related problems, to the end of providing more effective services to the public and strengthening governmental programs relating to such matters.

1-a. Advise and assist the state education department in the development of a specialized course of study for teachers of fire and arson prevention.

2. Advise and assist fire companies, municipal corporations and districts, including agencies and departments thereof in developing

measures for more effective fire and arson prevention and control; to assist and encourage cooperative efforts to solve common problems relating to fire and arson prevention and control and to serve as a clearinghouse of information about fire and arson prevention and control, about reported cases of burn injuries or wounds sustained, and about state and federal services available to assist in solving such problems.

3. Employ or contract with individuals, agencies or corporations to assist fire companies, municipal corporations and districts in the development of an arson investigation program or in the investigation of cases of suspected arson or cases of burn injuries or wounds sustained upon the request of such an entity. However, nothing in this provision shall be construed to remove the primary responsibility for arson investigations from appropriate local jurisdictions or agencies.

4. Improve arson evidence analysis and testing at existing facilities and periodically recommend to the governor and the legislature methods to improve such services.

5. Collect, compile and disseminate information relating to fire and arson prevention and control, reported cases of burn injuries or wounds sustained, the use of sprinkler systems, and to operate a state fire reporting system. The state fire reporting system shall include a procedure for the identification of patterns of suspicious or criminal fires and for alerting appropriate state and local authorities. The fire reporting system shall also include fire incident data supplied by local fire agencies in a manner and on forms prescribed by the state fire administrator. To the extent practicable, the data shall be collected and maintained in a form compatible with information collected by other states and the federal government. The state fire administrator shall cooperate with the division of state police, division of criminal justice services, department of financial services, local police and fire agencies, the insurance industry and other appropriate organizations in maintaining such system. The provisions of section three hundred eighteen of the insurance law shall apply to any organization supplying information pursuant to this subdivision.

6. Plan, coordinate and provide training for firefighters, both paid and volunteer, and related governmental officers and employees, relating to fire and arson prevention and control, and encourage expansion and improvement of local training facilities in cooperation with fire companies, municipal corporations and districts. Such training shall be made available by video or computer to the maximum extent possible. The office shall adopt rules and regulations relating to such training, including but not limited to training standards used and the process by which training hours are allocated to counties as well as a uniform procedure for requesting and providing additional training hours.

7. Operate the New York state academy of fire science.

8. Consult with and cooperate with state departments and agencies, and universities, colleges and institutions in the state for the development of specialized courses of study for public officers and employees, including paid and volunteer firefighters, in fire science and administration. As part of the development of a training program for firefighters, the office shall collect, compile, and disseminate information regarding training needs based on the data provided pursuant to section seventy-two-g of the general municipal law. Such information shall be compiled annually and, once compiled, a copy of such information shall be submitted to the governor, the temporary president of the senate, and the speaker of the assembly.

9. Coordinate and support arson training programs conducted by the division of criminal justice services and the division of state police.

10. Provide such public education and information programs, studies and reports as the state fire administrator may determine in furtherance of the provisions of this article and to coordinate and assist other state agencies, municipal corporations and districts and fire companies in such matters.

11. Provide management advice and technical assistance to municipal corporations and districts and fire companies relating to fire and arson

prevention and control, including recommendations relating to organizations and structure of fire companies, municipal corporations and districts, allocations of powers and functions, cooperation and intergovernmental organizational and fiscal relationships, federal and state aid programs; to provide legal advice and technical services to state and local officials and agencies with respect to powers, duties and functions of municipal corporations and districts and fire companies relating to fire and arson prevention and control.

12. Prepare and recommend revisions, consolidations or compilations of statutes relating to arson, fire prevention and control.

13. Upon request of the appropriate state agency, provide for the fire safety inspection of state or state-regulated facilities with the cooperation and assistance of local fire inspection personnel. The completed fire inspection form shall be filed with the requesting agency and contain recommendations as may be appropriate and a copy filed with the office of fire prevention and control.

14. Act as the official agent of the state for the purpose of administering, carrying out and otherwise cooperating with the federal government in connection with the provisions of the federal fire prevention and control act of nineteen hundred seventy-four and any federal laws amendatory or supplemental to such act heretofore or hereafter enacted; to apply for, accept, and expend funds made available by the federal government pursuant to such act; and to enter into any necessary contracts or compacts pursuant to such federal acts in connection therewith and to take any further action which may be required under the terms of any such federal act.

15. Enter into contracts with any person, firm, corporation or governmental agency to do all things necessary and convenient to carry out the functions, powers and duties expressly set forth in this article.

16. Accept and administer as agent of the state any gift, grant, devise or bequest, including federal grants for any of the purposes of

this article. Any moneys so received may be expended subject to the same limitations as to approval of expenditures and audits as are prescribed for state moneys.

17. Issue a written report to the governor and legislature, on or before February fifteenth of each year, on firefighter training activities. Such report shall include at least the following information: the minimum training hours allocated on a county-by-county basis, the training hours requested by each county, any unfulfilled training hour requests, and the number of hours used by each county on a county-by-county basis.

18. Establish rules and regulations as to the location and design of a delineator used to mark the location of fire hydrants.

19. Issue permits and enforce the provisions of article four hundred five of the penal law for the public displays of fireworks and indoor pyrotechnics on or within state property, unless such authority has been delegated pursuant to the rules and regulations promulgated by the office of fire prevention and control.

20. Register the manufacturers, distributors, wholesalers, retailers and seasonal retailers of sparkling devices who wish to do business within the state.

* 21. Adopt, amend or rescind such rules, regulations or orders as may be necessary or convenient to the performance of the functions, powers and duties set forth in this article.

* NB There are 2 sb 21's

* 21. Provide written materials to consumers and builders which detail the benefits of and include the factors that can affect costs associated with the installation and maintenance of an automatic fire sprinkler system for a one- or two-family residential dwelling.

* NB Repealed upon provisions set forth in § 3 of chapter 201 of 2014

* NB There are 2 sb 21's

22. In coordination with the commissioner of the office for people with developmental disabilities, provide the training program relating

to handling emergency situations involving individuals with autism spectrum disorder and other developmental disabilities and associated training materials pursuant to section 13.43 of the mental hygiene law to all firefighters, both paid and volunteer. The office shall adopt all necessary rules and regulations relating to such training, including the process by which training hours are allocated to counties as well as a uniform procedure for requesting and providing additional training hours.

§ 156-a. Establishment of a specialized hazardous materials emergency response training program. 1. The state fire administrator shall establish a specialized hazardous materials emergency response training program for individuals responsible for providing emergency response recovery following incidents involving hazardous materials as such term is defined in regulations promulgated by the commissioner of transportation pursuant to section fourteen-f of the transportation law. The state fire administrator shall inform all fire companies, municipal corporations and districts, including agencies and departments thereof and all firefighters, both paid and volunteer, and related officers and employees and police officers of the implementation and availability of the hazardous materials emergency response training program and shall, subject to the availability of an appropriation, conduct such training with sufficient frequency to assure adequate response to incidents involving hazardous materials and protection of responders in all geographic areas of the state.

2. The state fire administrator shall prescribe the curriculum of the hazardous materials emergency response training program, which shall include, but shall not be limited to:

(a) hands-on training, including information in regard to leak and spill control, product neutralization, pickup and disposal, fire control, decontamination procedures and use and application of foam agents;

(b) hazard assessment with emphasis on incident scene decision-making, including: potential threat to public safety and need for evacuation, calculation of the effect of weather on certain chemicals and evaluation

of the result of chemical exposures to air, water, soil, vegetation, lives and property and impact on the personal safety of those working in the accident area;

(c) calibration and use of emergency equipment;

(d) chemical and biological properties of various classes of chemicals, for example, flammables, oxidizers, corrosives, poisons; and

(e) weapons of mass destruction and response to terrorism.

3. Such specialized hazardous materials emergency response training program curriculum shall also include guidance regarding emergency response to incidents involving lithium-ion batteries. For the purposes of this section, "lithium-ion battery" shall have the same meaning as in section four hundred ninety-five of the general business law.

4. The state fire administrator is hereby directed to issue a report to the governor, speaker of the assembly, temporary president of the senate, chairman of the assembly transportation committee and the chairman of the senate transportation committee by February fifteenth of each year on the operations of the program set forth in this section.

5. The state fire administrator shall promulgate such rules and regulations as are necessary to carry out the provisions of this section.

§ 156-b. Permanent marking indicating location of fire hydrants. A municipality or fire district may mark the location of any fire hydrant within its jurisdiction by means of a reflective delineator of a uniform type and color approved by the office of fire prevention and control.

§ 156-c. Fire safety standards for cigarettes. 1. a. When used in this section, the word "cigarette" shall mean any roll for smoking made wholly or in part of tobacco or of any other substance, irrespective of size or shape and whether or not such tobacco or substance is flavored, adulterated or mixed with any other ingredient, the wrapper or cover of which is made of paper or any other substance or material except

tobacco.

b. When used in this section, the word "sell" shall mean to sell, or to offer or agree to do the same.

2. a. Within two years after this section takes effect, the office of fire prevention and control shall promulgate fire safety standards for cigarettes sold or offered for sale in this state. Such standards shall take effect as provided in subdivision four of this section and shall insure either:

(1) That such cigarettes, if ignited, will stop burning within a time period specified by the standards if the cigarettes are not smoked during that period; or

(2) That such cigarettes meet performance standards prescribed by the office of fire prevention and control to limit the risk that such cigarettes will ignite upholstered furniture, mattresses or other household furnishings.

b. In promulgating fire safety standards for cigarettes pursuant to this section, the office of fire prevention and control, in consultation with the department of health, shall consider whether cigarettes manufactured in accordance with such standards may reasonably result in increased health risks to consumers.

c. The office of fire prevention and control shall be responsible for administering the provisions of this section.

d. The office of fire prevention and control shall report to the governor and the legislature no later than eighteen months after this section takes effect on the status of its work in promulgating the fire safety standards required by this subdivision.

e. When a cigarette is suspected of having ignited a fire, and the office of fire prevention and control receives information regarding the brand and style of such cigarette pursuant to section two hundred four-d or ninety-one-a of the general municipal law, and where such brand and style had been previously certified pursuant to subdivision three of

this section and the package has been marked as required by subdivision six of this section, the office of fire prevention and control shall conduct random testing on cigarettes of the same brand and style in order to determine whether such cigarettes meet the fire safety standards mandated by this section; provided however that such testing shall not be required if the office of fire prevention and control has tested such brand and style within the preceding three months.

3. On and after the date the fire safety standards take effect in accordance with subdivision four of this section, no cigarettes shall be sold or offered for sale in this state unless the manufacturer thereof has certified in writing to the office of fire prevention and control that such cigarettes meet the performance standards prescribed by the office of fire prevention and control pursuant to subdivision two of this section.

(a) Such certifications must be based upon testing conducted by a laboratory that has been accredited pursuant to Standard ISO/IEC 17025 of the international organization for standardization, or such other comparable accreditation standard as the office of fire prevention and control shall require by regulation.

(b) Such certification shall be signed by an officer of the manufacturer and shall contain for each cigarette brand style such information as shall be deemed necessary by the office of fire prevention and control, including but not limited to: (i) the brand and style; (ii) length in millimeters; (iii) circumference in millimeters; (iv) flavor, if applicable; (v) filter or non-filter; (vi) package description; (vii) the name, address and telephone number of the laboratory, if different than the manufacturer that conducted the test; (viii) the date that the testing occurred; and (ix) a notarized statement from an officer or director of the laboratory certifying that the cigarette meets the performance standards prescribed by the office of fire prevention and control.

(c) If a manufacturer has certified a cigarette pursuant to this subdivision, and thereafter makes any change to such cigarette that is likely to alter its compliance with the fire safety standards mandated by this section, then before such cigarette may be sold or offered for sale in this state such manufacturer shall retest such cigarette in

accordance with the testing standards prescribed by the office of fire prevention and control and maintain records of such retesting as required by subdivision seven of this section. Any such altered cigarette which does not meet the performance standard prescribed by the office of fire prevention and control may not be sold in the state. Copies of such written certifications shall be provided by the certifying manufacturer to all wholesale dealers, as defined in subdivision eight of section four hundred seventy of the tax law, and all agents, as defined in subdivision eleven of section four hundred seventy of the tax law. The office of fire prevention and control shall prescribe procedures by which stamping agents, wholesale dealers or retail dealers are notified of which cigarettes have been certified by manufacturers as meeting the performance standards prescribed by the office of fire prevention and control, which may include the maintenance of a website listing certified cigarette brands and styles.

4. The fire safety standards required pursuant to subdivision two of this section shall take effect on such date as the office of fire prevention and control shall specify in promulgating such standards and such date shall be the earliest practicable date by which manufacturers of cigarettes can comply with such standards; provided, however, that such date shall not be later than one hundred eighty days after such standards are promulgated. On and after such date, no person or entity shall sell in this state cigarettes that have not been certified by the manufacturer in accordance with subdivision three of this section or that have not been marked in the manner required by subdivision six of this section; provided, however, that nothing in this subdivision shall be construed to prohibit any person or entity from selling or offering for sale cigarettes that have not been certified by the manufacturer in accordance with subdivision three of this section and have not been marked in the manner required by subdivision six of this section if such cigarettes are or will be stamped for sale in another state or are packaged for sale outside the United States.

5. a. Any wholesale dealer, as defined in subdivision eight of section four hundred seventy of the tax law, or any agent, as defined in subdivision eleven of section four hundred seventy of the tax law, or

any other person or entity who knowingly sells or offers to sell cigarettes in violation of subdivision four of this section shall be subject to a civil penalty not to exceed one hundred dollars for each pack of such cigarettes sold or offered for sale provided that in no case shall the penalty against any wholesale dealer exceed one hundred thousand dollars for sales or offers to sell during any thirty day period. Any retail dealer, as defined in subdivision nine of section four hundred seventy of the tax law, who knowingly sells or offers to sell cigarettes in violation of subdivision four of this section shall be subject to a civil penalty not to exceed one hundred dollars for each pack of such cigarettes sold or offered for sale, provided that in no case shall the penalty against any retail dealer exceed twenty-five thousand dollars for sales or offers to sell during any thirty day period. Any person engaged in the business of selling cigarettes in or for shipment into New York who possesses cigarettes that have not been certified or marked in accordance with the requirements of this section shall be deemed to be offering such cigarettes for sale in New York. An agent licensed in more than one state may rebut such presumption by establishing: (i) that such cigarettes have been physically segregated from cigarettes offered for sale in New York; and (ii) no New York tax stamps have been placed on any cigarettes that have not been certified or marked in accordance with this section. In addition to any penalties imposed by this section the commissioner of taxation and finance, after an opportunity for a hearing has been afforded pursuant to subdivision five of section four hundred eighty of the tax law, shall suspend for six months the license of any agent issued pursuant to section four hundred seventy-two of the tax law, the license of any wholesale dealer issued pursuant to section four hundred eighty of the tax law, or the registration of any retail dealer issued pursuant to section four hundred eighty-a of the tax law, when such agent, wholesale dealer or retail dealer violates this section three or more times within a three year period, provided such violations occurred on at least three separate calendar days.

b. In addition to any penalty prescribed by law, any corporation, partnership, sole proprietor, limited partnership, association or any other business entity engaged in the manufacture of cigarettes that

knowingly makes a false certification pursuant to subdivision three of this section shall be subject to a civil penalty of at least seventy-five thousand dollars and not to exceed two hundred fifty thousand dollars for each such false certification, and any entity that fails to pay a civil penalty imposed pursuant to this paragraph within thirty days after such penalty is imposed, shall be subject to a bar from selling cigarettes covered by that false certification in this state until the state receives full payment of such penalty.

c. There is hereby established in the custody of the state comptroller a special fund to be known as the "Cigarette Fire Safety Act Fund". Such fund shall consist of all moneys recovered from the assessment of civil penalties authorized by this subdivision. Such monies shall be deposited to the credit of the fund and shall, in addition to any other moneys made available for such purpose, be available to the office of fire prevention and control for the purpose of fire safety and prevention programs. All payments from the cigarette fire safety act fund shall be made on the audit and warrant of the state comptroller on vouchers certified and submitted by the state fire administrator.

6. No cigarettes shall be distributed, sold or offered for sale in this state unless the manufacturer has placed on each individual package the letters "FSC" which signifies Fire Standards Compliant. Such letters shall appear in eight point type and be permanently printed, stamped, engraved or embossed on the package at or near the UPC Code, if present. Any package containing such symbol is deemed to be in compliance with the office of fire prevention and control regulations set forth in 19 NYCRR 429.8.

7. a. Each manufacturer shall maintain copies of the reports of all tests conducted on all cigarettes for a period of three years, and shall make copies of such reports available to the office of fire prevention and control and the attorney general upon written request; provided, however, that any manufacturer that fails to make copies of such reports available within sixty days of receiving such a written request shall be subject to a civil penalty not to exceed ten thousand dollars for each day after the sixtieth day that such manufacturer does not make such

copies available and shall be subject to a bar from selling or offering to sell cigarettes in New York until such copies are made available.

b. Testing performed or sponsored by the office of fire prevention and control in order to determine a cigarette's compliance with the fire safety standards mandated by this section shall be conducted (i) in accordance with the requirements applicable to manufacturers pursuant to the regulations of the office of fire prevention and control, and (ii) by a laboratory that has been accredited pursuant to Standard ISO/IEC 17025 of the international organization for standardization or such other comparable accreditation standard as the office of fire prevention and control shall require by regulation.

8. a. To enforce the provisions of this section, the commissioner of taxation and finance and the state fire administrator may take administrative action imposing the civil penalties and suspensions authorized by subdivision five of this section. In addition, the attorney general may bring an action on behalf of the people of the state of New York to enjoin acts in violation of this section and to recover any civil penalties unless civil penalties have been previously recovered in such administrative proceedings.

b. Any enforcement officer as defined in section thirteen hundred ninety-nine-t of the public health law shall have the power to impose upon any retail dealer the civil penalties authorized by subdivision five of this section, following a hearing conducted in the same manner as hearings conducted under article thirteen-E of the public health law.

c. To enforce the provisions of this section, the commissioner of taxation and finance and the state fire administrator, or their duly authorized representatives, are hereby authorized to examine the books, papers, invoices and other records of any person in possession, control or occupancy of any premises where cigarettes are placed, stored, sold or offered for sale, as well as the stock of cigarettes in any such premises. Every person in the possession, control or occupancy of any premises where cigarettes are placed, sold or offered for sale, is hereby directed and required to give the commissioner of taxation and

finance and the state fire administrator, and their duly authorized representatives, the means, facilities and opportunity for such examinations as are herein provided for and required.

d. Whenever any police officer designated in section 1.20 of the criminal procedure law or a peace officer designated in subdivision four and subdivision seventy-nine pertaining to the Office of Fire Prevention and Control, of section 2.10 of such law, acting pursuant to his or her special duties, shall discover any cigarettes which have not been marked in the manner required by subdivision six of this section, such officer is hereby authorized and empowered to seize and take possession of such cigarettes. Such seized cigarettes shall be turned over to the commissioner of taxation and finance, and shall be forfeited to the state. Cigarettes seized pursuant to this section shall be destroyed.

e. The commissioner of the division of homeland security and emergency services, in consultation with the state fire administrator, and the commissioner of taxation and finance are hereby authorized to promulgate such regulations as are deemed necessary to implement the provisions of this section.

§ 156-d. Thermal imaging camera grant program. 1. Subject to available appropriation, there is hereby established in the office of fire prevention and control a thermal imaging camera grant program, under which grants shall be made available to fire organizations for the purchase of one thermal imaging camera each or for reimbursement to such fire organizations for public funds, other than state or federal funds, that have been expended by such fire organizations on or after April first, two thousand for the purchase of a thermal imaging camera, provided, however, no reimbursement, when combined with any required match, shall exceed the office of general services contract price per camera. Such grants shall be made available upon application by such fire organizations. Fire organizations that are without a thermal imaging camera shall receive priority from the office of fire prevention and control for grants made pursuant to this section. The office of fire prevention and control may require, pursuant to such uniform standards

as such office may prescribe, that applicants for such grants or reimbursement provide matching funds of up to, but not more than, the amount awarded; provided, however, that a fire organization having an annual operating budget of one hundred fifty thousand dollars or less shall not be required to provide matching funds. The office of fire prevention and control shall promulgate such rules and regulations as are necessary to advance the purposes of this section. Such regulations shall establish, among other things, training requirements for the use of thermal imaging cameras by fire organizations.

2. As used in this section, "fire organizations" means a board of fire commissioners, which operates a fire department pursuant to the town law, a fire department established pursuant to the village law or general city law or a fire company located within a fire protection district pursuant to the town law.

§ 156-e. College fire safety. 1. Notwithstanding the provisions of any law to the contrary, the office of fire prevention and control of the division of homeland security and emergency services, by and through the state fire administrator or their duly authorized officers and employees, shall have the responsibility to annually inspect buildings under the jurisdiction of public colleges and independent colleges, as these terms are defined in section eight hundred seven-b of the education law, for compliance with and violations of the uniform fire prevention and building code; or any other applicable code, rule or regulation pertaining to fire safety. Buildings subject to inspection are all buildings under the jurisdiction of such colleges used for classroom, dormitory, fraternity, sorority, laboratory, physical education, dining, recreational or other purposes.

2. a. The office of fire prevention and control shall have the power to issue a notice of violation and orders requiring the remedying of any condition found to exist in, on or about any such building which violates the uniform fire prevention and building code, or any other code, rule or regulation pertaining to fire safety, fire safety equipment and fire safety devices. Such office is further authorized to

promulgate regulations regarding the issuance of violations, compliance with orders, and providing for time for compliance, reinspection procedures, and issuance of certificates of conformance.

b. Where any college authority in general charge of the operation of any public or independent college buildings is served personally or by registered or certified mail with an order of the office of fire prevention and control to remedy any violation and fails to comply with such order immediately or within such other time as specified in the order, the office of fire prevention and control may avail itself of any or all of the following remedies: (1) assess a civil penalty of up to five hundred dollars per day until the violation is corrected; (2) order immediate closure of the building, buildings or parts thereof where a violation exists that poses an imminent threat to public health and safety; (3) refer violations to the appropriate local government authorities for enforcement pursuant to article eighteen of this chapter.

c. The office of fire prevention and control is authorized to commence necessary proceedings in a court of competent jurisdiction seeking enforcement of any of its orders and payment of assessed penalties.

3. a. Except as provided herein, any county, city, town or village, pursuant to resolution of their respective legislative bodies, may apply to the office of fire prevention and control for delegation of all or part of the duties, rights and powers conferred upon the office of fire prevention and control by this section and section eight hundred seven-b of the education law. Upon acceptable demonstration of adequate capability, resources and commitment on the part of the applicant local government, the office of fire prevention and control may make such delegation, in which case the local government shall also have all of the rights, duties and powers provided to local governments in article eighteen of this chapter and in any city charter or code. The authority granted in this section to assess civil penalties and order closure of buildings shall not be delegated to the local government. Such powers shall continue in the office of fire prevention and control which may exercise them in the case of violations, on its own volition or at the

request of the delegee local government. The delegation shall expire after three years, and may be renewed at the discretion of the office of fire prevention and control. All inspection reports conducted pursuant to a delegation of authority shall be promptly filed with the office of fire prevention and control. In the event any such report is not filed or reasonable grounds exist to believe that inspections or enforcement are inadequate or ineffective, the office of fire prevention and control may revoke the delegation or continue it subject to terms and conditions specified by the office of fire prevention and control.

b. The authorities in a city having a population of one million or more shall exercise all of the rights, powers and duties pertaining to inspection of independent and public college buildings and enforcement provided in this section and section eight hundred seven-b of the education law, without impairing any existing authority of such city. A copy of all inspection reports shall be filed with the office of fire prevention and control by the authorities conducting inspections.

§ 156-f. Evacuation drills. Except as may be otherwise provided in rules and regulations promulgated by the department of state pursuant to article eighteen of this chapter, in any building owned or leased in whole by the state or any agency thereof, an evacuation drill shall be conducted at least twice each year in which all of the occupants of the buildings shall participate simultaneously and which shall conduct all such occupants to a place of safety. In New York city, the state fire administrator shall make rules, regulations and special orders necessary and suitable to each situation, as appropriate.

§ 156-g. Establishment of teams for urban search and rescue, specialty rescue and incident support. 1. Authorization to establish urban search and rescue task force teams, specialty rescue teams, and incident support teams. The commissioner of the division of homeland security and emergency services after consultation with the state fire administrator shall have the authority to establish, organize, administer, support, train, and fund urban search and rescue task force teams, specialty

rescue teams, and incident support teams created pursuant to this section.

2. Definitions. For the purposes of this section, the following terms shall have the following meanings:

(a) "urban search and rescue task force team" shall mean a specialized team or group of teams, formed pursuant to this section, organized with capabilities equivalent to urban search and rescue task force teams established under the federal emergency management agency in order to assist in the removal of trapped victims in emergency situations including, but not limited to, collapsed structures, trench excavations, elevated locations, and other technical rescue situations.

(b) "specialty rescue team" shall mean a specialized team, formed pursuant to this section, organized to provide technical rescue assistance to first responders including, but not limited to, canine search and rescue/disaster response, cave search and rescue, collapse search and rescue, mine and tunnel search and rescue, and swift water/flood search and rescue teams. Such teams shall be aligned with one or more of the search and rescue categories within the federal emergency management agency's national resource typing system.

(c) "incident support team" shall mean a team of trained response personnel, formed pursuant to this section, organized to provide coordination with governmental agencies and non-governmental organizations as well as technical, and logistical support to urban search and rescue task force teams and specialty rescue teams.

3. Appointment and training of team members; equipment. (a) The commissioner of the division of homeland security and emergency services is hereby authorized to appoint members to any team created pursuant to this section. Team membership shall consist of local emergency response personnel, state agency personnel and specialty personnel as required.

(b) The commissioner of the division of homeland security and emergency services shall be responsible for training and equipping the teams established pursuant to this section and for training such other teams located within the state for response to man-made or natural disasters to the extent appropriations are provided. The commissioner of the division of homeland security and emergency services shall support

the capabilities of each team established pursuant to this section with the necessary training and equipment to ensure mobilization and deployment for rapid response to emergencies and disasters to the extent appropriations are provided.

4. Accreditation of teams. The commissioner of the division of homeland security and emergency services shall have the authority to establish an accreditation program to review and evaluate new and existing local and regional technical rescue capabilities, and provide recommendations for capability enhancement in accordance with the national incident management system, the national response plan, and nationally recognized standards.

5. Defense, indemnification and insurance coverage of team members. Members of the teams formed pursuant to this section who are volunteer firefighters, volunteer ambulance workers, municipal or state employees, or employees of a non-governmental entity shall be provided coverage by their respective municipalities, organizations, and entities for purposes of sections seventeen and eighteen of the public officers law and/or other defense and indemnification coverage and workers' compensation coverage pursuant to applicable provisions of the workers' compensation law or benefits pursuant to applicable provisions of the volunteer firefighters' benefit law or the volunteer ambulance workers' benefit law. Individuals appointed to an urban search and rescue task force team, a specialty rescue team or an incident support team, for which such coverage is not available, shall be deemed volunteer state employees for purposes of section seventeen of the public officers law and section three of the workers' compensation law.

6. Rules and regulations. The commissioner of the division of homeland security and emergency services after consultation with the state fire administrator shall have the authority to promulgate rules and regulations as deemed necessary relating to the accreditation of urban search and rescue task force teams, specialty rescue teams, and incident support teams and to the formation and operation of all teams established pursuant to this section.

7. Funding. The division of homeland security and emergency services shall expend the necessary monies for training, equipment, and other items necessary to support the operations of urban search and rescue task force teams, specialty rescue teams and incident support teams within appropriations provided. The division of homeland security and emergency services also may, pursuant to applicable rules and regulations approved by the director of the division of the budget, approve grants of funds from monies allocated and appropriated for any or all such teams.

§ 156-h. Registration and fees for manufacturers, distributors, wholesalers, and retailers of sparkling devices. 1. Definitions. As used in this section, the term:

(a) "Distributor" means any person or entity engaged in the business of selling sparkling devices to wholesalers, specialty retailers, permanent retailers or temporary seasonal retailers for resale.

(b) "Manufacturer" means any person or entity engaged in the manufacture or construction of sparkling devices.

(c) "Specialty retailer" means any person or entity who, at a fixed place of business, is engaged solely in selling sparkling devices at retail. For purposes of this section, a person or entity is engaged solely in selling sparkling devices if fifty-one percent or more of such person's or entity's annual gross sales are from the sale of sparkling devices.

(d) "Permanent retailer" means any person or entity who, at a fixed place of business, is engaged in selling sparkling devices at retail.

(e) "Sparkling devices" means any item defined in subparagraph (vi) of paragraph (a) of subdivision one of section 270.00 of the penal law.

(f) "Temporary seasonal retailer" means any person or entity who, at a temporary stand or tent, is engaged in selling sparkling devices from June twentieth through July fifth or from December tenth through January second of each year at retail.

(g) "Wholesaler" means any person or entity engaged in the business of selling sparkling devices to specialty retailers, permanent retailers or temporary seasonal retailers at wholesale.

2. Registration requirements. Any manufacturer, distributor, wholesaler, specialty retailer, permanent retailer or temporary seasonal retailer of sparkling devices who wishes to do business in this state or to otherwise sell, ship, or assign for sale its products in this state must register annually with the office of fire prevention and control on forms prescribed by such office. Any specialty retailer, permanent retailer or temporary seasonal retailer that sells sparkling devices at more than one retail location may submit one registration form for all such locations but must provide the address of each location with the registration form; however, any retailer may submit multiple registration forms.

3. Registration form. The registration form filed with the office of fire prevention and control must be notarized and must include the following information: business name; address; telephone number; officers, if the business is a corporation; and an individual designated as a contact person.

4. Fees. (a) Each manufacturer, distributor or wholesaler must pay an annual registration fee to be set by the office of fire prevention and control not to exceed five thousand dollars. Each specialty retailer must pay an annual registration fee to be set by such office not to exceed two thousand five hundred dollars. Each permanent retailer shall pay an annual registration fee to be set by such office not to exceed two hundred dollars for each retail location registered. Each temporary seasonal retailer must pay a registration fee to be set by such office not to exceed two hundred fifty dollars per season. Each certificate-holder wishing to have a duplicate certificate issued for one which is lost or to reflect a change of address shall request such duplicate in writing and shall pay a fee of five dollars.

(b) Revenue from registration fee payments shall be used for the purposes of implementing firefighter safety and training programs as well as registration and testing provisions of this chapter.

(c) No city, municipality or other local jurisdiction shall charge any fee or require any permit whatsoever for the sale and use of sparkling devices.

5. Record and reports. Each manufacturer, distributor and wholesaler shall maintain and make available to the state fire administrator, upon the state fire administrator's reasonable request, full and complete, true, and accurate records showing the name and quantity of any sparkling device produced in, imported to, exported from, or sold in this state.

6. Rules. The state fire administrator shall promulgate rules prescribing registration forms required by this section.

§ 157. Granting authority. The division of homeland security and emergency services by and through the commissioner of the division of homeland security and emergency services or his duly authorized officers and employees, shall administer, carry out and approve grants of funds from moneys allocated and appropriated therefor, for authorized arson, fire prevention and control expenditures as defined herein, that are conducted by municipal corporations. "Authorized arson, fire prevention and control expenditures" shall mean those expenditures utilized by a municipal corporation for fire or arson prevention, fire or arson investigation and arson prosecution. No expenditure which has not been specifically designated by the local legislative body for arson, fire prevention and control and approved by the office of fire prevention and control pursuant to rules and regulations promulgated thereby shall be considered an "authorized arson, fire prevention and control expenditure." The division of homeland security and emergency services shall adopt, amend and rescind such rules, regulations and guidelines as may be necessary for the performance of its functions, powers and duties under this section. The division of homeland security and emergency services shall allocate grants under this article among the municipalities whose applications have been approved in such a manner as will most nearly provide an equitable distribution of the grants among municipalities, taking into consideration such factors as the level of suspected arson activity, population and population density, the need for state funding to carry out local programs, and the potential of the municipalities to effectively employ such grants.

§ 158. Firefighting training. 1. For the purpose of this section, the term fire fighter shall mean a member of a fire department whose duties include fire service as defined in paragraph d of subdivision eleven of section three hundred two of the retirement and social security law.

2. In addition to the functions, powers and duties otherwise provided by this article, the state fire administrator may promulgate rules and regulations with respect to:

(a) The approval, or revocation thereof, of fire training programs for fire fighters;

(b) Minimum courses of study, attendance requirements, and equipment and facilities to be required for approved fire training programs for fire fighters;

(c) Minimum qualifications for instructors for approved fire training programs for fire fighters;

(d) The requirements of minimum basic training which fire fighters appointed to probationary terms shall complete before being eligible for permanent appointment, and the time within which such basic training must be completed following such appointment to a probationary term;

(e) The requirements of minimum basic training which fire fighters not appointed for probationary terms but appointed on other than a permanent basis shall complete in order to be eligible for continued employment or permanent appointment, and the time within which such basic training must be completed following such appointment on a non-permanent basis;

(f) The requirements for in-service training programs designed to assist fire fighters in maintaining skills and being informed of technological advances;

(g) Categories or classifications of advanced in-service training programs and minimum courses of study and attendance requirements with respect to such categories or classifications;

(h) Exemptions from particular provisions of this article in the case of any county, city, town, village or fire district, if in the opinion of the state fire administrator the standards of fire training established and maintained by such county, city, town, village or fire district are equal to or higher than those established pursuant to this article; or revocation in whole or in part of such exemption, if in his

or her opinion the standards of fire training established and maintained by such county, city, town, village or fire district are lower than those established pursuant to this article; and

(i) Education, health and physical fitness requirements for eligibility of persons for provisional or permanent appointment in the competitive class of the civil service as fire fighters as it deems necessary and proper for the efficient performance of such duties;

3. In furtherance of his or her functions, powers and duties as set forth in this section, the state fire administrator may:

(a) Recommend studies, surveys and reports to be made by the state fire administrator regarding the carrying out of the objectives and purposes of this section;

(b) Visit and inspect any fire training programs approved by the state fire administrator or for which application for such approval has been made; and

(c) Recommend standards for promotion to supervisory positions.

4. In addition to the functions, powers and duties otherwise provided by this section, the state fire administrator shall:

(a) Approve fire training programs for fire fighters and issue certificates of approval to such programs, and revoke such approval or certificate;

(b) Certify, as qualified, instructors for approved fire training programs for fire fighters and issue appropriate certificates to such instructors;

(c) Certify fire fighters who have satisfactorily completed basic training programs and in-service training programs, and issue appropriate certificates to such fire fighters and revoke such certificates;

(d) Cause studies and surveys to be made relating to the establishment, operation, effectiveness and approval of fire training programs;

(e) Cause studies and surveys to be made relating to the completion or partial completion of training programs by video or computer to the maximum extent practicable; and

(f) Consult with and cooperate with the state university of New York

and private universities, colleges and institutes in the state for the development of specialized courses of study for fire fighters in fire science and fire administration.

§ 159. Advisory council for fire prevention and control. 1. There is hereby created within the division of homeland security and emergency services an advisory council for fire prevention and control for the purpose of advising the commissioner and the state fire administrator with regard to: (a) execution of the functions, powers and duties of the office with respect to fire and arson prevention and control services, policies and programs; (b) recommendations on courses of instruction and standards for training of firefighters of fire departments, fire companies, municipal corporations, districts, and private industry of the state; (c) recommendations on federal and state legislation and programs relating to fire and arson prevention services, policies and programs; and (d) recommendations upon such other matters as the commissioner and the state fire administrator may request.

2. The council shall be composed of the state fire administrator, as chair, or his or her designee, and twelve other members appointed as follows: six members appointed by the governor; two members appointed by the temporary president of the senate; one member appointed by the minority leader of the senate; two members appointed by the speaker of the assembly; one member appointed by the minority leader of the assembly.

3. Membership of such council shall consist of representatives from the volunteer and career fire service, at least half of which shall serve at the municipal level.

4. Members of the council, other than the state fire administrator, shall serve for terms of three years, with such terms to commence on April first and expire on March thirty-first.

5. No member of the council shall be disqualified from holding any other public office or employment, nor shall he or she forfeit any such

office or employment by reason of the appointment hereunder, notwithstanding the provisions of any general, special or local law, ordinance or city charter.

6. The council shall meet at least twice a year. Special meetings may be called by the chairperson. The agenda and meeting place of all regular or special meetings shall be made available to the public in advance of such meeting.

7. Members of the council shall serve without salary or per diem allowance, but shall be entitled to reimbursement for actual and necessary expenses incurred in the performance of official duties under this section, provided, however, that such members are not, at the time such expenses are incurred, public employees otherwise entitled to such reimbursement.

8. The chairperson may create subcommittees as he or she may from time to time deem appropriate to provide the council with advice and recommendations. Members of such subcommittees shall be entitled to reimbursement for actual and necessary expenses incurred in the performance of official duties under this section, provided, however, that such members are not, at the time such expenses are incurred, public employees otherwise entitled to such reimbursement.

§ 159-a. Inclusion on the fallen firefighters memorial. In the case of a death of a firefighter, regardless of whether such death occurred before, on, or after the effective date of this section, that results from services performed in the line of duty, as determined by an authoritative agency including, but not limited to, the workers' compensation board, the federal Department of Justice, or the office of fire prevention and control, the name of that firefighter shall be inscribed upon the New York state fallen firefighters memorial on the Capitol Mall in Albany. The fallen firefighters memorial selection committee shall amend its election criteria so that it is not in conflict with the provisions of this section.

§ 159-c-1. Training; live fire conditions. 1. In the training of firefighters under live fire conditions no person or persons shall play the role of a victim.

2. For purposes of this section, a live fire condition is any unconfined open flame or device that can propagate fire to a building, a training tower, an acquired structure or other combustible material.

3. A violation of this section shall be punishable by a civil penalty not to exceed one thousand dollars paid for by the fire department conducting such training.

§ 159-d. Training for fire chiefs. The state fire administrator may conduct the training and education required for fire chiefs pursuant to subdivision seven of section fifty-eight-a of the civil service law and section two hundred four-dd of the general municipal law with sufficient frequency to enable individuals to satisfy the necessary qualifications for a fire chief pursuant to such section. To the extent practicable, such training and education may be made available in all geographic regions of the state. Such regions may be determined by the state fire administrator.

ARTICLE 6-D

COMMUNITY SERVICES BLOCK GRANT PROGRAM

Section 159-e. Definitions.
159-f. Functions, powers and duties of the secretary.
159-g. Rules and regulations.
159-h. Limitation of administrative costs.
159-i. Distribution of funds.
159-k. Monitoring and evaluation.
159-l. Decertification and reduction of entity shares.
159-m. Designation and redesignation of eligible entities in unserved areas.
159-n. Report of the secretary.

§ 159-e. Definitions. When used in this article:

1. "Eligible entity" shall mean any organization

(a) officially designated as a community action agency or a community action program under the provisions of section two hundred ten of the economic opportunity act of 1964 for fiscal year 1981, unless such community action agency or a community action program lost its designation under section two hundred ten of such act as a result of a failure to comply with the provisions of such act; or

(b) designated by the process described in section one hundred fifty-nine-m of this article (including an organization serving migrant or seasonal farmworkers that is so described or designated).

Such eligible entity shall have a tripartite board as its governing board which fully participates in the development, planning, implementation, and evaluation of the program to serve low-income communities and through which the entity shall administer the community services block grant program. However, such eligible entities which are public organizations shall have either a tripartite board or another mechanism specified by the state to assure decision making and participation by low-income individuals in the development, planning, implementation, and evaluation of programs funded under this article.

2. "Tripartite board" shall mean

(a) the governing board of a private nonprofit entity selected by the entity and composed so as to assure that

(1) one-third of the members of the board are elected public officials, holding office on the date of selection, or their representatives, except that if the number of such elected officials reasonably available and willing to serve on the board is less than one-third of the membership of the board, membership on the board of appointive public officials or their representatives may be counted in meeting such one-third requirement;

(2) (A) not fewer than one-third of the members are persons chosen in accordance with democratic selection procedures adequate to assure that

these members are representative of low-income individuals and families in the neighborhood served; and

(B) each representative of low-income individuals and families selected to represent a specific neighborhood within a community under clause (A) of this subparagraph resides in the neighborhood represented by the member; and

(3) the remainder of the members are officials or members of business, industry, labor, religious, law enforcement, education, or other major groups and interests in the community served; or

(b) the governing board of a public organization, which shall have members selected by the organization and shall be composed so as to assure that not fewer than one-third of the members are persons chosen in accordance with democratic selection procedures adequate to assure that these members

(1) are representative of low-income individuals and families in the neighborhood served;

(2) reside in the neighborhood served; and

(3) are able to participate actively in the development, planning, implementation, and evaluation of programs funded under this article.

3. "Indian tribes" and "tribal organizations" shall mean those tribes, bands or other organized groups of Indians recognized in the state or considered by the federal secretary of the interior to be an Indian tribe or an Indian organization for any purpose.

4. "Community based organization" shall mean any organization incorporated for the purpose of providing services or other assistance to economically or socially disadvantaged persons within its designated community. Such organization must have a board of directors of which more than half of the members reside in such designated community.

5. "Department" shall mean the department of state.

6. "Secretary" shall mean the secretary of state.

§ 159-f. Functions, powers and duties of the secretary. The secretary

or his duly authorized officers or employees, shall have the following functions, powers and duties:

1. To act as the official agent of the state for the purpose of administering, carrying out and otherwise cooperating with the federal government in connection with the federal community services block grant act of 1981, as amended;

2. To allocate federal community services block grant funds pursuant to contracts with recipients of such funds in the manner required by federal law and regulation;

3. To assist the governor in applying for the state's allocation under the federal community services block grant act, including the fulfillment of any planning requirements;

4. To cooperate with the legislature in conducting hearings required by the federal community services block grant act; and

5. To monitor and evaluate the use of funds received by the state pursuant to the federal community services block grant act.

§ 159-g. Rules and regulations. The secretary shall promulgate rules and regulations necessary to carry out the provisions of this article.

§ 159-h. Limitation of administrative costs. Not more than five percent of the community services block grant funds received by the state shall be retained for administration at the state level.

§ 159-i. Distribution of funds. At least ninety percent of the community services block grant funds received by the state shall be distributed pursuant to a contract by the secretary to eligible entities as defined in subdivision one of section one hundred fifty-nine-e of this article. Each such eligible entity shall receive the same

proportion of community services block grant funds as was the proportion of funds received in the immediately preceding federal fiscal year under the federal community services block grant program as compared to the total amount received by all eligible entities in the state, under the federal community services block grant program.

The secretary shall, pursuant to section one hundred fifty-nine-h of this article, retain not more than five percent of the community services block grant funds for administration at the state level.

The remainder of the community services block grant funds received by the state shall be distributed pursuant to a contract by the secretary in the following order of preference: a sum of up to one-half of one percent of the community services block grant funds received by the state to Indian tribes and tribal organizations as defined in this article, on the basis of need; and to community based organizations. Such remainder funds received by eligible entities will not be included in determining the proportion of funds received by any such entity in the immediately preceding federal fiscal year under the federal community services block grant program.

§ 159-k. Monitoring and evaluation. 1. The secretary shall monitor and evaluate the use of community services block grant funds made available pursuant to this article by the recipients of such funds in order to evaluate the performance of such recipients. Evaluations shall include, but not be limited to:

(a) determining the effectiveness of recipients' administrative operations, organizational structure, planning and programming, self evaluation, and general decision making; and

(b) reviewing the recipients' compliance with federal and state law and regulation.

2. For purposes of evaluations conducted under this section, recipients shall make available to the secretary, or any duly authorized officer or employee of the department, appropriate books, documents, papers and records for examination, copying or mechanical reproduction

on or off the premises of the recipient upon a reasonable request therefor.

§ 159-l. Decertification and reduction of entity shares. 1. Any eligible entity that received funding in the previous federal fiscal year through a community services block grant made under this article shall not have its funding terminated under this article or reduced below the proportional share of funding the entity received in the immediately preceding federal fiscal year, as determined pursuant to section one hundred fifty-nine-i of this article, unless, after providing notice and an opportunity for a hearing on the record, the state determines that cause exists for such termination or such reduction, subject to review by the secretary of the United States department of health and human services. For purposes of making a determination that cause exists for:

(a) a funding reduction, the term "cause" shall include

(1) a statewide redistribution of funds provided through a community services block grant under this article to respond to

(A) the results of the most recently available census or other appropriate data;

(B) the designation of a new eligible entity; or

(C) severe economic dislocation; and

(2) the failure of an eligible entity to comply with the terms of an agreement or a state plan, or to meet a state requirement, as described in this section; or

(b) a termination, the term "cause" includes the failure of an eligible entity to comply with the terms of an agreement or a state plan, or to meet a state requirement, as described in this section.

2. If the state determines, on the basis of a final decision in a review pursuant to this article, that an eligible entity fails to comply with the terms of an agreement or the state plan to provide services under this article or to meet appropriate standards, goals, and other requirements established by the state (including performance objectives), the state shall:

(a) inform the entity of the deficiency to be corrected;

(b) require the entity to correct the deficiency;

(c) (1) offer training and technical assistance, if appropriate, to help correct the deficiency, and prepare and submit to the secretary of the United States department of health and human services a report stating the reasons for the determination; or

(2) if the state determines that such training and technical assistance are not appropriate, it shall prepare and submit to the secretary of the United States department of health and human services a report stating the reasons for the determination;

(d) (1) at the discretion of the state (taking into account the seriousness of the deficiency and the time reasonably required to correct the deficiency), allow the entity to develop and implement and submit to the state, within sixty days after being informed of the deficiency, a quality improvement plan to correct such deficiency within a reasonable period of time, as determined by the state; and

(2) not later than thirty days after receiving from an eligible entity a proposed quality improvement plan pursuant to subparagraph one of this paragraph, either approve such proposed plan or specify the reasons why the proposed plan cannot be approved; and

(e) after providing adequate notice and an opportunity for a hearing, initiate proceedings to terminate the designation of or reduce the funding under this article of the eligible entity unless the entity corrects the deficiency.

3. A determination to terminate the designation or reduce the funding of an eligible entity pursuant to subdivision two of this section is reviewable by the secretary of the United States department of health and human services, pursuant to the processes set forth in the federal community services block grant act of 1981, as amended.

§ 159-m. Designation and redesignation of eligible entities in unserved areas. 1. Qualified organization in or near area. (a) In general. If any geographic area of the state is not, or ceases to be, served by an eligible entity under this article, and if the governor decides to serve such area, the governor may solicit applications from, and designate as an eligible entity

(1) a private nonprofit organization (which may include an eligible entity) that is geographically located in the unserved area, that is capable of providing a broad range of services designed to eliminate poverty and foster self-sufficiency, and that meets the requirements of this article; and

(2) a private nonprofit eligible entity that is geographically located in an area contiguous to or within reasonable proximity of the unserved area and that is already providing related services in the unserved area.

(b) Requirement. In order to serve as the eligible entity for the area, an entity described in subparagraph two of paragraph (a) of this subdivision shall agree to add additional members to the board of the entity to ensure adequate representation

(1) in each of the three required categories described in paragraph (a) of subdivision two of section one hundred fifty-nine-e of this article, by members that reside in the community comprised by the unserved area; and

(2) in the category described in subparagraph two of paragraph (a) of subdivision two of section one hundred fifty-nine-e of this article, by members that reside in the neighborhood to be served.

2. Special consideration. In designating an eligible entity under subdivision one of this section, the governor shall grant the designation to an organization of demonstrated effectiveness in meeting the goals and purposes of this article and may give priority, in granting the designation, to eligible entities that are providing related services in the unserved area, consistent with the needs identified by a community-needs assessment.

3. No qualified organization in or near area. If no private, nonprofit organization is identified or determined to be qualified under subdivision one of this section to serve the unserved area as an eligible entity the governor may designate an appropriate political subdivision of the state to serve as an eligible entity for the area. In order to serve as the eligible entity for that area, the political subdivision shall have a tripartite board or other mechanism as required in section one hundred fifty-nine-e of this article.

§ 159-n. Report of the secretary. The secretary of state shall report to the governor and the legislature by March fifteenth of each year on the administration of the community services block grant program. The report shall include, but not be limited to, the results of the monitoring and evaluation of recipients of funds under the program and any recommendation for changes which the secretary of state deems necessary for the effective administration of the program.

ARTICLE 6-E
STATE CERTIFIED AND LICENSED REAL ESTATE APPRAISERS

Section 160. Application.
160-a. Definitions.
160-b. Use of the title "state certified real estate appraiser" or "state licensed real estate appraiser" or "state licensed real estate appraiser assistant".
160-c. State board of real estate appraisal.
160-d. Powers of the board.
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160-v. Due process.
160-w. Hearing and judicial review.
160-x. Classification of services.
160-y. Contingent fees.
160-z. Retention of records.
160-aa. Transitional licensing.
160-bb. Severability.

§ 160. Application. This article applies to the profession of real estate appraisers and the use of the titles "state certified real estate appraiser" and "state licensed real estate appraiser".

§ 160-a. Definitions. As used in this article the following terms shall mean:

1. "Analysis" is a study of real estate or real property other than estimating value.

2. "Appraisal" or "real estate appraisal" means an analysis, opinion or conclusion relating to the nature, quality, value or utility of specified interests in, or aspects of, identified real estate. An appraisal may be classified by subject matter into either a valuation or an analysis.

3. "Appraisal report" means any written communication of an appraisal.

4. "Board" means the state board of real estate appraisal established pursuant to the provisions of section one hundred sixty-c of this article.

5. (a) "Certified appraisal" or "certified appraisal report" means an appraisal or appraisal report given or signed and certified as such by a certified real estate appraiser. When identifying an appraisal or appraisal report as "certified", the state certified real estate appraiser must indicate which type of certification is held. A certified

appraisal or appraisal report represents to the public that it meets the appraisal standards defined in this article.

(b) "Licensed appraisal" or "licensed appraisal report" means an appraisal or appraisal report given or signed and authenticated as such by a licensed real estate appraiser. A licensing appraisal or appraisal report represents to the public that it meets the appraisal standards as prescribed by the board.

6. (a) "State certified real estate appraiser" means a person who develops and communicates real estate appraisal and who holds a current, valid certificate issued to him or her for either general or residential real estate under the provisions of this article.

(b) "State licensed real estate appraiser" means a person who develops and communicates real property appraisals and who holds a current valid license issued to him or her for residential real property under the provisions of this article.

(c) "State licensed real estate appraiser assistant" means a person who assists and is supervised by a state certified real estate appraiser and who holds a current valid license issued to him or her under the provisions of this article.

7. "Department" shall mean the department of state.

8."Real estate" means an identified parcel or tract of land, including improvements, if any.

9. "Real property" means one or more defined interests, benefits and rights inherent in the ownership of real estate.

10. "Valuation" is an estimate of the value of real estate or real property.

§ 160-b. Use of the title "state certified real estate appraiser" or "state licensed real estate appraiser" or "state licensed real estate appraiser assistant". 1. Only a person certified under this article shall use the title "state certified real estate appraiser" or licensed

under this article shall use the title "state licensed real estate appraiser" or "state licensed real estate appraiser assistant" or assume that title or any title, designation or abbreviation likely to create the impression of certification or license by this state as a real estate appraiser or real estate appraiser assistant. After December thirty-first, nineteen hundred ninety-one, only a person who is certified or licensed pursuant to this article shall describe or refer to any appraisal or other evaluation of real estate located in this state by the term "certified" or "licensed".

2. Nothing in this article shall preclude a person who is not a state certified or licensed real estate appraiser or a licensed real estate appraiser assistant from appraising real estate for compensation.

§ 160-c. State board of real estate appraisal. 1. There is hereby established within the department of state a state board of real estate appraisal which shall consist of nine members, three of whom shall be public members and six of whom shall be real estate appraisers, who shall have and exercise the powers of the board as set forth in section one hundred sixty-d of this article.

2. Three members shall be appointed by the governor, one of whom shall be a public member; two members shall be appointed by the temporary president of the senate, one of whom shall be a real estate appraiser and one of whom shall be a public member; two members shall be appointed by the speaker of the assembly, one of whom shall be a real estate appraiser and one of whom shall be a public member; one member shall be appointed by the minority leader of the senate; one member shall be appointed by the minority leader of the assembly. The term of each member shall be five years.

3. Notwithstanding the foregoing, the members of the first board who are real estate appraisers, need not be certified or licensed under this article prior to their appointment to the board. The board shall appoint an executive secretary who shall be a real estate appraiser.

4. The executive secretary and real estate appraiser members first appointed to the board shall be certified designated members in good standing of a nationally recognized real estate appraisal organization that as of June first, nineteen hundred eighty-nine, required appraisal experience, education and testing in order to become a designated member, in addition to adherence to standards of professional practice in order to retain such designation. Each real estate appraiser member of the board appointed after January first, nineteen hundred ninety-six, must be a state certified real estate appraiser. At least one-half of the appraiser members appointed after January first, nineteen hundred ninety-six, shall hold the general appraisal certificate. Any vacancy occurring on the board shall be filled within sixty days of its occurrence, in the same manner as the member whose vacancy is being filled was appointed. A person appointed to fill a vacancy occurring other than by expiration of a term shall be appointed for the unexpired term of the member he succeeds. No person shall serve as a member of the board for more than two consecutive terms. The public members of the board shall not be engaged in the practice of real estate appraising.

§ 160-d. Powers of the board. 1. The board shall adopt rules and regulations in aid or furtherance of this article and shall have the following powers and duties:

a. To define, with respect to each category of state certified real estate appraisers, state licensed real estate appraisers, and state licensed real estate appraiser assistants, the type of educational experience, appraisal experience and equivalent experience that will meet the statutory requirements of this article, provided, however, that in no event shall the experience, education and examination requirements adopted by the board be less than the minimum criteria established by the Appraisal Subcommittee of the Federal Financial Institutions Examination Council or by the Appraiser Qualification Board of the Appraisal Foundation as referred to in title XI of the Financial Institutions Reform, Recovery and Enforcement Act of 1989;

b. To establish examination specifications consistent with the

standards of the Appraisal Qualifications Board of the Appraisal Foundation for state licensed real estate appraiser assistants, state licensed real estate appraisers and each category of state certified real estate appraisers, to provide or procure appropriate examination questions and answers and to establish procedures for grading examinations;

c. To define, with respect to state licensed real estate appraiser assistants, state licensed real estate appraisers and each category of state certified real estate appraisers, the continuing education requirements for the renewal of a license or a certification that will meet the statutory requirements provided in this article;

d. To review the standards for the development and communication of real estate appraisals provided in this article and to adopt regulations explaining and interpreting such standards, provided, however, that such standards must, at a minimum, conform to the uniform standards of professional appraisal as promulgated by the Appraisal Standards Board of the Appraisal Foundation; and

e. To prescribe the scope of practice for state licensed real estate appraiser assistants, state licensed real estate appraisers and each category of state certified real estate appraisers, provided, however, that in no event shall the scope of practice prescribed by the board be less than the scope of practice established by the Appraisal Subcommittee of the Federal Financial Institutions Examination Council or by the Appraiser Qualification Board of the Appraisal Foundation as referred to in title XI of the Financial Institutions Reform, Recovery and Enforcement Act of 1989;

f. To perform such other functions and duties as may be necessary in carrying out the provisions of this article.

2. The board shall promulgate rules and regulations prescribing the form and content of each appraisal report. Such rules and regulations shall include but are not limited to the following requirements:

a. Each appraisal report shall clearly and accurately disclose any extraordinary assumption or limited condition that directly affects an appraisal.

b. Each written appraisal report shall comply with the following specific reporting guidelines:

(1) Identify and describe the real estate being appraised;

(2) Identify the real property being appraised;

(3) Define the opinion that is the purpose of the appraisal and describe the scope of the appraisal;

(4) Set forth the effective date of the opinion and the date of the appraisal report;

(5) Set forth the appraiser's opinion of the highest and best use of the real estate being appraised when such an opinion is necessary and appropriate;

(6) Set forth the appraisal procedure followed, the data considered and the reasoning that supports the analyses, opinions and conclusions;

(7) Set forth all assumptions and limiting conditions that affect the analyses, opinions and conclusions in the appraisal report; and

(8) Set forth any additional information that may be appropriate to show compliance with, and identify permitted departures from, the requirements for the development of appraisals as provided in this article or as established by the board.

3. The board shall establish standards of developing an appraisal. Such standards shall, among other things, state the following guidelines:

a. All state certified or licensed real estate appraisers conducting certified or licensed appraisals, performing appraisal service or issuing an appraisal shall:

(1) Be aware of, understand and correctly employ those recognized appraisal methods and techniques that are necessary to produce a credible analysis, opinion or conclusion;

(2) Not commit a substantial error or omission of commission which results from a significant departure from the recognized appraisal methods and techniques;

(3) Not commit a substantial error or omission of commission that significantly affects an analysis, opinion or conclusion;

(4) Identify the real estate and real property under consideration, define the opinion that is the purpose of the appraisal, consider the scope of the appraisal service and identify the effective date of the opinion;

(5) Identify and consider the appropriate procedures and market data required to perform the appraisal service, where appropriate;

(6) Consider the effect on use and value of the following factors: existing land use regulations, reasonably probable modifications of land use regulations, economic demand, the physical adaptability of the property, neighborhood trends and the highest and best use of the property;

(7) Consider the effect on the property being appraised of anticipated public or private improvements, located on or off the site, to the extent that market actions reflect the anticipated improvements as of the effective appraisal date;

(8) Recognize that land may be appraised as though vacant and available for development and that the appraisal of improvements is based on their actual contributions to the site;

(9) Appraise proposed improvements only after examining and having available for future examination plans, specifications or other documentation sufficient to identify the scope and character of the proposed improvements, evidence indicating the probable time of completion of the proposed improvements, and reasonably clear and appropriate evidence supporting development costs, anticipated earnings, occupancy projections and the anticipated competition at the time of completion; and

(10) Base estimates of anticipated future rent and expenses for the real estate and real property being appraised on reasonably clear and appropriate evidence.

b. In addition to the foregoing, an appraiser shall define the value being considered. If the value estimate is a statement or estimate of market value, he or she shall clearly indicate whether the statement or estimate is the most probable price in terms of cash or financial arrangements equivalent to cash or other terms as may be precisely

defined. If an estimate of value is based on submarket financing or financing with unusual conditions or incentives, the terms of such a typical financing shall be clearly set forth, their contributions to, or negative influence on value shall be described and estimated, and the market data supporting the valuation estimate shall be described and explained.

c. For each real property appraisal analysis, opinion or conclusion that contains an estimate of value, a state certified or licensed real estate appraiser shall observe all of the following specific real property appraisal guidelines:

(1) Consider whether an appraised fractional interest, physical segment or partial holding contributes pro rata to the value of the whole;

(2) Identify any personal property or other items that are not real estate but are included with or considered in connection with real estate being appraised and contribute to the total value estimate or conclusion;

(3) Consider and analyze any current agreement of sale, option or listing of the real estate and real property being appraised, if the information is available to the person in the normal course of business;

(4) Consider and analyze any prior sales of the property being appraised that occurred within one year;

(5) When estimating the value of a leased fee estate or a leasehold estate, analyze and consider the effect on value, if any, of the terms and conditions of the lease; and

(6) Give careful consideration to the effect on value, if any, of the assemblage of the various estates or component parts of an estate and refrain from estimating the value of the whole solely by adding together the individual values of its various estates or component parts.

d. In developing a review appraisal, a state certified or licensed real estate appraiser shall observe all of the following specific appraisal guidelines:

(1) Identify the appraisal report being reviewed, the real estate being appraised, the real property being appraised, the effective date of the opinion in the original report, the date of the original report

and the date of the review;

(2) Identify the scope of the review process to be conducted, including a determination of whether or not it is appropriate or essential to inspect the appraised property and the data presented;

(3) Form an opinion as to the adequacy and relevance of the data used and the propriety of any adjustment made;

(4) Form an opinion as to whether or not the appraisal methods and techniques used were appropriate and, if not, the reasons for the person's disagreement with the original appraisal; and

(5) Form an opinion as to whether or not the analyses, opinions or conclusions in the report being reviewed are correct or appropriate and, if not, state his or her analyses, opinions or conclusions and his or her reasons for disagreement with the original appraisal.

e. In developing an appraisal for an employer or a client, a state certified or licensed real estate appraiser shall carefully consider and determine whether the appraisal service to be performed is intended to result in an analysis, opinion or conclusion of a disinterested third party and therefore would be classified as an appraisal assignment as defined in subdivision two of section one hundred sixty-x of this article. If the appraisal service to be performed is not intended to result in an analysis, opinion or conclusion of a disinterested third party, the person shall then carefully consider whether or not he or she would be perceived by third parties or the public as acting as a disinterested third party.

f. Prior to entering into an agreement to perform a real property appraisal service, a state certified or licensed real estate appraiser shall carefully consider the knowledge and experience that will be required to complete the appraisal service competently and either:

(1) Have the knowledge and experience necessary to complete the appraisal service competently; or

(2) Immediately disclose the lack of knowledge or experience to the client and take all steps necessary to complete the appraisal service competently.

g. A state certified or licensed real estate appraiser may enter into

an agreement to perform a real property appraisal service that calls for something less than, or different from, the work that would otherwise be required by the specific appraisal guidelines, provided that prior to entering into the agreement, he or she has done all of the following:

(1) The state certified or licensed real estate appraiser has determined that the appraisal service to be performed is not so limited in scope that the resulting analysis, opinion or conclusion concerning real estate or real property would tend to mislead or confuse the client, the users of the appraisal report or the public; and

(2) The state certified or licensed real estate appraiser has advised the client that the appraisal service calls for something less than, or different from, the work required by the specific appraisal guidelines, and therefore the appraisal report will include a qualification that reflects the limited or differing scope of the appraisal service.

§ 160-e. Powers of the department. The department shall have the following powers and duties:

1. To receive applications for certification and licensing;

2. To establish the administrative procedures for processing applications for certification and licensing;

3. To approve or disapprove applications for certification or license and issue certificates or licenses;

4. To maintain a registry of the names and addresses of people certified or licensed under this article;

5. To retain records and all application materials submitted to it;

6. To approve courses and seminars for original certification or licensing and continuing education to ensure that the same are consistent with the standards established by the board, or equivalent to those required by such standards;

7. To assist the board in such other manner as the board may request;

8. To establish administrative procedures for disciplinary proceedings conducted pursuant to the provisions of this article; and

9. To suspend and revoke certificates or licenses or impose fines pursuant to the disciplinary proceedings provided for in this article.

§ 160-f. Fees. 1. The department shall charge and collect fees not in excess of the following:

a. An application fee for certification and licensing of two hundred fifty dollars.

b. An examination fee of fifty dollars.

c. A reexamination fee of fifty dollars.

d. A fee for recertification or renewal of license of two hundred fifty dollars.

e. A delinquent renewal fee of two hundred dollars.

2. Notwithstanding any other law, the department may transmit an annual registry fee as set by the federal appraisal subcommittee in accordance with 12 U.S.C. 3338 (a)(4)(A) from such individuals who perform or seek to perform appraisals in federally related transactions and to transmit a roster of such individuals to the Appraisal Subcommittee of the Federal Financial Institutions Examination Council as required by Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989.

3. All fees collected under this section shall be paid into the business and licensing services account established pursuant to section ninety-seven-y of the state finance law.

§ 160-g. Certification and licensing process. 1. Applications for original certification and recertification, original license and renewal of license, and examinations shall be made in writing to the department on forms approved by the board.

2. The fees, as fixed by the department pursuant to section one hundred sixty-f of this article, must accompany all applications for original certification and recertification, original license and renewal of license, and examination.

3. At the time of filing an application for certification or license, each applicant shall sign a pledge to comply with the standards set forth in this article and state that he or she understands the types of misconduct for which disciplinary proceedings may be initiated against a state certified real estate appraiser, or a state licensed real estate appraiser, as set forth in this article.

§ 160-h. Licenses and certifications. 1. There shall be one class of license for state licensed real estate appraiser assistants, one class of license for state licensed real estate appraisers and two classes of certification for state certified real estate appraisers. The classes of certification shall be state certified residential real estate appraiser and state certified general real estate appraiser. The board shall prescribe the scope of practice for each license and both classes of certification, provided, however, that in no event shall the scope of practice prescribed by the board be less than the minimum criteria established by the Appraisal Subcommittee of the Federal Financial Institutions Examination Council or by the Appraiser Qualification Board of the Appraisal Foundation as referred to in title XI of the Financial Institutions Reform, Recovery and Enforcement Act of 1989.

2. The application for original certification and recertification or original license and renewal of license, and examination shall specify whether it is for a license or certification being applied for and previously granted. If the application is for a license or renewal, it

shall specify for what class of license the application is being made. If the application is for a certification or recertification, it shall specify for what class of certification the application is being made.

§ 160-i. Examination requirement. An original certification as a state certified real estate appraiser or an original license as a state licensed real estate appraiser shall not be issued to any person who has not demonstrated through a written examination process that he or she possesses the following:

1. Appropriate knowledge of technical terms commonly used in or related to real estate appraising, appraisals, report writing and economic concepts applicable to real estate;

2. Understanding of the principles of land economics, real estate appraisal processes, and of problems likely to be encountered in gathering, interpreting and processing of data in carrying out appraisal disciplines;

3. Understanding of the standards for the development and communication of real estate appraisals as provided in this article;

4. Knowledge of theories of depreciation, cost estimating, methods of capitalization, and the mathematics of real estate appraisal that are appropriate for the classification of certificate applied for;

5. Knowledge of other principles and procedures as may be appropriate for the respective classifications;

6. Basic understanding of real estate law; and

7. Understanding of the types of misconduct for which disciplinary proceedings may be initiated against a state certified real estate appraiser or a state licensed real estate appraiser, as set forth in this article.

§ 160-j. Examination prerequisites. 1. Certified general classification. As a prerequisite to taking the examination for certification as a state certified general real estate appraiser, an applicant shall present evidence satisfactory to the board that he or she has fulfilled the minimum education and experience requirements for such certification examination as established by the board, which shall not be less than the minimum criteria established by the Appraiser Qualification Board pursuant to Title XI of the Financial Institution Reform, Recovery and Enforcement Act of 1989.

2. Certified residential classification. As a prerequisite to taking the examination for certification as a state certified residential real estate appraiser, an applicant shall present evidence satisfactory to the board that he or she has fulfilled the minimum education and experience requirements for such certification examination as established by the board, which shall not be less than the minimum criteria established by the Appraiser Qualification Board pursuant to Title XI of the Financial Institution Reform, Recovery and Enforcement Act of 1989.

3. Licensed classification. As a prerequisite to taking the examination for licensing as a state licensed real estate appraiser, an applicant shall present evidence satisfactory to the board that he or she has fulfilled the minimum education and experience requirements for such certification examination as established by the board, which shall not be less than the minimum criteria established by the Appraiser Qualification Board pursuant to Title XI of the Financial Institution Reform, Recovery and Enforcement Act of 1989.

§ 160-k. Experience requirement. 1. An original certification of a state certified real estate appraiser, or an original license of a state licensed real estate appraiser, shall not be issued to any person who does not possess the equivalent of two years of appraisal experience in real property appraisal as defined by the board supported by adequate written reports. Such experience may include fee and staff appraisal, ad

valorem tax appraisal, review appraisal, appraisal analysis, highest and best use analysis, feasibility analysis or study, and teaching of appraisal courses at a university, college, or junior college when such courses have a duration of not less than ten weeks.

2. A person who is not a state certified real estate appraiser under this article may assist a state certified real estate appraiser in the preparation of an appraisal, provided that he or she is actively and personally supervised by the state certified real estate appraiser and provided that any appraisal report is reviewed and signed by the supervising state certified appraiser.

3. Each applicant for certification or license shall furnish under oath a detailed listing of the real estate appraisal reports for each year for which experience is claimed by the applicant. Upon request, the applicant shall make available to the department for examination, a sample of appraisal reports which the applicant has prepared in the course of his or her appraisal practice.

4. No state certified real estate appraiser shall supervise more than three licensed real estate appraiser assistants.

§ 160-l. Terms of registration. The term of a certificate or license issued under the authority of this article shall be two years from the date of issuance. The expiration date of the certificate or license shall appear on the certificate or license and no other notice of its expiration need be given to its holder.

§ 160-m. Nonresident certification and licensing. 1. Every applicant for certification or licensing under this article who is not a resident of this state shall submit, with the application for certification or license, an irrevocable consent that service of process upon him or her may be made by delivery of the process to the secretary of state if, in an action against the applicant in a court of this state arising out of the applicant's activities as a state certified real estate appraiser,

or a state licensed real estate appraiser, the plaintiff cannot, in the exercise of due diligence, effect personal service upon the applicant.

2. When a nonresident of this state, certified or licensed under the laws of his resident state, the certification and licensing process of which has not been disapproved by the appraisal subcommittee of the federal financial institutions examination council, does not maintain an office for providing appraisal services to clients in this state, and has complied with subdivision one of this section, such nonresident may, upon recommendation of the board, pursuant to such temporary licensing rules or regulations as the board may promulgate, provide certified or licensed appraisals. No temporary certificate or license shall be valid for a duration greater than one year after the date of issue. Any person performing, or seeking to perform, federally related appraisals shall be liable for, and pay, all fees, rated proportionately, which would apply to such person were he or she a resident of this state.

3. A nonresident of this state who has complied with subdivision one of this section, but who does not qualify for treatment under subdivision two of this section, may obtain a certificate as a state certified real estate appraiser or a license as a state licensed real estate appraiser by conformity to all the provisions of this article relating to state certified or licensed real estate appraisers.

4. The board shall recognize on a temporary basis the certification or license of an appraiser issued by another state pursuant to section 1122 of Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, Pub. Law. No. 101-73, 103 Stat. 183 (1989) (codified at 12 U.S.C. 331 et seq.).

§ 160-n. Nonresident certification and licensing by reciprocity. If, in the determination of the board, the certification or licensing process has not been disapproved by the appraisal subcommittee of the federal financial institutions examination council, an applicant who is certified under the laws of such other state may obtain a certificate as a state certified real estate appraiser or a license as a state licensed

real estate appraiser in this state upon such terms and conditions as may be determined by the department.

§ 160-o. Renewal certificate or license. 1. a. To obtain a recertification as a state certified real estate appraiser, or a renewal of license as a state licensed real estate appraiser, the holder of a current, valid certificate or license shall make application and pay the prescribed fee to the department not earlier than one hundred twenty days nor later than thirty days prior to the expiration date of the certificate or license then held. With the application for recertification or renewal of license, the state certified real estate appraiser or state licensed real estate appraiser shall present evidence in the form prescribed by the department of having completed the continuing education requirements, if any, for renewal specified in this article.

b. If the department determines that an applicant has failed to meet the requirements for renewal of certification or licensing through mistake, misunderstanding or circumstances beyond the control of the applicant, the department may extend the term of the certificate or license for a period not to exceed six months, upon payment by the applicant of the prescribed fee for the extension.

c. If the applicant satisfies the requirements for renewal during the extended term of certification or license, the beginning date of the new renewal certificate or license shall be the day following the expiration of the certificate or license previously held by the applicant.

2. If a person fails to renew a certificate as a state certified real estate appraiser, or license as a state licensed real estate appraiser, prior to its expiration or within a period of extension granted by the department pursuant to this article, the person may obtain a recertification or renewal of license by satisfying all of the requirements for renewal and by the payment of a late renewal fee.

3. The license of a state licensed real estate appraiser assistant may

be renewed in accordance with the provisions of subdivisions one and two of this section.

§ 160-p. Basis for denial. The department may, in accordance with the provisions of this article relating to hearings, deny the issuance of a certificate as a state certified real estate appraiser, or license as a state licensed real estate appraiser, or license as a state licensed real estate appraiser assistant, to an applicant on any of the grounds enumerated in this article.

§ 160-q. Principal place of business. 1. Each state certified or licensed real estate appraiser and each state licensed real estate appraiser assistant shall advise the department of the address of his or her principal place of business and all other addresses at which he or she is currently engaged in the business of preparing or assisting with the preparation of real property appraisal reports.

2. Change of name or address. Notice in writing in the manner and form prescribed by the department shall be given the department at its offices in Albany within ten days of a change of name or address of the state certified or licensed real estate appraisers or of the state licensed real estate appraiser assistants, except those made on a recertification or renewal application. The fee for filing each change of name or address notice shall be ten dollars.

§ 160-r. Certificate or license. 1. A certificate or license issued under authority of this article shall bear the signature of the executive secretary of the board and a certificate or license number assigned by the department.

2. Each state certified real estate appraiser shall place his or her certificate number, and each licensed real estate appraiser shall place his or her license number adjacent to or immediately below the title "State Certified Residential Real Estate Appraiser", "State Certified

General Real Estate Appraiser" or "State Licensed Real Estate Appraiser", respectively, when used in an appraisal report or in a contract or other instrument used by the certificate or license holder in conducting real property appraisal activities.

3. Duplicate licenses or certifications or pocket cards. In the case of loss, destruction, or damage, the secretary of state may, upon submission of a request in such form and manner as the department may prescribe, issue a duplicate license or certification or pocket card upon payment of a fee of ten dollars.

§ 160-s. Use of term. 1. The title "state certified real estate appraiser" may only be used to refer to individuals who hold the certificate, and the title "state licensed real estate appraiser" may only be used to refer to individuals who hold the license, and the title "state licensed real estate appraiser assistant" may only be used to refer to individuals who hold the license, and may not be used following or immediately in conjunction with the name or signature of a firm, partnership, corporation or group; or in such manner that it might be interpreted as referring to a firm, partnership, corporation, group or anyone other than an individual holder of the certificate or license.

2. No certificate or license shall be issued under the provisions of this article to a corporation, partnership, firm or group. This shall not be construed to prevent a state certified or licensed real estate appraiser from signing an appraisal report on behalf of a corporation, partnership, firm or group practice.

§ 160-t. Continuing education. 1. As a prerequisite to recertification or renewal of license, a certified or licensed real estate appraiser shall present evidence satisfactory to the department of having met the continuing education requirements, if any, pursuant to this article.

2. The basic continuing education requirement for recertification or renewal of license shall be the completion by the applicant, during the

immediately preceding term of certification or license, of not less than twenty-eight classroom hours of instruction in courses or seminars which have received the approval of the department. Computer based and distance learning courses may be approved by the department so long as providers demonstrate the ability to monitor and verify participation by the real estate appraiser for the specified time periods.

3. In lieu of meeting the requirements of subdivision two of this section an applicant for recertification or renewal of license may satisfy all or part of the requirements by presenting evidence of the following:

a. Completion of an educational program of study determined by the department to be equivalent, for continuing education purposes, to courses approved by the department pursuant to subdivision two of this section; or

b. Participation other than as a student in educational processes and programs approved by the department which relate to real property appraisal theory, practices or techniques, including, but not necessarily limited to, teaching, program development and preparation of textbooks, monographs, articles and other instructional materials.

4. The secretary of state or her duly appointed designee shall adopt regulations upon recommendation by the board for implementations of the provisions of this article to assure that persons renewing their certifications as state certified real estate appraisers or licenses as state licensed real estate appraisers have current knowledge of real property appraisal theories, practices and techniques which will provide a high degree of service and protection to those members of the public with whom they deal in a professional relationship under authority of the certification or license. The regulations shall prescribe the following:

a. Policies and procedures for obtaining departmental approval of courses of instruction pursuant to subdivision two of this section;

b. Standards, policies and procedures to be applied by the department in evaluating applicant's claims of equivalency in accordance with subdivision three of this section;

c. Standards, monitoring methods and systems for recording attendance to be employed by course sponsors as a prerequisite to department approval of courses for credit.

5. In adopting regulations pursuant to paragraph a of subdivision four of this section, the board shall give favorable consideration to courses of instruction, seminars and other real property appraisal educational courses or programs previously or hereafter developed by or under the auspices of professional appraisal organizations and utilized by those associations for purposes of designation or indicating compliance with the continuing education requirements of such organizations.

6. No amendment or repeal of a regulation adopted by the secretary of state or her duly appointed designee pursuant to this section shall operate to deprive a state certified real estate appraiser of credit toward recertification, or a state licensed real estate appraiser of credit toward renewal of license, for any course of instruction completed by the applicant prior to the amendment or repeal of the regulation which would have qualified for continuing education credit under the regulation as it existed prior to the repeal or amendment.

7. A certification as a state certified real estate appraiser, or a license as a state licensed real estate appraiser, that has been revoked as a result of disciplinary action by the department shall not be reinstated unless the applicant presents evidence of completion of the continuing education required by this article. This requirement of evidence of continuing education shall not be imposed upon any applicant for reinstatement who has been required to successfully complete the examination for state certified or licensed real estate appraiser as a condition to reinstatement of certification or license.

8. The board shall prescribe the continuing education requirements for licensed real estate appraiser assistants; provided, however, that in no

event shall such requirements be less than the minimum criteria established by the Appraisal Subcommittee of the Federal Financial Institutions Examination Council or by the Appraiser Qualification Board of the Appraisal Foundation as referred to in title XI of the Financial Institutions Reform, Recovery and Enforcement Act of 1989.

§ 160-u. Disciplinary proceedings. 1. The rights of any holder under a state certificate as a state certified real estate appraiser, or a license as a state licensed real estate appraiser, may be revoked or suspended, or the holder of the certification or license may be otherwise disciplined in accordance with the provisions of this article, upon any of the grounds set forth in this section. As an alternative or in addition to such suspension or revocation, a fine not exceeding two thousand dollars may be imposed on any holder of the certification or license, provided that fifty percent of all moneys received by the department of state for such fines shall be payable to the anti-discrimination in housing fund established pursuant to section eighty-a of the state finance law. The department may investigate the actions of a state certified or licensed real estate appraiser, and may sanction or otherwise discipline a certificate or license holder for any of the following acts or omissions:

a. Procuring or attempting to procure a certificate or license pursuant to this article by knowingly making a false statement, submitting false information, refusing to provide complete information in response to a question in an application for certification or license or through any form of fraud or misrepresentation;

b. Failing to meet the minimum qualifications established by this article;

c. Paying money other than provided for by this article to any member or employee of the department to procure a certificate or license under this article;

d. A conviction of a felony or a misdemeanor which is substantially

related to the qualifications, functions and duties of a person developing real estate appraisals and communicating real estate appraisals to others;

e. An act or omission involving dishonesty, fraud or misrepresentation with the intent to substantially benefit the certificate or license holder or another person or with the intent to substantially injure another person;

f. Violation of any of the standards for the development or communication of real estate appraisals as provided in this article;

g. Failure or refusal without good cause to exercise reasonable diligence in developing an appraisal, preparing an appraisal report or communicating an appraisal;

h. Negligence or incompetence in developing an appraisal, in preparing an appraisal report, or in communicating an appraisal;

i. Willfully disregarding or violating any of the provisions of this article or the regulations of the board for the administration and enforcement of the provisions of this article;

j. Accepting an appraisal assignment as defined in section one hundred sixty-x of this article, when the employment itself is contingent upon the appraiser reporting a predetermined estimate, analysis or opinion, or where the fee to be paid is contingent upon the appraiser reporting a predetermined estimate, analysis or opinion, or where the fee to be paid is contingent upon the opinion, conclusion or valuation reached, or upon the consequences resulting from the appraisal assignment;

k. Violating the confidential nature of governmental records to which he or she gained access through employment or engagement as an appraiser by a governmental agency;

l. Entry of a final civil judgment against the person on grounds of fraud, misrepresentation or deceit in the making of any appraisal of

real property; or

m. Violation of article fifteen of the executive law committed in his or her capacity as a real estate appraiser.

2. In a disciplinary proceeding based upon a civil judgment, the certified or licensed real estate appraiser shall be afforded an opportunity to present matters in mitigation and extenuation, but may not collaterally attack the civil judgment.

3. The provisions of subdivisions one and two of this section shall also be applicable to licensed real estate appraiser assistants.

§ 160-v. Due process. 1. Before suspending or revoking any certification or license or imposing any fines on a holder of a certification or license, the department shall notify the state certified or licensed real estate appraiser or licensed real estate appraiser assistant in writing of any charges made at least twenty days prior to the date set for the hearing and shall afford such real estate appraiser or such real estate appraiser assistant an opportunity to be heard in person or by counsel.

2. The written notice may be served either personally or sent by certified mail to the last known business address of the appraiser.

3. The department shall have the power to subpoena and issue subpoena duces tecum and to take testimony by deposition, in the same manner as prescribed by law in judicial proceedings in the courts of this state.

§ 160-w. Hearing and judicial review. 1. The hearing on the charges shall be at a time and place prescribed by the department.

2. If the department determined that a state certified or licensed real estate appraiser or licensed real estate appraiser assistant is guilty of a violation of any of the provisions of this article, it shall

prepare a finding of fact and recommend that such appraiser be reprimanded, that their certification or license be suspended or revoked, and/or indicate whether a fine shall be imposed. The decision and order of the department shall be final.

3. Any final decision or order of the department in certifying or denying certification or in recertification, or in licensing, denying license, or in renewal of a license, under this article or in revoking or suspending such certification or license or imposing any fine or reprimand on the holder of such certification or license shall be subject to review by a proceeding brought under and pursuant to article seventy-eight of the civil practice law and rules at the insistence of the applicant for such certification, the holder of the certificate or license so revoked or suspended or the person fined, reprimanded or otherwise aggrieved.

§ 160-x. Classification of services. 1. A client or employer may retain or employ a state certified or licensed real estate appraiser to act as a disinterested third party in rendering an unbiased estimate of value or analysis. A client or employer may also retain or employ a state certified or licensed real estate appraiser to provide specialized services to facilitate the client's or employer's objectives. In either case, the appraisal and the appraisal report must comply with the provisions of this article.

2. For the purposes of this article, the term "appraisal assignment" means an engagement for which an appraiser is employed or retained to act, or would be perceived by third parties or the public as acting, as a disinterested third party in rendering an unbiased analysis, opinion or conclusion relating to the nature, quality, value or utility of specified interests in, or aspects of, identified real estate.

3. For the purposes of this article, the term "specialized services" means those appraisal services which do not fall within the definition of appraisal assignment. The term "specialized services" may include valuation work and analysis work. Regardless of the intention of the

client or employer, if the state certified or licensed real estate appraiser would be perceived by third parties or the public as acting as a disinterested third party in rendering an unbiased analysis, opinion or conclusion, the work is classified as an appraisal assignment and not "specialized services".

§ 160-y. Contingent fees. 1. A state certified or licensed real estate appraiser may not accept a fee for an appraisal assignment as defined in section one hundred sixty-x of this article, that is contingent upon the appraiser reporting a predetermined estimate, analysis, or opinion or is contingent upon the opinion, conclusion or valuation reached, or upon the consequences resulting from the appraisal assignment.

2. A state certified or licensed real estate appraiser who enters into an agreement to perform specialized services, as defined in section one hundred sixty-x of this article, may be paid a fixed fee or a fee that is contingent on the results achieved by the specialized services.

3. If a state certified or licensed real estate appraiser enters into an agreement to perform specialized services for a contingent fee, this fact shall be clearly stated in each written report. In each written report, this fact shall be clearly stated in a prominent location in such report and also in each letter of transmittal and in the certification or authentication of the statements made by the appraiser in such a report.

§ 160-z. Retention of records. 1. A state certified or licensed real estate appraiser shall retain for three years, originals or true copies of all written contracts engaging his or her services for real property appraisal work, and all reports and supporting data assembled and formulated by the appraiser in preparing the reports.

2. Such period for retention of records is applicable to each engagement of the services of the appraiser and shall commence upon the date of the submittal of the appraisal to the client unless, within such

three year period, such appraiser is notified that the appraisal or report is involved in litigation, in which event the three year period for the retention of records shall commence upon the date of the final disposition of such litigation.

3. All records required to be maintained under the provisions of this article shall be made available by the state certified or licensed real estate appraiser for inspection and copying by the board on reasonable notice to such appraiser. All such records copied by the board shall be kept confidential, except where disclosure of same is required by law or mandate of a court.

§ 160-aa. Transitional licensing. Consistent with the intent and purpose of this article, and without the disapproval of the appraisal subcommittee of the federal financial institutions examination council, the board may prescribe requirements for transitional licenses which shall expire no later than January first, nineteen hundred ninety-three.

§ 160-bb. Severability. If any clause, sentence, paragraph, section or part of this article shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section, or part thereof directly involved in the controversy in which such judgment shall have been rendered.

ARTICLE 6-F

NEW YORK BLACK CAR

OPERATORS' INJURY COMPENSATION FUND, INC.

Section 160-cc. Definitions.
160-dd. New York black car operators' injury compensation fund, inc.
160-ee. Supervision of central dispatch facilities.
160-ff. Management of the fund; board of directors.

160-gg. Plan of operation.
160-hh. Membership in the fund; registration with the department.
160-ii. Securing of compensation.
160-jj. Assessment of fund members; customer surcharges; audit powers of the fund, the board and the fund's insurer.
160-kk. Financial oversight of the fund.
160-ll. Exemption from taxes.
160-mm. Liability insurance.
160-nn. Regulations.
160-oo. Violations; penalties; appeals.

§ 160-cc. Definitions. As used in this article:

1. "Black car operator" means the registered owner of a for-hire vehicle, or a driver designated by such registered owner to operate the registered owner's for-hire vehicle as the registered owner's authorized designee, whose injury arose out of and in the course of providing covered services to a central dispatch facility that is a registered member of the New York black car operators' injury compensation fund, inc.

(a) For the purposes of the administration of this article, a black car operator shall include a TNC driver that is engaged in a TNC prearranged trip. For the purposes of this article, the terms "TNC driver", "TNC prearranged trip" and "digital network" shall have the same meanings as such terms are defined in article forty-four-B of the vehicle and traffic law.

(b) For the purposes of the administration of this article, a black car operator shall include a TNC driver that is logged onto a TNC digital network and is not engaged in a TNC prearranged trip but is engaged in an activity reasonably related to driving as a TNC driver taking into consideration the time, place and manner of such activity.

2. "Board" means the workers' compensation board.

3. "Central dispatch facility" means a central facility, wherever

located, including a transportation network company, that (a) dispatches the registered owners of for-hire vehicles, or drivers acting as the designated agent of such registered owners, to both pick-up and discharge passengers in the state, and (b) has certified to the satisfaction of the department of state that more than ninety percent of its for-hire business is on a payment basis other than direct cash payment by a passenger; provided, however, that a central dispatch facility shall not include any such central facility that owns fifty percent or more of the cars it dispatches. For the purposes of administration of this article, central dispatch facility shall include TNC prearranged trip as defined in article forty-four-B of the vehicle and traffic law.

4. "Covered services" means, with respect to dispatches from or by a central dispatch facility located in the state, all dispatches from such central dispatch facility regardless of where the pick-up or discharge occurs, and, with respect to dispatches from or by a central dispatch facility located outside the state, all dispatches involving a pick-up in the state, regardless of where the discharge occurs.

5. "Department" means the department of state.

6. "Fund" means the New York black car operators' injury compensation fund, inc.

7. "Fund liability date" means the earlier of: (a) the date as of which the board first approves the fund's application to self-insure pursuant to subdivision two of section one hundred sixty-ii of this article, or (b) the date on which coverage commences under the initial insurance policy purchased by the fund pursuant to subdivision three of section one hundred sixty-ii of this article.

8. "Local licensing authority" means the governmental agency in the state, if any, that is authorized to license a central dispatch facility.

9. "Secretary" means the secretary of state.

10. "Transportation network company" or "TNC" shall have the same meaning as the term is defined in article forty-four-B of the vehicle and traffic law.

§ 160-dd. New York black car operators' injury compensation fund, inc. There is hereby created a not-for-profit corporation to be known as the New York black car operators' injury compensation fund, inc. To the extent that the provisions of the not-for-profit corporation law do not conflict with the provisions of this article, or with the plan of operation established pursuant to this article, the not-for-profit corporation law shall apply to the fund, which shall be a type C corporation pursuant to such law. If an applicable provision of this article or of the fund's plan of operation relates to a matter embraced in a provision of the not-for-profit corporation law but is not in conflict therewith, both provisions shall apply. The fund shall perform its functions in accordance with its plan of operation established and approved pursuant to section one hundred sixty-gg of this article and shall exercise its powers through a board of directors established pursuant to this article.

§ 160-ee. Supervision of central dispatch facilities. A central dispatch facility shall, with respect to the provisions of this article, be subject to the supervision and oversight of the department and the local licensing authority, if any, as provided in this article.

§ 160-ff. Management of the fund; board of directors. 1. There shall be appointed a board of directors of the fund, consisting of eleven directors, six of whom shall be selected by the black car assistance corporation; four of whom shall be chosen by the governor, including one chosen upon the recommendation of the temporary president of the senate and one chosen upon the recommendation of the speaker of the assembly; one chosen to represent a transportation network company as defined by article forty-four-B of the vehicle and traffic law; and one of whom

shall be the secretary, who shall serve ex officio. The governor shall appoint the director chosen to represent a transportation network company no later than December thirty-first, two thousand seventeen. The terms of all directors other than the secretary shall be three years. The board shall have the power to remove for cause any director other than the secretary.

2. The directors shall elect annually from among their number a chair and a vice chair who shall act as chair in the chair's absence.

3. For their attendance at meetings, the directors of the fund shall be entitled to compensation, as authorized by the directors, in an amount not to exceed two hundred dollars per meeting per director and to reimbursement of their actual and necessary expenses.

4. Directors of the fund, except as otherwise provided by law, may engage in private or public employment or in a profession or business.

5. (a) All of the directors shall have equal voting rights and five or more directors shall constitute a quorum. The affirmative vote of five directors shall be necessary for the transaction of any business or the exercise of any power or function of the fund.

(b) The fund may delegate to one or more of its directors, officers, agents or employees such powers and duties as it may deem proper.

(c) A vacancy occurring in a director position for which the governor was the original appointing authority shall be filled by the governor, upon the recommendation of the legislative official, if any, that was authorized to recommend the original appointee pursuant to subdivision one of this section. A vacancy occurring in a director position for which the black car assistance corporation was the original appointing authority shall be filled by the black car assistance corporation. A vacancy in any one or more of the director positions shall not prevent the remaining directors from transacting any business, provided a quorum is present and voting.

(d) At the expiration of a director's term, the authority that appointed such director pursuant to subdivision one of this section or paragraph (c) of this subdivision shall re-appoint such director for an

additional term or appoint a new director for such subsequent term, provided however that no individual may serve as director for more than three successive terms.

§ 160-gg. Plan of operation. 1. Within seventy-five days of the effective date of this article, the fund shall file with the department its plan of operation, which shall be designed to assure the fair, reasonable and equitable administration of the fund. The plan of operation and any subsequent amendments thereto shall become effective upon being filed with the department.

2. The plan of operation shall constitute the by-laws of the fund and shall, in addition to the requirements enumerated elsewhere in this article:

(a) establish procedures for collecting and managing the assets of the fund;

(b) establish regular places and times for meetings of the fund's board of directors;

(c) establish the procedure by which the fund shall determine whether to provide the benefits due pursuant to this article by self-insuring or by purchasing insurance;

(d) establish accounting and record-keeping procedures for all financial transactions of the fund, its agents and the board of directors;

(e) establish a procedure for determining and collecting the appropriate amount of surcharges and assessments under this article;

(f) set forth the procedures by which the fund may exercise the audit rights granted to it under this article;

(g) establish procedures to ensure prompt and accurate notification to the fund by its members of all accidents and injuries to black car operators, and provide for full reimbursement of the fund by any central dispatch facility whose failure to provide such notification results in the imposition of a penalty on the fund by the board; and

(h) contain such additional provisions as the board of the fund may deem necessary or proper for the execution of the powers and duties of the fund.

§ 160-hh. Membership in the fund; registration with the department. 1. The membership of the fund shall be composed of all central dispatch facilities. Each central dispatch facility shall be required, as a condition of doing business within this state, to pay the department a two hundred dollar annual fee for the purpose of registering as a member of the fund and receiving a certificate of registration. Such sums shall be used by the department for the administration of this article. The initial registration fee shall be due no later than ninety days after the effective date of this article. The department shall have the power to assess an additional fee against each registrant in the amount necessary to provide it with sufficient funds to cover its expenses in performing its duties pursuant to this article. The department shall provide the fund with an updated list of registrants on a monthly basis.

2. All central dispatch facilities shall be required, as a condition of obtaining or retaining their license from the local licensing authority, if any, to (a) be members of the fund; (b) be registered with the department as members of the fund; and (c) submit to the local licensing authority a copy of its certificate of registration as proof of such membership and registration.

3. Within sixty days of the effective date of this article, the board of the fund shall, on the basis of information from trade papers, local licensing authorities and other sources, identify the central dispatch facilities subject to this article and, on a regular and ongoing basis, confirm that all such entities have registered in accordance with subdivision one of this section.

4. The fund shall, within seventy-five days of the effective date of this article, provide to its members a copy of the proposed plan of operation filed with the department and shall inform its members of their rights and duties pursuant to this article.

§ 160-ii. Securing of compensation. 1. Within two hundred ten days of

the effective date of this article, the fund shall secure the payment of workers' compensation to all black car operators entitled thereto pursuant to this chapter by either: (a) self-insuring in accordance with subdivision three of section fifty of the workers' compensation law and the rules promulgated by the board pursuant to such section or (b) purchasing workers' compensation insurance covering, on a blanket basis, all black car operators who are the fund's employees pursuant to section two of the workers' compensation law.

2. If the fund initially seeks to apply to the board for authorization to self-insure pursuant to subdivision three of section fifty of the workers' compensation law, it shall submit its application and accompanying proof to the board within one hundred fifty days of the effective date of this article. The board shall notify the fund and the secretary in writing of any change in the fund's status as a self-insurer or of any additional requirements that the board may deem necessary for continuation of such status.

3. If the fund chooses to secure the payment of workers' compensation pursuant to the workers' compensation law by purchasing an insurance policy from the state insurance fund or a, licensed insurer, it shall file with the department no later than thirty days after the commencement of a new policy year a copy of the policy it has purchased. In such case, the department shall be treated by the insurer as a certificate holder for purposes of receiving notice of cancellation of the policy.

4. No provision of this article shall be construed to alter or affect the liability under the workers' compensation law of any central dispatch facility with respect to black car operators prior to the fund liability date.

* 5. The fund shall have the authority to provide additional health benefits, consistent with its plan of operation, for all black car operators entitled thereto pursuant to this chapter, provided that the fund shall have complied with all applicable statutory and regulatory requirements. The surcharge amount not related to payments of workers' compensation claims and the administration of those claims shall be up

to one-half of one percent (0.5%).

* NB Repealed December 20, 2028

§ 160-jj. Assessment of fund members; customer surcharges; audit powers of the fund, the board and the fund's insurer. 1. To pay (a) the costs of the insurance purchased pursuant to subdivision three of section one hundred sixty-ii of this article or (b) the benefits due under the workers' compensation law in the event the fund self-insures pursuant to subdivision two of section one hundred sixty-ii of this article, and to pay (c) its expenses in carrying out its powers and duties under this article and (d) its liabilities, if any, pursuant to section fourteen-a of the workers' compensation law, the fund shall ascertain by reasonable estimate the total funding necessary to carry on its operations.

2. Based upon its estimation of operating costs, the fund shall establish a proposed uniform percentage surcharge to be added to (a) the invoices or billings for covered services sent to the customers of the fund's members by a member or its agent and (b) the credit payments for covered services received by a member or its agent. The proposed surcharge shall become effective thirty days after being filed with the department. Notwithstanding the foregoing, beginning on the first day of the first calendar month that shall commence at least seventy-five days after the effective date of this article, and until the fund shall have filed with the department a different surcharge amount, a three percent surcharge shall be added to every invoice or billing for covered services sent by a member or its agent to, and every credit payment for covered services received by a member or its agent from, the customers of the fund's members. Each member of the fund shall be liable for payment to the fund of an amount equal to the product of (i) the percentages surcharge due pursuant to this article, divided by one hundred and (ii) all payments received by the member or its agent for covered services from the member's customers, as provided in this subdivision, regardless of whether the surcharge was billed or charged.

3. No local licensing authority or the department or the New York

state department of motor vehicles shall issue, continue or renew any license or registration certificate, or permit for the operation of any central dispatch facility unless such central dispatch facility, as a condition of maintaining its license and/or registration certificate, adds the surcharge required by this section to every invoice and billing for covered services sent to, and every credit payment for covered services received from, its customers and pays to the fund no later than the fifteenth day of each month the total surcharges due pursuant to this article.

4. Each central dispatch facility shall submit to the fund with its monthly payment a detailed accounting of the charge and surcharge amounts charged to and received from customers for covered services during the previous month. The first such payment and accounting shall be due on the fifteenth day of the month following the imposition of the surcharge pursuant to subdivision two of this section.

5. Should the fund determine that the surcharge amounts that have been paid to it are inadequate to meet its obligations under this article, it shall determine the surcharge rate required to eliminate such deficiency and shall file such revised surcharge rate with the department in accordance with subdivision two of this section. Commencing thirty days after such filing, the members of the fund shall charge the revised surcharge rate and shall pay to the fund the total amount of surcharges in accordance with this article.

6. The fund shall have the power directly or through its agent to conduct financial audits of its members to verify their compliance with the requirements of this article. The fund or its agent shall be afforded convenient access at all reasonable hours to all books, records and other documents of its members that may be relevant to such audits.

7. For the purposes of conducting payroll audits, an insurer providing coverage to the fund pursuant to this article may treat the members of the fund as policyholders. Members of the fund shall be required to do all things required of employers pursuant to section one hundred thirty-one of the workers' compensation law, and shall be required to

provide the board access to any and all records and information as otherwise required by the workers' compensation law and the regulations promulgated thereunder, and shall be liable as provided in the workers' compensation law for any failure so to do.

§ 160-kk. Financial oversight of the fund. No later than May first of each year, the fund shall submit to the governor and legislature certified financial statements prepared in accordance with generally accepted accounting principles by a certified public accountant. The members of the fund shall be required on and after January first of each year to afford the certified public accountant convenient access at all reasonable hours to all books, records and other documents, including but not limited to invoices and vouchers, necessary or useful in the preparation of such statements and in the verification of the monthly statements submitted to the fund.

§ 160-ll. Exemption from taxes. The fund shall be exempt from payment of all fees and taxes levied by this state or any of its subdivisions, except taxes levied on real property.

§ 160-mm. Liability insurance. The fund shall purchase such insurance as is necessary to protect the fund and any director, officer, agent or other representative from liability for their administration of the fund, and shall, to the extent permitted by law, indemnify such directors, officers, agents or other representatives and hold them harmless from liability for their administration of the fund.

§ 160-nn. Regulations. The department shall adopt regulations implementing the provisions of this article, including the conduct and notice of hearings held pursuant to section one hundred sixty-oo of this article.

§ 160-oo. Violations; penalties; appeals. 1. (a) If the secretary believes a violation of this article by a fund member may have occurred, the secretary shall notify the local licensing authority of such fact and, upon notice to the fund member, a hearing shall be held by such local licensing authority to determine whether such violation occurred. In the absence of a local licensing authority, or if the local licensing authority chooses not to hold such hearing, the hearing shall be held by the secretary.

(b) If the fund believes that a central dispatch facility has failed to pay the fund the assessments due pursuant to this article, or has failed to pay the reimbursement due pursuant to paragraph (g) of subdivision two of section one hundred sixty-gg of this article, it shall make a referral to the a local licensing authority, or, in the absence of a local licensing authority, to the department. Upon receipt of such a referral, the local licensing authority or the department shall be required to hold a hearing pursuant to paragraph (a) of this subdivision.

2. Except as otherwise provided in this section, a fund member that is found, after a hearing held pursuant to subdivision one of this section, to have violated a provision of this article, or a rule promulgated by the department pursuant to this article, shall be liable for a fine in an amount not to exceed ten thousand dollars per violation. Notwithstanding the foregoing, a fund member that fails to bill or that collects and fails to submit to the fund the required surcharges shall be subject, in addition to payment to the fund of the amount overdue plus interest on such amount as herein provided, to a penalty, at the discretion of the local licensing authority, if any, or, in the absence of such authority, of the department, of (a) up to five thousand dollars for each twenty days the payment is overdue, or (b) revocation of its membership in the fund and of its certificate of registration, or (c) both a monetary penalty and revocation of its membership in the fund and of its certificate of registration. The rate of interest applicable pursuant to this section shall be twelve percent per annum. Any monetary penalty imposed pursuant to this subdivision shall be retained by the department or the local licensing authority and be used to defray the costs of administering this article. The responsible persons, of a

central dispatch facility that are found, after a hearing held pursuant to subdivision one of this section, to be in default to the fund for assessments owed pursuant to this article, shall be personally liable for the amount of such assessments determined to be then due and outstanding, including interest on such assessments awarded pursuant to this subdivision, and for all monetary penalties imposed pursuant to this subdivision.

"Responsible persons," for purposes of this subdivision, include: (i) the directors of a central dispatch facility that is a corporation; (ii) the managers of a central dispatch facility that is a limited liability company or its members if management of the central dispatch facility is vested in its members; (iii) the general partner or partners of a central dispatch facility that is a partnership; (iv) all individuals who directly or indirectly own, control or hold the power to vote ten percent or more of the voting interests of any corporation, joint stock company, partnership, association, trust, limited liability company or similar entity that manages a central dispatch facility; and (v) the president, secretary and treasurer of a central dispatch facility, regardless of its form of organization.

Failure of the central dispatch facility, or of its responsible persons to pay any assessments or penalties awarded pursuant to this subdivision within twenty days of issuance of a valid order so to do, or in the event an appeal has been taken from the determination of the department or the local licensing authority, to deposit with the secretary or the local licensing authority within twenty days of the issuance of the determination from which the appeal is taken the total amount of the award as security for its payment, shall entitle the secretary or the local licensing authority to file with the clerk of Albany county a certified copy of the determination of the department or local licensing authority, and thereupon judgment shall be entered in the supreme court by the clerk of Albany county in conformity therewith immediately upon such filing. Such judgment shall be entered in the same manner, have the same effect and be subject to the same proceedings as though rendered in a suit duly heard and determined by the supreme court, except that no appeal may be taken therefrom.

3. Within twenty days after issuance by the department or local licensing authority of a determination adverse to a central dispatch facility following a hearing held pursuant to subdivision one of this section, an appeal may be taken therefrom to the appellate division of the supreme court, third department, by the aggrieved central dispatch facility. The attorney general shall represent the department or the local licensing authority thereon.

ARTICLE 6-G

INDEPENDENT LIVERY DRIVER BENEFIT FUND

Section 160-aaa. Definitions.
160-bbb. Independent livery driver benefit fund.
160-ccc. Contributions to the fund.
160-ddd. Use of the fund.
160-eee. Regulations.
160-fff. Membership in the fund.
160-ggg. Plan of operation.
160-hhh. Violations; penalties; appeals.
160-iii. Insurance premiums.

§ 160-aaa. Definitions. For the purposes of this article:

1. "Independent livery driver" means a livery driver that is dispatched by an independent livery base.

2. "Annualized basis" means the product of the number of livery drivers affiliated with a dispatching livery base and the number of months each such driver is affiliated with the livery base, divided by twelve.

3. "Covered services" means all dispatches from a livery base regardless of where the pick-up or discharge occurs.

4. "Fund" means the independent livery driver benefit fund as established in this article.

5. "Independent livery base" has the same meaning as set forth in section eighteen-c of the workers' compensation law.

6. "Livery" means a for-hire vehicle licensed by a local taxi and limousine commission, carrying no more than five passengers or such other limited number as set by a local taxi and limousine commission, which charges for service on the basis of flat rate, time, mileage or zones, and which is dispatched by a livery dispatch facility, but shall not include a vehicle owned or driven by a black car operator, as defined in article six-F of this chapter.

7. "Livery driver" means an individual that drives a livery, is dispatched by a livery base, receives compensation for such driving, and is licensed to do so by a local taxi and limousine commission.

8. "Livery base" means a central facility that manages, organizes or dispatches liveries, and is licensed to do so by a local taxi and limousine commission.

9. "Livery registrant" means a person in whose name a livery is licensed by a local taxi and limousine commission.

10. "Local taxi and limousine commission" means a unit of local government in New York city, Nassau county or Westchester county authorized to license and regulate liveries.

§ 160-bbb. Independent livery driver benefit fund. 1. There is hereby created a not-for-profit corporation to be known as the New York independent livery driver benefit fund. To the extent that the provisions of the not-for-profit corporation law do not conflict with the provisions of this article, or with the plan of operation established pursuant to this article, the not-for-profit corporation law shall apply to the fund, which shall be a type C corporation pursuant to such law. If an applicable provision of this article or of the fund's plan of operation relates to a matter embraced in a provision of the

not-for-profit corporation law but is not in conflict therewith, both provisions shall apply. The fund shall perform its functions in accordance with its plan of operation, and shall exercise its powers through a board of directors established pursuant to this article.

2. Within thirty days of the effective date of this article, there shall be appointed a board of directors of the fund, consisting of nine directors appointed by the governor, one of whom shall be chosen upon nomination of the temporary president of the senate; one of whom shall be chosen upon nomination of the speaker of the assembly; one of whom shall be chosen upon nomination of the chair of the workers' compensation board; one of whom shall be chosen on nomination of the superintendent of financial services; one of whom shall be chosen on nomination of the American Federation of Labor-Congress of Industrial Organizations of New York; and four of whom shall be chosen without prior nomination, at least two of which shall be a livery registrant or owner, officer or director of a livery base or livery registrant. The initial terms of directors shall be staggered, the four directors appointed by the governor without prior nomination serving for initial terms of three years from the effective date of this article, the two directors appointed upon nomination of the speaker of the assembly and temporary president of the senate serving for initial terms of two years from the effective date of this article, and the three directors on nomination of the superintendent of financial services, the chair of the workers' compensation board and the American Federation of Labor-Congress of Industrial Organizations of New York serving for initial terms of one year from the effective date of this article. The subsequent terms of all directors shall be three years. The board of directors shall have the power to remove for cause any director. The failure of any nominating authority to appoint a director within the time set by this subdivision shall not bar the fund from operating, so long as at least six directors have been appointed.

3. The directors shall elect annually from among their number a chair and a vice chair who shall act as chair in the chair's absence.

4. For their attendance at meetings, the directors of the fund shall

be entitled to compensation, as authorized by the directors, in an amount not to exceed two hundred dollars per meeting per director and to reimbursement of their actual and necessary expenses.

5. Directors of the fund, except as otherwise provided by law, may engage in private or public employment or in a profession or business.

6. (a) All of the directors shall have equal voting rights and five or more directors shall constitute a quorum. The affirmative vote of four directors shall be necessary for the transaction of any business or the exercise of any power or function of the fund.

(b) A vacancy occurring in a director position shall be filled in the same manner as the initial appointment to that position, provided however that no individual may serve as director for more than three successive terms.

(c) The board of directors may:

(i) delegate to one or more of its directors, officers, agents or employees such powers and duties as it may deem proper;

(ii) establish the procedure by which the fund shall determine how to provide the benefits due pursuant to this article;

(iii) establish accounting and record-keeping procedures for all financial transactions of the fund, its agents and the board of directors;

(iv) establish a procedure for determining and collecting the appropriate amount of assessments under and as consistent with this article;

(v) set forth the procedures by which the fund may exercise the audit rights granted to it under this article;

(vi) establish procedures to ensure prompt and accurate notification to the fund by independent livery bases of all deaths of independent livery drivers, and all injuries to livery drivers that resulted from a crime for which there is a police report, and provide for full reimbursement of the fund by any member whose failure to provide such notification results in the imposition of a penalty on the fund by the workers' compensation board;

(vii) recommend changes in the law or regulations governing workers' compensation benefits with livery drivers; and

(viii) engage in such additional actions as the board of directors may deem necessary or proper for the execution of the powers and duties of the fund.

§ 160-ccc. Contributions to the fund. Each independent livery base shall be assessed an annual payment to the fund, to be set by the board of directors no later than January first of each calendar year or such other date as the board of directors may set consistent with, and as necessary to effectuate, this article. The total amount of the payment shall be determined by the fund as sufficient to provide it with total assets equal to one hundred fifty percent of the cost of an insurance policy issued under section one hundred sixty-ddd of this article, and to provide for any administrative expense of the fund. Each independent livery base's own share of such payments shall be determined by a formula set by the board of directors, to be based on the number of liveries affiliated with each livery base at the time the payments are calculated, or such other measure set by the chair of the workers' compensation board. Each independent livery base shall make the payments assessed against it annually within thirty days of assessment. If it is determined by the board of directors that there may be an insufficient amount of money in the fund to purchase the requisite coverage or to pay administrative expenses in a given year, the board of directors may require each independent livery base to make an additional payment to the fund based on the amount of its affiliated drivers on an annualized basis or such other criteria as shall be established by the chair of the workers' compensation board, except that no such payments shall be assessed, such that the fund will have funds greater than necessary to provide compensation under the workers' compensation law, to the extent set forth in section one hundred sixty-ddd of this article for eighteen months.

§ 160-ddd. Use of the fund. Moneys deposited into the fund shall be used to provide benefits under the workers' compensation law, by purchase of a policy from the state insurance fund, or from a carrier licensed to write workers' compensation insurance to the extent

permitted by section three thousand four hundred fifty-one of the insurance law, for livery drivers dispatched by independent livery bases, to provide benefits under the workers' compensation law for deaths of livery drivers arising out of and in the course of providing covered services, and all injuries arising out of and in the course of providing covered services either: (1) resulting from a crime against such livery driver as evidenced by a police report or (2) for the following conditions: (a) the amputation or loss of an arm, leg, hand, foot, multiple fingers, index finger, multiple toes, ear, or nose, (b) paraplegia or quadriplegia, or (c) total and permanent blindness or deafness. The provisions of the workers' compensation law shall govern any application for and the receipt of such benefits.

§ 160-eee. Regulations. The chair of the workers' compensation board may promulgate regulations necessary to effectuate the provisions of this article.

§ 160-fff. Membership in the fund. 1. The membership of the fund shall be comprised of all independent livery bases. If the workers' compensation board or local taxi and limousine commission revokes a livery base's authorization to act as an independent livery base, it shall cease to be a member of the fund within thirty days. Such revocation shall not entitle the livery base to the return of any moneys deposited into the fund.

2. Each livery base shall be required, as a condition of obtaining or retaining any license it receives to operate as a livery base from a local taxi and limousine commission either: (a) to be a member of the fund, to submit to the local taxi and limousine commission proof of such membership and to maintain such records as the workers' compensation board, state department of motor vehicles or local taxi and limousine commission may direct in order to carry out the livery base's responsibilities under this article, and as necessary to determine the appropriate cost of compensation the fund must provide under the workers' compensation law; or (b) to present proof to the local taxi and

limousine commission that it has secured compensation under the workers' compensation law, to the extent required of employers, for all livery drivers it dispatches.

3. Each local taxi and limousine commission shall supply the fund and the workers' compensation board, at any such time as the fund or workers' compensation board requests, a list of all liveries affiliated with each livery base licensed by the commission.

4. The fund shall, within seventy-five days of the appointment of the fund's board of directors, provide to its members a copy of the proposed plan of operation filed with the workers' compensation board and all local taxi and limousine commissions and shall inform its members of their rights and duties pursuant to this article.

§ 160-ggg. Plan of operation. 1. Within seventy-five days of the appointment of the fund's board of directors, the fund shall file with the workers' compensation board and local taxi and limousine commissions its plan of operation, which shall be designed to assure the fair, reasonable and equitable administration of the fund. The plan of operation and any subsequent amendments thereto shall become effective upon being filed with the workers' compensation board and all taxi and limousine commissions.

2. The plan of operation shall constitute the by-laws of the fund and shall, in addition to the requirements enumerated elsewhere in this article:

(a) establish procedures for collecting and managing the assets of the fund;

(b) establish regular places and times for meetings of the fund's board of directors;

(c) establish accounting and record-keeping procedures for all financial transactions of the fund, its agents and the board of directors;

(d) establish a procedure for determining and collecting the appropriate amount of assessments under this article; and

(e) contain such additional provisions as the board of directors of the fund may deem necessary or proper for the execution of the powers and duties of the fund.

§ 160-hhh. Violations; penalties; appeals. 1. Any person that knowingly submits a materially false statement on the affirmation provided for in section eighteen-c of the workers' compensation law shall be guilty of a class A misdemeanor. Any person that commits a second or subsequent offense under this subdivision shall be guilty of a class E felony.

2. The workers' compensation board or local taxi and limousine commission may, upon its own motion or the application of a local taxi and limousine commission or the independent livery fund, and upon notice to the independent livery base, conduct a hearing as to the validity of any affirmation filed under section eighteen-c of the workers' compensation law, or to determine whether there has been any other violation of this article. Should the workers' compensation board or local taxi and limousine commission determine that the certification contains any materially false statements, the workers' compensation board may:

(a) revoke the livery base's authorization as an independent livery base for a period of up to five years;

(b) impose a civil penalty of up to ten thousand dollars; and/or

(c) refer the independent livery base to the local taxi and limousine commission for such additional sanction as it may impose under its rules and regulations.

3. Any independent livery base which has been found on two separate occasions, under subdivision two of this section, to have made a materially false statement in its certification shall be permanently barred from acting as an independent livery base.

4. If an independent livery base fails to submit to the independent livery driver benefit fund any required charge, the workers' compensation board or local taxi and limousine commission may order that

it pay into the fund, upon application of the fund and following notice to the independent livery base (a) the amount overdue plus interest on such amount, and/or (b) a penalty of up to five hundred dollars for each thirty days after notice is given that the payment is overdue. The workers' compensation board or local taxi and limousine commission may suspend or revoke such livery base's authorization to act as an independent livery base for failure to make such payment. The rate of interest applicable to this subdivision shall be twelve percent per annum. Any monetary penalty imposed pursuant to this subdivision shall be retained by the workers' compensation board and be used to defray the costs of administering this article.

5. If the workers' compensation board or local taxi and limousine commission determines that any independent livery base has made any material misrepresentations, or temporarily altered the affiliation of any livery, livery driver or livery registrant, for the purpose of reducing its payments into the fund, the workers' compensation board or local taxi and limousine commission may suspend the livery base's membership in the fund for a period of up to two years, and may impose a penalty of up to five thousand dollars.

6. If the workers' compensation board or local taxi and limousine commission determines that any independent livery base has coerced any livery driver into making false statements or refraining from reporting any violations of this article, the workers' compensation board or local taxi and limousine commission may suspend the livery base's membership in the fund for a period of up to two years, and may impose a penalty of up to five thousand dollars.

7. Except as otherwise provided in this section, a livery base that is found to have violated a provision of this article or a rule promulgated by the workers' compensation board or local taxi and limousine commission pursuant to this article shall be liable for a fine in an amount not to exceed five thousand dollars per violation.

8. If the fund has reason to believe a violation of this article by a fund member may have occurred, the fund shall notify the workers'

compensation board. Upon receipt of such a referral, the workers' compensation board shall hold a hearing to determine the validity of the charge, or refer the matter to the local taxi and limousine commission for such determination.

9. The responsible persons of an independent livery base shall be personally liable for the amount of any monetary penalties awarded pursuant to this subdivision. "Responsible persons," for purposes of this subdivision, shall be: (a) the directors of a livery base that is a corporation; (b) the managers of a livery base that is a limited liability company or its members if management of a livery base is vested in its members; (c) the general partner or partners of a livery base that is a partnership; (d) all individuals who directly or indirectly own, control or hold the power to vote ten percent or more of the voting interests of any corporation, joint stock company, partnership, association, trust, limited liability company or similar entity that manages a livery base; and (e) the president, secretary and treasurer of a livery base, regardless of its form of organization.

10. Failure of the independent livery base, or of its responsible persons, to pay any charges or penalties awarded pursuant to this section within twenty days of issuance of a valid order so to do, or in the event an appeal has been taken from the determination of the workers' compensation board, to deposit with the workers' compensation board within twenty days of the issuance of the determination from which the appeal is taken the total amount of the award as security for its payment, shall entitle the workers' compensation board or local taxi and limousine commission to file with the clerk of Albany county or the county where the local taxi and limousine commission is located a certified copy of the determination of the workers' compensation board or the local taxi and limousine commission, and thereupon judgment shall be entered in the supreme court by the clerk of the county where the determination is filed immediately upon such filing. Such judgment shall be entered in the same manner, have the same effect and be subject to the same proceedings as though rendered in a suit duly heard and determined by the supreme court, except that no appeal may be taken therefrom.

11. Within twenty days after issuance by the workers' compensation board of a determination adverse to a livery base pursuant to this section, an appeal may be taken therefrom to the appellate division of the supreme court, third department, by the aggrieved party.

12. If the membership of an independent livery base in the independent livery fund is suspended for failure to pay assessments under this article, the livery base may make application for reinstatement only upon payment of such assessments and such penalties and interest as the local taxi and limousine commission or workers' compensation board has imposed, or upon the agreement by the base and fund to a schedule for such payment.

13. Any sanction imposed under this section shall be after notice to the independent livery base and an opportunity for a hearing.

§ 160-iii. Insurance premiums. Nothing in this article or in the provisions of the workers' compensation law pertaining to coverage of livery drivers under this article shall be construed as limiting the discretion of the state insurance fund, in providing coverage to the New York independent livery driver benefit fund, inc., in choosing a premium basis, rating plan or setting a rate to cover the risk posed by insuring such fund.

ARTICLE 6-H

REAL ESTATE APPRAISAL MANAGEMENT COMPANIES

Section 160-aaaa. Definitions.
160-bbbb. Registration required.
160-cccc. Exemptions.
160-dddd. Forms.
160-eeee. Denial of registration.
160-ffff. Expiration of license.
160-gggg. Fees.
160-hhhh. Owner requirements.

160-iiii. Controlling persons.
160-jjjj. Employee requirements.
160-kkkk. Restrictions.
160-llll. Recordkeeping.
160-mmmm. Appraiser independence; unlawful acts.
160-nnnn. Mandatory reporting.
160-oooo. Unprofessional conduct.
160-pppp. Alteration of appraisal reports.
160-qqqq. Enforcement.
160-rrrr. Disciplinary hearings.
160-ssss. Power to suspend a license.
160-tttt. Investigation.
160-uuuu. Rule-making authority.
160-vvvv. Violations.
160-wwww. Severability.
160-xxxx. Judicial review.

§ 160-aaaa. Definitions. As used in this article, the following terms shall have the following meanings:

1. "Appraisal" or "real estate appraisal" means an analysis, opinion or conclusion relating to the nature, quality, value or utility of specified interests in, or aspects of, identified real estate. An appraisal may be classified by subject matter into either a valuation or an analysis.

2. "Appraisal management company" or "AMC" means an individual or business entity that:

(a) provides appraisal management services to creditors or to secondary mortgage market participants, including affiliates;

(b) provides such services in connection with valuing a consumer's real property as security for consumer credit transactions secured by a consumer's principal dwelling; and

(c) within a given year, oversees an appraisal panel of more than fifteen appraisers working in New York state or twenty-five or more appraisers working in two or more states. An AMC shall not include a

department or division of an entity that provides appraisal management services only to that entity.

3. "Appraisal management services" means to, directly or indirectly, provide any of the following services on behalf of a lender, financial institution, client, or any other person in connection with valuing a consumer's principal dwelling as security for a consumer credit transaction or incorporating such transactions into securitizations:

(a) administer an appraiser panel;

(b) recruit, retain or select appraisers;

(c) qualify or verify licensing or certification and negotiate fees and service level expectations with persons who are part of an appraiser panel;

(d) contract with appraisers to perform appraisal assignments;

(e) receive an order for an appraisal from one person, and deliver the order for the appraisal to an appraiser that is part of an appraiser panel for completion;

(f) manage the process of having an appraisal performed, including providing administrative duties, such as receiving appraisal orders and reports, submitting completed appraisal reports to creditors and underwriters for services provided, and reimbursing appraisers for services performed;

(g) track and determine the status of orders for appraisals;

(h) conduct quality control of a completed appraisal prior to the delivery of the appraisal to the person that ordered the appraisal;

(i) provide a completed appraisal performed by an appraiser to one or more clients; or

(j) compensate appraisers for services rendered.

An individual who hires an appraiser solely for his or her own purposes, shall not be deemed an appraisal management company.

4. "Appraiser" means a person licensed or certified pursuant to article six-E of this chapter.

5. "Appraiser panel" means a network, list or roster of licensed or certified appraisers approved by the appraisal management company to

perform appraisals as independent contractors of the appraisal management company.

6. "Appraisal review" means the act or process of developing and communicating an opinion about the quality of another appraiser's work that was performed as part of an appraisal assignment. Appraisal reviews must be performed by a person who is certified as a real estate appraiser pursuant to article six-E of this chapter.

7. "Board" means the state board of real estate appraisal which shall advise the department, as necessary, on implementation of, and enforcement of this article.

8. "Competent appraiser" means an appraiser that satisfies each provision of the competency rule of the uniform standards of professional appraisal practice for a specific appraisal assignment or valuation service that the appraiser has received, or may receive, from an appraisal management company.

9. "Controlling person" means:

(a) an owner, officer or director of an appraisal management company, or an individual who holds an ownership interest of ten percent or more of such company;

(b) an individual employed, appointed or authorized by an appraisal management company that has the authority to enter into a contractual relationship with other persons for the performance of appraisal management services and has the authority to enter into agreements with appraisers for the performance of appraisals; or

(c) an individual who possesses, directly or indirectly, the power to direct or cause the direction of the management or policies of an appraisal management company.

10. "Department" means the New York state department of state.

11. "Hybrid firm or entity" means an entity that hires both real estate appraisers as employees to perform appraisals of real property, and engage independent contractors to perform such appraisals. A hybrid

firm or entity shall be treated as an AMC for purposes of state registration if it oversees more than fifteen real estate appraisers completing valuation services in an individual state or twenty-five or more real estate appraisers in two or more states within a given year. The numerical calculation for a hybrid firm or entity should only include real estate appraisers engaged as independent contractors.

12. "Person" means an individual, partnership, corporation, or any other entity recognized under New York state law.

13. "Real estate" means an identified parcel or tract of land, including improvements, if any.

14. "Real property" means the interest, benefits, and rights inherent in the ownership of real estate.

15. "Uniform standards of professional appraisal practice" or "USPAP" means the appraisal standards promulgated by the appraisal standards board of the appraisal foundation.

16. "Secondary mortgage market participant" means a guarantor or insurer of mortgage-backed securities, or an underwriter or issuer of mortgage-backed securities. Secondary mortgage market participant only includes an individual investor in a mortgage-backed security if that investor also serves in the capacity of a guarantor, insurer, underwriter, or issuer for such mortgage-backed security.

§ 160-bbbb. Registration required. It shall be unlawful for a person to, directly or indirectly, engage or attempt to engage in business as an appraisal management company, or to advertise or hold oneself out as engaging in or conducting business as an appraisal management company without first obtaining a certificate of registration issued by the department under the provisions of this article.

§ 160-cccc. Exemptions. The provisions of this article shall not apply

to any person that exclusively employs appraisers for the performance of appraisals or to any appraisal management company that is a wholly-owned subsidiary of a financial institution, which is regulated by the federal financial institution regulatory agency. The registration provisions of this article shall not apply to the state, any state agency or authority, or any political subdivision of the state that employs appraisers.

§ 160-dddd. Forms. An applicant for a certificate of registration as an appraisal management company shall submit an application on such forms as prescribed by the department.

§ 160-eeee. Denial of registration. The department may investigate the good character of applicants for a certificate of registration under this article and may deny the issuance of such certificate of registration based upon lack of good moral character which may include, but is not limited to, any of the grounds enumerated in this article. For the purposes of this article, a non-substantive ground for denial, revocation, or surrender of an appraiser's license should not be construed as an automatic prohibition.

§ 160-ffff. Expiration of license. A certificate of registration granted by the department pursuant to this article shall be valid for a period of two years from the date upon which it is issued.

§ 160-gggg. Fees. 1. The department shall collect a fee of two hundred fifty dollars for a certificate of registration issued or reissued under the provisions of this article. Additionally, the department shall assess twenty-five dollars for each appraiser added to an appraisal management company's appraiser panel.

2. The department shall collect from each appraisal management company seeking to be registered, the amount determined by the appraisal

subcommittee to be a national registry fee for each appraiser, that performs appraisal services within New York on the appraiser panel of an appraisal management company pursuant to Section 1109(a)(4) of the federal Financial Institutions Reform, Recovery, and Enforcement Act of 1989 as amended by the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010. The department may transmit the annual registry fee to the appraisal subcommittee. The department shall provide its roster of appraisal management companies to the appraisal subcommittee. These transmittals shall occur at least annually.

3. Except for changes made on a renewal application, appraisal management companies shall provide the department with notice of a change in the appraisal management's principal address. Change of address notifications shall be accompanied by a fee of ten dollars.

4. Except for changes made on a renewal application, the department shall collect a fee of ten dollars for changing a name on a certificate of registration.

5. In lieu of the fee set forth in subdivision one of this section, the department shall collect a fee of three hundred fifty dollars to reissue a certificate of registration under this article which was submitted after the expiration of the immediately preceding registration term.

§ 160-hhhh. Owner requirements. An appraisal management company applying for a certificate of registration shall not be owned in whole or in part, directly or indirectly, by a person who has had a license, registration or certificate to act as a real estate appraiser denied, revoked, or surrendered in lieu of pending discipline in any state or by a person holding ten percent or more of the company where that person has had a license, registration or certificate to act as a real estate appraiser denied, revoked, or surrendered in lieu of possible discipline in any state.

§ 160-iiii. Controlling persons. 1. Each appraisal management company applying for a certificate of registration shall designate one controlling person who shall be the main contact for all communication between the department and the appraisal management company. Such designated controlling person shall never have had a license or certificate to act as an appraiser denied, revoked, or surrendered in lieu of possible discipline in any state and shall be of good moral character, as determined by the department. Applicants shall cooperate with any such background investigation conducted by the department.

2. Each person that owns more than ten percent of an appraisal management company shall be of good moral character, as determined by the department. Applicants shall cooperate with any such background investigation conducted by the department.

3. Each appraisal management company applying for a certificate of registration shall certify to the department that it has reviewed each entity that owns more than ten percent of the appraisal management company and that no entity that owns more than ten percent of the appraisal management company is more than ten percent owned by any person that has had a license or certificate to act as an appraiser denied, revoked, or surrendered in lieu of a pending revocation.

§ 160-jjjj. Employee requirements. 1. An appraisal management company that applies for a certificate of registration shall not knowingly employ, utilize, or engage, for any real estate appraisal, valuation service or appraisal review assignment, a person who has had a license or certificate to act as an appraiser in this state or in any other state denied, revoked, or surrendered in lieu of possible discipline, unless such license has been reinstated.

2. Prior to placing an assignment for an appraisal or valuation service with an appraiser on the appraiser panel of an appraisal management company, the appraisal management company shall verify that the appraiser receiving the assignment is a competent appraiser as defined by the USPAP Competency Rule with regards to geographic area and

the type of property being appraised. An appraiser is deemed part of an appraisal management company panel as of the earliest date on which: (a) the appraisal management company accepts the appraiser for consideration for future appraisal assignments in covered transactions or for secondary mortgage market participants in connection with covered transactions; or (b) engages the appraiser to perform one or more appraisals on behalf of a creditor for a covered transaction or secondary mortgage market participant in connection with covered transactions.

3. An appraisal management company may not hire, employ or engage, or in any way contract with or pay a person who is not licensed or certified as a real estate appraiser by the department pursuant to article six-E of this chapter for the purposes of performing an appraisal as defined in this article. Nothing in this section shall prohibit an appraisal management company from hiring, employing, engaging or contracting with or paying a person to perform a property inspection, or property evaluation if they are licensed as an appraiser, a real estate broker including associate real estate brokers and real estate salespersons pursuant to article twelve-A of the real property law or a home inspector pursuant to article twelve-B of the real property law, or a person to perform a broker price opinion if they are licensed as a real estate broker including associate real estate brokers and real estate salespersons pursuant to article twelve-A of the real property law.

4. An appraiser shall be considered part of an appraisal management company's appraiser panel until: (a) the appraisal management company sends a written notice to such appraiser removing such appraiser with an explanation; or (b) receives a written notice from such appraiser asking to be removed or of the death or incapacity of such appraiser.

§ 160-kkkk. Restrictions. An appraisal management company that applies for a certificate of registration shall not knowingly:

1. Employ any person in a position in which the person has the

responsibility to order appraisals or valuation services or to review completed appraisals who has had a license, registration or certificate to act as an appraiser in this state or in any other state, denied, revoked, or surrendered in lieu of a pending revocation, unless such license has been reinstated;

2. Enter into any independent contractor arrangement, whether in verbal, written, or by other form, with any person who has had a license, registration or certificate to act as an appraiser in this state or in any other state, denied, revoked, or surrendered in lieu of a pending revocation, unless such license has been reinstated; and

3. Enter into any contract, agreement, or other business relationship, whether in verbal, written, or other form, with any entity that employs, has entered into an independent contract arrangement, or has entered into any contract, agreement, or other business relationship, whether in verbal, written, or any other form, with any person who has ever had a license, registration or certificate to act as an appraiser in this state or in any other state, denied, revoked, or surrendered in lieu of a pending revocation, unless such license has been reinstated.

§ 160-llll. Recordkeeping. Each appraisal management company shall maintain a detailed record of each service request that it receives and the real estate appraiser that performs such appraisal for the appraisal management company. Records shall be maintained for a period of at least five years after such appraisal is completed or two years after final disposition of a judicial proceeding related to such assignment, whichever period expires later. Appraisal management companies shall make records available to the department upon request. Appraisal management companies shall also allow the department to examine the books and records of the appraisal management company and require it to submit reports, information and documents upon request. Appraisal management companies shall also allow the department to verify that the appraisers on such panel hold a valid license or certification.

§ 160-mmmm. Appraiser independence; unlawful acts. Each appraisal management company shall ensure that real estate appraisals are conducted independently and free from inappropriate influence and coercion. Notwithstanding any other provision of this article, it shall be unlawful for any employee, director, officer, or agent of an appraisal management company registered in this state pursuant to this article to:

1. Compensate, coerce, extort, collude, instruct, induce, bribe, or intimidate, or attempt to compensate, coerce, extort, collude, instruct, induce, bribe, or intimidate a person, firm or other entity conducting or involved in an appraisal for the purpose of causing the appraised value assigned under the appraisal or other valuation services to the property to be based on any factor other than the independent judgment of the appraiser;

2. Mischaracterize the appraised value of a property in conjunction with a consumer credit transaction;

3. Seek to influence an appraiser or otherwise to encourage a targeted value in order to facilitate the making or pricing of a consumer credit transaction;

4. Act without just cause to withhold or threaten to withhold timely payment for an appraisal report or for other valuation services rendered with such appraisal report or services provided in accordance with the contract between parties;

5. Act without just cause to withhold or threaten to withhold future business, or to demote or terminate an appraiser without just cause;

6. Expressly or implicitly promise future business, promotions, or increased compensation for an appraiser in exchange for the real estate appraiser inflating or deflating his or her appraised value of real property;

7. Require a real estate appraiser to indemnify an appraisal

management company or hold an appraisal management company harmless for any liability, damage, losses, or claims arising out of the services performed by such appraisal management company, and not the services performed by the appraiser;

8. Condition the request for an appraisal or the payment of an earned fee, salary or bonus, on the opinion, conclusion, or valuation to be reached, or on a preliminary estimate or opinion requested from an appraiser;

9. Request that an appraiser provide an estimated, predetermined, or desired valuation in an appraisal report, or provide estimated values or comparable sales at any time prior to the appraiser's completion of an appraisal;

10. Provide to an appraiser an anticipated, estimated, encouraged, or desired value for a subject property or a proposed or target amount to be loaned to the borrower, except that a copy of the sales contract for purchase transactions may be provided; or

11. Provide to an appraiser, or any entity or person related to the appraiser, stock or any other financial or non-financial benefits in exchange for appraising property in a manner other than that which is within the independent opinion of the appraiser.

Nothing in this section shall be construed as prohibiting the appraisal management company from asking an appraiser to consider additional, appropriate property information, including: additional comparable properties to make or support an appraisal; provide further detail, substantiation, or explanation for the appraiser's value conclusion; or correct errors in the appraisal report.

§ 160-nnnn. Mandatory reporting. An appraisal management company that has a reasonable basis to believe an appraiser within the appraisal management company's appraisal panel is failing to comply with the uniform standards of professional appraisal practice, is violating

applicable laws, or is otherwise engaging in unethical or unprofessional conduct shall immediately refer such matter to the department.

§ 160-oooo. Unprofessional conduct. 1. Appraisal management companies shall not engage in unprofessional conduct including, but not limited to the following:

(a) Requiring an appraiser to modify any aspect of an appraisal report or valuation service report, unless such modifications are appropriate according to USPAP;

(b) Requiring an appraiser to prepare an appraisal report or valuation service report if such appraiser, in their professional judgment, believes they don't have the necessary expertise for the specific geographic and or specific area type;

(c) Requiring an appraiser to prepare an appraisal report or valuation service under a time frame that such appraiser believes, in their professional judgment, does not afford such appraiser the ability to meet all the relevant legal and professional obligations including USPAP requirements. Notwithstanding the foregoing provisions of this paragraph, all appraisal reports should be completed within a reasonable timeframe and appraisers may not unnecessarily delay completing appraisal assignments;

(d) Prohibiting or inhibiting communication between the appraiser and the lender, a real estate licensee, or any other person from whom such appraiser, in their professional judgment is relevant;

(e) Requiring the appraiser to do anything that does not comply with USPAP, or any assignment conditions and certifications required by the client;

(f) Making any portion of the appraiser's fee or the appraisal management company's fee contingent upon a favorable outcome, including, but not limited to, the closing of a loan, requiring a specific dollar amount be achieved by such appraiser in the appraisal report, making requests for the purpose of facilitating a mortgage loan transaction, setting a broker price opinion, or setting any other real property price or value estimation that does not qualify as an appraisal; or

(g) Each appraisal management company operating in this state shall make payment to an appraiser for the completion of an appraisal or

valuation assignment within thirty days of the date on which such appraiser transmits or otherwise provides the completed appraisal or valuation services to the appraisal management company or its assignee;

2. It shall be unlawful for an appraisal management company to:

(a) Knowingly fail to compensate an appraiser at a rate that is reasonable and customary for appraisal or other valuation services being performed in the market area of the property being appraised without the services of an appraisal management company in a manner that is either inconsistent with, or would violate section 1639(e) of the federal Truth in Lending Act (15 USC §1639(e));

(b) Knowingly include any fees for appraisal management services that are performed by the appraisal management company for a lender, client, or other person in the amount that it charges the lender, client, or other person for the actual completion of an appraisal or valuation service by an appraiser that is part of the appraiser panel of the appraisal management company;

(c) Knowingly fail to separate any and all fees charged to a client by the appraisal management company for the actual completion of an appraisal by an appraiser from the fees charged to a lender, client, or any other person by an appraisal management company for appraisal management services;

(d) Knowingly prohibit an appraiser from recording the fee that such appraiser was paid by the appraisal management company for the performance of the appraisal within the appraisal report that is submitted by such appraiser to the appraisal management company;

(e) Knowingly fail to separately state the fees paid to an appraiser for appraisal services and the fees charged by the appraisal management company for services associated with the management of the appraisal process to the client, borrower and any other payer. Appraisal management companies shall provide a copy of the appraiser's invoice with a copy of any appraisal report submitted to a client or a client's representative;

(f) Knowingly allow the removal from rotation of an appraiser from an appraiser panel, without prior written notice to such appraiser with just cause; or

(g) Knowingly obtain, use, or pay for a second or subsequent appraisal

or the ordering of an automated valuation model or any other valuation service in connection with a mortgage financing transaction unless there is a reasonable basis to believe that the initial appraisal was flawed or tainted and such basis is clearly and appropriately noted in the loan file, or unless such appraisal or automated valuation model is done pursuant to a bona fide pre- or post-funding appraisal review or quality control process. Nothing in this paragraph shall prohibit an AMC from obtaining additional appraisals if required by a lending program, or if such additional appraisals are required by applicable local, state, or federal law.

§ 160-pppp. Alteration of appraisal reports. An appraisal management company shall not alter, modify, or otherwise change a completed appraisal or valuation service report submitted by an appraiser by removing such appraiser's signature or seal or by adding information to, or removing information from such report with intent to change the valuation conclusion. An appraisal management company shall not require an appraiser to provide such appraisal management company with such appraiser's digital signature or seal.

§ 160-qqqq. Enforcement. The department may revoke or suspend the license of an appraisal management company, or in lieu thereof may impose a fine, per violation, not to exceed twenty-five thousand dollars if the department finds that the licensee has made a material misstatement in the application for such license, or if such licensee has been found guilty of fraud or fraudulent practices, or for dishonest or misleading advertising, or has demonstrated untrustworthiness or incompetency to act as an appraisal management company, or has violated any provision of this article or a regulation promulgated thereunder. The department shall report any such violations by appraisal management companies to the appraisal subcommittee.

§ 160-rrrr. Disciplinary hearings. The department shall, before revoking or suspending any license or imposing any fine or reprimand on

the holder thereof, and at least twenty days prior to the date set for the hearing, notify, in writing, the holder of such license of any charges made and shall afford such licensee an opportunity to be heard in person or by counsel in reference thereto. Such written notice may be served by personal delivery to the licensee, or by certified mail to the last known business address of such licensee or unlicensed person, or by any method authorized by the civil practice law and rules. The hearing on such charges shall be at such time and place as the department shall prescribe.

§ 160-ssss. Power to suspend a license. In cases where the health, safety, or welfare of the public is endangered, the department shall have the authority to immediately suspend a license pending a hearing before an administrative law judge.

§ 160-tttt. Investigation. The department shall have the power to enforce the provisions of this article and upon complaint of any person, or on its own initiative, to investigate any violation thereof or to investigate the business, business practices and business methods of an appraisal management company, if in the opinion of the department such investigation is warranted. Each such applicant or licensee shall be obliged, on request of the department, to supply such information as may be required concerning his or its business, business practices or business methods, or proposed business practices or methods.

For the purpose of enforcing the provisions of this article, and in making investigations relating to any violation thereof, and for the purpose of investigating the character, competency and integrity of the applicants or licensees hereunder, and for the purpose of investigating the business, business practices and business methods of any applicant or licensee, or of the officers or agents thereof, the department, acting by such officer or person in the department as the secretary of state may designate, shall have the power to subpoena and bring before the officer or person so designated any person in this state and require the production of any books, records or papers which he deems relevant

to the inquiry and administer an oath to and take testimony of any person or cause his or her deposition to be taken, except that any applicant or licensee or officer or agent thereof shall not be entitled to fees and/or mileage. A subpoena issued under this section shall be regulated by the civil practice law and rules.

§ 160-uuuu. Rule-making authority. The department may adopt rules not inconsistent with the provisions of this chapter which may be reasonably necessary to implement, administer, and enforce the provisions of this chapter.

§ 160-vvvv. Violations. 1. Any person or company who fails to obtain a certificate of registration required pursuant to this article shall be guilty of a misdemeanor.

2. Criminal actions for failure to obtain a certificate of registration may also be prosecuted by the attorney general, or his or her deputy, in the name of the people of the state, and in any such prosecution the attorney general, or his or her deputy, may exercise all the powers and perform all the duties the district attorney is otherwise authorized to exercise or to perform therein.

§ 160-wwww. Severability. Should the courts of this state declare any provision of this article unconstitutional, or unauthorized, or in conflict with any other section or provision of this article, such decision shall affect only such section or provision so declared to be unconstitutional or unauthorized and shall not affect any other section or part of this article.

§ 160-xxxx. Judicial review. The actions of the department in granting or refusing to grant or to renew a license under this article or in revoking or suspending such a license or imposing any fine or reprimand on the holder thereof or refusing to revoke or suspend such a license or

impose any fine or reprimand shall be subject to review by a proceeding brought under and pursuant to article seventy-eight of the civil practice law and rules at the instance of the applicant for such license, the holder of a license so revoked, suspended, fined, or reprimanded or the person aggrieved.

ARTICLE 7

MISCELLANEOUS PROVISIONS

Section 161. Certain searches, the filing of papers, and certified copies, ordered by state officers to be gratuitous.

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§ 161. Certain searches, the filing of papers, and certified copies, ordered by state officers to be gratuitous. 1. Each of the following officers, to wit: the secretary of state, the comptroller, the commissioner of taxation and finance, the attorney general, the public service commission, the commissioner of agriculture and markets, the commissioner of transportation, the industrial commissioner, the chairman of the state labor relations board, the chairman of the state liquor authority, the superintendent of financial services, the state commissioner of human rights, the commissioner of general services and the commissioner of housing and community renewal may require search to be made, in the office of any of the others, or of a county clerk or of the clerk of a court of record, for any record, document, or paper, where he or she deems it necessary for the discharge of his or her official duties, and a copy thereof, or extracts therefrom, to be made and officially certified or exemplified, without the payment of any fee or charge.

2. No salaried officer of any city, county, or court, of this state, or any public officer who is required by law to deposit the fees collected in his office into any city or county treasury, shall be entitled to receive from said state officers, or from a division or

bureau of said state officers, any fee for entering, filing, docketing, registering or recording any paper, record or document required by law to be filed in the office of any such city, county, court, or public officer, or for a certified copy, transcript or extract of any paper, document or record on file in such office which he deems necessary for the discharge of his official duties, and every such officer must, upon application therefor, furnish to said state officers, or a division or bureau of said state officers, for such official use, a certified copy, extract or transcript of any paper, record or document on file in such office without the payment of the fee prescribed by law therefor; nor shall any court clerk demand or receive from any of said state officers, or from a division or bureau of said state officers, any trial or jury fee upon filing in any court in this state a note of issue or demand for a jury trial.

3. Such salaried officer shall also furnish the services herein specified to any state department or a bureau or agency thereof acting as an agent of the state in the acquisition of real property, without the payment of any fee or charge.

§ 162. Contracts for professional services of state and municipal employees. Notwithstanding any inconsistent provision of law, general, special or local, the state and any municipal subdivision thereof and any department, bureau, board, commission, authority or any other agency or instrumentality of the state or any municipal subdivision thereof, are hereby severally authorized and empowered to enter into any contract or arrangement with the United States of America or any office, department, agency or instrumentality thereof for the performance at cost by engineers, architects, draftsmen and chemists employed by the state or such municipal subdivision, upon such terms and conditions as may be mutually agreed upon, of any project or work authorized by or pursuant to any act of congress or the cost of which has been provided for by an appropriation or contract authorization made by any act of congress which involves or requires the professional services of such employees. The making or performance of any such contract or arrangement shall in no wise be deemed to affect or result in the impairment,

diminution or abridgment of the compensation, or any of the civil service, retirement and other rights, privileges and immunities of any employee engaged in the performance of any service thereunder.

§ 163. Contracts for services of state agencies. 1. Notwithstanding any inconsistent provision of law, general, special or local, the state and any department, bureau, board, commission, authority, or any other agency or instrumentality of the state, are hereby severally authorized and empowered, subject to the approval of the governor, to enter into any contract or agreement for the production of any goods, materials, or equipment or the processing, reprocessing, altering or repair thereof, deemed by the governor necessary or desirable to effectuate postwar adjustments or defense effort, upon such terms and conditions as he may approve.

2. Such contract or agreement may be made only with the United States of America, or any office, department, agency or instrumentality thereof, or with any person, firm or corporation engaged in the production or supply of any goods, materials or equipment or the processing, reprocessing, altering or repair thereof, for or for use, directly or indirectly, by the United States of America, or any of its agencies.

3. In the performance of any such contract or agreement any such department, bureau, board, commission, authority, or any other such agency or instrumentality of the state, is hereby authorized and empowered to use any of the real or personal property of the state, under its control and supervision and temporarily to employ or transfer any of its personnel.

4. The making or performance of any such contract or agreement shall in no wise be deemed to affect or result in the impairment, diminution or abridgment of the compensation, or any of the civil service, retirement and other rights, privileges and immunities of any employee engaged in the performance of any service thereunder.

5. Any such contract or agreement shall provide for payment to the state of compensation, price or other consideration which in no wise shall be less than the compensation, price or other consideration generally obtainable by private persons, firms or corporations for the performance of similar contracts or agreements, provided the same is reasonably ascertainable.

6. All moneys received on account of any contracts or agreements made pursuant to this section or pursuant to the provisions of section fifty-two-a of the New York state war emergency act prior to the repeal thereof shall be received by the state and deposited in the special fund provided for in section ninety-seven-a of the state finance law. The moneys in such fund may be expended and used to defray the expenses incidental to such contract or agreement in accordance with the terms and conditions of such contract or agreement and to reimburse the general fund of the state for any expenditures made in the first instance for such purposes. Such moneys shall be paid out of such fund on vouchers approved by the head of the department or agency, to which any moneys may be allocated by the director of the budget, after audit by and upon warrant of the comptroller.

§ 163-a. Contracts with Green Thumb Environmental Beautification, Incorporated. Each state department, agency, board, bureau, commission or other unit performing governmental functions for the state, within amounts appropriated therefor, may contract with Green Thumb Environmental Beautification, Incorporated, a nonprofit organization that is organized for the purpose of environmental beautification and employs persons fifty-five years of age or older whose annual income does not exceed: (1) two hundred fifty percent of the non-farm federal poverty level applicable to a family of one (as defined and updated by the federal department of health and human services) for an individual living alone or in another person's home; or (2) four hundred percent of the non-farm federal poverty level applicable to a family of one (as defined and updated by the federal department of health and human services) for a couple living alone or in another person's home. The contract shall name the organization, the amount and manner of payments

for the service to be rendered, nature of such service, the rendering of a verified account of the disbursements with verified or certified vouchers therefor attached, a refund of any unused amount, and such other conditions upon the use thereof as may be deemed proper.

§ 164. Reports by and to the department. Each department, other than the executive department, shall make an annual report to the governor and legislature on or before the fifteenth day of May, for the preceding calendar year. It shall contain such information concerning the department and its several divisions, bureaus, offices, agencies and institutions, and their activities and affairs, and such recommendations, as the head of the department shall deem necessary or proper, and any matters required by express provision of law to be included in such report. A department also shall make such other and special reports as the governor or either house of the legislature may require. From time to time, the head of a department may require from any board, commission or other body in the department or from any subordinate officer or employee, division or bureau of the department, or from any institution subject to the supervision of the department, or from any agency of the department, such reports or information as such head may deem necessary. Unless expressly authorized by the head of the department, there shall be hereafter no separate report, annual or otherwise, directly to the legislature or governor by any such board, commission, body, officer, division, bureau, institution or agency notwithstanding any existing provision of law authorizing or requiring such report.

§ 164-a. Report and publication economy regulations. 1. The commissioner of the office of general services, in consultation with the state comptroller, shall establish regulations providing for cost savings in the printing and distribution of reports and other publications by agencies, departments and authorities of the state. To the extent that such reports and publications do not relate to the marketing or advertising of a service or product of the agency, department or authority, such regulations shall at a minimum provide

that such reports and other publications:

(a) be as brief as may be practicable;

(b) utilize uncoated recyclable paper, of a size that will minimize paper use and waste, for printing of text and cover;

(c) make limited use of photographs;

(d) be printed in no more than two colors, unless otherwise specifically permitted by law, rule or regulation of the commissioner;

(e) not use covers unless such covers are necessary and appropriate for the protection of the document;

(f) be distributed pursuant to a distribution list which is reviewed at least annually to eliminate duplicate, excessive, unwanted and obsolete mailings;

(g) be mailed in combination, to the extent practicable and when possible, with mailing of other reports and publications;

(h) be eliminated or combined, to the extent practicable and when possible, with other reports and publications.

2. Each agency or department shall, with its annual report, provide the state comptroller with a list of printing cost estimates from all sources, including in-house facilities, the office of general services central reproduction unit, private printers and such other printing cost information as may be required by the state comptroller.

3. Subdivision one of this section shall be implemented in a manner that is consistent with the provisions of subdivisions five and six of section three hundred fifty-five of the education law.

§ 164-b. State aid to rural areas: agency reports. 1. Legislative intent. The legislature hereby finds, declares and determines that:

(a) enhanced access to financial and technical assistance available from state agencies is of great significance to rural communities;

(b) grants and other forms of state assistance are not always easily attainable by rural areas with the greatest need;

(c) rural areas across the state continue to suffer from high levels of unemployment and poverty, limited access to health care and other human services, individual isolation, shortfalls in family income and

educational attainment, as well as the inability to undertake infrastructure investment and business development;

(d) rural communities often lack sufficient expertise and staff to prepare and process applications for aid, as well as address the requirements associated with administration of any proceeds. This, coupled with disproportionate competition with large metropolitan and suburban communities for a diminishing number of grants often places a rural community at a disadvantage when attempting to advance the betterment of its citizens;

(e) improved awareness of the ways state agencies provide financial and technical assistance would enhance opportunities for rural areas to make use of such resources, strengthening their ability to respond to modern challenges.

2. Definitions. For the purposes of this section, the following terms shall have the following meanings:

(a) "Rural area" shall mean those portions of the state so defined by subdivision seven of section four hundred eighty-one of this chapter;

(b) "State agency" shall mean the following: office for the aging, department of agriculture and markets, office of alcoholism and substance abuse services, department of economic development, department of education, department of environmental conservation, environmental facilities corporation, department of health, division of housing and community renewal, job development authority, office of mental health, office of parks, recreation and historic preservation, department of social services, department of state, department of transportation, urban development corporation, and the division for youth;

(c) "Set-aside" shall mean a direct commitment of financial and/or technical assistance by state agencies specifically for rural areas as herein defined;

(d) "Rural program development" means the systematic identification of special service needs of rural areas by a state agency and the utilization of said agency's financial, technical and other available resources to help meet such need;

(e) "Rural advisory committee" means a committee created pursuant to statute or through administrative action by a state agency for the purposes of assisting such agency to develop and implement programs for

rural areas;

(f) "Regulatory flexibility" means the conscious consideration of the ability of affected individuals and/or groups in rural areas to respond to state agency rules and regulations and the state agency's attempt to mitigate any negative impacts which may result from such requirements on said individuals and/or groups.

3. Annual reports of state agencies.

(a) In addition to any existing requirements of state agencies for the submission of annual reports, such agencies shall also annually provide:

(i) a listing and description of any set-asides for rural areas in New York state. Such reports shall include the number of applications submitted, the number of applications approved, and the proportionate share of dollars and/or technical assistance rendered to public and/or private sector interests within rural areas of the state;

(ii) a listing and description of the activities and participation of any rural advisory committees which directly serve such agency, or of which the agency is a member;

(iii) a listing and description of existing and/or new rural program development efforts within the agency, or of which the agency is a part;

(iv) a description of existing and/or new rule-making or regulatory flexibility afforded to rural areas of the state; and

(v) recommendations for any statutory change, as well as financial and other resources to improve state agency assistance and responsiveness to rural areas of the state.

(b) In a form prescribed by the governor, all state agencies, as defined in this section, shall report the annual information required in paragraph (a) of this subdivision to the governor, with a copy also submitted to the speaker of the assembly, the temporary president of the senate, the minority leader of the assembly, the minority leader of the senate, and the chairman and vice-chairman of the New York state legislative commission on the development of rural resources established pursuant to chapter four hundred twenty-eight of the laws of nineteen hundred eighty-two. The first such report shall be submitted on or before January first, nineteen hundred ninety-six.

§ 164-c. Printing cost reduction notices. There shall be printed on the cover or cover page of every annual report, report or similar publication issued by any department, division, commission, agency or any other entity of the state, a notice which states the following words or words to the effect of the following: "In an effort to reduce the costs of printing, please notify the producer of this document if you wish your name to be deleted from our mailing list or if your address has changed."

§ 164-d. Availability of application forms. 1. The state and every state agency, department, bureau, board, authority, office, commission, or any other instrumentality of the state shall make the various application forms developed and distributed by such agency or instrumentality for public use that are readily convertible to internet form and are intended to be commonly used by the general public available on the internet.

2. Nothing in this section shall require that an agency or other state entity or instrumentality accept or process application forms submitted through the internet, or post application forms including user-specific data on the internet.

3. The office of information technology services shall promulgate rules and regulations to implement the provisions of this section. Such rules shall at least provide for the prioritization and timing for making application forms available on the internet.

§ 165. Commission on uniform state laws; object; membership; term of office; expenses. The commission on uniform state laws is continued. It shall be the object of the commission to examine various statutes and fields of law and to consult and cooperate with similar commissions in other states with a view to promoting uniform legislation throughout the United States whenever practicable. The commission may recommend such legislation as may accomplish its objective. It shall consist of five members appointed by the governor. The members shall hold office and may

be removed at the pleasure of the governor. The commission shall serve without compensation, but each commissioner shall be entitled to receive his actual disbursements for his expenses in performing the duties of his office. The commission may employ such persons and incur such expenses as may be necessary for the performance of its duties within the amounts appropriated therefor. The commission shall report to the legislature whenever the commission deems it necessary and shall report to the legislature upon its request. Such reports shall consist of an account of the transactions of the commission and its advice and recommendations.

§ 166. Record of appearances. Every regulatory agency of the state shall keep a record of appearances before it or its appropriate divisions or bureaus of attorneys, agents and representatives appearing on behalf of any person, firm, corporation or association subject to its regulatory jurisdiction, for which they receive a fee, which record shall be open to public inspection. Each regulatory agency shall file the record with the New York temporary state commission on lobbying on forms prescribed by the commission. The record shall be filed quarterly on the fifteenth day of the month following the end of the quarter. The term "regulatory agency" as used in this section shall mean the department of financial services, department of financial services, state liquor authority, department of agriculture and markets, department of education, department of environmental conservation, department of health, division of housing and community renewal, department of state, other than the division of corporations and state records, department of public service, the industrial board of appeals in the department of labor and the department of law, other than when the attorney general or his agents or employees are performing duties specified in section sixty-three of this chapter.

§ 167. Advertising and publicizing summer camps cited as subversive. Notwithstanding any inconsistent provision of law, general or special, no department, bureau, board, commission, authority, agency or other instrumentality of the state shall knowingly advertise, publicize,

assist, support or advise, or in any manner promote in any publication or otherwise, any summer camp cited by the attorney general of the United States, the attorney general of the state of New York, any duly authorized state agency or any legislative investigating body for teaching, advocating or embracing the doctrine that the government of the United States or of any state or any political subdivision thereof shall be overthrown or overturned by force, violence or any unlawful means, or advocating, advising, teaching or embracing the duty, necessity or propriety of adopting any such doctrine.

§ 168. Notices to attorneys at law by state bodies or officers. 1. Whenever a person is involved as a party in a proceeding before any body or officer exercising quasi-judicial or administrative functions, and an attorney at law has filed a notice of appearance in such proceeding on behalf of such person, a copy of all subsequent written communications or notices to such person in such proceeding (other than subpoenas) shall be sent to such attorney at law, and if any such subsequent written communication or notice is sent to the party in the proceeding, a copy of the same shall be sent to the attorney at law at the same time. Every such body or officer is authorized to provide by rule or regulation for the manner in which compliance with the requirements of this section shall be effected, including, but not limited to, the form and content of notices of appearance, the manner in which an attorney at law shall file his notice of appearance in a proceeding, and the manner in which written communications or notices shall be sent to the attorney at law.

2. For the purpose of this section:

(a) "person" shall mean one or more individuals, partnerships, corporations or associations;

(b) "proceeding" shall mean any quasi-judicial or administrative procedure instituted by a written application by a person to a body or officer, by a notice of assessment given by a body or officer to a person, by a written complaint addressed by a body or officer or transmitted by a body or officer to a person, or by a notice of any hearing before a body or officer whether or not such hearing is

prescribed by statute.

3. This section shall not apply to preliminary investigations.

§ 168-a. Designation of days of commemoration. 1. A day of commemoration is a calendar day so designated by this section or a calendar day in any one year so designated by a proclamation of the governor or resolution of the Senate and Assembly jointly adopted.

2. A day of commemoration shall not constitute a holiday or half-holiday but shall be a day set aside in recognition and special honor of a person, persons, group ideal or goal.

3. The following days shall be days of commemoration in each year: January sixth, to be known as "Haym Salomon Day", January twenty-seventh, to be known as "Holocaust Remembrance Day", February fourth, to be known as "Rosa Parks Day", February fifteenth, to be known as "Susan B. Anthony Day", February sixteenth, to be known as "Lithuanian Independence Day", February twenty-eighth, to be known as "Gulf War Veterans' Day", March fourth, to be known as "Pulaski Day", March eighth, to be known as "International Women's Day", March tenth, to be known as "Harriet Tubman Day", March twenty-ninth, to be known as "Vietnam Veterans' Day", April ninth, to be known as "POW Recognition Day", April twenty-seventh, to be known as "Coretta Scott King Day", April twenty-eighth, to be known as "Workers' Memorial Day", the first Tuesday in May to be known as "New York State Teacher Day", May seventeenth, to be known as "Thurgood Marshall Day", the first Sunday in June, to be known as "Children's Day", June second, to be known as "Italian Independence Day", June twelfth, to be known as "Women Veterans Recognition Day", June nineteenth, to be known as "Juneteenth Freedom Day", June twenty-fifth, to be known as "Korean War Veterans' Day", the second Monday in July, to be known as "Abolition Commemoration Day", August twenty-fourth, to be known as "Ukrainian Independence Day", August twenty-sixth, to be known as "Women's Equality Day", September eleventh, to be known as "Battle of Plattsburgh Day" and also to be known as "September 11th Remembrance Day", September thirteenth, to be

known as "John Barry Day" and also to be known as "Uncle Sam Day in the State of New York", September seventeenth, to be known as "Friedrich Wilhelm von Steuben Memorial Day", the third Friday in September to be known as "New York State POW/MIA Recognition Day" except if such date of commemoration cannot be observed due to a religious holiday, such observances shall then be conducted on the second Friday of September, the last Saturday in September, to be known as "War of 1812 Day", the fourth Saturday of September, known as "Native-American Day", the last Sunday in September, to be known as "Gold Star Mothers' Day", October fifth, to be known as "Raoul Wallenberg Day", October eleventh, to be known as "New Netherland Day in the State of New York", October eighteenth, to be known as "Disabilities History Day", October twenty-seventh, to be known as "Theodore Roosevelt Day", November ninth, to be known as "Witness for Tolerance Day", November twelfth, to be known as "Elizabeth Cady Stanton Day", the third Tuesday in November to be known as "New York State School-Related Professionals Recognition Day", November twenty-sixth, to be known as "Sojourner Truth Day", November thirtieth, to be known as "Shirley Chisholm Day", December third, to be known as "International Day of Persons with Disabilities", December seventh, to be known as "Pearl Harbor Day", December sixteenth, to be known as "Bastogne Day" and that day of the Asian lunar calendar designated as new year to be known as "Asian New Year".

§ 169. Salaries of certain state officers. 1. Salaries of certain state officers holding the positions indicated hereinbelow shall be as set forth in subdivision two of this section:

(a) commissioner of corrections and community supervision, commissioner of education, commissioner of health, commissioner of mental health, commissioner of developmental disabilities, commissioner of children and family services, commissioner of temporary and disability assistance, chancellor of the state university of New York, commissioner of transportation, commissioner of environmental conservation, superintendent of state police, commissioner of general services, commissioner of the division of homeland security and emergency services and the executive director of the state gaming commission;

(b) commissioner of labor, chairman of public service commission, commissioner of taxation and finance, superintendent of financial services, commissioner of criminal justice services, and commissioner of parks, recreation and historic preservation;

(c) commissioner of agriculture and markets, commissioner of addiction services and supports, adjutant general, commissioner and president of state civil service commission, commissioner of economic development, president of higher education services corporation, commissioner of motor vehicles, member-chair of board of parole, chair of public employment relations board, secretary of state, 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, chair of the workers' compensation board;

(d) director of office for the aging, commissioner of human rights, commissioners of the department of public service, chairman of state commission on quality of care for the mentally disabled, chairman of commission on alcoholism and substance abuse prevention and education, executive director of the council on the arts and executive director of the board of social welfare;

(e) chairperson of state athletic commission, director of the office of victim services, chairperson of human rights appeal board, chairperson of the industrial board of appeals, chairperson of the state commission of correction, members of the board of parole, member-chairperson of unemployment insurance appeal board, director of veterans' services, and vice-chairperson of the workers' compensation board;

(f) executive director of adirondack park agency, members of state commission of correction, members of unemployment insurance appeal board, and members of the workers' compensation board.

2. (a) Effective January first, nineteen hundred ninety-nine, the annual salaries of the officers holding the positions indicated in subdivision one of this section shall be as follows: for the positions listed in paragraph (a), $136,000; in paragraph (b), $127,000; in paragraph (c), $120,800; in paragraph (d), $109,800; in paragraph (e), $101,600; and in paragraph (f), $90,800.

(b) Notwithstanding any of the foregoing provisions of this section to

the contrary, an incumbent in a position (i) listed in former section one hundred sixty-nine of the executive law in effect on the day prior to the effective date of this subdivision, or (ii) listed in this section, or (iii) covered by a provision of law other than such section, shall not receive compensation in an amount less than such person received on the effective date of this section.

3. Notwithstanding any other provision of this section or any other provision of law, the boards of trustees of the state university of New York and the city university of New York shall each establish and implement salary plans for the chancellors, presidents and senior staffs of such state and city universities, respectively. The board of regents shall establish and implement a separate salary plan for the president of the university of the state of New York, setting forth the compensation to be received by the president for performing the duties of that office assigned by the rules of the regents or statute, which shall be in addition to the compensation received by such person pursuant to the provisions of subdivisions one and two of this section. Such salary plans shall be developed after consultation with the governor's office of employee relations and the division of the budget. Any increase in compensation for the positions set forth in this subdivision, not otherwise funded from any appropriation, shall be funded from reallocations of funds within the appropriations specifically identified by the aforementioned boards. Each board of trustees and the board of regents shall file a proposed salary plan report with the chairs of the senate finance committee and the assembly ways and means committee and the director of the budget at least sixty days prior to the effective date of such salary plan. Each salary plan report shall set forth the salary schedule, the dollar value of additional public compensation and other employment benefits that such positions would receive, the specific sources of funding to be reallocated for salary increases, the amount of increase to be provided to each position, the comparison salary data on which the plan is based, and such other information as the boards of trustees and the board of regents deem appropriate.

§ 170. Audit of agencies by the state comptroller; reports of corrective action. Whenever the state comptroller shall conduct an audit of the activities and operations of any department, bureau, board, commission, authority or any other agency or instrumentality, he or she shall submit a tentative copy of a report of such audit to the head of the entity audited. The head of such entity may submit a written response to such tentative report within thirty days of the receipt thereof. The state comptroller shall thereafter submit a final report of such audit which shall contain a complete copy of the response, if any, submitted to the tentative report. If the final report makes recommendations for corrective action, the head of the entity audited shall report within one hundred eighty days after receipt thereof to the governor, the state comptroller, the president, president pro tem and minority leader of the senate, the speaker, majority and minority leaders of the assembly, and the chairman and ranking minority members of the senate finance committee and the assembly ways and means committees of the state legislature what steps were taken to implement such recommendations, and, where recommendations were not implemented, the reasons therefor.

§ 170-a. Celebration of Rosa Parks; bus companies. 1. For purposes of this section, the terms "bus company" and "bus line" shall have the same meanings as set forth in subdivisions two and three of section two of the transportation law.

2. On February fourth, two thousand eight and every February fourth thereafter, a day of commemoration designated as "Rosa Parks Day" pursuant to section one hundred sixty-eight-a of this article, every bus company operating a bus line in this state may reserve and keep empty one seat on each bus placed in service by such bus company in honor of civil rights activist Rosa Parks.

3. Compliance with the provisions of this section shall be voluntary, and no bus company operating a bus line in this state shall be subject to any liability, either civil or criminal, solely for the failure to comply with the provisions of this section.

*** § 170-b. Employee loans.** 1. No state agency shall make available to employees a loan of any amount of money. Provided, however, that nothing in this section shall be construed to impede any person from receiving any aid for which he or she is eligible pursuant to any state or federal statute or regulation.

2. For purposes of this section, the term "state agency" shall mean any state department, state university of New York, city university of New York, authority, board, bureau, division, commission, committee, council, office or other governmental entity performing a governmental or proprietary function for the state.

* NB There are 2 § 170-b's

*** § 170-b. Racial references contained in state and municipal forms.** No form or preprinted document utilized by a state agency or public authority or by a municipality shall use the term "oriental" to identify or denote persons of Asian or Pacific Islander heritage. Any form or preprinted document utilizing such term shall be amended no later than January first, two thousand ten to replace the term "oriental" with the term "Asian" or to otherwise refer to such persons as being Asian and Pacific Islander persons having origins in any of the Far East countries, South East Asia, the Indian subcontinent or the Pacific Islands.

* NB There are 2 § 170-b's

*** § 170-c. Regulatory penalties for small businesses.** 1. Unless explicitly exempted or excluded by any other law, rule or regulation, upon a first time violation of a state agency's rules or regulations related to paperwork submitted to a state agency or actions or omissions that are determined by such state agency to be de minimus, a small business, as defined in subdivision eight of section one hundred two of the state administrative procedure act, shall be afforded a cure period or other opportunity for ameliorative action if the violation can be

corrected, the successful completion of which will prevent the imposition of penalties on the party or parties subject to enforcement of such de minimus violation. However, no waiver of penalties or cure period or other opportunity for ameliorative action may be given if the agency determines that the violation may result in a natural resource damage claim or serious actual harm, or may present an endangerment to public safety, human health or the environment, is a violation of human or civil rights law, results in loss of employee wages or benefits, interferes with any remedy, review, or resolution related to harassment or discrimination claims, was or is a willful violation, involves tax fraud, violates requirements related to federal funding to the state, relates to state funding or procurement, is similar to prior violations, is a penal law violation, relates to a material or substantive portion of the business, or is in contravention of the public interest and/or policy reflected by the agency's mission. Upon such first violation, a state agency shall (a) provide the small business with a copy of the applicable small business regulation guides pursuant to section one hundred two-a of the state administrative procedure act and any other helpful guidance or information detailing the agency's rules and regulations, to the extent such materials exist, or (b) to the extent practicable, provide such small business assistance with compliance with the agency's rules and regulations. The agency shall have the discretion to determine the appropriate period of time to allow such small business to cure or take such other ameliorative action to address such violation, which shall be reasonable but shall not be less than fifteen business days unless a longer period is allowed pursuant to law or regulation.

2. As used in this section "state agency" shall mean an agency as defined in subdivision one of section one hundred two of the state administrative procedure act; provided that "state agency" shall not include the department of taxation and finance, the workers' compensation board nor the department of financial services.

3. Nothing herein shall prevent or preclude any other waivers of penalties that may be applicable by this or any other agency.

4. Every state agency shall provide to the division for small business, created pursuant to section one hundred thirty-two of the economic development law, the following information covering the previous calendar year, annually by July first following the effective date of this subdivision, and every July first thereafter: (a) how many cure periods or other opportunities for ameliorative action were afforded pursuant to subdivision one of this section and how many small businesses made use of such options, (b) how many cure periods and other opportunities for ameliorative action were successfully completed and resulted in the avoidance of a penalty, (c) what, if any, guidance, information, and assistance with compliance was provided to small businesses issued pursuant to subdivision one of this section, and (d) the range of time granted by the state agency to correct first time violations and the type of violations that were ameliorated. The division for small business shall by October first following the effective date of this subdivision, and every October first thereafter, prepare a report compiling this information, by agency, and shall post this report on its website and shall provide a copy of such report to the governor, the speaker of the assembly and the temporary president of the senate.

* NB Repealed December 20, 2027

§ 170-d. Disclosure of disabled tenants' rights. The division of human rights shall promulgate regulations requiring every housing provider under subdivisions two-a and five of section two hundred ninety-six of this chapter, to provide notice to all tenants and prospective tenants, in writing, within thirty days of the effective date of their tenancy, or thirty days from the effective date of this section for current tenants, of their rights to request reasonable modifications and accommodations pursuant to subparagraphs one, two and three of paragraph d of subdivision two-a of section two hundred ninety-six of this chapter and subdivision eighteen of section two hundred ninety-six of this chapter.

*** § 170-e. Disclosure of lawful source of income rights to prospective**

tenants. The division of human rights shall promulgate regulations requiring any state, county, municipal or other governmental entity, including but not limited to the division of housing and community renewal, or any agency or instrumentality of such an entity, and any public or private non-profit entity authorized to administer any public housing program or assistance, including, but not limited to, the section eight housing choice voucher program, or any other form of housing assistance, payment, subsidy or credit, regardless of whether or not such assistance, payment, subsidy or credit is paid or attributed directly to a landlord, to ensure that individuals who have applied for and are eligible to receive such assistance, payment, subsidy or credit are informed, in writing, of their rights and remedies available under law, with regard to lawful source of income discrimination pursuant to this section.

* NB There are 2 § 170-e's

*** § 170-e. Collection of demographic information.** 1. Every state agency, board, department, or commission that directly collects demographic data as to the ancestry or ethnic origin of residents of the state of New York shall use separate collection categories and tabulations for the following Asian and Pacific Islander groups in New York state:

(a) each major Asian group shall include Chinese, Japanese, Filipino, Korean, Vietnamese, Asian Indian, Bangladeshi, Pakistani, and all of the ten most populous Asian groups in the most recent five-year American community survey published by the United States Census Bureau; and

(b) each major Pacific Islander group shall include Native Hawaiian, Guamanian and Chamorro, and Samoan; or

(c) collection categories shall include a category for other Asian or Pacific Island group.

2. Every state agency, board, department, or commission that directly collects demographic data as to the ancestry or ethnic origin of residents of the state of New York shall use separate collection categories and tabulations for the following:

(a) the primary language spoken at home; and

(b) the ethnic group or ancestry.

3. Upon the release of a new five-year American community survey published by the United States Census Bureau, every state agency, board, department or commission shall update their data collection and reporting practices as required by this section and shall continue to collect and report on any demographic group no longer included in the ten most populous groups until the release of the following five-year American community survey, at which time state agencies, boards, departments or commissions may cease to collect and report on such demographic groups provided they remain outside the ten most populous groups.

4. The data collected pursuant to the different collection categories and tabulations described in subdivision one of this section, to the degree that the data quality is sufficient, shall be included in every demographic report on ancestry or ethnic origins of residents of the state of New York by the state agency, board, department, or commission published or released on or after December first, two thousand twenty-three; provided, however, that for the department of labor, division of criminal justice services, office of mental health and office of temporary and disability assistance such requirements shall be effective July first, two thousand twenty-four. The data shall be made available to the public in accordance with state and federal law, except for personal identifying information, which shall be deemed confidential, by posting the data on the internet web site of the agency, board, department, or commission on or before December first, two thousand twenty-three, and annually thereafter; provided, however, that for the department of labor, division of criminal justice services, office of mental health and office of temporary and disability assistance such requirements shall be effective July first, two thousand twenty-four. If the data quality is determined to be insufficient for publication, an explanation of the problem with the data quality shall be included in any report or publication made available to the public. This subdivision shall not be construed to prevent any other state agency from posting data collected pursuant to subdivision one of this section on the agency's internet web site, in the manner prescribed by

this section.

5. The requirements of this section shall not apply to the department of labor, the division of criminal justice services, the office of mental health or the office of temporary and disability assistance until two years after this section shall have become a law.

* NB There are 2 § 170-e's

§ 170-f. Website accessibility; contractors and vendors. Each contractor, subcontractor, vendor, consultant, or other person providing services pursuant to a state contract shall be required to conform any website provided by such contractor, subcontractor, vendor, consultant, or person in relation to and for the purpose of the provision of such services to the most current version of the Web Content Accessibility Guidelines adopted by the World Wide Web Consortium for accessibility, or any successor standards.

§ 170-g. Collection of demographic information; sexual orientation and gender expression. 1. Every state agency, board, or commission that directly or by contract collects demographic data as to the ancestry or ethnic origin of residents of the state of New York shall use, to the extent practicable, separate collection categories and tabulations for sexual orientation and gender identity or expression.

2. The term "gender identity or expression" means having or being perceived as having a gender identity, self-image, appearance, behavior or expression whether or not that gender identity, self-image, appearance, behavior or expression is different from that traditionally associated with the sex assigned to that person at birth.

3. The data collected pursuant to the different collection categories and tabulations described in subdivision one of this section shall be included in every demographic report on ancestry or ethnic origins of residents of the state of New York by the state agency, board, or commission published or released on or after July first, in the calendar

year following the effective date of this section. The data shall be made available to the public in accordance with state and federal law, except for personal identifying information, which shall be deemed confidential, by posting the data on the internet web site of the agency, board, or commission on or before July first, in the calendar year following the effective date of this section, and annually thereafter. This subdivision shall not be construed to prevent any other state agency, board, or commission from posting data collected pursuant to subdivision one of this section on the agency's, board's, or commission's internet web site, in the manner prescribed by this section. A state agency, board, or commission that cannot comply with the requirements of this section shall, at least sixty days before the applicable deadline, post publicly on its web site a written progress report that describes with specificity the steps the agency, board, or commission has taken to comply with this section, the impediments that prevented compliance, the efforts undertaken by the agency, board, or commission to come into compliance, and an estimated timeframe for compliance. The written report shall be updated every six months from the date of the original posting.

4. Guidance shall be issued for state agencies, boards, and commissions in their compliance with the requirements set forth in subdivision three of this section.

§ 170-h. Additional collection of demographic information. 1. Every state agency, board, department, or commission that directly collects demographic data as to the ancestry or ethnic origin of residents of the state of New York shall use separate collection categories and tabulations for the following Middle Eastern and North African groups in New York state:

(a) Each major North African (NA) group shall include Egyptian, Moroccan, Algerian, Sudanese, Tunisian, and Libyan; and

(b) Each major Middle Eastern (ME) group shall include Yemeni, Iranian, Palestinian, Iraqi, Lebanese, Israeli, Jordanian, Syrian, Armenian, and Saudi; and

(c) Collection categories shall include a category for other Middle

Eastern or North African groups.

2. The data collected pursuant to the different collection categories and tabulations described in subdivision one of this section, to the degree that the data quality is sufficient, shall be included in every demographic report on ancestry or ethnic origins of residents of the state of New York by the state agency, board, department, or commission published or released on or after January first, two thousand twenty-seven. The data shall be made available to the public in accordance with state and federal law, except for personal identifying information, which shall be deemed confidential, by posting the data on the internet web site of the agency, board, department, or commission on or before January first, two thousand twenty-seven, and annually thereafter. If the data quality is determined to be insufficient for publication, an explanation of the problem with the data quality shall be included in any report or publication made available to the public. This subdivision shall not be construed to prevent any other state agency from posting data collected pursuant to subdivision one of this section on the agency's internet web site, in the manner prescribed by this section.

3. A state agency, board, or commission that cannot comply with the requirements of this section shall, at least sixty days before the applicable deadline, post publicly on its web site a written progress report that describes with specificity the steps the agency, board, or commission has taken to comply with this section, the impediments that prevented compliance, the efforts undertaken by the agency, board, or commission to come into compliance, and an estimated timeframe for compliance. The written report shall be updated every six months from the date of the original posting.

§ 170-i. Gender-based violence and the workplace. 1. Each state agency shall formulate and issue a gender-based violence and the workplace policy for such agency. In formulating such policy, the state agency shall refer to the model gender-based violence and the workplace policy distributed by the office for the prevention of domestic violence

pursuant to subdivision eleven of section five hundred seventy-five of this chapter, and adopt its provisions as appropriate.

2. Each state agency shall designate at least one domestic violence agency liaison who shall ensure agency compliance with the domestic violence provisions of the gender-based violence and the workplace policy, be trained to assist victimized employees, and serve as the primary contact for the policy distributed by the agency.

3. Each state agency, in formulating or revising its gender-based violence and the workplace policy, shall give due regard to the importance of increasing awareness of gender-based violence and informing employees of available resources for assistance; clearly specifying how to reach the domestic violence agency liaison; ensuring that personnel policies and procedures are fair to domestic and gender-based violence victims and survivors, and responsive to their needs; developing workplace safety response plans; complying with state and federal law including restrictions of possession of firearms by a person convicted of a domestic violence related crime or subject to an order of protection; encouraging and promoting gender-based violence education and training for employees; and holding accountable employees who misuse state resources or authority or violate their job duties in committing an act of gender-based violence. Each state agency, when it issues its gender-based violence and the workplace policy, shall provide a copy of that policy and the information for its designated domestic violence agency liaison to the office for the prevention of domestic violence, and shall notify the office of any subsequent modifications of the policy or the contact information for the domestic violence agency liaison.

4. (a) Every covered employee shall participate in a gender-based violence and the workplace training developed by the office for the prevention of domestic violence and made available on the statewide learning management system annually.

(b) As used in this subdivision, "covered employee" shall mean all officers and employees working in the executive chamber in the office of the governor and New York State agencies who supervise other officers

and employees, who serve as the domestic violence agency liaison, or who are employed in a human resources position. "Officers and employees" shall have the meaning given to "state officer or employee" in section seventy-three of the public officers law.

5. Each state agency shall cooperate with the office for the prevention of domestic violence and furnish such information, reporting, and assistance as the office determines is reasonably necessary to accomplish the purposes of this section.

§ 170-j. Mental health references contained in state and municipal forms. No form, preprinted document, other public-facing document, training material, agency guidance, or manual utilized by a state agency, public authority or municipality shall use the term "emotionally disturbed person" to identify or denote a person experiencing emotional distress or an emotional or mental health crisis. All forms or preprinted documents, other public-facing documents, training materials, agency guidance or manuals utilizing such term shall be amended to replace the term "emotionally disturbed person" with the term "person experiencing an emotional crisis".

§ 170-k. Local cops, local crimes act. 1. For purposes of this section, the following definitions shall apply:

(a) "Law enforcement agency" means the New York state police and any law enforcement agency or department of any municipality, any police district, or any agency, department, commission, authority or public benefit corporation of the state of New York employing a police officer as that term is defined in subdivision thirty-four of section 1.20 of the criminal procedure law or peace officer as that term is defined in section 2.10 of the criminal procedure law, except for the port authority of New York and New Jersey.

(b) "Local government" means any municipal corporation and governing board in the state of New York.

(c) "Municipal corporation" has the same meaning as such term is defined in section two of the general municipal law.

(d) "Governing board" has the same meaning as such term is defined in section two of the general municipal law.

(e) "Correctional facility" has the same meaning as such term is defined in subdivision four of section two of the correction law.

(f) "Local correctional facility" has the same meaning as such term is defined in subdivision sixteen of section two of the correction law.

(g) "Immigration detention facility" means any building, facility, or structure used, in whole or in part, to house or detain individuals for any violation of a civil provision of the federal Immigration and Nationality Act relating to an individual's immigration status.

(h) "Juvenile detention facility" means a specialized secure, secure, or nonsecure detention facility certified by the office of children and family services pursuant to section five hundred three of this chapter.

(i) "Facility for youth placed with or committed to the office of children and family services" means a facility operated pursuant to section five hundred four of this chapter.

(j) "Immigration authority" has the same meaning as such term is defined in section three hundred nineteen of this chapter.

(k) "Immigration enforcement" has the same meaning as such term is defined in section three hundred nineteen of this chapter.

(l) "Immigration law" means any civil provision of the federal Immigration and Nationality Act and any provision of law that penalizes a person's presence in, entry into, or reentry into the United States.

2. (a) No local government, law enforcement agency, correctional facility, local correctional facility, juvenile detention facility, or facility for youth placed with or committed to the office of children and family services, or agent thereof may, enter into, modify, renew, remain in, or extend:

(i) any agreement pursuant to section 287(g) of the Immigration and Nationality Act codified at 8 U.S.C. § 1357(g), including, but not limited to, any formal or informal agreement under which an officer or employee may engage in or assist immigration enforcement, or otherwise may perform a function of an immigration officer; or

(ii) any contract, intergovernmental service agreement, or any other formal or informal agreement to house or detain individuals for federal civil immigration violations, including, but not limited to, agreements

entered into pursuant to 8 U.S.C. § 1103(a) or § 1231(g).

(b) Nothing in this subdivision shall be construed to preclude contracts or agreements by:

(i) any hospital or other health care facility as defined by section twenty-eight hundred one of the public health law, including any health care facility operated by a public benefit corporation pursuant to title two of article ten-C of the public authorities law, or any mental health facility or hospital as defined by section 1.03 of the mental hygiene law to provide health care services;

(ii) any authorized agency as defined by subdivision ten of section three hundred seventy-one of the social services law, to provide care or placement to children in the custody of the United States Office of Refugee Resettlement; or

(iii) any federal law enforcement agency for the provision of detention space for individuals subject to pending federal criminal charges; provided, however, that no such agreement may provide for detention space to house or detain individuals solely for federal civil immigration violations.

3. No local government, law enforcement agency, correctional facility, local correctional facility, juvenile detention facility, or facility for youth placed with or committed to the office of children and family services or agent thereof shall:

(a) pay, reimburse, subsidize, give any financial incentive or benefit or defray in any way costs related to the sale, purchase, construction, development, ownership, management, or operation of an immigration detention facility that is or will be owned, managed, or operated, in whole or in part by a private entity; or

(b) otherwise give any financial incentive or benefit in connection with the sale, purchase, construction, development, ownership, management, or operation of an immigration detention facility.

4. Notwithstanding any provision of state or local law to the contrary relating to the time in which a decision shall be rendered on an application for or an appeal relating to a permit, certificate, or variance, no local government shall approve a zoning variance or issue a permit or certificate for the construction or the reuse of existing

buildings or structures by any private entity for use as an immigration detention facility unless the local government, at a minimum, and in addition to any other requirements:

(a) provides notice to the public of the proposed zoning variance, permit, or certificate action at least one hundred eighty days before authorizing the variance or issuing the permit or certificate; and

(b) solicits and hears public comments on the proposed zoning variance, permit, or certificate action in at least two separate meetings open to the public.

5. Nothing in subdivisions three and four of this section shall restrict any local government from adopting or applying additional zoning variance, permitting, or certificate requirements, or extending the length of the one hundred eighty day notice requirement, or increasing the number of meetings open to the public to discuss the zoning variance, permit, certificate, or reuse of existing buildings or structures, notwithstanding any provision of state or local law to the contrary relating to the time in which a decision shall be rendered on an application for or an appeal relating to a permit, certificate, or variance.

6. Nothing in this section shall be construed to prohibit a local government, law enforcement agency, correctional facility, or local correctional facility from complying with any state or federal court order or judicial warrant, or any other action as required by law.

7. (a) Any agreement described in subdivision two of this section shall be deemed not consistent with state law and any such agreement existing upon the effective date of this section shall be void and unenforceable, and any law enforcement agency, correctional facility, local correctional facility, juvenile detention facility, or facility for youth placed with or committed to the office of children and family services, or agent thereof shall exercise any applicable termination provision contained in such agreement.

(b) Notwithstanding paragraph (a) of this subdivision, any law enforcement agency, correctional facility, local correctional facility, juvenile detention facility, or facility for youth placed with or

committed to the office of children and family services, or agent thereof shall exercise any applicable termination provision contained in any agreement described in subparagraph (ii) of paragraph (a) of subdivision two of this section within three months after the effective date of this section, after which time any such agreement shall be deemed not consistent with state law, void, and unenforceable.

8. The provisions of this section shall apply notwithstanding any other provisions of state or local law, charter, code, ordinance, resolution, rule, or regulation to the contrary. Provided, however, that nothing in this article shall be construed to prevent or restrict the state government from adopting, enacting, or enforcing state policies or a local government from adopting, enacting, or enforcing local policies, laws, resolutions, ordinances, or regulations which comply with at least the applicable standards or requirements of this section, or which exceed the provisions of this section, or which further restrict the ability of state government or local government personnel to participate in immigration enforcement beyond the requirements set forth in the chapter of the laws of two thousand twenty-six that added this section.

§ 171. Discovery and disposition of human remains and funerary objects. 1. Definitions. As used in this section:

(a) "Burial site" means any location in which human remains are interred, which is not a cemetery subject to provisions of the not-for-profit corporation law, the religious corporations law, the general municipal law, the county law, the town law or the village law.

(b) "Committee" means the Native American burial site review committee created by subdivision three of this section.

(c) "Culturally-affiliated group" means any group, including a Native American Nation or tribe, whose past or present government, or traditional culture or religion, was or is affiliated with human remains or funerary objects which are the subject of this section.

(d) "Forensic anthropologist or bioarchaeologist" means a person qualified in the medicolegal or osteological investigation/examination of human skeletal remains.

(e) "Funerary objects" means any item or items reasonably believed to

have been placed with human remains at the time of burial, including but not limited to burial markers, items of personal adornment, vessels, beads, tools, implements, ceremonial objects and other artifacts.

(f) "Human remains" means the remains of any part of the body of a deceased person, excluding teeth.

(g) "Lineal descendant" means a genealogical descendant established by oral tradition, traditional Indigenous knowledge, or written record.

(h) "Native American Nation or tribe" means any Native American tribe, nation or group.

(i) "State archaeologist" means the person appointed to such office pursuant to section two hundred thirty-five of the education law.

2. Applicability. (a) This section shall apply to all lands within the state except for lands located upon any Native American territory or reservation located wholly or partly within the state.

(b) Subdivisions three, four, five, six, and seven of this section shall not apply to any project that has been reviewed pursuant to section 14.09 of the parks, recreation, and historic preservation law or to state participation in any review conducted pursuant to section 106 of the National Historic Preservation Act. If any human remains are discovered during the project, the applicant shall immediately notify the state archaeologist.

3. Native American burial site review committee. (a) There is hereby established a Native American burial site review committee consisting of the following:

(i) one member to be appointed by each of the Native American Nations or tribes recognized by the state;

(ii) the state archaeologist;

(iii) a forensic anthropologist or bioarchaeologist appointed by the executive director of the New York state museum;

(iv) the chair of the human remains committee or other designee of the New York Archaeological Council; and

(v) one member with expertise in the field of historic preservation appointed by the commissioner of the office of parks, recreation and historic preservation.

(b) The committee shall elect a chairperson from among its members.

The members who are not public employees shall be reimbursed by the state for their reasonable, necessary expenses incurred in the performance of committee functions. Three-fifths of the members of the committee shall constitute a quorum for the purpose of conducting business. A majority vote of all members who have been appointed or who are serving ex-officio shall be necessary for action. Any vacancy shall be filled in the same manner as the original appointment.

(c) It shall be the function of the committee to determine the lineal descendants and/or culturally-affiliated groups for Native American human remains and funerary objects subject to this section, and to provide notice to such descendants and/or groups as provided in this section. The state archaeologist shall prepare, and the committee shall adopt, standard procedures for determining the lineal descendants and culturally-affiliated groups for human remains as required by this section, including acceptable types of proof of such descent and affiliation. Such procedures shall include dispute resolution methods to resolve disagreements among the committee members.

4. Discovery of burial site; reporting requirements. (a) Any person who in the course of any ground-disturbing activity discovers a burial site, human remains or funerary objects shall immediately cease any further disturbance of such site, remains or objects, and shall immediately report such discovery to the coroner or medical examiner in the county in which the remains were discovered. The coroner or medical examiner shall, within ninety-six hours, determine whether any actions are required pursuant to the provisions of article seventeen-A of the county law. If any such remains appear to the coroner or medical examiner to be more than fifty years old, the coroner or medical examiner shall immediately provide notice of the discovery of such remains to the state archaeologist, who shall in turn convey such notice to the other members of the committee. If no action is required under article seventeen-A of the county law, or once such actions are undertaken and no further action is required, the state archaeologist and the committee may commence their inspection or examination of the remains or objects. Any inspection or examination shall be made in situ except as necessary to comply with such article seventeen-A, this section, or to determine the age of the remains. The state archaeologist

and the committee may use ground penetrating radar or other pertinent technology or equipment on any portion of the project site that has yet to be disturbed to determine if any other remains exist within the project site.

(b) The state archaeologist, or a registered archeologist or registered professional archeologist as may be designated by the state archaeologist, shall, upon receiving notice from a coroner or medical examiner of the discovery of human remains, inspect the site, remains and/or objects which are the subject of such notice. Within ten days of receiving such notice, the state archaeologist shall prepare a report thereon and provide a copy of the report to the committee and to the property owner. The report shall be based upon physical examination of the discovered burial site, remains and/or objects, and shall contain the state archaeologist's conclusion as to whether such site, remains and/or objects may be of Native American origin. In the event the state archaeologist determines there is a reasonable possibility the site contains multiple remains, an additional period of ten days may be provided for assessment by the state archaeologist in consultation with the culturally-affiliated group to determine the parameters of the site. In preparing the report, the state archaeologist may seek and obtain assistance from any employee of the regents, from the committee, and from the office of parks, recreation and historic preservation.

(c) The committee may recommend to the office of parks, recreation, and historic preservation that the site should be designated as a place of historic interest under section twelve-a of the Indian law.

5. Determination of and notification to lineal descendants or culturally-affiliated groups. (a) If the state archaeologist, the forensic anthropologist or bioarchaeologist, and the committee agree that the burial site does not wholly or partly contain human remains or funerary objects that are of Native American origin, it shall be the responsibility of the state archaeologist to determine, as soon as practicable, whether there are any reasonably ascertainable lineal descendants or culturally-affiliated groups with respect to such site, remains or objects and, immediately upon making such determination, to provide notice to such descendants or groups of the reported discovery.

(b) If the state archaeologist, the forensic anthropologist or

bioarchaeologist, and the committee agree that the burial site wholly or partly contains human remains or funerary objects that may be of Native American origin, it shall be the responsibility of the committee to determine the lineal descendants or culturally-affiliated groups. Such determination shall be made as soon as practicable after the committee receives a report from the state archaeologist concerning the burial site. Immediately upon making such determination, the committee shall provide notification to such descendants or groups of the reported discovery.

(c) The committee shall have stewardship of Native American human remains and funerary objects from the time it receives notification from the state archaeologist pursuant to subdivision four of this section until the lineal descendants and/or culturally-affiliated groups receive notification from the committee pursuant to this subdivision, at which time such lineal descendants and/or culturally-affiliated groups shall have the right of possession and stewardship of such remains and objects. Upon notification to such lineal descendants or culturally-affiliated groups pursuant to this subdivision, ownership of and responsibility for the human remains and funerary objects shall vest exclusively in such descendants or groups, which shall have authority to determine their disposition subject to the provisions of this section.

(d) The state archaeologist shall have stewardship of non-Native American human remains and funerary objects from the time he or she receives notification from the coroner or medical examiner pursuant to subdivision four of this section until the lineal descendants and/or culturally-affiliated groups receive notification from the state archaeologist pursuant to this paragraph, at which time such lineal descendants and/or culturally-affiliated groups shall have the right of possession and stewardship of such remains and objects. Upon notification to such lineal descendants or culturally-affiliated groups pursuant to this subdivision, ownership of and responsibility for the human remains and funerary objects shall vest exclusively in such descendants or groups, which shall have authority to determine their disposition subject to the provisions of this section.

(e) Where a burial site contains both Native American and non-Native American human remains or funerary objects, the committee shall be responsible for the Native American burials at the site, and the state

archaeologist shall be responsible for all other burials at the site. Once stewardship of each is determined, the procedures established in paragraphs (c) and (d) of this subdivision shall apply.

6. Disposition of remains and objects. (a) Within ten days after receiving notification from the state archaeologist to lineal descendants or a culturally-affiliated group, other than a Native American Nation or tribe, of the discovery of a burial site, the descendants or group shall advise the state archaeologist in writing as to the preferred disposition of the discovered remains or objects, which may include a request to protect the burial site and keep the remains interred where they were found. The state archaeologist shall consult with the property owner to try to facilitate the request of the lineal descendants or culturally-affiliated group.

(b) Within sixty days after receiving notification from the committee to a lineal descendant or culturally-affiliated group of the discovery of a burial site, the descendants or group shall advise the committee in writing as to the preferred disposition of the discovered remains or objects, which may include a request to protect the burial site and keep the remains interred where they were found. The committee shall consult with the property owner to try to facilitate the request of the lineal descendants or culturally-affiliated group.

(c) No later than ten days after receiving the report from the state archaeologist pursuant to subdivision four of this section, the property owner shall inform the state archaeologist of their decision with respect to the interment of the remains on their property. The report from the state archaeologist to the property owner shall clearly include that the property owner has ten days to notify the state archaeologist of their decision. If a property owner fails to notify the state archaeologist of their decision, the state archaeologist or the committee, as appropriate, shall abide by the decision of the lineal descendants or culturally-affiliated group.

(d) Only the state archaeologist, a registered archaeologist, or a registered professional archaeologist may touch or handle any remains or funerary objects.

7. Disposition of human remains and funerary objects, generally. (a)

The property owner, their agents, assignees, employees, family members, friends, acquaintances, or any other individuals acting on behalf of such property owner, other than the state archeologist or a registered archeologist or a registered professional archaeologist hired by the property owner and acting pursuant to paragraph (d) of this subdivision, are strictly prohibited from moving, relocating, transferring, selling, possessing, touching, handling, or otherwise intentionally disturbing, in any manner, all human remains and funerary objects that are discovered on site. Except as necessary to carry out the purposes of this section, burial sites, human remains and funerary objects shall remain undisturbed after discovery and during the process established by this section.

(b) While the disposition of the remains shall be determined by the lineal descendants or culturally-affiliated group, and the property owner, the preferred disposition as a matter of policy is to have the remains stay interred where they are discovered.

(c) (i) If the lineal descendants, or culturally-affiliated group, and the property owner agree that the remains shall stay interred, the committee or state archaeologist, as appropriate, shall establish a plan of action for the preservation and protection of the remains.

(ii) If the lineal descendants or culturally-affiliated group requests that the remains be excavated and moved to a different location, the committee or state archaeologist, as appropriate, shall establish and implement a plan of action for the respectful, dignified excavation and removal of the remains.

(iii) If the lineal descendants or culturally-affiliated group advise that the remains stay interred, but the property owner notifies of their decision, as provided in this section, that the remains should be removed, the committee or state archaeologist, as appropriate, shall establish and implement a plan of action for the respectful, dignified excavation and removal of the remains. Such plan shall not be inconsistent with the provisions of this section. The committee or state archaeologist may, prior to the execution of the plan of action, consult with the property owner in an attempt to realize the request of the lineal descendants or culturally-affiliated group. The committee or state archaeologist may use a mediator, at no cost to the property owner unless mediation is requested by the property owner, as part of this

process.

(d) (i) If the plan of action has not been implemented within ninety days of the notification to the state archaeologist by the coroner or medical examiner pursuant to paragraph (a) of subdivision four of this section, and any additional time provided pursuant to paragraph (b) of subdivision four of this section, the property owner may decide to excavate and remove the remains, provided that they shall engage a registered archeologist or a registered professional archaeologist, registered with the Register of Professional Archaeologists and who practices in the field of bioarchaeology or forensic anthropology, to excavate and remove the remains in a respectful and dignified manner that is not inconsistent with the provisions of this section, and provided further that the property owner may request the state archeologist to perform any such excavation or removal. The culturally-affiliated group shall have the right to have a cultural monitor on site prior to and during any excavation and removal of human remains or funerary objects. Failure of the culturally-affiliated group to have a monitor on site shall not be grounds to prohibit, prevent, or pause any excavation, removal, or other conduct as provided in this section.

(ii) If the plan of action has been substantially implemented but not completed within the ninety-day period, and any additional time provided pursuant to paragraph (b) of subdivision four of this section, the committee or state archaeologist may have one additional ten-day period to complete the excavation and removal. The state archaeologist, in consultation with the committee, where appropriate, shall determine whether the plan of action has been substantially implemented.

(iii) Any excavation and removal caused by the property owner pursuant to this paragraph shall be done at the expense of the property owner and shall be performed and supervised by the registered archaeologist, or a registered professional archaeologist, hired by the property owner pursuant to this subdivision, provided that the property owner may request the state archeologist to complete any such excavation or removal even after the ninety-day implementation period or any additional time provided in this section has expired. The culturally-affiliated group may select a cultural monitor to observe the work. Such archaeologist shall review the established plan of action

with the state archaeologist or the committee, as appropriate, and act in accordance with that plan. For the purposes of this paragraph, only the state archaeologist, as provided in this section, or the registered archaeologist or registered professional archaeologist hired to perform the excavation pursuant to this subdivision may have physical contact with or otherwise disturb the remains or burial site.

(iv) The state archaeologist or committee shall make themselves available to the registered archaeologist or registered professional archaeologist forthwith for the purposes of discussing the established plan of action for the site. If the state archaeologist or committee fails to make themselves available forthwith, the registered archaeologist or registered professional archaeologist may proceed with the excavation and removal.

(v) If no plan of action has been established prior to the expiration of the ninety-day period, and any additional time provided pursuant to paragraph (b) of subdivision four of this section, the registered archaeologist or registered professional archaeologist may proceed with the excavation and removal in a professional, respectful, dignified manner that is not inconsistent with the provisions of this section.

(vi) Any remains or funerary objects excavated from the site as a result of the implementation of the process established by this paragraph shall be deposited with the New York state museum for disposition.

(vii) Notwithstanding any conflicting provision of this section, the state archeologist may at any time monitor and observe any excavation and removal performed pursuant to this section.

(e) If the state archaeologist and the committee have been unable to identify the lineal descendants or culturally-affiliated group for human remains or funerary objects, the state archaeologist shall take stewardship of the remains and shall make the recommendation for their disposition in accordance with the provisions of this section.

(f) Notwithstanding any conflicting provision of paragraph (d) of this subdivision, for project sites that contain the remains of six or more individuals, if the state archaeologist determines that additional time is necessary for the excavation of such site, an additional thirty-day period may be added before the remains can be excavated and removed by the property owner. If the state archeologist continues to find that

additional time is necessary, the period before remains can be excavated and removed by the property owner may be extended multiple times in increments of thirty days. The state archaeologist must provide a copy of each such determination to the property owner in writing. The property owner may bring an action pursuant to article seventy-eight of the civil practice law and rules to review the determination of the state archaeologist pursuant to this paragraph.

8. Penalties. (a) Any person who fails to report the discovery of a burial site, human remains or funerary objects as required by subdivision four of this section shall be guilty of a class B misdemeanor, as defined in the penal law.

(b) Any person other than the state archaeologist, or a person or group with a right to remove or a right of possession or stewardship pursuant to this section, or a designee thereof, who intentionally removes human remains or funerary objects from a burial site shall be guilty of a class A misdemeanor, as defined in the penal law.

(c) Any person (i) who knowingly defaces or destroys a burial site, human remains or funerary objects, or (ii) who, knowing that a burial site, human remains, or funerary objects exist causes another person to deface or destroy such burial site, human remains, or funerary objects, or (iii) who possesses human remains or funerary objects with intent to sell such remains or artifacts, or (iv) who sells or attempts to sell human remains or funerary objects, except when authorized by law, shall be guilty of a class E felony, as defined in the penal law.

9. Enforcement. The attorney general or any aggrieved party, including the committee and any lineal descendant or culturally-affiliated group, may bring an action in supreme court in the judicial district where the remains or objects covered by this section are located to enjoin violations or threatened violations of this section, and to recover such remains or objects.

ARTICLE 7-A

SOLICITATION AND COLLECTION OF FUNDS FOR CHARITABLE PURPOSES

Section 171-a. Definitions.

172. Registration of charitable organizations.
172-a. Certain persons exempted.
172-b. Reports by registered charitable organizations; registration to be cancelled for failure to file.
172-c. Non-resident charitable organizations; designation of secretary of state as agent for service of process; service of process.
172-d. Prohibited activity.
172-e. Disclosure of certain donations by charitable non-profit entities.
172-f. Disclosure of certain activities by non-charitable non-profit entities.
173. Professional fund-raisers, commercial co-venturers and fund raising counsel.
173-a. Contracts of professional fund raisers, fund raising counsel and commercial co-venturers; closing statements; final accountings.
173-b. Professional solicitor.
173-c. Non-resident professional fund-raisers, fund raising counsel, professional solicitors and commercial co-venturers; designation of secretary of state as agent for service of process; service of process.
174. Solicitation by unregistered charitable organizations, professional fund-raisers or commercial co-venturers a fraud upon the people of the state.
174-a. Contracts with charitable organizations.
174-b. Solicitation.
174-c. Sales advertised to benefit a charitable organization.
174-d. Unauthorized use of names when soliciting or collecting contributions.
175. Enforcement by attorney general.
175-a. Application of article.
175-b. Municipal option.
176. Advisory council.
177. Administration and enforcement by attorney general.

§ 171-a. Definitions. The following words and phrases as used in this article shall have the following meanings unless a different meaning is required by the context. 1. "Charitable organizations." Any benevolent, philanthropic, patriotic, or eleemosynary person or one purporting to be such or law enforcement support organization as defined in subdivision eleven of this section.

2. "Contribution." The promise or grant of any money or property of any kind or value, whether or not in combination with the sale of goods, services, entertainment or any other thing of value, including a grant or other financial assistance from any agency of government, except payments by members of any organization for membership, for services or other benefit, other than the right to vote for directors or trustees, elect officers, or hold offices.

3. "Person." Any individual, organization, group, association, partnership, corporation, or any combination of them.

4. "Professional fund raiser." Any person who directly or indirectly, by contract, including but not limited to sub-contract, letter or other agreement or other engagement on any basis, for compensation or other consideration (a) plans, manages, conducts, carries on, or assists in connection with a charitable solicitation or who employs or otherwise engages on any basis another person to solicit from persons in this state for or on behalf of any charitable organization or any other person, or who engages in the business of, or holds himself out to persons in this state as independently engaged in the business of soliciting for such purpose; (b) solicits on behalf of a charitable organization or any other person; or (c) who advertises that the purchase or use of goods, services, entertainment or any other thing of value will benefit a charitable organization but is not a commercial co-venturer. A bona fide director, trustee, officer, volunteer or employee of a charitable organization or fund raising counsel shall not be deemed a professional fund raiser.

5. "Professional solicitor." Any person who is employed or retained for compensation by a professional fund raiser to solicit contributions

for charitable purposes or for the purposes of any law enforcement support organization from persons in this state.

6. "Commercial co-venturer." Any person who for profit is regularly and primarily engaged in trade or commerce other than in connection with the raising of funds or any other thing of value for a charitable organization and who advertises that the purchase or use of goods, services, entertainment, or any other thing of value will benefit a charitable organization.

7. "Secretary." The secretary of state.

8. "Membership." The collective body of any charitable organization comprised of persons having voting rights and other powers of governance.

9. "Fund raising counsel." Any person who for compensation consults with a charitable organization or who plans, manages, advises, or assists with respect to the solicitation in this state of contributions for or on behalf of a charitable organization, but who does not have access to contributions or other receipts from a solicitation or authority to pay expenses associated with a solicitation and who does not solicit. A bona fide officer, volunteer, or employee of a charitable organization or an attorney at law retained by a charitable organization or an individual engaged solely to draft applications for funding from a governmental agency or an entity exempt from taxation pursuant to section 501(c)(3) of the internal revenue code, shall not be deemed a fund raising counsel.

10. "Solicit." To directly or indirectly make a request for a contribution, whether express or implied, through any medium. A "solicitation" shall be deemed to have taken place whether or not a contribution is made. For purposes of this article, a "solicitation" or a "solicitation of contributions" includes any advertising which represents that the purchase or use of goods, services, entertainment or any other thing of value will benefit a charitable organization. Provided, however, that the printing and the mailing of a written

solicitation for funds or any other thing of value to benefit a charitable organization shall not alone constitute soliciting on the part of persons who printed and mailed such solicitation if such persons do not otherwise solicit, receive or have access to contributions.

11. "Law enforcement support organization." Any organization, association, union or conference of or purporting to be of current or former law enforcement officers, including, without limitation, peace officers and police officers as defined in subdivisions thirty-three and thirty-four of section 1.20 of the criminal procedure law, sheriffs, deputy sheriffs, detectives, investigators or constables or any auxiliary or affiliate of such an organization, association, union or conference composed of one or more such organizations.

12. "Attorney general". The attorney general of the state of New York.

§ 172. Registration of charitable organizations. 1. Every charitable organization, and any charitable organization registered or required to be registered pursuant to article eight of the estates, powers and trusts law, except as otherwise provided in section one hundred seventy-two-a of this article, which intends to solicit contributions from persons in this state or from any governmental agency shall, prior to any solicitation, file with the attorney general a prescribed registration form that includes, but is not limited to, the following information:

(a) The name of the organization and the name or names under which it intends to solicit contributions.

(b) The names and business, residence, or other addresses where each can regularly be found of the officers, directors, trustees, and executive personnel of the organization.

(c) The addresses of the organization and the addresses of any offices in this state. If the organization does not maintain an office, the name and address of the person having custody of its financial records.

(d) Where and when the organization was established, the form of its organization, its tax exempt status together with a copy of the most recent letter of exemption, if any, issued by the internal revenue

service, the most recent communication from the internal revenue service regarding any audit thereby, if any, and a copy of any certificate of incorporation, by-laws, amendments and other operative organizational documents.

(e) A clear description of the specific programs stating whether in existence or planned for which the contributions to be solicited will be used.

(f) The date on which the fiscal year of the organization ends.

(g) Whether the organization is authorized by any other governmental authority to solicit contributions and whether it or any of its present officers, directors, executive personnel or trustees are or have ever been fined or otherwise penalized or enjoined from soliciting contributions or have been found to have engaged in unlawful practices regarding solicitation of contributions or administration of charitable assets and whether its registration or license has been suspended or cancelled by any court or other governmental agency together with the identity of such courts or governmental agencies and the reasons for such fine, penalty, injunction, suspension or cancellation.

(h) The names and addresses of any professional fund raisers, fund raising counsels and commercial co-venturers who are acting or have agreed to act on behalf of the organization.

(i) A copy of its annual report, if any, for the immediately preceding fiscal year in accordance with the requirements of section one hundred seventy-two-b of this article.

(j) The names and addresses of any chapters, branches, affiliates or organizations that share in the contributions or other revenue raised in this state.

2. The registration form shall be signed under penalties for perjury by the president or other authorized officer and the chief fiscal officer of the organization.

3. At the time of filing such registration, each charitable organization shall pay to the attorney general a fee of twenty-five dollars.

4. Any charitable organization required to register with the attorney

general pursuant to this article and properly registered pursuant to article eight of the estates, powers and trusts law that has not previously registered pursuant to this article shall not be required to register separately, but shall file with the attorney general a statement that it is registered pursuant to article eight of the estates, powers and trusts law. Such statement shall be accompanied by all additional documents required to complete registration pursuant to this article, including any additional financial filings required by this article.

5. Registration pursuant to this article shall remain in effect unless it is either cancelled as provided in this article, withdrawn by the organization or the organization has failed to file the required financial report and such failure has not been remedied pursuant to subdivision seven of this section.

6. Every registered organization shall file with the attorney general within thirty days of any material change in the information required to be furnished by such organization under subdivision one of this section a prescribed form stating any such changes and signed under penalties for perjury by the president or other authorized officer of the organization.

7. In no event shall a registration of a charitable organization to solicit contributions in New York pursuant to this article continue, or be continued, in effect after the date such organization should have filed, but failed to file, a financial report in accordance with the requirements of section one hundred seventy-two-b of this article, and such organization shall not be eligible to file a new registration pursuant to this article until it shall have filed the required financial report or reports with the attorney general. If any such report is subsequently filed such organization shall file a new registration pursuant to this article, upon the payment of a re-registration fee of one hundred fifty dollars to the attorney general.

8. Forms, financial reports, professional fund raisers' contracts, and

other documents required to be filed pursuant to this article become public records of the attorney general, except that where such records are forms including the names, addresses or telephone numbers of contributors and amounts contributed by them, such names, addresses, and telephone numbers of contributors and amounts contributed by them shall not be a public record and shall not be subject to disclosure pursuant to article six of the public officers law, and the attorney general shall keep such information confidential, except when authorized by a court order, and use it solely for the purpose of conducting investigations and litigation to enforce the not-for-profit corporation and religious corporation laws, the provisions of this article, article eight of the estates, powers and trusts law, and the attorney general's other authority to oversee charities and charitable assets.

9. No charitable organization, professional fund raiser, fund raising counsel or commercial co-venturer shall use or exploit the fact of its registration or the registration of any other registrant under this article or article eight of the estates, powers and trusts law so as to lead the public to believe that registration in any manner constitutes an endorsement or approval by the state.

10. To the extent practicable, the attorney general shall develop a single registration and uniform set of reporting forms to be filed in accordance with the requirements of this subdivision and those of section 8-1.4 of the estates, powers and trusts law. These forms shall avoid duplication with and make maximum use of information required in federal reporting forms filed with the attorney general.

§ 172-a. Certain persons exempted. 1. This article shall not apply to corporations organized under the religious corporations law, and other religious agencies and organizations, and charities, agencies, and organizations operated, supervised, or controlled by or in connection with a religious organization.

2. The following persons shall not be required to register with the attorney general:

(a) An educational institution confining its solicitation of contributions to its student body, alumni, faculty and trustees, and their families.

(b) Fraternal, patriotic, social, alumni, law enforcement support organizations and historical societies chartered by the New York state board of regents when solicitation of contributions is confined to their membership.

(c) Persons requesting any contributions for the relief of any individual, specified by name at the time of the solicitation, if all of the contributions collected, without any deductions whatsoever, are paid to or for the benefit of the named beneficiary. Prior to the commencement of any such solicitation, the principal person requesting contributions may file with the attorney general a form, provided by the attorney general, which shall read as follows:

CHARITABLE SOLICITATION FOR THE RELIEF OF AN INDIVIDUAL

_____

NAME AND ADDRESS OF THE PRINCIPAL PERSON REQUESTING CONTRIBUTIONS

_____

PURPOSE OF THE SOLICITATION

_____

NAME AND ADDRESS OF THE PRIMARY INDIVIDUAL BENEFICIARY

_____

NAME AND ADDRESS OF SECONDARY BENEFICIARY (IF ANY)

LIST NO MORE THAN THREE SECONDARY BENEFICIARIES

The principal person requesting contributions may, on such form designate up to three secondary individuals or charitable organizations as charitable beneficiaries who shall be entitled to such contributions in the event circumstances change rendering it impossible or impracticable to use any or all of the money collected for the primary beneficiary. The designation of one or more secondary beneficiaries shall be ineffective unless such form has been filed with the attorney general and all persons requesting contributions shall have informed any person solicited at the time of any solicitation of such filing. In the event that it is or may be impossible or impracticable to use any or all of the money collected for the benefit of the primary beneficiary, and (i) no secondary beneficiary has been properly designated pursuant to this paragraph, or (ii) no secondary beneficiary exists, then the

attorney general, the primary beneficiary, or any person who requested contributions may petition the supreme court, on notice to the attorney general, the primary beneficiary if living, any secondary beneficiaries, and the principal person who requested the contributions for an order directing that any moneys remaining shall be transferred to a charitable organization with purposes similar to those for which such contributions were collected. In the event that money collected for the relief of any individual, without any deductions whatsoever, is paid to or for the benefit of the primary beneficiary within sixty days of its receipt, then all requirements of this paragraph shall be deemed to have been complied with. For the purposes of this section, the term "principal person requesting the contributions" shall mean any person who is primarily responsible for soliciting funds for the relief of an individual, but shall not include any person who solicits funds when all such funds are subsequently transferred over to a principal person requesting contributions.

(d) Any charitable organization which solicits or receives gross contributions of less than twenty-five thousand dollars during a fiscal year of such organization, provided none of its fund raising is carried on by professional fund raisers or fund raising counsel. However, if the gross contributions received by such charitable organization during any fiscal year of such organization shall be in excess of twenty-five thousand dollars, it shall within thirty days after the date it shall have received gross contributions in excess of twenty-five thousand dollars register with the attorney general as required by section one hundred seventy-two of this article.

(e) Any charitable organization receiving an allocation from a federated fund, incorporated community appeal or a united way, provided such fund, appeal or united way is complying with the provisions of this article relating to registration and filing of financial reports with the attorney general, and provided such organization does not receive, in addition to such allocation, gross contributions in excess of twenty-five thousand dollars during the fiscal year, and provided further that all the fund-raising functions of such organizations are carried on by persons who are unpaid for such services. However, if the gross contributions other than such allocation received by such charitable organization during any fiscal year of such organization

shall be in excess of twenty-five thousand dollars, it shall within thirty days after the date it shall have received such contributions in excess of twenty-five thousand dollars register with the attorney general as required by section one hundred seventy-two of this article.

(f) A local post, camp, chapter or similarly designated element, or a county unit of such elements, of a bona fide veterans' organization which issues charters to such local elements throughout this state, a bona fide organization of volunteer firefighters, an organization providing volunteer ambulance service (as defined in section three thousand one of the public health law) or a bona fide auxiliary or affiliate of such organizations, provided all its fund-raising activities are carried on by members of such an organization or an affiliate thereof and such members receive no compensation, directly or indirectly, therefor.

(g) An educational institution which files annual financial reports with the regents of the university of the state of New York as required by the education law or with an agency having similar jurisdiction in another state or a library which files annual financial reports as required by the state education department.

(h) A charitable organization which receives all or substantially all of its funds from a single governmental agency and reports annually to that agency provided such reports contain financial information substantially similar in content to that required by subdivision one of section one hundred seventy-two-b of this article; provided, however, that such organization may receive no more than twenty-five thousand dollars from sources other than the government agency to which it reports.

(i) Any police department, sheriff's department or other governmental law enforcement agency.

(j) The state parent teachers association and any parent teachers association affiliated with an educational institution that is subject to the jurisdiction of the state education department.

§ 172-b. Reports by registered charitable organizations; registration to be cancelled for failure to file. 1. Every charitable organization registered or required to be registered pursuant to section one hundred

seventy-two of this article which shall receive in any fiscal year gross revenue and support in excess of one million dollars shall file with the attorney general an annual written financial report, on forms prescribed by the attorney general, on or before the fifteenth day of the fifth calendar month after the close of such fiscal year. The annual financial report shall be accompanied by an annual financial statement which includes an independent certified public accountant's audit report containing an opinion that the financial statements are presented fairly in all material respects and in conformity with generally accepted accounting principles, including compliance with all pronouncements of the financial accounting standards board and the American Institute of Certified Public Accountants that establish accounting principles relevant to not-for-profit organizations. Such financial report shall include a statement of any changes in the information required to be contained in the registration form filed on behalf of such organization. The financial report shall be signed by the president or other authorized officer and the chief fiscal officer of the organization who shall certify under penalties for perjury that the statements therein are true and correct to the best of their knowledge, and shall be accompanied by an opinion signed by an independent public accountant that the financial statement and balance sheet therein present fairly the financial operations and position of the organization. A fee of twenty-five dollars payable to the attorney general shall accompany such financial report at the time of filing, provided however, that any such organization that is registered with the attorney general pursuant to article eight of the estates, powers and trusts law is required to file only one annual financial report which meets the filing requirements of this article and section 8-1.4 of the estates, powers and trusts law.

2. Every charitable organization registered or required to be registered pursuant to section one hundred seventy-two of this article which shall receive in gross revenue and support in any fiscal year at least two hundred fifty thousand dollars but not more than one million dollars shall file an annual financial report. The annual financial report shall be accompanied by an annual financial statement which includes an independent certified public accountant's review report in accordance with "statements on standards for accounting and review

services" issued by the American Institute of Certified Public Accountants. The annual financial statement shall be prepared in conformity with generally accepted accounting principles, including compliance with all pronouncements of the financial accounting standards board and the American Institute of Certified Public Accountants that establish accounting principles relevant to not-for-profit organizations. Such financial report shall be filed with the attorney general, upon forms prescribed by the attorney general on an annual basis on or before the fifteenth day of the fifth calendar month after the close of such fiscal year, which shall include a financial report covering such fiscal year in accordance with such requirements as the attorney general may prescribe. Such financial report shall include a statement of any changes in the information required to be contained in the registration form filed on behalf of such organization. The financial report shall be signed by the president or other authorized officer and the chief fiscal officer of the organization who shall certify under penalties for perjury that the statements therein are true and correct to the best of their knowledge. A fee of twenty-five dollars payable to the attorney general shall accompany such financial report at the time of filing, provided, however, that any such organization that is registered with the attorney general pursuant to article eight of the estates, powers and trusts law is required to file only one annual financial report which meets the filing requirements of this article and section 8-1.4 of the estates, powers and trusts law. Notwithstanding the requirements of this section, if upon review of an independent certified public accountant's review report filed pursuant to this subdivision, the attorney general determines that a charitable organization should obtain an independent certified public accountant's audit report, such organization shall obtain and file with the attorney general an audit report that meets the requirements of subdivision one of this section within one hundred twenty days of the attorney general's request for such report.

2-a. Every charitable organization registered or required to be registered pursuant to section one hundred seventy-two of this article which shall receive in any fiscal year of such organization gross revenue and support not in excess of two hundred fifty thousand dollars

shall file with the attorney general an unaudited financial report on forms prescribed by the attorney general, on or before the fifteenth day of the fifth calendar month after the close of such fiscal year. Such financial report shall include a statement of any changes in the information required to be contained in the registration form filed on behalf of such organization. The financial report shall be signed by the president or other authorized officer and the chief fiscal officer of the organization who shall certify under penalties for perjury that the statements therein are true and correct to the best of their knowledge. A fee of twenty-five dollars payable to the attorney general shall accompany such financial report at the time of filing. Provided, however, that any such organization that is registered with the attorney general pursuant to article eight of the estates, powers and trusts law is required to file only one annual financial report which meets the filing requirements of this article and section 8-1.4 of the estates, powers and trusts law.

3. For any fiscal year of any organization registered pursuant to section one hundred seventy-two of this article in which such organization would have been exempt from registration pursuant to section one hundred seventy-two of this article if it had not been so registered, or in which it did not solicit or receive contributions, such organization shall file, instead of the financial reports required by subdivision one, two or two-a of this section, a report, signed under penalties for perjury by the president or other authorized officer and the chief fiscal officer, in the form prescribed by the attorney general stating the nature of the exemption and the facts upon which it is based or that such organization did not solicit or receive contributions in such fiscal year. The report shall include a statement of any changes in the information required to be contained in the registration form filed on behalf of such organization and may include a notice, signed under penalties for perjury by the president or other authorized officer, on a form prescribed by the attorney general, that such organization's registration is being withdrawn.

4. (a) Upon prior written authorization by the attorney general any charitable organization registered pursuant to section one hundred

seventy-two of this article, which is the parent organization of one or more affiliates thereof, and such affiliates, may comply with the reporting requirements of subdivision one, two, two-a or three of this section, by filing a combined written annual financial report upon forms prescribed by the attorney general.

(b) As used in this subdivision the term "affiliate" shall include any chapter, branch, auxiliary, or other subordinate unit of any registered charitable organization, howsoever designated, whose policies, fund raising activities, and expenditures are supervised or controlled by such parent organization.

(c) There shall be appended to each combined annual financial report a schedule, containing such information as may be prescribed by the attorney general, reflecting the activities of each affiliate, which shall contain a statement signed under penalties for perjury, by the president or other authorized officer certifying that the information contained therein is true.

(d) The failure of a parent organization to file a combined annual financial written report shall not excuse either the parent organization or its affiliates from complying with the provisions of subdivision one, two, two-a or three of this section.

(e) A combined annual financial report filed pursuant to this subdivision shall be accompanied by a fee, paid to the attorney general, of twenty-five dollars plus ten dollars for each organization included in such annual financial report, but the aggregate fee shall not exceed five hundred dollars.

5. The attorney general shall cancel the registration of any organization which fails to comply with subdivision one, two, two-a or three of this section within the time therein prescribed, or fails to furnish such additional information as is requested by the attorney general within the required time; except that the time may be extended by the attorney general for a period not to exceed one hundred eighty days. Notice of such cancellation shall be mailed to the registrant at least twenty days before the effective date thereof.

6. Every charitable organization registered or required to register pursuant to section one hundred seventy-two of this article shall keep

and maintain records, books and reports for at least three years after the end of the period of registration to which they relate which shall at all times be available for inspection, by the attorney general, or any duly authorized representatives at the principal office of such organization.

7. The attorney general may accept a copy of a current financial report previously filed by a charitable organization with any other governmental agency in compliance with the provisions of this article provided that the report filed with such other governmental agency shall be substantially similar in content to the financial report required by this section.

8. Any financial report filed by any charitable organization required to be registered but which has not previously registered pursuant to this article or article eight of the estates, powers and trusts law must be accompanied by all registration material required to be filed by this article.

9. Any registered charitable organization that is required to file a funding disclosure report pursuant to section one hundred seventy-two-e of this article, and/or a financial disclosure report pursuant to section one hundred seventy-two-f of this article for a reporting period during the applicable fiscal year shall also be required to file such annual financial report, including all required forms and attachments, with the department of state.

§ 172-c. Non-resident charitable organizations; designation of secretary of state as agent for service of process; service of process. 1. Any charitable organization having its principal place of business without the state or organized under and by virtue of the laws of another or foreign state and which solicits contributions from people in this state, shall be deemed to have irrevocably appointed the secretary of state as its agent upon whom may be served any summons, subpoena, subpoena duces tecum, other process or notice directed to such charitable organization, or any partner, principal, officer, trustee or

director thereof, in any action or proceeding brought by the attorney general or any other party under the provisions of this article. Any such charitable organization may file with the secretary of state of the state of New York a designation, duly acknowledged in accordance with procedures for such filing with the secretary of state, irrevocably appointing the secretary of state as its agent upon whom may be served any such process; provided, however, that a designation filed with the secretary of state pursuant to section three hundred fifty-two-a of the general business law or section thirteen hundred four of the not-for-profit corporation law shall serve also as such designation.

2. Service of such process upon the secretary of state shall be made by personally delivering to and leaving with the secretary of state or any person authorized by the secretary of state to accept such service a copy thereof at the office of the department of state in the city of Albany, and such service shall be sufficient service provided that notice of such service and a copy of such process are forthwith sent by the attorney general or any other party to such charitable organization by certified mail with return receipt requested, at its office as set forth in the registration form required to be filed with the attorney general pursuant to section one hundred seventy-two of this article, or in default of the filing of such form, at the last address known to the attorney general or any other party. Service of such process shall be complete upon the receipt by the attorney general or any other party of a return receipt purporting to be signed by the addressee or a person qualified to receive its certified mail, in accordance with the rules and customs of the post office department, or, if acceptance was refused by the addressee or its agent, ten days after the return to the attorney general or any other party of a notation by the postal authorities that receipt thereof was refused.

§ 172-d. Prohibited activity. Except as exempted pursuant to subdivision one of section one hundred seventy-two-a of this article, in addition to other violations of this article no person shall:

1. Make any material statement which is untrue in an application for

registration, registration statement, a claim of exemption, financial report or any other forms or documents required to be filed or filed pursuant to this article; or fail to disclose a material fact in an application for registration, registration statement, claim of exemption, financial report or any other forms or documents required to be filed or filed pursuant to this article; or

2. Engage in any fraudulent or illegal act, device, scheme, artifice to defraud or for obtaining money or property by means of a false pretense, representation or promise, transaction or enterprise in connection with any solicitation or with the registration, reporting and disclosure provisions of this article. The term "fraud" or "fraudulent" as used herein shall include those acts which may be characterized as misleading or deceptive including but not limited to those acts covered by the term "fraud" or "fraudulent" under subdivision twelve of section sixty-three of this chapter. To establish fraud neither intent to defraud nor injury need to be shown; or

3. Use or intend to use false or materially misleading advertising or promotional material in connection with any solicitation; or

4. Fail to apply contributions in a manner substantially consistent with the solicitation or the registration statement of the charitable organization or the purposes expressed therein; or

5. Enter into any contract or agreement with or otherwise employ or engage any professional fund raiser, fund raising counsel or professional solicitor required to be registered pursuant to this article unless such professional fund raiser, fund raising counsel or professional solicitor has provided to such person a statement, signed under penalties for perjury, that it is registered and in compliance with all filing requirements of this article; or

6. Enter into any contract or agreement, employment or engagement to raise funds or conduct any fund raising activities for any charitable organization required to be registered pursuant to this article unless such charitable organization is registered and in compliance with all

filing requirements of this article; or

7. Repeatedly and wilfully fail to file as required by this article any fund-raising contract, closing statement or report or other form or document; or

8. Fail to respond or comply within sixty days with any cease and desist order of the attorney general; or

9. Represent in any manner that registration constitutes an endorsement or approval by the state or the attorney general; or

10. Solicit for a charitable purpose or engage in any other fund raising activities without being a registered charitable organization in compliance with all filing requirements of this article, if required to be registered, or having a written contract or agreement with a charitable organization or registered charitable organization if required to be registered, authorizing solicitation on its behalf; or

11. Continue soliciting on behalf of a charitable organization more than fifteen days after the cancellation in accordance with subdivision six of section one hundred seventy-four-a of this article; or

12. Act as or enter any contract or other agreement with a charitable organization as a professional fund raiser, fund raising counsel, or professional solicitor without having registered and being in compliance with all filing and disclosure requirements of this article; or

13. Fail to maintain books and records as required by this article or fail to produce to the attorney general any such books and records within fifteen days of receiving, by certified mail, a request for such books and records; or

14. Fail to discontinue solicitation immediately or to register pursuant to this article within fifteen days after the attorney general has given notice pursuant to subdivision two of section one hundred seventy-five of this article of violation of subdivision one, two, or

three of section one hundred seventy-four of this article; or

15. Fail to provide a charitable organization with an accurate accounting of a sale advertised for its benefit as prescribed by subdivision three of section one hundred seventy-three-a of this article; or

16. Knowingly use in the course of soliciting contributions for or on behalf of a charitable organization a name, symbol, or other mark so closely related or similar to that used by another established charitable organization that the use thereof would tend to confuse or mislead the public; or

17. Solicit contributions in a manner or with words which are coercive as such term is defined pursuant to section 135.65 of the penal law; or

18. Vote or use personal influence as an officer or member of the board of directors of a charitable organization, a majority of whose members are professional fund raisers or their designees on matters on which such officer or member has a financial or material conflicting interest; or

19. Include in any solicitation a statement that the financial report of a charitable organization or professional fund raiser is on file with the attorney general unless the charitable organization or professional fund raiser has complied with all filing requirements pursuant to this article and article eight of the estates, powers and trusts law, to the extent also applicable; or

20. Use in any solicitation a New York state address, including a New York state return address unless:

(a) the charitable organization maintains and staffs an office at that address; or

(b) immediately proximate to the New York address, both the address of the charitable organization's actual headquarters and the fact that the New York address is a "mail drop", using this or a substantially similar term that clearly conveys the message that the New York address is that

of a mail handling facility; or

21. State or imply that a charitable organization conducts any activities in New York and/or benefits New York state residents unless it conducts such activities and/or provides such benefits.

§ 172-e. Disclosure of certain donations by charitable non-profit entities. 1. Definitions. For the purposes of this section:

(a) "Covered entity" shall mean any corporation or entity that is qualified as an exempt organization or entity by the United States Department of the Treasury under I.R.C. 501(c)(3) that is required to report to the department of law pursuant to this section.

(b) "In-kind donation" shall mean donations of staff, staff time, personnel or any other human resources, offices or office supplies, except that an in-kind donation shall not include an in-kind donation made by a person or entity in the course of an activity that is substantially related to accomplishing the covered entity's tax exempt purposes where the in-kind donator is offering or providing goods or services for substantially less than fair market value to individuals, corporations or groups, and those goods or services are actually purchased or consumed by wholly unaffiliated individuals, corporations or groups for no charge or substantially less than fair market value, and may include, but is not limited to, pro bono legal services and other forms of technical assistance.

(c) "Donation" shall mean any contribution, including a gift, loan, in-kind donation, advance or deposit of money or anything of value.

(d) "Recipient entity" shall mean any corporation or entity that is qualified as an exempt organization or entity by the United States Department of the Treasury under I.R.C. 501(c)(4) that is required to file a source of funding report with the commission on ethics and lobbying in government pursuant to sections one-h and one-j of the legislative law.

(e) "Reporting period" shall mean the six month period within a calendar year starting January first and ending June thirtieth or the six month period within a calendar year starting July first and ending December thirty-first.

2. Funding disclosure reports to be filed by covered entities. (a) Any covered entity that makes an in-kind donation in excess of ten thousand dollars to a recipient entity during a relevant reporting period shall file a funding disclosure report with the department of state. The funding disclosure report shall include:

(i) the name and address of the covered entity that made the in-kind donation;

(ii) the name and address of the recipient entity that received or benefitted from the in-kind donation;

(iii) the names of any persons who exert operational or managerial control over the covered entity. The disclosures required by this paragraph shall include the name of at least one natural person;

(iv) the date such donation was made by the covered entity; and

(v) a description of the in-kind donation, including the charitable purpose advanced by such donation, if any, and any restrictions on the use of such donation by the recipient entity.

(b) The covered entity shall file a funding disclosure report with the department of state within thirty days of the close of a reporting period.

3. Public disclosure of funding disclosure reports. The department of state shall promulgate any regulations necessary to implement these requirements and shall publish such reports on the department's website when authorized pursuant to subdivision two of this section; provided however that the secretary of state, or his or her designee, may determine that disclosure of all or a portion of the in-kind donations to the covered entity and financial assistance provided by any covered entity to one or more recipient entities, shall not be made public if, based upon a review of the relevant facts presented by the covered entity, such disclosure may cause harm, threats, harassment, or reprisals to the source of the donation or to individuals or property affiliated with the source of the donation. The covered entity may appeal the secretary's determination and such appeal shall be heard by a judicial hearing officer who is independent and not affiliated with or employed by the department of state. The total amount of in-kind donations to the covered entity and financial assistance provided by any

covered entity to one or more recipient entities that are the subject of such appeal shall not be made public pending final judgment on appeal.

4. If a covered entity's or recipient entity's annual report filed pursuant to section one hundred seventy-two-b of this article does not include a completed Internal Revenue Service Form 990 schedule B and that covered entity makes, or that recipient entity receives, qualifying donations pursuant to subdivision two of this section, that entity shall in addition to filing a disclosure with the department of law, also file with the department of state a complete Internal Revenue Service Form 990 Schedule B, regardless of whether such form is submitted or required to be submitted to the Internal Revenue Service.

§ 172-f. Disclosure of certain activities by non-charitable non-profit entities. 1. Definitions. (a) "Covered Entity" means any corporation or entity that is qualified as an exempt organization or entity by the United States Department of the Treasury under I.R.C. 501(c)(4).

(b) "Covered communication" means a communication by a covered entity, not otherwise reported by such covered entity pursuant to article one-A of the legislative law or article fourteen of the election law, by a covered entity conveyed to five hundred or more members of a general public audience in the form of: (i) an audio or video communication via broadcast, cable or satellite; (ii) a written communication via advertisements, pamphlets, circulars, flyers, brochures, letterheads; or (iii) other published statement which: refers to and advocates for or against a clearly identified elected official, executive or administrative body or legislative body relating to the sponsorship, support, opposition, or outcome of any proposed legislation, pending legislation, rule, regulation, hearing or decision, or advocates for or against action by any elected official, executive or administrative body or legislative body.

Covered communication shall not include: (i) communications with a professional journalist or newscaster, including an editorial board or editorial writer of a newspaper, magazine, news agency, press association or wire service, relating to news, as these terms are

defined in section seventy-nine-h of the civil rights law, and communications relating to confidential and non-confidential news as described in subdivisions (b) and (c) of section seventy-nine-h of the civil rights law respectively and communications made pursuant to community outreach efforts for broadcast stations required by federal law; or

(ii) a communication that is: (A) directed, sent or distributed by the covered entity only to individuals who affirmatively consent to be members of the covered entity, contribute funds to the covered entity, or, pursuant to the covered entity's articles or bylaws, have the right to vote directly or indirectly for the election of directors or officers, or on changes to bylaws, disposition of all or substantially all of the covered entity's assets or the merger or dissolution of the covered entity; or (B) for the purpose of promoting or staging any candidate debate, town hall or similar forum to which at least two candidates seeking the same office, or two proponents of differing positions on a referendum or question submitted to voters, are invited as participants, and which does not promote or advance one candidate or position over another.

(c) "Expenditures for covered communications" shall mean: (i) any expenditure made, liability incurred, or contribution provided for covered communications; or (ii) any other transfer of funds, assets, services or any other thing of value to any individual, group, association, corporation whether organized for profit or not-for-profit, labor union, political committee, political action committee, or any other entity for the purpose of supporting or engaging in covered communications by the recipient or a third party.

(d) "Donation" shall mean any contribution, including in-kind, gift, loan, advance or deposit of money or anything of value made to a covered entity unless such donation is deposited into an account the funds of which are not used for making expenditures for covered communications.

(e) "Reporting period" shall mean the six month period within a calendar year starting January first and ending June thirtieth or the six month period within a calendar year starting July first and ending December thirty-first.

2. Disclosure of expenditures for covered communications. (a) Any

covered entity that makes expenditures for covered communications in an aggregate amount or fair market value exceeding ten thousand dollars in a calendar year shall file a financial disclosure report with the department of state. The financial disclosure report shall include:

(i) the name and address of the covered entity that made the expenditure for covered communications;

(ii) the name or names of any individuals who exert operational or managerial control over the covered entity. The disclosures required by this paragraph shall include the name of at least one natural person;

(iii) a detailed description of the covered communication;

(iv) the dollar amount paid for each covered communication, the name and address of the person or entity receiving the payment, and the date the payment was made; and

(v) for any restricted donation received by the covered entity in whole or in part for the support of the covered communication, the name and address of any individual, corporation, association, or group that made a donation to the covered entity and the date of such donation, and the amount of the donation, together with a description of any restriction.

(b) The covered entity shall file a financial disclosure report with the department of state within thirty days of the close of a reporting period.

3. Public disclosure of funding disclosure reports. The department of state shall promulgate any regulations necessary to implement these requirements and shall publish on the department's website the reports of covered communications required by this section. Such publishing shall not include the names and addresses of individual donors to covered entities, nor shall such publishing include the covered entity's Internal Revenue Service Form 990 Schedule B. Such report shall not be made public pursuant to this section if, based upon a review of the relevant facts presented by the covered entity, such disclosure may cause harm, threats, harassment, or reprisals to the source of the donation or to individuals or property affiliated with the source of the donation. The covered entity may appeal the secretary's determination and such appeal shall be heard by a judicial hearing officer who is independent and not affiliated with or employed by the department of

state, pursuant to regulations promulgated by the department of state. The reports subject to disclosure pursuant to this section that are the subject of such appeal pursuant to this section shall not be made public pending final judgment on appeal.

4. If a covered entity's annual report filed pursuant to section one hundred seventy-two-b of this article does not include a completed Internal Revenue Service Form 990 schedule B, the entity shall in addition to filing a disclosure with the department of law, also file with the department of state a complete Internal Revenue Service Form 990 schedule B, regardless of whether such form is submitted or required to be submitted to the Internal Revenue Service.

§ 173. Professional fund-raisers, commercial co-venturers and fund raising counsel. 1. Registration and bond required. No person shall act as a professional fund raiser or fund raising counsel on behalf of a charitable organization required to be registered pursuant to this article before registering with the attorney general or after the expiration or cancellation of such registration or any renewal thereof. Applications for registration and re-registration shall be in writing, under oath, in the form prescribed by the attorney general and shall be accompanied by an annual fee in the sum of eight hundred dollars. A professional fund raiser shall at the time of filing each application for registration or re-registration, file with, and have approved by, the attorney general a bond. In said bond, the filer shall be the principal obligor, in the sum of ten thousand dollars, with one or more sureties whose liability in the aggregate as such sureties will at least equal the said sum. The bond which may be in the form of a rider to a larger blanket liability bond shall run to the attorney general for the use of the state and to any person who may have a cause of action against the obligor of said bond for any malfeasance or misfeasance in the conduct of such solicitation. Registration or re-registration when effected shall be for a period of one year, expiring one year from the date of registration or re-registration and may be renewed upon written application, under penalties for perjury, in the form prescribed by the attorney general and the filing of the bond and the fee prescribed

herein for each additional one year period. Applications for registration and re-registration and bonds, when filed with the attorney general, shall become public records of the attorney general. If there is any material change in the information provided in any such application for registration or re-registration, the applicant or registrant shall notify the attorney general, under penalties for perjury, in writing within twenty days of such change.

2. Books and records. A professional fund raiser, commercial co-venturer and fund raising counsel shall maintain accurate and current books and records of all activities conducted pursuant to contracts required under section one hundred seventy-three-a of this article; which, until at least three years shall have elapsed after the end of the effective period of the contract to which they relate, shall be kept in such person's office available for inspection and examination and/or audit by the charitable organization and/or attorney general or any duly authorized representative. Provided, however, that any such books and records obtained by the attorney general shall not be available to the public for inspection. A professional fund raiser, commercial co-venturer and fund raising counsel shall, within seven days of a request of any charitable organization with which it has contracted, provide copies of such records to the charitable organization.

3. Violations. Any person who wilfully violates the provisions of this section is guilty of a misdemeanor.

§ 173-a. Contracts of professional fund raisers, fund raising counsel and commercial co-venturers; closing statements; final accountings. 1. No person shall act as a professional fund raiser, fund raising counsel or commercial co-venturer before he has a written contract with the charitable organization or other person benefitting from his services. A professional fund raiser or fund raising counsel shall within ten days after its execution by the parties thereto file with the attorney general a copy of each contract entered into between such professional fund raiser or fund raising counsel and a charitable organization required to be registered pursuant to this article, certified under

penalties for perjury by said professional fund raiser or fund raising counsel to be a true and correct copy of such contract. When the services to be performed under such contracts include the oral solicitation of funds from the public, such oral presentations shall be deemed to be part of the contract and shall be reduced to a writing which in the case of a professional fund raiser shall be filed with the attorney general by the registrant at the time such contracts are filed. If there is any change in the presentation filed with the attorney general, the registrant shall notify the attorney general in writing within five days of such change. No services shall be performed under such a contract until the professional fund-raiser shall have received an acknowledgement from the attorney general of the receipt of a copy of such contract or such contract shall have been on file with the attorney general for at least fifteen days, whichever is shorter. Provided, however, that no services shall be performed pursuant to such contract if, within fifteen days of filing, the attorney general has notified the professional fund raiser or fund raising counsel and the charitable organization of any deficiencies in the contract and/or the registration and filing under this article. True and correct copies of such contracts shall be kept on file in the offices of the charitable organization and the professional fund raiser, fund raising counsel or commercial co-venturer during the term thereof and until the expiration of a period of three years subsequent to the date the solicitation of contributions provided for therein actually terminates. Within ninety days after the termination of any such contract, the professional fund raiser shall file with the attorney general a closing statement, signed under penalties for perjury by all parties to the contract on forms prescribed by the attorney general. Such statement shall disclose gross revenue, all expenditures incurred in the performance of the contract, and all funds paid to the professional fund raiser and charitable organization. In the event that a contract term is longer than a one year period, the professional fund raiser shall file an interim statement, at least annually. No person shall act as a sub-contractor on behalf of another professional fund raiser prior to obtaining a written contract with such professional fund raiser and written consent from the charity on whose behalf fundraising activities are to be conducted pursuant to such contract, and such written consent shall have been attached to such

contract and filed with the attorney general pursuant to subdivision one of this section. Willful violation of this section shall be a misdemeanor.

2. Every contract between a professional fund raiser and a charitable organization shall contain or shall be deemed to contain a provision that within five days of receipt by the professional fund raiser or any other person the gross revenue received from any solicitation shall be deposited in a bank account under the exclusive control of the charity.

3. Within ninety days after the termination of a sales promotion advertised to benefit a charitable organization, a commercial co-venturer shall provide such organization with an accounting stating the number of items sold, the dollar amount of each sale and the amount paid or to be paid to the charitable organization. In the event that any such sales promotion is longer than a one year period, the commercial co-venturer shall provide the charitable organization with an interim report, at least annually.

4. A charitable organization which enters into a contract with a commercial co-venturer shall file with the attorney general on the date that the next financial report is due to be filed the following information on forms prescribed by the attorney general and signed under penalties for perjury by an officer: (a) a list of the names and addresses of all commercial co-venturers authorized by the charitable organization to use its name during the year covered by that financial report and, if known, during the year following the year covered by the financial report, (b) a statement of the financial terms and any conditions of each co-venture contract, and (c) a statement whether each commercial co-venturer has provided the charitable organization with an accounting as prescribed by subdivision three of this section.

§ 173-b. Professional solicitor. 1. Registration required. No person shall act as a professional solicitor in the employ of a professional fund raiser required to register pursuant to section one hundred seventy-three of this article before he or she has registered with the

attorney general or after the expiration or cancellation of such registration or any renewal thereof. Application for registration or re-registration shall be in writing and signed under penalties for perjury in the form prescribed by the attorney general and shall be accompanied by a fee in the sum of eighty dollars. Such registration or re-registration when effected shall be for a period of one year, expiring one year from the date of such registration or re-registration, and may be renewed upon written application, signed under penalties for perjury, in the form prescribed by the attorney general and the payment of the fee prescribed herein, for additional one year periods. Applications for registration and re-registration, when filed with the attorney general, shall become public records in the office of the attorney general.

2. Limitations upon professional solicitors for law enforcement support organizations. No person or professional solicitor, in the course of soliciting or collecting funds on behalf of any law enforcement support organization, shall engage in any acts prohibited by subdivision seventeen of section one hundred seventy-two-d of this article, or by paragraph (h) of subdivision two of section one hundred seventy-five of this article, provided, however, that no criminal liability shall attach to any law enforcement support organization or its officers because of the activities of any professional solicitor employed on behalf of such organization.

3. Violations. Any person who wilfully violates the provisions of this section is guilty of a misdemeanor.

§ 173-c. Non-resident professional fund raisers, fund raising counsel, professional solicitors and commercial co-venturers; designation of secretary of state as agent for service of process; service of process. 1. Any professional fund raiser, fund raising counsel, professional solicitor or commercial co-venturer resident or whose principal place of business is without the state or organized under and by virtue of the laws of another or foreign state, who or which has been engaged by or on behalf of any charitable organization to conduct any fund raising

activities in this state and/or solicit contributions from people in this state shall be deemed to have irrevocably appointed the secretary of state as the agent upon whom may be served any summons, subpoena, subpoena duces tecum, other process or notice directed to such professional fund raiser, fund raising counsel, professional solicitor, commercial co-venturer or any partner, principal, officer, or director thereof, in any action or proceeding brought by the attorney general or any other party under the provisions of this section. Any such professional fund raiser, fund raising counsel, professional solicitor or commercial co-venturer may file with the secretary of state a designation, in terms complying herewith, duly acknowledged, irrevocably appointing the secretary of state as the agent upon whom may be served any such process; provided, however, that a designation filed with the secretary of state pursuant to section three hundred fifty-two-a of the general business law, section thirteen hundred four of the not-for-profit corporation law, or section thirteen hundred four of the business corporation law shall serve also as such designation.

2. Service of such process or notice upon the secretary of state shall be made by personally delivering to and leaving with the secretary of state or any person authorized by the secretary of state to accept such service a copy thereof at the office of the department of state in the city of Albany, and such service shall be sufficient service provided that notice of such service and a copy of such process are forthwith sent by the attorney general or other party as the case may be to such professional fund raiser, fund raising counsel, professional solicitor or commercial co-venturer by certified mail with return receipt requested, at the office address as set forth in the registration form required to be filed with the attorney general pursuant to sections one hundred seventy-three and one hundred seventy-three-b of this article, or in default of the filing of such form, at the last address known to the attorney general or other party. Service of such process shall be complete ten days after the receipt by the attorney general or other party of a return receipt purporting to be signed by the addressee or a person qualified to receive the addressee's certified mail, in accordance with the rules and customs of the post office department, or, if acceptance was refused by the addressee or the agent, ten days after

the return to the attorney general or other party of the original envelope bearing a notation by the postal authorities that receipt thereof was refused.

§ 174. Solicitation by unregistered charitable organizations, professional fund-raisers or commercial co-venturers a fraud upon the people of the state. 1. No charitable organization shall employ any professional fund raiser or commercial co-venturer unless and until such fund raiser or commercial co-venturer is registered pursuant to this article. Any such contract of employment shall be voidable at the option of the charitable organization.

2. No professional fund raiser or commercial co-venturer shall enter into any contract or raise any funds for any organization required to be registered pursuant to this article unless such charitable organization actually so registered.

3. No professional fund raiser required to be registered under this article shall employ any professional solicitor who is not registered in accordance with this article.

4. In addition to all other remedies provided by law the attorney general may bring an action to enjoin the violation of the provisions of this section. The attorney general may give notice of at least fifteen days in writing by registered or certified mail to the organization, person or persons violating the provisions hereof, requiring that registration be accomplished or that the solicitation funds be immediately terminated. The failure to immediately discontinue solicitation or to register in accordance with the provisions of this article within fifteen days of service of such notice shall be deemed to be a continuing fraud upon the people of the state of New York.

§ 174-a. Contracts with charitable organizations. 1. Whenever a charitable organization contracts with a professional fund raiser or fund raising counsel or commercial co-venturer, the charitable

organization shall have the right to cancel the contract without cost, penalty, or liability for a period of fifteen days following the date on which said contract is filed with the attorney general pursuant to the provisions of this article, regardless of the date of execution of said contract. Any provision in the contract that is intended to waive this right of cancellation shall be void and unenforceable.

2. A charitable organization may cancel a contract signed pursuant to subdivision one of this section by a written notice of cancellation. If given by mail, cancellation shall be deemed effective when deposited in a mailbox, properly addressed and postage prepaid. The notice shall be sufficient if it states that the charitable organization does not intend to be bound by the contract.

3. Whenever a charitable organization cancels a contract pursuant to the provisions of this section, it shall mail a duplicate copy of the notice of cancellation to the attorney general, at the address designated for that purpose.

4. Every contract entered into pursuant to subdivision one of this section shall contain, in a conspicuous typeface:

(a) a concise, accurate statement of the charitable organization's right to cancel;

(b) a concise, accurate statement of the period during which the contract may be cancelled;

(c) the address to which the notice of cancellation is to be sent;

(d) the address of the attorney general to which a duplicate of the notice of cancellation is to be sent; and

(e) a clear statement of the financial arrangement including, if applicable, a statement of the percentage of the total funds collected on behalf of the charitable organization which shall be paid to the professional fund raiser or any other person for purposes other than the exclusive benefit of the charitable organization.

5. Any funds collected by any professional fund raiser, fund raising counsel, professional solicitor, commercial co-venturer, charitable organization or any other person in violation of this section shall be

deemed to be held in trust for the benefit of the charitable organization without deduction for costs or expenses of any nature. A charitable organization shall be entitled to recover all funds collected in violation of this section together with costs, disbursements and allowances.

6. The failure of a professional fund raiser, fund raising counsel or commercial co-venturer to immediately discontinue solicitation or any other fund raising activity upon receipt of a notice of cancellation in accordance with the provisions of this article within fifteen days of the cancellation of the contract shall be deemed to be a continuing fraud upon the people of the state of New York.

7. In addition to all other remedies provided by law the attorney general may bring an action to enjoin the violation of the provisions of this section and to recover restitution, damages, costs and attorneys fees.

§ 174-b. Solicitation. 1. Any solicitation, by any means, including but not limited to oral solicitation, by or on behalf of a registered charitable organization which is required to file financial reports pursuant to this article and has filed all such reports, shall include therein a statement that upon request, a person may obtain from the organization or from the charities registry on the attorney general's website, a copy of the last financial report filed by the organization with the attorney general. Such statement shall specify the address of the organization and the address of the attorney general, to which such request should be addressed and in the case of a written solicitation, must be placed conspicuously in the material with print no smaller than ten point bold face type or, alternatively, no smaller than the size print used for the most number of words in the statements. Provided, however, such statement need not be made where the space for a printed advertisement or promotional time in any media has been donated or made available to the charitable organization at no cost and such space or time does not reasonably permit inclusion of such statement.

2. Any solicitation used by or on behalf of any charitable organization shall include:

(a) a clear description of the programs and activities for which it has requested and has expended or will expend contributions or shall include therein a statement that, upon request, a person may obtain from the organization such a description; and

(b) a statement identifying the website and telephone number of the New York state office of the attorney general where an individual can receive information on charitable organizations.

(c) If the solicitation is by an institution subject to article five-A of the not-for-profit corporation law, and is for an endowment fund, the solicitation must include a statement that, unless otherwise restricted by the gift instrument pursuant to paragraph (b) of section five hundred fifty-three of the not-for-profit corporation law, the institution may expend so much of an endowment fund as it deems prudent after considering the factors set forth in paragraph (a) of section five hundred fifty-three of the not-for-profit corporation law.

3. In addition to any other disclosure required by law, any solicitation by any means by a professional fund raiser or professional solicitor on behalf of a charitable organization required to be registered pursuant to this article shall clearly and unambiguously disclose:

(a) the name of the professional fund raiser as on file with the attorney general and that the solicitation is being conducted by a professional fund raiser;

(b) the name of the individual professional solicitor as on file with the attorney general and that the individual is receiving compensation for conducting the solicitation; and

(c) a statement identifying the website and telephone number of the office of the attorney general where an individual can receive information on charitable organizations.

4. If any charitable organization makes contributions to another organization which is not its affiliate as defined by paragraph (b) of subdivision four of section one hundred seventy-two-b of this article, such solicitation shall include a statement that such contributions have

been made and that a list of all organizations which have received contributions during the past twelve months from the soliciting organization may be obtained from that organization provided, however, a united way, federated fund or incorporated community appeal, by or through which a donation is merely transferred to a charity selected by the donor, need not include such donor selected organizations in the list.

5. A charitable organization shall comply with all requests made pursuant to subdivisions two and four of this section within fifteen days of their receipt. In the event that a charitable organization required to register pursuant to this article has not previously been required to file an annual report with the attorney general, the solicitation shall state the date when such report will be filed. Provided, however, that no additional solicitation shall be permitted by charitable organizations until an annual report is filed, if the report is delayed beyond one year.

§ 174-c. Sales advertised to benefit a charitable organization. All advertising, of every kind and nature, that a sale of goods, services, entertainment or any other thing of value will benefit a charitable organization shall set forth the anticipated portion of the sales price, anticipated percentage of the gross proceeds, anticipated dollar amount per purchase, or other consideration or benefit the charitable organization is to receive. Provided, however, that advertising for sales by a charitable organization that has not used the services of a professional fund raiser or commercial co-venturer in any way for the sale shall not be subject to the requirement of this section.

§ 174-d. Unauthorized use of names when soliciting or collecting contributions.

1. No person shall, for the purpose of soliciting contributions from persons in this state, use the name of any other person, except that of an officer, director or trustee of the charitable organization by or for

which contributions are solicited, without the written consent of such other person.

2. A person shall be deemed to have used the name of another person for the purpose of soliciting contributions if such latter person's name is listed on any stationery, advertisement, brochure or correspondence in or by which a contribution is solicited by or on behalf of a charitable organization or his name is listed or referred to in connection with a request for a contribution as one who has contributed to, sponsored or endorsed the charitable organization or its activities.

3. Nothing contained in this section shall prevent the publication of names of contributors without their written consents, in an annual or other periodic report issued by a charitable organization for the purpose of reporting on its operations and affairs to its membership or for the purpose of reporting contributions to contributors.

4. A violation of this section shall be a misdemeanor.

§ 175. Enforcement by attorney general. 1. An action for violation of this article may be prosecuted by the attorney general, or his deputy, in the name of the people of the state, and in any such action, the attorney general or his deputy, shall exercise all the powers and perform all duties which the district attorney would otherwise be authorized to exercise or to perform therein.

2. In addition to any other action or proceeding authorized by law and any action or proceeding by the attorney general, the attorney general may bring an action or special proceeding in the supreme court, in the name and in behalf of the people of the state of New York, against a charitable organization and any other persons acting for it or in its behalf to enjoin such organization and/or persons from continuing the solicitation or collection of funds or property or engaging therein or doing any acts in furtherance thereof, and to cancel any registration statement previously filed with the attorney general pursuant to this article and for an order awarding restitution and damages, penalties and

costs; and removing any director or other person responsible for the violation of this article; dissolving a corporation and other relief which the court may deem proper, whenever the attorney general shall have reason to believe that the charitable organization or other person:

(a) is violating or has violated any of the provisions of this article;

(b) has refused or failed, or any of its principal officers has refused or failed, after notice, to produce any records of such organizations;

(c) is employing or about to employ, or there is employed or about to be employed, in any solicitation or collection of funds or other property for such organization, any device, scheme or artifice to defraud or for obtaining money or property by means of a false pretense, representation or promise;

(d) has made a material false statement in an application, registration or statement required to be filed pursuant to this article;

(e) (i) has failed or is failing to apply the funds solicited from the public in a manner substantially consistent with its charitable purposes or solicitation or has engaged in repeated fraudulent or illegal activities, acts or conduct in connection with the solicitation for charitable purposes; (ii) or, in the case of a law enforcement support organization, has failed or is failing to apply the funds solicited from the public in a manner substantially consistent with the purposes of the solicitation or has engaged in repeated fraudulent or illegal activities, acts or conduct in connection with the solicitation for purposes of the law enforcement support organization;

(f) violates any order or determination made by the attorney general pursuant to the provisions of this article;

(g) has used or intends to use false or materially misleading advertising or promotional material in connection with any solicitation or with any commercial co-venture or fails to disclose the information required to be disclosed pursuant to section one hundred seventy-four-b of this article; or

(h) is a law enforcement support organization and is employing or about to employ, or there is employed or about to be employed, in any solicitation or collection of funds or other property for such organization, any device, scheme or artifice to defraud or for obtaining

money or property by means of a false pretense, representation or promise which shall include, without limitation, making any of the following representations: (i) that professional fund raisers or solicitors are police officers or employees of any law enforcement agency, (ii) that funds collected will be used to aid widows and children of police officers slain in the line of duty or for any other charitable program unless the organization is actually engaged in such a program, (iii) that contributors will receive special benefits from police officers, and (iv) that contributions are tax deductible as a charitable contribution or as a business expense unless they so qualify under the applicable provisions of the internal revenue code.

In connection with such proposed action or proceeding the attorney general is authorized to take proof, issue subpoenas and administer oaths in the manner provided in the civil practice law and rules.

3. Upon a showing by the attorney general in an application for an injunction that any person engaged in solicitation has been convicted in this state or elsewhere of a felony or of a misdemeanor involving the misappropriation, misapplication or misuse of the money or property of another, and who has not, subsequent to such conviction, received executive pardon therefor or a certificate of relief from disabilities or a certificate of good conduct pursuant to article twenty-three of the correction law, the supreme court, after a hearing, may enjoin such person from engaging in any solicitation.

4. The attorney general may exercise the authority granted in this section against any charitable organization which operates under the guise or pretense of being an organization exempted by the provisions of section one hundred seventy-two-a of this article and is not in fact an organization entitled to such an exemption.

5. Whenever the attorney general shall have reason to believe that any professional fund-raiser, fund raising counsel, professional solicitor or commercial co-venturer is operating in violation of the provisions of this article, or has made any false statement in any application, registration or statement required to be filed pursuant to this article,

or if any professional fund-raiser, fund raising counsel, or commercial co-venturer has refused or failed, after notice, to produce any records demanded of him, or there is employed or is about to be employed in any solicitation or collection of contributions for a charitable or religious organization any device, scheme or artifice to defraud or for obtaining money or property by means of any false pretense, representation or promise, in addition to any other action or proceeding authorized by law, he may bring in the supreme court an action or proceeding in the name, and on behalf, of the people of the state of New York against such professional fund-raiser, fund raising counsel, commercial co-venturer, professional solicitor, and any other person who has participated or is about to participate in such solicitation or collection by employing such device, scheme, artifice, false representation or promise, to enjoin such professional fund-raiser, fund raising counsel, commercial co-venturer, professional solicitor, or other person from continuing such solicitation or collection or engaging therein or doing any acts in furtherance thereof, or to cancel any registration statement previously filed with the attorney general.

6. Whenever the attorney general has determined to commence an action under this article, he may present to any justice of the supreme court, before beginning such action, an application in writing for an order directing the person or persons mentioned in the application to appear before the justice of the supreme court or referee designated in such order and answer such questions as may be put to them or to any of them, or to produce such papers, documents and books concerning the practices to which the action which he has determined to bring relates, and it shall be the duty of the justice of the supreme court to whom such application for the order is made to grant such application. The application for such order made by the attorney general may simply show upon his information and belief that the testimony of such person or persons is material and necessary. The provisions of the civil practice law and rules relating to an application for an order for the examination of witnesses before the commencement of an action and the method of proceeding on such examination, shall not apply except as herein prescribed. The order shall be granted by the justice of the supreme court to whom the application has been made with such

preliminary injunction or stay as may appear to such justice to be proper and expedient and shall specify the time when and place where the witnesses are required to appear. The justice or referee may adjourn such examination from time to time and witnesses must attend accordingly. The testimony of each witness must be subscribed by him and all must be filed in the office of the clerk of the county in which such order for examination is filed. The order for such examination must be signed by the justice making it and service of a copy thereof with an endorsement by the attorney general signed by him or his deputy, to the effect that the person named therein is required to appear and be examined at the time and place and before the justice or referee specified in such endorsement, shall be sufficient notice for the attendance of witnesses. Such endorsement may contain a clause requiring such person to produce at such examination all books, papers and documents in his possession or under his control relating to the subject of such examination. The order shall be served upon the person named in the endorsement aforesaid by showing him the original order and delivering to and leaving with him at the same time a copy thereof, endorsed as above provided, and by paying or tendering to him the fee allowed by law to witnesses subpoenaed to attend trials of civil actions in any court of record in this state.

7. In addition to any other action authorized by law, the attorney general may bring an action or special proceeding in the supreme court to recover any civil penalties assessed by the attorney general.

8. Nothing contained in section one hundred seventy-seven of this article shall prevent, limit, restrict, impede or delay the attorney general from instituting, at any time, any action or proceeding authorized by the provisions of this article or any other appropriate law, as he may deem necessary.

§ 175-a. Application of article. This article shall not be construed to limit or restrict the exercise of the powers or the performance of the duties of the attorney general or district attorney which they otherwise are authorized to exercise or perform under any other

provision of law.

§ 175-b. Municipal option. Nothing contained in this article shall be construed to prevent any municipality from adopting or enacting any local law, ordinance or regulation imposing more restrictive requirements for the solicitation of contributions for law enforcement support organizations, provided, however, that nothing permitted by this section shall be construed to modify or be inconsistent with the legal standards in this article that are applicable to individuals and organizations other than law enforcement support organizations and professional fund raisers and solicitors which are employed by such law enforcement support organizations even when such other individuals and organizations act jointly and together with such law enforcement support organizations.

§ 176. Advisory council. The advisory council on charities registration is continued. It shall advise the attorney general and make recommendations with respect to the operation and administration of this article with the objective of assuring maximum simplicity in the conformance of charitable organizations with the provisions of this article. The council shall consist of not fewer than five nor more than ten members. The members of the advisory council now in office shall continue to hold office for the remainder of the terms to which they were appointed and thereafter until their successors are appointed. The attorney general shall designate the chairman of the council and may appoint additional and successor members and fix their terms of office. The members shall serve without compensation but shall be allowed their actual and necessary expenses incurred in the performance of their duties hereunder.

§ 177. Administration and enforcement by attorney general. 1. The attorney general shall make rules and regulations necessary for the administration of this article including, but not limited to regulations and waiver procedures that will ensure that charitable organizations do

not have to register twice in relation to the solicitation and administration of assets, and rules or regulations allowing or requiring any submission to the attorney general to be effected by electronic means.

2. Upon a finding by the attorney general that any person has committed or is committing a violation of any provision of this article, the attorney general may:

(a) revoke, suspend or deny a registration of a charitable organization, professional fund raiser, professional solicitor or fund raising counsel or deny or revoke a claim of exemption or issue an order directing a charitable organization, professional fund raiser, professional solicitor, fund raising counsel or commercial co-venturer to cease and desist specified fund raising activities; and

(b) assess a civil penalty against the violator of not more than one thousand dollars for each act or omission constituting a violation and an additional penalty of not more than one hundred dollars for each day during which such violation continues. Prior to assessing a civil penalty, the attorney general shall notify the violator in writing by certified mail to its last known business address that a civil penalty will be assessed pursuant to this section unless the violation is cured within thirty days of the date of the mailing of the notice.

3. The attorney general shall, before denying, revoking or suspending any registration or exemption, or issuing a cease and desist order or assessing a civil penalty, notify the applicant or registrant in writing and provide an opportunity for a hearing on a record in reference thereto in accordance with such rules as the attorney general may promulgate to effectuate the purposes of this article. Such written notice may be served by personal delivery to the applicant or registrant or by registered or certified mail to its last known business address. Hearings must be requested within twenty days of receipt of the notice from the attorney general. Any hearing shall be held within thirty days of the receipt of the request by the attorney general, at such time and place as the attorney general shall prescribe. The attorney general, or his or her designee may issue subpoenas in accordance with the civil practice law and rules, compel the attendance of witnesses at the

hearing, administer oaths, take proof and make determinations of relevant facts. The respondent may appear at the hearing and may cross-examine all witnesses and produce evidence on his or her behalf. The attorney general or his or her designee shall not be bound by the rules of evidence during the conduct of the hearing. A final determination shall be made by the attorney general or his or her designee within ten days of the conclusion of the hearing. The attorney general shall serve a copy of such determination or order upon the registrant or applicant personally or by registered or certified mail at his or her last known business address.

4. The administrative remedies provided by this article shall not be applicable to any violation of this article which is or was the subject of any action or proceeding brought by the attorney general.

ARTICLE 8

DIVISION OF BUDGET

Section 180. Division of the budget; director; general duties.
181. Tax expenditure reporting.
182. Diversion of funds dedicated to public transportation systems to the general fund of the state or to any other purpose, is prohibited.
183. Diversion of funds dedicated to the Niagara frontier transportation authority to the general fund of the state is prohibited.

§ 180. Division of the budget; director; general duties. The head of the division of the budget shall be the director of the budget who shall be appointed by the governor and hold office during his pleasure. He shall receive a salary to be fixed by the governor within the amount appropriated therefor. It shall be the duty of the director of the budget to assist the governor in his duties under the constitution and laws of the state respecting the formulation of the budget and the correlating and revising of estimates and requests for appropriations of the civil departments, and also to assist the governor in his duties

respecting the investigation, supervision and coordination of the expenditures and other fiscal operations of such department. The director, subject to rules prescribed by the governor, may appoint and fix the compensation of subordinates and employees of the division within the amounts appropriated therefor.

§ 181. Tax expenditure reporting. 1. Definitions. For the purposes of this section, the following definitions shall apply:

(a) "Tax expenditures" shall mean features of the tax law that by exemption, exclusion, deduction, allowance, credit, preferential tax rate, deferral, or other statutory device, reduce the amount of taxpayers' liabilities to the state by providing either economic incentives or tax relief to particular classes of persons or entities, to achieve a public purpose.

(b) "Cost of tax expenditure" shall mean the aggregate, estimated amount by which a tax expenditure reduces taxpayers' liabilities to the state on a taxable year basis, or on a calendar year basis if a taxable year basis is not appropriate.

2. Annual tax expenditure report. In addition to the information required by article seven of the constitution and section twenty-two of the state finance law, the governor shall submit to the legislature, as early as practicable, but no later than thirty days after submitting the budget, a tax expenditure report containing the following information and statements relating to tax expenditures in articles nine (other than section one hundred eighty), nine-A, thirteen-A, twenty-two, twenty-eight, thirty-one, thirty-two and thirty-three of the tax law:

(a) an enumeration of such tax expenditures;

(b) the provisions of law authorizing such tax expenditures, their effective dates, and, if applicable, the dates on which such tax expenditures expire or are reduced;

(c) if reliable data are available, estimates prepared by the commissioner of taxation and finance, in conjunction with the director of the budget, of the cost of such tax expenditures for the (i) current taxable or calendar year and (ii) the five preceding years;

(d) any recommendations of the governor regarding continuing,

modifying, or repealing such tax expenditures, and such other information regarding tax expenditures as the executive may feel useful and appropriate;

(e) if the governor's budget includes proposals for the expiration, modification, or repeal of such tax expenditures or for the addition of tax expenditures in or to such articles or such law, such report shall also contain, to the extent reliable data are available, an analysis of the number and types of persons and entities benefiting or expected to benefit from such tax expenditures, an estimate of the costs of such tax expenditures for the coming fiscal year, and an explanation of the reasons for the proposals;

(f) comment, if any, on the effectiveness and efficiency of other tax expenditures; and

(g) general cautionary and advisory notes concerning limitations of data, estimation procedures, sampling errors and imputed values, prominently displayed.

3. Any information relating to tax expenditures furnished by the commissioner of taxation and finance shall be furnished in accordance with the secrecy provisions of the tax law.

§ 182. Diversion of funds dedicated to public transportation systems to the general fund of the state or to any other purpose, is prohibited. 1. For the purposes of this section, the term "public transportation system" shall mean any public benefit corporation constituting a transportation authority which provides or contracts for the provision of, under joint support arrangements, mass transportation services, or a subsidiary thereof, or any county or city which provides or contracts for the provision of, pursuant to section one hundred nineteen-r of the general municipal law, mass transportation services.

2. The director of the budget shall be prohibited from diverting revenues derived from taxes and fees paid by the public into any fund created by law including, but not limited to sections eighty-eight-a, eighty-nine-c and ninety-two-ff of the state finance law and chapter twenty-five of the laws of two thousand nine for the purpose of funding

public transportation systems into the general fund of the state or into any other fund maintained for the support of another governmental purpose. No diversion of funds can occur contrary to this section by an administrative act of the director of the budget or any other person in the executive branch.

3. If any diversion of funds occurs by passage of legislation during a regular or extraordinary session of the legislature, the director of the budget shall create and include with the budget or legislation diverting funds, a diversion impact statement which shall include the following information:

(a) The amount of the diversion from dedicated mass transit funds;

(b) The amount diverted from each fund;

(c) The amount diverted expressed as current monthly transit fares;

(d) The cumulative amount of diversion from dedicated mass transit funds during the preceding five years;

(e) The date or dates when the diversion is to occur; and

(f) A detailed estimate of the impact of diversion from dedicated mass transit funds will have on the level of public transportation system service, maintenance, security, and the current capital program.

§ 183. Diversion of funds dedicated to the Niagara frontier transportation authority to the general fund of the state is prohibited. The director shall be prohibited from diverting revenues derived from taxes and fees paid by the public into any fund created by law including, but not limited to section ninety-nine-h of the state finance law, as amended by chapter seven hundred forty-seven of the laws of two thousand six, for the purpose of funding the Niagara frontier transportation authority and any of its subsidiaries into the general fund of the state or into any other fund maintained for the support of another governmental purpose. No diversion of funds can occur contrary to this section by an administrative act of the director or any other person in the executive branch unless the governor declares a fiscal emergency, and communicates such emergency to the temporary president of the senate and speaker of the assembly, and a statute is enacted into law authorizing a diversion that would otherwise be prohibited by this

section.

ARTICLE 9

DIVISION OF MILITARY AND NAVAL AFFAIRS

Section 190. Division of military and naval affairs.
191. Restoration and display of New York state's military battle flags.

§ 190. Division of military and naval affairs. 1. Notwithstanding the provisions of any other law, the head of the division of military and naval affairs shall be the adjutant general who shall be appointed by the governor and who, except when any one of such officers shall be in the active service of the United States, shall be the commanding general of the New York army national guard, the commander of the New York air national guard or the commanding officer of the New York naval militia. The governor may exercise and perform his functions, powers and duties as commander-in-chief of the militia of the state in whole or in part through such division.

2. The division of military and naval affairs shall include the organized militia; the state reserve list; the state retired list; all offices, headquarters, units, forces, commands, arsenals, depots, armories, bureaus, agencies, bases, camps, ranges, and other military (including air) and naval activities, property, installations, structures, facilities and functions of the state and all military (including air), naval and civilian personnel who may be serving or employed therein.

3. The organization of the present office of the chief of staff is continued as part of the division of military and naval affairs. The powers and duties of such office and the bureaus thereof shall be exercised and performed under the supervision, direction and control of the chief of staff, subject to the approval of the adjutant general.

4. The adjutant general is hereby authorized to create, organize,

reorganize, convert, inactivate or disband such other offices, headquarters, commands, bureaus and agencies for the performance of the functions of the division as he may deem necessary, within the amount appropriated therefor.

5. The adjutant general, in conjunction with the department of state, shall establish and maintain on the division's website a public listing of all approved not-for-profit corporations soliciting funds for or otherwise benefiting the armed forces of the United States or of any foreign country, or their auxiliaries, or of this or any other state or territory.

§ 191. Restoration and display of New York state's military battle flags. 1. There is hereby established within the division of military and naval affairs a temporary advisory committee on the restoration and display of New York state's military battle flags (hereinafter referred to as the "committee"). The committee shall have thirteen members as follows: the adjutant general, the director of the New York state military heritage museum, the commissioners of education and parks, recreation and historic preservation and the commissioner of the department of veterans' services, or their designated representatives, two members appointed each by the governor, speaker of the assembly and majority leader of the senate and one member each appointed by the minority leaders of the senate and assembly and shall serve at the pleasure of the appointing authority. Appointed members shall include individuals with experience in restoration of historical memorabilia, expertise in military history, or a background in historical restoration or fine arts conservation. No appointed member shall be a member of the executive, legislative or judicial branch of the state government at the time of his/her appointment. The advisory committee shall meet at least four times a year. No members shall receive any compensation, but members who are not state officials may receive actual and necessary expenses incurred in the performance of their duties.

2. The primary duties of the committee shall be to conduct a study, make recommendations regarding the hiring of conservation personnel, and

the commencement of conservation and preservation of all the military battle flags in the state's possession. The committee shall elect its own chair, vice-chair and secretary from among its members. The committee's duties shall include, but not be limited to, conducting a comprehensive study and preparing a report including an evaluation of different conservation options, a professional condition report and options for conservation of individual items in the collection, and recommendations regarding the display and storage of the collection. The committee may:

(a) (i) establish project schedules and timetables; project expenses including an estimate of total conservation, display interpretation, and continuing management costs; and propose a budget for the recommended expenses;

(ii) recommend specific conservation measures;

(iii) obtain a professional condition report and photograph of each item in the collection; and

(iv) establish a plan for continuing management and conservation.

(b) Recommend hiring consultants as required, subject to budgetary limitations.

(c) Recommend hiring a professional textile conservator or other suitable professional to commence the conservation work within budgetary limitations under the supervision of New York State's Military Heritage museum curator.

(d) Coordinate and conduct fund raising activities for the conservation, preservation, interpretation, display and continuing management of the state's military battle flag collection, including:

(i) soliciting gifts, grants or donations of any kind; and

(ii) soliciting donations from businesses, individuals of all ages and organizations.

All monetary grants, gifts, or donations, shall be deposited in the trust fund.

(e) Advise the division of military and naval affairs on matters related to the restoration and display of the state's military battle flags.

3. (a) There is hereby established the New York state military battle

flags partnership trust fund (hereinafter referred to as "trust fund" or "fund"). The fund shall be in the joint custody of the state comptroller and commissioner of taxation and finance.

(b) Moneys in the fund shall consist of donations and any appropriations by the legislature to match any such donations. Any interest received by the comptroller on moneys on deposit in the trust fund shall be retained in and become part of the trust fund.

(c) Money in the fund may be used for restoration and display of the state's military battle flags. When all of the state's military battle flags have been restored and provision has been made for their public display subject to the approval of the advisory committee, any remaining funds are to be used as needed for the maintenance and display of the flags.

(d) The moneys of the fund shall be paid out on the audit and warrant of the comptroller on vouchers certified or approved by the adjutant general of the division of military and naval affairs.

4. The committee shall file an annual report of its activities and provide a full accounting of the New York state military battle flags partnership trust fund. This report shall be filed with the governor, the speaker of the assembly and the majority leader of the senate no later than the end of each state fiscal year.

ARTICLE 10

OFFICE OF GENERAL SERVICES

Section 200. Office of general services.
201. State agency employee vehicle efficiency.
201-a. State clean-fueled vehicle program.
202. General duties.
202-a. Language translation services.
203. Additional duties of the commissioner.
203-a. Additional duties of the commissioner regarding flood related losses.
203-b. Additional duties of the commissioner regarding information on state boards.

§ 200. Office of general services. There is hereby created an office of general services in the executive department. The head of the office of general services shall be the commissioner of general services. He shall be appointed by the governor by and with the advice and consent of the senate and hold office during the pleasure of the governor. He shall receive a salary to be fixed by the governor within the amount appropriated therefor. Such commissioner, subject to rules prescribed by the governor, may establish such bureaus or divisions in the office of general services as he may deem necessary and may appoint such deputies, directors, assistants and other employees as may be needed for the performance of his duties and may prescribe their powers and duties and fix their compensation within the amount appropriated therefor. Such office may have an office seal. The principal office of the office of general services shall be in the city of Albany, and branch offices may be established by direction of the governor, subject to appropriations for their maintenance.

Such commissioner may adopt, amend or rescind rules and regulations relating to the discharge of his functions, powers and duties and those of the office of general services as prescribed by law. Nothing contained herein shall limit or impair compliance with the requirements of section one hundred sixty-three of the state finance law, with respect to rules promulgated by the commissioner pursuant to such section.

§ 201. State agency employee vehicle efficiency. 1. For the purpose of this section:

a. "state agency" means any department of the executive, any bureau, commission, agency, board or other agency, any public authority, and the judiciary and the legislature.

b. "state office" means any building or facility in the state wherein one hundred or more employees, in aggregate, of any state agency are located whether or not such office building or facility is owned, rented

or leased by the state.

2. Each state agency shall institute a program at each state office to increase the average passenger occupancy per vehicle in commuting trips between home and the work place. In the area designated as severe non-attainment for ozone, as designated by the administrator of the United States environmental protection agency, such increase shall be not less than twenty-five percent above the average vehicle occupancy standard for such trips as such standard is established in accordance with the federal Clean Air Act, 42 U.S.C. Section 7401 et seq., as amended by Public Law 101-549, November fifteenth, nineteen hundred ninety, hereinafter referred to as "the Act", and regulations promulgated pursuant thereto. Where parking for a state agency occurs on properties under the jurisdiction of the office of general services, the state agency shall institute such program in consultation with the commissioner of general services. Where parking for a state office occurs on properties not controlled by the office of general services, each state agency shall be solely responsible for instituting such program. When instituting such a program, a state agency shall take into account the location of each facility, the availability of mass transit, and the scheduling of employees at each work site using such facility. Such program may include designation of parking spaces to be used exclusively by multiple occupancy vehicles, provided that the number of such spaces shall be determined with reference to the ability of users of such facilities to engage in ride-sharing, provided, however, that the designation of such spaces shall in no way displace handicapped parking spaces established pursuant to section twelve hundred three-c of the vehicle and traffic law. A plan for such program shall be completed on or before November fifteenth, nineteen hundred ninety-five, and implemented on or before November fifteenth, nineteen hundred ninety-seven.

3. The provisions of this section shall not exclude any state agency from any duty or responsibility to implement an employee trip reduction program pursuant to section 7511a(d)(1)(B) of the Act. To the extent permitted by the Act, programs instituted under this provision may be used to comply with the employee trip reduction provisions of section

7511a(d)(1)(B) of the Act. Implementation of this section shall be consistent with any agreements which may be made as a result of collective bargaining or other negotiations between the state and its affected employee unions.

§ 201-a. State clean-fueled vehicle program. 1. There shall be created within the office of general services a clean-fueled vehicle program, with the purpose of acquiring clean-fueled vehicles for state use and testing and evaluating clean-fueled vehicle technologies.

2. For the purposes of this section, the term "clean-fueled vehicle" shall mean any motor vehicle as defined in section one hundred twenty-five of the vehicle and traffic law, that uses electricity, either stored or generated on-board, as its primary motive force or that is fueled by compressed natural gas, propane, methanol, hydrogen or ethanol.

3. The office of general services, in coordination with the New York state energy research and development authority, and the department of environmental conservation, shall be responsible for developing a state clean-fueled vehicle strategy which shall determine how best to incorporate clean-fueled vehicles into the state fleet. In developing the strategy, the office of general services shall consider such factors as: the duty to be performed by the vehicle, the terrain and climate of the area of the state in which the vehicle is to be used, and other factors the office of general services, in coordination with the New York state energy research and development authority and the department of environmental conservation, deem relevant.

4. The office of general services, in coordination with the New York state energy research and development authority, the department of motor vehicles and the department of environmental conservation, shall issue a report to the governor and the legislature on or before April first, nineteen hundred ninety-seven setting forth the state's strategy for the acquisition and utilization of clean-fueled vehicles and shall update such strategy periodically.

5. Such report shall include, at a minimum, a description of the state's strategies to promote the use of clean-fueled vehicles by the general public and in the state fleet. Such strategies shall include: necessary amendments of state procurement policies to allow and encourage acquisition of clean-fueled vehicles, development of policy recommendations to establish incentives for acquisition of clean-fueled vehicles for use by individuals and private fleets, expeditious review of policies and procedures identified as barriers to clean-fueled vehicle introduction, and revision of such policies and procedures as appropriate. The report shall also assess existing infrastructure, determine what changes are necessary to support a sustainable clean-fueled vehicles market and recommend how best to implement those changes. The report shall assess factors including but not limited to the following: the availability and viability of existing or developing technology, sufficient public recharging/refueling capability, standards for recharging/refueling technologies, utility power quality, vehicle registration considerations, public outreach and safety training, battery recycling capability, insurance and liability considerations, and clean-fueled vehicle acquisition incentives. The report shall also determine the number of clean-fueled vehicles for immediate use in the state fleet that can be supported by existing infrastructure.

6. Immediately after submission of the report defined in subdivision five of this section, the office of general services shall begin a project to implement the recommendations and strategies of such report.

7. The office of general services shall develop a specific plan to procure and install necessary infrastructure for a sustainable state clean-fueled vehicle fleet, including a time frame for such procurement and installation. In developing such plan, the office of general services shall consider to the greatest extent possible any steps which will encourage the utilization of clean-fueled vehicles by the private sector. The office of general services shall either begin to acquire and install necessary infrastructure or issue requests for proposals for such procurement and installation, no later than January first, nineteen hundred ninety-eight, provided however, that no acquisition of

clean-fueled vehicles, or installation of associated infrastructure, from the proceeds of bonds issued pursuant to the Clean Water/Clean Air Bond Act of 1996, shall occur prior to April first, nineteen hundred ninety-seven.

8. The office of general services shall develop a specific plan for the procurement of clean-fueled vehicles for use in the state fleet. Procurement of clean-fueled vehicles and utilization in the state fleet using proceeds of bonds sold pursuant to the Clean Water/Clean Air Bond Act of 1996 shall begin as soon as possible after the issuance of, and in accordance with, the report defined in subdivision five of this section.

9. The office of general services, department of economic development, and the department of environmental conservation, shall evaluate the potential for developing a private clean-fueled vehicle industry in the state and submit recommendations from time to time to the legislature and the governor for attracting such industry, by either established motor vehicle producers or other companies, to the state.

§ 202. General duties. The office of general services shall provide coordinated services in support of state departments and agencies, and, as specified, authorities, municipalities and not-for-profit organizations, hereafter for the purposes of this section referred to as agencies. Such support services shall (i) serve to conserve state resources, (ii) benefit multiple agencies, and (iii) be consistent with the needs and interests of the agencies receiving those services. Support services may be delivered directly by the office of general services or by other means which ensure the cost effectiveness of those services. The commissioner of general services may recommend to the governor new services which could be offered by the office of general services, and that would reduce state or local expenditures and facilitate the mission of agencies currently receiving or which could receive such services.

§ 202-a. Language translation services. 1. Each state agency that provides direct public services in New York state shall translate all vital documents relevant to services offered by the agency into the twelve most common non-English languages spoken by limited-English proficient individuals in the state, based on the data in the most recent American Community Survey published by United States Census Bureau. Agencies subject to this section, in their discretion, may offer up to four additional languages beyond the twelve most common languages. Such additional languages shall be decided by the state agency in consultation with the office of general services and approved by the office of general services based on the number of limited-English proficient immigrants of five years or less in New York state in need of language translation services according to the American Community Survey, including the growth of recent arrival populations in the geographic regions in which the agency's services are offered, the population of limited-English proficient individuals served by the agency, feedback from impacted community or advocacy groups, and any other relevant data published by the United States Census Bureau.

2. Each agency subject to the provisions of this section shall designate a language access coordinator who will work with the office of general services to ensure compliance with the requirements of this section.

3. Each agency subject to the provisions of this section shall develop a language access plan and submit such plan to the office of general services.

(a) An agency's initial language access plan shall be issued by the agency within ninety days of the effective date of this section.

(b) Language access plans shall be updated and reissued every two years on or before January first.

(c) Language access plans shall set forth, at a minimum:

(i) when and by what means the agency will provide or is already providing language assistance services;

(ii) the titles of all available translated documents and the languages into which they have been translated;

(iii) the number of public contact positions in the agency and the

number of bilingual employees in public contact positions, and the languages such employees speak;

(iv) a training plan for agency employees which includes, at minimum, annual training on the language access policies of the agency and training in how to provide language assistance services;

(v) a plan for annual internal monitoring of the agency's compliance with this section;

(vi) a description of how the agency intends to notify the public of the agency's offered language assistance services;

(vii) an assessment of the agency's service populations to determine whether additional languages of translation should be added beyond the top twelve languages;

(viii) an explanation as to how the agency determined it would provide any additional language beyond the top twelve languages required by this section; and

(ix) the identity of the agency's language access coordinator.

4. Each agency subject to the provisions of this section shall:

(a) provide interpretation services between the agency and an individual in each individual's primary language with respect to the provision of services or benefits by the agency; and

(b) publish the agency's language access plan on the agency's website.

5. For purposes of this section, "vital document" means any paper or digital document that contains information that is critical for obtaining agency services or benefits or is otherwise required to be completed by law.

6. The office of general services will ensure agency compliance with this section and shall prepare an annual report, which shall be made public on the office of general services website, detailing each agency's progress and compliance with this section.

§ 203. Additional duties of the commissioner. The commissioner of the office of general services is authorized, within amounts appropriated therefor by the legislature and subject to the written approval of the

attorney general, to pay and cause to be satisfied and discharged claims for damage to personal or real property or for bodily injuries or wrongful death caused in connection with the operation of a motor vehicle (a) by officers or employees of the state, while acting within the scope of their employment, or (b) by other authorized persons providing service to state government while providing such service, or (c) with relation to motor vehicles which are assigned on a permanent basis with unrestricted use to state officers or employees, when caused by such officer or employee or by a person requested to operate such motor vehicle by such officer or employee in the course of or in connection with the use of such motor vehicle by such officer or employee. Such claims payments shall be made in accordance with a contract with a private firm to process, adjust, investigate, negotiate, settle, pay, and subrogate such claims on behalf of the state, as specified in such contract, provided that such firm is duly licensed to perform such services by the state department of financial services.

Notwithstanding any other provision of law, any such contract may provide for the payment of benefits up to a maximum of fifty thousand dollars for any occurrence in accordance with article fifty-one of the insurance law and for such payments, not based on tort, the attorney general's approval shall not be required. Notwithstanding any other provision of law, any payment of other property damage or bodily injury or wrongful death claims caused by a tort of such officers, employees, or other authorized personnel shall not exceed a maximum of twenty-five thousand dollars for each claimant in accordance with such terms, conditions and requirements as shall be set forth in such contract. Any agency or unit of an agency which is supported by any funding source other than the general fund shall reimburse the general fund for all or any portion of such payments made pursuant to this section which are attributable to the other funding source.

Nothing contained in this section or in any contract provided for herein shall impair any right or obligation in connection with any executed contract of insurance entered into by the state separate and apart from the authority granted herein. No moneys appropriated for the purposes of this section shall be available for expenditure from such

appropriation until a certificate of approval has been issued by the director of the budget and copies of such certificate filed with the state comptroller, the chairman of the senate finance committee, and the chairman of the assembly ways and means committee.

§ 203-a. Additional duties of the commissioner regarding flood related losses. In accordance with 44 CFR 75.11 of the code of federal regulations, in the event that state-owned structures and their contents are damaged as the result of flood related losses, flood, and/or flood related hazards occurring in areas identified by the federal insurance administrator as A, AO, AH, A1-30, AE, AR, AR/A1-30, AR/AE, AR/AO, AR/AH, AR/A, A99, M, V, VO, V1-30, VE, and E Zones, the commissioner of general services shall pay an amount not less than the limits of coverage that would be applicable if such state-owned structures and their contents had been covered by standard flood insurance policies, as defined in 44 CFR 59.1, for the repair, restoration, or replacement of such state-owned structures and contents, and shall maintain and update, not less frequently than annually, an inventory of all state-owned structures and their contents within such zones.

§ 203-b. Additional duties of the commissioner regarding information on state boards. 1. As used in this section, "commissioner" means the commissioner of general services and, "board" means any board, commission, committee, council, task force or any similar state public organization, required to be established pursuant to the state constitution, state statutes or executive order, for the exercise of any function of state government and to which members are appointed or elected. "Board" does not include:

a. any informal advisory organization not established by law;

b. any joint standing committee of the legislature or any committee of the assembly and/or senate composed entirely of members of the legislature;

c. any court;

d. the board of trustees of any institution of higher education financially supported in whole or in part by the state;

e. any entity of local government;

f. any public authority or public benefit corporation, a majority of whose members are appointed by the governor or serve as members by virtue of holding state offices to which they were appointed by the governor, or any combination thereof; and

g. any board of elections.

2. The commissioner shall maintain a list of all state boards, including state boards deemed active and regularly meeting on and after the effective date of this section. The commissioner shall keep such list on a website designated by the commissioner for the purpose of public access, and such list shall have a link to the website for each such board established pursuant to subdivision three of this section. The designated website shall be updated annually.

3. Each board or the state agency that provides administrative support or is otherwise affiliated with a board shall establish and maintain a website available to the public and provide a link to such website to the commissioner. Each board or the state agency that provides administrative support or is otherwise affiliated with a board shall annually on or before January first, update the information on its website.

4. The website established by each board or the state agency that provides administrative support or is otherwise affiliated with a board shall include, but not be limited to:

a. statutory language, executive order or other legal basis or authorization for the establishment of such board;

b. public information including departmental affiliation, contact address, phone number, and website;

c. a brief description of the purpose of the board and its legally required duties, including required reports or other products;

d. the size of board membership, current member names, and any qualifications;

e. whether members of a board are eligible for payment of expenses or other compensation in the performance of their duties as members of such board and information on compensation and expenses incurred in the prior and current fiscal years, as well as projected costs for the coming fiscal year;

f. meeting minutes and agendas, dates and locations of all meetings held, and to be held within six months, or a location, including but not limited to another website, in which such information can be publicly accessed;

g. geographic and other relevant qualifications of all current members of the board, including the county in which the member resides and the background or expertise the member possesses where such background or expertise is required for membership on such board; and

h. any other information the commissioner may require. Nothing in this section shall authorize the release or publication of any board member's residential address.

5. Each board or the state agency that provides administrative support or is otherwise affiliated with a board shall update on an annual basis beginning November first, two thousand twenty-three on its website, all vacancies, expired terms, terms expiring within one year, and the process for filling such vacancies on such boards.

6. On or before January first, two thousand twenty-four, the commissioner shall report to the governor, the speaker of the assembly,

the temporary president of the senate, the chair of the assembly oversight, analysis and investigation committee and the chair of the senate investigations and government operations committee on the status of the list including but not limited to the number of boards reported and verified. The commissioner shall also report on any impediments to obtaining information.

ARTICLE 10-B

NEW YORK STATE OFFICE OF SCIENCE, TECHNOLOGY AND ACADEMIC RESEARCH

Section 209. Definitions.
209-d. Transfer of powers of science and technology foundations.
209-e. Abolition of science and technology foundation.
209-f. Transfer of certain functions of the science and technology foundation.
209-g. Transfer of assets and liabilities.
209-h. Continuity of authority.
209-i. Transfer of records.
209-j. Completion of unfinished business.
209-k. Terms occurring in laws, contracts or other documents.
209-l. Existing rights and remedies preserved.
209-m. Pending actions and proceedings.
209-n. Continuance of rules and regulations.
209-o. Transfer of appropriations heretofore made to the science and technology foundation.
209-p. Research development program.
209-r. Gen*NY*sis program.
209-s. James D. Watson investigator program.
209-t. College applied research and technology (CART) program.

§ 209. Definitions. As used in this article, the following terms shall have the following meaning unless otherwise specified:

1. "Office" shall mean the New York state office of science, technology and academic research.

2. "Advisory council" shall mean the advisory council of the New York state office of science, technology, and academic research.

3. "Executive director" shall mean the executive director of the New York state office of science, technology, and academic research.

4. "Research development program" shall mean the program established by section two hundred nine-p of this article to encourage and enhance the economic development role of academic institutions in New York state. Such program shall include, but not be limited to, the faculty development program, the capital facilities program, the incentive program, and the centers for advanced technology development program.

5. "Primary host institution" shall mean, in a case where two or more institutions form a partnership or consortium of research entities, one institution must be designated the institution through which awards shall be administered.

6. "Life sciences" shall mean those science disciplines relating to the study of living organisms and vital processes.

7. "Enabling sciences" shall mean those science disciplines which may be directly applied to life science research, including but not limited to, engineering, material science, chemistry, computer science, electronics, physics, bioinfomatics, nanotechnologies and applications of microelectronics and micro-electromechanical devices.

8. "Project sponsor" shall mean any public, not-for-profit private or academic research institution or any subsidiary thereof located in the state of New York. A project sponsor may include a not-for-profit corporation created on behalf of a public, not-for-profit private or academic research institution.

9. "Construction" shall mean the erection, acquisition, alteration, reconstruction, rehabilitation, improvement, equipping, enlargement or extension of a life sciences and/or enabling sciences facility,

including land acquisition and the engineering, architectural, legal, fiscal and economic investigations, studies, surveys, designs, plans, drawings, specifications, procedures and other actions relating to a life science or enabling science facility.

§ 209-d. Transfer of powers of science and technology foundations. Except as otherwise provided in section two hundred nine-f of this article, the functions and powers possessed by and all of the obligations and duties of the science and technology foundation as established pursuant to article ten-A of the public authorities law shall be transferred and assigned to, assumed by and devolved upon the office. Such transfer shall occur no later than January thirty-first, two thousand, provided, however, that such transfer may occur prior to January thirty-first, two thousand pursuant to a memorandum of understanding executed by the chairman of the science and technology foundation and the executive director of the office, and provided that, in the event that it is impractical to effectuate such transfer on or before January thirty-first, two thousand, the chairperson of the science and technology foundation and the executive director of the office may upon notification to the governor, temporary president of the senate, and speaker of the assembly on or before January fifteenth, two thousand, execute a memorandum of understanding to govern the expeditious transfer required pursuant to this section.

§ 209-e. Abolition of science and technology foundation. Upon the transfer pursuant to section two hundred nine-d of this article of the functions and powers possessed by and all of the obligations and duties of the science and technology foundation as established pursuant to article ten-A of the public authorities law to the office, the science and technology foundation shall be abolished, and sections thirty-one hundred, thirty-one hundred three and thirty-one hundred nine of the public authorities law shall be repealed.

§ 209-f. Transfer of certain functions of the science and technology

foundation. 1. Transfer of the small business technology investment fund. Upon the transfer pursuant to section two hundred nine-d of this article of the functions and powers possessed by and all of the obligations and duties of the science and technology foundation as established pursuant to article ten-A of the public authorities law to the office as prescribed by section two hundred nine-d of this article, notwithstanding section twenty-eight of section one of chapter one hundred seventy-four of the laws of nineteen hundred sixty-eight, the administration of the small business technology investment fund shall be transferred and assigned to, assumed by and devolved upon the urban development corporation, and the administration of the small business technology investment fund is hereby determined to be a corporate purpose of the urban development corporation.

2. Transfer of certain assets and liabilities. Upon the transfer pursuant to section two hundred nine-d of this article of the functions and powers possessed by and all of the obligations and duties of the science and technology foundation as established pursuant to article ten-A of the public authorities law to the office as prescribed by section two hundred nine-d of this article, all of the assets and liabilities of the small business technology investment fund established pursuant to appropriations made by various chapters of the law including, but not limited to chapter fifty-three of the laws of nineteen hundred eighty-one, chapter fifty-three of the laws of nineteen hundred eighty-five, chapter fifty-three of the laws of nineteen hundred eighty-six, chapter fifty-three of the laws of nineteen hundred eighty-seven, chapter fifty-three of the laws of nineteen hundred eighty-eight, chapter fifty-three of the laws of nineteen hundred eighty-nine, chapter fifty-three of the laws of nineteen hundred ninety, chapter fifty-three of the laws of nineteen hundred ninety-one, chapter fifty-three of the laws of nineteen hundred ninety-two, chapter fifty-three of the laws of nineteen hundred ninety-three, chapter fifty-three of the laws of nineteen hundred ninety-four, and chapter fifty-three of the laws of nineteen hundred ninety-five shall be transferred to the urban development corporation.

3. Transfer of certain appropriations. Upon the transfer pursuant to

section two hundred nine-d of this article of the functions and powers possessed by and all of the obligations and duties of the science and technology foundation as established pursuant to article ten-A of the public authorities law to the office as prescribed by section two hundred nine-d of this article, appropriations enacted heretofore for the small business technology investment fund made pursuant to various chapters of the law including, but not limited to, chapter fifty-three of the laws of nineteen hundred eighty-one, chapter fifty-three of the laws of nineteen hundred eighty-five, chapter fifty-three of the laws of nineteen hundred eighty-six, chapter fifty-three of the laws of nineteen hundred eighty-seven, chapter fifty-three of the laws of nineteen hundred eighty-eight, chapter fifty-three of the laws of nineteen hundred eighty-nine, chapter fifty-three of the laws of nineteen hundred ninety, chapter fifty-three of the laws of nineteen hundred ninety-one, chapter fifty-three of the laws of nineteen hundred ninety-two, chapter fifty-three of the laws of nineteen hundred ninety-three, chapter fifty-three of the laws of nineteen hundred ninety-four, and chapter fifty-three of the laws of nineteen hundred ninety-five, all appropriations and reappropriations heretofore made to the science and technology foundation, or segregated pursuant to law, to the extent of remaining unexpended or unencumbered balances thereof, whether allocated or unallocated and obligated or unobligated, shall be transferred and made available to for use and expenditure by the urban development corporation for the same purpose for which originally appropriated or reappropriated and shall be payable on vouchers certified or approved by the commissioner of taxation and finance, on audit and warrant of the comptroller.

4. Transfer of certain records. Upon the transfer pursuant to section two hundred nine-d of this article of the functions and powers possessed by and all of the obligations and duties of the science and technology foundation as established pursuant to article ten-A of the public authorities law to the office as prescribed by section two hundred nine-d of this article, all books, papers, records and property pertaining to the small business technology investment fund shall be maintained by the urban development corporation.

§ 209-g. Transfer of assets and liabilities. Upon the transfer pursuant to section two hundred nine-d of this article of the functions and powers possessed by and all of the obligations and duties of the science and technology foundation as established pursuant to article ten-A of the public authorities law to the office as prescribed by section two hundred nine-d of this article, except as otherwise provided in section two hundred nine-f of this article, all assets and liabilities of the science and technology foundation are hereby transferred to and assumed by the office.

§ 209-h. Continuity of authority. Upon the transfer pursuant to section two hundred nine-d of this article of the functions and powers possessed by and all of the obligations and duties of the science and technology foundation as established pursuant to article ten-A of the public authorities law to the office as prescribed by section two hundred nine-d of this article, except as otherwise provided in section two hundred nine-f of this article, for the purpose of succession to all functions, powers, duties and obligations of the science and technology foundation, the office shall be deemed and held to constitute the continuation of such authority and not a different agency or authority.

§ 209-i. Transfer of records. Upon the transfer pursuant to section two hundred nine-d of this article of the functions and powers possessed by and all of the obligations and duties of the science and technology foundation as established pursuant to article ten-A of the public authorities law to the office as prescribed by section two hundred nine-d of this article, except as otherwise provided in section two hundred nine-f of this article, all books, papers, records and property pertaining to the science and technology foundation shall be transferred to and maintained by the office.

§ 209-j. Completion of unfinished business. Upon the transfer pursuant to section two hundred nine-d of this article of the functions and

powers possessed by and all of the obligations and duties of the science and technology foundation as established pursuant to article ten-A of the public authorities law to the office as prescribed by section two hundred nine-d of this article, except as otherwise provided in section two hundred nine-f of this article, any business or other matter undertaken or commenced by the science and technology foundation pertaining to or connected with the functions, powers, obligations and duties so transferred and assigned to the office may be conducted or completed by the executive director of the office.

§ 209-k. Terms occurring in laws, contracts or other documents. Upon the transfer pursuant to section two hundred nine-d of this article of the functions and powers possessed by and all of the obligations and duties of the science and technology foundation as established pursuant to article ten-A of the public authorities law to the office as prescribed by section two hundred nine-d of this article, except as otherwise provided in section two hundred nine-f of this article, whenever the science and technology foundation and the chairperson thereof, the functions, powers, obligations and duties of which are transferred to the office are referred to or designated in any law, contract or document pertaining to the functions, powers, obligations and duties transferred and assigned pursuant to this article, such reference or designation shall be deemed to refer to the office and its executive director.

§ 209-l. Existing rights and remedies preserved. Upon the transfer pursuant to section two hundred nine-d of this article of the functions and powers possessed by and all of the obligations and duties of the science and technology foundation as established pursuant to article ten-A of the public authorities law to the office as prescribed by section two hundred nine-d of this article, except as otherwise provided in section two hundred nine-f of this article, no existing right or remedy of the state, including the science and technology foundation, shall be lost, impaired or affected by reason of this article.

§ 209-m. Pending actions and proceedings. Upon the transfer pursuant to section two hundred nine-d of this article of the functions and powers possessed by and all of the obligations and duties of the science and technology foundation as established pursuant to article ten-A of the public authorities law to the office as prescribed by section two hundred nine-d of this article, except as otherwise provided in section two hundred nine-f of this article, no action or proceeding pending on the effective date of this article, brought by or against the science and technology foundation or chairperson thereof shall be affected by any provision of this article, but the same may be prosecuted or defended in the name of the executive director of the office. In all such actions and proceedings, the office, upon application to the court, shall be substituted as a party.

§ 209-n. Continuance of rules and regulations. Upon the transfer pursuant to section two hundred nine-d of this article of the functions and powers possessed by and all of the obligations and duties of the science and technology foundation as established pursuant to article ten-A of the public authorities law to the office as prescribed by section two hundred nine-d of this article, except as otherwise provided in section two hundred nine-f of this article, all rules, regulations, acts, determinations and decisions of the science and technology foundation, pertaining to the functions transferred and assigned by this article to the office in force at the time of such transfer, assignment, assumption or devolution shall continue in force and effect as rules, regulations, acts, determinations and decisions of the office until duly modified or repealed.

§ 209-o. Transfer of appropriations heretofore made to the science and technology foundation. Upon the transfer pursuant to section two hundred nine-d of this article of the functions and powers possessed by and all of the obligations and duties of the science and technology foundation as established pursuant to article ten-A of the public authorities law to the office as prescribed by section two hundred nine-d of this

article, except as otherwise provided in section two hundred nine-f of this article, all appropriations and reappropriations which shall have been made available as of the date of such transfer to the science and technology foundation or segregated pursuant to law, to the extent of remaining unexpended or unencumbered balances thereof, whether allocated or unallocated and whether obligated or unobligated, shall be transferred to and made available for use and expenditure by the office for the same purposes for which originally appropriated or reappropriated and shall be payable on vouchers certified or approved by the commissioner of taxation and finance, on audit and warrant of the comptroller. Payments of liabilities for expenses of personal service, maintenance and operation which shall have been incurred as of the date of such transfer by the science and technology foundation, and for liabilities incurred and to be incurred in completing its affairs shall also be made on vouchers certified or approved by the executive director of the office, on audit and warrant of the comptroller.

§ 209-p. Research development program. 1. There is hereby established the research development program. The program shall include but need not be limited to: the faculty development program, capital facility program, incentive program, and centers for advanced technology development program.

2. The office shall provide no later than March first, two thousand, a strategic plan to the governor, the temporary president of the senate and the speaker of the assembly which shall:

(a) establish criteria for the awarding of funds made available through the research development program; all awards shall be made on a competitive basis;

(b) provide a schedule for issuance of requests for proposals for the research development program awards;

(c) provide a schedule for completion of review of proposals submitted by institutions of higher education and research institutions to the office;

(d) provide procedures for the issuance of awards from the research development program.

3. The faculty development program is hereby created to assist institutions of higher education and research institutions with the retention and recruitment of research faculty. Funds appropriated for this program shall be administered by the office pursuant to request for proposals. Consideration for the allocation of awards shall be given to all institutions of higher education and research institutions within the state provided such institutions demonstrate to the satisfaction of the advisory council a specific need for such funds and the manner in which such award for the recruitment and retention of research faculty would enhance the research capabilities and reputation of the institution. Criteria for such awards shall include, but not be limited to, the ability of the faculty member to leverage and attract federal funds, venture capital and private industry funds, and the willingness of the faculty member to pursue entrepreneurial enterprises resulting in new business or the expansion of existing business in New York state. The office shall promulgate rules and regulations to establish:

(a) the duration of grants for faculty awards;

(b) matching funds required from the academic and research institutions;

(c) a schedule for an annual reduction of the faculty development award, and a corresponding increase in the matching funds from the academic or research institution; and

(d) other rules and regulations deemed necessary by the office for the administration of this program.

3-a. The faculty development and technology transfer advisory council shall be established by the commissioner of economic development to review and recommend proposals submitted for consideration under subdivisions three and five of this section. The council shall consist of eleven members that shall include representatives from four different universities, one national lab, two New York state incubators or New York state innovation hot spots, two companies and two non-profits with a statewide economic development mission. Each representative shall have technology transfer experience. In addition, at least six members of the council shall have a demonstrated background in bio-medicine, biotechnology or other life sciences.

4. (a) The capital facility program shall provide financing for the design, acquisition, construction, reconstruction, rehabilitation or improvement of research and development facilities, including equipment. Funds appropriated or reappropriated for the capital facility program by chapter six hundred twenty-four of the laws of nineteen hundred ninety-nine shall be awarded to no more than six primary host institutions.

(b) Criteria for the issuance of awards by the advisory council shall include but need not be limited to the following: potential future growth and economic impact within New York state of the proposed research to be undertaken at such facilities, available expertise at such campus in the scientific discipline designated for the center for advanced technology and/or the center's host campus, an evaluation of the ability of the proposed research to be undertaken at such facilities to aid existing business and to create new business in New York state, and the ability of the proposal to leverage and attract federal funds, venture capital and private industry funds.

(d) The capital facility program shall also provide financing for the reconstruction, rehabilitation or improvement of existing laboratory facilities. Funds available pursuant to this subdivision shall be available for research facilities at all institutions of higher education and research institutions in New York state.

(e) The office and the city university construction fund may contract for the construction fund to design, construct, acquire, reconstruct, rehabilitate and improve research and development facilities for those primary host institutions which are senior colleges of the city university of New York.

5. An incentive program is hereby created to provide additional assistance to technology transfer or commercialization activities at institutions of higher education and research institutions in the state of New York for the purpose of encouraging technology transfer from institutions of higher education and research institutions to businesses and for commercialization within New York state. Funds appropriated for this program shall be available for personal service expenses to enhance the technology transfer abilities or commercialization of research of

higher education and research institutions to businesses within New York state including but not limited to patent applications, the creation of business and marketing plans, venture capital conferences and non-capital costs associated with the development of real property owned by such institution of higher education or research institution for research and development purposes. Funds awarded under the incentive program shall not exceed fifty percent of the cost of the purpose for which such funds shall be applied. The faculty development and technology transfer advisory council, as established by subdivision three-a of this section, shall review and recommend proposals submitted for consideration pursuant to this subdivision. Preference shall be given to proposals developed in coordination with a private or public medical school located in the state.

6. A center for advanced technology development program is created whereby funds shall be awarded to centers for advanced technology for the purpose of enhancing and expanding the existing role of the center in the area for which it is designated. Funds appropriated for the development program shall be awarded to such centers for advanced technology. Criteria for the issuance of awards shall be established by the office and shall include but need not be limited to the economic development potential of the research undertaken at such center for advanced technology, funding leveraged from other sources including private interests and the federal government, potential of revenues accruing to the institution of higher education or research institution from the licensing of the products of research conducted at such center of advanced technology and the interaction of such center with private industry.

§ 209-r. Gen*NY*sis program. 1. The Gen*NY*sis program is hereby created to assist research and technology development programs in the life sciences or in enabling sciences affiliated with public, not-for-profit private or academic research institutions located within New York state to develop and commercialize new discoveries for the improvement of human, plant and animal health and to expand businesses and employment in New York state.

2. Funds appropriated or transferred to the Gen*NY*sis program shall be made available to project sponsors for the construction of life sciences and/or enabling science facilities including, but not limited to, equipment, laboratory facilities and laboratory equipment, incubator facilities, manufacturing facilities, bioscience parks or any combination thereof. Funds shall not be used for projects that are already completed at the time of application.

3. Funding for each project shall be made available upon submission of a Gen*NY*sis program and financing plan to the executive director and to the director of the budget. Such program and financing plan shall be prepared by the project sponsor and shall include, where applicable, a description of the proposed project, a description of the consortium of institutions/organizations involved including respective responsibilities and contributions, the structure and governance of the collaboration, efforts to obtain and administer corporate, federal and/or foundation support, the scientific and technical quality of the proposed research to be undertaken at such facility, the expected increase in research activity in specified research areas derived from such project, projections of discoveries from such research sponsor, and an economic plan to further develop any discoveries from such project to include the development of new businesses and jobs within New York state or if such discovery is to be licensed to another entity, the terms under which the project sponsor would undertake such licensing agreements. The urban development corporation shall provide assistance to the office, as requested by the executive director, with respect to the evaluation of any economic plan or licensing terms.

4. Funding for each project shall not exceed seventy-five percent of the cost of such project, provided that, in estimating the residual percentage of funding, such funding provided by the project sponsor for each project may include allocated funds (cash); in-kind personnel, equipment or material donations; federal funds; significant financial contributions to the project sponsor; university internal sources, prorated operational costs; or any combinations thereof.

5. Project sponsors receiving awards pursuant to the Gen*NY*sis program in an amount in excess of ten percent of the total cost of such project as submitted in the program and financing plan pursuant to this section shall, for a period not to exceed five years after the receipt of such award, provide an annual report to the executive director, the chairman of the senate finance committee and the chairman of the assembly ways and means committee detailing the use of such award and the progress of the project sponsor in meeting the criteria set forth in paragraph three of this section as expressed in the program and financing plan submitted for review to the executive director.

6. Notwithstanding any other law, rule or regulation to the contrary, no more than three and one-half of one percent of any grant issued under this program may be allocated to any grant recipient or to any subsidiary or organization associated therewith for purposes which may include, but not be limited to, any direct or indirect costs of administering the program not contained in the application requesting such funds, provided however, that no monies granted under the Gen*NY*sis program may be used to supplant any direct or indirect costs of the grant recipient.

§ 209-s. James D. Watson investigator program. 1. The James D. Watson investigator program is hereby created to recognize outstanding early career scientists who demonstrate the potential for leadership at the frontiers of knowledge in the life sciences and demonstrate an entrepreneurial spirit to help foster economic development in New York state into the future.

2. This program shall be administered by the executive director. Funds shall be awarded to the institution at which the investigator is employed on behalf of the recipient.

3. Within available funds, each award granted under the James D. Watson investigator program shall equal two hundred thousand dollars over a two year period. Selection of such awards shall be made pursuant to an application process to be conducted no more than once annually.

Eligible recipients of such awards shall include researchers at academic, public, or not-for-profit private research institutions located within New York state. Such awards shall be provided for the purpose of supporting the research activities of such researcher not otherwise supported by the research institution. Such awards may be used for the salaries of such investigators, the salaries of support research personnel and for the purchase of equipment used directly in the pursuit of research not otherwise provided by the research program at such institution.

4. Eligible applicants for grants issued under this program shall be full-time staff members who are United States citizens or legal permanent residents, have been awarded their doctoral degrees, and have less than five years of post-doctoral experience, and are conducting research in the life sciences or in enabling sciences as defined in this article. All applicants must demonstrate expertise in the life sciences or in the enabling science discipline as stated in their application. Preference shall be given to researchers who demonstrate a willingness and ability to develop their research into economic development opportunities in New York state.

5. No academic, public, or not-for-profit private research institution shall receive more than one award per year. No more than three-fifths of available awards in any year shall be granted to employees of public, not-for-profit, private or academic research institutions within the metropolitan commuter transportation district.

§ 209-t. College applied research and technology (CART) program. In order to encourage greater collaboration between private industry, universities and colleges within the state in the development and application of new technologies, the office is authorized to designate such technological areas as the office identifies as having significant potential for economic growth in New York state, or in which the application of new technologies could significantly enhance the productivity and stability of New York state businesses. Such designations shall be made in accordance with the standards and criteria

set forth in subdivision two of this section. Colleges so designated shall be eligible for support from the office in the manner provided for in subdivision three of this section, and for such additional support as may otherwise be provided by law.

1. As used in this section:

(a) "College applied research and technology center" or "CART" means a college or college-affiliated research institute or a consortium of such institutions, designated by the office, which conducts a continuing program of basic and applied research, development, and technology transfer in one or more technological areas, in collaboration with and through the support of private business and industry; and

(b) "Applicant" means a college or college-affiliated research institute or a consortium of such institutions which request designation as a CART center in accordance with such requirements as are established by the office for this purpose. For purposes of this section, applicant shall not include any college or university that has a center for advanced technology pursuant to subdivision three of section thirty-one hundred two-b of the public authorities law.

2. The office shall:

(a) identify technological areas for which a CART center should be designated, including technological areas that are related to industries with significant potential for economic growth and development in New York state, and technological areas that are related to the enhancement of productivity in various industries located in New York state;

(b) establish criteria that applicants shall satisfy for designation as a CART, including, but not limited to the following:

(i) an established record of research, development and instruction in the area or areas of technology involved;

(ii) the capacity to conduct research and development activities in collaboration with business and industry;

(iii) the capacity to secure substantial private and other governmental funding for the proposed college or college-affiliated research institute or a consortium of such institutions, in amounts at least fifty percent of the total of support sought from the state;

(iv) the ability and willingness to cooperate with other institutions

in the state in conducting research and development activities, and in disseminating research results;

(v) the ability and willingness to work with technical and community colleges in the state to enhance the quality of technical education in the area or areas of technology involved;

(vi) the ability and willingness to cooperate with the office and other economic development agencies in promoting the growth and development in New York state of industries based upon or benefiting from the area or areas of technology involved;

(c) establish such requirements as it deems appropriate for the format, content and filing of applications for designation as CART centers; and

(d) establish such procedures as it deems appropriate for the evaluation of applications for designation as a college applied research and technology center, including the establishment of peer review panels composed of nationally recognized experts in the technological areas and industries to which the application is related.

3. (a) From such funds as may be appropriated for this purpose by the legislature, the office may provide financial support, through contracts or other means, to designated college applied research and technology centers in order to enhance and accelerate the development of such centers. Funds received pursuant to this subdivision may be used for purchase of equipment and fixtures, employment of faculty and support staff, provision of graduate fellowships, and other purposes approved by the office, but may not be used for capital construction. In each case, the amount provided by the office to a center shall be matched by commitments of support from private and governmental, other than state, sources in accordance with the following:

(i) for the academic year in which it is first funded as a designated center, and the four subsequent years, the amount provided by the office to a center shall be matched fifty percent by the center; and

(ii) upon a finding by the office that a technological area has continued significant potential for enhancing economic growth in New York state, or the application of technologies in the area could significantly enhance the productivity and stability of New York state businesses, the office shall initiate a redesignation process in

accordance with subdivision two of this section. Such redesignation process shall be initiated by the office in such a manner that not more than one-third of the centers in existence at the time of redesignation shall become due for such redesignation at the same time.

(1) In the event a new center is selected in the redesignation process, the office shall provide funds to such new center in accordance with the funding match requirements set forth in this paragraph.

(2) In the event a previously designated center is redesignated in the same area of technology, which redesignation is effective for the sixth academic year following the first academic year of both designation and funding, then, in that year and in each year thereafter, the office shall provide funds of up to three hundred fifty thousand dollars to be matched fifty percent by the center, amounts in excess of three hundred fifty thousand dollars shall be matched seventy-five percent by the center.

(3) In the event a currently designated center is not selected in the redesignation process for an additional term, or upon a finding by the office that the area of advanced technology does not have significant potential for enhancing economic growth in New York state, or upon a finding that the application of technologies in that area would not significantly enhance the productivity and stability of New York state businesses, then the office shall, in the fifth academic year following such center's first both designation and funding, which year shall be the final year of funding for such center, provide an amount of up to two hundred fifty thousand dollars.

(b) Continued funding of the operations of each center shall be based upon a showing that: the center continues to comply with the criteria established by the office pursuant to paragraph (b) of subdivision two of this section; a demonstration of assistance to small businesses in New York state through research, technology transfer or other means as approved by the office; compliance with the rules, regulations and guidelines of the office; and, compliance with any contracts between the office and the designated applied research center.

(c) Each center shall report on its activities to the office in a manner and according to the schedule established by the office, and shall provide such additional information as the office may require. The office shall evaluate center operations using methods such as site

visits, reporting of specified information and peer review evaluations using experts in the field of technology in which the center was designated. The office shall notify each center of the results of its evaluations and findings of deficiencies in the operation of such center or its research, education, or technology transfer activities and shall work with such centers to remedy such findings. If such factors are not remedied, the office may withdraw the state funding support, in whole or in part, or withdraw the center designation.

(d) In order to encourage that the results of center research benefit New York state, designation and continued funding of each center shall be contingent upon each center's establishing within its licensing guidelines the following: after payment of the inventor's share, a reduced payment due to the university of any royalty, income or other consideration earned from the license or sale of intellectual property rights created or developed at, or through the use of, the facilities of the center by any person or entity if the manufacturing or use resulting from such intellectual property rights occurs within New York state. The office shall promulgate rules and regulations regarding the provisions of the licensing guidelines described herein as they apply to such reduced payment, and such provisions shall be subject to the approval of the office.

4. From such funds as may be appropriated for this purpose by the legislature, the office may provide grants to any one college or college-affiliated research institution for purposes of planning and program development aimed at enabling such college or college-affiliated research institution to qualify for designation as a center. Such grants shall be awarded on a competitive basis, and shall be available only to those applicants which, in the judgment of the office, may reasonably be expected to be designated as centers. No applicant shall receive more than one such grant.

5. (a) From such funds as may be appropriated for the purpose of incentive grants or other funds which may be available from the office to enhance center activities in areas of crucial interest in the state's economic development, the office may provide grants, on a competitive basis, to centers for projects including, but not limited to, those

which:

(i) explore new technologies with commercial application conducted jointly by two or more centers or a center and non-center university, college or community college;

(ii) are aimed at enhancing or accelerating the process of bringing new products, particularly those under development by new small businesses, to the marketplace; or

(iii) increase technology transfer projects with the state's mature manufacturing industries in applying technology in their manufacturing processes or for new product development.

(b) State support for incentive grants may be matched on an individual basis by the office, which may consider the type of project and the availability of amounts from private, university and governmental, other than state, sources.

6. (a) The office shall make a biannual report of the CART program to the governor and the legislature not later than September first of every other year. Such report shall include, but not be limited to, the results of an evaluation of each center by the office, a description of the achievement of each center, any deficiencies in the operation of each center or its research, education and technology transfer activities, remedial actions recommended by the office, remedial actions taken by each center, a description of the small business assistance provided by each center, a description of any incentive grant program awarded a grant by the office and the achievements of such program, and the amount of financial assistance provided by the office and the level of matching funds provided by each center and the uses of such monies.

(b) Bi-annual reports shall include a discussion of any fields of technology that the office has identified as having significant potential for economic growth or improved productivity and stability of New York state businesses and in which collaboration with a center for advanced technology is encouraged.

ARTICLE 11

DIVISION OF STATE POLICE

Section 210. Division of state police.

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§ 210. Division of state police. The division of state police in the executive department shall be known as the "New York State Police." The head of the New York state police shall be the superintendent of state police who shall be appointed by the governor by and with the advice and consent of the senate, and hold office during his or her pleasure. The superintendent shall be a member of the state police, shall receive as salary such sum as may be appropriated by law, and shall accrue such leave credits and be eligible for the same retirement benefits, service credits and other benefits as any other member of the state police. If, prior to appointment, the superintendent served as a member of the state police, he or she, upon appointment, shall be entitled to continue to accrue and receive such credits and benefits as he or she would have been entitled to accrue and receive prior to appointment.

If, prior to his or her appointment, the superintendent shall have

served as a member of the State Police for a period of ten years or more, he or she shall, provided he or she is not eligible for retirement, upon termination of service as superintendent, be reappointed, without examination, as a member of the state police in the grade held by him or her prior to appointment as superintendent, notwithstanding the absence of any vacancy in such grade. For the purpose of determining the annual salary to be paid upon such reappointment, the period of service as superintendent shall be counted as service in the grade to which reappointed.

§ 211. Employees. The superintendent may appoint such employees as may be necessary and fix their compensation within such sum as may be appropriated by law. Persons appointed to competitive positions within the division who meet the definition of veteran or disabled veteran as defined in section eighty-five of the civil service law shall be entitled to additional credit and preference as conferred by that law and in the same manner, except that, notwithstanding any law to the contrary, with respect to any candidate applying for credit in a competitive examination for original appointment as a disabled or non-disabled veteran, such candidate may apply provisionally for such credit while still an active member of the armed forces. The application for provisional credit may be made at any time between the date of his or her application for the competitive examination and the date the eligible list is established. In cases where there has been a provisional application, the superintendent shall grant final credit only if the candidate renews his or her application within ninety days following termination of the candidate's military duty, and the candidate's period of eligibility on the list has not expired, and the candidate satisfies the appropriate statutory requirements for eligibility. Pending the granting of final credit, the candidate's ranking on any eligible list shall reflect the provisional credit.

§ 212. Equipment. The superintendent is authorized on behalf of the state to purchase, lease or lease-purchase, within the amounts appropriated therefor, necessary equipment and supplies, including but

not limited to, vehicles and aircraft subject to the approval of the director of the budget, and uniforms; when any state property shall become unfit for use it shall be disposed of in accordance with the provisions of the finance law.

§ 213. Acquisition of real property. 1. The superintendent shall from time to time establish headquarters or substations in such localities as he shall deem most suitable for the efficient performance of police duty in the rural sections of the state, and for that purpose and for other purposes of the division he may, when an appropriation therefor has been made by the legislature, acquire, in the name of the people of the state of New York, by lease, purchase, lease-purchase subject to the approval of such lease-purchase agreement by the director of the budget or, pursuant to the provisions of the eminant domain procedure law, any real property which he may deem necessary therefor; provided, however, that no such real property shall be so acquired by purchase or lease-purchase unless the title thereto shall be approved by the attorney general.

2. Whenever real property is to be acquired pursuant to the eminent domain procedure law, the superintendent shall cause to be made by the state department of transportation an accurate acquisition map.

3. On the approval of such map by the superintendent of the division of state police, the original tracing of such map shall be filed in the main office of the division of state police pursuant to the provisions of the eminent domain procedure law.

4. If the superintendent shall determine, prior to the filing of such map in the office of the clerk or register of the county, that changes, alterations or modifications of such map as filed in the main office of the division of state police should be made, he or she shall, subject to the provisions of article two of the eminent domain procedure law, if applicable, direct the preparation by the department of transportation of an amended map. On the approval of such amended map by the superintendent, it shall be filed in the main office of the division of state police and the amended map shall thereupon in all respects and for

all purposes supersede the map previously filed.

5. If the superintendent shall determine, prior to the filing of a copy of such acquisition map in the office of the county clerk or register as provided in section four hundred two of the eminent domain procedure law, that such map should be withdrawn, he or she may file a certificate of withdrawal in the offices of the division of state police and of the department of law. Upon the filing of such certificate of withdrawal, the map to which it refers shall be cancelled and all rights thereunder shall cease and determine.

6. The superintendent shall deliver to the attorney general a copy of such acquisition map, whereupon it shall be the duty of the attorney general to advise and certify to the superintendent the names of the owners of the property, easements, interests or rights described in the said acquisition map, including the owners of any right, title or interest therein pursuant to the requirements of section four hundred three of the eminent domain procedure law.

7. If, at or after the vesting of title to such property in the people of the state of New York as provided for in the eminent domain procedure law, the superintendent shall deem it necessary to cause the removal of an owner or occupant from any real property so acquired, he may cause such owner or occupant to be removed therefrom by proceeding in accordance with section four hundred five of the eminent domain procedure law. The proceeding shall be brought in the name of the superintendent as agent of the state and the attorney general shall represent the petitioner in the proceedings. No execution shall issue for costs, if any, awarded against the state or the superintendent, but they shall be part of the costs of the acquisition of the real property and be paid in like manner. Proceedings may be brought separately against one or more of the owners or occupants of any such property, or one proceeding may be brought against all or several of the owners or occupants of any or all such property within the territorial jurisdiction of the same court, justice or judge; precepts or final orders shall be made for immediate removal of persons defaulting in appearance or in answering, or withdrawing their answers, if any,

without awaiting the trial or decision of issues raised by contestants, if any.

8. Upon making any agreement provided for in section three hundred four of the eminent domain procedure law, the superintendent shall deliver to the comptroller such agreement and a certificate stating the amount due such owner or owners thereunder on account of such appropriation of his or their property and the amounts so fixed shall be paid out of the state treasury after audit by the comptroller from moneys appropriated for the acquisition of such real property, but not until there shall have been filed with the comptroller a certificate of the attorney general showing the person or persons claiming the amount so agreed upon to be legally entitled thereto.

9. Application for reimbursement of incidental expenses as provided in section seven hundred two of the eminent domain procedure law shall be made to the superintendent upon forms prescribed by him and shall be accompanied by such information and evidence as the superintendent may require. Upon approval of such application, the superintendent shall deliver a copy thereof to the comptroller together with a certificate stating the amount due thereof, and the amount so fixed shall be paid out of the state treasury after audit by the comptroller from moneys appropriated for the acquisition of property under this section.

10. The commissioner, with the approval of the director of the budget, shall establish and may from time to time amend rules and regulations authorizing the payment of actual reasonable and necessary moving expenses of occupants of property acquired pursuant to this section; of actual direct losses of tangible personal property as a result of moving or discontinuing a business or farm operation, but not exceeding an amount equal to the reasonable expenses that would have been required to relocate such property, as determined by the commissioner; and actual reasonable expenses in searching for a replacement business or farm; or in hardship cases for the advance payment of such expenses and losses. For the purposes of making payment of such expenses and losses only the term "business" means any lawful activity conducted primarily for assisting in the purchase, sale, resale, manufacture, processing or

marketing of products, commodities, personal property or services by the erection and maintenance of an outdoor advertising display or displays, whether or not such display or displays are located on the premises on which any of the above activities are conducted. Such rules and regulations may further define the terms used in this subdivision. In lieu of such actual reasonable and necessary moving expenses, any such displaced owner or tenant of residential property may elect to accept a moving expense allowance, plus a dislocation allowance, determined in accordance with a schedule prepared by the commissioner and made a part of such rules and regulations. In lieu of such actual reasonable and necessary moving expenses, any such displaced owner or tenant of commercial property who relocates or discontinues his business or farm operation may elect to accept a fixed relocation payment in an amount equal to the average annual net earnings of the business or farm operation, except that such payment shall be not less than two thousand five hundred dollars nor more than ten thousand dollars. In the case of a business, no such fixed relocation payment shall be made unless the commissioner finds and determines that the business cannot be relocated without a substantial loss of its existing patronage, and that the business is not part of a commercial enterprise having at least one other establishment, which is not being acquired by the state or the United States, which is engaged in the same or similar business. In the case of a business which is to be discontinued but for which the findings and determinations set forth above cannot be made, the commissioner may prepare an estimate of what the actual reasonable and necessary moving expenses, exclusive of any storage charges, would be if the business were to be relocated and enter into an agreed settlement with the owner of such business for an amount not to exceed such estimate in lieu of such actual reasonable and necessary moving expenses. Application for payment under this subdivision shall be made to the commissioner upon forms prescribed by him and shall be accompanied by such information and evidence as the commissioner may require. Upon approval of such application, the commissioner shall deliver a copy thereof to the comptroller together with a certificate stating the amount due thereunder, and the amount so fixed shall be paid out of the state treasury after audit by the comptroller from moneys appropriated for the acquisition of property under this section. As used

in this subdivision the term "commercial property" shall include property owned by an individual, family, partnership, corporation, association or a nonprofit organization and includes a farm operation. As used in this subdivision the term "business" means any lawful activity, except a farm operation, conducted primarily for the purchase, sale, lease and rental of personal and real property, and for the manufacture, processing, or marketing of products, commodities, or any other personal property; for the sale of services to the public; or by a nonprofit organization.

11. Authorization is hereby given to the commissioner to make supplemental relocation payments, separately computed and stated, to displaced owners and tenants of residential property acquired pursuant to this section who are entitled thereto, as determined by him. The commissioner, with the approval of the director of the budget, may establish and from time to time amend rules and regulations providing for such supplemental relocation payments. Such rules and regulations may further define the terms used in this subdivision. In the case of property acquired pursuant to this section which is improved by a dwelling actually owned and occupied by the displaced owner for not less than one hundred eighty days immediately prior to initiation of negotiations for the acquisition of such property, such payment to such owner shall not exceed fifteen thousand dollars. Such payment shall be the amount, if any, which, when added to the acquisition payment equals the average price, established by the commissioner on a class, group or individual basis, required to obtain a comparable replacement dwelling that is decent, safe and sanitary to accommodate the displaced owner, reasonably accessible to public services and places of employment and available on the private market, but in no event shall such payment exceed the difference between acquisition payment and the actual purchase price of the replacement dwelling. Such payment shall include an amount which will compensate such displaced owner for any increased interest costs which such person is required to pay for financing the acquisition of any such comparable replacement dwelling. Such amount shall be paid only if the dwelling acquired pursuant to this section was encumbered by a bona fide mortgage which was a valid lien on such dwelling for not less than one hundred eighty days prior to the

initiation of negotiations for the acquisition of such dwelling. Such amount shall be equal to the excess in the aggregate interest and other debt service costs of that amount of the principal of the mortgage on the replacement dwelling which is equal to the unpaid balance of the mortgage on the acquired dwelling, over the remainder term of the mortgage on the acquired dwelling, reduced to discounted present value. The discount rate shall be the prevailing interest rate paid on savings deposits by commercial banks in the general area in which the replacement dwelling is located. Any such mortgage interest differential payment shall, notwithstanding the provisions of section twenty-six-b of the general construction law, be in lieu of and in full satisfaction of the requirements of such section. Such payment shall include reasonable expenses incurred by such displaced owner for evidence of title, recording fees and other closing costs incident to the purchase of the replacement dwelling, but not including prepaid expenses. Such payment shall be made only to a displaced owner who purchases and occupies a replacement dwelling which is decent, safe and sanitary within one year subsequent to the date on which he is required to move from the dwelling acquired pursuant to this section or the date on which he receives from the state final payment of all costs of the acquired dwelling, whichever occurs later, except advance payment of such amount may be made in hardship cases. In the case of property acquired pursuant to this section from which an individual or family, not otherwise eligible to receive a payment pursuant to the above provisions of this subdivision, is displaced from any dwelling thereon which has been actually and lawfully occupied by such individual or family for not less than ninety days immediately prior to the initiation of negotiations for the acquisition of such property, such payment to such individual or family shall not exceed four thousand dollars. Such payment shall be the amount which is necessary to enable such individual or family to lease or rent for a period not to exceed four years, a decent, safe, and sanitary dwelling of standards adequate to accommodate such individual or family in areas not generally less desirable in regard to public utilities and public and commercial facilities and reasonably accessible to his place of employment, but shall not exceed four thousand dollars, or to make the down payment, including reasonable expenses incurred by such individual or family for evidence of title, recording fees, and other

closing costs incident to the purchase of the replacement dwelling, but not including prepaid expenses, on the purchase of a decent, safe and sanitary dwelling of standards adequate to accommodate such individual or family in areas not generally less desirable in regard to public utilities and public and commercial facilities, but shall not exceed four thousand dollars, except if such amount exceeds two thousand dollars, such person must equally match any such amount in excess of two thousand dollars, in making the down payment. Such payments may be made in installments as determined by the commissioner. Application for payment under this subdivision shall be made to the commissioner upon forms prescribed by him and shall be accompanied by such information and evidence as the commissioner may require. Upon approval of such application, the commissioner shall deliver a copy thereof to the comptroller, together with a certificate stating the amount due thereunder, and the amount so fixed shall be paid out of the state treasury after audit by the comptroller from moneys appropriated for the acquisition of property under this section.

12. The owner of any real property so acquired may present to the court of claims, pursuant to section five hundred three of the eminent domain procedure law a claim for the value of such property acquired and for legal damages caused by such acquisition, as provided by law for the filing of claims with the court of claims. Awards and judgments of the court of claims shall be paid in the same manner as awards and judgments of that court for the acquisition of lands generally and shall be paid out of the state treasury after audit by the comptroller from moneys appropriated for the acquisition of such real property.

13. If the superintendent shall determine subsequent to the acquisition of a temporary easement in any real property that the purposes for which such easement right was acquired have been accomplished and that the exercise of such easement is no longer necessary, he shall make his certificate that the exercise of such easement is no longer necessary and that such easement right is therefore terminated, released and extinguished. The superintendent shall cause such certificate to be filed in the office of the department of state and upon such filing all rights acquired by the state in such

property shall cease and determine. The superintendent shall cause a certified copy of such certificate as so filed in the office of the department of state to be mailed to the owner of the property affected, as certified by the attorney general, if the place of residence of such owner is known or can be ascertained by a reasonable effort and such superintendent shall cause a further certified copy of such certificate to be filed in the office of the recording officer of each county in which the property affected or any part thereof is situated. On the filing of such certified copy of such certificate with such recording officer, it shall be his duty to record the same in his office in the books used for recording deeds and to index the same against the name of the people of the state of New York as grantor.

§ 214. Establishment of training school. The superintendent may establish and maintain a training school and make rules and regulations for the conduct thereof; provided, however, that such regulations shall provide that the children or surviving spouse of a state police officer killed in the line of duty shall, if otherwise qualified, have a prior and preferred right over other applicants to appointment to such training school or academy.

§ 214-a. Child abuse prevention. The superintendent shall, for all members of the state police: (1) develop, maintain and disseminate written policies and procedures pursuant to title six of article six of the social services law and applicable provisions of article ten of the family court act, regarding the mandatory reporting of child abuse or neglect, reporting procedures and obligations of persons required to report, provisions for taking a child into protective custody, mandatory reporting of deaths, immunity from liability, penalties for failure to report and obligations for the provision of services and procedures necessary to safeguard the life or health of the child; and (2) establish, and implement on an ongoing basis, a training program for all current and new employees regarding the policies and procedures established pursuant to this section.

§ 214-b. Family offense intervention. The superintendent shall, for all members of the state police including new and veteran officers, develop, maintain and disseminate, in consultation with the state office for the prevention of domestic violence, written policies and procedures consistent with article eight of the family court act and applicable provisions of the criminal procedure and domestic relations laws, regarding the investigation of and intervention in incidents of family offenses. Such policies and procedures shall make provision for education and training in the interpretation and enforcement of New York's family offense laws, including but not limited to:

(a) intake and recording of victim statements, and the prompt translation of such statements if made in a language other than English, in accordance with subdivision (c) of this section, on a standardized "domestic violence incident report form" promulgated by the state division of criminal justice services in consultation with the superintendent and with the state office for the prevention of domestic violence, and the investigation thereof so as to ascertain whether a crime has been committed against the victim by a member of the victim's family or household as such terms are defined in section eight hundred twelve of the family court act and section 530.11 of the criminal procedure law;

(b) the need for immediate intervention in family offenses including the arrest and detention of alleged offenders, pursuant to subdivision four of section 140.10 of the criminal procedure law, and notifying victims of their rights, in their native language, if identified as other than English, in accordance with subdivision (c) of this section, including but not limited to immediately providing the victim with the written notice provided in subdivision six of section 530.11 of the criminal procedure law and subdivision five of section eight hundred twelve of the family court act.

(c) The superintendent, in consultation with the division of criminal justice services and the office for the prevention of domestic violence shall determine the languages in which such translation required by subdivision (a) of this section, and the notification required pursuant to subdivision (b) of this section, shall be provided. Such determination shall be based on the size of the New York state

population that speaks each language and any other relevant factor. Such written notice required pursuant to subdivision (b) of this section shall be made available to all state police officers in the state.

§ 214-c. Elder abuse awareness. The superintendent, in cooperation with the state office for the aging and the office of children and family services, shall, for all members of the division of state police: (1) develop, maintain and disseminate educational material relating to abuse of adults, including physical abuse, sexual abuse, emotional abuse, active neglect, passive neglect, self neglect, and financial exploitation, as such terms are defined in section four hundred seventy-three of the social services law, and identity theft, and (2) establish and implement written procedures and policies in the event a member of the division of state police encounters such abuse, including the provision of information and referral.

§ 214-d. Human trafficking awareness. The superintendent, in consultation with the office of temporary and disability assistance and the division of criminal justice services, shall: (1) develop, maintain and disseminate to all members of the state police, including new and veteran officers, written policies, procedures and educational materials relating to human trafficking victims, including services available for victims of human trafficking, as referenced in section four hundred eighty-three-bb of the social services law; and (2) establish and implement written procedures and policies in the event a member of the division of state police encounters an individual believed to be a victim of human trafficking, which shall include, but not be limited to, the provision of information and/or referral to an appropriate provider of social and legal services to human trafficking victims, in accordance with such section four hundred eighty-three-bb.

§ 214-e. Cardiopulmonary resuscitation training and retraining. 1. For the purposes of this section, "cardiopulmonary resuscitation" shall have the same meaning as provided in subdivision six of section six hundred

twenty-one of the general business law.

2. Each member of the division of state police shall be:

(a) trained in cardiopulmonary resuscitation during the training process to become a trooper;

(b) retrained in cardiopulmonary resuscitation every two years; and

(c) required to demonstrate the satisfactory completion of training in cardiopulmonary resuscitation.

§ 214-f. Emergency situations involving people with autism spectrum disorder and other developmental disabilities. The superintendent shall, for all members of the state police:

1. Develop, maintain and disseminate, in consultation with the commissioner of the office for people with developmental disabilities, written policies and procedures consistent with section 13.43 of the mental hygiene law, regarding the handling of emergency situations involving individuals with autism spectrum disorder and other developmental disabilities. Such policies and procedures shall make provisions for the education and training of new and veteran police officers on the handling of emergency situations involving individuals with developmental disabilities; and

2. Recommend to the governor, rules and regulations with respect to establishment and implementation on an ongoing basis of a training program for all current and new police officers regarding the policies and procedures established pursuant to this subdivision, along with recommendations for periodic retraining of police officers.

§ 214-g. Opioid antagonist awareness. The superintendent, in cooperation with the department of health and the office of alcoholism and substance abuse services, shall, for all members of the division of state police: (1) develop, maintain and disseminate appropriate instruction regarding section 60.49 of the criminal procedure law, and (2) establish and implement written procedures and policies in the event

a member of the division of state police encounters a person who possesses opioid antagonists.

*** § 214-h. Extreme risk protection orders.** The superintendent shall for all members of the division of state police, including new and veteran officers, develop, maintain and disseminate written policies and procedures and educational materials regarding the availability of and procedure for filing extreme risk protection orders under article sixty-three-A of the civil practice law and rules, including the requirements for police officers under section six thousand forty-one of such law.

* NB There are 2 § 214-h's

*** § 214-h. Model law enforcement death notification policy.** The superintendent, in collaboration with the office of victim services, shall, for all members of the division of state police:

1. Develop, maintain and disseminate a model law enforcement death notification policy setting forth recommended policies and procedures regarding in-person death notifications to a deceased individual's next of kin. Such policies and procedures shall make provisions for education and training of current and new police officers in the planning, preparation, and delivery of in-person death notifications, including but not limited to, policies and procedures for:

(a) the identification of the deceased individual, the collection of accurate information regarding the deceased individual, and the identification of the deceased individual's next of kin;

(b) the actual delivery of in-person death notifications to the deceased individual's next of kin within twenty-four hours following the identification of such individual; provided, however, such policies and procedures shall provide that, in the event that an in-person death notification cannot be provided to the deceased individual's next of kin within such timeframe, the failure or delay of such notification shall be documented and such notification shall instead be made as soon as practicable; and

(c) providing information to the deceased individual's next of kin regarding the existence of programs and support services available to them.

2. Recommend to the governor rules and regulations with respect to the establishment and implementation on an ongoing basis of a training program for all current and new police officers regarding the policies and procedures established pursuant to this section, along with recommendations for periodic retraining of police officers.

3. Disseminate the model law enforcement death notification policy promulgated in accordance with this section to all members of the state police and develop a model training program for all current and new police officers regarding the policies and procedures established pursuant to such section.

* NB There are 2 § 214-h's

§ 214-i. Child-sensitive arrests. The superintendent, in consultation with the office of children and family services, shall develop, maintain and disseminate to all members of the state police written policies and procedures, regarding child-sensitive arrest practices. Such policies and procedures shall address situations in which the parent, guardian, or other person legally charged with the care or custody of a child less than eighteen years old is arrested. Such policies and procedures shall include, but not be limited to:

(a) procedures regarding identification and documentation of whether an arrestee is the parent, guardian or person legally charged with the care or custody of a child;

(b) procedures to allow for the arrangement of temporary care for the child of an arrested parent, guardian or other person legally charged with the care or custody of such child, which may include allowing the arrested parent, guardian or other person legally charged with the care or custody of such child to place additional phone calls to arrange for child care;

(c) appropriate actions that will allow law enforcement to assist in minimizing the impact of the emotional harm caused by witnessing such

arrests; and

(d) information on the availability of access to community-based providers of crisis intervention, child protection and other supportive resources that could aid the child of an arrested parent, guardian or other person legally charged with the care or custody of such child.

§ 214-j. Critical incident policy. 1. As used in this section, the following terms shall have the following meanings:

(a) "Critical incident" shall mean the following actions when performed by a member or experienced by a member in the course of official duties: (i) an action that directly causes serious physical injury or death to another person or member; (ii) a discharge of a firearm by a member directed at another person; (iii) a traffic accident or incident involving a division vehicle, aircraft, or vessel that results in serious physical injury or death; or (iv) any other incident deemed appropriate by the superintendent or their designee.

(b) "Serious physical injury" shall mean an injury that, based on the facts and circumstances reasonably known at the time of the incident, appears to involve a substantial risk of death or an obvious and severe impairment of a major bodily function, such that a reasonable person would conclude the injury is life-threatening or significantly life-altering, without regard to later medical findings, prognosis, or outcome. The determination of a "serious physical injury" shall be made by the superintendent or their designee based on the observable conditions and available information at the time the supervisor arrives at the scene of the critical incident, and shall not be affected by subsequent medical evaluation or recovery. "Serious physical injury" shall include, but not be limited to, suspected spinal cord injury or paralysis, severe penetrating head injury, massive blood loss, or loss of limb.

(c) "Directly involved" shall mean any member who was physically present within the immediate proximity of a critical incident at the time it occurred and whose direct exposure to the incident placed the member within the immediate zone of operational engagement, regardless of whether the member discharged a weapon or otherwise used force.

(d) "Primary member" means any directly involved member who

justifiably used deadly physical force during the critical incident, or whose actions during the critical incident appear to be the most immediate and substantial cause of death or serious physical injury to a person.

2. The superintendent shall develop, maintain, and disseminate to all members of the division of state police a critical incident paid leave policy that provides for paid critical incident leave in accordance with this section.

3. Such critical incident paid leave policy shall guarantee: (a) paid critical incident leave of at least twenty calendar days for any primary member whose official actions were the direct and proximate cause of the death of another person; (b) paid critical incident leave of at least ten calendar days for any other member directly involved in the critical incident; and (c) paid critical incident leave under such other circumstances the superintendent or their designee determines appropriate. Such leave shall constitute a separate category of leave and shall not count against vacation, sick, or personal leave accruals. Such leave, where appropriate, shall be designated as family and medical leave act and/or count against a member's workers' compensation leave entitlement.

4. Critical incident paid leave shall begin as soon as possible after the critical incident, provided that initial supervisory inquiries of the involved members shall occur before leave commences. Critical incident leave may only be delayed to ensure minimum necessary staffing levels or protect community safety. Delays shall only be as long as necessary to address such concerns. Upon agreement of the member and the superintendent or their designee, the member shall be allowed to return to duty prior to the completion of the period of critical incident leave.

5. In any case where critical incident paid leave has been made to a member, and it is thereafter determined that a critical incident did not occur or that the member's actions that resulted in the serious physical injury or death of another person were not justified, the superintendent

or their designee may order the deduction of equivalent vacation or personal leave days and/or the withholding of future paid leave to such member, provided that the amount of days deducted and/or withheld shall not be more than the critical incident paid leave days that were originally provided.

6. The superintendent shall be prohibited from taking any punitive administrative action against any member granted critical incident leave under this section solely on the basis of the provision of such leave unless the leave was provided, at least in part, based upon the member's fraud, deceit, or misrepresentation.

7. The superintendent is authorized to promulgate rules and regulations to implement, administer, and enforce the provisions of this section.

§ 215. Organization; salaries; qualifications; appointment; term; rules and regulations. 1. The New York state police shall, in addition to the superintendent, consist of the following sworn members:

(a) a headquarters staff consisting of the following positions:

(1) one first deputy superintendent;

(2) one deputy superintendent who shall serve as field commander;

(3) one deputy superintendent in charge of administrative services;

(4) one deputy superintendent in charge of employee relations, training and human resources;

(5) one deputy superintendent who shall serve as chief inspector in charge of inspectional services and internal affairs;

(6) one counsel;

(7) seven assistant deputy superintendents, one of whom shall be assigned to the uniform force, one to the bureau of criminal investigation, two for administrative services, one for employee relations, training and human resources, and two who shall serve as deputy chief inspectors;

(8) one confidential assistant;

(9) one first assistant counsel and such assistant counsels and staff attorneys as the superintendant may appoint;

(10) such inspectors as the superintendent may appoint;

(11) such majors, one of whom shall be the director of training and commanding officer of the New York state police academy and one of whom shall be in charge of the detail assigned for special duty with the governor, as the superintendent may appoint;

(12) such captains as the superintendent may appoint;

(13) such technical lieutenants as the superintendent may appoint;

(14) one chief technical sergeant;

(15) such staff sergeants and technical sergeants as the superintendent may appoint from time to time; and

(16) such additional members as the superintendent may deem necessary for the adequate and proper administration of the New York state police.

(b) in addition to the headquarters staff there shall be not less than ten troops each composed of:

(1) one major;

(2) not less than seven lieutenants; such lieutenants designated as captains by the superintendent shall serve as zone commanders;

(3) one first sergeant;

(4) such sergeants as the superintendent may appoint within the sums appropriated therefor; sergeants designated by the superintendent as zone sergeants shall serve as assistant zone commanders;

(5) such technical sergeants as the superintendent may appoint from time to time within the sums appropriated therefor;

(6) such corporals as shall hold office as such; and

(7) such troopers as the superintendent may appoint within the sums appropriated therefor.

Appointment or assignment to such positions shall be made by the superintendent who shall also fix the salaries for such positions subject to the approval of the director of the budget within the sums appropriated therefor.

The superintendent may appoint to the troops, within the sums appropriated therefor, as members of the New York state police, such numbers as may be required to carry out the purposes of the New York state police, and he may also from time to time, within the sums appropriated therefor, appoint such other additional personnel as may be

required for all necessary police purposes, including policing and protecting the lands and parkways of the state.

2. a. Salary schedules for the titles of trooper, sergeant, technical sergeant, station commander, zone sergeant, first sergeant, staff sergeant, chief technical sergeant, lieutenant, technical lieutenant, lieutenant BCI, captain, captain BCI and major:

(1) Effective April first, two thousand twenty-three, members of the collective negotiating unit consisting of troopers in the division of state police shall receive a basic annual salary pursuant to the following schedule:

	Orange, Putnam and Dutchess Counties	City of New York, Rockland and Westchester Counties	Nassau and Suffolk Counties	All Other Locations
Trainee 1	N/A	N/A	N/A	$61,400
Step 1	$87,101	$88,401	$88,471	$86,861
Step 2	$92,406	$93,705	$94,045	$92,162
Step 3	$95,583	$96,880	$97,221	$95,339
Step 4	$99,348	$100,644	$100,986	$99,105
Step 5	$103,531	$104,829	$105,171	$103,289

(2) Effective April first, two thousand twenty-four, members of the collective negotiating unit consisting of troopers in the division of state police shall receive the basic annual salary pursuant to the following schedule:

	Orange, Putnam and Dutchess Counties	City of New York, Rockland and Westchester Counties	Nassau and Suffolk Counties	All Other Locations
Trainee 1	N/A	N/A	N/A	$63,242
Step 1	$89,714	$91,053	$91,403	$89,467
Step 2	$95,178	$96,516	$96,866	$94,927
Step 3	$98,450	$99,786	$100,138	$98,199
Step 4	$102,328	$103,663	$104,016	$102,078
Step 5	$106,637	$107,974	$108,326	$106,388

(3) Effective April first, two thousand twenty-five, members of the collective negotiating unit consisting of troopers in the division of

state police shall receive a basic annual salary pursuant to the following schedule:

	Orange, Putnam and Dutchess Counties	City of New York, Rockland and Westchester Counties	Nassau and Suffolk Counties	All Other Locations
Trainee 1	N/A	N/A	N/A	$65,139
Step 1	$92,405	$93,785	$94,145	$92,151
Step 2	$98,033	$99,411	$99,772	$97,775
Step 3	$101,404	$102,780	$103,142	$101,145
Step 4	$105,398	$106,773	$107,136	$105,140
Step 5	$109,836	$111,213	$111,576	$109,580

(4) Effective April first, two thousand twenty-three, members of the collective negotiating unit consisting of commissioned and non-commissioned officers in the division of state police shall receive a basic annual salary pursuant to the following schedule:

	O/P/Du	NYC/R/W	Nass/Suff	All Others
Sergeant and Technical				
Sergeant	$121,949	$123,248	$123,589	$121,706
Station Commander	$125,889	$127,189	$127,528	$125,650
Zone Sergeant	$127,898	$129,193	$129,534	$127,657
First, Staff and Chief				
T/Sgt	$134,479	$135,775	$136,116	$134,235
Lieutenant and Technical				
Lieutenant	$145,735	$147,031	$147,371	$145,495
Lieutenant BCI	$148,590	$149,887	$150,228	$148,346
Captain	$155,422	$156,719	$157,063	$155,180
Captain BCI	$158,319	$159,614	$159,955	$158,074
Major	$165,609	$166,904	$167,244	$165,363

(5) Effective April first, two thousand twenty-four, members of the collective negotiating unit consisting of commissioned and

non-commissioned officers in the division of state police shall receive a basic annual salary pursuant to the following schedule:

	O/P/Du	NYC/R/W	Nass/Suff	All Others
Sergeant and Technical Sergeant	$125,607	$126,945	$127,297	$125,357
Station Commander	$129,666	$131,005	$131,354	$129,420
Zone Sergeant	$131,735	$133,069	$133,420	$131,487
First, Staff and Chief T/Sgt	$138,513	$139,848	$140,199	$138,262
Lieutenant and Technical Lieutenant	$150,107	$151,442	$151,792	$149,860
Lieutenant BCI	$153,048	$154,384	$154,735	$152,796
Captain	$160,085	$161,421	$161,775	$159,835
Captain BCI	$163,069	$164,402	$164,754	$162,816
Major	$170,577	$171,911	$172,261	$170,324

(6) Effective April first, two thousand twenty-five, members of the collective negotiating unit consisting of commissioned and non-commissioned officers in the division of state police shall receive a basic annual salary pursuant to the following schedule:

	O/P/Du	NYC/R/W	Nass/Suff	All Others
Sergeant and Technical Sergeant	$129,375	$130,753	$131,116	$129,118
Station Commander	$133,556	$134,935	$135,295	$133,303
Zone Sergeant	$135,687	$137,061	$137,423	$135,432
First, Staff and Chief T/Sgt	$142,668	$144,043	$144,405	$142,410
Lieutenant and				

Technical Lieutenant	$154,610	$155,985	$156,346	$154,356
Lieutenant BCI	$157,639	$159,016	$159,377	$157,380
Captain	$164,888	$166,264	$166,628	$164,630
Captain BCI	$167,961	$169,334	$169,697	$167,700
Major	$175,694	$177,068	$177,429	$175,434

b. The salary schedules in subparagraphs one, two, three and four of paragraph a of this subdivision shall reflect a five-step progression from the entry level, step 1 salary to the highest level, step 5, for the position of trooper.

c. The salary schedules in paragraph a of this subdivision reflect the basic annual salary for employees in those titles listed whose principal place of employment, or in the case of a field employee, whose official station as determined in accordance with the regulations of the state comptroller is located in the locations listed in the salary schedule. The salary schedules shall not be applicable to those members in the title of Special Trooper.

2-a. The superintendent may also appoint a division physician who shall be the medical consultant and chief medical examiner of the New York state police, and assistant division physicians each of whom shall be an assistant medical consultant and assistant chief medical examiner of the New York state police.

3. The sworn members of the New York state police shall be appointed by the superintendent and permanent appointees may be removed by the superintendent only after a hearing. No person shall be appointed to the New York state police force as a sworn member unless such person shall be a citizen of the United States, between the ages of twenty-one and forty-three years. Notwithstanding any other provision of law or any general or special law to the contrary the time spent on military duty, not exceeding a total of six years, shall be subtracted from the age of any applicant who has passed their forty-third birthday, solely for the purpose of permitting qualification as to age and for no other purpose.

Such limitations as to age however shall not apply to persons appointed to the positions of counsel, first assistant counsel, assistant counsel, and assistant deputy superintendent for employee relations nor to any person appointed to the bureau of criminal investigation pursuant to section two hundred sixteen of this article nor shall any person be appointed unless such person has fitness and good moral character and shall have passed a physical and mental examination based upon standards provided by the rules and regulations of the superintendent. Appointments shall be made for a probationary period which, in the case of appointees required to attend and complete a basic training program at the state police academy, shall include such time spent attending the basic school and terminate one year after successful completion thereof. All other sworn members shall be subject to a probationary period of one year from the date of appointment. Following satisfactory completion of the probationary period the member shall be a permanent appointee. Voluntary resignation or withdrawal from the New York state police during such appointment shall be submitted to the superintendent for approval. Reasonable time shall be required to account for all equipment issued or for debts or obligations to the state to be satisfied. Resignation or withdrawal from the division during a time of emergency, so declared by the governor, shall not be approved if contrary to the best interest of the state and shall be a misdemeanor. No sworn member removed from the New York state police shall be eligible for reappointment. The superintendent shall make rules and regulations subject to approval by the governor for the discipline and control of the New York state police and for the examination and qualifications of applicants for appointment as members thereto and such examinations shall be held and conducted by the superintendent subject to such rules and regulations. The superintendent is authorized to charge a fee of twenty dollars as an application fee for any person applying to take a competitive examination for the position of trooper, and a fee of five dollars for any competitive examination for a civilian position. The superintendent shall promulgate regulations subject to the approval of the director of the budget, to provide for a waiver of the application fee when the fee would cause an unreasonable hardship on the applicant and to establish a fee schedule and charge fees for the use of state police facilities.

3-a. Notwithstanding any other law, rule or regulation to the contrary, the superintendent shall promulgate rules and regulations subject to approval by the governor for the administration of supplemental competitive examinations, to be given at not less than six month intervals for two years following the application deadline date of the regular competitive examination for the position of trooper, for individuals who, on the application deadline date or on the date of the regular competitive examination, are in the active military service and are otherwise qualified to sit for such exam.

4. The comptroller is hereby authorized to deduct from the salary of any member of the New York state police or any employee of the New York state police who holds life or group insurance under any salary savings plan of the insurer such amounts, for payment of the premium thereon, as such member or employee may specify in writing filed with the comptroller, and to transmit to the insurer the sums so deducted. Any such written authorization may be withdrawn by such member or employee at any time upon filing written notice of such withdrawal with the comptroller. Notwithstanding the foregoing provisions of this subdivision, the employee organization certified, pursuant to article fourteen of the civil service law, to represent the collective negotiating unit consisting of troopers in the division of state police shall have exclusive payroll deduction of membership dues and premiums for insurance and mass-merchandized automobile and homeowners' insurance policies for members of such collective negotiating unit and the employee organization certified to represent the collective negotiating unit consisting of commissioned and non-commissioned officers and the employee organization certified to represent the collective negotiating unit consisting of investigators, senior investigators and investigative specialists in the division of state police shall have exclusive payroll deduction of premiums for insurance programs for members of such collective negotiating unit for which it is so certified. Payroll deductions for such dues and premiums for members of such collective negotiating units shall not be authorized for any other employee organization or group except by express written approval of such appropriate certified employee organization.

5. Whenever the superintendent finds that under community wage practices in private or other public employment in one or more areas or locations in the state, wage rates of police officers in a given location are substantially higher than the wage rates paid by the state, he or she may, subject to the approval of the director of the budget, authorize a pay differential to be added as an adjustment to the established salary rates for the same or related occupations in the state police in such areas or locations. A pay differential under this subdivision shall be a percentage or a fixed dollar amount as prescribed in each case by the superintendent subject to the approval of the director of the budget. Such differentials shall be in addition to and shall not be part of a member's basic annual salary, and shall not affect or impair any performance advancement payments, performance awards, longevity payments or other rights or benefits to which a member may be entitled under the provisions of this chapter, provided, however, that any differential payable pursuant to this subdivision shall be included as compensation for retirement purposes. A pay differential shall be terminated for any member when he or she ceases to be employed in the position, or area or location for which such pay differential was authorized. A pay differential shall remain in effect until terminated by the superintendent, with the consent of the director of the budget or until a new pay differential is authorized pursuant to this subdivision. The director of the budget may adopt such regulations as he or she may deem necessary to carry out the provisions of this subdivision.

§ 216. Bureau of criminal investigation. 1. The superintendent may continue, within the New York state police, a bureau of criminal investigation and assign to it members of the New York state police in such numbers and appoint to it such investigative specialists in such numbers as may be required for the purpose of preventing, investigating and detecting violations of the criminal laws of the state, and conducting such other investigations as may be provided for by law. Members of the New York state police assigned to the bureau of criminal investigation and investigative specialists appointed to the bureau by the superintendent shall be classified as (a) investigators; (b) senior

investigators; (c) lieutenants; (d) captains; provided, however, that investigative specialists appointed to the bureau of criminal investigation may be appointed as investigators or senior investigators at salaries to be determined by the superintendent with the approval of the director of the budget within the range from minimum to maximum provided for in this section for the positions to which appointments are made. Investigative specialists appointed to the bureau of criminal investigation shall be deemed to be members of the New York state police upon the filing by them of the constitutional oath of office, but shall not be eligible for transfer to the uniform force unless otherwise qualified under section two hundred fifteen of this article. The superintendent may employ, from time to time, within the appropriation, such skilled experts, scientists, technicians or other specially qualified persons as he deems necessary to aid the bureau and the New York state police in preventing or detecting crime, apprehending criminals, or preparing and presenting evidence of violations of the criminal laws of the state. Upon request of the head of any state department, or of any police agency or of any district attorney within the state, the superintendent may assign to such requesting authority members of the state police attached to the bureau of criminal investigation in such numbers and for such periods of time as he may deem necessary for the purpose of investigating and detecting felonies committed within the state. Members of the state police assigned or appointed to the bureau of criminal investigation are empowered to cooperate with departments of the United States government in the investigation of violations of the federal laws of the grade of felony within this state. The superintendent may, from time to time, establish headquarters or stations in such localities of the state as he shall deem most suitable for the efficient operation of the bureau of criminal investigation.

2. (a) There shall be within the bureau of criminal investigation a hate crime task force. The superintendent shall assign to it such personnel as may be required for the purpose of preventing, investigating, and detecting hate crimes as defined in article four hundred eighty-five and sections 240.30 and 240.31 of the penal law. When at all possible, the task force members shall assist and support

other law enforcement agencies in preventing, investigating, and detecting offenses committed due to a perception or belief regarding the race, color, national origin, ancestry, gender, religion, religious practice, age, disability or sexual orientation of a person.

(b) The task force shall issue reports and publications, in conjunction with the division of human rights and the division of criminal justice services, in order to inform persons of all available rights and remedies under the penal law as referenced in paragraph (a) of this subdivision, as well as prohibitions against discrimination because of age, race, creed, color, national origin, sexual orientation, military status, sex, disability, familial status, domestic violence victim status, genetic predisposition status, or marital status as those terms are defined by article fifteen of this chapter.

(c) The first report issued by the hate crimes task force, as required by paragraph (b) of this subdivision, shall be issued within ninety days of the effective date of this subdivision. Subsequent reports shall be issued annually thereafter.

3. a. Salary schedules for investigators, senior investigators, and investigative specialists in the division of state police.

(1) Effective April first, two thousand twenty-three, members assigned to the bureau of criminal investigation as investigators and investigative specialists appointed to the bureau by the superintendent, shall receive a basic annual salary pursuant to the following schedule:

		Orange	New York City	
		Putnam	Rockland	Nassau
YOS	All Other	Dutchess	Westchester	Suffolk
0-1	$109,305	$109,305	$109,305	$109,305
1-2	$112,519	$112,519	$112,519	$112,519
2-3	$114,985	$115,229	$116,525	$116,866
3-4	$114,985	$115,229	$116,525	$116,866
4-5	$114,985	$115,229	$116,525	$116,866
5-6	$114,985	$115,229	$116,525	$116,866
6+	$116,092	$116,334	$117,633	$117,974

(2) Effective April first, two thousand twenty-four, members assigned to the bureau of criminal investigation as investigators and investigative specialists appointed to the bureau by the superintendent,

shall receive a basic annual salary pursuant to the following schedule:

YOS	All Other	Orange Putnam Dutchess	New York City Rockland Westchester	Nassau Suffolk
0-1	$112,584	$112,584	$112,584	$112,584
1-2	$115,895	$115,895	$115,895	$115,895
2-3	$118,435	$118,686	$120,021	$120,372
3-4	$118,435	$118,686	$120,021	$120,372
4-5	$118,435	$118,686	$120,021	$120,372
5-6	$118,435	$118,686	$120,021	$120,372
6+	$119,575	$119,824	$121,162	$121,513

(3) Effective April first, two thousand twenty-five, members assigned to the bureau of criminal investigation as investigators and investigative specialists appointed to the bureau by the superintendent, shall receive a basic annual salary pursuant to the following schedule:

YOS	All Other	Orange Putnam Dutchess	New York City Rockland Westchester	Nassau Suffolk
0-1	$119,372	$119,372	$119,372	$119,372
1-2	$119,372	$119,372	$119,372	$119,372
2-3	$121,988	$122,247	$123,622	$123,983
3-4	$121,988	$122,247	$123,622	$123,983
4-5	$121,988	$122,247	$123,622	$123,983
5-6	$121,988	$122,247	$123,622	$123,983
6+	$123,162	$123,419	$124,797	$125,158

(4) Effective April first, two thousand twenty-three, members assigned to the bureau of criminal investigation as senior investigators appointed to the bureau by the superintendent, shall receive a basic annual salary pursuant to the following schedule:

YOS	All Other	Orange Putnam Dutchess	New York City Rockland Westchester	Nassau Suffolk
0-1	$127,515	$127,757	$129,056	$129,397
1-2	$127,515	$127,757	$129,056	$129,397
2-3	$127,515	$127,757	$129,056	$129,397
3-4	$127,515	$127,757	$129,056	$129,397
4-5	$127,515	$127,757	$129,056	$129,397

5-6	$127,515	$127,757	$129,056	$129,397
6+	$128,622	$128,864	$130,160	$130,502

(5) Effective April first, two thousand twenty-four, members assigned to the bureau of criminal investigation as senior investigators appointed to the bureau by the superintendent, shall receive a basic annual salary pursuant to the following schedule:

YOS	All Other	Orange Putnam Dutchess	New York City Rockland Westchester	Nassau Suffolk
0-1	$131,340	$131,590	$132,928	$133,279
1-2	$131,340	$131,590	$132,928	$133,279
2-3	$131,340	$131,590	$132,928	$133,279
3-4	$131,340	$131,590	$132,928	$133,279
4-5	$131,340	$131,590	$132,928	$133,279
5-6	$131,340	$131,590	$132,928	$133,279
6+	$132,481	$132,730	$134,065	$134,417

(6) Effective April first, two thousand twenty-five, members assigned to the bureau of criminal investigation as senior investigators appointed to the bureau by the superintendent, shall receive a basic annual salary pursuant to the following schedule:

YOS	All Other	Orange Putnam Dutchess	New York City Rockland Westchester	Nassau Suffolk
0-1	$135,280	$135,538	$136,916	$137,277
1-2	$135,280	$135,538	$136,916	$137,277
2-3	$135,280	$135,538	$136,916	$137,277
3-4	$135,280	$135,538	$136,916	$137,277
4-5	$135,280	$135,538	$136,916	$137,277
5-6	$135,280	$135,538	$136,916	$137,277
6+	$136,455	$136,712	$138,087	$138,450

(7) With respect to subparagraphs one, two, three, four, five and six of this paragraph, members assigned to the bureau of criminal investigation as investigators, investigative specialists and senior investigators appointed to the bureau by the superintendent shall be paid a basic annual salary consistent with their years of service in the bureau and their principal place of employment, or, in the case of a field employee, whose official station, as determined in accordance with

the regulations of the state comptroller, is located in the city of New York or in the counties of Orange, Putnam, Dutchess, Rockland, Westchester, Nassau, or Suffolk as depicted on the schedules contained in subparagraphs one, two, three, four, five and six of this paragraph.

(8) When any member assigned to the bureau of criminal investigation completes a year of service entitling them to move to a higher salary, they shall be paid the higher salary at the start of the pay period immediately following their completion of the required years of service in the bureau that move them to the next higher salary.

§ 216-a. Scientific crime detection laboratory. 1. The superintendent may maintain a scientific crime detection laboratory, and may appoint, employ or assign a director thereof, and such additional members or employees as he may deem necessary for the proper maintenance and operation of such scientific crime detection laboratory, within the appropriation. The superintendent may also employ, from time to time, within the appropriation, such skilled experts, scientists, technicians or other specially qualified persons as he deems necessary to aid the New York state police and the laboratory in preventing or detecting crime, apprehending criminals, or preparing and presenting evidence of violations of the criminal laws of the state.

2. The superintendent may, from time to time, establish headquarters or stations in such localities of the state as he shall deem most suitable for the efficient operation of the laboratory.

§ 216-b. Salary increments. 1. A member whose annual basic salary is prescribed by subparagraph one of paragraph a of subdivision two of section two hundred fifteen of this article shall receive the minimum salary of his position plus the number of increments which corresponds to his years of service in such position, subject to the provisions of this section, provided, however, that effective July first, nineteen hundred seventy-one initial employment in the position of trooper shall be at the training rate and progression of such members or any other troopers paid at such training rate to the minimum salary of the

position of trooper shall be by means of an annual increment equal to the difference between the training rate and the minimum salary of the position of trooper subject to the conditions described in this subdivision, except that on or after the date that the first collectively negotiated agreement entered into after April first, nineteen hundred eighty-one pursuant to article fourteen of the civil service law covering the unit consisting of troopers in the division of state police is executed in writing, initial employment in the position of trooper shall be at training rate one and, such members shall advance to training rate two effective on the first day of the next payroll period following the member's anniversary date of appointment to the division of state police, subject to the provisions of section forty-four of the state finance law, provided the member's service in the position has been satisfactory in the judgment of the superintendent, and further progression of such members to the minimum salary of the position of trooper shall be by means of an annual increment subject to the conditions described in this subdivision. Annual increments shall become effective on the first day of the next payroll period following the member's anniversary date of appointment to the division of state police, subject, however, to the provisions of section forty-four of the state finance law. Except as provided below, a member shall be eligible to receive an increment in such position on the first day of the next payroll period following the member's anniversary date of appointment to the division of state police, provided his service in the position or positions held by the member during the previous year has been satisfactory in the judgment of the superintendent. No member shall receive an increment which would result in the member receiving an annual salary in excess of the maximum salary prescribed for his position, or the amount to which he may be entitled pursuant to subdivisions two and five of this section. Notwithstanding the foregoing provisions of this subdivision, members who are initially employed in the position of trooper on or after October first, nineteen hundred eighty-one shall be employed at training rate one and such members shall advance to training rate two effective on the first day of the payroll period immediately following their completion of one year of service to the division, and further advancements of such members to step one and subsequent steps shall be by means of an annual increment

to be effective on the first day of the payroll period following their completion of each additional year of service; such advancement shall be subject to the provisions of section forty-four of the state finance law and shall be payable provided the member's service has been satisfactory in the judgment of the superintendent. Notwithstanding the foregoing provisions of this subdivision, on and after April first, nineteen hundred ninety-six, members who are undergoing their initial training at the New York state police academy shall receive the academy trainee salary and effective upon graduation from such training shall advance to trainee rate two and such members shall advance to step one effective on the first day of the payroll period immediately following their completion of one year of service to the division, and further advancement of such members to subsequent steps shall be by means of an annual increment to be effective on the first day of the payroll period following their completion of each additional year of service; such advancement shall be subject to the provisions of section forty-four of the state finance law and shall be payable provided the member's service has been satisfactory in the judgment of the superintendent.

2. (a)(1) Effective April first, two thousand twenty-three, all members in the position of trooper in the division of state police, which shall not include those in the title of special trooper, who on their anniversary date of employment with the division of state police have attained six or more years of such satisfactory service in the division, shall be paid a longevity award according to the following schedule for each year of such satisfactory service up to twenty-five years:

Years of Service	Amount per year
6-10	$556
11-15	$608
16-25	$659

(2) Effective April first, two thousand twenty-four, all members in the position of trooper in the division of state police, which shall not include those in the title of special trooper, who on their anniversary date of employment with the division of state police have attained six or more years of such satisfactory service in the division, shall be paid a longevity award according to the following schedule for each year

of such satisfactory service up to twenty-five years:

Years of Service	Amount per year
6-10	$573
11-15	$626
16-25	$679

(3) Effective April first, two thousand twenty-five, all members in the position of trooper in the division of state police, which shall not include those in the title of special trooper, who on their anniversary date of employment with the division of state police have attained six or more years of such satisfactory service in the division, shall be paid a longevity award according to the following schedule for each year of such satisfactory service up to twenty-five years:

Years of Service	Amount per year
6-10	$590
11-15	$645
16-25	$699

(4) Individuals with greater than twenty-five years of service shall continue to receive a longevity award at the twenty-five year amount. Such payment shall commence in the pay period following such anniversary date and shall be annualized and paid over the year-long period between anniversary dates.

(b) The longevity amounts provided by this subdivision shall be in addition to, and shall not be a part of, a member's annual basic salary, and shall not impair any increments or other rights or benefits to which a member may be entitled; provided, however, that longevity awards shall be included as compensation for purposes of computation of overtime pay and for retirement purposes. The provisions of this paragraph shall not apply to members in the title of special trooper.

3. (a)(1) Effective April first, two thousand twenty-three, all members in the collective negotiating unit consisting of commissioned and non-commissioned officers in the division of state police, who on their anniversary date of employment with the division of state police have attained six or more years of such satisfactory service in the division, shall be paid a longevity award according to the following schedule for each year of such satisfactory service up to twenty-five years:

Years of Service	Amount per year
6-10	$556
11-15	$608
16-25	$659

(2) Effective April first, two thousand twenty-four, all members in the collective negotiating unit consisting of commissioned and non-commissioned officers in the division of state police, who on their anniversary date of employment with the division of state police have attained six or more years of such satisfactory service in the division, shall be paid a longevity award according to the following schedule for each year of such satisfactory service up to twenty-five years:

Years of Service	Amount per year
6-10	$573
11-15	$626
16-25	$679

(3) Effective April first, two thousand twenty-five, all members in the collective negotiating unit consisting of commissioned and non-commissioned officers in the division of state police, who on their anniversary date of employment with the division of state police have attained six or more years of such satisfactory service in the division, shall be paid a longevity award according to the following schedule for each year of such satisfactory service up to twenty-five years:

Years of Service	Amount per year
6-10	$590
11-15	$645
16-25	$699

(4) Individuals with greater than twenty-five years of service shall continue to receive a longevity award at the twenty-five year amount. Such payment shall commence in the pay period following such anniversary date and shall be annualized and paid over the year-long period between anniversary dates.

(b) Eligible members in the collective negotiating unit consisting of commissioned and non-commissioned officers in the division of state police, who are commissioned officers, effective April first, two thousand, shall be paid supplemental longevities in addition to the longevities provided for in paragraph (a) of this subdivision, in accordance with the following schedule:

After five years following appointment as a commissioned officer - five hundred dollars

After ten years following appointment as a commissioned officer - one thousand dollars

After fifteen years following appointment as a commissioned officer - one thousand five hundred dollars

Such payment shall commence in the pay period following such anniversary date and shall be annualized and paid over the year-long period between anniversary dates.

(c) The longevity amounts provided by this subdivision shall be in addition to, and shall not be a part of, a member's annual basic salary, and shall not impair any other rights or benefits to which a member may be entitled; provided, however, that longevity awards shall be included as compensation for purposes of computation of overtime pay and for retirement purposes.

4. If a member is reassigned from the bureau of criminal investigation to the uniform force in a competitive position, he shall be reassigned to his permanent rank and, upon such reassignment, shall receive the step entitlement, additional annual salary entitlement pursuant to subdivision two of this section and additional increment pursuant to subdivision three of this section of his permanent rank as he would have earned in such rank had his service in the bureau of criminal investigation been rendered continuously in his permanent rank to which he is reassigned; provided, however, that the foregoing provisions of this subdivision shall not create an entitlement to retroactive payments.

5. (a) (1) Effective April first, two thousand twenty-three, all members of the collective negotiating unit consisting of investigators, senior investigators and investigative specialists in the division of state police, who on their anniversary date of employment with the division of state police have attained six or more years of such satisfactory service in the division, shall be paid a longevity award

according to the following schedule for each year of such satisfactory service up to twenty-five years:

Years of Service	Amount per year
6-10	$556
11-15	$608
16-25	$659

(2) Effective April first, two thousand twenty-four, all members of the collective negotiating unit consisting of investigators, senior investigators and investigative specialists in the division of state police, who on their anniversary date of employment with the division of state police have attained six or more years of such satisfactory service in the division, shall be paid a longevity award according to the following schedule for each year of such satisfactory service up to twenty-five years:

Years of Service	Amount per year
6-10	$573
11-15	$626
16-25	$679

(3) Effective April first, two thousand twenty-five, all members of the collective negotiating unit consisting of investigators, senior investigators and investigative specialists in the division of state police, who on their anniversary date of employment with the division of state police have attained six or more years of such satisfactory service in the division, shall be paid a longevity award according to the following schedule for each year of such satisfactory service up to twenty-five years:

Years of Service	Amount per year
6-10	$590
11-15	$645
16-25	$699

(4) Individuals with greater than twenty-five years of service shall continue to receive a longevity award at the twenty-five-year amount. Such payment shall commence in the pay period following such anniversary date and shall be annualized and paid over the year-long period between anniversary dates.

(b) The longevity amounts provided by this subdivision shall be in addition to, and shall not be a part of, a member's annual basic salary,

and shall not impair any increments or other rights or benefits to which a member may be entitled; provided, however, that longevity awards shall be included as compensation for purposes of computation of overtime pay and for retirement purposes.

§ 216-c. Holiday compensation. 1. Notwithstanding the provisions of section one hundred thirty-five of the civil service law, members of the division of state police, other than troopers attending the state police academy for basic training, the division physician, assistant division physicians, inspectors, deputy chief inspectors, confidential assistant to the superintendent, the assistant deputy superintendents, the chief inspector, the counsel, first assistant counsel, assistant counsels, deputy superintendents, first deputy superintendent, state police director of personnel, assistant director of personnel-state police and the state police director of scientific laboratory shall effective April first, nineteen hundred eighty-five for members in the collective negotiating unit consisting of commissioned and non-commissioned officers in the division of state police and effective June thirteenth, nineteen hundred eighty-five for such other members receive annual holiday compensation in an amount to be computed for each member by dividing his annual basic salary by one thousand nine hundred ninety-two hours to obtain an hourly rate of pay and multiplying such hourly rate by fifty-two and four-tenths hours, adjusted to the next higher whole dollar amount. Such compensation shall be in lieu of any other premium which may be paid for work on a legal holiday and shall be included in and be a part of the member's annual basic salary and on and after April first nineteen hundred eighty-five for members in the collective negotiating unit consisting of commissioned and non-commissioned officers in the division of state police established pursuant to article fourteen of the civil service law and on and after June thirteenth, nineteen hundred eighty-five for such other members is included in the annual basic salary schedules applicable to such members pursuant to this article.

2. In addition to the compensation provided in subdivision one of this section, members of the collective negotiating unit consisting of

investigators, senior investigators and investigative specialists in the division of state police, on the payroll on November first of each year, shall receive holiday compensation as follows:

April 1, 2023	$1,835
April 1, 2024	$1,890
April 1, 2025	$1,947

Such payments shall be in addition to, and shall not be part of, the member's annual basic salary, except for the purpose of retirement and, effective May eighth, two thousand twenty-five, overtime, and shall be made in a separate check during the payroll period which includes December first each year.

§ 216-d. Consumer product protection. 1. The superintendent, in consultation with the commissioner of the division of criminal justice services, shall establish a program to investigate actual and/or suspected cases of consumer product tampering, as defined in sections 145.35, 145.40 and 145.45 of the penal law, within this state and may assign such employees, as deemed necessary for the proper operation of such program.

2. Such program shall provide that the state police may, upon request, act as the coordinating agency responding to cases of suspected product tampering. The superintendent in conjunction with the commissioner of the division of criminal justice services, shall, by regulation, establish uniform procedures that may be used by other agencies involved in such cases.

3. The superintendent, in conjunction with the commissioner of the division of criminal justice services, and with the cooperation of the department of health, the department of agriculture and markets, and other pertinent agencies, shall promulgate such additional rules and regulations which in his/her discretion are necessary for the efficient operation of this section. These regulations should include but not be limited to the following:

a. the establishment of uniform procedures to be used whenever a law enforcement or regulatory agency or other agency becomes involved in a consumer product tampering incident. Such regulations shall require that the state police provide direct investigative assistance or support services to any law enforcement or regulatory agency upon request;

b. the establishment of a computerized central data base, located at division headquarters, which will function as an information management and retrieval system for matters involving consumer product tampering. Notification of all consumer product tampering cases made to law enforcement, regulatory agencies or other agencies shall be reported to the central data base within five hours of such notification;

c. authorization, upon request, to use the scientific crime detection laboratory to analyze evidence in connection with state police cases or cases that originate with other law enforcement, regulatory agencies or other agencies; and

d. establishment of a twenty-four hour consumer product tampering phone line, to be set up at Headquarters' communication section in Albany.

4. The superintendent, in cooperation with the division of criminal justice services, shall make recommendations to the municipal police training council for the establishment of a formalized consumer product tampering training program for all law enforcement personnel.

§ 217. Communication. There shall be established in the division of state police, executive department, a basic coordinating police communication system at the headquarters of the division of state police and at such substations of the state police as shall be designated by the superintendent of state police, for the purpose of prompt collection and distribution of information throughout the state of New York as the police problems of the state may require. This basic system shall be known as the New York statewide police information network. Authority is hereby granted to connect the basic system herein provided for,

directly or indirectly with other similar state, national or international systems.

§ 218. Installation, operation and maintenance of basic system; personnel. The superintendent of state police is hereby authorized to install, operate and maintain the basic system and to employ the necessary personnel, within the appropriation, for its installation, operation and maintenance; the persons so employed may be members of the state police, or employees, particularly qualified for the duty they are to perform.

§ 219. Availability. The basic system herein provided for may be made available for use by any department or division of the state government and by any municipal, county, town, village, railroad or other special police department lawfully maintained by any corporation in this state, subject to the following terms and conditions: (a) application for permission to connect with the basic system shall be made to the superintendent of state police on forms to be provided by him; (b) such application may be approved by the superintendent of state police if, as and when in his discretion such connection is requisite and necessary for the best interests of the entire system; (c) upon approval of such application and before the applicant shall be connected with the basic system, such applicant must agree to assume and pay all rentals for sending and receiving stations or receiving stations only, as may be authorized by the superintendent of state police for installation within the jurisdiction of the applicant, and any and all costs of installation and operation of such stations; (d) the state shall pay all rental for necessary wire or circuit mileage required to connect such stations with the basic system.

§ 220. Orders, rules or regulations. The basic system herein provided for shall remain at all times under the control of the superintendent of state police and such control may be exercised by him through any member of the state police as he shall designate for such purpose. The

superintendent of state police is hereby authorized to make and issue such orders, rules or regulations for the use of this system as in his discretion are necessary for efficient operation.

§ 221. System of criminal justice information. 1. When any peace officer or police agency within this state shall receive a complaint that a felony involving the use of deadly physical force or a deadly weapon has been committed, and if the perpetrator thereof be not apprehended within thirty minutes after such complaint has been received, or, in the case of any other felony, if the perpetrator thereof be not apprehended within five hours, such police agency shall cause information of such felony to be electronically entered into the New York statewide police information network in accordance with the rules for such entry promulgated by the superintendent of state police. Police agencies not directly connected with the New York statewide police information network shall transmit such information to the nearest or most convenient electronic entry point, from which point it will be immediately dispatched, in conformity with the orders, rules or regulations governing the network.

2. Any warrant of arrest, bench warrant or superior court warrant of arrest, as such terms are defined in section 1.20 of the criminal procedure law, relating to any offense defined as a felony in subdivision five of section 10.00 of the penal law, or a probation warrant issued pursuant to section 410.40 of the criminal procedure law, must be entered into the system no later than forty-eight hours from the time it is received by the police officer or peace officer to whom it is addressed if the subject of the warrant has not been apprehended prior to that time.

3. When any police officer, peace officer or police agency in the state shall receive a complaint of a missing child, as defined in subdivision one of section eight hundred thirty-seven-e of this chapter, such police officer, peace officer or police agency may, in his or her discretion, as appropriate, cause information concerning such missing child to be promptly dispatched over the police communication system.

Police agencies not connected with the basic system may transmit such information to the nearest or most convenient electronic entry point, from which point it may be promptly dispatched, in conformity with the orders, rules or regulations governing the system. No dispatch or transmission of a report concerning a missing child shall be required by this subdivision if the investigating police department advises, in its discretion, that the release of such information may jeopardize the investigation or the safety of the child, or requests forbearance for any reason.

§ 221-a. Computer system to carry information of orders of protection and warrants of arrest. 1. The superintendent, in consultation with the division of criminal justice services, office of court administration, and the office for the prevention of domestic violence, shall develop a comprehensive plan for the establishment and maintenance of a statewide computerized registry of all orders of protection issued pursuant to articles four, five, six, eight and ten of the family court act, section 530.12 of the criminal procedure law and, insofar as they involve victims of domestic violence as defined by section four hundred fifty-nine-a of the social services law, section 530.13 of the criminal procedure law and sections two hundred forty and two hundred fifty-two of the domestic relations law and those orders of protection which a court orders filed with the registry pursuant to subdivision five of section 530.13 of the criminal procedure law, and any warrant arising therefrom, extreme risk protection orders issued pursuant to article sixty-three-A of the civil practice law and rules, and orders of protection issued by courts of competent jurisdiction in another state, territorial or tribal jurisdiction, special orders of conditions issued pursuant to subparagraph (i) or (ii) of paragraph (o) of subdivision one of section 330.20 of the criminal procedure law insofar as they involve a victim or victims of domestic violence as defined by subdivision one of section four hundred fifty-nine-a of the social services law or a designated witness or witnesses to such domestic violence, and all warrants issued pursuant to sections one hundred fifty-three and eight hundred twenty-seven of the family court act, and arrest and bench warrants as defined in subdivisions twenty-eight, twenty-nine and thirty

of section 1.20 of the criminal procedure law, insofar as such warrants pertain to orders of protection or temporary orders of protection; provided, however, that warrants issued pursuant to section one hundred fifty-three of the family court act pertaining to articles three and seven of such act and section 530.13 of the criminal procedure law except as provided for in this subdivision shall not be included in the registry. The superintendent shall establish and maintain such registry for the purposes of ascertaining the existence of orders of protection, temporary orders of protection, warrants and special orders of conditions, and for enforcing the provisions of paragraph (b) of subdivision four of section 140.10 of the criminal procedure law.

2. The superintendent shall prescribe standardized forms for warrants issued in connection with orders of protection and special orders of conditions included in the statewide computerized registry. Except for orders of protection issued by courts of competent jurisdiction in another state, territorial or tribal jurisdiction, only those standardized forms prescribed herein and pursuant to section eight hundred fourteen-a of the family court act, subdivision three of section two hundred forty of the domestic relations law, and subdivision twelve of section 530.12 and subdivision one of section 530.13 of the criminal procedure law shall be utilized in cases resulting in orders which must be entered into the statewide computerized registry.

3. Whenever any court issues an order of protection or special order of conditions, the sheriff's office or appropriate municipal police department in the county in which the complainant or petitioner resides, or if he or she resides within a city, the police department of such city, which receives a copy of the order of protection or special order of conditions from the clerk of the court or otherwise pursuant to law, shall promptly transmit such information on the order of protection or special order of conditions as required by rule and regulation over the law enforcement communication system, including but not limited to: the names of the parties to the proceeding giving rise to such order, the date such order becomes effective, the date such order was served or whether the defendant or respondent had actual knowledge of such order because he or she was present in court when such order was issued, the

date such order is to expire, and the terms and conditions of such order. When any peace officer, acting pursuant to his or her special duties, or police officer receives a warrant issued by family court, supreme court or by a criminal court pertaining to an order of protection or special order of conditions, as described in subdivision one of this section, the officer shall cause specific information on the warrant as required by rule and regulation to be promptly dispatched over the law enforcement communication system. For purposes of this subdivision, municipal shall have the same meaning as municipality, as defined in subdivision six of section eight hundred thirty-five of this chapter. Notwithstanding the provisions of article fifty-four of the civil practice law and rules, a person entitled to protection under an order of protection issued by a court of competent jurisdiction in another state, territorial or tribal jurisdiction, may file such order without fee with the clerk of a court in this state having jurisdiction over family, criminal or matrimonial proceedings; such order shall be accompanied by a sworn affidavit that upon information and belief such order is in effect as written and has not been vacated or modified. Upon such filing, information regarding such order shall be transmitted to the statewide computerized registry in accordance with this section, provided, however, that such filing and registry entry shall not be required for enforcement of such order.

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

5. In no case shall the state or any state or local law enforcement official or court official be held liable for any violations of rules and regulations promulgated under this section, or for damages for any delay or failure to file an order of protection or special order of

conditions, or to transmit information to the law enforcement communication network pertaining to such orders or related family court arrest warrants, or for acting in reliance upon such information. For purposes of this subdivision law enforcement official shall include but not be limited to an employee of a sheriff's office, or a municipal police department or a peace officer acting pursuant to his or her special duties.

6. The superintendent shall establish procedures for the prompt removal of orders of protection and special orders of conditions from the active files of the registry upon their expiration. The superintendent shall establish procedures for prompt disclosure of such orders and warrants consistent with the purposes of paragraph (a-1) of subdivision one of section two hundred forty of the domestic relations law and subdivision (e) of section six hundred fifty-one of the family court act.

§ 221-b Reporting to New York state violent crimes analysis program. 1. Every law enforcement agency which receives a report of an actual or attempted abduction or molestation shall notify the New York state violent crimes analysis program, via the requirements of the New York statewide police information network, of such report. Such program shall make comparisons of data in its files, and report to the law enforcement agency making an initial report, any similarities to other reports received by such program. The violent crimes analysis program shall also notify the unit of a law enforcement agency which investigates homicides when a report reveals similarities, patterns or modus operandi which appear in reports of homicides.

2. Notwithstanding any other provision of law to the contrary, every law enforcement agency that accepts responsibility for investigating a homicide or attempted homicide, the discovery of unidentified human remains, a reported missing person case where circumstances indicate a strong possibility of foul play, or a sexual assault or attempted sexual assault, shall make a written report of such investigation to the New York state violent crimes analysis program. Such program shall conduct a

computerized commonality analysis and provide the submitting law enforcement agency the results of such analysis. Every written report made to the violent crimes analysis program shall be in form and content as determined and prescribed by such program, upon the approval of the superintendent of state police. An initial written report shall be made to the violent crimes analysis program within thirty days of commencement of an investigation. The results of a computerized commonality analysis shall be provided by such program to the submitting law enforcement agency upon completion of such analysis in a timely manner, as prescribed by the superintendent of state police.

§ 221-c. Statewide repository of data relating to unlawful methamphetamine laboratories. The division of state police shall maintain a statewide repository of data relating to unlawful methamphetamine laboratories, and develop and implement a program to provide for the collection of data and the reporting thereof by law enforcement agencies. Data acquired by law enforcement agencies relating to unlawful methamphetamine laboratories shall be sent to the repository as soon as reasonably practicable. Data in the repository shall be made available to law enforcement agencies for the purpose of assisting them in combating the unlawful manufacture, preparation or production of methamphetamine.

§ 221-d. Discovery of an unlawful methamphetamine laboratory. 1. Whenever a law enforcement agency discovers or recognizes the presence of an unlawful methamphetamine laboratory, such agency shall, as soon as reasonably practicable, notify, or cause to be notified, the division of state police regarding the location of such laboratory.

2. Whenever the division of state police receives a report of an unlawful methamphetamine laboratory, or discovers or recognizes the presence of an unlawful methamphetamine laboratory, such division, as soon as reasonably practicable shall notify, or cause to be notified, the department of environmental conservation of such information.

§ 222. Radio communication system. The superintendent may establish a system of police radio communication and for such purpose may purchase or lease all necessary equipment for the operation thereof within the appropriation.

*** § 223. Duties and powers of the superintendent of state police and of members of the state police.** 1. It shall be the duty of the superintendent of the state police and of members of the state police to prevent and detect crime and apprehend criminals. They shall also be subject to the call of the governor and are empowered to co-operate with any other department of the state or with local authorities. They shall also collect and analyze information relating to prevention and detection of terrorist threats and terrorist activities throughout the state and share all such information subject to paragraph (g) of subdivision two of section seven hundred nine of this chapter among the division of homeland security and emergency services, and local, state, and federal law enforcement agencies to ensure the coordination of appropriate intelligence to assist in the early identification of and response to potential terrorist threats and terrorist activities. They shall have power to arrest, without a warrant, any person committing or attempting to commit within their presence or view a breach of the peace or other violation of law, to serve and execute warrants of arrest or search issued by proper authority and to exercise all other powers of police officers of the state of New York. Any such warrants issued by any magistrate of the state may be executed by them in any part of the state according to the tenor thereof without indorsement. But they shall not exercise their powers within the limits of any city to suppress rioting and disorder except by direction of the governor or upon the request of the mayor of the city with the approval of the governor. Any member of the rank of sergeant or above may take pre-arraignment bail from any defendant in the amounts and under the circumstances and conditions that police may take bail.

2. The superintendent may, by written order, designate a police officer, as defined in paragraph (b), (c) or (d) of subdivision

thirty-four of section 1.20 of the criminal procedure law, to assist members of the state police in order to more effectively address the detection of crime and apprehension of criminals within the state and its localities. Police officers so designated, while actively working in conjunction with members of the state police either directly or as part of a specific task force, shall be paid by and remain employees of their particular county, city, town or village, but shall for purposes of the criminal procedure law, have their geographic area of employment deemed to be New York state.

* NB Effective until September 1, 2027

* § 223. Duties and powers of the superintendent of state police and of members of the state police. It shall be the duty of the superintendent of the state police and of members of the state police to prevent and detect crime and apprehend criminals. They shall also be subject to the call of the governor and are empowered to co-operate with any other department of the state or with local authorities. They shall also collect and analyze information relating to prevention and detection of terrorist threats and terrorist activities throughout the state and share all such information subject to paragraph (g) of subdivision two of section seven hundred nine of this chapter among the division of homeland security and emergency services and local, state, and federal law enforcement agencies to ensure the coordination of appropriate intelligence to assist in the early identification of and response to potential terrorist threats and terrorist activities. They shall have power to arrest, without a warrant, any person committing or attempting to commit within their presence or view a breach of the peace or other violation of law, to serve and execute warrants of arrest or search issued by proper authority and to exercise all other powers of police officers of the state of New York. Any such warrants issued by any magistrate of the state may be executed by them in any part of the state according to the tenor thereof without indorsement. But they shall not exercise their powers within the limits of any city to suppress rioting and disorder except by direction of the governor or upon the request of the mayor of the city with the approval of the governor. Any member of the rank of sergeant or above may take pre-arraignment bail from any defendant in the amounts and under the circumstances and conditions that police may take bail.

* NB Effective September 1, 2027

§ 224. Verification of complaint. Where a summons has been served by a member of the state police in lieu of arrest, in cases of violation of the vehicle and traffic law or such ordinances, rules or regulations enacted pursuant thereto or pursuant to any other law relating to traffic, or in cases of violations of the navigation law or such ordinances, rules or regulations enacted pursuant thereto or pursuant to any other law relating to navigation, any major, any captain or any lieutenant or sergeant of the state police assigned to the troop in which the service of the summons is reported, is hereby authorized to administer to such member all necessary oaths in connection with the execution of the complaint to be presented in court by such member in the prosecution of such offense.

§ 225. Enforcement of conservation law. All the powers and duties now conferred or imposed upon inspectors and game protectors under article four of the conservation law, in relation to fish, birds and quadrupeds, hereafter shall be exercised and performed by the state police, inspectors and game protectors.

§ 225-a. Lost and found property. The state police shall perform the duties with respect to found property and found instruments provided in article seven-b of the personal property law. The superintendent may designate a member or members of the state police to accept and keep custody of found property and instruments, may prescribe procedures for determining the value and for estimating the net sum likely to be realized by sale at public auction of lost property as defined in such article, for disposition of derelict automobiles and other property having no value or salvage value only and for sale of property as authorized by such article and may prescribe rules not inconsistent with such article seven-b with respect to form and manner of giving notices and with respect to forms of reports of found property or instruments and with respect to storage of found property.

§ 226. Employment of state police in towns, villages, police districts. 1. The governing board of any police district provided for under article fourteen-a of the town law or of any town or of any village, may from time to time respectively contract upon behalf of said district, town or village with the superintendent of state police upon behalf of the state for the regular assignment of state police to said district, town or village upon the following terms and conditions: The superintendent of state police shall detail such number of state police officers as shall be agreed upon to such district, town or village for a period of one year; the pay, maintenance and other expenses of such detail for a period of one year shall be computed by the superintendent of state police with the approval of the state comptroller pro rata upon the total cost of the pay, maintenance and similar expenses of the whole department; before such contract shall take effect the governing board of said district, town or village shall deposit to the credit of the division of state police in a depository to be designated by the state comptroller with proper sureties, one half the sum of money so computed and upon the first day of the sixth month during the continuance of said contract shall likewise deposit the remainder of said sum; the superintendent of state police, upon audit of the comptroller, shall draw upon said depository for the pay, maintenance and other expenses of said detail when due; said detail shall have all the powers and duties and shall remain at all times under the authority and discipline of the superintendent of state police as provided for state police assigned to regular duty under this article.

2. The superintendent of state police is authorized to appoint temporarily to the regular force provided for in this article, troopers, non-commissioned officers and officers to fill the places of those detailed under such agreements. In police districts the money to be deposited as required hereunder shall be provided for as authorized under article fourteen-a of the town law as added in nineteen hundred and twenty; in towns and villages the money so deposited shall be raised by taxation.

§ 227. Disability benefits. The following benefits shall be paid by the state on account of disability of a member of the division of state police:

1. To every person now a member or who shall hereafter become a member of the division of state police, who is now or who shall hereafter become physically or mentally unable to perform his regular duties in a manner satisfactory to the superintendent of the division of state police there shall be paid during the period of such disability an amount of not less than one-third nor more than one-half of his salary including maintenance allowance, which amount within such limits shall be determined by a board consisting of the superintendent of state police, the attorney-general and the state comptroller. A member of the New York state employees' retirement system who has heretofore served as a member of the division of state police for a period of fifteen years or more and who, following such a period of service, has heretofore been retired for ordinary disability under the provisions of section seventy-eight of the civil service law shall, notwithstanding the provisions of section ninety-three of the civil service law, receive from the state from appropriations made for the purpose of this section such sum as will bring his retirement allowance under section seventy-eight of the civil service law up to the amount which he would have received under this subdivision if he were not a member of the New York state employees' retirement system and were entitled to the benefits provided for by this subdivision, to be determined in the manner prescribed thereby.

2. The provisions of this section shall not apply in the case of any member of the division of state police who is a member of the New York state employees' retirement system unless he was retired by such system for ordinary disability prior to May twenty-second, nineteen hundred forty-two.

§ 227-a. Death benefits. 1. The following benefit shall be paid by the state on account of death of a member of the division of state police.

To the widow, until she be married again, or the dependent children under the age of twenty-one years, or the dependent mother of every member of the division of state police whose death has been heretofore caused or shall hereafter be caused by injury or disease contracted in the performance of duty there shall be paid annually as long as such dependency continues upon certification of a board consisting of the superintendent of state police, the attorney general and the state comptroller, one-half the salary including maintenance allowance, received by such member at the time of death.

2. Notwithstanding any law, rule or regulation to the contrary, where an agreement between the state and an employee organization representing members of the collective negotiating unit consisting of investigators, senior investigators and investigative specialists of the division of state police, or the collective negotiating unit consisting of troopers in the division of state police or the collective negotiating unit consisting of commissioned and non-commissioned officers of the division of state police established pursuant to article fourteen of the civil service law so provides, a survivor's benefit for a member in such negotiating unit shall be paid in an amount as provided in such agreement in the event that such employee dies subsequent to April first, nineteen hundred eighty-five, as the result of an accidental on-the-job injury, provided that it is finally determined by the appropriate federal authorities that a public safety officer's death benefit is not payable pursuant to sections three thousand seven hundred ninety-six through three thousand seven hundred ninety-six-c of title forty-two of the United States code, and provided further that a death benefit is paid pursuant to the workers' compensation law. Such survivor's benefit shall be paid to the member's surviving spouse and dependent children in the same proportion as the death benefit provided by the workers' compensation law is paid. In the event that the member is not survived by a spouse or dependent children, the survivor's benefit shall be paid to the estate of the member. Such survivor's benefit shall be in addition to and not in place of any other survivor's or death benefit payable on behalf of such member, except that such benefit shall not be payable if a public safety officer's death benefit is payable pursuant to sections three thousand seven hundred ninety-six

through three thousand seven hundred ninety-six-c of the United States code.

3. Notwithstanding any law, rule or regulation to the contrary, where an agreement between the state and an employee organization representing members of the collective negotiating unit consisting of investigators, senior investigators and investigative specialists of the division of state police or the collective negotiating unit consisting of troopers in the division of state police or the collective negotiating unit consisting of commissioned and non-commissioned officers of the division of state police established pursuant to article fourteen of the civil service law so provides, the state shall provide the child or children of such members for whom a survivor's benefit is paid pursuant to subdivision two of this section, or for whom a federal public safety officer's benefit is payable as specified in subdivision two of this section, with full tuition up to the amount charged by the state university of New York to attend any college or university provided, however, such child or children meet the entrance requirements of such college or university. Such child or children are those who are designated by the workers' compensation board to receive a death benefit pursuant to the workers' compensation law.

§ 228. National instant criminal background checks. 1. (a) The division is hereby authorized and directed to serve as a state point of contact for implementation of 18 U.S.C. sec. 922 (t), all federal regulations and applicable guidelines adopted pursuant thereto, and the national instant criminal background check system for the purchase of firearms and ammunition.

(b) Upon receiving a request from a licensed dealer pursuant to section eight hundred ninety-six or eight hundred ninety-eight of the general business law, the division shall initiate a background check by (i) contacting the National Instant Criminal Background Check System (NICS) or its successor to initiate a national instant criminal background check, and (ii) consulting the statewide firearms license and records database established pursuant to subdivision three of this section, in order to determine if the purchaser is a person described in

sections 400.00 and 400.03 of the penal law, or is prohibited by state or federal law from possessing, receiving, owning, or purchasing a firearm or ammunition.

2. (a) The division shall report the name, date of birth and physical description of any person prohibited from possessing a firearm pursuant to 18 U.S.C. sec. 922(g) or (n) to the national instant criminal background check system index, denied persons files.

(b) Information provided pursuant to this section shall remain privileged and confidential, and shall not be disclosed, except for the purpose of enforcing federal or state law regarding the purchase of firearms or ammunition.

(c) Any background check conducted by the division, or delegated authority, of any applicant for a permit, firearms identification card license, ammunition sale, or registration, in accordance with the requirements of section 400.00 of the penal law, shall not be considered a public record and shall not be disclosed to any person not authorized by law or this chapter to have access to such background check, including the applicant. Any application for a permit, firearms identification card, ammunition sale, or license, and any document reflecting the issuance or denial of such permit, firearms identification card, or license, and any permit, firearms identification card, license, certification, certificate, form of register, or registration statement, maintained by any state or municipal governmental agency, shall not be considered a public record and shall not be disclosed to any person not authorized by law to have access to such documentation, including the applicant, except on the request of persons acting in their governmental capacities for purposes of the administration of justice.

3. The division shall create and maintain a statewide firearms license and records database which shall contain records held by the division and any records that it is authorized to request from the division of criminal justice services, office of court administration, New York state department of health, New York state office of mental health, and other local entities. Such database shall be used for the certification and recertification of firearm permits under section 400.02 of the penal

law, assault weapon registration under subdivision sixteen-a of section 400.00 of the penal law, and ammunition sales under section 400.03 of the penal law. Such database shall also be used to initiate a national instant criminal background check pursuant to subdivision one of this section upon request from a licensed dealer. The division may create and maintain additional databases as needed to complete background checks pursuant to the requirements of this section.

4. The superintendent shall promulgate a plan to coordinate background checks for firearm and ammunition purchases pursuant to this section and to require any person, firm or corporation that sells, delivers or otherwise transfers any firearm or ammunition to submit a request to the division in order to complete the background checks in compliance with federal and state law, including the National Instant Criminal Background Check System (NICS), in New York state. Such plan shall include, but shall not be limited to, the following features:

(a) The creation of a centralized bureau within the division to receive and process all background check requests, which shall include a contact center unit and an appeals unit. Staff may include but is not limited to: bureau chief, supervisors, managers, different levels of administrative analysts, appeals specialists and administrative personnel. The division shall employ and train such personnel to administer the provisions of this section.

(b) Procedures for carrying out the duties under this section, including hours of operation.

(c) An automated phone system and web-based application system, including a toll-free telephone number and/or web-based application option for any licensed dealer requesting a background check in order to sell, deliver or otherwise transfer a firearm which shall be operational every day that the bureau is open for business for the purpose of responding to requests in accordance with this section.

5. (a) Each licensed dealer that submits a request for a national instant criminal background check pursuant to this section shall pay a fee imposed by the bureau for performing such background check. Such fee shall be allocated to the background check fund established pursuant to section ninety-nine-pp of the state finance law. The amount of the fee

shall not exceed the total amount of direct and indirect costs incurred by the bureau in performing such background check.

(b) The bureau shall transmit all moneys collected pursuant to this paragraph to the state comptroller, who shall credit the same to the background check fund.

6. On January fifteenth of each calendar year, the bureau shall submit a report to the governor, the temporary president of the senate, and the speaker of the assembly concerning:

a. the number of employees used by the bureau in the preceding year for the purpose of performing background checks pursuant to this section;

b. the number of background check requests received and processed during the preceding calendar year, including the number of "proceed" responses and the number and reasons for denials;

c. the calculations used to determine the amount of the fee imposed pursuant to this paragraph.

7. Within sixty days of the effective date of this section, the superintendent shall notify each licensed dealer holding a permit to sell firearms of the requirement to submit a request to the division to initiate a background check pursuant to this section as well as the following means to be used to apply for background checks:

i. any person, firm or corporation that sells, delivers or otherwise transfers firearms shall obtain a completed ATF 4473 form from the potential buyer or transferee including name, date of birth, gender, race, social security number, or other identification numbers of such potential buyer or transferee and shall have inspected proper identification including an identification containing a photograph of the potential buyer or transferee.

ii. it shall be unlawful for any person, in connection with the sale, acquisition or attempted acquisition of a firearm from any transferor,

to willfully make any false, fictitious oral or written statement or to furnish or exhibit any false, fictitious, or misrepresented identification that is intended or likely to deceive such transferor with respect to any fact material to the lawfulness of the sale or other disposition of such firearm under federal or state law. Any person who violates the provisions of this subparagraph shall be guilty of a class A misdemeanor.

8. Any potential buyer or transferee shall have thirty days to appeal the denial of a background check, using a form established by the superintendent. Upon receipt of an appeal, the division shall provide such applicant a reason for a denial within thirty days. Upon receipt of the reason for denial, the appellant may appeal to the attorney general.

§ 229. Retirement for cause. a. The superintendent may recommend the retirement for cause of any member of the New York state police who is covered by the twenty year retirement plan set forth in section three hundred eighty-one-b of the retirement and social security law, and who has twenty-five or more years of creditable service under such plan. The superintendent shall mail a written notice of such recommendation to the member at his home address, which notice shall set forth the reasons for the recommendation. At any time within thirty days after the mailing of such recommendation, the member or any person authorized to act on his behalf may serve a written demand for a review of the recommendation. After the service of such demand the superintendent shall refer his recommendation to the review panel established pursuant to this section, the decision of which shall be subject to review only as provided in article seventy-eight of the civil practice law and rules.

b. The said review panel shall consist of three persons who shall be selected as follows. One person shall be selected by the superintendent. One person shall be selected by the employee organization recognized or certified to represent the member pursuant to the provisions of article fourteen of the civil service law. The third person shall be selected by the other two or, if they cannot agree, he shall be selected by the public employment relations board. Each of the three persons so selected

shall be appointed by the superintendent and shall hold office until a successor has been selected and appointed.

c. If the member does not serve a timely demand for a review of the recommendation of the superintendent; or if the review panel shall adopt the recommendation of the superintendent, the superintendent shall certify the name of the member to the state comptroller for retirement for cause.

d. As used in this section, the term retirement for cause shall mean a retirement recommended by the superintendent after a finding by him that a member is no longer capable of performing his duties satisfactorily.

§ 230. Gun trafficking interdiction program. 1. There is hereby created within the division of criminal justice services a gun trafficking interdiction program to be administered by the commissioner of the division of criminal justice services to distribute funds in accordance with the provisions of this section for the purpose of interdicting guns and components of guns illegally entering New York with a focus on those "supplier" states from which substantial numbers of guns illegally enter this state.

2. The superintendent of the division of state police, in cooperation with the United States department of treasury, bureau of alcohol, tobacco and firearms and district attorneys in New York state, shall develop and implement a strategy for the interdiction of guns illegally entering New York from supplier states. The strategy shall include identifying and prosecuting gun traffickers and suppliers of such guns who may be violating federal, state or local laws, and cooperating with the United States department of treasury, bureau of alcohol, tobacco and firearms and appropriate prosecutorial agencies and law enforcement agencies in supplier states in the investigation and enforcement of such laws. District attorneys are authorized to enter into collaborative agreements with prosecutorial and other governmental agencies and entities in supplier states in an effort to stop the movement of illegal guns into New York.

3. The commissioner of the division of criminal justice services shall award grant monies to district attorneys for programs which are designed to interdict the flow of illegal guns across New York state borders. In order to qualify for such grant monies, a district attorney must submit an application to the commissioner of the division of criminal justice services in accordance with guidelines prescribed by the division of criminal justice services. The application shall identify a strategy and implementation plan for preventing the entry of illegal guns across New York's borders. Funds awarded under this section shall not be used to supplant federal, state or local funds. No more than fifty percent of the funds available pursuant to this section in any one fiscal year shall be awarded for programs within a single city, county, town or village.

4. The superintendent of the division of state police shall establish and maintain within the division a criminal gun clearinghouse as a central repository of information regarding all guns seized, forfeited, found or otherwise coming into the possession of any state or local law enforcement agency which are believed to have been used in the commission of a crime. The superintendent of the division of state police shall adopt and promulgate regulations prescribing reporting procedures for such state or local law enforcement agencies, including the form for reporting such information. In addition to any other information which the superintendent of the division of state police may require, the form shall require (a) the serial number or other identifying information on the gun, if available and (b) a brief description of the circumstances under which the gun came into the possession of the law enforcement agency, including the crime which was or may have been committed with the gun. Whenever a state or local law enforcement agency seizes or recovers a gun that was unlawfully possessed, recovered from a crime scene, or is reasonably believed to have been used in or associated with the commission of a crime or is otherwise recovered as an abandoned or discarded gun, the agency shall report such seized or recovered gun to the criminal gun clearinghouse as soon as practicable, but in no case more than twenty-four hours after the agency has taken possession of such gun. Every report made to the

criminal gun clearinghouse will result in the prompt submission of a request to the national tracing center of the bureau of alcohol, tobacco, firearms and explosives to trace the movement of the subject gun and such federal agency will be requested to provide the results of such a trace to the superintendent of the division of state police and to the law enforcement agency that submitted the clearinghouse report.

5. All state and local law enforcement agencies shall participate in the bureau of alcohol, tobacco, firearms and explosives collective data sharing program for the purpose of sharing gun trace reports among all law enforcement agencies in the state on a reciprocal basis.

6. (a) The division of state police, in consultation with the division of criminal justice services, shall publish quarterly reports on their respective websites with information related to firearms, rifles and shotguns used in the commission of crimes in the state of New York, including but not limited to, information pertaining to the county and state of origin of the firearm, rifle or shotgun, the county and state where the firearm, rifle or shotgun was purchased, whether the firearm, rifle or shotgun was purchased by the perpetrator of the crime or by another individual, and whether the perpetrator had a license or permit to possess such firearm, rifle or shotgun.

(b) Each political subdivision, municipality, commission, agency, office, department, board and division in the state, to the extent not inconsistent with other provisions of law, shall cooperate fully with the division of state police and the division of criminal justice services and shall furnish such information and assistance, in the form and manner specified by the division of state police and the division of criminal justice services, as may be required in the performance of their function under this subdivision. If such information is not readily available or accessible, the relevant local law enforcement agency will make efforts to obtain such information, including but not limited to the reporting requirements set forth in subdivision five of this section. Such information shall be provided to the extent allowable by federal, state or any other applicable law.

7. (a) Whenever a state or local law enforcement agency seizes or

recovers a gun that was unlawfully possessed, recovered from the scene of a crime, or is reasonably believed to have been used or associated with the commission of a crime, or is recovered by the agency as an abandoned or discarded gun, the agency shall arrange for every such gun that is determined to be suitable for test-firing and of a type that is eligible for national integrated ballistic information network data entry and correlation to be test-fired as soon as practicable, and the results of that test-firing shall be submitted forthwith to the national integrated ballistic information network to determine whether the gun is associated or related to a crime, criminal event, or any individual associated or related to a crime or criminal event or reasonably believed to be associated or related to a crime or criminal event.

(b) Whenever a state or local law enforcement agency recovers any ammunition cartridge case that is of a type that is eligible for national integrated ballistic information network data entry and correlation at a crime scene, or has reason to believe that such recovered ammunition cartridge case is related to or associated with the commission of a crime or the unlawful discharge of a gun, the agency shall, as soon as practicable, arrange for the ballistics information to be submitted to the national integrated ballistic information network.

8. Whenever a state or local law enforcement agency seizes or recovers any gun, the agency shall promptly enter the make, model, caliber, and serial number of the gun into the national crime information center (NCIC) system to determine whether the gun was reported stolen.

9. The superintendent may adopt rules and regulations to effectuate the provisions of this section.

§ 231. Uniform identification cards for retired police officers. 1. The superintendent shall develop and distribute uniform identification cards to all sworn members of New York state police, upon such members' retirement in good standing, which identification cards shall contain all the following information:

(a) the individual's name;

(b) a description of the individual as a retired sworn member of the

New York state police;

(c) a state police photograph of the person;

(d) the New York State Police seal; and

(e) any other information the superintendent deems appropriate.

2. For purposes of this section "retirement in good standing" shall mean that the sworn member of the New York state police retired from his or her employment for reasons other than the avoidance of disciplinary charges.

§ 232. Sexual assault victims unit. There is hereby established within the division of state police the sexual assault victims unit, which shall be a specialized unit having advanced training in responding to sexual assaults, including campus sexual assaults, and related crimes. The sexual assault victims unit shall perform such tasks as determined by the superintendent, which shall include but not be limited to providing assistance, including forensic support services, to campus police or local police or sheriff's departments, and providing training to college campus communities.

§ 233. Municipal gun buyback program. 1. There is hereby established within the division of the state police a municipal gun buyback program. Agencies approved by the superintendent may participate subject to available appropriations and funds in the municipal gun buyback fund established pursuant to section ninety-seven-cc of the state finance law.

2. The division of state police shall administer the municipal gun buyback program and promulgate rules and regulations the superintendent deems necessary for the implementation of such program. Such rules shall include, but not be limited to:

(a) the manner in which an agency may apply for funds to support a municipal gun buyback program and the manner in which such funds will be allocated and distributed;

(b) guidelines for the safe storage and disposal of firearms, rifles,

shotguns, and ammunition received as part of the program in the possession of the participating agency, return of any recovered stolen property to its rightful owner as appropriate, and retention for evidence of any firearm, rifle, or shotgun suspected to have been used in a crime;

(c) guidelines for an agency participating in the program to coordinate with community groups within its jurisdiction; and

(d) guidelines for allowing individuals to surrender firearms, rifles and shotguns and eligibility for monetary rewards.

3. The provisions of subparagraph (f) of paragraph one of subdivision a of section 265.20 of the penal law shall apply to any person voluntarily surrendering a firearm, rifle or shotgun pursuant to this section.

4. Any agency shall be authorized to develop and implement its own municipal gun buyback program provided it is otherwise permitted by law and conforms to the rules and regulations promulgated by the superintendent and outlined in subdivision two of this section.

5. For purposes of this section "agency" means the police force or department of any county, city, town, or village or a county sheriff.

§ 234. New York state police body-worn cameras program. 1. There is hereby created within the division of state police a New York state police body-worn cameras program. The purpose of the program is to increase accountability and evidence for law enforcement and the residents of the state by providing body-worn cameras to all state police officers while on patrol.

2. The division of state police shall provide body-worn cameras, to be worn by officers at all times, while on patrol. Such cameras shall record:

(a) immediately before an officer exits a patrol vehicle to interact with a person or situation, even if there is a dash camera inside such vehicle which might also be recording the interaction;

(b) all uses of force, including any physical aggression and use of a non-lethal or lethal weapon;

(c) all arrests and summonses;

(d) all interactions with people suspected of criminal activity;

(e) all searches of persons and property;

(f) any call to a crime in progress;

(g) investigative actions where there are interactions with members of the public;

(h) any interaction with an emotionally disturbed person; and

(i) any instances where officers feel any imminent danger or the need to document their time on duty.

3. The attorney general may investigate any instance where body cameras fail to record an event pursuant to this section.

4. At the discretion of the officer, body-worn cameras may not record:

(a) sensitive encounters, including but not limited to speaking with a confidential informant, or conducting a strip search; or

(b) when a member of the public asks such officer to turn off the camera; provided, however, such officer may continue recording if he or she thinks a record of that interaction should be generated.

5. The division of state police shall preserve recordings of such body-worn cameras and perform all upkeep on equipment used in such body-worn cameras. Such duties shall include:

(a) creating a secure record of all instances where there is recorded video or audio footage;

(b) ensuring officers have sufficient storage capacity on their cameras to allow for the recording of interactions required by this section; and

(c) ensuring officers have access to body-worn cameras for the recording of instances required by this section.

§ 235. Firearms safety training, and licensing appeals. 1. The superintendent shall, in conjunction with the commissioner of the division of criminal justice services, promulgate policies and

procedures with regard to standardization of firearms safety training required under subdivision nineteen of section 400.00 of the penal law, which shall include the approval of course materials and the promulgation of proficiency standards for live fire training.

2. The superintendent, in conjunction with the commissioner of the division of criminal justice services, shall create an appeals board for the purpose of hearing appeals as provided in subdivision four-a of section 400.00 of the penal law and promulgate rules and regulations governing such appeals.

§ 236. Drones. 1. The terms used in this section shall have the same meaning as given in section 280.00 of the penal law.

2. A police officer as defined by subdivision thirty-four of section 1.20 of the criminal procedure law, or a peace officer as defined by section 2.10 of the criminal procedure law, acting within such peace officer's geographical jurisdiction, may take reasonable and necessary mitigation measures against a credible threat that a drone poses to the safety or security of people and/or prohibited spaces. Such measures may include but not be limited to any of the following:

(a) The use of detection, tracking, and identification methods of a drone and/or drone operating system.

(b) The interception or disabling of a drone and/or drone operating system through legal and safe methods, including but not limited to both kinetic and non-kinetic mitigation measures.

(c) A law enforcement officer or agency may only use kinetic measures when non-kinetic measures have or would reasonably be expected to fail, provided that such kinetic measures are deployed using federally approved technologies.

3. The superintendent shall, within six months of the effective date of this section, promulgate rules and regulations for drone mitigation by police officers and peace officers. Such rules and regulations shall prioritize the use of the least destructive measures necessary to mitigate the threat posed by the drone.

4. (a) A qualifying police officer or peace officer shall act pursuant to subdivision two of this section only if: (i) the officer has completed the training required by the superintendent or the superintendent's designee, in addition to any other training and certification required by federal law; (ii) the officer has reasonable suspicion that the drone is operating in a nefarious manner or within a prohibited space before using non-kinetic measures; and (iii) the officer has probable cause a drone is operating in a nefarious manner or within prohibited space before using kinetic measures. Any drone mitigation measure employed must occur in accordance with the regulations prescribed pursuant to subdivision three of this section and in accordance with applicable federal law.

(b) Within forty-eight hours of utilizing any mitigation measures authorized by this section, the agency employing the officer who utilized such measures shall report such utilization to the superintendent or the superintendent's designee, in the form and manner prescribed by the superintendent, in addition to any reporting required by federal law.

5. The superintendent may designate one or more areas of the state as a space to test kinetic and non-kinetic mitigation measures.

6. The superintendent shall establish a registry known as "the New York state blue list". Such registry shall include vetted and approved vendors that comply with applicable federal requirements. Upon publication of the registry, the state, its agencies, and any political subdivisions of the state may only buy or lease drones and drone mitigation technology from vendors listed on such registry.

ARTICLE 12

OFFICE OF PROBATION AND CORRECTIONAL ALTERNATIVES

Section 240. Office of probation and correctional alternatives.
242. State probation commission.
243. Supervision of administration of local probation and correctional alternatives.

244. Hostels and foster homes.
245. Probation staff training and development.
246. State aid for probation services.
248. Establishment of probation scholarships.
249. Educational or training leaves of absence.

§ 240. Office of probation and correctional alternatives. 1. There shall be in the division of criminal justice services an office of probation and correctional alternatives, hereinafter referred to in this article as "the office". The head of the office shall be the director of probation and correctional alternatives, who shall be appointed by the commissioner, subject to the approval of the governor.

2. The director shall serve as special advisor to the governor regarding matters pertaining to probation and alternatives to incarceration. The director shall, in consultation with the commissioner, coordinate and make recommendations relating to the type and nature of alternative to incarceration programs needed to reduce incarceration where the purpose of such incarceration can be adequately served by alternative programs and shall work with local probation departments and the commissioner to enhance and develop probation services and alternative to incarceration programs throughout the state.

3. The commissioner, in consultation with the director, shall appoint staff and perform such other functions to ensure the efficient operation of the office within the amounts made available therefor by appropriation.

4. As used in this article, the term "director" shall mean the director of the office of probation and correctional alternatives, "office" shall mean the office of probation and correctional alternatives, "commissioner" shall mean the commissioner of the division of criminal justice services and "division" shall mean the division of criminal justice services.

§ 242. State probation commission. 1. There shall be a state probation commission. It shall consist of the director and six other members to be selected as follows:

(a) three shall be appointed by the governor from among persons who, as members of the community, have demonstrated an interest and involvement in the field of probation, to hold office at the pleasure of the governor and until their successors are appointed;

(b) two shall be appointed by the governor from among the probation administrators and probation officers actually employed in the field of probation in this state who have demonstrated by work in a statewide professional association, concerned generally with probation affairs throughout the state, outstanding service to the field of probation, to hold office at the pleasure of the governor and until their successors are appointed; and

(c) one shall be the state administrator of the unified court system.

2. The present members of the state probation commission who were appointed to such commission by the governor shall continue as the members of said commission appointed pursuant to paragraph (a) of subdivision one of this section at the pleasure of the governor, and until their successors are appointed and have qualified. The director shall be chairman of the commission. No member of said probation commission shall receive any compensation for his or her services as a member of such commission, but the members shall be entitled to their actual necessary expenses incurred in the performance of their duties. The commissioner may from time to time assign an employee of the division to act as secretary to said probation commission. The duties of the members of said probation commission shall be to attend the meetings of such probation commission, at the time fixed by said commission, or called by the chairman of said commission, and to consider all matters relating to probation in the state, within the jurisdiction of the office, and to advise and consult with the director in regard thereto.

§ 243. Supervision of administration of local probation and correctional alternatives. 1. The office shall exercise general supervision over the administration of probation services throughout the

state, including probation in family courts and shall collect statistical and other information and make recommendations regarding the administration of probation services in the courts. The office shall endeavor to secure the effective application of the probation system and the enforcement of the probation laws and the laws relating to family courts throughout the state. After consultation with the state probation commission, the office shall recommend to the commissioner general rules which shall regulate methods and procedure in the administration of probation services, including investigation of defendants prior to sentence, and children prior to adjudication, supervision, case work, record keeping, and accounting, program planning and research so as to secure the most effective application of the probation system and the most efficient enforcement of the probation laws throughout the state. Such rules shall provide that the probation investigations ordered by the court in designated felony act cases under subdivision one of section 351.1 of the family court act shall have priority over other cases arising under articles three and seven of such act. When duly adopted by the commissioner, such rules shall be binding upon all probation officers and when duly adopted shall have the force and effect of law, but shall not supersede rules that may be adopted pursuant to the family court act. The office shall keep informed as to the work of all probation officers and shall from time to time inquire into and report upon their conduct and efficiency. The office may investigate the work of any probation bureau or probation officer and shall have access to all records and probation offices. The office may issue subpoenas to compel the attendance of witnesses or the production of books and papers. The office may administer oaths and examine persons under oath. The office may recommend to the appropriate authorities the removal of any probation officer. The office may from time to time publish reports regarding probation including probation in family courts, and the operation of the probation system including probation in family courts and any other information regarding probation as the office may determine provided expenditures for such purpose are within amounts appropriated therefor.

2. The office shall exercise general supervision over the utilization of correctional alternative programs throughout the state. The office

shall collect statistical and other information and make recommendations regarding the availability, identification, coordination and utilization of such programs. The office shall endeavor to facilitate communication and coordination among and between correctional alternative programs and probation services in order to assist in making effective use of such programs. A correctional alternative program shall be deemed to refer to those programs, including eligible programs as defined in paragraph b of subdivision one of section two hundred sixty-one of this chapter, which by themselves, or when used in conjunction with one or more programs or with probation services, may serve as an alternative to a sentence or disposition of incarceration or a portion thereof, and which shall serve the interests of justice. The office shall further exercise general supervision over the administration and implementation of alternatives to incarceration service plans under the provisions of article thirteen-A of this chapter. The office shall recommend to the commissioner general rules and regulations which shall regulate methods and procedures in the administration and funding of alternative to incarceration service plans, and any other correctional alternative program funded by the state through the division, including but not limited to issuance of quarterly reports as specified by section two hundred sixty-three of this chapter. When duly adopted by the commissioner, such rules and regulations shall be binding upon all counties and eligible programs that may be funded in such plans and when duly adopted shall have the force and effect of law. The office shall keep informed as to the development, implementation and utilization of plans and funded eligible programs therein and shall from time to time inquire into and report upon their work and efficiency. The office shall investigate the work of any funded plan or eligible program and shall have access to their records and offices for such purpose.

3. (a) The office shall have the authority to certify to the commissioner those correctional alternative programs subject to supervision of the office and determined to perform a criminal justice function, as defined in subdivision ten of section eight hundred thirty-five of this chapter, for the purpose of permitting access to criminal history records for criminal justice purposes, subject to the approval of the commissioner. Any such correctional alternative program

may apply for certification to the office in writing, on forms prescribed by the office. Such application shall specify, at a minimum, the following: the nature and scope of the program; the necessity for access to such records related to their criminal justice function; the names of employees, and their job titles or positions, for whom access is being sought; and any other information the office deems necessary. Certification shall include the designation of those employees of such programs for whom access to such records is authorized. No designated employee shall have access to such records until such person has satisfactorily completed appropriate training, required by the division.

(b) Notwithstanding any other provision of law, probation departments conducting investigations ordered by a court, for purposes of determining custody, adoption, visitation, or guardianship shall have access to criminal history records maintained by state law enforcement agencies for criminal justice purposes.

4. The office shall recommend to the commissioner rules and regulations which shall include guidelines and procedures on the placement of sex offenders designated as level two or level three offenders pursuant to article six-C of the correction law. Such regulations shall instruct local probation departments to consider certain factors when investigating and approving the residence of level two or level three sex offenders sentenced to a period of probation. Such factors shall include the following:

(a) the location of other sex offenders required to register under the sex offender registration act, specifically whether there is a concentration of registered sex offenders in a certain residential area or municipality;

(b) the number of registered sex offenders residing at a particular property;

(c) the proximity of entities with vulnerable populations;

(d) accessibility to family members, friends or other supportive services, including but not limited to locally available sex offender treatment programs with preference for placement of such individuals into programs that have demonstrated effectiveness in reducing sex offender recidivism and increasing public safety; and

(e) the availability of permanent, stable housing in order to reduce

the likelihood that such offenders will be transient.

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

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

§ 245. Probation staff training and development. The office of probation and correctional alternatives shall conduct training programs for city, county and state probation personnel, prepare and execute programs of information and education to interest persons in the field of probation as a vocation, encourage the development by schools within the state of courses of study in fields related to and bearing upon probation and engage in other activities of an educational or informational nature designed to increase the number of qualified

probation personnel and improve the caliber of probation service within the state. In order to effectuate the provisions of this section, the office of probation and correctional alternatives shall be authorized to prepare and disseminate printed materials, utilize media of public information, cooperate with public and private institutions of learning and employ qualified persons as lecturers or consultants on a fee basis to supplement services to be performed by its personnel hereunder. Such fees shall be payable out of funds appropriated for these purposes on the audit and warrant of the comptroller on vouchers certified or approved by the office.

§ 246. State aid for probation services. 1. The program of state aid to county probation services shall be administered by the division of criminal justice services with the advice of the state probation commission and the director of the office of probation and correctional alternatives. Funds appropriated to the division for distribution as state aid to county probation services and to the probation services of New York city shall be distributed by the division in accordance with rules and regulations adopted by the commissioner of the division of criminal justice services after consultation with the state probation commission and the director of the office of probation and correctional alternatives.

2. State aid shall be granted to the city of New York and the respective counties outside the city of New York for expenditures to be incurred by the county or city in maintaining and improving local probation services subject to amounts appropriated for this purpose. State aid grants shall not be used for expenditures for capital additions or improvements, or for debt service costs for capital improvements.

State aid shall be granted by the commissioner of the division of criminal justice services after consultation with the state probation commission and the director of the office of probation and correctional alternatives, provided the respective counties or the city of New York conform to standards relating to the administration of probation

services as adopted by the commissioner of the division of criminal justice services after consultation with the state probation commission and the director of the office of probation and correctional alternatives.

3. Applications from counties or the city of New York for state aid under this section shall be made by filing with the division of criminal justice services, a detailed plan, including cost estimates covering probation services for the fiscal year or portion thereof for which aid is requested. Included in such estimates shall be clerical costs and maintenance and operation costs as well as salaries of probation personnel and such other pertinent information as the commissioner of the division of criminal justice services may require. Items for which state aid is requested under this section shall be duly designated in the estimates submitted. The commissioner of the division of criminal justice services, after consultation with the state probation commission and the director of the office of probation and correctional alternatives, shall approve such plan if it conforms to standards relating to the administration of probation services as specified in the rules adopted by him or her.

4. An approved plan and compliance with standards relating to the administration of probation services promulgated by the commissioner of the division of criminal justice services shall be a prerequisite to eligibility for state aid.

* The commissioner of the division of criminal justice services may take into consideration granting additional state aid from an appropriation made for state aid for county probation services for counties or the city of New York when a county or the city of New York demonstrates that additional probation services were dedicated to intensive supervision programs and intensive programs for sex offenders. The commissioner shall grant additional state aid from an appropriation dedicated to juvenile risk intervention services coordination by probation departments which shall include, but not be limited to, probation services performed under article three of the family court act. The administration of such additional grants shall be made according to rules and regulations promulgated by the commissioner of

the division of criminal justice services. Each county and the city of New York shall certify the total amount collected pursuant to section two hundred fifty-seven-c of this chapter. The commissioner of the division of criminal justice services shall thereupon certify to the comptroller for payment by the state out of funds appropriated for that purpose, the amount to which the county or the city of New York shall be entitled under this section. The commissioner shall, subject to an appropriation made available for such purpose, establish and provide funding to probation departments for a continuum of evidence-based intervention services for youth alleged or adjudicated juvenile delinquents pursuant to article three of the family court act or for eligible youth before or sentenced under the youth part in accordance with the criminal procedure law. Such additional state aid shall be made in an amount necessary to pay one hundred percent of the expenditures for evidence-based practices and juvenile risk and evidence-based intervention services provided to youth sixteen years of age or older when such services would not otherwise have been provided absent the provisions of a chapter of the laws of two thousand seventeen that increased the age of juvenile jurisdiction.

* NB Effective until September 1, 2027

* The commissioner of the division of criminal justice services may take into consideration granting additional state aid from an appropriation made for state aid for county probation services for counties or the city of New York when a county or the city of New York demonstrates that additional probation services were dedicated to intensive supervision programs and intensive programs for sex offenders. The commissioner shall grant additional state aid from an appropriation dedicated to juvenile risk intervention services coordination by probation departments which shall include, but not be limited to, probation services performed under article three of the family court act. The administration of such additional grants shall be made according to rules and regulations promulgated by the commissioner of the division of criminal justice services. Each county and the city of New York shall certify the total amount collected pursuant to section two hundred fifty-seven-c of this chapter. The commissioner of the division of criminal justice services shall thereupon certify to the comptroller for payment by the state out of funds appropriated for that

purpose, the amount to which the county or the city of New York shall be entitled under this section. The commissioner shall, subject to an appropriation made available for such purpose, establish and provide funding to probation departments for a continuum of evidence-based intervention services for youth alleged or adjudicated juvenile delinquents pursuant to article three of the family court act or for eligible youth before or sentenced under the youth part in accordance with the criminal procedure law.

* NB Effective September 1, 2027

* 5. Any county or city that does not have an approved plan pursuant to section two hundred forty-three-a of this chapter may establish and implement expedited procedures for the probation service to determine that a child is the subject of a petition under article seven of the family court act or at risk of being the subject of such a petition, and for a social services official to determine eligibility for mandated preventive services pursuant to paragraph (a) of subdivision one of section four hundred nine-a of the social services law for a child who is the subject of a petition pursuant to article seven of the family court act, or is determined by an assessment unit to be at risk of being the subject of a petition, and is determined by a social services official to be at risk of placement into foster care.

* NB Effective until June 30, 2027

* 5. Any county or city that does not have an approved plan pursuant to section two hundred forty-three-a of this chapter may establish and implement expedited procedures for the probation service to determine that a child is the subject of a petition under article seven of the family court act or at risk of being the subject of such a petition, and for a social services official to determine eligibility for mandated preventive services pursuant to paragraph (a) of subdivision one of section four hundred nine-a of the social services law for a child who is the subject of a petition pursuant to article seven of the family court act, or is determined by an assessment unit to be at risk of being the subject of a petition, and is determined by a social services official according to standards promulgated pursuant to section three hundred ninety-eight-b of the social services law to be at risk of placement into foster care.

* NB Effective June 30, 2027

6. The director, after consultation with the state probation commission, may authorize or require the comptroller to withhold the payment of state aid to any county, or the city of New York, in the event that such county, or the city of New York, (a) fails to conform to standards of probation administration as formulated by the director pursuant to this section, (b) discontinues or fails to follow an approved plan, or (c) fails to enforce in a satisfactory manner rules promulgated pursuant to this section, or laws now in effect or hereafter adopted which relate in any manner to the administration of probation services.

§ 248. Establishment of probation scholarships. The office, out of moneys appropriated to it for that purpose, is authorized to grant scholarships for graduate training in any course of study that would be of substantial value in the field of probation at graduate schools located within the state whose programs are registered by the regents.

Each such scholarship shall entitle the holder thereof to a sum not to exceed four thousand dollars annually while in attendance at any of the said schools for a period not to exceed two years of graduate professional study.

Scholarships under this section shall be awarded only to residents of the state of New York who hold a degree of bachelor of arts or bachelor of science from a college or university, or the equivalent thereof.

The office, after consultation with the state probation commission, shall recommend to the commissioner rules governing the award of such scholarships, the publication of notices offering scholarships, the issuance and cancellation of certificates entitling persons to the benefits thereof, the use of such scholarships by the persons entitled thereto, the courses that may be included under such scholarships, the schools which may be attended under such scholarships, the rights and duties of scholarship holders and of the schools which they attend, and providing generally for the carrying into effect of the provisions of

this section; and may, by appropriate rule, require that holders of such scholarships be available for employment in probation work in the state of New York upon the completion of the training for which the scholarship is provided. The office shall, after consultation with the state probation commission, award such scholarships within such established rules, and any scholarship may be revoked for cause.

Payments of money under this section may be made to the holder of the scholarship or to the school or college attended under the scholarship, on behalf of, and for the benefit of, the holder of the scholarship.

Payments of money shall be ordered by the comptroller upon vouchers of the office certifying that the person named therein is entitled to receive the sum either directly, or for his or her benefit.

§ 249. Educational or training leaves of absence. The local director of probation, chief probation officer, or other head of a probation department, bureau or unit, if he is the appointing authority therefor, or otherwise such appointing authority, with the approval of the board of supervisors of the county or the appropriating body of the city having jurisdiction, may grant any probation officer or officers employed therein leave of absence, with or without pay, for attendance at graduate schools located within the state whose programs are registered by the regents to pursue any course of study or training that is of substantial assistance in probation work, or to receive additional training in another probation department, bureau or unit in New York state. The time during which a probation officer is absent, pursuant to such leave, shall not constitute an interruption of continuous employment and such officer shall not be subjected, directly or indirectly, to any loss or diminution of time service, increment, vacation or holiday privileges, or any other right or privilege, by reason of such absence, or be prejudiced, by reason of such absence, with reference to continuance in office or employment, or promotion.

ARTICLE 12-A

PROBATION OFFICERS AND RELATED MATTERS

Section 255. Probation in the city of New York.
256. Local probation departments.
256-a. Providing information to child protection services.
257. Probation personnel; qualifications and duties.
257-a. Civil actions against local department volunteers.
257-b. Conditional releasees; duties of supervision.
257-c. Probation administrative fee.
258. Physical, mental and psychiatric examinations.

§ 255. Probation in the city of New York. 1. There is hereby created a department of probation in and for the city of New York to have charge of all probation work in the supreme, family and criminal courts in the counties of Bronx, Kings, New York, Queens and Richmond.

2. The head of such department shall be a director of probation appointed by the mayor of the city of New York to serve during the pleasure of the mayor. The director shall have charge of the administration of the department and shall be responsible for carrying out the functions of the department including intake, investigation, supervision, conciliation and pre-disposition social treatment in cases coming to the courts referred to in this section. The director may, from time to time, create, abolish, transfer and consolidate bureaus and other units within the department as he may determine necessary for efficient operation thereof. He also shall have the power to appoint and remove such deputy directors, assistants, probation officers and other employees as may be needed for the performance of the duties of the department and may prescribe their duties and fix their compensation, within appropriations made available therefor by the city of New York and subject to all applicable civil service laws and rules and regulations. The director may, in his discretion, appoint volunteer probation officers, when necessary, provided they have the qualifications required of salaried officers, but no such volunteer probation officer shall receive pay from the public funds for his services. The city of New York shall make the necessary appropriation for the salaries of the director and of all officers and employees of

the department as referred to herein, as well for the expenses actually and necessarily incurred by such director, officers and employees in the performance of their duties.

3. The director shall discharge his powers and responsibilities in accordance with all laws and rules applicable to probation and with the general rules regulating methods and procedure in the administration of probation as adopted from time to time pursuant to section two hundred forty-three of this chapter. He may adopt departmental rules, not inconsistent with law or the aforesaid general rules, to regulate the policies, programs, standards, and methods of procedure in relation to probation and the powers and duties of officers and employees as in his judgment he deems proper.

4. The head of such probation department, out of moneys appropriated to such department for that purpose, is authorized to grant scholarships to employees in the probation service in such department, for graduate training in the field of probation at graduate schools or departments of social work located within the state whose programs are registered by the regents and accredited by the council on social work education. Each such scholarship shall entitle the holder thereof to a sum sufficient to pay the cost of tuition, not to exceed two thousand dollars annually, while in attendance at any of the said schools or departments for a period not to exceed two years of graduate professional study. Scholarships under this section shall be awarded to employees in the probation service in such department who apply therefor in the order of their seniority in their civil service titles.

5. Notwithstanding any other provision of law or of the New York city charter or administrative code, any duly appointed officer or employee of such probation department may reside in any county within the state.

§ 256. Local probation departments. 1. Each county shall maintain or provide for a probation agency or agencies to perform probation services therein, including intake, investigation, pre-sentence reports, supervision, conciliation, social treatment and such other functions as

are assigned to probation agencies pursuant to law.

2. The board of supervisors or county legislatures of a county may establish a county probation department in which there may be merged and consolidated the responsibility for carrying out the probation work for all matters under the jurisdiction of the family court, the superior courts and the local criminal courts in and for the county. In any county where the board of supervisors or county legislatures does not establish a probation department to perform all probation work in the county, as hereinabove provided, separate probation departments to carry out the probation work for matters under the jurisdiction of particular courts may be established and there may be merged and consolidated therein the probation work for matters under the jurisdiction of two or more courts. Any probation department that does not perform all probation work in the county shall be known as the probation department for the court or courts it is to serve.

3. Two or more counties may by agreement between the local governing bodies thereof provide for the establishment, operation and maintenance of a joint county probation department. Any probation department so established shall have charge of all probation work in and for all the courts in said counties. If any such county or court therein included in the agreement shall already have a probation service, such agreement shall provide that all officers and employees in such service shall retain their civil service status and be transferred to the joint county probation service without further examination or qualification, provided however that, subject to the civil service law, such agreement may provide for the abolition of existing unnecessary offices or positions and the transfer of officers and employees to comparable positions. Any such agreement shall provide for the proportionate cost, including but not limited to salaries and employer's retirement contributions, of such joint county probation service to be borne by each county and may provide that the treasurer of one county participating in such agreement shall be the custodian of the moneys made available for expenditure for the purposes of such joint county probation service and that such treasurer may make payments from such moneys for such purposes upon audit of the appropriate auditing officer or body of such county. Such

agreement may provide for such other matters as are necessary and proper to effectuate the purposes of this subdivision.

4. A probation department established pursuant to this section shall consist of a director of probation and such deputies, supervisors, probation officers and other employees as may be appointed pursuant to the provisions of this section and the provisions of section two hundred fifty-seven of this chapter.

5. The director of each probation department, other than a joint county department, shall be appointed by the chief executive officer of the county. The director of a joint county probation department shall be appointed by agreement between the chief executive officers of the counties participating in such agreement or a majority of them and in the event of a deadlock the director of the office of probation and correctional alternatives shall participate in the making of the decision. Where a county has no chief executive officer, the appointment of, or agreement to appoint, the director shall be made by the chairman of the board of supervisors or county legislatures. The director of a probation department shall have the power to appoint all deputies, supervisors, probation officers and other employees in such department within appropriations made available therefor by the board of supervisors or county legislatures. The board of supervisors or county legislatures shall fix the salaries of all personnel in the department and make the necessary appropriations therefor as well as for the expenses actually and necessarily incurred by such officers and employees in the performance of their duties. In the case of a joint county department the salaries of personnel and the amounts of other expenditures to be made available for operation of the department shall be set forth in the agreement between the counties, and the boards of supervisors or county legislatures shall make the appropriations required for the respective proportionate costs thereof.

6. (a) Each probation agency or department and state operated probation services shall provide for intake, investigation, supervision and conciliation services relating to custody, visitation and paternity proceedings and may provide for such services in support proceedings

under the provisions of articles four, five, five-A and six of the family court act. For purposes of this subdivision, intake services: (i) relating to support proceedings under article four and relating to paternity proceedings under articles five and five-A of the family court act, shall include referral to the office of temporary and disability assistance's child support enforcement unit in cases where a person is applying for or receiving public assistance or where a person chooses to utilize the services of such unit; (ii) relating to support proceedings under article four of the family court act, shall include services rendered to the payors of support orders seeking to modify such orders.

(b) Each probation agency or department is authorized to enter into a contract with the appropriate local social services district for the performance of the functions of the support collection unit, in accordance with the provisions of section one hundred eleven-h of the social services law.

7. The provisions of this section shall not apply to any county that is located wholly within a city; provided, however, that the provisions of subdivision six of this section shall apply in like manner to any county that is located wholly within a city.

§ 256-a. Providing information to child protection services. Upon a determination by a probation agency or department that its records regarding an individual presently under the supervision of the agency or department are relevant to an investigation of child abuse or maltreatment conducted by a child protective service pursuant to title six of article six of the social services law, the probation agency or department shall provide the records or portions thereof determined to be relevant to the child protective service conducting the investigation. Each probation agency or department shall make provisions for the transmission of records required to be provided under this section.

§ 257. Probation personnel; qualifications and duties. 1. Except as may be otherwise specified in other provisions of law, all salaried

probation officers and their supervisors, including the director, of every probation department, agency or service maintained by any county or city shall be in the competitive class of the civil service. No person shall be eligible for appointment as a probation officer or to a position that involves the duty of supervising a probation officer, who is under twenty-one years of age, or who has not had a high school education, or equivalent education, or who is not physically, mentally and morally fitted. Probation officers shall be selected because of definite qualifications as to character, ability and training, and primarily with respect to their capacity for rightly influencing human behavior. The director of any probation department may appoint non-salaried volunteer probation officers, provided they have the qualifications required of salaried officers. The general rules regulating methods and procedures in the administration of probation, as may be adopted from time to time pursuant to section two hundred forty-three of this chapter, may require additional minimum qualifications for probation personnel and shall set forth procedures, not inconsistent with this or other laws, to be followed in appointment of all probation personnel.

2. The office of probation and correctional alternatives may when necessary certify in writing the need of one or more salaried probation officers to the official body charged with responsibility for appropriating funds for support of government in the political subdivision of the state wherein a probation department is located. Such body shall then determine whether such need exists and if found to exist it shall fix the salary of such probation officer and appropriate the necessary funds, as well as provide for the necessary expenses of such officer.

3. Each probation officer who collects or has custody of money, before entering upon the duties of his or her office, shall execute a bond, pursuant to the provisions of section eleven of the public officers law, in a penal sum to be fixed by the local director of probation with sufficient sureties approved thereby, conditioned for the honest accounting for all money received by him or her as such probation officer. In the discretion of the local director of probation, a

position scheduled bond covering all such probation officers may be procured and executed in lieu of such individual bonds. The accounts of all probation officers shall be subject to audit at any time by the proper fiscal authorities and the office of probation and correctional alternatives.

4. It shall be the duty of every probation officer to furnish to each of his or her probationers a statement of the conditions of probation, and to instruct him or her with regard thereto; to keep informed concerning his or her conduct, habits, associates, employment, recreation and whereabouts; to contact him or her at least once a month pursuant to rules promulgated by the commissioner of the division of criminal justice services; to aid and encourage him or her by friendly advice and admonition; and by such other measures as may seem most suitable to bring about improvement in his or her conduct, condition and general attitude toward society. Probation officers shall report to the head of the probation bureau or department who shall in turn report in writing to the court and the office of probation and correctional alternatives at least monthly or where there is no bureau or department, directly to the court and the office of probation and correctional alternatives concerning the conduct and condition of probationers; keep records of their work as probation officers; keep accurate and complete accounts of all money collected from probationers; give receipts therefor and make prompt returns thereof at least monthly; aid in securing employment; perform such other duties in connection with such probationer as the court may direct or as required by the general rules adopted pursuant to section two hundred forty-three of this chapter; and make such reports to the office of probation and correctional alternatives as it may require.

4-a. In the event a probationer ceases to participate in or is unsuccessfully terminated from an alcohol or substance abuse program ordered by the court as a condition of a sentence of probation pursuant to section 410.10 of the criminal procedure law or section 65.10 of the penal law, the probation officer shall immediately report said cessation or termination to the local probation director. The local probation director shall report said cessation or termination to the court within

ninety days, except where the probationer has resumed participation in an alcohol or substance abuse program with the approval of the local probation director. The local probation director shall include the fact of any such report to the court in the next monthly written report to the court and the state director of probation and correctional alternatives as required pursuant to subdivision four of this section.

4-b. It shall be the duty of every probation officer to provide written notice to probationers under the officer's supervision who may be subject to any requirement to report to the office of victim services any funds of a convicted person as defined in section six hundred thirty-two-a of this chapter, the procedures for such reporting and any potential penalty for a failure to comply.

5. Probation officers may require such reports by probationers as are reasonable or necessary. Probation officers shall be peace officers.

6. (a) Notwithstanding subdivision one of this section, the director of probation in counties with a population of more than three hundred thousand, except counties wholly contained within a city, shall be in the non-competitive class of civil service and shall be appointed by the county executive with the approval of the local governing body. There shall be one deputy director of probation, who shall be in the non-competitive class of civil service. Such deputy shall be appointed by the director of probation.

(b) No person shall be eligible for appointment as a director of probation or deputy director of probation pursuant to subdivision one of this section who does not meet the minimum qualification requirements established for the position by the general rules regulating methods and procedures in the administration of probation.

(c) The provisions of this subdivision shall not apply to any person holding the office of director or deputy director of probation in any such county on the effective date of this subdivision during the term of such office.

§ 257-a. Civil actions against local department volunteers. 1. For

the purposes of this section the term "volunteer" means a person authorized by a local probation department's director of the volunteer services program to participate in the local department's volunteer services program.

2. A local probation department may provide an attorney for and pay such attorney fees and expenses necessarily incurred in the defense of a volunteer in any civil action commenced against him by reason of a claim of alleged negligence or other act of such person arising out of and in the course of participating in a local department volunteer services program, and the local probation department may save harmless and indemnify such person from financial loss arising out of any claim, demand, suit of judgment by reason of the alleged negligence or other act by such person provided that, at the time that such claim arose or damages were sustained, such person was acting in the discharge of his duties and within the scope of his authorized duties and that such claim or cause of action or damages sustained did not result from the willful and wrongful act or gross negligence of such person.

3. A local probation department which authorizes indemnification under this section, however, shall not be subject to the obligations imposed by this section unless such volunteer shall, within five days of the time he is served with any summons, complaint, process, notice, demand or pleading, deliver the original or a copy thereof to the local department and unless such person shall cooperate fully with the local probation department in the defense of said claim, demand or suit. Upon such delivery the local probation department may assume control of the representation of such person.

4. This section shall not in any way impair, limit or modify the rights and obligations under any policy of insurance.

5. The benefits of this section shall inure only to volunteers and shall not enlarge or diminish the rights of any other party.

§ 257-b. Conditional releasees; duties of supervision. 1. It shall be

the duty of every probation officer to furnish each person who has been ordered to his or her supervision pursuant to subdivision two of section 70.40 of the penal law, with a statement of the conditions of release and to instruct such person with regard thereto; to keep informed concerning such person's conduct, habits, associates, employments, recreation and whereabouts; to contact such person pursuant to rules and regulations promulgated by the division; to aid and encourage such person by friendly advice and admonition and, by such other measures as may seem most suitable, to bring about improvement in such person's conduct, condition and general attitude toward society.

2. Probation officers shall report to the head of the local probation department who shall in turn report in writing to the local conditional release commission having custody of such person at least monthly concerning the conduct and condition of persons conditionally released pursuant to subdivision two of section 70.40 of the penal law; keep records of their work as probation officers; keep accurate and complete accounts of all money collected from such persons; give receipts therefor and make prompt returns thereof at least monthly; aid in securing employment; perform such other duties in connection with the supervision of such persons as may be required by rules and regulations promulgated by the division; and make any other reports to the division as it may require.

3. If at any time during the period of supervision, a probation officer has reasonable cause to believe a person conditionally released pursuant to subdivision two of section 70.40 of the penal law has lapsed into criminal ways or company, or has violated one or more conditions of his or her release, such probation officer shall report such fact to a member of the local conditional release commission having custody of such person.

*** § 257-c. Probation administrative fee.** 1. Notwithstanding any other provision of law, every county and the city of New York, may adopt a local law requiring individuals currently serving or who shall be sentenced to a period of probation upon conviction of any crime under

article thirty-one of the vehicle and traffic law to pay to the local probation department with the responsibility of supervising the probationer an administrative fee of thirty dollars per month. The department shall waive all or part of such fee where, because of the indigence of the offender, the payment of said surcharge would work an unreasonable hardship on the person convicted, his or her immediate family, or any other person who is dependent on such person for financial support.

2. The provisions of subdivision six of section 420.10 of the criminal procedure law shall govern for purposes of collection of the administrative fee.

3. The probation administrative fee authorized by this section shall not constitute nor be imposed as a condition of probation.

4. In the event of non-payment of any fees which have not been waived by the local probation department, the county or the city of New York may seek to enforce payment in any manner permitted by law for enforcement of a debt.

5. Monies collected pursuant to this section shall be utilized for probation services by the local probation department. Such moneys shall not be considered by the division when determining state aid pursuant to section two hundred forty-six of the executive law. Monies collected shall not be used to replace federal funds otherwise utilized for probation services.

* NB Expires September 1, 2027

§ 258. Physical, mental and psychiatric examinations. Every county is charged with the duty to provide when practicable clinical facilities, and to adopt necessary rules for the use therefor, for such physical, mental and psychiatric examinations and reports as may be within the required scope of efficient probation investigation and supervision.

ARTICLE 12-B

STATE BOARD OF PAROLE

Section 259. Definitions.

259-a. State board of parole; funding.

259-b. State board of parole; organization.

259-c. State board of parole; functions, powers and duties.

259-d. Hearing officers.

259-e. Institutional parole services.

259-h. Parole eligibility for certain incarcerated individuals sentenced for crimes committed prior to September first, nineteen hundred sixty-seven.

259-i. Procedures for the conduct of the work of the state board of parole.

259-j. Discharge of sentence.

259-k. Access to records and institutions.

259-l. Cooperation.

259-m. Compacts with other states for out-of-state parolee supervision.

259-mm. Interstate compact for adult offender supervision.

259-o. Interstate hearings for parole violations.

259-p. Interstate detention.

259-q. Civil actions against division personnel.

259-r. Release on medical parole for terminally ill inmates.

259-s. Release on medical parole for incarcerated individuals suffering significant debilitating illnesses.

259-t. Permitted activities.

259-t*2. Permitted activities.

§ 259. Definitions. When used in this article, the following terms shall have the following meanings:

1. "Board" means the state board of parole.

2. "Commissioner" means the commissioner of the department of corrections and community supervision.

3. "Community supervision" means the supervision of individuals released into the community on temporary release, presumptive release, parole, conditional release, post release supervision or medical parole.

4. "Department" means the department of corrections and community supervision.

5. "Releasee" means an individual released from an institution under the jurisdiction of the department into the community on temporary release, presumptive release, parole, conditional release, post-release supervision or medical parole.

6. "Technical violation" means any conduct that violates a condition of community supervision in an important respect, other than the commission of a new felony or misdemeanor offense under the penal law.

7. "Non-technical violation" means: (a) the commission of a new felony or misdemeanor offense; or (b) conduct by a releasee who is serving a sentence for an offense defined in article 130 of the penal law or section 255.26 or 255.27 of such law, and such conduct violated a specific condition reasonably related to such offense and efforts to protect the public from the commission of a repeat of such offense.

8. "Absconding" means intentionally avoiding supervision by failing to maintain contact or communication with the releasee's assigned community supervision officer or area bureau office and to notify his or her assigned community supervision officer or area bureau office of a change in residence, and reasonable efforts by the assigned community supervision officer to re-engage the releasee have been unsuccessful.

§ 259-a. State board of parole; funding. The annual budget submitted by the governor shall separately state the recommended appropriations for the state board of parole. Upon enactment, these separately stated appropriations for the state board of parole shall not be decreased by interchange with any other appropriation, notwithstanding section fifty-one of the state finance law.

§ 259-b. State board of parole; organization. 1. There shall be in the department a state board of parole which shall possess the powers and duties hereinafter specified. The board shall function independently of the department regarding all of its decision-making functions, as well as any other powers and duties specified in this article, provided, however, that administrative matters of general applicability within the department shall be applicable to the board. Such board shall consist of not more than nineteen members appointed by the governor with the advice and consent of the senate. The term of office of each member of such board shall be for six years; provided, however, that any member chosen to fill a vacancy occurring otherwise than by expiration of term shall be appointed for the remainder of the unexpired term of the member whom he is to succeed. In the event of the inability to act of any member, the governor may appoint some competent informed person to act in his stead during the continuance of such disability.

2. Each member of the board shall either (a) have been awarded a degree from an accredited four-year college or university or a graduate degree from such college or university or accredited graduate school and shall have had at least five years of experience in one or more of the fields of criminology, administration of criminal justice, law enforcement, sociology, law, social work, corrections, psychology, psychiatry or medicine; or (b) have at least ten years of experience in one or more of the fields of criminology, administration of criminal justice, law enforcement, sociology, law, social work, corrections, psychology, psychiatry or medicine.

3. The governor shall designate one of the members of the board as chairman to serve in such capacity at the pleasure of the governor or until the member's term of office expires and a successor is designated in accordance with law, whichever first occurs. The chairman shall be responsible for the administrative functions and daily operations of the parole board and its staff, except as otherwise provided by law.

4. The members of the board shall not hold any other public office;

nor shall they, at any time of their appointment nor during their incumbency, serve as a representative of any political party on an executive committee or other governing body thereof, nor as an executive officer or employee of any political committee, organization or association.

5. Each member of the board shall receive for his services an annual salary to be fixed by the governor within the amount appropriated therefor. Each member of such board shall also receive his necessary expenses actually incurred in the discharge of his duties.

6. Any member of the board may be removed by the governor for cause after an opportunity to be heard.

7. Except as otherwise provided by law, a majority of the board shall constitute a quorum for the transaction of all business of the board.

8. Members of the board shall devote their full time to their duties and shall hold no other salaried public position.

§ 259-c. State board of parole; functions, powers and duties. The state board of parole shall: * 1. have the power and duty of determining which incarcerated individuals serving an indeterminate or determinate sentence of imprisonment may be released on parole, or on medical parole pursuant to section two hundred fifty-nine-r or section two hundred fifty-nine-s of this article, and when and under what conditions;

* NB Effective until September 1, 2027

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

* NB Effective September 1, 2027

* 2. have the power and duty of determining the conditions of release of the person who may be presumptively released, conditionally released or subject to a period of post-release supervision under an indeterminate or determinate sentence of imprisonment;

* NB Effective until September 1, 2027

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

* NB Effective September 1, 2027

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

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

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

6. have the power to revoke the community supervision status of any person and to authorize the issuance of a warrant for the re-taking of such persons;

8. have the power and perform the duty, when requested by the governor, of reporting to the governor the facts, circumstances,

criminal records and social, physical, mental and psychiatric conditions and histories of incarcerated individuals under consideration by the governor for pardon or commutation of sentence and of applicants for restoration of the rights of citizenship;

9. for the purpose of any investigation in the performance of duties made by it or any member thereof, have the power to issue subpoenas, to compel the attendance of witnesses and the production of books, papers, and other documents pertinent to the subject of its inquiry;

10. have the power to authorize any members thereof and hearing officers to administer oaths and take the testimony of persons under oath;

11. make rules for the conduct of its work, a copy of such rules and of any amendments thereto to be filed by the chairman with the secretary of state;

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

13. transmit a report of the work of the state board of parole for the preceding calendar year to the governor and the legislature annually. Such report shall include statistical information regarding the demographics of persons granted release and considered for release to community supervision or deportation, including but not limited to age, gender, race, ethnicity, region of commitment and other relevant categories of classification and commitment;

14. notwithstanding any other provision of law to the contrary, where a person serving a sentence for an offense defined in article one

hundred thirty, one hundred thirty-five or two hundred sixty-three of the penal law or section 255.25, 255.26 or 255.27 of the penal law and the victim of such offense was under the age of eighteen at the time of such offense or such person has been designated a level three sex offender pursuant to subdivision six of section one hundred sixty-eight-l of the correction law, is released on parole or conditionally released pursuant to subdivision one or two of this section, the board shall require, as a mandatory condition of such release, that such sentenced offender shall refrain from knowingly entering into or upon any school grounds, as that term is defined in subdivision fourteen of section 220.00 of the penal law, or any other facility or institution primarily used for the care or treatment of persons under the age of eighteen while one or more of such persons under the age of eighteen are present, provided however, that when such sentenced offender is a registered student or participant or an employee of such facility or institution or entity contracting therewith or has a family member enrolled in such facility or institution, such sentenced offender may, with the written authorization of his or her parole officer and the superintendent or chief administrator of such facility, institution or grounds, enter such facility, institution or upon such grounds for the limited purposes authorized by the parole officer and superintendent or chief officer. Nothing in this subdivision shall be construed as restricting any lawful condition of supervision that may be imposed on such sentenced offender.

15. Notwithstanding any other provision of law to the contrary, where a person is serving a sentence for an offense for which registration as a sex offender is required pursuant to subdivision two or three of section one hundred sixty-eight-a of the correction law, and the victim of such offense was under the age of eighteen at the time of such offense or such person has been designated a level three sex offender pursuant to subdivision six of section one hundred sixty-eight-l of the correction law or the internet was used to facilitate the commission of the crime, is released on parole or conditionally released pursuant to subdivision one or two of this section, the board shall require, as mandatory conditions of such release, that such sentenced offender shall be prohibited from using the internet to access pornographic material,

access a commercial social networking website, communicate with other individuals or groups for the purpose of promoting sexual relations with persons under the age of eighteen, and communicate with a person under the age of eighteen when such offender is over the age of eighteen, provided that the board may permit an offender to use the internet to communicate with a person under the age of eighteen when such offender is the parent of a minor child and is not otherwise prohibited from communicating with such child. Nothing in this subdivision shall be construed as restricting any other lawful condition of supervision that may be imposed on such sentenced offender. As used in this subdivision, a "commercial social networking website" shall mean any business, organization or other entity operating a website that permits persons under eighteen years of age to be registered users for the purpose of establishing personal relationships with other users, where such persons under eighteen years of age may: (i) create web pages or profiles that provide information about themselves where such web pages or profiles are available to the public or to other users; (ii) engage in direct or real time communication with other users, such as a chat room or instant messenger; and (iii) communicate with persons over eighteen years of age; provided, however, that, for purposes of this subdivision, a commercial social networking website shall not include a website that permits users to engage in such other activities as are not enumerated herein.

15-a. Notwithstanding any other provision of law, where a person is serving a sentence for a violation of section 120.03, 120.04, 120.04-a, 125.12, 125.13 or 125.14 of the penal law, or a felony as defined in paragraph (c) of subdivision one of section eleven hundred ninety-three of the vehicle and traffic law, if such person is released on parole or conditional release the board shall require as a mandatory condition of such release, that such person install and maintain, in accordance with the provisions of section eleven hundred ninety-eight of the vehicle and traffic law, an ignition interlock device in any motor vehicle owned or operated by such person during the term of such parole or conditional release for such crime. Provided further, however, the board may not otherwise authorize the operation of a motor vehicle by any person whose license or privilege to operate a motor vehicle has been revoked

pursuant to the provisions of the vehicle and traffic law.

16. determine which incarcerated individuals serving a definite sentence of imprisonment may be conditionally released from an institution in which he or she is confined in accordance with subdivision two of section 70.40 of the penal law.

17. within amounts appropriated, appoint attorneys to serve as its legal advisors. Such attorneys shall report directly to the board, provided, however, that administrative matters of general applicability within the department shall be applicable to such attorneys.

§ 259-d. Hearing officers. 1. The state board of parole shall appoint and shall have the power to remove, in accordance with the provisions of the civil service law, hearing officers who shall be authorized to conduct parole revocation proceedings. Hearing officers shall function independently of the department regarding all of their decision-making functions, and shall report directly to the board, provided, however, that administrative 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 from exercising all of the functions, powers and duties of a hearing officer upon request of the chairman.

2. The board, acting in cooperation with the civil service commission, shall establish standards, preliminary requisites and requisites to govern the selection, appointment and removal of hearing officers. Such standards and requisites shall be designed to assure that persons selected as hearing officers have the ability to conduct parole revocation proceedings fairly and impartially. Such standards shall not require prior experience as a parole officer. The board shall have the authority to establish procedures necessary to implement this section.

§ 259-e. Institutional parole services. The department shall provide institutional parole services. Such services shall include preparation of reports and other data required by the state board of parole in the exercise of its functions with respect to release on presumptive release, parole, conditional release or post-release supervision of 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 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.

§ 259-h. Parole eligibility for certain incarcerated individuals sentenced for crimes committed prior to September first, nineteen hundred sixty-seven. 1. The provisions of this subdivision shall apply in any case where a person is under one or more of the following sentences imposed pursuant to the penal law in effect prior to September first, nineteen hundred sixty-seven:

(a) Life imprisonment for the crime of murder in the first degree pursuant to section ten hundred forty-five or ten hundred forty-five-a of such law;

(b) Life imprisonment for the crime of kidnapping pursuant to section twelve hundred fifty of such law; or

(c) Death commuted to life imprisonment for the crime of murder in the first degree or for the crime of kidnapping pursuant to one of the above sections.

Any such person who is not otherwise or who will not sooner become

eligible for release on parole under such sentence shall be or become eligible for release on parole after service of a minimum period of imprisonment of twenty years.

2. The provisions of this subdivision shall apply in any case where a person is under one or more of the following sentences imposed pursuant to the penal law in effect prior to September first, nineteen hundred sixty-seven:

(a) A minimum term of twenty years or more and a maximum of natural life for the crime of murder in the second degree pursuant to section ten hundred forty-eight of such law;

(b) A minimum term of twenty years or more and a maximum of natural life for the crime of kidnapping imposed pursuant to section twelve hundred fifty of such law;

(c) A minimum term of fifteen years or more and a maximum of natural life for a third conviction of a felony under laws relating to narcotic drugs pursuant to section nineteen hundred forty-one of such law; or

(d) A minimum term of fifteen years or more and a maximum of natural life for a fourth conviction of a felony pursuant to section nineteen hundred forty-two of such law.

Any person who is not otherwise or who will not sooner become eligible for release on parole under such sentence shall be or become eligible for release on parole after service of a minimum period of imprisonment of fifteen years.

3. The provisions of this subdivision shall apply in any case where a person is under a sentence imposed pursuant to the penal law in effect prior to September first, nineteen hundred sixty-seven, other than a sentence specified in subdivisions one and two of this section. Any person who is not otherwise or who will not sooner become eligible for release on parole shall be or become eligible for release on parole under such sentence after service of a minimum period of imprisonment of eight years and four months.

Notwithstanding the provisions of subdivisions one and two hereof, incarcerated individuals convicted of murder, second degree, and

sentenced pursuant to the provisions of the penal law in effect prior to September first, nineteen hundred sixty-seven, who are not otherwise or who will not sooner become eligible for release on parole, shall be eligible for release on parole under such sentence after service of a minimum period of imprisonment of eight years and four months.

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

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

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

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

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

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

§ 259-i. Procedures for the conduct of the work of the state board of parole.

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

(ii) Any incarcerated individual who is scheduled for presumptive release pursuant to section eight hundred six of the correction law shall not appear before the board as provided in subparagraph (i) of this paragraph unless such incarcerated individual's scheduled presumptive release is forfeited, canceled, or rescinded subsequently as provided in such law. In such event, the incarcerated individual shall appear before the board for release consideration as provided in subparagraph (i) of this paragraph as soon thereafter as is practicable.

* NB Effective until September 1, 2027

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

* NB Effective September 1, 2027

(b) Persons presumptively released, paroled, conditionally released or released to post-release supervision from an institution under the jurisdiction of the department, the department of mental hygiene or the office of children and family services shall, while on presumptive release, parole, conditional release or post-release supervision, be in the legal custody of the department until expiration of the maximum term or period of sentence, or expiration of the period of supervision, including any period of post-release supervision, or return to imprisonment in the custody of the department, as the case may be.

(c) (A) Discretionary release on parole shall not be granted merely as

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

the criminal procedure law, the parole board member shall present a written report of the statement to the parole board. A crime victim's representative shall mean the crime victim's closest surviving relative, the committee or guardian of such person, or the legal representative of any such person. Such statement submitted by the victim or victim's representative may include information concerning threatening or intimidating conduct toward the victim, the victim's representative, or the victim's family, made by the person sentenced and occurring after the sentencing. Such information may include, but need not be limited to, the threatening or intimidating conduct of any other person who or which is directed by the person sentenced. Any statement by a victim or the victim's representative made to the board shall be maintained by the department in the file provided to the board when interviewing the incarcerated individual in consideration of release. A victim or victim's representative who has submitted a written request to the department for the transcript of such interview shall be provided such transcript as soon as it becomes available.

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

(d) (i) Notwithstanding the provisions of paragraphs (a), (b) and (c) of this subdivision, after the incarcerated individual has served his or her minimum period of imprisonment imposed by the court, or at any time after the incarcerated individual's period of imprisonment has commenced for an incarcerated individual serving a determinate or indeterminate term of imprisonment, provided that the incarcerated individual has had a final order of deportation issued against him or her and provided further that the incarcerated individual is not convicted of either an A-I felony offense other than an A-I felony offense as defined in article two hundred twenty of the penal law or a violent felony offense as defined in section 70.02 of the penal law, if the incarcerated individual is subject to deportation by the United States Bureau of Immigration and Customs Enforcement, in addition to the criteria set forth in paragraph (c) of this subdivision, the board may consider, as a factor warranting earlier release, the fact that such incarcerated

individual will be deported, and may grant parole from an indeterminate sentence or release for deportation from a determinate sentence to such incarcerated individual conditioned specifically on his or her prompt deportation. The board may make such conditional grant of early parole from an indeterminate sentence or release for deportation from a determinate sentence only where it has received from the United States Bureau of Immigration and Customs Enforcement assurance (A) that an order of deportation will be executed or that proceedings will promptly be commenced for the purpose of deportation upon release of the incarcerated individual from the custody of the department of correctional services, and (B) that the incarcerated individual, if granted parole or release for deportation pursuant to this paragraph, will not be released from the custody of the United States Bureau of Immigration and Customs Enforcement, unless such release be as a result of deportation without providing the board a reasonable opportunity to arrange for execution of its warrant for the retaking of such person.

(ii) An incarcerated individual who has been granted parole from an indeterminate sentence or release for deportation from a determinate sentence pursuant to this paragraph shall be delivered to the custody of the United States Bureau of Immigration and Customs Enforcement along with the board's warrant for his or her retaking to be executed in the event of his release from such custody other than by deportation. In the event that such person is not deported, the board shall execute the warrant, effect his return to imprisonment in the custody of the department and within sixty days after such return, provided that the person is serving an indeterminate sentence and the minimum period of imprisonment has been served, personally interview him or her to determine whether he or she should be paroled in accordance with the provisions of paragraphs (a), (b) and (c) of this subdivision. The return of a person granted parole from an indeterminate sentence or release for deportation from a determinate sentence pursuant to this paragraph for the reason set forth herein shall not be deemed to be a parole delinquency and the interruptions specified in subdivision three of section 70.40 of the penal law shall not apply, but the time spent in the custody of the United States Bureau of Immigration and Customs Enforcement shall be credited against the term of the sentence in accordance with the rules specified in paragraph (c) of that

subdivision. Notwithstanding any other provision of law, any incarcerated individual granted parole from an indeterminate sentence or release for deportation from a determinate sentence pursuant to this paragraph who is subsequently committed to imprisonment in the custody of the department for a felony offense committed after release pursuant to this paragraph shall have his parole eligibility date on the indeterminate sentence for the new felony offense, or his or her conditional release date on the determinate sentence for the new felony offense, as the case may be, extended by the amount of time between the date on which such incarcerated individual was released from imprisonment in the custody of the department pursuant to this paragraph and the date on which such incarcerated individual would otherwise have completed service of the minimum period of imprisonment on the prior felony offense.

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

3. Revocation of presumptive release, parole, conditional release and post-release supervision. (a) (i) If the parole officer having charge of a presumptively released, paroled or conditionally released person or a person released to post-release supervision or a person received under the uniform act for out-of-state parolee supervision shall have probable cause to believe that such person has committed a technical violation, such parole officer shall report such fact to a member of the board, or to any officer of the department designated by the board, and thereupon a written notice of violation may be issued according to the terms of subparagraph (iii) of paragraph (c) of this subdivision, and shall be promptly served upon such person. If the releasee has failed to appear as directed in response to a notice of violation and has failed to appear voluntarily within forty-eight hours after such time and the person would be subject to incarceration pursuant to subparagraph (xii)

of paragraph (f) of this subdivision should the violation be sustained at a final revocation hearing, a warrant may be issued for the retaking of such person and for his temporary detention pending a recognizance hearing in accordance with the rules of the board. If the person has intentionally failed to appear as directed in response to a notice of violation and has intentionally failed to appear voluntarily within forty-eight hours after such time and the person would not be subject to incarceration pursuant to paragraph (f) of this subdivision should the violation be sustained at a final revocation hearing, no warrant shall issue and the violation shall be deemed sustained. Notice of that decision shall be promptly served upon the releasee. In such case, within one month of the date the notice of decision was served upon the releasee, the releasee may move to vacate such a sustained violation if the releasee can show by a preponderance of the evidence that the notice of violation was not properly served or the failure to appear was otherwise excusable. If the parole officer having charge of a person under community supervision shall have probable cause to believe that such person has committed a non-technical violation, such parole officer shall report such fact to a member of the board, or to any officer of the department designated by the board, and thereupon a notice of violation may be issued or a warrant may be issued for the retaking of such person and for his temporary detention in accordance with the rules of the board. However, if a releasee has been determined to be currently unfit to proceed to trial or is currently subject to a temporary or final order of observation pursuant to article seven hundred thirty of the criminal procedure law, no notice of violation or warrant shall be issued. The issuance of a notice of violation, service of a notice of violation, service of a notice of decision, and the retaking and detention of any person for whom a warrant has been issued pursuant to this subparagraph may be further regulated by rules and regulations of the department not inconsistent with this article. A warrant issued pursuant to this section shall constitute sufficient authority to the superintendent or other person in charge of any jail, penitentiary, lockup or detention pen to whom it is delivered to hold in temporary detention the person named therein pending a recognizance hearing pursuant to subparagraph (iv) of this paragraph. It shall not be a condition of parole nor may a notice of violation or a warrant be issued

due to a releasee being in the company of or fraternizing with any person the releasee knows has a criminal record or knows has been adjudicated a youthful offender or due to conduct related to cannabis that is lawful pursuant to the laws of New York.

(ii) A warrant issued for a presumptive release, a parole, a conditional release or a post-release supervision violator may be executed by any parole officer or any officer authorized to serve criminal process or any peace officer, who is acting pursuant to his special duties, or police officer. Any such officer to whom such warrant shall be delivered is authorized and required to execute such warrant by taking such person and having him detained as provided in this paragraph.

(iii) Where the alleged violator is detained in another state pursuant to such warrant and is not under parole supervision pursuant to the uniform act for out-of-state parolee supervision or where an alleged violator under parole supervision pursuant to the uniform act for out-of-state parolee supervision is detained in a state other than the receiving state, the warrant will not be deemed to be executed until the alleged violator is detained exclusively on the basis of such warrant and the department has received notification that the alleged violator (A) has formally waived extradition to this state or (B) has been ordered extradited to this state pursuant to a judicial determination. The alleged violator will not be considered to be within the convenience and practical control of the department until the warrant is deemed to be executed.

(iv) Notwithstanding the provisions of any other law, upon execution of a warrant issued pursuant to this section for any releasee alleged to have committed a violation of a condition of release in an important respect in the city of New York, the authorized officer shall present the releasee to the criminal court of the city of New York or the supreme court criminal term in the county where the violation is alleged to have been committed for a recognizance hearing within twenty-four hours of the execution of the warrant. If no such court of record is available to conduct any business of any type within twenty-four hours of the execution of the warrant, the recognizance hearing shall commence on the next day such a court in the jurisdiction is available to conduct any business of any type. For any releasee alleged to have committed a

violation of a condition of release in an important respect outside of the city of New York, the authorized officer shall present the releasee to a county court, district court or city court in the county or city where the violation is alleged to have been committed for a recognizance hearing. If no such court of record is available to conduct any business of any type within twenty-four hours of the execution of the warrant, the recognizance hearing shall commence on the next day such court is available to conduct any business of any type.

(v) At a recognizance hearing, the department shall have the burden of demonstrating to the court that the executed warrant was properly issued and served pursuant to this section. The department shall be responsible for presenting information to the court regarding the alleged violation and the releasee's community supervision record. If the alleged violation is the subject of a pending criminal prosecution, the department shall coordinate with the office of the district attorney to ensure information regarding the alleged violation and the releasee's community supervision record is presented to the court. At a recognizance hearing, the department shall have the burden of demonstrating to the court that the executed warrant was properly issued and served pursuant to this section. The department shall be responsible for presenting information to the court regarding the alleged violation and the releasee's community supervision record. If the alleged violation is the subject of a pending criminal prosecution, the department shall coordinate with the office of the district attorney to ensure information regarding the alleged violation and the releasee's community supervision record is presented to the court.

(vi) At a recognizance hearing, the court shall consider all available evidence of the releasee's employment, family and community ties including length of residency in the community, history of reporting in a timely fashion to a parole or supervisory officer, and other indicators of stability. At the conclusion of the recognizance hearing, the court may order that the releasee be detained pending a preliminary or final revocation hearing only upon a finding that the releasee currently presents a substantial risk of willfully failing to appear at the preliminary or final revocation hearings and that no non-monetary condition or combination of conditions in the community will reasonably assure the releasee's appearance at the preliminary or final revocation

hearing. Otherwise, the court shall release the releasee on the least restrictive non-monetary conditions that will reasonably assure the releasee's appearance at subsequent preliminary or revocation hearings, with a presumption of release on recognizance. The court shall explain its decision on the record or in writing. If non-monetary conditions of release are imposed, the releasee shall not be required to pay for any part of the cost of such conditions.

(vii) The alleged violator shall have a right to representation by counsel at the recognizance hearing. In any case, including when a court is called upon to evaluate the capacity of an alleged violator to participate in a recognizance proceeding, where such person is financially unable to retain counsel, the court in which any criminal case against the individual is pending, or if there is no such case pending, the criminal court of the city of New York, the county court or district court in the county where the violation is alleged to have occurred or where the hearing is to be held, shall assign counsel in accordance with the county or city plan for representation placed in operation pursuant to article eighteen-B of the county law.

(viii) If the violation charge involves conduct that would constitute a new felony or misdemeanor offense, such recognizance hearing may be held at the same time as a proceeding pursuant to article five hundred thirty of the criminal procedure law for any warrants issued by the department prior to such proceeding. If at the proceeding pursuant to article five hundred thirty of the criminal procedure law the court imposes bail on the new alleged criminal offense or commits the releasee to the custody of the sheriff pursuant to article five hundred thirty of the criminal procedure law and the releasee secures release by paying bail or under non-monetary conditions or by operation of law, then the releasee shall not be detained further based solely on the warrant issued by the department. If the department issues a warrant for a non-technical violation for alleged criminal conduct that has already been the subject of a court's order pursuant to article five hundred thirty of the criminal procedure law, then within twenty-four hours of execution of the warrant the releasee shall be provided a recognizance hearing pursuant to this subparagraph, provided, however, that if no court as defined in subparagraph (iv) of this paragraph is available to conduct any business of any type within twenty-four hours of the

execution of the warrant, then the recognizance hearing shall commence on the next day such court is available to conduct any business of any type.

(b) A person who shall have been taken into custody pursuant to this subdivision for violation of one or more conditions of presumptive release, parole, conditional release or post-release supervision shall, insofar as practicable, be incarcerated in the county or city in which the arrest occurred.

(c) (i) (A) For any alleged technical violation for which a notice of violation was issued or a person was released on recognizance pursuant to subparagraph (iv) of paragraph (a) of this subdivision, the department shall within ten days of the issuance of the notice of violation or the order of release on recognizance afford the person a preliminary revocation hearing before a hearing officer designated by the department. Such hearing officer shall not have had any prior supervisory involvement over the alleged violator. Such hearing shall not be held at a correctional facility, detention center or local correctional facility. The hearing shall be scheduled and held in a courthouse, in cooperation with the chief administrator of the courts and the chief administrator's designees, provided, however, that if such a courthouse is not reasonably available for such hearing, the department may designate a suitable office or other similar facility that is not a correctional facility, detention center or local correctional facility for such hearing.

(B) For any alleged violation for which a court issued an order detaining a person, within five days of the issuance of such order to detain or execution of a warrant for the violation, the department shall afford such person a preliminary hearing before a hearing officer designated by the department. Such hearing officer shall not have had any prior supervisory involvement over the alleged violator. For any alleged violation for which a person was released on recognizance, within ten days of the issuance of the order of release on recognizance, the department shall afford such person a preliminary revocation hearing.

(ii) The preliminary presumptive release, parole, conditional release or post-release supervision revocation hearing shall be scheduled and held in a courthouse, in cooperation with the chief administrator of the

courts and the chief administrator's designees, provided, however, that if such a courthouse is not reasonably available for such hearing, the department may designate a suitable office or other similar facility that is not a correctional facility, detention center or local correctional facility for such hearing.

(iii) The alleged violator shall, at the time a notice of violation is issued or at the time of a recognizance hearing, be given written notice of the time, place and purpose of the preliminary hearing, or if no preliminary hearing is required pursuant to this section, of the final revocation hearing. The notice shall state what conditions of community supervision are alleged to have been violated, and in what manner; that such person shall have the right to appear and speak in his or her own behalf; that he or she shall have the right to introduce letters and documents; that he or she may present witnesses who can give relevant information to the hearing officer; that he or she has the right to confront the witnesses against him or her; that such person shall have the right to representation by counsel at any preliminary and final revocation hearings; and the name and contact details for institutional defenders or assigned private counsel, as applicable. Adverse witnesses may be compelled to attend the preliminary hearing unless the prisoner has been convicted of a new crime while on supervision or unless the hearing officer finds good cause for their non-attendance. As far as practicable or feasible, any additional documents having been collected or prepared that are relevant to the charge shall be delivered to the alleged violator.

(iv) The standard of proof at the preliminary hearing shall be a preponderance of the evidence to believe that the releasee has violated one or more conditions of his or her community supervision in an important respect. Proof of conviction of a crime committed while under supervision shall constitute prima facie evidence of a violation of a condition of community supervision for the purposes of this subparagraph.

(v) At the preliminary hearing, the hearing officer shall review the violation charges with the alleged violator, direct the presentation of evidence concerning the alleged violation, receive the statements of witnesses and documentary evidence on behalf of the prisoner, and allow cross examination of those witnesses in attendance.

(vi) At the conclusion of the preliminary hearing, the hearing officer shall inform the alleged violator of his or her decision as to whether there is probable cause to believe that the presumptive releasee, parolee, conditional releasee or person on post-release supervision has violated one or more conditions of his or her release in an important respect. Based solely on the evidence adduced at the hearing, the hearing officer shall determine whether there is probable cause to believe that such person has violated his or her presumptive release, parole, conditional release or post-release supervision in an important respect. The hearing officer shall in writing state the reasons for his or her determination and the evidence relied on. A copy of the written findings shall be sent to both the alleged violator and his or her counsel.

(vii) If the hearing officer is satisfied that there is no probable cause to believe that such person has violated one or more conditions of release in an important respect, he or she shall dismiss the notice of violation and direct such person be restored to supervision.

(viii) If the hearing officer is satisfied that there is probable cause to believe that such person has violated one or more conditions of release in an important respect, he or she shall so find.

(ix) If the hearing officer finds by a preponderance of the evidence that such person has violated one or more conditions of community supervision in an important respect, the releasee shall, at the conclusion of the preliminary hearing be given written notice of the time, place and purpose of the final revocation hearing. The notice shall state what conditions of community supervision are alleged to have been violated, when, where and in what manner; that such person shall have the right to representation by counsel at any final revocation hearing; that such person shall have the right to appear and speak in his or her own behalf; that he or she shall have the right to introduce letters and documents; that he or she may present witnesses who can give relevant information to the hearing officer; that he or she has the right to confront the witnesses against him or her; and the name and contact details for institutional defenders or assigned private counsel, as applicable. Any additional documents having been collected or prepared that support the charges shall be delivered to the releasee. Adverse witnesses may be compelled to attend the final revocation

hearing unless the prisoner has been convicted of a new crime while on supervision or unless the hearing officer finds good cause for their non-attendance.

(x) The alleged violator shall have a right to representation by counsel at the preliminary hearing. In any case, including when a court is called upon to evaluate the capacity of an alleged violator in a preliminary proceeding, where such person is financially unable to retain counsel, the criminal court of the city of New York, the county court or district court in the county where the violation is alleged to have occurred or where the hearing is held, shall assign counsel in accordance with the county or city plan for representation placed in operation pursuant to article eighteen-B of the county law.

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

* NB Effective until September 1, 2027

* (d) If a finding of probable cause is made pursuant to this subdivision either by determination at a preliminary hearing or by the

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

* NB Effective September 1, 2027

(e) (i) If the alleged violator requests a local revocation hearing, he or she shall be given a revocation hearing reasonably near the place of the alleged violation or arrest if he or she has not been convicted of a crime committed while under supervision. However, the board may, on its own motion, designate a case for a local revocation hearing.

(ii) If there are two or more alleged violations, the hearing may be conducted near the place of the violation chiefly relied upon as a basis for the issuance of the warrant as determined by the board.

(iii) If a local revocation hearing is not ordered pursuant to subparagraph (i) of this paragraph the alleged violator shall be given a revocation hearing upon his or her return to a state correctional facility.

(f) (i) For any releasee charged with a violation at a preliminary hearing:

(A) If a court issued an order detaining a person after a finding by a preponderance of the evidence that such person committed a violation then within thirty days of the finding by a preponderance of the evidence determination at the preliminary hearing, the department shall

afford such person a final revocation hearing in person before a hearing officer designated by the department. Such hearing officer shall not have had any prior supervisory involvement over the alleged violator.

(B) (1) If a notice of violation was issued or such person was released on recognizance the department shall within forty-five days of the issuance of the notice of violation or the order of release on recognizance afford the person a final revocation hearing before a hearing officer designated by the department. Such hearing officer shall not have had any prior supervisory involvement over the alleged violator.

(2) The final revocation hearing shall not be held at a correctional facility, detention center or local correctional facility. Such hearing shall be scheduled and held in a courthouse, in cooperation with the chief administrator of the courts and the chief administrator's designees, provided, however, that if such a courthouse is not reasonably available for such hearing, the department may designate a suitable office or other similar facility that is not a correctional facility, detention center or local correctional facility for such hearing.

(3) The department shall have six months from the date of the effective date of the chapter of the laws of two thousand twenty-one that amended this paragraph to begin to hold such hearings at allowable locations.

(C) However, if an alleged violator requests and receives any postponement of his or her revocation hearing, or consents to a postponed revocation proceeding initiated by the board, or if an alleged violator, by his actions otherwise precludes the prompt conduct of such proceedings, the time limit may be extended.

(ii) The revocation hearing shall be conducted by a presiding officer who may be a member or a hearing officer designated by the board in accordance with rules of the board.

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

(iv) The alleged violator shall be given written notice of the rights

enumerated in subparagraph (iii) of paragraph (c) of this subdivision as well as of his or her right to present mitigating evidence relevant to restoration to presumptive release, parole, conditional release or post-release supervision and his or her right to counsel.

(v) The alleged violator shall have a right to representation by counsel at the revocation hearing. In any case, including when a superior court is called upon to evaluate the capacity of an alleged violator in a revocation proceeding, where such person is financially unable to retain counsel, the criminal court of the city of New York, the county court or district court in the county where the violation is alleged to have occurred or where the hearing is held, shall assign counsel in accordance with the county or city plan for representation placed in operation pursuant to article eighteen-B of the county law. He or she shall have the right to confront and cross-examine adverse witnesses, unless there is good cause for their non-attendance as determined by the presiding officer; present witnesses and documentary evidence in defense of the charges; and present witnesses and documentary evidence relevant to the question whether reincarceration of the alleged violator is appropriate.

(vi) At the revocation hearing, the charges shall be read and the alleged violator shall be permitted to plead not guilty, guilty, guilty with explanation or to stand mute. As to each charge, evidence shall be introduced through witnesses and documents, if any, in support of that charge. At the conclusion of each witness's direct testimony, he or she shall be made available for cross-examination. If the alleged violator intends to present a defense to the charges or to present evidence of mitigating circumstances, the alleged violator shall do so after presentation of all the evidence in support of a violation of presumptive release, parole, conditional release or post-release supervision.

(vii) All persons giving evidence at the revocation hearing shall be sworn before giving any testimony as provided by law.

(viii) At the conclusion of the hearing the presiding officer may sustain any or all of the violation charges or may dismiss any or all violation charges. He or she may sustain a violation charge only if the charge is supported by clear and convincing evidence. Conduct that formed the basis of an arrest shall not form a basis of a sustained

parole violation if a court has adjudicated the matter with an acquittal, adjournment in contemplation of dismissal, or violation.

(ix) If the presiding officer is not satisfied that there is clear and convincing evidence in support of the violation, he or she shall dismiss the violation, cancel the delinquency and restore the person to presumptive release, parole, conditional release or post-release supervision.

(x) If the presiding officer is satisfied that there is clear and convincing evidence that the alleged violator violated one or more conditions of release in an important respect, he or she shall so find. For each sustained technical violation the presiding officer shall direct that no earned time credits shall be awarded for the thirty day period commencing from the date of the sustained violation. For any absconding violation found, the presiding officer shall direct that no earned time credits shall be awarded for the entire time period during which a releasee was found to have absconded from supervision.

(xi) Incarceration shall not be imposed for any technical violation, except as provided in subparagraph (xii) of this paragraph.

(xii) For each violation found, the presiding officer may (A) direct that the releasee be restored to supervision; (B) as an alternative to reincarceration, direct the releasee receive re-entry services in the community from qualified nonprofit agencies; or (C) direct the violator's reincarceration and for non-technical violations fix a date for consideration by the board for re-release on presumptive release, or parole or conditional release, as the case may be; or (D) for non-technical violations in the case of persons released to a period of post-release supervision, direct the violator's reincarceration up to the balance of the remaining period of post-release supervision, not to exceed five years; provided, however, that a defendant serving a term of post-release supervision for a conviction of a felony sex offense defined in section 70.80 of the penal law may be subject to a further period of imprisonment up to the balance of the remaining period of post-release supervision, shall apply for technical violations; and the following limitations:

(1) Absconding. For absconding up to seven days reincarceration may be imposed for the first violation, up to fifteen days reincarceration may be imposed for the second violation, and up to thirty days

reincarceration may be imposed for the third or any subsequent violation;

(2) Sanctions for certain technical violations. Reincarceration shall not be imposed for a sustained technical violation that involves: (a) violating curfew; (b) alcohol use, provided however that incarceration is permissible for alcohol use if the person is subject to community supervision due to a conviction for driving under the influence of alcohol; (c) drug use, provided, however incarceration is permissible for drug use if the person is subject to community supervision due to a conviction for driving under the influence of drugs; (d) failing to notify parole officer of a change in employment or program status; (e) failing to pay surcharges and fees; (f) obtaining a driver's license or driving a car with a valid driver's license, provided however incarceration is permissible if either action is explicitly prohibited by the person's conviction; (g) failing to notify community supervision officer of contact with any law enforcement agency, provided however, incarceration is permissible if the person intended to hide illegal behavior; (h) failing to obey other special conditions, provided however that incarceration is permissible if the failure cannot be addressed in the community and all reasonable community-based means to address the failure have been exhausted; and

(3) Sanctions for all other technical violations. For all other technical violations, no period of reincarceration may be imposed for the first and second substantiated technical violations for which incarceration may be imposed; up to seven days reincarceration may be imposed for the third substantiated technical violation for which incarceration may be imposed; up to fifteen days reincarceration may be imposed for the fourth substantiated technical violation for which incarceration may be imposed; up to thirty days reincarceration may be imposed for the fifth and subsequent substantiated technical violations for which incarceration may be imposed.

(xiii) If a warrant was executed pursuant to subparagraph (iv) of paragraph (a) of this subdivision by a criminal court and the court released the person pending a preliminary or final revocation hearing, any period of reincarceration imposed pursuant to this paragraph shall be counted from the date of issuance of a determination after a final revocation hearing that the person has violated one or more conditions

of community supervision, and the time between execution of the warrant and release of the person pending a preliminary or final revocation hearing shall count toward any period of reincarceration imposed pursuant to this paragraph. If a releasee is committed to the custody of the sheriff pursuant to article five hundred thirty of the criminal procedure law, any time the person spent confined in a correctional facility or local correctional facility shall be credited toward any period of reincarceration imposed pursuant to this paragraph. In all cases, the presiding officer shall impose the least restrictive reasonable sanction. Any periods of reincarceration imposed pursuant to this section shall run concurrently if more than one violation is sustained. If a period of reincarceration is imposed pursuant to this paragraph, the releasee shall be released from custody upon expiration of the period or the end of the releasee's period of community supervision, whichever shall be sooner. For the violator serving an indeterminate sentence who while re-incarcerated has not been found by the department to have committed a serious disciplinary infraction, such violator shall be re-released on the date fixed at the revocation hearing. For the violator serving an indeterminate sentence who has been found by the department to have committed a serious disciplinary infraction while re-incarcerated, the department shall refer the violator to the board for consideration for re-release to community supervision. Upon such referral the board may waive the personal interview between a member or members of the board and the violator to determine the suitability for re-release when the board directs that the violator be re-released upon expiration of the time assessment. The board shall retain the authority to suspend the date fixed for re-release based on the violator's commission of a serious disciplinary infraction and shall in such case require a personal interview be conducted within a reasonable time between a panel of members of the board and the violator to determine suitability for re-release. If an interview is required, the board shall notify the violator in advance of the date and time of such interview in accordance with the rules and regulations of the board.

(xiv) If the presiding officer sustains any violations, such officer must prepare a written statement, to be made available to the alleged violator and his or her counsel, indicating the evidence relied upon and

the reasons for revoking presumptive release, parole, conditional release or post-release supervision, and for the disposition made. The presiding officer shall also advise the alleged violator in a written statement that revocation will result in loss of the right to vote while he or she is serving the remainder of his or her felony sentence in a correctional facility and that the right to vote will be restored upon his or her release.

(xv) If at any time during a revocation proceeding the alleged violator, his or her counsel, or an employee of the department contends, or if it reasonably appears to the hearing officer, that the alleged violator is an incapacitated person as that term is defined in subdivision one of section 730.10 of the criminal procedure law and no judicial determination has been made that the alleged violator is an incapacitated person, the revocation proceeding shall be temporarily stayed until the superior court determines whether or not the person is fit to proceed. The matter shall be promptly referred to the superior court for determination of the alleged violator's fitness to proceed in a manner consistent with the provisions of article seven hundred thirty of the criminal procedure law, provided however that the superior court shall immediately appoint counsel for any unrepresented alleged violator eligible for appointed counsel under subparagraph (v) of this paragraph. The court shall decide whether or not the alleged violator is incapacitated within thirty days of the referral from the hearing officer. If the court determines that the alleged violator is not an incapacitated person, the court shall order that the matter be returned to the board of parole for continuation and disposition of the revocation proceeding. If the court determines that the alleged violator is an incapacitated person and if no felony charges are pending against the alleged violator, the court shall issue a final order of observation committing such person to the custody of the commissioner of mental health or the commissioner of developmental disabilities for care and treatment in an appropriate institution in a manner consistent with subdivision one of section 730.40 of the criminal procedure law. If a final order of observation has been issued pursuant to this section, the hearing officer shall dismiss the violation charges and such dismissal shall act as a bar to any further proceeding under this section against the alleged violator for such violations. If felony criminal charges are

pending at any time against an alleged violator who has been referred to superior court for a fitness evaluation but before a determination of fitness has been made pursuant to this section, the court shall decide whether or not the alleged violator is incapacitated pursuant to article seven hundred thirty of the criminal procedure law and the revocation proceeding shall be held in abeyance until such decision has been reached. The hearing officer shall adopt the capacity finding of the court and either terminate the revocation process if an order of observation has been made by the court or proceed with the revocation hearing if the alleged violator has been found not to be an incapacitated person.

(g) Revocation of presumptive release, parole, conditional release or post-release supervision shall not prevent re-parole or re-release provided such re-parole or re-release is not inconsistent with any other provisions of law. When there has been a revocation of the period of post-release supervision imposed on a felony sex offender who owes three years or more on such period imposed pursuant to subdivision two-a of section 70.45 of the penal law, and a time assessment of three years or more has been imposed, the violator shall be reviewed by the board of parole and may be restored to post-release supervision only after serving three years of the time assessment, and only upon a determination by the board of parole made in accordance with the procedures set forth in this section. Even if the hearing officer has imposed a time assessment of a certain number of years of three years or more, the violator shall not be released at or before the expiration of that time assessment unless the board authorizes such release, the period of post-release supervision expires, or release is otherwise authorized by law. If a time assessment of less than three years was imposed upon such a defendant, the defendant shall be released upon the expiration of such time assessment, unless he or she is subject to further imprisonment or confinement under any other law.

(h) If the alleged violation is not sustained and the alleged violator is restored to supervision, the interruptions specified in subdivision three of section 70.40 of the penal law shall not apply, but the time spent in custody in any state or local correctional institution shall be credited against the term of the sentence in accordance with the rules specified in paragraph (c) of such subdivision.

(i) Where there is reasonable cause to believe that a presumptive releasee, parolee, conditional releasee or person under post-release supervision has absconded from supervision the board may declare such person to be delinquent. This paragraph shall not be construed to deny such person a preliminary revocation hearing upon his retaking, nor to relieve the department of any obligation it may have to exercise due diligence to retake the alleged absconder, nor to relieve the parolee or releasee of any obligation he may have to comply with the conditions of his release.

4. Appeals. (a) Except for determinations made upon preliminary hearings upon allegations of violation of presumptive release, parole, conditional release or post-release supervision, all determinations made pursuant to this section may be appealed in accordance with rules promulgated by the board. Any board member who participated in the decision from which the appeal is taken may not participate in the resolution of that appeal. The rules of the board may specify a time within which any appeal shall be taken and resolved.

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

(c) All board of parole administrative appeal findings and recommendations shall be published within one hundred twenty days of the determination on a publicly accessible website that includes a word-searchable database. The department of corrections and community supervision shall provide electronic or print copies of such findings and recommendations to all correctional facility law libraries on a quarterly basis. Copies of such individual findings and recommendations shall also be made available upon written request to the department of corrections and community supervision. Information which would reveal confidential material that may not be released pursuant to federal or state law shall be redacted from any such website or findings and recommendations.

4-a. Appeals from non-technical violation findings. (a)

Notwithstanding the provisions of any other law, when in a violation proceeding brought pursuant to this section, any of the charges sustained by the hearing officer would constitute a misdemeanor or felony if such charge were or had been brought in a criminal court, the releasee may, in lieu of an administrative appeal to the board pursuant to subdivision four of this section, appeal such determination to the lowest level of the following courts serving the jurisdiction in which the hearing was held or in which any such sustained conduct was alleged to have occurred: city court, district court, county court or supreme court; provided, however, that if any such misdemeanor or felony charge was prosecuted in any city, district, county or supreme court, such appeal shall be filed in that court.

(b) The appeal shall be commenced by the filing of a notice of appeal in the same manner as an appeal to the appellate division as set forth in paragraphs (a), (b), (d) and (e) of subdivision one and subdivision six of section 460.10 of the criminal procedure law. Counsel shall be assigned to the individual, if unable to afford counsel, by the court before which the appeal is taken or is to be taken. Such court may stay such determination pending the appeal, in a manner consistent with the provisions of section 460.50 of the criminal procedure law or as otherwise authorized. Within thirty days after receiving such a notice of appeal, the board shall serve on the individual or counsel and file with such court a transcript of the proceedings before the hearing officer prepared pursuant to paragraph (a) of subdivision six of this section, and copies of the documents, photographs and records considered by the hearing officer, and provide access to any other evidence considered by the hearing officer who made such determination.

(c) The appeal shall be perfected in the manner set forth in section 460.70 of the criminal procedure law, other provisions of law generally applicable to criminal appeals, and authorized rules implementing this section promulgated by the chief administrator of the courts. The department shall have responsibility for presenting the department's position through any submissions to the court on the appeal. The department shall coordinate with relevant district attorneys to ensure appropriate information may be provided to the court. The district attorney of the jurisdiction may appear on any such appeal without the necessity of a motion or order of the court.

(d) On such appeal, the reviewing city, district, county or supreme court shall consider de novo the issues raised by the appellant, including but not limited to the following: (a) whether any sustained violation charge should have been sustained; (b) whether reduction or dismissal of the alleged violation charge or charges is warranted, in accordance with the principles set forth in section 170.40 or section 210.40 of the criminal procedure law or otherwise; and (c) whether any time assessment and other authorized sanction imposed by the hearing officer should be vacated, reduced or, notwithstanding any law, rule or regulation to the contrary, ordered to run concurrently with any other sentence, time assessment, or period of reincarceration imposed.

5. Actions of the board. Any action by the board or by a hearing officer pursuant to this article shall be deemed a judicial function and shall not be reviewable if done in accordance with law.

6. Record of proceedings. (a) (i) The board shall provide for the making of a verbatim record of each parole release interview, except where a decision is made to release the incarcerated individual to parole supervision, and each preliminary and final revocation hearing, except when the decision of the presiding officer after such hearings result in a dismissal of all charged violations of parole, conditional release or post release supervision.

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

(b) The chairman of the board of parole 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.

7. Deaf person before the board. Whenever any deaf person participates

in an interview, parole release hearing, preliminary hearing or revocation hearing, there shall be appointed a qualified interpreter who is certified by a recognized national or New York state credentialing authority to interpret the proceedings to and the statements or testimony of such deaf person. The department shall determine a reasonable fee for all such interpreting services, the cost of which shall be a charge upon the department.

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 person. The board shall determine a reasonable fee for all such interpreting services, the cost of which shall be a charge upon the board of parole. No such request or appointment shall cause a delay of release from incarceration of such person.

9. The board shall promulgate rules and regulations to facilitate the presence of nonprofit service providers able to offer relevant community-based services to releasees at all preliminary and final revocation hearings for the purpose of helping people subject to community supervision successfully complete such supervision and avoid future such supervision, and to help ensure presiding officers impose the least restrictive reasonable sanction for any violation of community supervision.

§ 259-j. Discharge of sentence. 1. Except where a determinate sentence was imposed for a felony other than a felony defined in article two hundred twenty or article two hundred twenty-one of the penal law, if the board of parole is satisfied that an absolute discharge from presumptive release, parole, conditional release or release to a period of post-release supervision is in the best interests of society, the

board may grant such a discharge prior to the expiration of the full term or maximum term to any person who has been on unrevoked community supervision for at least three consecutive years. A discharge granted under this section shall constitute a termination of the sentence with respect to which it was granted. No such discharge shall be granted unless the board is satisfied that the parolee or releasee, otherwise financially able to comply with an order of restitution and the payment of any mandatory surcharge, sex offender registration fee or DNA databank fee previously imposed by a court of competent jurisdiction, has made a good faith effort to comply therewith.

2. The chairman of the board of parole shall promulgate rules and regulations governing the issuance of discharges from community supervision pursuant to this section to assure that such discharges are consistent with public safety.

3. Notwithstanding any other provision of this section to the contrary, where a term of post-release supervision in excess of five years has been imposed on a person convicted of a crime defined in article one hundred thirty of the penal law, including a sexually motivated felony, the board of parole may grant a discharge from post-release supervision prior to the expiration of the maximum term of post-release supervision. Such a discharge may be granted only after the person has served at least five years of post-release supervision, and only to a person who has been on unrevoked post-release supervision for at least three consecutive years. No such discharge shall be granted unless the board of parole or the department acting pursuant to its responsibility under subdivision one of section two hundred one of the correction law consults with any licensed psychologist, qualified psychiatrist, or other mental health professional who is providing care or treatment to the supervisee; and the board: (a) determines that a discharge from post-release supervision is in the best interests of society; and (b) is satisfied that the supervisee, otherwise financially able to comply with an order of restitution and the payment of any mandatory surcharge, sex offender registration fee, or DNA data bank fee previously imposed by a court of competent jurisdiction, has made a good faith effort to comply therewith. Before making a determination to

discharge a person from a period of post-release supervision, the board of parole may request that the commissioner of the office of mental health arrange a psychiatric evaluation of the supervisee. A discharge granted under this section shall constitute a termination of the sentence with respect to which it was granted.

4. Notwithstanding any other provision of law, a person granted discharge pursuant to subdivision one of this section shall be provided a certificate of relief from disabilities pursuant to section seven hundred three of the correction law or a certificate of good conduct pursuant to section seven hundred three-b of the correction law, as applicable.

§ 259-k. Access to records and institutions. 1. All case files shall be maintained by the department for use by the department and board. The department and board and authorized officers and employees thereof shall have complete access to such files and the board of parole shall have the right to make such entries as the board of parole shall deem appropriate in accordance with law.

2. The board shall make rules for the purpose of maintaining the confidentiality of records, information contained therein and information obtained in an official capacity by officers, employees or members of the board of parole.

3. Members of the board and officers and employees of the department providing community supervision services and designated by the commissioner shall have free access to all incarcerated individuals confined in institutions under the jurisdiction of the department, the office of children and family services and the department of mental hygiene in order to enable them to perform their functions, provided, however, that the department of mental hygiene may temporarily restrict such access where it determines, for significant clinical reasons, that such access would interfere with its care and treatment of the mentally ill incarcerated individual. If under the provisions of this subdivision an incarcerated individual is not accessible for release consideration

by the board, that incarcerated individual shall be scheduled to see the board in the month immediately subsequent to the month within which he or she was not available.

4. Upon a determination by the department and board of parole that records regarding an individual presently under the supervision of the department are relevant to an investigation of child abuse or maltreatment conducted by a child protective service pursuant to title six of article six of the social services law, the department and board shall provide the records determined to be relevant to the child protective service conducting the investigation. The department and board shall promulgate rules for the transmission of records required to be provided under this section.

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

2. The official in charge of each institution wherein any person is confined under a definite sentence of imprisonment, all officers and

employees thereof and all other public officials shall at all times cooperate with the board of parole, and shall furnish to such board, its officers and employees such information as may be required by the board to perform its functions hereunder. The members of the board, its officers and employees shall at all times be given free access to all persons confined in any such institution under such sentence and shall be furnished with appropriate working space in such institution for such purpose without charge therefor.

3. It shall be the duty of the clerk of the court, the commissioner of mental hygiene and all probation officers and other appropriate officials to send such information as may be in their possession or under their control to the chairman of the board upon request in order to facilitate the work of the board.

§ 259-m. Compacts with other states for out-of-state parolee supervision. 1. The governor is hereby authorized and directed to enter into a compact on behalf of the state of New York with any state of the United States legally joining therein in the form substantially as follows:

A COMPACT

Entered into by and among the contracting states, signatories hereto, with the consent of the Congress of the United States of America, granted by an act entitled "An act granting the consent of Congress to any two or more states to enter into agreements or compacts for cooperative effort and mutual assistance in the prevention of crime and for other purposes."

The contracting states solemnly agree:

(1) That it shall be competent for the duly constituted judicial and administrative authorities of a state party to this compact (herein called "sending state") to permit any person convicted of an offense within such state and placed on probation or released on parole to reside in any other state party to this compact (herein called "receiving state") while on probation or parole, if

(a) Such person is in fact a resident of or has his family residing within the receiving state and can obtain employment there;

(b) Though not a resident of the receiving state and not having his family residing there, the receiving state consents to such person being sent there.

Before granting such permission, opportunity shall be granted to the receiving state to investigate the home and prospective employment of such person.

A resident of the receiving state, within the meaning of this section, is one who has been an actual inhabitant of such state continuously for more than one year prior to his coming to the sending state and has not resided within the sending state more than six continuous months immediately preceding the commission of the offense for which he has been convicted.

(2) That each receiving state will assume the duties of visitation of and supervision over probationers or parolees of any sending state and in the exercise of those duties will be governed by the same standards that prevail for its own probationers and parolees.

(3) That duly accredited officers of a sending state may at all times enter a receiving state and there apprehend and retake any person on probation or parole. For that purpose no formalities will be required other than establishing the authority of the officer and the identity of the person to be retaken. All legal requirements to obtain extradition of fugitives from justice are hereby expressly waived on the part of states party hereto, as to such persons. The decision of the sending state to retake a person on probation or parole shall be conclusive upon and not reviewable within the receiving state; provided, however, that if at the time when a state seeks to retake a probationer or parolee there should be pending against him within the receiving state any criminal charge, or he should be suspected of having committed within such state a criminal offense, he shall not be retaken without the consent of the receiving state until discharged from prosecution or from imprisonment for such offense.

(4) That the duly accredited officers of the sending state will be permitted to transport prisoners being retaken through any and all

states parties to this compact, without interference.

(5) That the governor of each state may designate an officer who, acting jointly with like officers of other contracting states, if and when appointed, shall promulgate such rules and regulations as may be deemed necessary to more effectively carry out the terms of this compact.

(6) That this compact shall become operative immediately upon its ratification by any state as between it and any other state or states so ratifying. When ratified it shall have the full force and effect of law within such state, the form of ratification to be in accordance with the laws of the ratifying state.

(7) That this compact shall continue in force and remain binding upon each ratifying state until renounced by it. The duties and obligations hereunder of a renouncing state shall continue as to parolees or probationers residing therein at the time of withdrawal until retaken or finally discharged by the sending state. Renunciation of this compact shall be by the same authority which ratified it, by sending six months' notice in writing of its intention to withdraw from the compact to the other states party hereto.

2. The chairman of the board of parole shall have power and shall be charged with the duty of promulgating such rules and regulations as may be deemed necessary to carry out the terms of a compact entered into by the state pursuant to this section.

3. If any section, sentence, subdivision or clause of this section is for any reason held invalid or to be unconstitutional, such decision shall not affect the validity of the remaining portions of this section.

4. This section may be cited as the uniform act for out-of-state parolee supervision.

*** § 259-mm. Interstate compact for adult offender supervision.** The interstate compact for adult offender supervision as set forth in this section is hereby adopted, enacted into law and entered into with all other jurisdictions joining therein. The compact shall be as follows:

INTERSTATE COMPACT FOR ADULT OFFENDER SUPERVISION

ARTICLE I. Purpose.
ARTICLE II. Definitions.
ARTICLE III. The compact commission.
ARTICLE IV. The state council.
ARTICLE V. Powers and duties of the interstate commission.
ARTICLE VI. Organization and operation of the interstate commission.
ARTICLE VII. Activities of the interstate commission.
ARTICLE VIII. Rulemaking functions of the interstate commission.
ARTICLE IX. Oversight, enforcement and dispute resolution by the interstate commission.
ARTICLE X. Finance.
ARTICLE XI. Compacting states, effective date and amendment.
ARTICLE XII. Withdrawal, default, termination and judicial enforcement.
ARTICLE XIII. Severability and construction.
ARTICLE XIV. Binding effect of compact and other laws.

ARTICLE I
PURPOSE

The compacting states to this interstate compact recognize that each state is responsible for the supervision of adult offenders in the community who are authorized pursuant to the bylaws and rules of this compact to travel across state lines both to and from each compacting state in such a manner as to track the location of offenders, transfer supervision authority in an orderly and efficient manner, and when necessary return offenders to the originating jurisdictions. The compacting states also recognize that Congress, by enacting the Crime Control Act, 4 U.S.C. Section 112 (1965), has authorized and encouraged compacts for cooperative efforts and mutual assistance in the prevention of crime. It is the purpose of this compact and the interstate commission created pursuant to this compact, through means of joint and cooperative action among the compacting states: to provide the framework for the promotion of public safety and protect the rights of victims through the control and regulation of the interstate movement of offenders in the community; to provide for the effective tracking, supervision and rehabilitation of these offenders by the sending and receiving states; and to equitably distribute the costs, benefits and

obligations of the compact among the compacting states. In addition, this compact will: create an interstate commission which will establish uniform procedures to manage the movement between states of adults placed under community supervision and released to the community under the jurisdiction of courts, paroling authorities, corrections or other criminal justice agencies which will promulgate rules to achieve the purpose of this compact; ensure an opportunity for input and timely notice to victims and to jurisdictions where defined offenders are authorized to travel or to relocate across state lines; establish a system of uniform data collection, access to information on active cases by authorized criminal justice officials, and regular reporting of compact activities to heads of state councils, state executive, judicial and legislative branches, and criminal justice administrators; monitor compliance with rules governing interstate movement of offenders and initiate interventions to address and correct non-compliance; and coordinate training and education regarding regulations of interstate movement of offenders for officials involved in such activity. The compacting states recognize that there is no "right" of any offender to live in another state and that duly accredited officers of a sending state may at all times enter a receiving state and there apprehend and retake any offender under supervision subject to the provisions of this compact and bylaws and rules promulgated thereto. It is the policy of the compacting states that the activities conducted by the interstate commission created by this compact are the formation of public policies and are therefore public business.

ARTICLE II
DEFINITIONS

As used in this compact, unless the context clearly requires a different construction:

(a) "Adult" means both individuals legally classified as adults and juveniles treated as adults by court order, statute or operation of law.

(b) "By-laws" means those by-laws established by the interstate commission for its governance, or for directing or controlling the interstate commission's actions or conduct.

(c) "Compact administrator" means the individual in each compacting state appointed pursuant to the terms of this compact responsible for

the administration and management of the state's supervision and transfer of offenders subject to the terms of this compact, the rules adopted by the interstate commission and policies adopted by the state council under this compact.

(d) "Compacting state" means any state which has enacted the enabling legislation for this compact.

(e) "Commissioner" means the voting representative of each compacting state appointed pursuant to article III of this compact.

(f) "Interstate commission" means the interstate commission for adult offender supervision established by this compact.

(g) "Member" means the commissioner of a compacting state or designee, who shall be a person officially connected with the commissioner.

(h) "Non-compacting state" means any state which has not enacted the enabling legislation for this compact.

(i) "Offender" means an adult placed under, or subject to, supervision as the result of the commission of a criminal offense and released to the community under the jurisdiction of courts, paroling authorities, corrections or other criminal justice agencies.

(j) "Person" means any individual, corporation, business enterprise or other legal entity, either public or private.

(k) "Rules" means acts of the interstate commission, duly promulgated pursuant to article VIII of this compact, substantially affecting interested parties in addition to the interstate commission, which shall have the force and effect of law in the compacting states.

(l) "State" means a state of the United States, the District of Columbia and any other territorial possessions of the United States.

(m) "State council" means the resident members of the state council for interstate adult offender supervision created by each state under article IV of this compact.

ARTICLE III
THE COMPACT COMMISSION

The compacting states hereby create the "interstate commission for adult offender supervision". The interstate commission shall be a body corporate and joint agency of the compacting states. The interstate commission shall have all the responsibilities, powers and duties set forth in this compact, including the power to sue and be sued, and such

additional powers as may be conferred upon it by subsequent action of the respective legislatures of the compacting states in accordance with the terms of this compact.

The interstate commission shall consist of commissioners selected and appointed by resident members of a state council for interstate adult offender supervision for each state. In addition to the commissioners who are the voting representatives of each state, the interstate commission shall include individuals who are not commissioners but who are members of interested organizations; such non-commissioner members must include a member of the national organizations of governors, legislators, state chief justices, attorneys general and crime victims. All non-commissioner members of the interstate commission shall be ex-officio (nonvoting) members. The interstate commission may provide in its by-laws for such additional, ex-officio, non-voting members as it deems necessary.

Each compacting state represented at any meeting of the interstate commission is entitled to one vote. A majority of the compacting states shall constitute a quorum for the transaction of business, unless a larger quorum is required by the by-laws of the interstate commission. The interstate commission shall meet at least once each calendar year. The chairperson may call additional meetings and, upon the request of twenty-seven or more compacting states, shall call additional meetings. Public notice shall be given of all meetings and meetings shall be open to the public.

The interstate commission shall establish an executive committee which shall include commission officers, members and others as shall be determined by the by-laws. The executive committee shall have the power to act on behalf of the interstate commission during periods when the interstate commission is not in session, with the exception of rulemaking and/or amendment to the compact. The executive committee oversees the day-to-day activities managed by the executive director and interstate commission staff; administers enforcement and compliance with the provisions of the compact, its by-laws and as directed by the interstate commission and performs other duties as directed by the

commission or set forth in the by-laws.

ARTICLE IV
THE STATE COUNCIL

Each member state shall create a state council for interstate adult offender supervision which shall be responsible for the appointment of the commissioner who shall serve on the interstate commission from that state. Each state council shall appoint as its commissioner the compact administrator from that state to serve on the interstate commission in such capacity under or pursuant to applicable law of the member state. While each member state may determine the membership of its own state council, its membership must include at least one representative from the legislative, judicial and executive branches of government, victims groups and compact administrators. Each compacting state retains the right to determine the qualifications of the compact administrator who shall be appointed by the state council or by the governor in consultation with the legislature and the judiciary. In addition to appointment of its commissioner to the national interstate commission, each state council shall exercise oversight and advocacy concerning its participation in interstate commission activities and other duties as may be determined by each member state including but not limited to, development of policy concerning operations and procedures of the compact within that state. The compact administrator shall be appointed by the governor in consultation with the temporary president of the senate, the speaker of the assembly and the chief judge of the court of appeals. The state council shall appoint the compact administrator to serve on the interstate commission pursuant to this section.

ARTICLE V
POWERS AND DUTIES OF THE INTERSTATE COMMISSION

The interstate commission shall have the following powers:

(a) to adopt a seal and suitable by-laws governing the management and operation of the interstate commission;

(b) to promulgate rules which shall have the force and effect of statutory law and shall be binding in the compacting states to the extent and in the manner provided in this compact;

(c) to oversee, supervise and coordinate the interstate movement of

offenders subject to the terms of this compact and any by-laws adopted and rules promulgated by the compact commission;

(d) to enforce compliance with compact provisions, interstate commission rules, and by-laws using all necessary and proper means, including but not limited to, the use of judicial order;

(e) to establish and maintain offices;

(f) to purchase and maintain insurance and bonds;

(g) to borrow, accept or contract for services of personnel, including, but not limited to, members and their staffs;

(h) to establish and appoint committees and hire staff which it deems necessary for the carrying out of its functions including, but not limited to, an executive committee as required by article III of this compact which shall have the power to act on behalf of the interstate commission in carrying out its powers and duties pursuant to this compact;

(i) to elect or appoint such officers, attorneys, employees, agents or consultants, and to fix their compensation, define their duties and determine their qualifications; and to establish the interstate commission's personnel policies and programs relating to, among other things, conflicts of interest, rates of compensation and qualifications of personnel;

(j) to accept any and all donations and grants of money, equipment, supplies, materials and services, and to receive, utilize and dispose of same;

(k) to lease, purchase, accept contributions or donations of, or otherwise to own, hold, improve or use any property, real, personal or mixed;

(l) to sell, convey, mortgage, pledge, lease, exchange, abandon or otherwise dispose of any property, real, personal or mixed;

(m) to establish a budget and make expenditures and levy dues as provided in article X of this compact;

(n) to sue and be sued;

(o) to provide for dispute resolution among compacting states;

(p) to perform such functions as may be necessary or appropriate to achieve the purposes of this compact;

(q) to report annually to the legislatures, governors, judiciary and state councils of the compacting states concerning the activities of the

interstate commission during the preceding year. Such reports shall also include any recommendations that may have been adopted by the interstate commission;

(r) to coordinate education, training and public awareness regarding the interstate movement of offenders for officials involved in such activity; and

(s) to establish uniform standards for the reporting, collecting and exchanging of data.

ARTICLE VI

ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION

(a) By-laws. The interstate commission shall, by a majority of the members, within twelve months of the first interstate commission meeting, adopt by-laws to govern its conduct as may be necessary or appropriate to carry out the purposes of the compact, including, but not limited to:

1. establishing the fiscal year of the interstate commission;

2. establishing an executive committee and such other committees as may be necessary;

3. providing reasonable standards and procedures:

a. for the establishment of committees, and

b. governing any general or specific delegation of any authority or function of the interstate commission;

4. providing reasonable procedures for calling and conducting meetings of the interstate commission, and ensuring reasonable notice of each such meeting;

5. establishing the titles and responsibilities of the officers of the interstate commission;

6. providing reasonable standards and procedures for the establishment of the personnel policies and programs of the interstate commission.

Notwithstanding any civil service or other similar laws of any compacting state, the by-laws shall exclusively govern the personnel policies and programs of the interstate commission;

7. providing a mechanism for winding up the operations of the interstate commission and the equitable return of any surplus funds that may exist upon the termination of the compact after the payment and/or reserving of all of its debts and obligations;

8. providing transition rules for "start up" administration of the compact; and

9. establishing standards and procedures for compliance and technical assistance in carrying out the compact.

(b) Officers and staff. The interstate commission shall, by a majority of the members, elect from among its members a chairperson and a vice chairperson, each of whom shall have such authorities and duties as may be specified in the by-laws. The chairperson or, in his or her absence or disability, the vice chairperson, shall preside at all meetings of the interstate commission. The officers so elected shall serve without compensation or remuneration from the interstate commission; provided that, subject to the availability of budgeted funds, the officers shall be reimbursed for any actual and necessary costs and expenses incurred by them in the performance of their duties and responsibilities as officers of the interstate commission.

The interstate commission shall, through its executive committee, appoint or retain an executive director for such period, upon such terms and conditions and for such compensation as the interstate commission may deem appropriate. The executive director shall serve as secretary to the interstate commission, and hire and supervise such other staff as may be authorized by the interstate commission, but shall not be a member.

(c) Corporate records of the interstate commission. The interstate commission shall maintain its corporate books and records in accordance with the by-laws.

(d) Qualified immunity, defense and indemnification. The members,

officers, executive director and employees of the interstate commission shall be immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability cause or arising out of any actual or alleged act, error or omission that occurred within the scope of interstate commission employment, duties or responsibilities; provided, that nothing in this subdivision shall be construed to protect any such person from suit and/or liability for any damage, loss, injury or liability caused by the intentional or willful and wanton misconduct of any such person. The interstate commission shall defend the commissioner of a compacting state, or his or her representatives or employees, or the interstate commission's representatives or employees, in any civil action seeking to impose liability, arising out of any actual or alleged act, error or omission that occurred within the scope of interstate commission employment, duties or responsibilities, or that the defendant had a reasonable basis for believing occurred within the scope of interstate commission employment, duties or responsibilities; provided, that the actual or alleged act, error or omission did not result from intentional wrongdoing on the part of such person.

The interstate commission shall indemnify and hold the commissioner of a compacting state, the appointed designee or employees, or the interstate commission's representatives or employees, harmless in the amount of any settlement or judgment obtained against such persons arising out of any actual or alleged act, error or omission that occurred within the scope of interstate commission employment, duties or responsibilities, or that such persons had a reasonable basis for believing occurred within the scope of interstate commission employment, duties or responsibilities, provided, that the actual or alleged act, error or omission did not result from gross negligence or intentional wrongdoing on the part of such person.

ARTICLE VII

ACTIVITIES OF THE INTERSTATE COMMISSION

The interstate commission shall meet and take such actions as are consistent with the provisions of this compact.

Except as otherwise provided in this compact and unless a greater percentage is required by the by-laws, in order to constitute an act of the interstate commission, such act shall have been taken at a meeting of the interstate commission and shall have received an affirmative vote of a majority of the members present.

Each member of the interstate commission shall have the right and power to cast a vote to which that compacting state is entitled and to participate in the business and affairs of the interstate commission. A member shall vote in person on behalf of the state and shall not delegate a vote to another member state. However, a state council shall appoint another authorized representative, in the absence of the commissioner from that state, to cast a vote on behalf of the member state at a specified meeting. The by-laws may provide for members' participation in meetings by telephone or other means of telecommunication or electronic communication. Any voting conducted by telephone, or other means of telecommunication or electronic communication shall be subject to the same quorum requirements of meetings where members are present in person.

The interstate commission shall meet at least once during each calendar year. The chairperson of the interstate commission may call additional meetings at any time and, upon the request of a majority of the members, shall call additional meetings.

The interstate commission's by-laws shall establish conditions and procedures under which the interstate commission shall make its information and official records available to the public for inspection or copying. The interstate commission may exempt from disclosure any information or official records to the extent they would adversely affect personal privacy rights or proprietary interests. In promulgating such rules, the interstate commission may make available to law enforcement agencies records and information otherwise exempt from disclosure, and may enter into agreements with law enforcement agencies to receive or exchange information or records subject to nondisclosure and confidentiality provisions.

Public notice shall be given of all meetings and all meetings shall be open to the public, except as set forth in the rules or as otherwise provided in the compact. The interstate commission shall promulgate rules consistent with the principles contained in the "Government in Sunshine Act," 5 U.S.C. Section 552(b), as may be amended. The interstate commission and any of its committees may close a meeting to the public where it determines by a two-thirds vote that an open meeting would be likely to:

(a) relate solely to the interstate commission's internal personnel practices and procedures;

(b) disclose matters specifically exempted from disclosure by statute;

(c) disclose trade secrets or commercial or financial information which is privileged or confidential;

(d) involve accusing any person of a crime, or formally censuring any person;

(e) disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(f) disclose investigatory records compiled for law enforcement purposes;

(g) disclose information contained in or related to examination, operating or condition reports prepared by, or on behalf of or for the use of, the interstate commission with respect to a regulated entity for the purpose of regulation or supervision of such entity;

(h) disclose information, the premature disclosure of which would significantly endanger the life of a person or the stability of a regulated entity; or

(i) specifically relate to the interstate commission's issuance of a subpoena, or its participation in a civil action or proceeding.

For every meeting closed pursuant to this article, the interstate commission's chief legal officer shall publicly certify that, in his or her opinion, the meeting may be closed to the public, and shall reference each relevant exemptive provision. The interstate commission shall keep minutes which shall fully and clearly describe all matters discussed in any meeting and shall provide a full and accurate summary of any actions taken, and the reasons therefor, including a description of each of the views expressed on any item and the record of any

rollcall vote (reflected in the vote of each member on the question). All documents considered in connection with any action shall be identified in such minutes.

The interstate commission shall collect standardized data concerning the interstate movement of offenders as directed through its by-laws and rules which shall specify the data to be collected, the means of collection and data exchange and reporting requirements.

ARTICLE VIII
RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION

The interstate commission shall promulgate rules in order to effectively and efficiently achieve the purposes of the compact including transition rules governing administration of the compact during the period in which it is being considered and enacted by the states.

Rulemaking shall occur pursuant to the criteria set forth in this article and the by-laws and rules adopted pursuant thereto. Such rulemaking shall substantially conform to the principles of the federal Administrative Procedure Act, 5 U.S.C.S. section 551 et seq., and the Federal Advisory Committee Act, 5 U.S.C.S. app. 2, section 1 et seq., as may be amended (hereinafter referred to as "APA"). All rules and amendments shall become binding as of the date specified in each rule or amendment.

If a majority of the legislatures of the compacting states rejects a rule, by enactment of a statute or resolution in the same manner used to adopt the compact, then such rule shall have no further force and effect in any compacting state.

When promulgating a rule, the interstate commission shall:

(a) publish the proposed rule stating with particularity the text of the rule which is proposed and the reason for the proposed rule;

(b) allow persons to submit written data, facts, opinions and arguments, which information shall be publicly available;

(c) provide an opportunity for an informal hearing; and

(d) promulgate a final rule and its effective date, if appropriate, based on the rulemaking record.

Not later than sixty days after a rule is promulgated, any interested person may file a petition in the United States District Court for the District of Columbia or in the Federal District Court where the interstate commission principal office is located for judicial review of such rule. If the court finds that the interstate commission's action is not supported by substantial evidence, (as defined in the APA), in the rulemaking record, the court shall hold the rule unlawful and set it aside. Subjects to be addressed within twelve months after the first meeting must at a minimum include:

1. notice to victims and opportunity to be heard;

2. offender registration and compliance;

3. violations/returns;

4. transfer procedures and forms;

5. eligibility for transfer;

6. collection of restitution and fees from offenders;

7. data collection and reporting;

8. the level of supervision to be provided by the receiving state;

9. transition rules governing the operation of the compact and the interstate commission during all or part of the period between the effective date of the compact and the date on which the last eligible state adopts the compact; and

10. mediation, arbitration and dispute resolution.

The existing rules governing the operation of the previous compact

superceded by this compact shall be null and void twelve months after the first meeting of the interstate commission created pursuant to this compact.

Upon determination by the interstate commission that an emergency exists, it may promulgate an emergency rule which shall become effective immediately upon adoption, provided that the usual rulemaking procedures provided hereunder shall be retroactively applied to said rule as soon as reasonably possible, in no event later than ninety days after the effective date of the rule.

ARTICLE IX

OVERSIGHT, ENFORCEMENT AND DISPUTE RESOLUTION BY THE INTERSTATE COMMISSION

(a) Oversight. The interstate commission shall oversee the interstate movement of adult offenders in the compacting states and shall monitor such activities being administered in non-compacting states which may significantly affect compacting states.

The courts and executive agencies in each compacting state shall enforce this compact and shall take all actions necessary and appropriate to effectuate the compact's purposes and intent. In any judicial or administrative proceeding in a compacting state pertaining to the subject matter of this compact which may affect the powers, responsibilities or actions of the interstate commission, the interstate commission shall be entitled to receive all service of process in any such proceeding, and shall have standing to intervene in the proceeding for all purposes.

(b) Dispute resolution. The compacting states shall report to the interstate commission on issues or activities of concern to them, and cooperate with and support the interstate commission in the discharge of its duties and responsibilities.

The interstate commission shall attempt to resolve any disputes or other issues which are subject to the compact and which may arise among compacting states and non-compacting states.

The interstate commission shall enact a by-law or promulgate a rule

providing for both mediation and binding dispute resolution for disputes among the compacting states.

(c) Enforcement. The interstate commission, in the reasonable exercise of its discretion, shall enforce the provisions of this compact using any or all means set forth in article XII, subdivision (b), of this compact.

ARTICLE X
FINANCE

The interstate commission shall pay or provide for the payment of the reasonable expenses of its establishment, organization and ongoing activities.

The interstate commission shall levy on and collect an annual assessment from each compacting state to cover the cost of the internal operations and activities of the interstate commission and its staff which must be in a total amount sufficient to cover the interstate commission's annual budget as approved each year. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the interstate commission, taking into consideration the population of the state and the volume of interstate movement of offenders in each compacting state and shall promulgate a rule binding upon compacting states which governs said assessment.

The interstate commission shall not incur any obligations of any kind prior to securing the funds adequate to meet the same; nor shall the interstate commission pledge the credit of any of the compacting states, except by and with the authority of the compacting state.

The interstate commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the interstate commission shall be subject to the audit and accounting procedures established under its by-laws. However, all receipts and disbursements of funds handled by the interstate commission shall be audited yearly by a certified or licensed public accountant and the report of the audit shall be included in and become part of the annual report of the interstate commission.

ARTICLE XI
COMPACTING STATES, EFFECTIVE DATE AND AMENDMENT

Any state, as defined in article II of this compact, is eligible to become a compacting state. The compact shall become effective and binding upon legislative enactment of the compact into law by no less than thirty-five of the states. The initial effective date shall be the later of July first, two thousand three, or upon enactment into law by the thirty-fifth jurisdiction. Thereafter it shall become effective and binding, as to any other compacting state and in the state of New York, upon enactment of the compact into law by that state. The governors of non-member states or their designees will be invited to participate in interstate commission activities on a non-voting basis prior to adoption of the compact by all states and territories of the United States.

Amendments to the compact may be proposed by the interstate commission for enactment by the compacting states. No amendment shall become effective and binding upon the interstate commission and the compacting states unless and until it is enacted into law by unanimous consent of the compacting states.

ARTICLE XII
WITHDRAWAL, DEFAULT, TERMINATION AND JUDICIAL ENFORCEMENT

(a) Withdrawal. Once effective, the compact shall continue in force and remain binding upon each and every compacting state; provided, that a compacting state may withdraw from the compact ("withdrawing state") by enacting a statute specifically repealing the statute which enacted the compact into law.

The effective date of withdrawal is the effective date of the repeal.

The withdrawing state shall immediately notify the chairperson of the interstate commission in writing upon the introduction of legislation repealing this compact in the withdrawing state. The interstate commission shall notify the other compacting states of the withdrawing state's intent to withdraw within sixty days of its receipt thereof.

The withdrawing state is responsible for all assessments, obligations

and liabilities incurred through the effective date of withdrawal, including any obligations, the performance of which extend beyond the effective date of withdrawal. Reinstatement following withdrawal of any compacting state shall occur upon the withdrawing state reenacting the compact or upon such later date as determined by the interstate commission.

(b) Default. If the interstate commission determines that any compacting state has at any time defaulted ("defaulting state") in the performance of any of its obligations or responsibilities under this compact, the by-laws or any duly promulgated rules the interstate commission may impose any or all of the following penalties:

1. Fines, fees and costs in such amounts as are deemed to be reasonable as fixed by the interstate commission;

2. Remedial training and technical assistance as directed by the interstate commission;

3. Suspension and termination of membership in the compact. Suspension shall be imposed only after all other reasonable means of securing compliance under the by-laws and rules have been exhausted. Immediate notice of suspension shall be given by the interstate commission to the governor, the chief justice or chief judicial officer of the state, the majority and minority leaders of the defaulting state's legislature, and the state council.

The grounds for default include, but are not limited to, failure of a compacting state to perform such obligations or responsibilities imposed upon it by this compact, interstate commission by-laws, or duly promulgated rules. The interstate commission shall immediately notify the defaulting state in writing of the penalty imposed by the interstate commission on the defaulting state pending a cure of the default. The interstate commission shall stipulate the conditions and the time period within which the defaulting state must cure its default. If the defaulting state fails to cure the default within the time period specified by the interstate commission, in addition to any other penalties imposed herein, the defaulting state may be terminated from

the compact upon an affirmative vote of a majority of the compacting states and all rights, privileges and benefits conferred by this compact shall be terminated from the effective date of suspension. Within sixty days of the effective date of termination of a defaulting state, the interstate commission shall notify the governor, the chief justice or chief judicial officer, the majority and minority leaders of the defaulting state's legislature, and the state council of such termination.

The defaulting state is responsible for all assessments, obligations and liabilities incurred through the effective date of termination including any obligations, the performance of which extends beyond the effective date of termination.

The interstate commission shall not bear any costs relating to the defaulting state unless otherwise mutually agreed upon between the interstate commission and the defaulting state.

Reinstatement following termination of any compacting state requires both a reenactment of the compact by the defaulting state and the approval of the interstate commission pursuant to the rules.

(c) Judicial enforcement. The interstate commission may, by majority vote of the members, initiate legal action in the United States District Court for the District of Columbia or, at the discretion of the interstate commission, in the federal district where the interstate commission has its offices to enforce compliance with the provisions of the compact, its duly promulgated rules and by-laws, against any compacting state in default. In the event judicial enforcement is necessary the prevailing party shall be awarded all costs of such litigation including reasonable attorneys' fees.

(d) Dissolution of compact. The compact dissolves effective upon the date of the withdrawal or default of the compacting state which reduces membership in the compact to one compacting state.

Upon the dissolution of this compact, the compact becomes null and void and shall be of no further force or effect, and the business and affairs of the interstate commission shall be wound up and any surplus

funds shall be distributed in accordance with the by-laws.

ARTICLE XIII
SEVERABILITY AND CONSTRUCTION

The provisions of this compact shall be severable, and if any phrase, clause, sentence or provision is deemed unenforceable, the remaining provisions of the compact shall be enforceable.

The provisions of this compact shall be liberally constructed to effectuate its purposes.

ARTICLE XIV
BINDING EFFECT OF COMPACT AND OTHER LAWS

(a) Other laws. Nothing in this compact prevents the enforcement of any other law of a compacting state that is not inconsistent with this compact.

All compacting states' laws conflicting with this compact are superseded to the extent of the conflict.

(b) Binding effect of the compact. All lawful actions of the interstate commission, including all rules and by-laws promulgated by the interstate commission, are binding upon the compacting states.

All agreements between the interstate commission and the compacting states are binding in accordance with their terms.

Upon the request of a party to a conflict over meaning or interpretation of interstate commission actions, and upon a majority vote of the compacting states, the interstate commission may issue advisory opinions regarding such meaning or interpretation.

In the event any provision of this compact exceeds the constitutional limits imposed on the legislature of any compacting state, the obligations, duties, powers or jurisdiction sought to be conferred by such provision upon the interstate commission shall be ineffective and such obligations, duties, powers or jurisdiction shall remain in the compacting state and shall be exercised by the agency thereof to which such obligations, duties, powers or jurisdiction are delegated by law in

effect at the time this compact becomes effective.

* NB Repealed September 1, 2027

§ 259-o. Interstate hearings for parole violations. 1. For the purposes of this section, "preliminary violation hearing" means a hearing to determine whether there are reasonable grounds to believe that a person released on parole has violated the conditions of his parole.

2. Whenever there is reasonable cause to believe that a person released on parole in another state but under the parole supervision of this state pursuant to section two hundred fifty-nine-m of this article has violated the conditions thereof, a member or designee of the board of parole, upon request of the sending state, may conduct a preliminary violation hearing unless such hearing is waived by the parolee.

3. Whenever there is reasonable cause to believe that a person released on parole in this state but under the parole supervision of another state pursuant to section two hundred fifty-nine-m of this article has violated the conditions thereof, any person duly authorized in such other state to conduct preliminary violation hearings, upon request of the chairman of the board of parole, may conduct such hearing, unless such hearing is waived by the parolee. The preliminary violation hearing and the determinations made thereat shall have the same force and effect as preliminary violation hearing conducted in this state by the board of parole or a member, hearing officer or panel thereof.

4. Whenever a preliminary violation hearing is conducted in another state pursuant to this section, the alleged violator must be afforded a final hearing within ninety days from the date of his return to this state.

§ 259-p. Interstate detention. (1) Notwithstanding any other provision of law, a defendant subject to section two hundred fifty-nine-mm of this

article, may be detained as authorized by the interstate compact for adult offender supervision.

(2) A defendant shall be detained at a local correctional facility, except as otherwise provided in subdivision three of this section.

(3) (a) A defendant sixteen years of age or younger, who allegedly commits a criminal act or violation of his or her supervision on or after October first, two thousand eighteen or (b) a defendant seventeen years of age or younger who allegedly commits a criminal act or violation of his or her supervision on or after October first, two thousand nineteen, shall be detained in a juvenile detention facility.

§ 259-q. Civil actions against board personnel. 1. No civil action shall be brought in any court of the state, except by the attorney general on behalf of the state, against any officer or employee of the board of parole or former division of parole, in his personal capacity, for damages arising out of any act done or the failure to perform any act within the scope of the employment and in the discharge of the duties by such officer or employee.

2. Any claim for damages arising out of any act done or the failure to perform any act within the scope of the employment and in the discharge of the duties of any officer or employee of the board of parole or former division of parole shall be brought and maintained in the court of claims as a claim against the state.

3. The state shall save harmless and indemnify any officer or employee of the board of parole or former division of parole from financial loss resulting from a claim filed in a court of the United States for damages arising out of an act done or the failure to perform any act that was (a) within the scope of the employment and in the discharge of the duties of such officer or employee, and (b) not done or omitted with the intent to violate any rule or regulation of the department, board or former division or of any statute or governing case law of the state or of the United States at the time the damages were sustained; provided that the officer or employee shall comply with the provisions of subdivision four of section seventeen of the public officers law.

4. (a) The provisions of this section shall supplement, and be available in addition to, the provisions of section seventeen of the public officers law and, insofar as this section is inconsistent with section seventeen of the public officers law, the provisions of this section shall be controlling.

(b) The provisions of this section shall not be construed in any way to impair, modify or abrogate any immunity available to any officer or employee of the board of parole or former division of parole under the statutory or decisional law of the state or the United States.

5. This section shall not in any way impair, limit or modify the rights and obligations of any insurer under any policy of insurance.

6. The benefits of subdivision three hereof shall inure only to officers and employees of the board of parole or former division of parole and shall not enlarge or diminish the rights of any other party.

7. This section shall apply with respect to claims arising on or after the effective date of this section. Claims arising prior thereto shall be governed by section seventeen of the public officers law or section twenty-four of the correction law as the case may be.

§ 259-r. Release on medical parole for terminally ill incarcerated individuals. 1. * (a) The board shall have the power to release on medical parole any incarcerated individual serving an indeterminate or determinate sentence of imprisonment who, pursuant to subdivision two of this section, has been certified to be suffering from a terminal condition, disease or syndrome and to be so debilitated or incapacitated as to create a reasonable probability that he or she is physically or cognitively incapable of presenting any danger to society, provided, however, that no incarcerated individual serving a sentence imposed upon a conviction for murder in the first degree or an attempt or conspiracy to commit murder in the first degree shall be eligible for such release, and provided further that no incarcerated individual serving a sentence imposed upon a conviction for any of the following offenses shall be

eligible for such release unless in the case of an indeterminate sentence he or she has served at least one-half of the minimum period of the sentence and in the case of a determinate sentence he or she has served at least one-half of the term of his or her determinate sentence: murder in the second degree, manslaughter in the first degree, any offense defined in article one hundred thirty of the penal law or an attempt to commit any of these offenses. Solely for the purpose of determining medical parole eligibility pursuant to this section, such one-half of the minimum period of the indeterminate sentence and one-half of the term of the determinate sentence shall not be credited with any time served under the jurisdiction of the department prior to the commencement of such sentence pursuant to the opening paragraph of subdivision one of section 70.30 of the penal law or subdivision two-a of section 70.30 of the penal law, except to the extent authorized by subdivision three of section 70.30 of the penal law.

* NB Effective until September 1, 2027

* (a) The board shall have the power to release on medical parole any incarcerated individual serving an indeterminate or determinate sentence of imprisonment who, pursuant to subdivision two of this section, has been certified to be suffering from a terminal condition, disease or syndrome and to be so debilitated or incapacitated as to create a reasonable probability that he or she is physically or cognitively incapable of presenting any danger to society, provided, however, that no incarcerated individual serving a sentence imposed upon a conviction for murder in the first degree or an attempt or conspiracy to commit murder in the first degree shall be eligible for such release, and provided further that no incarcerated individual serving a sentence imposed upon a conviction for any of the following offenses shall be eligible for such release unless in the case of an indeterminate sentence he or she has served at least one-half of the minimum period of the sentence and in the case of a determinate sentence he or she has served at least one-half of the term of his or her determinate sentence: murder in the second degree, manslaughter in the first degree, any offense defined in article one hundred thirty of the penal law or an attempt to commit any of these offenses. Solely for the purpose of determining medical parole eligibility pursuant to this section, such one-half of the minimum period of the indeterminate sentence and

one-half of the term of the determinate sentence shall not be credited with any time served under the jurisdiction of the department prior to the commencement of such sentence pursuant to the opening paragraph of subdivision one of section 70.30 of the penal law or subdivision two-a of section 70.30 of the penal law, except to the extent authorized by subdivision three of section 70.30 of the penal law.

* NB Effective September 1, 2027

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

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

2. (a) The commissioner, on the commissioner's own initiative or at the request of an incarcerated individual, or an incarcerated individual's spouse, relative or attorney, may, in the exercise of the commissioner's discretion, direct that an investigation be undertaken to determine whether a diagnosis should be made of an incarcerated individual who appears to be suffering from a terminal condition, disease or syndrome. Any such medical diagnosis shall be made by a physician licensed to practice medicine in this state pursuant to section sixty-five hundred twenty-four of the education law. Such physician shall either be employed by the department, shall render professional services at the request of the department, or shall be

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

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

(c) When the commissioner refers an incarcerated individual to the board, the commissioner shall provide an appropriate medical discharge plan established by the department. The department is authorized to

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

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

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

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

discharge.

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

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

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

(f) If the updated medical report presented to the board states that a parolee released pursuant to this section is no longer so debilitated or incapacitated as to create a reasonable probability that he or she is physically or cognitively incapable of presenting any danger to society or if the releasee fails to submit the updated medical report then the board may not make a new grant of medical parole pursuant to paragraph (e) of this subdivision. Where the board has not granted medical parole pursuant to such paragraph (e) the board shall promptly conduct through one of its members, or cause to be conducted by a hearing officer designated by the board, a hearing to determine whether the releasee is suffering from a terminal condition, disease or syndrome and is so debilitated or incapacitated as to create a reasonable probability that he or she is physically or cognitively incapable of presenting any danger to society and does not present a danger to society. If the board makes such a determination then it may make a new grant of medical parole pursuant to the standards of paragraph (b) of subdivision one of

this section. At the hearing, the releasee shall have the right to representation by counsel, including the right, if the releasee is financially unable to retain counsel, to have the appropriate court assign counsel in accordance with the county or city plan for representation placed in operation pursuant to article eighteen-B of the county law.

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

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

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

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

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

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

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

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

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

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

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

§ 259-s. Release on medical parole for incarcerated individuals suffering significant debilitating illnesses. 1. (a) The board shall have the power to release on medical parole any incarcerated individual serving an indeterminate or determinate sentence of imprisonment who, pursuant to subdivision two of this section, has been certified to be suffering from a significant and permanent non-terminal condition, disease or syndrome that has rendered the incarcerated individual so

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

(b) Such release shall be granted only after the board considers whether, in light of the incarcerated individual's medical condition, there is a reasonable probability that the incarcerated individual, if released, will live and remain at liberty without violating the law, and that such release is not incompatible with the welfare of society and will not so deprecate the seriousness of the crime as to undermine respect for the law, and shall be subject to the limits and conditions specified in subdivision four of this section. In making this determination, the board shall consider: (i) the nature and seriousness of the incarcerated individual's crime; (ii) the incarcerated individual's prior criminal record; (iii) the incarcerated individual's disciplinary, behavioral and rehabilitative record during the term of his or her incarceration; (iv) the amount of time the incarcerated individual must serve before becoming eligible for release pursuant to

section two hundred fifty-nine-i of this article; (v) the current age of the incarcerated individual and his or her age at the time of the crime; (vi) the recommendations of the sentencing court, the district attorney and the victim or the victim's representative; (vii) the nature of the incarcerated individual's medical condition, disease or syndrome and the extent of medical treatment or care that the incarcerated individual will require as a result of that condition, disease or syndrome; and (viii) any other relevant factor. Except as set forth in paragraph (a) of this subdivision, such release may be granted at any time during the term of an incarcerated individual's sentence, notwithstanding any other provision of law.

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

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

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

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

(c) When the commissioner refers an incarcerated individual to the board, the commissioner shall provide an appropriate medical discharge plan established by the department. The department is authorized to request assistance from the department of health and from the county in which the incarcerated individual resided and committed his or her crime, which shall provide assistance with respect to the development and implementation of a discharge plan, including potential placements of a releasee. The department and the department of health shall jointly

develop standards for the medical discharge plan that are appropriately adapted to the criminal justice setting, based on standards established by the department of health for hospital medical discharge planning. The board may postpone its decision pending completion of an adequate discharge plan, or may deny release based on inadequacy of the discharge plan.

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

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

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

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

(d) The board shall require as a condition of release on medical

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

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

(f) If the updated medical report presented to the board states that a parolee released pursuant to this section is no longer so debilitated or incapacitated as to create a reasonable probability that he or she is physically or cognitively incapable of presenting any danger to society or if the releasee fails to submit the updated medical report then the board may not make a new grant of medical parole pursuant to paragraph (e) of this subdivision. Where the board has not granted medical parole pursuant to such paragraph (e) the board shall promptly conduct through one of its members, or cause to be conducted by a hearing officer designated by the board, a hearing to determine whether the releasee is suffering from a significant and permanent non-terminal and incapacitating condition, disease or syndrome and is so debilitated or incapacitated as to create a reasonable probability that he or she is physically or cognitively incapable of presenting any danger to society and does not present a danger to society. If the board makes such a determination then it may make a new grant of medical parole pursuant to the standards of paragraph (b) of subdivision one of this section. At the hearing, the releasee shall have the right to representation by counsel, including the right, if the releasee is financially unable to retain counsel, to have the appropriate court assign counsel in accordance with the county or city plan for representation placed in

operation pursuant to article eighteen-B of the county law.

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

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

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

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

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

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

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

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

*** § 259-t. Permitted activities.** Where any person is granted presumptive release, parole, conditional release, release to post-release supervision or any other type of supervised release, the state board of parole shall not deem a person to be in violation of and the state board of parole shall not terminate such granted presumptive release, parole, conditional release, release to post-release supervision or any other type of supervised release solely because such person engaged in bona fide work for an employer, including travel time to or from bona fide work, during curfew times set by conditions of probation, parole, presumptive release, conditional release or release to post-release supervision. For purposes of this section, bona fide work is work performed as an employee for an employer, as defined in section two of the labor law.

* NB There are 2 § 259-t's

*** § 259-t. Permitted activities.** Where any person is granted presumptive release, parole, conditional release, release to post-release supervision or any other type of supervised release, the state board of parole shall not deem a person to be in violation of and the state board of parole shall not terminate such granted presumptive release, parole, conditional release, release to post-release supervision or any other type of supervised release solely because such person participated in work related labor protests, or in a lawful labor dispute, strike or other concerted stoppage of work or slowdown pursuant to article twenty of the labor law or the national labor relations act (29 U.S.C. sections 151 et. seq.).

* NB There are 2 § 259-t's

ARTICLE 13

DIVISION OF HOUSING

Section 260. Division of housing and community renewal.

§ 260. Division of housing and community renewal. The commissioner of housing and community renewal appointed pursuant to the provisions of the public housing law, shall be the head of the division of housing and community renewal and shall have and exercise all the functions, powers and duties vested in him by that or any other law. The commissioner of housing and community renewal shall receive a salary to be fixed by the governor within the amount appropriated therefor.

* ARTICLE 13-A

ALTERNATIVES TO INCARCERATION SERVICE PLANS

Section 261. Alternatives to incarceration service plans.
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* NB Repealed September 1, 2027

*** § 261. Alternatives to incarceration service plans.** 1. As used in this article:

a. "Service plan" or "plan" means a county plan designed to identify and provide eligible programs as determined by either an advisory board established pursuant to this article, or by an existing criminal justice coordinating council, provided, however, the membership of such council includes a majority of those persons set forth in subdivision two of this section, provided that one person shall be the chief administrative officer. The following factors considered, utilized and incorporated in the plan shall include but not be limited to:

(i) an analysis of the jail population to assist in determining incarceration practices and trends, including, if submitting an approved amendment pursuant to section two hundred sixty-six of this article, an analysis of the relationship between alcohol, drugs and crime and the effects of alcohol and substance abuse on the local criminal justice system and jail, probation and alternatives to incarceration populations, consistent with planning guidelines established by the office; the types and nature of alternative programming needed, and appropriate eligibility requirements;

(ii) an analysis of recent overcrowding problems and measures taken by the county to relieve them;

(iii) a summary of existing alternatives programs and/or related services and previous efforts made by the county to develop alternatives to incarceration and if an approved amendment is submitted, pursuant to section two hundred sixty-six of this article, a summary of existing alcohol and substance abuse programs;

(iv) a comprehensive plan for the development of alternatives programs that addresses the specific needs identified in subparagraph (i) of this paragraph and furthers the county's long-range goals in the area of alternatives to incarceration;

(v) specific proposals for the use of state aid available under this

chapter, including a description of services to be provided, characteristics of the target populations, steps to be taken to identify eligible participants, the goals and objectives to be accomplished through the proposals;

(vi) a detailed time frame for the implementation and evaluation of the specific proposals described in subparagraph (v) of this paragraph;

(vii) a summary of those criteria by which the office and the state commission of correction may measure the proposal's impact on jail overcrowding; and

(viii) any other information which the office may request consistent with the purposes of this chapter.

Nothing in this article shall prohibit the development of regional programs by two or more counties.

b. "Eligible programs" means existing programs, enhancement of existing programs or initiation of new programs or, if submitting an approved amendment pursuant to section two hundred sixty-six of this article, eligible alcohol and substance abuse programs as defined in paragraph c of this subdivision which serve to assist the court, public officers or others in identifying and avoiding the inappropriate use of incarceration. Such programs may be administered by either the county or private, community-based organizations and may include, but shall not be limited to: new or enhanced specialized probation services which exceed those probation services otherwise required to be performed in accordance with applicable law, rule or regulation of the division of criminal justice services subject to the provisions of this article; a pre-trial alternative to detention program, including a comprehensive pre-arraignment program which screens all defendants and ensures that the court is fully advised of the availability of alternatives based upon the defendant's suitability and needs prior to its determination regarding the issuance of a securing order, or an effective bail review program; alternatives to post-adjudicatory incarceration programs, including community service, substance abuse or alcohol intervention programs; and management information systems designed to improve the county's ability to identify appropriate persons for alternatives to detention or incarceration, as well as for improved classification of

persons within jail. For purposes of this paragraph, community service programs may place persons performing community service at worksites identified by the commissioner of the department of environmental conservation and the commissioner of the office of parks, recreation and historic preservation.

c. "Eligible alcohol and substance abuse programs" means eligible programs which serve to assist the courts, public officers and others in identifying and avoiding inappropriate incarceration by providing services to offenders who have or have had a history of alcohol or substance abuse and who, having been charged with or convicted of a felony are also at risk of incarceration as a pre-trial detainee, a determinate sentenced offender, an indeterminate sentenced offender, a probation violator, or a parole violator. Such services may include, but shall not be limited to programs and services that provide treatment, care or rehabilitative services, either residential or out-patient, to such offenders, or programs and services that provide for the purpose of developing individualized service plans to address such offender's alcohol or substance abuse problem, or programs and services that provide referrals and other linkages to alcohol or substance abuse programs to such offenders.

d. "Inappropriate incarceration" means instances where a person is or is about to be confined or otherwise held in custody prior to trial on a criminal charge, or pursuant to a sentence imposed upon conviction for an offense, or pursuant to any criminal court order of commitment, and where the purposes of such confinement would be adequately served by an alternative to incarceration.

e. "Approved plan" means a plan submitted by the county executive upon approval by the advisory board or council and by the local legislative body, which has been determined by the office to meet the requirements set forth in paragraph a of this subdivision.

f. "Approved amendment" means an amendment submitted by the county executive upon approval by the advisory board or council and by the local legislative body, which has been determined by the division to

meet the requirements set forth in section 266 of this article to provide eligible alcohol and substance abuse programs.

g. "Advisory board" means that body established pursuant to this section or a criminal justice coordinating council whose members include the chief administrative officer and a majority of the members set forth in subdivision two of this section.

h. "County executive" means a county administrator, county manager, county director or county president and in cities with a population of one million or more, the mayor.

i. "Office" means the office of probation and correctional alternatives.

2. Every advisory board established for purposes of this article shall include the following persons or their representatives:

a. County court judge, as appointed by the administrative judge for that county; in cities with a population of one million or more, a supreme court judge, as appointed by the administrative judge for that city;

b. Police court, district court, town court or village court judge, as appointed by the administrative judge of that county; in cities with a population of one million or more, a criminal court judge, as appointed by the administrative judge for that city;

c. The district attorney; in cities with a population of one million or more, the district attorney shall be selected by the district attorneys of the five boroughs to represent their joint views;

d. A representative of each of the agencies providing legal services to those unable to afford counsel in criminal cases, not to exceed two;

e. County legislator or member of the county board of supervisors or, in cities of one million of more, city councilman who chairs a public

safety committee, or the committee best designed to deal with this subject, should such a committee exist;

f. County director of probation; in cities with a population of one million or more, the commissioner of the department of probation;

g. Chief administrative officer;

h. A representative of local police agencies, other than the chief administrative officer, selected by the heads of all such agencies to represent their joint views; in cities with a population of one million or more, the police commissioner;

i. Representative of a private organization operating within a county who has experience and involvement in alternatives to incarceration programs or pre-trial service programs, as designated by the county executive;

j. Ex-offender and a crime victim, each designated by the county executive;

k. County executive;

l. The director of community services as defined in section 41.03 of the mental hygiene law; and

m. An individual within a county who provides state certified alcohol and/or substance abuse treatment programs or services.

Prior to any official action by the board, all members shall be designated. The chairperson shall be the county executive or his or her duly designated representative. In cities with a population of one million or more, a single advisory board shall be established.

* NB Repealed September 1, 2027

*** § 262. Office assistance; plan; approval.** 1. Upon request of either

the county executive or the advisory board, through the chairperson, the office shall assist the county in the development of its plan by providing technical assistance either directly or through contract with persons or organizations which have expertise in the area of pre-trial services or alternatives to incarceration programs.

2. Upon development of a proposed plan but at least thirty days prior to approval by the board, public comment shall be solicited for consideration by the board prior to final action.

3. Upon approval by the board, by a majority of its members, any county outside the city of New York acting through its county executive, and upon approval of the local legislative body, may submit a proposed service plan to the office for approval. The city of New York acting through the mayor and upon approval by the board of estimate may submit a proposed service plan to the office for approval.

4. a. Each such plan shall be submitted to the office no later than one hundred eighty days after the effective date of the chapter of the laws of nineteen hundred eighty-eight which amended this paragraph and added these words or by the first day of April of each subsequent year and shall provide that upon approval it shall become effective. Annual renewals of service plans are required and shall be submitted to the office no later than the first day of April of each year following submission of the original plan. A plan may be amended from time to time by the advisory board, subject to the approval of the local legislative body and the office. The office may recommend amendments to a plan, subject to the approval of the advisory board and the local legislative body. Reasons for such amendments may include but shall not be limited to the addition or deletion of eligible programs with due consideration to their utilization by the court, their effect on diverting the jail bound population, reducing the overcrowding problem and their cost-effectiveness.

b. The office shall either approve or deny the plan no later than sixty days following its submission. If the plan is denied, the office shall notify the county executive in writing of such denial and the

reasons therefor and shall specify any measures which should be undertaken to secure the approval of the office. Nothing herein shall prohibit the amendment of a plan to overcome the office's stated reasons for denial or the resubmission of such proposed plan for approval.

* NB Repealed September 1, 2027

*** § 263. Reports.** The advisory board, through its chairperson, shall submit to the office a quarterly report relative to the status of compliance with the plan, pursuant to rules and regulations promulgated by the commissioner of the division of criminal justice services upon recommendation of the office. The report shall include, but not be limited to: compliance with specific goals and objectives as reflected in the plan; ability of programs to meet performance criteria; compliance with timetables; utilization by the court of the programs included in the plan; effect of such programs on diverting the jail bound population and reducing the over crowding problem; and any other information requested by the office and available to the advisory board with respect to this article.

* NB Repealed September 1, 2027

*** § 264. Noncompliance with plan.** 1. If at any time the office determines that a county plan is not being complied with, it shall notify the advisory board through the chairperson and the state commission of correction in writing of such fact, and it shall withhold any portion of state funds not theretofore allocated. Such notice shall state the particular reasons for the determination and demand compliance with the plan within sixty days of the notice, setting forth the specific actions deemed necessary to secure compliance. If compliance is forthcoming the board and the state commission of correction shall be notified of such fact in writing and any state funds heretofore withheld shall be released. If compliance with the plan is not fulfilled within such time or within a thirty day extension period as authorized herein, the office shall notify the advisory board through the chairperson and the state commission of correction. Upon such notification, the county shall be deemed in noncompliance with the approved plan and the

provisions of subdivision eight of section five hundred-b of the correction law shall be applied.

An extension may be granted by the office for a thirty day period upon a request by the board through the chairperson, where the office determines it to be appropriate, setting forth specific reasons for a need for an extension and the steps which shall be undertaken to be in compliance at the end of such period.

Any notification by the office of non-compliance pursuant to this section shall be deemed a final determination for purposes of judicial review.

2. The advisory board, through its chairperson, may reapply for continuation of its approved plan or modified plan, provided it certifies that it has complied with the specific actions deemed necessary by the office to secure compliance. Within thirty days of receipt of the application the office shall verify compliance with its notice and notify the board and the state commission of correction of its decision.

* NB Repealed September 1, 2027

*** § 265. Further authority of the office; state assistance.** 1. In administering the provisions of this article, the office may perform such other and further acts and recommend to the commissioner of the division of criminal justice services such rules and regulations it deems necessary, proper or desirable to carry out the purpose of this article and not otherwise inconsistent with the other provisions of this article, chapter or any other provision of law. This shall include, but not be limited to, the office's consultation with the chief administrative judge of the office of court administration, the chairman of the state commission of correction and the commissioner of alcoholism and substance abuse services.

2. a. For the purpose of carrying out this article state assistance of not less than fourteen million dollars shall be made available to cities

with a population of one million or more and to counties outside such cities in amounts to be determined; provided, however, that of the total amount available herein, not less than seven million dollars shall be made available as follows:

(i) for each county with a population under one hundred thousand persons, a minimum of twenty thousand dollars or that percentage of the total dollar amount available which is equal to the percentage that the population of such county bears to the total population of the state determined on the basis of the most recent available federal census, whichever is greater;

(ii) for each county with a population over one hundred thousand and under three hundred thousand persons, a minimum of sixty thousand dollars or that percentage of the total dollar amount available which is equal to the percentage that the population of such county bears to the total population of the state determined on the basis of the most recent available federal census, whichever is greater;

(iii) for each county with a population over three hundred thousand persons not entirely included within a city, that percentage of the total dollar amount available which is equal to the percentage that the population of such county bears to the total population of the state determined on the basis of the most recent available federal census; and

(iv) for each city with a population of one million or more, the amount of the total dollar amount available by this paragraph remaining after the deduction of the amounts apportioned pursuant to the preceding subparagraphs of this paragraph.

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

individual population or prior commitment by a county in the development of alternatives to detention or incarceration programs.

3. The office may receive applications from and may enter into contracts with municipalities to undertake implementation of the service plan and any such municipality may enter into a contract with the office and with such private organization or organizations for such purpose. Except as provided in section two hundred sixty-six of this article, any such contract may include such provisions as may be agreed upon by the parties thereto, but shall include in substance at least the following:

a. An estimate of the reasonable cost and need of the programs as approved by the office;

b. In the first year of the approved service plan an agreement by the office to reimburse to the municipality up to fifty percent of the state's share of the costs at the initial approval of the plan; one-half of the remaining fifty percent of the state's share shall be allocated to municipalities during the implementation of the plan, provided there is substantial compliance with timetables and any other provisions of the plan deemed necessary by the office. The balance of the state's share of the costs shall be allocated to the municipality in a manner determined by the office. In any subsequent year, the office shall reimburse to the municipality the state's share of actual costs incurred under the plan. In no event shall the state's share exceed fifty percent of the total cost of the plan, nor shall it be used to replace current expenditures by the municipality for such alternatives programs. However, in determining the amount of the municipal share of the cost of a program, the office shall reduce the amount of the municipal share by an amount equal to the costs incurred by such municipality on implementation of any of the plan's provisions during the year immediately preceding approval of the plan by the office. Any such amount resulting in a reduction of the municipal share shall not be considered in calculating the municipal share of any future program;

c. An agreement by the municipality to provide for the payment of the municipality's share of the cost of the program or programs and to

proceed expeditiously with, and complete, the program or programs, as approved by the commission;

d. Any costs in excess of the amount provided for in this subdivision will be the responsibility of the municipality except as otherwise provided in this article;

e. An agreement that, in the event federal assistance, which was not included in the calculation of the state or municipal payment, becomes available to the municipality, the amount of the state payment shall be recalculated with the inclusion of one-half of such federal assistance and the amount of the municipality's payment shall be recalculated with the inclusion of one-half of such federal assistance; and

f. An agreement that in the event of private financial assistance, which was not included in the calculation of the municipal payment and which becomes available to the municipality, such financial assistance shall result in a reduction of the municipal share by said amount.

* NB Repealed September 1, 2027

*** § 266. Additional authority of the office; state assistance; approved amendments for eligible alcohol and substance abuse programs.**

1. Counties and the city of New York may submit approved amendments for alcohol and substance abuse programs as defined in this article as part of or in addition to an approved plan. In accordance with this article, nothing in this section shall prohibit the development of regional alcohol and substance abuse programs by two or more counties or cities with a population of one million or more.

2. Such approved amendments shall include a statement by the county or the city of New York indicating such municipality's understanding that funding for eligible alcohol and substance abuse programs shall be in accordance with subdivision four of this section and the municipality's commitment to meet the funding requirements as set forth in such subdivision.

3. For the purposes of carrying out the purpose of this section, of the amount made available in paragraph a of subdivision two of section two hundred sixty-five, state assistance of not less than seven million dollars shall be made available for approved amendments. Of this amount, no more than forty percent shall be made available for such state assistance to cities with a population of one million or more. The remaining amount shall be made available for such state assistance to counties outside such cities. The office shall apportion the amount available for approved amendments on an as needed basis, taking into consideration the analysis of the relationship between alcohol, drugs and crime, as required in this article, as well as other factors as may be required by the office.

4. The office may receive approved amendments and may amend approved plans in accordance with such approved amendments at any time. The office may enter into contracts to undertake the implementation of the approved amendments and any such municipality may enter into contracts with the office and with private organizations for such implementation. Any such contracts may include such provisions as may be agreed upon by the parties thereto, but shall include at least the following:

a. An estimate of the reasonable costs and need for the eligible alcohol and substance abuse programs;

b. An agreement by the office to reimburse the municipality in accordance with the following:

(i) In the first year of implementation and operation of the eligible alcohol and substance abuse program, the office shall reimburse to the municipality one hundred percent of the costs incurred, provided that, upon approval of the contract and consistent with implementation plans approved by the office, up to one-half of the state's share of the cost of such program may be immediately allocated to the municipality for purposes of implementation of the program. The balance of the state's share of the costs shall be allocated to the municipality in a manner determined by the office.

(ii) In the second year of operation of such eligible alcohol and

substance abuse program, such program shall be included in the approved service plan submitted by the municipality and the office shall reimburse to the municipality seventy-five percent of the costs of approved expenditures. Municipalities shall provide at least twenty-five percent of costs of approved expenditures of the contract.

(iii) In the third and any subsequent year of operation of such alcohol and substance abuse program, such program shall be included in the approved service plan submitted by the municipality and the office shall reimburse to the municipality fifty percent of the costs of approved expenditures. Municipalities shall provide at least fifty percent of costs of approved expenditures of the contract.

In no event shall the state's share be used to replace expenditures previously incurred by the municipality for such alcohol and substance abuse programs;

c. An agreement by the municipality to provide for the payment of the municipality's share of the costs of the alcohol and substance abuse program or programs, and to proceed expeditiously with, and implement, such program or programs, as approved by the office; and

d. Any costs in excess of the amount provided for in this subdivision shall be the responsibility of the municipality, except as otherwise provided in this article.

* NB Repealed September 1, 2027

*** § 267. Office reports.** The office shall submit to the governor, the temporary president of the senate, the speaker of the assembly, the chairman of the senate crime and correction committee and the chairman of the assembly committee on codes by October first of each year its evaluation and assessment of this alternatives planning and programming effort by the counties. Such report shall include, but not be limited to, the status of the development of such plans, the approval and implementation of such plans, the success of the programs, in terms of their utilization, effect on jail population, results of the analyses provided counties and the city of New York on the relationship between

alcohol, drugs and crime and the success of the eligible alcohol and substance abuse programs and sentencing decisions together with any recommendations with respect to the proper operation or improvement of planning and implementation of effective alternatives to detention and alternatives to incarceration programs in counties.

* NB Repealed September 1, 2027

ARTICLE 14

DIVISION OF ALCOHOLIC BEVERAGE CONTROL

Section 270. Division of alcoholic beverage control; state liquor authority.
271. Salaries; expenses.
272. Removal.
273. Vacancies; quorum.
274. Officers; employees; offices.

§ 270. Division of alcoholic beverage control; state liquor authority. The head of the alcoholic beverage control division shall be the state liquor authority whose members shall consist of a chairman and two commissioners, who shall be appointed by the governor, by and with the advice and consent of the senate.

Not more than two members of the state liquor authority shall belong to the same political party. All of said members shall be citizens and residents of the state. Such members shall be appointed to serve for a term of three years each and until their successors have been appointed and qualified.

§ 271. Salaries; expenses. The chairman and the other members of the authority shall receive a salary to be fixed by the governor within the amounts appropriated therefor. Each member of the authority shall also be entitled to his expenses actually and necessarily incurred by him in the performance of his duties.

§ 272. Removal. Any member of the authority may be removed by the governor for cause after an opportunity to be heard. A statement of the cause of his removal shall be filed by the governor in the office of the secretary of state.

§ 273. Vacancies; quorum. (a) In the event of a vacancy caused by death, resignation, removal or disability of a commissioner, the vacancy shall be filled by the governor by and with the advice and consent of the senate for the unexpired term.

(b) In the event of a vacancy caused by the death, resignation, removal or disability of the chairman, the vacancy shall be filled by the governor by and with the advice and consent of the senate for the unexpired term. Notwithstanding any other provision of law to the contrary, the governor shall designate one of the commissioners to serve as acting chairman for a period not to exceed six months or until a successor chairman has been confirmed by the senate, whichever comes first. Upon the expiration of the six month term, if the governor has nominated a successor chairman, but the senate has not acted upon the nomination, the acting chairman can continue to serve as acting chairman for an additional ninety days or until the governor's successor chairman nomination is confirmed by the senate, whichever comes first.

(c) The governor shall provide immediate written notice to the temporary president of the senate of the designation of a commissioner as acting chairman.

(d) If (i) the governor has not nominated a successor chairman upon the expiration of the six month term or (ii) the senate does not confirm the governor's successor nomination within the additional ninety days, the commissioner designated as acting chairman shall no longer be able to serve as acting chairman and the governor is prohibited from extending the powers of that acting chairman or from designating another commissioner to serve as acting chairman.

(e) A commissioner serving as the acting chairman of the authority shall be deemed a state officer for purposes of section seventy-three of the public officers law.

(f) A majority of the members of the authority shall constitute a

quorum for the purpose of conducting the business thereof and a majority vote of all the members in office shall be necessary for action. Provided, however, that a commissioner designated as an acting chairman pursuant to subdivision two of section fourteen of this chapter shall have only one vote for purposes of conducting the business of the authority.

§ 274. Officers; employees; offices. The authority shall have power to appoint any necessary deputies, counsels, assistants, investigators, and other employees within the limits provided by appropriation. Investigators so employed by the authority shall be deemed to be peace officers for the purpose of enforcing the provisions of the alcoholic beverage control law or judgements or orders obtained for violation thereof, with all the powers set forth in section 2.20 of the criminal procedure law. The authority shall continue to have its principal office in the city of Albany, and may maintain a branch office in the cities of New York and Buffalo and such other places as it may deem necessary.

ARTICLE 15

HUMAN RIGHTS LAW

Section 290. Purposes of article.
291. Equality of opportunity a civil right.
292. Definitions.
293. Division of human rights.
294. General policies of division.
294-a. Statewide campaign for the acceptance, inclusion, tolerance and understanding of diversity.
295. General powers and duties of division.
296. Unlawful discriminatory practices.
296-a. Unlawful discriminatory practices in relation to credit.
296-c. Unlawful discriminatory practices relating to interns.
296-d. Unlawful discriminatory practices relating to non-employees.
297. Procedure.
298. Judicial review and enforcement.

298-a. Application of article to certain acts committed outside the state of New York.
299. Penal provision.
300. Construction.
301. Separability.

§ 290. Purposes of article. 1. This article shall be known as the "Human Rights Law".

2. It shall be deemed an exercise of the police power of the state for the protection of the public welfare, health and peace of the people of this state, and in fulfillment of the provisions of the constitution of this state concerning civil rights.

3. The legislature hereby finds and declares that the state has the responsibility to act to assure that every individual within this state is afforded an equal opportunity to enjoy a full and productive life and that the failure to provide such equal opportunity, whether because of discrimination, prejudice, intolerance or inadequate education, training, housing or health care not only threatens the rights and proper privileges of its inhabitants but menaces the institutions and foundation of a free democratic state and threatens the peace, order, health, safety and general welfare of the state and its inhabitants. A division in the executive department is hereby created to encourage programs designed to insure that every individual shall have an equal opportunity to participate fully in the economic, cultural and intellectual life of the state; to encourage and promote the development and execution by all persons within the state of such state programs; to eliminate and prevent discrimination in employment, in places of public accommodation, resort or amusement, in educational institutions, in public services, in housing accommodations, in commercial space and in credit transactions and to take other actions against discrimination as herein provided; and the division established hereunder is hereby given general jurisdiction and power for such purposes.

§ 291. Equality of opportunity a civil right.

1. The opportunity to obtain employment without discrimination because of age, race, creed, color, national origin, sexual orientation, gender identity or expression, military status, sex, marital status, or disability, is hereby recognized as and declared to be a civil right.

2. The opportunity to obtain education, the use of places of public accommodation and the ownership, use and occupancy of housing accommodations and commercial space without discrimination because of age, race, creed, color, national origin, sexual orientation, gender identity or expression, military status, sex, marital status, or disability, as specified in section two hundred ninety-six of this article, is hereby recognized as and declared to be a civil right.

3. The opportunity to obtain medical treatment of an infant prematurely born alive in the course of an abortion shall be the same as the rights of an infant born spontaneously.

§ 292. Definitions. When used in this article:

1. The term "person" includes one or more individuals, partnerships, associations, corporations, legal representatives, trustees, trustees in bankruptcy, or receivers.

2. The term "employment agency" includes any person undertaking to procure employees or opportunities to work.

3. The term "labor organization" includes any organization which exists and is constituted for the purpose, in whole or in part, of collective bargaining or of dealing with employers concerning grievances, terms or conditions of employment, or of other mutual aid or protection in connection with employment.

4. The term "unlawful discriminatory practice" includes only those practices specified in sections two hundred ninety-six, two hundred

ninety-six-a, two hundred ninety-six-c and two hundred ninety-six-d of this article.

5. The term "employer" shall include all employers within the state. For the purposes of this article, (a) the state of New York shall be considered an employer of any employee or official, including any elected official, of the New York state executive, legislature, or judiciary, including persons serving in any judicial capacity, and persons serving on the staff of any elected official in New York state, (b) a city, county, town, village or other political subdivision of the state of New York shall be considered an employer of any employee or official, including any elected official, of such locality's executive, legislature or judiciary, including persons serving in any local judicial capacity, and persons serving on the staff of any local elected official.

6. The term "employee" in this article does not include any individual employed by his or her parents, spouse, or child.

7. The term "commissioner", unless a different meaning clearly appears from the context, means the state commissioner of human rights; and the term "division" means the state division of human rights created by this article.

8. The term "national origin" shall, for the purposes of this article, include "ancestry."

9. The term "place of public accommodation, resort or amusement" shall include, regardless of whether the owner or operator of such place is a state or local government entity or a private individual or entity, except as hereinafter specified, all places included in the meaning of such terms as: inns, taverns, road houses, hotels, motels, whether conducted for the entertainment of transient guests or for the accommodation of those seeking health, recreation or rest, or restaurants, or eating houses, or any place where food is sold for consumption on the premises; buffets, saloons, barrooms, or any store, park or enclosure where spirituous or malt liquors are sold; ice cream

parlors, confectionaries, soda fountains, and all stores where ice cream, ice and fruit preparations or their derivatives, or where beverages of any kind are retailed for consumption on the premises; wholesale and retail stores and establishments dealing with goods or services of any kind, dispensaries, clinics, hospitals, bath-houses, swimming pools, laundries and all other cleaning establishments, barber shops, beauty parlors, theatres, motion picture houses, airdromes, roof gardens, music halls, race courses, skating rinks, amusement and recreation parks, trailer camps, resort camps, fairs, bowling alleys, golf courses, gymnasiums, shooting galleries, billiard and pool parlors; garages, all public conveyances operated on land or water or in the air, as well as the stations and terminals thereof; travel or tour advisory services, agencies or bureaus; public halls, public rooms, public elevators, and any public areas of any building or structure. Such term shall not include kindergartens, primary and secondary schools, high schools, academies, colleges and universities, extension courses, and all educational institutions under the supervision of the regents of the state of New York; any such kindergarten, primary and secondary school, academy, college, university, professional school, extension course or other education facility, supported in whole or in part by public funds or by contributions solicited from the general public; or any institution, club or place of accommodation which proves that it is in its nature distinctly private. In no event shall an institution, club or place of accommodation be considered in its nature distinctly private if it has more than one hundred members, provides regular meal service and regularly receives payment for dues, fees, use of space, facilities, services, meals or beverages directly or indirectly from or on behalf of a nonmember for the furtherance of trade or business. An institution, club, or place of accommodation which is not deemed distinctly private pursuant to this subdivision may nevertheless apply such selective criteria as it chooses in the use of its facilities, in evaluating applicants for membership and in the conduct of its activities, so long as such selective criteria do not constitute discriminatory practices under this article or any other provision of law. For the purposes of this section, a corporation incorporated under the benevolent orders law or described in the benevolent orders law but formed under any other law of this state or a religious corporation incorporated under the

education law or the religious corporations law shall be deemed to be in its nature distinctly private.

No institution, club, organization or place of accommodation which sponsors or conducts any amateur athletic contest or sparring exhibition and advertises or bills such contest or exhibition as a New York state championship contest or uses the words "New York state" in its announcements shall be deemed a private exhibition within the meaning of this section.

10. The term "housing accommodation" includes any building, structure, or portion thereof which is used or occupied or is intended, arranged or designed to be used or occupied, as the home, residence or sleeping place of one or more human beings. The term "housing accommodation" also includes any accessory dwelling unit, defined as any attached or a detached residential dwelling unit that provides complete independent living facilities for one or more persons which is located on a lot with a proposed or existing primary residence and shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same lot as the single-family or multi-family dwelling.

11. The term "publicly-assisted housing accommodations" shall include all housing accommodations within the state of New York in

(a) public housing,

(b) housing operated by housing companies under the supervision of the commissioner of housing,

(c) housing constructed after July first, nineteen hundred fifty, within the state of New York

(1) which is exempt in whole or in part from taxes levied by the state or any of its political subdivisions,

(2) which is constructed on land sold below cost by the state or any of its political subdivisions or any agency thereof, pursuant to the federal housing act of nineteen hundred forty-nine,

(3) which is constructed in whole or in part on property acquired or assembled by the state or any of its political subdivisions or any agency thereof through the power of condemnation or otherwise for the purpose of such construction, or

(4) for the acquisition, construction, repair or maintenance of which the state or any of its political subdivisions or any agency thereof supplies funds or other financial assistance,

(d) housing which is located in a multiple dwelling, the acquisition, construction, rehabilitation, repair or maintenance of which is, after July first, nineteen hundred fifty-five, financed in whole or in part by a loan, whether or not secured by a mortgage, the repayment of which is guaranteed or insured by the federal government or any agency thereof, or the state or any of its political subdivisions or any agency thereof, provided that such a housing accommodation shall be deemed to be publicly assisted only during the life of such loan and such guaranty or insurance; and

(e) housing which is offered for sale by a person who owns or otherwise controls the sale of ten or more housing accommodations located on land that is contiguous (exclusive of public streets), if (1) the acquisition, construction, rehabilitation, repair or maintenance of such housing accommodations is, after July first, nineteen hundred fifty-five, financed in whole or in part by a loan, whether or not secured by a mortgage, the repayment of which is guaranteed or insured by the federal government or any agency thereof, or the state or any of its political subdivisions or any agency thereof, provided that such a housing accommodation shall be deemed to be publicly assisted only during the life of such loan and guaranty or insurance, or (2) a commitment, issued by a government agency after July first, nineteen hundred fifty-five, is outstanding that acquisition of such housing accommodations may be financed in whole or in part by a loan, whether or not secured by a mortgage, the repayment of which is guaranteed or insured by the federal government or any agency thereof, or the state or any of its political subdivisions or any agency thereof.

12. The term "multiple dwelling", as herein used, means a dwelling which is occupied, as a rule, for permanent residence purposes and which is either sold, rented, leased, let or hired out, to be occupied as the residence or home of three or more families living independently of each other. A "multiple dwelling" shall not be deemed to include a hospital, convent, monastery, asylum or public institution, or a fireproof building used wholly for commercial purposes except for not more than

one janitor's apartment and not more than one penthouse occupied by not more than two families. The term "family," as used herein, means either a person occupying a dwelling and maintaining a household, with not more than four boarders, roomers or lodgers, or two or more persons occupying a dwelling, living together and maintaining a common household, with not more than four boarders, roomers or lodgers. A "boarder," "roomer" or "lodger" residing with a family means a person living within the household who pays a consideration for such residence and does not occupy such space within the household as an incident of employment therein. Within the context of this definition, the terms "multiple dwelling" and "multi-family dwelling" are interchangeable.

13. The term "commercial space" means any space in a building, structure, or portion thereof which is used or occupied or is intended, arranged or designed to be used or occupied for the manufacture, sale, resale, processing, reprocessing, displaying, storing, handling, garaging or distribution of personal property; and any space which is used or occupied, or is intended, arranged or designed to be used or occupied as a separate business or professional unit or office in any building, structure or portion thereof.

14. The term "real estate broker" means any person, firm or corporation who, for another and for a fee, commission or other valuable consideration, lists for sale, sells, at auction or otherwise, exchanges, buys or rents, or offers or attempts to negotiate a sale, at auction or otherwise, exchange, purchase or rental of an estate or interest in real estate, or collects or offers or attempts to collect rent for the use of real estate, or negotiates, or offers or attempts to negotiate, a loan secured or to be secured by a mortgage or other incumbrance upon or transfer of real estate. In the sale of lots pursuant to the provisions of article nine-a of the real property law, the term "real estate broker" shall also include any person, partnership, association or corporation employed by or on behalf of the owner or owners of lots or other parcels of real estate, at a stated salary, or upon a commission, or upon a salary and commission, or otherwise, to sell such real estate, or any parts thereof, in lots or other parcels, and who shall sell or exchange, or offer or attempt or

agree to negotiate the sale or exchange, of any such lot or parcel of real estate.

15. The term "real estate salesperson" means a person employed by a licensed real estate broker to list for sale, sell or offer for sale, at auction or otherwise, to buy or offer to buy or to negotiate the purchase or sale or exchange of real estate, or to negotiate a loan on real estate, or to lease or rent or offer to lease, rent or place for rent any real estate, or who collects or offers or attempts to collect rent for the use of real estate for or in behalf of such real estate broker.

16. The term "necessary party" means any person who has such an interest in the subject matter of a proceeding under this article, or whose rights are so involved, that no complete and effective disposition can be made without his or her participation in the proceeding.

17. The term "parties to the proceeding" means the complainant, respondent, necessary parties and persons permitted to intervene as parties in a proceeding with respect to a complaint filed under this article.

18. The term "hearing examiner" means an employee of the division who shall be assigned for stated periods to no other work than the conduct of hearings under this article;

19. The term "discrimination" shall include segregation and separation.

20. The term "credit", when used in this article means the right conferred upon a person by a creditor to incur debt and defer its payment, whether or not any interest or finance charge is made for the exercise of this right.

21. The term "disability" means (a) a physical, mental or medical impairment resulting from anatomical, physiological, genetic or neurological conditions which prevents the exercise of a normal bodily

function or is demonstrable by medically accepted clinical or laboratory diagnostic techniques or (b) a record of such an impairment or (c) a condition regarded by others as such an impairment, provided, however, that in all provisions of this article dealing with employment, the term shall be limited to disabilities which, upon the provision of reasonable accommodations, do not prevent the complainant from performing in a reasonable manner the activities involved in the job or occupation sought or held.

21-a. "Predisposing genetic characteristic" shall mean any inherited gene or chromosome, or alteration thereof, and determined by a genetic test or inferred from information derived from an individual or family member that is scientifically or medically believed to predispose an individual or the offspring of that individual to a disease or disability, or to be associated with a statistically significant increased risk of development of a physical or mental disease or disability.

21-b. "Genetic test" shall mean a test for determining the presence or absence of an inherited genetic characteristic in an individual, including tests of nucleic acids such as DNA, RNA and mitochondrial DNA, chromosomes or proteins in order to identify a predisposing genetic characteristic.

21-e. The term "reasonable accommodation" means actions taken which permit an employee, prospective employee or member with a disability, or a pregnancy-related condition, to perform in a reasonable manner the activities involved in the job or occupation sought or held and include, but are not limited to, provision of an accessible worksite, acquisition or modification of equipment, support services for persons with impaired hearing or vision, job restructuring and modified work schedules; provided, however, that such actions do not impose an undue hardship on the business, program or enterprise of the entity from which action is requested.

21-f. The term "pregnancy-related condition" means a medical condition related to pregnancy or childbirth that inhibits the exercise of a

normal bodily function or is demonstrable by medically accepted clinical or laboratory diagnostic techniques, including but not limited to lactation; provided, however, that in all provisions of this article dealing with employment, the term shall be limited to conditions which, upon the provision of reasonable accommodations, do not prevent the complainant from performing in a reasonable manner the activities involved in the job or occupation sought or held; and provided further, however, that pregnancy-related conditions shall be treated as temporary disabilities for the purposes of this article.

22. The term "creditor", when used in this article, means any person or financial institution which does business in this state and which extends credit or arranges for the extension of credit by others. The term creditor includes, but is not limited to, banks and trust companies, private bankers, foreign banking corporations and national banks, savings banks, licensed lenders, savings and loan associations, credit unions, sales finance companies, insurance premium finance agencies, insurers, credit card issuers, mortgage brokers, mortgage companies, mortgage insurance corporations, wholesale and retail merchants and factors.

23. The term "credit reporting bureau", when used in this article, means any person doing business in this state who regularly makes credit reports, as such term is defined by subdivision e of section three hundred seventy-one of the general business law.

24. The term "regulated creditor", when used in this article, means any creditor, as herein defined, which has received its charter, license, or organization certificate, as the case may be, from the department of financial services or which is otherwise subject to the supervision of the department of financial services.

25. The term "superintendent", when used in this article, means the head of the department of financial services appointed pursuant to section two hundred two of the financial services law.

26. The term "familial status", when used in this article, means:

(a) any person who is pregnant or has a child or is in the process of securing legal custody of any individual who has not attained the age of eighteen years, or

(b) one or more individuals (who have not attained the age of eighteen years) being domiciled with:

(1) a parent or another person having legal custody of such individual or individuals, or

(2) the designee of such parent.

27. The term "sexual orientation" means heterosexuality, homosexuality, bisexuality or asexuality, whether actual or perceived.

28. The term "military status" when used in this article means a person's participation in the military service of the United States or the military service of the state, including but not limited to, the armed forces of the United States, the army national guard, the air national guard, the New York naval militia, the New York guard, and such additional forces as may be created by the federal or state government as authorized by law.

29. The term "reserve armed forces", when used in this article, means service other than permanent, full-time service in the military forces of the United States including but not limited to service in the United States Army Reserve, the United States Naval Reserve, the United States Marine Corps Reserve, the United States Air Force Reserve, or the United States Coast Guard Reserve.

30. The term "organized militia of the state", when used in this article, means service other than permanent, full-time service in the military forces of the state of New York including but not limited to the New York army national guard, the New York air national guard, the New York naval militia and the New York guard.

34. The term "victim of domestic violence" shall have the same meaning as is ascribed to such term by section four hundred fifty-nine-a of the social services law.

35. The term "gender identity or expression" means a person's actual or perceived gender-related identity, appearance, behavior, expression, or other gender-related characteristic regardless of the sex assigned to that person at birth, including, but not limited to, the status of being transgender.

36. The term "lawful source of income" shall include, but not be limited to, child support, alimony, foster care subsidies, income derived from social security, or any form of federal, state, or local public assistance or housing assistance including, but not limited to, section 8 vouchers, or any other form of housing assistance payment or credit whether or not such income or credit is paid or attributed directly to a landlord, and any other forms of lawful income. The provisions of this subdivision shall not be construed to prohibit the use of criteria or qualifications of eligibility for the sale, rental, leasing or occupancy of publicly-assisted housing accommodations where such criteria or qualifications are required to comply with federal or state law, or are necessary to obtain the benefits of a federal or state program. A publicly assisted housing accommodation may include eligibility criteria in statements, advertisements, publications or applications, and may make inquiry or request information to the extent necessary to determine eligibility.

37. The term "race" shall, for the purposes of this article include traits historically associated with race, including but not limited to, hair texture and protective hairstyles.

38. The term "private employer" as used in section two hundred ninety-seven of this article shall include any person, company, corporation, labor organization or association. It shall not include the state or any local subdivision thereof, or any state or local department, agency, board or commission.

39. The term "protective hairstyles" shall include, but not be limited to, such hairstyles as braids, locks, and twists.

40. The term "educational institution" shall mean:

(a) any education corporation or association which holds itself out to the public to be non-sectarian and exempt from taxation pursuant to the provisions of article four of the real property tax law; or

(b) any for-profit entity that operates a college, university, licensed private career school or certified English as a second language school which holds itself out to the public to be non-sectarian and which is not exempt from taxation pursuant to the provisions of article four of the real property tax law; or

(c) any public school, including any school district, board of cooperative educational services, public college or public university.

41. The term "citizenship or immigration status" means the citizenship of any person or the immigration status of any person who is not a citizen of the United States. Nothing in this article shall preclude verification of citizenship or immigration status where required by law, nor shall an adverse action based on verification of citizenship or immigration status be prohibited where such adverse action is required by law.

42. The term "real estate appraisal" shall have the same meaning as in subdivision two of section one hundred sixty-a of this chapter. Provided, however, that (a) real estate appraisals subject to this article include those performed by any person or entity whose business holds itself out as engaging in residential real estate appraisals, regardless of whether or not such person or entity is certified or licensed to provide real estate appraisals pursuant to the provisions of article six-E of this chapter, and (b) for the purposes of this article, the real estate appraisal includes all oral communications and all written comments and other documents submitted as support for the estimate, opinion of value, or analysis.

§ 293. Division of human rights. 1. There is hereby created in the executive department a division of human rights hereinafter in this article called the division. The head of such division shall be a commissioner hereinafter in this article called the commissioner, who shall be appointed by the governor, by and with the advice and consent

of the senate and shall hold office at the pleasure of the governor. The commissioner shall be entitled to his or her expenses actually and necessarily incurred by him or her in the performance of his or her duties.

2. The commissioner may establish, consolidate, reorganize or abolish such bureaus and other organizational units within the division as he or she determines to be necessary for efficient operation.

§ 294. General policies of division. The division shall formulate policies to effectuate the purposes of this article and may make recommendations to agencies and officers of the state or local subdivisions of government in aid of such policies and purposes.

§ 294-a. Statewide campaign for the acceptance, inclusion, tolerance and understanding of diversity. 1. The division shall develop and implement a statewide campaign to increase awareness and promote the acceptance, inclusion, tolerance and understanding of the diversity of people of this state, including, but not limited to diversity based on religion, race, color, creed, sex, ethnicity, national origin, age, disability, sexual orientation, gender identity or expression. In the development and implementation of such campaign, the division shall adopt as its purpose, the combatting of bias, hatred and discrimination in all their forms and the prevention of discrimination based on religion, race, color, creed, sex, ethnicity, national origin, age, disability, sexual orientation, gender identity or expression.

2. In order to effectuate the purpose of the campaign the division shall:

a. coordinate and cooperate with public and private organizations, including, but not limited to, local governments, community groups, school districts, churches, charitable organizations, foundations and other relevant groups;

b. develop educational materials to be published on the website of the division, social media campaigns or other means determined to be the most effective at reaching the public in a cost effective manner;

c. make information regarding such campaign available on the website of the division; and

d. utilize other resources the division deems appropriate and any other resources, private or public, identified by the division.

§ 295. General powers and duties of division. The division, by and through the commissioner or his or her duly authorized officer or employee, shall have the following functions, powers and duties:

1. To establish and maintain its principal office, and such other offices within the state as it may deem necessary.

2. To function at any place within the state.

3. To appoint such officers, attorneys, clerks and other employees and agents, consultants and special committees as it may deem necessary, fix their compensation within the limitations provided by law, and prescribe their duties.

4. To obtain upon request and utilize the services of all governmental departments and agencies.

5. To adopt, promulgate, amend and rescind suitable rules and regulations to carry out the provisions of this article, and the policies and practices of the division in connection therewith.

6. (a) To receive, investigate and pass upon complaints alleging violations of this article.

(b) Upon its own motion, to test and investigate and to make, sign and file complaints alleging violations of this article and to initiate investigations and studies to carry out the purposes of this article.

7. To hold hearings, to provide where appropriate for cross-interrogatories, subpoena witnesses, compel their attendance, administer oaths, take the testimony of any person under oath, and in connection therewith, to require the production for examination of any books or papers relating to any matter under investigation or in question before the division. The division may make rules as to the issuance of subpoenas which may be issued by the division at any stage of any investigation or proceeding before it.

In any such investigation or hearing, the commissioner, or an officer duly designated by the commissioner to conduct such investigation or hearing, may confer immunity in accordance with the provisions of section 50.20 of the criminal procedure law.

8. To create such advisory councils, local, regional or state-wide, as in its judgment will aid in effectuating the purposes of this article and of section eleven of article one of the constitution of this state, and the division may empower them to study the problems of discrimination in all or specific fields of human relationships or in specific instances of discrimination because of age, race, creed, color, national origin, sexual orientation, gender identity or expression, military status, sex, disability or marital status and make recommendations to the division for the development of policies and procedures in general and in specific instances. The advisory councils also shall disseminate information about the division's activities to organizations and individuals in their localities. Such advisory councils shall be composed of representative citizens, serving without pay, but with reimbursement for actual and necessary traveling expenses; and the division may make provision for technical and clerical assistance to such councils and for the expenses of such assistance.

9. To develop human rights plans and policies for the state and assist in their execution and to make investigations and studies appropriate to effectuate this article and to issue such publications and such results of investigations and research as in its judgement will tend to inform persons of the rights assured and remedies provided under this article,

to promote good-will and minimize or eliminate discrimination because of age, race, creed, color, national origin, sexual orientation, gender identity or expression, military status, sex, disability or marital status.

10. To render each year to the governor and to the legislature a full written report of all its activities and of its recommendations.

11. To inquire into incidents of and conditions which may lead to tension and conflict among racial, religious and nationality groups and to take such action within the authority granted by law to the division, as may be designed to alleviate such conditions, tension and conflict.

12. To furnish any person with such technical assistance as the division deems appropriate to further compliance with the purposes or provisions of this article.

13. To promote the creation of human rights agencies by counties, cities, villages or towns in circumstances the division deems appropriate.

14. To accept, with the approval of the governor, as agent of the state, any grant, including federal grants, or any gift for any of the purposes of this article. Any moneys so received may be expended by the division to effectuate any purpose of this article, subject to the same limitations as to approval of expenditures and audit as are prescribed for state moneys appropriated for the purposes of this article.

15. To adopt an official seal.

16. To have concurrent jurisdiction with the New York city commission on human rights over the administration and enforcement of title C of chapter one of the administrative code of the city of New York.

17. To establish a dedicated telephone line to provide assistance to individuals with complaints of housing discrimination. Such assistance shall include, but not be limited to, directing individuals to resources

available to the public regarding housing discrimination. The division shall operate such dedicated telephone line during regular business hours and shall post the telephone number for such dedicated phone line on the website of the division. The commissioner is hereby authorized and directed to promulgate rules and regulations to effectuate the purposes of this subdivision.

18. To establish a toll free confidential hotline to provide individuals with complaints of workplace sexual harassment counsel and assistance. The division shall operate this hotline during regular business hours and disseminate information about this hotline in order to ensure public knowledge of the hotline, including by working with the department of labor to ensure that information on the hotline is included in any materials employers must post or provide to employees regarding sexual harassment. The division will work with organizations representing attorneys, including but not limited to the New York state bar association, to recruit attorneys experienced in providing counsel related to sexual harassment matters who can provide pro bono assistance and counsel to individuals that contact the hotline. The hotline shall comply with all of the requirements for a program operated under the New York Rules of Professional Conduct, 12 NYCRR, Rule 6.5 (Participation in limited pro bono legal service programs). Attorneys may not solicit, or permit employees or agents of the attorneys to solicit on the attorney's behalf, further representation of any individuals they advise through the hotline relating to discussed sexual harassment complaint.

§ 296. Unlawful discriminatory practices. 1. It shall be an unlawful discriminatory practice:

(a) For an employer or licensing agency, because of an individual's age, race, creed, color, national origin, citizenship or immigration status, sexual orientation, gender identity or expression, military status, sex, disability, predisposing genetic characteristics, familial status, marital status, or status as a victim of domestic violence, to refuse to hire or employ or to bar or to discharge from employment such individual or to discriminate against such individual in compensation or in terms, conditions or privileges of employment.

(b) For an employment agency to discriminate against any individual because of age, race, creed, color, national origin, citizenship or immigration status, sexual orientation, gender identity or expression, military status, sex, disability, predisposing genetic characteristics, familial status, marital status, or status as a victim of domestic violence, in receiving, classifying, disposing or otherwise acting upon applications for its services or in referring an applicant or applicants to an employer or employers.

(c) For a labor organization, because of the age, race, creed, color, national origin, citizenship or immigration status, sexual orientation, gender identity or expression, military status, sex, disability, predisposing genetic characteristics, familial status, marital status, or status as a victim of domestic violence, of any individual, to exclude or to expel from its membership such individual or to discriminate in any way against any of its members or against any employer or any individual employed by an employer.

(d) For any employer or employment agency to print or circulate or cause to be printed or circulated any statement, advertisement or publication, or to use any form of application for employment or to make any inquiry in connection with prospective employment, which expresses directly or indirectly, any limitation, specification or discrimination as to age, race, creed, color, national origin, citizenship or immigration status, sexual orientation, gender identity or expression, military status, sex, disability, predisposing genetic characteristics, familial status, marital status, or status as a victim of domestic violence, or any intent to make any such limitation, specification or discrimination, unless based upon a bona fide occupational qualification; provided, however, that neither this paragraph nor any provision of this chapter or other law shall be construed to prohibit the department of civil service or the department of personnel of any city containing more than one county from requesting information from applicants for civil service examinations concerning any of the aforementioned characteristics, other than sexual orientation, for the purpose of conducting studies to identify and resolve possible problems in recruitment and testing of members of minority groups to ensure the fairest possible and equal opportunities for employment in the civil service for all persons, regardless of age, race, creed, color, national

origin, citizenship or immigration status, sexual orientation or gender identity or expression, military status, sex, disability, predisposing genetic characteristics, familial status, or marital status.

(e) For any employer, labor organization or employment agency to discharge, expel or otherwise discriminate against any person because he or she has opposed any practices forbidden under this article or because he or she has filed a complaint, testified or assisted in any proceeding under this article.

(f) Nothing in this subdivision shall affect any restrictions upon the activities of persons licensed by the state liquor authority with respect to persons under twenty-one years of age.

(g) For an employer to compel an employee who is pregnant to take a leave of absence, unless the employee is prevented by such pregnancy from performing the activities involved in the job or occupation in a reasonable manner.

(h) For an employer, licensing agency, employment agency or labor organization to subject any individual to harassment because of an individual's age, race, creed, color, national origin, citizenship or immigration status, sexual orientation, gender identity or expression, military status, sex, disability, predisposing genetic characteristics, familial status, marital status, status as a victim of domestic violence, or because the individual has opposed any practices forbidden under this article or because the individual has filed a complaint, testified or assisted in any proceeding under this article, regardless of whether such harassment would be considered severe or pervasive under precedent applied to harassment claims. Such harassment is an unlawful discriminatory practice when it subjects an individual to inferior terms, conditions or privileges of employment because of the individual's membership in one or more of these protected categories. The fact that such individual did not make a complaint about the harassment to such employer, licensing agency, employment agency or labor organization shall not be determinative of whether such employer, licensing agency, employment agency or labor organization shall be liable. Nothing in this section shall imply that an employee must demonstrate the existence of an individual to whom the employee's treatment must be compared. It shall be an affirmative defense to liability under this subdivision that the harassing conduct does not

rise above the level of what a reasonable victim of discrimination with the same protected characteristic or characteristics would consider petty slights or trivial inconveniences.

1-a. It shall be an unlawful discriminatory practice for an employer, labor organization, employment agency or any joint labor-management committee controlling apprentice training programs:

(a) To select persons for an apprentice training program registered with the state of New York on any basis other than their qualifications, as determined by objective criteria which permit review;

(b) To deny to or withhold from any person because of race, creed, color, national origin, citizenship or immigration status, sexual orientation, gender identity or expression, military status, sex, age, disability, familial status, marital status, or status as a victim of domestic violence, the right to be admitted to or participate in a guidance program, an apprenticeship training program, on-the-job training program, executive training program, or other occupational training or retraining program;

(c) To discriminate against any person in his or her pursuit of such programs or to discriminate against such a person in the terms, conditions or privileges of such programs because of race, creed, color, national origin, citizenship or immigration status, sexual orientation, gender identity or expression, military status, sex, age, disability, familial status, marital status, or status as a victim of domestic violence;

(d) To print or circulate or cause to be printed or circulated any statement, advertisement or publication, or to use any form of application for such programs or to make any inquiry in connection with such program which expresses, directly or indirectly, any limitation, specification or discrimination as to race, creed, color, national origin, citizenship or immigration status, sexual orientation, gender identity or expression, military status, sex, age, disability, familial status, marital status, or status as a victim of domestic violence, or any intention to make any such limitation, specification or discrimination, unless based on a bona fide occupational qualification.

2. (a) It shall be an unlawful discriminatory practice for any person,

being the owner, lessee, proprietor, manager, superintendent, agent or employee of any place of public accommodation, resort or amusement, because of the race, creed, color, national origin, citizenship or immigration status, sexual orientation, gender identity or expression, military status, sex, disability, marital status, or status as a victim of domestic violence, of any person, directly or indirectly, to refuse, withhold from or deny to such person any of the accommodations, advantages, facilities or privileges thereof, including the extension of credit, or, directly or indirectly, to publish, circulate, issue, display, post or mail any written or printed communication, notice or advertisement, to the effect that any of the accommodations, advantages, facilities and privileges of any such place shall be refused, withheld from or denied to any person on account of race, creed, color, national origin, citizenship or immigration status, sexual orientation, gender identity or expression, military status, sex, disability or marital status, or that the patronage or custom thereat of any person of or purporting to be of any particular race, creed, color, national origin, citizenship or immigration status, sexual orientation, gender identity or expression, military status, sex or marital status, or having a disability is unwelcome, objectionable or not acceptable, desired or solicited.

(b) Nothing in this subdivision shall be construed to prevent the barring of any person, because of the sex of such person, from places of public accommodation, resort or amusement if the division grants an exemption based on bona fide considerations of public policy; nor shall this subdivision apply to the rental of rooms in a housing accommodation which restricts such rental to individuals of one sex.

(c) For the purposes of paragraph (a) of this subdivision, "discriminatory practice" includes:

(i) a refusal to make reasonable modifications in policies, practices, or procedures, when such modifications are necessary to afford facilities, privileges, advantages or accommodations to individuals with disabilities, unless such person can demonstrate that making such modifications would fundamentally alter the nature of such facilities, privileges, advantages or accommodations;

(ii) a refusal to take such steps as may be necessary to ensure that no individual with a disability is excluded or denied services because

of the absence of auxiliary aids and services, unless such person can demonstrate that taking such steps would fundamentally alter the nature of the facility, privilege, advantage or accommodation being offered or would result in an undue burden;

(iii) a refusal to remove architectural barriers, and communication barriers that are structural in nature, in existing facilities, and transportation barriers in existing vehicles and rail passenger cars used by an establishment for transporting individuals (not including barriers that can only be removed through the retrofitting of vehicles or rail passenger cars by the installation of a hydraulic or other lift), where such removal is readily achievable;

(iv) where such person is a local or state government entity, a refusal to remove architectural barriers, and communication barriers that are structural in nature, in existing facilities, and transportation barriers in existing vehicles and rail passenger cars used by an establishment for transporting individuals (not including barriers that can only be removed through the retrofitting of vehicles or rail passenger cars by the installation of a hydraulic or other lift), where such removal does not constitute an undue burden; except as set forth in paragraph (e) of this subdivision; nothing in this section would require a public entity to: necessarily make each of its existing facilities accessible to and usable by individuals with disabilities; take any action that would threaten or destroy the historical significance of an historic property; or to make structural changes in existing facilities where other methods are effective in achieving compliance with this section; and

(v) where such person can demonstrate that the removal of a barrier under subparagraph (iii) of this paragraph is not readily achievable, a failure to make such facilities, privileges, advantages or accommodations available through alternative methods if such methods are readily achievable.

(d) For the purposes of this subdivision:

(i) "Readily achievable" means easily accomplishable and able to be carried out without much difficulty or expense. In determining whether an action is readily achievable, factors to be considered include:

(A) the nature and cost of the action needed under this subdivision;

(B) the overall financial resources of the facility or facilities

involved in the action; the number of persons employed at such facility; the effect on expenses and resources or the impact otherwise of such action upon the operation of the facility;

(C) the overall financial resources of the place of public accommodation, resort or amusement; the overall size of the business of such a place with respect to the number of its employees; the number, type and location of its facilities; and

(D) the type of operation or operations of the place of public accommodation, resort or amusement, including the composition, structure and functions of the workforce of such place; the geographic separateness, administrative or fiscal relationship of the facility or facilities in question to such place.

(ii) "Auxiliary aids and services" include:

(A) qualified interpreters or other effective methods of making aurally delivered materials available to individuals with hearing impairments;

(B) qualified readers, taped texts or other effective methods of making visually delivered materials available to individuals with visual impairments;

(C) acquisition or modification of equipment or devices; and

(D) other similar services and actions.

(iii) "Undue burden" means significant difficulty or expense. In determining whether an action would result in an undue burden, factors to be considered shall include:

(A) The nature and cost of the action needed under this article;

(B) The overall financial resources of the site or sites involved in the action; the number of persons employed at the site; the effect on expenses and resources; legitimate safety requirements that are necessary for safe operation, including crime prevention measures; or the impact otherwise of the action upon the operation of the site;

(C) The geographic separateness, and the administrative or fiscal relationship of the site or sites in question to any parent corporation or entity;

(D) If applicable, the overall financial resources of any parent corporation or entity; the overall size of the parent corporation or entity with respect to the number of its employees; the number, type, and location of its facilities; and

(E) If applicable, the type of operation or operations of any parent corporation or entity, including the composition, structure, and functions of the workforce of the parent corporation or entity.

(iv) "Reasonable modifications in policies, practices, procedures" includes modification to permit the use of a service animal by a person with a disability, consistent with federal regulations implementing the Americans with Disabilities Act, Title III, at 28 CFR 36.302(c).

(e) Paragraphs (c) and (d) of this subdivision do not apply to any air carrier, the National Railroad Passenger Corporation, or public transportation facilities, vehicles or services owned, leased or operated by the state, a county, city, town or village, or any agency thereof, or by any public benefit corporation or authority.

2-a. It shall be an unlawful discriminatory practice for the owner, lessee, sub-lessee, assignee, or managing agent of publicly-assisted housing accommodations or other person having the right of ownership or possession of or the right to rent or lease such accommodations:

(a) To refuse to sell, rent or lease or otherwise to deny to or withhold from any person or group of persons such housing accommodations because of the race, creed, color, disability, national origin, citizenship or immigration status, sexual orientation, gender identity or expression, military status, age, sex, marital status, status as a victim of domestic violence, lawful source of income or familial status of such person or persons, or to represent that any housing accommodation or land is not available for inspection, sale, rental or lease when in fact it is so available.

(b) To discriminate against any person because of his or her race, creed, color, disability, national origin, citizenship or immigration status, sexual orientation, gender identity or expression, military status, age, sex, marital status, status as a victim of domestic violence, lawful source of income or familial status in the terms, conditions or privileges of any publicly-assisted housing accommodations or in the furnishing of facilities or services in connection therewith.

(c) To cause to be made any written or oral inquiry or record concerning the race, creed, color, disability, national origin, citizenship or immigration status, sexual orientation, gender identity or expression, membership in the reserve armed forces of the United

States or in the organized militia of the state, age, sex, marital status, status as a victim of domestic violence, lawful source of income or familial status of a person seeking to rent or lease any publicly-assisted housing accommodation; provided, however, that nothing in this subdivision shall prohibit a member of the reserve armed forces of the United States or in the organized militia of the state from voluntarily disclosing such membership.

(c-1) To print or circulate or cause to be printed or circulated any statement, advertisement or publication, or to use any form of application for the purchase, rental or lease of such housing accommodation or to make any record or inquiry in connection with the prospective purchase, rental or lease of such a housing accommodation which expresses, directly or indirectly, any limitation, specification or discrimination as to race, creed, color, national origin, citizenship or immigration status, sexual orientation, gender identity or expression, military status, sex, age, disability, marital status, status as a victim of domestic violence, lawful source of income or familial status, or any intent to make any such limitation, specification or discrimination.

(d) (1) To refuse to permit, at the expense of the person with a disability, reasonable modifications of existing premises occupied or to be occupied by the said person, if the modifications may be necessary to afford the said person full enjoyment of the premises, in conformity with the provisions of the New York state uniform fire prevention and building code, except that, in the case of a rental, the landlord may, where it is reasonable to do so, condition permission for a modification on the renter's agreeing to restore the interior of the premises to the condition that existed before the modification, reasonable wear and tear excepted.

(2) To refuse to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford a person with a disability equal opportunity to use and enjoy a dwelling, including the use of an animal as a reasonable accommodation to alleviate symptoms or effects of a disability, and including reasonable modification to common use portions of the dwelling, or

(3) In connection with the design and construction of covered multi-family dwellings for first occupancy after March thirteenth,

nineteen hundred ninety-one, a failure to design and construct dwellings in accordance with the accessibility requirements of the New York state uniform fire prevention and building code, to provide that:

(i) The public use and common use portions of the dwellings are readily accessible to and usable by disabled persons with disabilities;

(ii) All the doors are designed in accordance with the New York state uniform fire prevention and building code to allow passage into and within all premises and are sufficiently wide to allow passage by persons in wheelchairs; and

(iii) All premises within covered multi-family dwelling units contain an accessible route into and through the dwelling; light switches, electrical outlets, thermostats, and other environmental controls are in accessible locations; there are reinforcements in the bathroom walls to allow later installation of grab bars; and there are usable kitchens and bathrooms such that an individual in a wheelchair can maneuver about the space, in conformity with the New York state uniform fire prevention and building code.

(e) Nothing in this subdivision shall restrict the consideration of age in the rental of publicly-assisted housing accommodations if the division grants an exemption based on bona fide considerations of public policy for the purpose of providing for the special needs of a particular age group without the intent of prejudicing other age groups.

(f) Nothing in this subdivision shall be deemed to restrict the rental of rooms in school or college dormitories to individuals of the same sex.

3. (a) It shall be an unlawful discriminatory practice for an employer, licensing agency, employment agency or labor organization to refuse to provide reasonable accommodations to the known disabilities, or pregnancy-related conditions, of an employee, prospective employee or member in connection with a job or occupation sought or held or participation in a training program.

(b) Nothing contained in this subdivision shall be construed to require provision of accommodations which can be demonstrated to impose an undue hardship on the operation of an employer's, licensing agency's, employment agency's or labor organization's business, program or enterprise.

In making such a demonstration with regard to undue hardship the factors to be considered include:

(i) The overall size of the business, program or enterprise with respect to the number of employees, number and type of facilities, and size of budget;

(ii) The type of operation which the business, program or enterprise is engaged in, including the composition and structure of the workforce; and

(iii) The nature and cost of the accommodation needed.

(c) Nothing in this subdivision regarding "reasonable accommodation" or in the chapter of the laws of two thousand fifteen which added this paragraph shall alter, diminish, increase, or create new or additional requirements to accommodate protected classes pursuant to this article other than the additional requirements as explicitly set forth in such chapter of the laws of two thousand fifteen.

(d) The employee must cooperate in providing medical or other information that is necessary to verify the existence of the disability or pregnancy-related condition, or that is necessary for consideration of the accommodation. The employee has a right to have such medical information kept confidential.

3-a. It shall be an unlawful discriminatory practice:

(a) For an employer or licensing agency to refuse to hire or employ or license or to bar or to terminate from employment an individual eighteen years of age or older, or to discriminate against such individual in promotion, compensation or in terms, conditions, or privileges of employment, because of such individual's age.

(b) For any employer, licensing agency or employment agency to print or circulate or cause to be printed or circulated any statement, advertisement or publication, or to use any form of application for employment or to make any inquiry in connection with prospective employment, which expresses, directly or indirectly, any limitation, specification or discrimination on account of age respecting individuals eighteen years of age or older, or any intent to make any such limitation, specification, or discrimination.

(c) For any employer, licensing agency or employment agency to

discharge or otherwise discriminate against any person because he or she has opposed any practices forbidden under this article or because he or she has filed a complaint, testified or assisted in any proceeding under this article.

(d) Notwithstanding any other provision of law, no employee shall be subject to termination or retirement from employment on the basis of age, except where age is a bona fide occupational qualification reasonably necessary to the normal operation of a particular business, where the differentiation is based on reasonable factors other than age, or as otherwise specified in paragraphs (e) and (f) of this subdivision or in article fourteen-A of the retirement and social security law.

(e) Nothing contained in this subdivision or in subdivision one of this section shall be construed to prevent the compulsory retirement of any employee who has attained sixty-five years of age, and who, for a two-year period immediately before retirement, is employed in a bona fide executive or a high policymaking position, if such employee is entitled to an immediate nonforfeitable annual retirement benefit from a pension, profit-sharing, savings, or deferred compensation plan, or any combination of such plans, of the employer of such employee, which equals, in the aggregate, at least forty-four thousand dollars; provided that for the purposes of this paragraph only, the term "employer" includes any employer as otherwise defined in this article but does not include (i) the state of New York, (ii) a county, city, town, village or any other political subdivision or civil division of the state, (iii) a school district or any other governmental entity operating a public school, college or university, (iv) a public improvement or special district, (v) a public authority, commission or public benefit corporation, or (vi) any other public corporation, agency, instrumentality or unit of government which exercises governmental power under the laws of the state. In applying the retirement benefit test of this paragraph, if any such retirement benefit is in a form other than a straight life annuity with no ancillary benefits, or if employees contribute to any such plan or make rollover contributions, such benefit shall be adjusted in accordance with rules and regulations promulgated by the division, after an opportunity for public hearing, so that the benefit is the equivalent of a straight life annuity with no ancillary benefits under a plan to which employees do not contribute and under

which no rollover contributions are made.

(f) Nothing contained in this subdivision, in subdivision one of this section or in article fourteen-A of the retirement and social security law shall be construed to prevent the compulsory retirement of any employee who has attained seventy years of age and is serving under a contract for unlimited tenure, or a similar arrangement providing for unlimited tenure, at a nonpublic institution of higher education. For purposes of such subdivisions or article, the term "institution of higher education" means an educational institution which (i) admits as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such a certificate, (ii) is lawfully authorized to provide a program of education beyond secondary education, and (iii) provides an educational program for which it awards a bachelor's degree or provides not less than a two-year program which is acceptable for full credit toward such a degree.

(g) In the event of a conflict between the provisions of this subdivision and the provisions of article fourteen-A of the retirement and social security law, the provisions of article fourteen-A of such law shall be controlling.

But nothing contained in this subdivision, in subdivision one of this section or in article fourteen-A of the retirement and social security law shall be construed to prevent the termination of the employment of any person who, even upon the provision of reasonable accommodations, is physically unable to perform his or her duties or to affect the retirement policy or system of any employer where such policy or system is not merely a subterfuge to evade the purposes of said subdivisions or said article; nor shall anything in such subdivisions or such article be deemed to preclude the varying of insurance coverages according to an employee's age.

The provisions of this subdivision shall not affect any restriction upon the activities of persons licensed by the state liquor authority with respect to persons under twenty-one years of age.

3-b. It shall be an unlawful discriminatory practice for any real

estate broker, real estate salesperson or employee or agent thereof or any other individual, corporation, partnership or organization for the purpose of inducing a real estate transaction from which any such person or any of its stockholders or members may benefit financially, to represent that a change has occurred or will or may occur in the composition with respect to race, creed, color, national origin, citizenship or immigration status, sexual orientation, gender identity or expression, military status, sex, disability, marital status, status as a victim of domestic violence, or familial status of the owners or occupants in the block, neighborhood or area in which the real property is located, and to represent, directly or indirectly, that this change will or may result in undesirable consequences in the block, neighborhood or area in which the real property is located, including but not limited to the lowering of property values, an increase in criminal or anti-social behavior, or a decline in the quality of schools or other facilities.

4. It shall be an unlawful discriminatory practice for an educational institution to deny the use of its facilities to any person otherwise qualified, or to permit the harassment of any student or applicant, by reason of his race, color, religion, disability, national origin, citizenship or immigration status, sexual orientation, gender identity or expression, military status, sex, age, marital status, or status as a victim of domestic violence, except that any such institution which establishes or maintains a policy of educating persons of one sex exclusively may admit students of only one sex.

5. (a) It shall be an unlawful discriminatory practice for the owner, lessee, sub-lessee, assignee, or managing agent of, or other person having the right to sell, rent or lease a housing accommodation, constructed or to be constructed, or any agent or employee thereof:

(1) To refuse to sell, rent, lease or otherwise to deny to or withhold from any person or group of persons such a housing accommodation because of the race, creed, color, national origin, citizenship or immigration status, sexual orientation, gender identity or expression, military status, sex, age, disability, marital status, status as a victim of domestic violence, lawful source of income or familial status of such

person or persons, or to represent that any housing accommodation or land is not available for inspection, sale, rental or lease when in fact it is so available.

(2) To discriminate against any person because of race, creed, color, national origin, citizenship or immigration status, sexual orientation, gender identity or expression, military status, sex, age, disability, marital status, status as a victim of domestic violence, lawful source of income or familial status in the terms, conditions or privileges of the sale, rental or lease of any such housing accommodation or in the furnishing of facilities or services in connection therewith.

(3) To print or circulate or cause to be printed or circulated any statement, advertisement or publication, or to use any form of application for the purchase, rental or lease of such housing accommodation or to make any record or inquiry in connection with the prospective purchase, rental or lease of such a housing accommodation which expresses, directly or indirectly, any limitation, specification or discrimination as to race, creed, color, national origin, citizenship or immigration status, sexual orientation, gender identity or expression, military status, sex, age, disability, marital status, status as a victim of domestic violence, lawful source of income or familial status, or any intent to make any such limitation, specification or discrimination.

(4) (i) The provisions of subparagraphs one and two of this paragraph shall not apply (1) to the rental of a housing accommodation in a building which contains housing accommodations for not more than two families living independently of each other, if the owner resides in one of such housing accommodations, (2) to the restriction of the rental of all rooms in a housing accommodation to individuals of the same sex or (3) to the rental of a room or rooms in a housing accommodation, if such rental is by the occupant of the housing accommodation or by the owner of the housing accommodation and the owner resides in such housing accommodation or (4) solely with respect to age and familial status to the restriction of the sale, rental or lease of housing accommodations exclusively to persons sixty-two years of age or older and the spouse of any such person, or for housing intended and operated for occupancy by at least one person fifty-five years of age or older per unit. In determining whether housing is intended and operated for occupancy by

persons fifty-five years of age or older, Sec. 807(b) (2) (c) (42 U.S.C. 3607 (b) (2) (c)) of the federal Fair Housing Act of 1988, as amended, shall apply. However, such rental property shall no longer be exempt from the provisions of subparagraphs one and two of this paragraph if there is unlawful discriminatory conduct pursuant to subparagraph three of this paragraph.

(ii) The provisions of subparagraphs one, two, and three of this paragraph shall not apply (1) to the restriction of the rental of all rooms in a housing accommodation to individuals of the same sex, (2) to the rental of a room or rooms in a housing accommodation, if such rental is by the occupant of the housing accommodation or by the owner of the housing accommodation and the owner resides in such housing accommodation, or (3) solely with respect to age and familial status to the restriction of the sale, rental or lease of housing accommodations exclusively to persons sixty-two years of age or older and the spouse of any such person, or for housing intended and operated for occupancy by at least one person fifty-five years of age or older per unit. In determining whether housing is intended and operated for occupancy by persons fifty-five years of age or older, Sec. 807(b) (2) (c) (42 U.S.C. 3607 (b) (2) (c)) of the federal Fair Housing Act of 1988, as amended, shall apply.

(b) It shall be an unlawful discriminatory practice for the owner, lessee, sub-lessee, or managing agent of, or other person having the right of ownership or possession of or the right to sell, rent or lease, land or commercial space:

(1) To refuse to sell, rent, lease or otherwise deny to or withhold from any person or group of persons land or commercial space because of the race, creed, color, national origin, citizenship or immigration status, sexual orientation, gender identity or expression, military status, sex, age, disability, marital status, status as a victim of domestic violence, or familial status of such person or persons, or to represent that any housing accommodation or land is not available for inspection, sale, rental or lease when in fact it is so available;

(2) To discriminate against any person because of race, creed, color, national origin, citizenship or immigration status, sexual orientation, gender identity or expression, military status, sex, age, disability, marital status, status as a victim of domestic violence, or familial

status in the terms, conditions or privileges of the sale, rental or lease of any such land or commercial space; or in the furnishing of facilities or services in connection therewith;

(3) To print or circulate or cause to be printed or circulated any statement, advertisement or publication, or to use any form of application for the purchase, rental or lease of such land or commercial space or to make any record or inquiry in connection with the prospective purchase, rental or lease of such land or commercial space which expresses, directly or indirectly, any limitation, specification or discrimination as to race, creed, color, national origin, citizenship or immigration status, sexual orientation, gender identity or expression, military status, sex, age, disability, marital status, status as a victim of domestic violence, or familial status; or any intent to make any such limitation, specification or discrimination.

(4) With respect to age and familial status, the provisions of this paragraph shall not apply to the restriction of the sale, rental or lease of land or commercial space exclusively to persons fifty-five years of age or older and the spouse of any such person, or to the restriction of the sale, rental or lease of land to be used for the construction, or location of housing accommodations exclusively for persons sixty-two years of age or older, or intended and operated for occupancy by at least one person fifty-five years of age or older per unit. In determining whether housing is intended and operated for occupancy by persons fifty-five years of age or older, Sec. 807(b) (2) (c) (42 U.S.C. 3607(b) (2) (c)) of the federal Fair Housing Act of 1988, as amended, shall apply.

(c) It shall be an unlawful discriminatory practice for any real estate broker, real estate salesperson or employee or agent thereof:

(1) To refuse to sell, rent or lease any housing accommodation, land or commercial space to any person or group of persons or to refuse to negotiate for the sale, rental or lease, of any housing accommodation, land or commercial space to any person or group of persons because of the race, creed, color, national origin, citizenship or immigration status, sexual orientation, gender identity or expression, military status, sex, age, disability, marital status, status as a victim of domestic violence, lawful source of income or familial status of such person or persons, or to represent that any housing accommodation, land

or commercial space is not available for inspection, sale, rental or lease when in fact it is so available, or otherwise to deny or withhold any housing accommodation, land or commercial space or any facilities of any housing accommodation, land or commercial space from any person or group of persons because of the race, creed, color, national origin, citizenship or immigration status, sexual orientation, gender identity or expression, military status, sex, age, disability, marital status, lawful source of income or familial status of such person or persons.

(2) To print or circulate or cause to be printed or circulated any statement, advertisement or publication, or to use any form of application for the purchase, rental or lease of any housing accommodation, land or commercial space or to make any record or inquiry in connection with the prospective purchase, rental or lease of any housing accommodation, land or commercial space which expresses, directly or indirectly, any limitation, specification, or discrimination as to race, creed, color, national origin, citizenship or immigration status, sexual orientation, gender identity or expression, military status, sex, age, disability, marital status, status as a victim of domestic violence, lawful source of income or familial status; or any intent to make any such limitation, specification or discrimination.

(3) With respect to age and familial status, the provisions of this paragraph shall not apply to the restriction of the sale, rental or lease of any housing accommodation, land or commercial space exclusively to persons fifty-five years of age or older and the spouse of any such person, or to the restriction of the sale, rental or lease of any housing accommodation or land to be used for the construction or location of housing accommodations for persons sixty-two years of age or older, or intended and operated for occupancy by at least one person fifty-five years of age or older per unit. In determining whether housing is intended and operated for occupancy by persons fifty-five years of age or older, Sec. 807 (b) (2) (c) (42 U.S.C. 3607 (b) (2) (c)) of the federal Fair Housing Act of 1988, as amended, shall apply.

(d) It shall be an unlawful discriminatory practice for any real estate board, because of the race, creed, color, national origin, citizenship or immigration status, sexual orientation, gender identity or expression, military status, age, sex, disability, marital status, status as a victim of domestic violence, lawful source of income or

familial status of any individual who is otherwise qualified for membership, to exclude or expel such individual from membership, or to discriminate against such individual in the terms, conditions and privileges of membership in such board.

(e) It shall be an unlawful discriminatory practice for the owner, proprietor or managing agent of, or other person having the right to provide care and services in, a private proprietary nursing home, convalescent home, or home for adults, or an intermediate care facility, as defined in section two of the social services law, heretofore constructed, or to be constructed, or any agent or employee thereof, to refuse to provide services and care in such home or facility to any individual or to discriminate against any individual in the terms, conditions, and privileges of such services and care solely because such individual is a blind person. For purposes of this paragraph, a "blind person" shall mean a person who is registered as a blind person with the commission for the visually handicapped and who meets the definition of a "blind person" pursuant to section three of chapter four hundred fifteen of the laws of nineteen hundred thirteen entitled "An act to establish a state commission for improving the condition of the blind of the state of New York, and making an appropriation therefor".

(f) The provisions of this subdivision, as they relate to age, shall not apply to persons under the age of eighteen years.

(g) It shall be an unlawful discriminatory practice for any person offering or providing housing accommodations, land or commercial space as described in paragraphs (a), (b), and (c) of this subdivision to make or cause to be made any written or oral inquiry or record concerning membership of any person in the state organized militia in relation to the purchase, rental or lease of such housing accommodation, land, or commercial space, provided, however, that nothing in this subdivision shall prohibit a member of the state organized militia from voluntarily disclosing such membership.

(h) It shall be an unlawful discriminatory practice for any person to discriminate against any individual in making real estate appraisal services available or to base a real estate appraisal, estimate, or opinion of value on the race, creed, color, national origin, citizenship or immigration status, sexual orientation, gender identity or expression, military status, sex, age, disability, marital status,

status as a victim of domestic violence, lawful source of income, or familial status of either the prospective owners or occupants of the real property, the present owners or occupants of the real property, or the present owners or occupants of the real properties in the vicinity of the property. Nothing in this section shall prohibit a real estate appraiser from taking into consideration factors other than race, creed, color, national origin, citizenship or immigration status, sexual orientation, gender identity or expression, military status, sex, age, disability, marital status, status as a victim of domestic violence, lawful source of income, or familial status.

5-a. (a) For any case alleging housing discrimination under this article, an unlawful discriminatory practice may be established by a practice's discriminatory effect, even if such practice was not motivated by a discriminatory intent. The practice may still be lawful if supported by a legally sufficient justification, as defined in paragraph (c) of this subdivision.

(b) For the purposes of this subdivision, a practice has a discriminatory effect where it actually or predictably results in a disparate impact on a group of persons or creates, increases, reinforces, or perpetuates segregated housing patterns because of race, creed, color, national origin, citizenship or immigration status, sexual orientation, gender identity or expression, military status, sex, age, disability, marital status, status as a victim of domestic violence, lawful source of income or familial.

(c) (1) A legally sufficient justification exists where the challenged practice:

(i) is necessary to achieve one or more substantial, legitimate, nondiscriminatory interests of the respondent; and

(ii) those interests could not be served by another practice that has a less discriminatory effect.

(2) A legally sufficient justification shall be supported by evidence and may not be hypothetical or speculative. The burdens of proof for establishing each of the two elements of a legally sufficient justification are set forth in paragraph (d) of this subdivision.

(d) (1) The complainant shall have the burden of proving that a challenged practice caused or predictably will cause a discriminatory

effect.

(2) Once the complainant satisfies the burden of proof set forth in subparagraph one of this paragraph, the respondent shall have the burden of proving that the challenged practice is necessary to achieve one or more substantial, legitimate, nondiscriminatory interests of the respondent.

(3) If the respondent satisfies the burden of proof set forth in subparagraph two of this paragraph, the complainant may still prevail upon proving that the substantial, legitimate, nondiscriminatory interests supporting the challenged practice could be served by another practice that has a less discriminatory effect.

(e) A demonstration that a practice is supported by a legally sufficient justification, as defined in paragraph (c) of this subdivision, may not be used as a defense against a claim of intentional discrimination.

(f) Nothing in this subdivision shall be construed or interpreted as limiting, restricting, overriding, or supplanting any broader interpretation of the discriminatory practices described in this article or the availability of liability under this article.

5-b. (a) For any case alleging employment discrimination under this article, an unlawful discriminatory practice may be established by a practice's discriminatory effect, even if such practice was not motivated by a discriminatory intent. The practice may still be lawful if supported by a legally sufficient justification, as defined in paragraph (c) of this subdivision.

(b) For the purposes of this subdivision, a practice has a discriminatory effect where it actually or predictably results in a disparate impact on a group of persons, because of their membership in a class protected under this section.

(c) (i) A legally sufficient justification exists where the challenged practice:

(A) is job related for the position in question and consistent with business necessity; and

(B) that the business necessity could not be served by another practice that has a less discriminatory effect.

(ii) A legally sufficient justification shall be supported by evidence

and may not be hypothetical or speculative. The burdens of proof for establishing each of the two elements of a legally sufficient justification are set forth in paragraph (d) of this subdivision.

(d) (i) The complainant shall have the burden of proving that a challenged practice caused or predictably will cause a discriminatory effect.

(ii) Once the complainant satisfies the burden of proof set forth in subparagraph one of this paragraph, the respondent shall have the burden of proving that the challenged practice is job related for the position in question and consistent with business necessity.

(iii) If the respondent satisfies the burden of proof set forth in subparagraph two of this paragraph, the complainant may still prevail upon proving that the business necessity could be served by another practice that has a less discriminatory effect.

(e) A demonstration that a practice is supported by a legally sufficient justification, as defined in paragraph (c) of this subdivision, may not be used as a defense against a claim of intentional discrimination.

(f) Nothing in this subdivision shall be construed or interpreted as limiting, restricting, overriding, or supplanting any broader interpretation of the discriminatory practices described in this article or the availability of liability under this article.

6. It shall be an unlawful discriminatory practice for any person to aid, abet, incite, compel or coerce the doing of any of the acts forbidden under this article, or to attempt to do so.

7. It shall be an unlawful discriminatory practice for any person engaged in any activity to which this section applies to retaliate or discriminate against any person because such person has (i) opposed any practices forbidden under this article, (ii) filed a complaint, testified, or assisted in any proceeding under this article, or (iii) requested a reasonable accommodation under this article. Retaliation may include, but is not limited to, disclosing an employee's personnel files because such employee has (i) opposed any practices forbidden under this article, (ii) filed a complaint, testified, or assisted in any proceeding under this article, or (iii) requested a reasonable

accommodation under this article, except where such disclosure is made in the course of commencing or responding to a complaint in any proceeding under this article or any other civil or criminal action or other judicial or administrative proceeding as permitted by applicable law.

8. It shall be an unlawful discriminatory practice for any party to a conciliation agreement made pursuant to section two hundred ninety-seven of this article to violate the terms of such agreement.

9. (a) It shall be an unlawful discriminatory practice for any fire department or fire company therein, through any member or members thereof, officers, board of fire commissioners or other body or office having power of appointment of volunteer firefighters, directly or indirectly, by ritualistic practice, constitutional or by-law prescription, by tacit agreement among its members, or otherwise, to deny to any individual membership in any volunteer fire department or fire company therein, or to expel or discriminate against any volunteer member of a fire department or fire company therein, because of the race, creed, color, national origin, citizenship or immigration status, sexual orientation, gender identity or expression, military status, sex, marital status, status as a victim of domestic violence, or familial status, of such individual.

(b) Upon a complaint to the division, as provided for under subdivision one of section two hundred ninety-seven of this article, and in the event the commissioner finds that an unlawful discriminatory practice has been engaged in, the board of fire commissioners or other body or office having power of appointment of volunteer firefighters shall be served with any order required, under subdivision four of section two hundred ninety-seven of this article, to be served on any or all respondents requiring such respondent or respondents to cease and desist from such unlawful discriminatory practice and to take affirmative action. Such board shall have the duty and power to appoint as a volunteer firefighter, notwithstanding any other statute or provision of law or by-law of any volunteer fire company, any individual whom the commissioner has determined to be the subject of an unlawful discriminatory practice under this subdivision. Unless such board has

been found to have engaged in an unlawful discriminatory practice, service upon such board of such order shall not constitute such board or its members as a respondent nor constitute a finding of an unlawful discriminatory practice against such board or its members.

10. (a) It shall be an unlawful discriminatory practice for any employer, or an employee or agent thereof, to impose upon a person as a condition of obtaining or retaining employment, including opportunities for promotion, advancement or transfers, any terms or conditions that would require such person to violate or forego a sincerely held practice of his or her religion, including but not limited to the observance of any particular day or days or any portion thereof as a sabbath or other holy day in accordance with the requirements of his or her religion or the wearing of any attire, clothing, or facial hair in accordance with the requirements of his or her religion, unless, after engaging in a bona fide effort, the employer demonstrates that it is unable to reasonably accommodate the employee's or prospective employee's sincerely held religious observance or practice without undue hardship on the conduct of the employer's business. Notwithstanding any other provision of law to the contrary, an employee shall not be entitled to premium wages or premium benefits for work performed during hours to which such premium wages or premium benefits would ordinarily be applicable, if the employee is working during such hours only as an accommodation to his or her sincerely held religious requirements. Nothing in this paragraph or paragraph (b) of this subdivision shall alter or abridge the rights granted to an employee concerning the payment of wages or privileges of seniority accruing to that employee.

(b) Except where it would cause an employer to incur an undue hardship, no person shall be required to remain at his or her place of employment during any day or days or portion thereof that, as a requirement of his or her religion, he or she observes as his or her sabbath or other holy day, including a reasonable time prior and subsequent thereto for travel between his or her place of employment and his or her home, provided however, that any such absence from work shall, wherever practicable in the reasonable judgment of the employer, be made up by an equivalent amount of time and work at some other mutually convenient time, or shall be charged against any leave with pay

ordinarily granted, other than sick leave, provided further, however, that any such absence not so made up or charged, may be treated by the employer of such person as leave taken without pay.

(c) It shall be an unlawful discriminatory practice for an employer to refuse to permit an employee to utilize leave, as provided in paragraph (b) of this subdivision, solely because the leave will be used for absence from work to accommodate the employee's sincerely held religious observance or practice.

(d) As used in this subdivision: (1) "undue hardship" shall mean an accommodation requiring significant expense or difficulty (including a significant interference with the safe or efficient operation of the workplace or a violation of a bona fide seniority system). Factors to be considered in determining whether the accommodation constitutes an undue economic hardship shall include, but not be limited to:

(i) the identifiable cost of the accommodation, including the costs of loss of productivity and of retaining or hiring employees or transferring employees from one facility to another, in relation to the size and operating cost of the employer;

(ii) the number of individuals who will need the particular accommodation to a sincerely held religious observance or practice; and

(iii) for an employer with multiple facilities, the degree to which the geographic separateness or administrative or fiscal relationship of the facilities will make the accommodation more difficult or expensive.

Provided, however, an accommodation shall be considered to constitute an undue hardship if it will result in the inability of an employee to perform the essential functions of the position in which he or she is employed.

(2) "premium wages" shall include overtime pay and compensatory time off, and additional remuneration for night, weekend or holiday work, or for standby or irregular duty.

(3) "premium benefit" shall mean an employment benefit, such as seniority, group life insurance, health insurance, disability insurance, sick leave, annual leave, or an educational or pension benefit that is greater than the employment benefit due the employee for an equivalent period of work performed during the regular work schedule of the employee.

In the case of any employer other than the state, any of its political subdivisions or any school district, this subdivision shall not apply where the uniform application of terms and conditions of attendance to employees is essential to prevent undue economic hardship to the employer. In any proceeding in which the applicability of this subdivision is in issue, the burden of proof shall be upon the employer. If any question shall arise whether a particular position or class of positions is excepted from this subdivision by this paragraph, such question may be referred in writing by any party claimed to be aggrieved, in the case of any position of employment by the state or any of its political subdivisions, except by any school district, to the civil service commission, in the case of any position of employment by any school district, to the commissioner of education, who shall determine such question and in the case of any other employer, a party claiming to be aggrieved may file a complaint with the division pursuant to this article. Any such determination by the civil service commission shall be reviewable in the manner provided by article seventy-eight of the civil practice law and rules and any such determination by the commissioner of education shall be reviewable in the manner and to the same extent as other determinations of the commissioner under section three hundred ten of the education law.

11. Nothing contained in this section shall be construed to bar any religious or denominational institution or organization, or any organization operated for charitable or educational purposes, which is operated, supervised or controlled by or in connection with a religious organization, from limiting employment or sales or rental of housing accommodations or admission to or giving preference to persons of the same religion or denomination or from taking such action as is calculated by such organization to promote the religious principles for which it is established or maintained.

12. Notwithstanding the provisions of subdivisions one, one-a and three-a of this section, it shall not be an unlawful discriminatory practice for an employer, employment agency, labor organization or joint labor-management committee to carry out a plan, approved by the

division, to increase the employment of members of a minority group (as may be defined pursuant to the regulations of the division) which has a state-wide unemployment rate that is disproportionately high in comparison with the state-wide unemployment rate of the general population. Any plan approved under this subdivision shall be in writing and the division's approval thereof shall be for a limited period and may be rescinded at any time by the division.

13. It shall be an unlawful discriminatory practice (i) for any person to boycott or blacklist, or to refuse to buy from, sell to or trade with, or otherwise discriminate against any person, because of the race, creed, color, national origin, citizenship or immigration status, sexual orientation, gender identity or expression, military status, sex, status as a victim of domestic violence, disability, or familial status, or of such person, or of such person's partners, members, stockholders, directors, officers, managers, superintendents, agents, employees, business associates, suppliers or customers, or (ii) for any person wilfully to do any act or refrain from doing any act which enables any such person to take such action. This subdivision shall not apply to:

(a) Boycotts connected with labor disputes; or

(b) Boycotts to protest unlawful discriminatory practices.

14. In addition to reasonable modifications in policies, practices, or procedures, including those defined in subparagraph (iv) of paragraph (d) of subdivision two of this section or reasonable accommodations for persons with disabilities as otherwise provided in this section, including the use of an animal as a reasonable accommodation, it shall be an unlawful discriminatory practice for any person engaged in any activity covered by this section to deny access or otherwise to discriminate against a blind person, a person who is deaf or hard of hearing or a person with another disability because he or she is accompanied by a dog that has been trained to work or perform specific tasks for the benefit of such person by a professional guide dog, hearing dog or service dog training center or professional guide dog, hearing dog or service dog trainer, or to discriminate against such professional guide dog, hearing dog or service dog trainer engaged in such training of a dog for use by a person with a disability, whether or

not accompanied by the person for whom the dog is being trained.

15. It shall be an unlawful discriminatory practice for any person, agency, bureau, corporation or association, including the state and any political subdivision thereof, to deny any license or employment to any individual by reason of his or her having been convicted of one or more criminal offenses, or by reason of a finding of a lack of "good moral character" which is based upon his or her having been convicted of one or more criminal offenses, when such denial is in violation of the provisions of article twenty-three-A of the correction law. Further, there shall be a rebuttable presumption in favor of excluding from evidence the prior incarceration or conviction of any person, in a case alleging that the employer has been negligent in hiring or retaining an applicant or employee, or supervising a hiring manager, if after learning about an applicant or employee's past criminal conviction history, such employer has evaluated the factors set forth in section seven hundred fifty-two of the correction law, and made a reasonable, good faith determination that such factors militate in favor of hire or retention of that applicant or employee. No person, agency, bureau, corporation, association, the state or any political subdivision thereof, shall require an individual to provide a copy of his or her criminal history record that he or she obtained pursuant to the rules and regulations of the division of criminal justice services.

16. It shall be an unlawful discriminatory practice, unless specifically required or permitted by statute, for any person, agency, bureau, corporation or association, including the state and any political subdivision thereof, to make any inquiry about, whether in any form of application or otherwise, or to act upon adversely to the individual involved, any arrest or criminal accusation of such individual not then pending against that individual which was followed by a termination of that criminal action or proceeding in favor of such individual, as defined in subdivision two of section 160.50 of the criminal procedure law, or by an order adjourning the criminal action in contemplation of dismissal, pursuant to section 170.55, 170.56, 210.46, 210.47, or 215.10 of the criminal procedure law, or by a youthful offender adjudication, as defined in subdivision one of section 720.35

of the criminal procedure law, or by a conviction for a violation sealed pursuant to section 160.55 of the criminal procedure law or by a conviction which is sealed pursuant to section 160.59 or 160.58 of the criminal procedure law, or by a conviction which is sealed pursuant to section 160.57 of the criminal procedure law, except where such conviction record is accessed pursuant to subparagraph (vii), (viii), or (xvi) of paragraph (d) of subdivision one of section 160.57 of the criminal procedure law, in connection with the licensing, housing, employment, including volunteer positions, or providing of credit or insurance to such individual; provided, further, that no person shall be required to divulge information pertaining to any arrest or criminal accusation of such individual not then pending against that individual which was followed by a termination of that criminal action or proceeding in favor of such individual, as defined in subdivision two of section 160.50 of the criminal procedure law, or by an order adjourning the criminal action in contemplation of dismissal, pursuant to section 170.55 or 170.56, 210.46, 210.47 or 215.10 of the criminal procedure law, or by a youthful offender adjudication, as defined in subdivision one of section 720.35 of the criminal procedure law, or by a conviction for a violation sealed pursuant to section 160.55 of the criminal procedure law, or by a conviction which is sealed pursuant to section 160.58 or 160.59 of the criminal procedure law, or by a conviction which is sealed pursuant to section 160.57 of the criminal procedure law, except where such conviction record is accessed pursuant to subparagraph (vii), (viii), or (xvi) of paragraph (d) of subdivision one of section 160.57 of the criminal procedure law. An individual required or requested to provide information in violation of this subdivision may respond as if the arrest, criminal accusation, or disposition of such arrest or criminal accusation did not occur. The provisions of this subdivision shall not apply to the licensing activities of governmental bodies in relation to the regulation of guns, firearms and other deadly weapons or in relation to an application for employment as a police officer or peace officer as those terms are defined in subdivisions thirty-three and thirty-four of section 1.20 of the criminal procedure law; provided further that the provisions of this subdivision shall not apply to an application for employment or membership in any law enforcement agency with respect to any arrest or criminal accusation

which was followed by a youthful offender adjudication, as defined in subdivision one of section 720.35 of the criminal procedure law, or by a conviction for a violation sealed pursuant to section 160.55 of the criminal procedure law, or by a conviction which is sealed pursuant to section 160.58 or 160.59 of the criminal procedure law, or by a conviction which is sealed pursuant to section 160.57 of the criminal procedure law. For purposes of this subdivision, an action which has been adjourned in contemplation of dismissal, pursuant to section 170.55 or 170.56, 210.46, 210.47 or 215.10 of the criminal procedure law, shall not be considered a pending action, unless the order to adjourn in contemplation of dismissal is revoked and the case is restored to the calendar for further prosecution.

17. Nothing in this section shall prohibit the offer and acceptance of a discount to a person sixty-five years of age or older for housing accommodations.

18. It shall be an unlawful discriminatory practice for the owner, lessee, sub-lessee, assignee, or managing agent of, or other person having the right of ownership of or possession of or the right to rent or lease housing accommodations:

(1) To refuse to permit, at the expense of a person with a disability, reasonable modifications of existing premises occupied or to be occupied by the said person, if the modifications may be necessary to afford the said person full enjoyment of the premises, in conformity with the provisions of the New York state uniform fire prevention and building code except that, in the case of a rental, the landlord may, where it is reasonable to do so, condition permission for a modification on the renter's agreeing to restore the interior of the premises to the condition that existed before the modification, reasonable wear and tear excepted.

(2) To refuse to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford said person with a disability equal opportunity to use and enjoy a dwelling, including the use of an animal as a reasonable accommodation to alleviate symptoms or effects of a disability, and including reasonable modification to common use portions of the dwelling, or

(3) In connection with the design and construction of covered multi-family dwellings for first occupancy after March thirteenth, nineteen hundred ninety-one, a failure to design and construct dwellings in accordance with the accessibility requirements for multi-family dwellings found in the New York state uniform fire prevention and building code to provide that:

(i) The public use and common use portions of the dwellings are readily accessible to and usable by persons with disabilities;

(ii) All the doors are designed in accordance with the New York state uniform fire prevention and building code to allow passage into and within all premises and are sufficiently wide to allow passage by persons in wheelchairs; and

(iii) All premises within covered multi-family dwelling units contain an accessible route into and through the dwelling; light switches, electrical outlets, thermostats, and other environmental controls are in accessible locations; there are reinforcements in the bathroom walls to allow later installation of grab bars; and there are usable kitchens and bathrooms such that an individual in a wheelchair can maneuver about the space, in conformity with the New York state uniform fire prevention and building code.

19. (a) Except as provided in paragraph (b) of this subdivision, it shall be an unlawful discriminatory practice of any employer, labor organization, employment agency, licensing agency, or its employees, agents, or members:

(1) to directly or indirectly solicit, require, or administer a genetic test to a person, or solicit or require information from which a predisposing genetic characteristic can be inferred as a condition of employment, preemployment application, labor organization membership, or licensure; or

(2) to buy or otherwise acquire the results or interpretation of an individual's genetic test results or information from which a predisposing genetic characteristic can be inferred or to make an agreement with an individual to take a genetic test or provide genetic test results or such information.

(b) An employer may require a specified genetic test as a condition of employment where such a test is shown to be directly related to the

occupational environment, such that the employee or applicant with a particular genetic anomaly might be at an increased risk of disease as a result of working in said environment.

(c) Nothing in this section shall prohibit the genetic testing of an employee who requests a genetic test and who provides written and informed consent to taking a genetic test for any of the following purposes:

(1) pursuant to a workers' compensation claim;

(2) pursuant to civil litigation; or

(3) to determine the employee's susceptibility to potentially carcinogenic, toxic, or otherwise hazardous chemicals or substances found in the workplace environment only if the employer does not terminate the employee or take any other action that adversely affects any term, condition or privilege of employment pursuant to the genetic test results.

(d) If an employee consents to genetic testing for any of the aforementioned allowable reasons, he or she must be given and sign an authorization of consent form which explicitly states the specific purpose, uses and limitations of the genetic tests and the specific traits or characteristics to be tested.

21. Nothing in this section shall prohibit the offer and acceptance of a discount for housing accommodations to a person with a disability, as defined in subdivision twenty-one of section two hundred ninety-two of this article.

22. (a) It shall be an unlawful discriminatory practice for an employer or licensing agency, because of any individual's status as a victim of domestic violence, to refuse to hire or employ or license or to bar or to discharge from employment such individual or to discriminate against such individual in compensation or in terms, conditions or privileges of employment.

(b) It shall be an unlawful discriminatory practice for an employer or employment agency to print or circulate or cause to be printed or circulated any statement, advertisement or publication, or to use any form of application for employment or to make any inquiry in connection with prospective employment which expresses, directly or indirectly, any

limitation, specification or discrimination as to status as a victim of domestic violence, or any intent to make any such limitation, specification or discrimination; provided, however, that no provision of this subdivision shall be construed to prohibit the employer from making any inquiry or obtaining information for the purpose of providing assistance to, or a reasonable accommodation in accordance with the provisions of this subdivision to, a victim of domestic violence.

(c)(1) It shall be an unlawful discriminatory practice for an employer to refuse to provide a reasonable accommodation to an employee who is known by the employer to be a victim of domestic violence, limited to those accommodations set forth in subparagraph two of this paragraph, when such employee must be absent from work for a reasonable time, unless such absence would cause an undue hardship to the employer as set forth in subparagraph three of this paragraph, provided, however that the employer may require an employee to charge any time off pursuant to this section against any leave with pay ordinarily granted, where available, unless otherwise provided for in a collective bargaining agreement or existing employee handbook or policy, and any such absence that cannot be charged may be treated as leave without pay. An employee who must be absent from work in accordance with subparagraph two of this paragraph shall be entitled to the continuation of any health insurance coverage provided by the employer, to which the employee is otherwise entitled during any such absence.

(2) An employer is required to provide a reasonable accommodation to an employee who is a victim of domestic violence who must be absent from work for a reasonable time, in accordance with the provisions of subparagraph one of this paragraph, limited to the following:

(i) Seeking medical attention for injuries caused by domestic violence including for a child who is a victim of domestic violence, provided that the employee is not the perpetrator of the domestic violence against the child; or

(ii) Obtaining services from a domestic violence shelter, program, or rape crisis center as a result of domestic violence; or

(iii) Obtaining psychological counseling related to an incident or incidents of domestic violence, including for a child who is a victim of domestic violence, provided that the employee is not the perpetrator of the domestic violence against the child; or

(iv) Participating in safety planning and taking other actions to increase safety from future incidents of domestic violence, including temporary or permanent relocation; or

(v) Obtaining legal services, assisting in the prosecution of the offense, or appearing in court in relation to the incident or incidents of domestic violence.

(3) An employer is required to provide a reasonable accommodation for an employee's absence in accordance with the provisions of subparagraphs one and two of this paragraph unless the employer can demonstrate that the employee's absence would constitute an undue hardship to the employer. A determination of whether such an absence will constitute an undue hardship shall include consideration of factors such as:

(i) The overall size of the business, program or enterprise with respect to the number of employees, number and type of facilities, and size of budget; and

(ii) The type of operation in which the business, program or enterprise is engaged, including the composition and structure of the workforce.

(4) An employee who must be absent from work in accordance with the provisions of subparagraph one of this paragraph shall provide the employer with reasonable advance notice of the employee's absence, unless such advance notice is not feasible.

(5) An employee who must be absent from work in accordance with the provisions of subparagraph one of this paragraph and who cannot feasibly give reasonable advance notice of the absence in accordance with subparagraph four of this paragraph must, within a reasonable time after the absence, provide a certification to the employer when requested by the employer.

Such certification shall be in the form of:

(i) A police report indicating that the employee or his or her child was a victim of domestic violence;

(ii) A court order protecting or separating the employee or his or her child from the perpetrator of an act of domestic violence;

(iii) Other evidence from the court or prosecuting attorney that the employee appeared in court; or

(iv) Documentation from a medical professional, domestic violence

advocate, health care provider, or counselor that the employee or his or her child was undergoing counseling or treatment for physical or mental injuries or abuse resulting in victimization from an act of domestic violence.

(6) Where an employee has a physical or mental disability resulting from an incident or series of incidents of domestic violence, such employee shall be treated in the same manner as an employee with any other disability, pursuant to the provisions of this section which provide that discrimination and refusal to provide reasonable accommodation of disability are unlawful discriminatory practices.

(d) To the extent allowed by law, employers shall maintain the confidentiality of any information regarding an employee's status as a victim of domestic violence.

§ 296-a. Unlawful discriminatory practices in relation to credit. 1. It shall be an unlawful discriminatory practice for any creditor or any officer, agent or employee thereof:

a. In the case of applications for credit with respect to the purchase, acquisition, construction, rehabilitation, repair or maintenance of any housing accommodation, land or commercial space to discriminate against any such applicant because of the race, creed, color, national origin, citizenship or immigration status, sexual orientation, gender identity or expression, military status, age, sex, marital status, status as a victim of domestic violence, disability, or familial status of such applicant or applicants or any member, stockholder, director, officer or employee of such applicant or applicants, or of the prospective occupants or tenants of such housing accommodation, land or commercial space, in the granting, withholding, extending or renewing, or in the fixing of the rates, terms or conditions of, any such credit;

b. To discriminate in the granting, withholding, extending or renewing, or in the fixing of the rates, terms or conditions of, any form of credit, on the basis of race, creed, color, national origin, citizenship or immigration status, sexual orientation, gender identity

or expression, military status, age, sex, marital status, status as a victim of domestic violence, disability, or familial status;

c. To use any form of application for credit or use or make any record or inquiry which expresses, directly or indirectly, any limitation, specification, or discrimination as to race, creed, color, national origin, citizenship or immigration status, sexual orientation, gender identity or expression, military status, age, sex, marital status, status as a victim of domestic violence, disability, or familial status;

d. To make any inquiry of an applicant concerning his or her capacity to reproduce, or his or her use or advocacy of any form of birth control or family planning;

e. To refuse to consider sources of an applicant's income or to subject an applicant's income to discounting, in whole or in part, because of an applicant's race, creed, color, national origin, citizenship or immigration status, sexual orientation, gender identity or expression, military status, age, sex, marital status, status as a victim of domestic violence, childbearing potential, disability, or familial status;

f. To discriminate against a married person because such person neither uses nor is known by the surname of his or her spouse.

This paragraph shall not apply to any situation where the use of a surname would constitute or result in a criminal act.

2. Without limiting the generality of subdivision one of this section, it shall be considered discriminatory if, because of an applicant's or class of applicants' race, creed, color, national origin, citizenship or immigration status, sexual orientation, gender identity or expression, military status, age, sex, marital status, status as a victim of domestic violence, disability, or familial status, (i) an applicant or class of applicants is denied credit in circumstances where other applicants of like overall credit worthiness are granted credit, or (ii) special requirements or conditions, such as requiring co-obligors or

reapplication upon marriage, are imposed upon an applicant or class of applicants in circumstances where similar requirements or conditions are not imposed upon other applicants of like overall credit worthiness.

3. It shall not be considered discriminatory if credit differentiations or decisions are based upon factually supportable, objective differences in applicants' overall credit worthiness, which may include reference to such factors as current income, assets and prior credit history of such applicants, as well as reference to any other relevant factually supportable data; provided, however, that no creditor shall consider, in evaluating the credit worthiness of an applicant, aggregate statistics or assumptions relating to race, creed, color, national origin, citizenship or immigration status, sexual orientation, gender identity or expression, military status, sex, marital status, status as a victim of domestic violence or disability, or to the likelihood of any group of persons bearing or rearing children, or for that reason receiving diminished or interrupted income in the future.

3-a. It shall not be an unlawful discriminatory practice to consider age in determining credit worthiness when age has a demonstrable and statistically sound relationship to a determination of credit worthiness.

4. a. If so requested by an applicant for credit, a creditor shall furnish such applicant with a statement of the specific reasons for rejection of the applicant's application for credit.

b. If so requested in writing by an individual who is or was married, a creditor or credit reporting bureau shall maintain in its records a separate credit history for any such individual. Such separate history shall include all obligations as to which such bureau has notice with respect to which any such person is or was individually or jointly liable.

5. No provision of this section providing spouses the right to separately apply for credit, borrow money, or have separate credit

histories maintained shall limit or foreclose the right of creditors, under any other provision of law, to hold one spouse legally liable for debts incurred by the other.

6. Any person claiming to be aggrieved by an unlawful discriminatory practice engaged in by a regulated creditor, in lieu of the procedure set forth in section two hundred ninety-seven of this article, may file a verified complaint with the superintendent, as provided hereinafter; provided, however, that the filing of a complaint with either the superintendent or the division shall bar subsequent recourse to the other agency, as well as to any local commission on human rights, with respect to the grievance complained of.

7. In the case of a verified complaint filed with the superintendent the following procedures shall be followed:

a. After receipt of the complaint, the superintendent shall make a determination within thirty days of whether there is probable cause to believe that the person named in the complaint has engaged in or is engaging in an unlawful discriminatory practice. If the superintendent determines there is no such probable cause, the complaint shall be dismissed. If the superintendent determines that there is such probable cause, he or she shall attempt to resolve such complaint by conference and conciliation. If conciliation is achieved, the terms shall be recorded in a written agreement signed by the creditor and complainant, a copy of which shall be forwarded to the commissioner.

b. If conciliation is not achieved, the superintendent or his or her designated representative shall conduct a hearing with respect to the alleged violation of this section. All interested parties shall be entitled to adequate and timely notice of the hearing. Such parties shall have the right to be represented by counsel or by other representatives of their own choosing; to offer evidence and witnesses in their own behalf and to cross-examine other parties and witnesses; to have the power of subpoena exercised in their behalf; and to have access to a written record of such hearing. The superintendent or his or her representative shall not be bound by the strict rules of evidence

prevailing in courts of law or equity. The testimony taken shall be under oath and a record shall be made of the proceedings. A written decision shall be made by the superintendent or his or her designated representative separately setting forth findings of fact and conclusions of law. A copy of such decision shall be forwarded to the commissioner.

c. If the superintendent finds that a violation of this section has occurred, the superintendent shall issue an order which shall do one or more of the following:

(1) impose a fine in an amount not to exceed ten thousand dollars for each violation, to be paid to the people of the state of New York;

(2) award compensatory damages to the person aggrieved by such violation;

(3) for a claim of sex discrimination only, award reasonable attorney's fees attributable to such claim to any prevailing party; provided, however, that a prevailing respondent or defendant in order to recover such reasonable attorney's fees must make a motion requesting such fees and show that the action or proceeding brought was frivolous. In no case shall attorney's fees be awarded to the department, nor shall the department be liable to a prevailing party for attorney's fees. In order to find the action or proceeding to be frivolous, the superintendent must find in writing one or more of the following:

(a) the action or proceeding was commenced, used or continued in bad faith, solely to delay or prolong the resolution of the litigation or to harass or maliciously injure another; or

(b) the action or proceeding was commenced or continued in bad faith without any reasonable basis and could not be supported by a good faith argument for an extension, modification or reversal of existing law. If the action or proceeding was promptly discontinued when the party or attorney learned or should have learned that the action or proceeding lacked such a reasonable basis, the court may find that the party or the attorney did not act in bad faith.

(4) require the regulated creditor to cease and desist from such unlawful discriminatory practices;

(5) require the regulated creditor to take such further affirmative action as will effectuate the purposes of this section, including, but not limited to, granting the credit which was the subject of the

complaint.

d. Any complainant, respondent or other person aggrieved by any order or final determination of the superintendent may obtain judicial review thereof.

8. Where the superintendent makes a determination that a regulated creditor has engaged in or is engaging in discriminatory practices, the superintendent is empowered to issue appropriate orders to such creditor pursuant to the banking law. Such orders may be issued without the necessity of a complaint being filed by an aggrieved person.

9. Whenever any creditor makes application to the superintendent of financial services to take any action requiring consideration by the superintendent of the public interest and the needs and convenience thereof, or requiring a finding that the financial responsibility, experience, charter, and general fitness of the applicant, and of the members thereof if the applicant be a co-partnership or association, and of the officers and directors thereof if the applicant be a corporation, are such as to command the confidence of the community and to warrant belief that the business will be operated honestly, fairly, and efficiently, such creditor shall certify to the superintendent compliance with the provisions of this section. In the event that the records of the department of financial services show that such creditor has been found to be in violation of this section, such creditor shall describe what action has been taken with respect to its credit policies and procedures to remedy such violation or violations. The superintendent shall, in approving the foregoing applications and making the foregoing findings, give appropriate weight to compliance with this section.

10. Any complaint filed with the superintendent pursuant to this section shall be so filed within one year after the occurrence of the alleged unlawful discriminatory practice.

11. The superintendent is hereby empowered to promulgate rules and regulations hereunder to effectuate the purposes of this section.

12. The provisions of this section, as they relate to age, shall not apply to persons under the age of eighteen years.

§ 296-c. Unlawful discriminatory practices relating to interns. 1. As used in this section, "Intern" means a person who performs work for an employer for the purpose of training under the following circumstances:

a. the employer is not committed to hire the person performing the work at the conclusion of the training period;

b. the employer and the person performing the work agree that the person performing the work is not entitled to wages for the work performed; and

c. the work performed:
(1) provides or supplements training that may enhance the employability of the intern;
(2) provides experience for the benefit of the person performing the work;
(3) does not displace regular employees; and
(4) is performed under the close supervision of existing staff.

2. It shall be an unlawful discriminatory practice for an employer to:

a. refuse to hire or employ or to bar or to discharge from internship an intern or to discriminate against such intern in terms, conditions or privileges of employment as an intern because of the intern's age, race, creed, color, national origin, citizenship or immigration status, sexual orientation, gender identity or expression, military status, sex, disability, predisposing genetic characteristics, marital status, or status as a victim of domestic violence;

b. discriminate against an intern in receiving, classifying, disposing or otherwise acting upon applications for internships because of the intern's age, race, creed, color, national origin, citizenship or

immigration status, sexual orientation, gender identity or expression, military status, sex, disability, predisposing genetic characteristics, marital status, or status as a victim of domestic violence;

c. print or circulate or cause to be printed or circulated any statement, advertisement or publication, or to use any form of application for employment as an intern or to make any inquiry in connection with prospective employment, which expresses directly or indirectly, any limitation, specification or discrimination as to age, race, creed, color, national origin, citizenship or immigration status, sexual orientation, gender identity or expression, military status, sex, disability, predisposing genetic characteristics, marital status or status as a victim of domestic violence, or any intent to make any such limitation, specification or discrimination, unless based upon a bona fide occupational qualification; provided, however, that neither this paragraph nor any provision of this chapter or other law shall be construed to prohibit the department of civil service or the department of personnel of any city containing more than one county from requesting information from applicants for civil service internships or examinations concerning any of the aforementioned characteristics, other than sexual orientation, for the purpose of conducting studies to identify and resolve possible problems in recruitment and testing of members of minority groups to ensure the fairest possible and equal opportunities for employment in the civil service for all persons, regardless of age, race, creed, color, national origin, citizenship or immigration status, sexual orientation, military status, sex, disability, predisposing genetic characteristics, marital status or status as a victim of domestic violence;

d. to discharge, expel or otherwise discriminate against any person because he or she has opposed any practices forbidden under this article or because he or she has filed a complaint, testified or assisted in any proceeding under this article; or

e. to compel an intern who is pregnant to take a leave of absence, unless the intern is prevented by such pregnancy from performing the activities involved in the job or occupation in a reasonable manner.

3. It shall be an unlawful discriminatory practice for an employer to:

a. engage in unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature to an intern when:

(1) submission to such conduct is made either explicitly or implicitly a term or condition of the intern's employment;

(2) submission to or rejection of such conduct by the intern is used as the basis for employment decisions affecting such intern; or

(3) such conduct has the purpose or effect of unreasonably interfering with the intern's work performance by creating an intimidating, hostile, or offensive working environment; or

b. subject an intern to unwelcome harassment based on age, sex, race, creed, color, sexual orientation, gender identity or expression, military status, disability, predisposing genetic characteristics, marital status, status as a victim of domestic violence, national origin, or citizenship or immigration status, or where such harassment has the purpose or effect of unreasonably interfering with the intern's work performance by creating an intimidating, hostile, or offensive working environment.

4. Nothing in this section shall affect any restrictions upon the activities of persons licensed by the state liquor authority with respect to persons under twenty-one years of age.

5. Nothing in this section shall create an employment relationship between an employer and an intern for the purposes of articles six, seven, eighteen or nineteen of the labor law.

§ 296-d. Unlawful discriminatory practices relating to non-employees. It shall be an unlawful discriminatory practice for an employer to permit unlawful discrimination against non-employees in its workplace. An employer may be held liable to a non-employee who is a contractor, subcontractor, vendor, consultant or other person providing services pursuant to a contract in the workplace or who is an employee of such

contractor, subcontractor, vendor, consultant or other person providing services pursuant to a contract in the workplace, with respect to an unlawful discriminatory practice, when the employer, its agents or supervisors knew or should have known that such non-employee was subjected to an unlawful discriminatory practice in the employer's workplace, and the employer failed to take immediate and appropriate corrective action. In reviewing such cases involving non-employees, the extent of the employer's control and any other legal responsibility which the employer may have with respect to the conduct of the person who engaged in the unlawful discriminatory practice shall be considered.

§ 297. Procedure. 1. Any person claiming to be aggrieved by an unlawful discriminatory practice may, by himself or herself or his or her attorney-at-law, make, sign and file with the division a complaint in writing under oath or by declaration which shall state the name and address of the person alleged to have committed the unlawful discriminatory practice complained of and which shall set forth the particulars thereof and contain such other information as may be required by the division. The commissioner of labor or the attorney general, or the executive director of the justice center for the protection of people with special needs, or the division on its own motion may, in like manner, make, sign and file such complaint. In connection with the filing of such complaint, the attorney general is authorized to take proof, issue subpoenas and administer oaths in the manner provided in the civil practice law and rules. Any employer whose employees, or some of them, refuse or threaten to refuse to cooperate with the provisions of this article, may file with the division a verified complaint asking for assistance by conciliation or other remedial action.

2. a. After the filing of any complaint, the division shall promptly serve a copy thereof upon the respondent and all persons it deems to be necessary parties, and make prompt investigation in connection therewith. Within one hundred eighty days after a complaint is filed, the division shall determine whether it has jurisdiction and, if so, whether there is probable cause to believe that the person named in the

complaint, hereinafter referred to as the respondent, has engaged or is engaging in an unlawful discriminatory practice. If it finds with respect to any respondent that it lacks jurisdiction or that probable cause does not exist, the commissioner shall issue and cause to be served on the complainant an order dismissing such allegations of the said complaint as to such respondent.

b. Notwithstanding the provisions of paragraph a of this subdivision, with respect to housing discrimination only, after the filing of any complaint, the division shall, within thirty days after receipt, serve a copy thereof upon the respondent and all persons it deems to be necessary parties, and make prompt investigation in connection therewith. Within one hundred days after a complaint is filed, the division shall determine whether it has jurisdiction and, if so, whether there is probable cause to believe that the person named in the complaint, hereinafter referred to as the respondent, has engaged or is engaging in an unlawful discriminatory practice. If it finds with respect to any respondent that it lacks jurisdiction or that probable cause does not exist, the commissioner shall issue and cause to be served on the complainant an order dismissing such allegations of the said complaint as to such respondent.

3. a. If in the judgment of the division the circumstances so warrant, it may, at any time after the filing of the complaint, endeavor to eliminate such unlawful discriminatory practice by conference, conciliation and persuasion. Each conciliation agreement shall include provisions requiring the respondent to refrain from the commission of unlawful discriminatory practices in the future and may contain such further provisions as may be agreed upon by the division, the complainant, and the respondent, including a provision for the entry in the supreme court in any county in the judicial district where the alleged unlawful discriminatory practice was committed, or where any respondent resides or maintains an office for the transaction of business, or where the housing accommodation, land or commercial space specified in the complaint is located, of a consent decree embodying the terms of the conciliation agreement. The division shall not disclose what has transpired in the course of such endeavors.

b. If a conciliation agreement is entered into, the division shall issue an order embodying such agreement and serve a copy of such order upon all parties to the proceeding, and if a party to any such proceeding is a regulated creditor, the division shall forward a copy of the order embodying such agreement to the superintendent.

c. If the division finds that noticing the complaint for hearing would be undesirable, the division may, in its unreviewable discretion, at any time prior to a hearing before a hearing examiner, dismiss the complaint on the grounds of administrative convenience. However, in cases of housing discrimination only, an administrative convenience dismissal will not be rendered without the consent of the complainant. The division may, subject to judicial review, dismiss the complaint on the grounds of untimeliness if the complaint is untimely or on the grounds that the election of remedies is annulled.

4. a. Within two hundred seventy days after a complaint is filed, or within one hundred twenty days after the court has reversed and remanded an order of the division dismissing a complaint for lack of jurisdiction or for want of probable cause, unless the division has dismissed the complaint or issued an order stating the terms of a conciliation agreement not objected to by the complainant, the division shall cause to be issued and served a written notice, together with a copy of such complaint, as the same may have been amended, requiring the respondent or respondents to answer the charges of such complaint and appear at a public hearing before a hearing examiner at a time not less than five nor more than fifteen days after such service and at a place to be fixed by the division and specified in such notice. The place of any such hearing shall be the office of the division or such other place as may be designated by the division. The case in support of the complaint shall be presented by one of the attorneys or agents of the division and, at the option of the complainant, by his or her attorney. With the consent of the division, the case in support of the complainant may be presented solely by his or her attorney. No person who shall have previously made the investigation, engaged in a conciliation proceeding or caused the notice to be issued shall act as a hearing examiner in

such case. Attempts at conciliation shall not be received in evidence. At least two business days prior to the hearing the respondent shall, and any necessary party may, file a written answer to the complaint, sworn to subject to the penalties of perjury, with the division and serve a copy upon all other parties to the proceeding. A respondent who has filed an answer, or whose default in answering has been set aside for good cause shown may appear at such hearing in person or otherwise, with or without counsel, cross examine witnesses and the complainant and submit testimony. The complainant and all parties shall be allowed to present testimony in person or by counsel and cross examine witnesses. The hearing examiner may in his or her discretion permit any person who has a substantial personal interest to intervene as a party, and may require that necessary parties not already parties be joined. The division or the complainant shall have the power reasonably and fairly to amend any complaint, and the respondent and any other party shall have like power to amend his or her answer. The hearing examiner shall not be bound by the strict rules of evidence prevailing in courts of law or equity. The testimony taken at the hearing shall be under oath and a record made.

b. If the respondent fails to answer the complaint, the hearing examiner designated to conduct the hearing may enter the default and the hearing shall proceed on the evidence in support of the complaint. Such default may be set aside only for good cause shown upon equitable terms and conditions.

c. Within one hundred eighty days after the commencement of such hearing, a determination shall be made and an order served as hereinafter provided. If, upon all the evidence at the hearing, the commissioner shall find that a respondent has engaged in any unlawful discriminatory practice as defined in this article, the commissioner shall state findings of fact and shall issue and cause to be served on such respondent an order, based on such findings and setting them forth, and including such of the following provisions as in the judgment of the division will effectuate the purposes of this article: (i) requiring such respondent to cease and desist from such unlawful discriminatory practice; (ii) requiring such respondent to take such affirmative

action, including (but not limited to) hiring, reinstatement or upgrading of employees, with or without back pay, restoration to membership in any respondent labor organization, admission to or participation in a guidance program, apprenticeship training program, on-the-job training program or other occupational training or retraining program, the extension of full, equal and unsegregated accommodations, advantages, facilities and privileges to all persons, granting the credit which was the subject of any complaint, evaluating applicants for membership in a place of accommodation without discrimination based on race, creed, color, national origin, sex, disability or marital status, and without retaliation or discrimination based on opposition to practices forbidden by this article or filing a complaint, testifying or assisting in any proceeding under this article; (iii) awarding of compensatory damages to the person aggrieved by such practice; (iv) awarding of punitive damages, in cases of employment discrimination related to private employers, and, in cases of housing discrimination, with damages in housing discrimination cases in an amount not to exceed ten thousand dollars, to the person aggrieved by such practice; (v) requiring payment to the state of profits obtained by a respondent through the commission of unlawful discriminatory acts described in subdivision three-b of section two hundred ninety-six of this article; and (vi) assessing civil fines and penalties, in an amount not to exceed fifty thousand dollars, to be paid to the state by a respondent found to have committed an unlawful discriminatory act, or not to exceed one hundred thousand dollars to be paid to the state by a respondent found to have committed an unlawful discriminatory act which is found to be willful, wanton or malicious; (vii) requiring a report of the manner of compliance. If, upon all the evidence, the commissioner shall find that a respondent has not engaged in any such unlawful discriminatory practice, he or she shall state findings of fact and shall issue and cause to be served on the complainant an order based on such findings and setting them forth dismissing the said complaint as to such respondent. A copy of each order issued by the commissioner shall be delivered in all cases to the attorney general, the secretary of state, if he or she has issued a license to the respondent, and such other public officers as the division deems proper, and if any such order issued by the commissioner concerns a regulated creditor, the

commissioner shall forward a copy of any such order to the superintendent. A copy of any complaint filed against any respondent who has previously entered into a conciliation agreement pursuant to paragraph a of subdivision three of this section or as to whom an order of the division has previously been entered pursuant to this paragraph shall be delivered to the attorney general, to the secretary of state if he or she has issued a license to the respondent and to such other public officers as the division deems proper, and if any such respondent is a regulated creditor, the commissioner shall forward a copy of any such complaint to the superintendent.

d. The division shall establish rules of practice to govern, expedite and effectuate the foregoing procedure and its own actions thereunder.

e. Any civil penalty imposed pursuant to this subdivision shall be separately stated, and shall be in addition to and not reduce or offset any other damages or payment imposed upon a respondent pursuant to this article. In cases of employment discrimination where the employer has fewer than fifty employees, such civil fine or penalty may be paid in reasonable installments, in accordance with regulations promulgated by the division. Such regulations shall require the payment of reasonable interest resulting from the delay, and in no case permit installments to be made over a period longer than three years.

5. Any complaint filed pursuant to this section must be so filed within three years after the alleged unlawful discriminatory practice.

6. At any time after the filing of a complaint with the division alleging an unlawful discriminatory practice under this article, if the division determines that the respondent is doing or procuring to be done any act tending to render ineffectual any order the commissioner may enter in such proceeding, the commissioner may apply to the supreme court in any county where the alleged unlawful discriminatory practice was committed, or where any respondent resides or maintains an office for the transaction of business, or if the complaint alleges an unlawful discriminatory practice under subdivision two-a or paragraph (a), (b) or (c) of subdivision five of section two hundred ninety-six of this

article, where the housing accommodation, land or commercial space specified in the complaint is located, or, if no supreme court justice is available in such county, in any other county within the judicial district, for an order requiring the respondents or any of them to show cause why they should not be enjoined from doing or procuring to be done such act. The order to show cause may contain a temporary restraining order and shall be served in the manner provided therein. On the return date of the order to show cause, and after affording all parties an opportunity to be heard, if the court deems it necessary to prevent the respondents from rendering ineffectual an order relating to the subject matter of the complaint, it may grant appropriate injunctive relief upon such terms and conditions as it deems proper.

7. Not later than one year from the date of a conciliation agreement or an order issued under this section, and at any other times in its discretion, the division shall investigate whether the respondent is complying with the terms of such agreement or order. Upon a finding of non-compliance, the division shall take appropriate action to assure compliance.

8. No officer, agent or employee of the division shall make public with respect to a particular person without his consent information from reports obtained by the division except as necessary to the conduct of a proceeding under this section.

9. Any person claiming to be aggrieved by an unlawful discriminatory practice shall have a cause of action in any court of appropriate jurisdiction for damages, including, in cases of employment discrimination related to private employers and housing discrimination only, punitive damages, and such other remedies as may be appropriate, including any civil fines and penalties provided in subdivision four of this section, unless such person had filed a complaint hereunder or with any local commission on human rights, or with the superintendent pursuant to the provisions of section two hundred ninety-six-a of this article, provided that, where the division has dismissed such complaint on the grounds of administrative convenience, on the grounds of untimeliness, or on the grounds that the election of remedies is

annulled, such person shall maintain all rights to bring suit as if no complaint had been filed with the division. At any time prior to a hearing before a hearing examiner, a person who has a complaint pending at the division may request that the division dismiss the complaint and annul his or her election of remedies so that the human rights law claim may be pursued in court, and the division may, upon such request, dismiss the complaint on the grounds that such person's election of an administrative remedy is annulled. Notwithstanding subdivision (a) of section two hundred four of the civil practice law and rules, if a complaint is so annulled by the division, upon the request of the party bringing such complaint before the division, such party's rights to bring such cause of action before a court of appropriate jurisdiction shall be limited by the statute of limitations in effect in such court at the time the complaint was initially filed with the division. Any party to a housing discrimination complaint shall have the right within twenty days following a determination of probable cause pursuant to subdivision two of this section to elect to have an action commenced in a civil court, and an attorney representing the division of human rights will be appointed to present the complaint in court, or, with the consent of the division, the case may be presented by complainant's attorney. A complaint filed by the equal employment opportunity commission to comply with the requirements of 42 USC 2000e-5(c) and 42 USC 12117(a) and 29 USC 633(b) shall not constitute the filing of a complaint within the meaning of this subdivision. No person who has initiated any action in a court of competent jurisdiction or who has an action pending before any administrative agency under any other law of the state based upon an act which would be an unlawful discriminatory practice under this article, may file a complaint with respect to the same grievance under this section or under section two hundred ninety-six-a of this article. In cases of housing discrimination only, a person whose complaint has been dismissed by the division after investigation for lack of jurisdiction or lack of probable cause may file the same cause of action in a court of appropriate jurisdiction pursuant to this section, unless judicial review of such dismissal has been sought pursuant to section two hundred ninety-eight of this article. The attorney general shall have the power to commence an action or proceeding in the supreme court of the state of New York, if, upon

information or belief, the attorney general is of the opinion that an employer has been, is, or is about to violate the provisions regarding unlawful discriminatory retaliation pursuant to subdivision seven of section two hundred ninety-six of this article. Nothing in this section shall in any way limit rights or remedies which are otherwise available under law to the attorney general or any other person authorized to bring an action under this section.

10. In an action or proceeding at law under this section or section two hundred ninety-eight of this article, the commissioner or the court may in its discretion award reasonable attorney's fees to any prevailing or substantially prevailing party; provided, however, that a prevailing respondent or defendant in order to recover such reasonable attorney's fees must make a motion requesting such fees and show that the action or proceeding brought was frivolous; and further provided that in a proceeding brought in the division of human rights, the commissioner may only award attorney's fees as part of a final order after a public hearing held pursuant to subdivision four of this section. In no case shall attorney's fees be awarded to the division, nor shall the division be liable to a prevailing or substantially prevailing party for attorney's fees, except in a case in which the division is a party to the action or the proceeding in the division's capacity as an employer. Expert witness fees may be awarded in the same manner as attorney's fees. In cases of employment discrimination, a respondent shall only be liable for attorney's fees under this subdivision if the respondent has been found liable for having committed an unlawful discriminatory practice. In order to find the action or proceeding to be frivolous, the court or the commissioner must find in writing one or more of the following:

(a) the action or proceeding was commenced, used or continued in bad faith, solely to delay or prolong the resolution of the litigation or to harass or maliciously injure another; or

(b) the action or proceeding was commenced or continued in bad faith without any reasonable basis and could not be supported by a good faith argument for an extension, modification or reversal of existing law. If the action or proceeding was promptly discontinued when the party or attorney learned or should have learned that the action or proceeding

lacked such a reasonable basis, the court may find that the party or the attorney did not act in bad faith.

§ 298. Judicial review and enforcement. Any complainant, respondent or other person aggrieved by an order of the commissioner which is an order after public hearing, a cease and desist order, an order awarding damages, an order dismissing a complaint, or by an order of the division which makes a final disposition of a complaint may obtain judicial review thereof, and the division may obtain an order of court for its enforcement and for the enforcement of any order of the commissioner which has not been appealed to the court, in a proceeding as provided in this section. Such proceeding shall be brought in the supreme court in the county wherein the unlawful discriminatory practice which is the subject of the order occurs or wherein any person required in the order to cease and desist from an unlawful discriminatory practice or to take other affirmative action resides or transacts business. Such proceeding shall be initiated by the filing of a notice of petition and petition in such court. Thereafter, at a time and in a manner to be specified by rules of court, the division shall file with the court a written transcript of the record of all prior proceedings. Upon the filing of a notice of petition and petition, the court shall have jurisdiction of the proceeding and of the questions determined therein, except that where the order sought to be reviewed was made as a result of a public hearing held pursuant to paragraph a of subdivision four of section two hundred ninety-seven of this article, the court shall make an order directing that the proceeding be transferred for disposition to the appellate division of the supreme court in the judicial department embracing the county in which the proceeding was commenced. The court shall have power to grant such temporary relief or restraining order as it deems just and proper, and to make and enter upon the pleadings, testimony, and proceedings set forth in such transcript an order enforcing, modifying, and enforcing as so modified, or setting aside in whole or in part such order. No objection that has not been urged in prior proceedings shall be considered by the court, unless the failure or neglect to urge such objection shall be excused because of extraordinary circumstances. Any party may move the court to remit the

case to the division in the interests of justice for the purpose of adducing additional specified and material evidence and seeking findings thereon, provided he or she shows reasonable grounds for the failure to adduce such evidence in prior proceedings. The findings of facts on which such order is based shall be conclusive if supported by sufficient evidence on the record considered as a whole. All such proceedings shall be heard and determined by the court and any appeal taken from its judgment or order shall be reviewed by the appropriate appellate court as expeditiously as possible and with lawful precedence over other matters. The jurisdiction of the courts over these proceedings, as provided for herein, shall be exclusive and their judgments and orders shall be final, subject to appellate review in the same manner and form and with the same effect as provided for appeals from a judgment in a special proceeding. The division's copy of the testimony shall be available at all reasonable times to all parties for examination without cost and for the purposes of judicial review of such order. Any appeal under this section and any proceeding, if instituted under article seventy-eight of the civil practice law and rules to which the division or the board is a party shall be heard on the record without requirement of printing. The division may appear in court by one of its attorneys. A proceeding under this section when instituted by any complainant, respondent or other person aggrieved must be instituted within sixty days after the service of such order. In cases of housing discrimination only, a complaint dismissed after investigation for lack of jurisdiction or lack of probable cause may either be appealed pursuant to this section or the same cause of action may be filed in a court of appropriate jurisdiction pursuant to section two hundred ninety-seven of this article.

§ 298-a. Application of article to certain acts committed outside the state of New York. 1. The provisions of this article shall apply as hereinafter provided to an act committed outside this state against a resident of this state or against a corporation organized under the laws of this state or authorized to do business in this state, if such act would constitute an unlawful discriminatory practice if committed within this state.

2. If a resident person or domestic corporation violates any provision of this article by virtue of the provisions of this section, this article shall apply to such person or corporation in the same manner and to the same extent as such provisions would have applied had such act been committed within this state except that the penal provisions of such article shall not be applicable.

3. If a non-resident person or foreign corporation violates any provision of this article by virtue of the provisions of this section, such person or corporation shall be prohibited from transacting any business within this state. Except as otherwise provided in this subdivision, the provisions of section two hundred ninety-seven of this article governing the procedure for determining and processing unlawful discriminatory practices shall apply to violations defined by this subdivision insofar as such provisions are or can be made applicable. If the division of human rights has reason to believe that a non-resident person or foreign corporation has committed or is about to commit outside of this state an act which if committed within this state would constitute an unlawful discriminatory practice and that such act is in violation of any provision of this article by virtue of the provisions of this section, it shall serve a copy of the complaint upon such person or corporation by personal service either within or without the state or by registered mail, return receipt requested, directed to such person or corporation at his or her or its last known place of residence or business, together with a notice requiring such person or corporation to appear at a hearing, specifying the time and place thereof, and to show cause why a cease and desist order should not be issued against such person or corporation. If such person or corporation shall fail to appear at such hearing or does not show sufficient cause why such order should not be issued, the division shall cause to be issued and served upon such person or corporation an order to cease or desist from the act or acts complained of. Failure to comply with any such order shall be followed by the issuance by the division of an order prohibiting such person or corporation from transacting any business within this state. A person or corporation who or which transacts business in this state in violation of any such order is guilty of a class A misdemeanor. Any

order issued pursuant to this subdivision may be vacated by the division upon satisfactory proof of compliance with such order. All orders issued pursuant to this subdivision shall be subject to judicial review in the manner prescribed by article seventy-eight of the civil practice law and rules.

§ 299. Penal provision. Any person, employer, labor organization or employment agency, who or which shall wilfully resist, prevent, impede or interfere with the division or any of its employees or representatives in the performance of duty under this article, or shall wilfully violate an order of the division or commissioner, shall be guilty of a misdemeanor and be punishable by imprisonment in a penitentiary, or county jail, for not more than one year, or by a fine of not more than five hundred dollars, or by both; but procedure for the review of the order shall not be deemed to be such wilful conduct.

§ 300. Construction. The provisions of this article shall be construed liberally for the accomplishment of the remedial purposes thereof, regardless of whether federal civil rights laws, including those laws with provisions worded comparably to the provisions of this article, have been so construed. Exceptions to and exemptions from the provisions of this article shall be construed narrowly in order to maximize deterrence of discriminatory conduct. Nothing contained in this article shall be deemed to repeal any of the provisions of the civil rights law or any other law of this state relating to discrimination; but, as to acts declared unlawful by section two hundred ninety-six of this article, the procedure herein provided shall, while pending, be exclusive; and the final determination therein shall exclude any other state civil action based on the same grievance of the individual concerned. If such individual institutes any action based on such grievance without resorting to the procedure provided in this article, he or she may not subsequently resort to the procedure herein.

§ 301. Separability. If any clause, sentence, paragraph or part of

this article or the application thereof to any person or circumstances, shall, for any reason, be adjudged by a court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder of this article.

* ARTICLE 15-A

PARTICIPATION BY MINORITY GROUP MEMBERS AND WOMEN WITH RESPECT TO STATE CONTRACTS

Section 310. Definitions.
311. Division of minority and women's business development.
311-a. Minority and women-owned business enterprise statewide advocate.
312. Equal employment opportunities for minority group members and women.
312-a. Study of minority and women-owned business enterprises.
313. Opportunities for minority and women-owned business enterprises.
313-a. Diversity practices of state contractors.
314. Statewide certification program.
315. Responsibilities of contracting agencies.
316. Enforcement.
316-a. Prohibitions in contracts; violations.
317. Superseding effect of article with respect to state law.
318. Severability.

* NB Repealed July 1, 2028

*** § 310. Definitions.** As used in this article, the following terms shall have the following meanings:

1. "Certified business" shall mean a business verified as a minority or women-owned business enterprise pursuant to section three hundred fourteen of this article.

2. "Contracting agency" shall mean a state agency which is a party or a proposed party to a state contract or, in the case of a state contract

described in paragraph (c) of subdivision thirteen of this section, shall mean the New York state housing finance agency, housing trust fund corporation or affordable housing corporation, whichever has made or proposes to make the grant or loan for the state assisted housing project.

3. "Contractor" shall mean an individual, a business enterprise, including a sole proprietorship, a partnership, a corporation, a not-for-profit corporation, or any other party to a state contract, or a bidder in conjunction with the award of a state contract or a proposed party to a state contract.

4. "Director" shall mean the director of the division of minority and women's business development in the department of economic development.

5. "Large county" shall mean a county having a population in excess of two hundred eighty-five thousand according to the most recent federal decennial census, provided however, that a county having a population in excess of two hundred eighty-five thousand according to the nineteen hundred eighty federal decennial census shall continue to be a large county thereafter notwithstanding a later census showing a population of less than two hundred eighty-five thousand for such county.

6. "Metropolitan area" shall mean a city with a population of one million or more and a county having a population in excess of one million and immediately contiguous to such city.

7. "Minority-owned business enterprise" shall mean a business enterprise, including a sole proprietorship, partnership, limited liability company or corporation that is:

(a) at least fifty-one percent owned by one or more minority group members;

(b) an enterprise in which such minority ownership is real, substantial and continuing;

(c) an enterprise in which such minority ownership has and exercises the authority to control independently the day-to-day business decisions of the enterprise;

(d) an enterprise authorized to do business in this state and independently owned and operated;

(e) an enterprise owned by an individual or individuals, whose ownership, control and operation are relied upon for certification, with a personal net worth that does not exceed fifteen million dollars, and such other amount as the director shall set forth in regulations, as adjusted annually on the first of January for inflation according to the consumer price index of the previous year; and

(f) an enterprise that is a small business pursuant to subdivision twenty of this section.

8. "Minority group member" shall mean a United States citizen or permanent resident noncitizen who is and can demonstrate membership in one of the following groups:

(a) Black persons having origins in any of the Black African racial groups;

(b) Hispanic/Latino persons of Mexican, Puerto Rican, Dominican, Cuban, Central or South American of either Indian or Hispanic origin, regardless of race;

(c) Native American or Alaskan native persons having origins in any of the original peoples of North America.

(d) Asian and Pacific Islander persons having origins in any of the Far East countries, South East Asia, the Indian subcontinent or the Pacific Islands.

9. "Utilization plan" shall mean a plan prepared by a contractor and submitted in connection with a proposed state contract. The utilization plan shall identify certified minority or women-owned business enterprises, if known, that have committed to perform work in connection with the proposed state contract as well as any such enterprises, if known, which the contractor intends to use in connection with the contractor's performance of the proposed state contract. The plan shall specifically contain a list, including the name, address and telephone number, of each certified enterprise with which the contractor intends to subcontract.

10. "Office" shall mean the division of minority and women's business

development in the department of economic development.

11. "State agency" shall mean (a) (i) any state department, or (ii) any division, board, commission or bureau of any state department, or (iii) the state university of New York and the city university of New York, including all their constituent units except community colleges and the independent institutions operating statutory or contract colleges on behalf of the state, or (iv) a board, a majority of whose members are appointed by the governor or who serve by virtue of being state officers or employees as defined in subparagraph (i), (ii) or (iii) of paragraph (i) of subdivision one of section seventy-three of the public officers law:

(b) a "state authority," as defined in subdivision one of section two of the public authorities law, and the following:

Albany County Airport Authority;
Albany Port District Commission;
Alfred, Almond, Hornellsville Sewer Authority;
Battery Park City Authority;
Cayuga County Water and Sewer Authority;
(Nelson A. Rockefeller) Empire State Plaza Performing Arts Center Corporation;
Industrial Exhibit Authority;
Livingston County Water and Sewer Authority;
Long Island Power Authority;
Long Island Rail Road;
Long Island Market Authority;
Manhattan and Bronx Surface Transit Operating Authority;
Metro-North Commuter Railroad;
Metropolitan Suburban Bus Authority;
Metropolitan Transportation Authority;
Natural Heritage Trust;
New York City Transit Authority;
New York Convention Center Operating Corporation;
New York State Bridge Authority;
New York State Olympic Regional Development Authority;
New York State Thruway Authority;
Niagara Falls Public Water Authority;

Niagara Falls Water Board;
Port of Oswego Authority;
Power Authority of the State of New York;
Roosevelt Island Operating Corporation;
Schenectady Metroplex Development Authority;
State Insurance Fund;
Staten Island Rapid Transit Operating Authority;
State University Construction Fund;
Syracuse Regional Airport Authority;
Triborough Bridge and Tunnel Authority.
Upper Mohawk valley regional water board.
Upper Mohawk valley regional water finance authority.
Upper Mohawk valley memorial auditorium authority.
Urban Development Corporation and its subsidiary corporations.

(c) the following only to the extent of state contracts entered into for its own account or for the benefit of a state agency as defined in paragraph (a) or (b) of this subdivision:

Dormitory Authority of the State of New York;
Facilities Development Corporation;
New York State Energy Research and Development Authority;
New York State Science and Technology Foundation.

12. "State assisted housing project" shall mean, for such projects which receive from the New York state housing finance agency, the affordable housing corporation, the housing trust fund corporation or the division of housing and community renewal a grant or loan for all or part of the total project cost:

(a) a "permanent housing project for homeless families" or "project" as defined in subdivision five of section sixty-four of the private housing finance law;

(b) a "project" as defined in subdivision twelve of section one thousand one hundred one of the private housing finance law provided said project is located in a large county and consists of more than twelve residential units at a single site;

(c) "affordable home ownership development programs" or "project" as defined in subdivision eight of section one thousand one hundred eleven of the private housing finance law provided said project is located in a

metropolitan area as herein defined and consists of more than twelve residential units at a single site;

(d) a "turnkey/enhanced rental project" or "project" as defined in subdivision two of section one thousand one hundred six-a of the private housing finance law;

(e) "infrastructure improvements" as defined in subdivision two of section one thousand one hundred thirty-one of the private housing finance law, to the extent that such "infrastructure improvements" are applied for in connection with a state assisted housing project as defined in paragraphs (a) through (d) of this subdivision and provided further that the applicant for such infrastructure improvements and for such state assisted housing project are identical.

13. "State contract" shall mean: (a) a written agreement or purchase order instrument, providing for a total expenditure in excess of twenty-five thousand dollars, whereby a contracting agency is committed to expend or does expend funds in return for labor, services including but not limited to legal, financial and other professional services, supplies, equipment, materials or any combination of the foregoing, to be performed for, on behalf of, or rendered or furnished to the contracting agency; (b) a written agreement in excess of one hundred thousand dollars whereby a contracting agency is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon; and (c) a written agreement in excess of one hundred thousand dollars whereby the owner of a state assisted housing project is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon for such project.

14. "Subcontract" shall mean an agreement providing for a total expenditure in excess of twenty-five thousand dollars for the construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon between a contractor and any individual or business enterprise, including a sole proprietorship, partnership, corporation, or not-for-profit corporation, in which a portion of a contractor's obligation under a state contract

is undertaken or assumed, but shall not include any construction, demolition, replacement, major repair, renovation, planning or design of real property or improvements thereon for the beneficial use of the contractor.

15. "Women-owned business enterprise" shall mean a business enterprise, including a sole proprietorship, partnership, limited liability company or corporation that is:

(a) at least fifty-one percent owned by one or more United States citizens or permanent resident noncitizens who are women;

(b) an enterprise in which the ownership interest of such women is real, substantial and continuing;

(c) an enterprise in which such women ownership has and exercises the authority to control independently the day-to-day business decisions of the enterprise;

(d) an enterprise authorized to do business in this state and independently owned and operated;

(e) an enterprise owned by an individual or individuals, whose ownership, control and operation are relied upon for certification, with a personal net worth that does not exceed fifteen million dollars, and such other amount as the director shall set forth in regulations, as adjusted annually on the first of January for inflation according to the consumer price index of the previous year; and

(f) an enterprise that is a small business pursuant to subdivision twenty of this section.

A firm owned by a minority group member who is also a woman may be certified as a minority-owned business enterprise, a women-owned business enterprise, or both, and may be counted towards either a minority-owned business enterprise goal or a women-owned business enterprise goal, in regard to any contract or any goal, set by an agency or authority, but such participation may not be counted towards both such goals. Such an enterprise's participation in a contract may not be divided between the minority-owned business enterprise goal and the women-owned business enterprise goal.

16. "Statewide advocate" shall mean the person appointed by the

director to serve in the capacity of the minority and women-owned business enterprise statewide advocate and procurement ombudsman.

17. "Commissioner" shall mean the commissioner of the department of economic development.

18. "Lessee" shall mean an individual, a business enterprise, including a sole proprietorship, a partnership, a corporation, a not-for-profit corporation, or any other party to a lease with a state agency as defined in subdivision eleven of this section, or a respondent in conjunction with the award of such a lease or a proposed lessee with a state agency as defined in subdivision eleven of this section.

19. "Personal net worth" shall mean the aggregate adjusted net value of the assets of an individual remaining after total liabilities are deducted. Personal net worth includes the individual's share of assets held jointly with said individual's spouse and does not include the individual's ownership interest in the certified minority and women-owned business enterprise, the individual's equity in his or her primary residence, ownership interest in a holding company established for the exclusive and sole purpose of leasing machinery, equipment, or vehicles exclusively to the certified minority or women-owned business enterprise that is majority owned by the minority group member or woman relied upon for certification, and the holding company does not own any other assets of any kind, or up to seven hundred fifty thousand dollars of the present cash value of any qualified retirement savings plan or individual retirement account held by the individual less any penalties for early withdrawal.

20. "Small business" as used in this section, unless otherwise indicated, shall mean a business which has a significant business presence in the state, is independently owned and operated, not dominant in its field and employs, based on its industry, a certain number of persons as determined by the director, but not to exceed three hundred, except during a declared state disaster emergency as defined pursuant to section twenty-eight of this chapter, not to exceed three hundred employees who work thirty or more hours per week over the period of

fifty-two weeks for a total of one thousand five hundred sixty hours worked, taking into consideration factors which include, but are not limited to, federal small business administration standards pursuant to 13 CFR part 121 and any amendments thereto. The director may issue regulations on the construction of the terms in this definition. For purposes of this subdivision, an employee may break from employment for up to thirteen weeks without the fifty-two week lookback period resetting.

21. "The disparity study" shall refer to the disparity study commissioned by the department of economic development, pursuant to section three hundred twelve-a of this article, and published on June thirtieth, two thousand seventeen.

22. "Diversity practices" shall mean the contractor's practices and policies with respect to:

(a) utilizing or mentoring certified minority and women-owned business enterprises in contracts awarded by a state agency or other public corporation, as subcontractors and suppliers; and

(b) entering into partnerships, joint ventures or other similar arrangements with certified minority and women-owned business enterprises as defined in this article or other applicable statute or regulation governing an entity's utilization of minority or women-owned business enterprises.

23. "Provisional MWBE Certification" shall mean minority and women-owned business enterprise certification status which shall not exceed one year, but which may be renewed by the director.

* NB Repealed July 1, 2028

*** § 311. Division of minority and women's business development.** 1. The head of the division of minority and women's business development shall be the director who shall be appointed by the governor and hold office at the pleasure of the commissioner. It shall be the duty of the director of the division of minority and women's business development to assist the governor in the formulation and implementation of laws and

policies relating to minority and women-owned business enterprises.

2. The director may appoint such deputies, assistants, and other employees as may be needed for the performance of the duties prescribed herein subject to the provisions of the civil service law and the rules and regulations of the civil service commission. The director may request and shall receive from any department, division, board, bureau, executive commission or agency of the state such assistance as may be necessary to carry out the provisions of this article.

3. The director shall have the following powers and duties:

(a) to encourage and assist contracting agencies in their efforts to increase participation by minority and women-owned business enterprises on state contracts and subcontracts so as to facilitate the award of a fair share of such contracts to them;

(b) to develop standardized forms and reporting documents necessary to implement this article;

(c) to conduct educational programs consistent with the purposes of this article;

(d) to review periodically the practices and procedures of each contracting agency with respect to compliance with the provisions of this article, and to require them to file periodic reports with the division of minority and women's business development as to the level of minority and women-owned business enterprises participation in the awarding of agency contracts for goods and services;

(d-1) to require all contracting state agencies to develop a four-year growth plan to determine a means of promoting and increasing participation by minority-owned and women-owned business enterprises with respect to state contracts and subcontracts. Every four years, beginning September fifteenth, two thousand twenty, each contracting state agency shall submit a four-year growth plan as part of its annual report to the governor and legislature pursuant to section one hundred sixty-four of this chapter.

(e) on January first of each year report to the governor and the chairpersons of the senate finance and assembly ways and means committees on the level of minority and women-owned business enterprises participating in each agency's contracts for goods and services and on

activities of the office and effort by each contracting agency to promote employment of minority group members and women, and to promote and increase participation by certified businesses with respect to state contracts and subcontracts so as to facilitate the award of a fair share of state contracts to such businesses. The comptroller shall assist the division in collecting information on the participation of certified business for each contracting agency. Such report may recommend new activities and programs to effectuate the purposes of this article;

(f) to prepare and update, no less than annually, a directory of certified minority and women-owned business enterprises which shall, wherever practicable, (i) make publicly available records of all certifications and recertifications, (ii) be divided into categories of labor, services, supplies, equipment, materials and recognized construction trades, and (iii) indicate areas or locations of the state where such enterprises are available to perform services;

(g) to appoint independent hearing officers who by contract or terms of employment shall preside over adjudicatory hearings pursuant to section three hundred fourteen of this article for the office and who are assigned no other work by the office;

(h) to make publicly available on the division's website records of all revocations of certification for convictions for fraudulently misrepresenting the status of minority or women-owned business enterprises or for evidence of fraudulent conduct with regard to participation of a minority or women-owned business enterprise in the performance of state contracts and the reasoning for such revocations after a final determination has been made, provided that information falling into the categories enumerated in paragraphs (a) through (j) of subdivision two of section eighty-seven of the public officers law shall be withheld;

(i) notwithstanding the provisions of section two hundred ninety-six of this chapter, to file a complaint pursuant to the provisions of section two hundred ninety-seven of this chapter where the director has knowledge that a contractor may have violated the provisions of paragraph (a), (b) or (c) of subdivision one of section two hundred ninety-six of this chapter where such violation is unrelated, separate or distinct from the state contract as expressed by its terms;

(j) to streamline the state certification process to accept federal

and municipal corporation certifications;

(k) to make publicly available on the division's website records of all waivers of compliance reported pursuant to paragraph (b) of subdivision six of section three hundred thirteen of this article, including the reasoning for denial of such waivers after a final determination has been made, provided that information falling into the categories enumerated in paragraphs (a) through (j) of subdivision two of section eighty-seven of the public officers law shall be withheld;

(l) to work in conjunction with the industrial commissioner pursuant to paragraph (j) of subdivision one of section eight hundred eleven of the labor law to assist contractors in identifying minority group members and women who are participating in apprenticeship agreements under article twenty-three of the labor law; and

(m) to coordinate with appropriate offices, agencies, or authorities, where applicable, to conduct site visits or perform inspections of financial records of minority or women-owned business enterprises in accordance with this article and the regulations of the director.

4. The director shall provide assistance to, and facilitate access to programs serving certified businesses as well as applicants to ensure that such businesses benefit, as needed, from technical, managerial and financial, and general business assistance; training; marketing; organization and personnel skill development; project management assistance; technology assistance; bond and insurance education assistance; and other business development assistance. The director shall maintain a toll-free number at the department of economic development to be used to answer questions concerning the MWBE certification process. In addition, the director may, either independently or in conjunction with other state agencies:

(a) develop a clearinghouse of information on programs and services provided by entities that may assist such businesses;

(b) review bonding and paperwork requirements imposed by contracting agencies that may unnecessarily impede the ability of such businesses to compete; and

(c) seek to maximize utilization by minority and women-owned business enterprises of available federal resources including but not limited to federal grants, loans, loan guarantees, surety bonding guarantees,

technical assistance, and programs and services of the federal small business administration.

(d) conduct outreach events, training workshops, seminars, and other such educational programs throughout the state, including all regional offices, to state agencies, external stakeholders, and the public, to promote awareness and utilization of minority and women-owned business enterprises; and

(e) identify and establish mentorship opportunities and other business development programs to increase capacity and better prepare MWBEs for bidding on contracts with state agencies upon successful completion of the mentorship opportunity. Such mentorship opportunities shall be intended to ensure that mentor and mentee are connected based on a commercially useful function.

* NB Repealed July 1, 2028

*** § 311-a. Minority and women-owned business enterprise statewide advocate.** 1. There is hereby established within the division of minority and women's business an office of the minority and women-owned business enterprise statewide advocate. The statewide advocate shall be appointed by the commissioner with the advice of the small business advisory board as established in section one hundred thirty-three of the economic development law and shall serve in the unclassified service of the director..

2. The advocate shall act as a liaison for minority and women-owned business enterprises (MWBEs) to assist them in obtaining technical, managerial, financial and other business assistance for certified businesses and applicants. The advocate shall receive and investigate complaints brought by or on behalf of MWBEs concerning certification delays and instances of violations of the requirements of this article by contractors and by state agencies. The statewide advocate may assist certified businesses and applicants in the certification process. Other functions of the statewide advocate shall be directed by the commissioner. The advocate may request and the director may appoint staff and employees of the division of minority and women business development to support the administration of the office of the statewide

advocate.

3. The statewide advocate shall conduct periodic audits of state contracting agencies' compliance with the requirements of section three hundred fifteen of this article, such audits shall include a review of the books and records of state contracting agencies concerning, among other things, annual agency expenditures, annual participation of minority and women-owned business enterprises as prime contractors and subcontractors in state contracting agencies' state contracts, and documentation of state contracting agencies' good faith efforts to maximize minority and women-owned business enterprise participation in such agencies' contracting.

4. The statewide advocate shall investigate complaints by certified minority-owned business enterprises or women-owned business enterprises concerning a procuring governmental entity's failure to comply with the requirements of section three hundred fifteen of this article.

5. The statewide advocate shall report to the director and commissioner by November fifteenth on an annual basis on all activities related to fulfilling the obligations of the office of the statewide advocate including, but not limited to: (a) the number of complaints investigated; (b) the resolution of complaints, as applicable; and (c) information regarding audits conducted pursuant to this subdivision. The director shall include the unedited text of the statewide advocate's report within the reports submitted by the department of economic development to the governor and the legislature.

* NB Repealed July 1, 2028

*** § 312. Equal employment opportunities for minority group members and women.** 1. All state contracts and all documents soliciting bids or proposals for state contracts shall contain or make reference to the following provisions:

(a) The contractor will not discriminate against employees or applicants for employment because of race, creed, color, national origin, sex, age, disability or marital status, and will undertake or

continue existing programs of affirmative action to ensure that minority group members and women are afforded equal employment opportunities without discrimination. For purposes of this article affirmative action shall mean recruitment, employment, job assignment, promotion, upgradings, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation.

(b) At the request of the contracting agency, the contractor shall request each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, labor union or representative will not discriminate on the basis of race, creed, color, national origin, sex, age, disability or marital status and that such union or representative will affirmatively cooperate in the implementation of the contractor's obligations herein.

(c) The contractor shall state, in all solicitations or advertisements for employees, that, in the performance of the state contract, all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status.

2. The contractor will include the provisions of subdivision one of this section in every subcontract, except as provided in subdivision six of this section, in such a manner that the provisions will be binding upon each subcontractor as to work in connection with the state contract.

3. The provisions of this section shall not be binding upon contractors or subcontractors in the performance of work or the provision of services or any other activity that are unrelated, separate or distinct from the state contract as expressed by its terms.

4. In the implementation of this section, the contracting agency shall consider compliance by a contractor or subcontractor with the requirements of any federal law concerning equal employment opportunity which effectuates the purpose of this section. The contracting agency shall determine whether the imposition of the requirements of the

provisions hereof duplicate or conflict with any such law and if such duplication or conflict exists, the contracting agency shall waive the applicability of this section to the extent of such duplication or conflict.

5. The director shall promulgate rules and regulations to ensure that contractors and subcontractors undertake programs of affirmative action and equal employment opportunity as required by this section. Such rules and regulations as they pertain to any particular agency shall be developed after consultation with contracting agencies. Such rules and regulations may require a contractor, after notice in a bid solicitation, to submit an equal employment opportunity program after bid opening and prior to the award of any contract, and may require the contractor or subcontractor to submit compliance reports relating to the contractor's or subcontractor's operation and implementation of any equal employment opportunity program in effect as of the date the contract is executed. The contracting agency may recommend to the director that the director take appropriate action according to the procedures set forth in section three hundred sixteen of this article against the contractor for noncompliance with the requirements of this section. The contracting agency shall be responsible for monitoring compliance with this section.

6. The requirements of this section shall not apply to any employment outside this state or application for employment outside this state or solicitations or advertisements therefor, or any existing programs of affirmative action regarding employment outside this state and the effect of contract provisions required by subdivision one of this section shall be so limited.

* NB Repealed July 1, 2028

*** § 312-a. Study of minority and women-owned business enterprises.** 1. The director of the division of minority and women-owned business development is authorized and directed to recommission a statewide disparity study regarding the participation of minority and women-owned business enterprises in state contracts since the amendment of this

article to be delivered to the governor and legislature no later than August fifteenth, two thousand twenty-four. The study shall be prepared by an entity independent of the department and selected through a request for proposal process. The purpose of such study is:

(a) to determine whether there is a disparity between the number of qualified minority and women-owned businesses ready, willing and able to perform state contracts for commodities, services and construction, and the number of such contractors actually engaged to perform such contracts, and to determine what changes, if any, should be made to state policies affecting minority and women-owned business enterprises;

(b) to determine whether there is a disparity between the number of qualified minorities and women ready, willing and able, with respect to labor markets, qualifications and other relevant factors, to participate in contractor employment, management level bodies, including boards of directors, and as senior executive officers within contracting entities and the number of such group members actually employed or affiliated with state contractors in the aforementioned capacities, and to determine what changes, if any, should be made to state policies affecting minority and women group populations with regard to state contractors' employment and appointment practices relative to diverse group members. Such study shall include, but not be limited to, an analysis of the history of minority and women-owned business enterprise programs and their effectiveness as a means of securing and ensuring participation by minorities and women, and a disparity analysis by market area and region of the state. Such study shall distinguish between minority males, minority females and non-minority females in the statistical analysis; and

(c) such study shall also include an analysis of the utilization on state agency contracts of businesses owned by an Indian nation or tribe, as such term is defined in section two of the Indian law, whether a disparity exists between availability of such businesses to participate on state agency contracts and utilization, and, if so, the feasibility of authorizing an Indian nation or tribe owned businesses to become certified as a participant in the minority and women-owned business enterprise program.

2. The director of the division of minority and women's business

development is directed to transmit the disparity study to the governor and the legislature not later than August fifteenth, two thousand twenty-four, and to post the study on the website of the department of economic development.

3. The director of the division of minority and women-owned business development is authorized and directed to commission a policy study analyzing potential ways to improve the effectiveness of the state minority and women-owned business enterprise program in order to better help minority and women-owned businesses, to be delivered to the governor and legislature. The study shall be prepared by an entity independent of the department of economic development and selected through a request for proposal process. The purpose of such study shall be to provide recommendations to further strengthen and increase the effectiveness of the state minority and women-owned business enterprise program. The director of the division of minority and women's business development is directed to transmit the policy study to the governor and the legislature not later than May first, two thousand twenty-seven, and to post the study on the website of the department of economic development.

* NB Repealed July 1, 2028

*** § 313. Opportunities for minority and women-owned business enterprises.** 1. Goals and requirements for agencies and contractors. Each agency shall structure procurement procedures for contracts made directly or indirectly to minority and women-owned business enterprises, in accordance with the findings of the disparity study, consistent with the purposes of this article, to attempt to achieve the recommended results with regard to total annual statewide procurement in the following industries:

(a) construction industry for certified minority-owned business enterprises;

(b) construction industry for certified women-owned business enterprises;

(c) construction related professional services industry for certified minority-owned business enterprises;

(d) construction related professional services industry for certified women-owned business enterprises;

(e) non-construction related services industry for certified minority-owned business enterprises;

(f) non-construction related services industry for certified women-owned business enterprises;

(g) commodities industry for certified minority-owned business enterprises;

(h) commodities industry for certified women-owned business enterprises;

(i) overall agency total dollar value of procurement for certified minority-owned business enterprises;

(j) overall agency total dollar value of procurement for certified women-owned business enterprises; and

(k) overall agency total dollar value of procurement for certified minority, women-owned business enterprises.

1-a. The director shall ensure that each state agency has been provided with an electronic copy of the disparity study.

1-b. Each agency shall develop and adopt agency-specific goals based on the findings of the disparity study.

1-c. The goals set pursuant to subdivision one of this section shall be consistent with the findings of the disparity study.

2. The director shall promulgate rules and regulations based on subdivision one of this section and the findings of the disparity study that provide measures and procedures to ensure that certified minority and women-owned businesses shall be given the opportunity for maximum feasible participation in the performance of state contracts and to assist in the agency's identification of those state contracts for which minority and women-owned certified businesses may best bid to actively and affirmatively promote and assist their participation in the performance of state contracts so as to facilitate the agency's achievement of the maximum feasible portion of the goals for state contracts to such businesses.

2-a. The director shall promulgate rules and regulations that will accomplish the following:

(a) provide for the certification and decertification of minority and women-owned business enterprises for all agencies through a single process that meets applicable requirements;

(b) require that each contract solicitation document accompanying each solicitation set forth the expected degree of minority and women-owned business enterprise participation based, in part, on:

(i) the potential subcontract opportunities available in the prime procurement contract;

(ii) the availability, as contained within the study, of certified minority and women-owned business enterprises to respond competitively to the potential subcontract opportunities as reflected in the division's directory of certified minority and women-owned business enterprises; and

(iii) the findings of the disparity study;

(c) require that each agency provide a current list of certified minority business enterprises to each prospective contractor or direct them to the division's directory of certified minority and women-owned business enterprises for such purpose;

(d) allow a contractor that is a certified minority-owned or women-owned business enterprise to use the work it performs to meet requirements for use of certified minority-owned or women-owned business enterprises as subcontractors;

(e) establish criteria for agencies to credit the participation of minority and women-owned business enterprises towards the achievement of the minority and women-owned business enterprise participation goals on a state contract based on the commercially useful function provided by each minority and women-owned business enterprise on the contract;

(f) provide for joint ventures, which a bidder may count toward meeting its minority and women-owned business enterprise participation;

(g) consistent with subdivision six of this section, provide for circumstances under which an agency may waive obligations of the contractor relating to minority and women-owned business enterprise participation;

(h) require that an agency verify that minority and women-owned

business enterprises listed in a successful bid are actually participating to the extent listed in the project for which the bid was submitted;

(i) provide for the collection of statistical data by each agency concerning actual minority and women-owned business enterprise participation;

(j) require each agency to consult the most current disparity study when calculating agency-wide and contract specific participation goals pursuant to this article; and

Such rules shall set forth the maximum personal net worth of a minority group member or woman who may be relied upon to certify a business as a minority-owned business enterprise or women-owned business enterprise, and may establish different maximum levels of personal net worth for minority group members and women on an industry-by-industry basis for such industries as the director shall determine. Such regulations relating to the classification of the industry-by-industry personal net worth thresholds above the fifteen million dollar threshold shall consider the personal net worth of the owners of both certified and non-certified businesses, including but not limited to, prime contractors and subcontractors, as well as any such other factors needed to establish such thresholds. The provisions of the regulations pertaining to personal net worth shall, to the extent practicable, be implemented by June thirtieth, two thousand twenty and shall consider adjustments for inflation annually on January first of the previous year according to the consumer price index.

3. Solely for the purpose of providing the opportunity for meaningful participation by certified businesses in the performance of state contracts as provided in this section, state contracts shall include leases of real property by a state agency to a lessee where: the terms of such leases provide for the construction, demolition, replacement, major repair or renovation of real property and improvements thereon by such lessee; and the cost of such construction, demolition, replacement, major repair or renovation of real property and improvements thereon shall exceed the sum of one hundred thousand dollars. Reports to the director pursuant to section three hundred fifteen of this article shall

include activities with respect to all such state contracts. Contracting agencies shall include or require to be included with respect to state contracts for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon, such provisions as may be necessary to effectuate the provisions of this section in every bid specification and state contract, including, but not limited to: (a) provisions requiring contractors to make a good faith effort to solicit active participation by enterprises identified in the directory of certified businesses; (b) requiring the parties to agree as a condition of entering into such contract, to be bound by the provisions of section three hundred sixteen of this article; and (c) requiring the contractor to include the provisions set forth in paragraphs (a) and (b) of this subdivision in every subcontract in a manner that the provisions will be binding upon each subcontractor as to work in connection with such contract. Provided, however, that no such provisions shall be binding upon contractors or subcontractors in the performance of work or the provision of services that are unrelated, separate or distinct from the state contract as expressed by its terms, and nothing in this section shall authorize the director or any contracting agency to impose any requirement on a contractor or subcontractor except with respect to a state contract.

4. In the implementation of this section, the contracting agency shall (a) consult the findings contained within the disparity study evidencing relevant industry specific disparities in the utilization of minority and women-owned businesses relative to their availability;

(b) implement a program that will enable the agency to evaluate each contract to determine the appropriate goal for participation by minority-owned business enterprises and women-owned business enterprises;

(c) consider where practicable, the severability of construction projects and other bundled contracts; and

(d) consider compliance with the requirements of any federal law concerning opportunities for minority and women-owned business enterprises which effectuates the purpose of this section. The contracting agency shall determine whether the imposition of the requirements of any such law duplicate or conflict with the provisions

hereof and if such duplication or conflict exists, the contracting agency shall waive the applicability of this section to the extent of such duplication or conflict.

5. (a) Contracting agencies shall administer the rules and regulations promulgated by the director in a good faith effort to achieve the maximum feasible participation by minority and women owned business enterprises adopted pursuant to this article and the regulations of the director. Such rules and regulations: shall require a contractor to submit a utilization plan after bids are opened, when bids are required, but prior to the award of a state contract; shall require the contracting agency to review the utilization plan submitted by the contractor and to post the utilization plan and any waivers of compliance issued pursuant to subdivision six of this section on the website of the contracting agency; shall require the contracting agency to notify the contractor in writing within a period of time specified by the director as to any deficiencies contained in the contractor's utilization plan; shall require remedy thereof within a period of time specified by the director; shall require the contractor to submit compliance reports relating to the operation and implementation of any utilization plan; shall not allow any automatic waivers but shall allow a contractor to apply for a partial or total waiver of the minority and women-owned business enterprise participation requirements pursuant to subdivisions six and seven of this section; shall allow a contractor to file a complaint with the director pursuant to subdivision eight of this section in the event a contracting agency has failed or refused to issue a waiver of the minority and women-owned business enterprise participation requirements or has denied such request for a waiver; and shall allow a contracting agency to file a complaint with the director pursuant to subdivision nine of this section in the event a contractor is failing or has failed to comply with the minority and women-owned business enterprise participation requirements set forth in the state contract where no waiver has been granted.

(b) The rules and regulations promulgated pursuant to this subdivision regarding a utilization plan shall provide that where enterprises have been identified within a utilization plan, a contractor shall attempt, in good faith, to utilize such enterprise at least to the extent

indicated. A contracting agency may require a contractor to indicate, within a utilization plan, what measures and procedures he or she intends to take to comply with the provisions of this article, but may not require, as a condition of award of, or compliance with, a contract that a contractor utilize a particular enterprise in performance of the contract.

(c) The rules and regulations promulgated pursuant to this subdivision regarding compliance reports shall provide that such reports shall include a standardized prepayment declaration, to be completed before each payment to a contractor, in which: (i) a representative of the contractor lists any business that was or shall be relied upon for credit toward minority and women-owned business enterprise participation and states under penalty of perjury that such business or businesses appeared on the division's directory of certified minority and women-owned business enterprises at the time of contracting and that each business performed or shall perform a commercially useful function on the contract; and (ii) a representative of any business that was or shall be relied upon for credit toward minority and women-owned business enterprise participation states under penalty of perjury that it appeared on the division's directory of certified minority and women-owned business enterprises at the time of contracting and performed or shall perform a commercially useful function on the contract. Such standardized prepayment declarations shall be submitted electronically on a centralized state registry designated by the division prior to any payment to a contractor. The rules and regulations promulgated pursuant to this subdivision may also require the contractor or subcontractor to submit documentation, as needed, to support any statements made in such standardized prepayment declarations.

(d) Without limiting other grounds for the disqualification of bids or proposals on the basis of non-responsibility, a contracting agency may disqualify the bid or proposal of a contractor as being non-responsible for failure to remedy notified deficiencies contained in the contractor's utilization plan within a period of time specified in regulations promulgated by the director after receiving notification of such deficiencies from the contracting agency. Where failure to remedy any notified deficiency in the utilization plan is a ground for disqualification, that issue and all other grounds for disqualification

shall be stated in writing by the contracting agency. Where the contracting agency states that a failure to remedy any notified deficiency in the utilization plan is a ground for disqualification the contractor shall be entitled to an administrative hearing, on a record, involving all grounds stated by the contracting agency. Such hearing shall be conducted by the appropriate authority of the contracting agency to review the determination of disqualification. A final administrative determination made following such hearing shall be reviewable in a proceeding commenced under article seventy-eight of the civil practice law and rules, provided that such proceeding is commenced within thirty days of the notice given by certified mail return receipt requested rendering such final administrative determination. Such proceeding shall be commenced in the supreme court, appellate division, third department and such proceeding shall be preferred over all other civil causes except election causes, and shall be heard and determined in preference to all other civil business pending therein, except election matters, irrespective of position on the calendar. Appeals taken to the court of appeals of the state of New York shall be subject to the same preference.

6. (a) Where it appears that a contractor cannot, after a good faith effort, comply with the minority and women-owned business enterprise participation requirements set forth in a particular state contract, a contractor may file a written application with the contracting agency requesting a partial or total waiver of such requirements setting forth the reasons for such contractor's inability to meet any or all of the participation requirements together with an explanation of the efforts undertaken by the contractor to obtain the required minority and women-owned business enterprise participation. In implementing the provisions of this section, the contracting agency shall consider the number and types of minority and women-owned business enterprises available to provide goods or services required under the contract in the region in which the state contract is to be performed, the total dollar value of the state contract, the scope of work to be performed and the project size and term. If, based on such considerations, the contracting agency determines there is not a reasonable availability of contractors on the list of certified business to furnish services for

the project, it shall issue a waiver of compliance to the contractor. In making such determination, the contracting agency shall first consider the availability of other business enterprises located in the region and shall thereafter consider the financial ability of minority and women-owned businesses located outside the region in which the contract is to be performed to perform the state contract.

(b) Upon the issuance of all waivers of compliance as provided in paragraph (a) of this subdivision, the contracting agency shall: (i) report the issuance of the waiver to the director; and (ii) publish on the contracting agency's website on a monthly basis, if practicable, but no less than on a quarterly basis, in a location easily accessible to the general public: (1) information identifying the contract, including the value of the contract; (2) the name of the contractor receiving the waiver; (3) the date of the waiver; (4) whether the waiver was a partial or total waiver; and (5) the specific contract provisions to which the waiver applies.

7. For purposes of determining a contractor's good faith effort to comply with the requirements of this section or to be entitled to a waiver therefrom the contracting agency shall consider:

(a) whether the contractor has advertised in general circulation media, trade association publications, and minority-focus and women-focus media and, in such event, (i) whether or not certified minority or women-owned businesses which have been solicited by the contractor exhibited interest in submitting proposals for a particular project by attending, or having attended, a pre-bid conference, if any, scheduled by the state agency awarding the state contract with certified minority and women-owned business enterprises; and

(ii) whether certified businesses which have been solicited by the contractor have responded in a timely fashion to the contractor's solicitations for timely competitive bid quotations prior to the contracting agency's bid date; and

(b) whether the contractor provided timely written notification of subcontracting opportunities on the state contract to appropriate certified businesses that appear in the directory of certified businesses prepared pursuant to paragraph (f) of subdivision three of section three hundred eleven of this article; and

(c) whether the contractor can reasonably structure the amount of work to be performed under subcontracts in order to increase the likelihood of participation by certified businesses.

8. In the event that a contracting agency fails or refuses to issue a waiver to a contractor as requested within twenty days after having made application therefor pursuant to subdivision six of this section or if the contracting agency denies such application, in whole or in part, the contractor may file a complaint with the director pursuant to section three hundred sixteen of this article setting forth the facts and circumstances giving rise to the contractor's complaint together with a demand for relief. The contractor shall serve a copy of such complaint upon the contracting agency by personal service or by certified mail, return receipt requested. The contracting agency shall be afforded an opportunity to respond to such complaint in writing.

9. If, after the review of a contractor's minority and women-owned business utilization plan or review of a periodic compliance report and after such contractor has been afforded an opportunity to respond to a notice of deficiency issued by the contracting agency in connection therewith, it appears that a contractor is failing or refusing to comply with the minority and women-owned business participation requirements as set forth in the state contract and where no waiver from such requirements has been granted, the contracting agency may file a written complaint with the director pursuant to section three hundred sixteen of this article setting forth the facts and circumstances giving rise to the contracting agency's complaint together with a demand for relief. The contracting agency shall serve a copy of such complaint upon the contractor by personal service or by certified mail, return receipt requested. The contractor shall be afforded an opportunity to respond to such complaint in writing.

* NB Repealed July 1, 2028

*** § 313-a. Diversity practices of state contractors.** The director shall promulgate rules and regulations setting forth measures and procedures to require all contracting agencies, where practicable,

feasible and appropriate, to assess the diversity practices of contractors submitting bids or proposals in connection with the award of a state contract. Such rules and regulations shall take into account: the nature of the labor, services, supplies, equipment or materials being procured by the state agency; the method of procurement required to be used by a state agency to award the contract and minority and women-owned business utilization plans required to be submitted pursuant to sections three hundred twelve and three hundred thirteen of this article; and such other factors as the director deems appropriate or necessary to promote the award of state contracts to contractors having sound diversity practices. Such assessment shall not in any way permit the automatic rejection of a bid or procurement contract proposal based on lack of adherence to diversity practices. Each bid or proposal shall be analyzed on an individual per bid or per proposal basis with the contractor's diversity practices considered as only a part of a wider consideration of several factors when deciding to award or decline to award a bid or proposal. The director shall develop the rules and regulations required hereunder only after consultation with the state procurement council established by section one hundred sixty-one of the state finance law.

* NB Repealed July 1, 2028

*** § 314. Statewide certification program.** 1. The director shall promulgate rules and regulations providing for the establishment of a statewide certification program including rules and regulations governing the approval, denial or revocation of any such certification including revocations for convictions for fraudulently misrepresenting the status of minority or women-owned business enterprises. Such rules shall set forth the maximum personal net worth of a minority group member or woman who may be relied upon to certify a business as a minority-owned business enterprise or women-owned business enterprise with a minimum personal net worth threshold of fifteen million dollars, and may thereafter establish different maximum levels of personal net worth for minority group members and women on an industry-by-industry basis for such industries as the director shall determine. Such regulations relating to the classification of the industry-by-industry

personal net worth thresholds above the fifteen million dollar threshold shall consider the personal net worth of the owners of both certified and non-certified businesses, including but not limited to, prime contractors and subcontractors, as well as any such other factors needed to establish such thresholds. Such rules and regulations shall include, but not be limited to, such matters as may be required to ensure that the established procedures thereunder shall at least be in compliance with the code of fair procedure set forth in section seventy-three of the civil rights law, and consistent with the provisions of article twenty-three-A of the correction law.

2. For the purposes of this article, the office shall be responsible for verifying businesses as being owned, operated, and controlled by minority group members or women and for certifying such verified businesses. The director shall prepare a directory of certified businesses for use by contracting agencies and contractors in carrying out the provisions of this article. The director shall periodically, but no less than annually, update the directory.

2-a. (a) The director shall establish a procedure enabling the office to accept New York municipal corporation certification verification for minority and women-owned business enterprise applicants in lieu of requiring the applicant to complete the state certification process. The director shall promulgate rules and regulations to set forth criteria for the acceptance of municipal corporation certification. All eligible municipal corporation certifications shall require business enterprises seeking certification to meet the following standards:

(i) have at least fifty-one percent ownership by a minority or a women-owned enterprise and be owned by United States citizens or permanent resident noncitizens;

(ii) be an enterprise in which the minority and/or women-ownership interest is real, substantial and continuing;

(iii) be an enterprise in which the minority and/or women-ownership has and exercises the authority to control independently the day-to-day business decisions of the enterprise;

(iv) be an enterprise authorized to do business in this state;

(v) be subject to a physical site inspection to verify the fifty-one

percent ownership requirement;

(vi) be owned by an individual or individuals, whose ownership, control and operation are relied upon for certification, with a personal net worth that does not exceed fifteen million dollars and such other amount as the director shall set forth in regulations, as adjusted annually for inflation according to the consumer price index; and

(vii) be an enterprise that is a small business pursuant to subdivision twenty of section three hundred ten of this article.

(b) The director shall work with all municipal corporations that have a municipal minority and women-owned business enterprise program to develop standards to accept state certification to meet the municipal corporation minority and women-owned business enterprise certification standards.

(c) The director shall establish a procedure enabling the division to accept federal certification verification for minority and women-owned business enterprise applicants, provided said standards comport with those required by the state minority and women-owned business program, in lieu of requiring the applicant to complete the state certification process. The director shall promulgate rules and regulations to set forth criteria for the acceptance of federal certification.

2-b. The director shall establish a procedure enabling an applicant who was a military service member to prove his or her race or ethnicity, date of birth, place of birth and verification of address for purposes of certification of the applicant's business as a minority-owned business by submission of the DD Form 214 issued to the applicant by the United States department of defense upon such applicant's retirement, separation, or discharge from active duty in the armed forces of the United States, provided the DD Form 214 contains such information, in lieu of requiring the applicant to otherwise prove his or her race or ethnicity. The director shall promulgate rules and regulations to set forth criteria for the acceptance of the DD Form 214 by the office.

2-c. (a) Each business applying for minority or women-owned business enterprise certification pursuant to this section must agree to allow: (i) the department of taxation and finance to share its tax information with the division; and (ii) the department of labor to share its tax and

employer information with the division.

(b) Such information provided pursuant to paragraph (a) of this subdivision shall be kept confidential by the division as such information is kept by the department of taxation and finance or the department of labor and use of such information shall be limited to the certification application process, or other uses approved or consented to by the business enterprise or applicant.

3. Following application for certification pursuant to this section, the director shall provide the applicant with written notice of the status of the application, including notice of any outstanding deficiencies, within twenty-one days. Within forty-five days of submission of a final completed application, the director shall provide the applicant with written notice of a determination by the office approving or denying such certification and, in the event of a denial a statement setting forth the reasons for such denial. Upon a determination denying or revoking certification, the business enterprise for which certification has been so denied or revoked shall, upon written request made within thirty days from receipt of notice of such determination, be entitled to a hearing before an independent hearing officer designated for such purpose by the director. In the event that a request for a hearing is not made within such thirty day period, such determination shall be deemed to be final. The independent hearing officer shall conduct a hearing and upon the conclusion of such hearing, issue a written recommendation to the director to affirm, reverse or modify such determination of the director. Such written recommendation shall be issued to the parties. The director, within thirty days, by order, must accept, reject or modify such recommendation of the hearing officer and set forth in writing the reasons therefor. The director shall serve a copy of such order and reasons therefor upon the business enterprise by personal service or by certified mail return receipt requested. The order of the director shall be subject to review pursuant to article seventy-eight of the civil practice law and rules.

4. The director may, after performing an availability analysis and upon a finding that industry-specific factors coupled with personal net worth or small business eligibility requirements pursuant to

subdivisions nineteen and twenty of section three hundred ten of this article, respectively, have led to the significant exclusion of businesses owned by minority group members or women in that industry, grant provisional MWBE certification status to applicants from that designated industry, provided, however, that all other eligibility requirements pursuant to subdivision seven or fifteen of section three hundred ten of this article, as applicable, are satisfied. Any industry-based determination made under this section by the director shall be made widely available to the public and posted on the division's website.

5. (a) With the exception of provisional MWBE certification, as provided for in subdivision twenty-three of section three hundred ten of this article, all minority and women-owned business enterprise certifications shall be valid for a period of five years.

(b) Within eighteen months of the expiration of a minority and women-owned business enterprise certification and the submission of a new and completed application for minority and women-owned business enterprise certification, if there is no change in the ownership or capital contribution relied upon for certification of the enterprise and no material change in the nature or management of the enterprise from the time of approval of a previous minority and women-owned business enterprise certification that was approved within the previous six years and six months, if such application is compliant with 5 NYCRR 144 then there shall be a rebuttable presumption that the previous minority-owned business enterprise satisfies the requirements of paragraphs (a) and (b) of subdivision seven of section three hundred ten of this article and that the previous women-owned business enterprise satisfies the requirements of paragraphs (a) and (b) of subdivision fifteen of section three hundred ten of this article.

(c) The division in its discretion may review applications subject to this rebuttable presumption and issue such determination pursuant to all applicable laws and regulations. Any presumption of minority and women-owned business enterprise certification shall expire upon the final determination of an application for certification.

* NB Repealed July 1, 2028

*** § 315. Responsibilities of contracting agencies.** 1. Each contracting agency shall be responsible for monitoring state contracts under its jurisdiction, and recommending matters to the office respecting non-compliance with the provisions of this article so that the office may take such action as is appropriate to ensure compliance with the provisions of this article, the rules and regulations of the director issued hereunder and the contractual provisions required pursuant to this article. All contracting agencies shall comply with the rules and regulations of the office and are directed to cooperate with the office and to furnish to the office such information and assistance as may be required in the performance of its functions under this article.

2. Each contracting agency shall provide to prospective bidders a current copy of the directory of certified businesses, and a copy of the regulations required pursuant to sections three hundred twelve and three hundred thirteen of this article at the time bids or proposals are solicited.

2-a. To the extent practicable, upon completion of the restrictive period of a procurement, each contracting agency when notifying a contractor of a winning bid award shall also notify any minority or women-owned business enterprise identified in the contractor's submitted utilization plan of such contractor's receipt of the winning bid award.

3. Each contracting agency shall report to the director with respect to activities undertaken to promote employment of minority group members and women and promote and increase participation by certified businesses with respect to state contracts and subcontracts. Such reports shall be submitted no later than May fifteenth of every year and shall include such information as is necessary for the director to determine whether the contracting agency and any contractor to the contracting agency have complied with the purposes of this article, including, without limitation, a summary of all waivers of the requirements of subdivisions six and seven of section three hundred thirteen of this article allowed by the contracting agency during the period covered by the report, including a description of the basis of the waiver request and the

rationale for granting any such waiver and any instances in which the contract agency has deemed a contractor to have committed a violation pursuant to section three hundred sixteen of this article and such other information as the director shall require. Each agency shall also include in such annual report whether or not it has been required to prepare a remedial plan, and, if so, the plan and the extent to which the agency has complied with each element of the plan.

4. The division of minority and women's business development shall issue an annual report which: (a) summarizes the report submitted by each contracting agency pursuant to subdivision three of this section; (b) contains such comparative or other information as the director deems appropriate, including but not limited to goals compared to actual participation of minority and women-owned business enterprises in state contracting and a listing of annual participation rates for each agency, the total number of certified minority and women-owned businesses for that reporting year, the number of applications for new certifications and recertifications including those approved, the average length of time to determine an approval, the number of applications denied, the basis for denials and the average length of time to determine a denial, and the total dollar value of state expenditures on certified minority and women-owned business contracts and subcontracts for that reporting year, to evaluate the effectiveness of the activities undertaken by each such contracting agency to promote increased participation by certified minority or women-owned businesses with respect to state contracts and subcontracts; (c) contains a summary of all waivers of the requirements of subdivisions six and seven of section three hundred thirteen of this article allowed by each contracting agency during the period covered by the report, including a description of the basis of the waiver request and the contracting agency's rationale for granting any such waiver; (d) describes any efforts to create a database or other information storage and retrieval system containing information relevant to contracting with minority and women-owned business enterprises; (e) contains a summary of (i) all determinations of violations of this article by a contractor or a contracting agency made during the period covered by the annual report pursuant to section three hundred sixteen-a of this article and (ii) the penalties or sanctions, if any, assessed in connection with such

determinations and the rationale for such penalties or sanctions; and (f) contains information on the annual minority and woman-owned business enterprise utilization and expenditure categorized by minority-owned enterprises, women-owned enterprises, and total utilization and expenditure and organized by the following industry categories: (i) services including professional services, social services, educational services, legal services, health services, and business services; (ii) agriculture; (iii) mining; (iv) construction, including building construction, heavy construction, and special trade contractors; (v) manufacturing; (vi) transportation, communication and sanitary services; (vii) wholesale or retail goods; (viii) construction materials; and (ix) financial, insurance and real estate services. Copies of the annual report shall be provided to the commissioner, the governor, the comptroller, the temporary president of the senate, the speaker of the assembly, the minority leader of the senate, the minority leader of the assembly and shall also be made widely available to the public via, among other things, publication on a website maintained by the division of minority and women's business development.

5. Each agency shall include in its annual report to the governor and legislature pursuant to section one hundred sixty-four of this chapter: (a) its annual goals for contracts with minority-owned and women-owned business enterprises; (b) the number of actual contracts issued to minority-owned and women-owned business enterprises; (c) a summary of all waivers of the requirements of subdivisions six and seven of section three hundred thirteen of this article allowed by the reporting agency during the preceding year, including a description of the basis of the waiver request and the rationale for granting such waiver; (d) whether or not it has been required to prepare a remedial plan, and, if so, the plan and the extent to which the agency has complied with each element of the plan; (e) which expenditures are exempt from participation goals and the rationale for such exemption; and (f) every four years, beginning September fifteenth, two thousand twenty, each agency shall include in such annual report its four-year growth plan pursuant to section three hundred eleven of this article.

6. Each contracting agency that substantially fails to make a good

faith effort as defined by regulation of the director, to achieve the maximum feasible participation of minority and women-owned business enterprises in such agency's contracting shall be required to submit to the director a remedial action plan to remedy such failure.

7. If it is determined by the director that any agency has failed to act in good faith to implement the remedial action plan, pursuant to subdivision six of this section within one year, the director shall provide written notice of such a finding, which shall be publicly available, and direct implementation of remedial actions to:

(a) assure that sufficient and effective solicitation efforts to women and minority-owned business enterprises are being made by said agency;

(b) divide contract requirements, when economically feasible, into quantities that will expand the participation of women and minority-owned business enterprises;

(c) eliminate extended experience or capitalization requirements, when programmatically and economically feasible, that will expand participation by women and minority-owned business enterprises;

(d) identify specific proposed contracts as particularly attractive or appropriate for participation by women and minority-owned business enterprises with such identification to result from and be coupled with the efforts of paragraphs (a), (b), and (c) of this subdivision; and

(e) upon a finding by the director that an agency has failed to take affirmative measures to implement the remedial plan and to follow any of the remedial actions set forth by the director, and in the absence of any objective progress towards the agency's goals, require some or all of the agency's procurement, for a specified period of time, be placed under the direction and control of another agency or agencies.

* NB Repealed July 1, 2028

*** § 316. Enforcement.** 1. Upon receipt by the director of a complaint by a contracting agency that a contractor has violated the provisions of a state contract which have been included to comply with the provisions of this article or of a contractor that a contracting agency has violated such provisions or has failed or refused to issue a waiver where one has been applied for pursuant to subdivision six of section

three hundred thirteen of this article or has denied such application, the director shall attempt to resolve the matter giving rise to such complaint. If efforts to resolve such matter to the satisfaction of all parties are unsuccessful, the director shall refer the matter, within thirty days of the receipt of the complaint, to the division's hearing officers. Upon conclusion of the administrative hearing, the hearing officer shall submit to the director his or her decision regarding the alleged violation of the contract and recommendations regarding the imposition of sanctions, fines or penalties. The director, within ten days of receipt of the decision, shall file a determination of such matter and shall cause a copy of such determination along with a copy of this article to be served upon the contractor by personal service or by certified mail return receipt requested. The decision of the hearing officer shall be final and may only be vacated or modified as provided in article seventy-eight of the civil practice law and rules upon an application made within the time provided by such article. The determination of the director as to the imposition of any fines, sanctions or penalties shall be reviewable pursuant to article seventy-eight of the civil practice law and rules. The penalties imposed for any violation which is premised upon either a fraudulent or intentional misrepresentation by the contractor or the contractor's willful and intentional disregard of the minority and women-owned participation requirement included in the contract may include a determination that the contractor shall be ineligible to submit a bid to any contracting agency or be awarded any such contract for a period not to exceed one year following the final determination; provided however, if a contractor has previously been determined to be ineligible to submit a bid pursuant to this section, the penalties imposed for any subsequent violation, if such violation occurs within five years of the first violation, may include a determination that the contractor shall be ineligible to submit a bid to any contracting agency or be awarded any such contract for a period not to exceed five years following the final determination. The division of minority and women's business development shall maintain a website listing all contractors that have been deemed ineligible to submit a bid pursuant to this section and the date after which each contractor shall once again become eligible to submit bids.

2. Any fines, or portion thereof, imposed pursuant to the foregoing subdivision, or imposed by a court of competent jurisdiction related to convictions involving fraud related to this article or otherwise involving a minority or women-owned business enterprise, may be required by the entity imposing such fines to be paid to the minority and women-owned business enterprise fund established pursuant to section ninety-seven-k of the state finance law.

* NB Repealed July 1, 2028

*** § 316-a. Prohibitions in contracts; violations.** Every contracting agency shall include a provision in its state contracts expressly providing that any contractor who willfully and intentionally fails to comply with the minority and women-owned participation requirements of this article as set forth in such state contract shall be liable to the contracting agency for liquidated or other appropriate damages and shall provide for other appropriate remedies on account of such breach. A contracting agency that elects to proceed against a contractor for breach of contract as provided in this section shall be precluded from seeking enforcement pursuant to section three hundred sixteen of this article; provided however, that the contracting agency shall include a summary of all enforcement actions undertaken pursuant to this section in its annual report submitted pursuant to subdivision three of section three hundred fifteen of this article.

* NB Repealed July 1, 2028

*** § 317. Superseding effect of article with respect to state law.** The provisions of this article shall supersede any other provision of state law, which expressly implements or mandates an equal employment opportunity program or a program for securing participation by minority and women-owned business enterprises, concerning action to be taken by any party to a state contract, to which the provisions of this article apply; provided, however, that the provisions of any state law, not as hereinabove superseded, which expressly implement or mandate such programs shall remain unimpaired by the provisions of this article,

except that the provisions of any such law shall be construed as if the provisions of subdivisions five, six, seven and eight of section three hundred thirteen and section three hundred sixteen of this article were fully set forth therein and made applicable only to complaints of violations under such provisions of law occurring on or after September first, nineteen hundred eighty-eight; provided, further, that nothing contained in this article shall be construed to limit, impair, or otherwise restrict any state agency's authority or discretionary power in effect prior to the enactment of this article to establish or continue, by rule, regulation or resolution, an equal opportunity program or a program for securing participation of minority and women-owned business enterprises with regard to banking relationships, the issuance of insurance policies or contracts for the sale of bonds, notes or other securities; and, provided further, that nothing contained in the immediately preceding proviso shall be construed to create, impair, alter, limit, modify, enlarge, abrogate or restrict any agency's authority or discretionary power with respect to an equal opportunity program or a program for securing participation of minority and women-owned enterprises.

* NB Repealed July 1, 2028

*** § 318. Severability.** If any clause, sentence, paragraph, section or part of this article shall be adjudged by any court of competent jurisdiction to be invalid, the judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part of this article directly involved in the controversy in which the judgment shall have been rendered.

* NB Repealed July 1, 2028

ARTICLE 15-AA

RESTRICTIONS ON IMMIGRATION ENFORCEMENT BY STATE EMPLOYEES

Section 319. Definitions.
319-a. Restrictions on immigration enforcement by state employees.

§ 319. Definitions. For the purposes of this article, the following terms shall have the following meanings:

1. "State entity" means any agency under the executive authority of the governor; any agency for which the governor appoints the commissioner or highest ranking employee; any public benefit corporation, public authority, board, or commission for which the governor appoints the chief executive or a majority of the board members, except for the port authority of New York and New Jersey; any division, department, or office regulated under this chapter; the state education department; any college, university, or postsecondary educational institution within the state university of New York, city university of New York, and its affiliate senior and community colleges; all offices defined in article one of the public officers law; the department of civil service or any of its civil divisions as defined in article one of the civil service law; and any contractor or subcontractor while performing services on behalf of the state.

2. "State employee" means any individual employed by any agency under the executive authority of the governor; any agency for which the governor appoints the commissioner or highest ranking employee; any public benefit corporation, public authority, board, or commission for which the governor appoints the chief executive or a majority of the board members, except for the port authority of New York and New Jersey; any division, department, or office regulated under this chapter; the state education department; any college, university, or postsecondary educational institution within the state university of New York, city university of New York, and its affiliate senior and community colleges; all offices defined in article one of the public officers law; the department of civil service or any of its civil divisions as defined in article one of the civil service law; or any contractor or subcontractor while performing services on behalf of the state; provided, however, this definition shall not include:

(a) any individual employed as a police officer as that term is defined in subdivision thirty-four of section 1.20 of the criminal

procedure law;

(b) any individual employed as a peace officer as that term is defined in section 2.10 of the criminal procedure law; or

(c) any civilian employee of a state law enforcement agency.

3. "Immigration authority" means an agency that primarily enforces immigration law including, but not limited to, United States Immigration and Customs Enforcement or United States Customs and Border Protection, and any successor agencies having similar duties; or a federal agency making a request or taking an enforcement action pursuant to the civil enforcement provisions of the federal Immigration and Nationality Act.

4. "Immigration enforcement" means the enforcement of any civil provision of the federal Immigration and Nationality Act for the purpose of determining a person's lawful presence or status in the United States, or for the purpose of apprehending, detaining, transferring, or removing a person solely for civil immigration purposes because of such person's immigration status.

5. "Immigration detainer" means any document, form, or other communication requesting or directing that a state entity or state employee detain or maintain custody of an individual, for any period of time, for pickup by or transfer to immigration authorities.

6. "Civil immigration warrant" means any warrant for a violation of civil immigration law that is not issued by a judge appointed pursuant to Article III of the United States Constitution or a federal magistrate judge appointed pursuant to 28 U.S.C. § 631.

7. "State law enforcement agency" means the New York state police, the department of corrections and community supervision, and the department of law.

8. "Civilian employee of a state law enforcement agency" means any person, other than a police officer or peace officer, employed by a state law enforcement agency, whose official duties require such person to collect, analyze, share, or present evidence and/or intelligence, or

to supervise such activities or persons.

§ 319-a. Restrictions on immigration enforcement by state employees. 1. No state employee shall use state resources, including, but not limited to, time spent while on duty or any property or facilities owned or operated by or under the control of the state entity, for immigration enforcement purposes.

2. No state employee shall disclose to an immigration authority or any employee thereof an individual's personally identifiable information, including, but not limited to, a person's name, social security number, physical description, any associated addresses, telephone number, financial information, medical information, or place of employment or education except as provided in subdivision nine of this section.

3. No state employee shall question, investigate, or interrogate an individual solely on the basis of an immigration detainer, a civil immigration warrant, or for the sole purpose of immigration enforcement.

4. No state employee shall inquire about a person's citizenship, immigration status, nationality, or country of origin, except as provided in subdivision nine of this section or as necessary to administer a public program or benefit sought by such person; or when registering an individual to vote and other election related matters.

5. No state employee shall collect information about a person's citizenship, immigration status, nationality, or country of origin, except as provided in subdivision nine of this section or as necessary to administer a public program or benefit sought by such person; or when registering an individual to vote and other election related matters.

6. (a) (i) No state employee shall grant permission to access or facilitate access to non-public areas of property or facilities owned or operated by or under the control of the state entity to an immigration authority or any employee thereof engaging in immigration enforcement except as provided in subdivision nine of this section.

(ii) Provided, however, that no state entity or state government employee shall grant permission to access or facilitate access to a polling location to an immigration authority or any employee thereof engaging in immigration enforcement where doing so would violate 18 §§ U.S.C. 592, 595, 52 U.S.C. § 10307(b), the Fourteenth Amendment of the United States Constitution, or the Fifteenth Amendment of the United States Constitution, except as provided in subdivision nine of this section.

(b) Each state entity shall implement policies and/or procedures for all relevant employees in the event that a judicial warrant or court order is presented for access to non-public areas, including the protocol to verify the sufficiency of any judicial warrant or court order to ensure such judicial warrant or court order complies with the provisions of this section prior to permitting access to any non-public areas. Such policies and/or procedures shall include a designated contact for such inquiries. Nothing in this paragraph shall abrogate or otherwise change any legal privileges, including, but not limited to, the attorney client privilege, that may apply to such inquires.

7. No state employee shall use an immigration authority or any employee thereof as an interpreter or translator for law enforcement matters relating to individuals that such entities or employees interact with as part of their employment duties.

8. The provisions of this section shall not be construed to prohibit or restrict state entities or state employees from sending to or receiving from the United States department of homeland security or any other federal, state, or local governmental entity information regarding the citizenship or immigration status of an individual pursuant to 8 U.S.C. § 1373.

9. The provisions of this article shall not prohibit state employees from complying with court orders issued by a judge appointed pursuant to Article III of the United States Constitution or a federal magistrate judge appointed pursuant to 28 U.S.C. § 631, or judicial warrants issued by a judge appointed pursuant to Article III of the United States Constitution or federal magistrate judge appointed pursuant to 28 U.S.C.

§ 631, or complying with requirements under existing law.

10. The provisions of this article shall apply notwithstanding any other provisions of state or local law and shall not be construed to in any way to expand the authority of state employees to participate in immigration enforcement.

11. Nothing in this article shall be construed to prevent state entities from adopting policies which exceed the provisions of this article or further restrict state entities or state employees from participation in immigration enforcement beyond the requirements set forth in this article.

12. For any databases operated by a state entity, including databases maintained for a state entity by private vendors, the attorney general shall, by the first of January following the effective date of this article, in consultation with appropriate stakeholders, publish guidance and training recommendations aimed at ensuring that such databases are governed in a manner that limits the availability of information contained therein, to the fullest extent practicable and consistent with federal and state law including, but not limited to, 8 U.S.C. § 1373, to anyone or any entity for the purpose of immigration enforcement. All state entities may adopt necessary changes to database governance policies consistent with such guidance.

13. The office of employee relations shall develop training covering the requirements of this article no later than one hundred twenty days after its effective date and shall ensure that such training is made available to state entities as defined in section three hundred nineteen of this article so that state employees shall receive training relevant to their required role in implementing this article. Such training shall be conducted during the employee's regular working hours and employees shall receive compensation at their regular rate of pay for any time spent participating in such training. Subsequent training for required employees shall be provided within sixty days of hire, and annually thereafter.

ARTICLE 15-B

NEW YORK STATE MARTIN LUTHER KING, JR.

INSTITUTE FOR NONVIOLENCE ACT

Section 320. Legislative findings and declaration.
321. Definitions.
322. The New York state Martin Luther King, Jr. institute for nonviolence.
323. Powers and duties.
324. Fellowships.
325. Grants.
326. Reporting.
327. Contributions to the institute.

§ 320. Legislative findings and declaration. The legislature finds and declares that an institution embodying the heritage, ideals and concerns of the people of the state of New York for peace and social justice as exemplified by the philosophy and nonviolent leadership of Dr. Martin Luther King, Jr. is an appropriate response to the significant public need for the state to develop methods in addition to current law enforcement responses to curb the use of violence and encourage the nonviolent management of social conflict.

It is further found and declared that people throughout the state fear violence and deplore the social injustice that can give rise to violence. New York state citizens are experiencing increasing racial and cultural hostilities stemming from rapid social change and real and perceived conflicts over group and individual interests and they may be disadvantaged by a lack of problem-solving skills for redressing these social conflicts.

It is further found and declared that many potentially destructive conflicts between different societal groups and interests have been resolved constructively and effectively at the national, state and local level through the use of nonviolent methods as were advocated and exemplified by the life of Dr. Martin Luther King, Jr.

It is further found and declared there is a need to examine the history, nature, elements and future of nonviolent processes for conflict resolution, and to develop new techniques to promote nonviolence solutions to economic, political, social and cultural conflicts in the state. Such activities conducted through government, private enterprise, and voluntary associations can be strengthened by a state institution devoted to research, education and training and the provision of information services with respect to nonviolent conflict resolution techniques.

To accomplish these public purposes, it therefore is necessary that the state of New York establish the New York state Martin Luther King, Jr. institute for nonviolence to serve the citizens of the state and their government through education and training opportunities, basic and applied research opportunities, and information services, with respect to the promotion of nonviolent methods and techniques to resolve conflicts among individuals and groups of New York state citizens.

§ 321. Definitions. The following terms as used in this article shall have the following meanings.

1. "Board" shall mean the board of directors of the institute.

2. "Institute" shall mean the New York state Martin Luther King, Jr. institute for nonviolence established by section three hundred twenty-two of this article.

§ 322. The New York state Martin Luther King, Jr. institute for nonviolence. 1. There is hereby created the New York state Martin Luther King, Jr. institute for nonviolence. The institute shall be a public corporation and its membership shall consist of thirteen members as follows: the chancellor of the state university of New York, the commissioner of education of the state of New York, the chairperson of the New York state Martin Luther King, Jr. commission, and ten members

to be appointed by the governor. Of the members appointed by the governor, one shall be a member of the New York state senate appointed by the governor on the recommendation of the majority leader, one shall be a member of the New York state senate appointed by the governor on the recommendation of the minority leader, one shall be a member of the New York state assembly appointed by the governor on the recommendation of the speaker of the assembly, one shall be a member of the New York state assembly appointed by the governor on the recommendation of the minority leader; and six shall be members appointed by the governor, no more than three of whom may be members of the same political party.

From among the ten directors appointed by him, the governor shall appoint a chairperson who shall serve for a term of three years.

Members of the board of directors shall serve the following terms of office:

(a) A member of the state legislature appointed to the board shall serve for a single term not to exceed five years and shall serve as a member only while he or she is a member of the legislature.

(b) Of the six directors appointed by the governor who are not members of the legislature, three directors shall serve for terms of four years, two directors shall serve for terms of three years, and one director shall serve for a one year term. Thereafter, each director, except for a director appointed to fill an unexpired term, shall serve for a five year term. No director may serve on the board for more than ten years.

2. In the event of a vacancy occurring in the office of a director by death, resignation or otherwise, the governor shall appoint a successor, with the advice and consent of the New York state senate, to serve for the balance of the unexpired term.

3. The board of directors shall provide for the holding of regular and special meetings. A majority of the directors shall constitute a quorum for the transaction of any business and, unless a greater number is required by the by-laws of the corporation, the acts of a majority of the directors present at a meeting at which a quorum is present shall be deemed to be the acts of the board.

4. The board of directors shall adopt by-laws for the corporation and may appoint such officers and employees as it deems advisable and may fix their compensation and prescribe their duties.

5. The directors appointed by the governor shall serve without salary, but each director, including the chairperson shall be entitled to reimbursement for such director's reasonable actual and necessary expenses incurred in the performance of his or her official duties, and except in the case of any director who serves as a member of the legislature or serves in an ex officio capacity, a per diem allowance when rendering services as such director.

6. No member of the board of directors shall participate in a decision on the awarding of any grant or contract to an individual or organization with whom such member is affiliated.

7. Directors other than the chancellor of the state university of New York and the commissioner of education of the state of New York may engage in private employment, or in a profession or business. The corporation, its directors, officers and employees shall be subject to the provisions of sections seventy-three and seventy-four of the public officers law.

§ 323. Powers and duties. The institute shall have the following powers and duties:

1. To conduct research and undertake studies, particularly of an interdisciplinary or of a multi-disciplinary nature, into the causes of violence and other social conflicts, and peace and nonviolence theories, methods, techniques, programs and systems;

2. To develop programs to make research, education and training with respect to nonviolent conflict resolution more available and useful to persons in government, private enterprise, community groups and voluntary associations;

3. To conduct training, provide symposia and develop continuing education and research programs to promote skills in nonviolent conflict resolution;

4. To establish such divisions, programs, schools, and offices as the board deems appropriate to carry out the purposes of this article;

5. To enter into formal and informal relationships with other public or private institutions for purposes of fulfilling the goals of the institute not inconsistent with this article;

6. To establish a clearinghouse and develop and provide other programs and materials, including publications, handbooks, training manuals, and audio-visual materials, for disseminating information on the programs, studies, research, and training and educational opportunities, of the institute;

7. To enter into contracts;

8. To adopt, amend and alter by-laws, not inconsistent with the laws of the state of New York;

9. To charge and collect subscription and other participation costs and fees for its services, including publications, and courses of study;

10. The institute may sue and be sued, complain, and defend in any court of competent jurisdication; and

11. The institute may do any and all lawful acts and things necessary or desirable to carry out the objectives and purposes of this article.

§ 324. Fellowships. The institute may establish fellowships, through the provisions of financial assistance in the form of stipends, grants or loans or other assistance, to individuals to enable them to pursue scholarly inquiry and study other appropriate forms of strategies for

peace and nonviolent conflict resolution. No such assistance shall be provided for a period in excess of two years.

§ 325. Grants. The institute may undertake to provide financial assistance in the form of grants or loans and may contract with public and private educational institutions, including primary and secondary schools and community colleges, and with other public and private entities to carry out the purposes of this article.

§ 326. Reporting. The institute shall provide a report of an audit to the governor of the state of New York and each house of the legislature no later than six months following the close of each fiscal year. The report shall set forth the scope of the audit and include such statements, together with the independent auditor's opinion of those statements, as are necessary to present fairly the institute assets and liabilities, surplus or deficit, with reasonable detail, during the year including a schedule of all contracts and grants requiring payments in excess of five thousand dollars and any payments of compensation, salaries, or fees at a rate in excess of five thousand dollars per annum.

§ 327. Contributions to the institute. The institute may receive grants and contributions from any public or private source to the extent authorized by law.

ARTICLE 15-C

RELIGIOUS ACCOMMODATION FOR LICENSING EXAMINATIONS

Section 328. Definitions.
328-a. Special administrations.

§ 328. Definitions. When used in this article:

1. "Licensing examination" means any test or examination that is given in New York and used to determine whether an applicant will be licensed, certified, admitted, or otherwise permitted to practice any profession, business, trade, activity, or pursuit.

2. "Test subject" means an individual to whom a test or examination is administered.

3. "Day of religious observance" means any day or portion thereof on which a religious observance imposes a substantial burden on any test subject's ability to participate in a licensing examination, or any particular day or days or any portion thereof which any individual observes as a sabbath or other holy day or days in accordance with the requirements of his or her religion.

4. "Affected test subject" means a test subject for whom a day of religious observance falls on the day or portion thereof that a licensing exam is administered.

§ 328-a. Special administrations. When any licensing examination is administered on a day of religious observance, a special administration of such licensing examination or an equivalent examination shall be offered to any affected test subject as soon after or before as is possible, at a comparable time, place and cost, provided that in no circumstances shall the special administration be more than thirty days before or after the regular test administration.

ARTICLE 16

MARTIN LUTHER KING, JR. COMMISSION

Section 329. Martin Luther King, Jr. Commission.

§ 329. Martin Luther King, Jr. Commission. 1. A state commission is hereby created to develop, promote, coordinate and review plans and activities statewide for the annual commemoration and celebration of the

birthday of Dr. Martin Luther King, Jr. in accordance with chapter fifty of the laws of nineteen hundred eighty-five.

2. The commission shall develop a plan for the commemoration and celebration of the third Monday in January of each year, the official state holiday honoring Dr. Martin Luther King, Jr. The commission shall, among other things exercise the following powers and duties:

(a) develop and submit to the governor and the legislature recommendations for specific commemorative activities to be undertaken by the state on the third Monday of January of each year celebrating the birthdate of Dr. Martin Luther King, Jr.;

(b) coordinate state plans and activities with federal plans and activities for the commemoration and celebration of Dr. King's birthday;

(c) develop, with other agencies of the state, an interpretive program which explores the historical, social, political and cultural themes associated with the life and works of Dr. Martin Luther King, Jr.;

(d) develop interpretive materials and publications on the significance of Dr. King's work and develop a commemorative program for state employees, school children and the general public;

(e) create a process to facilitate the implementation of the master plan project and other recommendations made by the commission;

(f) prepare and provide to the general public advice, assistance and information on the holiday activities recommended by the commission; and

(g) make other studies, reports and recommendations to the governor and the legislature as are necessary with respect to activities for the continued commemoration and celebration of Dr. King.

3. The commission shall consist of at least forty members, to be appointed as follows: a fifteen member board of directors appointed by the governor; one of whom shall be appointed upon the recommendation of the temporary president of the senate, one of whom shall be appointed upon the recommendation of the minority leader of the senate, one of whom shall be appointed upon the recommendations of the speaker of the assembly, and one of whom shall be appointed upon the recommendation of the minority leader of the assembly; the commissioners of the department of labor, the department of education, the office of general services and the division of human rights and the chairman of the council for the

arts, each of whom may appoint a deputy to represent them on the commission; and the remaining general members to be appointed by executive order.

4. The members of the commission shall receive no compensation for their services, however, those members who are not state officers or employees shall be allowed their actual and necessary expenses incurred in the performance of their duties. The board of directors shall select a commission chairman from the members of such board.

5. The commission shall make a report to the governor and legislature of its findings, conclusions, proposals and recommendations for the observance of the January twentieth, nineteen hundred eighty-six, birthday commemoration within ninety days of the effective date of this section and, not later than December first, annually thereafter on its findings, conclusions, proposals and recommendations and shall submit with its reports such legislative proposals as it deems necessary to implement its proposals and recommendations.

6. All state agencies are hereby authorized and directed to provide assistance and available resources, as requested by the commission, in order to effectuate the purposes of this section.

ARTICLE 16-A
HIGHWAY SAFETY

Section 330. Legislative findings and statement of purpose.
331. Definitions.
332. State highway safety program.
333. Local highway safety programs.
334. Federal aid.

§ 330. Legislative findings and statement of purpose. The rising toll of deaths and injuries resulting from highway accidents is a matter of state concern. Although the state and local governments presently are active in virtually all areas of highway safety, no formal mechanism

exists for the integration and coordination of existing safety efforts. The establishment of a statewide highway safety program, under the guidance and direction of the governor, will provide this needed mechanism, and will result in the unification of state and local efforts in the struggle to reduce highway deaths and injuries.

§ 331. Definitions. For the purposes of this article, the following terms shall have the following meanings:

1. "State highway safety program" means all highway safety programs conducted by the state and political subdivisions of the state.

2. "Approved local highway safety program" means a program established by a political subdivision which has been approved pursuant to the provisions of this article.

3. "Political subdivision" means a city or town with a population in excess of fifty thousand, and every county not wholly included within a city, and any combination of the foregoing having at least one common boundary.

4. "Designee" means the public officer or state agency designated by the governor to act in his behalf in carrying out the provisions of this article.

§ 332. State highway safety program. 1. Notwithstanding any inconsistent provision of law, general, special or local, the governor is hereby empowered to contract and to do all other things necessary or convenient in behalf of the state to secure the full benefits available under the federal highway safety act of nineteen hundred sixty-six and any acts amendatory or supplemental thereto. The governor shall coordinate the highway safety activities of state and local agencies, other public and private agencies, and of interested organizations and individuals to effectuate the purposes of that act and shall be the official of this state having the ultimate responsibility of dealing

with the federal government with respect to the state highway safety program.

§ 333. Local highway safety programs. 1. The governor or his designee is hereby empowered to promulgate rules and regulations establishing standards and procedures relating to the content, coordination, submission and approval of local highway safety programs. Such rules and regulations may include, but need not be limited to, requirements in the following areas of highway safety:

(a) traffic engineering and control;

(b) traffic enforcement;

(c) emergency medical care;

(d) investigation and surveillance of accident locations; and

(e) highway safety education.

2. To qualify for receipt of federal funds, each political subdivision shall:

(a) If a city or town, appoint, and such political subdivisions are hereby authorized to so appoint, a highway safety committee to coordinate local highway safety efforts. The chairman of such committee shall be responsible for coordinating the local highway safety program with the state program in the manner required by the rules and regulations of the governor or his designee.

(b) If a county, establish a county traffic safety board as authorized by article forty-three of the vehicle and traffic law. The chairman of such board shall be responsible for coordinating the local highway safety program with the state program in the manner required by the rules and regulations of the governor or his designee.

(c) If any combination of a city, town or county having at least one common boundary, appoint, and such political subdivisions are hereby authorized to so appoint, a regional highway safety committee to coordinate regional highway safety efforts. Such committee shall consist of at least one member from each participating city, town or county. The chairman of such committee shall be responsible for coordinating the regional highway safety program with the state program in the manner required by the rules and regulations of the governor or his designee.

(d) Submit to the governor or his designee a local highway safety program in accordance with and meeting the standards established by rules and regulations promulgated pursuant to subdivision one of this section.

(e) Submit to the governor or his designee such other information as may be required to carry out the purposes of this article.

§ 334. Federal aid. 1. The department of taxation and finance shall accept and receive any and all grants of money awarded to the state and its political subdivisions under the federal highway safety act of nineteen hundred sixty-six, and acts amendatory or supplemental thereto. All monies so received shall be deposited by the department of taxation and finance in a special fund or funds and shall be used exclusively for establishing and administering highway safety programs pursuant to the provisions of this article. Such money shall be paid from said fund or funds upon audit and warrant of the comptroller on vouchers of or certification by the governor or his designee.

2. At least forty per cent of the federal funds so received shall be allocated and paid to those political subdivisions which have established approved local highway safety programs. In determining the allocation of such amount among such political subdivisions, the governor or his designee shall consider the following factors:

(a) the relative populations of such political subdivisions;

(b) the total costs of the local highway safety programs;

(c) the amount of state aid and other funds received by such political subdivisions for highway safety purposes; and

(d) the safety value of any special highway safety projects conducted by such political subdivisions.

3. The federal funds remaining after the allocations and payments have been made pursuant to subdivision two of this section shall be utilized for such highway safety purposes as the governor or his designee shall deem appropriate.

ARTICLE 18

NEW YORK STATE UNIFORM FIRE PREVENTION AND BUILDING CODE ACT

Section 370. Short title.
371. Statement of legislative findings and purposes.
372. Definitions.
373. Required immediate applicability of existing state codes.
373-a. Code comparison study and report.
373-b. Standards for single-exit, single stairway multi-unit residential buildings study.
374. State fire prevention and building code council.
375. Powers of the council.
376. Powers of the secretary.
376-a. Code enforcement training and certification.
377. New York state uniform fire prevention and building code.
378. Standards for New York state uniform fire prevention and building code.
379. Incorporation of higher standards by council upon recommendation of local government; local building regulations.
380. Granting authority.
381. Administration and enforcement of the New York state uniform fire prevention and building code and the New York state energy conservation construction code.
382. Remedies.
382-a. Buildings with truss type construction; notice requirements and enforcement.
382-b. Residential buildings with truss type, pre-engineered wood or timber construction; notice requirements.
383. Construction with other laws; severability.

§ 370. Short title. This article shall be known and may be cited as the "New York state uniform fire prevention and building code act".

§ 371. Statement of legislative findings and purposes. 1. The legislature hereby finds and declares that:

a. The present level of loss of life, injury to persons, and damage to property as a result of fire demonstrates that the people of the state have yet to receive the basic level of protection to which they are entitled in connection with the construction and maintenance of buildings;

b. There does not exist for all areas of the state a single, adequate, enforceable code establishing minimum standards for fire protection and construction, maintenance and use of materials in buildings. Instead, there exists a multiplicity of codes and requirements for various types of buildings administered at various levels of state and local government. There are, in addition, extensive areas of the state in which no code at all is in effect for the general benefit of the people of the state;

c. The present system of enforcement of fire protection and building construction codes is characterized by a lack of adequately trained personnel, as well as inconsistent qualifications for personnel who administer and enforce those codes;

d. Whether because of the absence of applicable codes, inadequate code provisions or inadequate enforcement of codes, the threat to the public health and safety posed by fire remains a real and present danger for the people of the state; and

e. The multiplicity of fire protection and building construction code requirements poses an additional problem for the people of the state since it increases the cost of doing business in the state by perpetuating multiple requirements, jurisdictional overlaps and business uncertainties, and, in some instances, by artificially inducing high construction costs.

2. The legislature declares that it shall be the public policy of the state of New York to:

a. Immediately provide for a minimum level of protection from the

hazards of fire in every part of the state;

b. Provide for the promulgation of a uniform code addressing building construction and fire prevention in order to provide a basic minimum level of protection to all people of the state from hazards of fire and inadequate building construction. In providing for such a uniform code, it is declared to be the policy of the state of New York to:

(1) reconcile the myriad existing and potentially conflicting regulations which apply to different types of buildings and occupancies;

(2) recognize that fire prevention and fire prevention codes are closely related to the adequacy of building construction codes, that the greatest portion of a building code's requirements are fire safety oriented, and that fire prevention and building construction concerns should be the subject of a single code;

(3) recognize that the decarbonization of new and existing buildings is closely related to the state's clean energy and climate agenda as described in the New York climate leadership and community protection act set forth in chapter one hundred six of the laws of two thousand nineteen, and that the uniform code shall enable the state's clean energy objectives;

(4) place public and private buildings on an equal plane with respect to fire prevention and adequacy of building construction;

(5) require new and existing buildings alike to keep pace with advances in technology concerning fire prevention and building construction, including, where appropriate, that provisions apply on a retroactive basis; and

(6) provide protection to both residential and non-residential buildings;

c. Insure that the uniform code be in full force and effect in every area of the state;

d. Encourage local governments to exercise their full powers to administer and enforce the uniform code; and

e. Provide for a uniform, statewide approach to the training and qualification of personnel engaged in the administration and enforcement

of the uniform code.

§ 372. Definitions. As used in this article, the following terms shall have the meaning ascribed to them, unless the context otherwise requires:

1. "Administrator" means the state fire administrator established pursuant to article six-C of this chapter.

2. "Areas of public assembly" means all buildings or portions of buildings used for gathering together fifty or more persons for amusement, athletic, civic, dining, educational, entertainment, patriotic, political, recreational, religious, social, or similar purposes, the entire fire area of which they are a part, and the means of egress therefrom.

3. "Building" means a combination of any materials, whether portable or fixed, having a roof, to form a structure affording shelter for persons, animals or property. The word "building" shall be construed when used herein as though followed by the words "or part or parts thereof" unless the context clearly requires a different meaning. The term "building" shall also mean "factory manufactured home" and "mobile home". The term "building" shall not include a "temporary greenhouse".

4. "Construction" means the construction, reconstruction, alteration, conversion, repair, installation of equipment or use of buildings, and requirements or standards relating to or affecting materials used in connection therewith, including provisions for safety and sanitary conditions.

5. "Council" means the state fire prevention and building code council created by this article.

6. "Department" means the department of state.

7. "Equipment" means plumbing, heating, electrical, ventilating, air

conditioning, refrigerating equipment, elevators, dumb waiters, escalators and other mechanical additions or installations.

8. "Factory manufactured home" means a structure designed primarily for residential occupancy constructed by a method or system of construction whereby the structure or its components are wholly or in substantial part manufactured in manufacturing facilities, intended or designed for permanent installation, or assembly and permanent installation, on a building site.

9. "Fire area" means the floor area of a story of a building within exterior walls, party walls, fire walls, or any combination thereof.

10. "Fire protection equipment and systems" means apparatus, assemblies, or systems, either portable or fixed, for use to detect, prevent, control, or extinguish fire.

11. "Local government" means a village, town (outside the area of any incorporated village) or city.

12. "Means of egress" means a continuous unobstructed way of exit from any point in a building or structure to a public way. A means of egress comprises the vertical and horizontal ways of travel and includes intervening room spaces, doorways, hallways, corridors, passageways, balconies, ramps, stairs, enclosures, lobbies, escalators, horizontal exits, courts, and yards.

13. "Mobile home" means a moveable or portable unit designed and constructed to be towed on its own chassis, comprised of frame and wheels, connected to utilities, and designed and constructed without a permanent foundation for year-round living. A unit may contain parts that may be folded, collapsed or telescoped when being towed and expanded later to provide additional cubic capacity as well as two or more separately towable components designed to be joined into one integral unit capable of being again separated into the components for repeated towing. "Mobile home" shall mean units designed to be used exclusively for residential purposes, excluding travel trailers.

14. "Office" means the office of fire prevention and control created pursuant to article six-C of this chapter.

15. "Secretary" means the secretary of state.

16. "State agency" means any department, bureau, commission, board, public authority or other agency of the state, including any public benefit corporation any member of whose board is appointed by the governor.

17. "Temporary greenhouse" means specialized agricultural equipment having a framework covered with demountable polyurethane materials or materials of polyurethane nature and lacking a permanent and continuous foundation, which is specifically designed, constructed and used for the culture and propagation of horticultural commodities. A "temporary greenhouse" may include, but is not limited to, the use of heating devices, water and electrical utilities, and supporting poles embedded in non-continuous concrete. In no instance will a temporary greenhouse be used for the retail sale of any farm or non-farm products.

18. "Uniform code" or "code" means the New York state uniform fire prevention and building code promulgated pursuant to section three hundred seventy-seven of this article.

19. "Truss type construction" means a fabricated structure of wood or steel, made up of a series of members connected at their ends to form a series of triangles to span a distance greater than would be possible with any of the individual members on their own.

§ 373. Required immediate applicability of existing state codes. 1. The state building construction code provided for in article eighteen of this chapter, as added by chapter eight hundred of the laws of nineteen hundred fifty-one and the state building conservation and fire prevention code provided for in article eighteen-A of this chapter shall be applicable from and after the first day of March, nineteen hundred

eighty-two in every local government that does not on such date have in effect a building or fire protection code. Said state building construction code and state building conservation and fire prevention code shall also be applicable in every local government that on the first day of March, nineteen hundred eighty-two has a building or fire prevention code in effect but which prior to the first day of January, nineteen hundred eighty-four, repeals such code, provided, however, that in the case of any such repeal, the state building construction code and the state building conservation and fire prevention code shall apply within such local government from and after the date of such repeal.

2. The secretary shall, within thirty days after the effective date of this article, notify the elective or appointive chief executive officer or, if there be none, the chairman of the legislative body of each local government and county of the provisions of this section.

3. The secretary shall, within ninety days after the effective date of this article, promulgate regulations establishing minimum standards for administration and enforcement of the state building construction code and the state building conservation and fire prevention code by local governments to which this section applies.

4. Within sixty days after the effective date of the regulations required by subdivision three of this section the elective or appointive chief executive officer of each local government to which this section applies shall report in writing to the executive or appointive chief executive officer or, if there be none, the chairman of the county legislative body of the county in which the local government is situated, the measures it has taken or contemplates taking for administration and enforcement of the state building construction code and the state building conservation and fire prevention code.

5. Within one hundred twenty days after the effective date of the regulations required by subdivision three of this section the elective or appointive chief executive officer or, if there be none, the chairman of the county legislative body shall forward to the secretary the reports of the local governments required by subdivision four of this

section together with a report of the measures such county or local government has taken or contemplates taking for administration and enforcement of the state building construction code and the state building conservation and fire prevention code.

6. On and after the first day of March, nineteen hundred eighty-two, the provisions of subdivisions three, four and five of section three hundred eighty-one of this article shall immediately apply to the administration and enforcement of the state building construction code and the state building conservation and fire prevention code by every local government in which such codes have been made applicable pursuant to this section.

§ 373-a. Code comparison study and report. 1. Examination and study of the New York state uniform fire prevention and building code. a. The secretary, through the department of state's code division, shall perform, oversee, and/or commission a study comparing the New York state uniform fire prevention and building code to the national building and fire codes presently in force and promulgated by Building Officials and Code Administrators International, Inc (BOCA).

b. The secretary, through the department of state's code division, shall further perform, oversee and/or commission a study comparing the present New York state energy, plumbing, and mechanical codes to the energy, plumbing and mechanical code presently in force and promulgated by Building Officials and Code Administrators International, Inc (BOCA). The secretary, through the department of state's code division shall also perform, oversee and/or commission a study comparing the present New York state plumbing code to the international plumbing code and the uniform plumbing code.

c. The secretary, through the department of state's code division, shall also perform, oversee and/or commission a study comparing the present provisions of the state, uniform fire prevention and building code relating to fire safety to the provisions of the fire prevention code presently in force and promulgated by the National Fire Protection

Association (NFPA1).

2. Report on the examination and study of the New York state uniform fire prevention and building code. On or before the fifteenth day of November, nineteen hundred ninety-eight, the secretary, through the department of state's code division, shall issue a report on the examinations and studies prescribed by subdivision one of this section, and shall provide a copy of such report to the governor, the temporary president of the senate, the speaker of the assembly, the chair of the senate standing committee on housing, construction and community development, the chair of the assembly standing committee on governmental operations and the chair of the assembly standing committee on housing. Such report shall:

a. Make an express line by line comparison between the provisions of:

(i) the present New York state uniform fire prevention and building code and national building and fire codes presently in force and promulgated by Building Officials and Code Administrators International, Inc (BOCA);

(ii) the present New York state energy, plumbing, mechanical codes and the energy, plumbing and mechanical code presently in force and promulgated by Building Officials and Code Administrators International, Inc (BOCA);

(iii) the present New York state plumbing code and the international plumbing code;

(iv) the present New York state plumbing code and the uniform plumbing code;

(v) the present provisions of the New York state uniform fire prevention and building code relating to fire safety and the provisions of the fire prevention code presently in force and promulgated by the National Fire Protection Association (NFPA1); and

b. Report on the similarities of, and differences between each such aforementioned code with respect to:

(i) public safety;

(ii) ease of use and clarity of understanding;

(iii) effectiveness of enforcement;

(iv) ease and effectiveness of administration;
(v) user cost savings;
(vi) compatibility with other state and international codes; and
(vii) potential for promoting economic development.

*** § 373-b. Standards for single-exit, single stairway multi-unit residential buildings study.** The council shall conduct a study relating to standards for egress including provisions for multi-unit residential buildings above three stories, up to at least six stories. Such study shall consider examining existing building codes for single-exit, single stairway multi-unit residential buildings above three stories, up to at least six stories in the city of New York and in other cities and jurisdictions that have adopted provisions allowing for the construction of such buildings into their building codes. Such study shall be completed on or before July first, two thousand twenty-six. The council shall consider such study findings and amend the uniform code if necessary.

* NB Repealed January 1, 2029

§ 374. State fire prevention and building code council. 1. There is hereby created and established in the department of state a council, to be known as the state fire prevention and building code council. Such council shall consist of the secretary of state, as chairperson, the state fire administrator and seventeen other members to be appointed as follows:

a. Three members, to be appointed by the governor, from among the commissioners of the departments of economic development, environmental conservation, corrections and community supervision, education, health, labor, agriculture and markets, mental health and social services, office of general services, division of housing and community renewal, the president of the New York state energy research and development authority, and the superintendent of financial services.

b. Six members, to be appointed by the governor, one of whom shall be

an elected official of a city with a population over one million, one of whom shall be an elected official of another city with a population over one hundred thousand, one of whom shall be an elected official of any other city, one of whom shall be an elected county official, one of whom shall be an elected town official, and one of whom shall be an elected village official.

c. Eight members, to be appointed by the governor with the advice and consent of the senate, one of whom shall be a fire service official, one of whom shall be a registered architect, one of whom shall be a professional engineer, one of whom shall be a code enforcement official, one of whom shall represent builders, one of whom shall represent trade unions, one of whom shall represent agricultural producers, and one of whom shall be a person with a disability as defined in section two hundred ninety-two of this chapter who would directly benefit from the provisions of article thirteen of the state uniform fire prevention and building code. The registered architect and professional engineer shall be duly licensed to practice their respective professions in the state of New York. After the certification of code enforcement personnel pursuant to this chapter shall have begun said code enforcement official shall be so certified.

2. The members of the council, other than the ex-officio members, shall serve for terms of four years provided, however, that any member appointed pursuant to paragraph b of subdivision one of this section shall cease to be a member of the council when such member no longer holds the elective office which made such member eligible to appointment under such paragraph. Such terms shall commence on April first and expire on March thirty-first provided, however, that of the members first appointed pursuant to paragraph b of subdivision one of this section, three shall be appointed for terms of four years and three for a term of two years, of the members first appointed pursuant to paragraph c of subdivision one of this section, three shall be appointed for terms of four years and three for a term of two years, and the member first appointed pursuant to paragraph d of subdivision one of this section shall be appointed for a term of four years. Vacancies shall be filled for unexpired terms in the same manner as the original

appointments.

3. The council shall meet at least quarterly at the call of the chairperson. Additional meetings may be called upon at least five days' notice by the chairperson or by petition of five members of the council.

4. No member of the council shall be disqualified from holding any other public office, nor shall employment be forfeited by reason of the member's appointment hereunder, notwithstanding the provisions of any general, special or local law, ordinance, county or city charter.

5. Each member of the council, other than a full-time government official, shall receive per diem compensation at the rate of one hundred fifty dollars per day for each day spent in the performance of his duties. All members of the council shall receive actual and necessary expenses incurred in the performance of their duties.

6. The governor may remove any member for inefficiency, neglect of duty or misconduct in office after giving him a copy of the charges against him and an opportunity to be heard, in person or by counsel in his defense, upon not less than ten days notice. If any member shall be so removed, the governor shall file in the office of the secretary of state a complete statement of charges made aginst such member, and his finding thereon, together with a complete record of the proceedings.

7. The ex-officio members of the council and the elected county and local government official members appointed pursuant to paragraph b of subdivision one of this section may, by official authority filed in their respective agencies, county or local governments and with the secretary, designate a deputy or other officer of their respective agency, county or local government to exercise their powers and perform their duties on the council.

8. The council may create such subcommittees as it may from time to time deem appropriate to provide it with advice and recommendations concerning the performance of its duties under this article.

9. a. The chairperson of the council shall appoint an advisory board on assistive listening systems in places of public assembly for the purposes of providing the full council with recommendations for standards for such systems. Such advisory board shall consist of the state fire administrator, who shall serve as chairperson, and six other members to be appointed as follows:

(i) three members from among the members of the state fire prevention and building code council,

(ii) three members one of whom shall represent an organization which serves as an advocate for the deaf and hard of hearing, one of whom shall represent consumers of products designed for the deaf and hard of hearing, and one of whom represents an institution of higher education with expertise in the area of assistive listening technology, who shall be entitled to be reimbursed for necessary travel and incidental expenses out of monies appropriated to the division of housing and community renewal.

b. Such advisory board shall, prior to December thirty-first, nineteen hundred eighty-nine, submit to the state fire prevention and building code council:

(i) findings on the extent of existing federal, state and local requirements for assistive listening systems,

(ii) findings on the type, design and use of existing assistive listening systems,

(iii) recommendations for design and installation standards for assistive listening systems intended for places of public assembly, and

(iv) recommendations for capacity standards for places of public assembly which shall be required to install assistive listening systems.

c. In developing such recommendations the advisory board shall take into consideration the costs of such systems, the standardization and compatibility of such systems, if the technology permits, and the utilization of such systems by the consumer who is deaf or hard of hearing. Particular attention should be given to the ability of consumers to utilize a single receiver which is compatible in a variety of installations employing the same assistive listening device technology.

d. In addition, the advisory board shall ensure, to the extent possible, that the standards developed for the design and installation of assistive listening systems take into consideration the opportunity for competition among manufacturers of the same or various approved systems.

§ 375. Powers of the council. The council is authorized and empowered: 1. To subpoena witnesses, take testimony, compel production of books and records and to hold public hearings. The secretary may designate one or more members of the council, or one or more officers or employees of the department, or the administrator, on request of the secretary, may designate one or more employees of the office, to hold public hearings and report on such hearings to the council.

2. To study the operation of the uniform fire prevention and building code, the state energy conservation construction code established by article eleven of the energy law, local regulations and other laws relating to the construction of buildings and the protection of buildings from fire to ascertain their effects upon the cost of building construction and the effectiveness of their provisions for health, safety and security, particularly as such provisions relate to the protection of life and property from the dangers of fire.

3. To recommend tests and approvals or to require the testing and approval of materials, devices and methods of construction to ascertain their acceptability under the requirements of the uniform fire prevention and building code.

4. To advise and assist the secretary in carrying out the provisions and purposes of this article and to make recommendations concerning the program and activities of the office and appointments to be made by the secretary in connection with the uniform fire prevention and building code.

5. To make and establish and, from time to time, alter and amend rules

for the organization and internal management of the council, and for such other purposes as may be necessary, desirable or proper in carrying out its powers and duties under this article.

6. To avoid duplication of effort and in the interest of economy, the council may make use of existing studies, surveys, plans, data and other materials in the possession of any state agency. Each such agency is hereby authorized and directed to make the same available to the council and otherwise to assist it in the performance of its functions. The officers and personnel of such agencies may serve at the request of the council upon such advisory committees as the council shall determine to create and such officers and personnel may serve upon such committees without forfeiture of office or employment and with no loss or diminution in the compensation, status, rights and privileges which they otherwise enjoy.

7. To review and approve standards established by rules and regulations promulgated by the commissioner of health for the implementation of item (ii) of clause (a) of section three hundred twenty-two-c of the general business law.

8. To examine, evaluate, and make recommendations concerning the standardization of the uniform code and local building codes and permit processes for the purpose of facilitating and encouraging the installation and operation of solar and wind energy generating systems throughout the state. For this purpose, the council is authorized to hold public hearings and consult with the solar and wind energy generating industry throughout the state. Any recommendations formulated pursuant to this subdivision shall be submitted to the governor, the secretary of state, the temporary president of the senate and the speaker of the assembly along with such legislative proposals as the council deems necessary to implement its recommendations.

9. To examine, evaluate, and make recommendations concerning the standardization of the uniform code and local building codes and permit processes for the purpose of protection against the effects of sea level rise, flooding, saltwater corrosion, coastal or riparian erosion,

storms, and other degradation that may arise out of characteristics of the coastal environment or structures located wholly or partially in a Federal Emergency Management Agency ("FEMA") designated (i) Special Flood Hazard Area according to FEMA's current flood insurance rate maps, or (ii) a Moderate Risk Flood Hazard Area according to FEMA's current flood insurance rate maps. For this purpose, the council is authorized to hold public hearings and consult with relevant stakeholders throughout the state. Any recommendations formulated pursuant to this subdivision shall be submitted to the governor, the secretary of state, the temporary president of the senate and the speaker of the assembly along with such legislative proposals as the council deems necessary to implement its recommendations.

§ 376. Powers of the secretary. The secretary is authorized and empowered: 1. To assign to the council such officers and employees of the department as he may deem necessary from time to time to assist the council in carrying out its functions and duties under this article.

2. To appoint experts, consultants, technical advisers and advisory committees for assistance and recommendations relative to the formulation and adoption of the uniform fire prevention and building code and to assist the council and the secretary in carrying out the purposes of this article.

3. To authorize or provide for the testing and approval of materials, devices and methods of construction.

4. To issue and to publish or cause to be published, including but not limited to publication on the department's website, written interpretations of the uniform code upon written request of a permit applicant or an official responsible for the administration and enforcement of the provisions of such code. Subsequent enforcement of such code shall be consistent with such written interpretations.

5. To do all things necessary or desirable to further and effectuate the general purposes and specific objectives of this article.

6. To issue and to post or cause to be posted a document summarizing the current requirements for swimming pools contained in the uniform code, as such code may from time to time be amended, on the department's website. Such document shall include reference to the fact that local laws regarding fencing and other safety requirements for swimming pools may be more restrictive than requirements for swimming pools contained in the uniform code.

§ 376-a. Code enforcement training and certification. 1. For the purpose of this section, the term code enforcement personnel shall mean a code enforcement official certified pursuant to this section charged with enforcement of the uniform fire prevention and building code or the state energy conservation construction code.

2. In addition to the functions, powers and duties otherwise provided by this article, the secretary of state shall promulgate rules and regulations with respect to:

(a) The approval, or revocation thereof, of code enforcement training programs for code enforcement personnel;

(b) Minimum courses of study, attendance requirements, and equipment and facilities to be required for approved code enforcement training programs for code enforcement personnel;

(c) Minimum training and examination requirements to qualify for code enforcement officer certification, provided that such training and examination requirements shall not result in code enforcement personnel that have otherwise completed the minimum basic training requirements in order to be eligible for continued employment or permanent appointment as of the effective date of chapter four hundred sixty-eight of the laws of two thousand seventeen from being ineligible without further training or examination for certification pursuant to paragraph (d) of this subdivision;

(d) Issuance of a code enforcement officer certification when an applicant satisfies the requirement set forth in paragraph (c) of this subdivision;

(e) Revocation or suspension of the certification of any code

enforcement personnel found after a hearing to have materially failed to uphold duties of a code enforcement officer, including but not limited to, making material errors or omissions on an inspection report. The hearing required prior to such revocation or suspension shall provide the code enforcement officer the opportunity to be heard and shall be conducted pursuant to article three of the state administrative procedure act;

(f) Minimum qualifications for instructors for approved code enforcement training programs for code enforcement personnel;

(g) The requirements of minimum basic training which code enforcement personnel shall complete in order to be eligible for continued employment or permanent appointment, and the time within which such basic training must be completed following such appointment, provided however, that absent a written extension from the secretary of state for good cause shown, the minimum basic training requirements shall be completed within six months from the date of appointment for building safety inspectors and within twelve months from the date of appointment for code enforcement officials, provided further that a building safety inspector must complete at least one-third of required basic training courses prior to performing building safety inspector enforcement activities; and a code enforcement official must complete at least one-sixth of required basic training courses prior to performing building safety inspector enforcement activities and must complete two-thirds of required basic training courses prior to performing code enforcement official enforcement activities;

(h) The requirements for in-service training programs designed to assist code enforcement personnel in maintaining skills and being informed of technological advances which shall include topics on changes in law, advancements in construction techniques, or detection and remediation of common violations of the uniform code and/or energy code;

(i) Categories or classifications of advanced in-service training programs and minimum courses of study and attendance requirements with respect to such categories or classifications;

(j) The prohibition of continued employment of an individual as code enforcement personnel whose certification has been suspended or revoked, unless such individual has received an extension to achieve an active certification by the secretary of state upon a showing of good cause.

Where such suspension or revocation is the result of failure to complete in-service training pursuant to paragraph (h) of this subdivision, any adverse employment action shall be based on negligent failure to complete the required hours. Nothing in this section shall be deemed to diminish the rights, privileges, or remedies of any applicant or current or former employee under any other law or regulation or under any collective bargaining agreement or employment contract; and

(k) Exemptions from particular provisions of this article in the case of any county, city, town, or village if in the opinion of the secretary of state the standards of code enforcement training established and maintained by such county, city, town, or village are equal to or higher than those established pursuant to this article; or revocation in whole or in part of such exemption, if in his or her opinion the standards of code enforcement training established and maintained by such county, city, town, or village are lower than those established pursuant to this article.

3. In furtherance of his or her functions, powers and duties as set forth in this section, the secretary of state may:

(a) Recommend studies, surveys and reports to be made by the department of state regarding the carrying out of the objectives and purposes of this section;

(b) Visit and inspect any code enforcement training programs approved by the secretary of state or for which application for such approval has been made; and

(c) Recommend standards for promotion to supervisory positions.

4. In addition to the functions, powers and duties otherwise provided by this section, the secretary of state shall:

(a) Approve code enforcement training programs for code enforcement personnel that can be completed online, with flexible scheduling options that allow for completion at the desired time and pace of such code enforcement personnel, and issue certificates of approval to such programs, and revoke such approval or certificate;

(b) Certify, as qualified, instructors for approved code enforcement training programs for code enforcement personnel and issue appropriate certificates to such instructors;

(c) Certify code enforcement personnel who have satisfactorily completed basic training programs and in-service training programs, and issue appropriate certificates to such code enforcement personnel, and revoke such certificate;

(d) Investigate and conduct hearings as appropriate relative to complaints made against code enforcement personnel;

(e) Cause studies and surveys to be made relating to the establishment, operation, effectiveness and approval of code enforcement training programs;

(f) Cause studies and surveys to be made relating to the completion or partial completion of training programs by video or computer to the maximum extent practicable;

(g) Consult with and cooperate with the state university of New York and private universities, colleges and institutes in the state for the development of specialized courses of study for code enforcement personnel.

§ 377. New York state uniform fire prevention and building code. 1. The council shall formulate a uniform fire prevention and building code which shall take effect on the first day of January, nineteen hundred eighty-four. The council may from time to time amend particular provisions of the uniform code and shall periodically review the entire code to assure that it effectuates the purposes of this article and the specific objectives and standards hereinafter set forth. The secretary shall conduct public hearings on said uniform code and any amendment thereto. The secretary shall review such code or amendment, together with any changes incorporated by the council as a result of such hearings, to insure that it effectuates the purposes of this article. Upon being so satisfied, the secretary shall approve said code or amendment prior to its becoming effective.

2. The uniform fire prevention and building code shall:

a. provide reasonably uniform standards and requirements for construction and construction materials for public and private buildings, including factory manufactured homes, consonant with accepted

standards of engineering and fire prevention practices;

b. formulate such standards and requirements, so far as may be practicable, in terms of performance objectives, so as to make adequate performance for the use intended the test of acceptability;

c. permit to the fullest extent feasible, use of modern technical methods, devices and improvements which tend to reduce the cost of construction without substantially affecting reasonable requirements for the health, safety and security of the occupants or users of buildings;

d. encourage, so far as may be practicable, the standardization of construction practices, methods, equipment, material and techniques; and

e. eliminate restrictive, obsolete, conflicting and unnecessary building regulations and requirements which tend to increase unnecessarily construction costs or retard unnecessarily the use of new materials, or provide unwarranted preferential treatment to types or classes of material or products or methods of construction.

§ 378. Standards for New York state uniform fire prevention and building code. The uniform code shall address the following subjects:

1. Standards for the construction of all buildings or classes of buildings, or the installation of equipment therein, including standards for materials to be used in connection therewith, and standards for safety and sanitary conditions. Notwithstanding the above, sleeping quarters in a children's overnight camp as defined in subdivision one of section thirteen hundred ninety-two of the public health law shall be governed by subdivision one of section thirteen hundred ninety-four of such law.

1-a. a. Standards for the construction of all new buildings and for the construction or renovation of existing buildings that undergo a substantial improvement, as defined by the council, located wholly or partially in an area designated on the applicable Federal Emergency

Management Agency ("FEMA") flood insurance rate map, as amended from time to time, as a Special Flood Hazard Area or Moderate Risk Flood Hazard Area, for the purposes of safeguarding life and property therein and thereabout from the hazards of sea level rise, flooding, saltwater corrosion, coastal or riparian erosion, storms, and other degradation that may arise out of characteristics of the coastal environment.

b. The standards in paragraph a of this subdivision shall (i) be developed to address future physical climate risk due to sea level rise, and/or storm surges and/or flooding, based on available data from nationally recognized sources or data produced by state agencies based on nationally recognized procedures, analysis, and studies predicting the likelihood of extreme weather events, including hazard risk analysis data if applicable, and after consultation with the department of environmental conservation, and (ii) if appropriate, provide for regular inspection, and repair, as necessary, of the interior structural elements of buildings.

2. Standards for the condition, occupancy, maintenance, conservation, rehabilitation and renewal of certain existing buildings, structures and premises and for the safeguarding of life and property therein and thereabout from the hazards of fire, explosion or release of toxic gases arising from the storage, handling or use of combustible or hazardous substances, materials or devices.

3. Standards for passenger elevators to promote uniformity and ease of use for individuals with disabilities including, but not limited to:

a. placement and identification of operating controls,

b. door jamb markings,

c. operation and leveling features,

d. operation, width, and safety features for doors,

e. hall buttons, and

f. hall lanterns.

3-a. a. Standards for emergency planning and preparedness for high-rise buildings that address the needs of individuals with disabilities which shall be developed in consultation with organizations that advocate on behalf of individuals with disabilities to be identified by the department of state in consultation with the office of the chief disability officer.

b. The standards to be developed shall consider but not be limited to:

(i) procedures for evacuating individuals with disabilities;

(ii) if it is necessary for the fire safety and emergency evacuation plan that the owner or the owner's agent shall establish and maintain to include a list of names and room numbers for individuals with disabilities who have affirmatively notified the owner or the owner's agent that they are disabled, would require assistance in the event of an emergency and have requested that their names and room numbers be included in such list;

(iii) if it is necessary for the fire safety and emergency evacuation plan that the owner or the owner's agent shall establish and maintain to include a notification mechanism to the occupants that a list of individuals with disabilities who would need assistance in case of an emergency may exist and is maintained by the owner or the owner's agent, that such list would include only those individuals who have requested inclusion, that such list would be made available to building staff and management as well as local law enforcement and fire safety personnel, and the method by which occupants can affirmatively place their name on such list;

(iv) if it is necessary for the fire safety and emergency evacuation plan that the owner or the owner's agent shall establish and maintain to include information on the location and type of evacuation assistance devices or assistive technologies that are available within the building; and

(v) if it is necessary for the fire safety and emergency evacuation plan that the owner or the owner's agent shall establish and maintain to contain floor plans identifying the locations of accessible egress

routes, including areas of refuge and exterior areas for assisted care.

c. Notwithstanding any provision of law to the contrary, standards developed pursuant to this subdivision shall specify that:

(i) it shall be the duty of every owner of a high-rise building, or of the owner's agent, to establish and maintain a fire safety and emergency evacuation plan as provided for in this subdivision;

(ii) the owner or owner's agent shall make the fire safety and emergency evacuation plan available in the building for reference and review by building management and staff, subject to paragraph h of this subdivision, and by building occupants, provided that if any such plan is required to include a list of individuals with disabilities who have affirmatively notified the owner or the owner's agent that they are disabled, would need assistance in the case of an emergency, and have requested that their names and room numbers be included in such list, building occupants shall not be given access to any such list of individuals with disabilities and their room numbers;

(iii) copies of the fire safety and emergency evacuation plan shall be provided to local law enforcement and fire safety personnel upon request; and

(iv) the fire safety and emergency evacuation plan shall be made available in a large-print document (18-point font size or larger); Braille (Grade II); and/or any other alternative formats upon request, subject to the limitations on dissemination to building occupants of any list of individuals with disabilities and their room numbers contained in subparagraph (ii) of this paragraph.

d. A copy of the fire safety and emergency evacuation plan shall be maintained at all times in a place easily accessible by law enforcement and/or fire safety personnel. Such a place may include but is not limited to the management office, the security desk, in the vicinity of the firefighter's elevator recall key, the life safety panel, or the fire pump room.

e. On an annual basis, every high-rise building owner or the agent of such owner shall update the fire safety and emergency evacuation plan and provide occupants with a notice detailing the provisions of the fire

safety and emergency evacuation plan.

f. As used in this subdivision, "high-rise building" means a building with an occupied floor located more than seventy-five feet above the lowest level of fire department vehicle access.

g. Notwithstanding any other provision of this subdivision, (i) this subdivision shall not apply to hospitals as defined in subdivision one of section twenty-eight hundred one of the public health law, assisted living residences licensed under article forty-six-B of the public health law, and adult care facilities licensed under article seven of the social services law; and (ii) residential high-rise buildings whose units are limited to households containing residents fifty years of age and older and that have implemented specialized evacuation plans in consultation with local first responders may use those plans to satisfy the requirements of this subdivision.

h. Any building management, building staff, local law enforcement and fire safety personnel who receive, as part of or in connection with a fire safety and emergency evacuation plan developed pursuant to this subdivision, a list of individuals with disabilities who require assistance in the event of an emergency shall maintain the confidentiality of the information in such list and shall use and disclose it only for purposes permitted pursuant to this subdivision or any standards developed pursuant to this subdivision.

4. Standards for areas of public assembly requiring:

a. approved fire protection equipment and systems shall be installed;

b. interior finishes shall be of appropriate grade to materially retard the spread of smoke and flame, taking into consideration the fire protection equipment and systems in place, and shall be maintained in that condition;

c. no combustible material shall be placed in such amounts and locations as would cause existing fire protection equipment and systems

to be substantially overburdened, nor shall any material be placed in such manner as would cause safe exit to be significantly impeded; and

d. incorporation of the retroactivity provisions of article eighteen-AA of this chapter.

e. for buildings included in group C5 of paragraph (f) of section 900.2 of title nine of the official compilation of codes, rules and regulations of the state of New York, that water closets and urinals provided for occupants, based upon capacity, shall be deemed sanitary fixtures and shall be distributed on a basis such that the number of such sanitary fixtures provided in rest facilities for men shall be equal to the number of water closets provided in rest facilities provided for women in buildings with an occupancy of four hundred or less. For buildings consisting of more than four hundred occupants, an additional water closet shall be added to a rest facility provided for women for each sanitary fixture added to a similarly situated rest facility provided for men.

The standards shall include provisions for the type, number, spacing and location of fire protection equipment and systems, the classification and maintenance of interior finishes, and the accumulation of materials.

5. Standards for hotels, motels and lodging houses, requiring that a notice be posted in a prominent place in each guest room, including but not limited to the following information:

a. location of nearest exits and fire alarms;

b. procedures to be followed when the fire or smoke detector gives warning; and

c. procedures to be followed in the event of fire or smoke development.

5-a. Standards for installation of carbon monoxide detectors requiring

that every one or two-family dwelling, or any dwelling accommodation located in a building owned as a condominium or cooperative in the state or any multiple dwellings shall have installed an operable carbon monoxide detector of such manufacture, design and installation standards as are established by the council. Carbon monoxide detectors required by this section are required only where the dwelling unit has appliances, devices or systems that may emit carbon monoxide or has an attached garage. For purposes of this subdivision, multiple dwelling means a dwelling which is either rented, leased, let or hired out, to be occupied, or is occupied as the temporary or permanent residence or home of three or more families living independently of each other, including but not limited to the following: a tenement, flat house, maisonette apartment, apartment house, apartment hotel, tourist house, bachelor apartment, studio apartment, duplex apartment, kitchenette apartment, hotel, lodging house, rooming house, boarding house, boarding and nursery school, furnished room house, club, sorority house, fraternity house, college and school dormitory, convalescent, old age or nursing homes or residences. It shall also include a dwelling, two or more stories in height, and with five or more boarders, roomers or lodgers residing with any one family. New construction shall mean a new facility or a separate building added to an existing facility.

5-b. Standards for installation of smoke detecting alarm devices requiring that:

a. every one or two-family dwelling or any dwelling accommodation located in a building owned as a condominium or cooperative in the state used as a residence shall have installed an operable single station smoke detecting alarm device or devices,

b. such device or devices shall be installed in an area so that it is clearly audible in each bedroom or other room used for sleeping purposes, with intervening doors closed, in accordance with rules to be promulgated by the council,

c. every residential building with a common space or common spaces shared between three or more dwelling units shall have installed an

operable smoke detecting alarm device, devices, system or systems such that an alarm notification is clearly audible in each common space, with rules to be promulgated by the council in accordance with nationally recognized standards. The council shall define common spaces for the purposes of the standards promulgated pursuant to this paragraph, provided that such definition shall include any spaces accessible by all residents, including, but not limited to, lobbies, hallways, and stairwells,

d. such device or devices shall be in compliance with the uniform code, provided, however, that for purposes of this subdivision, battery operated devices shall be permitted,

e. upon conveyance of any real property containing a one or two-family dwelling or a condominium unit used as a residence and the transferor of the shares allocated to an apartment located in a building owned by a cooperative housing corporation where such apartment is used as a residence, the grantor shall deliver to the grantee at the time of conveyance an affidavit indicating that the grantor is in compliance with this subdivision. The grantee shall have ten days from the date of conveyance within which to notify the grantor if the alarm or alarms are not operable. Upon notification, the transferor shall bear any cost of compliance with the provisions of this subdivision,

f. notwithstanding any other provision of law, a failure to comply with the provisions of this subdivision shall not be a breach of any warranty in a conveyance of real property, nor shall it be a defense to any claim made under a policy of insurance issued to insure the property against fire or other casualty loss.

5-c. Standards for inspections of solid fuel burning heating appliances, chimneys and flues requiring:

a. prior to the installation of any solid fuel burning heating appliance, chimney or flue in any dwelling used as a residence, the owner thereof, or his agent, shall first secure a building permit from the appropriate local government official;

b. an appropriate and qualified inspector, as determined by the local government, shall cause an inspection to be made of the solid fuel burning heating appliance, chimney or flue at a time when such inspection will best determine conformity of such installation with the uniform code, provided, however, that the local government official may waive such inspection for good cause shown;

c. upon approval of such installation, the appropriate local government official shall issue a certificate evidencing compliance with the appropriate provisions of the uniform code;

d. no owner of any dwelling used as a residence shall operate, or cause to be operated, any solid fuel burning heating appliance until such installation, including chimney and flue, has been approved and a certificate indicating such approval obtained from the appropriate local government official;

e. in the event of an accidental fire, requiring the services of a fire department, in a solid fuel burning heating appliance, chimney or flue, the chief of the fire department so responding may issue a temporary thirty day certificate indicating substantial conformity with the uniform code, until such time as an official inspector, as determined by local law, or in the case of a locality that relies on state inspection, a state inspector, shall cause an inspection to be made and a certificate to be issued indicating conformity of such solid fuel burning heating appliance, chimney or flue with the uniform code;

f. the issuance of such certificate of compliance shall not be deemed to give rise to any claim or cause of action for damages against the local government or local official for damages resulting from operation or use of such solid fuel burning heating appliance, chimney or flue;

g. the local government in which such property is located may establish and collect a reasonable fee for such inspection from the owner of such property or his agent;

h. any violation of this subdivision shall be deemed a violation and be punishable by a fine not to exceed two hundred fifty dollars;

i. notwithstanding the foregoing provisions of this subdivision, in the event of an emergency, where a delay occasioned by the requirement of securing a building permit could reasonably be expected to cause irrepairable damage to the property or serious personal injury to the occupants or other person, the owner or his agent may commence such installation without first obtaining such building permit provided application therefore is filed within three business days after such work is commenced.

5-d. Standards for installation of carbon monoxide detecting devices requiring that the owner of every building that contains one or more restaurants and the owner of every commercial building in the state shall have installed in such building and shall maintain operable carbon monoxide detecting device or devices of such manufacture, design and installation standards as are established by the council. Carbon monoxide detecting devices shall only be required if the restaurant or commercial building has appliances, devices or systems that may emit carbon monoxide or has an attached garage.

6. Standards for the use of lead in water supply systems constructed or portions added on or after January first, nineteen hundred eighty-six, including limiting the amount of lead in solder which may be utilized in piping to convey potable water to not more than two-tenths of one percent.

7. Standards for the construction of water supply systems which shall prohibit the use of asbestos cement pipe to convey potable water for any new or modified construction on or after January first, nineteen hundred ninety-two.

8. Standards for hotels, motels and lodging houses requiring (in addition to any other requirement) portable smoke-detecting alarm devices for the deaf and hard of hearing of audible and visual design, available for three percent of all units available for occupancy, with a

minimum of one unit. If any other law or regulation requires a central, closed circuit interior alarm system, such device shall be incorporated into or connected to the system so as to be capable of being activated by the system. Incorporation into the existing system shall be in lieu of the portable alarms. Standards shall require operators of any such establishment to post conspicuously at the main desk or other similar station a notice in letters at least three inches in height stating that smoke-detector alarm devices for the deaf and hard of hearing are available. The council shall mandate by rule and regulation the specific design of the smoke-detector alarm devices.

9. Standards for buildings (designated as "Group B3-senior citizens" in regulations promulgated pursuant to the New York state uniform fire prevention and building code act) housing senior citizens, intended primarily for persons sixty-two years old or more, who are in good physical condition and do not require physical assistance, requiring that a notice be posted in a prominent place in each residential unit, including but not limited to the following information:

a. location of nearest exits and fire alarms;

b. procedures to be followed when the fire or smoke detector gives warning; and

c. procedures to be followed in the event of fire or smoke development.

10. Standards for assistive listening systems for new construction commenced after January first, nineteen hundred ninety-one requiring the installation of assistive listening systems at all places of public assembly so designated by the appropriate building and fire code for use by persons who are deaf or hard of hearing who require use of such a system to improve their reception of sound.

a. For purposes of this subdivision, the term (i) "assistive listening system" shall mean situational-personal acoustic communication equipment designed to improve the transmission and auditory reception of sound;

and

(ii) "place of public assembly" shall mean a facility which is open to the public as a theater, meeting hall, hearing room, amphitheater, auditorium, or in any other similar capacity.

b. Standards for such systems shall be developed by the state fire prevention and building code council upon receiving recommendations from the advisory board on assistive listening systems in places of public assembly.

c. The appropriate building code or ordinance shall designate such places of public assembly which shall be required to install such assistive listening systems.

11. Standards for buildings shall authorize the installation of potable water heaters for all domestic uses, including space heating.

* 12. a. Standards for bed and breakfast dwellings shall be promulgated for fire safety. Notwithstanding any other provision of this article, for the purposes of this subdivision a "bed and breakfast dwelling" shall include an owner-occupied residence providing at least three but not more than five rooms for temporary transient lodgers with sleeping accommodations and a meal in the forenoon of the day. Such standards shall distinguish bed and breakfast dwellings from one and two family dwellings, provide specific options for hard-wired single-station smoke detectors and provide a notice to each guest that contains:

(i) the location of nearest exits and fire alarms;

(ii) procedures to be followed when fire or smoke detectors give warning; and

(iii) procedures to be followed in the event of fire or smoke development.

b. Such standards shall also include egress design options to preserve the aesthetic charm and historical significance of such dwellings that shall be limited to one of the following:

(i) an automatic sprinkler head in the stairwell area of any means of egress;

(ii) an external second floor egress; or

(iii) a portable escape device for each guest room.

c. The standards required by this subdivision shall be promulgated and implemented not later than one hundred twenty days after the effective date of this paragraph.

* NB There are 2 sub 12's

* 12. Standards for hospice residences, as defined in section four thousand two of the public health law, which shall be deemed to be either a single family dwelling or a two family dwelling for the purposes of local laws and ordinances relating to fire safety and building construction standards.

* NB There are 2 sub 12's

13. Standards for the abandonment or removal of heating oil storage tanks and related piping in connection with the conversion of liquid fuel burning appliance to alternative fuel requiring:

a. The entire contents of the heating oil storage tank and related piping shall be emptied, cleaned and purged of all vapor. The contents of the storage tank and related piping shall be removed from the premises or property and disposed of in accordance with applicable local, state or federal rules and regulations;

b. If the heating oil storage tank is to be abandoned in place, the vent line shall remain open and intact, unless the tank is filled with an inert material. The oil fill pipe and other related piping shall either be removed, or the oil fill pipe shall be filled with concrete;

c. If the heating oil storage tank is to be removed, the vent line, oil fill pipe and related piping shall also be removed, or the oil fill pipe shall be filled with concrete;

d. An appropriate and qualified inspector, as determined by the local government, shall cause an inspection to be made of the abandonment or removal in connection with the conversion to determine conformity with the uniform code; provide, however, that the local government official may waive such inspection for good cause shown; and

e. No approval of such abandonment or removal shall be granted unless written proof of the heating oil storage tank's oil fill pipe having been removed or filled with concrete in accordance with appropriate provisions of the uniform code has been provided by the property owner to the local inspector or, in the event that an inspection has been waived for good cause shown, to the local government official.

f. For the purposes of this subdivision, "heating oil storage tank" shall mean a tank used for storing heating oil for consumptive use on the premises where stored.

g. In cities with a population of over one million, such cities' local code provisions shall be at least as stringent as the provisions of this subdivision.

h. The property owner shall provide written notice to his or her home heating oil supplier or suppliers to inform them of such conversion to an alternate fuel prior to the commencement of the new home heating service.

14. Provide that any:

a. gates required to be provided in a swimming pool enclosure shall be self-closing and self-latching, and shall be securely locked with a key, combination or other child proof lock sufficient to prevent access to such swimming pool through such gate when such swimming pool is not in use or supervised. Release mechanism standards shall be developed by the state fire prevention and building code council based on internationally recognized standards;

b. residential or commercial swimming pool constructed or substantially modified after the effective date of this paragraph shall be equipped with an acceptable pool alarm capable of detecting a child entering the water and of giving an audible alarm; and

c. hot tub or spa with a safety cover which complies with American

Society of Testing and Materials International standard F1346 (2003) or any similar standard which may be approved by the council shall be exempt from the provisions of this subdivision and any swimming pool, other than a hot tub or spa, with an automatic power safety cover which complies with American Society of Testing and Materials International standard F1346 (2003) or any similar standard which may be approved by the council shall be exempt from the provisions of paragraph b of this subdivision.

d. temporary swimming pool enclosure shall be required to be replaced by a permanent enclosure which is in compliance with New York state codes, regulations or local laws within ninety days from the issuance of a local building permit or the commencement of the installation of an in-ground swimming pool, whichever is later. A local building department may issue a waiver to allow an extension of such ninety day time period for good cause including but not limited to adverse weather conditions delaying construction.

15. Standards for temporary swimming pool enclosures used during the installation or construction of swimming pools requiring that any such enclosure shall sufficiently prevent any access to such swimming pool by any person not engaged in the installation or construction of such swimming pool and shall sufficiently provide for the safety of any such person.

16. Standards requiring the installation and maintenance of at least one safe, sanitary, and convenient diaper changing station, deck, table, or similar amenity which shall be available for use by both male and female occupants and which shall comply with section 603.5 (Diaper Changing Tables) of the two thousand nine edition of the publication entitled ICC A117.1, Accessible and Usable Buildings and Facilities, published by the International Code Council, Inc., on each floor level containing a public toilet room in all newly constructed buildings in the state that have one or more areas classified as assembly group A occupancies or mercantile group M occupancies and in all existing buildings in the state that have one or more areas classified as assembly group A occupancies or mercantile group M occupancies and

undergo a substantial renovation. The council shall prescribe the type of renovation to be deemed to be a substantial renovation for the purposes of this subdivision. The council may exempt historic buildings from the requirements of this subdivision.

17. Standards requiring that, in each building that has one or more areas classified as assembly group A occupancies or mercantile group M occupancies and in which at least one diaper changing station, deck, table, or similar amenity is installed, a sign shall be posted in a conspicuous place in each public toilet room indicating the location of the nearest diaper changing station, deck, table, or similar amenity that is available for use by the gender using such public toilet room. The requirements of this subdivision shall apply without regard to whether the diaper changing station, deck, table, or similar amenity was installed voluntarily or pursuant to subdivision sixteen of this section or any other applicable law, statute, rule, or regulation. No such sign shall be required in a public toilet room in which any diaper changing station, deck, table, or similar amenity is located.

18. Standards requiring that grease traps or interceptors located in a place that may be accessible by the public, or located inside any food service establishment, or located in any other building that is open to the public, shall be designed and maintained to withstand expected loads and to prevent unauthorized access. Such standards shall also include requiring the installation of a warning sign or symbol, as determined by the council, on or in the vicinity of such grease traps or interceptors. Such standards shall apply to new and existing grease traps and interceptors. For the purposes of this subdivision, "food service establishment" shall have the same meaning as in part fourteen of title ten of the New York code of rules and regulations.

19. a. To support the goal of zero on-site greenhouse gas emissions and help achieve the state's clean energy and climate agenda, including but not limited to greenhouse gas reduction requirements set forth within chapter one hundred six of the laws of two thousand nineteen, also known as the New York state climate leadership and community protection act, the uniform code shall prohibit the installation of

fossil-fuel equipment and building systems, in any new building not more than seven stories in height, except for a new commercial or industrial building greater than one hundred thousand square feet in conditioned floor area, on or after December thirty-first, two thousand twenty-five, and the uniform code shall prohibit the installation of fossil-fuel equipment and building systems, in all new buildings on or after December thirty-first, two thousand twenty-eight.

b. The provisions set forth in paragraph a of this subdivision shall not be construed as applying to buildings existing prior to the effective date of the applicable prohibition, including to:

(i) the repair, alteration, addition, relocation, or change of occupancy or use of such buildings; and

(ii) the installation or continued use and maintenance of fossil-fuel equipment and building systems, including as related to cooking equipment, in any such buildings.

c. In addition, in effectuating the provisions set forth in paragraph a of this subdivision the code shall include exemptions for the purposes of allowing the installation and use of fossil-fuel equipment and building systems where such systems are installed and used:

(i) for generation of emergency back-up power and standby power systems;

(ii) in a manufactured home as defined in subdivision seven of section six hundred one of the executive law; or

(iii) in a building or part of a building that is used as a manufacturing facility, commercial food establishment, laboratory, car wash, laundromat, hospital, other medical facility, critical infrastructure, including but not limited to emergency management facilities, wastewater treatment facilities, and water treatment and pumping facilities, agricultural building, fuel cell system, or crematorium, as such terms are defined by the code council.

d. Where the uniform code includes an allowed exemption pursuant to subparagraph (i) or (iii) of paragraph c of this subdivision, other than agricultural buildings as defined by the council, such exemption shall include provisions that, to the fullest extent feasible, limit the use

of fossil-fuel equipment and building systems to the system and area of the building for which a prohibition on fossil-fuel equipment and building systems is infeasible; except with respect to servicing manufacturing or industrial processes, require the area or service within a new building where fossil-fuel equipment and building systems are installed be electrification ready; and minimize emissions from the fossil-fuel equipment and building systems that are allowed to be used, provided that such provisions do not adversely affect health, safety, security, or fire protection. Financial considerations shall not be sufficient basis to determine physical or technical infeasibility.

e. Exemptions included in the uniform code pursuant to this subdivision shall be periodically reviewed by the code council to assure that they continue to effectuate the purposes of paragraph a of this subdivision and subparagraph three of paragraph b of subdivision two of section three hundred seventy-one of this article to the fullest extent feasible.

f. The code shall allow for exemption of a new building construction project that requires an application for new or expanded electric service, pursuant to subdivision one of section thirty-one of the public service law and/or section twelve of the transportation corporations law, when electric service cannot be reasonably provided by the grid as operated by the local electric corporation or municipality pursuant to subdivision one of section sixty-five of the public service law; provided, however, that the public service commission shall determine reasonableness for purposes of this exemption. For the purposes of this paragraph, "grid" shall have the same meaning as electric plant, as defined in subdivision twelve of section two of the public service law.

g. For the purposes of this subdivision:

(i) "Fossil-fuel equipment and building systems" shall mean (A) equipment, as such term is defined in section 11-102 of the energy law, that uses fossil-fuel for combustion; or (B) systems, other than items supporting an industrial or commercial process as referred to in the definition of equipment in section 11-102 of the energy law, associated with a building that will be used for or to support the supply,

distribution, or delivery of fossil-fuel for any purpose, other than for use by motor vehicles.

(ii) "Electrification ready" means the new building or portion thereof where fossil-fuel equipment and building systems are allowed to be used which contains electrical systems and designs that provide sufficient capacity for a future replacement of such fossil-fuel equipment and building systems with electric-powered equipment, including but not limited to sufficient space, drainage, electrical conductors or raceways, bus bar capacity, and overcurrent protective devices for such electric-powered equipment.

20. a. Except as otherwise provided by statute, no change to the building code shall become effective until at least ninety days after the date on which notice of such change has been published in the state register, unless the council finds that:

(i) an earlier effective date is necessary to protect health, safety and security; or

(ii) the change to the code will not impose any additional compliance requirements on any person.

b. Notwithstanding the provisions of paragraph a of this subdivision, the council may provide that, in the period during which changes to the code have been adopted but are not yet effective pursuant to paragraph a of this subdivision, a person shall have the option of complying with either the provisions of the code as changed or with the code provisions as they were set forth immediately prior to the change.

§ 379. Incorporation of higher standards by council upon recommendation of local government; local building regulations. 1. Except in the case of factory manufactured homes, intended for use as one or two family dwelling units or multiple dwellings of not more than two stories in height, the legislative body of any local government may duly enact or adopt local laws or ordinances imposing higher or more restrictive standards for construction within the jurisdiction of such local government than are applicable generally to such local government in the uniform code. Within thirty days of such enactment or adoption,

the chief executive officer, or if there be none, the chairman of the legislative body of such local government, shall so notify the council, and shall petition the council for a determination of whether such local laws or ordinances are more stringent than the standards for construction applicable generally to such local government in the uniform code. Such local laws or ordinances shall take full force and effect upon an affirmative determination by the council as provided herein.

2. If the council finds that such higher or more restrictive standards are reasonably necessary because of special conditions prevailing within the local government and that such standards conform with accepted engineering and fire prevention practices and the purposes of this article, the council shall adopt such standards, in whole or part. The council shall have the power to limit the term or duration of such standards, impose conditions in connection with the adoption thereof, and to terminate such standards at such times, and in such manner as the council may deem necessary, desirable or proper.

3. Nothing in this article shall be construed to prohibit any municipality from adopting or enacting any building regulations relating to any matter as to which the uniform fire prevention and building code does not provide, but no municipality shall have the power to supersede, void, repeal or make more or less restrictive any provisions of this article or of rules or regulations made pursuant hereto.

4. Within one hundred twenty days after the effective date of the uniform code, a local government may by resolution duly enacted petition the council for a determination as to whether an existing building and/or fire code in force in said local government is more stringent than the uniform code. During the period in which the council is considering such petition such local code shall remain in full force and effect. If, after review, the council determines that such local code is less stringent than the uniform code the council shall notify the chief executive officer or, if there be none, the chairman of the legislative body of such local government and the uniform code shall, thirty days after the date of notification, apply in such local government. If the

council finds that such local code is not less stringent than the uniform code such local code shall continue in full force and effect until the council, upon its own initiative, reviews such local code and determines that it is no longer more stringent, whereupon the council shall notify the chief executive officer or chairman of the legislative body of such local government and thirty days after the date of notification the uniform code shall apply in such local government.

5. Notwithstanding the provisions of subdivision one of this section, the legislative body of Nassau county may have duly enacted or adopted or may duly enact or adopt local laws or ordinances imposing higher or more restrictive standards for construction within the jurisdiction of the county than are applicable generally to the county in the uniform code. The chief executive officer, or if there be none, the chairman of the legislative body of the county, shall notify the council, and shall petition the council for a determination of whether such preexisting local laws or ordinances, or within thirty days of such enactment or adoption of such local laws or ordinances, are more stringent than the standards for construction applicable generally to such county in the uniform code. During the period in which the council is considering such petition, such local laws or ordinances shall remain in full force and effect.

§ 380. Granting authority. The secretary shall administer a program of local assistance to aid local governments in the administration and enforcement of locally adopted or state promulgated building and fire codes. Said program of local assistance shall conform to the requirements of section fifty-four-g of the state finance law. The secretary shall adopt, amend and rescind such rules, regulations and guidelines as may be necessary for the performance of his or her functions, powers and duties under this section.

§ 381. Administration and enforcement of the New York state uniform fire prevention and building code and the New York state energy conservation construction code. 1. The secretary shall promulgate rules

and regulations prescribing minimum standards for administration and enforcement of the uniform fire prevention and building code promulgated in accordance with sections three hundred seventy-seven and three hundred seventy-eight of this article and the state energy conservation construction code adopted in accordance with article eleven of the energy law. Such rules and regulations shall become effective not later than the first day of January, nineteen hundred eighty-five. The secretary shall promulgate such regulations after public hearing and after considering reaction to initial administration and enforcement of the uniform building and fire prevention code, including how local governments have organized to provide for such initial administration and enforcement. Such rules and regulations shall address the nature and quality of enforcement and shall include, but not be limited to the following:

a. frequency of mandatory inspections for compliance with the uniform code and the state energy conservation construction code,

b. number and qualifications of staff, including requirements that inspectors be certified pursuant to this chapter,

c. required minimum fees for administration and enforcement,

d. adequacy of inspections,

e. adequacy of means for insuring compliance with the uniform code and the state energy conservation construction code, including provisions intended to achieve compliance with the state energy conservation construction code consistent with the compliance goals set forth in section 410(2)(C) of the American Recovery and Reinvestment Act of 2009,

f. establishment of a procedure whereby any provision or requirement of the uniform code may be varied or modified in cases where strict compliance with such provision or requirement would entail practical difficulties or unnecessary hardship or would otherwise be unwarranted. Such procedure shall be designed to insure that any such variance or modification shall not substantially affect adversely provisions for

health, safety and security, and that equally safe and proper alternatives may be prescribed. Requests for a variance shall be resolved within sixty days of the date of application unless a longer period is required for good cause shown,

g. procedures for inspection of certain classes of buildings based upon design, construction, ownership, occupancy or use, including, but not limited to, mobile homes, factory manufactured homes and state-owned buildings,

h. minimum basic training and in-service training requirements for personnel charged with administration and enforcement of the state energy conservation construction code;

i. standards and procedures for measuring the rate of compliance with the state energy conservation construction code, and provisions requiring that such rate of compliance be measured on an annual basis; and

j. procedures requiring the documentation of compliance with regulations adopted pursuant to section thirteen hundred seventy-seven of the public health law as a condition to issuance of a certificate of occupancy or certificate of compliance following a periodic fire safety and property maintenance inspection for multiple dwellings.

Nothing in the rules shall require or be construed to require regular, periodic inspections of (A) owner-occupied one and two-family dwellings, or (B) agricultural buildings used directly and solely for agricultural purposes, provided, however that this shall not be a limitation on inspections conducted at the invitation of the owner or where conditions on the premises threaten or present a hazard to public health, safety, or welfare.

2. Except as may be provided in regulations of the secretary pursuant to subdivision one of this section, every local government shall administer and enforce the uniform fire prevention and building code and the state energy conservation construction code on and after the first

day of January, nineteen hundred eighty-four, provided, however, that a local government may enact a local law prior to the first day of July in any year providing that it will not enforce such codes on and after the first day of January next succeeding. In such event the county in which said local government is situated shall administer and enforce such codes within such local government from and after the first day of January next succeeding the effective date of such local law, in accordance with the provisions of paragraph b of subdivision five of this section unless the county shall have enacted a local law providing that it will not enforce such codes within that county. In such event the secretary in the place and stead of the local government shall, directly or by contract, administer and enforce the uniform code and the state energy conservation construction code. A local government or a county may repeal a local law which provides that it will not enforce such codes and shall thereafter administer and enforce such codes as provided above. Two or more local governments may provide for joint administration and enforcement of the uniform code, the state energy conservation construction code, or both, by agreement pursuant to article five-G of the general municipal law. Any local government may enter into agreement with the county in which such local government is situated to administer and enforce the uniform code, the state energy conservation construction code, or both, within such local government. Local governments or counties may charge fees to defray the costs of administration and enforcement.

3. On and after the first day of July, nineteen hundred eighty-five, the secretary shall have power to investigate and conduct hearings relative to whether administration and enforcement of the uniform fire prevention and building code complies with the minimum standards promulgated pursuant to subdivision one of this section. At least ten days written notice of any such hearing shall be provided to the elective or appointive chief executive officer or, if there be none, the chairman of the legislative body of the local government or county whose administration and enforcement of the uniform code is at issue.

4. If the secretary determines that a local government has failed to administer and enforce the uniform fire prevention and building code in

accordance with the minimum standards promulgated pursuant to subdivision one of this section, the secretary shall take any of the following actions, either individually or in combination in any sequence:

a. The secretary may issue an order compelling compliance by such local government with the standards for administration and enforcement of the uniform code.

b. The secretary may ask the attorney general to institute in the name of the secretary an action or proceeding seeking appropriate legal or equitable relief to require such local government to administer and enforce the uniform code.

c. the secretary may designate the county in which such local government is located to administer and enforce the uniform code in such local government. In the case of such designation, the provisions of subdivision five of this section shall apply.

d. The secretary may, in the place and stead of the local government, administer and enforce the uniform code in accordance with the minimum standards promulgated pursuant to subdivision one of this section. In such event, the provisions of subdivision five of this section shall apply.

5. Where the secretary has designated a county to administer and enforce the uniform fire prevention and building code within a local government or has assumed authority for administration and enforcement pursuant to subdivision two or paragraph d of subdivision four of this section:

a. Such local government or county government shall not administer and enforce the uniform code, and shall not charge or collect fees for such administration and enforcement.

b. Such county shall administer and enforce the uniform code within such local government from and after the date of such designation. Such

administration and enforcement shall apply the minimum standards promulgated by the secretary pursuant to subdivision one of this section. Notwithstanding any other provisions of law, such county shall have full power to administer and enforce the uniform code in accordance with such minimum standards, including the power to charge and collect fees for such administration and enforcement.

c. The secretary shall designate the local government or county government to resume administration and enforcement of the uniform code when the secretary is satisfied that such local government or county will provide such administration and enforcement in compliance with the minimum standards promulgated pursuant to subdivision one of this section.

d. The provisions of subdivisions three and four of this section shall apply to counties which have been designated to administer and enforce the uniform code in such local government.

6. The secretary shall study and from time to time make recommendations to the governor and legislature concerning:

a. Appropriate means to provide encouragement, support and inducements for local governments and counties to exercise their responsibilities pursuant to this section; and

b. Appropriate means to provide encouragement, support and inducements to facilitate compliance with the provisions of the uniform code.

§ 382. Remedies. 1. In addition to and not in limitation of any power otherwise granted by law, every local government and its authorized agents shall have the power to order in writing the remedying of any condition found to exist in, on or about any building in violation of the uniform fire prevention and building code and to issue appearance tickets for violations of the uniform code.

2. Any person, having been served, either personally or by registered

or certified mail, with an order to remedy any condition found to exist in, on, or about any building in violation of the uniform fire prevention and building code, who shall fail to comply with such order within the time fixed by the regulations promulgated by the secretary pursuant to subdivision one of section three hundred eighty-one of this article, such time period to be stated in the order, and any owner, builder, architect, tenant, contractor, subcontractor, construction superintendent or their agents or any other person taking part or assisting in the construction of any building who shall knowingly violate any of the applicable provisions of the uniform code or any lawful order of a local government, a county or the secretary made thereunder regarding standards for construction, maintenance, or fire protection equipment and systems, shall be punishable by a fine of not more than one thousand dollars per day of violation, or imprisonment not exceeding one year, or both for the first one hundred eighty days, and for the following one hundred eighty days shall be punishable by a fine of no less than twenty-five dollars and not more than one thousand dollars per day of violation or imprisonment not exceeding one year, or both and thereafter shall be punishable by a fine of no less than fifty dollars and not more than one thousand dollars per day of violation or imprisonment not exceeding one year, or both.

3. Where the construction or use of a building is in violation of any provision of the uniform code or any lawful order obtained thereunder, a justice of the supreme court, New York city civil court, a city court, district court or county court may order the removal of the building or an abatement of the condition in violation of such provisions. An application for such relief may be made by the secretary, an appropriate municipal officer, or any other person aggrieved by the violation.

4. In addition to any other applicable remedy or penalty, where a building has been altered in violation of any provision of the uniform code or any lawful order obtained thereunder, and such alteration impedes a person's egress from such building during a fire or other emergency evacuation, the owner of such building, and any builder, architect, contractor, subcontractor or construction superintendent, or agent thereof who has knowledge of such alteration, or owner who

reasonably should have had knowledge of such alteration based on either an inspection or repair of a leased premises with consent from the tenant, shall be subject to a civil penalty of up to seven thousand five hundred dollars.

§ 382-a. Buildings with truss type construction; notice requirements and enforcement. 1. All commercial and industrial structures that utilize truss type construction shall be marked by a sign or symbol in a manner sufficient to warn persons conducting fire control and other emergency operations of the existence of truss construction in the structure.

2. The council shall promulgate rules and regulations it deems necessary to carry into effect the provisions of this section, including, but not limited to:

a. The dimensions and color of such sign or symbol;

b. The time within which commercial and industrial structures that utilize truss type construction shall be so marked; and

c. The location on each commercial and industrial structure that utilizes truss type construction where such sign or symbol should be posted.

3. The fee for producing the signs or symbols used to mark buildings with truss type construction shall be fifty dollars, which cost shall be borne by the owner of such building.

4. Local governments shall provide by local law for the enforcement of the provisions of this section. Local governments may provide for joint enforcement of the provisions of this section by agreement pursuant to article five-G of the general municipal law.

5. The provisions of this section shall not apply to any city with a population of one million or more persons.

§ 382-b. Residential buildings with truss type, pre-engineered wood or timber construction; notice requirements. 1. a. Any person utilizing truss type, pre-engineered wood or timber construction for the erection of any new residential structure, for any addition to an existing residential structure, or for any rehabilitation of an existing residential structure, shall, upon application for a building permit with the local government having jurisdiction, include on the permit application that truss type, pre-engineered wood or timber construction is being utilized.

b. The property owner or the property owner's representative shall complete a form prescribed by the council designating the structure as truss type, pre-engineered wood or timber construction and file such form with the application for a building permit.

c. Upon receiving the application for a building permit and a form designating the structure as truss type, pre-engineered wood or timber construction, the local government having jurisdiction shall notify by certified mail, facsimile, e-mail or other electronic means, the chief of the fire district, fire department or fire company having jurisdiction over the structure to be erected, added to, or modified, or his or her designee, that truss type, pre-engineered wood or timber construction is being utilized.

d. As a condition of the final receipt of a certificate of occupancy or certificate of completion, a sign or symbol designed and approved by the council shall be affixed to any electric box attached to the exterior of the structure, if one exists.

e. The property owner or his or her representative shall be responsible for maintaining the sign or symbol on the electric box of the residence, as required by paragraph d of this subdivision, and shall replace the sign or symbol when any changes or modifications are made to the electric box or the sign or symbol is damaged.

2. a. The local building department or local code enforcement official having jurisdiction over the residential structure to be erected, added to, or modified, or his or her designee shall consult with the county fire coordinator, local 911 and emergency dispatchers, and the local fire protection provider or entity deemed pertinent to determine the manner sufficient to warn persons conducting fire control and other emergency operations of the existence of truss type, pre-engineered wood or timber construction in the structure.

b. The chief of the fire district, fire department, or fire company having jurisdiction over the residential structure to be erected, added to, or modified, or his or her designee shall use the information provided under subdivision one of this section to warn persons conducting fire control and other emergency operations of the existence of truss type, pre-engineered wood or timber construction in the structure.

c. Nothing contained in this section shall in any way affect or diminish section two hundred five-b of the general municipal law.

3. The council shall promulgate rules and regulations it deems necessary to carry into effect the provisions of this section including, but not limited to, the dimensions and color of such sign or symbol.

4. Local governments shall provide by local law or resolution for the enforcement of the provisions of this section, if necessary. Local governments may provide for joint enforcement of the provisions of this section by agreement pursuant to article five-G of the general municipal law.

5. The provisions of this section shall not apply to any city with a population of one million or more persons.

§ 383. Construction with other laws; severability. 1. The provisions of this article and of the uniform fire prevention and building code shall supersede any other provision of a general, special or local law,

ordinance, administrative code, rule or regulation inconsistent or in conflict therewith provided however:

a. Nothing herein shall impair the validity of any action taken pursuant to or in compliance with such law or regulation before the effective date of the uniform code; and

b. Any improvement, modification, alteration, adaptation, redesign or repair required by or pursuant to any general, special or local law, administrative code, rule or regulation enacted and effective before the effective date of the uniform code shall be made in the manner and within the time so required.

c. That, in cities with a population of over one million, the existing building and fire prevention codes shall continue in full force and effect beyond January one, nineteen hundred eighty-four unless the council, after analysis and consultation with the building and fire officials of such cities, shall determine that said local code provisions are less stringent than the uniform code. Existing local statutory, regulatory and administrative laws and provisions of such cities shall continue in full force and effect unless the foregoing is determined by the council. Notwithstanding this paragraph, when such factory manufactured homes are intended for use as one or two family dwelling units or multiple dwellings of not more than two stories in height, provided such multiple dwellings are not intended for use as hotels or motels, the provisions of this article and of the uniform fire prevention and building code pertaining to factory manufactured homes shall supersede any other provision of general, special or local law, ordinance, administrative code, rule or regulation inconsistent or in conflict therewith.

2. Nothing herein shall be construed as affecting the authority of the state labor department to enforce a safety or health standard issued under provisions of sections twenty-seven and twenty-seven-a of the labor law.

3. Nothing herein shall be construed to relieve a person from

complying with a stricter standard issued pursuant to the Occupational Safety and Health Act of 1970, as amended.

4. If any section of this article or the application thereof to any person or circumstances shall be adjudged invalid by a court of competent jurisdiction, such order or judgment shall be confined in its operation to the controversy in which it was rendered, and shall not affect or invalidate the remainder of any provision of any section or the application of any part thereof to any other person or circumstances and to this end the provisions of each section of the article are hereby declared to be separable.

ARTICLE 18-A

DISPLAY OF FLAG ON UNIFORMS

Section 390. Display of American flag on uniforms of public employees.

§ 390. Display of American flag on uniforms of public employees. Notwithstanding any other law, any public employee required to wear a uniform during the course of public employment shall not be deemed to violate any law, rule, code or regulation regulating the style or appearance of uniform solely by virtue of the display on the shoulder area of the sleeve of such uniform of an American flag not larger than three inches by five inches. The exact location of the flag on the sleeve may be specified by the appropriate executive officer.

ARTICLE 19

DISPLAY AND USE OF THE FLAG OF THE UNITED STATES OF AMERICA IN PARKS AND ON PUBLIC BUILDINGS

Section 400. Legislative findings and objectives.
401. Definitions.
402. Application.
403. Rules; manner of display.
403-a. Display of prisoner of war and missing in action flag.

403-b. Display of flag in certain parks.

§ 400. Legislative findings and objectives. The American flag is the symbol of our country, of the ideals embodied in our constitution, and is the symbol of the spirit which should animate our institutions. It is the emblem of freedom in its truest and best sense, signifying government resting on the consent of governed; liberty regulated by law; the protection of the weak against the strong; and security against the exercise of arbitrary power and as such it is recognized that the flag and all it symbolizes occasions deep emotional feeling in many people. Because of the flag's significance as a symbol of our country, and the feeling our citizens have toward it, the flag should not be a vehicle for the expression of political, social or economic philosophy as some groups and individuals have tried to use it.

Therefore, the legislature hereby finds and declares that the best interests of the people of the state of New York will be served by enacting a comprehensive article setting forth rules for the display and use of the American flag on and in public buildings within the state in order to give the flag the respect it is due and to lessen the possibility that the flag could be used to express political, social or economic causes.

§ 401. Definitions. As used in this article, unless a different meaning clearly appears from the context, the following terms shall have the following meanings:

1. "Flag" shall mean the flag of the United States of America.

2. "Public building" shall mean all buildings including grounds and premises adjacent or appurtenant thereto or connected thereto belonging to the state, county, town, village, school district or any other political or civil subdivision of state or local government.

3. "Local agency" shall include all county, city, town and village

governing bodies, all other public corporations, special districts and school districts in the state.

4. "State agencies" shall include any department, division, board, bureau, commission, office, agency, authority or public corporation of the state.

§ 402. Application. The rules and procedures for display and use of the flag set forth in this article shall govern the display of the flag on all public buildings within the state and shall supersede any contrary rule or custom of state or local agencies governing display provided, however, a school district may promulgate its own regulations to allow the flag to be flown at half-staff to commemorate the death of a present or former board member, present employee, teacher, student, clerk or custodian.

§ 403. Rules; manner of display. The following rules and customs shall be deemed the proper manner to display the flag:

1. The flag shall be displayed only from sunrise to sunset on buildings and on stationary flagstaffs in the open. However, the flag may be displayed at night upon special occasions when it is desired to produce a patriotic effect.

2. The flag shall be displayed daily, weather permitting, on or near the main administration building of every public institution, whenever such institution is open to the public. The flag shall also be displayed, weather permitting, on the following days in each year: the first day of January, known as New Year's day; the third Monday of January, known as Dr. Martin Luther King, Jr. day; the twelfth day of February, known as Lincoln's birthday; the third Monday in February, known as Washington's birthday; the last Monday in May, known as Memorial day; the second Sunday of June, known as Flag day; the fourth day of July, known as Independence day; the first Monday in September, known as Labor day; the third Friday in September, known as National

POW/MIA Recognition day, except if such date of commemoration cannot be observed due to a religious holiday, such observances shall then be conducted on the second Friday in September; September eleventh, known as September 11th Remembrance Day; the second Monday in October, known as Columbus day; the eleventh day of November, known as Veterans day; the fourth Thursday in November, known as Thanksgiving day; the seventh day of December, known as Pearl Harbor day; and the twenty-fifth day of December, known as Christmas day, and if any of such days except Flag day is Sunday, the next day thereafter; each general election day, and each day appointed by the President of the United States or by the Governor of this state as a day of general thanksgiving or for displaying the flag.

3. The flag shall not be displayed on days when the weather is inclement.

4. The flag shall be displayed in or near every polling place on election days.

5. The flag shall be displayed daily during school days in, on or near every schoolhouse.

6. The flag shall be hoisted briskly and lowered ceremoniously.

7. No person shall display the flag of the United Nations or any other national or international flag equal, above, or in a position of superior prominence or honor to, or in place of, the flag of the United States provided, that nothing in this section shall make unlawful the continuance of the practice heretofore followed of displaying the flag of the United Nations in a position of superior prominence or honor, and other national flags in positions of equal prominence or honor, with that of the flag of the United States at the headquarters of the United Nations.

8. When a number of flags of states or localities or pennants of societies are grouped and displayed from staffs, the flag of the United States of America shall be at the center and at the highest point of the

group.

9. When flags of states, cities, or localities, or pennants of societies are flown on the same halyard with the flag of the United States, the latter shall always be at the peak. When the flags are flown from adjacent staffs, the flag of the United States shall be hoisted first and lowered last. No such flag or pennant shall be placed above the flag of the United States or to the right of the flag of the United States.

10. When the flag of the United States is displayed from a staff projecting horizontally or at an angle from the window sill, balcony, or front of a building, the union of the flag shall be placed at the peak of the staff unless the flag is at half-staff. When the flag is suspended over a sidewalk from a rope extending from a house to a pole at the edge of the sidewalk, the flag shall be hoisted out, union first, from the building.

11. When the flag is displayed otherwise than by being flown from a staff, it shall be displayed flat, whether indoors or out, or so suspended that its folds fall as free as though the flag were staffed.

12. When the flag is displayed over the middle of the street, it shall be suspended vertically with the union to the north in an east and west street or to the east in a north and south street.

13. The flag, when flown at half-staff, shall be first hoisted to the peak for an instant and then lowered to the half-staff position. The flag shall be again raised to the peak before it is lowered for the day. By "half-staff" is meant lowering the flag to one-half the distance between the top and bottom of the staff. Crepe streamers shall not be affixed to spear heads or flagstaffs except by order of the President of the United States or the Governor of this state.

14. No disrespect shall be shown to the flag of the United States of America, nor shall the flag be dipped to any person or thing.

15. The flag shall not be displayed with the union down except as a signal of dire and immediate distress.

16. The flag shall always be carried aloft and free, not flat or horizontally.

17. The flag shall not be fastened, displayed, used, or stored in such a manner as will permit it to be easily torn, soiled, or damaged in any way.

18. No one shall place upon the flag, or on any part of it, or attach to it any mark, insignia, letter, word, figure, design, picture, or drawing of any nature.

19. The flag, when it is in such condition that it is no longer a fitting emblem for display shall be destroyed in a dignified way by burning.

20. The flag shall not be used as a ceiling covering or drapery of any sort whatsoever, nor festooned, drawn back, nor up, in folds. The flag shall always be allowed to fall free without touching any surface or object beneath or below it.

21. The flag shall be flown at full staff at all times except it shall be flown at half-staff on the eleventh of September, known as September 11th Remembrance Day, the seventh day of December, known as Pearl Harbor Day, and to commemorate the death of a personage of national or state standing or of a local serviceman, official or public servant who, in the opinion of the local agency concerned, contributed to the community. It may also be flown at half-staff during special periods of mourning designated by the President of the United States or the Governor of this state.

§ 403-a. Display of prisoner of war and missing in action flag. 1. Every county outside the city of New York, city, town, and village is encouraged to display the prisoner of war and missing in action flag at

the building housing its local legislative body on all days on which the flag of the United States of America is displayed. Every county outside the city of New York, and every city, town, and village shall fly an official National League of Families POW/MIA flag, as designated by 36 U.S.C. 902 at the building housing its local legislative body if a congressionally chartered veterans organization including any post, chapter, detachment unit, auxiliary unit or society of such veterans organization has provided the county, city, town, or village with such flag and, upon such municipality's request, any necessary attachments or fasteners required to enable the flag to be visible to the public, on the following days: Armed Forces Day, the third Saturday in May; Memorial Day, the last Monday in May; Flag Day, the second Sunday in June; Independence Day, July 4; National POW/MIA Recognition Day, the third Friday in September except if such date of commemoration cannot be observed due to a religious holiday, such observances shall then be conducted on the second Friday in September and Veterans Day, November 11.

2. Every state police facility, including but not limited to the headquarters, substations, and training academy, is encouraged to display the prisoner of war and missing in action flag on all days on which the flag of the United States of America is displayed.

§ 403-b. Display of flag in certain parks. Any state park of this state with developed facilities for public use shall display the flag daily in an area where it is viewed by the public. Such display shall be in accordance with the rules and customs deemed proper for display pursuant to section four hundred three of this article.

ARTICLE 19-A
DELINQUENCY AND YOUTH CRIME PREVENTION

Section 411. Purpose of article.
412. Definitions.
419. Rules and regulations.

420. State aid.
421. Withholding state aid.
422. Youth bureaus.
423. Grants; raising and paying over of local funds.
424. Report and recommendations.
425. Interpretation.
426. Constitutionality.

§ 411. Purpose of article. The purpose of this article is to put into effect those measures most suitable to supplement and aid in coordinating the work of existing religious and social institutions for the prevention of delinquency and youth crime, and the advancement of the moral, physical, mental and social well-being of the youth of this state, and to encourage the municipalities of this state to undertake increased activities in this field by assistance and financial aid as provided in this article.

§ 412. Definitions. As used in this article,

1. "Office" shall mean the office of children and family services established in the department of family assistance by chapter four hundred thirty-six of the laws of nineteen hundred ninety-seven.

2. "Commissioner" shall mean the commissioner of children and family services, designated as the head of the office of children and family services by chapter four hundred thirty-six of the laws of nineteen hundred ninety-seven.

3. "Youth" shall mean any person under twenty-one years of age.

4. "Municipality" shall mean a county, or a city having a population of one million or more.

5. "Youth development program" shall mean a local program designed to accomplish the broad purposes of this article subject to the rules and

regulations of the office; provided however, the term "youth development program" shall not include approved runaway programs or transitional independent living support programs as such terms are defined in section five hundred thirty-two-a of this chapter.

6. "State aid" shall mean payments by the state to a municipality for or toward the cost of establishment, operation and/or maintenance of approved youth programs in accordance with the provisions of this article.

7. "Youth board" shall mean the citizen board of a youth bureau.

8. "Municipal youth bureau" shall mean either:

a. In a city having a population of one million or more, the New York City department of youth and community development, or a successor entity;

b. A youth bureau that engages in activities, including, but not limited to, the operation, administration or monitoring of youth development programs, throughout a particular county; or

c. A youth bureau that engages in activities, including, but not limited to, the operation, administration or monitoring of youth development programs, throughout two or more particular counties, in accordance with subdivision five of section four hundred twenty-two of this article.

9. "Local youth bureau" shall mean a youth bureau, not included within the definition of municipal youth bureau pursuant to subdivision eight of this section, that engages in activities, including, but not limited to, the operation, administration or monitoring of youth development programs, throughout a particular village, town or city.

§ 419. Rules and regulations. The office may adopt, amend or rescind all rules and regulations necessary to carry out the provisions of this

article, including the objective that state aid hereunder shall be granted uniformly throughout the state, having regard for varying conditions and needs in different parts of the state.

§ 420. State aid. 1. a. (1) Each municipality operating a youth development program approved by the office of children and family services shall be eligible for one hundred percent state reimbursement of its qualified expenditures, subject to available appropriations and exclusive of any federal funds made available therefor, not to exceed the municipality's distribution of state aid under this article.

(2) The state aid appropriated for youth development programs shall be distributed by the office of children and family services to eligible municipalities that have an approved comprehensive plan pursuant to subparagraph two of paragraph c of this subdivision. Such state aid shall be limited to the funds specifically appropriated therefor and shall be based on factors that shall include the number of youth under the age of twenty-one residing in the municipality as shown by the last published federal census certified in the same manner as provided by section fifty-four of the state finance law and may include, but not be limited to, the percentage of youth living in poverty within the municipality or such other factors as provided for in the regulations of the office.

(3) The office shall not reimburse any claims under this section unless they are submitted within twelve months of the calendar quarter in which the expenditure was made. The office may require that such claims be submitted to the office electronically in the manner and format required by the office.

(4) A comprehensive plan developed in accordance with paragraph c of this subdivision may provide for the funding of local youth bureaus that have been approved in accordance with section four hundred twenty-two of this article and municipal youth bureaus. Provided however, that an approved local youth bureau that is not providing, operating, administering or monitoring youth development programs shall not receive funding pursuant to this subdivision. Provided, further that up to fifteen percent of the youth development funds that a municipality determines will be provided to a local youth bureau in accordance with

clause (ii) of subparagraph one of paragraph c of this subdivision may be used for administrative functions performed by such local youth bureau.

(5) If a municipality does not allocate youth development funding pursuant to the information contained within the municipality's comprehensive plan in accordance with clause (ii) of subparagraph one of paragraph c of this subdivision, the office may authorize or require the comptroller to withhold the payment of state aid to such municipality in accordance with section four hundred twenty-one of this article.

b. Youth development programs shall provide community-level services designed to promote positive youth development. Such programs may include, but not be limited to: programs that promote physical and emotional wellness, educational achievement or civic, family and community engagement; family support services; services to prevent juvenile delinquency, child abuse and neglect; services to avert family crises; and services to assist youth in need of crisis intervention or respite services. Subject to the regulations of the office, a municipality may enter into contracts to effectuate its youth development program established and approved as provided in this article.

c. Each municipality shall develop, in consultation with the applicable municipal youth bureau, a comprehensive plan to offer youth development programs. Such comprehensive plan shall be subject to the approval of the office of children and family services in accordance with subparagraph two of this paragraph and shall be submitted by each municipality in a manner and at such times and for such periods as the office of children and family services shall determine.

(1) Such comprehensive plan shall:

(i) describe the need in the municipality for youth development programs, and specify, at minimum, how the municipality will address the need for youth development in villages, towns and cities which have a youth population of twenty thousand or more persons;

(ii) detail how the municipality will allocate the funding it receives pursuant to this subdivision, including an accounting of all of the eligible entities within such municipality that will receive funding

under this subdivision, the youth development services that such entities will provide, and the amount of funding that each entity will receive;

(iii) specify how the municipality will measure performance outcomes for such services and programs covered under the plan;

(iv) specify the projected performance outcomes for services and programs covered under the plan, including projected positive outcomes for youth who participate in the services and programs; and

(v) provide information on the performance outcomes of services provided under the municipality's most recent plan approved pursuant to this subdivision, including outcome based measures that demonstrate the quality of services provided and program effectiveness of programs funded under such plan.

(2) The office of children and family services may approve all or part of a municipality's comprehensive plan. If the office does not approve a municipality's comprehensive plan, such municipality shall have sixty days from receipt of the notification of disapproval to submit a revised plan.

(3) If the municipality is seeking state aid to provide services for runaway and homeless youth, as defined in article nineteen-H of this chapter, the runaway and homeless youth plan, as required by subdivision two of this section, shall be submitted as part of the comprehensive plan that is required pursuant to this paragraph; provided however, that state aid to provide services for runaway and homeless youth services shall be from, and limited to, funds appropriated separately for such runaway and homeless youth program purposes by the state, and shall not be included under the limits set forth in this subdivision.

2. Runaway and homeless youth plan; state aid.

a. (1) A municipality may submit to the office of children and family services a plan for the providing of services for runaway and homeless youth, as defined in article nineteen-H of this chapter. Where such municipality is receiving state aid pursuant to paragraph a of subdivision one of this section, such runaway and homeless youth plan shall be submitted as part of the comprehensive plan and shall be consistent with the goals and objectives therein.

(2) A runaway and homeless youth plan shall be developed in consultation with the municipal youth bureau and the county or city department of social services, shall be in accordance with the regulations of the office of children and family services, shall provide for a coordinated range of services for runaway and homeless youth and their families including preventive, temporary shelter, transportation, counseling, and other necessary assistance, and shall provide for the coordination of all available county resources for runaway and homeless youth and their families including services available through the municipal youth bureau, the county or city department of social services, local boards of education, local drug and alcohol programs and organizations or programs which have past experience dealing with runaway and homeless youth.

(3) In its plan a municipality may:

(i) include provisions for transitional independent living support programs and runaway and homeless youth crisis services programs as provided in article nineteen-H of this chapter;

(ii) authorize services under article nineteen-H of this chapter to be provided to homeless young adults, as such term is defined in section five hundred thirty-two-a of this chapter;

(iii) authorize runaway and homeless youth to be served in accordance with any of the following provisions of this chapter:

(A) paragraphs (a) and (b) of subdivision two of section five hundred thirty-two-b;

(B) paragraph (b) of subdivision one of section five hundred thirty-two-d;

(C) paragraph (c) of subdivision two of section five hundred thirty-two-b;

(D) paragraph (c) of subdivision one of section five hundred thirty-two-d;

(E) to allow a youth under the age of sixteen to be served in a transitional independent living support program pursuant to subparagraph (ii) of paragraph (a) of subdivision one of section five hundred thirty-two-d; and

(iv) if a municipality provides shelter in accordance with items (C), (D) and (E) of clause (iii) of this subparagraph, then such municipality shall, within sixty days, notify the office of children and family

services in writing of the circumstances that made the provision of shelter necessary, efforts made by the program to find suitable alternative living arrangements for such youth, and the outcome of such efforts. If the office determines that such shelter was inappropriate, the office may instruct the program on how to seek a more suitable alternative living arrangement.

(4) Such plan shall also provide for the designation and duties of the runaway and homeless youth service coordinator defined in section five hundred thirty-two-a of this chapter who is available on a twenty-four hour basis and maintains information concerning available shelter space, transportation and services.

(5) Such plan may include provision for the per diem reimbursement for residential care of runaway and homeless youth in certified residential runaway and homeless youth programs which are authorized agencies.

a-1. Each municipality that does not submit a runaway and homeless youth plan in accordance with paragraph a of this subdivision, shall include within their comprehensive plan submitted pursuant to subdivision one of this section, an assessment of the need within the municipality for services to assist runaway and homeless youth and youth in need of crisis intervention or respite services. Provided however, that state aid to provide for runaway and homeless youth services shall be from and limited to funds appropriated separately for such runaway and homeless youth program purposes by the state, and shall not be included under the limits set forth in subdivision one of this section.

b. Each municipality shall submit to the office of children and family services such additional information as the office shall require, including but not limited to:

(1) A description of the current runaway and homeless population including their age, place of origin, family status, service needs and eventual disposition;

(2) A description of the public and private resources available to serve runaway and homeless youth within the municipality;

(3) A description of new services to be provided and current services to be expanded.

c. The office of children and family services shall review such plan in accordance with subparagraph two of paragraph c of subdivision one of this section and may approve or disapprove such plan or any part, program, or project within such plan, and may propose such modifications and conditions as deemed appropriate and necessary.

d. (1) Municipalities having an approved runaway and homeless youth plan pursuant to this subdivision shall be entitled to reimbursement by the state for sixty percent of the entire amount of the expenditures for programs contained in such plan as approved by the office of children and family services, after first deducting therefrom any federal or other state funds received or to be received on account thereof. All reimbursement pursuant to this subdivision shall be from and limited to funds appropriated separately for such runaway and homeless youth program purposes by the state, and shall not be included under the limits set in subdivision one of this section. A municipality's share of the cost of such programs may be met in part by donated private funds or in-kind services, as defined by the office, provided that such private funding or receipt of services shall not in the aggregate be more than fifty percent of such municipality's share.

(2) Notwithstanding any inconsistent provision of law and subject to funds appropriated separately therefor, a municipality having an approved runaway and homeless youth plan which includes provisions for transitional independent living support programs shall be entitled to reimbursement by the state for sixty percent of the entire amount of the approved expenditures for transitional independent living support programs contained in the plan as approved by the office of children and family services. The municipality's share of the cost of such programs may be met by donated private funds or in-kind services, as defined by the office, provided that such receipt of in-kind services shall not in the aggregate be more than fifty percent of such municipality's share.

3. For the purpose of reimbursement by the state, administrative expenses shall include compensation for personal services paid by a municipality, to any employee for the purpose of administering the benefits provided by this article. No state reimbursement shall be made, however, for such compensation paid to any employee who lacks the

qualifications necessary for the work or who, after a trial period, is considered by the commissioner unable to do satisfactory work.

4. Moneys appropriated for use of the commissioner shall be paid out of the state treasury on the certificate of the commissioner or of an officer of the office designated by the commissioner, after audit by and upon the warrant of the comptroller.

5. a. Notwithstanding any other provision of law, the office of children and family services shall plan for the statewide implementation by the thirty-first day of December, two thousand eight, of a county child and family services plan that combines the comprehensive plan required by this section and the multi-year consolidated services plan required by section thirty-four-a of the social services law into a single plan.

b. All counties shall implement a county child and family services plan prior to or for the two thousand eight plan year in accordance with a schedule developed by the office of children and family services and shall continue to implement such a plan thereafter. With the approval of such office, a county may implement a child and family services plan before the date required by such schedule.

c. The office of children and family services may waive any regulatory requirements relating to the content and timing of comprehensive plans that may impede the ability of a county to implement a county child and family services plan.

d. Nothing in this subdivision shall be deemed to affect county planning requirements under the mental hygiene law.

§ 421. Withholding state aid. The office may authorize or require the comptroller to withhold the payment of state aid to any municipality in the event such municipality alters or discontinues without the approval of the office the operation of a plan approved by the office, or fails to adopt or change a plan as recommended by the office, or fails to

comply with rules or regulations established by the office, or fails to enforce in a manner satisfactory to the office, laws now in effect or hereafter adopted that relate in any manner to the protection and welfare of youth.

§ 422. Youth bureaus. 1. a. Any city, town or village desiring to establish a local youth bureau may apply to the municipality which such city, town or village is located within, for approval of its plans. The application shall be in writing, specifying the nature of the program, and shall contain such information as the municipality shall require.

b. All local youth bureaus approved by the office of children and family services on or before April first, two thousand thirteen shall be deemed approved local youth bureaus for the purpose of this article.

2. No application for the approval of a local youth bureau shall be considered by the municipality that has not been first approved by the governing body of the city, town or village making the application.

3. The municipality may approve or disapprove the proposed local youth bureau.

4. The approval of a local youth bureau shall authorize the city, town or village to establish, operate and maintain the program and will allow the municipality to distribute to such local youth bureau, state aid received in accordance with subdivision one of section four hundred twenty of this article.

5. Two or more municipalities may join together to establish, operate and maintain a municipal youth bureau and may make and perform agreements in connection therewith. Such agreements shall include provisions for the proportionate cost to be borne by each municipality and for the manner of employment of personnel and may provide that a fiscal officer of one such municipality shall be the custodian of the moneys made available for expenditure for such purposes by all such municipalities and that such fiscal officer may make payments therefrom

upon audit of the appropriate auditing body or officer of his or her municipality. In making claims for state aid pursuant to subdivision one of section four hundred twenty of this article, each such municipality shall claim for its proportionate share of the total joint expenditures so made. However, where it is provided that there shall be a disbursing municipality, such disbursing municipality shall claim for the total joint program expenditures so made and shall disburse such state aid to each participating municipality based upon the proportionate share of expenditures so made.

6. Notwithstanding any provision of law, rule or regulation to the contrary, no municipal youth bureau serving one or more municipalities with a total youth population of twenty-five thousand or less shall be required under this article, or for purposes of receiving state aid hereunder, to employ a full time executive director for their respective proposed or approved youth programs, as the case may be.

§ 423. Grants; raising and paying over of local funds. 1. The office, with the approval of the governor, may accept as agent of the state any gift or grant for any of the purposes of this article. Any moneys so received may be expended by the office to effectuate any of the purposes of this article, subject to the same limitations as to approval of project, approval of expenditures and audit as are prescribed for state moneys appropriated for the purposes of this article.

2. A board of education, board of trustees or trustee of a school district may raise, appropriate and pay over to a municipality in which it is in whole or in part located moneys to be expended by such municipality for any purpose authorized by this article. Such a municipality may accept and expend moneys so received only for such purpose. Moneys so appropriated and paid over by a school district shall not be included in computing the amount that should be apportioned to such school district pursuant to article seventy-three of the education law.

§ 424. Report and recommendations. The office shall make an annual report to the governor and legislature which shall include its recommendations and program with respect to the provisions of this article.

§ 425. Interpretation. This article shall be liberally construed in order to effectuate its purpose.

§ 426. Constitutionality. If any clause, sentence, paragraph, section or part of this article shall for any reason be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph or section or part thereof directly involved in controversy in which such judgment shall have been rendered.

ARTICLE 19-B
STATE BINGO CONTROL COMMISSION

Section 430. Short title.
431. Purpose of article.
432. Definitions.
434. Utilization of other agency assistance.
435. Powers and duties of the commission.
436. Hearings; immunity.
437. Place of investigations and hearings; witnesses; books and documents.
438. Privilege against self-incrimination.
439. Filing and availability of rules and regulations.
439-a. Municipality to file copies of local laws and ordinances; reports.

§ 430. Short title. This article shall be known and may be cited as the bingo control law.

§ 431. Purpose of article. The purpose of this article is to implement section nine of article one of the state constitution, as amended by vote of the people at the general election in November, nineteen hundred fifty-seven. The legislature hereby declares that the raising of funds for the promotion of bona fide charitable, educational, scientific, health, religious, civic and patriotic causes and undertakings, where the beneficiaries are indefinite, is in the public interest. It hereby finds that, as conducted prior to the enactment of this article, bingo was the subject of exploitation by professional gamblers, promoters, and commercial interests. It is hereby declared to be the policy of the legislature that all phases of the supervision, licensing and the regulation of bingo and of the conduct of bingo games, should be closely controlled and that the laws and regulations pertaining thereto should be strictly construed and rigidly enforced; that the conduct of the game and all attendant activities should be so regulated and adequate controls so instituted as to discourage commercialization in all its forms, including the rental of commercial premises for bingo games, and to ensure a maximum availability of the net proceeds of bingo exclusively for application to the worthy causes and undertakings specified herein; that the only justification for this article is to foster and support such worthy causes and undertakings, and that the mandate of section nine of article one of the state constitution, as amended, should be carried out by rigid regulation to prevent commercialized gambling, prevent participation by criminal and other undesirable elements and prevent the diversion of funds from the purposes herein authorized.

§ 432. Definitions. As used in this article, the following terms shall have the following meanings:

1. "Control commission" or "commission" shall mean the New York state gaming commission created pursuant to section one hundred two of the racing, pari-mutuel wagering and breeding law.

2. "Municipality" shall mean any city, town or village within this state.

3. "Bingo" or "game" shall mean a specific game of chance, commonly known as bingo or lotto, in which prizes are awarded on the basis of designated numbers or symbols on a card conforming to numbers or symbols selected at random.

4. "Authorized organization" shall mean any bona fide religious or charitable organization or bona fide educational, fraternal, civic or service organization or bona fide organization of veterans, volunteer firefighters, or volunteer ambulance workers, which by its charter, certificate of incorporation, constitution, or act of the legislature, shall have as its dominant purpose or purposes one or more of the lawful purposes as defined in the bingo licensing law, provided that each shall operate without profit to its members, and provided that each such organization has engaged in serving one or more of the lawful purposes as defined in the bingo licensing law, article fourteen-H of the general municipal law, for a period of one year immediately prior to applying for a license under the licensing law.

5. "Bingo licensing law" shall mean article fourteen-h of the general municipal law.

§ 434. Utilization of other agency assistance. To effectuate the purposes of this article, the governor may authorize any department, division, board, bureau, commission or agency of the state or of or in any political subdivision thereof to provide such facilities, assistance and data as will enable the commission properly to carry out its activities and effectuate its purposes hereunder.

§ 435. Powers and duties of the commission. 1. The commission shall have the power and it shall be its duty to:

(a) Supervise the administration of the bingo licensing law and adopt, amend and repeal rules and regulations governing the issuance and

amendment of licenses thereunder and the conducting of games under such licenses, which rules and regulations shall have the force and effect of law and shall be binding upon all municipalities issuing licenses, and upon licensees thereunder and licensees of the commission, to the end that such licenses shall be issued to qualified licensees only and that said games shall be fairly and properly conducted for the purposes and in the manner in the said bingo licensing law prescribed and to prevent the games thereby authorized to be conducted from being conducted for commercial purposes or purposes other than those therein authorized, participated in by criminal or other undesirable elements and the funds derived from the games being diverted from the purposes authorized, and, to provide uniformity in the administration of said law throughout the state, the commission shall prescribe forms of application for licenses, licenses, amendment of licenses, reports of the conduct of games and other matters incident to the administration of such law;

(b) Conduct, anywhere within the state, investigations of the administration, enforcement and potential or actual violations of the bingo licensing law and of the rules and regulations of the commission;

(c) Review all determinations and actions of the municipal governing body in issuing an initial license, and it may review the issuance of subsequent licenses and, after hearing, revoke those licenses which do not in all respects meet the requirements of this article, article fourteen-h of the general municipal law and the rules and regulations of the commission;

(d) Suspend or revoke a license, after hearing, for any violation of the provisions of this article, article fourteen-h of the general municipal law or the rules and regulations of the commission;

(e) Hear appeals from the determinations and action of the municipal governing body in connection with the refusing to issue licenses, the suspension and revocation of licenses and the imposition of fines in the manner prescribed by law and the action and determination of the commission upon any such appeal shall be binding upon the municipal governing body and all parties thereto;

(f) Initiate prosecutions for violations of this article and of the bingo licensing law;

(g) Carry on continuous study of the operation of the bingo licensing law to ascertain from time to time defects therein jeopardizing or

threatening to jeopardize the purposes of this article, and to formulate and recommend changes in such law and in other laws of the state which the commission may determine to be necessary for the realization of such purposes, and to the same end to make a continuous study of the operation and administration of similar laws which may be in effect in other states of the United States.

(h) Supervise the disposition of all funds derived from the conduct of bingo by authorized organizations not currently licensed to conduct such games;

(i) Issue an identification number to an applicant authorized organization if it shall determine that the applicant satisfies the requirements of the bingo licensing law and the rules and regulations.

2. (a) The commission shall have the power to issue or, after hearing, refuse to issue a license permitting a person, firm or corporation to sell or distribute to any other person, firm or corporation engaged in business as a wholesaler, jobber, distributor or retailer of all cards, boards, sheets, pads and all other supplies, devices and equipment designed for use in the play of bingo by an organization duly licensed to conduct bingo games or to sell or distribute any such materials directly to such an organization. For the purposes of this section the words "sell or distribute" shall include, but shall not be limited to, the following activities; offering for sale, receiving, handling, maintaining, storing the same on behalf of such an organization, distributing or providing the same to such an organization, and offering for sale or lease bingo devices and equipment. Each such license shall be valid for one year.

(b) No person, firm or corporation, other than an organization that is or has been during the preceding twelve months duly licensed to conduct bingo games, shall sell or distribute bingo supplies or equipment without having first obtained a license therefor upon a written or electronic application made, verified and filed with the commission in the form prescribed by the rules and regulations of the commission. As a part of its determination concerning the applicant's suitability for licensing as a bingo supplier, the commission shall require the applicant to furnish to such board two sets of fingerprints. Such fingerprints shall be submitted to the division of criminal justice

services for a state criminal history record check, as defined in subdivision one of section three thousand thirty-five of the education law, and may be submitted to the federal bureau of investigation for a national criminal history record check. In each such application for a license under this section shall be stated the name and address of the applicant; the names and addresses of its officers, directors, shareholders or partners; the amount of gross receipts realized on the sale or distribution of bingo supplies and equipment to duly licensed organizations during the last preceding calendar or fiscal year, and such other information as shall be prescribed by such rules and regulations. The fee for such license shall be a sum equal to twenty-five dollars plus an amount based upon the gross sales, if any, of bingo equipment and supplies to authorized organizations by the applicant during the preceding calendar year, or fiscal year if the applicant maintains his or her accounts on a fiscal year basis, and determined in accordance with the following schedule:

gross sales of $1,000 to $4,999.....$10.00

gross sales of $5,000 to $19,999.....$50.00

gross sales of $20,000 to $49,999.....$200.00

gross sales of $50,000 to $100,000.....$500.00

gross sales in excess of $100,000.....$1,000.00

(c) The following shall be ineligible for such a license:

(1) a person convicted of a crime if there is a direct relationship between one or more of the previous criminal offenses and the integrity and safety of bingo, considering the factors set forth in article twenty-three-A of the correction law;

(2) a person who is or has been a professional gambler or gambling promoter or who for other reasons is not of good moral character;

(3) a public officer or employee;

(4) an operator or proprietor of a commercial hall duly licensed under the bingo licensing law;

(5) a firm or corporation in which a person defined in clause (1),

(2), (3) or (4) of this paragraph, or a person married or related in the first degree to such a person, has greater than a ten percent proprietary, equitable or credit interest or in which such a person is active or employed.

(d) The control commission shall have power to examine or cause to be examined the books and records of any applicant for a license, or any licensee, under this section. Any information so received shall not be disclosed except so far as may be necessary for the purpose of carrying out the provisions of this article and article fourteen-h of the general municipal law.

(e) Any solicitation of an organization licensed to conduct bingo games, to purchase or induce the purchase of bingo supplies and equipment, or any representation, statement or inquiry designed or reasonably tending to influence such an organization to purchase the same, other than by a person licensed or otherwise authorized pursuant to this section shall constitute a violation of this section.

(f) Any person who willfully shall make any material false statement in any application for a license authorized to be issued under this article or who willfully shall violate any of the provisions of this section or of any license issued hereunder shall be guilty of a misdemeanor and, in addition to the penalties in such case made and provided, shall forfeit any license issued to him or it under this section and be ineligible to apply for a license under this section for one year thereafter.

(g) At the end of the license period, a recapitulation shall be made as between the licensee and the commission in respect of the gross sales actually recorded during the license period and the fee paid therefor, and any deficiency of fee thereby shown to be due shall be paid by the licensee and any excess of fee thereby shown to have been paid shall be credited to said licensee in such manner as the commission by the rules and regulations shall prescribe.

3. The commission shall have the power to approve and establish a standard set of bingo cards comprising a consecutively numbered series and shall by its rules and regulations prescribe the manner in which such cards are to be reproduced and distributed to licensed authorized organizations. The sale or distribution to a licensed authorized

organization of any card or cards other than those contained in the standard set of bingo cards shall constitute a violation of this section. Licensed authorized organizations shall not be required to use nor to maintain such cards seriatim excepting that the same may be required in the conduct of limited period bingo games.

§ 436. Hearings; immunity. 1. A hearing upon any investigation or review authorized by this article or by article fourteen-h of the general municipal law may be conducted by two or more members of the commission or by a hearing officer duly designated by the commission, as the commission shall determine.

2. A person who has violated any provision of this article or article fourteen-h of the general municipal law, or of the rules and regulations of the commission, or any term of any license issued under said articles or said rules and regulations, is a competent witness against another person so charged. In any hearing upon any investigation or review authorized by this article or article fourteen-h of the general municipal law, for or relating to a violation of any provision of said articles or of the rules and regulations of the commission or of the term of any such license, the commission, may confer immunity upon such witness in accordance with the provisions of section 50.20 of the criminal procedure law. Such immunity shall be conferred only upon the vote of at least three members of the commission, and only after affording the attorney general and the appropriate district attorney a reasonable opportunity to be heard with respect to any objections which they or either of them may have to the granting of such immunity.

§ 437. Place of investigations and hearings; witnesses; books and documents. The commission may conduct investigations and hearings within or without the state and shall have power to compel the attendance of witnesses, the production of books, records, documents and other evidence by the issuance of a subpoena signed by a member of the commission.

§ 438. Privilege against self-incrimination. The willful refusal to answer a material question or the assertion of privilege against self-incrimination during a hearing upon any investigation or review authorized by this article or by article fourteen-h of the general municipal law by any licensee or any person identified with any licensee as an officer, director, stockholder, partner, member, employee or agent thereof shall constitute sufficient cause for the revocation or suspension of any license issued under this article or under the licensing law, as the commission or as the municipal governing body may determine.

§ 439. Filing and availability of rules and regulations. A copy of every rule and regulation adopted and promulgated by the commission shall be filed in the office of the secretary of state before it shall become effective and copies thereof shall be made available to the various municipalities operating under the bingo licensing law.

§ 439-a. Municipality to file copies of local laws and ordinances; reports. Each municipality in which the bingo licensing law shall be adopted shall file with the commission a copy of each local law or ordinance enacted pursuant thereto within ten days after the same has been approved by a majority of the electors voting on a proposition submitted at a general or special election, or within ten days after the same has been amended or repealed by the common council or other local legislative body, and on or before February first of each year, and at any other time or times which the commission may determine, make a report to the commission of the number of licenses issued therein under the bingo licensing law, the names and addresses of the licensees, the aggregate amount of license fees collected, the names and addresses of all persons detected of violating the bingo licensing law, this law or the rules and regulations adopted by the commission pursuant hereto, and of all persons prosecuted for such violations and the result of each such prosecution, the penalties imposed therein during the preceding calendar year, or the period for which the report is required, which

report may contain any recommendations for improvement of the bingo licensing law or the administration thereof which the governing body of the municipality shall deem to be desirable.

ARTICLE 19-D

DEVELOPMENTAL DISABILITIES PLANNING COUNCIL

Section 450. State council on developmental disabilities.

§ 450. State council on developmental disabilities. 1. There is hereby established, within the executive department, a state council on developmental disabilities, to perform those duties and functions required by the federal developmental disabilities services and facilities construction act of nineteen hundred seventy and by the federal developmentally disabled assistance and bill of rights act of nineteen hundred seventy-five as amended by the federal rehabilitation comprehensive services and developmental disabilities amendments of nineteen hundred seventy-eight and any acts amendatory thereof or supplemental thereto.

2. The council shall consist of at least twenty voting members who shall be selected from among residents of New York state and shall be geographically representative and reflect the diversity of the state. The governor shall appoint its members, other than the members listed in paragraph (a) of subdivision three of this section and shall designate one of the appointed members to serve as chairperson. Members, other than the members listed in paragraph (a) of subdivision three of this section shall be appointed for terms of three years, provided however, that a member who has served two consecutive three-year terms may not be reappointed to the council until at least three years have elapsed from the completion of the member's second three-year term. Each member's three-year term shall commence upon their official appointment, and a member may continue to serve on the council until a replacement appointment has been made, even if their term has ended. Vacancies shall be filled in the same manner as original appointments.

3. (a) The following people shall serve as ex officio voting members of the council:

(i) the head of any state agency that administers funds provided under federal laws related to individuals with disabilities, or such person's designee including, but not limited to, the commissioner of education, or such person's designee who oversees policy planning and implementation of the Rehabilitation Act of 1973, and such person's designee who oversees policy planning and implementation of the Individuals with Disabilities Education Act; the director of the office for the aging or such person's designee who oversees policy planning and implementation of the Older Americans Act of 1965; and the commissioner of health, or such person's designee who oversees policy planning and implementation of Titles V and XIX of the Social Security Act;

(ii) the head of any university center for excellence in developmental disabilities, or such person's designee; and

(iii) the head of the state's protection and advocacy system, or such person's designee. Designees shall have sufficient authority to engage in policy planning and implementation on behalf of their respective entities.

(b) The membership of the state council on developmental disabilities shall also include representatives from local and nongovernmental agencies and provider nonprofit agencies, concerned with services to persons with developmental disabilities in New York state.

(c) At least sixty percent of the council shall consist of persons with developmental disabilities or parents or guardians or immediate relatives of persons with developmental disabilities.

(i) These members may not be employees of a state agency receiving funds or providing services under the federal developmental disabilities assistance act or have a managerial, proprietary or controlling interest in an entity that receives funds or provides services under such act,

(ii) One-third of these members shall have a developmental disability,

(iii) One-third of these members shall be immediate relatives or guardians of persons with developmental disabilities,

(iv) One-third of these members shall be a combination of the individuals described in subparagraphs (ii) and (iii) of this paragraph, and

(v) At least one member shall be an immediate relative or guardian of

a person with a developmental disability who resides or previously resided in an institution, or a person with a developmental disability who resides or previously resided in an institution defined in subdivision eleven of section 1.03 of the mental hygiene law.

4. The state council on developmental disabilities shall meet periodically or at the call of its chairperson.

5. The council shall recruit and appoint the executive director of the council as they may deem necessary, prescribe their duties, fix their compensation and provide for reimbursement of their expenses within amounts available therefor from federal funds reserved by the state pursuant to the developmental disabilities assistance and bill of rights act or by state appropriation.

6. Members shall receive no compensation for their services but shall be reimbursed out of federal funds available therefor for all expenses actually and necessarily incurred by them in the performance of their duties.

ARTICLE 19-F

RURAL AFFAIRS ACT

Section 480. Declaration of purpose.
481. Definitions.
482. State office of rural affairs.
483. General functions, powers and duties.
484. Assistance of other state agencies.
485. Functions, powers and duties of other departments and state agencies.
486. Comprehensive grant information.
487. Implementation of services.
488. Participation of federal and local agencies, individuals and corporations.
489. Temporary assignment or permanent transfer of personnel.
490. Reports to the governor and the legislature.
491. Contract authority.

§ 480. Declaration of purpose. The legislature finds and determines that:

1. The public perception of the state's rural regions has been characterized by inaccurate awareness or understanding; therefore many existing laws, regulations, policies and programs have not completely addressed the real needs of people living within the state's rural environs.

2. The state's rural territory is vast in size, exceptionally diverse, possesses abundant natural and cultural resources, and, together with its economic, human and community resources, contributes greatly to the quality and maintenance of life of all people of the state, and hence to a healthier, more prosperous state.

3. The state's rural areas are decentralized and unique; their enhancement and protection require special attention in order to effectively address distinct rural conditions, needs, and strengths.

4. Improvement in the well-being of individuals and families in the state's rural areas has, in many instances, been unbalanced, and characterized by a growing inequality or relative deprivation. Additionally, such indispensable community needs as transportation; housing; public facilities; business and industry; education and culture; governmental and environmental management; health and human services; require further study and state action if proper responses to unique rural needs are to be developed.

5. The state has demonstrated sensitivity to the needs of rural localities and has attempted to preserve the viability and quality of life in rural areas. Such commitments to rural preservation and development have to be continued and broadened to encompass a wide range of rural endeavors.

6. Federal, state, and local resources and individual effort available

to address rural needs are often isolated and limited to individual symptoms of blight and deterioration. Related programs are frequently inaccessible to rural residents they are designed to serve. The placement of such programs within the various organizational structures is indistinct and many rural localities have inadequate numbers of managerial, professional or technical personnel to pursue such assistance. Additionally, many public and private agencies also lack adequate staffing to adapt programs and services to the special needs and requirements of rural citizens and their environs. This situation has contributed to a growing confusion and disintegrating force that discourages coordinated individual policy and program development and delivery of services intended to address the needs of rural localities and citizens. Consequently, the energies and resources of the many individual federal, state, and local, and public and private initiatives that could help answer rural needs and capitalize on the strengths of rural areas, are often frustrated or diminished in their effect.

7. An important role and challenge for state government, therefore, is to get diverse groups to work together for the betterment of rural New York, and to combine their efforts in imaginative ways to the end that all regions of the state may always offer the highest possible quality of life, cultural and material standards of living, without sacrificing individual freedom or responsibility. The legislature believes that such individual efforts can be significantly enhanced, and support and sustain each other in the public interest; and many useful and innovative responses to rural needs will be possible, if a more focused and coordinated interdisciplinary approach for addressing rural problems and opportunities is made available through state government.

8. The development of proper responses to rural needs, including the capability to anticipate and respond to individual needs on a broad scale, would also be promoted if a more sharply defined rural affairs avenue within state government was made available to policymakers. Specifically, the legislature seeks to amplify the efforts of existing agencies and individuals who are interested in such rural policy areas as human services and community life; health care; education; business, economic development, and employment; agriculture; environment, land

use, and natural resources; transportation; community facilities, housing, and community revitalization; local government and management.

9. No permanent state agency has been specifically created, empowered and funded to promote, harmonize or assist such efforts of existing agencies and individuals that address the unique needs, conditions, and strengths of rural areas of the state. It is, therefore, the intent of the legislature to create a state office of rural affairs. The agency shall serve as a one-stop contact point for rural governments, service providers, state and federal agencies, and for individuals interested in rural policies and programs of the state; and strive to promote cooperative and integrated efforts among such agencies and programs that are designed to address rural needs; and shall recommend to the governor and the legislature the suitable use of policies, programs, long-range plans, laws and regulatory mechanisms in order to meet such needs.

§ 481. Definitions. When used in this article:

1. "Office" means the state office of rural affairs created by this article.

2. "Director" means the chief administrative officer of the state office of rural affairs.

3. "State agency" means any department, office, council, or agency of the state, or any public benefit corporation or authority authorized by the laws of the state.

4. "Federal agency" means any department, office, council, or agency of the federal government, or any public benefit corporation or authority authorized by federal statute.

5. "Local agency" means any municipality, or office or department thereof or not-for-profit organization created for the purposes of enhancing the quality of life and revitalization of rural areas.

6. "Municipality" means any county, city, town, village, or school district.

7. "Rural areas" means counties within the state having less than two hundred thousand population, and the municipalities, individuals, institutions, communities, programs and such other entities or resources as are found therein. In counties of two hundred thousand or greater population, "rural areas" means towns with population densities of one hundred fifty persons or less per square mile, and the villages, individuals, institutions, communities, programs and such other entities or resources as are found therein.

8. "Rural development and revitalization" shall mean those policies, programs, laws, regulations, or other matters having to do with rural areas including, but not limited to, human services and community life; health care; education; business, economic development, and employment; agriculture; environment, land use, and natural resources; transportation; community facilities, housing; and local government services and management.

§ 482. State office of rural affairs. 1. There is hereby created in the executive department an office of rural affairs. The head of the office shall be the director of rural affairs who shall be appointed by the governor, with the advice and consent of the senate, and who shall hold office at the pleasure of the governor. The director shall receive an annual salary to be fixed by the governor within the amount available therefor by appropriation. He shall also be entitled to receive reimbursement for expenses actually and necessarily incurred by him in the performance of his duties. The director may appoint such officers and employees, agents, consultants, and special committees as he or she may deem necessary, prescribe their duties, fix their compensation and provide for reimbursement of their expenses within amounts available therefor by appropriation.

2. The director shall prepare and submit annually, on or before February first, a comprehensive report, pursuant to section four hundred

ninety of this article.

3. The governor shall direct that all state agencies provide the director with assistance in advancing the purpose of the office and to assure that the activities of the office are fully coordinated with the activities of state agencies providing related services.

§ 483. General functions, powers and duties. The state office of rural affairs by and through the director or his duly authorized officers and employees, shall have the following functions, powers and duties:

1. To serve as a clearinghouse and provide comprehensive information relating to rural development and revitalization upon request to any agency, individual or corporation.

2. To advise and assist agencies, individuals and corporations in answering particular rural revitalization and development needs; including cooperative efforts among such agencies, individuals, and corporations to solve common problems or provide services in rural areas.

3. To receive notification from all state and federal agencies, individuals or corporations engaged in rural development and revitalization of program descriptions, appropriation data, and application procedures. The office shall maintain a listing of existing programs and advise local agencies, individuals or corporations of their existence.

4. To assist, upon request, applicant local agencies, individuals or corporations located in rural areas in obtaining timely and efficient responses from state and federal agencies; to assist such applicants in consideration of alternative program grant strategies; to assist state and federal agencies in cooperative approaches to address the needs of such applicants; and to provide technical assistance to agencies in formulating and implementing rural development and revitalization programs.

5. To review application procedures formulated by state agencies and to recommend improvements designed to increase the cost-effectiveness of such procedures for rural revitalization and development efforts; and to enhance the probability such procedures will benefit rural areas.

6. To encourage the assistance of the private sector in effectuating rural development and revitalization.

7. To provide legal consultation concerning local government matters to officials of municipalities located in rural areas on a wide range of problems and programs, including the exercise of home rule powers, reapportionment of local legislative bodies, drafting and revising of local laws including charters, and drafting and implementing of municipal cooperation agreements. All such assistance shall be advisory in nature, and shall not include the actual drafting of final legal documents or the provision of actual legal representation.

8. To assist the governor and the legislature in the integration and formulation of state rural development and revitalization policy and long-range plans for rural areas and in answering needs related thereto.

9. To facilitate efforts of local agencies, individuals and corporations in developing cooperative responses to rural needs. Personnel of the office shall be available to participate in an advisory capacity at local meetings exploring such cooperative agreements; and shall assist in the identification of appropriate state agencies and personnel who may be instrumental in facilitating such efforts.

10. To provide legal advice and assistance concerning rural development and revitalization matters to officials of the executive department and the legislature; and to analyze and make recommendations concerning proposed new state legislation or programs that may affect rural areas.

11. To apply for and receive, consistent with appropriation, notification, and approval requirements of the state finance law, grants

or financial assistance from the federal government or other approved agencies, individuals or corporations.

12. To adopt such rules and regulations, procedures, instructions, and forms as are required to carry out the functions, powers and duties imposed upon the office by this article.

13. To assist the governor in coordinating the activities and services of those departments and agencies of the state having relationships with local rural agencies, individuals and corporations in order to provide more effective service to them and to simplify state procedures relating thereto.

14. To keep the governor informed about the problems and needs of agencies, individuals and corporations that are involved with rural development and revitalization; and to assist in formulating policies with respect thereto and utilizing the resources of the executive branch of the state government for the benefit of rural areas.

15. To refer local agencies, individuals and corporations to the appropriate departments and agencies of the state and federal governments for advice, assistance, and available services in connection with particular rural development and revitalization problems or needs.

16. To develop pilot programs or projects and make studies and analyses of the problems or needs of rural areas and to make the results thereof available for the benefit of such agencies as the director may deem appropriate.

17. To encourage the expansion and improvement of in-service training opportunities and to make information available to officials of local agencies in rural areas on matters pertaining to rural development and revitalization.

18. To consult with and cooperate with agencies and officers, organizations, groups, and individuals representing rural areas or doing rural development and revitalization in such manner as the director may

determine will effectively carry out the functions, powers, and duties of the office.

19. To do all things necessary or convenient to carry out the functions, powers, and duties expressly set forth in this section.

§ 484. Assistance of other state agencies. To effectuate the purposes of this article, the director may request and shall be entitled to receive from any state agency, and the same are authorized to provide, such assistance, service, facilities, and data as will enable the office to carry out its functions, powers and duties, and such temporarily or permanently assigned personnel as the director of the budget may approve.

§ 485. Functions, powers and duties of other departments and state agencies. Nothing contained in this article shall be deemed to derogate or detract in any way from the functions, powers, or duties prescribed by law of any other department of the state or to interrupt or preclude the direct relationship of any such department or agency with local agencies, individuals or corporations for the carrying out of such functions, powers or duties.

§ 486. Comprehensive grant information. 1. The office shall request such specific information as the director determines to be necessary concerning assistance programs and grants administered by federal, state and local agencies, individuals and corporations designed to enhance rural areas. Such information shall be used to advise local agencies, individuals or corporations for the purpose of promoting coordination in program or grant efforts wherever feasible or proper.

2. Any applicant requesting program grants or assistance in order to address rural development and revitalization needs, conditions or strengths in rural areas may, pursuant to the rules of the director, confer with the office to obtain assistance in the prompt and efficient

processing and review of applications.

3. The office shall, so far as possible, render such assistance; and the director may designate an officer or employee of the office to act as an expeditor for the purpose of:

(a) Facilitating contacts for the applicant with state, federal, or local agencies, individuals or corporations responsible for processing and reviewing grant applications;

(b) Arranging conferences to clarify the interest and requirements of any such agency, individual or corporation with respect to grant applications;

(c) Considering with the agency, individual or corporation the feasibility of consolidating hearings and data required of the applicant;

(d) Assisting the applicant in the resolution of outstanding issues identified by the agency, individual or corporation, including delays experienced in application review; and

(e) Coordinating federal, state and local grant application review actions and assistance programs to the extent practicable.

§ 487. Implementation of services. 1. Services rendered by this office shall be made available without charge, provided that nothing contained herein shall relieve an applicant of any part of existing fees or charges established for the review and approval of grant applications by agencies, individuals or corporations.

2. Each state agency involved in the administration of a program grant or technical assistance effort designed to address rural development and revitalization needs in rural areas shall designate an officer or employee to act as program liaison officer to cooperate with and assist the office in carrying out the provisions of this article.

§ 488. Participation of federal and local agencies, individuals and corporations. 1. Federal and local agencies, individuals and corporations involved in the administration of a program grant or

technical assistance effort for rural development and revitalization, shall be encouraged to participate in the assistance services of the office and to make information available to applicants through the office with respect to any related program, undertaking, project, or activity which is referred to the office under the provisions of this article.

2. The director shall consult with and seek assistance from officials of federal and local agencies or corporations with respect to coordinating assistance programs for rural areas and shall recommend to the governor and the legislature any policies or programs which would facilitate such coordination.

§ 489. Temporary assignment or permanent transfer of personnel. The director, in consultation with the head of the state agency involved and with the approval of the director of the budget, may provide for the temporary or permanent assignment or transfer of officers and employees of state agencies to the office. Employees permanently transferred shall be transferred without further examination or qualification and shall retain their respective civil service classification and status. Any employee who, at the time of such transfer, has a temporary or provisional appointment shall be transferred subject to the same right of removal, examination or termination as though such transfer had not been made. No existing right or benefit, including retirement benefits or remedy of any character, shall be lost, impaired or affected by reason of this article. The director of the budget shall be responsible for timely notification of all such assignments and transfers to the chairman of the senate finance committee and the chairman of the assembly ways and means committee. Transfer of employees pursuant to this article shall be governed solely and exclusively by the provisions hereof notwithstanding other provisions of the law.

§ 490. Reports to the governor and the legislature. The office shall hereafter make an annual report, to be received on or before February first, to the governor and the legislature concerning the assistance

activities undertaken by the office, recommendations for legislative proposals, data concerning program activities in rural areas and other pertinent information which, in the opinion of the director, will indicate the activities conducted by the office in the previous year.

§ 491. Contract authority. The office is hereby empowered to enter into any agreement or contract with any private or public agencies, corporations or individuals necessary or convenient to carry out the provisions of this article.

ARTICLE 19-G

OFFICE OF CHILDREN AND FAMILY SERVICES

Title 1. (Designated without title heading) (§§ 500--501-d)
2. Facilities (§§ 502-509)
3. Programs and services for youth (§§ 510-a--523-n)
3-A. Youth center facility program (§§ 527-a--527-m)
4. Support and reimbursement (§§ 528-531)

TITLE 1

Section 500. Office of children and family services; commissioner.
501. General functions, powers and duties of division.
501-a. Actions against persons designated foster parents of the division; defense and indemnification.
501-b. Intervention as of right; notice.
501-c. Confidentiality.
501-d. Grants or gifts.
501-e. Interstate compact for juveniles.
501-f. Commissioner for the interstate compact for juveniles.
501-g. State council for interstate juvenile supervision.
501-h. Detention and appointment of an attorney for the child in proceedings involving youth governed by the interstate compact for juveniles.

§ 500. Office of children and family services; commissioner. 1. There is hereby continued in the department of family assistance an autonomous office of children and family services. The head of such office shall be the commissioner of children and family services, who shall be appointed by the governor, by and with the advice and consent of the senate, and shall serve at the pleasure of the governor. The commissioner may appoint such officers, employees, agents and consultants as he or she may deem necessary, prescribe their duties, fix their compensation and provide for reimbursement of their expenses within the amounts available therefor by appropriation.

2. The commissioner may promulgate, adopt, amend or rescind rules and regulations necessary to carry out the provisions of this article, provided, however, that such rules and regulations shall be strictly limited in their application to the means and methods of compliance with the provisions of this article.

3. Whenever the division for youth or its director is referred to in any provision of this chapter or in any other law, such reference shall be deemed to refer to the office of children and family services or the commissioner of children and family services.

§ 501. General functions, powers and duties of division. The division for youth shall have the following functions, powers and duties: 1. To develop policies and plans for improving the administration of division facilities and the delivery of services therein.

2. To establish, operate and maintain treatment programs and other services for youth placed with or committed to the division and programs for the care of conditionally released children.

3. To establish, operate and maintain division facilities and to contract with authorized agencies as defined in section three hundred seventy-one of the social services law for the operation and maintenance of non-secure facilities.

4. To establish, operate and maintain all division facilities and programs and all necessary powers to see that the purposes of each facility or program are carried into effect.

5. To promulgate rules and regulations for the establishment, operation and maintenance of division facilities and programs.

6. To enter into contracts with any person, firm, corporation, not-for-profit corporation, authorized agency as defined by section three hundred seventy-one of the social services law, municipality or governmental agency.

7. To establish, operate and maintain programs and services alternative to division facilities for persons placed with the division pursuant to section five hundred seven-a of this article. The division may contract with political subdivisions of the state, agencies thereof or supported thereby, not-for-profit associations, institutions or agencies concerned with youth, for the operation and maintenance of such programs and services.

8. (a) Subject to the amounts appropriated therefor, to establish, operate and maintain or to contract for the operation and maintenance of programs which may include, but not be limited to work training programs and alternative to placement programs authorized by law, in order to prevent and control juvenile delinquency, and to advance the moral, physical, mental and social well-being of the youth of this state;

(b) To establish and operate or to participate with the federal government in the establishment and operation of job corps camps pursuant to the federal economic opportunity program and any federal laws amendatory or supplemental thereto, and to accept and receive such youths as may be referred by federal agencies pursuant to such law.

9. To cooperate with other departments, divisions and agencies of the state, its political subdivisions and municipalities and cooperate with public and private agencies and departments throughout the state in order to assist in the rehabilitation and training of youth placed with or committed to the division.

10. To encourage and foster an exchange of information and to cooperate with social agencies, both public and private, which may be administering to the needs or assisting any members of the families of youth placed with or committed to the division.

11. To develop a comprehensive five year plan for the provision of services for youths ordered by the court into the custody of the division. Such plan shall include, but not be limited to:

(a) a projection of the numbers of youths to be placed into or committed to the care of the division at secure, limited secure and non-secure levels of care for the five years encompassed by the plan;

(b) an analysis of current and anticipated utilization of division facilities;

(c) a plan for increasing or decreasing residential capacities at all levels as indicated by paragraph (b) of this subdivision;

(d) a comprehensive description of the types of services and programs to be provided to youths in the custody of the division; and

(e) a plan for containing costs at all levels of residential care.

12. To promulgate regulations concerning standards for the protection of children in residential facilities and programs operated or certified by the division, from abuse and maltreatment. Such standards shall include the prevention and remediation of abuse and maltreatment of children in such residential facilities or programs, including procedures for:

(a) consistent with appropriate collective bargaining agreements and applicable provisions of the civil service law, the review and evaluation of the backgrounds of and the information supplied by any person applying to be an employee, a volunteer or consultant which shall include but not be limited to the following requirements: that the applicant set forth his or her employment history, provide personal and employment references and relevant experiential and educational information and sign a sworn statement indicating whether the applicant, to the best of his or her knowledge, has ever been convicted of a crime in this state or any other jurisdiction;

(b) establishing for employees, relevant minimal experiential and

educational qualifications, consistent with appropriate collective bargaining agreements and applicable provisions of the civil service law;

(c) assuring adequate and appropriate supervision of employees, volunteers and consultants;

(d) demonstrating by a residential facility or program that appropriate action is taken to assure the safety of the child who is reported to the state central register as well as other children in care, immediately upon notification that a report of child abuse or maltreatment has been made with respect to a child in a residential facility or program;

(e) removing of a child, consistent as applicable with any court order placing the child, when it is determined that there is risk to such child if he or she continues to remain within a residential facility or program; and

(f) appropriate preventive and remedial action to be taken, including legal actions, consistent with appropriate collective bargaining agreements and applicable provisions of the civil service law.

Such standards shall also establish as a priority that:

(i) subject to the amounts appropriated therefor, administrators, employees, volunteers and consultants receive training in at least the following: child abuse prevention and identification, safety and security procedures, the principles of child development, the characteristics of children in care and techniques of group and child management including crisis intervention, the laws, regulations and procedures governing the protection of children from abuse and maltreatment, and other appropriate topics; provided however, that the division may exempt administrators and consultants from such requirements upon demonstration of substantially equivalent knowledge or experience;

(ii) subject to the amounts appropriated therefor, children receive instruction, consistent with their age, needs and circumstances as well as the needs and circumstances within the residential facility or program, in techniques and procedures which will enable such children to protect themselves from abuse and maltreatment.

The division shall take all reasonable and necessary actions to assure that employees, volunteers and consultants in residential facilities and programs are kept apprised on a current basis of all division policies and procedures relating to the protection of children from abuse and maltreatment, and shall monitor and supervise the provision of training to such administrators, employees, volunteers, children and consultants. Such standards shall, to the extent possible, be consistent with those promulgated by other state agencies for such purposes.

13. To cooperate with the state department of social services and other departments, divisions and agencies of the state when a report is received pursuant to title six of article six of the social services law to protect the health and safety of children in residential facilities or programs. Such cooperation shall include: the making of reports of alleged child abuse and maltreatment, providing necessary assistance to the state department of social services in the department's investigation thereof and considering the recommendations of the state department of social services for appropriate preventive and remedial action, including legal actions, and provide or direct the residential facility to provide such written reports thereon to the department of social services as to the implementation of plans of prevention and remediation approved by the division pursuant to title six of article six of the social services law.

14. To provide for the development and implementation of a plan of prevention and remediation with respect to an indicated report of child abuse or maltreatment. Such action shall include: (a) within ten days of receipt of an indicated report of child abuse or maltreatment, development and implementation of a plan of prevention and remediation to be taken with respect to a custodian or the residential facility in order to assure the continued health and safety of children and to provide for the prevention of future acts of abuse or maltreatment; and (b) development and implementation of a plan of prevention and remediation, in the event an investigation of a report of alleged child abuse or maltreatment determines that some credible evidence of abuse or maltreatment exists and such abuse or maltreatment may be attributed in whole or in part to noncompliance by the residential facility or program

with provisions of this chapter or regulations of the division applicable to the operation of such residential facility or program. Any plan of prevention and remediation required to be developed pursuant to paragraph (b) of this subdivision by a facility supervised by the division shall be submitted to and approved by the division in accordance with time limits established by regulations of the division. Implementation of the plan shall be monitored by the division. In reviewing the continued qualifications of a residential facility or program for an operating certificate, the division shall evaluate such facility's compliance with plans of prevention and remediation developed and implemented pursuant to this subdivision.

15. In the event that the office of children and family services determines that significant service reductions, public employee staffing reductions and/or the transfer of operations to a private or not-for-profit entity are anticipated in the office of children and family services long term planning process or for a particular facility in a future year, to take the following actions:

(a) confer with the department of civil service, the governor's office of employee relations and any other state agency to develop strategies which attempt to minimize the impact on the state workforce by providing assistance in obtaining state employment in state-operated community-based services or other employment opportunities, and to develop strategies for the development of necessary retraining and redeployment programs. In planning such strategies, the commissioner of the office of children and family services shall provide for the participation of the representatives of the employee labor organizations and for the participation of managerial and confidential employees to ensure continuity of employment;

(b) consult with the department of economic development and any other appropriate state agencies to develop strategies which attempt to minimize the impact of such significant service reductions, public employee staffing reductions and/or the transfer of operations to a private or not-for-profit entity on the local and regional economies;

(c) provide for a mechanism which may reasonably be expected to provide notice to local governments, community organizations, employee labor organizations, managerial and confidential employees, consumer and

advocacy groups of the potential for significant service reductions, public employee staffing reductions and/or the transfer of operations to a private or not-for-profit entity at such state-operated facilities, at least twelve months prior to commencing such service reduction; and

(d) consult with the office of general services and any other appropriate state agency in developing a mechanism for determining alternative uses for land and buildings to be vacated by the office of children and family services. Such a mechanism should include a review of other programs or state agencies that could feasibly expand their operations onto a state-operated campus and are compatible with health, safety and programmatic needs of persons served in such facilities.

16. To perform such acts as are necessary or convenient to carry out the division's functions, powers and duties in furtherance of the best interests of youth, consistent with the provisions of this article.

§ 501-a. Actions against persons designated foster parents of the division; defense and indemnification. The provisions of section seventeen of the public officers law shall apply to persons designated foster parents whose duties involve the care, treatment or supervision of persons admitted to institutions operated by the division, whether within such institutions or released therefrom pursuant to section five hundred twenty-three of this article or whose duties involve services to or for applicants while rendering such care, treatment or services.

§ 501-b. Intervention as of right; notice. The division for youth, pursuant to paragraph one of subdivision (a) of section ten hundred twelve of the civil practice law and rules, shall be permitted to intervene in any action involving an appeal from a decision of any Court of this State which relates to programs, conditions or services provided by the division for youth. Written notice shall be given to the attorney general and the director of the division for youth by the party taking the appeal.

§ 501-c. Confidentiality. 1.(a) Records or files of youths kept by the division for youth shall be deemed confidential and shall be safeguarded from coming to the knowledge of and from inspection or examination by any person other than one authorized to receive such knowledge or to make such inspection or examination: (i) by the division pursuant to its regulations; (ii) or by a judge of the court of claims when such records are required for the trial of a claim or other proceeding in such court; or (iii) by a federal court judge or magistrate, a justice of the supreme court, a judge of the county court or family court, or a grand jury when such records are required for a trial or proceeding in such court or grand jury. No person shall divulge the information thus obtained without authorization to do so by the division, or by such justice, judge or grand jury.

(b) The division shall not release information which would reasonably identify such youth as ever being in the custody of the division, except as provided in paragraph (a) of this subdivision.

(c) Nothing in this subdivision shall limit a person's or agency's responsibility or authority to report suspected child abuse or maltreatment pursuant to title six of article six of the social services law.

(d) Nothing in this subdivision shall be deemed to prevent access by a parent or legal guardian of a youth to records or files of such youth where access is otherwise specifically authorized by law.

2. Notwithstanding any other provision of this section, the official case records produced and maintained by the division shall be made available to a probation department, upon written request, where an order of the court has been issued directing such department to conduct an investigation pursuant to the provisions of sections 390.20 and 720.20 of the criminal procedure law and section 351.1 of the family court act. Any written requests for records shall be accompanied by a copy of the court order and shall request only a copy of the youth's official case record. The division shall be granted a minimum of ten days to produce such records. The division shall be required to forward only records less than three years old in its possession, or copies thereof, relating to a youth less than twenty-one years of age at the time of the request. The division may impose a fee upon a probation

department for its costs in photocopying records provided under this subdivision. A probation department shall retain copies of records received or information obtained therein under the same conditions of confidentiality that apply to the investigation and any report on the investigation which was the basis for obtaining such records.

§ 501-d. Grants or gifts. The director of the division for youth, with the approval of the governor, may accept as agent of the state any grant, including federal grants, or any gift for any of the purposes of this article. Any moneys so received may be expended by the division for youth to effectuate any purpose of this article, subject to the same limitations as to approval of expenditures and audit as are prescribed for state moneys appropriated for the purposes of this article.

*** § 501-e. Interstate compact for juveniles.** The interstate compact for juveniles is hereby enacted into law and entered into with all other jurisdictions legally joining therein in a form substantially as follows:

THE INTERSTATE COMPACT FOR JUVENILES

ARTICLE I

PURPOSE

The compacting states to this interstate compact recognize that each state is responsible for the proper supervision or return of juveniles, delinquents and status offenders who are on probation or parole and who have absconded, escaped or run away from supervision and control and in so doing have endangered their own safety and the safety of others. The compacting states also recognize that each state is responsible for the safe return of juveniles who have run away from home and in doing so have left their state of residence. The compacting states also recognize that congress, by enacting the Crime Control Act, 4 U.S.C. Section 112 (1965), has authorized and encouraged compacts for cooperative efforts and mutual assistance in the prevention of crime. It is the purpose of this compact, through means of joint and cooperative action among the compacting states to:

A. ensure that the adjudicated juveniles and status offenders subject to this compact are provided adequate supervision and services in the receiving state as ordered by the adjudicating judge or parole authority in the sending state;

B. ensure that the public safety interests of the citizens, including the victims of juvenile offenders, in both the sending and receiving states are adequately protected;

C. return juveniles who have run away, absconded or escaped from supervision or control or have been accused of an offense to the state requesting their return;

D. make contracts for the cooperative institutionalization in public facilities in member states for delinquent youth needing special services;

E. provide for the effective tracking and supervision of juveniles;

F. equitably allocate the costs, benefits and obligations of the compacting states;

G. establish procedures to manage the movement between states of juvenile offenders released to the community under the jurisdiction of courts, juvenile departments, or any other criminal or juvenile justice agency which has jurisdiction over juvenile offenders;

H. insure immediate notice to jurisdictions where defined offenders are authorized to travel or to relocate across state lines;

I. establish procedures to resolve pending charges (detainers) against juvenile offenders prior to transfer or release to the community under the terms of this compact;

J. establish a system of uniform data collection on information pertaining to juveniles subject to this compact that allows access by

authorized juvenile justice and criminal justice officials, and regular reporting of compact activities to heads of state executive, judicial, and legislative branches and juvenile and criminal justice administrators;

K. monitor compliance with rules governing interstate movement of juveniles and initiate interventions to address and correct noncompliance;

L. coordinate training and education regarding the regulation of interstate movement of juveniles for officials involved in such activity; and

M. coordinate the implementation and operation of the compact with the interstate compact for the placement of children, the interstate compact for adult offender supervision and other compacts affecting juveniles particularly in those cases where concurrent or overlapping supervision issues arise.

It is the policy of the compacting states that the activities conducted by the interstate commission created herein are the formation of public policies and therefore are public business. Furthermore, the compacting states shall cooperate and observe their individual and collective duties and responsibilities for the prompt return and acceptance of juveniles subject to the provisions of this compact. The provisions of this compact shall be reasonably and liberally construed to accomplish the purposes and policies of the compact.

ARTICLE II
DEFINITIONS

As used in this compact, unless the context clearly requires a different construction:

A. "Bylaws" means those bylaws established by the interstate commission for its governance, or for directing or controlling its actions or conduct;

B. "Compact administrator" means the individual in each compacting state appointed pursuant to the terms of this compact, responsible for the administration and management of the state's supervision and transfer of juveniles subject to the terms of this compact, the rules adopted by the interstate commission and policies adopted by the state council under this compact;

C. "Compacting state" means any state which has enacted the enabling legislation for this compact;

D. "Commissioner" means the voting representative of each compacting state appointed pursuant to article III of this compact;

E. "Court" means any court having jurisdiction over delinquent, neglected, or dependent children;

F. "Deputy compact administrator" means the individual, if any, in each compacting state appointed to act on behalf of a compact administrator pursuant to the terms of this compact responsible for the administration and management of the state's supervision and transfer of juveniles subject to the terms of this compact, the rules adopted by the interstate commission and policies adopted by the state council under this compact;

G. "Interstate commission" means the interstate commission for juveniles created by article III of this compact;

H. "Juvenile" means any person defined as a juvenile in any member state or by the rules of the interstate commission, including any:

1. "accused delinquent" which means a person charged with an offense that, if committed by an adult, would be a criminal offense;

2. "adjudicated delinquent" which means a person found to have committed an offense that, if committed by an adult, would be a criminal offense;

3. "accused status offender" which means a person charged with an offense that would not be a criminal offense if committed by an adult;

4. "adjudicated status offender" which means a person found to have committed an offense that would not be a criminal offense if committed by an adult; and

5. "non-offender" which means a person in need of supervision who has not been accused or adjudicated a status offender or delinquent;

I. "Non-compacting state" means any state which has not enacted the enabling legislation for this compact;

J. "Probation" or "parole" means any kind of supervision or conditional release of juveniles authorized under the laws of the compacting states;

K. "Rule" means a written statement by the interstate commission promulgated pursuant to article VI of this compact that is of general applicability, implements, interprets or prescribes a policy or provision of the compact, or an organizational, procedural, or practical requirement of the commission, and has the force and effect of statutory law in a compacting state, and includes the amendment, repeal, or suspension of an existing rule; and

L. "State" means a state of the United States, the District of Columbia (or its designee), the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, and the Northern Marianas Islands.

ARTICLE III
INTERSTATE COMMISSION FOR JUVENILES

A. The compacting states hereby create the "interstate commission for juveniles." The commission shall be a body corporate and joint agency of the compacting states. The commission shall have all the responsibilities, powers and duties set forth herein, and such additional powers as may be conferred upon it by subsequent action of the respective legislatures of the compacting states in accordance with

the terms of this compact.

B. The interstate commission shall consist of commissioners appointed by the appropriate appointing authority in each state pursuant to the rules and requirements of each compacting state and in consultation with the state council for interstate juvenile supervision created hereunder. The commissioner shall be the compact administrator, deputy compact administrator or designee from that state who shall serve on the interstate commission in such capacity under or pursuant to the applicable law of the compacting state.

C. In addition to the commissioners who are the voting representatives of each state, the interstate commission shall include individuals who are not commissioners, but who are members of interested organizations. Such non-commissioner members must include a member of the national organizations of governors, legislators, state chief justices, attorneys general, interstate compact for adult offender supervision, interstate compact for the placement of children, juvenile justice and juvenile corrections officials, and crime victims. All non-commissioner members of the interstate commission shall be ex-officio (non-voting) members. The interstate commission may provide in its bylaws for such additional ex-officio (non-voting) members, including members of other national organizations, in such numbers as shall be determined by the commission.

D. Each compacting state represented at any meeting of the commission is entitled to one vote. A majority of the compacting states shall constitute a quorum for the transaction of business, unless a larger quorum is required by the bylaws of the interstate commission.

E. The commission shall meet at least once each calendar year. The chairperson may call additional meetings and, upon the request of a simple majority of the compacting states, shall call additional meetings. Public notice shall be given of all meetings and meetings shall be open to the public.

F. The interstate commission shall establish an executive committee, which shall include commission officers, members, and others as

determined by the bylaws. The executive committee shall have the power to act on behalf of the interstate commission during periods when the interstate commission is not in session, with the exception of rulemaking and/or amendment to the compact. The executive committee shall oversee the day-to-day activities of the administration of the compact managed by an executive director and interstate commission staff; administer enforcement and compliance with the provisions of the compact, its bylaws and rules, and perform such other duties as directed by the interstate commission or set forth in the bylaws.

G. Each member of the interstate commission shall have the right and power to cast a vote to which that compacting state is entitled and to participate in the business and affairs of the interstate commission. A member shall vote in person and shall not delegate a vote to another compacting state. However, a commissioner, in consultation with the state council, shall appoint another authorized representative, in the absence of the commissioner from that state, to cast a vote on behalf of the compacting state at a specified meeting. The bylaws may provide for members' participation in meetings by telephone or other means of telecommunication or electronic communication.

H. The interstate commission's bylaws shall establish conditions and procedures under which the interstate commission shall make its information and official records available to the public for inspection or copying. The interstate commission may exempt from disclosure any information or official records to the extent they would adversely affect personal privacy rights or proprietary interests.

I. Public notice shall be given of all meetings and all meetings shall be open to the public, except as set forth in the rules or as otherwise provided in the compact. The interstate commission and any of its committees may close a meeting to the public where it determines by two-thirds vote that an open meeting would be likely to:

1. relate solely to the interstate commission's internal personnel practices and procedures;

2. disclose matters specifically exempted from disclosure by statute;

3. disclose trade secrets or commercial or financial information which is privileged or confidential;

4. involve accusing any person of a crime, or formally censuring any person;

5. disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

6. disclose investigative records compiled for law enforcement purposes;

7. disclose information contained in or related to examination, operating or condition reports prepared by, or on behalf of or for the use of, the interstate commission with respect to a regulated person or entity for the purpose of regulation or supervision of such person or entity;

8. disclose information, the premature disclosure of which would significantly endanger the stability of a regulated person or entity; or

9. specifically relate to the interstate commission's issuance of a subpoena, or its participation in a civil action or other legal proceeding.

J. For every meeting closed pursuant to this provision, the interstate commission's legal counsel shall publicly certify that, in the legal counsel's opinion, the meeting may be closed to the public, and shall reference each relevant exemptive provision. The interstate commission shall keep minutes which shall fully and clearly describe all matters discussed in any meeting and shall provide a full and accurate summary of any actions taken, and the reasons therefor, including a description of each of the views expressed on any item and the record of any roll call vote (reflected in the vote of each member on the question). All documents considered in connection with any action shall be identified

in such minutes.

K. The interstate commission shall collect standardized data concerning the interstate movement of juveniles as directed through its rules which shall specify the data to be collected, the means of collection and data exchange and reporting requirements. Such methods of data collection, exchange and reporting shall insofar as is reasonably possible conform to up-to-date technology and coordinate its information functions with the appropriate repository of records.

ARTICLE IV

POWERS AND DUTIES OF THE INTERSTATE COMMISSION

The commission shall have the following powers and duties:

A. To provide for dispute resolution among compacting states;

B. To promulgate rules to effect the purposes and obligations as enumerated in this compact, which shall have the force and effect of statutory law and shall be binding in the compacting states to the extent and in the manner provided in this compact;

C. To oversee, supervise and coordinate the interstate movement of juveniles subject to the terms of this compact and any bylaws adopted and rules promulgated by the interstate commission;

D. To enforce compliance with the compact provisions, the rules promulgated by the interstate commission, and the bylaws, using all necessary and proper means, including but not limited to the use of judicial process;

E. To establish and maintain offices which shall be located within one or more of the compacting states;

F. To purchase and maintain insurance and bonds;

G. To borrow, accept, hire or contract for services of personnel;

H. To establish and appoint committees and hire staff which it deems necessary for the carrying out of its functions including, but not limited to, an executive committee as required by article III of this compact which shall have the power to act on behalf of the interstate commission in carrying out its powers and duties hereunder;

I. To elect or appoint such officers, attorneys, employees, agents, or consultants, and to fix their compensation, define their duties and determine their qualifications; and to establish the interstate commission's personnel policies and programs relating to, inter alia, conflicts of interest, rates of compensation, and qualifications of personnel;

J. To accept any and all donations and grants of money, equipment, supplies, materials, and services, and to receive, utilize, and dispose of it;

K. To lease, purchase, accept contributions or donations of, or otherwise to own, hold, improve or use any property, real, personal, or mixed;

L. To sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property, real, personal, or mixed;

M. To establish a budget and make expenditures and levy dues as provided in article VIII of this compact;

N. To sue and be sued;

O. To adopt a seal and bylaws governing the management and operation of the interstate commission;

P. To perform such functions as may be necessary or appropriate to achieve the purposes of this compact;

Q. To report annually to the legislatures, governors, judiciary, and state councils of the compacting states concerning the activities of the

interstate commission during the preceding year. Such reports shall also include any recommendations that may have been adopted by the interstate commission;

R. To coordinate education, training and public awareness regarding the interstate movement of juveniles for officials involved in such activity;

S. To establish uniform standards of the reporting, collecting and exchanging of data; and

T. The interstate commission shall maintain its corporate books and records in accordance with the bylaws.

ARTICLE V
ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION

A. Bylaws.

The interstate commission shall, by a majority of the members present and voting, within twelve months after the first interstate commission meeting, adopt bylaws to govern its conduct as may be necessary or appropriate to carry out the purposes of the compact, including, but not limited to:

a. establishing the fiscal year of the interstate commission;

b. establishing an executive committee and such other committees as may be necessary;

c. providing for the establishment of committees governing any general or specific delegation of any authority or function of the interstate commission;

d. providing reasonable procedures for calling and conducting meetings of the interstate commission, and ensuring reasonable notice of each such meeting;

e. establishing the titles and responsibilities of the officers of the interstate commission;

f. providing a mechanism for concluding the operations of the interstate commission and the return of any surplus funds that may exist upon the termination of the compact after the payment and/or reserving of all of its debts and obligations;

g. providing "start-up" rules for initial administration of the compact; and

h. establishing standards and procedures for compliance and technical assistance in carrying out the compact.

B. Officers and staff.

1. The interstate commission shall, by a majority of the members, elect annually from among its members a chairperson and a vice-chairperson, each of whom shall have such authority and duties as may be specified in the bylaws. The chairperson or, in the chairperson's absence or disability, the vice-chairperson shall preside at all meetings of the interstate commission. The officers so elected shall serve without compensation or remuneration from the interstate commission; provided that, subject to the availability of budgeted funds, the officers shall be reimbursed for any ordinary and necessary costs and expenses incurred by them in the performance of their duties and responsibilities as officers of the interstate commission.

2. The interstate commission shall, through its executive committee, appoint or retain an executive director for such period, upon such terms and conditions and for such compensation as the interstate commission may deem appropriate. The executive director shall serve as secretary to the interstate commission, but shall not be a member and shall hire and supervise such other staff as may be authorized by the interstate commission.

C. Qualified immunity, defense and indemnification.

1. The interstate commission's executive director and employees shall be immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused or arising out of or relating to any actual or alleged act, error, or omission that occurred, or that such person had a reasonable basis for believing occurred within the scope of interstate commission employment, duties, or responsibilities; provided, that any such person shall not be protected from suit or liability for any damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of any such person.

2. The liability of any commissioner, or the employee or agent of a commissioner, acting within the scope of such person's employment or duties for acts, errors, or omissions occurring within such person's state may not exceed the limits of liability set forth under the constitution and laws of that state for state officials, employees, and agents. Nothing in this subdivision shall be construed to protect any such person from suit or liability for any damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of any such person.

3. The interstate commission shall defend the executive director or the employees or representatives of the interstate commission and, subject to the approval of the attorney general of the state represented by any commissioner of a compacting state, shall defend such commissioner or the commissioner's representatives or employees in any civil action seeking to impose liability arising out of any actual or alleged act, error, or omission that occurred within the scope of interstate commission employment, duties, or responsibilities, or that the defendant had a reasonable basis for believing occurred within the scope of interstate commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of such person.

4. The interstate commission shall indemnify and hold the commissioner

of a compacting state, or the commissioner's representatives or employees, or the interstate commission's representatives or employees, harmless in the amount of any settlement or judgment obtained against such persons arising out of any actual or alleged act, error, or omission that occurred within the scope of interstate commission employment, duties, or responsibilities, or that such persons had a reasonable basis for believing occurred within the scope of interstate commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of such persons.

ARTICLE VI
RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION

A. The interstate commission shall promulgate and publish rules in order to effectively and efficiently achieve the purposes of the compact.

B. Rulemaking shall occur pursuant to the criteria set forth in this article and the bylaws and rules adopted pursuant thereto. Such rulemaking shall substantially conform to the principles of the "Model State Administrative Procedures Act," 1981 act, uniform laws annotated, vol. 15, p.1 (2000), or such other administrative procedures acts, as the interstate commission deems appropriate, consistent with due process requirements under the United States Constitution as now or hereafter interpreted by the United States supreme court. All rules and amendments shall become binding as of the date specified, as published with the final version of the rules as approved by the interstate commission.

C. When promulgating a rule, the interstate commission shall, at a minimum:

1. publish the proposed rule's entire text stating the reason or reasons for that proposed rule;

2. allow and invite any and all persons to submit written data, facts, opinions and arguments, which information shall be added to the record,

and be made publicly available;

3. provide an opportunity for an informal hearing if petitioned by ten or more persons;

4. promulgate a final rule and its effective date, if appropriate, based on input from state or local officials, or interested parties; and

5. allow, not later than sixty days after a rule is promulgated, any interested person to file a petition in the United States district court for the District of Columbia or in the federal district court where the interstate commission's principal office is located for judicial review of such rule. If the court finds that the interstate commission's action is not supported by substantial evidence in the rulemaking record, the court shall hold the rule unlawful and set it aside. For purposes of this subdivision, evidence is substantial if it would be considered substantial evidence under the model state administrative procedures act.

D. If a majority of the legislatures of the compacting states rejects a rule, those states may, by enactment of a statute or resolution in the same manner used to adopt the compact, cause such rule to have no further force and effect in any compacting state.

E. The existing rules governing the operation of the interstate compact on juveniles superseded by this act shall be null and void twelve months after the first meeting of the interstate commission created hereunder.

F. Upon determination by the interstate commission that a state of emergency exists, it may promulgate an emergency rule which shall become effective immediately upon adoption, provided that the usual rulemaking procedures provided hereunder shall be retroactively applied to said rule as soon as reasonably possible, but no later than ninety days after the effective date of the emergency rule.

ARTICLE VII

OVERSIGHT, ENFORCEMENT AND DISPUTE RESOLUTION BY THE

INTERSTATE COMMISSION

A. Oversight.

1. The interstate commission shall oversee the administration and operations of the interstate movement of juveniles subject to this compact in the compacting states and shall monitor such activities being administered in non-compacting states which may significantly affect compacting states.

2. The courts and executive agencies in each compacting state shall enforce this compact and shall take all actions necessary and appropriate to effectuate the compact's purposes and intent. The provisions of this compact and the rules promulgated hereunder shall be received by all the judges, public officers, commissions, and departments of the state government as evidence of the authorized statute and administrative rules. All courts shall take judicial notice of the compact and the rules. In any judicial or administrative proceeding in a compacting state pertaining to the subject matter of this compact which may affect the powers, responsibilities, or actions of the interstate commission, it shall be entitled to receive all service of process in any such proceeding, and shall have standing to intervene in the proceeding for all purposes.

B. Dispute resolution.

1. The compacting states shall report to the interstate commission on all issues and activities necessary for the administration of the compact as well as issues and activities pertaining to compliance with the provisions of the compact and its bylaws and rules.

2. The interstate commission shall attempt, upon the request of a compacting state, to resolve any disputes or other issues which are subject to the compact and which may arise among compacting states and between compacting and non-compacting states. The commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes among the compacting states.

3. The interstate commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of this compact using any or all means set forth in article XI of this compact.

ARTICLE VIII
FINANCE

A. The interstate commission shall pay or provide for the payment of the reasonable expenses of its establishment, organization and ongoing activities.

B. The interstate commission shall levy on and collect an annual assessment from each compacting state to cover the cost of the internal operations and activities of the interstate commission and its staff which must be in a total amount sufficient to cover the interstate commission's annual budget as approved each year. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the interstate commission, taking into consideration the population of each compacting state and the volume of interstate movement of juveniles in each compacting state and shall promulgate a rule binding upon all compacting states which governs said assessment.

C. The interstate commission shall not incur any obligations of any kind prior to securing the funds adequate to meet the same; nor shall the interstate commission pledge the credit of any of the compacting states, except by and with the authority of the compacting state.

D. The interstate commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the interstate commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the interstate commission shall be audited yearly by a certified or licensed public accountant and the report of the audit shall be included in and become part of the annual report of the interstate commission.

ARTICLE IX
THE STATE COUNCIL

Each member state shall create a state council for interstate juvenile supervision. While each state may determine the membership of its own state council, its membership must include at least one representative from the legislative, judicial, and executive branches of government, victims groups, and the compact administrator, deputy compact administrator or designee. Each compacting state retains the right to determine the qualifications of the compact administrator or deputy compact administrator. Each state council will advise and may exercise oversight and advocacy concerning that state's participation in interstate commission activities and other duties as may be determined by that state, including but not limited to, development of policy concerning operations and procedures of the compact within that state.

ARTICLE X
COMPACTING STATES, EFFECTIVE DATE AND AMENDMENT

A. Any state, the District of Columbia (or its designee), the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, and the Northern Marianas Islands as defined in article II of this compact is eligible to become a compacting state.

B. The compact shall become effective and binding upon legislative enactment of the compact into law by no less than thirty-five of the states. The initial effective date shall be the later of July first, two thousand four or upon enactment into law by the thirty-fifth jurisdiction. Thereafter it shall become effective and binding as to any other compacting state upon enactment of the compact into law by that state. The governors of non-member states or their designees shall be invited to participate in the activities of the interstate commission on a nonvoting basis prior to adoption of the compact by all states and territories of the United States.

C. The interstate commission may propose amendments to the compact for enactment by the compacting states. No amendment shall become effective and binding upon the interstate commission and the compacting states unless and until it is enacted into law by unanimous consent of the compacting states.

ARTICLE XI
WITHDRAWAL, DEFAULT, TERMINATION AND JUDICIAL ENFORCEMENT

A. Withdrawal.

1. Once effective, the compact shall continue in force and remain binding upon each and every compacting state; provided that a compacting state may withdraw from the compact by specifically repealing the statute which enacted the compact into law.

2. The effective date of withdrawal is the effective date of the repeal.

3. The withdrawing state shall immediately notify the chairperson of the interstate commission in writing upon the introduction of legislation repealing this compact in the withdrawing state. The interstate commission shall notify the other compacting states of the withdrawing state's intent to withdraw within sixty days of its receipt thereof.

4. The withdrawing state is responsible for all assessments, obligations and liabilities incurred through the effective date of withdrawal, including any obligations, the performance of which extend beyond the effective date of withdrawal.

5. Reinstatement following withdrawal of any compacting state shall occur upon the withdrawing state reenacting the compact or upon such later date as determined by the interstate commission.

B. Technical assistance, fines, suspension, termination and default.

1. If the interstate commission determines that any compacting state has at any time defaulted in the performance of any of its obligations or responsibilities under this compact, or the bylaws or duly promulgated rules, the interstate commission may impose any or all of the following penalties:

a. Remedial training and technical assistance as directed by the interstate commission;

b. Alternative dispute resolution;

c. Fines, fees, and costs in such amounts as are deemed to be reasonable as fixed by the interstate commission; and

d. Suspension or termination of membership in the compact, which shall be imposed only after all other reasonable means of securing compliance under the bylaws and rules have been exhausted and the interstate commission has therefore determined that the offending state is in default. Immediate notice of suspension shall be given by the interstate commission to the governor, the chief justice or the chief judicial officer of the state, the majority and minority leaders of the defaulting state's legislature, and the state council. The grounds for default include, but are not limited to, failure of a compacting state to perform such obligations or responsibilities imposed upon it by this compact, the bylaws, or duly promulgated rules and any other grounds designated in commission bylaws and rules. The interstate commission shall immediately notify the defaulting state in writing of the penalty imposed by the interstate commission and of the default pending a cure of the default. The commission shall stipulate the conditions and the time period within which the defaulting state must cure its default. If the defaulting state fails to cure the default within the time period specified by the commission, the defaulting state shall be terminated from the compact upon an affirmative vote of a majority of the compacting states and all rights, privileges and benefits conferred by this compact shall be terminated from the effective date of termination.

2. Within sixty days of the effective date of termination of a defaulting state, the commission shall notify the governor, the chief justice or chief judicial officer, the majority and minority leaders of the defaulting state's legislature, and the state council of such termination.

3. The defaulting state is responsible for all assessments,

obligations and liabilities incurred through the effective date of termination including any obligations, the performance of which extends beyond the effective date of termination.

4. The interstate commission shall not bear any costs relating to the defaulting state unless otherwise mutually agreed upon in writing between the interstate commission and the defaulting state.

5. Reinstatement following termination of any compacting state requires both a reenactment of the compact by the defaulting state and the approval of the interstate commission pursuant to the rules.

C. Judicial enforcement.

The interstate commission may, by majority vote of the members, initiate legal action in the United States district court for the District of Columbia or, at the discretion of the interstate commission, in the federal district where the interstate commission has its offices, to enforce compliance with the provisions of the compact, its duly promulgated rules and bylaws, against any compacting state in default. In the event judicial enforcement is necessary the prevailing party shall be awarded all costs of such litigation including reasonable attorney's fees.

D. Dissolution of compact.

1. The compact dissolves effective upon the date of the withdrawal or default of any compacting state, which reduces membership in the compact to one compacting state.

2. Upon the dissolution of this compact, the compact becomes null and void and shall be of no further force or effect, and the business and affairs of the interstate commission shall be concluded and any surplus funds shall be distributed in accordance with the bylaws.

ARTICLE XII

SEVERABILITY AND CONSTRUCTION

A. The provisions of this compact shall be severable, and if any phrase, clause, sentence or provision is deemed unenforceable, the remaining provisions of the compact shall be enforceable.

B. The provisions of this compact shall be liberally construed to effectuate its purposes.

ARTICLE XIII
BINDING EFFECT OF COMPACT AND OTHER LAWS

A. Other laws.

1. Nothing herein prevents the enforcement of any other law of a compacting state that is not inconsistent with this compact.

2. All compacting states' laws other than state constitutions and other interstate compacts conflicting with this compact are superseded to the extent of the conflict.

B. Binding effect of the compact.

1. All lawful actions of the interstate commission, including all rules and bylaws promulgated by the interstate commission, are binding upon the compacting states.

2. All agreements between the interstate commission and the compacting states are binding in accordance with their terms.

3. Upon the request of a party to a conflict over meaning or interpretation of interstate commission actions, and upon a majority vote of the compacting states, the interstate commission may issue advisory opinions regarding such meaning or interpretation.

4. In the event any provision of this compact exceeds the constitutional limits imposed on the legislature of any compacting state, the obligations, duties, powers or jurisdiction sought to be conferred by such provision upon the interstate commission shall be ineffective and such obligations, duties, powers or jurisdiction shall

remain in the compacting state and shall be exercised by the agency thereof to which such obligations, duties, powers or jurisdiction are delegated by law in effect at the time this compact becomes effective.

* NB Repealed September 1, 2030

*** § 501-f. Commissioner for the interstate compact for juveniles.** Pursuant to subdivision B of article III of section five hundred one-e of this article, the commissioner shall be appointed by the governor in consultation with the state council established pursuant to article IX of section five hundred one-e and section five hundred one-g of this article.

* NB Repealed September 1, 2030

*** § 501-g. State council for interstate juvenile supervision.** 1. Pursuant to article IX of section five hundred one-e of this article, there is hereby created within the office of children and family services a state council for interstate juvenile supervision. The council shall consist of the compact administrator, who shall be the commissioner of the office of children and family services, and ten other members to be appointed as follows:

(a) one legislative representative to be appointed by the governor upon recommendation of the speaker of the assembly;

(b) one legislative representative to be appointed by the governor upon recommendation of the temporary president of the senate;

(c) a judicial representative to be appointed by the governor upon recommendation of the chief judge of the court of appeals;

(d) the commissioner of the division of criminal justice services or his or her designee;

(e) the executive director of the council on children and families or his or her designee;

(f) the director of the office of probation and correctional alternatives or his or her designee;

(g) the director of the office of victim services or his or her designee;

(h) the commissioner of the New York city administration for

children's services or his or her designee;

(i) a member of the New York juvenile justice advisory group as appointed by the governor; and

(j) an attorney appointed upon the recommendation of the New York state bar association who has represented juveniles in family court in this state for a total of at least five years.

2. The council shall advise and exercise oversight and advocacy concerning the state's participation in interstate commission activities and other duties as the council may determine, including but not limited to, development of policy concerning the operations and procedures of the compact within the state. The appointments provided for in this section shall be made within ninety days of the effective date of this section. Each appointed member of the council shall serve a term of five years. Any member chosen to fill a vacancy created other than by expiration of term shall be appointed for the unexpired term of the member whom he or she is to succeed. Vacancies caused by the expiration of term shall be filled in the same manner as original appointments and for a term of five years. The council members shall serve without salary but shall be entitled to receive reimbursement for travel and other related expenses associated with participation in the work of the council.

3. The state council for interstate juvenile supervision shall provide an annual report on or before the first day of January, two thousand twelve, and the first day of January each year thereafter, to the governor, the speaker of the assembly, the temporary president of the senate, the minority leader in the assembly, the minority leader in the senate and the chief judge of the court of appeals on the operations of the council pertaining to juveniles subject to the interstate compact for juveniles. Such report shall include an evaluation of the implementation and operation of the interstate compact for juveniles and the rules adopted by the interstate commission; a description of the policies adopted by the state council under the compact; the data collected by the interstate commission and the council; the status of and interstate movement of juveniles subject to the compact, including the number of juveniles subject to the compact and the supervision

status of such juveniles, and, where available, statistical information on the age, ethnic and racial background, education, and institutional or criminal history of the juveniles subject to the compact. The report shall further include the council's evaluation of the efficiency and effectiveness of the interstate compact for juveniles and shall make recommendations concerning the operations, procedures and this state's continued inclusion in the interstate compact for juveniles.

* NB Repealed September 1, 2030

*** § 501-h. Detention and appointment of an attorney for the child in proceedings involving youth governed by the interstate compact for juveniles.** 1. If a youth is detained under the interstate compact for juveniles established pursuant to section five hundred one-e of this article, he or she shall be brought before the appropriate court within seventy-two hours or the next day the court is in session, whichever is sooner, and shall be advised by the judge of his or her right to remain silent, his or her right to be represented by counsel of his or her own choosing, and of the right to have an attorney assigned in accord with, as applicable, section two hundred forty-nine of the family court act or article eighteen-B of the county law. The youth shall be allowed a reasonable time to retain counsel, contact his or her parents or other person or persons legally responsible for his or her care or an adult with whom the youth has a significant connection, and the judge may adjourn the proceedings for such purposes. Provided, however, that nothing in this section shall be deemed to require a youth to contact his or her parents or other person or persons legally responsible for his or her care. Provided further, however, that counsel shall be assigned immediately, and continue to represent the youth until any retained counsel appears. The court shall schedule a court appearance for the youth no later than ten days after the initial court appearance, and every ten days thereafter, while the youth is detained pursuant to the interstate compact for juveniles unless any such appearance is waived by the attorney for the child.

2. All youth subject to proceedings governed by the interstate compact for juveniles established pursuant to section five hundred one-e of this

article shall be appointed an attorney pursuant to, as applicable, section two hundred forty-nine of the family court act or article eighteen-B of the county law if independent legal representation is not available to such youth.

* NB Repealed September 1, 2030

TITLE 2

FACILITIES

Section 502. Definitions.
502-a. Day placement.
503. Detention.
503-a. Temporary hold over units.
504. Division facilities.
504-a. Secure facilities.
504-b. Transport and warrant units.
505. Directors of facilities.
506. Claims for damage to employees' personal property.
507-a. Placement and commitment; procedures.
507-b. Placement and commitment; papers to be furnished.
507-c. Restrictive placements.
507-d. Confinement of juvenile delinquents under sentence of the courts of the United States.
508. Juvenile offender facilities.
509. Transfers to state hospitals and schools in the department of mental hygiene.

§ 502. Definitions. Unless otherwise specified in this article:

1. "Director" means the director of the division for youth.

2. "Division" means the division for youth.

3. "Detention" means the temporary care and maintenance of youth held away from their homes pursuant to article three of the family court act, or held pending a hearing for alleged violation of the conditions of

release from an office of children and family services facility or authorized agency, or held pending a hearing for alleged violation of the condition of parole as a juvenile offender, youthful offender or adolescent offender or held pending return to a jurisdiction other than the one in which the youth is held, or held pursuant to a securing order of a criminal court if the youth named therein as principal is charged as a juvenile offender, youthful offender or adolescent offender or held pending a hearing on an extension of placement or held pending transfer to a facility upon commitment or placement by a court. Only alleged or convicted juvenile offenders, youthful offenders or adolescent offenders who have not attained their eighteenth or, commencing October first, two thousand eighteen, their twenty-first birthday shall be subject to detention in a detention facility. Commencing October first, two thousand eighteen, a youth who on or after such date committed an offense when the youth was sixteen years of age; or commencing October first, two thousand nineteen, a youth who committed an offense on or after such date when the youth was seventeen years of age held pursuant to a securing order of a criminal court if the youth is charged as an adolescent offender or held pending a hearing for alleged violation of the condition of parole as an adolescent offender, must be held in a specialized secure juvenile detention facility for older youth certified by the state office of children and family services in conjunction with the state commission of correction.

4. For purposes of this article, the term "youth" shall mean a person not less than twelve years of age and not more than twenty-two years of age, unless such youth is over the age of seven and less than twelve years and is alleged to be or adjudicated a juvenile delinquent, as applicable, pursuant to subparagraph (iii) of paragraph (a) of subdivision one of section 301.2 of the family court act.

5. "Placement" means the transfer of a youth to the custody of the division pursuant to the family court act.

6. "Commitment" means the transfer of a youth to the custody of the division pursuant to the penal law.

7. "Conditional release" means the transfer of a youth from facility status to aftercare supervision under the continued custody of the division.

8. "Discharge" means the termination of division custody of a youth.

9. "Aftercare" means supervision of a youth on conditional release status under the continued custody of the division.

§ 502-a. Day placement. 1. Definition. "Day placement" shall mean a program for youth placed with the division which is an alternative to or includes a period of residential placement. Such program shall require the youth to adhere to conditions of participation and to attend programs on certain days or during certain periods of days, or both, as specified by the director.

2. Authorization for day placement. The director is authorized to establish day placement programs for eligible youth as defined by the director, pursuant to the rules and regulations of the division. The director's decision to allow a youth to participate in the day placement program shall be discretionary. As a part of day placement, the director shall impose conditions of participation upon the youth. Such conditions may include but shall not be limited to community, educational, vocational, recreational and treatment services; evening and weekend reporting programs; alternative educational programs; and periods of residential placement.

3. Use of day placement. The director, pursuant to the rules and regulations of the division, may approve a day placement in any case where the court has ordered placement with the division pursuant to section 353.3 of the family court act.

4. Duration of day placement. The duration of a day placement may be for the same period of placement imposed by the court pursuant to section 353.3 of the family court act. The term of the placement shall commence on the day it is imposed and shall be calculated upon the basis

of the duration of its term, rather than upon the basis of the days spent in residential placement, so that no youth shall be subject to placement for a period that is longer than the initial period of placement, unless an extension is granted pursuant to section 355.3 of the family court act.

5. Interruption of placement. Consistent with the rule and regulation of the division, in any case where a youth fails to report to the facility or program specified by the director, the term of placement shall be interrupted and such interruption shall continue until the youth reports to such facility or program or is otherwise returned to the custody of the division.

6. Modification or termination of day placement. It shall be within the discretion of the director to modify or terminate a youth's participation in day placement at any time. If the day placement is terminated the youth shall be immediately placed in a residential facility consistent with the court order.

7. Release and discharge. Decisions of the director regarding day placement pursuant to this section or any conditional release or discharge pursuant to sections five hundred ten-a and five hundred hundred ten-c of this article shall be deemed a judicial function and shall not be reviewable if done in accordance with law.

§ 503. Detention. 1. The division shall establish regulations for the operation of secure and non-secure detention facilities pursuant to this article and section two hundred eighteen-a of the county law.

2. To assure that adequate, suitable and conveniently accessible accommodations and proper care will be available when required for detention, the division may contract for or establish, operate, maintain and certify secure and non-secure detention facilities if funds shall have been made available for the lease or purchase and maintenance and operation of appropriate facilities.

3. Each social services district may establish, operate and maintain secure and non-secure detention facilities for the purposes defined in section five hundred two of this article. Each such detention facility shall be established, operated and maintained in compliance with this article and the regulations of the division for youth.

4. The office of children and family services shall visit and inspect all facilities used for detention and make periodic reports of the operation and adequacy of such facilities, and the need for provision of such facilities to the county executive, if there be one, the county legislature and the family court judges of the county in which such facilities are located, and the office of court administration.

5. No detention facility shall receive or care for children detained pursuant to the family court act or the criminal procedure law unless certified by the division, which certification shall include a maximum-capacity which shall not be exceeded. No certification shall be issued or renewed unless such a facility has developed and implemented a procedure, consistent with appropriate collective bargaining agreements and applicable provisions of the civil service law, for reviewing and evaluating the backgrounds of and the information supplied by any person applying to be an employee, volunteer or consultant, which shall include but not be limited to the following requirements: that the applicant set forth his or her employment history, provide personal and employment references and sign a sworn statement indicating whether the applicant, to the best of his or her knowledge, has ever been convicted of a crime in this state or any other jurisdiction.

(a) The division shall promulgate regulations governing procedures for certification of detention facilities and for renewal, suspension and revocation of such certifications. Such regulations shall provide for a hearing prior to the suspension or revocation of a certification.

(b) The office of children and family services may suspend a certification for good cause shown. Suspension shall mean that no persons coming within the provisions of article three or seven of the family court act and no alleged or convicted juvenile offender may be received for care in a detention facility, but persons already in care may remain in care. The office may impose such conditions in the event

of a suspension as it shall deem necessary and proper.

(c) Such office may revoke a certification for good cause shown. Revocation shall mean that no persons coming within the provisions of article three or seven of the family court act and no alleged or convicted juvenile offender may be received for care nor remain at the detention facility.

6. The division shall be responsible for bringing violations of law pertaining to detention of juveniles to the attention of each appropriate attorney for the child or counsel for the defendant who may petition for habeas corpus for persons aggrieved thereby.

7. The person in charge of each detention facility shall keep a record of all time spent in such facility for each youth in care. The detention facility shall deliver a certified transcript of such record to the office, social services district, or other agency taking custody of the youth pursuant to article three or seven of the family court act, before, or at the same time as the youth is delivered to the office, district or other agency, as is appropriate.

8. The division shall list all facilities certified for the detention of children and shall file a copy of that list periodically with the clerk of the family court in each county, the clerk of the criminal court of the city of New York, the clerk of the supreme court in each county within the city of New York and the clerk of the county court in each county outside the city of New York.

9. Notwithstanding any other provision of law, the office of children and family services in consultation with the state commission of correction shall jointly regulate, certify, inspect and supervise specialized secure detention facilities for adolescent offenders.

§ 503-a. Temporary hold over units. 1. The division may establish secure temporary hold over units at its facilities for the accommodation of youth placed with the division pursuant to article three of the family court act, who are being transported to a division facility or

program, a court appearance or a home visit, where travel arrangements or the distance to be travelled requires such a holdover. No youth shall be held in these units in excess of twenty-four hours unless emergency conditions, including illness of the youth or severe weather, prevent travel.

2. Temporary hold over units may be established on a regional basis. Contact between youth who are housed in a hold over unit and residents of the facility shall be minimal. Youth staying in a temporary hold over unit shall be under supervision at all times. At least one staff on duty shall be of the same gender as the youth.

3. The temporary hold over units shall contain individual sleeping rooms, dining facilities and an area for recreation.

4. Juvenile offenders committed to the custody of the division shall not be housed in temporary hold over units at any time. Notwithstanding any other law, the division shall have the authority to house any adjudicated youth placed with the division pursuant to article three of the family court act, in a secure temporary hold over unit, subject to the provisions of this section.

§ 504. Division facilities. 1. The office of children and family services shall operate and maintain secure, limited secure and non-secure facilities for the care, custody, treatment, housing, education, rehabilitation and guidance of youth placed with or committed to the office of children and family services.

2. Each separate facility may bear the name, designated by the division, of an individual known for outstanding service to youth.

3. A youth attending a local public school while in residence at a division facility shall be deemed a resident of the school district where the youth's parent or guardian resides at the commencement of each school year for the purpose of determining which school district shall be responsible for the youth's tuition.

4. The division shall determine the particular division facility or program in which a child placed with the division shall be cared for, based upon an evaluation of such child. The division shall also have authority to discharge or conditionally release children placed with it and to transfer such children from a limited secure or non-secure facility to any other limited secure or non-secure facility, when the interest of such children requires such action; provided that a child transferred to a non-secure facility from a limited secure facility may be returned to a limited secure facility upon a determination by the division that, for any reason, care and treatment at the non-secure facility is no longer suitable.

§ 504-a. Secure facilities. 1. As used in this article, "secure facility" means a residential facility in which a juvenile delinquent may be placed under this article, which is characterized by physically restricting construction, hardware and procedures, and is designated as a secure facility by the division under this section.

2. Secure facilities shall provide appropriate services to the residents, including but not limited to: residential care, educational and vocational training, physical and mental health services, and employment counseling.

3. A youth shall be placed in or transferred to a secure facility only:

(a) by order of the family court pursuant to section 353.5 of the family court act; or

(b) after a hearing pursuant to regulations of the division, with the written approval of the director of the division or his or her designee.

4. The division shall promulgate regulations governing secure facilities of the division, including but not limited to:

(a) limitations as to capacity;

(b) services to be provided and conditions to be maintained;

(c) a grievance procedure for residents to be run by the division,

with the use of personnel separate from that of the facility;

(d) procedures for admission to and release or transfer from the facility;

(e) periodic inspection by the division, not to be conducted by personnel of the facility.

5. A juvenile delinquent residing in a facility operated pursuant to this title may be maintained in group confinement if he constitutes a serious and evident danger to himself or other persons, if such confinement is clearly necessary to prevent escape, if the child demonstrates by his behavior that he is in need of special care and attention in a living unit separate from his normal surroundings, or if such confinement is necessary for purposes of the child's own protection. The division shall promulgate regulations providing for a procedure governing transfers to group confinement and periodic review of such confinement.

§ 504-b. Transport and warrant units. The division is authorized to establish transport and warrant units and designate employees to be assigned to such units. Such units shall have the powers and responsibilities specified in regulations promulgated by the division, including but not limited to the conveyance of youth placed with or committed to the custody of the division to and from its facilities. Employees of such unit who are specifically designated by the director in writing, shall have the power and authority of peace officers in respect thereto.

§ 505. Directors of facilities. 1. There shall be a facility director of each office of children and family services operated facility. Such facility director shall be appointed by the commissioner of the office of children and family services and the position shall be in the noncompetitive class and designated as confidential as defined by subdivision two-a of section forty-two of the civil service law. The facility director shall have such experience and other qualifications as may be prescribed by the director of classification and compensation

within the department of civil service in consultation with the commissioner of the office of children and family services based on differences in duties, levels of responsibility, size and character of the facility, knowledge, skills and abilities required, and other factors affecting the position. Such facility director shall serve at the pleasure of the commissioner of the office of children and family services.

2. Subject to regulations of the division, the facility director of a state facility in the division shall:

(a) operate and manage the facility,

(b) submit a monthly report on such matters as the division may specify.

3. Subject to the regulations of the division, the facility director may authorize the use of the buildings and grounds of the facility by a municipality, special district or non-profit association, corporation or organization for educational, recreational, social and civic purposes whenever such use may promote better relationships with the community in which the facility is located, provided, however, that such use does not interfere with the purposes and program of the facility.

§ 506. Claims for damage to employees' personal property. Claims for damages to personal property of employees of the division for youth caused by youths in program may be examined, audited and certified for payment by the state comptroller. Such claims must be approved by the director of the division for youth prior to submission to the office of the state comptroller. The payment of any such claim shall not exceed the sum of three hundred fifty dollars.

§ 507-a. Placement and commitment; procedures. 1. Youth may be placed in or committed to the custody of the division:

(a) for placement, as a juvenile delinquent pursuant to the family court act; or

(b) for commitment pursuant to the penal law.

2. (a) Consistent with other provisions of law, only those youth who have reached the age of twelve but who have not reached the age of twenty-one, unless such youth is over the age of seven and less than twelve years of age and has been adjudicated a juvenile delinquent pursuant to subparagraph (iii) of paragraph (a) of subdivision one of section 301.2 of the family court act, may be placed in the custody of the office of children and family services. Except as provided for in paragraph (a-1) of this subdivision, no youth who has reached the age of twenty-one may remain in custody of the office of children and family services.

(a-1) (i) A youth who is committed to the office of children and family services as a juvenile offender or a juvenile offender adjudicated as a youthful offender may remain in the custody of the office during the period of his or her sentence beyond the age of twenty-one in accordance with the provisions of subdivision five of section five hundred eight of this title but in no event may such a youth remain in the custody of the office beyond his or her twenty-third birthday; and (ii) a youth found to have committed a designated class A felony act who is restrictively placed with the office under subdivision four of section 353.5 of the family court act for committing an act on or after the youth's sixteenth birthday may remain in the custody of the office of children and family services up to the age of twenty-three in accordance with his or her placement order.

(a-2) Whenever it shall appear to the satisfaction of the office of children and family services that any youth placed therewith is not of proper age to be so placed or is not properly placed, or is mentally or physically incapable of being materially benefited by the program of the office, the office shall cause the return of such youth to the county from which placement was made.

(b) The division shall deliver such youth to the custody of the placing court, along with the records provided to the division pursuant to section five hundred seven-b of this article, there to be dealt with by the court in all respects as though no placement had been made.

(c) The cost and expense of the care and return of such youth incurred by the division shall be reimbursed to the state by the social services district from which such youth was placed in the manner provided by

section five hundred twenty-nine of this article.

3. The division may photograph any youth in its custody. Such photograph may be used only for the purpose of assisting in the return of conditionally released children and runaways pursuant to section five hundred ten-b of this article. Such photograph shall be destroyed immediately upon the discharge of the youth from division custody.

4. (a) A youth placed with or committed to the division may, immediately following placement or commitment, be remanded to an appropriate detention facility.

(b) The office of children and family services shall admit a child placed with the office to a facility of the office within fifteen days of the date of the order of placement with the office and shall admit a juvenile offender, youthful offender or adolescent offender committed to the office to a facility of the office within ten days of the date of the order of commitment to the office, except as provided in section five hundred seven-b of this article.

5. Consistent with other provisions of law, in the discretion of the commissioner of the office of children and family services, youth placed within the office under the family court act who attain the age of eighteen while in custody of the office and who are not required to remain in the placement with the office as a result of a dispositional order of the family court may reside in a placement in an authorized agency or a non-secure facility until the age of twenty-one, provided that such youth attend a full-time vocational or educational program and are likely to benefit from such program.

§ 507-b. Placement and commitment; papers to be furnished. 1. No placement or commitment order to the division which recites the facts upon which it was based shall be deemed or held to be invalid by reason of any imperfection or defect in form.

2. The court shall immediately notify the division of the placement or commitment of any youth therewith. The orders of the court and copies

of the probation report and all other relevant evaluative records in the possession of the court, detention facility, and probation department related to such youth, including but not limited to any diagnostic, educational, medical, psychological and psychiatric records, fingerprints, photographs, a certified copy of the sentence and any pre-sentence memoranda filed with the court, where applicable, and reports relating to assaults or other violent acts, attempts at suicide or escape by the youth shall be delivered together with the youth or earlier to a person authorized by the director to receive the child, notwithstanding any contrary provision of law.

3. The court shall, before placing or committing any such youth, inquire into and determine the age of the youth at the time of placement or commitment, and the youth's age as so determined shall be stated in the order. The statement of the age of such youth in such order shall be conclusive evidence as to such age in any action to recover damages for allegedly unlawful detention under such order, and shall be presumptive evidence thereof in any other inquiry, action or proceeding relating to such detention.

4. Notwithstanding the time frames provided in paragraph (b) of subdivision four of section five hundred seven-a of this article, the division may delay acceptance of a youth placed or committed to the division in accordance with division regulations promulgated prior to the effective date of this subdivision.

§ 507-c. Restrictive placements. 1. The division shall promulgate regulations governing restrictive placements of juveniles under section 353.5 of the family court act, not inconsistent with such act.

2. The regulations shall establish within the division a restrictive placement committee. The division shall make and revise as needed a plan for the care, treatment, services and supervision of each youth under restrictive placement, which plan shall be reviewed and may be revised by the committee. The youth may not be released or transferred from a facility without the approval of the committee, except by written order

of the director.

3. For youths placed with the division pursuant to a restrictive placement under section 353.5 of the family court act, the division shall (a) report in writing to the court not less than once every six months during the placement on the status, adjustment and progress of the respondent, unless otherwise provided in the order of disposition; and (b) provide intensive supervision of the youth whenever he or she is not in a secure or residential facility of the division.

§ 507-d. Confinement of juvenile delinquents under sentence of the courts of the United States. The directors of secure and limited secure facilities shall receive and safely keep in such facilities, subject to the provisions of this article, any person not over the age of sixteen years convicted of any offense against the United States, and sentenced to imprisonment by any court of the United States, sitting within this state, until such sentences be executed, or until such delinquent shall be discharged by due course of law, conditioned upon the United States supporting such delinquent and paying the expenses attendant upon the execution of such sentence.

§ 508. Juvenile offender and adolescent offender facilities. 1. The office of children and family services shall maintain secure facilities for the care and confinement of juvenile offenders and adolescent offenders committed for a sentence pursuant to the sentencing provisions of the penal law. Such facilities shall provide appropriate services to juvenile offenders and adolescent offenders including but not limited to residential care, educational and vocational training, physical and mental health services, and employment counseling.

2. Juvenile offenders and adolescent offenders shall be confined in such facilities until the age of twenty-one in accordance with their sentences, and shall not be released, discharged or permitted home visits except pursuant to the provisions of this section.

3. The office of children and family services shall report in writing to the sentencing court and district attorney, not less than once every six months during the period of confinement, on the status, adjustment, programs and progress of the offender.

The office of children and family services may transfer an offender not less than eighteen years of age to the department of corrections and community supervision if the commissioner of the office certifies to the commissioner of corrections and community supervision that there is no substantial likelihood that the youth will benefit from the programs offered by office facilities.

4. The office of children and family services may apply to the sentencing court for permission to transfer a youth not less than sixteen nor more than eighteen years of age to the department of corrections and community supervision. Such application shall be made upon notice to the youth, who shall be entitled to be heard upon the application and to be represented by counsel. The court shall grant the application if it is satisfied that there is no substantial likelihood that the youth will benefit from the programs offered by the office facilities.

5. The office of children and family services may transfer an offender not less than eighteen nor more than twenty-one years of age to the department of corrections and community supervision if the commissioner of the office certifies to the commissioner of corrections and community supervision that there is no substantial likelihood that the youth will benefit from the programs offered by office facilities.

6. At age twenty-one, all juvenile offenders shall be transferred to the custody of the department of corrections and community supervision for confinement pursuant to the correction law.

7. While in the custody of the office of children and family services, an offender shall be subject to the rules and regulations of the office, except that his or her parole, temporary release and discharge shall be governed by the laws applicable to incarcerated individuals of state

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

8. Whenever a juvenile offender, adolescent offender or a juvenile offender or adolescent offender adjudicated a youthful offender shall be delivered to the director of an office of children and family services facility pursuant to a commitment to the office of children and family services, the officer so delivering such person shall deliver to such facility director a certified copy of the sentence received by such officer from the clerk of the court by which such person shall have been

sentenced, a copy of the report of the probation officer's investigation and report, any other pre-sentence memoranda filed with the court, a copy of the person's fingerprint records, a detailed summary of available medical records, psychiatric records and reports relating to assaults, or other violent acts, attempts at suicide or escape by the person while in the custody of a local detention facility.

9. Notwithstanding any provision of law, including section five hundred one-c of this article, the office of children and family services shall make records pertaining to a person convicted of a sex offense as defined in subdivision (p) of section 10.03 of the mental hygiene law available upon request to the commissioner of mental health or the commissioner of the office for people with developmental disabilities, as appropriate; a case review panel; and the attorney general; in accordance with the provisions of article ten of the mental hygiene law.

§ 509. Transfers to state hospitals and schools in the department of mental hygiene. 1. (a) The director of the division for youth may apply for the transfer of any child in the care of the division to the department of mental hygiene for care and treatment in a state hospital or school under the jurisdiction of said department whenever it appears to the satisfaction of the director of the division:

(i) that such child is living with mental illness or a developmental disability and will substantially benefit from care and treatment in such a state school or hospital; and

(ii) that the interests of the state will be best served thereby.

(b) The office for people with developmental disabilities may receive, treat and otherwise care for such a child pursuant to article nine or fifteen of the mental hygiene law if suitable for admission thereunder.

2. (a) Except in the case of an emergency requiring immediate admission to a state hospital pursuant to the mental hygiene law, a child in the care of the division may be transferred:

(i) after notice thereof has been given to the child to be transferred, his parents or legal guardian, and his attorney of record,

if any; and

(ii) after he has been afforded an opportunity to be heard with respect thereto at a hearing conducted by an impartial hearing officer and to be represented at such hearing by counsel. If in the judgment of the division such child is financially unable to obtain counsel, the division shall pay such counsel's fees as shall be necessary to assure adequate representation for such child.

(b) The hearing officer may accept the written waiver by a child of his right to a hearing, provided the child knowingly and voluntarily executed such waiver with the advice of counsel.

3. A child transferred pursuant to this section:

(a) shall continue to be under the general care and supervision of the division for youth except that he shall be temporarily cared for and treated by the institution to which the transfer is made.

(b) shall be subject to the laws and rules pertaining to the institution to which he is admitted; and

(c) shall be entitled to the same rights and procedures under the mental hygiene law as any other person admitted or converted in status thereunder.

4. Whenever the commissioner of mental health or the director of a residential treatment facility for children and youth, or the commissioner of developmental disabilities finds that care and treatment of a child transferred pursuant to this section or section 353.4 of the family court act is no longer suitable under the mental hygiene law, he or she shall forthwith so certify and discharge the child to the custody of the child himself or herself, his or her parents, his or her legal guardian, the local department of social services or the office of children and family services, as appropriate, except that so long as there is a valid order of the family court placing the child with the office of children and family services, or a valid order of a criminal court sentencing a child to the office of children and family services, the child shall be returned to the care and custody of the office of children and family services. The duration of the placement or sentence with the such office of a child transferred pursuant to this section shall not be extended or increased by reason of any such transfer.

5. All expenses incident to a transfer under this section shall be borne by the division, subject to the provisions of title four of this article. All expenses for the care and treatment of a child transferred to the department of mental hygiene pursuant to this section shall be borne by the department of mental hygiene.

6. An application by the director for admission of a child to a state hospital shall be considered an application for voluntary admission in accordance with section 9.13 of the mental hygiene law if such child is under the age of sixteen or if the child is sixteen years of age or older and has waived his right to a hearing in accordance with subdivision two of this section. An application by the director for admission to a state hospital of a child sixteen years of age or older who has not knowingly and voluntarily consented to such application in accordance with paragraph (b) of subdivision two of this section shall be considered an application for involuntary admission in accordance with section 9.27 of the mental hygiene law.

7. The director may, following the procedures outlined in this section and subject to the requirements of section 9.51 of the mental hygiene law, apply for the transfer of any child in the care of the division who has not been sentenced as a juvenile offender pursuant to section 70.05 of the penal law, and who is not subject to a restrictive placement pursuant to section 353.5 of the family court act, to a residential treatment facility for children and youth.

8. Notwithstanding any other provision of law to the contrary, juvenile offenders shall be transferred only to a facility under the jurisdiction of the office of mental health specially designed for the care and treatment of juvenile offenders which is characterized by physically restricting construction, hardware and procedures.

TITLE 3

PROGRAMS AND SERVICES FOR YOUTH

Subtitle A Additional Services for Youth (§§ 510-a--522)

SUBTITLE A

ADDITIONAL SERVICES FOR YOUTH

Section 510-a. Conditional release.
510-b. Return of conditionally released children or runaways.
510-c. Discharge from custody.
512. Weekly allowances; work experience.
512-a. Earnings of youth
513. Career education.
515. Freedom of worship.
516. Care of infants by division for youth.
517. Commissaries.
518. Restitution; services for public good.
519. Persons authorized to visit division facilities.
522. Actions against persons rendering health care services at the request of the division; defense and indemnification.

§ 510-a. Conditional release. 1. The division may conditionally release any youth placed with the division to aftercare whenever it deems such conditional release to be in the best interest of the youth, that suitable care and supervision can be provided and that there is a reasonable probability that the youth can be conditionally released without endangering the public safety; provided, however, that no youth while absent from a facility or program without the consent of the director of such facility or program shall be conditionally released by the division solely by reason of the absence. The division may establish regulations in connection with such conditional release.

2. It shall be a condition of such release that the youth so released shall continue to be the responsibility of the division for the period provided in the order of placement, notwithstanding the youth's conditional release therefrom, and that the division, pursuant to its regulations, may cause such youth to be returned to a division facility

or authorized agency at any time within the period of placement, where there is a violation of the conditions of release or a change of circumstances.

3. Youth conditionally released by the division may be provided for as follows:

* (a) If, in the opinion of the office of children and family services, there is no suitable parent, relative or guardian to whom a youth can be conditionally released, and suitable care cannot otherwise be secured, the division may conditionally release such youth to the care of an authorized agency established pursuant to section three hundred seventy-one of the social services law or any other suitable person; provided that where such suitable person has no legal relationship with the juvenile, the office shall advise such person of the procedures for obtaining custody or guardianship of the juvenile.

* NB Effective until March 31, 2028

* (a) If, in the opinion of the division, there is no suitable parent, relative or guardian to whom a youth can be conditionally released, and suitable care cannot otherwise be secured, the division may conditionally release such youth to the care of an authorized agency established pursuant to section three hundred seventy-one of the social services law or any other suitable person.

* NB Effective March 31, 2028

(b) The division may provide clothing, other necessities and services for any conditionally released youth, as may be required, including medical care and services not provided to such youth as medical assistance for needy persons pursuant to title eleven of article five of the social services law.

(c) If the youth so released is subject to article sixty-five of the education law or elects to participate in an educational program leading to a high school diploma, the youth shall be enrolled in a school or educational program leading to a high school diploma following release, or, if such release occurs during the summer recess, upon the commencement of the next school term. If the youth so released is not subject to article sixty-five of the education law and does not elect to participate in an educational program leading to a high school diploma, steps shall be taken to the extent possible to facilitate the youth's

gainful employment or enrollment in a vocational program following release.

4. In addition to the other requirements of this section, no youth placed with the division pursuant to a restrictive placement under the family court act shall be released except pursuant to section 353.5 of the family court act.

§ 510-b. Return of conditionally released children or runaways. 1. If a child under the jurisdiction of the division runs away from a division facility or an authorized agency or violates any condition of release therefrom, or if there is a change of circumstances, the division shall cause said child to be apprehended and returned to a division facility or authorized agency pursuant to the regulations of the division.

2. The facility director shall, with respect to any person placed with the division by order of the family court, give immediate written notice to said family court when any such person is absent from such facility without consent. In cases involving persons placed with the division who are cared for by authorized agencies pursuant to court direction or authorization, the authorized agency shall give written notice to the division and the appropriate family court when any such division placement is absent from such authorized agency without consent.

3. An employee designated by the division may, without a warrant, apprehend a runaway or conditionally released child in any county in this state whose return has been ordered by the division, and return said child to any appropriate division facility, detention facility, authorized agency or program.

4. The division, pursuant to its regulations, shall issue a warrant directed generally to any peace officer, acting pursuant to such officer's special duties, or police officer in the state for the apprehension and return of any runaway or conditionally released child under the jurisdiction of the division and such warrant shall be executed by any peace officer, acting pursuant to such officer's special

duties, or police officer to whom it may be delivered. The division also shall provide relevant law enforcement agencies within forty-eight hours with any photographs of any runaway or conditionally released child for whom a warrant is issued together with any pertinent information relative to such child. Such photographs shall remain the property of the division and shall be kept confidential for use solely in the apprehension of such child. Such photographs shall be returned promptly to the division upon apprehension of such child, or upon the demand of the division.

5. A magistrate may cause a runaway or released child to be held in custody until returned to the division.

6. In a city with a population of one million or more, the commissioner of juvenile justice, or the designee of such commissioner, may issue a warrant directed generally to any peace officer, acting pursuant to such officer's special duties, or police officer in the state for the apprehension and return of any youth who has run away or escaped from a secure detention facility, as defined in the family court act, operated by such commissioner. Such warrant shall be executed by any peace officer, acting pursuant to such officer's special duties, or police officer to whom it may be delivered.

7. When a child who is placed with the division pursuant to article three of the family court act or committed pursuant to the penal law is absent from a division facility or an authorized agency without the consent of the director of such facility or authorized agency, the absence shall interrupt the calculation of the time of such placement or commitment and such interruption shall continue until the return of the child to the facility or authorized agency in which the child was placed or committed. Any time spent by such child in custody from the date of absence to the date the placement pursuant to article three of the family court act or commitment pursuant to the penal law resumes shall be credited against the time of such placement or commitment provided:

(a) That such custody was due to an arrest or surrender based upon the absence; or

(b) That such custody arose from an arrest or surrender on another

charge which did not culminate in a conviction, adjudication or adjustment.

8. When a youth who is absent without consent from division custody is apprehended outside of the state of New York, the terms of the interstate compact on juveniles, set forth in chapter one hundred fifty-five of the laws of nineteen hundred fifty-five, as amended, shall govern the return of such youth to division custody.

§ 510-c. Discharge from custody. 1. The division may discharge from its custody any child placed with the division whenever it deems such discharge to be in the best interest of the child and there is reasonable probability that the child can be discharged without endangering the public safety; provided, however, that no child while absent from a division facility without the consent of the director of such facility shall be discharged by the division solely by reason of the absence, and provided further that no child in the custody of the division and transferred to the department of mental hygiene, while absent from a department of mental hygiene facility without the consent of the superintendent or director of such facility, shall be discharged by the division.

2. Except as provided in subdivision three of this section, any child who has been placed with the office of children and family services shall be deemed to have been discharged therefrom if, during the period provided in the order of placement or extension thereof, the child is convicted of a crime or adjudicated a youthful offender, and is committed to an institution in the department of corrections and community supervision or department of mental hygiene, or receives a one year sentence in a local correctional facility.

3. A child placed with the division pursuant to a restrictive placement under the family court act shall not be discharged solely by reason of conviction for a crime or adjudication as a juvenile delinquent or youthful offender, nor shall any such child be discharged except pursuant to section 353.5 of the family court act.

4. Upon the placement of any child eighteen years of age or over, or upon the eighteenth birthday of any child placed in the custody of the division for an adjudication of juvenile delinquency for having committed an act which if committed by an adult would constitute a felony, and still in the custody of the division, the division shall notify the division of criminal justice services of such placement or birthday provided, however, in the case of a child eleven or twelve years of age, at the time the act or acts were committed, the division of criminal justice services shall not be provided with the child's name, unless the acts committed by such child would constitute a class A or B felony. Upon the subsequent discharge of said child it shall be the duty of the division to notify the division of criminal justice services of that fact and the date of discharge. For the purposes of this subdivision, a child's age shall be determined to be the age stated in the placement order.

§ 512. Weekly allowances; work experience. 1. Every child being cared for in a division facility may receive a weekly allowance approved by the director of the budget, in accordance with regulations of the division, as compensation for work or services performed in a division facility. Such weekly allowance shall be paid from moneys appropriated to the division for maintenance and operation.

2. A child who is being cared for in a division facility may, with the permission of the facility director, work outside of such facility when attendance upon instruction is not required pursuant to the education law. No such child may be permitted to work unless the conditions of work, including wages, meet the standards therefor prescribed pursuant to the labor law. The facility director may require that a part of the wages of such child, not to exceed twenty-five per centum thereof, be deposited in a general welfare fund to be utilized for the benefit of all children in such facility.

§ 512-a. Earnings of youth. The division for youth may grant

compensation to youth for work performed in division facility programs, or pursuant to work programs in accordance with rules and regulations established by the division for youth and approved by the director of the budget. Such rules and regulations need not be uniform as to each program and may establish, on the basis of work performed, the amount of compensation to be paid and the manner in which it is to be paid to each youth, or paid to the youth's dependents, or credited to the youth's account until his or her discharge from such program. Such compensation may be paid from moneys appropriated to the division for youth for maintenance and operation.

§ 513. Career education. 1. Purpose. The purpose of this section is to provide for career education opportunities for youth in the division's care as a part of general curricula and specialized programs to allow youth to gain actual business experiences relating to the production and marketing of products. The emphasis of business experiences provided to youth shall be on education and rehabilitation.

2. Career education program. The director may establish career education programs for residents of division facilities. These programs may include a comprehensive career education program within division facilities whereby eligible division youth participate in a special program designed to develop practical and theoretical understanding from the production through the marketing of goods. No youth may be employed by private persons or entities pursuant to this section.

3. Sale of products. The director of the division for youth or his designees are authorized to sell the products resulting from the career education of the residents of division facilities. The sale of such products shall be governed by the rules and regulations of the director of the division.

4. Career education; definition. For purposes of this section, career education is defined as any activity in the nature of vocational instruction, prescribed, guided or supervised for the purpose of contributing to the welfare or rehabilitation of residents of division

facilities.

5. Sales to state agencies, political subdivisions and public benefit corporations. The director of the division for youth or his designee is authorized to enter into contracts with state agencies, political subdivisions and public benefit corporations for the sale of the products resulting from the vocational education of the residents provided that such products are not available to the purchasing entity under a centralized contract and the sale does not exceed monetary limits established by statute or by any such entity which would mandate competitive bidding for the purchase of such product.

6. Vocational education fund. A career education fund may be established for the receipt of proceeds from products sold, as authorized by subdivisions three and five of this section, incident to an avocational or career project.

7. Distribution of proceeds. Pursuant to rules, regulations, policies or procedures of the director of the division, moneys of the fund shall be disbursed as follows: (i) an amount equal to the proceeds from the sale of the product produced by one resident may be deposited to the account of such resident or paid directly to such resident; or (ii) an amount equal to the proceeds from the sale of a product produced by two or more residents may be divided equally among such residents and deposited to their respective accounts or paid directly to them. In determining the amount of the proceeds from a sale of a product that may be deposited to the account of a resident, or paid directly to a resident, the director of the division for youth shall provide for a deduction from the sum of the proceeds of the reasonable expenses of the division for youth incident to the sale, including but not limited to, the value of materials and supplies for the production of the product supplied without financial charge to the resident and the expense of transporting the product for sale, display or otherwise. The amount deducted for such expenses shall be deposited in the career education fund and expended to pay for services and expenses of operating career education programs at division for youth facilities pursuant to this chapter.

§ 515. Freedom of worship. It shall be the duty of the division to afford a child placed with it freedom of worship as provided for in the state constitution.

§ 516. Care of infants by division for youth. The division for youth is authorized to provide residential care in division facilities subject to the regulations of the division, for infants born to or being nursed by female residents placed with the division. Residential care for such an infant may be provided for such period of time as is deemed desirable for the welfare of the mother or infant.

§ 517. Commissaries. The director of the division for youth may authorize the director of any facility operated by the division to establish a commissary in such facility for the use of residents and employees. The moneys received by the director of the division from the sales of the commissary shall be deposited in a special fund to be known as the commissary fund and such funds shall be used for the general purposes of the facilities subject to the provisions of section fifty-three of the state finance law.

§ 518. Restitution; services for public good. The division shall develop and operate programs for youths placed or referred to the division or in conjunction with an order provided in section 353.6 of the family court act. The division shall promulgate regulations as required in such section.

§ 519. Persons authorized to visit division facilities. 1. The following persons shall be authorized to visit at pleasure all facilities operated by the division: the governor, lieutenant governor, commissioner of general services, secretary of state, comptroller, attorney general, members of the legislature, judges of the court of

appeals, supreme court, family court, and county courts, district attorneys, county attorneys, and any person or agency otherwise authorized by statute.

2. The director of the division shall promulgate rules and regulations setting forth the policy of the division regarding visitation of division facilities and residents therein by persons other than those listed in subdivision one of this section. The overall security and uninterrupted operation of such facilities and the safety and well being of the staff and residents therein shall be given due consideration in the formulation of these rules and regulations for visitation as necessary to ensure such security, safety and facility operation. Such regulations shall include provisions regarding reasonable and appropriate visitation by family members and consultation by the youth's legal representative.

§ 522. Actions against persons rendering health care services at the request of the division; defense and indemnification. The provisions of section seventeen of the public officers law shall apply to any person holding a license to practice a profession pursuant to article one hundred thirty-one, one hundred thirty-one-B, one hundred thirty-two, one hundred thirty-three, one hundred thirty-six, one hundred thirty-seven, one hundred thirty-nine, one hundred forty-one, one hundred forty-three, one hundred fifty-six or one hundred fifty-nine of the education law, who is rendering or has rendered professional services authorized under such license while acting at the request of the division or a facility of the division in providing health care and treatment or professional consultation to residents of division facilities, or to infants of residents while such infants are cared for in division facilities pursuant to section five hundred sixteen of this article, without regard to whether such health care and treatment or professional consultation is provided within or without a division facility.

SUBTITLE B

OFFICE OF THE OMBUDSMAN

Section 523. Purpose.
523-a. Definitions.
523-b. Office of the ombudsman.
523-c. Duties of the office of the ombudsman.
523-d. Additional powers of the office of the ombudsman.
523-e. Access to the office of the ombudsman.
523-f. Notification to the office of the ombudsman of critical incidents.
523-g. Review of policies concerning children.
523-h. Duties of the director.
523-i. Conduct and scope of investigations.
523-j. Office of the ombudsman reports.
523-k. Notification to the office of the ombudsman of youth's need for legal counsel.
523-l. Independent review board.
523-m. Chair of the independent review board.
523-n. Confidentiality of reports.

§ 523. Purpose. The purpose of this subtitle is to protect and promote legal rights for youth in programs and facilities operated by the office of children and family services, by codifying the office of the ombudsman.

§ 523-a. Definitions. As used in this subtitle:

1. "Commissioner" means the commissioner of the office of children and family services.

2. "Director" means the director of the office of the ombudsman.

3. "Office" means the office of children and family services.

§ 523-b. Office of the ombudsman. There is hereby established the

office of the ombudsman in the office of children and family services. The commissioner shall appoint the director of the office of the ombudsman. The director shall be an attorney licensed to practice law in New York. The director shall report to the commissioner. Persons employed by the office of the ombudsman to act as "ombudsmen" shall be attorneys or shall have expertise in the areas of juvenile justice and youth rights, as evidenced by experience in the field, or by academic background, the level and sufficiency of which shall be determined by the director.

§ 523-c. Duties of the office of the ombudsman. The office of the ombudsman shall:

1. visit facilities and programs in accordance with priorities established by the director, hear grievances and complaints, investigate alleged violations of the legal rights of youth residing in facilities operated by the office, and monitor and participate in grievance procedures concerning residents in secure facilities, pursuant to section five hundred four-a of this article;

2. monitor the implementation of the policies and regulations of the office and of the rules and regulations of other state agencies, as such may be applicable to the legal rights of youth residing in facilities operated by the office, and monitor the implementation of statutes, court orders, court decisions and court stipulations which affect youth residing in facilities operated by the office;

3. advise and assist youth residing in facilities operated by the office to obtain legal counsel;

4. recommend policies, regulations, and legislation designed to protect youth residing in facilities operated by the office;

5. serve as a resource to youth residing in facilities operated by the office by informing them of pertinent laws, regulations and policies, and their rights thereunder;

6. present significant complaints and concerns of youth residing in facilities operated by the office to the commissioner, appropriate office staff, and the independent review board; and

7. periodically review procedures established by the office to carry out the provisions of this article, with a view toward the rights, safety and development of youth residing in facilities operated by the office.

§ 523-d. Additional powers of the office of the ombudsman. Notwithstanding any other provision of law, the office of the ombudsman shall have access to, including the right to inspect and copy, any records necessary to carry out its rights, powers and duties pursuant to this subtitle, excluding those protected by statutory privilege. Consistent with applicable laws and regulations, the confidentiality of all records and documents obtained must be maintained by the office of the ombudsman.

§ 523-e. Access to the office of the ombudsman. 1. The office of the ombudsman shall create and disseminate materials for all youth in facilities operated by the office detailing the services that the office of the ombudsman can offer such youth and how such youth can contact the office of the ombudsman.

2. All youth residing in a facility operated by the office shall be permitted reasonable access to a telephone to make a toll free call to the office of the ombudsman upon the youth's request. Such youth shall be permitted to complete any phone calls with the office of the ombudsman in a manner which reasonably assures that the youth's conversations with an ombudsman are private. Any calls placed by a youth to the office of the ombudsman shall not count against any limit on phone calls placed on the youth pursuant to the rules of the facility in which he or she resides.

§ 523-f. Notification to the office of the ombudsman of critical incidents. The office of the ombudsman shall receive copies of critical incident reports involving a youth residing in a facility operated by the office.

§ 523-g. Review of policies concerning children. In addition to other powers and duties specified in this subtitle, the office of the ombudsman may recommend changes in office policies and regulations concerning children to improve services or to correct systemic problems concerning services to children in the juvenile justice system.

§ 523-h. Duties of the director. The director shall:

1. provide administrative supervision and oversight to the ombudsmen;

2. establish procedures to ensure that the office of the ombudsman services are made available to every youth residing in facilities operated by the office;

3. coordinate meetings of the independent review board and the activities of its members;

4. coordinate activities of the ombudsmen with the independent review board and other units within the office;

5. fully participate in the policy development process of the office;

6. report to the independent review board, the commissioner, the executive deputy of the office, other appropriate directors of the office, the general counsel to the office and other appropriate office staff, concerning the grievances and complaints of youth residing in facilities operated by the office and the status of such grievances and complaints on a periodic basis, but not less than once per quarter. The report shall indicate whether a reported issue, complaint or grievance

has been resolved and the manner in which it was resolved, and the status of implementation of recommendations or directives made by the commissioner with regard to previously reported issues, grievances or complaints; and

7. prepare a monthly report for the commissioner on the activities of the office of the ombudsman. Such monthly report shall contain statistical data and information indicating: the number of youth served by the office of the ombudsman; the number and types of complaints, grievances or issues brought to the attention of the office of the ombudsman; the number of office facilities visited by the ombudsmen; the number of investigations conducted by the ombudsmen; and the number and nature of contacts made by the ombudsmen to persons or agencies external to the office on behalf of youth residing in facilities operated by the office.

§ 523-i. Conduct and scope of investigations. The office of the ombudsman may investigate grievances and complaints pertaining to youth residing in facilities operated by the office brought to the attention of the office of the ombudsman from any source, and may in pursuing its investigation visit any facility operated by the office at any time, without prior notice. Facility directors and facility staff shall cooperate with the investigation. At an ombudsman's request, the staff of a facility shall inform the residents of the ombudsman's availability on site or on premises. An ombudsman shall have access to any resident on request, and the facility shall provide a suitable room, if so requested, for private counseling. An ombudsman shall have the right to inspect the facility, visit all areas and observe all parts and aspects of the facility program. An ombudsman shall interview facility staff during regular hours of employment whenever feasible. An ombudsman shall have access to all books, records, logs, reports, memoranda and any and all other materials or written documents pertaining to office facilities in the possession of the office, or its facilities. An ombudsman may copy or make reference to any such report, document, memorandum, log entry or other material or written document and, unless such item is confidential pursuant to statute, may include a copy in his or her

report. Consistent with applicable laws and regulations, the confidentiality of records and documents obtained must be maintained by the office of the ombudsman.

§ 523-j. Office of the ombudsman reports. The office of the ombudsman shall submit regular reports, at least monthly, which shall contain information regarding major grievances, complaints received and other matters needing attention. The reports shall include a recitation of the issue or complaint, a brief statement of facts, and the conclusions and recommendations of the office of the ombudsman, and such other items of information as the office of the ombudsman shall deem appropriate. The reports shall be forwarded unaltered by the office of the ombudsman to the commissioner and other appropriate office officials, and to the independent review board. When the facility director has conducted an investigation into the matters reported by the office of the ombudsman, the findings or response of such facility director shall be included in the office of the ombudsman's report.

§ 523-k. Notification to the office of the ombudsman of youth's need for legal counsel. 1. If informed that a youth residing in a facility operated by the office has been or is about to be arrested by a law enforcement official, the office of the ombudsman shall take steps to see that the youth is provided with adequate legal representation.

2. When a youth residing in a facility operated by the office is to be interrogated or interviewed by a law enforcement official concerning a criminal act, or by any person concerning a civil or criminal matter, an ombudsman may request to be present during such interrogation or interview. Under no circumstances shall an ombudsman serve as the youth's attorney or legal representative, and an ombudsman shall so inform the youth and the representatives of the youth, but if requested to do so, shall take steps to see that the youth is provided with legal representation.

3. Whenever it appears to the office of the ombudsman that a youth

residing in a facility operated by the office is in need of legal services, the office of the ombudsman may contact the youth's attorney or legal representative or assist the youth in making such contact.

§ 523-l. Independent review board. The independent review board shall consist of fifteen members who are not employed by the office and who are knowledgeable in the areas of juvenile justice and youth rights. The members of such board shall be appointed by the commissioner. Each board member shall be appointed for a term of three years, which term may be renewed once. At least one member shall be a former resident or parent of a resident; at least one member shall be a psychologist or other clinician; at least one member shall be an individual knowledgeable of juvenile legal rights matters; at least one member shall be a judge of the family court; and at least one member shall be knowledgeable of the criminal justice system. Members shall be reimbursed for travel expenses incurred in the conduct of their duties. The board shall review the office of the ombudsman reports and meet at least bimonthly with the ombudsmen, the director, the commissioner and other appropriate personnel to discuss the reports. The board is an advisory body and has no administrative duties. It shall advise the commissioner on matters pertaining to the office of the ombudsman and on matters related to complaint and grievance resolution. The board shall have the authority to:

1. request the office of the ombudsman and/or the commissioner to conduct investigations;

2. make inquiries at the request of the director or the commissioner, or, on its own motion, into matters affecting the legal rights of youth residing in facilities operated by the office;

3. convene meetings and communicate freely with the ombudsmen and the office of the ombudsman;

4. evaluate the effectiveness of the office of the ombudsman and make necessary inquiries to that end; and

5. visit office facilities and grounds and inspect records of the office pertaining to such facilities. Laws and regulations governing the confidentiality of records must be adhered to, and the general counsel for the office should be notified concerning the records to be inspected. During any such visit to facilities or inspection of records, the board members may speak with youth and facility staff.

§ 523-m. Chair of the independent review board. The commissioner shall appoint one of the members of the independent review board to serve as its chair. The member so appointed shall serve as chair for a term of three years. The chair of the board shall:

1. be responsible for coordinating the activities of the board, with the assistance of the director;

2. preside at meetings of the board;

3. establish agenda items for board meetings; and

4. make recommendations to the commissioner for the removal of inactive board members.

§ 523-n. Confidentiality of reports. Office of the ombudsman reports and reports of the independent review board are confidential and shall be safeguarded from coming to the knowledge of, and from inspection or examination by any person other than the commissioner, other designated agency officials for the performance of their official duties and the independent review board. Authorized persons receiving such reports shall not divulge information contained therein without the written consent of the commissioner. The authorized disclosure of any such information shall not contain any individually identifiable information.

YOUTH CENTER FACILITY PROGRAM

Section 527-a. Definitions.
527-b. Youth center facility program established.
527-c. Facility rehabilitation grants.
527-d. New facility project grants.
527-e. New facility operation agreements.
527-f. Application, review and approval.
527-g. Agreement requirements.
527-h. Reserve fund requirement.
527-i. General and administrative provisions.
527-j. Rules and regulations.
527-k. Technical services and assistance.
527-m. Liability on obligations.

§ 527-a. Definitions. 1. For purposes of this title, the following terms shall have the following meanings:

(a) "Youth center" means any area, building, structure or facility owned or operated by a not-for-profit corporation or by or for a municipality for use by the youth of the community which promotes the health, safety or general welfare of the youth community and which advances the physical, mental and social well-being of such youth community, including all necessary and attendant and related facilities and equipment.

(b) "Facility rehabilitation grants" or "rehabilitation grants" means an award to a not-for-profit corporation or a municipality for the purpose of renovation, rehabilitation, repair, remodeling, or improvement of areas, buildings, structures or facilities intended for use as a youth center.

(c) "New facility project grant" means an award to a municipality or a municipality acting jointly with a not-for-profit corporation for the purpose of construction, demolition, or acquisition of areas, buildings, structures, or facilities intended to be owned by a municipality for use as a youth center.

(d) "Project costs" means the reasonable and necessary costs for planning, demolition, acquisition of land or buildings and construction of new buildings or the reconstruction, rehabilitation, repair or

remodeling of existing buildings to be used as a youth center. Such costs shall also include all or any portion of the cost necessary for the creation of a reserve fund required pursuant to section five hundred twenty-seven-h of this title.

(e) "New facility operation agreements" or "operation agreements" means the award of a contract to which the state and a not-for-profit corporation or a municipality are parties, for the purpose of maintenance and operation of areas, buildings, structures or facilities intended for use as a youth center and for which the state has provided financing of acquisition, demolition or construction under the provisions of this title and to which the state will hold title.

(f) "Not-for-profit corporation" means a corporation as defined in subparagraph five of paragraph (a) of section one hundred two of the not-for-profit corporation law which is engaged in one or more of the youth center program activities specified in this title.

(g) "Municipality" means a county, city, town or village.

(h) "Program" means the youth center facility program.

(i) "Division" means the division for youth.

(j) "Eligible applicant" means (i) a municipality or (ii) a not-for-profit corporation or (iii) a municipality and a not-for-profit corporation applying jointly.

§ 527-b. Youth center facility program established. There is hereby established within the division a youth center facility program. Such program shall provide financing through the award of facility rehabilitation grants or new facility project grants and new facility operation agreements for the construction, reconstruction, renovation or demolition of any area, building, structure or facility, including all necessary and attendant and related facilities and equipment, for use by the youth of the community which promotes the health, safety or general welfare of the youth community and which advances the physical, mental and social well-being of the youth of the community. Nothing in this title shall authorize any expenditure of funds for operating costs.

§ 527-c. Facility rehabilitation grants. Within the limit of funds

made available by appropriation from the youth centers facility fund, as established by section ninety-seven-ff of the state finance law, the division is hereby authorized to award facility rehabilitation grants to eligible applicants for all or a portion of project costs to rehabilitate youth centers subject to the terms and conditions of this title.

§ 527-d. New facility project grants. 1. Within the limit of funds made available by appropriation from the youth centers facility fund as established by section ninety-seven-ff the state finance law, the division is hereby authorized to make awards to municipalities for the acquisition, demolition, design and construction of areas, buildings, structures or facilities owned or to be owned by a municipality and used as a youth center. A municipality or a municipality acting jointly with a not-for-profit corporation may be awarded a new facility project grant pursuant to this title provided that title to any of such area, building, structure or facilities is acquired and/or held by the municipality.

2. No new facility project grant shall be awarded to a municipality or a municipality and a not-for-profit corporation acting jointly unless the agreement as provided for in section five hundred twenty-seven-g of this title also contains provisions which provide that in the event the municipality discontinues use of the facility financed by the new facility project grant as a youth center facility during the period specified in the agreement as provided for in such section five hundred twenty-seven-g, the project cost shall become due and owing to the state and shall be payable from any amounts of state aid to which the municipality would be entitled.

3. No municipality which receives a new facility project grant shall be required to establish a reserve fund and no reserve fund shall be considered part of the project cost for such project.

§ 527-e. New facility operation agreements. 1. The division is hereby

authorized to enter into new facility operation agreements with not-for-profit corporations. Such agreements shall provide for the operation of a program by a not-for-profit corporation at a youth center constructed by or on behalf of the division and to which the state holds title. Any not-for-profit corporation which seeks to operate such a program shall submit an application to the division in the manner provided for in this title. In addition to any other requirements imposed pursuant to section five hundred twenty-seven-g of this title, any such agreement shall provide that the lease from the state to the not-for-profit corporation shall provide that, in lieu of any periodic rental or lease payment for use of the facility, the not-for-profit corporation shall continue to operate the program as approved for a period of time as approved by the division (not exceeding thirty years) and that the responsibility for the general maintenance and operation of the facility shall be the responsibility of the not-for-profit corporation.

2. At the request of a municipality, the division may enter into a new facility operation agreement wherein the municipality operates a program at a youth center constructed by or on behalf of the division and to which the state holds title, or such program is operated by a not-for-profit corporation, pursuant to a contract with the division or a municipality.

§ 527-f. Application, review and approval. 1. Each eligible applicant desiring to participate in the youth center facility program established pursuant to this title shall submit an application to the appropriate official of the division for youth. Municipalities applying for new facility project grants may submit joint applications with a not-for-profit corporation with whom they intend to contract for the operation of the youth center. The application shall contain:

(a) a description of the proposed or existing program to be operated from this facility in accordance with criteria established by the division;

(b) a development timetable acceptable to the division that shall include the projected time schedule for (A) commencement and completion

of regulatory and review processes and approvals including procedures for land use; and (B) commencement and completion of construction or rehabilitation. Such timetable shall also include a projected date as to when the facility will be available for utilization and any other information the division deems appropriate;

(c) a proposed operating and maintenance budget including a listing of start-up expenses and of the funds which will be used to pay such expenses;

(d) an estimate of the total facility project costs as defined herein;

(e) such information as the division may require to the extent that such information is necessary to facilitate review and approval of projects consistent with this title.

2. The division shall review all applications with respect to the proposed construction or reconstruction, financial feasibility of the project, contractual responsibilities of the parties, the planned use of the facility for conformance with the purposes of this title and the effect the proposed facility will have on the programs provided by the applicant. As part of its consideration of each application the division shall also consider (a) whether the facility proposed to be financed will support programs which are consistent with the purposes of this title; (b) whether the proposed projects will provide intervention, diversion and delinquency prevention programs which deter youth crime and promote the health, safety or general welfare of the youth community; or advance the physical, mental and social well being of the youth community; or render vital assistance and support to economically or socially disadvantaged youths; and (c) criteria relating to the financial and programmatic commitment of the applicant, including but not limited to, the applicant's history of providing services to youth, and the ability of the applicant to support the maintenance and operation of the facility and its programs. Prior to making its determination to award a grant or a new facility operation agreement to an eligible applicant pursuant to this section, the division shall determine that the eligible applicant has demonstrated ability to carry out all agreements that the division determines reasonably necessary to assure: (i) that the youth center will be utilized as a youth center facility for a period of time to be determined by the division pursuant

to section five hundred twenty-seven-g of this title; and (ii) that the operation of the program located in such facility will be consistent with the purposes of this title.

3. Not less than thirty days prior to approving an application pursuant to the provisions of this title, the division shall notify the temporary president of the senate and the speaker of the assembly of its intent to make such a grant or an award. Such notification shall identify the recipient and state the proposed location, the estimated project cost and a brief description of the project.

4. Upon completion of its review of an application and not less than thirty days after the notification as provided for in subdivision three of this section, the division shall approve or disapprove such application and notify the municipality or the not-for-profit corporation of its decision.

§ 527-g. Agreement requirements. 1. The division shall enter into an agreement with an approved applicant which shall require that such applicant as owner and/or operator of such facility shall:

(a) operate and manage or provide for the management of such facility in a manner consistent with the terms of its approved application as a youth center facility at all times during the period of time specified (not to exceed thirty years in the case of a new facility project grant or fifteen years in the case of a facility rehabilitation grant). Such agreement shall also require the repayment of project costs other than the costs necessary for the creation of the reserve fund if the site of such youth facility center project ceases to be utilized for such purpose at any time during the period specified and shall specify the procedures for such repayment; and

(b) execute such other agreements and provide such other information as the division may determine to be necessary to carry out the provisions of this title.

2. The agreement shall also contain provisions which prohibit any municipality or not-for-profit corporation receiving awards pursuant to

this title from (i) engaging in any activities promoting any political candidate or party; or (ii) expending funds received from any such awards in activities the purpose of which is to influence legislation.

§ 527-h. Reserve fund requirement. 1. The division shall require that a reserve fund shall be established for each facility rehabilitation grant or new facility operation agreement awarded to a not-for-profit corporation pursuant to this title. In no event shall such reserve fund be in an amount which is less than five percent of the project costs. Such reserve fund shall be provided by the division from funds available to it.

2. Such moneys shall be deposited to the custody of the comptroller, who shall maintain a separate account for each such grant awarded or agreement funded pursuant to this article. Upon application, the comptroller shall make moneys in the reserve fund available to the not-for-profit corporation only for purposes of making extraordinary repairs, other than ordinary and regular maintenance and repair, to either new facility project property or the areas, buildings, structures or facilities for which a facility rehabilitation grant was awarded, and only after the commissioner of the office of general services approves of, the need for such repair and certifies to the comptroller such need and the amount approved for withdrawal from the reserve fund. Any interest earned on the moneys in a reserve fund shall be applied to pay debt service on such bonds except for any amount which must be rebated to the United States in order to provide for continued federal tax exempt status for the bonds and notes. Unless expended earlier, moneys shall be maintained in a reserve fund created for a not-for-profit corporation to which a facility rehabilitation grant was awarded for a period of fifteen years from the date of commencement of renovation, rehabilitation, repair, remodeling or improvement, and for a period of thirty years from the date of commencement of construction on a new facility project. At the end of such fifteen or thirty years, as the case may be, any moneys then still to the credit of a reserve fund shall be transferred to the state's general fund.

§ 527-i. General and administrative provisions. 1. The division shall provide for the review, at least annually, of the performance of approved eligible applicants pursuant to this title. Such review shall, among other things, be for the purposes of ascertaining conformity to contractual provisions and the financial condition of the youth center as it relates to its ability to comply with the requirements of this title.

2. No youth center shall be sited, constructed, reconstructed, rehabilitated, altered or improved pursuant to a grant or award made pursuant to this title, except in compliance with the requirements of local laws, ordinances, codes, charters or regulations applicable to such siting, construction, reconstruction, rehabilitation, alteration or improvement.

§ 527-j. Rules and regulations. The division shall issue and promulgate such rules and regulations as are necessary for implementation of this title.

§ 527-k. Technical services and assistance. The division may provide technical services and assistance or contract to provide technical services and assistance to eligible applicants to comply with the provisions and intent of this title.

§ 527-m. Liability on obligations. Except for obligations which the division or New York state urban development corporation assumes by contract for the construction, rehabilitation and development period of any project, neither the division, the New York state urban development corporation nor the state shall have any responsibility or liability as to construction, rehabilitation, operation, maintenance, repair or use of youth center facilities unless otherwise specifically provided by law.

TITLE 4

SUPPORT AND REIMBURSEMENT

Section 528. Support of children in the division.
529. Reimbursement for institutional care, aftercare supervision and foster care.
529-a. Payment of costs for medical and dental services.
529-b. Supervision and treatment services for juveniles program.
530. Reimbursement for detention.
531. Reports.

§ 528. Support of children in the division. 1. The court placing or referring a child with the division shall ascertain the financial condition of his or her parents or other persons responsible for his or her support and, if it shall be found that any such parent or other person is able to pay any part of the cost of maintenance of such child while in or being maintained at the expense of the division, the court shall make an order directing such parent or other person to make such payments as the court may decide to be fair and equitable, and shall notify the appropriate social services official and the division of the making of such order and amount ordered to be paid.

2. Proceedings shall be had and payments shall be directed to be made and shall be made, in accordance with the family court act or other applicable statute, as in the case of orders for support of delinquent children committed by the court to private institutions.

3. In case of failure on the part of any person to whom such order is directed to comply with such order and make the payments thereby directed, the court making such order shall proceed against such person in accordance with the family court act or other statute applicable thereto.

4. (a) Record of amounts received as payment under such orders shall be kept by the officer or person receiving the same and reports thereof shall be made to the division in such form and at such times as the

division shall require.

(b) The amounts received and collected shall be divided between the social services district collecting the same and the state in the same proportion as they bore the cost of maintaining the children affected. The manner and amounts of payments to be made to the state by social service districts shall be determined under regulations of the division.

§ 529. Reimbursement for institutional care, aftercare supervision and foster care. 1. Definitions. As used in this section:

(a) "authorized agency", "certified boarding home", "local charge" and "state charge" shall have the meaning ascribed to such terms by the social services law;

(b) "aftercare supervision" shall mean supervision of released or discharged youth, not in foster care; and,

(c) "foster care" shall mean residential care, maintenance and supervision provided released or discharged youth, or youth otherwise in the custody of the division for youth, in a division foster family home certified by the division.

(d) "division foster family home" means a service program provided in a home setting available to youth under the jurisdiction of the division for youth.

2. Expenditures made by the office of children and family services for care, maintenance and supervision furnished youth, including alleged and adjudicated juvenile delinquents and persons in need of supervision, placed or referred, pursuant to titles two or three of this article, and juvenile offenders, youthful offenders and adolescent offenders committed pursuant to the penal law, in the office's programs and facilities, shall be subject to reimbursement to the state by the social services district from which the youth was placed or by the social services district in which the juvenile offender resided at the time of commitment, in accordance with this section and the regulations of the office, as follows: fifty percent of the amount expended for care, maintenance and supervision of local charges including juvenile offenders.

4. Expenditures made by the division for youth for foster care shall be subject to reimbursement to the state by the social services district from which the youth was placed, in accordance with the regulations of the division, as follows: fifty percent of the amount expended for care, maintenance and supervision of local charges.

5. (a) Expenditures made by the division for youth for aftercare supervision shall be subject to reimbursement to the state by the social services district from which the youth was placed, in accordance with regulations of the division, as follows: fifty percent of the amount expended for aftercare supervision of local charges.

(b) Expenditures made by social services districts for aftercare supervision of adjudicated juvenile delinquents and persons in need of supervision provided (prior to the expiration of the initial or extended period of placement or commitment) by the aftercare staff of the facility from which the youth has been released or discharged, other than those under the jurisdiction of the division for youth, in which said youth was placed or committed, pursuant to directions of the family court, shall be subject to reimbursement by the state, upon approval by the division and in accordance with its regulations, as follows:

(1) the full amount expended by the district for aftercare supervision of state charges;

(2) fifty percent of the amount expended by the district for aftercare supervision of local charges.

(c) Expenditures made by the division for youth for contracted programs and contracted services pursuant to subdivision seven of section five hundred one of this article, except with respect to urban homes and group homes, shall be subject to reimbursement to the state by the social services district from which the youth was placed, in accordance with this section and the regulations of the division as follows: fifty percent of the amount expended for the operation and maintenance of such programs and services.

5-a. The social services district responsible for reimbursement to the state shall remain the same if during a period of placement or extension thereof, a child commits a criminal act while in a division facility, during an authorized absence therefrom or after absconding therefrom and

is returned to the division following adjudication or conviction for the act by a court with jurisdiction outside the boundaries of the social services district which was responsible for reimbursement to the state prior to such adjudication or conviction.

6. Separate per diem rates shall be computed, as provided below, for all of the following categories of care reimbursable pursuant to this section: institutional care in office of children and family services facilities; foster care provided by the office of children and family services; contracted programs and contracted services pursuant to subdivision seven of section five hundred one of this article; programs provided by the office of children and family services as alternatives to institutional care; aftercare supervision provided by the office; and, aftercare supervision provided by authorized agencies, other than the office, on behalf of social services districts.

(a) No later than December thirty-first each year, the office of children and family services shall provide the speaker of the assembly, the temporary president of the senate, and social services districts with a detailed report on total cost and the operating capacity at office of children and family services facilities during the prior calendar year. Such report shall include but need not be limited to information on costs related to labor, physical plant maintenance and food and utility expenditures as well as information on the maximum number of juveniles that can be placed in office facilities and staffing levels at such facilities. Such report shall also include information on juveniles that have been moved from one facility to another during the calendar year and shall name the facilities from which such juveniles were moved and in which they were later placed. If the report provided pursuant to this paragraph is based, in whole or in part, on an audit performed on behalf of the office of children and family services, the office of children and family services shall provide the state legislature and social services districts with a copy of such audit at the time it provides the report for the prior calendar year.

(b) The director of the division for youth, subject to approval of the director of the budget and certification to the chairmen of the senate finance and assembly ways and means committees, shall compute a separate rate according to which all social services districts shall be

reimbursed for care, maintenance and supervision provided by each authorized agency; provided, however, the basic rate for each agency may be supplemented or reduced to reflect cost variations attributable to transportation, medical care and other direct costs.

(c) The director of the division for youth, subject to the approval of the director of the budget and certification to the chairmen of the senate finance and assembly ways and means committees, may establish a single per diem rate for all division facilities or may establish separate rates as may be appropriate to reflect the differentials in cost of specific division programs.

8. The director of the division for youth may adopt, amend or rescind all rules and regulations, subject to the approval of the director of the budget and certification to the chairmen of the senate finance and assembly ways and means committees, necessary to carry out the provisions of this section, including those necessary to insure that reimbursement for care, maintenance and supervision in division and non-division facilities is determined according to comparable criteria.

9. All reimbursement made by social services districts for care, maintenance and supervision under this section shall be paid directly to the state through the office of children and family services for deposit into a miscellaneous special revenue fund known as the youth facility per diem account.

§ 529-a. Payment of costs for medical and dental services. 1. Diagnoses, tests, studies or analyses for the diagnosis of a disease or disability, and care and treatment by a hospital, as defined in article twenty-eight of the public health law, or by a physician, or by a dentist to youths in division facilities shall be without cost or charge to the persons receiving such examinations, care or treatment.

2. Notwithstanding the provisions of subdivision one of this section, the division may require reimbursement for costs paid pursuant to subdivision one of this section from any third party coverage or indemnification covering a youth placed with the division. Such third

party coverage or indemnification shall first be applied against the total cost to the hospital or other provider as established in accordance with the provisions of section twenty-eight hundred seven of the public health law relating to rates of payment of an individual's care and treatment, as provided therein.

3. Nothing in this section shall be deemed to affect the responsibility for support of children in the division as prescribed pursuant to section five hundred twenty-eight of this chapter.

§ 529-b. Supervision and treatment services for juveniles program. 1. (a) Notwithstanding any provision of law to the contrary, eligible expenditures by an eligible municipality for services to divert from detention, residential placement or confinement, as applicable, youth who are: (i) at risk of, alleged to be, or adjudicated as juvenile delinquents; (ii) at risk of, or alleged to be or adjudicated as persons in need of supervision; (iii) alleged to be or convicted as juvenile offenders; (iv) alleged to be or convicted as youthful offenders; or (v) alleged to be or convicted as adolescent offenders shall be subject to state reimbursement under the supervision and treatment services for juveniles program for up to sixty-two percent of the municipality's expenditures, subject to available appropriations and exclusive of any federal funds made available for such purposes, not to exceed the municipality's distribution under the supervision and treatment services for juveniles program.

(b) The state funds appropriated for the supervision and treatment services for juveniles program shall be distributed to eligible municipalities by the office of children and family services based on a plan developed by the office which may consider historical information regarding the number of youth seen at probation intake for an alleged act of delinquency, the number of youth remanded to detention, the number of juvenile delinquents placed with the office, the number of juvenile delinquents and persons in need of supervision placed in residential care with the municipality, the municipality's reduction in the use of detention and residential placements, and other factors as determined by the office. Such plan developed by the office shall be

subject to the approval of the director of the budget. The office is authorized, in its discretion, to make advance distributions to a municipality in anticipation of state reimbursement.

2. As used in this section, the term:

(a) "municipality" shall mean a county, or a city having a population of one million or more and

(b) "supervision and treatment services for juveniles" shall mean community-based services or programs designed to safely maintain youth in the community pending a family court disposition or conviction in criminal court and services or programs provided to eligible youth pursuant to this section.

3. Supervision and treatment services for juveniles may include but are not limited to services or programs that:

(a) provide or facilitate support to such youth for mental health disorders, substance abuse problems, or learning disabilities that contribute to such youth being at risk for detention, residential placement, confinement or return to detention or residential placement;

(a-1) provide or facilitate support to youth who are eligible to receive services pursuant to subparagraph (ii) of paragraph (a) of subdivision one of this section, and their families, in family support services programs in accordance with title twelve of article six of the social services law;

(b) provide temporary respite care, including, but not limited to, respite provided pursuant to article seven of the family court act;

(c) provide family therapy or support or explore alternate housing options for youth who are at risk for detention or placement due to the absence of an available home;

(d) provide post-release support within the youth's community, including, but not limited to aftercare services; or

(e) reduce arrest rates or recidivism.

3-a. (a) The chief executive officer of the municipality shall designate a lead agency for the purposes of planning and administering the municipality's supervision and treatment services for juveniles program. In order for a municipality to be eligible to receive

reimbursement pursuant to this section, such municipality must submit an annual plan to the office of children and family services detailing how the supervision and treatment services for juveniles will be provided within the municipality. Two or more eligible municipalities within a close geographic proximity to each other may enter into an agreement to jointly seek funding for and jointly administer a supervision and treatment services for juveniles programs to service eligible youth and families within such municipalities in accordance with this section. The municipality shall develop such plan in cooperation with the applicable local governmental departments responsible for probation, law enforcement, detention, diversion, and social services; and with the courts, service providers, schools and youth development programs. The plan must be approved by the chief executive officer of the municipality, and must include:

(i) an analysis that identifies the neighborhoods or communities from which the greatest number of juvenile delinquents and persons in need of supervision are remanded to detention or residentially placed;

(ii) where the use of detention or residential placement in the municipality shows a significant racial or ethnic disproportionality, a description of how the services proposed for funding will address such disproportionality;

(iii) a description of how the services and programs proposed for funding will reduce the number of youth from the municipality who are detained and residentially or otherwise placed; how such services and programs are family-focused; and whether such services and programs are capable of being replicated across multiple sites;

(iv) a description of the demonstrated effectiveness of such services and programs or other justification why the services and programs are proposed for funding;

(v) projected performance outcomes for such services and programs, including an estimate of the anticipated reductions in detention utilization and residential placements, and other projected positive outcomes for youth who participate in the services and programs; and

(vi) for each year that the municipality submits a plan as required by this section, the municipality must provide the following information for the most recent preceding year for which such municipality received funding:

(A) the number of youth who participated in the services and programs funded pursuant to this section; and

(B) whether the services and programs achieved the projected reductions in detention utilization and residential placements and other performance outcomes.

(b) A municipality's plan shall be submitted to the office of children and family services for review and approval. The office may approve all or part of the plan based on the potential effectiveness of the plan.

(i) If the office does not approve a plan, the municipality shall have sixty days to submit an amended plan.

(ii) Upon approval of a plan, the office shall notify the municipality and post the approved plan on the office of children and family services website.

(c) The office may require that such claims be submitted to the office electronically in the manner and format required by the office.

(d) Any municipality submitting claims for reimbursement shall certify to the office that supervision and treatment services for juveniles program funds were not used to supplant other state and local funds, and such claims for reimbursement are not for the same type and level of services that the municipality provided under any contract in existence on September thirtieth, two thousand ten that was funded other than through the office of children and family services as community optional preventive, alternatives to detention, alternatives to residential placement, preventive, independent living, or after care services.

4. Two or more eligible municipalities may join together to establish, operate and maintain supervision and treatment services for juveniles programs and may make and perform agreements in connection therewith. Such agreements shall include provisions for the proportionate cost to be borne by each municipality and for the manner of employment of personnel and may provide that a fiscal officer of one such municipality shall be the custodian of the moneys made available for expenditure for such purposes by all such municipalities and that such fiscal officer may make payments therefrom upon audit of the appropriate auditing body or officer of his municipality. In making claims for state reimbursement pursuant to this section, each municipality shall claim for its proportionate share of expenditures. However, where the agreement

provides for a disbursing municipality, such disbursing municipality shall claim for the total joint program expenditures made and shall disburse the state reimbursement to each participating municipality based upon the proportionate share of each participating municipality's expenditures.

5. The office of children and family services shall report to the governor, the speaker of the assembly, the temporary president of the senate, the minority leader of the assembly and the minority leader of the senate no later than July first, two thousand twelve, and each year thereafter, detailing the implementation and progress of the supervision and treatment services for juveniles program, as established by this section. The report shall detail the following information for each municipality, as defined by this section:

(a) the amount of funds disbursed to date for the previous program year of the supervision and treatment services for juveniles program;

(b) the amount of juvenile detention funds distributed by such date in accordance with section five hundred thirty of this title for the previous program year and, if any, the amount of such funds used for supervision and treatment services for juveniles program;

(c) the number of alleged and adjudicated juvenile delinquents and persons in need of supervision and alleged and convicted juvenile offenders being served by such programs; and

(d) each program name and its provider.

§ 530. Reimbursement for detention. 1. Definitions. As used in this section, the term "municipality" shall mean a county, or a city having a population of one million or more.

2. Expenditures made by municipalities in providing care, maintenance and supervision to youth in detention facilities designated pursuant to section 305.2 of the family court act and certified by office of children and family services, shall be subject to reimbursement by the state, as follows:

(a) Notwithstanding any provision of law to the contrary, eligible expenditures by a municipality during a particular program year for the

care, maintenance and supervision in secure and non-secure detention facilities certified by the office in accordance with section five hundred three of this article for those youth alleged to be juvenile delinquents; adjudicated juvenile delinquents held pending transfer to a facility upon placement, and juvenile delinquents held at the request of the office of children and family services pending extension of placement hearings or release revocation hearings or while awaiting disposition of such hearings; and youth alleged to be or convicted as juvenile offenders, youthful offenders and adolescent offenders and prior to January first, two thousand twenty, youth alleged to be persons in need of supervision or adjudicated persons in need of supervision held pending transfer to a facility upon placement in foster care programs certified by the office of children and family services, certified or approved foster boarding homes and non-secure detention facilities certified by the office, shall be subject to state reimbursement for up to fifty percent of the municipality's expenditures, exclusive of any federal funds made available for such purposes, not to exceed the municipality's distribution from funds that have been appropriated specifically therefor for that program year. Municipalities shall implement the use of detention risk assessment instruments in a manner prescribed by the office so as to inform detention decisions. Notwithstanding any other provision of state law to the contrary, data necessary for completion of a detention risk assessment instrument may be shared among law enforcement, probation, courts, detention administrators, detention providers, and the attorney for the child upon retention or appointment; solely for the purpose of accurate completion of such risk assessment instrument, and a copy of the completed detention risk assessment instrument shall be made available to the applicable detention provider, the attorney for the child and the court.

(b) The state funds appropriated for juvenile detention services shall be distributed to eligible municipalities by the office of children and family services based on a plan developed by the office which may consider historical information regarding the number of youth remanded to detention, the municipality's reduction in the use of detention, the municipality's youth population, and other factors as determined by the office. Such plan developed by the office shall be subject to the

approval of the director of the budget. The office is authorized, in its discretion, to make advance distributions to a municipality in anticipation of state reimbursement.

(c) A municipality may also use the funds distributed to it for juvenile detention services under this section for a particular program year for sixty-two percent of a municipality's eligible expenditures for supervision and treatment services for juveniles programs approved under section five hundred twenty-nine-b of this title for services that were not reimbursed from a municipality's distribution under such program provided to at-risk, alleged or adjudicated juvenile delinquents or persons alleged or adjudicated to be in need of supervision, or alleged to be or convicted as juvenile offenders in community-based non-residential settings. Any claims submitted by a municipality for reimbursement for detention services or supervision and treatment services for juveniles provided during a particular program year for which the municipality does not receive state reimbursement from the municipality's distribution of detention services funds for that program year may not be claimed against the municipality's distribution of funds available under this section for the next applicable program year. The office may require that such claims be submitted to the office electronically at such times and in the manner and format required by the office.

(d) (i) Notwithstanding any provision of law or regulation to the contrary, any information or data necessary for the development, validation or revalidation of the detention risk assessment instrument shall be shared among local probation departments, the office of probation and correctional alternatives and, where authorized by the division of criminal justice services, the entity under contract with the division to provide information technology services related to youth assessment and screening, the office of children and family services, and any entity under contract with the office of children and family services to provide services relating to the development, validation or revalidation of the detention risk assessment instrument. Any such information and data shall not be commingled with any criminal history database. Any information and data used and shared pursuant to this section shall only be used and shared for the purposes of this section and in accordance with this section. Such information shall be shared

and received in a manner that protects the confidentiality of such information. The sharing, use, disclosure and redisclosure of such information to any person, office, or other entity not specifically authorized to receive it pursuant to this section or any other law is prohibited.

(ii) The office of children and family services shall consult with individuals with professional research experience and expertise in criminal justice; social work; juvenile justice; and applied mathematics, psychometrics and/or statistics to assist the office in determining the method it will use to: develop, validate and revalidate such detention risk assessment instrument; and analyze the effectiveness of the use of such detention risk assessment instrument in accomplishing its intended goals; and analyze, to the greatest extent possible any disparate impact on detention outcomes for juveniles based on race, sex, national origin, economic status and any other constitutionally protected class, regarding the use of such instrument. The office shall consult with such individuals regarding whether it is appropriate to attempt to analyze whether there is any such disparate impact based on sexual orientation and, if so, the best methods to conduct such analysis. The office shall take into consideration any recommendations given by such individuals involving improvements that could be made to such instrument and process.

(iii) Data collected for the purposes of completing the detention risk assessment instrument from any source other than an officially documented record shall be confirmed as soon as practicable. Should any data originally utilized in completing the risk assessment instrument be found to conflict with the officially documented record, the risk assessment instrument shall be completed with the officially documented data and any corresponding revision to the risk categorization shall be made. The office shall periodically revalidate any approved risk assessment instrument. The office shall conspicuously post any approved detention risk assessment instrument on its website and shall confer with appropriate stakeholders, including but not limited to, attorneys for children, presentment agencies, probation, and the family court, prior to revising any validated risk assessment instrument. Any such revised risk assessment instrument shall be subject to periodic empirical validation.

3. Wherever detention services are not provided directly or indirectly by a municipality, the municipality shall act as the intermediary between the office of children and family services and the agency lawfully providing such services, for the purpose of claiming and receiving reimbursement, furnishing financial information and obtaining approval for reserved accommodations pursuant to this section.

4. (a) The municipality must notify the office of children and family services of state aid received under other state aid formulas by each detention facility for which the municipality is seeking reimbursement pursuant to this section, including but not limited to, aid for education, probation and mental health services.

(b) In computing reimbursement to the municipality pursuant to this section, the office shall insure that the aggregate of state aid under all state aid formulas shall not exceed fifty percent of the cost of care, maintenance and supervision provided to detainees eligible for state reimbursement under subdivision two of this section, exclusive of federal aid for such purposes not to exceed the amount of the municipality's distribution under the juvenile detention services program.

(c) Reimbursement for administrative related expenditures as defined by the office of children and family services, for secure and nonsecure detention services shall not exceed seventeen percent of the total approved expenditures for facilities of twenty-five beds or more and shall not exceed twenty-one percent of the total approved expenditures for facilities with less than twenty-five beds.

5. (a) Except as provided in paragraph (b) of this subdivision, care, maintenance and supervision for the purpose of this section shall mean and include only:

(1) temporary care, maintenance and supervision provided to alleged juvenile delinquents in detention facilities certified pursuant to section 305.2 of the family court act by the office of children and family services, pending adjudication of alleged delinquency by the family court, or pending transfer to institutions to which committed or placed by such court or while awaiting disposition by such court after

adjudication or held pursuant to a securing order of a criminal court if the person named therein as principal is under seventeen years of age; or

(1-a) commencing on October first, two thousand nineteen, temporary care, maintenance, and supervision provided to alleged juvenile delinquents in detention facilities certified by the office of children and family services, pending adjudication of alleged delinquency by the family court, or pending transfer to institutions to which committed or placed by such court or while awaiting disposition by such court after adjudication or held pursuant to a securing order of a criminal court if the person named therein as principal is under twenty-one; or

(2) temporary care, maintenance and supervision provided juvenile delinquents in approved detention facilities at the request of the office of children and family services pending release revocation hearings or while awaiting disposition after such hearings; or

(3) temporary care, maintenance and supervision in approved detention facilities for youth held pursuant to the family court act or the interstate compact on juveniles, pending return to their place of residence or domicile; or

(4) prior to January first, two thousand twenty temporary care, maintenance and supervision provided youth detained in foster care facilities or certified or approved family boarding homes pursuant to article seven of the family court act.

(b) Payments made for reserved accommodations, whether or not in full time use, approved and certified by the office of children and family services and certified pursuant to section 305.2 of the family court act, in order to assure that adequate accommodations will be available for the immediate reception and proper care therein of youth for which detention costs are reimbursable pursuant to paragraph (a) of this subdivision, shall be reimbursed as expenditures for care, maintenance and supervision under the provisions of this section, provided the office shall have given its prior approval for reserving such accommodations.

6. The office of children and family services may adopt, amend, or rescind all rules and regulations, subject to the approval of the director of the budget and certification to the chairmen of the senate

finance and assembly ways and means committees, necessary to carry out the provisions of this section.

7. The agency administering detention for each county and the city of New York shall submit to the office of children and family services, at such times and in such form and manner and containing such information as required by the office of children and family services, an annual report on youth remanded pursuant to article three or seven of the family court act who are detained during each calendar year including, commencing January first, two thousand twelve, the risk level of each detained youth as assessed by a detention risk assessment instrument approved by the office of children and family services provided, however, that the report due January first, two thousand twenty-one and thereafter shall not be required to contain any information on youth who are subject to article seven of the family court act. The office may require that such data on detention use be submitted to the office electronically. Such report shall include, but not be limited to, the reason for the court's determination in accordance with section 320.5 or seven hundred thirty-nine of the family court act to detain the youth; the offense or offenses with which the youth is charged; and all other reasons why the youth remains detained. The office shall submit a compilation of all the separate reports to the governor and the legislature.

8. Notwithstanding any law to the contrary, on or after January first, two thousand twenty, the state shall not reimburse for the cost of the detention of any person in need of supervision under article seven of the family court act.

§ 531. Reports. 1. The division for youth shall annually publish a report summarizing:

(a) the amount of reimbursement made by each social services district to the state for each category of division facility pursuant to section five hundred twenty-nine of this chapter, including the numbers of youths maintained or supervised and the per diem rates charged;

(b) expenditures made by each such social services district for care,

maintenance and supervision furnished alleged and adjudicated juvenile delinquents and persons in need of supervision in facilities operated by authorized agencies for which reimbursement is approved pursuant to section five hundred twenty-nine of this chapter, including the numbers of such youths in each category of facility and the per diem rates charged; and

(c) expenditures made by each municipality for the care, maintenance and supervision of youths in secure and non-secure detention for which reimbursement is approved pursuant to section five hundred thirty of this title, including the numbers of such youths in each category of detention facility and the per diem rates charged.

2. Copies of such report shall be sent to the commissioner of each social services district, the chief executive officer of the locality responsible for such expenditures, the director of such locality's probation department, and the director of such locality's youth bureau, or if no such bureau exists, the chairman of such locality's youth board.

ARTICLE 19-H
RUNAWAY AND HOMELESS YOUTH ACT OF NINETEEN HUNDRED SEVENTY-EIGHT

Section 532. Short title.
532-a. Definitions.
532-b. Powers and duties of runaway and homeless youth crisis services programs.
532-c. Notice to parent; return of runaway youth to parent; alternative living arrangements.
532-d. Residential transitional independent living support programs.
532-e. Powers and duties of the office of children and family services.
532-f. Required certification for residential programs.

§ 532. Short title. This article shall be known and may be cited as

the "runaway and homeless youth act of nineteen hundred seventy-eight".

§ 532-a. Definitions. For the purposes of this article the term:

1. "Runaway youth" shall mean a person under the age of eighteen years who is absent from his or her legal residence without the consent of his or her parent, legal guardian or custodian.

2. "Homeless youth" shall mean:

(a) a person under the age of eighteen who is in need of services and is without a place of shelter where supervision and care are available; or

(b) a person who is under the age of twenty-one but is at least age eighteen and who is in need of services and is without a place of shelter.

(c) Provided however, when a municipality's approved comprehensive plan authorizes that services pursuant to this article be provided to "homeless young adults" as such term is defined in this section, then for purposes related to the provisions of that municipality's approved comprehensive plan that include "homeless young adults", the term "homeless youth" as used in this article shall be deemed to include "homeless young adults".

3. "Youth in need of crisis intervention or respite services" shall mean a person under the age of eighteen years who is a potential respondent under article seven of the family court act, who, with the consent of his or her parent or other person legally responsible for the youth, is determined by the local juvenile probation department or social services official to be in need of crisis intervention or respite services.

4. "Runaway and homeless youth crisis services program" shall mean:

(a) any non-residential program approved by the office of children and family services, after submission by the municipality as part of its comprehensive plan, that provides services to runaway youth and homeless youth in accordance with the regulations of the office of children and

family services; or

(b) any residential program which is operated by an authorized agency as defined in subdivision ten of section three hundred seventy-one of the social services law, and certified by the office of children and family services to provide short-term residential services to runaway youth and homeless youth in accordance with the applicable regulations of the office of temporary and disability assistance and the office of children and family services.

(c) Runaway and homeless youth crisis services programs may also provide non-residential crisis intervention and, if certified, residential respite services to youth in need of crisis intervention or respite services, as such term is defined in this section. Residential respite services in a certified runaway and homeless youth crisis services program may be provided to such youth for no more than twenty-one days, in accordance with the regulations of the office of children and family services and section seven hundred thirty-five of the family court act.

5. "Runaway and homeless youth service coordinator" shall mean any person so designated by a municipality whose duties shall include but not be limited to answering inquiries at any time concerning transportation, shelter and other services available to a runaway or homeless youth or a youth in need of crisis intervention or respite services.

6. "Transitional independent living support program" shall mean:

(a) any non-residential program approved by the office of children and family services, after submission by the municipality as part of its comprehensive plan, that provides supportive services to enable homeless youth to progress from crisis care and transitional care to independent living, in accordance with the applicable regulations of the office of children and family services; or

(b) any residential program established and operated to provide supportive services, in accordance with the regulations of the office of children and family services, to enable homeless youth to progress from crisis care and transitional care to independent living.

(c) A transitional independent living support program may also provide

services to youth in need of crisis intervention or respite services. Notwithstanding the time limitation in paragraph (i) of subdivision (d) of section seven hundred thirty-five of the family court act, residential respite services may be provided in a transitional independent living support program for a period of more than twenty-one days.

7. "Safe house" shall mean a residential program for sexually exploited children as defined in subdivision one of section four hundred forty-seven-a of the social services law. An approved runaway program may operate a short-term safe house, as defined in subdivision two of section four hundred forty-seven-a of the social services law, for sexually exploited children. A transitional independent living support program may operate a long-term safe house for sexually exploited children.

8. "Municipality" shall mean a county, or a city having a population of one million or more.

9. "Homeless young adult" shall mean a person who is age twenty-four or younger but is at least age twenty-one and who is in need of services and is without a place of shelter.

§ 532-b. Powers and duties of runaway and homeless youth crisis services programs. 1. Notwithstanding any other provision of law, pursuant to regulations of the office of children and family services a runaway and homeless youth crisis services program is authorized to and shall:

(a) provide assistance to any runaway or homeless youth or youth in need of crisis intervention or respite services as defined in this article;

(b) attempt to determine the cause for the youth's runaway or homeless status;

(c) explain to the runaway or homeless youth his or her legal rights and options of service or other assistance available to the youth;

(d) work towards reuniting such youth with his or her parent or

guardian as soon as practicable in accordance with section five hundred thirty-two-c of this article;

(e) assist in arranging for necessary services for runaway or homeless youth, and where appropriate, their families, including but not limited to food, shelter, clothing, medical care, education and individual and family counseling. Where the runaway and homeless youth crisis services program concludes that such runaway or homeless youth would be eligible for assistance, care or services from a local social services district, it shall assist the youth in securing such assistance, care or services as the youth is entitled to;

(f) immediately report to the statewide central register of child abuse and maltreatment or vulnerable persons' central register, as appropriate, where it has reasonable cause to suspect that the runaway or homeless youth has been abused or neglected or when such youth maintains such to be the case;

(g) contact the appropriate local social services district if it is believed that the youth may be a destitute child, as such term is defined in section one thousand ninety-two of the family court act. The office of children and family services shall provide appropriate guidance to the runaway and homeless youth crisis services program on how to accurately identify a youth that may be a destitute child; and

(h) provide information to eligible youth about their ability to re-enter foster care in accordance with article ten-B of the family court act, and in appropriate cases, refer any such youth who may be interested in re-entering foster care to the applicable local social services district. The office of children and family services shall provide the runaway and homeless youth crisis services program with the appropriate educational materials to give to eligible youth regarding their ability to re-enter foster care. The office of children and family services shall also provide appropriate guidance to the runaway and homeless youth crisis services program on how to accurately identify youth that may be eligible to re-enter foster care and how to refer such youth to the applicable local social services district if appropriate.

2. (a) A runaway youth may remain in a certified residential runaway and homeless youth crisis services program on a voluntary basis for a period not to exceed thirty days, or for a youth age fourteen or older

for a period up to sixty days when authorized in the applicable municipality's approved comprehensive plan, from the date of admission where the filing of a petition pursuant to article ten of the family court act is not contemplated, in order that arrangements can be made for the runaway youth's return home, alternative residential placement pursuant to section three hundred ninety-eight of the social services law, or any other suitable plan.

(b) If the runaway youth and the parent, guardian or custodian agree in writing, the runaway youth may remain in such program up to sixty days, or up to one hundred twenty days when authorized in the applicable municipality's approved county comprehensive plan, without the filing of a petition pursuant to article ten of the family court act, provided that in any such case the facility shall first have obtained the approval of the applicable municipal runaway and homeless youth services coordinator, who shall notify the municipality's youth bureau of his or her approval together with a statement as to the reason why such additional residential stay is necessary and a description of the efforts being made to find suitable alternative living arrangements for such youth.

(c) A runaway youth may remain in a certified residential runaway and homeless youth crisis services program beyond the applicable period authorized by paragraph (a) or (b) of this subdivision, if the municipality has notified the office of children and family services in accordance with clause (iv) of subparagraph three of paragraph a of subdivision two of section four hundred twenty of this chapter.

§ 532-c. Notice to parent; return of runaway youth to parent; alternative living arrangements. 1. The staff of a residential runaway and homeless youth crisis services program shall, to the maximum extent possible, preferably within twenty-four hours but within no more than seventy-two hours following the youth's admission into the program, notify such runaway youth's parent, guardian or custodian of his or her physical and emotional condition, and the circumstances surrounding the runaway youth's presence at the program, unless there are compelling circumstances why the parent, guardian or custodian should not be so notified. Where such circumstances exist, the program director or his or

her designee shall either file an appropriate petition in the family court, refer the youth to the local social services district, or in instances where abuse or neglect is suspected, report such case pursuant to title six of article six of the social services law.

2. Where custody of the youth upon leaving the program is assumed by a relative or other person, other than the parent or guardian, the staff of the program shall so notify the parent or guardian as soon as practicable after the release of the youth. The officers, directors or employees of the program shall be immune from any civil or criminal liability for or arising out of the release of a runaway or homeless youth to a relative or other responsible person other than a parent or guardian.

§ 532-d. Residential transitional independent living support programs. Notwithstanding any inconsistent provision of law, pursuant to regulations of the office of children and family services, residential facilities operating as transitional independent living support programs are authorized to and shall:

1. (a) (i) provide shelter to homeless youth who are at least age sixteen.

(ii) Provided, however, that shelter may be provided to a homeless youth under the age of sixteen if the municipality has notified the office of children and family services in accordance with clause (iv) of subparagraph three of paragraph a of subdivision two of section four hundred twenty of this chapter.

(b) Shelter may be provided to a homeless youth in a transitional independent living program for a period of up to eighteen months, or up to twenty-four months when authorized in the applicable municipality's approved comprehensive plan;

(c) A homeless youth who entered a transitional independent living program under the age of twenty-one may continue to receive shelter services in such program beyond the applicable period authorized by paragraph (b) of this subdivision, if the municipality has notified the office of children and family services in accordance with clause (iv) of

subparagraph three of paragraph a of subdivision two of section four hundred twenty of this chapter;

2. work toward reuniting such homeless youth with his or her parent, guardian or custodian, where possible;

3. provide or assist in securing necessary services for such homeless youth, and where appropriate, his or her family, including but not limited to housing, educational, medical care, legal, mental health, and substance and alcohol abuse services. Where such program concludes that such homeless youth would be eligible for assistance, care or services from a local social services district, it shall assist such youth in securing such assistance, care or services;

4. for a homeless youth whose service plan involves independent living, provide practical assistance in achieving independence, either through direct provision of services or through written agreements with other community and public agencies for the provision of services in the following areas; high school education or high school equivalency education; higher education assessment; job training and job placement; counseling; assistance in the development of socialization skills; guidance and assistance in securing housing appropriate to needs and income; and training in the development of skills necessary for responsible independent living, including but not limited to money and home management, personal care, and health maintenance; and

5. provide residential services to a youth in need of crisis intervention or respite services, as defined in this article;

6. continue to provide services to a homeless youth who is not yet eighteen years of age but who has reached the maximum time period provided by paragraph (b) of subdivision one of this section, until he or she is eighteen years of age or for an additional six months if he or she is still under the age of eighteen; and

7. contact the appropriate local social services district if it is believed that the youth may be a destitute child, as such term is

defined in section one thousand ninety-two of the family court act. The office of children and family services shall provide appropriate guidance to the residential transitional independent living support program on how to accurately identify a youth that may be a destitute child;

8. provide information to eligible youth about their ability to re-enter foster care in accordance with article ten-B of the family court act, and in appropriate cases, refer any such youth who may be interested in re-entering foster care to the applicable local social services district. The office of children and family services shall provide the residential transitional independent living support program with the appropriate educational materials to give to eligible youth regarding their ability to re-enter foster care. The office of children and family services shall also provide appropriate guidance to the residential transitional independent living support program on how to accurately identify youth that may be eligible to re-enter foster care and how to refer such youth to the applicable local social services district if appropriate; and

9. provide such reports and data as specified by the office of children and family services.

§ 532-e. Powers and duties of the office of children and family services. The office of children and family services shall: 1. visit, inspect and make periodic reports on the operation and adequacy of approved runaway programs and transitional independent living support programs;

2. certify residential facilities providing care to runaway and/or homeless youth, provided, however, that no certification shall be issued or renewed until it can be demonstrated that a program operated pursuant to this article has consistent with appropriate collective bargaining agreements and applicable provisions of the civil service law, developed and implemented a procedure for reviewing and evaluating the backgrounds of and the information supplied by any person applying to be an

employee, volunteer or consultant, which shall include but not be limited to the following requirements: that the applicants set forth his or her employment history, provide personal and employment references and sign a sworn statement indicating whether the applicant, to the best of his or her knowledge, has ever been convicted of a crime in this state or any other jurisdiction;

3. maintain a register of approved runaway programs, transitional independent living support programs and runaway and homeless youth service coordinators;

4. submit to the governor and legislature an annual report detailing the numbers and characteristics of runaway and otherwise homeless youth throughout the state and their problems and service needs;

5. develop and promulgate in consultation with county youth bureaus and organizations or programs which have had past experience dealing with runaway and homeless youth, regulations concerning the coordination and integration of services available for runaway and otherwise homeless youth and prohibiting the disclosure or transferal of any records containing the identity of individual youth receiving services pursuant to this section, without the written consent of the youth;

6. develop and promulgate regulations in consultation with the office of temporary and disability assistance concerning the provision of services by transitional independent living support programs consistent with the provisions of this article;

7. require all employees of approved programs providing care to runaway and/or homeless youth to complete training as set forth in regulations promulgated by the office. Such training shall require all employees of such residential facilities to receive instruction as specified by the office in the regulations, except where an employee has already received training which would satisfy such requirements, and shall, at a minimum, include instruction in issues pertaining to lesbian, gay, bisexual, and transgender youth with particular emphasis on:

(a) appropriate terminology;

(b) particular challenges for lesbian, gay, bisexual, and transgender runaway and homeless youth, including why lesbian, gay, bisexual, and transgender youth are disproportionately homeless;

(c) how to address homophobia or transphobia from other youth at the shelter;

(d) confidentiality in the cases of lesbian, gay, bisexual, and transgender youth; and

(e) how to address the families of lesbian, gay, bisexual, and transgender youth; and

8. in conjunction with the commissioner of education, develop and annually review a plan to ensure coordination and access to education for homeless children, in accordance with the provisions of section thirty-two hundred nine of the education law, and monitor compliance of residential programs for runaway and homeless youth with such plan.

§ 532-f. Required certification for residential programs. Notwithstanding any other provision of law to the contrary, any residential program established for the purpose of serving runaway and homeless youth that serves any youth under the age of eighteen or that is contained in a municipality's approved comprehensive plan, must be certified by the office of children and family services and must be operated by an authorized agency as such term is defined in subdivision ten of section three hundred seventy-one of the social services law.

ARTICLE 19-I

WATERFRONT COMMISSION ACT

Section 534. Short title.
534-a. Legislative findings and declarations.
534-b. Definitions.
534-c. New York waterfront commission established.
534-d. General powers of the commission.
534-e. Designation as agent of the state.
534-f. Pier superintendents and hiring agents.

534-g. Stevedores.
534-h. Prohibition of public loading.
534-i. Longshore workers' register.
534-j. List of qualified longshore workers for employment as checkers.
534-k. Regularization of longshore workers' employment.
534-l. Suspension or acceptance of applications for inclusion in the longshore workers' register; exceptions.
534-m. Security officer.
534-n. Hearings, determinations and review.
534-o. Employment information centers.
534-p. Implementation of telecommunications hiring system for longshore workers and checkers; registration of telecommunications system controller.
534-q. Construction of act.
534-r. Certain solicitations prohibited; prohibition against the holding of union position by officers, agents or employees who have been convicted of certain crimes and offenses.
534-s. General violations; prosecutions; penalties.
534-t. Denial of applications.
534-u. Revocation of licenses and registrations.
534-v. Refusal to answer question, immunity; prosecution.
534-w. Annual preparation of a budget request and assessments.
534-x. Payment of assessment.
534-y. Transfer of officers, employees.
534-z. Annual report.

§ 534. Short title. This article shall be known and may be cited as the "waterfront commission act".

§ 534-a. Legislative findings and declarations. 1. The state of New York hereby finds and declares that:

In 1953, the conditions under which waterfront labor was employed

within the port of New York district were depressing and degrading to such labor, resulting from the lack of any systematic method of hiring, the lack of adequate information as to the availability of employment, corrupt and discriminatory hiring practices, criminal practices, and coercion of employees or employers. Now, it continues to be in the best interest of the state to regulate activities within the port of New York district in this state to prevent such conditions and to prevent circumstances that result in waterfront laborers suffering from irregularity of employment, fear and insecurity, inadequate earnings, an unduly high accident rate, subjection to borrowing at usurious rates of interest, exploitation and extortion as the price of securing employment, a loss of respect for the law, and destruction of the dignity of an important segment of American labor, and to prevent a direct encouragement of crime which imposes a levy of greatly increased costs on food, fuel and other necessaries handled in and through the port of New York district in this state.

It is in the best interest of the state to ensure that the function of loading and unloading trucks and other land vehicles at piers and other waterfront terminals should be performed, as in every other major American port, without the abuses of the public loader system, and by the carriers of freight by water, stevedores and operators of such piers and other waterfront terminals or the operators of such trucks or other land vehicles. Therefore, it is in the best interest of the state to regulate the occupations of longshore workers, stevedores, pier superintendents, hiring agents, and security officers, who are affected with a public interest, which is an exercise of the police power of this state. It is further in the best interest of the state to ensure that the method of employment of longshore workers and security officers be conducted through employment information centers to prevent grave injury to the welfare of waterfront laborers and of the people at large and to ensure the preservation of the fundamental rights and liberties of labor, the economic stability of the port of New York district in this state, and the advancement of law enforcement therein.

Although law enforcement's efforts against traditional organized crime influence have been successful, such influence remains a significant

threat in the New York metropolitan area, particularly in the port. Continued oversight is essential to ensure fair and nondiscriminatory hiring practices, to eliminate labor racketeering and the victimization of legitimate union members and port businesses, and to prevent organized crime figures from directly operating at the critical points of interstate and international shipping.

To preserve the safety and welfare of the state, it is the intent of this act to prevent and eradicate mismanagement, abuse of labor, coercion, corruption, prevalence of organized crime and other criminal activity, to exclude or remove from the port workforce individuals who were convicted of serious crimes or who associate with organized crime in violation of this act, to overcome discrimination and other unfair hiring practices, and to extirpate corruption and racketeering in the port of New York district in this state.

§ 534-b. Definitions. As used in this article, the following terms shall have the following meanings:

1. "Act" shall mean this article and rules or regulations lawfully promulgated thereunder and shall include any amendments or supplements to this article to implement the purposes thereof.

2. "Bi-state commission" shall mean the Waterfront Commission of New York Harbor established by the state of New York pursuant to P.L. 1953, c.882 (NY Unconsol. Ch.307, s.1) and by the state of New Jersey pursuant to its agreement thereto under P.L.1953, c.202 (C.32:23-1 et seq.).

3. "Carrier of freight by water" shall mean any person who may be engaged or who may hold oneself out as willing to be engaged, whether as a common carrier, as a contract carrier or otherwise (except for carriage of liquid cargoes in bulk in tank vessels designed for use exclusively in such service or carriage by barge of bulk cargoes consisting of only a single commodity loaded or carried without wrappers or containers and delivered by the carrier without transportation mark or count) in the carriage of freight by water between any point in the

port of New York district and a point outside said district.

4. "Container" shall mean any receptacle, box, carton or crate which is specifically designed and constructed so that it may be repeatedly used for the carriage of freight by a carrier of freight by water.

5. "Checker" shall mean a longshore worker who is employed to engage in direct and immediate checking of waterborne freight or of the custodial accounting therefor or in the recording or tabulation of the hours worked at piers or other waterfront terminals by natural persons employed by carriers of freight by water or stevedores.

6. "Commission" shall mean the New York waterfront commission established by section five hundred thirty-four-c of this article.

7. "Career offender" shall mean a person whose behavior is pursued in an occupational manner or context for the purpose of economic gain utilizing such methods as are deemed criminal violations against the public policy of the state of New York.

8. "Career offender cartel" shall mean a number of career offenders acting in concert, and may include what is commonly referred to as an organized crime group.

9. "Court of the United States" shall mean all courts enumerated in section four hundred fifty-one of title twenty-eight of the United States Code and the courts-martial of the armed forces of the United States.

10. "Freight" shall mean freight which has been, or will be, carried by or consigned for carriage by a carrier of freight by water.

11. "Hiring agent" shall mean any natural person, who on behalf of a carrier of freight by water or a stevedore or any other person shall select any longshore worker for employment.

12. "Longshore worker" shall mean: (a) a natural person, other than a

hiring agent, who is employed for work at a pier or other waterfront terminal, either by a carrier of freight by water or by a stevedore to:

(1) physically move waterborne freight on vessels berthed at piers, on piers or at other waterfront terminals; or

(2) engage in direct and immediate checking of any such freight or of the custodial accounting therefor or in the recording or tabulation of the hours worked at piers or other waterfront terminals by natural persons employed by carriers of freight by water or stevedores; or

(3) supervise directly and immediately others who are employed as in subparagraph one of this paragraph; or

(4) physically perform labor or services incidental to the movement of waterborne freight on vessels berthed at piers, on piers or at other waterfront terminals, including, but not limited to, cargo repair personnel, coopers, general maintenance personnel, mechanical and miscellaneous workers, horse and cattle fitters, grain ceilers and marine carpenters; or

(b) a natural person, other than a hiring agent, who is employed for work at a pier or other waterfront terminal by any person to:

(1) physically move waterborne freight to or from a barge, lighter or railroad car for transfer to or from a vessel of a carrier of freight by water which is, shall be, or shall have been berthed at the same pier or other waterfront terminal; or

(2) perform labor or services involving, or incidental to, the movement of freight at a waterfront terminal as defined in subdivision fifteen of this section.

13. "Longshore workers' register" shall mean the register of eligible longshore workers compiled and maintained by the commission pursuant to section five hundred thirty-four-i of this article.

14. "Marine terminal" shall mean an area which includes piers, which is used primarily for the moving, warehousing, distributing or packing of waterborne freight or freight to or from such piers, and which, inclusive of such piers, is under common ownership or control.

15. "Other waterfront terminal" shall include:

(a) any warehouse, depot or other terminal (other than a pier) which

is located within one thousand yards of any pier in the port of New York district in this state and which is used for waterborne freight in whole or substantial part; or

(b) any warehouse, depot or other terminal (other than a pier), whether enclosed or open, which is located in a marine terminal in the port of New York district in this state and any part of which is used by any person to perform labor or services involving, or incidental to, the movement of waterborne freight or freight.

16. "Person" shall mean not only a natural person but also any partnership, joint venture, association, corporation or any other legal entity but shall not include the United States, any state or territory thereof or any department, division, board, commission or authority of one or more of the foregoing.

17. "Pier" shall include any wharf, pier, dock or quay.

18. "Pier superintendent" shall mean any natural person other than a longshore worker who is employed for work at a pier or other waterfront terminal by a carrier of freight by water or a stevedore and whose work at such pier or other waterfront terminal includes the supervision, directly or indirectly, of the work of longshore workers.

19. "Port of New York district" shall mean the district created by article II of the compact dated April thirtieth, nineteen hundred twenty-one, between the states of New York and New Jersey, authorized by chapter one hundred fifty-four of the laws of New York of nineteen hundred twenty-one and chapter one hundred fifty-one of the laws of New Jersey of nineteen hundred twenty-one.

20. "Security officer" shall include any security officer, gate person, rounds person, detective, guard, guardian or protector of property employed by the operator of any pier or other waterfront terminal or by a carrier of freight by water to perform services in such capacity on any pier or other waterfront terminal.

21. The term "select any longshore worker for employment" in the

definition of a hiring agent in this section shall include selection of a person for the commencement or continuation of employment as a longshore worker, or the denial or termination of employment as a longshore worker.

22. "Stevedore" shall mean:

(a) a contractor (not including an employee) engaged for compensation pursuant to a contract or arrangement with a carrier of freight by water, in moving waterborne freight carried or consigned for carriage by such carrier on vessels of such carrier berthed at piers, on piers at which such vessels are berthed or at other waterfront terminals; or

(b) a contractor engaged for compensation pursuant to a contract or arrangement with the United States, any state or territory thereof, or any department, division, board, commission or authority of one or more of the foregoing, in moving freight carried or consigned for carriage between any point in the port of New York district and a point outside said district on vessels of such a public agency berthed at piers, on piers at which such vessels are berthed or at other waterfront terminals; or

(c) a contractor (not including an employee) engaged for compensation pursuant to a contract or arrangement with any person to perform labor or services incidental to the movement of waterborne freight on vessels berthed at piers, on piers or at other waterfront terminals, including, but not limited to, cargo storage, cargo repairing, coopering, general maintenance, mechanical and miscellaneous work, horse and cattle fitting, grain ceiling, and marine carpentry; or

(d) a contractor (not including an employee) engaged for compensation pursuant to a contract or arrangement with any other person to perform labor or services involving, or incidental to, the movement of freight into or out of containers (which have been or which will be carried by a carrier of freight by water) on vessels berthed at piers, on piers or at other waterfront terminals.

23. "Terrorist group" shall mean a group associated, affiliated or funded in whole or in part by a terrorist organization designated by the secretary of state in accordance with section two hundred nineteen of the immigration and nationality act, as amended from time to time, or

any other organization which assists, funds or engages in acts of terrorism as defined in the laws of the United States, or of the state of New York, including, but not limited to, subdivision one of section 490.05 of the penal law.

24. "Waterborne freight" shall mean freight carried by or consigned for carriage by carriers of freight by water, and shall also include freight described in subdivision fifteen and paragraphs (b) and (d) of subdivision twenty-two of this section, and ships' stores, baggage and mail carried by or consigned for carriage by carriers of freight by water.

25. "Witness" shall mean any person whose testimony is desired in any investigation, interview or other proceeding conducted by the commission pursuant to the provisions of section five hundred thirty-four of this article.

§ 534-c. New York waterfront commission established. 1. There is hereby created the New York waterfront commission, which shall be in the executive department of this state and may request, receive, and utilize facilities, resources and data of any department, division, board, bureau, commission, agency or public authority of the state or any political subdivision thereof as it may reasonably request to carry out properly its powers and duties.

2. The commission shall consist of the commissioner appointed by the governor with the advice and consent of the senate, and shall receive compensation to be fixed by the governor of this state. The term of office of such commissioner shall be for three years; provided, however, that a commissioner serving on the bi-state commission at the time of its dissolution on the seventeenth of July two thousand twenty-three who was appointed by the governor of New York to such position, may serve as acting commissioner of the New York waterfront commission until such time as a commissioner is appointed by the governor, with the advice and consent of the senate, pursuant to this subdivision. A commissioner shall hold office until that commissioner's successor has been appointed

and qualified. Vacancies in office shall be filled for the balance of the unexpired term in the same manner as original appointments.

3. A commissioner may, by written instrument filed in the office of the commission, designate any officer or employee of the commission to act in that commissioner's place. A vacancy in the office of a commissioner shall not impair such designation until the vacancy shall have been filled.

§ 534-d. General powers of the commission. In addition to the powers and duties elsewhere prescribed herein, the commission shall have the power:

1. To have a seal and alter the same at pleasure.

2. To determine the location, size and suitability of accommodations necessary and desirable for the establishment and maintenance of the employment information centers provided in section five hundred thirty-four-o of this article and for administrative offices for the commission.

3. To administer and enforce the provisions of this act.

4. To promulgate and enforce such rules and regulations as the commission may deem necessary to effectuate the purposes of this act or to prevent the circumvention or evasion thereof. As used in this act, "regulations" include those rules and regulations of the bi-state commission which shall continue in effect as the rules and regulations of the commission until amended, supplemented, or rescinded by the commission pursuant to the state administrative procedure act. Previously promulgated regulations inconsistent with the provisions of this act shall be deemed void. No later than one hundred eighty days after this act shall have become law, the commission shall commence review of its regulations in order to recommend necessary changes. In its review, the commission shall consult with relevant employers and labor organizations.

5. To appoint such officers, agents and employees as it may deem necessary, prescribe their powers, duties and qualifications and fix their compensation and retain and employ counsel and private consultants on a contract basis or otherwise, within the limits provided by appropriation.

6. By its commissioner and its properly designated officers, agents and employees, to administer oaths and issue subpoenas to compel the attendance of witnesses and the giving of testimony and the production of other evidence.

7. To have for its commissioner and its properly designated officers, agents and employees, full and free access, ingress and egress to and from all vessels, piers and other waterfront terminals or other places in the port of New York district in this state, for the purposes of making inspection or enforcing the provisions of this act; and no person shall obstruct or in any way interfere with any such commissioner, officer, employee or agent in the making of such inspection, or in the enforcement of the provisions of this act or in the performance of any other power or duty under this act.

8. To recover possession of any suspended or revoked license issued under this act.

9. To make investigations, collect and compile information concerning waterfront practices generally within the port of New York district in this state and upon all matters relating to the accomplishment of the objectives of this act.

10. To advise and consult with representatives of labor and industry and with public officials and agencies concerned with the effectuation of the purposes of this act, upon all matters which the commission may desire, including but not limited to the form and substance of rules and regulations, the administration of the act, maintenance of the longshore workers' register, and issuance and revocation of licenses.

11. To make annual and other reports to the governor and legislature.

12. To cooperate with and receive from any department, division, bureau, board, commission, or agency of this state, or of any county or municipality thereof, such assistance and data as will enable it properly to carry out its powers and duties hereunder; and to request any such department, division, bureau, board, commission, or agency, with the consent thereof, to execute such of its functions and powers, as the public interest may require.

13. To designate officers, employees and agents who may exercise the powers and duties of the commission except the power to make rules and regulations. Notwithstanding any other provision of law, the officers, employees and agents of the commission established by this act may be appointed or employed without regard to their state of residence.

14. To issue temporary permits and permit temporary registrations under such terms and conditions as the commission may prescribe which shall be valid for a period to be fixed by the commission not in excess of six months.

15. To require any applicant for a license or registration or any prospective licensee to furnish such facts and evidence as the commission may deem appropriate to enable it to ascertain whether the license or registration should be granted.

16. In any case in which the commission has the power to revoke or suspend any stevedore license the commission shall also have the power to impose as an alternative to such revocation or suspension, a penalty, which the licensee may elect to pay to the commission in lieu of the revocation or suspension. The maximum penalty shall be five thousand dollars for each separate offense. The commission may, for good cause shown, abate all or part of such penalty.

17. To designate any officer, agent or employee of the commission to be an investigator who shall be vested with all the powers of a peace or police officer of the state of New York.

18. To confer immunity, in the manner prescribed by subdivision one of section five hundred thirty-four-v of this article.

19. To require any applicant for registration as a longshore worker, any applicant for registration as a checker or any applicant for registration as a telecommunications system controller and any person who is sponsored for a license as a pier superintendent or hiring agent, any person who is an individual owner of an applicant stevedore or any persons who are individual partners of an applicant stevedore, or any officers, directors or stockholders owning five percent or more of any of the stock of an applicant corporate stevedore or any applicant for a license as a security officer or any other category of applicant for registration or licensing within the commission's jurisdiction to be fingerprinted by the commission at the cost and expense of the applicant.

20. To exchange fingerprint data with and receive state criminal history record information from the division of criminal justice services and federal criminal history record information from the federal bureau of investigation for use in making the determinations required by this act.

21. Notwithstanding any other provision of law to the contrary, to require any applicant for employment or employee of the commission to be fingerprinted and to exchange fingerprint data with and receive state criminal history record information from the division of criminal justice services and federal criminal history information from the federal bureau of investigation for use in the hiring or retention of such person.

22. To cooperate with a similar entity established in the state of New Jersey, to exchange information on any matter pertinent to the purposes of this act, and to, in its discretion, enter into reciprocal agreements for the accomplishment of such purposes, including but not limited to the following objectives:

(a) To give reciprocal effect to any approval, revocation, suspension

or reprimand with respect to any licensee, and any inclusion in, or reprimand or removal from a longshore workers' register;

(b) To provide that any act or omission by a licensee or registrant in either state which would be a basis for disciplinary action against such licensee or registrant if it occurred in the state in which the license was issued or the person registered shall be the basis for disciplinary action in both states; and

(c) To provide that longshore workers registered in either state, who perform work or who apply for work at an employment information center within the other state, shall be deemed to have performed work or to have applied for work in the state in which they are registered.

§ 534-e. Designation as agent of the state. 1. The commission is hereby designated on its own behalf or as agent of the state of New York, as provided by the act of Congress of the United States, effective June sixth, one thousand nine hundred and thirty-three, entitled "An act to provide for the establishment of a national employment system and for co-operation with the States in the promotion of such system and for other purposes," as amended, for the purpose of obtaining such benefits of such act of Congress as are necessary or appropriate to the establishment and operation of employment information centers authorized by this act.

2. The commission shall have all powers necessary to cooperate with appropriate officers or agencies of this state or the United States, to take such steps, to formulate such plans, and to execute such projects (including but not limited to the establishment and operation of employment information centers) as may be necessary to obtain such benefits for the operations of the commission in accomplishing the purposes of this act.

3. Any officer or agency designated by this state pursuant to said act of June sixth, nineteen hundred thirty-three, as amended, is authorized and empowered, upon the request of the commission and subject to its direction, to exercise the powers and duties conferred upon the commission by the provisions of this section.

§ 534-f. Pier superintendents and hiring agents. 1. No person shall act as a pier superintendent or as a hiring agent within the port of New York district in this state without first having obtained from the commission or previously, from the bi-state commission, a license to act as such pier superintendent or hiring agent, as the case may be, and no person shall employ or engage another person to act as a pier superintendent or hiring agent who is not so licensed.

2. A license to act as a pier superintendent or hiring agent shall be issued only upon the written application, under oath, of the person proposing to employ or engage another person to act as such pier superintendent or hiring agent, verified by the prospective licensee as to the matters concerning that person, and shall state the following:

(a) The full name and business address of the applicant;

(b) The full name, residence, business address (if any), place and date of birth and social security number of the prospective licensee;

(c) The present and previous occupations of the prospective licensee, including the places where the person was employed and the names of the person's employers;

(d) Such further facts and evidence as may be required by the commission to ascertain the character, integrity and identity of the prospective licensee; and

(e) That if a license is issued to the prospective licensee, the applicant will employ such licensee as pier superintendent or hiring agent, as the case may be.

3. No such license shall be granted:

(a) Unless the commission shall be satisfied that the prospective licensee possesses good character and integrity;

(b) If the prospective licensee has, without subsequent pardon, been convicted by a court of the United States, or any state or territory thereof, of the commission of, or the attempt or conspiracy to commit, treason, murder, manslaughter or any crime punishable by death or imprisonment for a term exceeding three hundred sixty-four days or any of the following misdemeanors or offenses: illegally using, carrying or

possessing a pistol or other dangerous weapon; making or possessing burglar's instruments; buying or receiving stolen property; unlawful entry of a building; aiding an escape from prison; unlawfully possessing, possessing with intent to distribute, sale or distribution of a controlled dangerous substance (controlled substance) or a controlled dangerous substance analog; and violation of this act. Any such prospective licensee ineligible for a license by reason of any such conviction may submit satisfactory evidence to the commission that such person has for a period of not less than five years, measured as hereinafter provided, and up to the time of application, so acted in a manner as to warrant the grant of such license, in which event the commission may, in its discretion, issue an order removing such ineligibility. The aforesaid period of five years shall be measured either from the date of payment of any fine imposed upon such person or the suspension of sentence or from the date of the person's unrevoked release from custody by parole, commutation or termination of sentence;

(c) If the prospective licensee knowingly or willfully advocates the desirability of overthrowing or destroying the government of the United States by force or violence or shall be a member of a group which advocates such desirability, knowing the purposes of such group include such advocacy.

4. When the application shall have been examined and such further inquiry and investigation made as the commission shall deem proper and when the commission shall be satisfied therefrom that the prospective licensee possesses the qualifications and requirements prescribed in this section, the commission shall issue and deliver to the prospective licensee a license to act as pier superintendent or hiring agent for the applicant, as the case may be, and shall inform the applicant of this action. The commission may issue a temporary permit to any prospective licensee for a license under the provisions of this article pending final action on an application made for such a license. Any such permit shall be valid for a period not in excess of six months.

5. No person shall be licensed to act as a pier superintendent or hiring agent for more than one employer, except at a single pier or other waterfront terminal, but nothing in this section shall be

construed to limit in any way the number of pier superintendents or hiring agents any employer may employ.

6. A license granted pursuant to this section shall continue through the duration of the licensee's employment by the employer who shall have applied for the person's license.

7. Any license issued pursuant to this section may be revoked or suspended for such period as the commission deems in the public interest or the licensee thereunder may be reprimanded for any of the following offenses:

(a) Conviction of a crime or act by the licensee or other cause which would require or permit the person's disqualification from receiving a license upon original application;

(b) Fraud, deceit or misrepresentation in securing the license, or in the conduct of the licensed activity;

(c) Violation of any of the provisions of this act;

(d) Criminal possession of a controlled substance or criminal sale of a controlled substance;

(e) Employing, hiring or procuring any person in violation of this act or inducing or otherwise aiding or abetting any person to violate the terms of this act;

(f) Paying, giving, causing to be paid or given or offering to pay or give to any person any valuable consideration to induce such other person to violate any provision of this act or to induce any public officer, agent or employee to fail to perform the person's duty hereunder;

(g) Consorting with known criminals for an unlawful purpose, provided, however, that consorting without unlawful purpose shall be insufficient grounds for revocation or suspension;

(h) Transfer or surrender of possession of the license to any person either temporarily or permanently without satisfactory explanation;

(i) False impersonation of another licensee under this act;

(j) Receipt or solicitation of anything of value from any person other than the licensee's employer as consideration for the selection or retention for employment of any longshore worker;

(k) Coercion of a longshore worker to make purchases from or to

utilize the services of any person;

(l) Lending any money to or borrowing any money from a longshore worker for which there is a charge of interest or other consideration; and

(m) Membership in a labor organization which represents longshore workers or security officers; but nothing in this section shall be deemed to prohibit pier superintendents or hiring agents from being represented by a labor organization or organizations which do not also represent longshore workers or security officers. The American Federation of Labor and Congress of Industrial Organizations and any other similar federation, congress or other organization of national or international occupational or industrial labor organizations shall not be considered an organization which represents longshore workers or security officers within the meaning of this section although one of the federated or constituent labor organizations thereof may represent longshore workers or security officers.

8. Any applicant for pier superintendent or hiring agent ineligible for a license by reason of the provisions of paragraph (b) of subdivision three of this section may petition for and the commission may issue an order removing the ineligibility. A petition for an order to remove ineligibility may be made to the commission before or after the hearing required by section five hundred thirty-four-n of this article.

§ 534-g. Stevedores. 1. No person shall act as a stevedore within the port of New York district in this state without having first obtained a license from the commission or previously, from the bi-state commission, and no person shall employ a stevedore to perform services as such within the port of New York district in this state unless the stevedore is so licensed.

2. Any person intending to act as a stevedore within the port of New York district in this state shall file in the office of the commission a written application for a license to engage in such occupation, duly signed and verified as follows:

(a) If the applicant is a natural person, the application shall be signed and verified by such person and if the applicant is a partnership, the application shall be signed and verified by each natural person composing or intending to compose such partnership. The application shall state the full name, age, residence, business address, if any, present and previous occupations of each natural person so signing the same, and any other facts and evidence as may be required by the commission to ascertain the character, integrity and identity of each natural person so signing such application.

(b) If the applicant is a corporation, the application shall be signed and verified by the president, secretary and treasurer thereof, and shall specify the name of the corporation, the date and place of its incorporation, the location of its principal place of business, the names and addresses of, and the amount of the stock held by stockholders owning five percent or more of any of the stock thereof, and of all officers, including all members of the board of directors. The requirements of paragraph (a) of this subdivision as to a natural person who is a member of a partnership, and such requirements as may be specified in rules and regulations promulgated by the commission, shall apply to each such officer or stockholder and their successors in office or interest.

(c) In the event of the death, resignation or removal of any officer, and in the event of any change in the list of stockholders who shall own five percent or more of the stock of the corporation, the secretary of such corporation shall forthwith give notice of that fact in writing to the commission certified by said secretary.

3. No such license shall be granted:

(a) If any person whose signature or name appears in the application is not the real party in interest required by subdivision two of this section to sign or to be identified in the application or if the person so signing or named in the application is an undisclosed agent or trustee for any such real party in interest;

(b) Unless the commission shall be satisfied that the applicant and all members, officers and stockholders required by subdivision two of this section to sign or be identified in the application for license possess good character and integrity;

(c) Unless the applicant is either a natural person, partnership or corporation;

(d) Unless the applicant shall be a party to a contract then in force or which will take effect upon the issuance of a license, with a carrier of freight by water for the loading and unloading by the applicant of one or more vessels of such carrier at a pier within the port of New York district in this state;

(e) If the applicant or any member, officer or stockholder required by subdivision two of this section to sign or be identified in the application for license has, without subsequent pardon, been convicted by a court of the United States or any state or territory thereof of the commission of, or the attempt or conspiracy to commit, treason, murder, manslaughter or any crime punishable by death or imprisonment for a term exceeding one year or any of the misdemeanors or offenses described in paragraph (b) of subdivision three of section five hundred thirty-four-f of this article. Any applicant ineligible for a license by reason of any such conviction may submit satisfactory evidence to the commission that the person whose conviction was the basis of ineligibility has for a period of not less than five years, measured as hereinafter provided and up to the time of application, so acted in a manner as to warrant the grant of such license, in which event the commission may, in its discretion issue an order removing such ineligibility. The aforesaid period of five years shall be measured either from the date of payment of any fine imposed upon such person or the suspension of sentence or from the date of the person's unrevoked release from custody by parole, commutation or termination of the person's sentence;

(f) If the applicant has paid, given, caused to have been paid or given or offered to pay or give to any officer or employee of any carrier of freight by water any valuable consideration for an improper or unlawful purpose or to induce such person to procure the employment of the applicant by such carrier for the performance of stevedoring services;

(g) If the applicant has paid, given, caused to be paid or given or offered to pay or give to any officer or representative of a labor organization any valuable consideration for an improper or unlawful purpose or to induce such officer or representative to subordinate the interests of such labor organization or its members in the management of

the affairs of such labor organization to the interests of the applicant.

(h) If the applicant has paid, given, caused to have been paid or given or offered to pay or give to any agent of any carrier of freight by water any valuable consideration for an improper or unlawful purpose or, without the knowledge and consent of such carrier, to induce such agent to procure the employment of the applicant by such carrier or its agent for the performance of stevedoring services.

4. When the application shall have been examined and such further inquiry and investigation made as the commission shall deem proper and when the commission shall be satisfied therefrom that the applicant possesses the qualifications and requirements prescribed in this section, the commission shall issue and deliver a license to such applicant. The commission may issue a temporary permit to any applicant for a license under the provisions of this section pending final action on an application made for such a license. Any such permit shall be valid for a period not in excess of six months.

5. A stevedore's license granted pursuant to this section shall be for a term of five years or fraction of such five year period, and shall expire on the first day of December. In the event of the death of the licensee, if a natural person, or its termination or dissolution by reason of a death of a partner, if a partnership, or if the licensee shall cease to be a party to any contract of the type required by paragraph (d) of subdivision three of this section, the license shall terminate ninety days after such event or upon its expiration date, whichever shall be sooner. A license may be renewed by the commission for successive five year periods upon fulfilling the same requirements as are set forth in this section for an original application for a stevedore's license.

6. Any license issued pursuant to this section may be revoked or suspended for such period as the commission deems in the public interest or the licensee thereunder may be reprimanded for any of the following offenses on the part of the licensee or of any person required by subdivision two of this section to sign or be identified in an original

application for a license:

(a) Conviction of a crime or other cause which would permit or require disqualification of the licensee from receiving a license upon original application;

(b) Fraud, deceit or misrepresentation in securing the license or in the conduct of the licensed activity;

(c) Failure by the licensee to maintain a complete set of books and records containing a true and accurate account of the licensee's receipts and disbursements arising out of the licensee's activities within the port of New York district in this state;

(d) Failure to keep said books and records available during business hours for inspection by the commission and its duly designated representatives until the expiration of the fifth calendar year following the calendar year during which occurred the transactions recorded therein;

(e) Any other offense described in paragraphs (c), (d), (e), (f), (g), (h) and (i) of subdivision seven of section five hundred thirty-four-f of this article.

§ 534-h. Prohibition of public loading. 1. It is unlawful for any person to load or unload waterborne freight onto or from vehicles other than railroad cars at piers or at other waterfront terminals within the port of New York district in this state, for a fee or other compensation, other than the following persons and their employees:

(a) Carriers of freight by water, but only at piers at which their vessels are berthed;

(b) Other carriers of freight (including but not limited to railroads and truckers), but only in connection with freight transported or to be transported by such carriers;

(c) Operators of piers or other waterfront terminals (including railroads, truck terminal operators, warehouse workers and other persons), but only at piers or other waterfront terminals operated by them;

(d) Shippers or consignees of freight, but only in connection with freight shipped by such shipper or consigned to such consignee;

(e) Stevedores licensed under section five hundred thirty-four-g of

this article, whether or not such waterborne freight has been or is to be transported by a carrier of freight by water with which such stevedore shall have a contract of the type prescribed by paragraph (d) of subdivision three of section five hundred thirty-four-g of this article.

2. Nothing in this section contained shall be deemed to permit any such loading or unloading of any waterborne freight at any place by any such person by means of any independent contractor, or any other agent other than an employee, unless such independent contractor is a person permitted by this section to load or unload such freight at such place in the person's own right.

§ 534-i. Longshore workers' register. 1. The commission shall maintain a longshore workers' register in which shall be included all qualified longshore workers eligible, as provided, for employment as such in the port of New York district in this state. No person shall act as a longshore worker within the port of New York district in this state unless at the time such person is included in the longshore workers' register, and no person shall employ another to work as a longshore worker within the port of New York district in this state unless at the time such other person is included in the longshore workers' register.

2. Any person applying for inclusion in the longshore workers' register shall file at such place and in such manner as the commission shall designate a written statement, signed and verified by such person, setting forth the person's full name, residence address, social security number, and such further facts and evidence as the commission may prescribe to establish the identity of such person and the person's criminal record, if any.

3. The commission may in its discretion deny application for inclusion in the longshore workers' register by a person:

(a) Who has been convicted by a court of the United States or any state or territory thereof, without subsequent pardon, of treason, murder, manslaughter or of any crime punishable by death or imprisonment

for a term exceeding three hundred sixty-four days or of any of the misdemeanors or offenses described in paragraph (b) of subdivision three of section five hundred thirty-four-f of this article or of attempt or conspiracy to commit any of such crimes;

(b) Who knowingly or willingly advocates the desirability of overthrowing or destroying the government of the United States by force or violence or who shall be a member of a group which advocates such desirability knowing the purposes of such group include such advocacy;

(c) Whose presence at the piers or other waterfront terminals in the port of New York district in this state is found by the commission on the basis of the facts and evidence before it, to constitute a danger to the public peace or safety.

4. Unless the commission shall determine to exclude the applicant from the longshore workers' register on a ground set forth in subdivision three of this section it shall include such person in the longshore workers' register. The commission shall issue a determination within thirty days of receipt of the application provided, however, that this time requirement shall not apply for any period of delay caused or requested by the applicant. If the commission cannot make a determination within that time, it shall notify the applicant that the application is still under review. The commission may permit temporary registration of any applicant under the provisions of this section pending final action on an application made for such registration. Any such temporary registration shall be valid for a period not in excess of six months.

5. The commission shall have power to reprimand any longshore worker registered under this section or to remove that person from the longshore workers' register for such period as it deems in the public interest for any of the following offenses:

(a) Conviction of a crime or other cause which would permit disqualification of such person from inclusion in the longshore workers' register upon original application;

(b) Fraud, deceit or misrepresentation in securing inclusion in the longshore workers' register;

(c) Transfer or surrender of possession to any person either

temporarily or permanently of any card or other means of identification issued by the commission as evidence of inclusion in the longshore workers' register, without satisfactory explanation;

(d) False impersonation of another longshore worker registered under this section or of another person licensed under this act;

(e) Willful commission of or willful attempt to commit at or on a waterfront terminal or adjacent highway any act of physical injury to any other person or of willful damage to or misappropriation of any other person's property, unless justified or excused by law; and

(f) Any other offense described in paragraphs (c), (d), (e), and (f) of subdivision seven of section five hundred thirty-four-f of this article.

6. Whenever, as a result of legislative amendments to this act or of a ruling by the commission, registration as a longshore worker is required for any person to continue employment, such person shall be registered as a longshore worker without regard to the provisions of section five hundred thirty-four-l of this article, provided, however, that such person satisfies all the other requirements of this act for registration as a longshore worker.

7. The commission shall have the right to recover possession of any card or other means of identification issued as evidence of inclusion in the longshore workers' register if the holder thereof has been removed from the longshore workers' register.

8. Nothing contained in this article shall be construed to limit in any way any rights of labor reserved by section five hundred thirty-four-q of this article.

§ 534-j. List of qualified longshore workers for employment as checkers. 1. The commission shall maintain within the longshore workers' register a list of all qualified longshore workers eligible, as provided in this section, for employment as checkers in the port of New York district in this state. No person shall act as a checker within the port of New York district in this state unless at the time such person is

included in the longshore workers' register as a checker, and no person shall employ another to work as a checker within the port of New York district in this state unless at the time such other person is included in the longshore workers' register as a checker.

2. Any person applying for inclusion in the longshore workers' register as a checker shall file at any such place and in such manner as the commission shall designate a written statement, signed and verified by such person, setting forth the following:

(a) The full name, residence, place and date of birth and social security number of the applicant;

(b) The present and previous occupations of the applicant, including the places where such person was employed and the names of that person's employers;

(c) Such further facts and evidence as may be required by the commission to ascertain the character, integrity and identity of the applicant.

3. No person shall be included in the longshore workers' register as a checker:

(a) Unless the commission shall be satisfied that the applicant possesses good character and integrity;

(b) If the applicant has, without subsequent pardon, been convicted by a court of the United States or any state or territory thereof, of the commission of, or the attempt or conspiracy to commit, treason, murder, manslaughter or any crime punishable by death or imprisonment for a term exceeding three hundred sixty-four days or any of the following misdemeanors or offenses: illegally using, carrying or possessing a pistol or another dangerous weapon; making or possessing burglar's instruments; buying or receiving stolen property; unlawful entry of a building; aiding an escape from prison; unlawfully possessing, possessing with intent to distribute, sale or distribution of a controlled dangerous substance (controlled substance) or a controlled dangerous substance analog (controlled substance analog); petty larceny, where the evidence shows the property was stolen from a vessel, pier or other waterfront terminal; and violation of the act. Any such applicant ineligible for inclusion in the longshore workers' register as a checker

by reason of any such conviction may submit satisfactory evidence to the commission that the person has for a period of not less than five years, measured as provided in this section, and up to the time of application, so acted in a manner as to warrant inclusion in the longshore workers' register as a checker, in which event the commission may, in its discretion, issue an order removing such ineligibility. The aforesaid period of five years shall be measured either from the date of payment of any fine imposed upon such person or the suspension of sentence or from the date of such person's unrevoked release from custody by parole, commutation or termination of such person's sentence;

(c) If the applicant knowingly or willfully advocates the desirability of overthrowing or destroying the government of the United States by force or violence or shall be a member of a group which advocates such desirability, knowing the purposes of such group include such advocacy.

4. When the application shall have been examined and such further inquiry and investigation made as the commission shall deem proper and when the commission shall be satisfied therefrom that the applicant possesses the qualifications and requirements prescribed by this section, the commission shall include the applicant in the longshore workers' register as a checker. The commission may permit temporary registration as a checker to any applicant under this section pending final action on an application made for such registration, under such terms and conditions as the commission may prescribe, which shall be valid for a period to be fixed by the commission, not in excess of six months.

5. The commission shall have power to reprimand any checker registered under this section or to remove such person from the longshore workers' register as a checker for such period of time as it deems in the public interest for any of the following offenses:

(a) Conviction of a crime or other cause which would permit disqualification of such person from inclusion in the longshore workers' register as a checker upon original application;

(b) Fraud, deceit or misrepresentation in securing inclusion in the longshore workers' register as a checker or in the conduct of the registered activity;

(c) Violation of any of the provisions of this act;

(d) Criminal possession of a controlled substance or criminal sale of a controlled substance;

(e) Inducing or otherwise aiding or abetting any person to violate the terms of this act;

(f) Paying, giving, causing to be paid or given or offering to pay or give to any person any valuable consideration to induce such other person to violate any provision of this act or to induce any public officer, agent or employee to fail to perform the person's duty under this act;

(g) Consorting with known criminals for an unlawful purpose, provided, however, that consorting without unlawful purpose shall be insufficient grounds for reprimand;

(h) Transfer or surrender of possession to any person either temporarily or permanently of any card or other means of identification issued by the commission as evidence of inclusion in the workers' register without satisfactory explanation;

(i) False impersonation of another longshore worker or of another person licensed under this act.

6. The commission shall have the right to recover possession of any card or other means of identification issued as evidence of inclusion in the longshore workers' register as a checker in the event that the holder thereof has been removed from the longshore workers' register as a checker.

7. Any applicant ineligible for inclusion in the longshore workers' register as a checker by reason of the provisions of paragraph (b) of subdivision three of this section may petition for and the commission may issue an order removing the ineligibility. A petition for an order to remove ineligibility may be made to the commission before or after the hearing required by section five hundred thirty-four-n of this article.

8. Nothing contained in this section shall be construed to limit in any way any rights of labor reserved by section five hundred thirty-four-q of this article.

§ 534-k. Regularization of longshore workers' employment. 1. The commission shall, at regular intervals, remove from the longshore workers' register any person who shall have been registered for at least nine months and who shall have failed during the preceding six calendar months either to have worked as a longshore worker in the port of New York district or to have applied for employment as a longshore worker at an employment information center in the port of New York district for such minimum number of days as shall have been established by the commission pursuant to subdivision two of this section.

2. On or before each succeeding first day of June or December, the commission shall, for the purposes of subdivision one of this section, establish for the six-month period beginning on each such date a minimum number of days and the distribution of such days during such period.

3. In establishing any such minimum number of days or period, the commission shall observe the following standards:

(a) To encourage as far as practicable the regularization of the employment of longshore workers;

(b) To bring the number of eligible longshore workers more closely into balance with the demand for longshore workers' services within the port of New York district in this state without reducing the number of eligible longshore workers below that necessary to meet the requirements of longshore workers in the port of New York district in this state;

(c) To eliminate oppressive, unlawful, discriminatory, and corrupt hiring practices affecting longshore workers and waterborne commerce in the port of New York district in this state; and

(d) To eliminate unlawful practices injurious to waterfront labor.

4. A longshore worker who has been removed from the longshore workers' register pursuant to this section may seek reinstatement upon fulfilling the same requirements as for initial inclusion in the longshore workers' register, but not before the expiration of one year from the date of removal, except that immediate reinstatement shall be made upon proper showing that the registrant's failure to work or apply for work the

minimum number of days above described was caused by the fact that the registrant was engaged in the military service of the United States or was incapacitated by ill health, physical injury, or other good cause.

5. Notwithstanding any other provision of this article, the commission shall at any time have the power to register longshore workers on a temporary basis to meet special or emergency needs.

6. Notwithstanding any other provisions of this section, the commission shall have the power to remove from the longshore workers' register any person (including those persons registered as longshore workers for less than nine months) who shall have failed to have worked as a longshore worker in the port of New York district for such minimum number of days during a period of time as shall have been established by the commission. In administering this section, the commission, in its discretion, may count applications for employment as a longshore worker at an employment information center established under section five hundred thirty-four-o of this article as constituting actual work as a longshore worker, provided, however, that the commission shall count as actual work the compensation received by any longshore worker pursuant to the guaranteed wage provisions of any collective bargaining agreement relating to longshore workers. Prior to the commencement of any period of time established by the commission pursuant to this section, the commission shall establish for such period the minimum number of days of work required and the distribution of such days during such period and shall also determine whether or not application for employment as a longshore worker shall be counted as constituting actual work as a longshore worker. The commission may classify longshore workers according to length of service as a longshore worker and such other criteria as may be reasonable and necessary to carry out the provisions of this act. The commission shall have the power to vary the requirements of this section with respect to their application to the various classifications of longshore workers. In administering this section, the commission shall observe the standards set forth in section five hundred thirty-four-l of this article. Nothing in this section shall be construed to modify, limit or restrict in any way any of the rights protected by section five hundred thirty-four-q of this article.

§ 534-l. Suspension or acceptance of applications for inclusion in the longshore workers' register; exceptions. 1. The commission shall have the power to make determinations to suspend the acceptance of applications for inclusion in the longshore workers' register for such periods of time as the commission may from time to time establish and, after any such period of suspension, the commission shall have the power to make determinations to accept applications for such period of time as the commission may establish or in such number as the commission may determine, or both. Such determinations to suspend or accept applications shall be made by the commission: (a) on its own initiative when it determines that continued acceptance of applications for inclusion in the longshore workers' register will violate the standards set forth in subdivision two of this section; or (b) upon the joint recommendation in writing of stevedores and other employers of longshore workers in the port of New York district in this state, acting through their representative for the purpose of collective bargaining with a labor organization representing such longshore workers in such district and such labor organization; or (c) upon the petition in writing of a stevedore or another employer of longshore workers in the port of New York district in this state which does not have a representative for the purpose of collective bargaining with a labor organization representing such longshore workers. The commission shall have the power to accept or reject such joint recommendation or petition. All joint recommendations or petitions filed for the acceptance of applications with the commission for inclusion in the longshore workers' register shall include:

(i) the number of employees requested;

(ii) the category or categories of employees requested;

(iii) a detailed statement setting forth the reasons for such joint recommendation or petition;

(iv) in cases where a joint recommendation is made under this section, the collective bargaining representative of stevedores and other employers of longshore workers in the port of New York district in this state and the labor organization representing such longshore workers shall provide the allocation of the number of persons to be sponsored by

each employer of longshore workers in the port of New York district in this state; and

(v) any other information requested by the commission.

2. In administering the provisions of this section, the commission shall observe the following standards:

(a) To encourage as far as practicable the regularization of the employment of longshore workers;

(b) To bring the number of eligible longshore workers into balance with the demand for longshore workers' services within the port of New York district in this state without reducing the number of eligible longshore workers below that necessary to meet the requirements of longshore workers in the port of New York district in this state;

(c) To encourage the mobility and full utilization of the existing work force of longshore workers;

(d) To protect the job security of the existing work force of longshore workers by considering the wages and employment benefits of prospective registrants;

(e) To eliminate oppressive, unlawful, discriminatory, and corrupt hiring practices injurious to waterfront labor and waterborne commerce in the port of New York district in this state, including, but not limited to, those oppressive, unlawful, discriminatory, and corrupt hiring practices that may result from either a surplus or shortage of waterfront labor;

(f) To consider the effect of technological change and automation and such other economic data and facts as are relevant to a proper determination; and

(g) To protect the public interest of this state.

3. (a) In observing the foregoing standards and before determining to suspend or accept applications for inclusion in the longshore workers' register, the commission shall consult with and consider the views of, including any statistical data or other factual information concerning the size of the longshore workers' register submitted by, carriers of freight by water, stevedores, waterfront terminal owners and operators, any labor organization representing employees registered by the commission, and any other person whose interests may be affected by the

size of the longshore workers' register. The commission shall publish on its website the justification for any determination to suspend applications for inclusion in the longshore workers' register, and shall notify the governor and the legislature of such suspension, within ten days of such action.

(b) Any recommendation or petition granted hereunder shall be subject to such terms and conditions as the commission may prescribe consistent with the provisions of this act or any regulations promulgated thereof.

4. Any determination by the commission pursuant to this section to suspend or accept applications for inclusion in the longshore workers' register shall be made upon a record, shall not become effective until five days after notice thereof to the collective bargaining representative of stevedores and other employers of longshore workers in the port of New York district in this state and to the labor organization representing such longshore workers and/or the petitioning stevedore or other employer of longshore workers in the port of New York district in this state and shall be subject to judicial review for being arbitrary, capricious, and an abuse of discretion in a proceeding jointly instituted by such representative and such labor organization and/or by the petitioning stevedore or other employer of longshore workers in the port of New York district in this state. Such judicial review proceeding may be instituted in the manner provided by the law of this state for review of the final decision or action of administrative agencies of this state, provided, however, that such proceeding shall be decided directly by the appellate division as the court of first instance (to which the proceeding shall be transferred by order of transfer by the supreme court in the state of New York by notice of appeal from the commission's determination) and provided further that notwithstanding any other provision of law in this state no court shall have power to stay the commission's determination prior to final judicial decision for more than fifteen days. In the event that the court enters a final order setting aside the determination by the commission to accept applications for inclusion in the longshore workers' register, the registration of any longshore workers included in the longshore workers' register as a result of such determination by the commission shall be cancelled.

5. This section shall apply, notwithstanding any other provision of this act, provided however, such section shall not in any way limit or restrict the provisions of this subdivision empowering the commission to register longshore workers on a temporary basis to meet special or emergency needs or the provisions of subdivision four of section five hundred thirty-four-k of this article relating to the immediate reinstatement of persons removed from the longshore workers' register pursuant to this section.

6. Upon the granting of any joint recommendation or petition under this section for the acceptance of applications for inclusion in the longshore workers' register, the commission shall accept applications upon written sponsorship from the prospective employer of longshore workers. The sponsoring employer shall furnish the commission with the name, address and such other identifying or category information as the commission may prescribe for any person so sponsored. The sponsoring employer shall certify that the selection of the persons so sponsored was made in a fair and non-discriminatory basis in accordance with the requirements of the laws of the United States and the state of New York dealing with equal employment opportunities. Notwithstanding any of the foregoing, where the commission determines to accept applications for inclusion in the longshore workers' register on its own initiative, such acceptance shall be accomplished in such manner deemed appropriate by the commission.

7. Notwithstanding any other provision of this article, the commission may include in the longshore workers' register under such terms and conditions as the commission may prescribe:

(a) a person issued registration on a temporary basis to meet special or emergency needs who is still so registered by the commission; and

(b) a person defined as a longshore worker in subparagraph four of paragraph (a), or paragraph (b) of subdivision twelve of section five hundred thirty-four-b of this article who is employed by a stevedore defined in paragraph (c) or (d) of subdivision twenty-two of section five hundred thirty-four-b of this article and whose employment is not subject to the guaranteed annual income provisions of any collective

bargaining agreement relating to longshore workers.

8. The commission may include in the longshore workers' register, under such terms and conditions as the commission may prescribe, persons issued registration on a temporary basis as a longshore worker or a checker to meet special or emergency needs and who are still so registered by the commission upon the enactment of this act.

9. Nothing in this section shall be construed to modify, limit or restrict in any way any of the rights protected by section five hundred thirty-four-q of this article.

§ 534-m. Security officer. 1. No person shall act as a security officer within the port of New York district in this state without first having obtained a license from the commission or previously, from the bi-state commission, and no person shall employ a security officer who is not so licensed.

2. A license to act as a security officer shall be issued only upon written application, duly verified, which shall state the following:

(a) The full name, residence, business address (if any), place and date of birth and social security number of the applicant;

(b) The present and previous occupations of the applicant, including the places where the person was employed and the names of the person's employers;

(c) The citizenship of the applicant and, if the person is a naturalized citizen of the United States, the court and date of naturalization; and

(d) Such further facts and evidence as may be required by the commission to ascertain the character, integrity and identity of the applicant.

3. No such license shall be granted:

(a) Unless the commission shall be satisfied that the applicant possesses good character and integrity;

(b) If the applicant has, without subsequent pardon, been convicted by

a court of the United States or of any state or territory thereof of the commission of, or the attempt or conspiracy to commit, treason, murder, manslaughter or any crime punishable by death or imprisonment for a term exceeding one year or any of the misdemeanors or offenses described in paragraph (b) of subdivision three of section five hundred thirty-four-f of this article;

(c) Unless the applicant shall meet such reasonable standards of physical and mental fitness for the discharge of a security officer's duties as may from time to time be established by the commission;

(d) If the applicant shall be a member of any labor organization which represents longshore workers or pier superintendents or hiring agents; but nothing in this section shall be deemed to prohibit security officers from being represented by a labor organization or organizations which do not also represent longshore workers or pier superintendents or hiring agents. The American Federation of Labor and Congress of Industrial Organizations and any other similar federation, congress or other organization of national or international occupational or industrial labor organizations shall not be considered an organization which represents longshore workers or pier superintendents or hiring agents within the meaning of this section although one of the federated or constituent labor organizations thereof may represent longshore workers or pier superintendents or hiring agents;

(e) If the applicant knowingly or willfully advocates the desirability of overthrowing or destroying the government of the United States by force or violence or shall be a member of a group which advocates such desirability, knowing the purposes of such group include such advocacy.

4. When the application shall have been examined and such further inquiry and investigation made as the commission shall deem proper and when the commission shall be satisfied therefrom that the applicant possesses the qualifications and requirements prescribed by this section and regulations issued pursuant thereto, the commission shall issue and deliver a license to the applicant. The commission may issue a temporary permit to any applicant for a license under the provisions of this section pending final action on an application made for such a license. Any such permit shall be valid for a period not in excess of six months.

5. A license granted pursuant to this section shall continue for a term of three years. A license may be renewed by the commission for successive three-year periods upon fulfilling the same requirements as set forth in this section for an original application.

6. Notwithstanding any provision set forth in this section, a license to act as a security officer shall continue and need not be renewed, provided the licensee shall, as required by the commission:

(a) Submit to a medical examination and meet the physical and mental fitness standards established by the commission pursuant to paragraph (c) of subdivision three of this section;

(b) Complete a refresher course of training; and

(c) Submit supplementary personal history information.

7. Any license issued pursuant to this section may be revoked or suspended for such period as the commission deems in the public interest or the licensee thereunder may be reprimanded for any of the following offenses:

(a) Conviction of a crime or other cause which would permit or require the person's disqualification from receiving a license upon original application;

(b) Fraud, deceit or misrepresentation in securing the license; and

(c) Any other offense described in paragraphs (c), (d), (e), (f), (g), (h), and (i) of subdivision seven of section five hundred thirty-four-f of this article.

8. The commission shall, at regular intervals, cancel the license or temporary permit of a security officer who shall have failed during the preceding twelve months to have worked as a security officer in the port of New York district a minimum number of hours as shall have been established by the commission, except that immediate restoration of such license or temporary permit shall be made upon proper showing that the failure to so work was caused by the fact that the licensee or permittee was engaged in the military service of the United States or was incapacitated by ill health, physical injury or other good cause.

9. Any applicant for security officer ineligible for a license by

reason of the provisions of paragraph (b) of subdivision three of this section may petition for and the commission may issue an order removing the ineligibility. A petition for an order to remove ineligibility may be made to the commission before or after the hearing required by section five hundred thirty-four-n of this article.

§ 534-n. Hearings, determinations and review. 1. The commission shall not deny any application for a license or registration without giving the applicant or prospective licensee reasonable prior notice and an opportunity to be heard by the commission.

2. Any application for a license or for inclusion in the longshore workers' register, and any license issued or registration made, may be denied, revoked, or suspended only in the manner prescribed in this section.

3. The commission may on its own initiative or on complaint of any person, including any public official or agency, institute proceedings to revoke or suspend any license or registration after a hearing at which the licensee or registrant and any person making such complaint shall be given an opportunity to be heard, provided that any order of the commission revoking or suspending any license or registration shall not become effective until fifteen days subsequent to the serving of notice thereof upon the licensee or registrant unless in the opinion of the commission the continuance of the license or registration for such period would be inimical to the public peace or safety. Such hearings shall be held in such manner and upon such notice as may be prescribed by the rules of the commission, but such notice shall be of not less than ten days and shall state the nature of the complaint.

4. Pending the determination of such hearing pursuant to subdivision three of this section, the commission may temporarily suspend a permit, license or registration until further order of the commission if in the opinion of the commission the continuance of the permit, license or registration for such period is inimical to the public peace or safety.

(a) The commission may temporarily suspend a permit, license or

registration pursuant to the provisions of this subdivision until further order of the commission or final disposition of the underlying case, where the permittee, licensee or registrant has been indicted for, or otherwise charged with, a crime which is equivalent to a felony in the state of New York or any crime punishable by death or imprisonment for a term exceeding three hundred sixty-four days or where the permittee or licensee is a security officer who is charged by the commission pursuant to this section with misappropriating any other person's property at or on a pier or other waterfront terminal.

(b) In the case of a permittee, licensee or registrant who has been indicted for, or otherwise charged with, a crime, the temporary suspension shall terminate immediately upon acquittal or upon dismissal of the criminal charge, unless in the opinion of the commission the continuance of any such permit, license or registration is inimical to the public peace or safety.

(c) A person whose permit, license or registration has been temporarily suspended may, at any time, demand that the commission conduct a hearing as provided for in this section. Within sixty days of such demand, the commission shall commence the hearing and, within thirty days of receipt of the administrative judge's report and recommendation, the commission shall render a final determination thereon; provided, however, that these time requirements, shall not apply for any period of delay caused or requested by the permittee, licensee or registrant. Upon failure of the commission to commence a hearing or render a determination within the time limits prescribed herein, the temporary suspension of the licensee or registrant shall immediately terminate. Notwithstanding any other provision of this subdivision, if a federal, state, or local law enforcement agency or prosecutor's office shall request the suspension or deferment of any hearing on the ground that such a hearing would obstruct or prejudice an investigation or prosecution, the commission may in its discretion, postpone or defer such hearing for a time certain or indefinitely. Any action by the commission to postpone a hearing shall be subject to immediate judicial review as provided in subdivision seven of this section.

(d) The commission may in addition, within its discretion, bar any permittee, licensee or registrant whose license or registration has been

suspended pursuant to this section, from any employment by a licensed stevedore or a carrier of freight by water during the period of such suspension, if the alleged crime that forms the basis of such suspension involves the possession with intent to distribute, sale, or distribution of a controlled dangerous substance (controlled substance), or controlled dangerous substance analog (controlled substance analog), racketeering or theft from a pier or waterfront terminal.

5. The commission, or such officer, employee or agent of the commission as may be designated by the commission for such purpose, shall have the power to issue subpoenas to compel the attendance of witnesses and the giving of testimony or production of other evidence and to administer oaths in connection with any such hearing. It shall be the duty of the commission or of any officer, employee or agent of the commission designated by the commission for such purpose to issue subpoenas at the request of and upon behalf of the licensee, registrant or applicant. The commission or such person conducting the hearing shall not be bound by common law or statutory rules of evidence or by technical or formal rules of procedure in the conduct of such hearing.

6. Upon the conclusion of the hearing, the commission shall take such action upon such findings and determination as it deems proper and shall execute an order carrying such findings into effect. The action in the case of an application for a license or registration shall be the granting or denial thereof. The action in the case of a licensee shall be revocation of the license or suspension thereof for a fixed period or reprimand or a dismissal of the charges. The action in the case of a registered longshore worker shall be dismissal of the charges, reprimand or removal from the longshore workers' register for a fixed period or permanently.

7. The action of the commission in denying any application for a license or in refusing to include any person in the longshore workers' register under this act or in suspending or revoking such license or removing any person from the longshore workers' register or in reprimanding a licensee or registrant shall be subject to judicial review by a proceeding instituted in this state at the instance of the

applicant, licensee or registrant in the manner provided by state law for review of the final decision or action of an agency of this state provided, however, that notwithstanding any other provision of law the court shall have power to stay for not more than thirty days an order of the commission suspending or revoking a license or removing a longshore worker from the longshore workers' register.

8. At hearings conducted by the commission pursuant to this section, applicants, prospective licensees, licensees and registrants shall have the right to be accompanied and represented by counsel.

9. After the conclusion of a hearing but prior to the making of an order by the commission, a hearing may, upon petition and in the discretion of the hearing officer, be reopened for the presentation of additional evidence. Such petition to reopen the hearing shall state in detail the nature of the additional evidence, together with the reasons for the failure to submit such evidence prior to the conclusion of the hearing. The commission may upon its own motion and upon reasonable notice reopen a hearing for the presentation of additional evidence. Upon petition, after the making of an order of the commission, rehearing may be granted in the discretion of the commission. Such a petition for rehearing shall state in detail the grounds upon which the petition is based and shall separately set forth each error of law and fact alleged to have been made by the commission in its determination, together with the facts and arguments in support thereof. Such petition shall be filed with the commission not later than thirty days after service of such order, unless the commission for good cause shown shall otherwise direct. The commission may upon its own motion grant a rehearing after the making of an order.

§ 534-o. Employment information centers. 1. The commission shall establish and maintain one or more employment information centers within the port of New York district in this state at such locations as it may determine. No person shall, directly or indirectly, hire any person for work as a longshore worker or security officer within the port of New York district in this state, except through such particular employment

information center or centers as may be prescribed by the commission. No person shall accept any employment as a longshore worker or security officer within the port of New York district in this state, except through such an employment information center. At each such employment information center the commission shall keep and exhibit the longshore workers' register and any other records it shall determine to the end that longshore workers and security officers shall have the maximum information as to available employment as such at any time within the port of New York district in this state and to the end that employers shall have an adequate opportunity to fill their requirements of registered longshore workers and security officers at all times.

2. Every employer of longshore workers or security officers within the port of New York district in this state shall furnish such information as may be required by the rules and regulations prescribed by the commission with regard to the name of each person hired as a longshore worker or security officer, the time and place of hiring, the time, place and hours of work, and the compensation therefor.

§ 534-p. Implementation of telecommunications hiring system for longshore workers and checkers; registration of telecommunications system controller. 1. The commission may designate one of the employment information centers it is authorized to establish and maintain under section five hundred thirty-four-o of this article for the implementation of a telecommunications hiring system through which longshore workers and checkers may be hired and accept employment without any personal appearance at said center. Any such telecommunications hiring system shall incorporate hiring and seniority agreements between the employers of longshore workers and checkers and the labor organization representing longshore workers and checkers in the port of New York district in this state, provided said agreements are not in conflict with the provisions of the article.

2. The commission shall permit employees of the association representing employers of longshore workers and checkers and of the labor organization representing longshore workers and checkers in the

port of New York district in this state, or of a joint board of such association and labor organization, to participate in the operation of said telecommunications hiring system, provided that any such employee is registered by the commission as a "telecommunications system controller" in accordance with the provisions, standards and grounds set forth in the act with respect to the registration of checkers. No person shall act as a "telecommunications system controller" unless that person is so registered. Any application for such registration and any registration made or issued may be denied, revoked, or suspended, as the case may be, only in the manner prescribed in section five hundred thirty-four-n of this article. Any and all such participation in the operation of said telecommunications hiring system shall be monitored by the commission.

3. Any and all records, documents, tapes, discs and other data compiled, collected or maintained by said association of employers, labor organization and joint board of such association and labor organization pertaining to the telecommunications hiring system shall be available for inspection, investigation and duplication by the commission.

§ 534-q. Construction of act. 1. This act is not designed and shall not be construed to limit in any way any rights granted or derived from any other statute or any rule of law for employees to organize in labor organizations, to bargain collectively and to act in any other way individually, collectively, and through labor organizations or other representatives of their own choosing. Without limiting the generality of the foregoing, nothing contained in this act shall be construed to limit in any way the right of employees to strike.

2. This act is not designed and shall not be construed to limit in any way any rights of longshore workers, hiring agents, pier superintendents or security officers or their employers to bargain collectively and agree upon any method for the selection of such employees by way of seniority, experience, regular gangs or otherwise, provided that such employees shall be licensed or registered hereunder and such longshore

workers and security officers shall be hired only through the employment information centers established hereunder and that all other provisions of this act be observed.

§ 534-r. Certain solicitations prohibited; prohibition against the holding of union position by officers, agents or employees who have been convicted of certain crimes and offenses. 1. No person shall solicit, collect or receive any dues, assessments, levies, fines or contributions, or other charges within the state for or on behalf of any labor organization which represents employees registered or licensed pursuant to the provisions of this article or which derives its charter from a labor organization representing one hundred or more of such registered or licensed employees, if any officer, agent or employee of such labor organization, or of a welfare fund or trust administered partially or entirely by such labor organization or by trustees or other persons designated by such labor organization, has been convicted by a court of the United States, or any state or territory thereof, of a felony, any misdemeanor involving moral turpitude or any crime or offense enumerated in paragraph (b) of subdivision three of section five hundred thirty-four-j of this article, unless such person has been subsequently pardoned therefor by the governor or other appropriate authority of the state or jurisdiction in which such conviction was had or has received a certificate of good conduct from the board of parole pursuant to the provisions of this chapter to remove the disability. No person so convicted shall serve as an officer, agent or employee of such labor organization, welfare fund or trust unless such person has been so pardoned or has received a certificate of good conduct. No person, including such labor organization, welfare fund or trust, shall knowingly permit such convicted person to assume or hold any office, agency, or employment in violation of this section.

2. As used in this section, the term "labor organization" shall mean and include any organization which exists and is constituted for the purpose in whole or in part of collective bargaining, or of dealing with employers concerning grievances, terms and conditions of employment, or of other mutual aid or protection; but it shall not include a federation

or congress of labor organizations organized on a national or international basis even though one of its constituent labor organizations may represent persons so registered or licensed.

3. Any person who shall violate this section shall be guilty of a misdemeanor punishable by a fine of not more than five hundred dollars or imprisonment for not more than three hundred sixty-four days, or both.

4. If upon application to the commission by an employee who has been convicted of a crime or offense specified in subdivision one of this section the commission, in its discretion, determines in an order that it would not be contrary to the purposes and objectives of this act for such employee to work in a particular employment for a labor organization, welfare fund or trust within the meaning of subdivision two of this section, the provisions of subdivision two of this section shall not apply to the particular employment of such employee with respect to such conviction or convictions as are specified in the commission's order. This section is applicable only to those employees who for wages or salary perform manual, mechanical, or physical work of a routine or clerical nature at the premises of the labor organization, welfare fund or trust by which they are employed.

5. No person who has been convicted of a crime or offense specified in subdivision one of this section shall directly or indirectly serve as an officer, agent or employee of a labor organization, welfare fund or trust unless such person has been subsequently pardoned for such crime or offense by the governor or other appropriate authority of the state or jurisdiction in which such conviction was had or has received a certificate of good conduct or other relief from disabilities arising from the fact of conviction from a board of parole or similar authority or has received pursuant to subdivision one of this section an order of exception from the commission. No person, including a labor organization, welfare fund or trust within the meaning of subdivision one of this section, shall knowingly permit any other person to assume or hold any office, agency or employment in violation of this section.

6. The commission may maintain a civil action against any person, labor organization, welfare fund or trust or officers thereof to compel compliance with this section, or to prevent any violations, the aiding and abetting thereof, or any attempt or conspiracy to violate this section, either by mandamus, injunction or action and upon a proper showing a temporary restraining order or other appropriate temporary order shall be granted ex parte and without bond pending final hearing and determination. Nothing in this section shall be construed to modify, limit or restrict in any way the provisions of subdivision one of this section.

§ 534-s. General violations; prosecutions; penalties. 1. The failure of any witness, when duly subpoenaed to attend, give testimony or produce other evidence, whether or not at a hearing, shall be punishable by the supreme court in New York in the same manner as said failure is punishable by such court in a case therein pending.

2. Any person who, having been duly sworn or affirmed as a witness in any such hearing, shall willfully give false testimony or who shall willfully make or file any false or fraudulent report or statement required by this article to be made or filed under oath, shall be guilty of a misdemeanor, punishable by a fine of not more than one thousand dollars or imprisonment for not more than three hundred sixty-four days, or both.

3. Any person who, having been duly sworn or affirmed as a witness in any investigation, interview or other proceeding conducted by the commission pursuant to the provisions of this article, shall willfully give false testimony shall be guilty of a misdemeanor, punishable by a fine of not more than one thousand dollars or imprisonment for not more than three hundred sixty-four days, or both.

4. The commission may maintain a civil action on behalf of the state against any person who violates or attempts or conspires to violate this section or who fails, omits, or neglects to obey, observe, or comply with any order or direction of the commission, to recover a judgment for

a money penalty not exceeding five hundred dollars for each and every offense. Every violation of any such provision, order or direction, shall be a separate and distinct offense, and, in case of a continuing violation, every day's continuance shall be and be deemed to be a separate and distinct offense. Any such action may be compromised or discontinued on application of the commission upon such terms as the court may approve and a judgment may be rendered for an amount less than the amount demanded in the complaint as justice may require.

5. The commission may maintain a civil action against any person to compel compliance with any of the provisions of this act or to prevent violations, attempts or conspiracies to violate any such provisions, or interference, attempts or conspiracies to interfere with or impede the enforcement of any such provisions or the exercise performance of any power or duty thereunder, either by mandamus, injunction or action.

6. Any person who violates or attempts or conspires to violate any other provision of this article shall be guilty of a misdemeanor, punishable by a fine of not more than five hundred dollars or by imprisonment for not more than three hundred sixty-four days, or both.

7. Any person who interferes with or impedes the orderly registration of longshore workers pursuant to this act or who conspires to or attempts to interfere with or impede such registration shall be guilty of a misdemeanor, punishable by a fine of not more than five hundred dollars or by imprisonment for not more than three hundred sixty-four days, or both.

8. Any person who directly or indirectly inflicts or threatens to inflict any injury, damage, harm or loss or in any other manner practices intimidation upon or against any person in order to induce or compel such person or any other person to refrain from registering pursuant to this act shall be guilty of a misdemeanor, punishable by a fine of not more than five hundred dollars or by imprisonment for not more than three hundred sixty-four days, or both.

9. Any person who shall violate any of the provisions of this article

or of section five hundred thirty-four-x of this article for which no other penalty is prescribed shall be guilty of a misdemeanor, punishable by a fine of not more than five hundred dollars or by imprisonment for not more than three hundred sixty-four days, or both.

10. No person shall, without a satisfactory explanation, loiter upon any vessel, dock, wharf, pier, bulkhead, terminal, warehouse, or other waterfront facility or within five hundred feet thereof in that portion of the port of New York district within the state of New York.

11. Any person who, without justification or excuse in law, directly or indirectly intimidates or inflicts any injury, damage, harm, loss or economic reprisal upon any person licensed or registered by the commission, or any other person, or attempts, conspires or threatens so to do, in order to interfere with, impede or influence such licensed or registered person in the performance or discharge of the person's duties or obligations shall be punishable as provided in subdivision three of section five hundred thirty-four-r of this article.

12. In any prosecution under this act, it shall be sufficient to prove only a single act or a single holding out or attempt prohibited by law, without having to prove a general course of conduct, in order to prove a violation.

§ 534-t. Denial of applications. In addition to the grounds elsewhere set forth in this article, the commission may deny an application for a license or registration for any of the following:

1. Conviction by a court of the United States or any state or territory thereof of coercion;

2. Conviction by any such court, after having been previously convicted by any such court of any crime or of the offenses set forth in this article, of a misdemeanor or any of the following offenses: assault, malicious injury to property, malicious mischief, unlawful taking of a motor vehicle, corruption of employees or possession of

lottery or number slips;

3. Fraud, deceit or misrepresentation in connection with any application or petition submitted to, or any interview, hearing or proceeding conducted by the commission;

4. Violation of any provision of this act or commission of any offense under this article;

5. Refusal on the part of any applicant, or prospective licensee, or of any member, officer or stockholder required by subdivision two of section five hundred thirty-four-g of this article to sign or be identified in an application for a stevedore license, to answer any material question or produce any material evidence in connection with the person's application or any application made on the person's behalf for a license or registration pursuant to this article;

6. Association with a person who has been identified by a federal, state, or local law enforcement agency as a member or associate of an organized crime group, a terrorist group, or a career offender cartel, or who is a career offender, under circumstances where such association creates a reasonable belief that the participation of the applicant in any activity required to be licensed under this article would be inimical to the policies of this article, provided, however, that association without the requisite showing of inimicality as set forth herein shall be insufficient grounds for denial; or

7. Conviction of a racketeering activity or knowing association with a person who has been convicted of a racketeering activity by a court of the United States or any state or territory thereof under circumstances where such association creates a reasonable belief that the participation of the applicant in any activity required to be licensed under this article would be inimical to the policies of this article, provided, however, that association without the requisite showing of inimicality as set forth herein shall be insufficient grounds for denial.

§ 534-u. Revocation of licenses and registrations. In addition to the grounds elsewhere set forth in this article, any license or registration issued or made pursuant thereto may be revoked or suspended for such period as the commission deems in the public interest or the licensee or registrant may be reprimanded, for:

1. Conviction of any crime or offense in relation to gambling if the crime or offense was committed at or on a pier or other waterfront terminal or within five hundred feet thereof;

2. Willful commission of, or willful attempt to commit at or on a waterfront terminal or adjacent highway, any act of physical injury to any other person or of willful damage to or misappropriation of any other person's property, unless justified or excused by law;

3. Receipt or solicitation of anything of value from any person other than a licensee's or registrant's employer as consideration for the selection or retention for employment of such licensee or registrant;

4. Coercion of a licensee or registrant to make purchases from or to utilize the services of any person;

5. Refusal to answer any material question or produce any evidence lawfully required to be answered or produced at any investigation, interview or other proceeding conducted by the commission pursuant to the provisions of this act, or, if such refusal is accompanied by a valid plea of privilege against self-incrimination, refusal to obey an order to answer such question or produce such evidence made by the commission pursuant to the provisions of subdivision one of section five hundred thirty-four-v of this article;

6. Association with a person who has been identified by a federal, state, or local law enforcement agency as a member or associate of an organized crime group, a terrorist group, or a career offender cartel, or who is a career offender, under circumstances where such association creates a reasonable belief that the participation of the licensee or

registrant in any activity required to be licensed under this act would be inimical to the policies of this article, provided however that association without the requisite showing of inimicality as set forth herein shall be insufficient grounds for revocation; or

7. Conviction of a racketeering activity or knowing association with a person who has been convicted of a racketeering activity by a court of the United States or any state or territory thereof under circumstances where such association creates a reasonable belief that the participation of the licensee or registrant in any activity required to be licensed under this act would be inimical to the policies of this article, provided, however, that association without the requisite showing of inimicality as set forth herein shall be insufficient grounds for revocation.

§ 534-v. Refusal to answer question, immunity; prosecution. 1. In any investigation, interview or other proceeding conducted under oath by the commission or any duly authorized officer, employee or agent thereof, if a person refuses to answer a question or produce evidence of any other kind on the ground that the person may be incriminated thereby, and, notwithstanding such refusal, an order is made upon twenty-four hours' prior written notice to the attorney general of the state of New York, and to the appropriate district attorney or prosecutor having an official interest therein, by the commissioner or by the commissioner's designees appointed pursuant to the provisions of subdivision three of section five hundred thirty-four-c of this article, that such person answer the question or produce the evidence, such person shall comply with the order. If such person complies with the order, and if, but for this subdivision, would have been privileged to withhold the answer given or the evidence produced by the person, then immunity shall be conferred upon the person, as provided for in this section. "Immunity" as used in this subdivision means that such person shall not be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter or thing concerning which, in accordance with the order by the commission or the commissioner's designees appointed pursuant to the provisions of subdivision three of section five hundred

thirty-four-c of this article, such person gave answer or produced evidence, and that no such answer given or evidence produced shall be received against the person upon any criminal proceeding. But the person may nevertheless be prosecuted or subjected to penalty or forfeiture for any perjury or contempt committed in answering, or failing to answer, or in producing or failing to produce evidence, in accordance with the order, and any such answer given or evidence produced shall be admissible against the person upon any criminal proceeding concerning such perjury or contempt. Immunity shall not be conferred upon any person except in accordance with the provisions of this subdivision. If, after compliance with the provisions of this subdivision, a person is ordered to answer a question or produce evidence of any other kind and complies with such order, and it is thereafter determined that the attorney general or appropriate district attorney or prosecutor having an official interest therein not notified, such failure or neglect shall not deprive such person of any immunity otherwise properly conferred upon the person.

2. If a person, in obedience to a subpoena directing the person to attend and testify, comes into this state from another state, the person shall not, while in this state pursuant to such subpoena, be subject to arrest or the service of process, civil or criminal, in connection with matters which arose before the person's entrance into this state under the subpoena.

§ 534-w. Annual preparation of a budget request and assessments. 1. The commission shall annually submit a budget request, which shall be submitted to the director of the budget in such form as the director may require.

2. After taking into account such funds as may be available, the balance of the commission's budgeted expenses shall be assessed upon employers of persons registered or licensed under this act. Each such employer shall pay an assessment computed upon the gross payroll payments made by such employer to longshore workers, pier superintendents, hiring agents and security officers for work or labor

performed within the port of New York district in this state, at a rate, not in excess of two per cent, computed by the commission in the following manner: the commission shall annually estimate the gross payroll payments to be made by employers subject to assessment and shall compute a rate thereon which will yield revenues sufficient to finance the commission's budget for each year. Such budget to be assessed upon employers may include a reasonable amount not to exceed ten percent of the total of all other items of expenditure contained therein, which shall be allocated to an applicable fund balance to be held in the commission's employers assessment account.

3. The commission may provide by regulation for the collection and auditing of assessments. Such assessments shall be payable pursuant to such provisions for administration, collection and enforcement as the state may provide by legislation. In addition to any other sanction provided by law, the commission may revoke or suspend any license held by any person under this article, or the person's privilege of employing persons registered or licensed hereunder, for non-payment of any assessment when due.

4. The assessment pursuant to this section shall be in lieu of any other charge for the issuance of licenses to stevedores, pier superintendents, hiring agents and security officers or for the registration of longshore workers or the use of an employment information center. The commission shall establish reasonable procedures for the consideration of protests by affected employers concerning the estimates and computation of the rate of assessment.

§ 534-x. Payment of assessment. 1. Every person subject to the payment of any assessment under the provisions of section five hundred thirty-four-w of this article shall file on or before the fifteenth day of the first month of each calendar quarter-year a separate return, together with the payment of the assessment due, for the preceding calendar quarter-year during which any payroll payments were made to longshore workers, pier superintendents, hiring agents or security officers for work performed as such within the port of New York district

in this state. Returns covering the amount of assessment payable shall be filed with the commission on forms to be furnished for such purpose and shall contain such data, information or matter as the commission may require to be included therein. The commission may grant a reasonable extension of time for filing returns, or for the payment of assessment, whenever good cause exists. Every return shall have annexed thereto a certification to the effect that the statements contained therein are true.

2. Every person subject to the payment of assessment hereunder shall keep an accurate record of that person's employment of longshore workers, pier superintendents, hiring agents or security officers, which shall show the amount of compensation paid and such other information as the commission may require. Such records shall be preserved for a period of three years and be open for inspection at reasonable times. The commission may consent to the destruction of any such records at any time after said period or may require that they be kept longer, but not in excess of six years.

3. (a) The commission shall audit and determine the amount of assessment due from the return filed and such other information as is available to it. Whenever a deficiency in payment of the assessment is determined the commission shall give notice of any such determination to the person liable therefor. Such determination shall finally and conclusively fix the amount due, unless the person against whom it is assessed shall, within thirty days after the giving of notice of such determination, apply in writing to the commission for a hearing, or unless the commission on its own motion shall reduce the same. After such hearing, the commission shall give notice of its decision to the person liable therefor. A determination of the commission under this section shall be subject to judicial review, if application for such review is made within thirty days after the giving of notice of such decision. Any determination under this section shall be made within five years from the time the return was filed and if no return was filed such determination may be made at any time.

(b) Any notice authorized or required under this section may be given by mailing the same to the person for whom it is intended at the last

address given by that person to the commission, or in the last return filed by that person with the commission under this section, or, if no return has been filed then to such address as may be obtainable. The mailing of such notice shall be presumptive evidence of the receipt of same by the person to whom addressed. Any period of time, which is determined according to the provisions of this section, for the giving of notice shall commence to run from the date of mailing of such notice.

4. Whenever any person shall fail to pay, within the time limited herein, any assessment which the person is required to pay to the commission under the provisions of this section the commission may enforce payment of such fee by civil action for the amount of such assessment with interest and penalties.

5. The employment by a nonresident of a longshore worker, or a licensed pier superintendent, hiring agent or security officer in this state or the designation by a nonresident of a longshore worker, pier superintendent, hiring agent or security officer to perform work in this state shall be deemed equivalent to an appointment by such nonresident of the secretary of state to be the nonresident's true and lawful attorney upon whom may be served the process in any action or proceeding against the nonresident growing out of any liability for assessments, penalties or interest, and a consent that any such process against the nonresident which is so served shall be of the same legal force and validity as if served personally within the state and within the territorial jurisdiction of the court from which the process issues. Service of process within this state shall be made by either:

(a) personally delivering to and leaving with the secretary of state duplicate copies thereof at the office of the department of state, in which event the secretary of state shall forthwith send by registered mail one of such copies to the person at the last address designated by the person to the commission for any purpose under this section or in the last return filed by the person under this section with the commission or as shown on the records of the commission, or if no return has been filed, at the person's last known office address within or outside of the state; or

(b) personally delivering to and leaving with the secretary of state a

copy thereof at the office of the department of state and by delivering a copy thereof to the person, personally outside of the state. Proof of such personal service outside of the state shall be filed with the clerk of the court in which the process is pending within thirty days after such service and such service shall be complete ten days after proof thereof is filed.

6. Whenever the commission shall determine that any moneys received as assessments were paid in error, it may cause the same to be refunded, provided an application therefor is filed with the commission within two years from the time the erroneous payment was made.

7. In addition to any other powers authorized hereunder, the commission shall have power to promulgate reasonable rules and regulations to effectuate the purposes of this section.

8. Any person who shall willfully fail to pay any assessment due hereunder, shall be assessed interest at a rate of one percent per month on the amount due and unpaid and penalties of five percent of the amount due for each thirty days or part thereof that the assessment remains unpaid. The commission, may, for good cause shown, abate all or part of such penalty.

9. Any person who shall willfully furnish false or fraudulent information or shall willfully fail to furnish pertinent information, as required, with respect to the amount of assessment due, shall be guilty of a misdemeanor, punishable by a fine of not more than one thousand dollars, or imprisonment for not more than three hundred sixty-four days, or both.

10. All funds of the commission received as payment of any assessment or penalty under this section shall be deposited with the comptroller. The comptroller may require that all such deposits be secured by obligations of the United States or of the state of New York of a market value equal at all times to the amount of the deposits, and all banks and trust companies are authorized to give such security for such deposits.

11. The commission shall reimburse the state for any funds advanced to the commission exclusive of sums appropriated pursuant to section five hundred thirty-four-w of this article.

§ 534-y. Transfer of officers, employees. 1. Any officer or employee in the state, county or municipal civil service in either state who shall transfer to service with the commission may be given one or more leaves of absence without pay and may, before the expiration of such leave or leaves of absence, and without further examination or qualification, return to the person's former position or be certified by the appropriate civil service agency for retransfer to a comparable position in such state, county, or municipal civil service if such a position is then available.

2. The commission may, by agreement with any federal agency from which any officer or employee may transfer to service with the commission, make similar provision for the retransfer of such officer or employee to such federal agency.

3. Any officer or employee in the state, county or municipal service in New York state who shall transfer to service with the commission and who is a member of the New York state and local retirement system, shall continue to have all rights, privileges, obligations and status with respect to such system as provided under the retirement and social security law.

§ 534-z. Annual report. 1. The commission shall submit an annual report to the governor, the speaker of the assembly, and the temporary president of the senate on or before the first day of September of each year detailing the previous fiscal year. The commission shall post such report on its website upon the submission to the officials outlined in this section.

2. Such report shall include, but not be limited to:

(a) the status of waterfront practices and operations covered by this act;

(b) any legislative recommendations in furtherance of the purposes of this act;

(c) a detailed fiscal summary, including but not limited to: (i) the financial condition of the commission at the end of such preceding fiscal year; (ii) a detailed list of any bonds entered into by the commission; and (iii) revenues received by the commission, including employer assessments pursuant to section five hundred thirty-four-d of this article;

(d) an overview of waterfront labor in the port of New York district in this state, including but not limited to: (i) the total number of pier superintendents, hiring agents, security officers, and stevedores by title; (ii) the number of pier superintendent, hiring agent, security officer, and stevedore applications received by title; (iii) the number of pier superintendent, hiring agent, security officer and stevedore licenses issued by title; (iv) the number of pier superintendent, hiring agent, security officer, and stevedore applications denied, respectively, and the reasons for such denial by title; (v) the number of licenses revoked and the reasons for such revocation by title; (vi) the average length of time for the commission to issue a determination on pier superintendent, hiring agent, security officer and stevedore applications by title; (vii) the total number of longshore workers in the longshore workers' register; (viii) the number of longshore worker applications received; (ix) the number of longshore worker registrations issued; (x) the number of longshore worker applications denied and the reasons for such denial; (xi) the number of longshore workers removed from the register and reasons therefor; and (xii) the average length of time for the commission to issue a determination on longshore worker applications;

(e) a detailed summary of commission operations including, but not limited to: (i) the number and allocated percentage of sworn investigators employed by the commission; (ii) the number and allocated percentage of administrative staff who solely performed administrative work during the preceding fiscal year; (iii) the number and allocated percentage of staff which performed work related to the hiring and backgrounding of the port workforce; (iv) the number of cases or actions

conducted by the commission during the preceding fiscal year; and (v) a summary of the commission's accomplishments; and

(f) any other information relating to the purposes of this act.

3. Nothing in this section shall be read to require the disclosure of personally identifiable information pertaining to any applicant nor the disclosure of any information regarding ongoing criminal investigations.

ARTICLE 19-L

NEW YORK STATE NEIGHBORHOOD BASED INITIATIVES ACT

Section 548-a. Legislative findings and intent.
548-b. Definitions.
548-c. Neighborhood based initiatives project; services and activities.
548-d. Application for funding.
548-e. Neighborhood based initiatives oversight committee.
548-f. Administration.
548-g. Evaluation.
548-h. Reports.

§ 548-a. Legislative findings and intent. Many recent studies have pointed out that although New York has an array of human services and programs that are spread across numerous state programmatic and regulatory agencies, there is no unified strategy for service delivery. Although problematic statewide, the absence of a service coordination and delivery strategy critically impairs the ability of communities suffering from widespread poverty to fully benefit from such services.

The legislature hereby finds and declares that there is a need to develop a strategy for distressed neighborhoods to assist them in identifying ways to expand and strengthen the services in their communities, to improve the delivery of such services, and to help identify and eliminate barriers to the effective delivery of services to their residents.

The legislature further finds that the provision of services is only a partial solution to the complex problems of economically and socially distressed areas. Neighborhood stabilization and improvement also require an assessment of the long term housing and economic needs of the community and a strategic plan for the stabilization and development of the community. Therefore, it is the intent of the legislature to establish neighborhood based initiatives to first provide integrated and coordinated services for people in crisis or with a potential for being in crisis in selected distressed neighborhoods and then to assist the neighborhoods in developing a long range plan so that such neighborhoods can take steps to improve their overall economic and social condition.

§ 548-b. Definitions. As used in this article:

1. "Committee" shall mean the neighborhood based initiatives oversight committee established in accordance with section five hundred forty-eight-e of this article.

2. "Eligible applicant" shall mean a not-for-profit private or public agency, a school district, a local governmental agency, or a combination of such entities.

3. "Project" shall mean a neighborhood based initiatives project established in accordance with section five hundred forty-eight-c of this article.

4. "Department" shall mean the department of social services.

5. "Neighborhood based initiatives unified contract" or "contract" shall mean the sole written agreement for a project between the department, as representative of the committee, and the approved applicant, providing for the terms under which funds may be used to finance allowable project costs as defined in section five hundred forty-eight-f of this article.

6. "Neighborhood based initiatives advisory council" or "council"

shall mean a voluntary group representing, to the greatest extent possible, the following: neighborhood residents, local government, the business and economic development community, service providers, charitable organizations, the legal community, and educational institutions, who shall be responsible for development of the plan required in section five hundred forty-eight-c of this article.

7. "Action plan" shall mean the strategic neighborhood action plan as described in subdivision three of section five hundred forty-eight-c of this article.

§ 548-c. Neighborhood based initiatives project; services and activities. 1. Project establishment. Neighborhood based initiative projects shall be established pursuant to this article. Each approved project shall have as its primary components an action plan, the creation of a council, and the provision of programs and services as described in this section.

2. Programs and services. a. Projects shall provide for coordinated, accessible services, which shall include:

i. comprehensive crisis intervention services on a twenty-four hour-a-day basis which shall provide for information and referral services and case management services, and may provide for mental health services, alcohol and substance abuse services, child care services, preventive services, and other services as identified by the project, to individuals and families who are experiencing an emergency due to homelessness, eviction, domestic violence, child abuse, alcohol or drug abuse, mental illness, or other emergency situations identified by the project; and/or

ii. comprehensive case management services to assist clients in accessing quality services and to expedite and ensure the receipt of such services. In addition, two or more needed services as determined by the applicant and approved in the project application, such as services listed in paragraph b of this subdivision, shall be provided.

b. Projects also may include any other specific local initiatives which may be necessary to assist in stabilizing and improving the neighborhood such as early intervention services, education, employment and training services, intensive home based prevention services, parenting education, comprehensive prenatal care, alcohol and substance abuse prevention, treatment, and aftercare services.

3. Strategic neighborhood action plan. The council for each approved project shall identify and quantify neighborhood needs on both a short and long range basis. Such plan shall include the council's assessment of the neighborhood's present and long range needs for economic development, job development, housing, and such other improvements and needs as may be identified by the project. Such plan also shall include a description of the actions and resources necessary to meet the needs as identified in the plan over the next five year period. The plan subsequently shall be submitted to the committee for review and the committee shall provide assistance as prescribed in section five hundred forty-eight-e of this article to the council to help enable the project to achieve its goals.

§ 548-d. Application for funding. 1. Application process. In response to a request for proposals, an eligible applicant may submit an application for funding for a project to the department, which shall receive all such applications on behalf of the committee. The department shall forward all such applications for funding to the committee for review and approval.

2. Components of application. Each application for funding shall include, but not be limited to:

a. a description of the geographic boundaries and demographic characteristics of the neighborhood in which the proposed project services will be targeted and an explanation of why that neighborhood was selected;

b. a description of the services that currently exist in the targeted neighborhood, any gaps in or barriers to such services, including identification of any known statutory or regulatory barriers, and the resources available within the community to support such services;

c. a description of how existing services will be made more accessible to residents of the targeted neighborhoods, whether or not any existing services will be expanded, what new services will be provided, how both the new and existing services will be coordinated, and what links will be established among the providers of services in the community;

d. a statement of the project's goals and objectives, including the intended outcome for each specific service or activity contained in the action plan provided, however, that such outcomes may include, but need not be limited to, appropriate measurable factors relating to employment, health, education, substance abuse, and alcoholism;

e. a description of the process and criteria that will be used by the applicant to select members of the council;

f. a description of the method that will be used to develop the action plan. Such description shall address the process to be used to engage the community residents in developing such action plan; and

g. a description of the community's involvement in the development of the application including the involvement of local governmental agencies, voluntary agencies, businesses, foundations, community organizations, and community residents, and the methods by which the applicant will assure continued community involvement in the delivery of services and long range planning efforts.

§ 548-e. Neighborhood based initiatives oversight committee. 1. Establishment. A neighborhood based initiatives oversight committee shall be established to oversee the implementation of the provisions of this article and shall consist of representatives of the following agencies or their designees, with the commissioner of the department or

his or her designee serving as chairperson: the state advocate for the disabled; the director of the office for the aging; the director of the division of alcoholism and alcohol abuse; the executive director of the council on children and families; the chancellor of the city university of New York; the executive director of the developmental disabilities action planning council; the director of the budget; the commissioner of economic development; the commissioner of education; the commissioner of health; the commissioner of housing and community renewal; the commissioner of labor; the commissioner of mental health; the commissioner of the office for people with developmental disabilities; the commissioner of parks, recreation and historic preservation; the chancellor of the state university of New York; the director of the division of substance abuse services; the director of the division for youth; the director of the division for women; and the department of audit and control.

2. Powers and duties. a. The committee shall develop guidelines for the operation of projects.

b. Upon request the appropriate members of the committee may provide technical assistance to applicants.

c. The committee shall review and approve applications using the following selection criteria:

i. the demonstrated commitment and support, including financial support, for the project expressed by local government agencies, community residents and leaders, appropriate service providers, and private supporters;

ii. demographic information that indicates significant incidences of poverty, unemployment, foster care, infant mortality, substance or alcohol abuse, adolescent pregnancy, or other indicators of need relevant to the action plan;

iii. the anticipated effectiveness of the project as evidenced by the existence of other available resources, including existing links between

public and/or private agencies that focus on the provision of services in high-need geographic areas of populations;

iv. the ability of the applicant to undertake and complete a comprehensive project and develop an action plan; and

v. the ability of the applicant to provide the necessary data for an effective evaluation of the project.

d. The committee shall ensure, as far as practicable, the equitable distribution of projects among urban, suburban, and rural areas.

e. Members of the committee shall provide technical assistance on an on-going basis to approved projects, which shall include, but shall not be limited to: providing and analyzing data; assistance in strengthening the programmatic and administrative viability of approved projects; assistance in strengthening action plans; identifying federal, state and local funds, and resources from any other sources available to support such projects; and developing local evaluation systems.

f. To promote innovative approaches and maximize effective use of federal, state, and local monies, and, notwithstanding any other provision of law, the commissioner or director of any state agency on the committee may waive, subject to the approval of the director of the budget, for those persons, providers, and communities involved in a project, any of such agency's regulatory requirements that may impede the successful implementation of a project, provided that such waiver is consistent with applicable state and federal statutes and will not impair the general health or welfare of the people receiving services under such project or others. Such commissioner or director shall be authorized, in consultation with the director of the budget, to impose appropriate alternative standards in place of any waived requirements.

g. On the basis of information submitted in approved applications and in the action plan, the committee is required to:

i. assist in identifying and obtaining resources and funding necessary

for the implementation of the action plan, and make recommendations as appropriate and necessary in accordance with article VII of the state constitution;

ii. identify and request the appropriate member or members of the committee to waive any regulations or procedures that act as barriers to the effective implementation of the action plan, as long as such waiver is consistent with paragraph e of this subdivision;

iii. identify any specific statutory requirements that are expected to impede the successful implementation of such projects and, when and if necessary, submit requests to the legislature in accordance with article VII of the state constitution for specific legislative enactments necessary to remove such impediments; and

iv. provide all other assistance needed for successful implementation of the action plan.

h. The committee shall ensure that there will be a maximum use of existing resources, services, and funds to support projects and that the purposes and objectives of this article will be accomplished effectively.

i. The committee shall monitor each approved project to ensure that services are provided in accordance with this article and that funds are used in accordance with applicable state and federal law and regulations.

j. The committee shall require such reports as may be necessary.

§ 548-f. Administration. 1. Responsibilities of the department. a. Unless otherwise prescribed, the department or its designee shall be responsible for the administration of the provisions of this article.

b. In consultation with the committee, the department shall develop and disseminate a request for proposals on a statewide basis, provided

however that during state fiscal year nineteen hundred ninety-ninety-one, the committee may limit the locations for dissemination of such request for proposals based on relevant demographic data and such other factors as may be determined by the committee. Not less than thirty days prior to dissemination of such requests for proposals in such state fiscal year, the department shall notify the temporary president of the senate and the speaker of the assembly of such proposed locations and the criteria for selection.

c. Not less than thirty days prior to approving an application pursuant to the provisions of this article, the committee, through the department, shall notify the temporary president of the senate and the speaker of the assembly of its intent to approve a project. Such notification shall identify the recipient and state the proposed location, the estimated project cost and a brief description of the project. Upon completion of its review of an application and not less than thirty days after the notification as provide for in this paragraph, the committee shall approve or disapprove such application and the department shall notify the applicant of its decision.

d. The commissioner of the department and the other members of the committee shall enter into such agreements as shall be necessary to delineate their respective roles regarding the cooperative provision of program funding and technical assistance, and the review and monitoring of projects.

e. The department shall provide assistance to approved projects to develop an evaluation methodology appropriate to the goals and objectives of the projects.

2. Neighborhood based initiatives unified contract. a. The department shall enter into a neighborhood based initiatives unified contract with each applicant approved by the committee. The provisions of such contract shall include, but not be limited to: a description of project services and activities, the action plan, the allowable project costs, the specific sources of funds that will support the approved costs, including state funds, local funds, other governmental funds, and all

nongovernmental funds or revenues that are proposed to be used in support of all project costs, and the allocation of costs by funding source.

b. The form of the neighborhood based initiatives unified contract shall be developed in consultation with the division of the budget and the department of audit and control.

3. The comptroller is authorized pursuant to a certificate of allocation submitted by the division of the budget to interchange or transfer from appropriations made to the agencies of the committee or any other appropriation, as appropriate, such amounts as may be required to fulfill the obligations of the state pursuant to neighborhood based initiatives unified contracts to the department for payment of such obligations. The division of the budget shall provide the chairmen of the senate finance committee and the assembly ways and means committee with quarterly reports of all interchanges and transfers which occur pursuant to this subdivision.

4. Allowable costs for each project shall include, but not be limited to costs reasonably incurred for:

a. preparation of the action plan required in section five hundred forty-eight-c of this article;

b. services as approved in the project application;

c. evaluation of the approved project;

d. administration, provided however in every case, the support of administrative costs pursuant to the contract shall be not more than the maximum percentage authorized for each source of funding or the total maximum dollars allowed for administrative costs for each funding source; and

e. minor renovations to existing structures, except that in no case shall the state support of such costs exceed either twenty-five percent

of the project contract or fifty percent of the total renovation costs, whichever is less.

5. Funding made available through the contract shall not be used to supplant local or other funds.

6. Not more than forty percent of funds appropriated and made available specifically for neighborhood based initiatives shall be used for any single project.

§ 548-g. Evaluation. 1. The committee shall conduct two evaluations of the implementation and effectiveness of this article: a compilation of individual project evaluations to be conducted in accordance with criteria established in paragraph d of subdivision one of section five hundred forty-eight-f of this article; and a comprehensive neighborhood based initiatives evaluation.

a. Individual project evaluations shall be conducted pursuant to the requirements of this article and submitted to the committee for review. The committee shall forward its comments and criticisms to the approved projects with recommendations of strategies for remediation of project deficiencies. Further, the committee shall compile the evaluations and the required comments and recommendations into a single document and shall submit such compilation to the governor and the legislature by January first, nineteen hundred ninety-two.

b. The committee shall cause to be prepared a comprehensive neighborhood based initiatives evaluation, which shall assess the efficacy and impact of the unified contract, the authorization relating to waiver of regulations, and the statutory exemptions on the delivery of services enacted by the legislature. In addition, the committee shall assess the extent to which the initiative has:

i. accomplished the goals and objectives to be reported to the legislature;

ii. improved the coordination of program development and service provision by the agencies participating on the committee; and

iii. reduced or eliminated duplicative and conflicting regulations.

2. The committee shall submit to the governor and the legislature an interim report, which shall include a compilation of the goals and objectives of the approved projects, and shall supplement such compilation with a statement of goals and objectives that relate specifically to the state's role in policy development, administration, and delivery of services to the targeted communities not later than January first, nineteen hundred ninety-two.

§ 548-h. Reports. The committee shall submit a report to the governor and the legislature on or before the first day of March of each year subsequent to a year in which funds have been awarded under this article to implement neighborhood based initiatives regarding the activities and actions of the committee, the criteria used to evaluate project goals, objectives, and outcomes, and based on these factors, the effectiveness of such projects in reaching the goals and objectives of the individual projects. The report shall address the appropriateness of continuing the provisions of this article and the feasibility of replicating such projects in other areas of the state. The report shall include recommendations, based on the experience gained under the provisions of this article, for modifying statewide policies that direct publicly funded programs.

ARTICLE 20

PROTECTION OF PEOPLE WITH SPECIAL NEEDS

Section 550. Definitions.
551. The justice center for the protection of people with special needs.
552. Organization of the justice center.
553. Powers and duties of the justice center.
554. Codes of conduct.

555. Justice center medical review board; organization.
556. Functions, powers and duties of the board.
557. Reports to the justice center.
558. Access to records and facilities.
559. New York state interagency coordinating council for services to persons who are deaf, deaf-blind, or hard of hearing.
560. Annual report.
561. Advisory council.
562. Abuse and neglect notification.

§ 550. Definitions. As used in this article, the following terms shall have the following meanings:

1. "Executive director" shall mean the executive director of the justice center for the protection of people with special needs.

2. "Mental hygiene facility" shall mean a facility as defined in subdivision six of section 1.03 of the mental hygiene law and facilities for the operation of which an operating certificate is required pursuant to article sixteen or thirty-one of the mental hygiene law and including family care homes. "Mental hygiene facility" also means a secure treatment facility as defined by article ten of the mental hygiene law. This term shall not include services defined in subparagraph four of subdivision (a) of section 16.03 of the mental hygiene law.

3. "Reportable incident" shall have the same meaning as defined in subdivision one of section four hundred eighty-eight of the social services law.

4. "State oversight agency" shall mean the state agency that operates, licenses or certifies an applicable facility or provider agency as defined in subdivision four of section four hundred eighty-eight of the social services law; provided however that such term shall only include the following entities: the office of mental health, the office for people with developmental disabilities, the office of alcoholism and

substance abuse services, the office of children and family services, the department of health and the state education department. "State oversight agency" does not include agencies that are certification agencies pursuant to federal law or regulation. For purposes of this article, "state oversight agency" shall include the justice center for the protection of people with special needs.

5. "Vulnerable person" shall mean a person who, due to physical or cognitive disabilities, or the need for services or placement, is receiving services from a facility or provider agency as defined in subdivision four of section four hundred eighty-eight of the social services law.

6. "Individual with a disability," except as used in subdivision (b) of section five hundred fifty-eight of this article, shall mean a person with a disability as defined in subdivision twenty-one of section two hundred ninety-two of this chapter.

§ 551. The justice center for the protection of people with special needs. 1. There is hereby created within the executive department a justice center for the protection of people with special needs ("justice center" or "center"). Such justice center shall be headed by an executive director, who shall be appointed by the governor, by and with the advice and consent of the senate. The executive director may appoint staff and perform such other functions for the efficient operation of the justice center within the amounts made available therefor by appropriation.

2. The executive director shall recommend policies and procedures to the state oversight agency for the protection of vulnerable persons, including but not limited to policies and procedures: (a) for the protection of vulnerable persons who reside in or receive services from facilities or provider agencies as set forth in subdivision four of section four hundred eighty-eight of the social services law; (b) relating to assuring, on behalf of the state, that vulnerable persons are afforded care that is of a uniformly high standard; (c) relating to

assuring, on behalf of the state, that vulnerable persons are afforded the opportunity to exercise all of the rights and responsibilities accorded to residents of the state; and (d) to harmonize and improve the procedures for and quality of investigations of reportable incidents involving vulnerable persons within the different systems of care in the state.

3. The executive director may, in consultation with the advisory council, promulgate, adopt, amend or rescind rules and regulations necessary to carry out the provisions of this article; provided, however, that such rules and regulations shall be strictly limited in their application to the means and methods of compliance with the provisions of this article.

§ 552. Organization of the justice center. 1. The justice center shall house the vulnerable persons' central register created in section four hundred ninety-two of the social services law and shall perform all of the necessary functions related to the receipt and acceptance of reports of allegations of reportable incidents involving vulnerable persons, the investigation of such accepted reports and the review of substantiated findings of abuse or neglect, as defined in subdivision eleven of section four hundred eighty-eight of the social services law, including conducting any disciplinary proceedings for state employees resulting from such substantiated findings (for state entities bound by collective bargaining, the disciplinary process established through collective bargaining shall govern). The justice center shall contain two separate units, headed by two distinct deputies, one responsible for the prosecution of criminal matters and one for the resolution of non-criminal matters. If, during an investigation, what appeared to be a non-criminal matter warrants consideration for criminal charges, the matter shall be promptly referred to the criminal unit. Information collected during such investigations may only be shared between such units in accordance with state and federal constitutional protections and laws and the secrecy provisions contained in article one hundred ninety of the criminal procedure law, unless so ordered by a court in a pending proceeding.

2. (a) The justice center also shall employ a special prosecutor and inspector general for the protection of people with special needs ("special prosecutor"), who shall be appointed by the governor. Other state agencies shall be required to make facilities available for office space throughout the state and to assist when requested with respect to the duties of the office. Pursuant to the provisions of this section, such special prosecutor shall have the duty and power: (i) to investigate and prosecute offenses involving abuse or neglect, as defined in subdivision eleven of section four hundred eighty-eight of the social services law, committed against vulnerable persons by custodians as defined in subdivision two of section four hundred eighty-eight of the social services law; and (ii) to cooperate with and assist district attorneys and other local law enforcement officials in their efforts against such abuse or neglect of vulnerable persons. Provided that nothing herein shall interfere with the ability of district attorneys at any time to receive complaints, investigate and prosecute any suspected abuse or neglect or for any persons, whether a mandated reporter or not, to report a complaint to a district attorney or other appropriate law enforcement official. The special prosecutor may request and shall receive, from any agency, department, division, board, bureau or commission of the state, or any political subdivision thereof, cooperation and assistance in the performance of his or her duties, and may provide technical and other assistance to any district attorney or law enforcement official requesting assistance in the investigation or prosecution of abuse or neglect of vulnerable persons.

(b) The special prosecutor is empowered to apply for search warrants pursuant to article six hundred ninety of the criminal procedure law, and, except in exigent circumstances, shall give prior notice of the application to the district attorney of the county in which such a warrant is to be executed, and in such exigent circumstances shall give such notice as soon thereafter as is practicable; provided, however that the failure to give notice of a search warrant application to a district attorney shall not be a ground to suppress the evidence seized in executing the warrant. He or she may designate an assistant to exercise any of such powers.

(c) The special prosecutor or one of his or her assistants may, after

consultation with the district attorney as to the time and place of such attendance or appearance, attend in person any term of the county court or supreme court having appropriate jurisdiction, including an extraordinary special or trial term of the supreme court when one is appointed pursuant to section one hundred forty-nine of the judiciary law, or appear before the grand jury thereof, for the purpose of managing and conducting in such court or before such jury a criminal action or proceeding concerned with an offense where any conduct constituting or requisite to the completion of or in any other manner related to such offense involved the abuse or neglect of a vulnerable person, as defined in subdivision eleven of section four hundred eighty-eight of the social services law. In such case, such special prosecutor or his or her assistant so attending may exercise all the powers and perform all the duties in respect of such actions or proceedings which the district attorney would otherwise be authorized or required to exercise or perform.

§ 553. Powers and duties of the justice center. The justice center shall have the following powers and duties:

1. To create and establish the statewide vulnerable persons' central register, as set forth in section four hundred ninety-two of the social services law, which shall include, but not be limited to:

(a) establishing procedures for the timely response to, and effective investigation of, allegations of reportable incidents that are accepted by the statewide vulnerable persons' central register;

(b) establishing procedures for the notification of appropriate persons and entities with respect to reports and findings of reportable incidents;

(c) representing the state in all administrative hearings and other administrative proceedings relating to discipline of state employees and adjudication of individuals charged with having committed or found to have committed abuse or neglect, as defined in subdivision eleven of section four hundred eighty-eight of the social services law (for state entities bound by collective bargaining, the disciplinary process established through collective bargaining shall govern);

(d) identifying a process for a coordinated approach to avoid duplication and provide for timely responses to allegations of reportable incidents in dually licensed or co-located facilities and provider agencies, which shall include designation of a lead agency primarily responsible for carrying out the responsibilities of a facility or provider agency pursuant to article eleven of the social services law, including but not limited to incident management and reporting, provided that in making any such designation or re-designation of such lead agency, consideration shall be given to the following factors: the proportion of services provided or recipients served in the dually licensed or co-located facilities and provider agencies pursuant to each license or certification granted by a state oversight agency, the recommendations of the respective state oversight agencies that granted such licensure or certification, and the designation or re-designation that would best protect the health, safety and welfare of vulnerable persons served by such facilities and provider agencies; provided, further that once designated, a lead agency shall only be re-designated as necessary to protect the health, safety and welfare of vulnerable persons served by such facilities and provider agencies;

(e) where applicable, establishing uniform procedures for character and competence reviews of provider agencies initially, and upon renewal of licenses and operating certificates requiring a review of performance records regarding incident management, the role of the board of directors in maintaining oversight over agency performance in this area, and the management of reportable incidents affecting the safety of vulnerable persons, including cases of systemic problems; and

(f) establishing training curricula for employers and employees who provide care and treatment to vulnerable persons, and those who are in supervisory positions with respect to such employees, regarding their obligations to report, investigate and prevent reportable incidents. Training and curricula shall address topics, including but not limited to: (i) how to identify and report reportable incidents; (ii) the prevention of abuse and neglect; (iii) the duty to report reportable incidents; (iv) how to adhere to applicable codes of conduct; (v) the disciplinary process and employees' rights pursuant to this article; and (vi) how supervisory staff and management can promote compliance with

this article by new and existing employees. Such training, which shall be given on a periodic basis, shall include, but not be limited to, live training and supplemental courses accessible via the internet. Prior to implementation of this article, the justice center shall provide adequate interactive training, which shall include live training to the extent practicable. Employees may call the hotline established pursuant to subdivision two of section four hundred ninety-two of the social services law, and upon inquiry, be given advice and assistance in complying with their obligations and duties pursuant to this article.

2. To maintain a central repository for data relating to the investigation of all reportable incidents;

3. To establish procedures for review of reportable incidents, to identify preventive and corrective actions and to develop and implement such actions and plans of improvement subject to the requirements of any federal oversight entity;

4. To develop standards and training curricula for investigators who will be assigned to investigate reportable incidents involving vulnerable persons, and to provide periodic training to such investigators. Such standards, curricula and training shall address topics including, but not limited to: (a) how to identify and investigate reportable incidents; (b) the duty to report reportable incidents; (c) the requirements of all codes of conduct; (d) all applicable disciplinary processes; (e) protocols and procedures pursuant to subdivision twenty-eight of this section; and (f) employees' rights pursuant to this article;

5. To review and evaluate the criminal history information for any person applying to be an employee, volunteer or consultant for whom a criminal background check is required by law as a condition of employment at any facilities or provider agencies as defined in subdivision four of section four hundred eighty-eight of the social services law that are operated, licensed or certified by the office of mental health, the office for people with developmental disabilities and the office of children and family services. Such review and evaluation

shall include but not be limited to a requirement that the applicant sign a sworn statement whether, to the best of his or her knowledge, he or she has ever been convicted of a crime in this state or any other jurisdiction;

6. To conduct periodic orientation, training and informational programs upon appointment or reappointment, and as otherwise needed, to assist the members of the boards of visitors of mental hygiene facilities to fulfill their responsibilities pursuant to law;

7. (a) To visit, inspect and appraise the management of facilities or provider agencies as defined in subdivision four of section four hundred eighty-eight of the social services law providing services to vulnerable persons, and residential schools or facilities located outside of New York state that are at that time serving any residents of the state of New York as set forth in subdivision five of section four hundred ninety of the social services law, with specific attention to the safety, security and quality of care provided to patients and residents;

(b) To provide staff and other necessary assistance upon request to boards of visitors of department of mental hygiene facilities in performing their duties pursuant to law;

(c) To receive and review periodic and annual reports of the boards of visitors of each department of mental hygiene facility;

(d) To place such members of its staff as it deems appropriate as monitors in any facility or provider agency as defined in subdivision four of section four hundred eighty-eight of the social services law which, in the judgment of the executive director, presents an imminent danger to the health or safety of the patients, residents or employees of such facility;

8. To accept, as agent of the state, any grant, including federal grants, or any gift for any of the purposes of this article. Any moneys so received may be expended by the justice center to effectuate any purpose of this article, subject to the same limitations as to approval of expenditures and audit as are prescribed for state moneys appropriated for the purposes of this article;

9. To enter into contracts with any person, firm, corporation, municipality or governmental agency for the performance of functions authorized by law;

10. To administer an adult home and residence for adults resident advocacy program to assist residents, who have at any time received or are receiving services from a mental hygiene provider, of adult homes and residences for adults, as defined in section two of the social services law, where at least twenty-five percent or twenty-five residents, whichever is less, have at any time received or are receiving services from a mental hygiene provider which is licensed, operated or funded by the office of mental health or office for people with developmental disabilities, in understanding their legal rights, and to promote and protect the rights of such residents.

11. To advise and assist vulnerable persons and individuals with disabilities, family members, advocates, service providers and community organizations in the formation of strategies to identify and meet the needs of vulnerable persons and individuals with disabilities for services, supports and advocacy;

12. To advise and assist the governor and public and private entities in the development and implementation of state policies which meet the needs of vulnerable persons and individuals with disabilities in a manner that is respectful of the rights and choices of vulnerable persons and individuals with disabilities;

13. To serve as a clearinghouse for information relating to services, supports and advocacy for vulnerable persons and individuals with disabilities and provide a statewide system of information and referral to link persons seeking information and assistance with public and private sector services, supports and advocacy which may be appropriate to meet their needs;

14. To advise and assist the governor, state agencies, vulnerable persons, individuals with disabilities and public and private sector entities in the design and implementation of initiatives to increase

access to technology related assistance for vulnerable persons and individuals with disabilities;

15. To administer the surrogate decision-making committee program, as authorized pursuant to article eighty of the mental hygiene law;

16. To stimulate community interest in the problems experienced by vulnerable persons and individuals with disabilities and promote public awareness of resources available to such persons and individuals;

17. To advise and assist political subdivisions of the state in the development of local programs for vulnerable persons and individuals with disabilities;

18. To advise and assist educational institutions in the state in the development of courses of study for persons engaged in public and private programs for vulnerable persons and individuals with disabilities;

19. To conduct or cause to be conducted such studies of the needs of vulnerable persons and individuals with disabilities as may be appropriate;

20. To do all other things necessary to carry out its functions, powers and duties set forth in this article;

21. To receive and review reports required pursuant to section 16.19 of the mental hygiene law and take any action as required by law. The justice center also shall assist the commissioner of the office for people with developmental disabilities in developing and preparing recommendations required by paragraph three of subdivision (d) of section 16.19 of the mental hygiene law for submission to the governor, temporary president of the senate and speaker of the assembly;

22. To prepare and disseminate an educational pamphlet, and serve as an information clearinghouse, on the rights of parents and legal representatives and advocates to access records and reports relating to

patient care and treatment and all other relevant documents from programs and facilities that are licensed, certified or operated by the offices of mental health, people with developmental disabilities, alcoholism and substance abuse services, and children and family services, and the department of health and the state education department. Such pamphlet shall include a discussion of how to appeal a decision denying a requested record or report;

23. To consult with the commissioner of education regarding the promulgation of rules and regulations requiring that every school bus driver and school bus attendant serving students with disabilities receive training and instruction relating to the understanding of and attention to the special needs of such students pursuant to subdivision one of section thirty-six hundred fifty of the education law and subdivision four of section twelve hundred twenty-nine-d of the vehicle and traffic law;

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

25. (a) To make a preliminary determination whether matters referred to its attention, warrant investigation and, if so, conduct an investigation of such scope and duration as it deems necessary and proper;

(b) Make findings concerning such matters referred to its attention and, where it deems appropriate, make a report and recommendations, which shall be provided to the commissioner and to the director of the facility involved. Such commissioner and director shall each make a written response, within ninety days of receipt of such report, of action taken regarding each of the recommendations in the report;

26. To review the cost effectiveness of mental hygiene programs and procedures provided for by law with particular attention to efficiency, effectiveness and economy in the management, supervision and delivery of such programs. Such review may include but is not limited to: (a) determining reasons for rising costs and possible means of controlling them; (b) analyzing and comparing expenditures in mental hygiene to determine the factors associated with variations in costs; and (c) analyzing and comparing achievements in selected samples to determine the factors associated with variations in program success and their relationship to mental hygiene costs; and

27. In its discretion, to review the policies and practices relating to the prevention of abuse or neglect in facilities or provider agencies, including staffing patterns of various service models and the supervision required to help ensure the safety of service recipients.

28. To carry out investigations by observing critical protocols and procedures to ensure the safety of a vulnerable person or persons in light of their clinical, personal considerations and the need for the timely completion of an effective investigation. Such protocols and procedures shall be developed by the justice center in consultation with the advisory council established pursuant to section five hundred sixty-one of this article and the appropriate state agency. Protocols and procedures developed jointly by the director of the justice center and the respective state oversight agency shall be considered final upon agreement between the director and any such commissioner and shall not depend on a final agreement between the director of the justice center and all affected agency commissioners. Such protocols and procedures shall include:

(a) In the event that it is necessary to obtain information in the course of an investigation from a vulnerable person, protocols and procedures shall be established for ascertaining whether or not interviewing such person is clinically contraindicated prior to such interview taking place. Nothing in this subdivision shall be construed to require a formal clinical assessment prior to interviewing a vulnerable person.

(i) For those vulnerable persons subject to an interview, the justice center shall develop appropriate procedures and protocols to ensure that any interview is conducted safely and in a timely fashion in light of relevant clinical, behavioral and other facts relating to the individual's disability, safety and wellbeing. Such protocols and procedures shall also recognize any ability the vulnerable person may have to advocate on his or her own behalf by providing information to facilitate an investigation to enhance his or her own safety and wellbeing and the safety and wellbeing of others.

(ii) In the event that an interview is clinically contraindicated, despite the provision of appropriate procedures and protocols, including special accommodations for effectively and safely obtaining timely information in light of the person's clinical characteristics such as the presence of a personal representative as defined in section four hundred eighty-eight of the social services law, the vulnerable person shall be exempt from such interview. However, the justice center may determine not to grant such exemption if, in accordance with protocols and procedures developed pursuant to this section, it determines that there exists an overriding health and safety need to proceed with an interview of the vulnerable person and provided that the justice center takes necessary means to protect such vulnerable person's health, safety and wellbeing during such interview.

(b) Procedures to inform a vulnerable person and/or their personal representative of the protocols used in an interview and that such interview is voluntary. Further, if applicable as determined by the justice center, the vulnerable person shall be informed that any search of the vulnerable individual's person or property shall also be done voluntarily. Such procedures shall include:

(i) Appropriate notification to a vulnerable person as to what to expect in an interview;

(ii) An appropriate means of interviewing a vulnerable person given the limitations such individual may have in comprehending questions as well as given linguistic and cultural barriers to such understanding;

(iii) Appropriate notification, when at all advisable given the nature of an investigation to a personal representative that a vulnerable person shall be questioned or subject to an interview and to enable such personal representative to provide any information which they believe is

necessary to protect the individual;

(iv) Procedures for determining under what circumstance a personal representative shall accompany an individual with a disability or a vulnerable person during an interview.

(c) Procedures to facilitate the preparation of pertinent information, including clinical information, necessary to safely conduct an investigation pursuant to this section, including timely notification by the justice center to the appropriate administrative personnel of the agency serving such vulnerable person that such information will be required. Such information shall be readily available to the justice center on a form it prescribes prior to any contact between the justice center and such individual.

§ 554. Codes of conduct. 1. The justice center shall adopt and amend, as appropriate, codes of conduct for all custodians as defined in subdivision two of section four hundred eighty-eight of the social services law who have or will have regular and direct contact with vulnerable persons who reside in or receive services from such facilities or provider agencies. Such codes shall govern the conduct of such custodians with respect to the safety, dignity and welfare of vulnerable persons to whom they provide care. The justice center shall establish a process by which each custodian is provided with a copy of the applicable code of conduct and is required, at the time of his or her initial employment, and at least annually thereafter, to acknowledge that he or she has read and understands such code of conduct. Such process shall also provide for the enforcement of such codes consistent with appropriate collective bargaining agreements.

2. Minimum requirements for codes of conduct. Such codes of conduct shall include, at a minimum: a. Provisions regarding the responsibility of such custodians to support the emotional, physical and personal well-being of the vulnerable persons they serve, including their protection from abuse and neglect, and to seek guidance and advice to resolve issues as needed when making decisions relating to the persons they serve.

b. Provisions regarding the responsibility of such custodians to assist the vulnerable persons they support to direct the course of their own lives, honoring, where appropriate, their right to assume risk in a safe manner and recognizing their potential for lifelong learning and growth.

c. Provisions regarding the responsibility of custodians to participate in available, appropriate training to maintain their competency and skill-level, and to model and shape the behavior of their co-workers.

d. Provisions regarding the responsibility of such custodians to promote and practice justice, fairness and equity for the vulnerable persons they support, uphold and respect their human and civil rights and respect their human dignity and uniqueness.

e. Provisions regarding the responsibility of such custodians to assist, where appropriate, the vulnerable persons they support in developing and maintaining relationships with families, friends and the community-at-large.

f. Provisions regarding the responsibility of such custodians to advocate with and/or on behalf of the vulnerable persons they support for their needs, interest, justice, inclusion and full community participation.

g. Provisions requiring such custodians to report reportable incidents as required in section four hundred ninety-one of the social services law.

§ 555. Justice center medical review board; organization. (a) There shall be within the justice center a medical review board. The board shall be composed of up to fifteen members, including specialists in forensic pathology, psychiatry, internal medicine and addiction medicine to be appointed by the governor. The governor shall designate one of the members to serve as chair of the board. Members shall be appointed for

terms of three years, provided, however, that one-third of the members first appointed shall be appointed for a one year term and one-third for two year terms. Vacancies shall be filled in the same manner as original appointments for the remainder of any unexpired term. Members shall continue in office after the expiration of their terms until their successors have been appointed and qualified. The governor may remove any member of the board whenever in his or her judgment the public interest may require such removal. In case of such removal, the governor shall file with the department of state a statement indicating the cause for such removal. Notwithstanding any provision of law to the contrary, the chair of the board may appoint committees of five or more members of the board and delegate in writing to any such committee the authority to perform the functions, powers and duties of the board pursuant to section five hundred fifty-six of this article.

(b) The members of the board shall receive no compensation for their services but shall be reimbursed for their actual and necessary expenses incurred in the performance of their duties.

(c) The board shall have an executive secretary and such officers and employees as the executive director shall assign upon request of the chair of the board, to assist it in the performance of its duties.

(d) All records of the proceedings and the deliberations of the justice center medical review board shall not be subject to disclosure under article thirty-one of the civil practice law and rules.

(e) The board or any committee appointed by the chair of the board shall meet at the request of its chair or the executive director of the justice center. Any member of the board who fails to attend three consecutive meetings of the board or the committee to which such member is assigned by the chair of the board, unless excused by the chair of the board, shall be considered to have vacated his or her office unless otherwise ordered by the governor. The term of any such person appointed by the governor to fill such vacancy shall be governed by the provisions of this section.

§ 556. Functions, powers and duties of the board. The justice center medical review board shall have the following functions, powers and duties:

(a) make a preliminary determination whether the death of a patient or resident in a residential facility within the meaning of subdivision four of section four hundred eighty-eight of the social services law that is operated, licensed or certified by an office of the department of mental hygiene or the office of children and family services, which has been brought to its attention is unusual or whether such death reasonably appears to have resulted from other than natural causes and warrants investigation;

(b) investigate the causes of and circumstances surrounding such unusual death or deaths from other than natural causes of patients or residents in such facilities;

(c) visit and inspect any facility in which such a death has occurred;

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

(e) upon review of the cause of and circumstances surrounding the death of any patient or resident, submit its report thereon to the executive director and, where appropriate, make recommendations to prevent the recurrence of same to the appropriate commissioner of the department of mental hygiene or the commissioner of children and family services and to the director of the facility; and

(f) advise the executive director on medical issues relevant to the functions, powers, and duties of the justice center including allegations of abuse or neglect of a patient or resident referred to it.

§ 557. Reports to the justice center. Every director or other person in charge of a residential facility within the meaning of subdivision four of section four hundred eighty-eight of the social services law operated, licensed or certified by an office of the department of mental hygiene or the office of children and family services, shall report immediately to the executive director and the justice center medical review board the death of a patient or resident of any such facility in such manner and such form as the justice center shall prescribe, together with an autopsy report, if any.

§ 558. Access to records and facilities. (a) The justice center must be granted access at any and all times to any facility or provider agency as defined in subdivision four of section four hundred eighty-eight of the social services law, and, consistent with federal law, to all books, records, and data pertaining to any such facility or provider agency deemed necessary for carrying out the justice center's functions, powers and duties. The justice center or any employee of the justice center designated by the executive director may require from the officers or employees of such facility or provider agency or from the commissioners of the state oversight agencies as defined in subdivision four-a of such section four hundred eighty-eight of the social services law, any information deemed necessary for the purpose of carrying out the justice center's functions, powers and duties, including otherwise confidential information and such entities shall be required to provide such requested information. The executive director or any employee of the justice center designated by the executive director may require from any hospital, as defined under article twenty-eight of the public health law, any information, report or record necessary for the purpose of carrying out the functions, powers and duties of the justice center related to the investigation of deaths and complaints of abuse or neglect concerning vulnerable persons who have been treated at such hospitals, and from any adult care facility as defined in subdivision twenty-one of section two of the social services law, such information, report or record, including access to such facility necessary for the purpose of carrying out the functions, powers and duties of the justice center related to the investigation of deaths concerning patients of mental hygiene facilities who resided at such residential care facilities at the time of their death or were former residents of such residential care facilities and the justice center determines that such information, report or record is necessary for the completion of its investigation. Such hospitals and adult care facilities shall be required to provide such requested information, reports, records and access. The results of investigations involving such residents of adult care facilities shall be provided promptly to the commissioner of the department of health and shall be treated as a record or personal information within the meaning of section ninety-six of the public

officers law and shall not be disclosed except in accordance with such section ninety-six. Information, books, records or data which are confidential as provided by law shall be kept confidential by the justice center and any limitations on the release thereof imposed by law upon the party furnishing the information, books, records or data shall apply to the justice center except as may otherwise be provided by article eleven of the social services law.

* (b) (i) The governor shall designate an independent public or private agency, hereinafter "independent agency", to conduct and coordinate the protection and advocacy and client assistance programs, as established by federal law to provide federal oversight of the state's system of care for individuals with disabilities, as defined in federal laws and to assist such persons with accessing vocational rehabilitation services. For purposes of this subdivision, individuals with disabilities shall have the same meaning as provided by federal laws. The agency designated must have professional experience in empowering, protecting and advocating on behalf of individuals with disabilities. Such agency shall be independent of any agency that provides treatment, services or rehabilitation to individuals covered by such protection and advocacy and client assistance programs. To the extent permitted by federal law, the independent agency shall be governed by a board, a majority of the members of which shall be individuals with disabilities, parents, family members, guardians, advocates, or authorized representatives of individuals with disabilities.

(ii) The independent agency shall conduct and coordinate the protection and advocacy and client assistance programs, as established by federal law to provide oversight of the state's system of care for individuals with disabilities and to assist such individuals with accessing vocational and rehabilitation services, including but not limited to:

(A) Providing information, referrals and technical assistance to address the needs of individuals with disabilities;

(B) Pursuing legal, administrative and other appropriate remedies or approaches to ensure the protection of and advocacy for the rights of individuals with disabilities;

(C) Investigating incidents of abuse and neglect of individuals with

disabilities if the incidents are reported to the independent agency or if there is probable cause to believe that the incidents occurred; and

(D) Establishing a grievance procedure for clients or prospective clients of the system to ensure that individuals with disabilities have full access to services of the system.

(iii) Pursuant to the requirements of federal law, upon receipt of a complaint of an incident of abuse or neglect of an individual with a disability, or if there is probable cause to believe that such an incident occurred, the independent agency shall have prompt access, at reasonable times: to any facility or part thereof serving such individual that is operated, certified or licensed by any office or agency of the state; to all books, records and data pertaining to such a facility; to such individual with a disability in a location in which services, supports and other assistance are provided to such individual; to records of a facility or provider agency concerning such individual; and to any other records that are relevant to conducting an investigation. The independent agency also shall have access to records of the justice center as set forth in paragraph (f) of subdivision one and paragraph (y) of subdivision two of section four hundred ninety-six of the social services law.

(iv) All records and documents received by the independent agency shall be received subject to any confidentiality requirements applicable pursuant to state and federal law.

(v) The governor shall be authorized to re-designate the agency implementing the protection and advocacy program and client assistance programs only if there is good cause for the re-designation and in accordance with federal requirements.

(vi) The independent agency may assist in the development of residential councils at facilities and programs.

(vii) To the extent consistent with federal law, the independent agency shall make copies of any of its reports available to the governor, the temporary president of the senate and the speaker of the assembly.

(viii) The independent agency shall take affirmative steps to assure that its programs and services are geographically representative of the state and, to the extent practicable, ensure regional access, and reflect the diversity of the state with respect to race and ethnicity.

* NB Effective upon filing the Governor's final notice of re-designation

(c) In the exercise of its functions, powers and duties, the executive director and any employee designated by him or her is authorized to issue and enforce a subpoena and a subpoena duces tecum, conduct hearings, administer oaths and examine persons under oath, in accordance with and pursuant to civil practice law and rules.

(d) In any case where a person in charge or control of such facility or an officer or employee thereof shall fail to comply with the provisions of subdivision (a) of this section, the justice center may apply to the supreme court for an order directed to such person requiring compliance therewith. Upon such application the court may issue such order as may be just and a failure to comply with the order of the court shall be a contempt of court and punishable as such.

§ 559. New York State interagency coordinating council for services to persons who are deaf, deaf-blind, or hard of hearing. 1. Subject to an appropriation, the justice center shall have the central responsibility for administering the provisions of this section and otherwise coordinating the activities of the state interagency coordinating council for services to persons who are deaf, deaf-blind, or hard of hearing with respect to serving residents of the state who are deaf, deaf-blind, or hard of hearing, in consultation with the office of children and family services, the office for the aging, the public service commission, the department of health, the department of labor, the department of education, and other state agencies as appropriate. The council shall meet a minimum of three times a year.

2. The following definitions describe the functional characteristics of persons who are deaf, deaf-blind, or hard of hearing, as used in this section.

(a) Deaf. Describes persons who have a profound hearing loss and who primarily rely on visual communication, such as sign language, writing, lip reading, and gestures, which may be used exclusively or in combination. Such persons generally use a form of American sign language as their primary mode of communication. In addition, there is a group of

profoundly deaf individuals who communicate orally and may use sign language to support their understanding of the spoken language. Hearing aids and other assistive technology may also be used to aid in communication.

(b) Deaf-blind. An individual with a concomitant hearing and visual impairment, the combination of which causes such severe communication and other developmental and educational problems that the individual cannot be accommodated in programs for individuals who are solely deaf or blind.

(c) Hard of hearing. A hard of hearing person is someone with a measurable hearing loss and who self-identifies as being hard of hearing, although audiologically he or she may have a profound hearing loss. Additionally, this person typically uses his or her residual hearing, speech and speech reading skills, and hearing aids to communicate; he or she may rely on assistive listening devices to augment his or her ability to hear and speak.

3. Subject to an appropriation, the justice center shall have the following powers and duties:

(a) To coordinate the activities of the state interagency coordinating council and to promote, in cooperation with the appropriate state agencies, the implementation of a comprehensive statewide program of coordinated services for persons who are deaf, deaf-blind, or hard of hearing that includes educational, medical, housing, transportation, technology supports, personal care, family supports, day program services, and other essential services that maximize existing resources and administrative mechanisms to address issues and legal obligations.

(b) To maintain data on the incidence of deafness, deaf-blindness, and other hearing loss.

(c) To serve as a clearinghouse for information on services available to persons who are deaf, deaf-blind, or hard of hearing, including, but not limited to, resources that support the development and implementation of community-based services and rehabilitation.

(d) To disseminate general information on deafness and the unique communication needs of persons who are deaf, deaf-blind, and hard of hearing, and to inform the deaf, deaf-blind, and hard of hearing communities about available services and how such services can be

accessed.

(e) To receive complaints in matters affecting the deaf, deaf-blind, or hard of hearing communities and to refer such complaints to the appropriate regulatory agencies where it deems necessary or appropriate.

(f) To conduct an ongoing evaluation of the needs of the deaf, deaf-blind, and hard of hearing communities, including technology needs.

(g) To report to the governor and the legislature, on or before November first of each year, on matters which shall include, but not be limited to:

(i) the status of current efforts to achieve the purposes of this section, which will be updated in subsequent reports; and

(ii) recommendations for standards, policies, procedures, and strategies necessary to assure communication accessibility and community-based services, including needed statutory revisions.

4. (a) Subject to an appropriation, the state interagency coordinating council for services to persons who are deaf, deaf-blind, or hard of hearing is hereby established and shall consist of the following persons to be appointed by the governor:

(i) seven agency heads or their designees, acting in an ex officio capacity: the executive director of the justice center, who shall serve as the chair of the state interagency coordinating council, the commissioner of the office of children and family services, the director of the office for aging, the chair of the public service commission, the commissioner of health, the commissioner of labor, and the commissioner of education;

(ii) six persons who are residents of New York state and who shall be persons who are deaf, deaf-blind, or hard of hearing, one of whom shall be appointed on the nomination of the temporary president of the senate, one of whom shall be appointed on the nomination of the speaker of the assembly, one of whom shall be appointed on the nomination of the minority leader of the senate, and one of whom shall be appointed on the nomination of the minority leader of the assembly; and

(iii) two persons who are residents of New York state and who are representatives of the public and have a demonstrated expertise and interest in the needs of persons who are deaf, deaf-blind, or hard of hearing.

(b) Of the eight persons appointed pursuant to subparagraphs (ii) and (iii) of paragraph (a) of this subdivision, two shall serve for a term of one year, two shall serve for a term of two years, and two shall serve for a term of three years, as determined by the governor. Subsequent appointments upon the expiration of term shall be for a term of three years and shall be filled in the same manner as the original appointment.

(c) The eight members of the state interagency coordinating council described in subparagraphs (ii) and (iii) of paragraph (a) of this subdivision shall receive no compensation for their services, but shall be allowed their actual and necessary expenses incurred in the performance of their duties pursuant to this section, subject to the approval of the justice center.

5. Subject to an appropriation, the state interagency coordinating council is charged with recommending long range strategic objectives, goals, and priorities for promoting the availability of a comprehensive statewide program of coordinated services for persons who are deaf, deaf-blind, or hard of hearing that is consistent with subdivision one of this section. It shall also provide advice on the planning, coordination, and development of needed services and technology, including the manner in which such services shall be funded or otherwise supported.

§ 560. Annual report. The justice center shall make an annual report to the governor and legislature concerning its work during the preceding year. Such report shall be posted on the justice center's website and shall be provided to the independent agency designated pursuant to subdivision (b) of section five hundred fifty-eight of this article. It shall include, but not be limited to, data regarding the number of reports received by the vulnerable persons' central register, results of investigations by types of facilities and programs, types of corrective actions taken, results of its review of patterns and trends in the reporting of and response to reportable incidents and its recommendations for appropriate preventive and corrective actions, and efforts undertaken by such justice center to provide training pursuant

to subdivision four of section five hundred fifty-three of this article.

§ 561. Advisory council. 1. There shall be within the justice center an advisory council consisting of no less than fifteen members to be appointed by the governor, with the advice and consent of the senate. Members shall be appointed on the basis of their professional and personal knowledge in the care and treatment of and in the provision of services, supports, and advocacy to and on behalf of service recipients, as defined in subdivision nine of section four hundred eighty-eight of the social services law, and individuals with disabilities, or their active interest in the system of services for such service recipients or individuals with disabilities. In making such appointments, the governor shall endeavor to ensure the overall membership of the council adequately reflects the programs and services within the justice center's jurisdiction and that at least one-half of the members are individuals or parents or relatives of individuals who are or have participated in or are or have been recipients of programs and services within the justice center's jurisdiction. The council shall include but shall not be limited to:

(a) members of boards of visitors appointed pursuant to articles seven and thirteen of the mental hygiene law;

(b) consumer representatives, including current or former service recipients of an applicable facility or provider agency;

(c) parents, relatives or guardians of such service recipients;

(d) providers of services to vulnerable persons;

(e) directors of facilities, community services or members of community services boards;

(f) current and former consumers of services for individuals with physical disabilities;

(g) members of organizations that advocate on behalf of vulnerable persons and individuals with disabilities; and

(h) an employee of a facility or provider agency as defined in subdivision four of section four hundred eighty-eight of the social services law.

2. Members shall be appointed for terms of three years provided,

however, that of the members first appointed, one-third shall be appointed for one-year terms and one-third shall be appointed for two-year terms. A member may be removed by the governor for good cause after notice and an opportunity to be heard on the charges. Vacancies shall be filled in the same manner as original appointments for the remainder of any unexpired term.

3. The governor shall designate one member of the council as its chair to serve as such at the pleasure of the governor.

4. Council members shall not receive compensation, but each member shall be entitled to receive his or her reasonable and necessary expenses incurred in connection with his or her services as a member within the amounts appropriated therefor.

5. The council shall have an executive secretary designated by the executive director of the justice center. The executive director may also assign such other employees of the justice center as the council may from time to time require to assist it in the performance of its duties.

6. The council shall advise and assist the justice center in developing policies, proposed regulations, plans and programs to carry out its functions, powers and duties pursuant to this section. The council may consider any matter related to improving the quality of life of citizens of the state who have disabilities and shall advise the justice center on any such matter.

7. The council shall meet at least four times a year. The council shall meet at the request of its chair or the executive director of the justice center.

§ 562. Abuse and neglect notification. 1. (a) Upon receiving a request for criminal history information, pursuant to section eight hundred forty-five-b of this chapter, for a prospective employee or volunteer of a facility or provider licensed, operated, or certified by the office

for people with developmental disabilities, the justice center shall furnish a summary of any substantiated reports in its possession regarding a final finding of category two conduct pursuant to section four hundred ninety-three of the social services law, by a prospective employee or volunteer. The justice center shall provide such summary report to the authorized person as defined in paragraph (b) of subdivision one of section eight hundred forty-five-b of this chapter and at that same time furnish such documents to the prospective employee or volunteer at the address for such person listed on the request.

(b) Notwithstanding paragraph (a) of this subdivision, a facility or provider licensed, operated or certified by the office for people with developmental disabilities shall be provided a summary of any final finding of category two conduct pursuant to section four hundred ninety-three of the social services law, for a current employee or volunteer, where the substantiated category two conduct in such summary occurred at another facility or provider agency. The justice center shall additionally provide such summary to the employee or volunteer if such summary has not previously been provided.

(c) For the purposes of this subdivision, a final finding of category two conduct shall mean a finding for which all relevant hearings and appeals have been exhausted and has not been sealed in accordance with section four hundred ninety-three of the social services law.

2. The summary report provided by the justice center to a provider of services pursuant to subdivision one of this section shall be received by the provider subject to the confidentiality provisions of subdivision seven of section eight hundred forty-five-b of this chapter.

ARTICLE 21
NEW YORK STATE OFFICE FOR THE PREVENTION OF DOMESTIC VIOLENCE

Section 575. New York state office for the prevention of domestic violence.
576. Informational materials on economic abuse.

§ 575. New York state office for the prevention of domestic violence. 1. Establishment of office. There is hereby established within the executive department the "New York state office for the prevention of domestic violence", hereinafter in this section referred to as the "office".

2. Duties and responsibilities. The office shall advise the governor and the legislature on the most effective ways for state government to respond to the problem of domestic violence. In fulfilling this responsibility, the office shall consult with experts, service providers and representative organizations in the field of domestic violence and shall act as an advocate for domestic violence victims and programs.

3. Activities. In addition, the office shall develop and implement policies and programs designed to assist victims of domestic violence and their families, and to provide education and prevention, training and technical assistance. Such domestic violence-related activities shall include, but not be limited to:

(a) Serving as a clearinghouse for information and materials;

(b) Developing and coordinating community outreach and public education throughout the state;

(c) Developing and delivering training to professionals, including but not limited to professionals in the fields of:

(i) domestic violence;

(ii) health and mental health;

(iii) social and human services;

(iv) public education;

(v) law enforcement and criminal justice;

(vi) alcohol and substance abuse;

(d) Developing and promoting school-based prevention programs;

(e) Providing technical assistance to state and local government bodies and other agencies and to private not-for-profit corporations, on effective policies and responses to domestic violence, including development of model domestic violence policies, pursuant to subdivisions seven, eight and nine of this section;

(f) Promoting and facilitating interagency cooperation among state agencies and intergovernmental cooperation between different levels of

government in the state in the delivery and/or funding of services;

(g) Operating as an advocate for domestic violence services and victims;

(h) Undertaking program and services needs assessments on its own initiative or at the request of the governor, the legislature or service providers;

(i) Examining the relationship between domestic violence and other problems and making recommendations for effective policy response;

(j) Collecting data, conducting research, and holding public hearings;

(k) Making periodic reports to the governor and the legislature recommending policy and program directions and reviewing the activities of the office;

(l) Developing and promoting senior center based prevention programs;

(m) promoting best practices for abusive partner intervention;

(n) Administering grant funds appropriated and made available to support compliance with article one hundred twenty-nine-b of the education law; and undertaking such actions, duties, and responsibilities as may be necessary to serve the purpose of article one hundred twenty-nine-b of the education law; and

(o) (i) Within amounts appropriated for such purpose, the office shall contract with an organization designated by the federal department of health and human services to coordinate statewide improvements within local communities, social services systems, and programming regarding the prevention and intervention of domestic violence in New York state to mutually develop a training program as described in this paragraph. The office and such organization shall be responsible for providing such training to psychiatrists, psychologists and social workers who are licensed in the state of New York, so that such individuals may conduct court ordered forensic evaluations, involving child custody and visitation pursuant to paragraph (a-3) of subdivision one of section two hundred forty of the domestic relations law; for consulting with domestic violence service providers and representative organizations in the field of domestic violence when such training is provided in their communities; and for reviewing and updating training topics at least once every two years. Such training shall include, but not be limited to, a review of: relevant statutes; case law and psychological definitions of domestic violence; coercive control and child abuse; the

dynamics and effects of domestic violence and child abuse, including but not limited to, emotional, financial, physical, technological and sexual abuse; the barriers and fears associated with reporting domestic violence and child abuse and why victims may not have documented evidence of abuse; tactics commonly used by one party to induce fear in another party or child, including verbal, emotional, psychological, and/or economic abuse, isolating techniques, coercive control, and monitoring of a partner's location and activities; litigation abuse and demands for custody or joint custody in order to pressure the partner to return or punish the partner for leaving; trauma, particularly as it relates to sexual abuse and the risks posed to children and the long-term dangers and impacts imposed by the presence of adverse childhood experiences; the increased risk of escalating violence that occurs during child custody proceedings; and the danger of basing child custody decisions on claims that a child's deficient or negative relationship with a parent is caused by the other parent.

(ii) The office, in consultation with the organization designated by the federal department of health and human services to coordinate statewide improvements within local communities, social services systems, and programming regarding the prevention and intervention of domestic violence in New York state, shall determine a reasonable number of training-hours that shall be required for the first instance such program is provided to psychiatrists, psychologists and social workers and a reasonable number of training-hours that shall be required for subsequent refresher courses provided to such individuals.

(iii) The organization designated by the federal department of health and human services to coordinate statewide improvements within local communities, social services systems, and programming regarding the prevention and intervention of domestic violence in New York state shall be responsible for providing a certification of completion to each psychiatrist, psychologist or social worker who satisfies the requirements of such training program, so that such individuals may conduct court ordered forensic evaluations involving child custody and visitation pursuant to paragraph (a-3) of subdivision one of section two hundred forty of the domestic relations law; and

(p) Any other activities including the making of and promulgation of rules and regulations deemed necessary to facilitate the prevention of

domestic violence within the scope and purview of this article which are not otherwise inconsistent with any other provisions of law.

4. Advisory council. (a) An advisory council is hereby established to make recommendations on domestic violence related issues and effective strategies for the prevention of domestic violence, to assist in the development of appropriate policies and priorities for effective intervention, public education and advocacy, and to facilitate and assure communication and coordination of efforts among state agencies and between different levels of government, state, federal, and municipal, for the prevention of domestic violence.

(b) The advisory council shall consist of nine members and seventeen ex-officio members. Each member shall be appointed to serve for a term of three years and shall continue in office until a successor appointed member is made. A member appointed to fill a vacancy shall be appointed for the unexpired term of the member he or she is to succeed. All of the members shall be individuals with expertise in the area of domestic violence. Three members shall be appointed by the governor, two members shall be appointed upon the recommendation of the temporary president of the senate, two members shall be appointed upon the recommendation of the speaker of the assembly, one member shall be appointed upon the recommendation of the minority leader of the senate, and one member shall be appointed upon the recommendation of the minority leader of the assembly. The ex-officio members of the advisory board shall consist of the director of the office, who shall chair the council, and the following members or their designees: the commissioner of the office of temporary and disability assistance; the commissioner of the department of health; the commissioner of the education department; the commissioner of the office of mental health; the commissioner of the office of addiction services and supports; the commissioner of the division of criminal justice services; the superintendent of the division of state police; the director of the office of probation and correctional alternatives; the commissioner of the office of children and family services; the director of the office of victim services; the chief administrative judge of the office of court administration; the commissioner of the department of labor; the director of the state office for the aging; the commissioner of the department of corrections

and community supervision; the commissioner of homes and community renewal; the chief executive officer of the New York state coalition against domestic violence; and the executive director of the New York state coalition against sexual assault.

(c) The advisory council shall meet as often as deemed necessary by the chair but in no event less than two times per year.

(d) The members of the advisory council shall receive no salary or other compensation for their services but shall be entitled to reimbursement for actual and necessary expenses incurred in the performance of their duties within amounts made available by appropriation therefor subject to the approval of the director of the budget. The ex-officio members of the advisory council shall receive no additional compensation for their services on the advisory council above the salary they receive from the respective departments or divisions that employ them.

5. Executive director. (a) The governor shall appoint an executive director of the office who shall serve at the pleasure of the governor.

(b) The executive director shall receive an annual salary fixed by the governor within the amounts appropriated specifically therefor and shall be entitled to reimbursement for reasonable expenses incurred in connection with the performance of the director's duties.

(c) The director of the office, with the approval of the governor, may accept as agent of the state any grant, including federal grants, or any gift or donation for any of the purposes of this article. Any moneys so received may be expended by the office to effectuate any purpose of this article, subject to the applicable provisions of the state finance law.

(d) The executive director shall appoint staff and perform such other functions to ensure the efficient operation of the office.

6. Assistance of other agencies. The office may request and shall receive in a timely manner from any department, division, board, bureau, commission or agency of the state, such information and assistance as shall enable it to properly carry out its powers and duties pursuant to this article.

7. Model domestic violence policy for counties. (a) The office shall

convene a task force of county level municipal officials, municipal police and members of the judiciary, or their representatives, and directors of domestic violence programs, including representatives from a statewide advocacy organization for the prevention of domestic violence, to develop a model domestic violence policy for counties. For the purposes of this subdivision, "county" shall have the same meaning as such term is defined in section three of the county law, except that the city of New York shall be deemed to be one county. The office shall give due consideration to the recommendations of the governor, the temporary president of the senate and the speaker of the assembly for participation by any person on the task force, and shall make reasonable efforts to assure regional balance in membership.

(b) The purpose of the model policy shall be to provide consistency and coordination by and between county agencies and departments, including criminal justice agencies and the judiciary, and, as appropriate, by municipalities or other jurisdictions within the county and other governmental agencies and departments, by assuring that best practices, policies, protocols and procedures are used to address the issue of domestic violence, and to secure the safety of the victim including, but not limited to:

(i) response, investigation and arrest policies by police agencies;

(ii) response by other criminal justice agencies, including disposition of domestic violence complaints, the provision of information and orders of protection;

(iii) response by human services and health agencies, including identification, assessment, intervention and referral policies and responses to victims and the perpetrators of domestic violence;

(iv) training and appropriate and relevant measures for periodic evaluation of community efforts; and

(v) other issues as shall be appropriate and relevant for the task force to develop such policy.

(c) Such model policy shall be reviewed by the task force to assure consistency with existing law and shall be made the subject of public hearings convened by the office throughout the state at places and at times which are convenient for attendance by the public, after which the policy shall be reviewed by the task force and amended as necessary to reflect concerns raised at the hearings. If approved by the task force,

such model policy shall be provided as approved with explanation of its provisions to the governor and the legislature not later than two years after the effective date of this subdivision. Notification of the availability of such model domestic violence policy shall be made by the office to every county in the state, and copies of the policy shall be made available to them upon request.

(d) The office in consultation with the task force, providers of service, the advisory council and others, including representatives of a statewide advocacy organization for the prevention domestic violence, shall provide technical support, information and encouragement to counties to implement the provisions of the model policy on domestic violence.

(e) Nothing contained in this subdivision shall be deemed to prevent the governing body of a county from designating a local advisory committee to investigate the issues, work with providers of domestic violence programs and other interested parties, and to aid in the implementation of the policy required by this subdivision. Such governing body or advisory committee may request and shall receive technical assistance from the office for the development of such a policy. Implementation of the model domestic violence policy may take place in a form considered appropriate by the governing body of a county, including guidelines, regulations and local laws.

(f) The office shall survey county governments within four years of the effective date of this subdivision to determine the level of compliance with the model domestic violence policy, and shall take such steps as shall be necessary to aid county governments in the implementation of such policy.

8. State domestic violence policy. (a) The office shall survey every state agency to determine any activities, programs, rules, regulations, guidelines or statutory requirements that have a direct or indirect bearing on the state's efforts and abilities to address the issue of domestic violence including, but not limited to, the provision of services to victims and their families. Within two years of the effective date of this subdivision, the office shall compile such information and provide a report, with appropriate comments and recommendations, to the governor and the legislature. For the purposes

of this subdivision, "state agency" shall have the same meaning as such term is defined in section two-a of the state finance law.

(b) Within three years of the effective date of this subdivision the office shall recommend a state domestic violence policy consistent with statute and best practice, policies, procedures and protocols to the governor and the legislature. The purpose of such model policy shall be to provide consistency and coordination by and between state agencies and departments to address the issue of domestic violence. In developing such model policy, the office shall consult with a statewide advocacy organization for the prevention of domestic violence, and shall assure that the advisory council reviews all data and recommendations and shall not submit such model policy until approved by the advisory council. Such recommendations shall be provided exclusive of any study or report the office is required to undertake pursuant to a chapter of the laws of nineteen hundred ninety-four, entitled "the family protection and domestic violence intervention act of 1994".

(c) No state agency shall promulgate a rule pursuant to the state administrative procedure act, or adopt a guideline or other procedure, including a request for proposals, directly or indirectly affecting the provision of services to victims of domestic violence, or the provision of services by residential or non-residential domestic violence programs, as such terms are defined in section four hundred fifty-nine-a of the social services law, or establish a grant program directly or indirectly affecting such victims of domestic violence or providers of service, without first consulting the office, which shall provide all comments in response to such rules, guidelines or procedures in writing directly to the chief executive officer of such agency, to the administrative regulations review committee and to the appropriate committees of the legislature having jurisdiction of the subject matter addressed within two weeks of receipt thereof, provided that failure of the office to respond as required herein shall not otherwise impair the ability of such state agency to promulgate a rule. This paragraph shall not apply to an appropriation which finances a contract with a not-for-profit organization which has been identified for a state agency without the use of a request for proposals.

9. Model domestic violence employee awareness and assistance policy.

(a) The office shall convene a task force including members of the business community, employees, employee organizations, representatives from the department of labor and the empire state development corporation, and directors of domestic violence programs, including representatives of statewide advocacy organizations for the prevention of domestic violence, to develop a model domestic violence employee awareness and assistance policy for businesses.

The office shall give due consideration to the recommendations of the governor, the temporary president of the senate, and the speaker of the assembly for participation by any person on the task force, and shall make reasonable efforts to assure regional balance in membership.

(b) The purpose of the model employee awareness and assistance policy shall be to provide businesses with the best practices, policies, protocols and procedures in order that they ascertain domestic violence awareness in the workplace, assist affected employees, and provide a safe and helpful working environment for employees currently or potentially experiencing the effects of domestic violence. The model plan shall include but not be limited to:

(i) the establishment of a definite corporate policy statement recognizing domestic violence as a workplace issue as well as promoting the need to maintain job security for those employees currently involved in domestic violence disputes;

(ii) policy and service publication requirements, including posting said policies and service availability pamphlets in break rooms, on bulletin boards, restrooms and other communication methods;

(iii) a listing of current domestic violence community resources such as shelters, crisis intervention programs, counseling and case management programs, legal assistance and advocacy opportunities for affected employees;

(iv) measures to ensure workplace safety including, where appropriate, designated parking areas, escort services and other affirmative safeguards;

(v) training programs and protocols designed to educate employees and managers in how to recognize, approach and assist employees experiencing domestic violence, including both victims and batterers; and

(vi) other issues as shall be appropriate and relevant for the task

force in developing such model policy.

(c) Such model policy shall be reviewed by the task force to assure consistency with existing law and shall be made the subject of public hearings convened by the office throughout the state at places and at times which are convenient for attendance by the public, after which the policy shall be reviewed by the task force and amended as necessary to reflect concerns raised at the hearings. If approved by the task force, such model policy shall be provided as approved with explanation of its provisions to the governor and the legislature not later than one year after the effective date of this subdivision. The office shall make every effort to notify businesses of the availability of such model domestic violence employee awareness and assistance policy.

(d) The office in consultation with the task force, providers of services, the advisory council, the department of labor, the empire state development corporation, and representatives of statewide advocacy organizations for the prevention of domestic violence, shall provide technical support, information, and encouragement to businesses to implement the provisions of the model domestic violence employee awareness and assistance policy.

(e) Nothing contained in this subdivision shall be deemed to prevent businesses from adopting their own domestic violence employee awareness and assistance policy.

(f) The office shall survey businesses within four years of the effective date of this section to determine the level of model policy adoption amongst businesses and shall take steps necessary to promote the further adoption of such policy.

10. Fatality review team. (a) There shall be established within the office a fatality review team for the purpose of analyzing, in conjunction with local representation, the domestic violence-related death or near death of individuals, with the goal of:

(i) examining the trends and patterns of domestic violence-related fatalities in New York state;

(ii) educating the public, service providers, and policymakers about domestic violence fatalities and strategies for intervention and prevention; and

(iii) recommending policies, practices, procedures, and services to

reduce fatalities due to domestic violence.

(b) A domestic violence-related death or near death shall mean any death or near death caused by a family or household member as defined in section eight hundred twelve of the family court act or section 530.11 of the criminal procedure law, except that there shall be no review of the death or near death of a child for those cases in which the office of children and family services is required to issue a fatality report in accordance with subdivision five of section twenty of the social services law.

(c) The team shall review deaths or near deaths in cases that have been adjudicated and have received a final judgment and that are not under investigation.

(d) Members of a domestic violence fatality review team shall be appointed by the executive director, in consultation with the advisory council, and shall include, but not be limited to, one representative from the office of children and family services, the office of temporary and disability assistance, the division of criminal justice services, the state police, the department of health, the office of court administration, the office of probation and correctional alternatives, the department of corrections and community supervision, the office of victim services, at least one representative from local law enforcement, a county prosecutor's office, a local social services district, a member of the judiciary, and a domestic violence services program approved by the office of children and family services. A domestic violence fatality review team may also include representatives from sexual assault services programs, public health, mental health and substance abuse agencies, hospitals, clergy, local school districts, local divisions of probation, local offices of the department of corrections and community supervision, the office of the medical examiner or coroner, any local domestic violence task force, coordinating council or other interagency entity that meets regularly to support a coordinated community response to domestic violence, any other program that provides services to domestic violence victims, or any other person necessary to the work of the team, including survivors of domestic violence.

(e) The team shall identify potential cases and shall select which deaths or near deaths will be reviewed each year. Localities may request that the team conduct a review of a particular death or near death.

(f) The team shall work with officials and organizations within the community where the death or near death occurred to conduct each review.

(g) Team members shall serve without compensation but are entitled to be reimbursed for travel expenses to the localities where a fatality review will be conducted and members who are full-time salaried officers or employees of the state or of any political subdivision of the state are entitled to their regular compensation.

(h) To the extent consistent with federal law, upon request the team shall be provided client-identifiable information and records necessary for the investigation of a domestic violence-related death or near death incident, including, but not limited to:

(i) records maintained by a local social services district;

(ii) law enforcement records, except where the provision of such records would interfere with an ongoing law enforcement investigation or identify a confidential source or endanger the safety or welfare of an individual;

(iii) court records;

(iv) probation and parole records;

(v) records from domestic violence residential or non-residential programs;

(vi) records from any relevant service provider, program or organization; and

(vii) all other relevant records in the possession of state and local officials or agencies provided, however, no official or agency shall be required to provide information or records concerning a person charged, investigated or convicted in such death or near death in violation of such person's attorney-client privilege.

(i) Any information or records otherwise confidential and privileged in accordance with state law which are provided to the team shall remain confidential as otherwise provided by law. All records received, meetings conducted, reports and records made and maintained and all books and papers obtained by the team shall be confidential and shall not be open or made available, except by court order or as set forth in paragraphs (k) and (l) of this subdivision.

(j) Any person who releases or permits the release of any information protected under paragraph (i) of this subdivision to persons or agencies not authorized to receive such information shall be guilty of a class A

misdemeanor.

(k) Team members and persons who present information to the team shall not be questioned in any civil or criminal proceeding regarding any opinions formed as a result of a meeting of the team. Nothing in this section shall be construed to prevent a person from testifying as to information which is obtained independently of the team or information which is public.

(l) Team members are not liable for damages or other relief in any action brought by reason of the reasonable and good faith performance of a duty, function, or activity of the team.

(m) Consistent with all federal and state confidentiality protections, the team may provide recommendations to any individual or entity for appropriate actions to improve a community's response to domestic violence.

(n) The team shall periodically submit a cumulative report to the governor and the legislature incorporating the aggregate data and a summary of the general findings and recommendations resulting from the domestic violence fatality reviews completed pursuant to this subdivision. The cumulative report shall thereafter be made available to the public, consistent with federal and state confidentiality protections.

11. Gender-based violence and the workplace policies. The office shall consult with the division of human rights, department of labor, an organization designated by the federal department of health and human services to coordinate statewide improvements within local communities, social services systems, and programming regarding the prevention and intervention of domestic violence in New York state, and an organization designated by the federal department of justice to provide direct support to member rape and crisis centers in New York state through funding, training and technical assistance, public awareness, and public policy advocacy to create and publish a model gender-based violence and the workplace policy that employers may utilize in their adoption of a gender-based violence and the workplace policy required by section one hundred thirty-nine-m of the state finance law. The office shall also publish a model gender-based violence and the workplace policy for executive agencies that such agencies may utilize in their adoption of a

gender-based violence and the workplace policy required by section one hundred seventy-i of this chapter. Such model gender-based violence and the workplace policy shall be publicly available and posted on the websites of the office, the department of labor and the division of human rights.

§ 576. Informational materials on economic abuse. 1. In furtherance of the activities required in subdivision three of section five hundred seventy-five of this article, the office shall create informational materials on economic abuse and describe how it is a form of domestic violence. Such materials shall provide information on the impact of economic abuse, how to identify and prevent economic abuse including but not limited to coerced debt, and the resources available to individuals suffering from economic abuse.

2. The informational materials required pursuant to subdivision one of this section shall be provided to domestic violence shelters, local social services districts, local police departments, and local childcare facilities to be distributed to potential victims of domestic violence.

ARTICLE 21-A

EMERGENCY SERVICES COUNCIL

Section 580. Emergency services council.

§ 580. Emergency services council. 1. Creation; members. There is hereby created in the department of state an emergency services council, the members of which shall be the directors of the office of fire prevention and control, the bureau of emergency medical services and the state emergency management office, the superintendent of state police, the commissioner of health, the secretary of state, the director of the state office for the aging and the director of state operations who shall be the chairperson unless otherwise appointed by the governor. There shall also be two representatives appointed by the state emergency medical services council, one of whom shall be a representative of

volunteer ambulance service and one of whom shall be a representative of proprietary ambulance service; two representatives appointed by the fire advisory board, one of which shall be representative of volunteer fire service and one of which shall be representative of paid fire service; one representative shall be appointed by the disaster preparedness commission; one physician shall be appointed by the state emergency medical advisory committee; one appointment shall be made by the governor; one appointment shall be made by the temporary president of the senate; and one appointment shall be made by the speaker of the assembly.

2. The role of the council shall be advisory. The purposes of the council shall be to develop and coordinate state emergency services, make recommendations on emergency services policy, and eliminate unnecessary duplication of effort in such a way as to ensure the provision of efficient and effective delivery of such services. The council shall adopt a mission statement consistent with the intent of this legislation and which shall affirm the council's commitment to fostering improved communication, coordination and cooperation among law enforcement, fire protection, emergency medical services and disaster preparedness agencies.

3. Powers and duties. The members of the council shall receive no compensation for their services but shall be allowed actual and necessary expenses incurred in the performance of their duties. The council may request and shall receive from any department, board, bureau, commission, office, agency or other instrumentality of the state, such facilities, assistance and data as it deems necessary or desirable for the proper execution of its powers and duties. The council shall meet at least quarterly and report annually no later then September thirtieth of each year. However should the need arise the council may submit incremental reports as deemed necessary. Such reports shall be submitted to the governor, the temporary president of the senate, the chairperson of the senate finance committee, the speaker of the assembly, and the chairperson of the assembly ways and means committee. The council shall have the power to hold public hearings and solicit testimony on any matter it deems relative to carrying out its

mission. The council shall have the power to make non-binding recommendations concerning existing and/or future policy, rules and regulations and have the ability to take up for consideration recommendations submitted by either public or private entities. The council may have the ability to advise the governor, legislature, state agencies and entities, and localities on issues relating to and effecting the coordination and enhancement of emergency response, and public health and safety. Nothing in this section shall be deemed to supersede any established authority, duty and power established by local law, state law or regulation, or otherwise granted to any agency, body or entity.

ARTICLE 21-B
MANUFACTURED HOMES

Title 1. General provisions (§§ 600-612).
2. Single-family dwellings in residential districts (§§ 615-617).

TITLE 1
GENERAL PROVISIONS

Section 600. Application.
601. Definitions.
602. Certification required.
603. Warranty seals; notice to the department.
604. Powers of the department.
605. Resolution of disputes regarding manufactured homes.
606. Training and continuing education.
607. Penalties for violation of this article.
608. Fees.
609. State administrative agency requirements.
610. State certified installers.
611. Manufactured housing advisory council.
612. Powers and duties of the advisory council.

§ 600. Application. This title shall be applicable to persons and

business entities engaged in the manufacture, sale, installation and service of manufactured homes and to purchasers thereof.

§ 601. Definitions. For the purposes of this title, the following terms shall have the following meanings:

1. "Business entity" means a corporation, association, partnership, limited liability company, limited liability partnership, or other legal entity.

2. "Delivered condition" means the physical condition of the home after delivery and installation at the home site has been completed.

3. "Department" means the department of state.

4. "Installation" means:
(a) the affixation of a manufactured home to a foundation or supports at a building site;
(b) the assembly and fastening of structural components of manufactured housing, including the completed roof system; and
(c) the connection to electrical, oil, water, gas, sewage and similar systems that are necessary for the use of the manufactured home for dwelling purposes.

5. "Installer" means any person or business entity, including, but not limited to, a retailer or mechanic, who installs or sets up a manufactured home for a buyer.

6. "Lending entity" means a financial institution, mortgage lender or other individual or entity that holds a mortgage or other security interest in a manufactured home, such home being the subject of a complaint filed with the department pursuant to the provisions of this article.

7. "Manufactured home" means a structure, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in

width or forty body feet or more in length, or, when erected on site, is three hundred twenty or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein. The term shall include any structure that meets all of the requirements of this subdivision except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the United States secretary of housing and urban development and complies with the standards established under Title 42 of the United States code; and except that such term shall not include any self-propelled recreational vehicle.

8. "Manufacturer" means any person or business entity engaged in manufacturing or producing manufactured homes.

9. "Mechanic" means any person or business entity engaged in the business of performing service on or installing manufactured housing.

10. "Retailer" means any person or business entity engaged in the retail selling or offering for sale, brokering or distribution of manufactured homes, primarily to a person who, in good faith, purchases these homes for purposes other than resale.

11. "Secretary" means the secretary of state.

12. "Service" means the modification, alteration or repair of the structural systems of a manufactured home.

13. "State administrative agency" or "SAA" means the department of state which has been approved to carry out the state plan and enforce the national manufactured housing construction and safety standards act (42 USC 5401, et seq.) within the state of New York, and that office within the department of state that has been designated by the secretary to perform such duties.

14. "Advisory council" shall mean the manufactured housing advisory

council.

§ 602. Certification required. 1. On and after July first, two thousand six, no person or business entity shall manufacture, including the manufacture outside the state of New York for sale into the state of New York, sell, install or service any manufactured home in the state of New York, unless such person or business entity has obtained the appropriate certification from the department pursuant to this article.

2. On and after July first, two thousand six, no manufactured home shall be installed or serviced unless at least one person certified by the department to perform such work is present at the home site during the installation or service.

3. a. Each manufacturing plant that delivers or sells manufactured homes in this state, each retail sales location and each business entity selling, installing or performing service on manufactured homes must be separately certified.

b. Each manufacturer, retailer, installer and mechanic shall employ at least one person who has been certified by the department.

4. Manufacturers approved to construct manufactured homes by the United States department of housing and urban development shall be required to apply for, and obtain, certification pursuant to this article. Any such manufacturer shall be deemed to meet the requirements for certification under this article, except that the department may, after a hearing, suspend or revoke the certification of any manufacturer as provided in subdivision seven of section six hundred four of this article.

§ 603. Warranty seals; notice to the department. 1. Before a manufactured home may be installed in this state, the manufacturer shall obtain from the department a New York state manufacturer's warranty seal and attach the seal to the manufactured home in the manner to be

prescribed by the department.

2. Before a manufactured home may be installed in this state, the installer shall obtain from the department a New York state installer's warranty seal and attach the seal to the manufactured home in the manner prescribed by the department.

3. On a quarterly basis, every installer shall report to the department all installations completed by that person or business entity during the designated reporting period. The report shall be on a form provided by the department and must include the location of each unit of manufactured housing, the owner of each unit at the time of installation, the type or model of the unit, the manufacturer of the unit, written certification that the installation meets the standards of the New York state uniform fire prevention and building code and the name and address of the manufacturer, retailer, mechanic or installer completing the notice.

§ 604. Powers of the department. The department shall have the following powers and duties with respect to manufactured housing:

1. To create and maintain a registry accessible to the public which shall include, but not be limited to the following information:
(a) a listing of certified manufacturers, retailers, installers and mechanics of manufactured homes; and
(b) records of all violations issued, disciplinary action taken and penalties paid and levied pursuant to this article;

2. To retain records and all application materials submitted to it;

3. To receive complaints, conduct investigations and establish procedures for the resolution of disputes relating to the construction, installation, or servicing of manufactured homes and to resolve such complaints and disputes pursuant to section six hundred five of this article;

4. To establish administrative procedures for processing applications for certification of persons and business entities required to be certified pursuant to this article; to receive such applications; to approve or disapprove applications for certifications; and to issue certificates;

5. To promulgate rules and regulations relating to the provisions of this article;

6. To conduct adjudicatory hearings, pursuant to the state administrative procedure act to resolve violations of this article and the rules and regulations promulgated thereunder;

7. To suspend and revoke certificates, and impose such other penalties as may be authorized pursuant to this article. The department may revoke or suspend the certification of a person or business entity certified pursuant to this article for a substantial violation of this article, or for a material misstatement in the application for such certification, or if such person or business entity is guilty of fraud or fraudulent practices, or of dishonest or misleading advertising, or has demonstrated untrustworthiness or incompetency to conduct the certified activity or fails to comply with a decision issued pursuant to section six hundred five of this article;

8. To seek injunctive relief in the supreme court in the county where the complainant resides;

9. To promulgate rules and regulations establishing the standards for certification of manufacturers, retailers, installers and mechanics pursuant to this article. In establishing such standards, the department shall provide for minimum requirements of experience and education as may be necessary to protect the public interest. Such standards shall also include a requirement for initial training of installers and mechanics seeking certification by the department. In establishing standards, the department shall recognize certifications or licenses obtained in other states without requiring additional initial educational testing, provided that the requirements for certification or

licensing in such other states are comparable to the requirements for certification in the state of New York and provided further, that the individual or entity seeking certification otherwise meets the qualifications for certification in the state of New York;

10. To promulgate rules and regulations to require bonding, minimum capital requirements or other reasonable methods to ensure that manufacturers, retailers, installers and mechanics are financially responsible to fully comply with this article and have the financial resources to meet their warranty, contractual and other obligations. In connection therewith, the department may require the posting of surety bonds to ensure the satisfactory completion of the installation or service; and

11. a. To promulgate rules and regulations regarding the development and approval of courses and seminars required for original certification and to establish requirements for continuing education for persons certified pursuant to this article. Such regulations shall at a minimum require that certified installers and mechanics attend courses and seminars relating to the proper methods of installation and servicing manufactured homes not less than once every three years.

b. Instructional services for courses leading to original certification or qualifying for continuing education may be provided either by the department, a private trade association or other entity which has been approved as an instructional provider by the department and has paid the appropriate fee prescribed by rules and regulations promulgated under this section. Approved instructional providers shall be permitted to charge a fee for such services, not to exceed the maximum amount prescribed by the rules and regulations. Persons electing to have the continuing education instructional services provided by the department, shall pay for such services in accordance with fee schedules established by the department.

c. Fees charged by the department for approving or providing instructional services shall be deposited in the department account established pursuant to section six hundred eight of this article.

12. To create and maintain a consumer awareness pamphlet, in conjunction with the advisory council, to include, but not be limited to, detailing the certification process, installer selection rights, the dispute resolution process, the differences between the types of housing, and other consumer protection issues. Such pamphlet shall be available to the public, and published on the department's website.

§ 605. Resolution of disputes regarding manufactured homes. 1. Any homeowner, retailer, manufacturer, installer, mechanic or lending entity may file a complaint with the department as a state administrative agency seeking resolution of an allegation that a substantial defect exists in the delivered condition, installation, service or construction of a manufactured home. The department shall promulgate forms for such complaints which forms shall also be available on the department's web-site. For the purpose of this article, a substantial defect shall be a defect or a number of defects or other conditions which collectively can reasonably be expected to cost five hundred dollars or more to cure.

2. Complaints relating to the delivered condition, installation, service or construction of a manufactured home shall be made within one year and ten days after the date of the service, installation or issuance of a certificate of occupancy, or the expiration of any applicable provision of a contract or warranty, whichever is later.

3. (a) Upon the department's determination that a complaint, on its face, alleges a substantial defect in the delivered condition, installation, service, or construction of a manufactured home, the department shall notify the homeowner, manufacturer, retailer, mechanic and installer, as appropriate.

(b) Initially, the department may attempt to informally resolve the complaint. If informal resolution of the complaint is unsuccessful, the department shall resolve such complaints and disputes by administrative hearing, pursuant to the state administrative procedure act.

(c) The decision shall provide compensation to the aggrieved party in an amount which shall include, but not be limited to:

(i) Filing and recording fees, inspection fees and other required costs that the aggrieved party would not have incurred had the home met applicable standards; and

(ii) The cost of conforming repairs or replacements.

(d) The department may apportion liability between two or more parties or business entities where appropriate.

(e) The decision resolving the complaint shall be in writing and shall provide the reason therefor, a copy of the decision shall be provided to all interested parties.

(f) The department may require, as a condition of receiving and retaining any certification pursuant to this article, that an applicant agrees to submit to the jurisdiction of the department in connection with the resolution of complaints and disputes and agrees to be bound by the department's determination subject to any administrative and judicial review provided for in this article.

(g) Any party may seek judicial review of the administrative determination pursuant to article seventy-eight of the civil practice law and rules.

§ 606. Training and continuing education. 1. Beginning January first, two thousand six, all persons certified as an installer or mechanic, must obtain initial training, including, but not limited to the standards for proper installation of a manufactured home. Such training shall be provided in courses and seminars approved pursuant to this article.

2. All persons certified under this article shall be required to attend continuing education courses and seminars not less than once every three years.

§ 607. Penalties for violation of this article. Any person or business entity found guilty, after a hearing, of a violation of this article, except for the provisions of section six hundred nine of this article, may be required to pay a civil penalty of not more than one thousand dollars for each such violation, but not more than five thousand dollars

for more than one violation relating to each home. Such civil penalty shall be collected and deposited in the state's general fund. In addition to the civil penalties set forth in this section, the secretary shall also have the power to suspend or revoke certifications pursuant to section six hundred four of this title.

§ 608. Fees. The department shall, by regulation, establish reasonable fees for obtaining certification, obtaining warranty and installation seals and for instructional services, training and continuing education pursuant to this article. Such fees shall be paid and deposited into a segregated account established within the department which shall be used exclusively to defray the administrative expenses associated with carrying out the provisions of this article.

§ 609. State administrative agency requirements. 1. In carrying out its responsibilities and obligations pursuant to 42 USC 5401, et seq., the department, by authorized representatives, may enter, at reasonable times, any factory, warehouse or establishment in which manufactured housing is manufactured, stored, or held for sale for the purpose of ascertaining whether the requirements of the federal manufactured housing construction and safety standards act, the provisions of this article and the rules of the department are being met. The department's authority to enter and inspect shall be no less than the authority provided in 42 USC 5413.

2. Each manufacturer and retailer of manufactured housing constructed under the federal standards and any other party or entity covered by chapter 10 of title 42 of the United States Code shall be subject to and comply with all applicable provisions of said laws any violation of which shall be deemed a violation of this section.

3. The department by authorized representative, shall have all of the powers granted to the secretary of housing and urban development as provided in chapter 10 of title 42 of the United States Code with respect to the enforcement of manufactured home safety and construction

standards promulgated under 42 USC 5403.

4. The department is authorized to impose and collect fees to be paid by manufacturers in amounts adequate to cover the costs of inspections conducted pursuant to the provisions of this article. Such fees shall be deposited in the department account established pursuant to section six hundred eight of this article.

5. (a) A manufacturer or retailer of manufactured housing who violates any of the provisions set forth in this section relating to manufactured housing or rules adopted by the department, including provisions of the New York state uniform fire prevention and building code relating to manufactured housing, is subject to a civil penalty not to exceed the maximum civil penalty established by 24 C.F.R. § 3282.10, as then in effect, for each violation. Each violation constitutes a separate violation with respect to each manufactured housing unit, except that the maximum civil penalty may not exceed the maximum civil penalty established by 24 C.F.R. § 3282.10, as then in effect, for any related series of violations occurring within one year from the date of the first violation.

(b) An individual or a director, officer, or agent of a corporation or a principal on a business entity who knowingly and willfully violates 42 USC 5409 in a manner which threatens the health or safety of any purchaser shall be fined not more than the maximum criminal penalty established by 24 C.F.R. § 3282.10, as then in effect, or imprisoned not more than one year or both.

(c)(i) The department may enforce the provisions of this article and may impose civil penalties administratively;

(ii) Nothing in this article shall limit the powers and duties of the attorney general, as defined in section sixty-three of this chapter; and

(iii) Nothing in this article shall diminish or limit any other right or cause of action existing under any other provision of law.

§ 610. State certified installers. Manufacturers and retailers may as a condition of the sale of a manufactured home require that the home be installed by a state certified installer and may recommend a particular

installer or installers. Manufacturers shall not void a warranty for a manufactured home if the home buyer utilizes a state certified installer. It shall be a violation of this article to restrict a homebuyer from using any state certified installer chosen by the homebuyer, or to void a warranty for a manufactured home if the homebuyer utilizes a state certified installer.

§ 611. Manufactured housing advisory council. 1. There is hereby established within the department a manufactured housing advisory council. The advisory council shall consist of fifteen members to be appointed as follows:

a. Four members shall be appointed by the governor; one of whom shall be a member, officer, or employee of an installer, one of whom shall be a member, officer, or employee of a park residence advocacy association, one of whom shall be a member, officer, or employee of a retailer, and one of whom shall be a member, officer, or employee of a trade association representing the manufactured home industry.

b. Four members shall be appointed by the temporary president of the senate; one of whom shall be a member, officer, or employee of a manufacturer, one of whom shall be a member, officer, or employee of the engineering industry involved in manufactured housing issues, one of whom shall be a member, officer, or employee of a consumer advocacy association involved in manufactured housing issues, and one of whom shall be a manufactured housing resident owner.

c. Four members shall be appointed by the speaker of the assembly; one of whom shall be a member, officer, or employee of a manufacturer, one of whom shall be a member, officer, or employee of the banking industry involved in manufactured housing issues, one of whom shall be a member, officer, or employee of a consumer advocacy association involved in manufactured housing issues, and one of whom shall be a manufactured housing resident owner.

d. One member shall be appointed by the minority leader of the senate;

who shall be a manufactured home resident owner.

e. One member shall be appointed by the minority leader of the assembly; who shall be a manufactured home resident owner.

2. The secretary shall be a member of the advisory council and shall serve as chair to the council.

§ 612. Powers and duties of the advisory council. The advisory council shall have the following functions, powers, and duties:

1. To assist in the development of certification requirements and fees, warranty seal requirements and fees, and warranty standards for manufacturers and installers;

2. To assist in the development of training and continuing education requirements;

3. To assist in the creation of a consumer awareness pamphlet detailing the certification process and resolution of dispute process. The pamphlet shall also explain the differences between types of houses (mobile, modular and manufactured);

4. To examine consumer protection issues, including but not limited to, manufactured housing financing and sales practices;

5. To examine the differences of manufactured and modular housing regulations and make recommendations to the department and the legislature on an annual basis; and

6. To submit annual reports by December thirty-first, two thousand six and each year thereafter, to the governor, the temporary president of the senate and the speaker of the assembly that details the recommendations of the advisory council regarding manufactured housing in New York state. The advisory council shall, as part of its report, detail the number of complaints received by the department and the

number of disputes resolved through the department.

TITLE 2

SINGLE-FAMILY DWELLINGS IN RESIDENTIAL DISTRICTS

Section 615. Definitions.
616. Manufactured homes as single-family dwellings in residential districts.
617. Manufactured home parks to be consistent.

§ 615. Definitions. For the purposes of this title, the following terms shall have the following meanings:

1. "Manufactured home" shall have the same meaning as provided in subdivision seven of section six hundred one of this article.

2. "Identical development specifications and standards" includes access, building setback distance, enclosures and vehicle parking space.

3. "Single-family dwelling" shall mean a building designed as a one-family residence and used or occupied, or intended to be used or occupied as the home or residence of one or more persons maintaining a household.

§ 616. Manufactured homes as single-family dwellings in residential districts. A manufactured home that is affixed to a permanent foundation and conforms with the identical development specification and standards, including general aesthetic and architectural standards, applicable to conventional, site-built single-family dwellings in the residential district in which the manufactured home is to be sited, shall be deemed to be a conforming single family dwelling for purposes of the applicable local zoning law or ordinance.

§ 617. Manufactured home parks to be consistent. Manufactured home

parks may be established or existing parks expanded consistent with the provisions of this title and consistent with the identical development specification and standards, including general aesthetic and architectural standards, applicable to other single-family dwelling developments in the municipality in which the park is, or is to be, located.

ARTICLE 22

OFFICE OF VICTIM SERVICES

Section 620. Declaration of policy and legislative intent.
621. Definitions.
622. Office of victim services.
623. Powers and duties of the office.
624. Eligibility.
625. Filing of claims.
625-a. Information relative to claims; application forms.
625-b. Standardized victim notification and verification procedures for police officers.
626. Out-of-pocket loss; definition.
627. Determination of claims.
629. Judicial review.
630. Emergency awards.
631. Awards.
631-a. Crime victim service programs.
632. Manner of payment.
632-a. Crime victims.
633. Confidentiality of records.
634. Subrogation.
635. Severability of provisions.
636. Community violence intervention act.

§ 620. Declaration of policy and legislative intent. The legislature recognizes that many innocent persons suffer personal physical injury or death as a result of criminal acts. Such persons or their dependents may thereby suffer disability, incur financial hardships, or become

dependent upon public assistance. The legislature finds and determines that there is a need for government financial assistance for such victims of crime. Accordingly, it is the legislature's intent that aid, care and support be provided by the state, as a matter of grace, for such victims of crime.

§ 621. Definitions. For the purposes of this article:

1. "Office" shall mean the office of victim services.

2. "Claimant" shall mean the person filing a claim pursuant to this article.

3. "Crime" shall mean (a) an act committed in New York state which would, if committed by a mentally competent criminally responsible adult, who has no legal exemption or defense, constitute a crime as defined in and proscribed by law, regardless of whether any suspect was arrested, charged, apprehended or prosecuted for the commission of the act or whether the claimant has interacted with a criminal justice agency investigating such act; or

(b) an act committed outside the state of New York against a resident of the state of New York which would be compensable had it occurred within the state of New York and which occurred in a state which does not have an eligible crime victim compensation program as such term is defined in the federal victims of crime act of 1984; or

(c) an act of terrorism, as defined in section 2331 of title 18, United States Code, committed outside of the United States against a resident of New York state.

4. "Family", when used with reference to a person, shall mean (a) any person related to such person within the third degree of consanguinity or affinity, (b) any person maintaining a sexual relationship with such person, or (c) any person residing in the same household with such person.

5. "Victim" shall mean (a) a person who suffers personal physical

injury as a direct result of a crime; (b) a person who is the victim of either the crime of (1) unlawful imprisonment in the first degree as defined in section 135.10 of the penal law, (2) kidnapping in the second degree as defined in section 135.20 of the penal law, (3) kidnapping in the first degree as defined in section 135.25 of the penal law, (4) menacing in the first degree as defined in section 120.13 of the penal law, (5) criminal obstruction of breathing or blood circulation as defined in section 121.11 of the penal law, (6) harassment in the second degree as defined in section 240.26 of the penal law, (7) harassment in the first degree as defined in section 240.25 of the penal law, (8) aggravated harassment in the second degree as defined in subdivision three or five of section 240.30 of the penal law, (9) aggravated harassment in the first degree as defined in subdivision two of section 240.31 of the penal law, (10) criminal contempt in the first degree as defined in subdivision (b) or subdivision (c) of section 215.51 of the penal law, (11) stalking in the fourth, third, second or first degree as defined in sections 120.45, 120.50, 120.55 and 120.60 of the penal law, (12) labor trafficking as defined in section 135.35 of the penal law, (13) sex trafficking as defined in section 230.34 of the penal law; or (14) sex trafficking of a child as defined in section 230.34-a of the penal law; a vulnerable elderly person or an incompetent or physically disabled person as defined in section 260.31 of the penal law who incurs a loss of savings as defined in subdivision twenty-four of this section; or a person who has had a frivolous lawsuit filed against them.

6. "Representative" shall mean one who represents or stands in the place of another person, including but not limited to an agent, an assignee, an attorney, a guardian, a committee, a conservator, a partner, a receiver, an administrator, an executor or an heir of another person, or a parent of a minor.

7. "Good samaritan" shall mean a person who, other than a law enforcement officer, acts in good faith (a) to apprehend a person who has committed a crime in his presence or who has in fact committed a felony, (b) to prevent a crime or an attempted crime from occurring, or (c) to aid a law enforcement officer in effecting an arrest.

8. "Essential personal property" shall mean articles of personal property necessary and essential to the health, welfare or safety of the victim.

9. "Elderly victim" shall mean a person sixty years of age or older who suffers loss, or damage as a direct result of a crime.

10. "Disabled victim" shall mean a person who has a physical, mental or medical impairment, as evidenced by medical records, which prevents the exercise of a normal bodily function at the time of the crime.

11. For purposes of this article "child victim" shall mean a person less than eighteen years of age who suffers physical, mental or emotional injury, or loss or damage, as a direct result of a crime or any violation listed in subdivision twelve of section six hundred thirty-one of this article, or as a result of witnessing a crime or any violation listed in subdivision twelve of section six hundred thirty-one of this article.

12. "Frivolous lawsuit" shall mean a lawsuit brought by the individual who committed a crime against the victim of the crime, found to be frivolous, meritless and commenced to harass, intimidate or menace the victim by a court and costs were imposed upon the plaintiff pursuant to section eighty-three hundred three-a of the civil practice law and rules.

13. "Crime scene cleanup" shall mean removing, or attempting to remove from the crime scene, blood, dirt, stains, debris, odors, or other impurities caused by the crime or the processing of the crime scene and the repair or replacement of permanent fixtures and floor coverings, soiled, damaged, or rendered unusable or uncleanable by the crime, the processing of the crime scene, or by being taken into evidence.

14. "Securing a crime scene" shall mean taking immediate, emergency steps to return the residence where the crime occurred to the level of safety present prior to the crime. It shall include, but not be limited to, the repair or replacement of doors, windows, screens and locks or

other points of entry damaged or rendered unusable by the crime.

15. "Livery" shall mean a for-hire vehicle duly licensed by the appropriate local licensing authority, designed to carry no more than five passengers for direct cash payment by such passenger and which is affiliated with a livery car base. The term "livery" shall not include a vehicle driven by a "black car operator", as defined in section one hundred sixty-cc of this chapter.

16. "Livery car base" shall mean a central facility, wherever located, that dispatches the livery operator to both pick-up and discharge passengers in the state.

17. "Livery operator" shall mean the registered owner of a livery, or a driver designated by such registered owner to operate the registered owner's livery as the registered owner's authorized designee, whose status as a livery operator victim arose out of and in the course of providing services while affiliated with a livery car base. The term "livery operator" shall not include a "black car operator", as defined in section one hundred sixty-cc of this chapter.

18. "Livery operator victim" shall mean a livery operator homicide victim or a livery operator assault victim.

19. "Livery operator assault victim" shall mean a livery operator who is the victim of a violent felony offense, as defined in subdivision one of section 70.02 of the penal law, which offense directly results in a serious physical injury, as defined in subdivision ten of section 10.00 of the penal law.

20. "Livery operator homicide victim" shall mean a livery operator who is the victim of a homicide, as defined in article one hundred twenty-five of the penal law.

21. "Local licensing authority" shall mean the governmental agency in the state, if any, that is authorized to license a livery and/or a livery car base.

22. "Financial counselling" shall mean financial services provided by an experienced financial counsellor or adviser which may include, but are not limited to: analysis of a victim's financial situation such as income producing capacity and crime related financial obligations, assistance with restructuring budget and debt, assistance in accessing insurance, public assistance and other benefits, assistance in completing the financial aspects of victim impact statements, and assistance in settling estates and handling guardianship matters.

23. "Relocation expenses" shall mean the cost of relocating a crime victim, when relocation is necessary for the health or safety of the victim. An award for relocation expenses of a victim shall include the reasonable cost of moving and transportation expenses for (a) the victim, which may include the relocation expenses of their spouse and any other person dependent for his or her principal support upon the victim or spouse who lives in the same residence as the victim, or (b) if the victim is a child victim eligible for such an award pursuant to this article, the child victim, which may include the relocation expenses of their parent, stepparent, guardian and any other person dependent for his or her principal support upon such parent, stepparent, and guardian who lives in the same residence as the child victim.

24. "Loss of savings" shall mean the result of any act or series of acts of larceny as defined in article one hundred fifty-five of the penal law, indicated by a criminal justice agency as defined in subdivision one of section six hundred thirty-one of this article, in which cash is stolen from a vulnerable elderly person or an incompetent or physically disabled person as defined in section 260.31 of the penal law.

* 25. "Domestic partner" shall mean a person who, with respect to another person:

(a) is formally a party in a domestic partnership or similar relationship with the other person, entered into pursuant to the laws of the United States or of any state, local or foreign jurisdiction, or registered as the domestic partner of the other person with any registry maintained by the employer of either party or any state, municipality,

or foreign jurisdiction; or

(b) is formally recognized as a beneficiary or covered person under the other person's employment benefits or health insurance; or

(c) is dependent or mutually interdependent on the other person for support, as evidenced by the totality of the circumstances indicating a mutual intent to be a domestic partner including but not limited to: common ownership or joint leasing of real or personal property; common householding, shared income or shared expenses; children in common; signs of intent to marry or become a domestic partner under paragraph (a) or (b) of this subdivision; or the length of the personal relationship of the persons.

Each party to a domestic partnership shall be considered to be the domestic partner of the other party. "Domestic partner" shall not include a person who is related to the other person by blood in a manner that would bar marriage to the other person in New York state. "Domestic partner" also shall not include any person who is less than eighteen years of age or who is the adopted child of the other person or who is related by blood in a manner that would bar marriage in New York state to a person who is the lawful spouse of the other person.

* NB There are 2 sb 25's

* 25. "Employment-related transportation expenses" shall mean the costs in excess of those normally expended by a victim to get to and from their places of employment, due to the personal physical injuries sustained as a direct result of the crime upon which the claim is based. If required by law, such places of employment shall be reported to the appropriate taxing authority. Such costs shall not include the purchase, lease or rental of a vehicle.

* NB There are 2 sb 25's

§ 622. Office of victim services. There is hereby created in the executive department the office of victim services, hereinafter in this article referred to as the "office". The office shall be headed by a director, who shall be appointed by the governor for a term of three years. The director shall coordinate and recommend policy relating to the provision of services to crime victims. The director shall appoint

staff and perform such other functions to ensure the efficient operation of the office within the amounts made available therefor by appropriation.

§ 623. Powers and duties of the office. The office shall have the following powers and duties:

1. To establish and maintain a principal office and such other offices within the state as it may deem necessary.

2. To appoint a secretary, counsel, clerks and such other employees and agents as it may deem necessary, fix their compensation within the limitations provided by law, and prescribe their duties.

3. To adopt, promulgate, amend and rescind suitable rules and regulations to carry out the provisions and purposes of this article, including rules for the determination of claims, rules for the approval of attorneys' fees for representation before the office and/or before the appellate division upon judicial review as provided for in section six hundred twenty-nine of this article, rules for the definition and reasonable reimbursement of individual items of essential personal property considered essential and necessary for the victim's welfare pursuant to section six hundred thirty-one of this article, and rules for the authorization of qualified persons to assist claimants in the preparation of claims for presentation to the office.

4. To request from the division of state police, from county or municipal police departments and agencies and from any other state or municipal department or agency, or public authority, and the same are hereby authorized to provide, such assistance and data as will enable the office to carry out its functions and duties.

5. To hear and determine all claims for awards filed with the office pursuant to this article, and to reinvestigate or reopen cases as necessary.

6. To direct medical examination of victims.

7. To hold hearings, administer oaths or affirmations, examine any person under oath or affirmation and to issue subpoenas requiring the attendance and giving of testimony of witnesses and require the production of any books, papers, documentary or other evidence. The powers provided in this subdivision may be delegated by the director to any member or employee of the office. A subpoena issued under this subdivision shall be regulated by the civil practice law and rules.

8. To take or cause to be taken affidavits or depositions within or without the state.

9. To establish and maintain a special investigative unit to expedite processing of claims by senior citizens and special emergency situations, and to promote, in consultation with the office for the aging, the establishment of a volunteer program of home visitation to elderly and invalid victims of violent crime.

10. To advise and assist the governor in developing policies designed to recognize the legitimate rights, needs and interests of crime victims.

11. To coordinate state programs and activities relating to crime victims.

12. To cooperate with and assist political subdivisions of the state and not-for-profit organizations in the development of local programs for crime victims.

13. To study the operation of laws and procedures affecting crime victims and recommend to the governor and legislature proposals to improve the administration and effectiveness of such laws.

14. To establish an advisory council to assist in formulation of policies on the problems of crime victims and to provide recommendations to the director to improve the delivery of services to victims by the

office.

15. To work with national associations, statewide coalitions, regional coalitions, victim service providers, and other advocates to address and advance the rights and interests of crime victims of the state.

16. To promote and conduct studies, research, analyses and investigations of matters affecting the interests of crime victims.

17. To coordinate training opportunities for crime victim advocates and service providers.

18. To serve as a clearinghouse for information relating to crime victims' problems and programs.

19. To accept, with the approval of the governor, as agent of the state, any grant including, but not limited to any periodic federal grants which support the purposes of this article and any federal emergency assistance grants to supplement the office's available resources when responding to mass shootings as defined in subdivision eleven of section eight hundred thirty-five of this chapter or any other incident of terrorism or mass violence, any fines or penalties imposed pursuant to section three hundred forty-one or three hundred forty-two-a of the general business law and made payable to the office pursuant to section three hundred forty-seven-a of such law, or any gift for the purposes of this article. Any monies so received may be expended by the office to effectuate any purpose of this article, subject to the applicable provisions of the state finance law.

20. To render each year to the governor and to the legislature, on or before December first of each year, a written report on the office's activities including, but not limited to, specific information on each of the subdivisions of this section. Such report shall also include but not be limited to information regarding crime victim service programs, including:

(1) the programs funded by the office;

(2) other sources of funding for crime victims service programs;

(3) an assessment of the adequacy of the current level of appropriation to the office to meet the reasonable needs of crime victims service programs for funding under section six hundred thirty-one-a of this article; and

(4) an estimate of the reasonable needs of programs in the next fiscal year.

21. To render biennially to the governor and the legislature a written report on the manner in which the rights, needs and interests of crime victims are being addressed by the state's criminal justice system to include, but not be limited to:

(a) Information transmitted by the state office of probation and correctional alternatives under subdivision five of section 390.30 of the criminal procedure law and subdivision seven of section 351.1 of the family court act which the board shall compile, review and make recommendations on how to promote the use of restitution and encourage its enforcement.

(b) Information relating to the implementation of and compliance with article twenty-three of this chapter by the criminal justice agencies and the "crime victim-related agencies" of the state.

22. To make grants to local crime victim service programs and carry out related duties under section six hundred thirty-one-a of this article.

23. To delegate to specified employees of the office the power to disallow claims under circumstances where regulations of the office provide for disallowance without prejudice to the reopening of claims.

§ 624. Eligibility. 1. Except as provided in subdivision two of this section, the following persons shall be eligible for awards pursuant to this article:

(a) a victim of a crime;

(b) a surviving spouse, domestic partner, grandparent, parent, stepparent, guardian, brother, sister, stepbrother, stepsister, child, stepchild or grandchild of a victim of a crime who died as a direct

result of such crime;

(c) any other person dependent for his principal support upon a victim of a crime who died as a direct result of such crime;

(d) any person or business represented by a person who has paid for or incurred the burial expenses of a victim who died as a direct result of such crime, except such person shall not be eligible to receive an award for other than burial expenses unless otherwise eligible under paragraph (a), (b) or (c) of this subdivision;

(e) an elderly victim of a crime;

(f) a disabled victim of a crime;

(g) a child victim of a crime;

(h) a parent, stepparent, grandparent, guardian, brother, sister, stepbrother or stepsister of a child victim of a crime;

(i) a surviving spouse of a crime victim who died from causes not directly related to the crime when such victim died prior to filing a claim with the office or subsequent to filing a claim but prior to the rendering of a decision by the office. Such award shall be limited to out-of-pocket loss incurred as a direct result of the crime;

(j) a spouse, child or stepchild of a victim of a crime who has sustained personal physical injury as a direct result of a crime;

(k) a surviving spouse, grandparent, parent, stepparent, guardian, sibling, stepsibling, child, stepchild, or grandchild of a victim of a crime who died as a direct result of such crime and where such crime occurred in the residence shared by such family member or members and the victim; and

(l) any person not otherwise eligible under this subdivision who has paid for or incurred the crime scene cleanup expenses, provided that such person shall only be eligible to receive an award under this article for crime scene cleanup.

2. A person who is criminally responsible for the crime upon which a claim is based or an accomplice of such person shall not be eligible to receive an award with respect to such claim. A member of the family of a person criminally responsible for the crime upon which a claim is based or a member of the family of an accomplice of such person, shall be eligible to receive an award, unless the office determines pursuant to regulations promulgated to carry out the provisions and purposes of this

article, that the person criminally responsible will receive substantial economic benefit or unjust enrichment from the compensation. In such circumstances the award may be reduced or structured in such way as to remove the substantial economic benefit or unjust enrichment to such person or the claim may be denied.

§ 625. Filing of claims. 1. A claim may be filed by a person eligible to receive an award, as provided in section six hundred twenty-four of this article, or, if such person is under the age of eighteen years, an incompetent, or a conservatee, by his relative, guardian, committee, conservator, or attorney.

2. A claim must be filed by the claimant not later than three years after the occurrence or discovery of the crime upon which such claim is based, three years after a court finds a lawsuit to be frivolous, or not later than three years after the death of the victim, provided, however, that upon good cause shown, the office may extend the time for filing. The office shall extend the time for filing where the claimant received no notice pursuant to section six hundred twenty-five-a of this article and had no knowledge of eligibility pursuant to section six hundred twenty-four of this article.

3. Claims shall be filed in person, by mail or electronically, in such manner as the office may prescribe. The office shall accept for filing all claims submitted by persons eligible under subdivision one of this section and alleging the jurisdictional requirements set forth in this article and meeting the requirements as to form in the rules and regulations promulgated to carry out the provisions and purposes of this article.

4. Upon the filing of a claim pursuant to this article, the office shall promptly notify the district attorney of the county wherein the crime is alleged to have occurred, provided however, that in such cases in which the crime victim reported to a support agency that is also a victim services provider as defined in clause (B) of subparagraph (iii) of paragraph (c) of subdivision one of section six hundred thirty-one of

this article, the office shall not make any such notification. If, within ten days after such notification, such district attorney advises the office that a criminal prosecution is pending upon the same alleged crime and requests that action by the office be deferred, the office shall defer all proceedings under this article until such time as such criminal prosecution has been concluded and shall so notify such district attorney and the claimant. When such criminal prosecution has been concluded, such district attorney shall promptly so notify the office. Nothing in this section shall limit the authority of the office to grant emergency awards pursuant to section six hundred thirty of this article.

§ 625-a. Information relative to claims; application forms. 1. Every police station, precinct house, any appropriate location where a crime may be reported and any location required by the rules and regulations of the office shall have available informative booklets, pamphlets and other pertinent written information, including information cards, to be supplied by the office, relating to the availability of crime victims compensation including all necessary application blanks required to be filed with the office and shall display prominently posters giving notification of the existence and general provisions of this article, those provisions of the penal law that prohibit the intimidation of crime victims and the location of the nearest crime victim service program. The office may issue guidelines for the location of such display and shall provide posters, application forms, information cards and general information. Every victim who reports a crime in any manner whatsoever shall be given notice about the rights of crime victims and the existence of all relevant local victim's assistance programs and services pursuant to section six hundred twenty-five-b of this article, and supplied by the person receiving the report with information, application blanks, and information cards which shall clearly state: (a) that crime victims may be eligible for state compensation benefits; (b) the address and phone number of the office; (c) that police and district attorneys can help protect victims against harassment and intimidation; (d) the addresses and phone numbers of local victim service programs, where appropriate, or space for inserting that information; or (e) any

other information the office deems appropriate. Such cards shall be designed by the office in consultation with local police, and shall be printed and distributed by the office. The office shall develop a system for distributing a sufficient supply of the information cards referred to in this subdivision, to all the appropriate designated locations, which shall include a schedule for meeting that requirement.

1-a. Every general hospital established under the laws of this state, which maintains facilities for providing out-patient emergency medical care, shall display prominently in its emergency room posters giving notification of the existence and general provisions of this chapter. The board may issue guidelines for the location of such display and shall provide posters, application forms and general information regarding the provision of this chapter to each such hospital.

2. No cause of action of whatever nature or kind arising out of a failure to give or receive the notice required by this section shall accrue to any person against the state or any of its agencies or local subdivisions, or, any police officer or other agent, servant or employee thereof, or any hospital or agents or employees thereof, nor shall any such failure be deemed or construed to affect or alter any time limitation or other requirement contained in this article for the filing or payment of a claim hereunder.

§ 625-b. Standardized victim notification and verification procedures for police officers. 1. The commissioner of the division of criminal justice services in cooperation with the office shall develop and implement a standardized procedure to be used by police officers, county sheriffs' departments and state police officers whereby victims of crime are notified about the rights of crime victims and the existence of programs designed to assist crime victims.

2. In establishing a victims assistance notification procedure, consideration shall be given to (a) developing a uniform method of informing victims of crime of their rights and services available, (b) including notification as part of a routine task performed in the course

of law enforcement duties, and (c) documenting a victim's receipt of such notice.

3. All state or municipal printed forms for a police primary investigation report shall include a space to indicate that the victim did or did not receive information on victim's rights, office of victim services assistance and relevant local assistance pursuant to subdivision one of section six hundred twenty-five-a of this article.

4. In addition, the commissioner of the division of criminal justice services, in cooperation with the office, shall develop and implement a standardized procedure to be used by police officers, county sheriffs' departments and state police officers whereby family members and dependents who may be eligible to receive awards under this article are notified about the existence of such awards and the existence of any other relevant services or programs.

§ 626. Out-of-pocket loss; definition. 1. Out-of-pocket loss shall mean unreimbursed and unreimbursable expenses or indebtedness reasonably incurred for medical care or other services necessary as a result of the injury upon which such claim is based, including such expenses incurred as a result of the exacerbation of a pre-existing disability or condition directly resulting from the crime or causally related to the crime. Such expenses or indebtedness shall include the cost of counseling for the eligible spouse, domestic partner, grandparents, parents, stepparents, guardians, brothers, sisters, stepbrothers, stepsisters, children, stepchildren or grandchildren of a homicide victim, and crime victims who have sustained a personal physical injury as the direct result of a crime and the spouse, children or stepchildren of such physically injured victim. For the purposes of this subdivision, the victim of a sex offense as defined in article one hundred thirty of the penal law is presumed to have suffered physical injury. Such counseling may be provided by local victim service programs, where available. It shall also include the cost of residing at or utilizing services provided by shelters for battered spouses and children who are eligible pursuant to subdivision two of section six hundred twenty-four

of this article, and the cost of reasonable attorneys' fees for representation before the office and/or before the appellate division upon judicial review not to exceed one thousand dollars.

2. Out-of-pocket loss shall also include the cost of counseling for a child victim and the parent, stepparent, grandparent, guardian, brother, sister, stepbrother or stepsister of such victim, pursuant to regulations promulgated to carry out the provisions and purposes of this article.

3. Notwithstanding any inconsistent provision of this article, and without regard to the financial difficulty of the claimant, out-of-pocket loss also shall include the cost of unreimbursed and unreimbursable counseling expense or indebtedness reasonably incurred by relief workers who worked at the World Trade Center site in the immediate aftermath of the September eleventh, two thousand one terrorist attacks, or incurred by individuals who personally witnessed such attacks, where such counseling expense or indebtedness is incurred as a direct result of such work or of the witnessing of such attacks, and is incurred on or before December thirty-first, two thousand seven.

§ 627. Determination of claims. 1. The office shall determine claims in accordance with rules and regulations promulgated by the director. Such rules and regulations must provide for:

(a) written notification to an applying victim of their right to representation by counsel, as well as their potential eligibility for an award of attorney's fees pursuant to subdivision one of section six hundred twenty-six of this article;

(b) administrative procedures regarding the intake and initial processing of claims, including mandatory timelines for the initiation of investigation of a properly filed claim;

(c) the investigation and determination of claims regardless of whether the alleged criminal has been arrested, charged, apprehended or prosecuted for or convicted of any crime based upon the same incident, or has been acquitted, or found not guilty of the crime in question owing to criminal irresponsibility or other legal exemption;

(d) the rebuttable presumption that a child reported missing for a time period exceeding seven days is a victim of a crime;

(e) the generation of a written decision for each properly filed claim, and written notice to the claimant of the written decision and their right to a copy of such a decision, as well as any rights to appeal that the claimant may have of the decision and a projected date of payment in the case of an award to the claimant;

(f) expedited determination of claims with respect to a livery operator within thirty days of the date upon which the claim was accepted for filing, as well as standards for awards of loss of earnings or support granted pursuant to rules and regulations promulgated in accordance with the provisions of this subdivision and subdivision three of section six hundred thirty-one of this article. Each award for loss of earnings pursuant to rules and regulations promulgated in accordance with this subdivision made with respect to a claim involving a livery operator assault victim shall be for such period of time as the office determines that the livery operator assault victim is unable to work and has lost earnings as a result of such assault, in an amount not to exceed twenty thousand dollars. Such award shall be distributed in increments of five hundred dollars per week. Each award for loss of support pursuant to rules and regulations promulgated in accordance with this subdivision made with respect to a claim involving a livery operator homicide victim shall be in the amount of twenty thousand dollars, distributed in increments of five hundred dollars per week; and

(g) provisions for any claimant to submit an additional claim for any loss of earnings or support in excess of the amount awarded pursuant to rules and regulations in accordance with paragraph (f) of this subdivision, or an additional claim for any other award pursuant to rules and regulations promulgated in accordance with this article, in each case pursuant to and in accordance with the other provisions of this article or any rules and regulations promulgated in accordance thereof and subject to any applicable maximum award limitations contained in this article.

2. The claimant may, within thirty days after receipt of the decision of the office regarding a claim, make an application in writing to the director of the office for reconsideration of such decision. The

director, or his or her designee, shall consider such applications in accordance with rules and regulations promulgated by the director and may affirm or modify the decision. The decision of the director, or his or her designee, shall become the final determination of the office regarding the claim.

§ 629. Judicial review. 1. Within fifteen days after receipt of the copy of the report containing the final decision of the office, the comptroller shall, if in his judgment the award is illegal or excessive, notify the office of his conclusion, state the reasons for that conclusion, and provide specific recommendations for modification. Upon receiving such notification, the office shall have fifteen days within which to review and either modify or re-affirm its award. If after such modification or reaffirmation the comptroller continues to adjudge the award to be illegal or excessive, he may within fifteen days after receipt of such modification or reaffirmation, commence a proceeding in the appellate division of the supreme court, third department, to review the decision of the office. Such proceeding shall be heard in a summary manner and shall have precedence over all other civil cases in such court. Any claimant aggrieved by a final decision of the office may commence a proceeding to review that decision pursuant to article seventy-eight of the civil practice law and rules.

2. Any such proceeding shall be commenced in accordance with the civil practice law and rules.

§ 630. Emergency awards. 1. Notwithstanding the provisions of section six hundred twenty-seven of this article, if it appears to the office, that such claim is one with respect to which an award probably will be made, and undue hardship will result to the claimant if immediate payment is not made, the office may make one or more emergency awards to the claimant pending a final decision of the office or payment of an award in the case, provided, however, that the total amount of such emergency awards shall not exceed twenty-five hundred dollars. The amount of such emergency awards shall be deducted from any final award

made to the claimant, and the excess of the amount of any such emergency award over the amount of the final award, or the full amount of any emergency awards if no final award is made, shall be repaid by the claimant to the office.

2. Notwithstanding the provisions of subdivision one of this section, if the crime upon which the claim is based resulted in the death of the victim, and it appears to the office that such claim is one with respect to which an award probably will be made, and undue hardship will result to the claimant if immediate payment is not made, the office may make one or more emergency awards to the claimant for reasonable burial expenses pending a final decision of the office or payment of an award in the case; provided, however, that the total amount of an emergency award or awards for reasonable burial expenses shall not exceed six thousand dollars. The amount of such emergency award or awards shall be deducted from any final award made to the claimant, and the excess of the amount of any such award or awards over the amount of the final award, of the full amount of an emergency award or awards if no final award is made, shall be repaid by the claimant to the office.

§ 631. Awards. 1. (a) No award shall be made unless the office finds that: (i) a crime was indicated by the records of a support agency for survivors of crime or the records of a criminal justice agency; (ii) such crime directly resulted in personal physical injury to or the exacerbation of a preexisting disability, or condition, or death of, the victim; and (iii) the records of a support agency for survivors of crime or the records of a criminal justice agency show that such crime was reported.

(b) For the purposes of this subdivision, "criminal justice agency" shall include, but not be limited to, a police department, a district attorney's office, and any other governmental agency having responsibility for the enforcement of the criminal laws of the state.

(c) For the purposes of this subdivision a "support agency for survivors of crime" or any derivative term thereof shall include:

(i) a governmental agency responsible for child and/or adult protective services pursuant to title six of article six of the social

services law and/or title one of article nine-B of the social services law, and any medical facility established under the laws of the state that provides a forensic physical examination for victims of rape and sexual assault; or

(ii) in cases involving any sex offense or family offense a support agency for survivors of crime shall also include a family court; or

(iii) in cases where a physically injured claimant and/or victim is unable to report to or otherwise cooperate with a criminal justice agency because of the victim's age, physical condition, psychological state, cultural or linguistic barriers, or any other health or safety concern that jeopardizes the victim's wellbeing, a support agency for survivors of crime shall also include:

(A) a court which issued a temporary or permanent restraining order or protective order against the party or parties alleged to have committed the crime against the victim, or

(B) a "victim services provider" which shall mean a city or state contracted victim service provider who has provided services to the victim of the crime, or other eligible claimants as identified in section six hundred twenty-four of this article, or a licensed medical or mental health services provider providing care to a victim of crime within their licensed discipline and who can attest that the victim of a crime suffered a personal physical injury related to or connected to the crime upon which the claim is based.

1-a. No award shall be made for a frivolous lawsuit unless the office finds that the victim has been awarded costs pursuant to section eighty-three hundred three-a of the civil practice law and rules and the individual responsible for the payment of costs is unable to pay such costs provided, however, that in no event shall the amount of such costs exceed two thousand five hundred dollars.

1-b. Where supporting evidence under subdivision one of this section is provided by any victim services provider, pursuant to clause (B) of subparagraph (iii) of paragraph (c) of subdivision one of this section, (a) a provider which is a city or state contracted victim service provider shall attest that (i) such provider and any entity associated with such provider does not have a pecuniary interest in the outcome of

the claim, but if so, (ii) a referral shall be made from such provider and any entity associated with such provider immediately upon the decision of the office, and (iii) it is understood that no contractual reimbursements or other payments shall be made by the office to the provider and any entity associated with such provider for any crime related services provided to that victim after such decision by the office, and (b) all victim services providers, pursuant to clause (B) of subparagraph (iii) of paragraph (c) of subdivision one of this section shall also attest that the victim's injuries are the result of a crime.

1-c. In the event that inconsistent reports among two or more support agencies for survivors of crime exist for the same incident, the office shall consider the totality of the circumstances among all reports in the light most favorable to the victim and/or claimant, in order to accomplish the purpose of this article.

2. Any award made pursuant to this article shall be in an amount not exceeding out-of-pocket expenses, including indebtedness reasonably incurred for medical or other services necessary as a result of the injury upon which the claim is based; loss of earnings or support resulting from such injury not to exceed thirty thousand dollars; loss of savings not to exceed thirty thousand dollars; burial expenses not exceeding twelve thousand dollars of a victim who died on or after November first, nineteen ninety-six as a direct result of a crime; the costs of crime scene cleanup and securing of a crime scene not exceeding twenty-five hundred dollars; reasonable relocation expenses not exceeding twenty-five hundred dollars; reasonable employment-related transportation expenses, not exceeding twenty-five hundred dollars and the unreimbursed cost of repair or replacement of articles of essential personal property lost, damaged or destroyed as a direct result of the crime. An award for loss of earnings shall include earnings lost by a parent or guardian as a result of the hospitalization of a child victim under age eighteen for injuries sustained as a direct result of a crime. In addition to the medical or other services necessary as a result of the injury upon which the claim is based, an award may be made for rehabilitative occupational training for the purpose of job retraining or similar employment-oriented rehabilitative services based upon the

claimant's medical and employment history. For the purpose of this subdivision, rehabilitative occupational training shall include but not be limited to educational training and expenses. An award for rehabilitative occupational training may be made to a victim, or to a family member of a victim where necessary as a direct result of a crime. An award for employment-related transportation expenses shall be limited to the time period necessary due to the personal physical injuries sustained as a direct result of the crime upon which the claim is based, as determined by the medical information collected during the investigation of the claim.

3. Any award made for loss of earnings or support shall, unless reduced pursuant to other provisions of this article, be in an amount equal to the actual loss sustained, provided, however, that no such award shall exceed six hundred dollars for each week of lost earnings or support. Awards with respect to livery operator victims pursuant to paragraphs (f) and (g) of subdivision one of section six hundred twenty-seven of this article shall be granted in the amount and in the manner provided therein. The aggregate award for all such losses pursuant to this subdivision, including any awards made pursuant to paragraphs (f) and (g) of subdivision one of section six hundred twenty-seven of this article, shall not exceed thirty thousand dollars. If there are two or more persons entitled to an award as a result of the death of a person which is the direct result of a crime, the award shall be apportioned by the office among the claimants.

3-a. Any award made for loss of savings shall, unless reduced pursuant to other provisions of this article, be in an amount equal to the actual loss sustained.

4. Any award made pursuant to this article shall be reduced by the amount of any payments received or to be received by the claimant as a result of the injury (a) from or on behalf of the person who committed the crime, (b) under insurance programs mandated by law, (c) from public funds, (d) under any contract of insurance wherein the claimant is the insured or beneficiary, (e) as an emergency award pursuant to section six hundred thirty of this article. Notwithstanding the foregoing, where

the person injured is a livery operator victim, because undue hardship may result to the claimant if immediate payment is not made, any award pursuant to paragraphs (f) and (g) of subdivision one of section six hundred twenty-seven of this article shall be granted without reduction for workers' compensation benefits to be received, if any.

5. (a) Except as provided in paragraph (g) of this subdivision, in determining the amount of an award, the office shall determine whether, because of such victim's conduct, the victim of such crime contributed to the infliction of such victim's injury, and the office shall reduce the amount of the award or reject the claim altogether, in accordance with such determination.

(b) Notwithstanding the provisions of paragraph (a) of this subdivision, the office shall disregard for this purpose the responsibility of the victim for such victim's own injury where the record shows that the person injured was acting as a good samaritan, as defined in this article.

(c) Notwithstanding any inconsistent provision of this article, where the person injured acted as a good samaritan, the office may, without regard to the financial difficulty of the claimant, make an award for out-of-pocket losses. Such award may also include compensation for any loss of property up to five thousand dollars suffered by the victim during the course of such victim's actions as a good samaritan.

(d) Notwithstanding any inconsistent provision of this article, where a person acted as a good samaritan, and was killed as a direct result of the crime, the office may, without regard to the financial difficulty of the claimant, make a lump sum award to such claimant for actual loss of support not to exceed thirty thousand dollars.

(e) Notwithstanding any inconsistent provision of this article, where a police officer or firefighter, both paid and volunteer, dies from injuries received in the line of duty as a direct result of a crime, the office may, without regard to the financial difficulty of the claimant, make an award for the unreimbursed counseling expenses of the eligible spouse, domestic partner, parents, siblings or children of such victim, and/or the reasonable burial expenses incurred by the claimant.

(f) Notwithstanding the provisions of paragraph (a) of this subdivision, the office shall disregard for this purpose the

responsibility of the victim for such victim's own loss of savings.

(g) Notwithstanding the provisions of paragraph (a) of this subdivision, when determining a claim made by a person eligible under paragraph (b), (c) or (d) of subdivision one of section six hundred twenty-four of this article, if the crime upon which the claim is based resulted in the death of the victim, the office shall not consider whether, because of their conduct, the victim of such crime contributed to their death.

6. (a) Claims may be approved only if the office finds that unless the claimant's award is approved he or she will suffer financial difficulty. However, no finding of financial difficulty is required for a claim for an emergency award or an award less than ten thousand dollars. In determining financial difficulty, the office shall consider all relevant factors, including but not limited to:

(1) the number of claimant's dependents;

(2) reasonable living expenses of the claimant and his family;

(3) any special health, rehabilitative or educational needs of the claimant and his dependents;

(4) the claimant's employment situation including income and potential earning capacity;

(5) the claimant's net financial resources after authorized deduction as provided in paragraphs (b) and (c) of this subdivision;

(6) whether claimant's financial resources will become exhausted during his lifetime; and

(7) the nature and the amount of claimant's total debt and liabilities, including the amount of debt incurred or to be incurred to pay for losses and expenses of the crime, and the extent to which claimant's essential assets will have to be liquidated.

(b) Claimant's net financial resources do not include the present value of future earnings, and shall be determined by the office by deducting from his total financial resources the value, within reasonable limits, of the following items:

(1) a homestead, not exceeding five hundred thousand dollars, or a total of ten years' rent for a renter;

(2) personal property consisting of clothing and strictly personal effects;

(3) household furniture, appliances and equipment;

(4) tools and equipment necessary for the claimant's trade, occupation or business;

(5) a family automobile;

(6) life insurance, except in death claims; and

(7) retirement, education and health plans or contributions to a retirement or pension program including but not limited to contributions to: (i) employee profit sharing plans, (ii) employee money purchase plans, (iii) 401 (k) plans, (iv) simplified employee pensions (SEP), (v) individual retirement accounts (IRA), (vi) 403 (b) plans, (vii) 457 plans, (viii) Keogh plans, (self employed), and (ix) any other plan or account for which contributions are made primarily for retirement purposes.

(c) The office, after taking into consideration the claimant's financial resources, may exempt that portion of the victim's or claimant's annual income required to meet reasonable living expenses and the value of inventory or other property necessary for the claimant's business or occupation or the production of income required to meet reasonable living expenses. In no event shall the aggregate value of exemptions under this paragraph exceed one hundred thousand dollars.

(d) Nothing contained in this subdivision shall be construed to mean that the office must maintain the same standard of living enjoyed by the claimant prior to the death or injury.

(e) The director shall promulgate such rules and regulations as are necessary for the implementation of this section.

7. Notwithstanding the provisions of subdivision six of this section, an award shall include out-of-pocket expenses, including indebtedness reasonably incurred by the victim of a sex offense or the person responsible for the victim of such sex offense, as such sex offense is defined in article one hundred thirty of the penal law, for a hospital or medical examination in connection with the investigation or prosecution of any such offense.

8. Notwithstanding the provisions of subdivisions one, two and three of this section, an elderly or disabled victim who has not been physically injured as a direct result of a crime, shall only be eligible

for an award that includes the unreimbursed cost of repair or replacement of essential personal property that has been lost, damaged or destroyed as a direct result of a crime, transportation expenses incurred for necessary court appearances in connection with the prosecution of such crimes and the unreimbursed cost of counselling provided to the elderly or disabled victim on account of mental or emotional stress or financial counselling provided to the elderly or disabled victim on account of financial difficulty resulting from the incident in which the crime occurred if such counselling or financial counselling is commenced within one year from the date of the incident. For purposes of this subdivision, "necessary court appearances" shall include, but not be limited to, any part of trial from arraignment through sentencing, pre and post trial hearings and grand jury hearings.

8-a. Notwithstanding the provisions of subdivision one of this section, a vulnerable elderly person or an incompetent or physically disabled person, as defined in section 260.31 of the penal law, who has not been physically injured as a direct result of a crime, shall be eligible for an award that includes loss of savings.

9. (a) Any award made for the cost of repair or replacement of essential personal property, including cash losses of essential personal property, shall be limited to an amount of twenty-five hundred dollars, except that all cash losses of essential personal property shall be limited to the amount of one hundred dollars. In the case of medically necessary life-sustaining equipment which was lost or damaged as the direct result of a crime, the award shall be limited to the amount of ten thousand dollars.

(b) Notwithstanding the provisions of paragraph (a) of this subdivision, in the case of cash losses which were the result of an act or series of acts of larceny as defined in article one hundred fifty-five of the penal law, perpetrated by the same actor indicated by a report or reports obtained from a criminal justice agency as defined in subdivision one of this section, and a receipt, receipts or similar documentation is provided showing such cash loss or losses, a single claim may be filed and an award may be made for cash losses of essential personal property for each act up to a cumulative amount of no more than

twenty-five hundred dollars.

10. Notwithstanding any contrary provision of law, an award shall include reasonable transportation expenses incurred for necessary court appearances in connection with the prosecution of such crimes upon which the claim is based. For purposes of this subdivision, "necessary court appearances" shall include but not be limited to any part of a proceeding from arraignment through sentencing, pre and post trial hearings and grand jury hearings.

11. Notwithstanding the provisions of subdivisions one, two and three of this section, an individual who was a victim of either the crime of: menacing in the second degree as defined in subdivision one of section 120.14 of the penal law; menacing in the third degree as defined in section 120.15 of the penal law; reckless endangerment in the second degree as defined in section 120.20 of the penal law; reckless endangerment in the first degree as defined in section 120.25 of the penal law; unlawful imprisonment in the first degree as defined in section 135.10 of the penal law; kidnapping in the second degree as defined in section 135.20 of the penal law; kidnapping in the first degree as defined in section 135.25 of the penal law; criminal mischief in the fourth degree as defined in subdivision four of section 145.00 of the penal law; robbery in the third degree as defined in section 160.05 of the penal law; robbery in the second degree as defined in subdivision one, paragraph (b) of subdivision two or subdivision three of section 160.10 of the penal law; robbery in the first degree as defined in subdivisions two, three and four of section 160.15 of the penal law; unlawful surveillance in the second degree as defined in section 250.45 of the penal law; or unlawful surveillance in the first degree as defined in section 250.50 of the penal law who has not been physically injured as a direct result of such crime shall only be eligible for an award that includes loss of earnings, the unreimbursed cost of crime scene cleanup and securing a crime scene, and the unreimbursed costs of counseling provided to such victim on account of mental or emotional stress resulting from the incident in which the crime occurred.

12. Notwithstanding the provisions of subdivisions one, two and three

of this section, an individual who was a victim of either the crime of menacing in the second degree as defined in subdivision two or three of section 120.14 of the penal law, menacing in the first degree as defined in section 120.13 of the penal law, criminal obstruction of breathing or blood circulation as defined in section 121.11 of the penal law, harassment in the second degree as defined in section 240.26 of the penal law, harassment in the first degree as defined in section 240.25 of the penal law, aggravated harassment in the second degree as defined in subdivision three or five of section 240.30 of the penal law, aggravated harassment in the first degree as defined in subdivision two of section 240.31 of the penal law, criminal contempt in the first degree as defined in subdivision (b) or subdivision (c) of section 215.51 of the penal law, or stalking in the fourth, third, second or first degree as defined in sections 120.45, 120.50, 120.55 and 120.60 of the penal law, respectively, or unlawful dissemination or publication of an intimate image as defined in section 245.15 of the penal law, or dissemination of an unlawful surveillance image in the second or first degree as defined in sections 250.55 and 250.60 of the penal law, respectively, or a hate crime as defined in section 485.05 of the penal law who has not been physically injured as a direct result of such crime shall only be eligible for an award that includes loss of earning or support, the unreimbursed cost of repair or replacement of essential personal property that has been lost, damaged or destroyed as a direct result of such crime, the unreimbursed cost for security devices to enhance the personal protection of such victim, the cost of residing at or utilizing services provided by shelters for battered spouses and children as provided in subdivision one of section six hundred twenty-six of this article, transportation expenses incurred for necessary court appearances in connection with the prosecution of such crime, the unreimbursed costs of counseling provided to such victim on account of mental or emotional stress resulting from the incident in which the crime occurred, the unreimbursed cost of crime scene cleanup and securing a crime scene, reasonable relocation expenses, and for occupational or job training. For purposes of this subdivision, "necessary court appearances" shall include, but not be limited to, any part of trial from arraignment through sentencing, pre and post trial hearings and grand jury hearings.

13. * (a) Notwithstanding any other provision of law, rule, or regulation to the contrary, when any New York state accredited hospital, accredited sexual assault examiner program, or licensed health care provider furnishes services to any sexual assault survivor, including but not limited to a health care forensic examination in accordance with the sex offense evidence collection protocol and standards established by the department of health, such hospital, sexual assault examiner program, or licensed healthcare provider shall provide such services to the person without charge and shall bill the office directly. The office, in consultation with the department of health, shall define the specific services to be covered by the sexual assault forensic exam reimbursement fee, which must include at a minimum forensic examiner services, hospital or healthcare facility services related to the exam, and any necessary related laboratory tests or pharmaceuticals based upon the department of health's Medicaid reimbursement rates; including but not limited to HIV post-exposure prophylaxis provided by a hospital emergency room at the time of the forensic rape examination pursuant to paragraph (c) of subdivision one of section twenty-eight hundred five-i of the public health law. The office, in consultation with the department of health, shall also generate the necessary forms for the direct reimbursement procedure and regulations setting the usual and customary rates for the itemized charges related to an exam of a sexual assault survivor.

* NB Effective until May 9, 2027

* (a) Notwithstanding any other provision of law, rule, or regulation to the contrary, when any New York state accredited hospital, accredited sexual assault examiner program, or licensed health care provider furnishes services to any sexual assault survivor, including but not limited to a health care forensic examination in accordance with the sex offense evidence collection protocol and standards established by the department of health, such hospital, sexual assault examiner program, or licensed healthcare provider shall provide such services to the person without charge and shall bill the office directly. The office, in consultation with the department of health, shall define the specific services to be covered by the sexual assault forensic exam reimbursement fee, which must include at a minimum forensic examiner services,

hospital or healthcare facility services related to the exam, and any necessary related laboratory tests or pharmaceuticals based upon the department of health's Medicaid reimbursement rates; including but not limited to HIV post-exposure prophylaxis provided by a hospital emergency room at the time of the forensic rape examination pursuant to paragraph (f) of subdivision one of section twenty-eight hundred five-i of the public health law. The office, in consultation with the department of health, shall also generate the necessary forms for the direct reimbursement procedure and regulations setting the usual and customary rates for the itemized charges related to an exam of a sexual assault survivor.

* NB Effective May 9, 2027

(b) The rate for reimbursement shall be the amount of itemized charges, to be reimbursed at the usual and customary rates as established pursuant to this subdivision and which shall cumulatively not exceed (1) eight hundred dollars for an exam of a sexual assault survivor where no sexual offense evidence collection kit is used; (2) one thousand two hundred dollars for an exam of a sexual assault survivor where a sexual offense evidence collection kit is used; and (3) two thousand five hundred dollars for an exam of a sexual assault survivor, with or without the use of a sexual offense evidence collection kit, and with the provision of the full regimen of necessary HIV post-exposure prophylaxis. The hospital, sexual assault examiner program, or licensed health care provider must accept this fee as payment in full for these specified services. No additional billing of the survivor for said services is permissible. A sexual assault survivor may voluntarily assign any private insurance benefits to which they are entitled for the healthcare forensic examination, in which case the hospital or healthcare provider may not charge the office; provided, however, in the event the sexual assault survivor assigns any private health insurance benefit, such coverage shall not be subject to annual deductibles or coinsurance or balance billing by the hospital, sexual assault examiner program or licensed health care provider. A hospital, sexual assault examiner program or licensed health care provider shall, at the time of the initial visit, request assignment of any private health insurance benefits to which the sexual assault survivor is entitled on a form prescribed by the office; provided, however, such

sexual assault survivor shall be advised orally and in writing that they may decline to provide such information regarding private health insurance benefits if they believe that the provision of such information would substantially interfere with their personal privacy or safety and in such event, the sexual assault forensic exam fee shall be paid by the office. Such sexual assault survivor shall also be advised that providing such information may provide additional resources to pay for services to other sexual assault victims. Such sexual assault survivor shall also be advised that the direct reimbursement program established by this subdivision does not automatically make them eligible for any other compensation benefits available from the office including, but not limited to, reimbursement for mental health counseling expenses, relocation expenses, and loss of earnings, and that such compensation benefits may only be made available to them should the sexual assault survivor or other person eligible to file pursuant to section six hundred twenty-four of this article, file a compensation application with the office. If such sexual assault survivor declines to provide such health insurance information, they shall indicate such decision on the form provided by the hospital, sexual assault examiner program or licensed health care provider, which form shall be prescribed by the office.

14. Notwithstanding any inconsistent provision of this article, where a victim dies from injuries received as a direct result of the World Trade Center terrorist attacks on September eleventh, two thousand one, the office may make an award for the unreimbursed and unreimbursable expense or indebtedness reasonably incurred for the cost of counseling for the eligible spouse, grandparents, parents, stepparents, guardians, brothers, sisters, stepbrothers, stepsisters, children, or stepchildren of such victim. Any award for such expense incurred on or before December thirty-first, two thousand seven, shall be made without regard to the financial difficulty of the claimant.

15. Notwithstanding any inconsistent provision of this article, where a victim is injured as a direct result of the World Trade Center terrorist attacks on September eleventh, two thousand one, the office may make an award for the unreimbursed and unreimbursable expense or

indebtedness reasonably incurred by the claimant for medical care or counseling services necessary as a result of such injury. Any award for such expense or indebtedness incurred on or before December thirty-first, two thousand seven, shall be made without regard to the financial difficulty of the claimant.

16. Notwithstanding any inconsistent provision of this article, and without regard to the financial difficulty of the claimant, where a victim dies from injuries received as a direct result of the World Trade Center terrorist attacks on September eleventh, two thousand one, the office may make an award of reasonable burial expenses for such victim.

17. Notwithstanding the provisions of subdivision one of this section, where a child victim has not been physically injured as a direct result of a crime or any violation listed in subdivision twelve of this section, or has witnessed a crime or any violation listed in subdivision twelve of this section in which no physical injury occurred, the claimant shall only be eligible for an award that includes the unreimbursed cost of repair or replacement of essential personal property of the child victim that has been lost, damaged or destroyed as a direct result of a crime or any violation listed in subdivision twelve of this section, transportation expenses incurred by the claimant for necessary court appearances of the child victim in connection with the prosecution of such crimes, and, if counseling is commenced within one year from the date of the incident or its discovery, (1) the unreimbursed cost of counseling provided to the child victim on account of mental or emotional stress resulting from the incident in which the crime or any violation listed in subdivision twelve of this section occurred, and/or (2) the unreimbursed cost of counseling provided to the claimant eligible under paragraph (h) of subdivision one of section six hundred twenty-four of this article and resulting from the incident in which the crime or any violation listed in subdivision twelve of this section occurred.

18. Notwithstanding any inconsistent provision of this article and subject to any applicable maximum award limitations contained in this section, where a victim has died as a direct result of the crime upon

which the claim is based and the crime occurred in the residence of a person eligible pursuant to paragraphs (k) and (l) of subdivision one of section six hundred twenty-four of this article, the office may make no more than one award for crime scene clean-up related to such residence.

§ 631-a. Crime victim service programs. 1. The office shall make grants, within amounts appropriated for that purpose, for crime victim service programs to provide services to crime victims and witnesses. These programs shall be operated at the community level by not-for-profit organizations, by agencies of local government or by any combination thereof. Crime victim service programs may be designed to serve crime victims and witnesses in general in a particular community, or may be designed to serve a category of persons with special needs relating to a particular kind of crime.

2. The director shall promulgate regulations, relating to these grants, including guidelines for its determinations.

(a) These regulations shall be designed to promote:

(i) alternative funding sources other than the state, including local government and private sources;

(ii) coordination of public and private efforts to aid crime victims; and

(iii) long range development of services to all victims of crime in the community and to all victims and witnesses involved in criminal prosecutions.

(b) These regulations shall also provide for services including, but not limited to:

(i) assistance to claimants seeking crime victims compensation benefits;

(ii) referrals, crisis intervention and other counseling services;

(iii) services to elderly victims and to child victims and their families;

(iv) transportation and household assistance;

(v) outreach to the community and education and training of law enforcement and other criminal justice officials to the needs of crime victims; and

(vi) services to victims of a mass shooting as defined in subdivision eleven of section eight hundred thirty-five of this chapter or of a shooting incident in which four or more people are injured.

§ 632. Manner of payment. 1. The award shall be paid in a lump sum, except that in the case of death or protracted disability the award shall provide for periodic payments to compensate for loss of earnings or support. No award made pursuant to this article shall be subject to execution or attachment other than for expenses resulting from the injury which is the basis for the claim.

2. Where a person entitled to receive an award is a person under the age of eighteen years, an incompetent, or a conservatee, the award may be paid to a relative, guardian, committee, conservator, or attorney of such person on behalf of and for the benefit of such person. In such case the payee shall be required to file a periodic accounting of the award with the office and to take such other action as the office shall determine is necessary and appropriate for the benefit of the person under the age of eighteen years, incompetent or conservatee.

§ 632-a. Crime victims. 1. For the purposes of this section:

(a) "Crime" means (i) any felony defined in the laws of the state; or (ii) an offense in any jurisdiction which includes all of the essential elements of any felony defined in the laws of this state and: (A) the crime victim, as defined in subparagraph (i) of paragraph (d) of this subdivision, was a resident of this state at the time of the commission of the offense; or (B) the act or acts constituting the offense occurred in whole or in part in this state.

(b) "Profits from a crime" means (i) any property obtained through or income generated from the commission of a crime of which the defendant was convicted; (ii) any property obtained by or income generated from the sale, conversion or exchange of proceeds of a crime, including any gain realized by such sale, conversion or exchange; and (iii) any property which the defendant obtained or income generated as a result of having committed the crime, including any assets obtained through the

use of unique knowledge obtained during the commission of, or in preparation for the commission of, a crime, as well as any property obtained by or income generated from the sale, conversion or exchange of such property and any gain realized by such sale, conversion or exchange.

(c) "Funds of a convicted person" means all funds and property received from any source by a person convicted of a specified crime, or by the representative of such person as defined in subdivision six of section six hundred twenty-one of this article excluding child support and earned income, where such person:

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

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

determination sustaining the violation has been made by the trial court, the department of corrections and community supervision, or appropriate federal authority; or

(iii) is no longer subject to a sentence of probation or conditional discharge or indeterminate, determinate or definite term of imprisonment or period of post-release supervision or term of supervised release, and where within the previous three years: the full or maximum term or period terminated or expired or such person was granted a discharge by the state board of parole or the department of corrections and community supervision pursuant to applicable law, or granted a discharge or termination from probation pursuant to applicable law or granted a discharge or termination under applicable federal or state law, rules or regulations prior to the expiration of such full or maximum term or period; and includes only: (A) those funds paid to such person as a result of any interest, right, right of action, asset, share, claim, recovery or benefit of any kind that the person obtained, or that accrued in favor of such person, prior to the expiration of such sentence, term or period; (B) any recovery or award collected in a lawsuit after expiration of such sentence where the right or cause of action accrued prior to the expiration or service of such sentence; and (C) earned income earned during a period in which such person was not in compliance with the conditions of his or her probation, parole, conditional release, period of post-release supervision by the department of corrections and community supervision or term of supervised release with the United States probation office or United States parole commission. For purposes of this subparagraph, such period of non-compliance shall be measured, as applicable, from the earliest date of delinquency determined by the department of corrections and community supervision, or from the earliest date on which a declaration of delinquency is filed pursuant to section 410.30 of the criminal procedure law and thereafter sustained, or from the earliest date of delinquency determined in accordance with applicable federal law, rules or regulations, and shall continue until a final determination sustaining the violation has been made by the trial court, the department of corrections and community supervision, or appropriate federal authority.

(d) "Crime victim" means (i) the victim of a crime; (ii) the

representative of a crime victim as defined in subdivision six of section six hundred twenty-one of this article; (iii) a good samaritan as defined in subdivision seven of section six hundred twenty-one of this article; (iv) the office of victim services or other governmental agency that has received an application for or provided financial assistance or compensation to the victim.

(e) (i) "Specified crime" means:

(A) a violent felony offense as defined in subdivision one of section 70.02 of the penal law;

(B) a class B felony offense defined in the penal law;

(C) an offense for which a merit time allowance may not be received against the sentence pursuant to paragraph (d) of subdivision one of section eight hundred three of the correction law;

(D) an offense defined in the penal law that is titled in such law as a felony in the first degree;

(E) grand larceny in the fourth degree as defined in subdivision six of section 155.30 or grand larceny in the second degree as defined in section 155.40 of the penal law;

(F) criminal possession of stolen property in the second degree as defined in section 165.52 of the penal law; or

(G) an offense in any jurisdiction which includes all of the essential elements of any of the crimes specified in clauses (A) through (F) of this subparagraph and either the crime victim as defined in subparagraph (i) of paragraph (d) of this subdivision was a resident of this state at the time of the commission of the offense or the act or acts constituting the crime occurred in whole or in part in this state.

(ii) Notwithstanding the provisions of subparagraph (i) of this paragraph a "specified crime" shall not mean or include an offense defined in any of the following articles of the penal law: articles one hundred fifty-eight, one hundred seventy-eight, two hundred twenty, two hundred twenty-one, two hundred twenty-five, and two hundred thirty.

(f) "Earned income" means income derived from one's own labor or through active participation in a business as distinguished from income from, for example, dividends or investments.

2. (a) Every person, firm, corporation, partnership, association or other legal entity, or representative of such person, firm, corporation,

partnership, association or entity, which knowingly contracts for, pays, or agrees to pay: (i) any profits from a crime as defined in paragraph (b) of subdivision one of this section, to a person charged with or convicted of that crime, or to the representative of such person as defined in subdivision six of section six hundred twenty-one of this article; or (ii) any funds of a convicted person, as defined in paragraph (c) of subdivision one of this section, where such conviction is for a specified crime and the value, combined value or aggregate value of the payment or payments of such funds exceeds or will exceed ten thousand dollars, shall give written notice to the office of the payment or obligation to pay as soon as practicable after discovering that the payment or intended payment constitutes profits from a crime or funds of a convicted person.

(b) Notwithstanding subparagraph (ii) of paragraph (a) of this subdivision, whenever the payment or obligation to pay involves funds of a convicted person that a superintendent, sheriff or municipal official receives or will receive on behalf of an incarcerated individual serving a sentence with the department of corrections and community supervision or prisoner confined at a local correctional facility and deposits or will deposit in an incarcerated individual account to the credit of the incarcerated individual or in a prisoner account to the credit of the prisoner, and the value, combined value or aggregate value of such funds exceeds or will exceed ten thousand dollars, the superintendent, sheriff or municipal official shall also give written notice to the office.

Further, whenever the state or subdivision of the state makes payment or has an obligation to pay funds of a convicted person, as defined in subparagraph (ii) or (iii) of paragraph (c) of subdivision one of this section, and the value, combined value or aggregate value of such funds exceeds or will exceed ten thousand dollars, the state or subdivision of the state shall also give written notice to the office.

In all other instances where the payment or obligation to pay involves funds of a convicted person, as defined in subparagraph (ii) or (iii) of paragraph (c) of subdivision one of this section, and the value, combined value or aggregate value of such funds exceeds or will exceed ten thousand dollars, the convicted person who receives or will receive

such funds, or the representative of such person as defined in subdivision six of section six hundred twenty-one of this article, shall give written notice to the office.

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

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

or notice published by the office of such discovery, whichever is later.

4. Upon filing an action pursuant to subdivision three of this section, the crime victim shall give notice to the office of the filing by delivering a copy of the summons and complaint to the office. The crime victim may also give such notice to the office prior to filing the action so as to allow the office to apply for any appropriate provisional remedies which are otherwise authorized to be invoked prior to the commencement of an action.

5. Upon receipt of a copy of a summons and complaint, or upon receipt of notice from the crime victim prior to filing the action as provided in subdivision four of this section, the office shall immediately take such actions as are necessary to:

(a) notify all other known crime victims of the alleged existence of profits from a crime or funds of a convicted person by certified mail, return receipt requested, where the victims' names and addresses are known by the office;

(b) publish, at least once every six months for three years from the date it is initially notified by a victim, pursuant to subdivision four of this section, a legal notice in newspapers of general circulation in the county wherein the crime was committed and in counties contiguous to such county advising any crime victims of the existence of profits from a crime or funds of a convicted person. For crimes committed in a county located within a city having a population of one million or more, the notice shall be published in newspapers having general circulation in such city. The office may, in its discretion, provide for such additional notice as it deems necessary;

(c) avoid the wasting of the assets identified in the complaint as the newly discovered profits from a crime or as funds of a convicted person, in any manner consistent with subdivision six of this section.

6. The office, acting on behalf of the plaintiff and all other victims, shall have the right to apply for any and all provisional remedies that are also otherwise available to the plaintiff.

(a) The provisional remedies of attachment, injunction, receivership and notice of pendency available to the plaintiff under the civil

practice law and rules, shall also be available to the office in all actions under this section.

(b) On a motion for a provisional remedy, the moving party shall state whether any other provisional remedy has previously been sought in the same action against the same defendant. The court may require the moving party to elect between those remedies to which it would otherwise be entitled.

7. (a) (i) Whenever it appears that a person or entity has knowingly and willfully failed to give notice in violation of paragraph (a) or (b) of subdivision two of this section, other than the state, a subdivision of the state, or a person who is a superintendent, sheriff or municipal official required to give notice pursuant to this section or section one hundred sixteen or section five hundred-c of the correction law, the office shall be authorized to serve a notice of hearing upon the person or entity by personal service or by registered or certified mail. The notice shall contain the time, place and purpose of the hearing. In addition, the notice shall be accompanied by a petition alleging facts of an evidentiary character that support or tend to support that the person or entity, who shall be named therein as a respondent, knowingly and willfully failed to give notice in violation of paragraph (a) or (b) of subdivision two of this section. Service of the notice and petition shall take place at least fifteen days prior to the date of the hearing.

(ii) The director or any individual designated by the director, shall preside over the hearing, shall administer oaths, may issue subpoenas and shall not be bound by the rules of evidence or civil procedure, but his or her determination shall be based on a preponderance of the evidence. At the hearing, the burden of proof shall be on the office. The office shall produce witnesses and present evidence in support of the alleged violation, which may include relevant hearsay evidence. The respondent, who may appear personally at the hearing, shall have the right of counsel and may cross-examine witnesses and produce evidence and witnesses in his or her behalf, which may include relevant hearsay evidence. The issue of whether the person who received an alleged payment or obligation to pay committed the underlying crime shall not be re-litigated at the hearing. Where the alleged violation is the failure to give notice of a payment amount involving two or more payments the

combined value or aggregate value of which exceeds ten thousand dollars, no violation shall be found unless it is shown that such payments were intentionally structured to conceal their character as funds of a convicted person, as defined in this section.

(iii) At the conclusion of the hearing, if the director or designated individual is not satisfied that there is a preponderance of evidence in support of a violation, the director or designated individual shall dismiss the petition. If the director or designated individual is satisfied that there is a preponderance of the evidence that the respondent committed one or more violations, the director or designated individual shall so find. Upon such a finding, the director or designated individual shall prepare a written statement, to be made available to the respondent and respondent's counsel, indicating the evidence relied on and the reasons for finding the violation.

(iv) The director shall adopt, promulgate, amend and repeal administrative rules and regulations governing the procedures to be followed with respect to hearings, including rules and regulations for the administrative appeal of a decision made pursuant to this paragraph, provided such rules and regulations are consistent with the provisions of this subdivision.

(b)(i) Whenever it is found pursuant to paragraph (a) of this subdivision that a respondent knowingly and willfully failed to give notice in violation of paragraph (a) or (b) of subdivision two of this section, the office shall impose an assessment of up to the amount of the payment or obligation to pay and a civil penalty of up to one thousand dollars or ten percent of the payment or obligation to pay, whichever is greater. If a respondent fails to pay the assessment and civil penalty imposed pursuant to this paragraph, the assessment and civil penalty may be recovered from the respondent by an action brought by the attorney general, upon the request of the office, in any court of competent jurisdiction. The office shall deposit the assessment in an escrow account pending the expiration of the three year statute of limitations authorized by subdivision three of this section to preserve such funds to satisfy a civil judgment in favor of a person who is a victim of a crime committed by the convicted person to whom such failure to give notice relates. The office shall pay the civil penalty to the state comptroller who shall deposit the money in the state treasury

pursuant to section one hundred twenty-one of the state finance law to the credit of the criminal justice improvement account established by section ninety-seven-bb of the state finance law.

(ii) The office shall then notify any crime victim or crime victims, who may have a claim against the convicted person, of the existence of such moneys. Such notice shall instruct such person or persons that they may have a right to commence a civil action against the convicted person, as well as any other information deemed necessary by the office.

(iii) Upon a crime victim's presentation to the office of a civil judgment for damages incurred as a result of the crime, the office shall satisfy up to one hundred percent of that judgment, including costs and disbursements as taxed by the clerk of the court, with the escrowed fund obtained pursuant to this paragraph, but in no event shall the amount of all judgments, costs and disbursements satisfied from such escrowed funds exceed the amount in escrow. If more than one such crime victim indicates to the office that they intend to commence or have commenced a civil action against the convicted person, the office shall delay satisfying any judgment, costs and disbursements until the claims of all such crime victims are reduced to judgment. If the aggregate of all judgments, costs and disbursement obtained exceeds the amount of escrowed funds, the amount used to partially satisfy each judgment shall be reduced to a pro rata share.

(iv) After expiration of the three year statute of limitations period established in subdivision three of this section, the office shall review all judgments that have been satisfied from such escrowed funds. In the event no claim was filed or judgment obtained prior to the expiration of the three year statute of limitations, the office shall return the escrowed amount to the respondent. In the event a claim or claims are pending at the expiration of the statute of limitations, such funds shall remain escrowed until the final determination of all such claims to allow the office to satisfy any judgment which may be obtained by the crime victim. Upon the final determination of all such claims and the satisfaction of up to one hundred percent of such claims by the office, the office shall be authorized to impose an additional civil penalty of up to one thousand dollars or ten percent of the payment or obligation to pay, whichever is greater. Prior to imposing any such penalty, the office shall serve a notice upon the respondent by personal

service or by registered or certified mail of the intent of the office to impose such penalty thirty days after the date of the notice and of the opportunity to submit documentation concerning the office's determination. After imposing and deducting any such additional civil penalty, the office shall distribute such remaining escrowed funds, if any, as follows: fifty percent to the state comptroller, who shall deposit the money in the state treasury pursuant to section one hundred twenty-one of the state finance law to the credit of the criminal justice improvement account established by section ninety-seven-bb of the state finance law; and fifty percent to the respondent.

(v) Notwithstanding any provision of law, an alleged failure by a convicted person to give notice under this section may not result in proceedings for an alleged violation of the conditions of probation, parole, conditional release, post release supervision or supervised release unless: one or more claims were made by a crime victim against the convicted person pursuant to this section, and the office imposes an assessment and/or penalty upon the convicted person pursuant to this section, and the convicted person fails to pay the total amount of the assessment and/or penalty within sixty days of the imposition of such assessment and/or penalty.

(vi) Records maintained by the office and proceedings by the office based thereon regarding a claim submitted by a victim or a claimant shall be deemed confidential, subject to the exceptions that appear in subdivision one of section six hundred thirty-three of this article.

§ 633. Confidentiality of records. 1. Records maintained by the office and proceedings by the office based thereon regarding a claim submitted by a victim or a claimant shall be deemed confidential and shall not be shared with any government or private entity, with the following exceptions:

(a) requests for information based on legitimate criminal justice purposes provided that, in such cases in which the crime victim reported to a support agency that is also a victim services provider as defined in clause (B) of subparagraph (iii) of paragraph (c) of subdivision one of section six hundred thirty-one of this article, the office shall not provide any personally identifying information or information tending to

identify the victim or claimant;

(b) judicial subpoenas;

(c) requests for information by the victim or claimant or his or her authorized representative; or

(d) for purposes necessary and proper for the administration of this article.

2. All other records, including but not limited to, records maintained pursuant to sections six hundred thirty-one-a and six hundred thirty-two-a of this article and proceedings by the office based thereon shall be public record.

3. Any report or record obtained by the office, the confidentiality of which is protected by any other law or regulation, shall remain confidential subject to such law or regulation.

§ 634. Subrogation. 1. (a) Acceptance of an award made pursuant to this article shall subrogate the state, to the extent of such award, to any right or right of action accruing to the claimant or the victim to recover payments on account of losses resulting from the crime with respect to which the award is made. Upon the payment of an award, the office may, by writing, notify the claimant that such claimant has ninety days, or thirty days prior to the date of expiration of the applicable statute of limitations, whichever period is shorter, within which to commence an action against his assailant or any third party who, as a result of the crime, may be liable in damages to the claimant. If the claimant fails to commence an action within the time provided herein, such failure shall, after written notification by the office to the claimant, operate as an assignment of the claimant's cause of action against the assailant or such other third party to the state; provided, however, that should the claimant's cause of action be in an amount in excess of the office's award, such assignment shall be for only that portion of the cause of action which equals the amount of the award.

(b) The office of victim services shall review those claims that have been approved by the office and that have resulted in an award in excess of one thousand dollars for the purpose of identifying those causes of

action that are likely to result in recovery of the state's payment to the victim. The office shall submit a list of these claims on a monthly basis to the attorney general with all necessary information relating to the case including whether the claimant's cause of action has been assigned to the office.

(c) The attorney general may commence an action against the defendant convicted of the crime or third party for money damages to the extent of the award paid, and the claimant shall retain a right of action, subject to defenses, to recover damages for the full amount of loss incurred by him as a result of the crime less the amount assigned to the state by operation of this subdivision. Notwithstanding any other provision of law, an action brought by the attorney general pursuant to this paragraph against the defendant convicted of the crime must be commenced within seven years of the crime or pursuant to the time frames authorized in subdivision three of section six hundred thirty-two-a of this article. A claimant who retains such right of action shall be permitted to intervene in any action brought pursuant to this subdivision by the attorney general. Any action brought by the attorney general may be compromised or settled provided the attorney general and the office find that such action is in the best interests of the state.

2. Acceptance of an award made pursuant to this article shall create a lien in favor of the state on the proceeds of any recovery from the person or persons liable for the injury or death giving rise to the award by the office, whether by judgment, settlement or otherwise, after the deduction of the reasonable and necessary expenditures, including attorney's fees, incurred in effecting such recovery, to the total amount of the award made by the office. Such lien shall attach to any moneys received or to be received by the claimant or victim on account of losses resulting from the crime. Should the claimant or victim secure a recovery from the person or persons liable for the injury or death giving rise to the award by the office, whether by judgment, settlement or otherwise, such claimant may, upon notice to the office, apply to the court in which the action was instituted, or to any court of competent jurisdiction if no action was instituted, for an order apportioning the reasonable and necessary expenditures, including attorney's fees, incurred in effecting such recovery. Such expenditures shall be

equitably apportioned by the court between the claimant and the office. A copy of such lien shall be mailed to the clerk of the county within which the crime occurred and such clerk will file the copy in accordance with the duties of such clerk as set forth in section five hundred twenty-five of the county law. The amount of such lien may be compromised or settled by the office provided the office finds that such action is in the best interests of the state, or payment of the full amount of the lien to the state would cause undue hardship for the victim.

2-a. To the extent the office has made an award pursuant to this article for burial expenses, such amount shall be considered among reasonable funeral expenses of the decedent pursuant to subdivision one of section eighteen hundred eleven of the surrogate's court procedure act, to be recovered by the office, provided, however, that if a beneficiary of the victim's estate is also a person eligible to receive an award pursuant to section six hundred twenty-four of this article, the office shall recover such amounts pursuant to subdivision two of this section to the extent an award has been made to such person, prior to pursuing recovery from the victim's estate. Any recovery from a victim's estate under this subdivision shall reduce the state's lien under this section to the extent of the recovery by the office.

3. Any claimant who has received an award under this article, or his guardian, judicially appointed personal representative, or his estate, who brings an action for damages against the person or persons liable for the injury or death giving rise to an award by the office under this article shall give written notice to the office of the commencement of such action at the time such action is commenced. Such notice shall be served personally or by certified mail, return receipt requested.

4. The attorney general may intervene, as of right, in any such action on behalf of the state of New York for the purpose of recovering the subrogated interest due the state of New York under the provisions of this article.

5. The director shall adopt rules and regulations to carry out the

provisions and purposes of this section.

6. The office shall compile information on the number of cases submitted to the attorney general, the number of actions instituted by the attorney general to recover payments made to crime victims, the dollar amount of recoveries made in such actions both on behalf of the state and any awards made to victims who intervene in such actions. The office shall include this information, and any recommendations to the governor and legislature to improve the collection of awards, in its annual report.

§ 635. Severability of provisions. If any provision of this article or the application thereof to any person or circumstances is held invalid, the remainder of this article and the application of such provision to other persons or circumstances shall not be affected thereby.

§ 636. Community violence intervention act. 1. Legislative findings. The legislature hereby finds and declares that gun violence and other forms of violence constitute a crisis that poses a serious threat to the health and quality of life of all residents of the state of New York. An epidemic of violence is tearing at the fabric of life in many urban areas. The legislature further finds that funds from the Victims of Crime Act should be used to support hospital based violence intervention programs and community based violence intervention programs.

2. Community violence intervention grants. The office shall dedicate ten percent or more of the total funding received per award cycle pursuant to the federal Victims of Crime Act of 1984 to support:

(a) "community-based violence intervention programs" which shall mean a violence intervention program that is: (i) a nonprofit organization; and (ii) provides intensive counseling, case management, and social services to individuals who are recovering from injuries resulting from violence or who were witness to acts of violence;

(b) "hospital-based violence intervention programs" which shall mean a violence intervention program that is: (i) operated by: (A) a public

hospital; or (B) a nonprofit or government entity in collaboration with a public or not-for-profit hospital; and (ii) provides intensive counseling, case management, and social services to individuals who are recovering from injuries resulting from violence or who were witness to acts of violence.

3. The office shall promulgate guidance relating to community violence intervention for hospital-based violence intervention programs and community-based violence intervention programs.

(a) This guidance shall be designed to promote:

(i) alternative funding sources other than the state, including local government and private sources as well as funding from the federal Victims of Crime Act of 1984;

(ii) coordination of public and private efforts to aid individuals who are recovering from injuries resulting from violence or who were witnesses to acts of violence; and

(iii) long range development of services to victims of violent crimes in the community.

(b) This guidance shall also provide for:

(i) clearly defined and measurable objectives intended to demonstrate that a program is developed and evaluated through scientific research and data collection with measurable evidence of positive outcomes related to violence intervention;

(ii) a description of how the nonprofit organization proposes to use the funding to:

(A) establish or enhance community-based violence intervention programs;

(B) enhance coordination of existing violence intervention programs, if any, to minimize duplication of services; and

(C) plan for the collection of relevant data; and

(iii) outreach to the community and education and training of law enforcement and other criminal justice officials to the needs of victims of violent crimes in the community, to perpetrators of violent crimes and to witnesses of violent crimes involved in criminal prosecutions.

4. To the extent practicable, the office shall make efforts to inform community-based violence intervention programs and hospital-based

intervention programs about anticipated awards.

ARTICLE 23

FAIR TREATMENT STANDARDS FOR CRIME VICTIMS

Section 640. Fair treatment standards for crime victims.
641. Objectives of fair treatment standards.
642. Criteria for fair treatment standards.
642-a. Fair treatment of child victims as witnesses.
643. Fair treatment standards for crime victims; agencies generally.
644. Implementation.
645. Fair treatment standards for crime victims in the courts.
646. Police reports.
646*2. Objectives.
646-a. Information relative to the fair treatment standards; pamphlet.
647. Criteria.
648. Review; report and implementation.
649. Miscellaneous.

§ 640. Fair treatment standards for crime victims. 1. The commissioner of the division of criminal justice services, in consultation with the director of the office of victim services and other appropriate officials, shall promulgate standards for the treatment of the innocent victims of crime by the agencies which comprise the criminal justice system of the state.

2. For the purposes of this article the term "criminal justice" shall include juvenile justice and the objectives and criteria set forth in sections six hundred forty-one and six hundred forty-two of this article shall apply to presentment agencies as defined in subdivision twelve of section 301.2 of the family court act.

§ 641. Objectives of fair treatment standards. The object of such fair

treatment standards shall be to:

1. Ensure that crime victims routinely receive emergency social and medical services as soon as possible and are given information pursuant to section six hundred twenty-five-a of this chapter on the following:

(a) availability of crime victim compensation;

(b) availability of appropriate public or private programs that provide counseling, treatment or support for crime victims, including but not limited to the following: rape crisis centers, victim/witness assistance programs, elderly victim services, victim assistance hotlines and domestic violence shelters;

(c) the role of the victims in the criminal justice process, including what they can expect from the system as well as what the system expects from them; and

(d) stages in the criminal justice process of significance to a crime victim, and the manner in which information about such stages can be obtained.

2. Ensure routine notification of a victim or witness as to steps that law enforcement officers or district attorneys can take to protect victims and witnesses from intimidation.

3. Ensure notification of victims, witnesses, relatives of those victims and witnesses who are minors, and relatives of homicide victims, if such persons provide the appropriate official with a current address and telephone number, either by phone or by mail, if possible, of judicial proceedings relating to their case, including:

(a) the arrest of an accused;

(b) the initial appearance of an accused before a judicial officer;

(c) the release of an accused pending judicial proceedings; and

(d) proceedings in the prosecution of the accused including entry of a plea of guilty, trial, sentencing, but prior to sentencing specific information shall be provided regarding the right to seek restitution and reparation, and where a term of imprisonment is imposed, specific information shall be provided regarding maximum and minimum terms of such imprisonment.

§ 642. Criteria for fair treatment standards. Such fair treatment standards shall provide that:

1. The victim of a violent felony offense, a felony involving physical injury to the victim, a felony involving property loss or damage in excess of two hundred fifty dollars, a felony involving attempted or threatened physical injury or property loss or damage in excess of two hundred fifty dollars or a felony involving larceny against the person shall, unless he or she refuses or is unable to cooperate or his or her whereabouts are unknown, be consulted by the district attorney in order to obtain the views of the victim regarding disposition of the criminal case by dismissal, plea of guilty or trial. In such a case in which the victim is a minor child, or in the case of a homicide, the district attorney shall, unless the family refuses or is unable to cooperate or his, her or their whereabouts are unknown, consult for such purpose with the family of the victim. In addition, the district attorney shall, unless he or she (or, in the case in which the victim is a minor child or a victim of homicide, his or her family) refuses or is unable to cooperate or his, her or their whereabouts are unknown, consult and obtain the views of the victim or family of the victim, as appropriate, concerning the release of the defendant in the victim's case pending judicial proceedings upon an indictment, and concerning the availability of sentencing alternatives such as community supervision and restitution from the defendant. The failure of the district attorney to so obtain the views of the victim or family of the victim shall not be cause for delaying the proceedings against the defendant nor shall it affect the validity of a conviction, judgment or order.

2. The victims and other prosecution witnesses shall, where possible, be provided, when awaiting court appearances, a secure waiting area that is separate from all other witnesses.

2-a. (a) All police departments, as that term is defined in subdivision a of section eight hundred thirty-seven-c of this chapter, district attorneys' offices and presentment agencies, as that term is defined in subdivision twelve of section 301.2 of the family court act,

shall provide a private setting for interviewing victims of a crime defined in article one hundred thirty or section 255.25, 255.26 or 255.27 of the penal law. For purposes of this subdivision, "private setting" shall mean an enclosed room from which the occupants are not visible or otherwise identifiable, and whose conversations cannot be heard, from outside such room. Only (i) those persons directly and immediately related to the interviewing of a particular victim, (ii) the victim, (iii) a social worker, rape crisis counselor, psychologist or other professional providing emotional support to the victim, unless the victim objects to the presence of such person and requests the exclusion of such person from the interview, and (iv) where appropriate, the parent or parents of the victim, if requested by the victim, shall be present during the interview of the victim.

(b) All police departments, as that term is defined in subdivision a of section eight hundred thirty-seven-c of this chapter, shall provide victims of a crime defined in article one hundred thirty of the penal law with the name, address, and telephone of the nearest rape crisis center in writing.

3. Law enforcement agencies and district attorneys shall promptly return property held for evidentiary purposes unless there is a compelling reason for retaining it relating to proof at trial.

4. The victim or witness who so requests shall be assisted by law enforcement agencies and district attorneys in informing employers that the need for victim and witness cooperation in the prosecution of the case may necessitate absence of that victim or witness from work. In addition, a victim or witness who, as a direct result of a crime or of cooperation with law enforcement agencies or the district attorney in the investigation or prosecution of a crime is unable to meet obligations to a creditor, creditors or others should be assisted by such agencies or the district attorney in providing to such creditor, creditors or others accurate information about the circumstances of the crime, including the nature of any loss or injury suffered by the victim, or about the victim's or witness' cooperation, where appropriate.

5. Victim assistance education and training, with special consideration to be given to victims of domestic violence, sex offense victims, elderly victims, child victims, and the families of homicide victims, shall be given to persons taking courses at state law enforcement training facilities and by district attorneys so that victims may be promptly, properly and completely assisted.

6. A victim of an assault may choose to make their statement at their workplace provided such workplace was the scene of the assault and is a hospital, emergency medical facility, nursing home, or residential health care facility as defined in section twenty-eight hundred one of the public health law, or is a facility or hospital as defined in section 1.03 of the mental hygiene law. Law enforcement officers shall inform the victim of their right to have their statement be taken at such workplace when officers have reason to believe the victim was assaulted pursuant to section 120.05 of the penal law.

§ 642-a. Fair treatment of child victims as witnesses. To the extent permitted by law, criminal justice agencies, crime victim-related agencies, social services agencies and the courts shall comply with the following guidelines in their treatment of child victims:

1. To minimize the number of times a child victim is called upon to recite the events of the case and to foster a feeling of trust and confidence in the child victim, whenever practicable and where one exists, a multi-disciplinary team as established pursuant to subdivision six of section four hundred twenty-three of the social services law and/or a child advocacy center shall be used for the investigation and prosecution of child abuse cases involving abuse of a child, as described in paragraph (i), (ii) or (iii) of subdivision (e) of section one thousand twelve of the family court act, sexual abuse of a child or the death of a child.

2. Whenever practicable, the same prosecutor should handle all aspects of a case involving an alleged child victim.

3. To minimize the time during which a child victim must endure the stress of his involvement in the proceedings, the court should take appropriate action to ensure a speedy trial in all proceedings involving an alleged child victim. In ruling on any motion or request for a delay or continuance of a proceeding involving an alleged child victim, the court should consider and give weight to any potential adverse impact the delay or continuance may have on the well-being of the child.

4. The judge presiding should be sensitive to the psychological and emotional stress a child witness may undergo when testifying.

5. In accordance with the provisions of article sixty-five of the criminal procedure law, when appropriate, a child witness as defined in subdivision one of section 65.00 of such law should be permitted to testify via live, two-way closed-circuit television.

6. In accordance with the provisions of section 190.32 of the criminal procedure law, a person supportive of the "child witness" or "special witness" as defined in such section should be permitted to be present and accessible to a child witness at all times during his testimony, although the person supportive of the child witness should not be permitted to influence the child's testimony.

7. A child witness should be permitted in the discretion of the court to use anatomically correct dolls and drawings during his testimony.

§ 643. Fair treatment standards for crime victims; agencies generally. 1. As used in this section, "crime victim-related agency" means any agency of state government which provides services to or deals directly with crime victims, including (a) the office of children and family services, the office for the aging, the department of veterans' services, the office of probation and correctional alternatives, the department of corrections and community supervision, the office of victim services, the department of motor vehicles, the office of vocational rehabilitation, the workers' compensation board, the department of health, the division of criminal justice services, the

office of mental health, every transportation authority and the division of state police, and (b) any other agency so designated by the governor within ninety days of the effective date of this section.

2. Each crime victim-related agency shall review its practices, procedures, services, regulations and laws to determine the adequacy and appropriateness of its services with respect to crime victims, including victims with special needs, particularly the elderly, disabled or victims of child abuse, domestic violence or sex-related offenses. Such review shall include reasonable opportunity for public comment and consultation with crime victims or their representatives, and may include public hearings.

3. After the review, and not later than one hundred eighty days after the effective date of this section, each crime victim-related agency shall submit a report to the governor and the legislature, setting forth the findings of the review including a description of the services provided by the agency and recommendations for changes in its practices, procedures, services, regulations and laws to improve its services to crime victims and to establish and implement fair treatment standards for crime victims.

4. Subject to the direction of the governor, and to the extent practicable, each crime victim-related agency shall expeditiously implement the recommendations of its report.

§ 644. Implementation. The commissioner of the division of criminal justice services and the director of the office of victim services shall assist criminal justice agencies in implementing the guidelines promulgated by the commissioner.

§ 645. Fair treatment standards for crime victims in the courts. The chief administrator of the courts, in consultation with the commissioner of the division of criminal justice services, the director of the office of victim services and other appropriate officials, shall promulgate

standards for the treatment of the innocent victims of crime by the unified court system. These standards shall conform to and be consistent with the regulations promulgated pursuant to section six hundred forty of this article.

*** § 646. Police reports.** 1. A victim of crime shall be entitled, regardless of physical injury, without charge to a copy of a police report of the crime.

2. An individual whose identity was assumed or whose personal identifying information, as defined in section 190.77 of the penal law, was used in violation of section 190.78, 190.79 or 190.80 of the penal law, or any person who has suffered a financial loss as a direct result of the acts of a defendant in violation of section 190.78, 190.79, 190.80, 190.82 or 190.83 of the penal law, who has learned or reasonably suspects that his or her personal identifying information has been unlawfully used by another, may make a complaint to the local law enforcement agency of the county in which any part of the offense took place regardless of whether the defendant was actually present in such county, or in the county in which the person who suffered financial loss resided at the time of the commission of the offense, or in the county where the person whose personal identification information was used in the commission of the offense resided at the time of the commission of the offense as provided in paragraph (l) of subdivision four of section 20.40 of the criminal procedure law. Said local law enforcement agency shall take a police report of the matter and provide the complainant with a copy of such report free of charge.

3. An individual who has been the victim in this state of a family offense as defined in subdivision one of section 530.11 of the criminal procedure law or section eight hundred twelve of the family court act may, upon alleging that it would be a hardship for him or her to make such complaint in the local jurisdiction in which such offense occurred, make a complaint to any local law enforcement agency in the state regardless of where the act took place. Such local law enforcement agency shall take a police report of the matter, as well as prepare a

domestic violence incident report as defined in subdivision fifteen of section eight hundred thirty-seven of this chapter and provide the complainant with a copy of such report free of charge. A copy of the police report and completed domestic violence incident report shall be promptly forwarded to the appropriate law enforcement agency with jurisdiction over the location where the incident is reported to have occurred for the purposes of further investigation.

* NB There are 2 § 646's

*** § 646. Objectives.** The object of these fair treatment standards shall be to:

1. Ensure that crime victims are given information on the following:

(a) the role of the victims in the criminal justice process, including what they can expect from the system as well as what the system expects from them;

(b) stages in the criminal justice process of significance to a crime victim, and the manner in which information about such stages can be obtained; and

(c) how the court can address the needs of the victims at sentencing.

2. Ensure routine notification of a victim or witness as to steps that the court can take to protect victims and witnesses from intimidation, including the issuance of orders of protection and temporary orders of protection.

3. Ensure notification of victims, witnesses, relatives of those victims and witnesses who are minors, and relatives of homicide victims, if such persons provide the appropriate court official with a current address and telephone number, either by phone or by mail, if possible, of judicial proceedings relating to their case, including:

(a) the initial appearance of an accused before a judicial officer;

(b) the release of an accused pending judicial proceedings;

(c) proceedings in the prosecution of the accused, including entry of a plea of guilty, trial, sentencing, and where a term of imprisonment is imposed, specific information shall be provided regarding maximum and

minimum terms of such imprisonment; and

(d) the reversal or modification of the judgment by an appellate court.

* NB There are 2 § 646's

§ 646-a. Information relative to the fair treatment standards; pamphlet. 1. The district attorney shall provide the victim, parent or guardian of a minor, or a surviving family member in the case of homicide, at the time of sentencing or at the earliest time possible, with an informational pamphlet detailing the rights of crime victims which shall be prepared by the division of criminal justice services in consultation with the director of the office of victim services and the office of victim assistance, and distributed to each district attorney's office.

2. The pamphlet shall summarize provisions of this article. It shall also include specific information with appropriate statutory references on the following:

(a) the rights of crime victims to compensation and services;

(b) the rights of crime victims to routine notification of judicial proceedings relating to their case as provided in section six hundred forty-one of this article, in section 330.20, section 440.50 and section 380.50 of the criminal procedure law;

(c) the rights of crime victims to be protected from intimidation and to have the court, where appropriate, issue protective orders as provided in sections 530.12 and 530.13 of the criminal procedure law and sections 215.15, 215.16 and 215.17 of the penal law;

(d) the rights of crime victims to submit, where appropriate, a victim impact statement for the pre-sentencing report and the parole hearing as provided in section 390.30 of the criminal procedure law and section two hundred fifty-nine-i of this chapter;

(e) the rights of crime victims, where a defendant is being sentenced for a felony, to request the right to make a statement at the time of sentencing as provided in section 380.50 of the criminal procedure law;

(f) the rights of crime victims to request restitution and have the district attorney present such request to the court and assist the crime

victim in the filing and collection of a restitution order in cooperation with the designated agency of the court as provided in section 420.10 of the criminal procedure law and section 60.27 of the penal law;

(g) the rights of crime victims to be aware of the defendant's incarceration status by providing the department of corrections and community supervision's contact information, including the office of victim assistance's toll-free telephone number, as provided for in subdivision two of section two hundred fifty-nine-i of this chapter. Such notice shall advise the crime victim to use the office of victim assistance's toll-free telephone number to update contact information;

(h) the requirement of a victim or a surviving family member to register with the department of corrections and community supervision's office of victim assistance if, at any time, they want to:

(i) be notified of a defendant's release from a state correctional facility;

(ii) be notified of parole board interviews with a defendant, and the results of any such interviews; or

(iii) provide or update a victim impact statement to the board of parole; and

(i) the right of crime victims or surviving family members to obtain, at no cost, a copy of the transcripts of parole hearings.

3. This pamphlet shall provide space for the insertion of the following information:

(a) the address and phone number of the office of victim services;

(b) the address and phone number of the department of corrections and community supervision's office of victim assistance;

(c) the address and phone numbers of local victim service programs, where appropriate;

(d) the name, phone number and office location of the person in the district attorney's office to whom inquiries concerning the victim's case may be directed; and

(e) any other information the division deems appropriate.

4. (a) The commissioner of the division of criminal justice services in consultation with the director of the office of victim services and

the office of victim assistance, shall develop and prepare a standardized form for the use of district attorney offices for the purpose of reporting compliance with this section. The form is to be distributed to each district attorney. Every district attorney's office in the state shall complete the reporting form annually and send it to the director of the office of victim services by the first day of January each year subsequent to the effective date of this subdivision.

(b) A copy of the report shall be retained by the district attorney and upon request, a victim of a crime or relative of a victim shall be entitled to receive from the district attorney a copy of their district attorney's annual report without charge. Any other person requesting a copy of the report shall pay a fee not to exceed the actual cost of reproduction.

§ 647. Criteria. Fair treatment standards for crime victims in the courts shall provide that:

1. The court shall consider the views of the victim of a violent felony offense, a felony involving physical injury to the victim, a felony involving property loss or damage in excess of two hundred fifty dollars, a felony involving attempted or threatened physical injury or property loss or damage in excess of two hundred fifty dollars or a felony involving larceny against the person, or of the family of a homicide victim or minor child, regarding discretionary decisions relating to the criminal case, including, but not limited to, plea agreements and sentence. In addition, the court shall consider the views of the victim or family of the victim, as appropriate, concerning the release of the defendant in the victim's case pending judicial proceedings upon an indictment, and concerning the availability of sentencing alternatives such as community supervision and restitution from the defendant. The failure of the court to consider the views of the victim or family of the victim shall not be cause for delaying the proceedings against the defendant nor shall it affect the validity of a conviction, judgment or order.

2. The victims and other prosecution witnesses shall, where possible,

be provided, when awaiting court appearances, a secure waiting area that is separate from all other witnesses.

3. The court shall assist in and expedite the return of property held for evidentiary purposes unless there is a compelling reason for retaining it relating to proof at trial.

4. Victim assistance education shall be given to judicial and nonjudicial personnel of the unified court system so that victims may be promptly, properly and completely assisted.

§ 648. Review; report and implementation. 1. The chief administrator of the unified court system shall review court practices, procedures, services, regulations and laws to determine the adequacy and appropriateness of its services with respect to crime victims, including victims with special needs, particularly the elderly, disabled or victims of child abuse, domestic violence, sex trafficking or sex-related offenses. Such review shall include reasonable opportunity for public comment and consultation with crime victims or their representatives, and may include public hearings.

2. After the review, and not later than two hundred seventy days after the effective date of this section, and no later than two hundred seventy days after the effective date of the chapter of the laws of two thousand fifteen which amended this section, and every five years thereafter, the chief administrator of the unified court system shall submit a report to the governor and the legislature, setting forth the findings of the review, including a description of the services provided by the components of the unified court system and recommendations for changes in its procedures, services, regulations and laws to improve its services to crime victims and to establish and implement fair treatment standards for crime victims.

3. Subject to the direction of the chief administrator, the components of the unified court system shall expeditiously implement the recommendations of its report.

§ 649. Miscellaneous. Nothing in this article shall be construed as creating a cause of action for damages or injunctive relief against the state or any of its political subdivisions or officers or any agency thereof.

ARTICLE 24

OFFICE OF EMPLOYEE RELATIONS

Section 650. Statement of policy.
651. Definition.
652. Office of employee relations; director.
653. Powers and duties.
654. Actions by other officers, departments, boards, commissions or agencies.

§ 650. Statement of policy. The legislature hereby reaffirms its policy to promote harmonious and cooperative relationships between the state and its employees to protect the public by assuring, at all times, the orderly and uninterrupted operations and functions of state government; and recognizes that furtherance of such policy requires creation in the executive department of an office of employee relations with staff and skills requisite to act as the governor's agent in conducting collective negotiations, to assure the proper implementation and administration of agreements reached pursuant to such negotiations, and to assist the governor and direct and coordinate the state's efforts with regard to the state's powers and duties under the public employees' fair employment act.

§ 651. Definition. For the purposes of this article, "director" shall mean the director of employee relations.

§ 652. Office of employee relations; director. There is hereby

created an office of employee relations in the executive department. The head of the office of employee relations shall be the director of employee relations who shall be appointed by, and hold office at the pleasure of, the governor. He shall receive a salary to be fixed by the governor within the amount appropriated therefor. The director may appoint such deputies, assistants, consultants and other employees as may be needed for the performance of his duties and may prescribe their powers and duties and fix their compensation within the amount appropriated therefor. Such office may have an office seal.

§ 653. Powers and duties. The director shall assist the governor with regard to relations between the state and its employees. Such assistance may include acting as the governor's agent in discharging the powers and duties conferred on the governor by the public employees' fair employment act, as amended, including, without limitation, conducting collective negotiations with recognized or certified employee organizations and executing agreements reached pursuant thereto. The director shall have such other and further powers and duties as may from time to time be conferred upon him by law and as the governor may from time to time request. Nothing contained herein shall be interpreted to enlarge, diminish or otherwise change any power or duty of the governor or legislature under said act or otherwise.

§ 654. Actions by other officers, departments, boards, commissions or agencies. a. Notwithstanding any inconsistent provision of law, any state officer, department, board, commission or agency, shall, upon written request from the director, take such administrative or other action as is necessary to implement and administer the provisions of any binding agreement between the state and one or more employee organizations representing state employees pursuant to the public employees' fair employment act, as amended. Such action may include, without limitation, the adoption, repeal or amendment of rules, regulations or other procedures. Without prejudice to the rights of an employee organization under such agreement, the opinion of the attorney general shall be conclusive in resolving any disagreement between the

director and any such officer, department, board, commission or agency regarding any legal question arising out of such a request, including, without limitation, whether the agreement is binding, whether compliance with the request is necessary to implement or administer the agreement and whether compliance with the request is legally possible.

b. All state officers, departments, boards, commissions and agencies are authorized and directed to provide such other and further assistance, services and data as may be necessary to allow the director properly to carry out his functions, powers and duties.

ARTICLE 25

MOST INTEGRATED SETTING COORDINATING COUNCIL

Section 700. Legislative findings and intent.
701. Definitions.
702. Most integrated setting coordinating council; organization.
703. Functions, powers and duties of the council.

§ 700. Legislative findings and intent. The Americans with Disabilities Act requires New York state to ensure that people of all ages with disabilities reside and function in the most integrated setting possible. This requirement was recognized and upheld by the Supreme Court in the case of Olmstead, Commissioner, Georgia Department of Human Resources, et al. v. L.C., by zimring, guardian ad litem and next friend, et al. (138 F. 3d 893). While New York state provides community supports for people of all ages with disabilities and while the state of New York does operate a home and community-based waiver medicaid program, the legislature hereby finds that New York state has no centralized mechanism in place to determine whether or not people of all ages with disabilities are residing in the most integrated setting possible. In order to ensure that the state of New York is in compliance with the requirements of the Olmstead decision, the legislature hereby finds that it is incumbent upon New York state to develop and implement a plan to reasonably accommodate the desire of people of all ages with disabilities to avoid institutionalization and be appropriately placed

in the most integrated setting possible.

§ 701. Definitions. As used in this article the following terms shall mean:

1. "council" means the most integrated setting coordinating council.

2. "disability" means, with respect to an individual:
(a) a physical or mental impairment that substantially limits one or more of the major life activities of such individual;
(b) a record of such an impairment; or
(c) being regarded as having such an impairment.

3. "most integrated setting" means a setting that is appropriate to the needs of the individual with the disability and enables that individual to interact with nondisabled persons to the fullest extent possible.

§ 702. Most integrated setting coordinating council; organization. 1. The most integrated setting coordinating council is hereby created within the executive department to have and exercise the functions, powers and duties provided by the provisions of this article and any other provision of law. The council shall be comprised of the commissioners of: the department of health, the office for people with developmental disabilities, the office of mental health, the department of transportation, the office of children and family services, the office of addiction services and supports, the department of education, and the division of housing and community renewal. In addition, the council shall consist of the director of the office for the aging, the chief disability officer, three consumers of services for individuals with disabilities, one to be appointed by the governor, one to be appointed by the temporary president of the senate, and one to be appointed by the speaker of the assembly, three individuals with expertise in the field of community services for people of all ages with disabilities, one to be appointed by the governor, one to be appointed

by the temporary president of the senate, and one to be appointed by the speaker of the assembly, and three individuals with expertise in or recipients of services available to senior citizens with disabilities, one to be appointed by the governor, one to be appointed by the temporary president of the senate, and one to be appointed by the speaker of the assembly.

2. The chief disability officer shall serve as chairperson of the council.

3. The council shall meet as necessary to carry out its functions, powers and duties, but such meetings shall occur at least once each quarter.

§ 703. Functions, powers and duties of the council. 1. The council shall develop and oversee the implementation of a comprehensive statewide plan for providing services to individuals of all ages with disabilities in the most integrated setting. Such plan shall be completed within one year of the effective date of this article. Such plan shall include, but not be limited to

(a) the number of individuals of all ages with disabilities who are currently institutionalized and are eligible for services in community-based settings, the number of individuals residing in the community who are dependent on the assistance of community-based services to avoid institutionalization and any improvements necessary to be made to current data collection systems or any new data collection initiatives necessary to obtain such information;

(b) the current assessment procedures utilized to identify individuals of all ages with disabilities who could benefit from services in a more integrated setting and the development of a single assessment process for individuals of all ages with disabilities in need of services, to be implemented by one community-based agency in each county with expertise in community-based services for people of all ages with disabilities through the use of a uniform assessment tool;

(c) the identification of what community-based services are available to individuals of all ages with disabilities in the state of New York

and an assessment of the extent to which these programs are able to serve people in the most integrated settings;

(d) the identification of what improvements need to be made to the system of community-based services to ensure that the system is comprehensive, accessible, meets the needs of persons who are likely to require assistance in order to live in the community and provides high quality, adequate supports for individuals of all ages with disabilities;

(e) an evaluation of the supports and services available to assist individuals of all ages with disabilities who reside in their own homes with the presence of other family members or other informal caregivers and an evaluation of the supports and services available to address the needs of individuals of all ages with disabilities who reside in their own homes without family members or other informal caregivers;

(f) an examination of how the identified community-based supports and services integrate individuals of all ages with disabilities into the community;

(g) a review of what funding sources are available to increase the availability of community-based services and an analysis of how the varied funding sources available to meet the needs of individuals of all ages with disabilities in the most integrated setting can be organized into a coherent system of long term care which affords people reasonable and timely access to community-based services;

(h) an assessment of how well the current service system works for different populations, including but not limited to, elderly people with disabilities, people with physical disabilities, people with developmental disabilities, people with mental illness, and people with HIV and AIDS, and a review of changes that might be desirable to make services a reality in the most integrated setting for all populations;

(i) an examination of waiting lists for community-based services and what might be done to ensure that waiting lists are created and accurately maintained and that people are able to come off waiting lists and receive needed community-based services at a reasonable pace;

(j) an examination of what information, education, outreach and referral systems might be useful to ensure that individuals of all ages with disabilities receive the information necessary to make informed choices regarding how their needs can best be met, including the

evaluation of the creation of a toll free hotline with information on community-based services for individuals of all ages with disabilities;

(k) an evaluation of how quality assurance and quality improvement can be conducted effectively as more people of all ages with disabilities live in community settings; and

(l) an examination of how the overall system of health and long term care can best be managed so that placement in the most integrated setting becomes the norm.

2. The council shall contract with an independent organization with expertise in the provision of community-based services for individuals of all ages with disabilities and with expertise in the area of program evaluation research to conduct an evaluation of the council's plan created pursuant to subdivision one of this section and the implementation of such plan. Such evaluation shall be completed three years after the effective date of this article.

3. Each commissioner and director serving on the council shall ensure that his or her agency implements every aspect of the plan developed pursuant to subdivision one of this section which falls under the responsibilities of his or her agency. The council shall oversee the implementation of the plan created pursuant to subdivision one of this section and shall update such plan as necessary to ensure that waiting lists for community-based services for people of all ages with disabilities are moving at a reasonable pace and to ensure that the state of New York is developing a system of long term care that allows individuals of all ages with disabilities to reside and function in the most integrated setting.

4. The council shall provide a report to the governor, the temporary president of the senate and the speaker of the assembly one year after the effective date of this article and annually thereafter. Such report shall detail the plan developed pursuant to subdivision one of this section, any changes made to such plan, all steps taken to implement such plan and their outcome, and any future actions planned.

5. The plan to be developed under this article shall not be construed

to increase, decrease, or change the statutory authority of any person or entity and shall be implemented consistent with all otherwise applicable law.

ARTICLE 26

DIVISION OF HOMELAND SECURITY AND EMERGENCY SERVICES

Section 709. Division of homeland security and emergency services; creation; powers and duties.

709-a. Office of counterterrorism.

710. Commissioner of the division of homeland security and emergency services; appointment of the commissioner; powers and duties.

711. Reports.

711-a. Analyze and report on the feasibility of implementing tornado warning systems.

711-b. Review of water supplier vulnerability analysis assessments.

711-c. Cybersecurity incident reviews.

712. Miscellaneous.

713. Protection of critical infrastructure including energy generating and transmission facilities.

714. Protection of critical infrastructure; storage facilities for hazardous substances.

716. Protection of critical infrastructure; commercial aviation, petroleum and natural gas fuel transmission facilities and pipelines.

717. Office of interoperable and emergency communications.

717-a. Direct dialing to public service answering points.

718. Voluntary surveillance access database.

719. Loans for eligible hazard mitigation activities.

§ 709. Division of homeland security and emergency services; creation; powers and duties. 1. There is hereby created within the executive department the division of homeland security and emergency services, which shall have and exercise the powers and duties set forth in this

article. Any reference to the 'office of public security', the 'office of homeland security', the 'state emergency management office' or the 'office of fire prevention and control' in the laws of New York state, executive orders, or contracts entered into on behalf of the state shall be deemed to refer to the division of homeland security and emergency services.

2. The division shall have the power and duty to:

(a) oversee and coordinate the state's homeland security and comprehensive emergency management resources, subject to any laws, rules or regulations governing the budgeting and appropriation of funds;

(b) review homeland security and comprehensive emergency management policies, protocols and strategies of state agencies. The agencies shall include, but not be limited to, the state agencies included on the disaster preparedness commission as identified in section twenty-one of this chapter;

(c) develop policies, protocols and strategies, which may be used to prevent, detect, respond to and recover from terrorist acts or threats and other natural and man-made disasters, which for purposes of this section shall have the same meaning as defined in article two-B of this chapter;

(d) identify potential inadequacies in the state's policies, protocols and strategies to detect, respond to and recover from terrorist acts or threats and other natural and man-made disasters;

(e) undertake periodic drills and simulations designed to assess and prepare responses to terrorist acts or threats and other natural and man-made disasters;

(f) coordinate state resources for the collection and analysis of information relating to natural and man-made disasters throughout the state subject to any applicable laws, rules, or regulations;

(g) coordinate and facilitate information sharing among local, state, and federal agencies to ensure appropriate intelligence to assist in the early identification of and response to natural and man-made disasters, subject to any applicable laws, rules, or regulations governing the release, disclosure or sharing of any such information;

(h) assess the preparedness of state and local public health systems to respond to terrorist acts and other natural and man-made disasters,

including ensuring the availability of early warning systems designed to detect potential threats and determining adequacy and availability of necessary vaccines and pharmaceuticals and hospital capacity;

(i) coordinate strategies, protocols and first-responder equipment needs that may be used to monitor, detect, respond to and mitigate the consequences of a potential biological, chemical or radiological terrorist act or threat;

(j) work with local, state and federal agencies and private entities to conduct assessments of the vulnerability of critical infrastructure to terrorist attack, cyber attack, and other natural and man-made disasters, including, but not limited to, nuclear facilities, power plants, telecommunications systems, mass transportation systems, public roadways, railways, bridges and tunnels, and develop strategies that may be used to protect such infrastructure from terrorist attack, cyber attack, and other natural and man-made disasters;

(k) develop plans that may be used to promote rapid recovery from terrorist attacks and other natural and man-made disasters, to ensure prompt restoration of transportation, utilities, critical communications and information systems and to protect such infrastructure;

(l) develop plans that may be used to contain and remove hazardous materials used in a terrorist attack or released as a result of natural or man-made disaster;

(m) act as primary contact with the federal department of homeland security;

(n) adopt, promulgate, amend and rescind rules and regulations to effectuate the provisions and purposes of this article and the powers and duties of the division in connection therewith;

(o) consult with appropriate state and local governments, institutions of higher learning, first responders, health care providers and private entities as necessary to effectuate the provisions of this article, and work with those entities to establish, facilitate and foster cooperation to better prepare the state to prevent and respond to threats and acts of terrorism and other natural and man-made disasters;

(p) to serve as a clearinghouse for the benefit of municipalities regarding information relating to available federal, state and regional grant programs in connection with homeland security, disaster preparedness, communication infrastructure and emergency first responder

services, and to promulgate rules and regulations necessary to ensure that grant information is timely posted on the division's website;

(q) request from any department, division, office, commission or other agency of the state or any political subdivision thereof, and the same are authorized to provide, such assistance, services and data as may be required by the division of homeland security and emergency services in carrying out the purposes of this article, subject to applicable laws, rules, and regulations;

(r) develop standards and a certification process for training programs for training of private security officers in commercial buildings which shall:

(i) improve observation, detection and reporting skills;

(ii) improve coordination with local police, fire and emergency services;

(iii) provide and improve skills in working with advanced security technology including surveillance and access control procedures;

(iv) require at least forty hours of training including three hours of training devoted to terrorism awareness; and

(v) have been certified as a qualified program by the division of homeland security and emergency services;

(s) work in consultation with or make recommendations to the commissioner of agriculture and markets in developing rules and regulations relating to ammonium nitrate security; and

(t) develop, maintain, and deploy state, regional and local all-hazard incident management teams.

(u) Notwithstanding article six-C of this chapter, or any other provision of law to the contrary, the division of homeland security and emergency services shall establish best practices regarding training and education for firefighters and first responders which shall include but not be limited to: minimum basic training for firefighters and first responders; in-service training and continuing education; and specialized training as it may apply to the specific duties of a category of emergency personnel.

3. The division of homeland security and emergency services shall consist of several offices including, but not limited to, the office of counterterrorism, which shall have the powers, and be responsible for

carrying out the duties, including but not limited to those set forth in section seven hundred nine-a of this article; the office of emergency management, which shall have the powers, and be responsible for carrying out the duties, including but not limited to those set forth in article two-B of this chapter; the office of fire prevention and control, which shall have the powers, and be responsible for carrying out the duties, including but not limited to those set forth in article six-C of this chapter and the office of interoperable and emergency communications, which shall have the powers, and be responsible for carrying out the duties, including but not limited to those set forth in section seven hundred seventeen of this article.

4. As set forth in section seven hundred ten of this article, the commissioner of the division of homeland security and emergency services shall be appointed by the governor, with the advice and consent of the senate, and hold office at the pleasure of the governor. The directors of the offices of counterterrorism, emergency management, fire prevention and control, and interoperable and emergency communications, and such other offices as may be established, shall be appointed by, and hold office at the pleasure of, the governor and they shall report to the commissioner of the division of homeland security and emergency services.

5. The directors of the offices of counterterrorism, emergency management, fire prevention and control, interoperable and emergency communications, and of such other offices as may be established, shall, in consultation with the commissioner, have the authority to promulgate rules and regulations to carry out the duties of their office, including the establishment of fees necessary to compensate for costs associated with the delivery of training and services.

6. The directors of the offices of counterterrorism, emergency management, fire prevention and control, interoperable and emergency communications, and such other offices as may be established, shall have the authority to enter into contracts with any person, firm, corporation, municipality, or government entity.

7. Annual report of the division. The commissioner of the division of homeland security and emergency services shall, on or before January first in each year, submit to the governor, the temporary president of the senate, and the speaker of the assembly, a report concerning the performance of the division with respect to outreach to businesses, not-for-profit organizations, and the general public, which shall include information regarding the content and scope of seminars, conferences, surveys, programs, and other programmatic means of engaging such parties to identify and meet the needs of such parties with respect to emergency mitigation, preparedness, response, and recovery, and the participation of such parties therein.

§ 709-a. Office of counterterrorism. The office of counterterrorism shall develop and analyze the state's policies, protocols and strategies relating to the prevention and detection of terrorist acts and terrorist threats. The office shall also be responsible for coordinating strategies, protocols and first responder equipment needs to detect a biological, chemical or radiological terrorist act or threat; working with private entities and local, state and federal agencies to conduct assessments of the vulnerability of critical infrastructure to terrorist attack; and consulting with appropriate state and local governments and private entities to facilitate and foster cooperation to better prepare the state to prevent and detect threats and acts of terrorism.

§ 710. Commissioner of the division of homeland security and emergency services; appointment of the commissioner; powers and duties. 1. The commissioner of the division of homeland security and emergency services (commissioner) shall be appointed by the governor, by and with the advice and consent of the senate, and hold office at the pleasure of the governor.

2. The commissioner, acting by and through the division, shall have the power and duty to:

(a) administer the duties of the division pursuant to this section;

(b) administer such other duties as may be devolved upon the division

from time to time pursuant to law;

(c) cooperate with and assist other state and federal departments, boards, commissions, agencies and public authorities in the development and administration of policies and protocols which will enhance the safety and security of the citizens of the state;

(d) enter into contracts with any person, firm, corporation or governmental agency, and do all things necessary to carry out the functions, powers and duties expressly set forth in this article, subject to any applicable laws, rules or regulations;

(e) establish offices, departments and bureaus and make changes therein as he or she may deem necessary to carry out the functions of the division;

(f) subject to the provisions of this article and the civil service law, and the rules and regulations adopted pursuant thereto, the commissioner may appoint other officers, employees, agents and consultants as may be necessary, prescribe their duties, fix their compensation, and provide for payment of their reasonable expenses, all within amounts available therefor by appropriation. The commissioner may transfer officers or employees from their positions to other positions in the division, or abolish or consolidate such positions; and

(g) accept and contract as agent of the state for any gift to support the development and training missions of the division of homeland security and emergency services.

§ 711. Reports. 1. On or before January thirty-first of each year, the director shall appear before and deliver a report to representatives of each house of the legislature. The temporary president of the senate and the speaker of the assembly shall each appoint four members of their respective houses, and the minority leader of each house shall each appoint one member, to hear the director's report. The appointed members may hear the report in a joint meeting of the members of the senate and assembly or in separate meetings attended by the members from one house. The chief information security officer of the state office of information technology services shall participate in such joint or separate meetings to supplement the report delivered by the director. The report shall provide information including, but not limited to: the

state's current threat level, imminent threats to New York state, the state's current threat posture and collaborative efforts among localities, regions and with other states to prepare for and defend against acts of terrorism. The chief information security officer of the state office of information technology services shall supplement the report delivered by the director with information on the state's cyber security infrastructure and cyber security resiliency efforts.

2. The commissioner shall appear and give testimony before the annual legislative hearing on public protection held jointly by the assembly committee on ways and means and the senate finance committee as provided for in section three of article VII of the New York state constitution and section thirty-one of the legislative law.

3. The director shall report to the temporary president of the senate, speaker of the assembly and/or their designees within five days of an elevation of the state homeland security advisory system threat level as to the circumstances of the elevation.

4. Before the receipt of any report issued pursuant to this section, each recipient of such report shall develop confidentiality protocols in consultation with the director which shall be binding upon the recipient who issues the protocols and anyone to whom the recipient shows the report, for the maintenance and use of such report so as to ensure the confidentiality of all sensitive information contained therein, provided, however, that such protocols shall not be binding upon a person who is provided access to such report or any information contained therein pursuant to section eighty-nine of the public officers law after a final determination that access to such report or any information contained therein could not be denied pursuant to subdivision two of section eighty-seven of the public officers law. The director shall also develop protocols for his or her office related to the maintenance and use of the report so as to ensure the confidentiality of all sensitive information contained in the report. On each copy of written reports, the director shall prominently display the following statement: "This report may contain information that if disclosed could endanger the life or safety of the public, and

therefore, pursuant to section seven hundred eleven of the executive law, this report is to be maintained and used in a manner consistent with protocols established to preserve the confidentiality of the information contained herein in a manner consistent with law."

§ 711-a. Analyze and report on the feasibility of implementing tornado warning systems. 1. The division shall analyze and report on the feasibility of implementing tornado warning systems, including the installation of tornado sirens in municipalities across the state. Such examination shall include determining whether certain municipalities should install tornado sirens, the potential placement of tornado sirens and whether they should be located near schools, hospitals, sports facilities, colleges or other populated areas.

2. The division shall analyze and report on the use of firehouse sirens as possible notification to the surrounding community of an impending tornado and the type of public education necessary to carry out such program.

3. The division shall also recommend other technologies to be used to issue tornado warnings such as text messages to cell phones and the systems necessary to carry out an emergency text message system.

4. The recommendations required pursuant to this section shall include a cost-benefit analysis of implementing a tornado warning system and possible funding mechanisms for the implementation of a tornado warning system.

5. The division shall issue the report to the governor and the legislature on or before March first, two thousand fourteen.

§ 711-b. Review of water supplier vulnerability analysis assessments. The commissioner, or his or her designee, shall review each vulnerability analysis assessment prepared by a water supplier pursuant to section eleven hundred twenty-five of the public health law. The

commissioner may issue recommendations or general guidance to the water supplier based on the assessment to enhance protections against a terrorist attack or cyber attack. Such recommendations and guidance shall be kept confidential and shall be exempt from disclosure under article six of the public officers law.

§ 711-c. Cybersecurity incident reviews. 1. Definitions. As used in this section, the terms cybersecurity incident, cyber threat, cyber threat indicator, defensive measure, information system, municipal corporation, public authority, ransom payment and ransomware attack shall have the same meaning as such terms are defined in article nineteen-C of the general municipal law.

2. The commissioner, or their designees, shall review each cybersecurity incident report and notice and explanation of ransom payment submitted pursuant to sections nine hundred ninety-five-b and nine hundred ninety-five-c of the general municipal law to assess potential impacts of cybersecurity incidents and ransom payments on the health, safety, welfare or security of the state, or its residents.

3. The commissioner, or their designees, may work with appropriate state agencies, federal law enforcement, and federal homeland security agencies to provide municipal corporations and public authorities with reports of cybersecurity incidents and trends, including but not limited to, to the maximum extent practicable, related contextual information, cyber threat indicators, and defensive measures. The commissioner may coordinate and share such reported information with municipal corporations, public authorities, state agencies, and federal law enforcement and homeland security agencies to respond to and mitigate cybersecurity threats.

4. Such reports, assessments, records, reviews, documents, recommendations, guidance and any information contained or used in its preparation shall be exempt from disclosure under article six of the public officers law.

5. No later than forty-eight hours after receiving a cybersecurity incident report containing a request for advice and/or technical assistance from the division pursuant to subdivision one of section nine hundred ninety-five-b of the general municipal law, the commissioner or the commissioner's designees shall acknowledge receipt of such request. As soon as possible after receiving such a request, the commissioner or the commissioner's designees, subject to the commissioner's discretion in prioritizing the division's response to the municipal corporation's or public authority's cybersecurity incident report, shall provide advice to the requesting municipal corporation or public authority and, to the extent practicable, provide technical assistance.

§ 712. Miscellaneous. The office shall be subject to the laws, rules and regulations of the state including, but not limited to, the state finance law, the state administrative procedure act, and article six of the public officers law.

§ 713. Protection of critical infrastructure including energy generating and transmission facilities. 1. Notwithstanding any other provision of law, the commissioner of the division of homeland security and emergency services shall conduct a review and analysis of measures being taken by the public service commission and any other agency or authority of the state or any political subdivision thereof and, to the extent practicable, of any federal entity, to protect the security, and cyber security, of critical infrastructure related to energy generation and transmission located within the state. The commissioner of the division of homeland security and emergency services shall have the authority to review any audits or reports related to the security of such critical infrastructure, including audits or reports conducted at the request of the public service commission or any other agency or authority of the state or any political subdivision thereof or, to the extent practicable, of any federal entity. The owners and operators of such energy generating or transmission facilities shall, in compliance with any federal and state requirements regarding the dissemination of such information, provide access to the commissioner of the division of

homeland security and emergency services to such audits or reports regarding such critical infrastructure provided, however, that exclusive custody and control of such audits and reports shall remain solely with the owners and operators of such energy generating or transmission facilities. For the purposes of this article, the term "critical infrastructure" has the meaning ascribed to that term in subdivision five of section eighty-six of the public officers law.

2. (a) On or before December thirty-first, two thousand four, and not later than three years after such date, and every five years thereafter, the commissioner of the division of homeland security and emergency services shall report to the governor, the temporary president of the senate, the speaker of the assembly, the chairperson of the public service commission and the chief executive of any such affected generating or transmission company or his or her designee. Such report shall review the security measures being taken regarding critical infrastructure related to energy generating and transmission facilities, assess the effectiveness thereof, and include recommendations to the legislature or the public service commission if the commissioner of the division of homeland security and emergency services determines that additional measures are required to be implemented, considering, among other factors, the unique characteristics of each energy generating or transmission facility.

(b) Before the receipt of such report identified in paragraph (a) of this subdivision, each recipient of such report shall develop confidentiality protocols, which shall be binding upon the recipient who issues the protocols and anyone to whom the recipient shows a copy of the report, in consultation with the commissioner of the division of homeland security and emergency services for the maintenance and use of such report so as to ensure the confidentiality of the report and all information contained therein, provided, however, that such protocols shall not be binding upon a person who is provided access to such report or any information contained therein pursuant to section eighty-nine of the public officers law after a final determination that access to such report or any information contained therein could not be denied pursuant to subdivision two of section eighty-seven of the public officers law. The commissioner of the division of homeland security and emergency

services shall also develop protocols for his or her office related to the maintenance and use of such report so as to ensure the confidentiality of the report and all information contained therein. On each report, the commissioner of the division of homeland security and emergency services shall prominently display the following statement: "this report may contain information that if disclosed could endanger the life or safety of the public, and therefore, pursuant to section seven hundred eleven of the executive law, this report is to be maintained and used in a manner consistent with protocols established to preserve the confidentiality of the information contained herein in a manner consistent with law".

(c) Except in the case of federally licensed electric generating facilities, the public service commission shall have the discretion to require that the recommendations of the commissioner of the division of homeland security and emergency services be implemented by any owner or operator of an energy generating or transmission facility. Recommendations regarding federally licensed electric generating facilities shall instead only be made available by the commissioner of the division of homeland security and emergency services to the appropriate federal agency in compliance with any federal and state requirements regarding the dissemination of such information.

3. Any reports prepared pursuant to this article shall not be subject to disclosure pursuant to section eighty-eight of the public officers law.

§ 714. Protection of critical infrastructure; storage facilities for hazardous substances. 1. Notwithstanding any other provision of law and subject to the availability of an appropriation, the commissioner of the division of homeland security and emergency services shall conduct a review and analysis of measures being taken by the owners and operators of facilities identified pursuant to paragraph (b) of subdivision two of this section to protect the security, and cyber security, of critical infrastructure related to such facilities. The commissioner of the division of homeland security and emergency services shall have the authority to review all audits or reports related to the security of

such critical infrastructure, including all such audits or reports mandated by state and federal law or regulation, including spill prevention reports and risk management plans, audits and reports conducted at the request of the department of environmental conservation or at the request of any federal entity, or any other agency or authority of the state or any political subdivision thereof, and reports prepared by owners and operators of such facilities as required in this subdivision. The owners and operators of such facilities shall, in compliance with any federal and state requirements regarding the dissemination of such information, provide access to the commissioner of the division of homeland security and emergency services to such audits and reports regarding such critical infrastructure provided, however, exclusive custody and control of such audits and reports shall remain solely with the owners and operators of such facilities to the extent not inconsistent with any other law. For the purposes of this section, the term "critical infrastructure" has the meaning ascribed to that term in subdivision five of section eighty-six of the public officers law.

2. To effectuate his or her duties pursuant to this section and identify risks to the public, the commissioner of the division of homeland security and emergency services shall:

(a) within six months of the effective date of this section, in consultation with the commissioner of environmental conservation, the commissioner of health, and such representatives of the chemical industry and higher education as may be appropriate, prepare a list that identifies toxic or hazardous substances, including but not limited to those substances listed as hazardous to public health, safety or the environment in regulations promulgated pursuant to article thirty-seven of the environmental conservation law, as well as those substances for which the state possesses insufficient or limited toxicological information but for which there exists preliminary evidence that the substance or the class of chemicals with similar physical and chemical properties to which it belongs has the potential to cause death, injury, or serious adverse effects to human health or the environment, based on the severity of the threat posed to the public by the unauthorized release of such substances. Such list will be promulgated in accord with the provisions of the state administrative procedure act;

(b) upon completion of the list required pursuant to paragraph (a) of this subdivision, but no later than one hundred twenty days after such date, in consultation with the commissioner of environmental conservation, the commissioner of health and such representatives of the chemical industry and any state, local and municipal officials as may be appropriate, identify facilities, including facilities regulated pursuant to title nine and title eleven of article twenty-seven and article forty of the environmental conservation law, but excluding facilities that hold liquified petroleum gas for fuel at retail sale as described in section 112(1)(4)(B) of the Clean Air Act (42 U.S.C. section 7412(r)(4)(b)) and those facilities that are defined as "water suppliers" in subdivision one of section eleven hundred twenty-five of the public health law, which because of their storage of or relationship to such substances identified pursuant to paragraph (a) of this subdivision pose risks to the public should an unauthorized release of such hazardous substances occur; and

(c) require such facilities identified pursuant to paragraph (b) of this subdivision, as the commissioner so determines, to prepare a vulnerability assessment of the security measures taken by such facilities to prevent and respond to the unauthorized release of hazardous substances as may be stored therein, which assessments the commissioner of the division of homeland security and emergency services shall review and consider in light of the seriousness of the risk posed and vulnerability of such facility and, where appropriate, make recommendations with respect thereto.

3. (a) On or before June first, two thousand five, the commissioner of the division of homeland security and emergency services shall make a preliminary report to the governor, the temporary president of the senate, the speaker of the assembly, the commissioner of environmental conservation, the commissioner of health and the chief executive officer of any such affected facility or his or her designee, and on or before December thirty-first, two thousand five, and not later than three years after such date, and every five years thereafter, the commissioner of the division of homeland security and emergency services shall report to the governor, the temporary president of the senate, the speaker of the assembly, the commissioner of environmental conservation, the

commissioner of health and the chief executive officer of any such affected facility or his or her designee. Such report shall review the security measures being taken regarding critical infrastructure related to such facilities, assess the effectiveness thereof, and include recommendations to the legislature, the department of environmental conservation or the department of health if the commissioner of the division of homeland security and emergency services determines that additional measures are required to be implemented.

(b) Before the receipt of such report identified in paragraph (a) of this subdivision, each recipient of such report shall develop confidentiality protocols which shall be binding upon the recipient who issues the protocols and anyone to whom the recipient shows a copy of the report in consultation with the commissioner of the division of homeland security and emergency services, for the maintenance and use of such report so as to ensure the confidentiality of the report and all information contained therein, provided, however, that such protocols shall not be binding upon a person who is provided access to such report or any information contained therein pursuant to section eighty-nine of the public officers law after a final determination that access to such report or any information contained therein could not be denied pursuant to subdivision two of section eighty-seven of the public officers law. The commissioner of the division of homeland security and emergency services shall also develop protocols for such division related to the maintenance and use of such report so as to ensure the confidentiality of all sensitive information contained in such report. On each report, the commissioner of the division of homeland security and emergency services shall prominently display the following statement: "This report may contain information that if disclosed could endanger the life or safety of the public, and therefore, pursuant to section seven hundred eleven of the executive law, this report is to be maintained and used in a manner consistent with protocols established to preserve the confidentiality of the information contained herein in a manner consistent with law."

(c) The department of environmental conservation shall have the discretion to require that recommendations of the commissioner of the division of homeland security and emergency services be implemented by any owner or operator of a hazardous substances storage facility as

defined in this section.

§ 716. Protection of critical infrastructure; commercial aviation, petroleum and natural gas fuel transmission facilities and pipelines. 1. Notwithstanding any other provision of law, the commissioner of the division of homeland security and emergency services shall conduct a review and analysis of measures being taken by any other agency or authority of the state or any political subdivision thereof and, to the extent practicable, of any federal entity, to protect the security, and cyber security, of critical infrastructure related to commercial aviation fuel, petroleum and natural gas transmission facilities and pipelines in this state which are not located upon the premises of a commercial airport. As deemed appropriate by such commissioner, the division of homeland security and emergency services shall have the authority to physically inspect the premises and review any audits or reports related to the security of such critical infrastructure, including audits or reports conducted at the request of any other agency or authority of the state or any political subdivision thereof or, to the extent practicable, of any federal entity. The operators of such commercial aviation fuel, petroleum or natural gas transmission facilities and pipelines shall, in compliance with any federal and state requirements regarding the dissemination of such information, provide access to the commissioner of the division of homeland security and emergency services to such audits or reports regarding such critical infrastructure provided, however, that exclusive custody and control of such audits and reports shall remain solely with the operators of such commercial aviation fuel, petroleum or natural gas transmission facilities and pipelines. For the purposes of this article, the term "critical infrastructure" has the meaning ascribed to that term in subdivision five of section eighty-six of the public officers law.

2. (a) On or before December thirty-first, two thousand eleven, and every five years thereafter, the commissioner of the division of homeland security and emergency services shall report to the governor, the temporary president of the senate, the speaker of the assembly, the public service commission, and the operator of any such affected

commercial aviation fuel, petroleum or natural gas transmission facility or pipeline. Such report shall review the security measures being taken regarding critical infrastructure related to commercial aviation fuel, petroleum or natural gas transmission facilities and pipelines, assess the effectiveness thereof, and include recommendations to the legislature, the public service commission, or the operator of a commercial aviation fuel, petroleum or natural gas transmission facility or pipeline, or any appropriate state or federal regulating entity or agency if the commissioner of the division of homeland security and emergency services determines that additional measures are required to be implemented, considering among other factors, the unique characteristics of each commercial aviation fuel, petroleum or natural gas transmission facility or pipeline.

(b) Before the receipt of such report identified in paragraph (a) of this subdivision, each recipient of such report shall develop confidentiality protocols, which shall be binding upon the recipient who issues the protocols and anyone to whom the recipient shows a copy of the report, in consultation with the commissioner of the division of homeland security and emergency services for the maintenance and use of such report so as to ensure the confidentiality of the report and all information contained therein, provided, however, that such report and any information contained or used in its preparation shall be exempt and not made available pursuant to article six of the public officers law. The commissioner of the division of homeland security and emergency services shall also develop protocols for his or her office related to the maintenance and use of such report so as to ensure the confidentiality of the report and all information contained therein. On each report, the commissioner of the division of homeland security and emergency services shall prominently display the following statement: "this report may contain information that if disclosed could endanger the life or safety of the public, and therefore, pursuant to section seven hundred eleven of the executive law, this report is to be maintained and used in a manner consistent with protocols established to preserve the confidentiality of the information contained herein in a manner consistent with law".

(c) The public service commission shall have the discretion to require, through regulation or otherwise, that the recommendations of

the commissioner of the division of homeland security and emergency services be implemented at an affected commercial aviation fuel, petroleum or natural gas transmission facility or pipeline.

(d) The division of homeland security and emergency services shall receive necessary appropriations for the performance of its duties pursuant to this section.

§ 717. Office of interoperable and emergency communications. 1. The office of interoperable and emergency communications shall be the principal state agency for all interoperable and emergency communications issues and oversee and direct the development, coordination and implementation of policies, plans, standards, programs and services related to interoperable and emergency communications, including those related to public safety land mobile radio communications. The office shall coordinate with federal, state, local, tribal, non-governmental and other appropriate entities.

2. The office shall be responsible for coordinating relevant grant programs and other funding sources to enhance interoperable and emergency communications, as consistent with the mission of the division. The director shall make final determinations regarding the distribution of grants, in consultation with the board.

3. The director of this office shall serve as the statewide interoperable and emergency communications coordinator.

4. To ensure appropriate coordination and consultation with relevant entities, the director shall be the chairperson of the statewide interoperable and emergency communication board as defined in section three hundred twenty-seven of the county law, and whose duties shall include, but not be limited to all the duties regularly assigned to the board as defined by section three hundred twenty-eight of the county law.

5. The commissioner, in consultation with the director of the office, shall promulgate rules and regulations which require municipalities to

report, no less than annually, on prior and planned expenditures to develop and operate interoperable and emergency communications. The regulations shall permit municipalities which participate in county or multi-county regional coordinated interoperability efforts to submit a single report to the division for all participating municipalities, so long as all expenses which would have been reported if the participating municipalities had submitted individual reports are contained in the combined report. The regulations shall not require a municipality that incurred no relevant expenses and anticipates no relevant expenses to submit such a report. The division shall include a summary of such information in its annual report to the governor, temporary president of the senate, and speaker of the assembly provided for in subdivision seven of section seven hundred nine of this article, as well as submitting such information at the same time to the state comptroller.

§ 717-a. Direct dialing to public service answering points. 1. For purposes of this section, "public building" shall mean any building belonging to the state, county, town, village, school district or any other political or civil subdivision of state or local government.

2. For purposes of this section, "multi-line telephone system" shall mean any system comprised of common control units, telephone sets, control hardware and software, and adjunct systems which enables users to make and receive telephone calls using shared resources such as telephone network trunks or data link bandwidth. This term includes, but is not limited to, network-based and premises-based systems such as Centrex service, premises-based, hosted and cloud-based VoIP, as well as PBX, Hybrid and Key Telephone Systems, as classified by the FCC under Part 68 of its rules.

3. All public buildings which operate on a multi-line telephone system in this state must configure their multi-line telephone system hardware to allow any call to 911 on the system to be directly connected to a public service answering point; provided however, that in the case of public buildings governed by section three hundred fifty-five or six thousand two hundred four of the education law which have on-campus

emergency answering points, such public buildings may route such 911 calls to their on-campus answering points.

4. The requirements of subdivision three of this section shall not apply to any public building operating on a multi-line telephone system that would be required to upgrade the hardware of their telephone network to meet said requirement. However, every telephone in any exempt public building operating on a multi-line telephone system shall place an instructional sticker on or immediately adjacent to each telephone informing users of the phone's inability to directly dial 911 and the procedures to follow to connect to a 911 public service answering point, or in the case of public buildings governed by section three hundred fifty-five or six thousand two hundred four of the education law which have on-campus emergency answering points, such on-campus answering points, in case of an emergency.

§ 718. Voluntary surveillance access database. 1. The division shall establish a voluntary surveillance access database to be made accessible, upon written request, to any law enforcement agency solely for purposes of a criminal investigation.

2. Residential home owners and business owners who maintain a closed-circuit television or other electronic video surveillance system may elect to register such information, limited to the location of such system and the contact information for the owner, with the voluntary surveillance access database. Such owners may withdraw such registration from the database at any time.

3. Registration information from such database shall be kept confidential and shall not be made available for disclosure or inspection under the state freedom of information law unless a subpoena or other court order directs the division to release such information or image.

§ 719. Loans for eligible hazard mitigation activities. 1. The

commissioner may make loans to local governments for eligible hazard mitigation activities, as defined in the STORM Act and corresponding federal regulations, to reduce disaster risks for homeowners, businesses, non-profit organizations, and communities subject to available funds for such purpose pursuant to section ninety-nine-qq of the state finance law.

2. The commissioner may make loans under this section subject to such other terms and conditions of the STORM Act, and related federal and state rules, regulations, policies and guidelines.

ARTICLE 26-B

BOARD OF SOCIAL WELFARE

Section 740. State board of social welfare.
741. Qualifications of members.
742. Organization of the board.
743. Removal and vacancies.
744. Compensation and expenses.
745. Employees; compensation.
746. Offices of the board.
747. Functions, powers and duties of the board.
749. Record of proceedings of the board; certificates and subpoenas.
750. Duties of the attorney general and district attorneys.

§ 740. State board of social welfare. 1. The state board of social welfare is the legal authority established by the constitution responsible for the inspection and visitation of certain institutions and certain agencies and for the making of rules and regulations with respect to all of the functions, powers and duties with which the board is charged, subject to the control of the legislature and pursuant to this article and other provisions of law.

It shall be the major purposes of the board to review, report and make recommendation concerning the policies and programs pertaining to child and adult care, including the implementation of such policies and

programs and the quality of supervision exercised by the responsible state and local supervisory agencies; to advise the governor and the legislature with respect to such matters; to conduct independent research, studies and analyses of state policies and programs affecting child and adult care; to advocate the improvement of such programs and policies; and to conduct special research, studies and analyses, at the request of the governor, with respect to any matter related to human services generally.
The board as constituted shall continue as a division of the executive department.

2. The board shall consist of fifteen members appointed by the governor by and with the consent of the senate. At the expiration of the term of any member of the board his successor shall be appointed for a term of five years.

§ 741. Qualifications of members. 1. No member of the board shall be eligible to serve for more than two successive terms of five years, nor for more than ten successive years.

2. No member of the board shall qualify or enter upon the duties of office or remain therein, while he is a trustee, manager, director, officer or member of the governing board of any institution subject to the visitation or inspection of such board.

§ 742. Organization of the board. The governor shall designate a member of the board as chairman thereof to serve as such during the pleasure of the governor. The board may designate other officers and may choose from their number an executive committee with such functions as shall be prescribed by the board.

§ 743. Removal and vacancies. Any member may be removed by the governor for cause, an opportunity having been given him to be heard. A member who fails to attend three consecutive regular meetings of the

board, unless excused by formal vote of the board, shall be deemed to have vacated his position.

§ 744. Compensation and expenses. The chairman of the board, and the other members of the board shall not receive a salary or other compensation, but shall receive necessary expenses as shall have been incurred by them in the performance of their duties. Payment of such expenses shall be made on the audit and warrant of the comptroller from the treasury of the state upon certification by the chairman.

§ 745. Employees; compensation. The board may appoint and remove from time to time, in accordance with law, such employees as it may deem necessary for the efficient administration of the duties of the board. The compensation of employees appointed by the board shall be determined by it in accordance with law.

§ 746. Offices of the board. The board shall be provided with suitably furnished rooms for its offices and for meetings of the board. The principal office of the board shall be in the county of Albany.

§ 747. Functions, powers and duties of the board. In order to effectuate the purposes of the board as set forth in the state constitution and as described in this article, the board shall have and perform the following specific functions, powers and duties:

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

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

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

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

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

(ii) whether the applicable laws, rules and regulations governing its

operation are fully complied with;

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

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

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

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

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

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

(d) To make a report of such visit and inspection and, notwithstanding any inconsistent provision of law, to transmit copies of such report to the governor, the legislature, all state and local governmental agencies having supervisory jurisdiction, and to such other governmental agencies as the board may consider appropriate, and to make such report available for public inspection in accordance with the requirements of the freedom of information law, and any other law which may be applicable, provided, however, that such disclosure shall be consistent with all applicable laws and regulations governing the safeguarding of confidential records and information.

2. To conduct studies, analyses and research on specific programs and policies of the state in all matters pertaining to adult and child care programs, including care and services provided in a residential setting, services and programs designed to maintain the family structure intact and to prevent or terminate the need for such care away from their homes, and any other matter within the scope of its functions, powers and duties under this article; and to advise, aid and assist the governor regarding all policies and programs for child and adult care. Such studies, analyses and research shall be coordinated with similar

activities of all other state agencies having responsibilities or authority to conduct studies, analyses and research pertaining to adult and child care programs.

3. To conduct studies, analyses and research to all matters pertaining to human services generally. Such studies, analysis and research shall be coordinated with similar activities of all other state agencies having responsibilities or authority to conduct studies, analysis and research pertaining to adult and child care programs.

4. To advocate the initiation, development, improvement and sponsorship by state and local agencies, both public and private, of such programs and policies as it may consider desirable in providing care and services for children and adults away from their own homes, or which are designed to prevent the need for care away from their own homes. The board may recommend legislation. The board is authorized to make application and to appear before any court as a friend of the court in any action or proceeding pending before such court, which is concerned with issues relevent to the board and within the scope of its functions, powers and duties under this article.

5. To direct an investigation, and to hold hearings relevant to such investigation, by a committee of one or more of its members or by duly authorized employees of the board, of the adequacy of the supervision by any state or local agency having jurisdiction over the affairs and management of any facility or agency subject to visit and inspection by the board, or over the conduct of its officers and employees. Persons designated to make such investigations are empowered to issue compulsory process for the attendance of witnesses and production of any records, documents, books or papers relating to any matter under investigation, to administer oaths and to take the testimony of any person under oath. Upon the conclusion of such investigation, the board shall make a report, with findings of fact and conclusions of law and, notwithstanding any other provision of law to the contrary, shall transmit copies of such report to the governor, the legislature, all governmental agencies, both state and local, having supervisory jurisdiction, and to such other governmental agencies as the board may

consider to be appropriate, and to make such report available for public inspection in accordance with the requirements of the freedom of information law and any other applicable law, provided, however, that such disclosure shall be consistent with all applicable laws and regulations governing the safeguarding of confidential records and information.

6. To review and comment on proposed legislation, rules and regulations pertaining to child and adult care. Each division within the executive department and all other departments of the state shall make available to the board any recommendations for legislative changes at the time such recommendations are made; any proposed rules and regulations, at least thirty days prior to the date they are adopted, except for the promulgation of such rules and regulations on an emergency basis.

7. To conduct public hearings with respect to any matter within the scope of its functions, powers and duties.

8. To enter into contracts with other state and federal agencies, and with individuals and organizations to undertake and conduct research, studies and analysis of programs in the exercise of its authority to conduct such research, studies and analysis.

9. To request from any department, division, board, bureau, commission or other agency of the state or of any political subdivision thereof, and the same are authorized to provide such facilities and assistance, and shall provide such data as will enable the board properly to exercise its powers and perform its duties.

10. To accept as agency of the state any gift, grant, including federal grant, devise or bequest, for any of the purposes of this article. Any moneys so received may be expended by the board to effectuate any purpose of this article, subject to the same limitations as to approval of expenditures and audit as are prescribed for state moneys appropriated for the purposes of this article.

11. To make an annual report to the governor and the legislature with respect to the affairs of the board, and of its recommendations.

12. To make, amend and rescind rules:

(a) governing the procedure for visits and inspections by the board, including the furnishing of information to the board as it may require on such forms as the board may provide by any facility or agency visited and inspected or to be visited and inspected;

(b) governing access to records and meetings of the board, in accordance with the requirements for such rules under the freedom of information law and the open meetings law;

(c) otherwise necessary to carry out its functions, powers and duties under this article;

(d) provided, however, that any such rules are adopted by a two-thirds vote of the members of the board and are otherwise adopted and promulgated in accordance with the procedures of the state administrative procedure act and with the applicable provisions of this chapter.

13. To do all things necessary or convenient to carry out the functions, powers and duties expressly set forth in this article.

14. The rights and powers of the board to visit, inspect and investigate may be enforced by an order of the supreme court after notice and hearing, or by indictment by the grand jury of the county, or both.

15. Any person who intentionally refuses to comply with a lawful request of the board for access to such persons, premises or information as may be required for the board properly to perform its functions, powers and duties under this act shall be guilty of a misdemeanor.

§ 749. Record of proceedings of the board; certificates and subpoenas. 1. The board shall cause a record to be kept of its proceedings by its secretary or other officer designated by it.

2. The records of its proceeding and copies of all papers and documents in its possession and custody may be authenticated in the usual form, under the official seal of the board and the signature of the chairman or secretary of the board, and shall be received in evidence in the same manner and with like effect as deeds regularly acknowledged or proven.

3. The board may issue subpoenas, which, when authenticated by any member or the secretary shall be regulated by the civil practice law and rules.

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

ARTICLE 27

ADIRONDACK PARK AGENCY

Section 800. Short title.
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809. Agency administration and enforcement of the land use and development plan.
810. Class A and class B regional projects.
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816. Master plan for management of state lands.
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§ 800. Short title. This article shall be known as the "Adirondack Park Agency Act."

§ 801. Statement of legislative findings and purposes. The Adirondack park is abundant in natural resources and open space unique to New York and the eastern United States. The wild forest, water, wildlife and aesthetic resources of the park, and its open space character, provide an outdoor recreational experience of national and international significance. Growing population, advancing technology and an expanding economy are focusing ever-increasing pressures on these priceless resources.

Our forefathers saw fit nearly a century ago to provide rigid constitutional safeguards for the public lands in the Adirondack park. Today forest preserve lands constitute approximately forty percent of the six million acres of land in the park. The people of the state of New York have consistently reiterated their support for this time-honored institution.

Continuing public concern, coupled with the vast acreages of forest

preserve holdings, clearly establishes a substantial state interest in the preservation and development of the park area. The state of New York has an obligation to insure that contemporary and projected future pressures on the park resources are provided for within a land use control framework which recognizes not only matters of local concern but also those of regional and state concern.

In the past the Adirondack environment has been enhanced by the intermingling of public and private land. A unique pattern of private land use has developed which has not only complemented the forest preserve holdings but also has provided an outlet for development of supporting facilities necessary to the proper use and enjoyment of the unique wild forest atmosphere of the park. This fruitful relationship is now jeopardized by the threat of unregulated development on such private lands. Local governments in the Adirondack park find it increasingly difficult to cope with the unrelenting pressures for development being brought to bear on the area, and to exercise their discretionary powers to create an effective land use and development control framework.

The basic purpose of this article is to insure optimum overall conservation, protection, preservation, development and use of the unique scenic, aesthetic, wildlife, recreational, open space, historic, ecological and natural resources of the Adirondack park.

A further purpose of this article is to focus the responsibility for developing long-range park policy in a forum reflecting statewide concern. This policy shall recognize the major state interest in the conservation, use and development of the park's resources and the preservation of its open space character, and at the same time, provide a continuing role for local government.

The Adirondack park land use and development plan set forth in this article recognizes the complementary needs of all the people of the state for the preservation of the park's resources and open space character and of the park's permanent, seasonal and transient populations for growth and service areas, employment, and a strong economic base, as well. In support of the essential interdependence of

these needs, the plan represents a sensibly balanced apportionment of land to each. Adoption of the land use and development plan and authorization for its administration and enforcement will complement and assist in the administration of the Adirondack park master plan for management of state land. Together, they are essential to the achievement of the policies and purposes of this article and will benefit all of the people of the state.

Accordingly, it is the further purpose of this article to adopt and implement the land use and development plan and to provide for the plan's maintenance, administration and enforcement in a continuing planning process that recognizes matters of local concern and those of regional and state concern, provides appropriate regulatory responsibilities for the agency and the local governments of the park and seeks to achieve sound local land use planning throughout the park.

§ 802. Definitions. As used in this article, unless the context otherwise requires, the following words and terms shall have the meaning ascribed to them.

1. "Adirondack park" or "park" means land lying within the area described in subdivision one of section 9-0101 of the environmental conservation law including any future amendments thereto.

2. "Adirondack park local government review board" or "review board" means the board established in section eight hundred three-a.

3. "Agency" means the Adirondack park agency created by section eight hundred three of this article.

4. "Accessory use" means any use of a structure, lot or portion thereof that is customarily incidental and subordinate to and does not change the character of a principal land use or development, including in the case of residential structures, professional, commercial and artisan activities carried on by the residents of such structures.

5. "Accessory structure" means any structure or a portion of a main structure customarily incidental and subordinate to a principal land use or development and that customarily accompanies or is associated with such principal land use or development, including a guest cottage not for rent or hire that is incidental and subordinate to and associated with a single family dwelling.

6. "Agricultural service use" means any milk processing plant, feed storage supply facility, farm machinery or equipment sales and service facility; storage and processing facility for fruits, vegetables and other agricultural products or similar use directly and customarily related to the supply and service of an agricultural use.

7. "Agricultural use" means any management of any land for agriculture; raising of cows, horses, pigs, poultry and other livestock; horticulture or orchards; including the sale of products grown or raised directly on such land, and including the construction, alteration or maintenance of fences, agricultural roads, agricultural drainage systems and farm ponds.

8. "Agricultural use structure" means any barn, stable, shed, silo, garage, fruit and vegetable stand or other building or structure directly and customarily associated with agricultural use.

9. "Approved local land use program" means any local land use program approved by the agency under section eight hundred seven.

10. "Campground" means any area designed for transient occupancy by camping in tents, camp trailers, travel trailers, motor homes or similar facility designed for temporary shelter.

11. "Character description, policies, purposes and objectives of a land use area" means those land use are character descriptions, policies, purposes and objectives of the land use and development plan contained in subdivision three of section eight hundred five.

12. "Chief elected officer" means in the case of a city, the mayor

thereof; in the case of a town, the supervisor thereof; and in the case of a village, the mayor thereof.

13. "Class A regional project" and "class B regional project" means the land use and development and subdivisions of land listed and so characterized in section eight hundred ten.

14. "Classification of compatible uses lists" means the land use and development plan's lists of primary uses and secondary uses for the land use area contained in subdivision three of section eight hundred five.

15. "Clearcutting" means any cutting of all or substantially all trees over six inches in diameter at breast height over any ten-year cutting cycle.

16. "Commercial sand and gravel extraction" means any extraction from the land of more than fifty cubic yards in any two year period of sand, gravel or topsoil (1) for the purpose of sale or use by persons other than the owner of the land or (2) for the purpose of use by any municipality.

17. "Commercial use" means any use involving the sale or rental or distribution of goods, services or commodities, either retail or wholesale, or the provision of recreation facilities or activities for a fee other than any such uses specifically listed on any of the classification of compatible uses lists.

17-a. "Community housing" means a dwelling unit (i) not exceeding one thousand five hundred square feet of floor space each (excluding the first floor of a garage), (ii) located on one contiguous parcel, (iii) located within a moderate intensity use or low intensity use land use area, (iv) located within three miles of a hamlet land use area and not closer than one-tenth mile of a shoreline of a lake, pond or navigable river or stream, or located within one mile of the location of the following post offices on the enactment date of this subdivision and not closer than one-tenth mile of a shoreline of a lake, pond or navigable river or stream: Athol, NY 12810; Brantingham, NY 13312; Gabriels, NY

12939; Hoffmeister, NY 13353; Hulett's Landing, NY 12841; Kattskill Bay, NY 12844; Paul Smiths, NY 12970; Piseco, NY 12139; Sabael, NY 12864; Wanakena, NY 13695; White Lake, NY 12786; and (v) limited in perpetuity by deed or other legal instrument enforceable by a third party and the state of New York to primary single family dwellings for persons with one hundred twenty per centum or less of the area median income, adjusted for family size, as defined by the United States department of housing and urban development for the county in which such project is located; provided however, that each dwelling unit shall constitute a separate lot, parcel or site for purposes of agency jurisdiction pursuant to subparagraph one of paragraph (b) and subparagraph one of paragraph (a) of subdivision two of section eight hundred ten of this article.

18. "Development considerations" means the development considerations of the land use and development plan contained in subdivision four of section eight hundred five.

19. "Existing land use or development" or "existing use" means any land use or development in existence at any given time.

20. "Existing subdivision of land" or "existing subdivision" means any subdivision in existence at any given time.

21. "Forestry use" means any management, including logging, of a forest, woodland or plantation and related research and educational activities, including the construction, alteration or maintenance of woodroads, skidways, landings, fences and forest drainage systems.

22. "Forestry use structure" means any barn, shed, garage, research, educational or administrative building or cabin directly and customarily associated with forestry use.

23. "Group camp" means any land or facility for seasonal housing and recreational, educational or business related use by private groups or semi-public groups, such as a boy scout camp, fraternal lodge or university or college conference center.

24. "Industrial use" means any manufacturing, production or assembly of goods or material, including any on site waste disposal area directly associated with an industrial use. This term does not include mineral extractions, private and commercial sand and gravel extractions, sawmills, chipping mills, pallet mills and similar wood using facilities.

25. "In existence" means (a) with respect to any land use or development, including any structure, that such use or development has been substantially commenced or completed, and (b) with respect to any subdivision or portion of a subdivision, that such subdivision or portion has been substantially commenced and that substantial expenditures have been made for structures or improvements directly related thereto.

26. "Junkyard" means any open lot or area for the dismantling, storage or sale, as parts, scrap or salvage, of used or wrecked motor vehicles, machinery, scrap metals, waste papers, rags, used or salvaged building materials or other discarded material.

27. "Land" means the earth, on or below the surface of the ground, including water and air above, the flora and fauna.

28. "Land use or development" or "use" means any construction or other activity which materially changes the use or appearance of land or a structure or the intensity of the use of land or a structure. Land use and development shall not include any landscaping or grading which is not intended to be used in connection with another land use, or ordinary repairs or maintenance or interior alterations to existing structures or uses.

29. "Land use and development plan" or "plan" means the Adirondack park land use and development plan prepared by the Adirondack park agency as directed by law, approved by the agency on March three, nineteen hundred seventy-three, adopted in subdivision one of section eight hundred five, including the plan map, and any amendments thereto,

the provisions of the plan as contained in subdivisions three and four of section eight hundred five and sometimes referred to as the "provisions of the plan", and any amendments thereto, and the shoreline restrictions contained in section eight hundred six, and any amendments thereto.

30. "Land use areas" means the six types of land use areas of the land use and development plan delineated on the plan map and provided for in subdivision three of section eight hundred five.

31. "Local government" means any city, town or village whose boundaries lie wholly or partly within the Adirondack park, except that such term shall not include in the case of a town that portion thereof within any incorporated village.

32. "Local land use program" means any comprehensive land use and development planning and control program undertaken by a local government that includes local land use controls, such as zoning and subdivision regulations and a sanitary code, and governs land use and development and subdivision of land within the entire jurisdiction of the local government.

33. "Major public utility use" means any electric power transmission or distribution line and associated equipment of a rating of more than fifteen kilovolts which is one mile or more in length; any telephone inter-exchange or trunk cable or feeder cable which is one mile or more in length; any telephone distribution facility containing twenty-five or more pairs of wire and designed to provide initial telephone service for new structures; any television, cable television, radio, telephone or other communication transmission tower; any pipe or conduit or other appurtenance used for the transmission of gas, oil or other fuel which is one mile or more in length; any electric substation, generating facility or maintenance building and any water or sewage pipes or conduits, including any water storage tanks, designed to service fifty or more principal buildings. Any use which is subject to the jurisdiction of the public service commission pursuant to article seven or article eight of the public service law or other prior approval by

the public service commission under the provisions of the public service law is not a major public utility use or a use for the purposes of this article except for the shoreline restrictions in which case the bodies having jurisdiction over such uses under such article or other provisions shall have the authority of the agency or a local government under this article.

34. "Master plan for management of state lands" means the master plan for management of state lands referred to in section eight hundred sixteen.

35. "Mineral extraction" means any extraction, other than specimens or samples, from the land of stone, coal, salt, ore, talc, granite, petroleum products or other materials, except for commercial sand, gravel or topsoil extractions; including the construction, alteration or maintenance of mine roads, mine tailing piles or dumps and mine drainage.

36. "Mineral extraction structure" means any mine hoist; ore reduction, concentrating, sintering or similar facilities and equipment; administrative buildings; garages or other main buildings or structures.

37. "Mobile home" means any self-contained dwelling unit that is designed to be transported on its own wheels or those of another vehicle, may contain the same water supply, sewage disposal and electric system as immobile housing and is used for either permanent or seasonal occupancy. A dwelling unit that is constructed in sections and transported to and assembled on the site is not considered a mobile home.

37-a. "Mean high water mark" means the average annual high water level.

38. "Mobile home court" means a parcel of land under single ownership which is designed and improved for the placement of two or more mobile homes upon units thereof.

39. "Multiple family dwelling" means any apartment, town house, condominium or similar building, including the conversion of an existing single family dwelling, designed for occupancy in separate dwelling units therein by more than one family.

40. "Municipality" means any municipal corporation, district corporation or public benefit corporation as such terms are defined in section three of the general corporation law, and any agency or instrumentality of the foregoing, except that the term public benefit corporation shall not include any such corporation any member of which is appointed by the governor.

41. "New land use or development" or "new land use" means any land use or development that is not a preexisting use.

42. "New subdivision of land" or "new subdivision" means any subdivision of land that is not a preexisting subdivision.

43. "Official Adirondack park land use and development plan map" or "plan map" means the map portion of the land use and development plan on file at the headquarters of the Adirondack park agency as required in subdivision one of section eight hundred five.

44. "Open space recreation use" means any recreation use particularly oriented to and utilizing the outdoor character of an area; including a snowmobile, trail bike, jeep or all-terrain vehicle trail; cross-country ski trail; hiking and backpacking trail; bicycle trail; horse trail; playground, picnic area, public park, public beach or similar use.

45. "Optional shoreline clustering provisions" means those provisions set forth as an alternative to the shoreline restrictions in section eight hundred six.

46. "Overall intensity guidelines" means the overall intensity guidelines for development for the various land use areas of the land use and development plan as contained in subdivision three of section eight hundred five.

47. "Person" means any individual, corporation, partnership, association, trustee, municipality or other legal entity, but shall not include the state or any state agency.

48. "Preexisting land use or development" or "preexisting use" means any land use or development, including any structure, lawfully in existence prior to August one, nineteen hundred seventy-three, provided, however, that with respect to any land use or development exempt from the agency's interim project review powers under subdivision thirteen of section eight hundred fifteen until June one, nineteen hundred seventy-three, such date shall be substituted herein for August one, nineteen hundred seventy-three. For the purposes hereof, "lawfully" means in full compliance with all applicable laws, rules and regulations, including, without limitation, possession of and compliance with any permit or other approval required under the public health law, the environmental conservation law, any local or other governmental regulation.

49. "Preexisting subdivision of land" or "preexisting subdivision" means any subdivision or portion of a subdivision lawfully in existence prior to August one, nineteen hundred seventy-three, provided, however, that with respect to any subdivision or portion of a subdivision exempt from the agency's interim project review powers under subdivision thirteen of section eight hundred fifteen until June one, nineteen hundred seventy-three, such date shall be substituted herein for August one, nineteen hundred seventy-three. For the purposes hereof, "lawfully" means in full compliance with all applicable laws, rules and regulations, including, without limitation, possession of and compliance with any permit or other approval required under the public health law, the environmental conservation law, any local or other governmental regulation.

50. "Principal building" means any one of the following:

a. a single family dwelling constitutes one principal building;

b. a mobile home constitutes one principal building;

c. a tourist cabin or similar structure for rent or hire involving three hundred square feet or more of floor space constitutes one principal building;

d. each dwelling unit of a multiple family dwelling constitutes one principal building;

e. each motel unit, hotel unit or similar tourist accommodation unit which is attached to a similar unit by a party wall, each accommodation unit of a tourist home or similar structure, and each tourist cabin or similar structure for rent or hire involving less than three hundred feet of floor space, constitutes one-tenth of a principal building;

f. each commercial use structure and each industrial use structure in excess of three hundred square feet constitutes one principal building, except that for a commercial use structure which involves the retail sale or rental or distribution of goods, services or commodities, each eleven thousand square feet of floor space, or portion thereof, of such commercial use structures constitutes one principal building;

g. all agricultural use structures and single family dwellings or mobile homes occupied by a farmer of land in agricultural use, his employees engaged in such use and members of their respective immediate families, will together constitute and count as a single principal building;

h. up to four community housing dwelling units which qualify pursuant to subdivision seventeen-a of this section and are located on a contiguous parcel meeting the overall intensity guidelines constitute one principal building;

i. any other structure which exceeds twelve hundred fifty feet of floor space constitutes one principal building;

j. a structure containing a commercial use which is also used as a

single family dwelling constitutes one principal building.

An accessory structure does not constitute a principal building.

51. "Private sand, gravel or topsoil extraction" means any extraction from the land of sand, gravel or topsoil for the purpose of use, but not sale, by the owner of the land or any extraction for the purpose of sale of less than fifty cubic yards in any two year period.

52. "Project" means any new land use and development or subdivision of land that is subject to the review jurisdiction of either the agency or local government under this article.

53. "Project sponsor" means any person making application to the agency, or a local government for the review of a project.

54. "Public or semi-public building" means any component building of a college, school, hospital, animal hospital, library, place of worship, museum, research center, rehabilitation center or similar facility, or a municipal building.

55. "Public utility use" means any public utility use, equipment or structure which is not a "major public utility use." A public utility use does not include any use which is subject to the jurisdiction of the public service commission pursuant to article seven or article eight of the public service law.

56. "Shoreline" means that line at which land adjoins the waters of lakes, ponds, rivers and streams within the Adirondack park at mean high water.

57. "Shoreline restrictions" means those restrictions upon land use and development or subdivisions of land as contained in section eight hundred six.

58. "Single family dwelling" means any detached building containing one dwelling unit, not including a mobile home.

59. "Ski center" means any trail or slope for alpine skiing; including lifts, terminals, base lodges, warming huts, sheds, garages and maintenance facilities, parking lots and other buildings and structures directly and customarily related thereto.

60. "State" means the state of New York.

61. "State agency" means any department, bureau, commission, board or other agency of the state, including any public benefit corporation any member of which is appointed by the governor.

62. "Structure" means any object constructed, installed or placed on land to facilitate land use and development or subdivision of land, such as buildings, sheds, single family dwellings, mobile homes, signs, tanks, fences and poles and any fixtures, additions and alterations thereto.

63. "Subdivision of land" or "subdivision" means any division of land into two or more lots, parcels or sites, whether adjoining or not, for the purpose of sale, lease, license or any form of separate ownership or occupancy (including any grading, road construction, installation of utilities or other improvements or any other land use and development preparatory or incidental to any such division) by any person or by any other person controlled by, under common control with or controlling such person or by any group of persons acting in concert as part of a common scheme or plan. Subdivision of land shall include any map, plat or other plan of the division of land, whether or not previously filed. Subdivision of land shall not include the lease of land for hunting and fishing and other open space recreation uses.

64. "Tourist accommodation" means any hotel, motel, resort, tourist cabin or similar facility designed to house the general public.

65. "Tourist attraction" means any man-made or natural place of interest open to the general public and for which an admittance fee is usually charged, including but not limited to animal farms, amusement

parks, replicas of real or fictional places, things or people and natural geological formations.

66. "Waste disposal area" means any area for the disposal of garbage, refuse and other wastes, including sanitary landfills and dumps, other than an on-site disposal area directly associated with an industrial use.

67. "Watershed management or flood control project" means any dam, impoundment, dike, rip rap or other structure or channelization or dredging activity designed to alter or regulate the natural flow or condition of rivers or streams or the natural level or condition of lakes or ponds. Any such project for which a permit or approval is required prior to commencement from the department of environmental conservation is not a watershed management or flood control project or a use for the purposes of this article.

68. "Wetlands" means any land which is annually subject to periodic or continual inundation by water and commonly referred to as a bog, swamp or marsh which are either (a) one acre or more in size or (b) located adjacent to a body of water, including a permanent stream, with which there is free interchange of water at the surface, in which case there is no size limitation.

§ 803. Adirondack park agency. There is hereby created in the executive department, the Adirondack park agency, which shall consist of the following members: the commissioner of environmental conservation, the secretary of state, the commissioner of commerce and eight members to be appointed by the governor by and with the advice and consent of the senate. The governor shall designate a chairman from among the members appointed to the agency, who shall serve at the governor's pleasure. None of the members appointed by the governor shall be officers or employees of any state department or agency.

Five members appointed by the governor shall be full-time residents within the Adirondack park provided, however, that no two such members

shall be residents of the same county except for such members initially appointed before January first, nineteen hundred seventy-three, who may be reappointed for additional successive terms. Three members appointed by the governor shall be residents of the state outside the Adirondack park. Not more than five appointed members shall be of the same political party.

All appointments shall be made for terms of four years; provided that the first member appointed by the governor pursuant to the increase of members from seven to eight shall be appointed for a term expiring on the thirtieth day of June, nineteen hundred seventy-six. Each of such appointed members of the agency shall hold office for the term for which he was appointed and until his successor shall have been appointed and qualified or until he shall resign or be removed in the manner provided by law. In the case of any vacancy other than one arising by expiration of term, an appointment to fill the vacancy shall be made for the remainder of the unexpired term.

The designated chairman shall receive an annual salary of thirty thousand dollars. The other members of the agency, except those who serve ex officio, shall receive one hundred dollars per diem, not to exceed five thousand dollars per annum compensation for their services as members of the agency. All members, except those who serve ex officio, shall be allowed the necessary and actual expenses incurred in the performance of duties under this article.

A majority of the members of the agency shall constitute a quorum for the transaction of any business or the exercise of any power or function of the agency and affirmative vote by a majority of the members of the agency, except as is otherwise specifically provided in this article, shall be required to exercise any power or function of the agency. Votes of any member shall be cast in person and not by proxy. The agency may delegate to one or more of its members, officers, agents and employees, such powers and duties as it deems proper.

The commissioner of environmental conservation and the commissioner of commerce and the secretary of state may, by official authority filed in

their respective agencies, and with the Adirondack park agency, designate a deputy or other officer to exercise his powers and perform his duties, including the right to vote, on the agency.

§ 803-a. Adirondack park local government review board. 1. For the purpose of advising and assisting the Adirondack park agency in carrying out its functions, powers and duties, there is hereby established the Adirondack park local government review board. Such board shall consist of twelve members, each of whom shall be a resident of a county wholly or partly within the park. No more than one member shall be a resident of any single county. Each member shall be appointed by or in the manner determined by the legislative body of each such county.

2. The members of the review board shall serve for such terms as shall be determined by their respective appointing authorities. Any member of the board may, if authorized by his appointing authority, designate an alternate to serve in his absence.

3. The review board shall elect, for such term as it may determine, a chairman from among its membership and such other officers as it deems necessary.

4. The review board shall meet regularly at least four times each year. Special meetings may be called by the chairman and shall be called by him at the request of a majority of the review board.

5. No member of the review board shall be disqualified from holding any other office or employment by reason of his appointment hereunder, notwithstanding the provisions of any general, special or local law.

6. The members of the review board shall receive no compensation for their services but their respective appointing authorities may provide for payment of their actual and necessary expenses incurred in the performance of their duties hereunder.

7. In addition to any other functions or duties specifically required

or authorized in this article, the review board shall monitor the administration and enforcement of the Adirondack park land use and development plan and periodically report thereon, and make recommendations in regard thereto, to the governor and the legislature, and to the county legislative body of each of the counties wholly or partly within the park.

§ 804. General powers and duties of the agency. The agency shall have the power:

1. To sue and be sued;

2. To make and execute contracts and all other instruments necessary or convenient for the exercise of its powers and functions under this article;

3. To establish and maintain such facilities as may be necessary for the transacting of its business;

4. To appoint an executive officer, officers, agents, employees, and prescribe their duties and qualifications and fix their compensation;

5. To utilize to the extent feasible the staff and facilities of existing state agencies, pursuant to an allocation to be made by the director of the budget;

6. To hold hearings and subpoena witnesses in the exercise of its powers, functions and duties provided for by this article;

7. To contract for professional and technical assistance and advice;

8. To contract for and to accept any assistance, including but not limited to gifts, grants or loans of funds or of property from the federal government or any agency or instrumentality thereof, or from any agency or instrumentality of the state, or from any other public or private source and to comply, subject to the provisions of this article,

with the terms and conditions thereof, subject to the approval of the director of the budget;

9. To adopt, amend and repeal, after public hearing (except in the case of rules and regulations that relate to the organization or internal management of the agency), such rules and regulations, consistent with this article, as it deems necessary to administer this article, and to do any and all things necessary or convenient to carry out the purposes and policies of this article and exercise powers granted by law; and

10. To report periodically to the governor and the legislature on the conduct of its activities but not less than once a year, furnishing a copy of each such report to the clerk of the county legislative body of each county wholly or partly within the park and to the review board.

§ 805. Adirondack park land use and development plan. 1. Adoption; status report. a. The Adirondack park land use and development plan is hereby adopted and shall hereafter serve to guide land use planning and development throughout the entire area of the Adirondack park, except for those lands owned by the state.

b. The agency shall, in consultation with the Adirondack park local government review board, continually review and evaluate the land use and development plan as an ongoing planning process in the light of changing needs and conditions. The agency shall consult and work closely with local governments and local, county and regional planning agencies in this ongoing planning process, particularly as it pertains to their respective territorial areas and jurisdictions. In February, nineteen hundred seventy-six, the agency shall submit a comprehensive report to the governor and the legislature, furnishing a copy thereof to the clerk of the county legislative body of each county wholly or partly within the park and to the review board concerning the status of this planning process and the administration and enforcement of the land use and development plan, as provided for herein, by the agency and local governments.

2. Official Adirondack park land use and development plan map. a. The official Adirondack park land use and development plan map shall have the land use planning and regulatory effect authorized under this article.

b. Within twenty days after the enactment of this section, the agency shall file the Official Adirondack park land use and development plan map, as approved by the agency on March third, nineteen hundred seventy-three, and filed in the capitol, at its headquarters and a certified copy thereof with the secretary of state and reasonable facsimiles thereof with the review board and the clerk of each county and local government wholly or partially within the Adirondack park. Within twenty days after any amendment to the plan map, whether by law or by the agency, except an amendment granting in part a request by the legislative body of a local government pursuant to subparagraph three of paragraph c of this subdivision, the agency shall enter such amendment on the plan map filed at its headquarters and file a certified copy thereof with the review board and each of the state and local officers with whom a copy of the plan map is on file hereunder. The agency shall enter and file amendments granting in part a request by the legislative body of a local government pursuant to subparagraph three of paragraph c of this subdivision no sooner than sixty days and no later than ninety days after making such amendments. Such state and local officers shall enter such amendment on the plan map on file with them upon receipt of such certified copy in accordance with procedures prescribed by the agency. Such amendments shall take effect upon conclusion of such twenty-day or ninety-day filing period.

c. The agency may make the following amendments to the plan map in the following manner: (1) Any amendment to reclassify land from any land use area to any other land use area or areas, if the land involved is less than twenty-five hundred acres, after public hearing thereon and upon an affirmative vote of two-thirds of its members, at the request of any owner of record of the land involved or at the request of the legislative body of a local government.

(2) Any amendment to reclassify land from any land use area to any

other land use area or areas for which a greater intensity of development is allowed under the overall intensity guidelines if the land involved is less than twenty-five hundred acres, after public hearing thereon and upon an affirmative vote of two-thirds of its members, on its own initiative.

(3) Any amendment to reclassify land from any land use area to any other land use area or areas, if the reclassification effects a comprehensive review and evaluation of the plan map, at the request of the legislative body of a local government which has (a) completed and submitted to the agency a current and comprehensive inventory and analysis of the natural resource, open space, public, economic and other land use factors as may reflect the relative development amenability and limitations of the lands within its entire jurisdiction, and (b) formally adopted after public hearing a comprehensive master plan prepared pursuant to section two hundred seventy-two-a of the town law or section 7-722 of the village law, after public hearing thereon and upon an affirmative vote of a majority of its members. If the agency grants the amendment request in part, it shall not enter or file the amendment or amendments for a period of sixty days thereafter, during which time the legislative body of the local government may withdraw its request.

(4) Any amendment to clarify the boundaries of the land use areas as shown on the plan map, to correct any errors on the map or effect other technical changes on the map, upon an affirmative vote of a majority of its members and without a public hearing thereon, unless the agency determines that a public hearing is appropriate, on its own motion or at the request of the legislative body of a local government or at the request of any owner of record of the land involved.

(5) Before making any plan map amendment, except pursuant to subparagraph four of this paragraph, the agency must find that the reclassification would accurately reflect the legislative findings and purposes of section eight hundred one of this article and would be consistent with the land use and development plan, including the character description and purposes, policies and objectives of the land use area to which reclassification is proposed, taking into account such existing natural resource, open space, public, economic and other land use factors and any comprehensive master plans adopted pursuant to the

town or village law, as may reflect the relative development amenability and limitations of the land in question. The agency's determination shall be consistent with and reflect the regional nature of the land use and development plan and the regional scale and approach used in its preparation.

d. The agency may, after consultation with the Adirondack park local government review board, recommend to the governor and legislature any other amendments to the plan map after public hearing thereon and upon an affirmative vote of a majority of its members.

e. Upon receipt of a request to amend the plan map or upon determining to amend the map on its own initiative, the agency shall provide notice of receipt of the request or notice of the determination and a brief description of the amendment requested or contemplated to the Adirondack park local government review board, the chairman of the county planning agency, if any, the chairman of the appropriate regional planning board, and to the chief elected officer, clerk and planning board chairman, if any, of the local government wherein the land is located, and shall invite their comments.

f. The public hearings required or authorized in this subdivision shall be held by the agency in each local government wherein such land is located after not less than fifteen days notice thereof by publication at least once in a newspaper of general circulation in such local government or local governments, by conspicuous posting of the land involved, and by individual notice served by certified mail upon each owner of such land to the extent discernible from the latest completed tax assessment roll and by mail upon the Adirondack park local government review board, the persons named in paragraph e of this subdivision, and the clerk of any local government within five hundred feet of the land involved.

g. The agency shall act upon requests for amendments to the plan map within one hundred twenty days of receipt of a request in such form and manner as it shall prescribe; provided, however, that in the case of requests concerning which it determines to hold a public hearing, it

shall, within ninety days of receipt of the request, schedule the hearing and shall act within sixty days of the close of the hearing. In the case of a request received when snow cover or ground conditions prevent such field investigation as is necessary to act with respect to the request, or in the case of a request or series of related requests exceeding five hundred acres, the time periods herein provided shall be extended an additional ninety days or until adequate field inspection is possible, whichever is the lesser period. Any of the time periods specified in this paragraph may be waived or extended for good cause by written request of the applicant and consent of the agency or by written request of the agency and consent by the applicant.

3. Land use areas: character descriptions, and purposes, policies and objectives; overall intensity guidelines; classification of compatible uses lists. a. The primary uses on the classification of compatible uses list for each land use area except hamlet areas, as set forth in this subdivision, are those uses generally considered compatible with the character, purposes, policies and objectives of such land use area, so long as they are in keeping with the overall intensity guideline for such area. The secondary uses on such list are those which are generally compatible with such area depending upon their particular location and impact upon nearby uses and conformity with the overall intensity guideline for such area.

b. The classification of compatible uses lists shall also include any additions thereto by agency amendment pursuant to this section, and the agency may, after consultation with the Adirondack park local government review board, recommend subtractions thereto to the governor and legislature upon an affirmative vote of a majority of its members and after public hearing thereon. The agency may amend the classification of compatible uses lists to make additions thereto after public hearing thereon and upon an affirmative vote of two-thirds of its members. A certified copy of the agency's resolution adopting such amendment shall, within twenty days after adoption thereof, be filed by the agency with the Adirondack park local government review board and the same state and local officers with whom the plan map is required to be filed under paragraph b of subdivision two and with the legislature. Such amendments

shall take effect upon conclusion of such twenty-day filing period. The public hearings authorized or required in this paragraph shall be held in any county wholly or partially within the Adirondack park after not less than fifteen days notice thereof by publication at least once in a newspaper of general circulation in each county wholly or partially within the park and in at least three metropolitan areas of the state, and individual notice served by mail upon:

(1) the chairman of the planning board, if any, and the clerk of each local government, and the chairman of the county planning agency, if any, and the clerk of each county, wholly or partially within the park;

(2) the chairman of each regional planning agency whose jurisdiction is wholly or partially within the park; and

(3) the Adirondack park local government review board.

c. Hamlet areas. (1) Character description. Hamlet areas, delineated in brown on the plan map, range from large, varied communities that contain a sizeable permanent, seasonal and transient populations with a great diversity of residential, commercial, tourist and industrial development and a high level of public services and facilities, to smaller, less varied communities with a lesser degree and diversity of development and a generally lower level of public services and facilities.

(2) Purposes, policies and objectives. Hamlet areas will serve as the service and growth centers in the park. They are intended to accommodate a large portion of the necessary and natural expansion of the park's housing, commercial and industrial activities. In these areas, a wide variety of housing, commercial, recreational, social and professional needs of the park's permanent, seasonal and transient populations will be met. The building intensities that may occur in such areas will allow a high and desirable level of public and institutional services to be economically feasible. Because a hamlet is concentrated in character and located in areas where existing development patterns indicate the demand for and viability of service and growth centers, these areas will discourage the haphazard location and dispersion of intense building development in the park's open space areas. These areas will continue to provide services to park residents and visitors and, in conjunction with other land use areas and activities on both private and public land,

will provide a diversity of land uses that will satisfy the needs of a wide variety of people.

The delineation of hamlet areas on the plan map is designed to provide reasonable expansion areas for the existing hamlets, where the surrounding resources permit such expansion. Local government should take the initiative in suggesting appropriate expansions of the presently delineated hamlet boundaries, both prior to and at the time of enactment of local land use programs.

(3) All land uses and development are considered compatible with the character, purposes and objectives of hamlet areas.

(4) No overall intensity guideline is applicable to hamlet areas.

d. Moderate intensity use area. (1) Character description. Moderate intensity use areas, delineated in red on the plan map, are those areas where the capability of the natural resources and the anticipated need for future development indicate that relatively intense development, primarily residential in character, is possible, desirable and suitable.

These areas are primarily located near or adjacent to hamlets to provide for residential expansion. They are also located along highways or accessible shorelines where existing development has established the character of the area.

Those areas identified as moderate intensity use where relatively intense development does not already exist are generally characterized by deep soils on moderate slopes and are readily accessible to existing hamlets.

(2) Purposes, policies and objectives. Moderate intensity use areas will provide for development opportunities in areas where development will not significantly harm the relatively tolerant physical and biological resources. These areas are designed to provide for residential expansion and growth and to accommodate uses related to residential uses in the vicinity of hamlets where community services can most readily and economically be provided. Such growth and the services related to it will generally be at less intense levels than in hamlet areas.

(3) Guidelines for overall intensity of development. The overall intensity of development for land located in any moderate intensity use area should not exceed approximately five hundred principal buildings per square mile.

(4) Classification of compatible uses:

Primary uses in moderate intensity use areas:

1. Single family dwellings.

2. Individual mobile homes.

3. Open space recreation uses.

4. Agricultural uses.

5. Agricultural use structures.

6. Forestry uses.

7. Forestry use structures.

8. Hunting and fishing cabins and hunting and fishing and other private club structures.

9. Game preserves and private parks.

10. Cemeteries.

11. Private roads.

12. Private sand and gravel extractions.

13. Public utility uses.

14. Accessory uses and structures to any use classified as a compatible use.

Secondary uses in moderate intensity use areas:

1. Multiple family dwellings.

2. Mobile home courts.

3. Public and semi-public buildings.

4. Municipal roads.

5. Agricultural service uses.

6. Commercial uses.

7. Tourist accommodations.

8. Tourist attractions.

9. Marinas, boatyards and boat launching sites.

10. Campgrounds.

11. Group camps.

12. Golf courses.

13. Ski centers.

14. Commercial seaplane bases.

15. Commercial or private airports.

16. Sawmills, chipping mills, pallet mills and similar wood using facilities.

17. Commercial sand and gravel extractions.

18. Mineral extractions.

19. Mineral extraction structures.

20. Watershed management and flood control projects.

21. Sewage treatment plants.

22. Major public utility uses.

23. Industrial uses.

e. Low intensity use areas. (1) Character description. Low intensity use areas, delineated in orange on the plan map, are those readily accessible areas, normally within reasonable proximity to a hamlet, where the physical and biological resources are fairly tolerant and can withstand development at an intensity somewhat lower than found in hamlets and moderate intensity use areas. While these areas often exhibit wide variability in the land's capability to support development, they are generally areas with fairly deep soils, moderate slopes and no large acreages of critical biological importance. Where these areas are adjacent to or near hamlets, clustering homes on the most developable portions of these areas makes possible a relatively high level of residential units and local services.

(2) Purposes, policies and objectives. The purpose of low intensity use areas is to provide for development opportunities at levels that will protect the physical and biological resources, while still providing for orderly growth and development of the park. It is anticipated that these areas will primarily be used to provide housing development opportunities not only for park residents but also for the growing seasonal home market. In addition, services and uses related to residential uses may be located at a lower intensity than in hamlets or moderate intensity use areas.

(3) Guidelines for overall intensity of development. The overall intensity of development for land located in any low intensity use area should not exceed approximately two hundred principal buildings per

square mile.

(4) Classification of compatible uses:

Primary uses in low intensity use areas:

1. Single family dwellings.

2. Individual mobile homes.

3. Open space recreation uses.

4. Agricultural uses.

5. Agricultural use structures.

6. Forestry uses.

7. Forestry use structures.

8. Hunting and fishing cabins and hunting and fishing and other private club structures.

9. Game preserves and private parks.

10. Private roads.

11. Cemeteries.

12. Private sand and gravel extractions.

13. Public utility uses.

14. Accessory uses and structures to any use classified as a compatible use.

Secondary uses in low intensity use areas:

1. Multiple family dwellings.

2. Mobile home courts.

3. Public and semi-public buildings.

4. Municipal roads.

5. Agricultural service uses.

6. Commercial uses.

7. Tourist accommodations.

8. Tourist attractions.

9. Marinas, boatyards and boat launching sites.

10. Golf courses.

11. Campgrounds.

12. Group camps.

13. Ski centers.

14. Commercial seaplane bases.

15. Commercial or private airports.

16. Sawmills, chipping mills, pallet mills and similar wood using facilities.

17. Commercial sand and gravel extractions.

18. Mineral extractions.

19. Mineral extraction structures.

20. Watershed management and flood control projects.

21. Sewage treatment plants.

22. Waste disposal areas.

23. Junkyards.

24. Major public utility uses.

25. Industrial uses.

f. Rural use areas. (1) Character description. Rural use areas, delineated in yellow on the plan map, are those areas where natural resource limitations and public considerations necessitate fairly stringent development constraints. These areas are characterized by substantial acreages of one or more of the following: fairly shallow soils, relatively severe slopes, significant ecotones, critical wildlife habitats, proximity to scenic vistas or key public lands. In addition, these areas are frequently remote from existing hamlet areas or are not readily accessible.

Consequently, these areas are characterized by a low level of development and variety of rural uses that are generally compatible with the protection of the relatively intolerant natural resources and the preservation of open space. These areas and the resource management areas provide the essential open space atmosphere that characterizes the park.

(2) Purposes, policies and objectives. The basic purpose and objective of rural use areas is to provide for and encourage those rural land uses that are consistent and compatible with the relatively low tolerance of the areas' natural resources and the preservation of the open spaces that are essential and basic to the unique character of the park. Another objective of rural use areas is to prevent strip development along major travel corridors in order to enhance the aesthetic and

economic benefit derived from a park atmosphere along these corridors.

Residential development and related development and uses should occur on large lots or in relatively small clusters on carefully selected and well designed sites. This will provide for further diversity in residential and related development opportunities in the park.

(3) Guideline for overall intensity of development. The overall intensity of development for land located in any rural use area should not exceed approximately seventy-five principal buildings per square mile.

(4) Classification of compatible uses.

Primary uses in rural use areas:

1. Single family dwellings.

2. Individual mobile homes.

3. Open space recreation uses.

4. Agricultural uses.

5. Agricultural use structures.

6. Forestry uses.

7. Forestry use structures.

8. Hunting and fishing cabins and hunting and fishing and other private club structures.

9. Game preserves and private parks.

10. Cemeteries.

11. Private roads.

12. Private sand and gravel extractions.

13. Public utility uses.

14. Accessory uses and structures to any use classified as a compatible use.

Secondary uses in rural use areas:

1. Multiple family dwellings.

2. Mobile home courts.

3. Public and semi-public buildings.

4. Municipal roads.

5. Agricultural service uses.

6. Commercial uses.

7. Tourist accommodations.

8. Marinas, boatyards and boat launching sites.

9. Golf courses.

10. Campgrounds.

11. Group camps.

12. Ski centers.

13. Commercial seaplane bases.

14. Commercial or private airports.

15. Sawmills, chipping mills, pallet mills and similar wood using facilities.

16. Commercial sand and gravel extractions.

17. Mineral extractions.

18. Mineral extraction structures.

19. Watershed management and flood control projects.

20. Sewage treatment plants.

21. Waste disposal areas.

22. Junkyards.

23. Major public utility uses.

24. Industrial uses.

g. Resource management areas. (1) Character description. Resource management areas, delineated in green on the plan map, are those lands where the need to protect, manage and enhance forest, agricultural, recreational and open space resources is of paramount importance because of overriding natural resource and public considerations. Open space uses, including forest management, agriculture and recreational activities, are found throughout these areas.

Many resource management areas are characterized by substantial acreages of one or more of the following: shallow soils, severe slopes, elevations of over twenty-five hundred feet, flood plains, proximity to designated or proposed wild or scenic rivers, wetlands, critical wildlife habitats or habitats of rare and endangered plant and animal species.

Other resource management areas include extensive tracts under active

forest management that are vital to the wood using industry and necessary to insure its raw material needs.

Important and viable agricultural areas are included in resource management areas, with many farms exhibiting a high level of capital investment for agricultural buildings and equipment. These agricultural areas are of considerable economic importance to segments of the park and provide for a type of open space which is compatible with the park's character.

(2) Purposes, policies and objectives. The basic purposes and objectives of resource management areas are to protect the delicate physical and biological resources, encourage proper and economic management of forest, agricultural and recreational resources and preserve the open spaces that are essential and basic to the unique character of the park. Another objective of these areas is to prevent strip development along major travel corridors in order to enhance the aesthetic and economic benefits derived from a park atmosphere along these corridors.

Finally, resource management areas will allow for residential development on substantial acreages or in small clusters on carefully selected and well designed sites.

(3) Guidelines for overall intensity of development. The overall intensity of development for land located in any resource management area should not exceed approximately fifteen principal buildings per square mile.

(4) Classification of compatible uses.

Primary uses in resource management areas:

1. Agricultural uses.

2. Agricultural use structures.

3. Open space recreation uses.

4. Forestry uses.

5. Forestry use structures.

6. Game preserves and private parks.

7. Private roads.

8. Private sand and gravel extractions.

9. Public utility uses.

10. Hunting and fishing cabins and hunting and fishing and other private club structures involving less than five hundred square feet of floor space.

11. Accessory uses and structures to any use classified as a compatible use.

Secondary uses in resource management areas:

1. Single family dwellings.

2. Individual mobile homes.

3. Hunting and fishing cabins and hunting and fishing and other private club structures involving five hundred square feet or more of floor space.

4. Campgrounds.

5. Group camps.

6. Ski centers and related tourist accommodations.

7. Agricultural service uses.

8. Sawmills, chipping mills, pallet mills and similar wood using

facilities.

9. Commercial sand and gravel extractions.

10. Mineral extractions.

11. Mineral extraction structures.

12. Watershed management and flood control projects.

13. Sewage treatment plants.

14. Major public utility uses.

15. Municipal roads.

16. Golf courses.

h. Industrial use areas. (1) Character description. Industrial use areas, delineated in purple on the plan map, include those areas that are substantial in size and located outside of hamlet areas and are areas (1) where existing land uses are predominantly of an industrial or mineral extraction nature or (2) identified by local and state officials as having potential for new industrial development.

(2) Purposes, policies and objectives. Industrial use areas will encourage the continued operation of major existing industrial and mineral extraction uses important to the economy of the Adirondack region and will provide suitable locations for new industrial and mineral extraction activities that may contribute to the economic growth of the park without detracting from its character. Land uses that might conflict with existing or potential industrial or mineral extraction uses are discouraged in industrial use areas.

(3) Classification of compatible uses.

Primary uses in industrial use areas:

1. Industrial uses.

2. Mineral extractions.

3. Mineral extraction structures.

4. Private sand and gravel extractions.

5. Commercial sand and gravel extractions.

6. Sawmills, chipping mills, pallet mills and similar wood using facilities.

7. Forestry uses.

8. Forestry use structures.

9. Agricultural uses.

10. Agricultural use structures.

11. Private roads.

12. Open space recreation uses.

13. Hunting and fishing cabins and hunting and fishing and other private club structures.

14. Public utility uses.

15. Major public utility uses.

16. Accessory uses and structures to any use classified as a compatible use.

Secondary uses in industrial use areas:

1. Commercial uses.

2. Agricultural service uses.

3. Public and semi-public buildings.

4. Municipal roads.

5. Sewage treatment plants.

6. Waste disposal areas.

7. Junkyards.

(4) No overall intensity guideline is applicable to industrial use areas.

4. Development considerations. The following are those factors which relate to potential for adverse impact upon the park's natural, scenic, aesthetic, ecological, wildlife, historic, recreational or open space resources and which shall be considered, as provided in this article, before any significant new land use or development or subdivision of land is undertaken in the park. Any burden on the public in providing facilities and services made necessary by such land use and development or subdivision of land shall also be taken into account, as well as any commercial, industrial, residential, recreational or other benefits which might be derived therefrom:

a. Natural resource considerations.

(1) Water

(a) Existing water quality.

(b) Natural sedimentation of siltation.

(c) Eutrophication.

(d) Existing drainage and runoff patterns.

(e) Existing flow characteristics.

(f) Existing water table and rates of recharge.

(2) Land

(a) Existing topography.

(b) Erosion and slippage.

(c) Floodplain and flood hazard.
(d) Mineral resources.
(e) Viable agricultural soils.
(f) Forest resources.
(g) Open space resources.
(h) Vegetative cover.
(i) The quality and availability of land for outdoor recreational purposes.
(3) Air
(a) Air quality.
(4) Noise
(a) Noise levels.
(5) Critical resource areas
(a) Rivers and corridors of rivers designated to be studied as wild, scenic or recreational in accordance with the environmental conservation law.
(b) Rare plant communities.
(c) Habitats of rare and endangered species and key wildlife habitats.
(d) Alpine and subalpine life zones.
(e) Wetlands.
(f) Elevations of twenty-five hundred feet or more.
(g) Unique features, including gorges, waterfalls, and geologic formations.
(6) Wildlife
(a) Fish and wildlife.
(7) Aesthetics
(a) Scenic vistas.
(b) Natural and man-made travel corridors.

b. Historic site considerations.
(1) Historic factors
(a) Historic sites or structures.

c. Site development considerations.
(1) Natural site factors
(a) Geology.
(b) Slopes.

(c) Soil characteristics.
(d) Depth to ground water and other hydrological factors.
(2) Other site factors
(a) Adjoining and nearby land uses.
(b) Adequacy of site facilities.

d. Governmental considerations.
(1) Governmental service and finance factors
(a) Ability of government to provide facilities and services.
(b) Municipal, school or special district taxes or special district user charges.

e. Governmental review considerations.
(1) Governmental control factors
(a) Conformance with other governmental controls.

§ 806. Shoreline restrictions. 1. In order to provide adequate protection of the quality of the lakes, ponds, rivers and streams of the park and the qualities of their shorelines, no person shall undertake any new land use or development or subdivision of land that involves any shoreline within the park, except in compliance, at a minimum, with the following restrictions. In addition, compliance with these restrictions shall be required by the agency in its review of any project under section eight hundred nine and, at a minimum, by any local government in the adoption and enforcement of a local land use program. All distances contained in these restrictions shall be measured horizontally. For the purpose of this section, any lot, parcel or site that adjoins a shoreline, includes a shoreline or, in whole or in part, is located at or within the minimum set back requirement as provided in subparagraph two of paragraph a of this subdivision, and any land use or development on such a lot, parcel or site, shall be deemed to involve that shoreline.

a. In the case of the shorelines of all lakes and ponds and the shorelines of any river designated to be studied as a wild, scenic or recreational river in accordance with the environmental conservation law

or any river or stream navigable by boat, including canoe, the following restrictions shall apply:

(1) The minimum lot width measured along the shoreline for each one family residential structure shall be fifty feet in hamlet areas, one hundred feet in moderate intensity use areas, one hundred twenty-five feet in low intensity use areas, one hundred fifty feet in rural use areas, and two hundred feet in resource management areas; provided that the minimum lot width for a lot not adjoining or including shoreline which is deemed to involve shoreline for the purposes of this section may be measured lateral to the shoreline at any point on the lot. Nothing herein shall be deemed to preclude the application of appropriate shoreline restrictions to new uses other than one family residential structures subject to project review by the agency or to an approved local land use program.

(2) The minimum setback of all principal buildings and accessory structures in excess of one hundred square feet, other than docks or boathouses, from the mean high-water mark shall be fifty feet in hamlet areas and moderate intensity use areas, seventy-five feet in low intensity and rural use areas, and one hundred feet in resource management areas.

(3) The removal of vegetation, including trees, shall be permitted on shorefront lots provided the following standards are met:

(a) Within thirty-five feet of the mean high-water mark not more than thirty percent of the trees in excess of six inches diameter at breast height existing at any time may be cut over any ten-year period.

(b) Within six feet of the mean high-water mark no vegetation may be removed, except that up to a maximum of thirty percent of the shorefront may be cleared of vegetation on any individual lot. This provision shall be adhered to in addition to (a) above.

(c) The above cutting standards shall not be deemed to prevent the removal of diseased vegetation or of rotten or damaged trees or of other vegetation that present safety or health hazards.

(4) The following minimum shoreline frontages shall be required in all land use areas for deeded or contractual access to all such lakes, ponds, rivers or streams for five or more lots, parcels or sites or multiple family dwelling units not having separate and distinct ownership of shore frontage:

(a) Where five to twenty lots or multiple family dwelling units are involved, a total of not less than one hundred feet.

(b) Where more than twenty and not more than one hundred lots or multiple dwelling units are involved, a minimum of three feet for each additional lot or multiple dwelling unit in excess of twenty.

(c) Where more than one hundred and not more than one hundred fifty lots or multiple dwelling units are involved, a minimum of two feet for each additional lot or multiple dwelling unit in excess of one hundred.

(d) Where more than one hundred fifty lots or multiple dwelling units are involved, a minimum of one foot for each additional lot or multiple dwelling unit in excess of one hundred fifty.

b. In the case of all lakes, ponds, rivers and streams, the minimum setback of any on-site sewage drainage field or seepage pit shall be one hundred feet from the mean high-water mark in all land use areas.

2. In all of the above restrictions, the term "mean high-water mark" shall mean the spillway elevation contour, which is at seven hundred seventy-one feet elevation above mean sea level, whenever the Great Sacandaga Lake is involved.

3. a. Any person seeking a variance from the strict letter of the shoreline restrictions in connection with any new land use or development or subdivision of land proposed to be located in a land use area governed by an approved local land use program shall make application therefor to the local government as provided in such approved local land use program. If a person is seeking such a variance in a land use area not governed by an approved local land use program, he shall make application therefor to the agency whether or not the agency has project review jurisdiction over the new land use or development or subdivision of land involved. Upon such application, and after public hearing thereon, the local government or the agency shall, where there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of the restrictions, have authority to vary or modify the application of such restrictions relating to the use, construction or alteration of buildings or structures, or the use of land, so that the spirit of such restrictions

shall be observed, public safety and welfare secured and substantial justice done.

b. The local government shall act upon any application to it within the time provided for in its local land use program. The agency shall act upon any application to it which is associated with a project subject to its review jurisdiction within the period provided in section eight hundred nine. In the case of any other application, the agency shall schedule a public hearing within fifteen days of receipt of an application in such form and manner as it shall prescribe. The public hearing shall be commenced within thirty days of the date it is scheduled. The agency shall act upon a variance application within forty-five days of the receipt by the agency of a complete record, as that term is defined in paragraphs (a) through (e) of subdivision one of section three hundred two of the state administrative procedure act.

4. The shoreline restrictions shall not apply to any emergency land use or development which is immediately necessary for the protection of life or property as defined by the agency in its rules and regulations governing its procedures to review projects as authorized in section eight hundred nine.

5. In order to encourage clustering of buildings and the maintenance of undeveloped shorelines, as an alternative to minimum lot widths of the shoreline restriction, shoreline development may take place in the following land use areas upon the following approximate overall intensities of principal buildings (other than boathouses) per linear mile of shoreline or proportionate fraction thereof:

Land Use Areas	Principal Buildings Per Linear Mile
Hamlet	106
Moderate Intensity	53
Low Intensity	42

Rural Use 36

Resource Management 26

This alternative method of cluster shoreline development shall only be employed where a single ownership or a group of two or more owners acting in concert is involved. In addition, approval of this method of development must carry with it provisions, whether by deed restriction, restrictive covenant or other similar appropriate means, to insure the retention in open space of the undeveloped portions of shoreline developed on a cluster basis. The agency, within its project review jurisdiction, or a local government under an approved local land use program, may apply these optional shoreline clustering provisions. Any person proposing to undertake new land use or development or subdivision of land in a land use area not governed by an approved local land use program and that is not subject to the agency's project review jurisdiction, may apply to the agency for a permit to employ such alternative method and the agency shall have authority to grant such a permit if the above required terms and conditions are met. The agency shall act upon such application within thirty days after receipt thereof.

§ 807. Local land use programs. 1. The agency is authorized to review and approve any local land use program proposed by a local government and formally submitted by the legislative body of the local government to the agency for approval. Within a period of ninety days after such submission, or such longer period as may be agreed upon in writing by the agency and the local government, the agency shall review the local land use program and approve or disapprove it, or approve it subject to conditions. The agency shall approve the local land use program if the agency determines that such program meets all of the criteria set forth in subdivision two. If the agency fails to take final action on the local land use program within such ninety-day or longer period agreed upon by the agency and local government, the local land use program shall be deemed approved by the agency and the agency shall, upon the

request of the legislative body of the local government, issue a certification to such effect to such chief elected official. Amendments to an approved local land use program that do not relate or pertain to the criteria for approval of a local land use program set forth in subdivision two of section eight hundred seven shall not be subject to approval by the agency. All amendments to an approved local land use program that do relate to such criteria shall be subject to approval by the agency as set forth in subdivision two of section eight hundred seven for approval of an initial local land use program.

2. The agency shall approve a local land use program if the agency determines that such program meets all of the following criteria: a. It is in furtherance and supportive of the land use and development plan.

b. It is compatible with the character descriptions and purposes, policies and objectives of the land use areas, and, in regard to its map, compatible with the plan map.

c. It reasonably applies the overall intensity guidelines for the land use areas in the light of the particular needs and conditions of the local government. In applying the overall intensity guideline for a given land use area, the local land use program may provide for both greater and lesser intensity of development within such area provided that the overall intensity shall not exceed such guideline. In no event, however, shall bodies of water, such as lakes or ponds, located in a land use area be taken into account in the application of the overall intensity guideline for such area. The local land use program may disregard principal buildings in existence on August one, nineteen hundred seventy-three in applying the overall intensity guidelines for a land use area. If it does so, the land directly related to such principal buildings shall not be used in the computation of the total land area available for new principal buildings. The local land use program may be more restrictive than the overall intensity guidelines.

d. It reasonably applies the classification of compatible uses lists in the light of the needs and conditions of the local government. Accordingly, the local land use program may include uses not on these

lists or exclude those that are on them, reclassify those classified on such lists as primary uses to secondary uses and those classified on such lists as secondary uses to primary uses, or prohibit any of the uses on such lists.

e. It incorporates at a minimum the shoreline restrictions as they relate to any shoreline within the local government. As an alternative to minimum lot sizes on shorelines, the optional shoreline clustering provisions contained in subdivision five of section eight hundred six may be employed in regard to all or specified portions of a shoreline in single ownerships or in situations involving a group of two or more owners acting in concert.

f. It requires review of class B regional projects and provides that any such project shall not be approved unless the local government body or officer having jurisdiction under the program determines that the undertaking or continuance of such project will not have an undue adverse impact upon the natural, scenic, aesthetic, ecological, wildlife, historic, recreational or open space resources of the park or upon the ability of the public to provide supporting facilities and services made necessary by the project, taking into account the commercial, industrial, residential, recreational or other benefits that might be derived from the project. In making this determination, as to the impact of the project upon the resources of the park, the local government body or officer having jurisdiction shall be required under the local land use program to apply the development considerations. The local land use program may expand upon the development considerations, but shall not eliminate any of them. The local land use program shall include a provision to insure that no class B regional project shall be disapproved except after public hearing thereon.

g. It contains adequate authority and provision for its administration and enforcement, including, at the option of the legislative body of the local government, authority to regulate any pre-existing land use or development, or any prefiled subdivision plat. The source of such authority shall be the municipal home rule law or any other applicable state enabling law. Notwithstanding any general or special law to the

contrary, a local government may provide in its local land use program, if such program is approved by the agency, for planning board action without public hearings on subdivision plats of less than five lots, parcels or sites, provided that no such provision may authorize the planning board to disapprove any subdivision plat without having first conducted a public hearing, as required by law. In addition, the legislative body of a local government may include in its local land use program, if such program is approved by the agency, and to the extent permissible within the proper exercise of the police power, such procedures as may be necessary and appropriate for the review of class B regional projects as required in paragraph f of this subdivision, and, in connection with the granting of a permit for such projects: (1) authority to require restriction of land against further development of principal buildings, whether by deed restriction, restrictive covenant or other similar appropriate means, to ensure that the overall intensity guidelines as applied in the local land use program shall be respected; and

(2) authority, to the extent otherwise authorized by law, to impose reasonable requirements and conditions to insure that an approved class B regional project will be adequately supported by services and improvements made necessary by such project and to insure that such a project shall be completed in accordance with the terms and conditions of the approval.

3. The agency may separately review and approve, disapprove, or approve subject to conditions, significant components of a local land use program which relate or pertain to the entire territorial jurisdiction of a local government, if proposed by the local government and formally submitted by its legislative body. The agency shall approve such components if the agency determines that such criteria of subdivision two of this section as shall be relevant to each such component are met. Provided, however, that the separately approved components of a local land use program shall not be deemed an approved local land use program for the purposes of this section, section eight hundred eight or section eight hundred nine of this article, unless and until all of the components of the local land use program shall have been approved pursuant to the terms of this subdivision or subdivision

four of this section. Each such component shall be reviewed and acted upon in accordance with the procedures and within the time periods specified in subdivision one of this section relative to review of local land use programs.

4. The agency may review and approve, disapprove, or approve subject to conditions, an industrial site plan review law or ordinance, whether or not submitted as a component of a local land use program, if proposed by a local government and formally submitted by its legislative body. The agency shall approve such law or ordinance if the agency determines that such criteria of subdivision two of this section as shall be relevant to industrial uses and to sawmills, chipping mills, pallet mills and similar wood using facilities are met. Such law or ordinance shall provide for the review of such uses and facilities pursuant to the criteria and procedures set forth in paragraph f of subdivision two of this section. Notwithstanding any general or special law to the contrary, such law or ordinance shall relate and pertain to not more than two particular sites totalling one hundred acres or less, identified by the local government after a comprehensive study of the entire area within its jurisdiction, as appropriate for industrial uses and wood using facilities; provided, however, that no such site shall be located in a resource management area and no such site may be located in a rural use area remote from existing hamlet areas, or along major travel corridors where a park atmosphere prevails. Upon approval, or approval subject to conditions by the agency, and upon valid enactment or adoption of such law or ordinance, the authority of the agency over such uses and facilities pursuant to sections eight hundred six and eight hundred nine of this article shall be vested in the local government, whether or not such uses are class A regional projects. Such laws or ordinances shall be reviewed and acted upon in accordance with the procedures and within the time periods specified in subdivision one of this section relative to review of local land use programs. Section eight hundred eight of this article shall govern the administration and enforcement of such laws or ordinances.

5. The agency may review and approve, disapprove or approve subject to conditions, a local land use program insofar as it relates or pertains

to one or more land use areas within the territorial jurisdiction of the local government which in the aggregate is a significant geographical portion of the territorial jurisdiction of the local government, if proposed by the local government and formally submitted by its legislative body. The agency shall approve such program if the agency determines that all criteria of subdivision two of this section are met with respect to such geographical portion. If approved, or approved subject to conditions by the agency, such validly enacted or adopted program, insofar as it pertains to such geographical portion, shall be deemed an approved local land use program with respect to such geographical portion in accordance with the terms and conditions of such approval, for the purposes of this section, section eight hundred eight and section eight hundred nine of this article. Provided, that nothing contained in this subdivision shall supercede or be construed in derogation of the provisions and requirements of the town law and village law otherwise applicable to the valid enactment or adoption of such program. The program, insofar as it pertains to such geographical portion, shall be reviewed and acted upon in accordance with the procedures and within the time periods specified in subdivision one of this section relative to review of local land use programs.

6. The agency shall, in its review of local land use programs, consult with appropriate public agencies, and shall provide opportunity for the Adirondack park local government review board and the appropriate county and regional planning agencies to review and comment on such programs under review.

7. The agency shall encourage and assist local governments in the preparation of local land use programs, including the provision of data, technical assistance and model provisions. Such model provisions shall be made available by the agency as soon as possible after the effective date of the adoption of the land use and development plan.

§ 808. Administration and enforcement of approved local land use programs. 1. Local land use programs that have been approved by the agency and validly enacted or adopted shall be administered and enforced

as provided for in such approved programs.

2. Upon receipt of an application to undertake any class B regional project that is permissible under an approved local land use program, the local government body or officer having jurisdiction thereof shall give written notice thereof to the agency, together with such pertinent information as the agency may deem necessary. The agency shall have standing to participate as a party in the local review of such project, including any public hearing thereon, and to have the issuance of a permit therefor by such body or officer reviewed under article seventy-eight of the civil practice law and rules and to bring proceedings in any court of competent jurisdiction to have any undertaking pursuant to such permit restrained, enjoined, corrected or abated.

3. Upon receipt of an application for a variance from any provision of an approved local land use program involving land in any land use area other than a hamlet, including any shoreline restriction, the local government body or officer having jurisdiction thereof shall give written notice thereof to the agency together with such pertinent information as the agency may deem necessary. If such variance is granted, it shall not take effect for thirty days after the granting thereof. If, within such thirty day period, the agency determines that such variance involves the provisions of the land use and development plan as approved in the local land use program including any shoreline restriction and was not based upon the appropriate statutory basis of practical difficulties or unnecessary hardships, the agency may reverse the local determination to permit the variance. If the agency so acts, the appropriate local government officer or body, as well as any other person aggrieved by such action, shall have standing to have such action reviewed under article seventy-eight of the civil practice law and rules.

4. The agency, after consultation with the Adirondack park local government review board, shall have standing to institute a proceeding in any court of competent jurisdiction to revoke its approval of a local land use program and reassert its review jurisdiction over class B

regional projects under section eight hundred nine whenever the agency determines by a two-thirds affirmative vote of its members that the local government body or officer having jurisdiction has repeatedly or frequently failed or refused, after due notice and requests from the agency, and with such body or officer having had full opportunity to be heard on all issues involved, to administer or enforce the approved local land use program to adequately carry out the policies, purposes and objectives of the approved program or of the land use and development plan. Not earlier than one year after any such successful reassertion by the agency, or such earlier time as may be mutually agreed to, the legislative body of the local government involved may submit its local land use program, or any amended version thereof, or a newly proposed program to the agency for approval as provided for in section eight hundred seven for the initial approval of a local land use program.

5. The agency shall be a party who shall be joined, pursuant to the terms of subdivision a of section one thousand one of the civil practice law and rules, in any action initiated by or against a local government, or an instrumentality, agent or employee thereof, in which the issues to be adjudicated relate or pertain to the criteria for approval of a local land use program set forth in subdivision two of section eight hundred seven of this article. In any other action initiated by or against a local government, or an instrumentality, agent or employee thereof, joinder of the agency shall be governed by the terms of section one thousand two of the civil practice law and rules.

6. In any action where the agency is a party pursuant to the first sentence of subdivision five of this section, the attorney general shall, at the request of the local government and without cost to local government, also represent the local government as to those issues which are common to both the agency and the local government, and as to which both seek the same or substantially similar determination.

§ 809. Agency administration and enforcement of the land use and development plan. 1. The agency shall have jurisdiction to review and

approve all class A regional projects, including those proposed to be located in a land use area governed by an approved local land use program, and all class B regional projects in any land use area not governed by an approved and validly enacted or adopted local land use program.

All projects shall be reviewed and acted upon as expeditiously as practical. In particular, to facilitate the review of minor project applications, the agency shall develop simplified application forms to deal with such projects, and will comply with the special procedures for such projects set forth in this section. For the purposes of this section, "minor project" shall mean any individual single family dwelling or mobile home or any subdivision involving two lots, parcels or sites.

2. a. Any person proposing to undertake a class A regional project in any land use area, or a class B regional project in any land use area not governed by an approved and validly enacted or adopted local land use program, shall make application to the agency for approval of such project and receive an agency permit therefor prior to undertaking the project. Such application shall be filed in such form and manner as the agency may prescribe. The agency shall, upon receipt of such application, provide notice of receipt of the application and a brief description of the project to the Adirondack park local government review board, the chairman of the county planning board, if any, of the county wherein the project is proposed to be located, to the chairman of the appropriate regional planning board, and to the chief elected officer, clerk and planning board chairman, if any, of the local government wherein such project is proposed to be located. The agency shall, upon request, furnish or make a copy of the application available to the review board or to the officials listed in this paragraph.

b. On or before fifteen calendar days after the receipt of such application the agency shall notify the project sponsor by certified mail whether or not the application is complete. For the purposes of this section, a "complete application" shall mean an application for a permit which is in an approved form and is determined by the agency to

be complete for the purpose of commencing review of the application but which may need to be supplemented during the course of review as to matters contained in the application in order to enable the agency to make the findings and determinations required by this section. If the agency fails to mail such notice within such fifteen-day period, the application shall be deemed complete. If the agency determines the application is not complete, the notice shall include a concise statement of the respects in which the application is incomplete. The submission by the project sponsor of the requested additional information shall commence a new fifteen calendar day period for agency review of the additional information for the purposes of determining completeness. If the agency determines the application is complete, the notice shall so state.

A notice of application completion shall not be required in the case of applications for minor projects which the agency determines to be complete when filed. Such applications shall be deemed complete for the purposes of this section upon the date of receipt.

c. The project sponsor shall not undertake the project for a period of ninety days, or in the case of a minor project, forty-five days, following the date of such notice of application completion, or the date the application is deemed complete pursuant to the provisions of this section, unless a permit is issued prior to the expiration of such periods.

d. Immediately upon determining that an application is complete, the agency shall, except in relation to minor projects, cause a notice of application to be published in the next available environmental notice bulletin published by the department of environmental conservation pursuant to section 3-0306 of the environmental conservation law, which publication shall be not later than ten calendar days after the date of such notice. The time period for public comment on a permit application shall be stated in the notice of application. The agency shall at the same time mail a copy of the notice of application completion to the Adirondack park local government review board and to the persons named in paragraph a of subdivision two of this section, and invite their

comments.

3. a. Within the time periods specified in paragraphs b and c of this subdivision, the agency shall make a decision on a permit application by notifying the project sponsor by certified mail of its decision to approve the project, approve the project subject to conditions or disapprove the project.

b. In the case of an application for a permit for which no public hearing has been held, the agency decision shall be mailed on or before ninety calendar days or, in the case of a minor project, forty-five calendar days, after the agency notifies the project sponsor that the application is complete or after the application is deemed complete pursuant to the provisions of this section.

c. In the case of an application for a permit for which a public hearing has been held, the agency decision shall be mailed on or before sixty calendar days after receipt by the agency of a complete record, as that term is defined in paragraphs (a) through (e) of subdivision one of section three hundred two of the state administrative procedure act.

d. If the agency determines to hold a public hearing on an application for a permit, the agency shall notify the project sponsor of its determination by certified mail on or before sixty calendar days or, in the case of a minor project, forty-five calendar days after the agency notifies the project sponsor that the application is complete or after the application is deemed complete pursuant to the provisions of this section. The determination of whether or not to hold a public hearing on an application shall be based on whether the agency's evaluation or comments of the review board, local officials or the public on a project raise substantive and significant issues relating to any findings or determinations the agency is required to make pursuant to this section, including the reasonable likelihood that the project will be disapproved or can be approved only with major modifications because the project as proposed may not meet statutory or regulatory criteria or standards. The agency shall also consider the general level of public interest in a project. No project may be disapproved without a public hearing first

being held thereon.

e. If the agency has notified the project sponsor of its determination to hold a public hearing, the sponsor shall not undertake the project during the time period specified in paragraph c of this subdivision. The notice of determination to hold a public hearing shall state that the project sponsor has the opportunity within fifteen days to withdraw his application or submit a new application. A public hearing shall commence on or before ninety calendar days, or in the case of a minor project, seventy-five days, after the agency notifies the project sponsor that the application is complete or after the application is deemed complete pursuant to the provisions of this section. In addition to notice of such hearing being mailed to the project sponsor, such notice shall also be given by publication at least once in the environmental notice bulletin and in a newspaper having general circulation in each local government wherein the project is proposed to be located, by conspicuous posting of the land involved, and by individual notice served by certified mail upon each owner of record of the land involved, and by mail upon: the Adirondack park local government review board, the persons named in paragraph a of subdivision two of this section, any adjoining landowner, to the extent reasonably discernible from the latest completed tax assessment roll, and the clerk of any local government within five hundred feet of the land involved. Public hearings held pursuant to this section shall be consolidated or held jointly with other state or local agencies whenever practicable.

4. The agency shall make provision in its rules and regulations adopted pursuant to subdivision fourteen of this section for the Adirondack park local government review board and county and regional planning agencies receiving notice under subdivision two to have opportunity to review and render advisory comments on the project under review by the agency.

5. Notice of an agency decision shall be given by mail to those entitled to individual notice of application under subdivision two and notice of hearing under subdivision three, if a hearing is held. If the decision is approval, the agency shall within ten days of issuance of

its notification of approval grant a permit to the project sponsor to undertake the project. If the decision is approval subject to conditions, the agency shall grant a permit only upon satisfactory fulfillment of such conditions. Approval subject to conditions shall expire six months from the date of such approval, or such longer time as is specified in the notification or approval, unless a permit has been granted. An agency permit shall serve as authorization for the project sponsor to undertake the project in accordance with the terms and conditions thereof.

6. a. If the agency fails to mail a decision on an application for a permit within the time periods specified in paragraphs b and c of subdivision three of this section, the project sponsor may cause notice of such failure to be made to the agency by means of certified mail, return receipt requested, addressed to the agency at its headquarters office. If, within five working days after the receipt of such notice the agency fails to mail a decision, the application shall be deemed approved and a permit deemed granted subject to any standard terms or conditions applicable to such a permit and the agency shall provide the project sponsor with a written certification to this effect.

b. Any time period specified in this section may be waived and extended for good cause by written request of the project sponsor and consent of the agency, or by written request of the agency and consent of the project sponsor.

c. At any time during the review of an application for a permit or a request by a permit holder for the renewal, reissuance, or modification of an existing permit pursuant to subdivision eight of this section, the agency may request additional information from the project sponsor or permit holder with regard to any matter contained in the application or request when such additional information is necessary for the agency to make any findings or determinations required by law. Such a request shall not extend any time period for agency action contained in this section. Failure by the project sponsor or permit holder to provide such information may be grounds for denial by the agency of the application or request.

7. a. A permit or certificate issued by the agency pursuant to subdivision five or six of this section shall expire within sixty days from the date thereof unless within such sixty-day period such permit or certificate shall have been duly recorded in the name of the landowner in the office of the clerk of the county wherein the project is proposed to be located. Where a permit involves action in concert by two or more landowners as described by paragraph c of subdivision ten of this section, the permit shall be recorded in the name of each landowner.

b. A permit when properly recorded shall operate and be construed as actual notice of the right to undertake the project and of the terms and conditions imposed by such permit. Such right shall extend to and such terms and conditions shall be binding upon all subsequent grantees of the land area subject to the permit, except those conditions which by their nature or wording are to be performed by the original project sponsor and except as may be otherwise provided by the terms of such permit.

c. If a project for which a permit has been granted, or a certificate issued, is not in existence within two years after the recording of such permit or certificate, unless the terms of the permit provides for a longer period of time, the project may not thereafter be undertaken or continued unless an application for a new permit therefor has been applied for and granted in the same manner and subject to all conditions governing the application for and granting of a permit as provided in this section. In determining whether to provide a longer period of time by when the project must be in existence, the agency shall give due consideration to the potential of the land related to the project to remain suitable for the use allowed by the permit and to the economic considerations attending the project.

8. a. Upon the provision of notice stating the grounds for its action and giving an opportunity for hearing to the permit holder, the agency may modify, suspend or revoke a permit.

b. A permit holder may make written request to the agency for the

renewal, reissuance, or modification of an existing permit. Such a request shall be accompanied by sufficient information supporting the request for the agency action sought.

(1) In the case of a request which does not involve a material change in permit conditions, the applicable law, environmental conditions or technology since the date of issuance of the existing permit, the agency shall on or before fifteen calendar days after the receipt of a request mail a written determination to the permit holder of its decision on the request. If the decision is to deny the request, the permit holder shall be afforded an opportunity for hearing and notice of such decision shall be given by the agency in the next available issue of the environmental notice bulletin.

(2) In the case of a request which may involve a material change as described in subparagraph one of this paragraph, the agency shall on or before fifteen calendar days after the receipt of a request mail a written determination to the permit holder that the request shall be treated as an application for a new permit.

If pursuant to subparagraph one or two of this paragraph, the agency fails to mail a written determination to the permit holder within such fifteen calendar day period, the provisions of subdivision six of this section shall apply.

9. The agency shall not approve any class A regional project proposed to be located in a land use area governed by an approved local land use program, or grant a permit therefor, unless it first determines that such project meets all of the pertinent requirements and conditions of such approved local land use program and that the project would not have an undue adverse impact upon the natural, scenic, aesthetic, ecological, wildlife, historic, recreational or open space resources of the park or upon the ability of the public to provide supporting facilities and services made necessary by the project, taking into account the commercial, industrial, residential, recreational or other benefits that might be derived from the project. In making this determination, as to the impact of the project upon such resources of the park, the agency shall consider those pertinent factors contained in the development considerations and provided for in such approved local land use program.

The agency shall, in connection with its review of a project under this subdivision, make provision in its rules and regulations adopted under subdivision fourteen for the early involvement of the local government wherein such project is proposed to be located in the review of such project on an informal basis. Such local government shall have standing as a party in any public hearing on such project held by the agency.

10. The agency shall not approve any project proposed to be located in any land use area not governed by an approved local land use program, or grant a permit therefor, unless it first determines that such project meets the following criteria:

a. The project would be consistent with the land use and development plan.

b. The project would be compatible with the character description and purposes, policies and objectives of the land use area wherein it is proposed to be located. If the project is on the classification of compatible uses list for the land use area involved, there shall be a presumption of compatibility with the character description, purposes, policies and objectives of such land use area. If the project is a class B regional project because, as provided in section eight hundred ten, it is not listed as either a primary use or a secondary use on the classification of compatible uses list for the land use area wherein it is proposed to be located, there shall be a presumption that such project would not be compatible with the character description, purposes, policies and objectives of such land use area and the burden shall be on the project sponsor to demonstrate such compatibility to the satisfaction of the agency.

c. The project would be consistent with the overall intensity guideline for the land use area involved. A landowner shall not be allowed to construct, either directly or as a result of a proposed subdivision, more principal buildings on the land included within the project than the overall intensity guideline for the given land use area in which the project is located. In determining the land area upon which the intensity guideline is calculated and which is included within a

project, the landowner shall only include land under his ownership and may include all adjacent land which he owns within that land use area irrespective of such dividing lines as lot lines, roads, rights of way, or streams and, in the absence of local land use programs governing the intensity of land use and development, irrespective of local government boundaries. Principal buildings in existence within the area included within a project, as such area is defined by the landowner, shall be counted in applying the intensity guidelines. As between two or more separate landowners in a given land use area the principal buildings on one landowner's property shall not be counted in applying the intensity guidelines to another landowner's project, except that two or more landowners whose lands are directly contiguous and located in the same general tax district or special levy or assessment district may, when acting, in concert in submitting a project, aggregate such lands for purposes of applying the intensity guidelines to their lands thus aggregated. The area upon which the intensity guideline is calculated shall not include (a) bodies of water, such as lakes and ponds, (b) any land in the same ownership that is directly related to any principal building in existence on August first, nineteen hundred seventy-three, which land is not included in the project, and (c), in the case of any principal building constructed after August first, nineteen hundred seventy-three, any land in the same or any other ownership that was included within the area of any previous project in order to comply with the overall intensity guideline.

d. The project would comply with the shoreline restrictions if applicable. The agency may require a greater setback of any on-site sewage drainage field or seepage pit than required under the shoreline restrictions if it determines that soils or other pertinent conditions require such greater setback to reasonably protect the water quality of the water body involved.

e. The project would not have an undue adverse impact upon the natural, scenic, aesthetic, ecological, wildlife, historic, recreational or open space resources of the park or upon the ability of the public to provide supporting facilities and services made necessary by the project, taking into account the commercial, industrial, residential,

recreational or other benefits that might be derived from the project. In making this determination, as to the impact of the project upon such resources of the park, the agency shall consider those factors contained in the development considerations of the plan which are pertinent to the project under review.

11. Where there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of the provisions of the plan or the shoreline restrictions, the agency shall have authority in connection with a project under its review to vary or modify, after public hearing thereon, the application of any of such provisions or restrictions relating to the use, construction or alteration of buildings or structures, or the use of land, so that the spirit of the provisions or restrictions shall be observed, public safety and welfare secured and substantial justice done.

12. The agency may conduct such investigations, examinations tests and site evaluations as it deems necessary to verify information contained in an application for a development permit, and the project sponsor, or owner of the land upon which the project is proposed, shall grant the agency or its agents permission to enter upon his land for these purposes.

13. The agency shall have authority to impose such requirements and conditions with its granting of a permit as are allowable within the proper exercise of the police power. The agency shall have specific authority in connection with its project review jurisdiction: a. To impose reasonable conditions and requirements, including the posting of performance bonds in favor of the local government as obligee, to ensure that any project for which a permit is granted will be adequately supported by basic services and improvements made necessary by the project. The cost of any such services or improvements may be imposed by requiring that the project sponsor provide the service or improvement or reserve land, or any interest therein, or contribute money in lieu thereof to the local government wherein the project is proposed to be located if such local government consents thereto. In the exercise of the authority contained in this provision, the agency shall consult with

the affected municipalities and give due consideration to their views.

b. To impose reasonable conditions and requirements to ensure that a project for which a permit is granted by the agency, when undertaken or continued, will be completed in accordance with the terms and conditions of the permit, and that the project sponsor furnish appropriate guarantees of completion or otherwise demonstrate financial capacity to complete the project or any material part thereof and furnish appropriate guarantees or otherwise demonstrate that the project will be managed and maintained once completed in accordance with the terms of the permit.

c. To impose reasonable conditions and requirements to ensure that upon approval of a project the applicable overall intensity guideline for the land use area involved will be respected. Such requirement may include the restriction of land against further development of principal buildings, whether by deed restriction, restrictive covenant or other similar appropriate means.

d. To allow, upon request of a project sponsor, projects to be reviewed conceptually, and thereafter or simultaneously therewith to be divided into and reviewed by sections, and to grant or deny permits for such sections. Conceptual determinations may be made, and sectional permits may be granted subject to the provision of those requirements and conditions for improvements and services for, and for completion of the total project as the agency deems reasonable and necessary. Conceptual review shall focus upon the existing environmental setting and the likely impacts which would result from the project, including all proposed phases or segments thereof, but shall not result in a binding approval or disapproval. The agency shall in rules and regulations establish criteria, guidelines, and procedures for the conceptual and sectional review of proposed projects. Except to the extent, and only for such period of time as otherwise specifically stated in the agency's decision upon an application for a sectional permit, the granting of any sectional permit shall not constitute a finding, or be binding upon the agency, with respect to any portion of the total project not included in the section for which the permit is

granted.

e. To issue a general permit for any class of projects concerning which the agency determines it may make the requisite statutory findings on a general basis.

14. The agency may, after public hearing, adopt, and have authority to amend or repeal, rules and regulations, consistent with the provisions of this section, to govern its project review procedures and to provide further guidance to potential project sponsors through further definition of the development considerations as they would apply to specific classes of projects in specific physical and biological conditions. Such rules and regulations may include but not be limited to:

a. Procedures prior to formal application to the agency for a permit for the informal discussion of preliminary plans for a proposed project and for preliminary approval or recommendations in regard to the project. Such informal discussion shall be optional with the project sponsor and no such preliminary approval or recommendations shall relieve the sponsor from complying with the provisions governing submission of a project for review and obtaining a permit therefor as provided in this section.

b. Procedures for cooperation and joint action, including joint hearings, insofar as practical, with other state agencies having review or regulatory jurisdiction which relates with that of the agency's so as to avoid unnecessary costs and burdens both to the state and to project sponsors and landowners.

c. Procedures to insure communication and discussion with any federal agency, including the Army Corps of engineers and the soil conservation service, in regard to any federal development proposals in the park.

Such agency rules and regulations, and any amendments thereof, shall be adopted only after consultation with the Adirondack park local government review board and at least one public hearing thereon. Fifteen

days notice of such hearing shall be made by publication at least once in a newspaper of general circulation in each county wholly or partially within the Adirondack park and in a least three metropolitan areas of the state, and by individual notice served by mail upon the clerk of each county and each local government of the park, and the chairman of all local government, county and regional planning agencies having jurisdiction in the park. Such notice shall contain a statement describing the subject matter of the proposed rules and regulations, and the time and place of the hearing and where further information thereon may be obtained.

15. This section shall not apply to any emergency project which is immediately necessary for the protection of life or property as defined by the agency by rule and regulation adopted under subdivision fourteen.

§ 810. Class A and class B regional projects. All references in this article to class A regional projects or to class B regional projects shall mean, for the land use areas indicated, the following new land uses or development or subdivisions of land: 1. Class A regional projects. a. Hamlet areas. (1) All land uses and development and all subdivisions of land involving wetlands except for forestry uses (other than timber harvesting that includes a proposed clearcutting of any single unit of land of more than twenty-five acres), agricultural uses, public utility uses, and accessory uses or structures (other than signs) to any such use or to any pre-existing use.

(2) Any class of land use or development or subdivision of land that by agreement between a local government and the agency, either prior to or at the time a local land use program is approved by the agency, is to be reviewed by the agency; provided, however, that any class of projects so agreed upon must be designated by and its review authorized in a local ordinance or local law.

(3) All land uses and development and all subdivisions of land involving one hundred or more residential lots, parcels or sites or residential units, whether designed for permanent, seasonal or transient use.

(4) All structures in excess of forty feet in height, except

agricultural use structures and residential radio and television antennas.

(5) Commercial or private airports.

(6) Watershed management and flood control projects.

(7) Any material increase or expansion of an existing land use or structure included on this list that is twenty-five percent or more of the original size of such existing use or twenty-five percent or more of the original square footage of such structure.

b. Moderate intensity use areas. (1) All land uses and development and all subdivisions of land located in the following critical environmental areas: (a) within one-quarter mile of rivers navigable by boat designated to be studied as wild, scenic or recreational in accordance with the environmental conservation law during the period of such designation; (b) involving wetlands; (c) at elevations of twenty-five hundred feet or more; (d) within one-eighth mile of tracks of forest preserve land or water now or hereafter classified as wilderness, primitive or canoe in the master plan for management of state lands, except for an individual single family dwelling and accessory uses or structures thereto. Provided, however, that the above shall not include forestry uses (other than clear-cutting as specified in number nine below), agricultural uses, open space recreation uses, public utility uses, and accessory uses or structures (other than signs) to any such use or to any pre-existing use.

(2) Any class of land use or development or subdivision of land that by agreement between a local government and the agency, either prior to or at the time a local land use program is approved by the agency, is to be reviewed by the agency; provided, however, that any class of projects so agreed upon must be designated by and its review authorized in a local ordinance or local law.

(3) All land uses and development and all subdivisions of land involving seventy-five or more residential lots, parcels or sites or residential units, whether designed for permanent, seasonal or transient use.

(4) Commercial or agricultural service uses involving ten thousand or more square feet of floor space.

(5) All structures in excess of forty feet in height, except

agricultural use structures and residential radio and television antennas.

(6) Tourist attractions.

(7) Ski centers.

(8) Commercial or private airports.

(9) Timber harvesting that includes a proposed clearcutting of any single unit of land of more than twenty-five acres.

(10) Sawmills, chipping mills, pallet mills and similar wood using facilities.

(11) Mineral extractions.

(12) Mineral extraction structures.

(13) Watershed management and flood control projects.

(14) Sewage treatment plants.

(15) Major public utility uses.

(16) Industrial uses.

(17) Community housing as defined in subdivision seventeen-a of section eight hundred two of this article.

(18) Any material increase or expansion of an existing land use or structure included on this list that is twenty-five percent or more of the original size of such existing use or twenty-five percent or more of the original square footage of such structure.

c. Low intensity use areas. (1) All land uses and development and all subdivisions of land located in the following critical environmental areas: (a) within one-quarter mile of rivers navigable by boat designated to be studied as wild, scenic or recreational in accordance with the environmental conservation law during the period of such designation; (b) involving wetlands; (c) at elevations of twenty-five hundred feet or more; (d) within one-eighth mile of tracts of forest preserve land now or hereafter classified as wilderness, primitive or canoe in the master plan for management of state lands, except for an individual single family dwelling and accessory uses or structures thereto. Provided, however, that the above shall not include forestry uses (other than clear-cutting as specified in number nine below), agricultural uses, open space recreation uses, public utility uses, and accessory uses or structures (other than signs) to any such use or to any pre-existing use.

(2) Any class of land use or development or subdivision of land that by agreement between a local government and the agency, either prior to or at the time a local land use program is approved by the agency, is to be reviewed by the agency; provided, however, that any class of projects so agreed upon must be designated by and its review authorized in a local ordinance or local law.

(3) All land uses and development and all subdivisions of land involving thirty-five or more residential lots, parcels or sites or residential units, whether designed for permanent, seasonal or transient use.

(4) Commercial or agricultural service uses involving five thousand or more square feet of floor space.

(5) All structures in excess of forty feet in height, except agricultural use structures and residential radio and television antennas.

(6) Tourist attractions.

(7) Ski centers.

(8) Commercial or private airports.

(9) Timber harvesting that includes a proposed clearcutting of any single unit of land of more than twenty-five acres.

(10) Sawmills, chipping mills, pallet mills and similar wood using facilities.

(11) Mineral extractions.

(12) Mineral extraction structures.

(13) Watershed management and flood control projects.

(14) Sewage treatment plants.

(15) Waste disposal areas.

(16) Junkyards.

(17) Major public utility uses.

(18) Industrial uses.

(19) Community housing as defined in subdivision seventeen-a of section eight hundred two of this article.

(20) Any material increase or expansion of an existing land use or structure included on this list that is twenty-five percent or more of the original size of such existing use or twenty-five percent or more of the original square footage of such structure.

d. Rural use areas. (1) All land uses and development and all subdivisions of land located in the following critical environmental areas: (a) within one-quarter mile of rivers navigable by boat designated to be studied as wild, scenic or recreational in accordance with the environmental conservation law during the period of such designation; (b) involving wetlands; (c) at elevations of twenty-five hundred feet or more; (d) within one-eighth mile of tracts of forest preserve land or water now or hereafter classified as wilderness, primitive or canoe in the master plan for management of state lands, except for an individual single family dwelling and accessory uses or structures thereto; (e) within one hundred fifty feet of the edge of the right of way of federal or state highways, except for an individual single family dwelling and accessory uses or structures thereto; (f) within one hundred fifty feet of the edge of the right of way of county highways designated by rule or regulation of the agency adopted pursuant to subdivision fourteen of section eight hundred nine or in an approved local land use program, as major travel corridors by the agency or local government, except for an individual single family dwelling and accessory uses or structures thereto. Provided, however, that the above shall not include forestry uses (other than clear-cutting as specified in number ten below and sand and gravel pits associated with such uses located within one hundred fifty feet of the edge of the right of way of the above described travel corridors), agricultural uses (other than sand and gravel pits associated with such uses located within one hundred fifty feet of the edge of the right of way of the above described travel corridors), open space recreation uses, public utility uses, and accessory uses or structures (other than signs) to any such uses or to any pre-existing use.

(2) Any class of land use or development or subdivision of land that by agreement between a local government and the agency, either prior to or at the time a local land use program is approved by the agency, is to be reviewed by the agency; provided, however, that any class of projects so agreed upon must be designated by and its review authorized in a local ordinance or local law.

(3) All land uses and development and all subdivisions of land involving twenty or more residential lots, parcels or sites or residential units, whether designed for permanent, seasonal or transient

use.

(4) Commercial and agricultural service uses involving twenty-five hundred or more square feet of floor space.

(5) All structures in excess of forty feet in height, except agricultural use structures and residential radio and television antennas.

(6) Tourist accommodations.

(7) Ski centers.

(8) Commercial seaplane bases.

(9) Commercial or private airports.

(10) Timber harvesting that includes a proposed clearcutting of any single unit of land of more than twenty-five acres.

(11) Sawmills, chipping mills, pallet mills and similar wood using facilities.

(12) Mineral extractions.

(13) Mineral extraction structures.

(14) Watershed management and flood control projects.

(15) Sewage treatment plants.

(16) Waste disposal areas.

(17) Junkyards.

(18) Major public utility uses.

(19) Industrial use.

(20) Any material increase or expansion of an existing land use or structure included on this list that is twenty-five percent or more of the original size of such existing use or twenty-five percent or more of the original square footage of such structure.

e. Resource management areas. (1) All land uses and development and all subdivisions of land located in the following critical environmental areas: (a) within one-quarter mile of rivers navigable by boat designated to be studied as wild, scenic or recreational in accordance with the environmental conservation law during the period of such designation; (b) involving wetlands; (c) at elevations of twenty-five hundred feet or more; (d) within one-eighth mile of tracts of forest preserve land or water now or hereafter classified as wilderness, primitive or canoe in the master plan for management of state lands, except for an individual single family dwelling and accessory uses or

structures thereto; (e) within three hundred feet of the edge of the right of way of federal or state highways, except for an individual single family dwelling and accessory uses or structures thereto; (f) within three hundred feet of the edge of the right of way of county highways designated as major travel corridors by rule or regulation of the agency adopted pursuant to subdivision fourteen of section eight hundred nine or in an approved local land use program, except for an individual single family dwelling and accessory uses or structures thereto. Provided, however, that the above shall not include forestry uses (other than clearcutting as specified in number eleven below and sand and gravel pits associated with such uses located within three hundred feet of the edge of the right of way of the above described travel corridors), agricultural uses (other than sand and gravel pits associated with such uses located within three hundred feet of the edge of the right of way of the above described travel corridors), open space recreation uses, public utility uses, and accessory uses or structures (other than signs) to any such uses or to any pre-existing use.

(2) Any class of land use or development or subdivision of land that by agreement between a local government and the agency, either prior to or at the time a local land use program is approved by the agency, is to be reviewed by the agency; provided, however, that any class of projects so agreed upon must be designated by and its review authorized in a local ordinance or local law.

(3) All subdivisions of land (and all land uses and development related thereto) involving two or more lots, parcels or sites.

(4) Campgrounds involving fifty or more sites.

(5) Group camps.

(6) Ski centers and related tourist accommodations.

(7) Agricultural service uses.

(8) All structures in excess of forty feet in height, except agricultural use structures and residential radio and television antennas.

(9) Sawmills, chipping mills and pallet mills and similar wood using facilities.

(10) Commercial sand and gravel extractions.

(11) Timber harvesting that includes a proposed clearcutting of any single unit of land of more than twenty-five acres.

(12) Mineral extractions.

(13) Mineral extraction structures.

(14) Watershed management and flood control projects.

(15) Sewage treatment plants.

(16) Major public utility uses.

(17) Any material increase or expansion of an existing land use or structure included on this list that is twenty-five percent or more of the original size of such existing use or twenty-five percent or more of the original square footage of such structure.

f. Industrial use areas.

(1) Mineral extractions.

(2) Mineral extraction structures.

(3) Commercial sand and gravel extractions.

(4) Major public utility uses.

(5) Sewage treatment plants.

(6) Waste disposal areas.

(7) Junkyards.

(8) Any material increase or expansion of an existing land use or structure included on this list that is twenty-five percent or more of the original size of such existing use or twenty-five percent or more of the original square footage of such structure.

2. Class B regional projects. a. Moderate intensity use areas. (1) Subdivisions of land (and all land uses and development related thereto) involving fifteen or more but less than seventy-five lots, parcels or sites, other than subdivisions of land involving mobile homes.

(2) Subdivisions of land (and all land uses and development related thereto) involving less than fifteen lots, parcels or sites, other than subdivisions of land involving mobile homes, which do not meet the following criteria: (a) In the case of such subdivisions involving land having shoreline, each lot, parcel or site is at least twenty-five thousand square feet in size and complies with all of the provisions of the shoreline restrictions.

(b) In the case of such subdivisions not involving land having shoreline, each lot, parcel or site is at least forty thousand square feet in size.

Any subdivision or subsequent subdivision of such land, either by the original owner or subsequent owners, shall be subject to review as a class B regional project where the total number of lots, parcels or sites resulting from such subdivision and any prior subdivision or subdivisions exceeds fourteen.

(3) Multiple family dwellings.

(4) Mobile home courts.

(5) Subdivisions of land involving mobile homes (and all land uses and development related thereto) and involving two or more lots, parcels or sites.

(6) Public and semi-public buildings.

(7) Municipal roads.

(8) Commercial or agricultural service uses involving less than ten thousand square feet of floor space.

(9) Tourist accommodations.

(10) Marinas, boatyards and boat launching sites.

(11) Golf courses.

(12) Campgrounds.

(13) Group camps.

(14) Commercial seaplane bases.

(15) Commercial sand and gravel extractions.

(16) Land use or development or subdivisions of land involving the clustering of buildings on land having shoreline on the basis of a specified number of principal buildings per linear mile or proportionate fraction thereof, as provided for in the shoreline restrictions.

(17) Any land use or development not now or hereafter included on either the list of primary uses or the list of secondary uses for moderate intensity use areas.

(18) An individual single family dwelling within one-eighth mile of tracts of forest preserve land or water now or hereafter classified as wilderness primitive or canoe in the master plan for management of state lands.

(19) All land uses and development and all subdivisions of land within one-quarter mile of rivers designated to be studied as wild, scenic or recreational in accordance with the environmental conservation law, other than those navigable by boat, during the period of such

designation.

(20) Any material increase or expansion of an existing land use or structure included on this list that is twenty-five percent or more of the original size of such existing use or twenty-five percent or more of the original square footage of such structure.

b. Low intensity use areas. (1) Subdivisions of land (and all land uses and development related thereto) involving ten or more but less than thirty-five lots, parcels or sites, other than subdivisions of land involving mobile homes.

(2) Subdivisions of land (and all land uses and development related thereto) involving less than ten lots, parcels or sites which do not meet the following criteria: (a) In the case of such subdivisions involving land having shoreline, each lot, parcel or site is at least fifty thousand square feet in size and complies with all of the provisions of the shoreline restrictions.

(b) In the case of such subdivisions not involving land having shoreline, each lot, parcel or site is at least one hundred twenty thousand square feet in size.

Any subdivision or subsequent subdivision of such land, either by the original owner or subsequent owners, shall be subject to review as a class B regional project where the total number of lots, parcels or sites resulting from such subdivision and any prior subdivision or subdivisions exceeds nine.

(3) Multiple family dwellings.

(4) Mobile home courts.

(5) Mobile home subdivisions (and all land uses and development related thereto) involving two or more lots, parcels or sites.

(6) Public and semi-public buildings.

(7) Municipal roads.

(8) Commercial or agricultural service uses involving less than five thousand square feet of floor space.

(9) Tourist accommodations.

(10) Marinas, boatyards and boat launching sites.

(11) Golf courses.

(12) Campgrounds.

(13) Group camps.

(14) Commercial seaplane bases.

(15) Commercial sand and gravel extractions.

(16) Land use or development or subdivision of land involving the clustering of buildings on land having shoreline on the basis of a specified number of principal buildings per linear mile or proportionate fraction thereof, as provided for in the shoreline restrictions.

(17) Any land use or development not now or hereafter included on either the list of primary uses or the list of secondary uses for low intensity use areas.

(18) An individual single family dwelling within one-eighth mile of tracts of forest preserve land or water now or hereafter classified as wilderness, primitive or canoe in the master plan for management of state lands.

(19) All land uses and development and all subdivisions of land within one-quarter mile of rivers designated to be studied as wild, scenic or recreational in accordance with the environmental conservation law, other than those navigable by boat, during the period of such designation.

(20) Any material increase or expansion of an existing land use or structure included on this list that is twenty-five percent or more of the original size of such existing use or twenty-five percent or more of the original square footage of such structure.

c. Rural use areas. (1) Subdivisions of land (and all land uses and development related thereto) involving five or more but less than twenty lots, parcels or sites, other than subdivisions of land involving mobile homes.

(2) Subdivisions of land (and all land uses and development related thereto) involving less than five lots, parcels or sites which do not meet the following criteria: (a) In the case of such subdivisions involving land having shoreline, each lot, parcel or site is at least eighty thousand square feet in size and complies with all of the provisions of the shoreline restrictions of the plan.

(b) In the case of such subdivisions not involving land having shoreline, each lot, parcel or site is at least three hundred twenty thousand square feet in size.

Any subdivision or subsequent subdivision of such land, either by the original owner or subsequent owners, shall be subject to review as a class B regional project where the total number of lots, parcels or sites resulting from such subdivision and any prior subdivision or subdivisions exceeds four.

(3) Multiple family dwellings.

(4) Mobile home courts.

(5) Mobile home subdivisions (and all land uses and development related thereto) involving two or more lots, parcels or sites.

(6) Public and semi-public buildings.

(7) Municipal roads.

(8) Marinas, boatyards and boat launching sites.

(9) Golf courses.

(10) Campgrounds.

(11) Group camps.

(12) Commercial sand and gravel extractions.

(13) Land use or development or subdivision of land involving the clustering of buildings on land having shoreline on the basis of a specified number of principal buildings per linear mile or proportionate fraction thereof, as provided for in the shoreline restrictions.

(14) All land uses and development and all subdivisions of land within one quarter mile of rivers designated to be studied as wild, scenic or recreational in accordance with the environmental conservation law, other than those navigable by boat, during the period of such designation.

(15) Any land use or development not now or hereafter included on either the list of primary uses or the list of secondary uses for rural use areas.

(16) Commercial and agricultural service uses involving less than twenty-five hundred square feet.

(17) An individual single family dwelling within one-eighth mile of tracts of forest preserve land or water described in item (d) of clause (1) of paragraph d of subdivision one or within one hundred fifty feet of a travel corridor described in such paragraph.

(18) Any material increase or expansion of an existing land use or structure included on this list that is twenty-five percent or more of

the original size of such existing use or twenty-five percent or more of the original square footage of such structure.

d. Resource management areas. (1) Single family dwellings.

(2) Individual mobile homes.

(3) Forestry use structures.

(4) Hunting and fishing cabins and hunting and fishing and other private club structures involving five hundred or more square feet of floor space.

(5) Land use or development or subdivision of land involving the clustering of buildings on land having shoreline on the basis of a specified number of principal buildings per linear mile or proportionate fraction thereof, as provided in the shoreline restrictions.

(6) Any land use or development not now or hereafter included on either the list of primary uses or the list of secondary uses for resource management areas.

(7) Municipal roads.

(8) Golf courses.

(9) An individual single family dwelling within one-eighth mile of tracts of forest preserve land or waters described in item (d) of clause (1) of paragraph d of subdivision one or within three hundred feet of a travel corridor described in such paragraph.

(10) Campgrounds involving fewer than fifty sites.

(11) All land uses and development and all subdivisions of land within one-quarter mile of rivers designated to be studied as wild, scenic and recreational in accordance with the environmental conservation law, other than those navigable by boat, during the period of such designation.

(12) Any material increase or expansion of an existing land use or structure included on this list that is twenty-five percent or more of the original size of such existing use or twenty-five percent or more of the original square footage of such structure.

e. Industrial use areas. (1) Sawmills, chipping mills, pallet mills and similar wood using facilities.

(2) Industrial uses.

(3) Commercial uses.

(4) Agricultural service uses.

(5) Public and semi-public buildings.

(6) Municipal roads.

(7) Any land use or development not now or hereafter included on either the list of primary uses or the list of secondary uses for industrial use areas.

(8) Any material increase or expansion of an existing land use or structure included on this list that is twenty-five percent or more of the original size of such existing use or twenty-five percent or more of the original square footage of such structure.

§ 811. Special provisions relating to agency project review jurisdiction and the shoreline restrictions. 1. Notwithstanding any other provision of this article, including the provisions of the land use and development plan and the shoreline restrictions, the following provisions shall apply in connection with the project review jurisdiction of the agency under section eight hundred nine and application of the shoreline restrictions either by the agency in the review of a project or by operation of section eight hundred six.

a. Single family dwelling on existing vacant lot. One single family dwelling or mobile home shall be allowed to be built on any vacant lot which was on record on the date that this act shall become a law regardless of the overall intensity guidelines, or the minimum lot width provisions of the shoreline restrictions. For the purposes of this exemption, such a lot must not adjoin other lots in the same ownership, provided however, that all such lots in the same ownership may be treated together as one lot. In addition to the foregoing exemption, where the agency has jurisdiction, for a reason other than its location in a critical environmental area, of a single family dwelling or mobile home on a lot described in this paragraph which is owned by an individual who has continually owned such lot since May twenty-second, nineteen hundred seventy-three, it may not disapprove the project on any of the grounds specified in paragraph e of subdivision ten of section eight hundred nine, but may impose such reasonable conditions on the type and manner of placement of any individual on-site sewage disposal

facilities as are in furtherance of the purposes of this article and in compliance with applicable standards of the department of health.

b. Conversions of certain existing uses. Those structures in existence on the date that this act shall become a law that are associated with resort hotels, rental cottages and group camps shall be allowed to be converted from their previous use to individual single family residence use, notwithstanding the fact that such structures, as converted, do not conform to the overall intensity guidelines or the shoreline restrictions.

c. Gifts, devises and inheritances. The mere division of land resulting from bona fide gift, devise or inheritance by and from natural persons shall not be subject to review by the agency. New land use or development on lots, parcels or sites conveyed by individuals, who on the date that this act shall become law own such land, to members of their immediate families by bona fide gift, devise or inheritance, shall be exempt from the overall intensity guidelines and the minimum lot size criteria specified in the class B regional project lists for the purpose of constructing one single family dwelling or mobile home on any such lot, parcel or site.

2. Any pre-existing land use and development shall not be subject to review by the agency.

3. Any (a) pre-existing subdivision of land, (b) any subdivision or portion of a subdivision that involves seventy-five or fewer lots, parcels or sites for the completion of which any or all permits and other approvals required by or pursuant to law were obtained after July first, nineteen hundred seventy-one and for which all such required permits were in full force and effect on July thirty-first, nineteen hundred seventy-three, or (c) individual single family dwelling or mobile home, erected or placed on any lot, parcel or site in any subdivision referred to in clauses (a) and (b) hereof which has been approved by the state department of health, shall not be subject to review by the agency, provided, however, that a subdivision or portion of a subdivision described in clause (b) hereof shall become subject to

review by the agency on August first, nineteen hundred seventy-four if such subdivision or portion is not in existence on said date. Any individual single family dwelling or mobile home referred to in clause (c) of this subdivision hereof shall not be subject to the minimum lot width provisions of the shoreline restrictions.

4. With respect to any land use or development or subdivision of land or portion thereof approved by the agency under its interim project review authority, in section eight hundred fifteen, such land use or development or subdivision or portion thereof may proceed in accordance with the terms of the approval and shall not be subject to further review by the agency so long as such land use or development or subdivision or portion thereof is substantially commenced and/or material expenditures and financial obligations have been incurred with regard to such land use or development or subdivision or portion thereof within two years of such approval.

5. Any existing land use or development, including any structure being restored or rebuilt in whole or in part, being increased or expanded, whether in successive stages or at one time, to a total of less than twenty-five percent of its size or square footage at the date of enactment or when originally built or undertaken, whichever is later, shall not be subject to review by the agency. Any material increase or expansion thereafter shall constitute a reviewable land use or development if otherwise within the agency's review jurisdiction. In no case shall any increase or expansion violate, or increase non-compliance with, the minimum setback requirements of the shoreline restrictions. Notwithstanding the foregoing, a single family dwelling or mobile home may always be enlarged or rebuilt to any extent provided that it continues to be used as such, provided, however, that no such increase or expansion shall violate, or increase any non-compliance with, the minimum setback requirements of the shoreline restrictions.

§ 812. Public hearings. 1. Public hearings authorized or required by section eight hundred nine to be held by the agency in connection with the review of projects shall be conducted as provided in this section,

the applicable project review rules and regulations of the agency adopted under subdivision fourteen of such section, and the state administrative procedure act.

2. Notice of such public hearings shall be given as required in section eight hundred nine. Individual notices of hearing required under such section shall be served by mail in the manner required by section eight hundred nine of this article to the last known address of such individuals. Individual notice of hearing shall also be so served on any other person or agency, public or private, as may be required under the agency's project review rules and regulations.

3. Parties to a public hearing shall be the project sponsor and any person or agency entitled to individual notice and any other person or agency as may be authorized under the agency's project review rules and regulations.

4. The public hearing may, if authorized by the agency's project review rules and regulations, be conducted by any member or designee of the agency, but any findings, decision, order, permit or certificate of the agency shall be adopted by the agency, all members voting having familiarized themselves with the record.

5. The agency, or member or designee thereof presiding at the hearing shall have power to administer oaths and issue subpoenas to compel the attendance of witnesses and the production of relevant documents and papers, including witnesses and documents requested by the parties.

6. The parties shall be afforded the opportunity to present evidence and argument and, in the case of the project sponsor, any person or agency entitled by law to individual notice and any other public agency, to cross-examine witnesses on all relevant issues, but the member or designee presiding may impose reasonable limitations as to time and number of persons heard.

7. The agency shall keep a verbatim record of the proceedings and certified copies shall be made available, and for such reasonable

charges, as may be provided by rule or regulation of the agency.

§ 813. Penalties and enforcement. 1. Any person who violates any provision of this article or any rule or regulation promulgated by the agency, or the terms or conditions of any order or permit issued by the agency pursuant to this article shall be liable to a civil penalty of not more than five hundred dollars for each day or part thereof during which such violation continues. The civil penalties provided by this subdivision shall be recoverable in an action instituted in the name of the agency by the attorney general on his own initiative or at the request of the agency.

2. Alternatively or in addition to an action to recover the civil penalties provided by subdivision one of this section, the attorney general may institute in the name of the agency any appropriate action or proceeding to prevent, restrain, enjoin, correct or abate any violation of, or to enforce, any provision of this article or any rule or regulation promulgated by the agency, or the terms or conditions of any order or permit issued by the agency pursuant to this article. The court in which the action or proceeding is brought may order the joinder of appropriate persons as parties and may order the appropriate person or the person responsible for the violation to take such affirmative measures as are properly within its equitable powers to correct or ameliorate the violation, having regard to the purposes of this article and the determinations required by subdivision ten of section eight hundred nine.

3. Such civil penalty may be released or compromised by the agency before the matter has been referred to the attorney general, and where such matter has been referred to the attorney general, any such penalty may be released or compromised and any action or cause of action commenced to recover the same may be settled or discontinued by the attorney general with the consent of the agency.

§ 814. State agency projects. 1. Any state agency which intends to

undertake any new land use or development within the Adirondack park, other than land use or development by the department of environmental conservation pursuant to the master plan for management of state lands, irrespective of whether the land use area wherein the project is proposed to be located is governed by an approved local land use program shall give due regard to the provisions of the plan and the shoreline restrictions and shall file a notice of such intent thereof with the agency. Such notice shall be filed at the earliest time practicable in the planning of such project, and in no event later than the submission of a formal budget request for the funding of such project or any part thereof. Such notice shall contain a description of the proposed project, together with such additional information relating thereto as the agency may determine necessary and appropriate for the purposes of this section. The state agency shall not undertake such project for a period of thirty days, or such earlier time as the agency may specify, following the filing of the notice of intent.

2. During such thirty-day period, the agency may review the project to determine whether it: a. might be inconsistent with the provisions of the plan and shoreline restrictions, or

b. may have an undue adverse impact upon the natural, scenic, aesthetic, ecological, wildlife, historic, recreational or open space resources of the park, taking into account the economic and social benefits to be derived from such project. In making such determination, the agency shall apply the development considerations.

3. If, on or before the conclusion of such thirty-day period, the agency determines that the project will not be inconsistent with such provisions or restrictions and will not have an undue adverse impact upon such resources, it shall report its findings to the state agency. If the agency determines, at or before the conclusion of such period, that the project might be inconsistent with such provisions or restrictions, or might have such an undue adverse impact upon such resources, it shall notify the state agency by mail, that the agency will hold public hearing on the project within thirty days of such notice and, at the same time, issue an order to the state agency not to

undertake the project for up to ninety days following the commencement of such public hearing. During such ninety-day or lesser period, the agency shall further review the project and determine whether or not it will be inconsistent with such provisions or restrictions or have such undue adverse impact. On or before the conclusion of such ninety-day period, the agency shall report its findings in the manner provided above.

4. This section shall not apply to any emergency project which is immediately necessary for the protection of life or property as defined by the agency by rule and regulation.

5. The agency may adopt, and have authority to amend or repeal, rules and regulations, consistent with this section, to govern its procedures for the reviews authorized by this section.

§ 815. Interim development controls. 1. The legislature hereby finds that development is taking place in the Adirondack park which threatens the accomplishment of the basic purpose of this article to insure optimum overall conservation, protection, preservation, development and use of the park's unique scenic, historic, ecological and natural resources. Such development presents an imminent danger to the integrity of an area of the state which has always been considered a priceless possession of the people of this state. If such development is left uncontrolled until the land use and development plan is effective and its implementation is underway, the purposes of this article may be irreparably and irreversibly compromised. It would, therefore, be prejudicial to the interests of the people of the state to delay regulatory action until the land use and development plan becomes effective as adopted in this article. Accordingly, the agency is authorized until August one, nineteen hundred seventy-three to exercise the powers set forth in this section.

2. The agency shall, after public hearing, adopt, and may from time to time amend, rules and regulations to carry out the purposes of this section for the review of any proposed development in the Adirondack

park which might have an adverse effect upon the park's unique scenic, historic, ecological and natural resources, hereinafter referred to as a project, including criteria by which such project shall be evaluated by the agency. Such review shall not include review of projects on state lands within the park. The rules and regulations of the agency currently in force and effect shall remain in force to the extent consistent with this section and unless and until otherwise amended.

3. Before adopting or amending such rules and regulations, the agency shall submit them to the department of environmental conservation for comments and recommendation.

4. Such rules and regulations may exclude projects in specified areas or specified kinds of projects and shall exclude (a) bona fide management, including logging, of forests, woodlands or plantations or the construction or maintenance of woodroads, landings or temporary structures, directly associated with such management, (b) bona fide management of land for agriculture, livestock raising, horticulture and orchards and (c) any project involving less than five acres and fewer than five lots, from review under this section.

5. Such rules and regulations shall set forth a procedure for the informal discussion of preliminary and informal plans for a project and for preliminary approval or recommendations by the agency with respect to the project. Such informal discussion shall be optional with the project sponsor, and no such preliminary approval or recommendations by the agency shall relieve any agency or person from complying with any provision of this section.

6. This section shall not apply to any emergency project which is immediately necessary for the protection of life or property as defined by the agency by rule and regulation.

7. A public or private agency or person proposing to undertake a project subject to review under this section or the rules and regulations adopted hereunder, shall submit to the agency a description thereof, in such form and manner as shall be sufficient to enable the

agency to make the findings and determinations required by this section. For a period of ninety days following the submission of such description to the agency, or until such earlier time as the agency may specify, such agency or person shall not undertake or continue such project. The agency shall review such description to determine the effect of the proposed project upon the scenic, historic, ecological and natural resources of the park, and to assess the commercial, industrial, residential, recreational or other benefits of the project.

8. If, on or before the conclusion of such ninety-day period and after a public hearing is held on the project in accordance with subdivision nine the agency finds that the proposed project (1) is not in substantial conformity with the policies of this article and (2) would have a substantial and lasting adverse impact upon such resources of the park, it may issue an order upon the project sponsor prohibiting the commencement or continuation of the project until August first, nineteen hundred seventy-three. The findings and order of the agency shall be in writing and notice of the findings and order shall be mailed to persons to whom it is directed at their last known address.

9. Notice of a formal hearing shall be given by conspicuous posting of the land which is or will be subject to the agency action in question and by publication at least once in a newspaper of general circulation in the county or counties wherein such land is situated. In addition, individual notice shall be given by depositing the same in the mails addressed at the last known address to: (1) The owner or owners of the land which is or will be subject to the agency order; (2) the public or private agency or person proposing to undertake the project; and (3) the local government or local governments exercising jurisdiction over the land which is or will be subject to the agency order.

Notices shall be given at least seven days in advance of the hearing and shall contain a statement describing the matters to be considered at the hearing, the time and place where further details may be obtained, and the time and place of the hearing.

10. Any review and determination made pursuant to this section shall

take into account existing local controls.

11. All orders made by the agency shall be enforceable by appropriate proceedings at law or in equity and any person who violates any provision of this section or rules, regulations and orders adopted pursuant thereto may be fined for not more than five hundred dollars or imprisoned not more than thirty days, or both. Each day the violation continues is hereby deemed to be a separate offense for purposes of determining the amount of such fines and length of imprisonment.

12. A project which has been approved by the agency shall also be subject to approval by local government if such approval is required by law.

13. In regard to a project with respect to which the ninety-day period specified in subdivision seven hereof has been commenced on or before July thirty-first, nineteen hundred seventy-three, unless the agency approves said project in accordance with the provisions of this section, the project sponsor may not undertake said project if it is of a type subject to the agency's project review jurisdiction under section eight hundred nine until the sponsor has obtained a permit therefor as required therein.

14. If the agency approves a project reviewed under this section, the project sponsor may request, within ten days thereafter, and the agency shall issue within ten days after receipt of such request, a certificate to the effect that the project is approved and may be undertaken or continued, and that permit therefor as called for in section eight hundred nine is not required for such project so long as the project is completed within two years after issuance of such certificate. Irrespective of whether a certificate is issued pursuant to this section, a permit shall be required for the undertaking or continuation of a project approved under this section if such project is not completed within two years after its approval.

15. For the purposes of this section, the term "development" shall mean any activity which materially affects the existing conditions, use

or appearance of any land, structure or improvement including the division of any land into parcels or units but shall not include the division of any land resulting from devise, inheritance, gift or operation of law.

§ 816. Master plan for management of state lands. 1. The department of environmental conservation is hereby authorized and directed to develop, in consultation with the agency, individual management plans for units of land classified in the master plan for management of state lands heretofore prepared by the agency in consultation with the department of environmental conservation and approved by the governor. Such management plans shall conform to the general guidelines and criteria set forth in the master plan. Until amended, the master plan for management of state lands and the individual management plans shall guide the development and management of state lands in the Adirondack park.

2. The master plan and the individual management plans shall be reviewed periodically and may be amended from time to time, and when so amended shall as amended henceforth guide the development and management of state lands in the Adirondack park. Amendments to the master plan shall be prepared by the agency, in consultation with the department of environmental conservation, and submitted after public hearing to the governor for his approval.

3. The agency and department are hereby authorized to develop rules and regulations necessary, convenient or desirable to effectuate the purposes of this section.

§ 817. Activities of the United States in the Adirondack park. 1. It is hereby declared to be the policy of this state that new land use or development or acquisition of land by the United States within the Adirondack park shall conform to the land use and development plan and the master plan for the management of state lands so far as practicable, and to any further extent as the Congress of the United States may by law provide.

2. The agency may, upon request of the United States, advise whether any particular proposed land use and development or acquisition will conform to the land use and development plan or the master plan.

§ 818. Judicial review. 1. Any act, omission, or order of the agency or of any officer or employee thereof, pursuant to or within the scope of this article, may be reviewed at the instance of any aggrieved person in accordance with article seventy-eight of the civil practice law and rules, but application for such review must be made not later than sixty days from the effective date of the order or the date when the act or omission occurred.

2. Any local government which appears as a party in any proceeding before the agency, shall have standing to have the agency's decision on such project reviewed pursuant to article seventy-eight of the civil practice law and rules.

§ 819. Applicability. 1. No provision of this article shall be construed to prohibit any local government from adopting and enforcing land use and development controls for lands, other than those owned by the state.

2. Any local land use program which has been validly enacted or adopted by a municipality shall be valid and enforceable notwithstanding its not having been approved by the agency, and any new land use or development or subdivision of land shall be subject to the provisions of such local land use program and to the shoreline restrictions contained in section eight hundred six. If the agency has project review jurisdiction over any such land use or development or subdivision of land under section eight hundred nine, such land use, development or subdivision shall, in addition to its being subject to the provisions of any such local land use program, be subject to such agency jurisdiction. The project sponsor may not undertake or continue such land use, development or subdivision, however, or any part thereof,

notwithstanding the granting of a permit therefor by the agency, unless such undertaking or continuance is also permitted by the municipality under and in accordance with the provisions of its local land use program.

3. No provision of this article shall be deemed to prohibit any land use and development or subdivision of land existing prior to the effective date of this article, including those uses and development and subdivisions of land expressly not subject to agency review as provided in section eight hundred eleven.

4. Nothing in this article shall be construed to empower the agency to acquire any interest in real property by purchase or condemnation. No right of first refusal or first option to purchase in favor of the agency, the department of environmental conservation or any other state agency shall in any way be created by this article or the land use and development plan.

5. Nothing in this article shall be construed to supersede or replace or diminish in any way any regulatory or review authority of any other state agency.

§ 820. Severability. If any section of this article or the application thereof to any person or circumstances shall be adjudged invalid by a court of competent jurisdiction, such order or judgment shall be confined in its operation to the controversy in which it was rendered, and shall not affect or invalidate the remainder of any provision of any section or the application of any part thereof to any other person or circumstance and to this end the provisions of each section of the article are hereby declared to be severable.

* ARTICLE 28
WORKFORCE DIVERSITY PROGRAM

Section 821. Definitions.
822. Workforce participation goals.

823. Reporting.
824. Enforcement.
825. Powers and responsibilities of the division.
826. Severability.

* NB Repealed December 31, 2024

*** § 821. Definitions.** As used in this article, the following terms shall have the following meanings:

1. "Contractor" shall mean an individual, a business enterprise, including a sole proprietorship, a partnership, a corporation, a not-for-profit corporation, or any other party to a state contract, or a bidder in conjunction with the award of a state contract or a proposed party to a state contract.

2. "Department" shall mean the department of labor.

3. "Director" shall mean the director of the division of minority and women's business development.

4. "Disparity study" shall mean the most recent study of disparities between the utilization of minority group members and women in the performance of state contracts and the availability of minority group members and women to perform such work by the director pursuant to article fifteen-A of this chapter.

5. "Division" shall mean the department of economic development's division of minority and women's business development.

6. "Minority group member" shall mean a United States citizen or permanent resident noncitizen who is and can demonstrate membership in one of the following groups:

(a) Black persons having origins in any of the Black African racial groups;

(b) Hispanic/Latino persons of Mexican, Puerto Rican, Dominican, Cuban, Central or South American of either Indian or Hispanic origin,

regardless of race;

(c) Native American or Alaskan native persons having origins in any of the original peoples of North America;

(d) Asian and Pacific Islander persons having origins in any of the Far East countries, South East Asia, the Indian subcontinent or the Pacific Islands.

7. "State agency" shall mean (a)(i) any state department, or (ii) any division, board, commission or bureau of any state department, or (iii) the state university of New York and the city university of New York, including all their constituent units except community colleges and the independent institutions operating statutory or contract colleges on behalf of the state, or (iv) a board, a majority of whose members are appointed by the governor or who serve by virtue of being state officers or employees as defined in subparagraph (i), (ii) or (iii) of paragraph (i) of subdivision one of section seventy-three of the public officers law.

(b) a "state authority," as defined in subdivision one of section two of the public authorities law, and the following:

Albany County Airport Authority;
Albany Port District Commission;
Alfred, Almond, Hornellsville Sewer Authority;
Battery Park City Authority;
Cayuga County Water and Sewer Authority;
(Nelson A. Rockefeller) Empire State Plaza Performing Arts Center Corporation;
Industrial Exhibit Authority;
Livingston County Water and Sewer Authority;
Long Island Power Authority;
Long Island Rail Road;
Long Island Market Authority;
Manhattan and Bronx Surface Transit Operating Authority;
Metro-North Commuter Railroad;
Metropolitan Suburban Bus Authority;
Metropolitan Transportation Authority;
Natural Heritage Trust;
New York City Transit Authority;

New York Convention Center Operating Corporation;
New York State Bridge Authority;
New York State Olympic Regional Development Authority;
New York State Thruway Authority;
Niagara Falls Public Water Authority;
Niagara Falls Water Board;
Port of Oswego Authority;
Power Authority of the State of New York;
Roosevelt Island Operating Corporation;
Schenectady Metroplex Development Authority;
State Insurance Fund;
Staten Island Rapid Transit Operating Authority;
State University Construction Fund;
Syracuse Regional Airport Authority;
Triborough Bridge and Tunnel Authority;
Upper Mohawk Valley Regional Water Board;
Upper Mohawk Valley Regional Water Finance Authority;
Upper Mohawk Valley Memorial Auditorium Authority;
Urban Development Corporation and its subsidiary corporations.

(c) the following only to the extent of state contracts entered into for its own account or for the benefit of a state agency as defined in paragraph (a) or (b) of this subdivision:
Dormitory Authority of the State of New York;
Facilities Development Corporation;
New York State Energy Research and Development Authority;
New York State Science and Technology Foundation.

8. "State contract" shall mean: (a) a written agreement in excess of one hundred thousand dollars whereby a state agency is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon; and (b) a written agreement in excess of one hundred thousand dollars whereby the owner of a state assisted housing project is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon for such project.

9. "Subcontractor" shall mean any individual or business enterprise that provides goods or services to any individual or business for use in the performance of a state contract, whether or not such goods or services are provided to a party to a state contract.

* NB Repealed December 31, 2024

*** § 822. Workforce participation goals.** 1. The director, in consultation with the department, shall develop aspirational goals for the utilization of minority group members and women in each construction trade, profession, and occupation.

(a) Aspirational goals for the utilization of minority group members and women must set forth the expected participation of minority group members and women in each construction trade, profession, and occupation and shall be expressed as a percentage of the total hours of work to be performed by each trade, profession, and occupation based on the availability of minority group members and women within each construction trade, profession, and occupation.

(i) The aspirational goals shall set forth separate levels of expected participation by men and women for each minority group, and for Caucasian women, in each construction trade, profession, and occupation.

(ii) The director may establish aspirational goals for the expected participation of minority group members and women for municipalities where the director deems feasible and appropriate.

(iii) The director shall, in establishing the aspirational goals, consider the findings of the most recent disparity study and any relevant data published by the United States Census Bureau.

(b) The director shall update the aspirational goals on a periodic basis, no less than biannually.

2. State agencies shall, for each invitation for bids, request for proposals, or other solicitation that will result in the award of a state contract, set forth the expected degree of workforce participation by minority group members and women.

(a) Each workforce participation goal established by a state agency shall set forth the expected level of participation by minority group members and women in the performance of each trade, profession, and

occupation required in the performance of the contract.

(b) Goals for the participation of minority group members and women shall set forth separate goals for each of the following groups in each construction trade, profession, and occupation:

(i) Black men;

(ii) Black women;

(iii) Hispanic men;

(iv) Hispanic women;

(v) Native American men;

(vi) Native American women;

(vii) Asian men;

(viii) Asian women;

(ix) Caucasian women.

(c) In establishing workforce participation goals, state agencies shall consider factors including, but not limited to:

(i) the findings of the most recent disparity study;

(ii) any relevant data published by the United States Census Bureau; and

(iii) if applicable, any aspirational goal established by the division.

(d) In any case, where a state agency establishes a workforce participation goal on an invitation for bids, request for proposals, or other solicitation that will result in the award of a state contract for construction that deviates from the aspirational goal for work or service in the county or municipality in which the work or service will be performed, the state agency shall document numerical evidence demonstrating that the application of the aspirational goal would not be practical, feasible, or appropriate.

3. Every contractor responding to an invitation for bids, request for proposals, or other solicitation that will result in the award of a state contract subject to workforce participation goals pursuant to this section shall agree to make a good faith effort to achieve such workforce participation goal or request a waiver of such goal.

(a) A contractor that certifies that it will make a good faith effort to achieve a workforce participation goal shall provide with its response to the applicable invitation for bids, request for proposals,

or other solicitation:

(i) A certification stating that the contractor will make a good faith effort to achieve the applicable workforce participation goal and will contractually require any subcontractors to the contractor to make a good faith effort to achieve the applicable workforce participation goal in any subcontracted work;

(ii) The level of anticipated participation by minority group members and women as employees to the contractor, or, if the state agency has specifically indicated that such documentation is not required as part of the response to the invitation for bids, request for proposals, or other solicitation, a date certain for the submission of such documentation after the award of the state contract;

(iii) A list of all subcontractors anticipated to perform work on the state contract and the level of anticipated participation by minority group members and women as employees to each subcontractor, or, if the state agency has specifically indicated that such documentation is not required as part of the response to the invitation for bids, request for proposals, or other solicitation, a date certain for the submission of such documentation after the award of the state contract; and

(iv) Such other information as the contracting state agency shall require.

(b) A contractor that requests a waiver of a workforce participation goal shall provide with its response to the applicable invitation for bids, request for proposals, or other solicitation:

(i) Numerical evidence setting forth why the achievement of the workforce participation goal is not practical, feasible, or appropriate in light of the construction trades, professions, and occupations required to perform the work of the state contract;

(ii) Documentation of the contractor's efforts, and any efforts by subcontractors to the contractor, to promote the inclusion of minority group members and women in construction trades, professions, and occupations required in the performance of the state contract;

(iii) The level of anticipated participation by minority group members and women in each of the construction trades, professions, and occupations required in the performance of the work of the state contract;

(iv) A list of all subcontractors anticipated to perform work on the

state contract and the level of anticipated participation by minority group members and women as employees to each subcontractor; and

(v) Any other relevant information evidencing that the contractor's achievement of the workforce participation goal would not be practical, feasible, or appropriate.

4. A state agency may not award a state contract to a contractor unless the contractor has (i) certified that it will make a good faith effort to achieve the applicable workforce participation goal and provided documentation of the workforce anticipated to perform the work of the state contract or (ii) submitted a waiver request which the state agency deems to reflect the maximum feasible participation of minority group members and women in each of the construction trades, professions, and occupations required in performance of the work of the state contract.

(a) In the event that a contractor submits a certification or waiver request that is accepted by the state agency, the state agency shall establish in the state contract the expected level of participation by minority group members and women in each of the construction trades, professions, and occupations required in performance of the work of the state contract, require that the contractor make good faith efforts to achieve such workforce participation goals, require that the contractor require any subcontractors to make a good faith effort to achieve the applicable workforce participation goal in any subcontracted work.

(b) In the event that a contractor fails to submit a certification, waiver request, or any other information required by the state agency, or the state agency determines that a contractor's waiver request does not demonstrate that the applicable workforce participation goal is impractical, unfeasible, or inappropriate, the state agency shall notify the contractor of the deficiency in writing and provide the contractor five business days to remedy the noticed deficiency. A state agency may reject any bid or proposal of a contractor that fails to timely respond to a notice of deficiency or to provide documentation remedying the deficiency to the satisfaction of the state agency.

(c) Where failure to remedy any notified deficiency in the workforce utilization plan is a ground for disqualification, that issue and all other grounds for disqualification shall be stated in writing by the

contracting state agency. The director shall establish via regulation, rules for state contracting agencies aimed at the measurement, reduction and elimination of erroneous business disqualifications including a process affording a contractor notice and an opportunity to be heard related to such disqualifications.

* NB Repealed December 31, 2024

*** § 823. Reporting.** 1. State contracts shall require contractors to submit, and to require any subcontractors to submit, to the contracting state agency reports documenting the hours worked by employees of the contractor and any subcontractors in the performance of the work of the state contract. Such reports shall be submitted no less frequently than monthly for state contracts for construction. Such reports shall identify in the aggregate the race, ethnicity, gender, and trade, profession, or occupation of each employee performing work on a state contract.

2. State agencies shall submit periodic reports to the director, or the designee of the director, concerning the participation of minority group members and women in state contracts let by such agencies and such state agencies' compliance with this article. Such reports shall be submitted at such time, and include such information, as the director shall require in regulations. State agencies shall make available their facilities, books, and records for inspection, upon reasonable notice, by the director or the director's designee.

3. The department shall provide such assistance as the director shall require in carrying out the requirements of this section.

* NB Repealed December 31, 2024

*** § 824. Enforcement.** 1. Where it appears that a contractor cannot, after a good faith effort, meet the workforce participation goals set forth in a particular state contract, a contractor may file a written application with the contracting state agency requesting a partial or total waiver of such requirements. Such request shall set forth the

reasons for such contractor's inability to meet the workforce participation goal, specifically describe the reasons for any deviations from the anticipated workforce participation goal set forth in the contractor's bid or proposal leading to the award of the state contract, and describe the efforts by the contractor and any subcontractors to achieve the maximum feasible participation of minority group members and women in the performance of the work of the state contract. Where the contractor's inability to achieve the workforce participation goal on a state contract is attributable to the failure of one or more subcontractors to make good faith efforts to achieve the maximum feasible participation of minority group members and women in the performance of the work of the state contract, the contractor shall identify such subcontractor or subcontractors to the contracting state agency.

2. A state agency shall grant a request for a waiver of workforce participation goals on a state contract where:

(a) The contractor demonstrates that the contractor and its subcontractors made good faith efforts to achieve the workforce participation goal on the state contract, and that insufficient minority group members or women were available in the construction trades, professions, and occupations required to perform the work of the state contract; or

(b) The contractor contractually required each of its subcontractors to make a good faith effort to achieve the maximum feasible participation of minority group members and women in the performance of the subcontracted work, periodically monitored such subcontractors' deployment of minority group members and women in the performance of the subcontracted work, provided notice to such subcontractors of any deficiencies in their deployment of minority group members and women in the performance of such subcontracted work, and could not achieve the workforce participation goal for one or more construction trades, professions, or occupations without the good faith efforts of such subcontractors.

* NB Repealed December 31, 2024

*** § 825. Powers and responsibilities of the division.** 1. The director shall post to the website of the division on or before October first of each year the aspirational goals for the utilization of minority group members and women in construction required pursuant to section eight hundred twenty-two of this article.

2. The director shall promulgate rules and regulations for the implementation of this article, including, but not limited to, procedures for the submission of certifications and workforce utilization plans by contractors, criteria for granting waivers of workforce participation goals, and the contents of reports by state agencies concerning their implementation of the requirements of this article.

3. The division shall, from time to time, review the facilities, books, and records of state agencies to ascertain the accuracy of their reports and their compliance with the requirements of this article. The department shall provide such assistance as the director shall require in carrying out the requirements of this section.

* NB Repealed December 31, 2024

*** § 826. Severability.** If any clause, sentence, paragraph, section or part of this article shall be adjudged by any court of competent jurisdiction to be invalid, the judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part of this article directly involved in the controversy in which the judgment shall have been rendered.

* NB Repealed December 31, 2024

ARTICLE 30

INDIGENT LEGAL SERVICES

Section 832. Office of indigent legal services.
833. Indigent legal services board.

§ 832. Office of indigent legal services. 1. There is hereby created within the executive department the office of indigent legal services, hereinafter referred to in this section as the "office". The purpose of such office is to monitor, study and make efforts to improve the quality of services provided pursuant to article eighteen-B of the county law. The office shall report to the indigent legal services board established pursuant to section eight hundred thirty-three of this article, provided, however, that administrative matters of general application within the executive department shall also be applicable to such office.

2. (a) Following the initial appointment of the members of the indigent legal services board established pursuant to section eight hundred thirty-three of this article, such board shall promptly nominate a full-time director of the office and notify the governor of such nomination. After approval or disapproval of the first nominee as director of the office, or at any time thereafter when a vacancy shall exist or is anticipated in the position of director of the office, the indigent legal services board shall promptly nominate a full-time director of the office, and notify the governor of such nomination. Nothing in this paragraph shall prohibit the board from appointing an interim director if there is a vacancy.

(b) The governor, within thirty days after receiving written notice of any nomination of a director made pursuant to paragraph (a) of this subdivision, may approve or disapprove the nomination. If the governor approves such nomination, or fails to act on such nomination within such thirty day period, the nominee shall thereupon commence his or her term as director of the office. If, within such thirty day period, the governor serves upon the chair of such board a written notice disapproving such nomination, the nominee shall not be authorized to serve as director of the office provided, however, that such board may authorize an interim director appointed pursuant to paragraph (a) of this subdivision to serve or continue to serve as interim director until such time as a director of the office is approved, or not timely disapproved, by the governor. Following any disapproval, the board shall have sixty days to submit another nominee, although such period may be extended, upon request of the board, by the governor. A person appointed

as interim director may exercise all of the powers available to the director of such office.

(c) The director of the office shall serve full-time and for a term of five years. The director may be removed during this term for good cause shown, after notice and an opportunity to be heard, by a vote of two-thirds or more of the nine members of such board. The person serving as director shall, upon assuming such position, be admitted to practice law and shall have not less than five years professional experience in the area of public defense services, and have a demonstrated commitment to the provision of quality public defense representation and to the communities served by public defense providers.

(d) The director shall appoint employees and perform such other functions as are appropriate to ensure the efficient operation of the office within the amounts available therefor by appropriation.

3. Duties and responsibilities. The office shall, in consultation with the indigent legal services board established pursuant to section eight hundred thirty-three of this article, have the following duties and responsibilities:

(a) to examine, evaluate and monitor services provided in each county pursuant to article eighteen-B of the county law;

(b) to collect and receive information and data regarding the provision of services pursuant to article eighteen-B of the county law including, but not limited to:

(i) the types and combinations of such services being utilized in each county;

(ii) the salaries and other compensation paid to individual administrators, attorneys and staff providing such services;

(iii) the actual caseloads of attorneys providing such services pursuant to article eighteen-B of the county law;

(iv) how the caseloads of attorneys providing such services compare with the caseloads of attorneys providing prosecution-related services in each county;

(v) the types, nature and timing of dispositions of cases handled by attorneys providing such services and attorneys providing prosecution-related services;

(vi) the actual expenditures currently being made in each county on

such services and prosecution-related services;

(vii) the time, funds and in-kind resources currently being spent on such services and prosecution-related services and the amount being spent on ancillary services such as investigators, support staff, social workers and expert witnesses, including consideration of all funds received for such services from all sources;

(viii) the criteria and procedures used to determine whether a person is eligible to receive such services, the number of persons considered for and applicants denied such services, the reasons for the denials, and the results of any review of such denials, including the number of orders issued pursuant to section seven hundred twenty-two-d of the county law; and

(ix) the standards and criteria used in programs and by each county to determine whether individual attorneys are qualified to provide indigent legal services, on a case by case basis;

(c) to analyze and evaluate the collected data, and undertake any necessary research and studies, in order to consider and recommend measures to enhance the provision of indigent legal services and to ensure that recipients of services provided pursuant to article eighteen-B of the county law are provided with quality representation from fiscally responsible providers, which shall include but not be limited to: establishing criteria and procedures to guide courts in determining whether a person is eligible for such representation; establishing standards, criteria and a process for qualifying and re-qualifying attorneys to provide such services pursuant to article eighteen-B of the county law;

(d) to establish standards and criteria for the provision of such services in cases involving a conflict of interest and to assist counties to develop plans consistent with such standards and criteria;

(e) to develop recommendations to improve the delivery of such services in a manner that is consistent with the needs of the counties, the efficiency and adequacy of the public defense plan operated in the counties and the quality of representation offered, which may include receiving applications for and distributing grants pursuant to specified criteria;

(f) to develop recommendations regarding the distribution and expenditure of any monies appropriated for indigent legal services,

including but not limited to monies from the indigent legal services fund created pursuant to section ninety-eight-b of the state finance law, for consideration by the indigent legal services board established pursuant to section eight hundred thirty-three of this article; and, in making such recommendations, may consider, in addition to measures of performance, the commitment of local resources to such services and the changes thereto; the geographic balance of funding among the regions of the state, population, crime rates, poverty rates and individual community needs;

(g) to target grants in support of innovative and cost effective solutions that enhance the provision of quality indigent legal services, including collaborative efforts serving multiple counties;

(h) to investigate and monitor any other matter related to indigent legal services that the director deems important;

(i) to request and receive from any department, division, board, bureau, commission or other agency of the state or any political subdivision of the state or any public authority such assistance, information and data, subject to limitations on the disclosure of information provided confidentially to indigent legal service providers, as will enable the office to properly carry out its functions, powers and duties;

(j) to establish measures of performance which programs and counties shall regularly report to the office, to assist the office in monitoring the quality of indigent legal services;

(k) to apply for and accept any grant or gift for any of the purposes of the office or the indigent legal services board. Any monies so received may be expended by the office to effectuate any such purpose, subject to the same limitations as to approval of expenditures and audit as are prescribed for state monies appropriated for such purposes;

(l) to present findings and make recommendations for consideration by the indigent legal services board established pursuant to section eight hundred thirty-three of this article; and

(m) to execute decisions of the indigent legal services board established pursuant to section eight hundred thirty-three of this article, including the distribution of funds.

4. Additional duties and responsibilities. The office shall, in

consultation with the indigent legal services board established pursuant to section eight hundred thirty-three of this article, have the following duties and responsibilities, and any plan developed pursuant to this subdivision shall be submitted by the office to the director of the division of budget for review and approval, provided, however that the director's approval shall be limited solely to the plan's projected fiscal impact of the required appropriation for the implementation of such plan and his or her approval shall not be unreasonably withheld:

(a) Counsel at arraignment. * Develop and implement a written plan to ensure that each criminal defendant who is eligible for publicly funded legal representation is represented by counsel physically present or pursuant to the requirements of article one hundred eighty-two of the criminal procedure law at their arraignment; provided, however, that a timely arraignment with counsel shall not be delayed pending a determination of a defendant's eligibility.

* NB Effective until September 1, 2028

* Develop and implement a written plan to ensure that each criminal defendant who is eligible for publicly funded legal representation is represented by counsel in person at his or her arraignment; provided, however, that a timely arraignment with counsel shall not be delayed pending a determination of a defendant's eligibility.

* NB Effective September 1, 2028

(i) For the purposes of the plan developed pursuant to this subdivision, the term "arraignment" shall mean the first appearance by a person charged with a crime before a judge or magistrate, with the exception of an appearance where no prosecutor appears and no action occurs other than the adjournment of the criminal process and the unconditional release of the person charged (in which event "arraignment" shall mean the person's next appearance before a judge or magistrate).

(ii) The written plan developed pursuant to this subdivision shall be completed by December first, two thousand seventeen and shall include interim steps for each county and the city of New York for achieving compliance with the plan.

(iii) Each county and the city of New York shall, in consultation with the office, undertake good faith efforts to implement the plan and such plan shall be fully implemented and adhered to in each county and the

city of New York by April first, two thousand twenty-three. Pursuant to section seven hundred twenty-two-e of the county law, the state shall reimburse each county and the city of New York for any costs incurred as a result of implementing such plan.

(iv) The office shall, on an ongoing basis, monitor and periodically report on the implementation of, and compliance with, the plan in each county and the city of New York.

(b) Caseload relief. Develop and implement a written plan that establishes numerical caseload/workload standards for each provider of constitutionally mandated publicly funded representation in criminal cases for people who are unable to afford counsel.

(i) Such standards shall apply to all providers whether public defender, legal aid society, assigned counsel program or conflict defender in each county and the city of New York.

(ii) The written plan developed pursuant to this subdivision shall be completed by December first, two thousand seventeen and shall include interim steps for each county and the city of New York for achieving compliance with the plan. Such plan shall include the number of attorneys, investigators and other non-attorney staff and the amount of in-kind resources necessary for each provider of mandated representation to implement such plan.

(iii) Each county and the city of New York shall, in consultation with the office, undertake good faith efforts to implement the caseload/workload standards and such standards shall be fully implemented and adhered to in each county and the city of New York by April first, two thousand twenty-three. Pursuant to section seven hundred twenty-two-e of the county law, the state shall reimburse each county and the city of New York for any costs incurred as a result of implementing such plan.

(iv) The office shall, on an ongoing basis, monitor and periodically report on the implementation of, and compliance with, the plan in each county and the city of New York.

(c) Initiatives to improve the quality of indigent defense. (i) Develop and implement a written plan to improve the quality of constitutionally mandated publicly funded representation in criminal cases for people who are unable to afford counsel and ensure that attorneys providing such representation: (A) receive effective

supervision and training; (B) have access to and appropriately utilize investigators, interpreters and expert witnesses on behalf of clients; (C) communicate effectively with their clients; (D) have the necessary qualifications and experience; and (E) in the case of assigned counsel attorneys, are assigned to cases in accordance with article eighteen-b of the county law and in a manner that accounts for the attorney's level of experience and caseload/workload.

(ii) The office shall, on an ongoing basis, monitor and periodically report on the implementation of, and compliance with, the plan in each county and the city of New York.

(iii) The written plan developed pursuant to this subdivision shall be completed by December first, two thousand seventeen and shall include interim steps for each county and the city of New York for achieving compliance with the plan.

(iv) Each county and the city of New York shall, in consultation with the office, undertake good faith efforts to implement the initiatives to improve the quality of indigent defense and such initiatives shall be fully implemented and adhered to in each county and the city of New York by April first, two thousand twenty-three. Pursuant to section seven hundred twenty-two-e of the county law, the state shall reimburse each county and the city of New York for any costs incurred as a result of implementing such plan.

(d) Appropriation of funds. In no event shall a county and a city of New York be obligated to undertake any steps to implement the written plans under paragraphs (a), (b) and (c) of this subdivision until funds have been appropriated by the state for such purpose.

§ 833. Indigent legal services board. 1. There is hereby created the indigent legal services board hereinafter referred to in this section as the "board". The purpose of such board shall be to monitor, study and make efforts to improve the quality of services provided pursuant to article eighteen-B of the county law. No active prosecutor, law enforcement official or person providing prosecution-related services, or employee of such a prosecutor, official or person, shall be appointed to or serve on such board. The board shall consist of nine members who shall be appointed as follows:

(a) one shall be the chief judge of the court of appeals, who shall be the chair of the board;

(b) one shall be appointed by the governor on the recommendation of the temporary president of the senate;

(c) one shall be appointed by the governor on the recommendation of the speaker of the assembly;

(d) one shall be appointed by the governor from a list of at least three attorney nominees submitted by the New York state bar association;

(e) two shall be appointed by the governor from a list of at least four nominees submitted by the New York state association of counties;

(f) one shall be appointed by the governor and shall be an attorney who has provided public defense services for at least five years;

(g) one attorney who shall be appointed by the governor; and

(h) one shall be appointed by the governor, from a list of no more than two nominees submitted by the chief administrator of the courts, each of whom shall be a judge or justice, or retired judge or justice, who was elected to the supreme, county or family court, or appointed to the criminal court or family court in the city of New York, and has substantial experience presiding as such a judge or justice in trial matters before such court.

2. All members of the board shall be appointed for terms of three years such terms to commence on August first, and expire July thirty-first, provided, however, that the chief judge of the court of appeals shall serve ex officio; and provided further, that the initial term of the member appointed pursuant to paragraph (d), the first of the two members appointed pursuant to paragraph (e) and the member appointed under paragraph (g) of subdivision one of this section shall be for two years. Initial appointments must be made within sixty days of the effective date of this subdivision. Any member chosen to fill a vacancy created otherwise than by expiration of term shall be appointed for the unexpired term of the member whom he or she is to succeed. Vacancies caused by expiration of a term or otherwise shall be filled promptly and in the same manner as original appointments. Any member may be reappointed for additional terms.

A member of the board shall continue in such position upon the

expiration of his or her term until such time as he or she is reappointed or his or her successor is appointed, as the case may be.

3. Membership on the board shall not constitute the holding of an office, and members of the board shall not be required to take and file oaths of office before serving on the board. The board shall not have the right to exercise any portion of the sovereign power of the state.

4. The board shall meet at least four times in each year. The first meeting of the board shall be held within thirty days of the appointment of the full board or within sixty days after the effective date of this subdivision, whichever occurs earlier. Special meetings may be called by the chair and shall be called by the chair upon the request of five members of the board. The board may establish its own procedures with respect to the conduct of its meetings and other affairs; provided, however, that the quorum and majority provisions of section forty-one of the general construction law shall govern all actions taken by the board.

5. The members of the board shall receive no compensation for their services but shall be allowed their actual and necessary expenses incurred in the performance of their functions hereunder.

6. No member of the board shall be disqualified from holding any public office or employment, nor shall he or she forfeit any such office or employment, by reason of his or her appointment pursuant to this section, notwithstanding the provisions of any other general, special or local law, ordinance or city charter.

7. The board shall have the following duties and responsibilities:

(a) To evaluate existing indigent legal services programs and determine the type of indigent legal services that should be provided in New York state to best serve the interests of persons receiving such services;

(b) To consult with and advise the office of indigent legal services in carrying out the duties and responsibilities of such office;

(c) To accept, reject or modify recommendations made by the office of

indigent legal services regarding the allocation of funds and the awarding of grants, including incentive grants, from the indigent legal services fund created pursuant to section ninety-eight-b of the state finance law. When acting on such a recommendation, the board shall set forth the basis for its determination; and

(d) To advise and to make an annual report to the governor, legislature and judiciary.

ARTICLE 35

DIVISION OF CRIMINAL JUSTICE SERVICES

Section 835. Definitions.

836. Division of criminal justice services; commissioner, organization and employees.

837. Functions, powers and duties of division.

837-a. Additional functions, powers and duties of the division.

837-b. Duties of courts and peace officers.

837-c. Processing requests submitted by police departments.

837-d. Soft body ballistic armor vests for police officers.

837-e. Statewide central register for missing children.

837-f. Missing and exploited children clearinghouse.

837-f-1. Missing vulnerable adults clearinghouse.

837-f-2. Missing adults.

837-g. Livery vehicle safety training program establishment.

837-h. Livery vehicle safety training program; standards; eligibility; reports.

837-i. Uniform parking ticket.

837-j. Parking violations enforcement and disposition program.

837-k. Safe house for children.

837-l. Capital prosecution extraordinary assistance program.

837-m. Reporting duties of law enforcement departments with respect to missing children and vulnerable adults.

837-m*2. Criminal history records search for certain employment, appointments, licenses or permits in the city of New York.

837-n. Criminal history information of caregivers;

requirements.
837-o. Search for arson and sex offense conviction records of volunteer firefighter applicants.
837-p. Criminal history records search for certain licenses and registrations in the county of Westchester.
837-q. Payments to Westchester county for policing special parkways.
837-r. Office of sex offender management.
837-s. Search for sex offense conviction records of emergency medical technician and other first responder applicants.
837-t. Use of force reporting.
837-u. The division of criminal justice services, in conjunction with the chief administrator of the courts, shall collect data and report annually regarding pretrial release and detention.
837-v. Report of discharge of weapon.
837-v*2. Reporting duties of law enforcement departments with respect to arrest-related deaths.
837-w. Technological viability of microstamping-enabled firearms.
837-w*2. Blue alert system.
837-x. Cooperation with certain out-of-state investigations.
837-y. New York state office of gun violence prevention.
837-z. Law enforcement peer support program.
837-aa. Firearm prevention technology requirements for three-dimensional printers.
838. Identification of unknown dead and missing persons.
838-a. Maintenance of sexual offense evidence kits.
838-b. Victim's right to notice.
839. Municipal police training council.
840. Functions, powers and duties of council.
841. Functions, powers and duties of the commissioner with respect to the council.
841-a. Security guard advisory council.
841-b. Functions, powers and duties of council.
841-c. Functions, powers and duties of the commissioner with

respect to the council.
841-d. Saving clause.
842. Council rules and regulations promulgated by governor.
843. Division homepage on the internet.
844-b. New York state committee for the coordination of police services to elderly persons.
845. Central state registry of police officers and peace officers.
845-a. Presentment of flags lowered to half-staff in memorial of the death of any police officer or peace officer.
845-b. Requests for criminal history information.
845-c. Criminal history record searches; undisposed cases.
845-d. Criminal record searches: reports for civil purposes.
845-e. Commercial security tax credit program.
846. Programs for the aging.
846*2. Programs for the aging.

§ 835. Definitions. 1. "Division" means the division of criminal justice services.

3. "Commissioner" means the commissioner of the division of criminal justice services.

4. "Council" means the municipal police training council.

5. "Federal acts" means the federal omnibus crime control and safe streets act of nineteen hundred sixty-eight, the federal juvenile delinquency prevention and control act of nineteen hundred sixty-eight, and any act or acts amendatory or supplemental thereto.

6. "Municipality" means any county, city, town, park commission, village, or police district in the state.

7. "Police officer" means a member of a police force or other organization of a municipality who is responsible for the prevention and detection of crime and the enforcement of the general criminal laws of

the state, but shall not include any person serving as such solely by virtue of his occupying any other office or position, nor shall such term include a sheriff, under-sheriff, commissioner of police, deputy or assistant commissioner of police, chief of police, deputy or assistant chief of police or any person having an equivalent title who is appointed or employed by a municipality to exercise equivalent supervisory authority.

7-a. "Police officer," for the purpose of the central state registry, means a person designated as such in subdivision thirty-four of section 1.20 of the criminal procedure law.

7-b. "Peace officer" means a person designated as such in section 2.10 of the criminal procedure law.

8. "Police agency" means any agency or department of any municipality, commission, authority or other public benefit corporation having responsibility for enforcing the criminal laws of the state.

9. "Qualified agencies" means courts in the unified court system, the administrative board of the judicial conference, probation departments, sheriffs' offices, district attorneys' offices, the state department of corrections and community supervision, the department of correction of any municipality, the financial frauds and consumer protection unit of the state department of financial services, the office of professional medical conduct of the state department of health for the purposes of section two hundred thirty of the public health law, the child protective services unit of a local social services district when conducting an investigation pursuant to subdivision six of section four hundred twenty-four of the social services law, the office of Medicaid inspector general, the temporary state commission of investigation, police forces and departments having responsibility for enforcement of the general criminal laws of the state, the Onondaga County Center for Forensic Sciences Laboratory when acting within the scope of its law enforcement duties and the division of forensic services of the Nassau county medical examiner's office when acting within the scope of its law enforcement duties.

10. "Criminal justice function" means the prevention, detection and investigation of the commission of an offense, the apprehension of a person for the alleged commission of an offense, the detention, release on recognizance or bail of a person charged with an offense prior to disposition of the charge, the prosecution and defense of a person charged with an offense, the detention, release on recognizance or bail of a person convicted of an offense prior to sentencing, the sentencing of offenders, probation, incarceration, parole, proceedings in a court subsequent to a judgment of conviction relating thereto and the release of offenders from incarceration.

11. "Mass shooting" means an incident in which at least four people are murdered with a firearm, rifle, or shotgun.

§ 836. Division of criminal justice services; commissioner, organization and employees. 1. There shall be in the executive department a division of criminal justice services.

2. The head of the division shall be a commissioner, who shall be appointed by the governor, by and with the advice and consent of the senate, and hold office at the pleasure of the governor by whom he was appointed and until his successor is appointed and qualified. The commissioner shall be the chief executive officer of and in sole charge of the administration of the division. The commissioner shall receive an annual salary to be fixed by the governor within the amount available therefor by appropriation; and he shall be entitled to receive reimbursement for expenses actually and necessarily incurred by him in the performance of his duties.

3. The commissioner may, from time to time, create, abolish, transfer and consolidate bureaus and other units within the division not expressly established by law as he may determine necessary for the efficient operation of the division, subject to the approval of the director of the budget.

4. The commissioner may appoint such deputies, directors, assistants and other officers and employees, committees and consultants as he may deem necessary, prescribe their powers and duties, fix their compensation and provide for reimbursement of their expenses within the amounts appropriated therefor.

5. The commissioner may request and receive from any department, division, board, bureau, commission or other agency of the state or any political subdivision thereof or any public authority such assistance, information and data as will enable the division properly to carry out its functions, powers and duties.

6. The principal office of the division shall be in the county of Albany.

7. The functions, powers and duties of the former division of probation and correctional alternatives as established in article twelve of this chapter shall now be considered a function of the division of criminal justice services.

§ 837. Functions, powers and duties of division. The division shall have the following functions, powers and duties:

1. Advise and assist the governor in developing policies, plans and programs for improving the coordination, administration and effectiveness of the criminal justice system;

2. Make recommendations to agencies in the criminal justice system for improving their administration and effectiveness:

3. Act as the official state planning agency pursuant to the federal acts; in accordance therewith, prepare, evaluate and revise statewide crime control and juvenile delinquency prevention and control plans; and receive and disburse funds from the federal government;

4. In cooperation with the state administrator of the unified court

system as well as any other public or private agency,

(a) through the central data facility collect, analyze, evaluate and disseminate statistical and other information and data; and

(b) undertake research, studies and analyses and act as a central repository, clearinghouse and disseminator of research studies, in respect to criminal justice functions and any agency responsible for a criminal justice function, with specific attention to the effectiveness of existing programs and procedures for the efficient and just processing and disposition of criminal cases; and

(b-1) collect data and undertake research, studies and analyses of judicial diversion programs including but not limited to the judicial diversion program described in article two hundred sixteen of the criminal procedure law; and

(c) collect and analyze statistical and other information and data with respect to the number of crimes reported or known to police officers or peace officers, the number of persons arrested for the commission of offense, the age of the person or persons arrested, the number of custodial arrests and appearance tickets issued, the offense for which the person was arrested, the county within which the arrest was made and the accusatory instrument filed, the disposition of the accusatory instrument including, but not limited to, as the case may be, dismissal, acquittal, the offense to which the defendant pled guilty, the offense the defendant was convicted of after trial, and the sentence; and where a firearm as defined in section 265.00 of the penal law or machine gun, rifle or shotgun comes into the custody of police officers or peace officers in the course of an investigation of such crime or offense, the make, model type, caliber and magazine or cylinder capacity of any such firearm and whether possession of such firearm by the defendant is licensed or unlicensed and if confiscated at arrest, the style and manufacturer of any ammunition; and

(d) Supply data, upon request, to federal bureaus or departments engaged in collecting national criminal statistics; and

(e) Supply data, including confidential and sealed criminal history record information, for bona fide research purposes. Such information shall be disseminated in accordance with procedures established by the division to assure the security and privacy of identification and information data, which shall include the execution of an agreement

which protects the confidentiality of the information and reasonably protects against data linkage to individuals; and

(e-1) Collect demographic data with respect to persons appointed as a police officer, including but not limited to racial and gender characteristics; and

(f) Accomplish all of the functions, powers, and duties set forth in paragraphs (a), (b), (c) and (d) of this subdivision with respect to the processing and disposition of cases involving violent felony offenses specified in subdivision one of section 70.02 of the penal law.

4-a. In cooperation with the state administrator of the unified court system as well as any other public or private agency, collect and analyze statistical and all other information and data with respect to the number of environmental crimes and offenses in violation of articles twenty-seven, thirty-seven and forty, and titles twenty-seven and thirty-seven of article seventy-one of the environmental conservation law reported or known to the department of environmental conservation, the division of state police, and all other police or peace officers, the number of persons arrested for the commission of said violation, the offense for which the person was arrested, the county within which the arrest was made and the accusatory instrument filed, the disposition of the accusatory instrument filed, including, but not limited to, as the case may be, dismissal, acquittal, the offense to which the defendant pled guilty, the offense the defendant was convicted of after trial, and the sentence or monetary penalty levied, or the civil disposition of the offense if such offense was adjudicated by civil means.

4-b. In cooperation with any public or private agency or entity, collect and analyze statistical data and all other information and data with respect to the number of crimes and offenses committed against employees of the city of New York responsible for enforcing certain regulations in such city, while such employees were enforcing or attempting to enforce such regulations and reported or known to any law enforcement agency, the number of persons arrested for the commission of said offenses, the offense for which the person was arrested, the county within which the arrest was made and the accusatory instrument filed, the disposition of the accusatory instrument filed, including but not

limited to, as the case may be, dismissal, acquittal, the offense to which the defendant pled guilty, the offense the defendant was convicted of after trial, and the sentence or other penalty levied. For the purposes of this subdivision, an employee of the city of New York responsible for enforcing certain regulations in such city shall mean a traffic enforcement agent or an employee of the department of sanitation who is authorized to issue notices of violation, summons or appearance tickets.

4-c. (a) In cooperation with the chief administrator of the courts as well as any other public or private agency, including law enforcement agencies, collect, maintain, analyze and make public statistical and all other information and data with respect to the number of hate crimes reported to or investigated by the division of state police, and all other police or peace officers, the number of persons arrested for the commission of such crimes, the offense for which the person was arrested, the demographic data of the victim or victims of such crimes including, but not limited to, race, color, national origin, ancestry, gender, gender identity or expression, religion, religious practice, age, disability or sexual orientation of a person, the demographic data of the person or persons arrested for the commission of such crimes including, but not limited to, race, color, national origin, ancestry, gender, gender identity or expression, religion, religious practice, age, disability or sexual orientation of a person, the county within which the arrest was made and the accusatory instrument filed, the disposition of the accusatory instrument filed, including, but not limited to, as the case may be, dismissal, acquittal, the offense to which the defendant pled guilty, the offense the defendant was convicted of after trial, and the sentence imposed. Data collected shall be used for research or statistical purposes only and shall not contain information that may reveal the identity of any individual. The division shall include the statistics and other information required by this subdivision in an annual report submitted to the governor, the speaker of the assembly, the temporary president of the senate, the chair of the assembly codes committee, the chair of the senate codes committee, the attorney general and the chief administrative judge of the office of court administration. Such annual reports shall be a public record.

(b) The division shall promulgate regulations related to the use and collection of a "hate crime demographic data form". The regulations shall address the appropriate methods and timing of collection of the demographic data included in paragraph (a) of this subdivision. The division shall consider the manner of collection which will be most conducive to respecting victims while collecting necessary information that will assist the state in providing adequate victim support services and additional programming to decrease the likelihood of such hate crimes occurring, and best practices for collection of the data. Information disclosed on the hate crime victim demographic data form or the hate crime defendant demographic data form shall be used only to assist the division in complying with paragraph (a) of this subdivision and shall not be used in any administrative or judicial proceeding.

(c) As used in this section, the term "gender identity or expression" shall have the same meaning as defined in paragraph (c) of subdivision four of section 485.05 of the penal law.

5. Conduct studies and analyses of the administration or operations of any criminal justice agency when requested by the head of such agency, and make the results thereof available for the benefit of such agency;

5-a. Undertake to furnish or make available to the district attorneys of the state such supportive services and technical assistance as the commissioner and any one or more of the district attorneys shall agree are appropriate to promote the effective performance of his or their prosecutorial functions.

6. Establish, through electronic data processing and related procedures, a central data facility with a communication network serving qualified agencies anywhere in the state, so that they may, upon such terms and conditions as the commissioner, and the appropriate officials of such qualified agencies shall agree, contribute information and, except as provided in subdivision two of section 306.2 of the family court act, have access to information contained in the central data facility, which shall include but not be limited to such information as criminal record, personal appearance data, fingerprints, photographs, and handwriting samples;

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

7. Receive, process and file fingerprints, photographs and other descriptive data for the purpose of establishing identity and previous criminal record;

7-a. Receive, process and file orders granting a change of name to persons convicted of a felony subject to the provisions of subdivision two of section sixty-one of the civil rights law;

8. Adopt appropriate measures to assure the security and privacy of identification and information data;

8-a. Charge a fee when, pursuant to statute or the regulations of the division, it conducts a search of its criminal history records and returns a report thereon in connection with an application for employment or for a license or permit. The division shall adopt and may, from time to time, amend a schedule of such fees which shall be in amounts determined by the division to be reasonably related to the cost of conducting such searches and returning reports thereon but, in no event, shall any such fee exceed twenty-five dollars and an additional surcharge of fifty dollars. The comptroller is hereby authorized to deposit such fees into the general fund, provided, however, that the monies received by the division of criminal justice services for payment of the additional surcharge shall be deposited in equal amounts to the general fund and to the fingerprint identification and technology account. Notwithstanding the foregoing, the division shall not request or accept any fee for searching its records and supplying a criminal history report pursuant to section two hundred fifty-one-b of the general business law relating to participating in flight instruction at any aeronautical facility, flight school or institution of higher learning.

8-b. Notwithstanding any other provision of law to the contrary, charge a fee for the provision of agency materials and publications, conferences, criminal history record reviews, legal services, the provision of services to analyze or prepare data that is not prepared in the ordinary course of business, the provision of information in a computerized format, the application for approval and renewal of security guard training schools and the certification and renewal certification of security guard instructors, the service and repair of municipal law enforcement agency equipment and collect reimbursement and other moneys. Such fees shall be reasonably related to the actual costs incurred, including the costs of salaries, computer time, shipping and handling, as appropriate. The comptroller is hereby authorized to deposit such fees into the general fund effective August thirty-first, nineteen hundred ninety-six.

8-c. Notwithstanding the provisions of section one hundred three of the general municipal law, section one hundred seventy-four of the state finance law and any other general, special or local law to the contrary, any officer, board or agency of a political subdivision or state agency authorized to make purchases of materials, equipment or supplies, may make such purchases of statewide automated fingerprint identification system-related materials, equipment or supplies, through the agreement executed between the division and North American Morpho Systems, Inc. Notwithstanding any other law to the contrary, the division shall be authorized to enter into voluntary cost-sharing arrangements with local criminal justice agencies for expanded facsimile services and criminal justice information access through the criminal justice data communications network.

9. Accept, agree to accept and contract as agent of the state, with the approval of the governor, any grant, including federal grants, or any gift for any of the purposes of this article;

10. Accept, with the approval of the governor, as agent of the state, any gift, grant, devise or bequest, whether conditional or unconditional (notwithstanding the provisions of section eleven of the state finance law), including federal grants, for any of the purposes of this article.

Any monies so received may be expended by the division to effectuate any purpose of this article, subject to the same limitations as to approval of expenditures and audit as are prescribed for state monies appropriated for the purposes of this article;

11. Enter into contracts with any person, firm, corporation, municipality, or governmental agency;

12. Make an annual report to the governor and legislature concerning its work during the preceding year, and such further interim reports to the governor, or to the governor and legislature, as it shall deem advisable, or as shall be required by the governor;

13. Adopt, amend or rescind such rules and regulations as may be necessary or convenient to the performance of the functions, powers and duties of the division;

14. Do all other things necessary or convenient to carry out the functions, powers and duties expressly set forth in this article.

15. Promulgate, in consultation with the superintendent of state police and the state office for the prevention of domestic violence, and in accordance with paragraph (f) of subdivision three of section eight hundred forty of this article, a standardized "domestic violence incident report form" for use by state and local law enforcement agencies in the reporting, recording and investigation of all alleged incidents of domestic violence, regardless of whether an arrest is made as a result of such investigation. Such form shall be prepared in multiple parts, one of which shall be immediately provided to the victim, and shall include designated spaces for: the recordation of the results of the investigation by the law enforcement agency and the basis for any action taken; the recordation of a victim's allegations of domestic violence; the age and gender of the victim and the alleged offender or offenders; and immediately thereunder a space on which the victim may sign and verify such victim's allegations. Such form shall also include, but not be limited to spaces to identify:

(a) what other services or agencies, including but not limited to

medical, shelter, advocacy and other supportive services are or have previously been involved with the victim; and

(b) whether the victim has been provided with the written notice described in subdivision five of section eight hundred twelve of the family court act and subdivision six of section 530.11 of the criminal procedure law.

16. Operate a toll-free twenty-four hour telephone number that members of the public may call to obtain information as to resources available to the public to assist in the location and recovery of missing persons. Such toll-free telephone line may be operated by the division as part of the toll-free telephone line established pursuant to section eight hundred thirty-seven-f of this article. Furthermore, all such information relating to the locating and recovery of missing persons may be included on the division homepage established pursuant to section eight hundred forty-three of this article.

17. In consultation with the district attorneys, develop and operate a witness protection program. Within the amounts available by appropriation, such program shall provide assistance to district attorneys in protecting witnesses and victims, including their family members, who may suffer physical or emotional harm, intimidation or retaliatory violence as a result of the cooperation of the witness or victim with law enforcement, with a particular emphasis on vulnerable witnesses and victims, including witnesses to and victims of domestic violence and sexual exploitation and witnesses and victims testifying against violent or dangerous defendants. Such assistance may include, but not be limited to, administrative measures to: (a) facilitate name changes and receipt of new identification documents for witnesses and victims in appropriate cases; and (b) provide a range of protective services, including, when necessary, relocating victims and witnesses, and their family members. The division may enter into contracts with any person, firm, corporation, not-for-profit entity or governmental agency to provide administrative oversight and assistance in the operation of this program, may issue appropriate guidelines and may adopt, amend or rescind any rules and regulations as may be necessary or convenient to the operation of the program. These guidelines and regulations shall

include a process by which district attorneys may apply for reimbursement of the costs of providing witness protection services.

18. In cooperation with any public or private agency or entity, undertake to make and furnish an instructional video relating to how sexual predators lure children. The video shall be geared toward parental information and education. The division shall distribute a copy of the video to all public libraries and police departments for public use and viewing.

19. Receive names and other non-clinical identifying information pursuant to section 9.46 of the mental hygiene law; provided, however, any such information shall be destroyed five years after such receipt, or pursuant to a proceeding brought under article seventy-eight of the civil practice law and rules determining that an individual is eligible for a license pursuant to section 400.00 of the penal law and otherwise permitted to possess a firearm.

20. To assist the department of agriculture and markets in developing information about animal cruelty and protection laws pursuant to subdivision forty-eight of section sixteen of the agriculture and markets law.

21. Promulgate a standardized and detailed written protocol that is grounded in evidence-based principles for the administration of photographic array and live lineup identification procedures for police agencies and standardized forms for use by such agencies in the reporting and recording of such identification procedure. The protocol shall address the following topics:

(a) the selection of photographic array and live lineup filler photographs or participants;

(b) instructions given to a witness before conducting a photographic array or live lineup identification procedure;

(c) the documentation and preservation of results of a photographic array or live lineup identification procedure;

(d) procedures for eliciting and documenting the witness's confidence in his or her identification following a photographic array or live

lineup identification procedure, in the event that an identification is made; and

(e) procedures for administering a photographic array or live lineup identification procedure in a manner designed to prevent opportunities to influence the witness.

22. (a) Maintain and annually update a list of offenses in states and territories of the United States other than New York that include all of the essential elements of a serious offense as defined by subdivision seventeen of section 265.00 of the penal law, to assist courts, licensing authorities and others in determining which offenses in such other states and territories qualify as a serious offense for purposes of article two hundred sixty-five of the penal law, subdivision seventeen of section 265.00 of the penal law, and subdivision one-a of section 400.00 of the penal law. The division shall append to such list of offenses a disclaimer that such list shall be for informational purposes only and is not intended to be a substitute for the advice of an attorney or counselor-at-law.

(b) Such updated list shall be prominently posted on the website maintained by the division. Each list shall bear the date of posting, and each posted and dated listing shall be separately maintained by the division as a record available to the public. The first list compiled under this subdivision shall be prominently posted by the division no later than nine months after the effective date of this subdivision.

23. (a) In conjunction with the superintendent of the state police, promulgate policies and procedures with regard to standardization of firearms safety training required under subdivision nineteen of section 400.00 of the penal law, which shall include the approval of course materials and promulgation of proficiency standards for live fire training; and

(b) In conjunction with the superintendent of state police, create an appeals board for the purpose of hearing appeals as provided in subdivision four-a of section 400.00 of the penal law and promulgate rules and regulations governing such appeals.

24. In furtherance of the responsibilities of the office of gun

violence prevention set forth in section eight hundred thirty-seven-y of this article, the division shall:

(a) create and disseminate resources and training materials on gun violence intervention and prevention strategies and best practices; and may, if practicable, provide technical assistance, additional resources, and direct training to professionals focused on gun violence intervention and prevention strategies.

(b) where appropriate, facilitate response activities among political subdivisions of the state and not-for-profit organizations to assist communities that are impacted by incidents of mass gun violence. For the purposes of this section, mass gun violence shall include a "mass shooting" as defined in subdivision eleven of section eight hundred thirty-five of this article; a single shooting incident that results in injury to three or more people; or multiple related shooting incidents resulting in injuries to three or more individuals, occurring within a community over a period of up to seven calendar days.

§ 837-a. Additional functions, powers and duties of the division. In addition to the functions, powers and duties otherwise provided by this article, the division shall:

1. Collect and analyze statistical and other information and data with respect to the number of persons charged with the commission of a felony, including, but not limited to, the felony provisions of articles twenty-seven, thirty-seven and forty, and titles twenty-seven and thirty-seven of article seventy-one of the environmental conservation law, article four of the insurance law, sections 176.15, 176.20, 176.25 and 176.30 of the penal law relative to insurance fraud, as such term is defined in section 176.05 of such law, by indictment or the filing of a superior court information, the felony with which the person was charged therein, the county within which the indictment or superior court information was filed, the disposition thereof including, but not limited to, as the case may be, dismissal, acquittal, the offense to which the defendant pleaded guilty, the offense the defendant was convicted of after trial, and the sentence.

2. Present to the governor, temporary president of the senate, minority leader of the senate, speaker of the assembly and the minority leader of the assembly a quarterly report containing the statistics and other information required by subdivision one hereof. The initial report required by this paragraph shall be for the period beginning September first, nineteen hundred seventy-three and ending December thirty-first, nineteen hundred seventy-three and shall be presented no later than January fifteen, nineteen hundred seventy-four. Thereafter, each quarterly report shall be presented no later than thirty days after the close of each quarter.

3. Present to the governor, temporary president of the senate, minority leader of the senate, speaker of the assembly, and the minority leader of the assembly a semi-annual report analyzing the processing and disposition of cases covered by the provisions of a chapter of the laws of nineteen hundred seventy-eight relating to the imposition of mandatory sentences of imprisonment and plea bargaining restrictions upon violent felony offenders, second violent felony offenders and persistent violent felony offenders. The report shall assess the effect of such law on the ability of the criminal justice system to deal with violent crime, and its impact on the resources of the criminal justice system, and shall make recommendations for any changes in such law which may be necessary to accomplish its objectives. The initial report required by this subdivision shall be for the period beginning September first, nineteen hundred seventy-eight and ending February twenty-eight, nineteen hundred seventy-nine and shall be presented no later than April first, nineteen hundred seventy-nine. Thereafter, each semi-annual report shall be presented no later than thirty days after the close of the six-month period.

4. Collect, analyze and maintain all reports, statements and transcripts forwarded to the division concerning the reasons for imposition of a sentence other than an indeterminate sentence of imprisonment upon an armed felony offender as defined in subdivision forty-one of section 1.20 of the criminal procedure law; the reasons for the removal of an action involving a juvenile offender, as defined in subdivision forty-two of section 1.20 of the criminal procedure law, to

the family court; and the reasons for a finding that a youth who has been convicted of an armed felony offense is to be treated as a youthful offender. Such reports, statements and transcripts shall be made available for public inspection except that in the case of a juvenile offender or a youthful offender, those portions which identify the offender shall be deleted. The commissioner may promulgate such rules and regulations with respect to the form of such reports, statements and transcripts.

5. Make certain that such statistical information relating to the commission of offenses in violation of article twenty-seven, thirty-seven or forty, or title twenty-seven or thirty-seven of article seventy-one of the environmental conservation law, article four of the insurance law, sections 176.15, 176.20, 176.25 and 176.30 of the penal law relative to insurance fraud, as such term is defined in section 176.05 of such law, is included and becomes a part of any and all published statistical studies on the occurrence of crime in this state or crime dispositions by the courts of this state or incarcerations in the correctional facilities of this state.

6. Present to the governor, temporary president of the senate, minority leader of the senate, speaker of the assembly and the minority leader of the assembly an annual report analyzing the disposal of property forfeited pursuant to the provisions of article thirteen-A of the civil practice law and rules and article four hundred eighty of the penal law. The initial report required by this subdivision shall be for the period beginning November first, nineteen hundred ninety and ending May thirty-first, nineteen hundred ninety-one and shall be presented no later than July first, nineteen hundred ninety-one. Thereafter, each annual report shall be presented no later than February first. The commissioner may promulgate rules and regulations with respect to the form of such report.

7. Contract with an organization having substantial knowledge and experience in the prosecution of serious criminal matters for the development and provision of continuing legal education, training, advice and assistance for prosecutors in the prosecution of capital

cases and hate crimes.

8. Present to the governor, temporary president of the senate, minority leader of the senate, speaker of the assembly and the minority leader of the assembly an annual report about the function and effectiveness of the Gun Involved Violence Elimination (GIVE) program. Such report shall include, but not be limited to, crime data obtained, analyzed and used by each Gun Involved Violence Elimination (GIVE) partnership in participating counties and affected municipalities including the number of arrests made by law enforcement as a direct result of the Gun Involved Violence Elimination (GIVE) program including any available demographic information about the persons arrested and prosecuted and the disposition of such matters, and any other information related to the program's effectiveness in reducing crime. Such report shall also include information about crime reduction strategies developed by Gun Involved Violence Elimination (GIVE) partnerships, the number of state police and department of corrections and community supervision personnel participating in Gun Involved Violence Elimination (GIVE) activities, and a description of training supplied to local Gun Involved Violence Elimination (GIVE) participants. The initial report required by this paragraph shall be presented by December thirty-first, two thousand six. Thereafter, an annual report shall be presented no later than December thirty-first of each year.

9. In consultation with the state commission of correction and the municipal police training council, establish and maintain basic and other correctional training programs for such personnel employed by correctional facilities as the commissioner shall deem necessary. Such basic correctional training program shall be satisfactorily completed by such personnel prior to their undertaking their duties or within one year following the date of their appointment or at such times as the commissioner may prescribe. Provided, however, the commissioner may, after consultation with the state commission of correction, exempt from such requirement personnel employed by any correctional facility which, in the opinion of the commissioner, maintains a basic correctional training program of a standard equal to or higher than that established and maintained by the division; or revoke in whole or in part such

exemption, if in his or her opinion the standards of the basic correctional training program maintained by such facility are lower than those established pursuant to this article.

§ 837-b. Duties of courts and peace officers. 1. It is hereby made the duty of the state administrator of the unified court system; and of every sheriff, county or city commissioner of correction and head of every police department, state, county, or local, and also railroad, steamship, park, aqueduct and tunnel police and town constables, of every district attorney, of every probation agency; and of head of every institution or department, state, county and local, dealing with criminals and of every other officer, person or agency, dealing with crimes or criminals or with delinquency or delinquents, to transmit to the commissioner not later than the fifteenth day of each calendar month, or at such times as provided in the rules and regulations adopted by the commissioner, such information as may be necessary to enable him to comply with subdivision four of section eight hundred thirty-seven. Such reports shall be made upon forms which shall be supplied by the commissioner.

2. Such officers and agencies shall install and maintain records needed for reporting data required by the commissioner and shall give him or his accredited agents access to records for the purpose of inspection.

3. For every neglect to comply with the requirements of this section, the commissioner may apply to the supreme court for an order directed to such person responsible requiring compliance. Upon such application the court may issue such order as may be just, and a failure to comply with the order of the court shall be a contempt of court and punishable as such.

§ 837-c. Processing requests submitted by police departments. a. As used in this section, the term "police department" means any police department or sheriff's office of this state or any of its political

subdivisions.

b. The police department may forward and the division shall receive, process and, subject to subdivision e of this section, retain fingerprints and such descriptive data as the division may require of persons applying for employment with such department.

c. It shall be the duty of the division to forward to the police department any arrest record involving any person described in subdivision b of this section.

d. It shall be the duty of the police department to notify the division if an applicant for employment by the police department has not been hired, or an employee has died, resigned, retired or been dismissed.

e. Upon receiving notification in accordance with subdivision d of this section, the division shall either return to the police department or destroy all documents forwarded to it pursuant to subdivision b of this section.

§ 837-d. Soft body ballistic armor vests for police officers. 1. As used in this section, the following terms have the following meanings:

(a) "Eligible police officer" means a police officer as defined in subdivision thirty-four of section 1.20 of the criminal procedure law whose regular duties are such as the commissioner determines may expose the officer to serious physical injury which may result in death or disability;

(b) "Vest" means a soft body ballistic armor vest;

(c) "Municipal corporation" means a county, city, town, village or police district;

(d) "Public authority" means an independent autonomous public corporation created by special act of the legislature;

(e) "Public benefit corporation" means a corporation organized to construct or operate a public improvement wholly within the state;

(f) "State agency" means a department, board, bureau, commission,

agency or other division of state government;

(g) "Applicant" means a state agency, municipal corporation, public authority, public benefit corporation, or the highest official thereof.

2. An applicant which is authorized to and employs police officers may apply to the commissioner for reimbursement of funds expended for the purchase of vests for eligible police officers.

3. Reimbursement shall be made only for vests which at the time of purchase meet or exceed the minimum standards and specifications in effect on that date as prescribed by rules and regulations promulgated pursuant to subdivisions six and six-a of this section, and shall be limited to the total amount appropriated for such purpose. Reimbursement for any vest shall not exceed an amount which in the judgment of the commissioner would be the cost of a vest conforming to minimum standards and specifications in effect at the time the vest was purchased. Selection of vests shall be a determination to be made by the applicant in accordance with rules and regulations promulgated by the commissioner. Such rules and regulations shall provide that, subject to the provisions of subdivisions six and six-a of this section, the applicant may select from a range of vests including those commonly known or classified as type I, type II-A, type II or type III-A in such standard classification systems as the national institute of justice standards for ballistic resistance of police body armor.

4. The commissioner shall require any applicant seeking reimbursement for vests to apply for any available federal funds. Any applicant failing to do so shall not be entitled to reimbursement under this section. The commissioner may waive such failure for good cause. The commissioner shall maintain a public record of all such waivers and the reasons therefor. Reimbursement may be withheld pending the determination of an application for federal funds.

4-a. An applicant for reimbursement pursuant to this section shall report the name of each eligible police officer for whom reimbursement is sought. The applicant shall report whether such eligible police officer or officers have, at any time during the ten years immediately

preceding the application for reimbursement, been provided with any other vest for which reimbursement pursuant to this section was provided, the date of any such prior reimbursement and any other information that the commissioner may require for accurate record-keeping and accountability and for evaluation of performance, wear and officer use of vests.

5. The amount of any reimbursement authorized to be made pursuant to subdivision three of this section shall be reduced by the amount of any federal funds granted to the applicant for the purpose of purchasing vests, and by the amount of any other funds received directly or indirectly for that purpose by the applicant.

6. The commissioner shall promulgate regulations prescribing standards and specifications for vests and procedures for vest selection by and reimbursement to applicants. In promulgating such regulations, the commissioner shall give due consideration to:

(a) the maximum total weight of a vest which provides adequate protection against ballistic penetration and trauma, and which may be worn in comfort throughout an eight hour tour of duty;

(b) the ballistic specifications which the vest or any part thereof must be capable of defeating which shall include, but not be limited to, the ballistic specifications of any firearms considered to be standard issue to eligible police officers;

(c) the testing procedures appropriate to determining the effectiveness of such vests;

(d) the labeling requirements for the vests and component parts thereof; and

(e) the commercial availability of conforming vests.

6-a. In the evaluation of an application for reimbursement, the commissioner shall, at the request of the applicant, give consideration to the ballistic specifications of any firearm or firearms considered by the applicant to be standard issue to its police officers.

7. The contract specifications for bid for the sale of vests shall require that a certificate of insurance evidencing that liability

insurance providing a minimum coverage of at least five hundred thousand dollars per occurrence for injury or death suffered as a result of a defect in the manufacture shall be and remain in effect for the projected life of any vest purchased.

8. Neither the state nor the applicant or any employee thereof shall be liable to a police officer or officer's heirs, executors, administrators or assigns, for the death of or injury to the officer resulting from any defect or deficiency in a vest for which reimbursement is made pursuant to this section.

9. A police officer who suffers an injury or death as a result of the officer's failure to wear a vest for which reimbursement is made pursuant to this section, and officer's heirs, executors, administrators or assigns shall not suffer any loss or be denied any benefit or right to which they are otherwise entitled; provided, however, that nothing contained herein shall prevent the officer from being subject to a disciplinary proceeding for failure to obey a lawful order of a superior officer requiring the officer to wear a vest.

10. Nothing contained in this section shall be construed to prohibit an applicant from expending its own funds for vests in amounts exceeding the established state reimbursement limitations.

11. The commissioner is authorized to promulgate rules and regulations to provide for the orderly effectuation of the provisions of this section.

12. The commissioner shall establish and maintain a record containing the name of each eligible police officer who receives a vest for which reimbursement has been provided pursuant to this section, the applicant to whom reimbursement for such vest is provided, the date on which such reimbursement was provided and any other information that the commissioner may require for accurate record-keeping and accountability and for evaluation of performance, wear and officer use of vests.

13. Nothing in this section shall be deemed to supersede the

provisions of section three of chapter eight hundred seventy-six of the laws of nineteen hundred eighty applicable to members of the division of state police or to alter a valid labor-management agreement covering employees of the state serving in police officer positions in the security services negotiating unit established pursuant to article fourteen of the civil service law which is in effect on the effective date of this section.

§ 837-e. Statewide central register for missing children. 1. There is hereby established through electronic data processing and related procedures, a statewide central register for missing children which shall be compatible with the national crime information center register maintained pursuant to the federal missing children act of nineteen hundred eighty-two. As used in this article, the term missing child shall mean any person under the age of eighteen years, or any youth, under the age of twenty-one years, that the office of children and family services or a local department of social services has responsibility for placement, care, or supervision, or who is the subject child of a child protective investigation, or is receiving preventive services or services under section 477 of the Social Security Act, or has run away from foster care, where such office or department has reasonable cause to believe that such youth is, or is at risk of being, a sex trafficking victim, who is missing from his or her normal and ordinary place of residence and whose whereabouts cannot be determined by a person responsible for the child's care and any child known to have been taken, enticed or concealed from the custody of his or her lawful guardian by a person who has no legal right to do so.

1-a. (a) Upon the entry of a report of a missing child born in New York into the register, the division shall notify the commissioner of the state department of health or if the child was born in the city of New York, the commissioner of the New York city department of health, of such entry and shall provide such commissioner with information concerning the identity of the missing child and request that the birth certificate record of such child be flagged in accordance with section four thousand one hundred of the public health law.

(b) If the division has reason to believe that a missing child has at any time been enrolled in a New York school, it shall notify the last known school at which time the school shall flag the missing child's schooling record in accordance with section three thousand two hundred twenty-two of the education law. If the division has reason to believe that a child who is listed as a missing child is currently enrolled in and attending a New York school, it shall notify the school and upon receiving notification, such school shall immediately notify the statewide central register for missing children within the division of criminal justice services.

(c) Upon learning of the recovery of any missing child whose birth certificate record or schooling record has been flagged as the result of notification made pursuant to this subdivision, the division shall so notify the state commissioner of health or if the child was born in the city of New York, the commissioner of the New York city department of health, and the school as appropriate.

1-b. The division shall transmit the report of the missing child to the National Missing and Unidentified Persons System (NamUs) no later than thirty days after entry of a report of a missing child into the register whenever circumstances indicate that the missing child may be at immediate risk of death or injury, or may be a match to a record maintained in the NamUs unidentified person database and within one hundred eighty days in any other case.

2. The following may make inquiries to determine if any entries in the register or in the national crime information center register could match the subject of the inquiry:

(a) a police or criminal justice agency investigating a report of a missing or unidentified child, whether living or deceased; and

(b) the agency licensing, certifying or registering a family day care home, day care center or head start program funded pursuant to Title V of the Federal Economic Opportunity Act of nineteen hundred sixty-four as amended, when an operator or director of such program has reasonable cause to believe that a child in attendance at the home, center or program may be a missing person provided, however, that upon notification that such child appears to match a child registered herein

such agency shall immediately notify such operator or director to contact an appropriate local criminal justice agency; and

(c) a district attorney or a county medical examiner or coroner upon a showing that information contained in the register may be necessary for the determination of an issue regarding a missing or unidentified child; and

(d) an authorized agency or state official pursuant to subdivision seven of section three hundred seventy-two of the social services law; and

(e) a superintendent of schools or his authorized representative pursuant to paragraph a of subdivision two of section three thousand two hundred twelve of the education law. No civil or criminal liability shall arise or attach to any school district or employee thereof for any act or omission to act as a result of, or in connection with, the duties or activities authorized or directed by this paragraph.

3. The central register shall contain all available identifying data of any child including, but not limited to, fingerprints, blood types, dental information, and photographs subject to the following conditions:

(a) Except as provided for in paragraph (c) of this subdivision and in section eight hundred thirty-seven-f of this article, the data contained in the register shall be confidential.

(b) Any person who knowingly and intentionally permits the release of any data and information contained in the central register to persons or agencies not permitted by this title shall be guilty of a class A misdemeanor.

(c) Such data may be made available only to:

(i) a police or criminal justice agency investigating a report of a missing child or unidentified child, whether living or deceased;

(ii) the public at large, to expedite the finding of a missing child, when the parent or legal guardian of such a child provides written authorization to the investigating police department for the release of such data except when, according to such department, the release of such data would jeopardize the investigation or the safety of the child. When such department deems the release of such data to be appropriate, it shall transmit such written authorization to the division; and

(iii) any qualified person engaged in bona fide research when approved

by the commissioner, provided that the researcher in no event disclose information tending to identify the child or his or her family or caregiver.

4. The commissioner shall promulgate rules and regulations:

(a) insuring the timeliness, completeness and confidentiality of the data contained in the register;

(b) prescribing the manner in which entries to the register shall be made and updated as the investigation progresses;

(c) prescribing the form and manner in which entries and inquiries to the register and notices to other agencies and entities shall be made and processed;

(d) insuring that criminal justice agencies and agencies defined by subdivision seven of section three hundred seventy-two of the social services law making inquiries to the register will be promptly informed if any entries in the statewide central register or in the national crime information center register could match the subject of the inquiry;

(e) insuring the proper disposition of all obsolete register data, provided however that such data for a person who has reached the age of eighteen and remains missing shall be preserved;

(f) linking the register with the national crime information center register; and

(g) establishing procedures for transmitting reports of missing children and adults to the National Missing and Unidentified Persons System (NamUs) pursuant to subdivision one-b of this section and section eight hundred thirty-seven-f-two of this article.

5. The division shall not charge a fee for inquiries made pursuant to this section.

6. When a person previously reported missing has been found alive and there is no ground for criminal action, the superintendent of state police, sheriff, chief of police, coroner or medical examiner, or other criminal justice agency shall purge and destroy identifying material contained in such records and documents with respect to such person which are made and maintained pursuant to this section and shall report

to the division that the person has been found and that the identifying materials contained in such records and documents have been so purged or destroyed. After receiving such a report, the division shall purge identifying material contained in such records with respect to such person and/or destroy any identifying material contained in documents which are maintained pursuant to this section.

§ 837-f. Missing and exploited children clearinghouse. There is hereby established within the division a missing and exploited children clearinghouse to provide a comprehensive and coordinated approach to the tragic problems of missing and exploited children. In addition to the activities of the statewide central register for missing children, the commissioner shall be authorized to:

1. Plan and implement programs to ensure the most effective use of federal, state and local resources in the investigation of missing and exploited children;

2. Exchange information and resources with other states, and within New York state, concerning missing and exploited children;

3. Establish a case data base which will include nonidentifying information on reported children and facts developed in the phases of a search, and analyze such data for the purposes of: assisting law enforcement in their current investigations of missing and exploited children, developing prevention programs and increasing understanding of the nature and extent of the problem; and share the data and analysis on a regular basis with the National Center for Missing and Exploited Children;

4. Disseminate a directory of resources to assist in the locating of missing children;

5. Cooperate with public and private schools and organizations to develop education and prevention programs concerning child safety for communities, parents and children;

6. Provide assistance in returning recovered children who are located out-of-state;

7. By January first, nineteen hundred eighty-seven arrange for the development of a curriculum for the training of law enforcement personnel investigating cases involving missing and exploited children;

8. Assist federal, state and local agencies in the investigation of cases involving missing and exploited children;

9. Utilize available resources to duplicate photographs and posters of children reported as missing by police and with consent of parents, guardians or others legally responsible, disseminate this information throughout the state;

10. Beginning on January first, nineteen hundred eighty-seven, disseminate, on a regular basis, a bulletin containing information on children in the missing children's register to the state education department which shall then forward such bulletin to every public and private school where parents, guardians or others legally responsible for such children have given consent;

10-a. (a) By November first, nineteen hundred ninety-seven prescribe general guidelines to enable the state legislature and state agencies to assist in the location and recovery of missing children. The guidelines shall provide information relating to:

(i) the form and manner in which materials and information pertaining to missing children including but not limited to biographical data and pictures, sketches or other likenesses may be included in stationery, newsletters and other written or electronic printings;

(ii) appropriate sources from which such materials and information may be obtained;

(iii) the procedures by which such materials and information may be obtained; and

(iv) any other matter the clearinghouse considers appropriate.

(b) By January first, nineteen hundred ninety-eight arrange for the

transmission of biographical information and pictures, sketches or other likenesses of missing children to state agencies, departments and the legislature to use in printings.

11. Operate a toll-free twenty-four hour hotline for the public to use to relay information concerning missing children;

12. Submit an annual report to the governor and legislature regarding the activities of the clearinghouse including statistical information involving reported cases of missing children pursuant to section eight hundred thirty-seven-m of this article and a summary of the division's efforts with respect to the use of monies from the missing and exploited children clearinghouse fund created pursuant to section ninety-two-w of the state finance law; and

13. Take such other steps as necessary to assist in education, prevention, service provision and investigation of cases involving missing and exploited children.

14. (a) In consultation with the division of state police and other appropriate agencies, develop, and regularly update and distribute, model missing child prompt response and notification plans, which shall be available for use, in their discretion, as appropriate, by local communities and law enforcement personnel. Such plans shall involve a pro-active, coordinated response, planned in advance, that may be promptly triggered by law enforcement personnel upon confirmation by a police officer, peace officer or police agency of a report of a missing child, as defined in subdivision one of section eight hundred thirty-seven-e of this article.

(b) Such plans shall, at a minimum, provide that:

(i) the name of such missing child, a description of the child and other pertinent information may be promptly dispatched over the police communication system, pursuant to subdivision three of section two hundred twenty-one of this chapter;

(ii) such information may be immediately provided orally, electronically or by facsimile transmission to one or more radio stations and other broadcast media outlets serving the community

including, but not limited to, those which have voluntarily agreed, in advance, to promptly notify other such radio stations and other broadcast media outlets in like manner;

(iii) such information may be immediately provided by electronic mail message to one or more internet service providers and commercial mobile service providers serving the community including, but not limited to, those which have voluntarily agreed, in advance, to promptly notify other such internet service providers in like manner;

(iv) participating radio stations and other participating broadcast media outlets serving the community may voluntarily agree to promptly broadcast a missing child alert providing pertinent details concerning the child's disappearance, breaking into regular programming where appropriate;

(v) participating internet service providers and commercial mobile service providers serving the community may voluntarily agree to promptly provide by electronic mail message a missing child alert providing pertinent details concerning the child's disappearance;

(vi) police agencies not connected with the basic police communication system in use in such jurisdiction may transmit such information to the nearest or most convenient electronic entry point, from which point it may be promptly dispatched, in conformity with the orders, rules or regulations governing the system; and

(vii) no dispatch or transmission of a report concerning a missing child shall be required by such plan if the investigating police department advises, in its discretion, that the release of such information may jeopardize the investigation or the safety of the child, or requests forbearance for any reason.

(c) The commissioner shall also designate a unit within the division that shall assist law enforcement agencies and representatives of radio stations, broadcast media outlets, internet service providers and commercial mobile service providers in the design, implementation and improvement of missing child prompt response and notification plans. Such unit shall make ongoing outreach efforts to local government entities and local law enforcement agencies to assist such entities and agencies in the implementation and operation of such plans with the goal of implementing and operating such plans in every jurisdiction in New York state.

(d) The commissioner shall also maintain and make available to appropriate state and local law enforcement agencies up-to-date information concerning technological advances that may assist in facilitating the recovery of missing children. Such information shall include, but not be limited to, technology using computer assisted imaging to "age enhance" photographs of missing children, and technology that may be used to enter such photographs and other pertinent information concerning missing children into a database accessible to appropriate officials and persons.

§ 837-f-1. Missing vulnerable adults clearinghouse. There is hereby established within the division a missing vulnerable adults clearinghouse to provide a comprehensive and coordinated approach to the problem of missing vulnerable adults.

1. For purposes of this section:

(a) "Vulnerable adult" shall mean an individual eighteen years of age or older who has a cognitive impairment, mental disability, or brain disorder and whose disappearance has been determined by law enforcement to pose a creditable threat of harm to such missing individual.

(b) "Missing vulnerable adult alert" shall mean a method to disseminate information regarding a missing vulnerable adult to the general public in a manner consistent with paragraph (n) of subdivision two of this section.

2. The commissioner shall be authorized to:

(a) plan and implement programs to ensure the most effective use of federal, state, and local resources in the investigation of missing vulnerable adults;

(b) disseminate a directory of resources to assist in locating missing vulnerable adults;

(c) cooperate with the department of health, office of mental health, office for people with developmental disabilities, office for the aging, and other public and private organizations to develop education and prevention programs concerning the safety of vulnerable adults;

(d) assist federal, state, and local agencies in the investigation of

cases involving missing vulnerable adults;

(e) utilize available resources to duplicate photographs and posters of vulnerable adults reported as missing by police and disseminate this information throughout the state;

(f) provide assistance in returning missing vulnerable adults who are located out of state;

(g) develop a curriculum for the training of law enforcement personnel investigating cases involving missing vulnerable adults, including recognition and management of vulnerable adults;

(h) operate a toll-free twenty-four hour hotline for the public to use to relay information concerning missing vulnerable adults;

(i) establish a case database that shall include non-identifying information on reported missing vulnerable adults and facts developed in the phases of a search; and analyze such data for the purposes of assisting law enforcement in their current investigations of missing vulnerable adults, developing prevention programs and increasing understanding of the nature and extent of the problem;

(j) prescribe general guidelines to enable state agencies to assist in the location and recovery of missing vulnerable adults. The guidelines shall provide information relating to:

(i) the form and manner in which materials and information pertaining to missing vulnerable adults, including, but not limited to, biographical data and pictures, sketches, or other likenesses, may be included in stationary, newsletters, and other written or electronic printings, provided such guidelines are consistent with paragraph (n) of this subdivision;

(ii) appropriate sources from which such materials and information may be obtained;

(iii) the procedures by which such materials and information may be obtained; and

(iv) any other matter the clearinghouse may deem important;

(k) maintain and make available to appropriate state and local law enforcement agencies information concerning technological advances that may assist in facilitating the recovery of missing vulnerable adults;

(l) take such other steps as necessary to assist in education, prevention, service provision, and investigation of cases involving missing vulnerable adults;

(m) (i) In consultation with the division of state police and other appropriate agencies, develop, regularly update, and distribute model missing vulnerable adult prompt response and notification plans. Such plans shall be available for use by local communities and law enforcement personnel, and shall involve a proactive, coordinated response that may be promptly triggered by law enforcement personnel upon confirmation by a police officer, peace officer, or police agency of a report of a missing vulnerable adult, as defined in subdivision one of this section.

(ii) Such plans shall, at a minimum, provide that: (A) the name of the missing vulnerable adult, a description of the missing individual, and other pertinent information may be promptly dispatched over the police communication system pursuant to subdivision three of section two hundred twenty-one of this chapter; (B) such information may be immediately provided, in a manner consistent with paragraph (n) of this subdivision, both (1) orally, electronically, or by facsimile transmission to one or more radio stations and other broadcast media outlets serving the community including, but not limited to, those who have voluntarily agreed in advance to promptly notify other such radio stations and broadcast media outlets in like manner and (2) by electronic mail message to one or more internet service providers and commercial mobile service providers serving the community including, but not limited to, those which have voluntarily agreed in advance to promptly notify other such internet service providers in like manner; (C) participating radio stations and other participating broadcast media outlets serving the community may voluntarily agree to promptly broadcast a missing vulnerable adult alert providing pertinent details concerning the missing vulnerable adult's disappearance, breaking into regular programming where appropriate; (D) participating internet service providers and commercial mobile service providers serving the community may voluntarily agree to promptly provide by electronic mail message a missing vulnerable adult alert providing pertinent details concerning the missing vulnerable adult's disappearance; (E) police agencies not connected with the basic police communication system in use in such jurisdiction may transmit such information to the nearest or most convenient electronic entry point, from which point it may be promptly dispatched in conformity with the orders, rules, or regulations

governing the system; (F) a statewide response may be initiated as soon as the division deems it is necessary to find the missing vulnerable adult. Such a plan may not require the issuance of an alert if the investigating police department, in its discretion, advises that the release of such information may jeopardize the investigation or the safety of the missing vulnerable adult or the investigating police department requests forbearance for any reason.

(iii) The commissioner shall also designate a unit within the division that shall assist law enforcement agencies and representatives of radio stations, broadcast media outlets, internet service providers, and commercial mobile service providers in the design, implementation, and improvement of missing vulnerable adult response and notification plans. Such unit shall make ongoing outreach efforts to local government entities and local law enforcement agencies to assist such entities and agencies in the implementation and operation of such plans with the goal of implementing and operating such plans in every jurisdiction in New York state.

(n) disseminate specific medical information about a missing vulnerable adult to the extent that such medical information indicates a physical quality or behavioral trait that is readily apparent and contributes to a physical or behavioral description of the missing vulnerable adult, provided that more extensive information relating to the missing vulnerable adult's medical diagnosis and condition may be provided to law enforcement personnel as needed.

3. The commissioner shall submit an annual report to the governor and legislature regarding the activities of the missing vulnerable adults clearinghouse, including statistical information involving reported cases of missing vulnerable adults and a summary of the division's efforts with respect to the activities authorized under subdivision two of this section.

§ 837-f-2. Missing adults. In the event that a police agency receives a report that an adult person is missing from his or her normal and ordinary place of residence and whose whereabouts cannot be determined by an individual whose relationship with such adult person would place

such individual in a position to have knowledge of his or her whereabouts, and that such missing adult person has a proven disability, or may be in physical danger, or is missing after a catastrophe, or may have disappeared involuntarily, or is missing under circumstances where there is a reasonable concern for his or her safety; and such missing adult person does not qualify as either a missing child pursuant to section eight hundred thirty-seven-e of this article or a vulnerable adult pursuant to section eight hundred thirty-seven-f-1 of this article, the police agency shall collect information necessary to file an electronic report regarding the missing adult person with the national crime information center register and submit such electronic report to the national crime information center register.

The division shall transmit the report of the missing adult to the National Missing and Unidentified Persons System (NamUs) within thirty days after entry of a report of a missing adult into the register whenever circumstances indicate that the missing adult may be at immediate risk of death or injury, or may be a match to a record maintained in the NamUs unidentified person database and within one hundred eighty days in any other case.

§ 837-g. Livery vehicle safety training program establishment. There is hereby created within the division a livery vehicle safety program, to be administered by the commissioner, to distribute funds to provider agencies for the provision of program services to eligible drivers of livery vehicles.

§ 837-h. Livery vehicle safety training program; standards; eligibility; reports. 1. The commissioner, in consultation with the division of state police and the local licensing authority as defined in section six hundred twenty-one of this chapter, shall promulgate rules and regulations necessary for the efficient operation of a livery vehicle safety training program. Such rules and regulations issued, adopted or amended must at a minimum provide:

(a) the development of a training program curriculum which includes

instruction on:

(i) methods to maximize personal safety, including information on available equipment and technologies;

(ii) effective passenger management and communications skills;

(iii) vehicular and pedestrian safety, including a review of the applicable provisions of the vehicle and traffic law; and

(iv) any other subject relevant to the public health and safety in the operation of livery vehicles;

(b) the procedure by which the provider agencies make application to receive funding to operate a program and the form of the application;

(c) the procedure by which provider agencies report to the commissioner regarding the provision of program services and the form of the report;

(d) the procedure for periodic monitoring and evaluation of the livery vehicle safety training program.

2. Each provider agency shall prepare a plan, to be approved by the commissioner, for the provision of program services to eligible drivers. Such plan shall include, at a minimum, the nature of the services to be rendered, how the services comply with the developed curriculum, the cost associated with rendering such services and a description of how the services will enhance livery vehicle safety. For the purposes of this section the term "provider agency" shall mean a county, municipal, local unit of government or a college or a university or a law enforcement agency or a not-for-profit entity.

3. Each provider agency shall furnish the commissioner a written report in a format and at a time to be determined by the commissioner, subject to standards promulgated pursuant to this section which shall, at a minimum contain:

(a) a description of how the assistance provided, in accordance with the program established herein, enhanced livery vehicle services; and

(b) the nature and costs of program services provided.

4. For the purposes of this section the term "livery vehicle" shall have the same meaning as the term "livery", as defined in section six hundred twenty-one of this chapter.

5. Nothing contained in this section shall impose liability upon the division or the state for death, injury or loss incurred by a driver by reason of that driver having participated in the livery vehicle safety training program.

§ 837-i. Uniform parking ticket. 1. The commissioner, in cooperation with the commissioner of the department of motor vehicles, and in consultation with the chief executive officers of cities with a population in excess of one hundred thousand persons according to the nineteen hundred eighty United States census shall prescribe the form and content of uniform parking tickets for such cities in all cases involving a parking, standing or stopping violation as defined in accordance with the vehicle and traffic law, hereinafter referred to as parking violations, or of any local law, ordinance, rule or regulation adopted pursuant to the vehicle and traffic law relating to parking violations. Upon written application of the chief executive officer of any such city, the commissioner, after consultation with the commissioner of the department of motor vehicles, may authorize the use of a parking ticket other than the uniform parking ticket prescribed pursuant to this section if he or she determines that use of such other parking ticket is not inconsistent with, and will not diminish the effectiveness of, the parking violations enforcement and disposition program established pursuant to section eight hundred thirty-seven-j of this chapter, and may also authorize for a specified time period the use of a parking ticket which was used by such city on or before the effective date of this section.

2. The commissioner in consultation with the chief executive officers of cities with a population in excess of one hundred thousand persons according to the nineteen hundred eighty United States census shall establish a system to record and monitor the issuance and disposition of parking tickets, to monitor the collection of the mandatory surcharge required by section eighteen hundred nine-a of the vehicle and traffic law and to receive information from cities for this purpose. Each such city shall report on such parking violations on a monthly basis in the

form and manner prescribed by the commissioner including, but not limited to, the parking tickets issued, the dispositions of such tickets and the amount of fines, penalties and mandatory surcharges collected. The commissioner shall collect, process and analyze such information and present periodic reports on the parking violations enforcement and disposition program.

3. The commissioner shall have the power from time to time to adopt such rules and regulations as may be necessary to accomplish the purposes of this section.

*** § 837-j. Parking violations enforcement and disposition program.** 1. The commissioner and the commissioner of the department of motor vehicles may enter into an agreement to effect the enhanced collection of the mandatory surcharges imposed pursuant to section eighteen hundred nine-a of the vehicle and traffic law. The terms of such agreement shall authorize the exchange between the division and the department of motor vehicles of information concerning outstanding fines, penalties and unpaid mandatory surcharges and identification information concerning persons with adjudicated parking violations subject to the imposition of such fines, penalties and mandatory surcharges.

2. The commissioner and the commissioner of the department of motor vehicles shall enter into any necessary joint enforcement agreements, which agreements shall be consistent with any agreement authorized by subdivision one of this section.

3. The commissioner of the department of motor vehicles shall be authorized to cooperate with traffic and law enforcement agencies of other states and of the United States, to obtain and furnish any assistance or information necessary for the enforcement and collection of fines, penalties and mandatory surcharges for parking violations.

4. The commissioner, in consultation with the commissioner of the department of motor vehicles shall promulgate such rules and regulations as may be necessary to effect the purposes of this section.

* NB Repealed September 1, 2027

§ 837-k. Safe house for children. 1. Within one hundred twenty days after the effective date of this section, the division shall design and adopt an official symbol and sign which may use McGruff as created by the national crime prevention council if practicable, to be used to designate homes and businesses where a child may seek temporary help when he or she is traveling, without adult supervision or protection, in neighborhoods having such homes or businesses.

2. a. Law enforcement agencies:

(i) may voluntarily provide symbols to persons who apply for them;

(ii) may require that persons receiving symbols apply in writing and agree in writing to specific terms and conditions in order to participate in the program;

(iii) shall develop community based selection procedures to assure the suitability of the persons and location which are the subjects of an application prior to issuing symbols after conducting a background check, including, but not limited to, information available in its jurisdiction, and inquiry of the department of social services register of child abuse and maltreatment regarding the applicant and any persons residing at the location. Until such procedures are developed and implemented, law enforcement agencies may access records of the division maintained pursuant to section eight hundred thirty-seven of this article;

(iv) shall maintain a register of locations using the official, sign or symbol and any other known locations using other symbols for similar purposes pursuant to subdivision five of this section;

(v) shall make efforts, themselves or through arrangements with school districts, not-for-profits, or other organizations, to educate children to recognize the correct symbol and the program.

b. For purposes of this subdivision:

(i) the term "law enforcement agency" shall mean any agency or department of any municipality or any police district employing a police officer or police officers as that term is defined in paragraphs (b) and

(d) of subdivision thirty-four of section 1.20 of the criminal procedure law; and

(ii) the symbols provided by law enforcement agencies for purposes of this program are the property of said agency.

3. Persons who are issued a symbol by a law enforcement agency shall:

a. display it or any related or similar symbol or sign that is visible from the outside of their building only upon such terms and conditions as may be specified by the law enforcement agency; and

b. return said symbol to the law enforcement agency immediately upon demand therefor by said agency.

4. a. Any person who possesses, uses, or duplicates the symbol or sign created pursuant to subdivision one of this section, or any symbol authorized for use pursuant to subdivision two of this section, without complying with the provisions of this section shall be liable for a civil fine of fifty dollars.

b. Possession, use or duplication of the symbol or sign created pursuant to subdivision one of this section, or any symbol authorized for use pursuant to subdivision two of this section, with the intent to attract children into the location for any purpose other than protecting them when they are threatened is a misdemeanor.

c. No symbol except the symbol authorized in subdivisions one or five of this section shall be used to designate a safe house.

5. Children's safe haven/safe home programs existing on the effective date of this section may continue to use the same symbol on existing or new locations and expand service areas using symbols in use on such date.

§ 837-l. Capital prosecution extraordinary assistance program. There is hereby created within the division a capital prosecution

extraordinary assistance program to be administered by the commissioner, to distribute funds to district attorneys for the prosecution of capital cases. Such funds shall be distributed where the commissioner determines, on the basis of a written certification by the applicant district attorney, that due to the nature or number of capital cases being prosecuted by the district attorney a significant financial burden has resulted and financial assistance is necessary in order to fulfill such district attorney's responsibilities; provided, however, that such funds shall not be used to supplant existing resources. Such funds may also be distributed to a district attorney who, upon the request of another district attorney, has provided assistance in the prosecution of a capital case.

*** § 837-m. Reporting duties of law enforcement departments with respect to missing children and vulnerable adults.** The chief of every police department, each county sheriff and the superintendent of state police shall report, at least semi-annually, to the division with respect to specified cases of missing children that are closed. Such reports shall be in the form and manner prescribed by the division and shall contain such information as the division deems necessary including, but not limited to, information regarding recovered children who were arrested, children who were the victims of criminal activity or exploitation and children who were found deceased and information regarding the alleged abductor or killer of such children. Any law enforcement department referred to in this section may, in its discretion, include in such semi-annual reports information relating to missing vulnerable adults as such term is defined in section eight hundred thirty-seven-f-one of this article.

* NB There are 2 § 837-m's

*** § 837-m. Criminal history records search for certain employment, appointments, licenses or permits in the city of New York.** 1. As used in this section:

(a) "Department" shall mean the New York city department of investigation.

(b) "Applicant" shall mean a person applying for:

(1) employment with the city of New York in a position providing child day care services, as such term is defined in subdivision one of section three hundred ninety of the social services law, or providing such services through an entity pursuant to a contract between such entity and the city of New York to provide such services or providing such child day care services through an entity required to have a permit for such services issued by the health department of the city of New York; or

(2) employment with the department, or appointment to a senior position in an office of an elected official or agency of the city of New York or of a public authority, board, committee, commission, or public benefit corporation, where such person is to be the subject of a background investigation pursuant to subdivisions (a) and (b) of section seven of executive order number sixteen of the mayor of the city of New York dated July twenty-sixth, nineteen hundred seventy-eight, as amended by section one of executive order seventy-two of the mayor of the city of New York dated April twenty-third, nineteen hundred eighty-four; or

(3) mayoral appointment as a judge of the New York city criminal court or the New York city civil court or the family court of the state of New York within the city of New York; or

(4) a license, certificate of approval, class A photo identification card or employment, pursuant to the following provisions of the administrative code of the city of New York which require the submission of fingerprints:

A. Title 16-A: New York City Trade Waste Commission Section 16-508(b);

B. Title 22: Fulton Fish Market Distribution Area and Other Seafood Distribution Areas, Section 22-216(a)(1); and

C. Title 20: Regulation of Shipboard Gambling, Section 20-954(b)(1), as added to the administrative code of the city of New York by a nineteen ninety-seven local law of the city of New York.

2. As a condition of eligibility for such licenses, certificate of approval, class A photo identification card, contract to provide

services, or employment, the department, appointing or issuing agency shall obtain the applicant's fingerprints and submit such fingerprints to the division for purposes of determining the criminal history of the applicant. The department may submit two sets of fingerprints to the division.

3. The first set of fingerprints received by the division shall be used to identify the individual and to conduct a criminal history records search of the division's New York state files to determine whether such individual has been convicted of a criminal offense in this state. The division shall forward the second set of such individual's fingerprints to the federal bureau of investigation for the purpose of a nationwide criminal history record check to determine whether such applicant has been convicted of a criminal offense in any state or federal jurisdiction.

4. The division shall promptly transmit the reports of these New York state and nationwide criminal records searches to the requesting department, appointing or issuing agency. Such reports, when received by the requesting department, appointing or issuing agency, shall be marked confidential and securely stored, and shall not be disclosed to any person other than the applicant, although the contents of the report may be disclosed to the agency or agencies whose consideration of such applicant prompted the ordering of such reports.

5. (a) Each applicant shall sign a release authorizing the department, appointing or issuing agency to submit such applicant's fingerprints to the division and to receive the results of such criminal history record searches supplied by the division and the federal bureau of investigation. Such release, a copy of which shall be supplied to the applicant, shall also advise the applicant that a criminal history record search will be conducted concerning the applicant and that he or she may obtain a copy of his or her criminal history record and seek correction of any information contained in such record pursuant to regulations promulgated by the division.

(b) Each such applicant shall, in advance, make payment to the division of any reasonable fee required by law which is reasonably

related to the cost of conducting the searches authorized by this section. All fingerprints supplied by the applicant shall be returned to the applicant upon termination or denial of the license, certificate of approval, class A photo identification card, contract to provide services, or employment in connection with which such fingerprints were obtained.

* NB There are 2 § 837-m's

§ 837-n. Criminal history information of caregivers; requirements. 1. Definitions. For the purposes of this section:

(a) "Caregiver" shall mean a person employed to provide care to a child or children, or an elderly or vulnerable adult in the home of such a child, children, or elderly or vulnerable adult.

(b) "Criminal history information" shall mean a record of all convictions of crimes and any pending criminal charges maintained on an individual by the division of criminal justice services.

2. (a) Upon request, a caregiver may provide a prospective employer with a set of fingerprints, or two such sets of fingerprints if the prospective employer also seeks to obtain a criminal history report from the federal bureau of investigation, in such form and manner as shall be specified by the division of criminal justice services, but in any event, no less than two digit imprints. The prospective employer shall submit the fingerprints to the division of criminal justice services for screening, together with the prescribed processing fee, as set forth in subdivision eight-a of section eight hundred thirty-seven of this article and any fees associated with obtaining fingerprints under this subdivision, provided, however, that the commissioner shall develop a reduced fee based upon the prospective employer's ability to pay. If the prospective employer also seeks to obtain a criminal history report from the FBI, the required fee for such report shall also be included.

(b) Every set of fingerprints taken pursuant to this subdivision shall be promptly submitted to the division of criminal justice services. The division of criminal justice services shall compare such fingerprints against the records of such division and upon request of the prospective employer shall forward a set of such fingerprints to the federal bureau

of investigation at Washington with a request that the files of the bureau be searched and notification of the results of such search and a report thereon shall be made. The division of criminal justice services shall formulate a standard criminal history information report and the standard form for such reporting. The division of criminal justice services shall forward such criminal history information report to the prospective employer in a timely manner. All such reports processed and sent to such prospective employer pursuant to this paragraph shall not be published or in any way disclosed or redisclosed to persons other than the prospective employer, or the prospective caregiver. Any person who discloses or rediscloses such reports in violation of this section shall be guilty of a class A misdemeanor.

(c) The office of children and family services shall prepare and disseminate information to advise the public of the right to obtain the criminal history information of a prospective caregiver. Such information shall also include, but not be limited to, the following:

(i) the voluntary nature of the criminal history information check;

(ii) the steps necessary to use the criminal history information check, including information on form availability, fingerprinting and fees;

(iii) applicable confidentiality requirements; and

(iv) other information that is available to prospective employers upon the consent of a prospective caregiver including but not limited to department of motor vehicles records, educational records and credit records, including, where relevant and available, phone numbers, addresses and a description of the content and potential uses of such records.

(d) The commissioner of the division of criminal justice services shall promulgate all rules and regulations necessary to implement the provisions of this section.

§ 837-o. Search for arson and sex offense conviction records of volunteer firefighter applicants. 1. Any person who applies for membership in a fire company, as such term is defined in section three of the volunteer firefighters' benefit law, or who seeks to transfer as a member to another fire company, shall be required to authorize the

submission of his or her name and other authorized identifying information to the division which shall search its files for records indicating whether the person stands convicted of the crime of arson or a crime which requires the person to register as a sex offender under article six-C of the correction law. The chief of the fire company to which application is made shall provide written notice to the applicant that a search will be conducted, and if the applicant desires to proceed, he or she shall complete a search request on the form provided for this purpose by the division of criminal justice services.

2. Within ten business days of receipt from the applicant, the chief of the fire company shall send the completed search request form to either (i) the sheriff's department of the county in which the fire company is located, or (ii) the office of fire prevention and control, as follows:

(a) the sheriff's department of the county in which the fire company is located shall be responsible for receiving the search requests and processing the search requests with the division within ten business days of receipt from the chief of the fire company, unless the county legislative body adopts and files with the office of fire prevention and control pursuant to the municipal home rule law a local law providing that the sheriff's department shall not have such responsibility;

(b) in all other instances where a county legislative body has adopted a local law pursuant to paragraph (a) of this subdivision, the office of fire prevention and control shall be responsible for receiving search requests and forwarding the search requests to the division.

The office of fire prevention and control is hereby authorized to establish a communication network with the division for the purpose of forwarding search requests and receiving search results pursuant to paragraph (b) of this subdivision.

3. (a) All searches concerning the application for membership in a fire company shall be conducted under the provisions of subdivision six of section eight hundred thirty-seven of this article without the assessment of any fee to the applicant or fire company and shall pertain solely to ascertaining whether the applicant stands convicted of arson or a crime which requires the person to register as a sex offender under

article six-C of the correction law.

(b) The results of the search shall be communicated in writing, within ten business days of receipt from the division, to the chief of the fire company from which the search request originated by either the sheriff's department or the office of fire prevention and control, and shall be kept confidential by the chief, except as provided in paragraph (c) of this subdivision. The results of the search shall only state either that: (i) the applicant stands convicted of arson and/or a crime which requires the person to register as a sex offender under article six-C of the correction law, or (ii) the applicant has no record of conviction for arson or a crime which requires the person to register as a sex offender under article six-C of the correction law. The results of the search shall not divulge any other information relating to the criminal history of the applicant.

(c) At the time an applicant is advised that he or she is ineligible for membership due to a record of conviction for arson, he or she shall also be advised of the rights to challenge and appeal the information contained in the record of conviction as provided in the rules and regulations of the division. The applicant shall continue to be barred from membership until all administrative and judicial challenges to the accuracy of such information or appeals therefrom, are ultimately resolved in his or her favor, or if such a determination is unchallenged.

(d) If a person is denied election or appointment as a volunteer member of a fire company based in whole or in part on the fact that he or she stands convicted of a crime which requires the person to register as a sex offender under article six-C of the correction law, he or she shall be advised by the fire company of the rights to challenge and appeal the information contained in the record of conviction as provided in the rules and regulations of the division, and provided by the fire company with a copy of the criminal history record received by the fire company and with a copy of sections seven hundred fifty-two and seven hundred fifty-three of the correction law.

§ 837-p. Criminal history records search for certain licenses and registrations in the county of Westchester. 1. As used in this section:

(a) "Commission" shall mean the Westchester county solid waste commission.

(b) "Applicant" shall mean a person applying for a license or registration pursuant to chapter eight hundred twenty-six-a of the laws of Westchester county which requires the submission of fingerprints.

2. As a condition of eligibility for such licenses and/or registrations, the commission shall obtain two sets of the applicant's fingerprints and submit such fingerprints to the division for purposes of determining the criminal history of the applicant.

3. The first set of fingerprints received by the division shall be used to identify the applicant and to conduct a criminal history records search of the division's New York state files to determine whether or not such applicant has a criminal history in this state. The division shall forward the second set of such applicant's fingerprints to the federal bureau of investigation for the purpose of a nationwide criminal history record check to determine whether such applicant has a criminal history in any state or federal jurisdiction.

4. The division shall promptly transmit the reports of the New York state criminal record search to the executive director of the commission. The federal bureau of investigation reports of nationwide criminal records searches shall be transmitted to the executive director of the commission by the most direct means authorized by federal law, rules and regulations. All such reports, when received by the commission, shall be marked confidential and securely stored, and shall not be disclosed to any person other than the applicant, although the contents of the report may be disclosed to the members of the commission.

5. (a) Each applicant shall sign a release authorizing the commission to submit such applicant's fingerprints to the division and the federal bureau of investigation, and for the executive director of the commission to receive the results of such criminal history record searches supplied by the division and the federal bureau of investigation. Such release shall also advise the applicant that a

criminal history record search will be conducted concerning the applicant and that he or she may obtain a copy of his or her criminal history record and seek correction of any information contained in such record pursuant to regulations promulgated by the division.

(b) Each such applicant shall, in advance, make payment to the commission of the fee required pursuant to subdivision eight-a of section eight hundred thirty-seven of this article and any fee imposed by the federal bureau of investigation.

§ 837-q. Payments to Westchester county for policing special parkways. The commissioner of the division of criminal justice services is hereby authorized and directed, pursuant to annual appropriations, to make payments to Westchester county for costs associated with policing special parkways as defined in subdivision two of section seventy of the transportation law.

§ 837-r. Office of sex offender management. 1. Establishment of office. There is hereby established within the division of criminal justice services the office of sex offender management, hereinafter in this section referred to as "the office."

2. Duties and responsibilities. The office, in consultation with the commissioner of mental health, shall be responsible for policy matters relating to sex offenders and the management of their behavior. Its activities as to such matters shall include, but not be limited to:

(a) Studying issues relating to management of sex offender behavior in consultation with experts, service providers and representative organizations in the field of sex offender management;

(b) Serving as a clearinghouse for information and materials including lists of treatment providers and other community resources for sex offender management;

(c) Advising the governor and the legislature on the most effective ways for state government to address issues of sex offender management;

(d) Coordinating and recommending sex offender management policy and interagency initiatives including matters relating to risk assessment;

provision of treatment; supervision policy; the use of videoconferencing and other tools to expedite hearings; the use of polygraphs, electronic monitoring, and other supervisory tools; the sharing of information among relevant agencies; residential issues; and other matters relating to re-entry and integration into society;

(e) Developing recommendations as to standards, guidelines, best practices, and qualifications for sex offender assessment, treatment, and supervision;

(f) Acting as an advocate for sex offense victims and programs and coordinating activities of other agencies with related functions;

(g) Developing and implementing campaigns of public awareness, community outreach, and sex offense prevention;

(h) Coordinating programs of training and education for law enforcement and treatment providers, judges, attorneys, and other professionals; and

(i) Developing case management systems and other information technology to support state activities in the management of sex offender behavior.

3. Other state agencies shall provide cooperation and assistance to the office so as to assist it in the effective performance of its duties.

§ 837-s. Search for sex offense conviction records of emergency medical technician and other first responder applicants. 1. The chief officer of any volunteer ambulance company, as such term is defined in subdivision two of section three of the volunteer ambulance workers' benefit law, any proprietary ambulance service, or any other ambulance or emergency medical service providing emergency medical care and transportation of sick or injured persons to health care facilities, shall notify every new applicant for emergency medical technician, paramedic, certified first responder applicant, or any other applicant who would be responsible for providing emergency medical care and transportation of sick or injured persons to health care facilities, including applicants seeking to transfer from one ambulance company or service to another, that their personally identifying information will

be checked against the public records of those individuals required to register under article six-C of the correction law.

2. If such applicant desires to proceed, within ten business days of receiving an application, the chief officer shall inquire of the division as to whether such applicant is required to register by calling the special telephone number established pursuant to section one hundred sixty-eight-p of the correction law. Such chief officer may also check the internet posting subdirectory of level two and three sex offenders established pursuant to section one hundred sixty-eight-q of the correction law.

3. Where such search reveals that an applicant is registered under article six-C of the correction law, the chief officer of the ambulance company or service shall determine whether or not such person shall be eligible to be elected or otherwise appointed as a member of such ambulance company or service. Such determination shall be made consistent with article twenty-three-A of the correction law and a copy of such article shall be provided to the applicant.

§ 837-t. Use of force reporting. 1. The chief of every police department, each county sheriff, and the superintendent of state police shall report to the division, in a form and manner as defined in regulations by the division, any instance or occurrence in which a police officer, as defined in subdivision thirty-four of section 1.20 of the criminal procedure law, or a peace officer, as defined in section 2.10 of the criminal procedure law, employs the use of force as follows:

a. brandishes, uses or discharges a firearm at or in the direction of another person; or

b. uses a chokehold or similar restraint that applies pressure to the throat or windpipe of a person in a manner that may hinder breathing or reduce intake of air; or

c. displays, uses or deploys a chemical agent, including, but not

limited to, oleoresin capsicum, pepper spray or tear gas; or

d. brandishes, uses or deploys an impact weapon, including, but not limited to, a baton or billy; or

e. brandishes, uses or deploys an electronic control weapon, including, but not limited to, an electronic stun gun, flash bomb or long range acoustic device; or

f. engages in conduct which results in the death or serious bodily injury of another person. Serious bodily injury is defined as bodily injury that involves a substantial risk of death, unconsciousness, protracted and obvious disfigurement, or protracted loss of impairment of the function of a bodily member, organ or mental faculty.

2. On an annual basis, the commissioner shall conspicuously publish on the department's website a comprehensive report including the use of force information received under subdivision one of this section during the preceding year. Such reports shall not identify the names of the individuals involved, but for each event reported, shall list the date of the event, the location disaggregated by county and law enforcement agencies involved, the town or city, and any additional relevant location information, a description of the circumstances of the event, and the race, sex, ethnicity, age, or, if unknown, approximate age of all persons engaging in the use of force or suffering such injury.

§ 837-u. The division of criminal justice services, in conjunction with the chief administrator of the courts, shall collect data and report annually regarding pretrial release and detention. Such data and report shall contain information categorized by age, gender, racial and ethnic background; regarding the nature of the criminal offenses, including the top charge of each case; the number and type of charges in each defendant's criminal record; whether the prosecutor requested that the court fix bail, the amounts and forms of bail requested by the prosecutor, and the amounts and forms of bail set by the court; the number of individuals released on recognizance; the number of

individuals released on non-monetary conditions, including the conditions imposed; the number of individuals committed to the custody of a sheriff prior to trial; the rates of failure to appear and rearrest; the outcome of such cases or dispositions; whether the defendant was represented by counsel at every court appearance regarding the defendant's securing order; the length of the pretrial detention stay and any other such information as the chief administrator and the division of criminal justice services may find necessary and appropriate. Such annual report shall aggregate the data collected by county; court, including city, town and village courts; and judge. The data shall be aggregated in order to protect the identity of individual defendants. The report shall be released publicly and published on the websites of the office of court administration and the division of criminal justice services. The first report shall be published eighteen months after this section shall have become a law, and shall include data from the first twelve months following the enactment of this section. Reports for subsequent years shall be published annually on or before that date thereafter.

*** § 837-v. Report of discharge of weapon.** 1. Any law enforcement officer or peace officer who discharges his or her weapon while on duty or off duty under circumstances wherein a person could be struck by a bullet from the weapon, including situations wherein such officer discharges his or her weapon in the direction of a person, shall verbally report the incident to his or her superiors within six hours of the occurrence of the incident and shall prepare and file a written report of the incident within forty-eight hours of the occurrence of the incident. Nothing contained in this section shall prevent any officer from invoking his or her constitutional right to avoid self-incrimination.

2. As used in this section "law enforcement officer" means a state or local police officer and "peace officer" means any person designated as a peace officer pursuant to section 2.10 of the criminal procedure law.

* NB There are 2 § 837-v's

*** § 837-v. Reporting duties of law enforcement departments with respect to arrest-related deaths.** 1. The chief of every police department, each county sheriff, and the superintendent of state police shall promptly report to the division any arrest-related death, disaggregated by county. The data shall include all information the division shall report pursuant to the requirements of subdivision five of this section.

2. The initial report required by this subdivision shall be for the period beginning six months after the effective date of this section and shall be submitted on an annual basis thereafter. Each annual report shall be submitted no later than February first.

3. The division shall make the information required by subdivision one of this section available to the public by posting it on the website of the division. With respect to the information required by subdivision one of this section, the division shall update such information on a monthly basis and such information shall be posted in alphanumeric form that can be digitally transmitted or processed and not in portable document format or scanned copies of original documents.

4. The division shall promulgate regulations to effectuate the reporting of data from law enforcement departments sufficient to make the reports required by subdivision five of this section.

5. The division shall submit to the governor and the legislature an annual report of arrest-related deaths disaggregated by county. An arrest-related death is a death that occurs while an individual is in law enforcement custody or during an attempt to establish custody including, but not limited to, deaths caused by any use of force. Such report shall include the following information:

(a) the number of arrest-related deaths;

(b) the race, ethnicity, age, and sex of the individual;

(c) the zip code or location where the death occurred; and

(d) a brief description of the circumstances surrounding the arrest-related death.

* NB There are 2 § 837-v's

*** § 837-w. Technological viability of microstamping-enabled firearms.** 1. As used in this section, the terms "microstamping-enabled pistols" and "microstamping components" shall have the same meaning as defined in article two hundred sixty-five of the penal law.

2. The division or a designee shall within one hundred eighty days of the effective date of this section:

(a) engage in and complete an investigation to certify the technological viability of microstamping-enabled pistols. This investigation shall include live-fire testing evidence; and

(b) certify or decline to certify that microstamping-enabled pistols are technologically viable.

3. Following a certification by the division or a designee that microstamping-enabled pistols are technologically viable, the division shall:

(a) within three hundred sixty-five days from the date of certification of the viability of such technology by division or a designee pursuant to subdivision one of this section, establish performance standards, qualifying criteria and testing protocols applicable to the examination and verification of microstamping-enabled pistols and microstamping components;

(b) within two years from the date of certification of the viability of such technology by division or a designee pursuant to subdivision one of this section, establish and implement verification processes for microstamping-enabled pistols and microstamping components;

(c) within two years from the date of certification of the viability of such technology by division or a designee pursuant to subdivision one of this section, establish processes and standards for the training and licensure of persons, associations, partnerships, corporations, or other entities so that such may engage in the business of servicing semi-automatic pistols and their components to ensure compliance with the requirements of article two hundred sixty-five of the penal law; and

(d) within two years from the date of certification of the viability

of such technology by division or a designee pursuant to subdivision one of this section, designate a body to service semiautomatic pistols and their components to ensure compliance with the requirements of article two hundred sixty-five of the penal law.

4. The division shall promulgate any rule or regulation as may be necessary to carry out the provisions of this section.

* NB There are 2 § 837-w's

*** § 837-w. Blue alert system.** 1. There is established within the division a blue alert system to aid in the identification, location and apprehension of any individual or individuals suspected of killing or seriously wounding any police officer.

2. For the purposes of this section:

(a) The term "blue alert" shall mean information sent through the blue alert system related to:

(i) the serious injury or death of a law enforcement officer in the line of duty;

(ii) an officer who is missing in connection with the officer's official duties; or

(iii) an imminent and credible threat that an individual intends to cause the serious injury or death of a law enforcement officer.

(b) The term "law enforcement agency having jurisdiction" shall mean the chief law enforcement officer of the village, town, city, county, or the division of state police that is investigating an offense necessitating the use of a blue alert.

(c) The term "law enforcement officer" shall mean a state or local police officer.

3. Upon the request of a law enforcement agency having jurisdiction, the division shall issue a blue alert when public dissemination of available information may help avert further harm or accelerate apprehension of the suspect. Such blue alert may be disseminated on a regional or statewide basis. Nothing in this section shall require a law enforcement agency having jurisdiction to request a blue alert in any

circumstance described in paragraph (a) of subdivision two of this section or to participate in the dissemination of information under the blue alert system.

4. The division shall coordinate with the department of transportation, the division of state police, and police agencies, and may also coordinate with public commercial television and radio broadcaster organizations, to effectuate notifications under the blue alert system. Information disseminated pursuant to a blue alert may include, but shall not be limited to, a detailed description of the suspect's vehicle or license plate number and the name of the law enforcement agency that requested the alert.

5. The division may coordinate with additional state agencies capable of providing urgent and timely information to the public, together with television and radio broadcasters and other private entities, where appropriate, and if authorized and under conditions permitted by the federal government, that consent to participate in the dissemination of urgent public information.

6. The division shall develop criteria and procedures for activation of the blue alert system, and shall regularly review the function of the blue alert system and revise its criteria and procedures to provide for efficient and effective public notifications.

7. The provisions of this section shall only apply in the event that the division has been designated to use the federally authorized Emergency Alert System for the issuance of blue alerts.

8. The division is hereby authorized to promulgate rules and regulations for the implementation of the blue alert system pursuant to this section.

* NB There are 2 § 837-w's

§ 837-x. Cooperation with certain out-of-state investigations. 1. For purposes of this section, the following terms shall have the following

meanings:

(a) "Reproductive health care" shall have the same meaning as defined by section 570.17 of the criminal procedure law;

(b) "Legally protected health activity" shall have the same meaning as defined by section 570.17 of the criminal procedure law; and

(c) "Gender-affirming care" shall have the same meaning as defined by section 570.17 of the criminal procedure law.

2. (a) No state or local government employee or entity or other person acting on behalf of state or local government shall cooperate with or provide information to any out-of-state individual or out-of-state agency or department regarding any legally protected health activity, or otherwise expend or use time, moneys, facilities, property, equipment, personnel or other resources in furtherance of any investigation or proceeding that seeks to impose civil or criminal liability, professional sanctions, or any other legal consequences upon a person or entity for any legally protected health activity; except that the commissioner of health may share deidentified information as strictly necessary to respond to a public health emergency or an imminent threat to public health, or to consult and cooperate with the appropriate agencies of the federal government or of other states in accordance with the functions, powers, and duties of the department as outlined under section two hundred one of the public health law, and may share identified information in such circumstances only when strictly necessary and with the consent of the person. For purposes of this section, "deidentified" means that the information cannot identify or be made to identify or be associated with a particular individual, directly or indirectly, and is subject to technical safeguards and policies and procedures that prevent reidentification, whether intentionally or unintentionally, of any individual.

(b) Nothing in this section shall prohibit the investigation of any reproductive health care or gender-affirming care rendered in violation of the laws of this state, provided that no information relating to any medical procedure performed on a specific individual shall be shared with an out-of-state agency or any other individual. Nothing in this section shall prohibit compliance with a valid, court-issued subpoena or warrant which does not relate to any effort to impose civil or criminal

liability, professional sanctions, or any other legal consequences for a legally protected health activity, or in response to the written request of a person who is the subject of such an investigation, proceeding, or other effort, to the extent necessary, in each case, to fulfill such request.

(c) Nothing in this section shall prohibit disclosure of deidentified information in compliance with federal grant reporting requirements or other reporting requirements under federal law.

(d) This section shall not be construed to allow for the provision of any information to any individual or out-of-state agency or department which would not otherwise be available under state law.

§ 837-y. New York state office of gun violence prevention. 1. Establishment and organization. There is hereby established within the division of criminal justice services an office of gun violence prevention, hereinafter "office".

2. Duties and responsibilities. The office shall have the following duties and responsibilities:

(a) Advance efforts to prevent, reduce, and address gun violence and its causes and consequences. "Gun violence" shall include, but is not limited to, any attempted crime, crime, attempted suicide, suicide, intentional or unintentional injury, or death involving a firearm, rifle, or shotgun as defined in section 265.00 of the penal law.

(b) Identify funding opportunities and other resources available related to gun violence prevention and reduction, and increase public awareness of such funding opportunities.

(c) Support efforts to improve the state's health and social service system capacity and capabilities to prevent and respond to gun violence including, but not limited to, state hospital-based violence prevention and intervention initiatives, in consultation with the department of health.

(d) Coordinate and strengthen timely, accurate, and complete data collection and research regarding firearm-related injuries, fatalities, and incidents by focusing on surveillance, prevention, and intervention of gun violence statewide.

(e) Increase public awareness of gun violence causes and consequences and gun violence prevention efforts through public education campaigns or other educational efforts. Such campaigns and education efforts shall include but not be limited to adoption of best practices related to gun violence prevention, the impacts of various types of gun violence on individuals, families, and communities, and resources available to individuals at risk of gun violence and individuals impacted by gun violence.

(f) Collaborate with, and where practicable, facilitate, and assist political subdivisions of the state and not-for-profit organizations in the development of local programs, services, and interventions to prevent, reduce, and address gun violence.

(g) On or before September first, two thousand twenty-five, develop and implement a public awareness campaign to educate the public on the safe storage of firearms, rifles and shotguns and child access and prevention. The public awareness campaign shall include, but not be limited to, educational materials, resources and information related to New York state child access prevention laws and laws relating to the safe storage and transport of firearms, rifles and shotguns including sections 265.45, 265.46, and 400.00 of the penal law, available methods for the safe storage of firearms, rifles and shotguns designed to prevent child access, firearm violence prevention resources, and county and local specific laws and regulations related to child access prevention and storage of firearms, rifles and shotguns.

3. Annual report. The office shall issue an annual report including, but not limited to, information on the status of gun violence in the state, recommendations for policy and programmatic initiatives to prevent and reduce gun violence in the state, and a description of the efforts of the office to carry out the duties and objectives of the office under this section. Additionally, the office shall, in coordination with the division of criminal justice services, collect and analyze statistical and other information and data with respect to injuries or deaths of minors resulting from failure to safely store a firearm, rifle, or shotgun. Such information may include, but not be limited to, age, gender, racial and ethnic background of the minor or minors involved, as well as the type of injury or cause of death, to the

extent such information is available. Such report shall be posted on the division's website no later than one year after the effective date of this section, and annually thereafter.

4. Assistance to the office. Other state agencies and authorities shall provide cooperation and assistance, pursuant to subdivision five of section eight hundred thirty-six of this article, to the office in the effective performance of its duties.

§ 837-z. Law enforcement peer support program. 1. Definitions. As used in this section the following terms shall have the following meanings:

(a) "Law enforcement agency" means any department, division, agency, board, commission, or public authority of the state or any subdivision thereof that employs police officers.

(b) "Police officer" means a police officer as defined in section 1.20 of the criminal procedure law.

(c) "Peer support communication" includes:

(i) an oral or written communication made in the course of a peer support counseling session;

(ii) a note or report arising out of a peer support counseling session; or

(iii) a record of a peer support counseling session.

(d) "Peer support counseling program" means a program provided by a law enforcement agency that provides counseling services from a peer support specialist to a police officer of the law enforcement agency.

(e) "Peer support counseling session" means any counseling formally provided through a peer support counseling program between a peer support specialist and one or more police officers.

(f) "Peer support participant" means a police officer who receives counseling services from a peer support specialist.

(g) "Peer support specialist" means a police officer who:

(i) has received an approved training in peer support counseling, including providing emotional and moral support to police officers who have been involved in or exposed to an emotionally traumatic experience in the course of employment; and

(ii) is designated by a law enforcement agency to provide the services

described in subparagraph (i) of this paragraph.

2. Confidentiality. Except as provided in subdivision three of this section:

(a) a peer support specialist shall not disclose the contents of a peer support communication to an individual who was not a party to such peer support communication; and

(b) a peer support participant shall not disclose the contents of a peer support communication to anyone employed by the same law enforcement agency who was not originally a party to such peer support communication.

3. Exceptions. A peer support communication shall not be confidential if:

(a) it contains or reveals a specific threat of suicide, an expression of suicidal ideation, engagement in self-harm, or a threat of bodily harm or death, provided disclosure of such communication shall only be permitted for the purpose of preventing or mitigating such harm and is made to a person or persons reasonably in a position to provide assistance in preventing or mitigating such harm.

(b) it contains an admission of criminal conduct; or

(c) the peer support participant has provided consent for disclosure, which may be provided at any time, and the disclosure is consistent with such consent.

4. Disclosure. Nothing in this section shall be construed to prevent or limit disclosure of the contents of a peer support communication where such disclosure is otherwise required by law, including, but not limited to:

(a) mandatory reporting of suspected child abuse or maltreatment, in accordance with section four hundred thirteen of the social services law; and

(b) mandatory filing under article sixty-three-a of the civil practice law and rules relating to extreme risk protection orders; and

(c) as ordered by a court of competent jurisdiction.

5. Written notice. Before the initial peer support counseling session

of a peer support participant, a peer support specialist shall inform the peer support participant in writing of the confidentiality requirement under subdivision two of this section and the exceptions to that requirement under subdivisions three and four of this section.

6. Rules and regulations. The division shall identify and approve training courses that meet the division's identified minimum standards and may promulgate rules and regulations necessary to effectuate this section.

§ 837-aa. Firearm prevention technology requirements for three-dimensional printers. 1. As used in this section, the following terms shall have the following meanings:

(a) "Three-dimensional printer" means:

(i) any machine capable of rendering a three-dimensional object from a digital design file using additive manufacturing; or

(ii) any machine capable of making three-dimensional modifications to an object from a digital design file using subtractive manufacturing.

(b) "Blocking technology" means hardware, software, firmware, or other integrated technological measures capable of ensuring a three-dimensional printer will not proceed to print any print job unless the underlying three-dimensional printing file has been evaluated by a firearms blueprint detection algorithm and determined not to be a printing file that would produce a firearm or illegal firearm parts.

(c) "Firearms blueprint detection algorithm" means a software service that evaluates three-dimensional printing files, whether in the form of stereolithography (STL) files or other computer aided design files or geometric code, to determine if they can be used to program a three-dimensional printer to produce a firearm or illegal firearm parts, and flag any such files to prevent their use to manufacture said firearm or illegal firearm parts.

(d) "Illegal firearm parts" means an unfinished frame or receiver, a major component of a firearm, or any part designed and intended for use in converting a semi-automatic weapon into a machine gun, including, but not limited to, a pistol converter.

(e) All other terms shall have the same meaning given to such terms in

section 265.00 of the penal law.

2. Within ninety days of the effective date of this section, the division, the department of state, and the state university of New York shall convene a working group which shall include experts in additive manufacturing technology, artificial intelligence and digital security, firearms regulation, public safety, consumer product safety, and any other relevant disciplines determined by the division to be necessary to perform the functions prescribed herein. No later than one year after the working group convenes, the working group shall make recommendations regarding the minimum safety standards a three-dimensional printer's blocking technology must meet in order to comply with the requirements of section three hundred ninety-six-eeee of the general business law. Such recommendations shall address, at a minimum, available and appropriate types of blocking technology, including minimum performance standards for those technologies and for firearms blueprint detection algorithms, necessary safeguards to reduce the risk of circumvention of blocking technology, and alignment with existing state and federal law. Provided, however, that if the working group determines that it is not technologically feasible to require three-dimensional printers sold in the state of New York to include blocking technology, the working group shall so report, and no regulations shall be required to be promulgated pursuant to this section, until such time as the working group determines that it is technologically feasible.

3. The division shall:

(a) within nine months of receiving the recommendations from the working group pursuant to subdivision two of this section, unless the working group reports that it is not technologically feasible to require three-dimensional printers sold in New York to include blocking technology, in consultation with the department of state, promulgate and publish rules or regulations establishing performance standards for blocking technology and any other rules and regulations as may be necessary to carry out the provisions of this section, section three hundred ninety-six-eeee of the general business law, and article thirty-nine-DDDD of the general business law; and

(b) be authorized to create and maintain a library of firearms

blueprint files and illegal firearm parts blueprint files, and maintain and update the library, including by adding new files that enable the three-dimensional printing of firearms or illegal firearm parts and including scans of seized firearms. In furtherance of this authorization, the division may designate another government agency or an academic or research institution in this state to assist with the creation and maintenance of the file library. The library shall be made available to three-dimensional printer manufacturers, vendors with demonstrated expertise in software development, or experts in computational design or public safety, for the development or improvement of blocking technology and firearm blueprint detection algorithms. The division shall establish safeguards to prevent unauthorized access to and misuse of the library and shall prohibit all persons who are granted access to the library from misusing, selling, disseminating, or otherwise publishing its contents.

§ 838. Identification of unknown dead and missing persons. 1. Every county medical examiner and coroner shall promptly furnish the division and the National Missing and Unidentified Persons System created by the Office of Justice Program's National Institute of Justice, with copies of fingerprints on standardized eight inch by eight inch fingerprint cards or the equivalent digital image, personal descriptions and other identifying data, including date and place of death, of all deceased persons whose deaths are in a classification requiring inquiry by the medical examiner or coroner where the deceased is not identified or the medical examiner or coroner is not satisfied with the decedent's identification. The division shall promptly make available personal descriptions and other identifying data, including date and place of death, of such deceased persons to all law enforcement agencies in the state, and upon request, to law enforcement agencies outside of the state.

2. In any case where it is not physically possible to furnish prints of the ten fingers of the deceased, prints or partial prints of any fingers with other identifying data shall be forwarded by the county medical examiner or coroner to the division.

3. In addition to the foregoing provisions of this section, the county medical examiner or coroner shall cause a dentist authorized to practice pursuant to article one hundred thirty-three of the education law or a dental student in a registered school of dentistry in this state to carry out a dental examination of the deceased. The medical examiner or coroner shall forward the dental examination records to the division on a form supplied by the division for that purpose.

4. The division shall compare the fingerprints received from the county medical examiners or coroners to fingerprints on file with the division for purposes of attempting to determine the identity of the deceased. Other descriptive data supplied with the fingerprints shall also be compared to records maintained by the division concerning missing persons. The division shall submit the results of the comparisons to the appropriate medical examiner or coroner and if a tentative or positive identification is made, to the law enforcement authority which submitted the report of the missing person.

5. (a) (i) When any person makes a report of a missing person to a law enforcement authority, the authority shall request a member of the family or next of kin of the missing person to authorize the release to the division of the dental records of the person reported missing. The release shall be on a form supplied by the division. If the person reported missing is still missing thirty days after the report is made, the law enforcement authority shall deliver the release to the dentist or dentists of the missing person, and request the dentist or dentists to deliver such records, including dental x-rays, to the division within ten days. The form of such request shall also include means by which the law enforcement authority shall be notified of the delivery of such records.

(ii) When the person reported missing has not been found within thirty days and no family or next of kin exists or can be located, the law enforcement authority may execute a written declaration, stating that an active investigation seeking the location of the missing person is being conducted, and that the dental records are necessary for the exclusive purpose of furthering the investigation. Such written declaration,

signed by a peace officer, is sufficient authority for the dentist or dentists to release the missing person's dental records, including dental x-rays, to the division.

(b) Upon receipt of a properly executed release and request or declaration, the dentist or dentists shall forward the dental records, including dental x-rays, to the division, where a file shall be maintained concerning persons reported to it as missing and who have not been reported to it as found. The file shall contain dental records and such other information as the division finds to be relevant to assisting in the location of a missing person. The law enforcement authority shall be notified of the delivery of such records.

6. The division shall compare the dental records received from the county medical examiners or coroners to dental records of missing persons on file with the division. The division shall submit the results of the comparison to the appropriate medical examiner or coroner and if a tentative or positive identification is made, to the law enforcement authority which submitted the report of the missing person.

7. (a) When a person previously reported missing has been found, the superintendent of state police, sheriff, chief of police, coroner or medical examiner, or other law enforcement authority shall erase all records with respect to such person and/or destroy any documents which are maintained pursuant to this section and shall report to the division that the person has been found and that the records and documents have been so erased or destroyed. After receiving such a report, the division shall erase all records with respect to such person and/or destroy any documents which are maintained pursuant to this section.

(b) Nothing in paragraph (a) of this subdivision shall be construed as prohibiting law enforcement agencies from maintaining case files relating to vulnerable adults, as defined in section eight hundred thirty-seven-f-one, who were reported missing, provided, however, that any DNA, fingerprints and/or dental records acquired in the course of such investigation shall be erased and/or destroyed in accordance with paragraph (a) of this subdivision after the person previously reported missing has been found.

(c) (i) Notwithstanding the provisions of paragraph (a) of this

subdivision, if a vulnerable adult, as defined in section eight hundred thirty-seven-f-one of this article, previously reported missing has been found, the division shall maintain a sealed record of the case file for a period of ten years, after which it shall be erased and/or destroyed. The sealed record shall be unsealed if the individual to whom the record pertains is reported missing on a subsequent occasion or if needed for evidentiary purposes in any civil litigation against the division or its personnel that arises from the investigation. However, in the event that there are grounds for a criminal action arising from the investigation, nothing in this subdivision shall be interpreted as prohibiting the division from allowing such records to remain unsealed until such criminal action is concluded or otherwise resolved.

(ii) The division shall establish rules and regulations relating to the unsealing of records. Such rules and regulations shall require that, pursuant to subparagraph (i) of this paragraph, the process of unsealing such records shall take no longer than two hours from the time the division receives a report that a vulnerable adult, for whom there is a previous record, is missing.

8. The information contained in the division's missing person files shall be made available by it to law enforcement agencies attempting to locate missing persons.

9. Notwithstanding any other provision of law, no criminal justice agency shall establish or maintain any policy which requires the observance of a waiting period before accepting and investigating a missing child report. Upon receipt of a report of a missing child, criminal justice agencies shall make entries of such report to the register in the manner provided by section eight hundred thirty-seven-e of this article.

10. Notwithstanding any other provision of law, no criminal justice agency shall establish or maintain any policy that requires the observance of a waiting period before accepting and investigating a report of a missing vulnerable adult as defined in section eight hundred thirty-seven-f-one of this article. Upon receipt of a report of such missing vulnerable adult, criminal justice agencies shall make entries

of such report in the manner provided by subdivision eleven of this section.

11. Whenever a criminal justice agency determines that a person is a missing vulnerable adult, as defined in section eight hundred thirty-seven-f-one of this article, or that an unidentified living person may be a missing vulnerable adult, such criminal justice agency shall enter the report of such missing vulnerable adult in any database of missing persons maintained by the division and the federal government.

§ 838-a. Maintenance of sexual offense evidence kits. 1. The following requirements shall apply to all sexual offense evidence kits surrendered to or collected by, at the request of, or with cooperation of a police agency or prosecutorial agency:

(a) Each such police agency and prosecutorial agency shall submit any sexual offense evidence kits in its custody or control to an appropriate forensic laboratory within ten days of receipt.

(b) Each forensic laboratory receiving sexual offense evidence kits after the effective date of this section shall assess case specific information for Combined DNA Index System (CODIS) eligibility and, if eligible, analyze the kits and attempt to develop CODIS eligible profiles of any potential perpetrators from the evidence submitted. The forensic lab shall report the results to the submitting agency and appropriate prosecutorial entity within ninety days after receipt of a kit.

(c) Each police agency and prosecutorial agency that has one or more sexual offense evidence kit in its custody or control shall, within ninety days after the effective date of this paragraph, inventory such kits and report the total number of such kits to the division and to the forensic laboratory where such kits will be submitted pursuant to paragraph (a) of this subdivision. The division shall provide such inventories to the senate and assembly leaders by March first, two thousand seventeen. Every police and prosecutorial agency shall update this report each month thereafter until paragraph (a) of this subdivision has become effective.

(d) Each police agency and prosecutorial agency that, prior to the effective date of paragraph (a) of this subdivision, has one or more sexual offense evidence kits in its custody or control shall, within thirty days after the effective date of this section, submit all untested kits in its possession or control to an appropriate forensic laboratory.

(e) Each forensic laboratory, within one hundred twenty days after receiving each sexual offense evidence kit pursuant to paragraph (d) of this subdivision shall assess case specific information for CODIS eligibility and, if eligible, analyze the kits and attempt to develop CODIS eligible profiles for any potential perpetrators and shall, within ninety days of such assessment, report the results to the submitting agency and the appropriate prosecutorial entity.

(f) The failure of any such police agency, prosecutorial agency or forensic laboratory to comply with a time limit specified in this section or section eight hundred thirty-eight-b of this article shall not, in and of itself, constitute a basis for a motion to suppress evidence in accordance with section 710.20 of the criminal procedure law.

2. (a) Each forensic laboratory in the state shall report to the division, on a quarterly basis, in writing, on (i) the number of sexual offense evidence kits it received, (ii) the number of such kits processed for the purpose of developing Combined DNA Index System (CODIS) eligible profiles of any potential perpetrators, and (iii) the number of kits not processed for testing, including, the reason such kits were ineligible for processing.

(b) Each police agency and prosecutorial agency shall report to the division on a quarterly basis, in writing, on (i) the number of all the sexual offense evidence kits it received, (ii) the number of such kits it submitted to a forensic laboratory for processing, (iii) the number of kits in its custody or control that have not been processed for testing, and (iv) the length of time between receipt of any such sexual offense evidence kit and the submission of any such kit to the forensic laboratory.

(c) The division shall provide to the senate and assembly leaders such quarterly reports received from the forensic labs and police and

prosecutorial agencies pursuant to paragraphs (a) and (b) of this subdivision by January first, two thousand eighteen and annually thereafter.

3. Each police agency, prosecutorial agency and other law enforcement agency within this state shall adopt policies and procedures concerning contact with victims of sexual offenses, and the provision of information to victims upon request, concerning sexual offense evidence collected or received from them. The policies and procedures shall be victim-focused, meaning systematically focused on the needs and concerns of victims to ensure the compassionate and sensitive delivery of services in a nonjudgemental manner, and shall include, at a minimum, a requirement that:

(a) the police agency, prosecutorial agency or other law enforcement agency designate at least one person, who is trained in trauma and victim response through a program meeting minimum standards established by the division of criminal justice services, following appropriate guidelines on evidence-based, trauma-informed practices, which may include guidelines from the Substance Abuse and Mental Health Services Administration, within its agency to receive all inquiries concerning sexual offense evidence kits from victims; and

(b) at the time that a sexual offense evidence kit is collected, a victim shall be provided with: (i) a copy of the victim bill of rights described in subdivision six of section twenty-eight hundred five-i of the public health law; and (ii) contact information, including a name, phone number and e-mail address, for the individual designated pursuant to paragraph (a) of this subdivision at the police agency, prosecutorial agency or other law enforcement agency with jurisdiction over the sexual offense.

4. The division shall undertake actions designed to ensure that all police agencies and prosecutorial agencies in the state and all forensic laboratories are educated and aware of the provisions of this section.

§ 838-b. Victim's right to notice. Each police agency, prosecutorial agency and other law enforcement agency with jurisdiction over a sexual

offense shall, upon request of the victim who has consented to report such offense to law enforcement, provide the sexual offense victim with notice of the date and location at which sexual offense evidence collected or received from such victim is assessed for CODIS eligibility and analyzed, whether a CODIS eligible profile was developed and whether or not a DNA match was identified, provided, however, that the police agency, prosecutorial agency or other law enforcement agency serving the jurisdiction may temporarily delay release of such DNA match information to the victim, prior to the arrest of a suspect alleged to have committed such offense, if such agency documents in writing and notifies the victim that release of such information would compromise the successful investigation of such sexual offense. The police or prosecutorial agency or other law enforcement agency in possession of a sexual offense evidence kit shall notify the sexual offense victim at least ninety days prior to the expiration of the twenty-year storage period in accordance with paragraph (k) of subdivision two of section twenty-eight hundred five-i of the public health law.

§ 839. Municipal police training council. 1. There is hereby created within the division a municipal police training council composed of ten members, who shall be selected as follows:

(a) one shall be appointed by the governor who shall be a full-time faculty member of a college or university who teaches in the area of criminal justice or police science;

(b) one shall be appointed by the governor from a list of at least six nominees submitted by the New York state sheriffs' association, who shall be incumbent sheriffs in the state having at least two years of service on the law enforcement training committee of such association or having other specialized experience in connection with police training which, in the opinion of the chairman of such law enforcement training committee, provides the sheriff with at least an equivalent background in the field of police training; and

(c) one shall be appointed by the governor from a list of at least six nominees submitted by the New York state association of chiefs of police, who shall be incumbent chiefs of police or commissioners of police of a municipality in the state having at least two years of

service on the police training committee of such association or having other specialized experience in connection with police training which, in the opinion of the chairman of such training committee, provides the chief of police or commissioner of police with at least an equivalent background in the field of police training; and

(d) one shall be the commissioner of police of the city of New York or a member of his department, designated by such commissioner and approved by the governor; and

(e) one shall be the superintendent of the state police; and

(f) one shall be appointed by the governor who shall be an incumbent chief of police or commissioner of police from a municipality in the state with a police department consisting of more than one hundred officers; and

(g) one shall be appointed by the governor who shall be an incumbent sheriff in the state from an agency with more than one hundred deputy sheriffs; and

(h) one shall be appointed by the governor who shall be a representative of victims of crime; and

(i) one shall be appointed by the governor who shall be a representative from a community with high numbers of police and community interactions; and

(j) one shall be appointed by the governor who shall be an incumbent executive from a peace officer employing agency or municipality.

2. The governor shall designate from among the members of the council a chairman who shall serve during the pleasure of the governor.

3. All members of the council appointed by the governor shall be appointed for terms of two years, such terms to commence on April first, and expire on March thirty-first. Any member chosen to fill a vacancy created otherwise than by expiration of term shall be appointed for the unexpired term of the member whom he is to succeed. Vacancies caused by expiration of a term or otherwise shall be filled in the same manner as original appointments. Any member may be reappointed for additional terms.

4. Any member of the council appointed pursuant to paragraphs (b) or

(c) of subdivision one of this section as an incumbent sheriff, chief of police or commissioner of police, as the case may be, shall immediately upon the termination of his holding of said office or employment, cease to be a member of the council.

5. The council shall meet at least four times in each year. Special meetings may be called by the chairman and shall be called by him at the request of the governor or upon the written request of six members of the council. The council may establish its own requirements as to quorum and its own procedures with respect to the conduct of its meetings and other affairs; provided, however, that all recommendations made by the council to the governor pursuant to subdivision one of section eight hundred forty of this chapter shall require the affirmative vote of six members of the council.

6. Membership on the council shall not constitute the holding of an office, and members of the council shall not be required to take and file oaths of office before serving on the council. The council shall not have the right to exercise any portion of the sovereign power of the state.

7. The members of the council shall receive no compensation for their services but shall be allowed their actual and necessary expenses incurred in the performance of their functions hereunder.

8. No member of the council shall be disqualified from holding any public office or employment, nor shall he forfeit any such office or employment, by reason of his appointment hereunder, notwithstanding the provisions of any general, special or local law, ordinance or city charter.

§ 840. Functions, powers and duties of council. 1. The council may recommend to the governor rules and regulations with respect to:

(a) The approval, or revocation thereof, of police training schools administered by municipalities;

(b) Minimum courses of study, attendance requirements, and equipment

and facilities to be required at approved municipal police training schools;

(c) Minimum qualifications for instructors at approved police training schools;

(d) The requirements of minimum basic training which police officers appointed to probationary terms shall complete before being eligible for permanent appointment, and the time within which such basic training must be completed following such appointment to a probationary term;

(e) The requirements of minimum basic training which police officers not appointed for probationary terms but appointed on other than a permanent basis shall complete in order to be eligible for continued employment or permanent appointment, and the time within which such basic training must be completed following such appointment on a non-permanent basis;

(f) The requirements of minimum basic training which peace officers must complete before being eligible for certification as peace officers, pursuant to section 2.30 of the criminal procedure law;

(g) Categories or classifications of advanced in-service training programs and minimum courses of study and attendance requirements with respect to such categories or classifications; and

(i) The establishment, in cooperation with the division of state police, of a formalized consumer product tampering training program for all law enforcement personnel.

(j) (1) Development, maintenance and dissemination of written policies and procedures pursuant to title six of article six of the social services law and applicable provisions of article ten of the family court act, regarding the mandatory reporting of child abuse or neglect, reporting procedures and obligations of persons required to report, provisions for taking a child into protective custody, mandatory reporting of deaths, immunity from liability, penalties for failure to report and obligations for the provision of services and procedures necessary to safeguard the life or health of the child; (2) establishment and implementation on an ongoing basis, of a training program for all current and new police officers regarding the policies and procedures established pursuant to this paragraph; and (3) establishment of a training program for police officers whose main responsibilities are juveniles and the laws pertaining thereto,

including children under twelve years of age who do not fall under the definition of juvenile delinquent pursuant to subparagraph (iii) of paragraph (a) of subdivision one of section 301.2 of the family court act and whose behavior, but for their age would bring them within the jurisdiction of the family court pursuant to article three of the family court act, which training program shall be successfully completed before such officers are accredited pursuant to section eight hundred forty-six-h of this chapter.

(k) Development, maintenance and dissemination, in consultation with the department of agriculture and markets, of written policies and procedures pursuant to animal cruelty and protection laws, including, but not limited to, article twenty-six of the agriculture and markets law, section 352.3 of the family court act as it applies to companion animals, and applicable provisions of the penal law, regarding the investigation and prevention of any act of cruelty to animals. The council shall make provisions in such policies and procedures for the education and training in enforcement of such animal cruelty and protection laws.

(l) Exemptions from particular provisions of this article in the case of peace officers appointed by the superintendent of state police if in its opinion the standards of peace officer training provided by the division of state police exceed those established pursuant to this article.

(m) Establishment and implementation on an ongoing basis, of a training program for all current and new police officers and peace officers regarding the policies and procedures established pursuant to paragraph (k) of this subdivision.

2. The council shall promulgate, and may from time to time amend, such rules and regulations prescribing height, weight, physical fitness and psychological requirements for eligibility of persons for provisional or permanent appointment in the competitive class of the civil service as police officers of any county, city, town, village or police district as it deems necessary and proper for the efficient performance of police duties.

2-a. The council, in consultation with the state commission of

correction, shall promulgate rules and regulations with respect to:

(a) The approval, or revocation thereof, of basic and other correctional training programs administered by municipalities;

(b) Minimum courses of study, attendance requirements, and equipment and facilities to be required at approved basic and other correctional training programs;

(c) Minimum qualifications for instructors at approved basic and other correctional training programs; and

(d) The requirements of a minimum basic correctional training program required by subdivision nine of section eight hundred thirty-seven-a of this article.

2-b. The council shall promulgate, and may from time to time amend, such rules and regulations concerning background investigations for eligibility of persons for provisional or permanent appointment in the competitive class of the civil service as police officers of any county, city, town, village or police district as it deems necessary and proper for the efficient performance of police duties, which shall be incorporated by the law enforcement agency accreditation council as part of the certification process in paragraph (d) of subdivision one of section eight hundred forty-six-h of this chapter.

3. The council shall, in addition: (a) Consult with, advise and make recommendations to the commissioner with respect to the exercise of his or her functions, powers and duties as set forth in section eight hundred forty-one of this article;

(b) Recommend studies, surveys and reports to be made by the commissioner regarding the carrying out of the objectives and purposes of this section;

(c) Visit and inspect any police training school and correctional training programs approved by the commissioner or for which application for such approval has been made;

(d) Make recommendations, from time to time, to the commissioner, the governor and the legislature, regarding the carrying out of the purposes of this section;

(e) Perform such other acts as may be necessary or appropriate to carry out the functions of the council;

(f) Develop, maintain and disseminate, in consultation with the state office for the prevention of domestic violence, written policies and procedures consistent with article eight of the family court act and applicable provisions of the criminal procedure and domestic relations laws, regarding the investigation of and intervention by new and veteran police officers in incidents of family offenses. Such policies and procedures shall make provisions for education and training in the interpretation and enforcement of New York's family offense laws, including but not limited to:

(1) intake and recording of victim statements, and the prompt translation of such statements if made in a language other than English, in accordance with subparagraph three of this paragraph, on a standardized "domestic violence incident report form" promulgated by the division of criminal justice services in consultation with the superintendent of state police, representatives of local police forces and the state office for the prevention of domestic violence, and the investigation thereof so as to ascertain whether a crime has been committed against the victim by a member of the victim's family or household as such terms are defined in section eight hundred twelve of the family court act and section 530.11 of the criminal procedure law; and

(2) the need for immediate intervention in family offenses including the arrest and detention of alleged offenders, pursuant to subdivision four of section 140.10 of the criminal procedure law, and notifying victims of their rights, in their native language, if identified as other than English, in accordance with subparagraph three of this paragraph, including but not limited to immediately providing the victim with the written notice required in subdivision six of section 530.11 of the criminal procedure law and subdivision five of section eight hundred twelve of the family court act;

(3) determine, in consultation with the superintendent of state police and the office for the prevention of domestic violence, the languages in which such translation required by subparagraph one of this paragraph, and the notification required by subparagraph two of this paragraph, shall be provided. Such determination shall be based on the size of the New York state population that speaks each language and any other relevant factor. Such written notice required pursuant to subparagraph

two of this paragraph shall be made available to all local law enforcement agencies throughout the state. Nothing in this paragraph shall prevent the council from using the determinations made by the superintendent of state police pursuant to subdivision (c) of section two hundred fourteen-b of this chapter;

(f-1) Develop, maintain and disseminate, in consultation with the office of temporary and disability assistance and the division of criminal justice services, written policies and procedures regarding human trafficking victims. Such policies and procedures shall include, but not be limited to the following: (1) the identification of potential victims of human trafficking, as defined under section four hundred eighty-three-aa of the social services law; and (2) information and/or referral to appropriate social and legal services for victims of human trafficking in accordance with section four hundred eighty-three-bb of the social services law;

(f-2) Develop, maintain and disseminate, in consultation with the office of children and family services, written policies and procedures regarding child-sensitive arrest practices. Such policies and procedures shall address such situations in which the parent, guardian, or other person legally charged with the care or custody of a child less than eighteen years old is arrested. Such policies and procedures shall include, but not be limited to:

(1) procedures regarding identification and documentation of whether an arrestee is the parent, guardian or person legally charged with the care or custody of a child;

(2) procedures to allow for the arrangement of temporary care for the child of an arrested parent, guardian or other person legally charged with the care or custody of such child, which may include allowing the arrested parent, guardian or other person legally charged with the care or custody of such child to place additional phone calls to arrange for child care;

(3) appropriate actions that will allow law enforcement to assist in minimizing the impact of the emotional harm caused by witnessing such arrests; and

(4) information on the availability of access to community-based providers of crises intervention, child protection and other supportive resources that could aid the child of an arrested parent, guardian or

other person legally charged with the care or custody of such child;

(g) Develop, maintain and disseminate, in consultation with the state division of human rights and the state civil service department, written policies and procedures to enhance police and correctional officer recruitment efforts and to increase police and correctional officer awareness of racial, ethnic, religious and gender differences, and other diversity issues, in communities served by such police and in correctional facilities;

(h) Consult with the state commission of correction regarding correctional training programs; and

(i) Develop, maintain and disseminate written policies and procedures and educational materials regarding the availability of and procedure for filing extreme risk protection orders under article sixty-three-A of the civil practice law and rules, including the requirements for police officers under section six thousand forty-one of such article, appropriately instruct any agency that employs police or peace officers regarding article sixty-three-A of the civil practice law and rules.

4. The council shall, in addition:

(a) Develop, maintain and disseminate, in consultation with rape crisis centers experienced in assisting victims in this state, written policies and procedures consistent with applicable provisions of the family court act, domestic relations law, criminal procedure law and the penal law, regarding the investigation of and intervention by new and veteran police officers in crimes involving sexual assault. Such policies and procedures shall make provisions for education and training of new and veteran police officers in the investigation and enforcement of crimes involving sexual assault under state law, including but not limited to:

(1) techniques for interviewing sexual assault victims,

(2) fair treatment standards for crime victims pursuant to article twenty-three of this chapter,

(3) evidence gathering and evidence preservation, and

(4) dissemination of information concerning availability of local services for the victims of such crimes; and

(b) Recommend to the governor, rules and regulations with respect to establishment and implementation on an ongoing basis of a training

program for all current and new police officers regarding the policies and procedures established pursuant to this subdivision, along with recommendations for periodic retraining of police officers.

(c) Disseminate the written policies and procedures promulgated in accordance with subdivision twenty-one of section eight hundred thirty-seven of this article to all police departments in this state and implement a training program for all current and new police officers regarding the policies and procedures established pursuant to such subdivision.

(d)(1) Establish and regularly update a model law enforcement use of force policy suitable for adoption by any agency that employs police or peace officers.

(2) The model law enforcement use of force policy shall include, but is not limited to:

(i) information on current law as it relates to the use of force by police and peace officers;

(ii) guidelines regarding when use of force is permitted;

(iii) requirements for documenting use of force;

(iv) procedures for investigating use of force incidents;

(v) guidelines regarding excessive use of force including duty to intervene, reporting, and timely medical treatment for injured persons;

(vi) standards for failure to adhere to use of force guidelines;

(vii) training mandates on use of force, conflict prevention, conflict resolution and negotiation, de-escalation techniques and strategies, including, but not limited to, interacting with persons presenting in an agitated condition; and

(viii) prohibited uses of force.

(3) The person in charge of every local police department, local correctional facility, each county sheriff, the superintendent of the division of the state police, the commissioner of the department of corrections and community supervision, and the person in charge of every agency that employs a peace officer in this state shall adopt and implement a use of force policy in the agency of which they are in charge. Such use of force policy shall be consistent with the model law enforcement use of force policy established pursuant to this subdivision, except that such departments, county sheriffs, superintendent, commissioner and agencies that employ a peace officer

may impose further and additional restrictions on the use of force, in such use of force policy or otherwise.

(4) The model law enforcement use of force policy and every use of force policy established pursuant to subparagraph three of this paragraph shall be a public document, and shall be made available without charge to any member of the public promptly upon request. Each such current use of force policy shall be conspicuously posted on the public website of the agency that adopted it. Revisions to such use of force policies shall be updated on the agency's public website within seventy-two hours of approval of any amendment.

5. The council shall, in addition:

(a) Develop, maintain and disseminate, in consultation with the commissioner of the office for people with developmental disabilities, written policies and procedures consistent with section 13.43 of the mental hygiene law, regarding the handling of emergency situations involving individuals with autism spectrum disorder and other developmental disabilities. Such policies and procedures shall make provisions for the education and training of new and veteran police officers on the handling of emergency situations involving individuals with autism spectrum disorder and other developmental disabilities, including but not limited to training on the appropriate use of force on such individuals, as well as training on appropriate techniques for deescalating encounters with such individuals that is consistent with such individual's safety; and

(b) Recommend to the governor, rules and regulations with respect to the establishment and implementation on an ongoing basis of a training program for all current and new police officers regarding the policies and procedures established pursuant to this subdivision, along with recommendations for periodic retraining of police officers.

6. The council shall, in addition:

(a) Develop, maintain and disseminate, in consultation with the division of human rights and the hate crime task force established pursuant to section two hundred sixteen of this chapter, written policies and procedures regarding the recognition of and response to hate crimes, as defined in article four hundred eighty-five of the penal

law. Such policies and procedures shall make provisions for the education and training of new and veteran police officers on the recognition of and response to hate crimes; and

(b) Recommend to the governor, rules and regulations with respect to the establishment and implementation on an ongoing basis of a training program for all current and new police officers regarding the policies and procedures established pursuant to this subdivision, along with recommendations for periodic retraining of police officers. Such recommended rules and recommendations shall also be submitted to the temporary president of the senate and the speaker of the assembly.

7. The council shall, in addition:

(a) Develop, maintain and disseminate, in collaboration with the office of victim services, a model law enforcement death notification policy setting forth recommended policies and procedures regarding in-person death notifications to a deceased individual's next of kin. Such policies and procedures shall make provisions for education and training of current and new police officers in the planning, preparation, and delivery of in-person death notifications, including but not limited to, policies and procedures for:

(i) the identification of the deceased individual, the collection of accurate information regarding the deceased individual, and the identification of the deceased individual's next of kin; and

(ii) the actual delivery of in-person death notifications to the deceased's next of kin within twenty-four hours following the identification of such individual; provided, however, such policies and procedures shall provide that, in the event that an in-person death notification cannot be provided to the deceased individual's next of kin within such timeframe, the failure or delay of such notification shall be documented and such notification shall instead be made as soon as practicable; and

(iii) providing information to the deceased individual's next of kin regarding the existence of programs and support services available to them.

(b) Recommend to the governor rules and regulations with respect to the establishment and implementation on an ongoing basis of a training program for all current and new police officers regarding the policies

and procedures established pursuant to this subdivision, along with recommendations for periodic retraining of police officers.

(c) Disseminate the model law enforcement death notification policy promulgated in accordance with this subdivision to all police departments in this state and develop a model training program for all current and new police officers regarding the policies and procedures established pursuant to such subdivision.

* 8. The council shall, in addition:

(a) Develop, maintain and disseminate, in consultation with the commissioner of the office of mental health, written policies and procedures regarding the handling of situations involving individuals who appear to be mentally ill and are conducting themselves in a manner which is likely to result in serious harm to the person or others. Such policies and procedures shall make provisions for the education and training of new and veteran police officers. Such training and education shall focus on appropriate recognition and response techniques for handling emergency situations involving individuals with mental illness including, but not limited to, how to de-escalate a situation involving an individual who may be experiencing a mental health crisis while minimizing the use of force and identifying alternatives to the criminal justice system; and

(b) Recommend to the division, rules and regulations establishing and implementing a required training program for all current and new police officers regarding the policies and procedures established pursuant to this subdivision, along with recommendations for periodic retraining of police officers. Such required training for current officers shall be completed within thirty-six months of the effective date of this subdivision; provided however it shall be completed within twenty-four months of the effective date of this subdivision in a city with a population of one million or more. The division shall review such recommendations and promulgate regulations consistent with this subdivision.

* NB There are 2 sb 8's

* 8. The council shall promulgate rules and regulations requiring training and instruction for all police officers with respect to crimes involving sexual assault. Such training and instruction, which shall be designed and presented in consultation with the rape crisis centers

experienced in assisting victims in this state, shall include, but not be limited to understanding rape and sexual abuse trauma and psychological issues confronted by such crime victims, common attributes of offenders, fair treatment standards for crime victims pursuant to article twenty-three of this chapter, evidence gathering and preservation issues, interview techniques and information concerning the availability of local services for the victims of such crimes. All new officers shall receive such training and instruction, as part of the basic curriculum at the state police academy or at municipal police academies, as applicable. The council shall promulgate such rules and regulations as it deems necessary concerning periodic retraining of police officers regarding crimes involving sexual assault.

* NB Effective December 12, 2026
* NB There are 2 sb 8's

§ 841. Functions, powers and duties of the commissioner with respect to the council. In addition to the functions, powers and duties otherwise provided by this article, the commissioner shall, with the general advice of the council, and, in the case of subdivisions one, two and three of this section, only in accordance with rules and regulations promulgated by the governor pursuant to section eight hundred forty-two of this article:

1. Approve police training schools administered by municipalities and issue certificates of approval to such schools, and revoke such approval or certificate;

1-a. Approve correctional training programs administered by municipalities and issue certificates of approval to such programs, and revoke such approval or certificate;

2. Certify, as qualified, instructors at approved police training schools and issue appropriate certificates to such instructors;

2-a. Certify, as qualified, instructors at approved correctional training programs and issue appropriate certificates to such

instructors;

3. Certify police officers and peace officers who have satisfactorily completed basic training programs and issue certificates to such police officers and peace officers, including the issuance of equivalency certificates for basic training certificates issued to peace officers, where such officers received a certificate for successful completion of a basic training for police officers program or an approved course for state university of New York public safety officers during a period in which such peace officer was not employed as a police officer, upon demonstration of adequate equivalent training, the completion of supervised field training, requisite job-related law enforcement experience as determined by the commissioner, and if deemed necessary, the successful completion of relevant police officer training courses pursuant to section two hundred nine-q of the general municipal law;

3-a. Certify correction officers who have satisfactorily completed basic correctional training programs and issue certificates to such correction officers;

4. Cause studies and surveys to be made relating to the establishment, operation and approval of municipal police training schools and correctional training programs;

5. Consult with and cooperate with municipal police training schools and correctional training programs for the development of advanced in-service training programs for police officers, peace officers, and correction officers and issue appropriate certificates to police officers, peace officers, and correction officers, attesting to their satisfactory completion of such advanced training programs;

6. Consult with and cooperate with universities, colleges and institutes in the state for the development of specialized courses of study for police officers, peace officers, and correction officers in police science, police administration, and criminal justice;

7. Consult with and cooperate with other departments and agencies of

the state concerned with police officer and peace officer training;

7-a. Consult with and cooperate with the state commission of correction and other departments and agencies of the state concerned with correction officer training;

7-b. Take such steps as may be necessary to ensure that all police officers and peace officers certified pursuant to subdivision three of this section receive appropriate instruction regarding section 60.49 of the criminal procedure law relating to the introduction of opioid antagonists into evidence in certain cases.

8. Report to the council at each regular meeting of the council and at such other times as may be appropriate; and

9. Prepare, update and distribute to appropriate law enforcement officials the form and content of the written notice required to be given to victims of family offenses pursuant to subdivision five of section eight hundred twelve of the family court act and subdivision six of section 530.11 of the criminal procedure law.

§ 841-a. Security guard advisory council. 1. There is hereby created within the division a security guard advisory council composed of seventeen members who are knowledgeable about the security guard industry. In addition, the council shall include as ex-officio non-voting members, the secretary of state and the commissioner of the division of criminal justice services, or their respective designees. All members shall be residents of the state and shall be selected as follows:

(a) eight shall be appointed by the governor, one of whom shall be a representative of a contractual security company, one of whom shall be a representative of a proprietary security company, one of whom shall be a person actively employed as a security guard for a contractual security company and one of whom shall be a person actively employed as a security guard for a proprietary security company;

(b) three shall be appointed by the governor on the recommendation of

the temporary president of the senate;

(c) one shall be appointed by the governor on the recommendation of the minority leader of the senate;

(d) three shall be appointed by the governor on the recommendation of the speaker of the assembly;

(e) one shall be appointed by the governor on the recommendation of the minority leader of the assembly;

(f) one shall be appointed by the governor who shall be a full-time faculty member of a college or university who teaches and whose area of expertise is in the field of security.

2. The governor shall designate from among the members of the council a chairperson and a vice-chairperson who shall each serve at the pleasure of the governor.

3. All members of the council appointed by the governor shall be appointed for terms of three years, such terms to commence on January first, and expire on December thirty-first; provided, however, that of the members first appointed, four shall be appointed for one year terms and four shall be appointed for two year terms. Any member chosen to fill a vacancy created otherwise than by expiration of term shall be appointed for the unexpired term of the member whom he is to succeed. Vacancies caused by expiration of a term or otherwise shall be filled in the same manner as original appointments. Any member may be reappointed for additional terms.

4. The council shall meet as frequently as it deems necessary but in no event less than one time in each year. Special meetings may be called by the chairperson and shall be called by him or her at the request of the governor or upon the written request of nine members of the council. The council may establish its own requirements as to quorum and its own procedures with respect to the conduct of its meetings and other affairs; provided, however, that all recommendations made by the council to the governor pursuant to section eight hundred forty-one-b of this article shall require the affirmative vote of a majority of the council.

5. Membership on the council shall not constitute the holding of an office, and members of the council shall not be required to take and file oaths of office before serving on the council. The council shall not have the right to exercise any portion of the sovereign powers of the state.

6. The members of the council shall receive no compensation for their services but shall be allowed their actual and necessary expenses incurred in the performance of their functions hereunder.

7. No member of the council shall be disqualified from holding any public office or employment, nor shall he or she forfeit any such office or employment, by reason of his or her appointment hereunder, notwithstanding the provisions of any general, special or local law, ordinance or city charter.

§ 841-b. Functions, powers and duties of council. 1. The council shall recommend to the commissioner rules and regulations with respect to:

(a) the approval, or revocation thereof, of security guard training schools and training programs;

(b) minimum courses of study duration, attendance requirements, and equipment and facilities to be required at approved security guard training schools and training programs, taking into account subject matter, the hours each subject is to be taught and special requirements unique to particular assignments, employers and work sites;

(c) minimum qualifications for instructors at approved security guard training schools and training programs; and

(d) the subject matter of all training requirements which security guards and security guard applicants must complete before being registered as unarmed and armed security guards.

2. The council may, in addition:

(a) consult with, advise and make recommendations to the commissioner with respect to the exercise of his or her functions, powers and duties as set forth in this section;

(b) recommend studies, surveys and reports to be made by the

commissioner regarding the carrying out of the objectives and purposes of this section;

(c) visit and inspect any security guard training school approved by the commissioner or for which application for such approval has been made;

(d) make recommendations, from time to time, to the commissioner, the governor, the legislature and the secretary of state, with regard to implementation of the purposes of this section and of article seven-A of the general business law; and

(e) perform such other acts as may be necessary or appropriate to carry out the functions of the council.

§ 841-c. Functions, powers and duties of the commissioner with respect to the council. In addition to the functions, powers and duties otherwise provided by this section and article seven-A of the general business law, the commissioner shall, upon the recommendation and with the general advice of the council:

1. prescribe minimum requirements for the eight hours of pre-assignment training; the on-the-job training program to be completed within ninety working days following employment as a security guard; the forty-seven hours of firearms training for a special armed guard registration card; the eight hour annual in-service training course; and the eight hour in-service training course for armed security guards;

2. approve and certify security guard training schools, programs and courses which meet or exceed the minimum requirements prescribed pursuant to subdivision one of this section and issue certificates of approval to such schools, and revoke such approval or certificate provided, however, that the commissioner may permit any such school, program or course in existence on the effective date of this section, to remain in effect for a period of one year following the effective date;

3. certify, as qualified, instructors of security guards and issue appropriate certificates to such instructors;

4. certify security guards or applicants who have satisfactorily completed basic training programs and issue appropriate certificates to such security guards or applicants;

5. cause studies and surveys to be made relating to the establishment, operation and approval of security guard training schools and training programs;

6. consult with and cooperate with approved security guard training schools and programs for the development of advanced in-service training programs for security guards and issue appropriate certificates to security guards, attesting to their satisfactory completion of such advanced training programs;

7. consult with and cooperate with universities, colleges and institutes in the state for the development of specialized courses of study for security guards;

8. consult with and cooperate with other departments and agencies of the state concerned with security guard training;

9. consult with, cooperate with and provide technical assistance to the council and to the department of state on matters concerning security guards;

10. report to the council at each regular meeting of the council and at other such times as may be appropriate;

11. waive the training requirements as specified in article seven-A of the general business law with respect to applicants employed by a security guard company, if the security guard applicant provides appropriate documentation to demonstrate that he or she was or is subject to training requirements which meet or exceed the requirements established pursuant to such article;

12. waive the training requirements as specified in article seven-A of the general business law with respect to applicants employed by a

security guard company on a proprietary basis for its own use when such company presents adequate documentation that such training is not directly relevant to the applicant's job responsibilities and such applicant does not, in the course of their employment duties:

(a) wear a uniform or other readily apparent indicia of authority; or

(b) as a requisite of employment, carry a gun, and

(c) have interactions with the public or expend a majority of the time spent in their employment duties in contract with the public; and

13. in consultation with the council, adopt and promulgate any rules and regulations necessary to implement the provisions of this section and sections eight hundred forty-one-a and eight hundred forty-one-b of this article and or article seven-A of the general business law.

§ 841-d. Saving clause. In case it be judicially determined that any phrase, clause, part, paragraph or section of any of the provisions of section eight hundred forty-one-a, eight hundred forty-one-b, or eight hundred forty-one-c of this article is unconstitutional or otherwise invalid, such determination shall not affect the validity or effect of the remaining provisions of the aforementioned sections.

§ 842. Council rules and regulations promulgated by governor. The governor, in his discretion, may adopt and promulgate any or all of the rules and regulations recommended by the council to the governor pursuant to subdivision one of section eight hundred forty. When the governor promulgates any rule or regulation recommended by the council, he shall transmit a certified copy thereof to the secretary of state, in accordance with the requirements of subdivision one of section one hundred two, including a statement as to the effective date of such rules or regulations.

§ 843. Division homepage on the internet. 1. Definitions. For the purposes of this section the following terms shall have the following meanings:

(a) "Internet" shall mean an international computer network of both federal and non-federal interoperable packet switched data networks which users may access through a service provider.

(b) "Homepage" shall mean an individual site or address of a document or file where particular information can be located.

2. The commissioner shall construct, operate and maintain a homepage on the internet for the purpose of providing a mechanism for the wide dissemination of information relating to criminal justice issues.

3. The homepage directed to be created by this section shall include pictures and such other information as the commissioner deems necessary pertaining to missing children who resided in New York at the time of their disappearance or whose parent, parents or legal guardian currently reside in New York state.

4. Such homepage shall also contain pictures and information regarding the ten most wanted criminals in New York state as determined by the superintendent of state police.

5. Such homepage shall also contain the subdirectory maintained pursuant to section one hundred sixty-eight-q of the correction law.

6. The commissioner shall promulgate rules and regulations necessary to carry out the provisions of this section. Such rules and regulations shall include procedures for determining whether issues of confidentiality or constitutionality exist with regard to any information proposed to be included on the homepage created by the division. Where there is a question as to whether the dissemination of certain information by the state would be a violation of confidentiality or of an individual's constitutional rights, such information shall not be included on the division's homepage.

§ 844-b. New York state committee for the coordination of police services to elderly persons. 1. Establishment of the committee. There is hereby established within the division the "New York state committee for

the coordination of police services to elderly persons", hereinafter the "committee".

2. Membership of committee. (a) The committee shall consist of a representative of the commissioner, representative of the superintendent of the New York state police, two representatives of the New York state sheriffs association, two representatives of the New York state association of chiefs of police, two representatives of the New York state district attorneys' association, a representative of the attorney general, a representative of the director of the office of victim services, a representative of the director of the state office for the aging, a representative of the commissioner of social services, a representative of the commissioner of the New York city police department, a representative of the New York state crime prevention coalition and two elderly representatives one to be appointed by the temporary president of the senate and the other by the speaker of the assembly. The commissioner shall make appointments to the committee in accordance with nominations submitted by the relevant agencies or organizations. Each member of the committee shall be appointed by the commissioner to serve a two year term. Any member appointed by the commissioner may be reappointed for additional terms. Any vacancies shall be filled in the same manner as the original appointment and vacancies created otherwise than by expiration of term shall be filled for the remainder of that unexpired term.

(b) In the performance of its functions, the committee shall, to the extent possible, solicit the participation and involvement of retired law enforcement personnel.

(c) The representative of the commissioner and the superintendent of the state police shall serve as co-chairpersons of the committee.

(d) Membership of the committee shall not constitute the holding of a public office, and members of the committee shall not be required to take and file oaths of office before serving on the committee.

(e) The members of the committee shall receive no compensation for their services as members.

(f) No member of the committee shall be disqualified from holding any public office or employment, nor shall any member forfeit any employment or office by reason of his or her membership on the committee.

(g) The committee shall meet as often as deemed necessary, but in no event less than two times per year.

3. Duties and responsibilities. The committee shall advise the division, the state police, county sheriffs and other local law enforcement agencies, and senior advocates chosen in consultation with the state office for the aging, in the study and evaluation of effective responses, including "Triad Programs," to the problems of crime against elderly persons. The committee may also consult with experts, service providers and representative organizations engaged in the protection of the elderly and may recommend the development of programs, including "Triad Programs", in the state of New York to assist the elderly to avoid criminal victimization through the coordinated efforts of state and local law enforcement agencies and organizations which provide services for the elderly. The committee may also recommend policies and programs to assist law enforcement agencies to implement such programs, including training and prevention standards and technical assistance. Such recommendations may include the following:

(a) the establishment of statewide and central clearinghouse for information and education materials;

(b) the development of innovative community police programs for the elderly;

(c) providing assistance to the municipal police training council in the development and delivery of training to law enforcement professionals involved in the "Triad Programs" including, but not limited to, the subjects of:

(i) crimes against the elderly and the protection of elderly persons;

(ii) police sensitivity to the needs of elderly persons as victims and witnesses;

(iii) social and human services;

(d) providing assistance to state and local law enforcement officials and to not-for-profit corporations, organizations with respect to effective policies and responses to crimes against elderly persons;

(e) promoting and facilitating cooperation among state agencies and local units of government;

(f) effective advocacy of services to protect elderly persons and elderly victims of crime;

(g) evaluating the relationship between crimes against elderly persons and other problems confronting elderly persons, and making recommendations for effective policy response;

(h) the collection of statistical data and research; and

(i) rules and regulations as may be necessary to carry out the purposes of this section.

3-a. Reports. On or before March first, nineteen hundred ninety-eight and annually thereafter the committee shall report to the temporary president of the senate, the speaker of the assembly, the chair of the assembly committee on aging and the chair of the senate committee on aging, on the incidence of reports of abuse of elderly persons. Such report shall consist of information from reports forwarded to the committee by local law enforcement agencies pursuant to section 140.10 of the criminal procedure law including number of reported incidents, ages of victims and alleged offenders, circumstances of the incident whether arrests were made and the sentence, if any, of the offenders. Such report shall also recommend policies and programs to aid law enforcement agencies, the courts and the New York state office of victim services in efforts to assist elder victims of domestic violence. The report shall also include recommendations designed to assist law enforcement agencies in implementing "Triad Programs".

4. Definition. As used in this section, the term "Triad Program" shall mean the triad cooperative model developed by the American Association of retired Persons, the National Sheriffs' Association and the International Association of Chiefs of Police which calls for the participation of the sheriff, at least one police chief, and a representative of at least one senior citizens' organization within a county and may include participation by general service coalitions of law enforcement, victim service, and senior citizen advocate organizations.

If there is not both a sheriff and a police chief in a county or if the sheriff or a police chief do not participate, a Triad may include in the place of the sheriff or police chief another key law enforcement official in the county such as a district attorney.

§ 845. Central state registry of police officers and peace officers. 1. The division shall collect information to maintain, on a current basis, a registry of all police officers and peace officers in the state. Such registry shall contain, with respect to each officer, his or her name, date of birth, social security number, rank or title, employer, and date of successful completion of training required by section 2.30 of the criminal procedure law and section two hundred nine-q of the general municipal law.

2. (a) Each head of a state or local agency, unit of local government, state or local commission, public authority or other organization which employs police officers or peace officers shall transmit to the division, no later than the fifteenth day of January annually, and in a form and manner prescribed by the division, a list containing the name of every police officer or peace officer employed by his or her agency, government, commission, authority or organization indicating with respect to each officer his or her date of birth, social security number, rank or title, employer, and whether he is employed full-time or part-time. In addition to such annual list, each such head, whenever officers have been newly appointed or have ceased to serve, shall immediately transmit to the division, in a form and manner prescribed by the division, a list containing the names of such officers which, in the instance of new appointees, shall include all the information required to be furnished in the annual listing.

(b) Whenever officers have ceased to serve, each such head shall immediately transmit to the division, in a form and manner prescribed by the division, notification that any such officer has ceased to serve due to a leave of absence, resignation, removal, removal for cause, or removal during a probationary period.

3. (a) The division shall establish rules and regulations to provide for a permanent system of identification for each police and peace officer, which shall include procedures for updating the registry upon an officer's failure to complete required training within the time limitations established in law or regulation.

(b) Such rules and regulations shall also establish procedures, in accordance with the state administrative procedure act, for a process as described in this paragraph. When it shall appear to the commissioner or the commissioner's designee that a notification of the reason such an officer ceased to serve, received by the commissioner pursuant to paragraph (b) of subdivision two of this section, is inaccurate in a material respect, the commissioner shall attempt to resolve such discrepancy by contacting the head of the office that submitted such notification. If such informal efforts do not resolve the discrepancy promptly, the commissioner may issue a notice to such head and the officer who is the subject of such notification of an inquiry into the accuracy of such record. After notice and an opportunity for each to be heard, if the commissioner finds such record to be inaccurate with respect to such matter in a material respect, the commissioner shall provide notice of such determination to each of them and, pursuant to such determination, may correct such record. The commissioner shall maintain a clear documentary record of both the original record and the correction made.

4. Upon the failure or refusal to comply with the requirements of subdivision two of this section, the commissioner may apply to the supreme court for an order directed to the person responsible requiring compliance. Upon such application the court may issue such order as may be just, and a failure to comply with the order of the court shall be a contempt of court and punishable as such.

5. The division shall cooperate with the division of state police in making the information in the central registry of police and peace officers available for the purpose of verifying transactions involving firearms.

§ 845-a. Presentment of flags lowered to half-staff in memorial of the death of any police officer or peace officer. In the event the governor orders the flags of the United States and the State of New York to be lowered to half-staff, in memorial of the death of any police officer or peace officer identified in the central state registry of police

officers and peace officers established pursuant to section eight hundred forty-five of this article, the commissioner shall, in cooperation with the office of general services, arrange for the procurement of a flag of the United States and a flag of the State of New York, which were flying over the capitol building at the time such flags were lowered to half-staff in compliance with the governor's order. Upon the procurement of such flags, the commissioner, or his or her representative, shall offer the presentment of such flags, without cost, to the person designated to dispose of the remains of the officer, in whose honor such flags were lowered in memorial.

§ 845-b. Requests for criminal history information. 1. Definitions. As used in this section:

(a) "Authorized agency" means a state agency authorized to check criminal history information pursuant to subdivision two of this section.

(b) "Authorized person" means the one individual designated by a provider who is authorized to request, receive and review criminal history information pursuant to this section, except that where the number of applications received by a provider is so great that one person cannot reasonably perform the functions of the authorized person, a provider may designate one or more additional persons to serve as authorized persons pursuant to this section.

(c) "Criminal history information" means a record of pending criminal charges, criminal convictions which are not vacated or reversed, and certificates filed pursuant to subdivision two of section seven hundred five of the correction law, and which the division is authorized to maintain pursuant to subdivision six of section eight hundred thirty-seven of this article. For the purposes of criminal history information checks authorized pursuant to article twenty-eight-E of the public health law, criminal history information shall also include information from the federal bureau of investigation as a result of a national criminal history record check.

(d) "Subject individual" means a person for whom a provider is authorized to request a check of criminal history information pursuant to subdivision two of this section.

(e) "Provider" means a person or entity authorized to request a check of criminal history information pursuant to subdivision two of this section.

2. Where a provider is authorized or required to request a check of criminal history information by an authorized agency pursuant to section 16.33 or 31.35 of the mental hygiene law, article twenty-eight-E of the public health law or subdivision one of section three hundred seventy-eight-a of the social services law, such provider shall proceed pursuant to the provisions of this section and in a manner consistent with the provisions of article twenty-three-A of the correction law, subdivisions fifteen and sixteen of section two hundred ninety-six of this chapter and all other applicable laws.

3. Procedures for criminal history information check requests by providers. (a) A provider authorized to request a check of criminal history information pursuant to subdivision two of this section shall designate one authorized person who shall request a check of criminal history information on behalf of such provider pursuant to this section and review the results of such check. Only such authorized person or his or her designee and the subject individual to whom such criminal history information relates shall have access to such information; provided, however, that criminal history information received by a provider may be disclosed to other persons who are directly participating in any decision in regard to such subject individual; and provided, further, that such other persons shall also be subject to the confidentiality requirements and all other provisions of this section. In the case of requests made pursuant to article twenty-eight-E of the public health law, only information authorized for disclosure under applicable federal laws shall be transmitted to the provider. Each provider shall specifically identify to the authorized agency in writing, in advance of disclosure, the authorized person and each other such agent or employee of the provider who is authorized to have access to the results of a check of criminal history information pursuant to this section. Any person who willfully permits the release of any confidential criminal history information contained in the report to persons not permitted by this section to receive such information shall be guilty of a

misdemeanor.

(b) A provider requesting a check of criminal history information pursuant to this section shall do so by completing a form established for such purpose by the authorized agency in consultation with the division. Such form shall include a sworn statement of the authorized person certifying that:

(i) the person for whose criminal history information a check is requested is a subject individual for whom criminal history information is available by law;

(ii) the specific duties which qualify the provider to request a check of criminal history information;

(iii) the results of such criminal history information check will be used by the provider solely for purposes authorized by law; and

(iv) the provider and its agents and employees are aware of and will abide by the confidentiality requirements and all other provisions of this article.

(c) A provider authorized to request a criminal history information check pursuant to this section may inquire of a subject individual in the manner authorized by subdivision sixteen of section two hundred ninety-six of this chapter. Prior to requesting such information, a provider shall:

(i) inform the subject individual in writing that the provider is authorized or, where applicable, required to request a check of his or her criminal history information and review the results of such check pursuant to this section;

(ii) inform the subject individual that he or she has the right to obtain, review and seek correction of his or her criminal history information under regulations and procedures established by the division;

(iii) obtain the signed, informed consent of the subject individual on a form supplied by the authorized agency which indicates that such person has:

A. been informed of the right and procedures necessary to obtain, review and seek correction of his or her criminal history information;

B. been informed of the reason for the request for his or her criminal

history information;

C. consented to such request for a report; and

D. supplied on the form a current mailing or home address.

Upon receiving such written consent, the provider shall receive or obtain two sets of fingerprints of such subject individual pursuant to such regulations as may be necessary to be established by the authorized agency in consultation with the division, and promptly transmit them to the authorized agency.

(d) A subject individual may withdraw his or her application for employment pursuant to this section, without prejudice, at any time before employment is offered or declined, regardless of whether the subject individual or provider has reviewed such subject individual's criminal history information.

4. Procedures for criminal history information checks by authorized agencies. (a) The authorized agency shall pay the processing fee imposed pursuant to subdivision eight-a of section eight hundred thirty-seven of this article, and in the case of the authorized agency pursuant to article twenty-eight-E of the public health law, any fee imposed by the federal bureau of investigation, and shall promptly submit the fingerprints and the processing fee to the division for its full search and retain processing, and in the case of the authorized agency pursuant to article twenty-eight-E of the public health law, the division shall immediately forward the fingerprints to the federal bureau of investigation for a national criminal history record check. The authorized agency may charge a provider a fee in amount no greater than the fee established pursuant to law by the division for processing such a criminal history information check, in such amounts as may be established by the authorized agency and approved by the director of the division of the budget, and in the case of the authorized agency pursuant to article twenty-eight-E of the public health law, a fee no greater than any fee imposed by the federal bureau of investigation. Nothing in this section shall prohibit the authorized agency or provider from claiming the cost of such fees and related costs, including

administrative costs, as a reimbursable cost under the medical assistance program, Medicare or other payor, to the extent permitted by state and federal law.

(b) The division shall promptly provide requested state criminal history information to the authorized agency and, in accordance with article twenty-eight-E of the public health law, the department of health is authorized also to receive criminal history information from the federal bureau of investigation, after the receipt of a request pursuant to this section if such request is:

(i) made pursuant to a request by an authorized person on behalf of a provider authorized to make such a request pursuant to subdivision two of this section;

(ii) accompanied by the completed form described in this section; and

(iii) accompanied by fingerprints of the subject individual obtained pursuant to this section.

(b-1) The division shall promptly forward a set of the subject individual's fingerprints to the federal bureau of investigation for the purpose of a nationwide criminal history record check to determine whether such applicant has been convicted of a criminal offense in any state or federal jurisdiction. The division shall forward the results of such nationwide search to the authorized agency in the same form and manner as the criminal history report created and provided by the division pursuant to this section.

(c) Criminal history information provided by the division pursuant to this section shall be furnished only by mail or other method of secure and confidential delivery, addressed to the authorized agency. Such information and the envelope in which it is enclosed, if any, shall be prominently marked "confidential", and shall at all times be maintained by the authorized agency in a secure place.

5. After reviewing any criminal history information provided by the division concerning a subject individual, the authorized agency shall take the following actions:

(a) Where the criminal history information concerning a subject individual reveals a felony conviction at any time for a sex offense, a felony conviction within the past ten years involving violence, or a conviction pursuant to section 260.00, 260.25, 260.32 or 260.34 of the

penal law, and in the case of criminal history information obtained pursuant to section twenty-eight hundred ninety-nine-a of the public health law, where the criminal history information concerning a subject individual reveals a conviction at any time of any class A felony; a conviction within the past ten years of any class B or C felony, any class D or E felony defined in article one hundred twenty, one hundred thirty, one hundred fifty-five, one hundred sixty, one hundred seventy-eight or two hundred twenty of the penal law; or any crime defined in section 260.32 or 260.34 of the penal law; or any comparable offense in any other jurisdiction, the authorized agency shall deny or disapprove the application for or renewal of the operating certificate, contract, approval, employment of the subject individual or other authorization to provide services, or direct the provider to deny employment, as applicable, unless the authorized agency determines, in its discretion, that approval of the application or renewal or employment will not in any way jeopardize the health, safety or welfare of the beneficiaries of such services.

(b) Where the criminal history information concerning a subject individual reveals a conviction for a crime other than one set forth in paragraph (a) of this subdivision, the authorized agency may deny the application or renewal, or direct the provider to deny employment of the subject individual, or approve or disapprove the prospective employee's eligibility for employment by the provider, consistent with article twenty-three-A of the correction law.

(c) Where the criminal history information concerning a subject individual reveals a charge for any felony, the authorized agency shall, and for any misdemeanor, the authorized agency may hold the application, renewal or employment in abeyance until the charge is finally resolved.

(d) Prior to making a determination to deny an application or renewal, or directing an employer to deny employment, the authorized agency shall afford the subject individual an opportunity to explain, in writing, why the application should not be denied.

(e) Upon receipt of criminal history information from the division, the authorized agency may request, and is entitled to receive, information pertaining to any crime identified in such criminal history information from any state or local law enforcement agency, district attorney, parole officer, probation officer or court for the purposes of

determining whether any ground relating to such crime exists for denying an application, renewal, or employment.

(f) The authorized agency shall thereafter promptly notify the provider concerning whether its check has revealed any criminal history information, and if so, what actions shall or may be taken by the authorized agency and the provider.

(g) Where the authorized agency denies the application for or renewal of an operating certificate, contract, approval or other authorization to provide services, or directs a provider to deny employment of the subject individual on account of the subject individual's criminal history information, the notification by the authorized agency shall include a summary of the criminal history information provided by the division.

(h) Where the authorized agency directs a provider to deny employment based on criminal history information, the provider must notify the subject individual that such information is the basis of the denial.

6. Upon request from an employee who has already been cleared for employment by an authorized agency and who subsequently leaves a particular employer and applies for employment with another, the authorizing agency shall adhere to its previous authorization when the criminal history information is unchanged and the circumstances of employment are substantially similar for the purposes of this section.

7. Any criminal history information provided by the division, and any summary of the criminal history information provided by the authorized agency to an employer pursuant to this section is confidential and shall not be available for public inspection; provided, however, nothing in this subdivision shall prevent an authorized agency or provider from disclosing criminal history information at any administrative or judicial proceeding relating to the denial or revocation of an application, employment, license or registration. Where the authorized agency denies the application for or renewal of an operating certificate, contract, approval or other authorization to provide services, or directs a provider to deny employment of the subject individual, the subject of the criminal history information check conducted pursuant to this section shall be entitled to receive, upon

written request, a copy of the summary of the criminal history information provided by the authorized agency to the provider.

8. A provider shall advise the authorized agency when a subject individual is no longer subject to such check. The authorized agency shall inform the division when a subject individual is no longer subject to such check so that the division may terminate its retain processing with regard to such individual. At least once a year, the authorized agency shall be required to conduct a validation of the records maintained by the division, including information obtained from the federal bureau of investigation pursuant to article twenty-eight-E of the public health law and provide such results to the authorized agency for purposes of updating the permanent record of such criminal history information results.

9. Provided that an authorized agency or a provider reasonably and in good faith complies with the provisions of this section, there shall be no criminal or civil liability on the part of and no cause of action for damages shall accrue against any authorized agency, provider or employee thereof on account of, arising out of or relating to criminal history information pursuant to this section, or any act or omission relating to criminal history information pursuant to this section.

10. Fingerprints received by the division pursuant to this section shall be used only to assist the division in providing criminal history information to authorized agencies under this section.

11. An authorized agency or provider authorized to request criminal history information pursuant to this section may temporarily approve an applicant while the results of the criminal history information check are pending, so long as such person does not have unsupervised physical contact with clients, as shall be defined by the authorized agency pursuant to regulation; provided however, that providers subject to the provisions of subdivision ten of section twenty-eight hundred ninety-nine-a of the public health law shall be subject to the supervision requirements provided therein. Such regulation shall recognize the differences in the staffing patterns of various service

models and the supervision required to ensure the safety of clients.

12. The authorized agency in consultation with the commissioner shall promulgate any rules and regulations necessary to implement the provisions of this section, which shall include convenient procedures for persons to promptly verify the accuracy of their criminal history information and, to the extent authorized by law, to have access to relevant documents related thereto.

§ 845-c. Criminal history record searches; undisposed cases. 1. When, pursuant to statute or the regulations of the division, the division conducts a search of its criminal history records and returns a report thereon, all references to undisposed cases contained in such criminal history record shall be excluded from such report.

2. For purposes of this section, "undisposed case" shall mean a criminal action or proceeding identified in the division's criminal history record repository, for which there is no record of an unexecuted warrant of arrest, superior court warrant of arrest, or bench warrant, and for which no record of conviction or imposition of sentence or other final disposition, other than the issuance of an apparently unexecuted warrant, has been recorded and with respect to which no entry has been made in the division's criminal history records for a period of at least five years preceding the issuance of such report. When a criminal action in the division's criminal history record repository becomes an undisposed case pursuant to this section, and the action involves class A charges, charges under article one hundred twenty-five of the penal law, or felony charges under article one hundred thirty of the penal law, the division shall notify the district attorney in the county which has jurisdiction. If the district attorney notifies the division that such case is pending and should not meet the definition of an undisposed case, the case shall not be excluded from such report. If the division does not receive a response from the district attorney within six months of providing notice, the case shall be excluded from such report.

3. The provisions of subdivision one of this section shall not apply

to criminal history record information: (a) provided by the division to qualified agencies pursuant to subdivision six of section eight hundred thirty-seven of this article, or to federal or state law enforcement agencies, for criminal justice purposes; (b) prepared solely for a bona fide research purpose; or (c) prepared for the internal record keeping or case management purposes of the division.

§ 845-d. Criminal record searches: reports for civil purposes. 1. When, pursuant to statute or the regulations of this division, the division conducts a search of its criminal history records for civil purposes, and returns a report therein, it shall only report any criminal convictions, and any criminal arrests and accompanying criminal actions which are pending.

2. The provisions of subdivision one of this section shall not apply to criminal history records: (a) provided by the division to qualified agencies as defined in subdivision nine of section eight hundred thirty-five of this article; (b) provided to federal or state law enforcement agencies; (c) prepared solely for a bona fide research purpose; or (d) prepared for the internal record keeping or case management purposes of the division.

3. Nothing in this section shall authorize the division to provide criminal history information that is not otherwise authorized by law or that is sealed pursuant to section 160.50, 160.55, 160.58 or 160.59 of the criminal procedure law.

4. Nothing in this section shall authorize the division to provide criminal history information that is sealed pursuant to section 160.57 of the criminal procedure law to an entity other than those authorized by such section to receive such information.

5. Except as otherwise required by law, every entity that receives criminal history information for civil purposes shall provide or ensure the provision of a copy of such criminal history information to every individual for whom such information is received with a copy of article

twenty-three-A of the correction law, and that such individual be informed of their right to seek correction of any incorrect information contained in such information pursuant to the regulations and procedures established by the division of criminal justice services.

§ 845-e. Commercial security tax credit program. 1. Definitions. For the purposes of this section:

(a) "Certificate of tax credit" means the document issued to a business entity by the division after the division has verified that the business entity has met all applicable eligibility criteria in subdivision two of this section. The certificate shall specify the exact amount of the tax credit under this section that a business entity may claim, pursuant to subdivision five of this section, and other information as required by the department of taxation and finance.

(b) "Qualified business" means a business with fifty or fewer total employees that operates one or more physical retail business locations open to the public in New York state that incurs costs related to protection against retail theft of goods through retail theft prevention measures.

(c) "Qualified retail theft prevention measure expenses" means any combination of retail theft prevention measure costs paid or incurred by a qualified business during the taxable year that cumulatively exceed four thousand dollars for a qualified business with twenty-five or fewer total employees or six thousand dollars for a qualified business with more than twenty-five employees for each New York retail location.

(d) "Retail theft prevention measure" means (i) the use of security officers as defined in paragraph (e) of this subdivision, (ii) security cameras, (iii) perimeter security lighting, (iv) interior or exterior locking or hardening measures, (v) alarm systems, (vi) access control systems, or (vii) other appropriate anti-theft devices as determined by the division to be eligible under this section.

(e) "Security officers" means security officers, registered under article seven-A of the general business law, responsible for the security and theft deterrence in a qualified business, whether employed directly by such business or indirectly through a contractor.

2. Eligibility criteria. To be eligible for a tax credit under the commercial security tax credit program, an eligible business must:

(a) be a qualified business required to file a tax return pursuant to articles nine, nine-A or twenty-two of the tax law;

(b) have qualified retail theft prevention measure expenses that exceed four thousand dollars for a qualified business with twenty-five or fewer total employees or six thousand dollars for a qualified business with more than twenty-five employees for each New York retail location during the taxable year;

(c) provide a certification in a manner and form prescribed by the commissioner that the business entity participates in a community anti-theft partnership as established by the division between businesses and relevant local law enforcement agencies; and

(d) may not owe past due state taxes or local property taxes unless the business entity is making payments and complying with an approved binding payment agreement entered into with the taxing authority.

3. Application and approval process. (a) A business entity must submit a complete application as prescribed by the commissioner by October thirty-first of each year.

(b) The commissioner shall establish procedures for business entities to submit applications. As part of the application, each business entity must:

(i) provide evidence of eligibility in a form and manner prescribed by the commissioner;

(ii) agree to allow the department of taxation and finance to share the business entity's tax information with the division. However, any information shared as a result of this program shall not be available for disclosure or inspection under the state freedom of information law pursuant to article six of the public officers law;

(iii) allow the division and its agents access to any and all books and records the division may require to confirm eligibility; and

(iv) agree to provide any additional information required by the division relevant to this section.

4. Certificate of tax credit. After reviewing a business entity's completed final application and determining that a business entity meets

the eligibility criteria as set forth in this section, the division may issue to that business entity a certificate of tax credit. All applications will be processed by the division in the order they are received and certificates of tax credit may be issued in amounts that, in the aggregate, do not exceed the annual cap as set forth in subdivision seven of this section.

5. Commercial security tax credit. (a) For taxable years beginning on or after January first, two thousand twenty-four and before January first, two thousand twenty-nine, a business entity in the commercial security tax credit program that meets the eligibility requirements of subdivision two of this section may be eligible to claim a credit equal to three thousand dollars for each retail location of the business entity located in New York state.

(b) A business entity may claim the tax credit in the taxable year that begins in the year for which it was allocated a credit by the division under this section.

(c) The credit shall be allowed as provided in section forty-nine, section one hundred eighty-seven-r, subdivision sixty of section two hundred ten-B and subsection (ppp) of section six hundred six of the tax law.

(d) The commissioner shall, in consultation with the department of taxation and finance, develop a certificate of tax credit that shall be issued by the commissioner to eligible businesses.

(e) The commissioner shall solely determine the eligibility of any applicant applying for entry into the program and shall remove any business entity from the program for failing to meet any of the requirements set forth in subdivision two and subdivision three of this section. In the event a business entity is removed from the program, the division shall notify the department of taxation and finance of such removal.

6. Maintenance of records. Each eligible business participating in the program shall keep all relevant records for the duration of their program participation for at least three years.

7. Cap on tax credit. The total amount of tax credits listed on

certificates of tax credit issued by the division pursuant to this section may not exceed five million dollars per calendar year.

*** § 846. Programs for the aging.** To provide that the interests of the elderly are sufficiently represented in the considerations of the local criminal justice coordinating councils, as may be formed pursuant to the federal omnibus crime control and safe streets act of nineteen hundred sixty-eight, as amended, such councils shall include at least one member who is a representative of persons aged sixty and over.

* NB There are 2 § 846's

*** § 846. Programs for the aging.** 1. The division, in consultation with the state office for the aging, shall take all necessary and appropriate measures to develop, plan, provide, and implement programs for the protection of persons aged sixty and over, hereafter referred to in this section as elderly persons, from situations and criminal acts which threaten their safety, security, and property, within the resources available to such agencies for such purposes.

2. Pursuant to the requirements of subdivision one of this section, the division, in consultation with the municipal police training council and the New York state committee for the coordination of police services for the elderly, shall develop an in-service training program, designed to address the problems associated with the investigation of crimes against elderly persons, and to reduce the criminal victimization of the elderly and issue an appropriate certificate to such officers attesting to their satisfactory completion of such special training program.

* NB There are 2 § 846's

ARTICLE 36

NEIGHBORHOOD PRESERVATION CRIME PREVENTION ACT

Section 846-a. Short title.
846-b. Definitions.
846-c. Contracts with companies.

846-d. Payments to companies for the performance of company activities.
846-e. Periodic review of contract performance; renegotiation and termination of contract.
846-f. Technical services and assistance to companies.
846-g. Rules and regulations to be promulgated by the commissioner.
846-h. Law enforcement agency accreditation council; membership; organization and procedure.

§ 846-a. Short title. This article shall be known and may be cited as the "neighborhood preservation crime prevention act".

§ 846-b. Definitions. As used in this article, the following words and phrases shall have the following meanings:

1. "Commissioner" shall mean the commissioner of the division of criminal justice services.

2. "Division" shall mean the division of criminal justice services.

3. "Municipality" shall mean any city, town or village, incorporated or unincorporated, within the state of New York.

4. "Company" shall mean any organization, incorporated or unincorporated, organized exclusively for a purpose or purposes, not for pecuniary profit or financial gain and no part of the assets, income or profit of which is distributable to, or inures to the benefit of, its members, directors (or their equivalent) or officers except to the extent permitted by law, and which is engaged in one or more of the company activities specified in subdivision five of this section.

5. "Company activities" shall mean activities of neighborhood preservation crime prevention, geared towards the heightened awareness and practice of community members in techniques stressing the reduction

of opportunities for crimes to occur and the increased possibility of police apprehension of criminals. Company activities should also seek to develop and strengthen a sense of neighborhood identity and a constructive attitude in that neighborhood. Activities may include, but not be limited to, tenant-lobby patrols, auto patrols, street-foot patrols, home and business security surveys, and dispersal of crime prevention literature and equipment; provided, however, that nothing contained herein shall be interpreted to authorize the possession, carrying, use or dissemination of firearms or other deadly weapons regardless of whether the appropriate license has been issued for such activity. Activities may also include the involvement of senior citizens and youth in escort services, auxiliary police services and the utilization of community outreach through publicity of approved anti-crime techniques. All activities must have prior approval from the division.

§ 846-c. Contracts with companies. 1. The commissioner may enter into contracts, either on his own initiative, or upon application of a company or the municipality having jurisdiction over such company, for the performance of company activities. Such contracts shall be entered into, however, only after appropriate findings by the commissioner, subject to the limitations hereinafter set forth.

2. Prior to entering into, renewing, extending or replacing a contract with a company, the commissioner shall have made a finding that said company which proposes to contract with the commissioner is a bona fide organization which shall have been in existence for at least one full year within a three year period immediately prior to application for funding. Its existence shall have been as a corporation or an unincorporated, organized group which has demonstrated by its activities that it has the ability to establish and maintain tenant-lobby, street-foot patrols, or auto patrols or other approved activities in the proposed neighborhood. The commissioner shall also find that the activities proposed are needed by the neighborhood and that the proposed activities utilize resident involvement to the fullest extent possible. A finding shall also be made as to the ability of the company to acquire

or gain access to the requisite staff, office facilities, and expertise to enable it to perform the activities which it proposes to undertake pursuant to said contract.

3. a. In determining whether to enter into, renew, extend or replace a contract with a company pursuant to this article, the commissioner shall investigate, to the extent deemed necessary or appropriate, and establish that:

(i) the geographic boundaries proposed by the applicant for such a contract define a recognized or established neighborhood or area within the municipality;

(ii) the activities proposed by the company are reasonably calculated to have a generally positive effect on the prevention of crime and on the reduction of the fear of crime within the neighborhood and are designed to provide additional and particular focus when necessary to address the needs of senior citizens with respect thereto;

(iii) the presence of the company within the neighborhood has not resulted in and will not result in a decrease in the crime prevention activities performed by existing police agencies in such neighborhood;

(iv) the company has coordinated and will continue to coordinate its activities with existing police agencies;

(v) the company's officers, directors and members represent the residents and the legitimate interests of the neighborhood, and they will carry out such a contract in a responsible manner;

(vi) a majority of the directors of the company are residents of the neighborhood;

(vii) the plan submitted by the company demonstrates that the company will recruit and utilize neighborhood volunteers and will, to the extent possible, acquire loaned or donated equipment for the performance of its activities;

(viii) the commissioner shall also find that the plan submitted by the company demonstrates that such company when hiring employees will give priority, to the extent possible, to residents of the neighborhood who are either unemployed or not fully employed.

b. Nothing contained within the contract shall impose liability upon the division or the community for injury incurred during the performance

of any approved activities.

4. Contracts entered into hereunder with companies shall be limited in duration to periods of one year, but may thereafter be renewed, extended, or succeeded by new contracts from year to year in the discretion of the commissioner for up to an aggregate of four additional years. Contract awards shall be limited in amount to the sum of sixty thousand dollars in a single year. Each company shall also define with particularity the neighborhood or portion thereof within which the company's activities shall be performed under such contract. The contract shall also set forth the company's obligations to provide training in approved crime prevention techniques, and in community relations, to those who shall perform crime prevention activities for the company.

5. Every such contract shall provide that the company shall maintain books, records and accounts deemed appropriate and open to review by the commissioner and that such accounts shall be currently maintained in conformance with generally accepted accounting principles and practices.

6. Nothing within this article shall preclude a municipality from applying to or contracting with the commissioner on behalf of qualifying auxiliary police services.

§ 846-d. Payments to companies for the performance of company activities. 1. Each contract entered into with a company shall provide for payment to such company for approved activities to be performed by it.

2. Payment to companies pursuant to this article shall be restricted to sums required for the payment of salaries and wages of employees, and for the purchase of necessary equipment for the execution of approved activities. Nothing contained herein shall be interpreted to authorize expenditures leading to the possession, utilization, carrying, or dissemination of firearms or other deadly weapons, regardless of whether the appropriate license has been issued for same. Qualifying equipment

expenditures may include, but shall not be limited to, locks and audio warning devices for use by financially needy, victim-prone residents, patrol vehicles (for the exclusive use of volunteers), radios, signs, gasoline, support services for crime victims, publicity and office supplies. Authorized expenditures may not include salaries of, or fees for, the hiring of private guards or charges for or expenses incurred for the use of vehicles for private guards.

3. Payments shall be made by the division to a company, not less frequently than quarter-annually to compensate such company for the company activities which it shall undertake to perform.

4. No company receiving payments from any other funds of the state for activities performed by it under the contract shall receive or be eligible to receive payments pursuant to this article. To the extent other state funds are received in violation of this subdivision payments otherwise due under this article shall be accordingly reduced.

§ 846-e. Periodic review of contract performance; renegotiation and termination of contract. The division shall, by regulation hereinafter promulgated, provide for the review, at periodic intervals, which shall as far as possible be coincidental with payment periods, of the performance of companies under their respective contracts with the commissioner. Such reviews shall, among other things, be for the purposes of ascertaining the quality and quantity of the company activities performed, the conformity thereof to contract provisions and the financial integrity and efficiency of the company. Contracts may be terminated by the commissioner upon a finding of substantial non-performance or other breach by the company, and contracts shall be modified and renegotiated, from time to time, in light of the actual performance, new or changed conditions, or otherwise.

§ 846-f. Technical services and assistance to companies. The division shall render to companies such technical services and assistance as it may possess or as may be available to it to enable such companies to

comply with the intent and provisions of this article. The division is authorized to take all steps necessary to encourage the formation, organization and growth of new companies. The division may also, contract with municipal and other public agencies and with private persons, firms and corporations for the provision of such technical services and assistance which may include: preparation and submission of proposals for entering into contracts with the commissioner by qualifying companies; preparation and submission of reports required under such contracts or regulations issued by the commissioner by qualifying companies; internal organization and management of the companies; recruitment and training of personnel of the companies; preparation of plans and projects, negotiation of agreements and compliance with requirements of programs in which companies may become engaged in the course of their company activities; and other technical advice or assistance relating to the performance or rendition of company activities.

§ 846-g. Rules and regulations to be promulgated by the commissioner. The commissioner shall issue and promulgate rules and regulations for the administration of this article, which shall include provisions concerning requirements as to eligibility for contracting with the commissioner; the form of applications for contracts; supervision and evaluation of companies; reporting, budgeting and record keeping requirements; provisions for renegotiation, modification, termination, extension and renewal of contracts; provisions for technical services and assistance to companies and such other matters not inconsistent with the purposes and provisions of this article as the commissioner shall deem necessary, proper or appropriate. The division shall cooperate with all applicants for funding as set forth in this article.

§ 846-h. Law enforcement agency accreditation council; membership; organization and procedure. 1. (a) There shall be, within the division, a law enforcement agency accreditation council.

(b) The council shall develop model standards for law enforcement agencies. Such standards shall be designed:

(i) To increase the effectiveness and efficiency of law enforcement agencies in the delivery of law enforcement services utilizing existing personnel, equipment and facilities to the extent possible;

(ii) To promote increased cooperation and coordination among law enforcement agencies and other agencies of the criminal justice system;

(iii) To ensure the appropriate training of law enforcement personnel, not inconsistent with other provisions of law; and

(iv) To promote public confidence in law enforcement agencies.

(c) The council shall recommend rules and regulations establishing an accreditation process that encourages and provides law enforcement agencies with a voluntary opportunity to demonstrate that they meet the model standards developed by the council. The accreditation process shall provide that applications for accreditation shall be submitted by the chief law enforcement officer of the agency so applying only upon the approval of the chief elected officer, or if there is no chief elected officer, by the local governing body. Such model standards and rules and regulations shall be transmitted to the temporary president of the senate, the speaker of the assembly, every law enforcement agency, mayor and appropriate town and county official in the state on or before April first, nineteen hundred eighty-nine. The rules and regulations in final form shall be transmitted to the governor on or after June first, nineteen hundred eighty-nine and shall be effective following their approval by the governor.

(d) The council shall create a mandatory certification process for agencies employing police officers, as defined in paragraphs (b), (c), (d), (e), (f), (j), (k), (l), (o), (p), (s) and (u) of subdivision thirty-four of section 1.20 of the criminal procedure law. Such certification process shall include the promulgation of mandatory standards for hiring practices, which shall incorporate the rules and regulations promulgated by the municipal police training council pursuant to subdivisions two and two-b of section eight hundred forty of this chapter, as well as the reporting requirements under subdivision two of section eight hundred forty-five of this chapter and subdivision five of section seventy-five of this chapter, as may be applicable to such agencies and their personnel.

(e) The council may, on its own or upon referral from the commissioner, revoke or withhold the granting of the certification under

paragraph (d) of this subdivision for an agency that fails to adhere to the mandatory standards for hiring practices or reporting requirements of such paragraph.

2. (a) The law enforcement agency accreditation council shall consist of:

(i) Two incumbent sheriffs of the state;

(ii) Two incumbent chiefs of police;

(iii) One incumbent deputy sheriff;

(iv) One incumbent police officer;

(v) The superintendent of state police;

(vi) The commissioner of police of the city of New York;

(vii) One incumbent chief executive officer of a county of the state;

(viii) One incumbent mayor of a city or village of the state;

(ix) One incumbent chief executive officer of a town of the state;

(x) One member of a statewide labor organization representing police officers as that term is defined in subdivision thirty-four of section 1.20 of the criminal procedure law;

(xi) One full-time faculty member of a college or university who teaches in the area of criminal justice or police science;

(xii) Two members appointed pursuant to subparagraph (ix) of paragraph (c) of this subdivision;

(xiii) One incumbent chief of police or commissioner of police from a municipality in the state with a police department consisting of more than one hundred officers;

(xiv) One incumbent sheriff in the state from an agency with more than one hundred deputy sheriffs;

(xv) One representative of victims of crime; and

(xvi) One representative from a community with high numbers of police an community interactions.

(b) With the exception of the superintendent of state police and the commissioner of police of the city of New York, each member of the council shall be appointed by the governor to serve a two-year term. Any member appointed by the governor may be reappointed for additional terms.

(c) The governor shall make appointments to the council as follows:

(i) Each member who is an incumbent sheriff of the state shall be

chosen from a list of two eligible persons submitted by the New York state sheriffs' association;

(ii) Each member who is an incumbent chief of police shall be chosen from a list of two eligible persons submitted by the New York state association of chiefs of police;

(iii) The member who is an incumbent deputy sheriff shall be chosen from a list of two eligible persons submitted jointly by the New York state sheriffs' association and the New York state deputy sheriffs' association, inc.;

(iv) The member who is an incumbent police officer shall be chosen from a list of two eligible persons submitted jointly by the New York state association of chiefs of police and a statewide labor organization representing police officers as that term is defined in subdivision thirty-four of section 1.20 of the criminal procedure law;

(v) The member who is an incumbent chief executive officer of a county of the state shall be chosen from a list of two eligible persons submitted by the New York state association of counties;

(vi) The member who is an incumbent mayor of a city or village of the state shall be chosen from a list of two eligible persons submitted by the New York state conference of mayors;

(vii) The member who is an incumbent chief executive officer of a town of the state shall be chosen from a list of two eligible persons submitted by the association of towns of the state of New York;

(viii) The governor may appoint any eligible person to be a member who is an active member of a statewide labor organization representing police officers;

(ix) The temporary president of the senate and the speaker of the assembly shall each nominate one member as provided in subparagraph (xii) of paragraph (a) of this subdivision; and

(x) the members who are listed in subparagraphs (xiii), (xiv), (xv), and (xvi) of paragraph (a) of this subdivision shall be appointed by the governor.

(d) In making such appointments, the governor shall select individuals from municipalities that are representative, to the extent possible, of the varying sizes of communities and law enforcement agencies in the state.

(e) Any member chosen to fill a vacancy, including a vacancy in the

chairperson, created otherwise than by expiration of term shall be appointed by the governor for the unexpired term of the member he is to succeed. Any such vacancy shall be filled in the same manner as the original appointment.

(f) Any member who shall cease to hold the position which qualified him for such appointment shall cease to be a member of the council.

3. Each member of the council shall have one vote, which shall not be transferrable; provided, however, that the superintendent of state police may designate a deputy superintendent to attend meetings as his representative and cast his vote and the commissioner of police of the city of New York may designate his first deputy commissioner, chief of department or one of the five bureau chiefs to attend meetings as his representative and cast his vote.

4. The governor shall designate from among the members of the council a chairperson who shall serve at the pleasure of the governor. During a vacancy of the chairperson the commissioner of the division of criminal justice services shall serve as the temporary chairperson.

5. The law enforcement agency accreditation council shall meet at least four times in a year. Special meetings may be called by the chairperson and shall be called by him at the request of the governor or upon the written request of ten members of the council. The council may establish its own quorum rules and procedures with respect to the conduct of its meetings and other affairs not inconsistent with law; provided, however, that recommendations made by the council in accordance with paragraph (c) of subdivision one of this section, or the mandatory standards for hiring practices promulgated in accordance with paragraph (d) of subdivision one of this section shall require the affirmative vote of ten members of the council.

6. Membership on the law enforcement agency accreditation council shall not constitute the holding of a public office, and members of the council shall not be required to take and file oaths of office before serving on the council.

7. The members of the law enforcement agency accreditation council shall receive no compensation for their services but shall be allowed their actual and necessary expenses incurred in the performance of their functions hereunder.

8. No member of the law enforcement agency accreditation council shall be disqualified from holding any public office or employment, nor shall he forfeit any such office or employment, by reason of his appointment hereunder.

9. For the purposes of this section, the following terms shall have the following meanings:

(a) The term "law enforcement agency" shall mean any agency or department of any municipality, any police district, or any agency, department, commission, authority or public benefit corporation of the state of New York employing a police officer or police officers as that term is defined in paragraphs (a), (b), (c), (d), (e), (f), (j), (k), (l), (o), (p), (s), and (u) of subdivision thirty-four of section 1.20 of the criminal procedure law.

(b) The term "chief of police" shall mean a chief of police, commissioner of police, or other official having equivalent cognizance, jurisdiction, supervision and control of a police department of a municipality of the state.

(c) The term "deputy sheriff" shall mean a deputy sheriff employed by the sheriff's department of any county outside the city of New York who has police officer status as defined in subdivision thirty-four of section 1.20 of the criminal procedure law.

(d) The term "police officer" shall mean a police officer as defined in subdivision thirty-four of section 1.20 of the criminal procedure law.

10. On or before January first, nineteen hundred ninety, and on or before January first of each succeeding year, the commissioner shall report to the governor, temporary president of the senate and speaker of the assembly on the operation and results of the accreditation program. Such report shall identify these law enforcement agencies making application for accreditation, the agencies so accredited, and the

fiscal impact on law enforcement agencies that have been accredited.

ARTICLE 36-A

NEW YORK MOTOR VEHICLE THEFT AND INSURANCE FRAUD PREVENTION PROGRAM

Section 846-i. Short title.
846-j. Legislative findings.
846-k. Definitions.
846-l. New York motor vehicle theft and insurance fraud prevention board.
846-m. Plan of operation and grant award process.

§ 846-i. Short title. This article shall be known and cited as the "New York motor vehicle theft and insurance fraud prevention demonstration program".

§ 846-j. Legislative findings. Motor vehicle theft and motor vehicle insurance fraud is a major problem in this state costing honest motor vehicle policyholders billions of dollars annually. As the cost of motor vehicle insurance continues to rise, this essential coverage has become less affordable and more out of reach for many New Yorkers. Between nineteen hundred eighty-five and nineteen hundred ninety-two, New York has seen over a fifty percent increase in the number of motor vehicle thefts. Over one hundred sixty thousand motor vehicles are stolen annually in this state at a cost of over seven hundred million dollars. Between nineteen hundred eighty-six and nineteen hundred ninety-two, New York has also seen a one hundred sixty-six percent increase in the number of reported fraudulent claims; estimates have put the cost to policyholders for fraudulent activities at ten percent of premiums paid. The legislature acknowledges a direct relationship between the incidence of motor vehicle theft, motor vehicle insurance fraud and the cost of motor vehicle insurance premium rates. The legislature finds, therefor, that to reduce the overall cost of motor vehicle insurance in this state, measures must be enacted which specifically address the incidence of motor vehicle theft and motor vehicle insurance fraud. This

legislation creates the motor vehicle theft and insurance fraud prevention demonstration program, the goals of which are as follows: to provide an integrated means to prevent, deter and reduce the incidence of motor vehicle theft and motor vehicle insurance fraud by developing and providing funding for demonstration programs which include education on motor vehicle theft and insurance fraud prevention, programs on motor vehicle theft and insurance fraud prevention and specialized law enforcement units to combat motor vehicle theft and insurance fraud.

§ 846-k. Definitions. As used in this article, the following terms shall have the following meanings:

1. "Board" means the New York motor vehicle theft and insurance fraud prevention board.

2. "Fee" means the motor vehicle theft and insurance fraud prevention fee established pursuant to section nine thousand one hundred ten of the insurance law.

3. "Fund" means the motor vehicle theft and insurance fraud prevention fund established pursuant to section eighty-nine-d of the state finance law.

4. "Program" means the New York motor vehicle theft and insurance fraud prevention demonstration program.

5. "Provider agency" means a locality, governmental agency, or not-for-profit organization of any character that provides one or more motor vehicle theft or insurance fraud prevention or driver safety activities in accordance with a plan approved by the board.

6. "Motor vehicle" shall be defined as in section one hundred twenty-five of the vehicle and traffic law, except that it shall also include trailers, semi-trailers and tractors other than tractors used exclusively for agricultural purposes, and shall exclude fire and police vehicles, farm equipment, including self-propelled machines used

exclusively in growing, harvesting or handling farm produce, tractors used exclusively for agricultural purposes, or for snow plowing other than for hire, and self-propelled caterpillar or crawler-type equipment while being operated on the contract site.

§ 846-l. New York motor vehicle theft and insurance fraud prevention board. 1. There is hereby created in the division of criminal justice services the New York motor vehicle theft and insurance fraud prevention board (hereinafter "board"), which shall consist of the following members:

(a) The commissioner of criminal justice services (hereinafter "commissioner"), or his designee, who shall serve as the voting chairperson of the board;

(b) Three voting members appointed by the governor on the recommendation of the speaker of the assembly provided, however, that no more than two such appointments made pursuant to this paragraph shall be from the same category of members as provided for in subdivision two of this section.

(c) Three voting members appointed by the governor on the recommendation of the temporary president of the senate provided, however, that no more than two such appointments made pursuant to this paragraph shall be from the same category of members as provided for in subdivision two of this section; and

(d) Five voting members appointed by the governor provided, however, that no more than two such appointments made pursuant to this paragraph shall be from the same category of members as provided for in subdivision two of this section.

2. The members of the board appointed on the recommendation of the speaker of the assembly and the temporary president of the senate, and the members of the board appointed by the governor pursuant to paragraph (d) of subdivision one of this section, shall be representative of consumers of motor vehicle insurance, motor vehicle insurance companies, law enforcement agencies and the judicial system. The appointments shall be made not later than one hundred eighty days after the date on which this section shall have become law. Members of the board who are not

public officials shall serve for a term of four years. Members of the board shall serve without compensation, except that members of the board who are not public officials shall be entitled to receive reasonable reimbursement for expenses incurred by them in performance of their duties as members of the board. A majority of the members of the board shall constitute a quorum for the transaction of business at a meeting. Action may be taken by the board at a meeting upon a vote of the majority of its members present. Every member of the board shall be entitled to designate a representative to attend, in his or her place, a meeting of the board and to vote or otherwise act in his or her behalf, provided, however, that a member may not designate such a representative more than once each year. Written notice of such designation shall be furnished to the board by the designating member prior to any meeting attended by his or her representative. Any such representative shall serve at the pleasure of the designating member. No such representative shall be authorized to delegate any of his or her duties or functions to any other person. The board shall meet at least four times each year, and at other times at the call of the chairperson or upon the written request of two-thirds of the members of the board.

3. The commissioner shall, pursuant to the recommendation of the board, have the power and duty to:

(a) Make, execute, and deliver contracts, conveyances, and other instruments necessary to effect the purposes and objectives of the program;

(b) Accept any grant, including federal grants, or any other contributions for the purposes of the program. Any moneys so received shall be expended by the commissioner for the program's purposes, pursuant to appropriation and subject to the applicable provisions of the state finance law;

(c) Make grants pursuant to a request for proposals process;

(d) Appoint such employees and agents as the commissioner may deem necessary, fix their compensation within the limitations provided by law, and prescribe their duties;

(e) Request from the division of state police, from county or municipal police departments and agencies, from the department of financial services, from the department of motor vehicles, from the

office of court administration, from any other state department or agency or public authority, or from any insurer which offers motor vehicle insurance such assistance and data as are useful for the purposes and objectives of the program;

(f) Cooperate with and assist political subdivisions of the state in the development of local programs to prevent motor vehicle theft and insurance fraud;

(g) Advise and assist the superintendent of financial services pursuant to section two thousand three hundred forty-eight of the insurance law; and

(h) Submit, no later than February fifteenth of each year to the governor and the chairperson of the senate finance committee and the chairperson of the assembly ways and means committee, a written report on the board's activities, the activities of grant recipients, the results achieved by the grant recipients in improving the detection, prevention or reduction of motor vehicle theft and insurance fraud and the impact such efforts may have on motor vehicle insurance rates.

§ 846-m. Plan of operation and grant award process. 1. In accordance with the legislative intent of this article, the board shall develop and recommend to the commissioner a plan of operation which shall provide for a coordinated approach to curtailing motor vehicle theft and motor vehicle insurance fraud throughout the state. The plan shall provide an integrated means to detect, prevent, deter and reduce motor vehicle theft and motor vehicle insurance fraud by providing funds, upon the recommendation of the board and approved by the commissioner, to meet these objectives. The plan of operation shall include but not be limited to: an assessment of the scope of the problem of motor vehicle theft and motor vehicle insurance fraud, including a regional analysis of the incidence of motor vehicle theft and motor vehicle insurance fraud and related activities; an analysis of various methods of combating the problem; and the development of a request for proposals process, consistent with the plan, for applications from provider agencies to receive grants from the fund.

2. (a) The moneys received by the fund shall be expended in a manner

that is consistent with the plan of operation, pursuant to appropriation, only to reimburse costs incurred by provider agencies for pilot program activities relating to the detection, prevention or reduction of motor vehicle theft and motor vehicle insurance fraud.

(b) Activities eligible for funding include, but are not limited to, the following: prosecution and adjudication services; law enforcement services; neighborhood or community based programs designed to reduce the incidence of motor vehicle theft and motor vehicle insurance fraud; educational programs designed to inform owners of motor vehicles concerning activities designed to prevent the incidence of theft of motor vehicles and fraudulent claims practices; and programs designed to examine, evaluate and make recommendations relating to the efficacy of motor vehicle theft prevention devices or methods including, but not limited to, passive tracking devices designed to identify the location of a motor vehicle at any given point in time and window glass etching with vehicle identification numbers or any other unique identifying symbol including decal programs such as New York city's operation combat auto theft (C.A.T.). Funds provided under this program shall be used to augment, and not to supplant, the provider agency's current funding, if any, for motor vehicle theft and insurance fraud detection, prevention, or reduction activities.

(c) In allocating the moneys for the program, the commissioner, upon recommendation of the board, shall, to the greatest extent possible, take into account the geographic incidence of motor vehicle theft and insurance fraud, whereby localities with the greatest incidence of motor vehicle theft and insurance fraud shall be targeted for the purposes of this program.

(d) The state comptroller shall conduct an audit of all moneys received and expended by the fund as well as all other funds expended from any other source for the purposes of this program, and shall submit a written report detailing such audit to the governor and legislature on or before March first of each year.

ARTICLE 37

TUG HILL COMMISSION

Section 847-a. Statement of legislative findings and purpose.

847-b. Tug Hill commission; continuation.
847-c. Tug Hill commission powers and duties.
847-d. Compensation.
847-e. Reports.
847-f. Commission staff; benefits.

§ 847-a. Statement of legislative findings and purpose. The legislature hereby finds that for approximately twenty-five years, the Tug Hill commission has provided essential planning and technical services to the sixty-two local governments and to residents in the twenty-one hundred square mile Tug Hill region.

The legislature further finds that, lying between Lake Ontario, the Black River and Oneida Lake, is a region of approximately twenty-one hundred square miles that encompasses towns and villages scattered in a vast acreage of forest and farm land. The core of the region encompasses more than eight hundred square miles of remote forest land and the headwaters of several major rivers, with much of the area inaccessible by public road. These lands and waters are important to the state of New York as municipal water supply, as wildlife and plant habitat, as key resources supporting forest industry, farming, recreation and tourism and traditional land uses such as hunting and fishing. State assistance through the Tug Hill commission to help Tug Hill local governments and organizations is merited and needed because of the importance of these resources to the state, and because of the small population and relative poverty of the region.

The legislature further finds that the Tug Hill commission, originally established in nineteen hundred seventy-two as a temporary state commission, has studied the Tug Hill region, provided technical assistance to the region's local governments and reported to the governor and legislature regarding the conservation and development of the Tug Hill region. The purpose of the commission is to enable local governments, private organizations, and individuals to shape the future of the Tug Hill region, and to demonstrate and communicate ways that this can be done by other rural areas. Commission programs are geared

toward the conservation and productive use of the natural resources of the region, strengthening of the long-term economy, employment, cultural and social resources, and the general well-being of the rural communities. The commission has facilitated local action as the most enduring and cost-effective method of retaining the rural and remote character of this land, and of retaining the independent way of life of its people and their economy.

The legislature finds that the Tug Hill commission's track record demonstrates its capability for working together with towns and villages for appropriate community and economic development and resource protection. Its continuation will enable municipalities to perform their basic local government functions.

It is the purpose of this article to insure continued municipal assistance, conservation, preservation and development in the region by continuing the Tug Hill commission, in order to serve those local government and regional needs, now and in the future.

§ 847-b. Tug Hill commission; continuation. There is hereby continued the Tug Hill commission, hereinafter referred to as the commission, to consist of nine members to be appointed as follows: three by the governor, three by the temporary president of the senate and three by the speaker of the assembly. All of the appointees of each such officer shall be residents of the Tug Hill region, which includes, in Jefferson county, the towns of Adams, Champion, Lorraine, Rodman, Rutland, Watertown and Worth; in Lewis county, the towns of Denmark, Harrisburg, Lewis, Leyden, Lowville, Martinsburg, Montague, Osceola, Pinckney, Turin and West Turin; in Oneida county, the towns of Annsville, Ava, Boonville, Camden, Florence, Floyd, Forestport, Lee, Remsen, Steuben, Trenton, Vienna and Western; and in Oswego county, the towns of Albion, Amboy, Boylston, Constantia, Hastings, Orwell, Parish, Redfield, West Monroe and Williamstown. At least two commissioners shall be selected from each of the four counties respectively. The commission shall choose from among its members a chairman, vice-chairman and secretary. The members of the Tug Hill commission serving on the effective date of this

article shall continue in office and shall be deemed and held to constitute the members of the Tug Hill commission until their terms expire on August first, nineteen hundred ninety-eight. Thereafter, the term of office of each member appointed shall be for five years. Each member shall hold office until a successor has been appointed and qualified. Vacancies in membership of the commission occurring from any cause shall be filled by the officer authorized to make the original appointment of the member whose office becomes vacant.

§ 847-c. Tug Hill commission powers and duties. The commission shall have the following powers and duties:

1. To adopt and use a seal; to sue and be sued; to appoint and remove officers, agents and employees and determine their qualifications, duties and compensation; to acquire, hold and dispose of personal property; to retain or employ counsel, private consultants, and independent contractors; to make and execute contracts and all other instruments necessary or convenient for the exercise of its powers and functions under this article.

2. To prepare, publish and disseminate information or reports to highlight for state agencies, local governments, and the general public issues, problems, and opportunities relevant to the Tug Hill region, in concert with state and federal agencies and others.

3. To stimulate action by public and private organizations on regionwide issues, problems and opportunities that affect the Tug Hill region, with primary emphasis on possible solutions at the local level and with attention to the ways in which information developed and experience gained in the Tug Hill region may be usefully shared elsewhere in New York state.

4. To request and receive from any department, division, office, board, bureau, commission, agency, or instrumentality of the state and from any political subdivision or agency thereof, such assistance and data as will enable it to conduct its studies and investigations

hereunder.

5. To assist local governments and other appropriate state and local organizations to plan and work for a positive future, and to do this, as far as possible, through intermunicipal cooperation and through technical assistance, including planning assistance, legal assistance, training, citizen education and participation assistance, and assistance in preparation of grant applications to other entities.

6. To serve a coordinating role in utilizing the capabilities of other organizations to carry out the duties prescribed in this section.

7. To establish a central clearinghouse for technical studies, which may be used by members of the public, local governments, and state agencies in addressing state and regionwide resource conservation and development issues.

8. To develop agreements with local, county, or regional agencies to provide staff services; through grants or contracts to help finance services for intermunicipal cooperation; to provide planning services in conjunction with county planning departments and regional planning boards, and to provide supplementary technical assistance and educational services through public or private groups.

9. To apply for and receive from the federal and state government and public and private agencies, funds to accomplish the purposes of the commission and to solicit, receive and utilize gifts and donations of any kind from any source.

10. To assist municipalities in preparing and adopting comprehensive planning programs, including appropriate laws, ordinances and codes.

11. To enter into agreements for the extension of its powers and duties to other local governments, in concert with local, state and federal agencies and others.

12. To lease and manage real property, solely for the purpose of

providing for the official offices of said commission.

§ 847-d. Compensation. The members of such commission shall receive no compensation for their services but shall be reimbursed for their expenses actually and necessarily incurred in the performance of their duties hereunder within the amount available therefor by appropriation. Notwithstanding any inconsistent provisions of law, general, special or local, no officer or employee of the state or of any civil division thereof, shall be deemed to have forfeited or shall forfeit his office or employment by reason of his or her acceptance of membership on such commission.

§ 847-e. Reports. The commission shall report on its progress in relation to its legislative purpose to the governor and to the legislature annually on or before the thirty-first day of March of each year. The commission shall also report every five years on the results of a survey of local officials throughout the Tug Hill region in regard to the effectiveness of commission programs.

§ 847-f. Commission staff; benefits. The Tug Hill commission staff shall be eligible for management/confidential benefits as are available in subdivision two of section eleven of chapter four hundred sixty of the laws of nineteen hundred eighty-two as amended.

ARTICLE 38

NATIONAL CRIME PREVENTION AND PRIVACY COMPACT

Section 850. Enactment of compact.

§ 850. Enactment of compact. The national crime prevention and privacy compact is hereby enacted into law and entered into with all other jurisdictions legally joining therein in the form substantially as follows:

The Contracting Parties agree to the following:

NATIONAL CRIME PREVENTION AND PRIVACY COMPACT

ARTICLE I. Definitions.
ARTICLE II. Purposes.
ARTICLE III. Responsibilities of compact parties.
ARTICLE IV. Authorized record disclosures.
ARTICLE V. Record request procedures.
ARTICLE VI. Establishment of compact council.
ARTICLE VII. Ratification of compact.
ARTICLE VIII. Miscellaneous provisions.
ARTICLE IX. Renunciation.
ARTICLE X. Severability.
ARTICLE XI. Adjudication of disputes.

OVERVIEW

(a) In general, this compact organizes an electronic information sharing system among the federal government and the states to exchange criminal history records for noncriminal justice purposes authorized by federal or state law, such as background checks for governmental licensing and employment.

(b) Under this compact, the FBI and the party states agree to maintain detailed databases of their respective criminal history records, including arrests and dispositions, and to make them available to the federal government and to party states for authorized purposes. The FBI shall also manage the federal data facilities that provide a significant part of the infrastructure for the system.

ARTICLE I--DEFINITIONS

As used in this compact:

(a) "Attorney general" means the attorney general of the United States.

(b) "Compact officer" means:

1. with respect to the federal government, an official so designated by the director of the FBI; and

2. with respect to a party state, the chief administrator of the

state's criminal history record repository or a designee of the chief administrator who is a regular full-time employee of the repository.

(c) "Council" means the compact council established under article VI.

(d) "Criminal history records":

1. means information collected by criminal justice agencies on individuals consisting of identifiable descriptions and notations of arrests, detentions, indictments, or other formal criminal charges, and any disposition arising therefrom, including acquittal, sentencing, correctional supervision, or release; and

2. does not include identification information such as fingerprint records if such information does not indicate involvement of the individual with the criminal justice system.

(e) "Criminal history record repository" means the state agency designated by the governor or other appropriate executive official or the legislature of a state to perform centralized recordkeeping functions for criminal history records and services in the state.

(f) "Criminal justice" includes activities relating to the detection, apprehension, detention, pretrial release, post-trial release, prosecution, adjudication, correctional supervision, or rehabilitation of accused persons or criminal offenders. The administration of criminal justice includes criminal identification activities and the collection, storage, and dissemination of criminal history records.

(g) "Criminal justice agency":

1. means:

a. courts; and

b. a governmental agency or any subunit thereof that:

(i) performs the administration of criminal justice pursuant to a statute or executive order; and

(ii) allocates a substantial part of its annual budget to the administration of criminal justice; and

2. includes federal and state inspectors general offices.

(h) "Criminal justice services" means services provided by the FBI to criminal justice agencies in response to a request for information about a particular individual or as an update to information previously provided for criminal justice purposes.

(i) "Criterion offense" means any felony or misdemeanor offense not included on the list of nonserious offenses published periodically by the FBI.

(j) "Direct access" means access to the national identification index by computer terminal or other automated means not requiring the assistance of or intervention by any other party or agency.

(k) "Executive order" means an order of the president of the United States or the chief executive officer of a state that has the force of law and that is promulgated in accordance with applicable law.

(l) "FBI" means the Federal Bureau of Investigation.

(m) "Interstate identification index system" or "III system":

1. means the cooperative federal-state system for the exchange of criminal history records; and

2. includes the national identification index, the national fingerprint file and, to the extent of their participation in such system, the criminal history record repositories of the states and the FBI.

(n) "National fingerprint file" means a database of fingerprints, or other uniquely personal identifying information, relating to an arrested or charged individual maintained by the FBI to provide positive identification of record subjects indexed in the III system.

(o) "National identification index" means an index maintained by the FBI consisting of names, identifying numbers, and other descriptive information relating to record subjects about whom there are criminal history records in the III system.

(p) "National indices" means the national identification index and the national fingerprint file.

(q) "Nonparty state" means a state that has not ratified this compact.

(r) "Noncriminal justice purposes" means uses of criminal history records for purposes authorized by federal or state law other than purposes relating to criminal justice activities, including employment

suitability, licensing determinations, immigration and naturalization matters, and national security clearances.

(s) "Party state" means a state that has ratified this compact.

(t) "Positive identification" means a determination, based upon a comparison of fingerprints or other equally reliable biometric identification techniques, that the subject of a record search is the same person as the subject of a criminal history record or records indexed in the III system. Identifications based solely upon a comparison of subjects' names or other nonunique identification characteristics or numbers, or combinations thereof, shall not constitute positive identification.

(u) "Sealed record information" means:

1. with respect to adults, that portion of a record that is:

a. not available for criminal justice uses;

b. not supported by fingerprints or other accepted means of positive identification; or

c. subject to restrictions on dissemination for noncriminal justice purposes pursuant to a court order related to a particular subject or pursuant to a federal or state statute that requires action on a sealing petition filed by a particular record subject; and

2. with respect to juveniles, whatever each state determines is a sealed record under its own law and procedure.

(v) "State" means any state, territory, or possession of the United States, the district of Columbia, and the commonwealth of Puerto Rico.

ARTICLE II--PURPOSES

The purposes of this compact are to:

(a) provide a legal framework for the establishment of a cooperative federal-state system for the interstate and federal-state exchange of criminal history records for noncriminal justice uses;

(b) require the FBI to permit use of the national identification index and the national fingerprint file by each party state, and to provide,

in a timely fashion, federal and state criminal history records to requesting states, in accordance with the terms of this compact and with rules, procedures, and standards established by the council under article VI;

(c) require party states to provide information and records for the national identification index and the national fingerprint file and to provide criminal history records, in a timely fashion, to criminal history record repositories of other states and the federal government for noncriminal justice purposes, in accordance with the terms of this compact and with rules, procedures, and standards established by the council under article VI;

(d) provide for the establishment of a council to monitor III system operations and to prescribe system rules and procedures for the effective and proper operation of the III system for noncriminal justice purposes; and

(e) require the FBI and each party state to adhere to III system standards concerning record dissemination and use, response times, system security, data quality, and other duly established standards, including those that enhance the accuracy and privacy of such records.

ARTICLE III--RESPONSIBILITIES OF COMPACT PARTIES

(a) The director of the FBI shall:

1. appoint an FBI compact officer who shall:

a. administer this compact within the department of justice and among federal agencies and other agencies and organizations that submit search requests to the FBI pursuant to subdivision (c) of article V;

b. ensure that compact provisions and rules, procedures, and standards prescribed by the council under article VI are complied with by the department of justice and the federal agencies and other agencies and organizations referred to in subparagraph a of paragraph one of this subdivision; and

c. regulate the use of records received by means of the III system from party states when such records are supplied by the FBI directly to other federal agencies;

2. provide to federal agencies and to state criminal history record repositories, criminal history records maintained in its database for the noncriminal justice purposes described in article IV, including:

a. information from nonparty states; and

b. information from party states that is available from the FBI through the III system, but is not available from the party state through the III system;

c. provide a telecommunications network and maintain centralized facilities for the exchange of criminal history records for both criminal justice purposes and the noncriminal justice purposes described in article IV, and ensure that the exchange of such records for criminal justice purposes has priority over exchange for noncriminal justice purposes; and

d. modify or enter into user agreements with nonparty state criminal history record repositories to require them to establish record request procedures conforming to those prescribed in article V.

(b) Each party state shall:

1. appoint a compact officer who shall:

a. administer this compact within that state;

b. ensure that compact provisions and rules, procedures, and standards established by the council under article VI are complied with in the state; and

c. regulate the in-state use of records received by means of the III system from the FBI or from other party states;

2. establish and maintain a criminal history record repository, which shall provide:

a. information and records for the national identification index and the national fingerprint file; and

b. the state's III system-indexed criminal history records for noncriminal justice purposes described in article IV; and

c. participate in the national fingerprint file; and

d. provide and maintain telecommunications links and related equipment necessary to support the services set forth in this compact.

(c) Compliance with III system standards. In carrying out their responsibilities under this compact, the FBI and each party state shall comply with III system rules, procedures, and standards duly established by the council concerning record dissemination and use, response times, data quality, system security, accuracy, privacy protection, and other aspects of III system operation.

(d) 1. Use of the III system for noncriminal justice purposes authorized in this compact shall be managed so as not to diminish the level of services provided in support of criminal justice purposes.

2. Administration of compact provisions shall not reduce the level of service available to authorized noncriminal justice users on the effective date of this compact.

ARTICLE IV--AUTHORIZED RECORD DISCLOSURES

(a) State criminal history record repositories. To the extent authorized by section five hundred fifty-two-a of title five of the United States code, (commonly known as the "Privacy Act of 1974"), the FBI shall provide on request criminal history records (excluding sealed records) to state criminal history record repositories for noncriminal justice purposes allowed by federal statute, federal executive order, or a state statute that has been approved by the attorney general and that authorizes national indices checks.

(b) The FBI, to the extent authorized by section five hundred fifty-two-a of title five of the United States code, (commonly known as the "Privacy Act of 1974"), and state criminal history record repositories shall provide criminal history records (excluding sealed records) to criminal justice agencies and other governmental or

nongovernmental agencies for noncriminal justice purposes allowed by federal statute, federal executive order, or a state statute that has been approved by the attorney general, that authorizes national indices checks.

(c) Any record obtained under this compact may be used only for the official purposes for which the record was requested. Each compact officer shall establish procedures, consistent with this compact, and with rules, procedures, and standards established by the council under article VI, which procedures shall protect the accuracy and privacy of the records, and shall:

1. ensure that records obtained under this compact are used only by authorized officials for authorized purposes;

2. require that subsequent record checks are requested to obtain current information whenever a new need arises; and

3. ensure that record entries that may not legally be used for a particular noncriminal justice purpose are deleted from the response and, if no information authorized for release remains, an appropriate "no record" response is communicated to the requesting official.

ARTICLE V--RECORD REQUEST PROCEDURES

(a) Subject fingerprints or other approved forms of positive identification shall be submitted with all requests for criminal history record checks for noncriminal justice purposes.

(b) Each request for a criminal history record check utilizing the national indices made under any approved state statute shall be submitted through that state's criminal history record repository. A state criminal history record repository shall process an interstate request for noncriminal justice purposes through the national indices only if such request is transmitted through another state criminal history record repository or the FBI.

(c) Each request for criminal history record checks utilizing the national indices made under federal authority shall be submitted through the FBI or, if the state criminal history record repository consents to process fingerprint submissions, through the criminal history record repository in the state in which such request originated. Direct access

to the national identification index by entities other than the FBI and state criminal history records repositories shall not be permitted for noncriminal justice purposes.

(d) A state criminal history record repository or the FBI:

1. may charge a fee, in accordance with applicable law, for handling a request involving fingerprint processing for noncriminal justice purposes; and

2. may not charge a fee for providing criminal history records in response to an electronic request for a record that does not involve a request to process fingerprints.

(e) 1. If a state criminal history record repository cannot positively identify the subject of a record request made for noncriminal justice purposes, the request, together with fingerprints or other approved identifying information, shall be forwarded to the FBI for a search of the national indices.

2. If, with respect to a request forwarded by a state criminal history record repository under paragraph one of this subdivision, the FBI positively identifies the subject as having a III system-indexed record or records:

a. the FBI shall so advise the state criminal history record repository; and

b. the state criminal history record repository shall be entitled to obtain the additional criminal history record information from the FBI or other state criminal history record repositories.

ARTICLE VI--ESTABLISHMENT OF COMPACT COUNCIL

(a) 1. In general, there is established a council to be known as the "compact council", which shall have the authority to promulgate rules and procedures governing the use of the III system for noncriminal justice purposes, not to conflict with FBI administration of the III system for criminal justice purposes.

2. The council shall:

a. continue in existence as long as this compact remains in effect;

b. be located, for administrative purposes, within the FBI; and

c. be organized and hold its first meeting as soon as practicable after the effective date of this compact.

(b) The council shall be composed of fifteen members, each of whom shall be appointed by the attorney general, as follows:

1. Nine members, each of whom shall serve a two-year term, who shall be selected from among the compact officers of party states based on the recommendation of the compact officers of all party states, except that, in the absence of the requisite number of compact officers available to serve, the chief administrators of the criminal history record repositories of nonparty states shall be eligible to serve on an interim basis.

2. Two at-large members, nominated by the director of the FBI, each of whom shall serve a three-year term, of whom:

a. one shall be a representative of the criminal justice agencies of the federal government and may not be an employee of the FBI; and

b. one shall be a representative of the noncriminal justice agencies of the federal government.

3. Two at-large members, nominated by the chairman of the council, once the chairman is elected pursuant to subdivision (c) of this article, each of whom shall serve a three-year term, of whom:

a. one shall be a representative of state or local criminal justice agencies; and

b. one shall be a representative of state or local noncriminal justice agencies.

4. One member, who shall serve a three-year term, and who shall simultaneously be a member of the FBI's advisory policy board on criminal justice information services, nominated by the membership of that policy board.

5. One member, nominated by the director of the FBI, who shall serve a three-year term, and who shall be an employee of the FBI.

(c) 1. In general, from its membership, the council shall elect a chairman and a vice chairman of the council, respectively. Both the chairman and vice chairman of the council:

a. shall be a compact officer, unless there is no compact officer on the council who is willing to serve, in which case the chairman may be an at-large member; and

b. shall serve a two-year term and may be reelected to only one additional two-year term.

2. The vice chairman of the council shall serve as the chairman of the council in the absence of the chairman.

(d) 1. In general, the council shall meet at least once each year at the call of the chairman. Each meeting of the council shall be open to the public. The council shall provide prior public notice in the federal register of each meeting of the council, including the matters to be addressed at such meeting.

2. A majority of the council or any committee of the council shall constitute a quorum of the council or of such committee, respectively, for the conduct of business. A lesser number may meet to hold hearings, take testimony, or conduct any business not requiring a vote.

(e) The council shall make available for public inspection and copying at the council office within the FBI, and shall publish in the federal register, any rules, procedures, or standards established by the council.

(f) The council may request from the FBI such reports, studies, statistics, or other information or materials as the council determines to be necessary to enable the council to perform its duties under this

compact. The FBI, to the extent authorized by law, may provide such assistance or information upon such a request.

(g) The chairman may establish committees as necessary to carry out this compact and may prescribe their membership, responsibilities, and duration.

ARTICLE VII--RATIFICATION OF COMPACT

This compact shall take effect upon being entered into by two or more states as between those states and the federal government. Upon subsequent entering into this compact by additional states, it shall become effective among those states and the federal government and each party state that has previously ratified it. When ratified, this compact shall have the full force and effect of law within the ratifying jurisdictions. The form of ratification shall be in accordance with the laws of the executing state.

ARTICLE VIII--MISCELLANEOUS PROVISIONS

(a) Administration of this compact shall not interfere with the management and control of the director of the FBI over the FBI's collection and dissemination of criminal history records and the advisory function of the FBI's advisory policy board chartered under the federal advisory committee act (5 U.S.C. App.) for all purposes other than noncriminal justice.

(b) Nothing in this compact shall require the FBI to obligate or expend funds beyond those appropriated to the FBI.

(c) Nothing in this compact shall diminish or lessen the obligations, responsibilities, and authorities of any state, whether a party state or a nonparty state, or of any criminal history record repository or other subdivision or component thereof, under the departments of state, justice, and commerce, the judiciary, and related agencies appropriation act, 1973 (Public Law 92-544), or regulations and guidelines promulgated thereunder, including the rules and procedures promulgated by the council under subdivision (a) of article VI, regarding the use and dissemination of criminal history records and information.

ARTICLE IX--RENUNCIATION

(a) In general, this compact shall bind each party state until renounced by the party state.

(b) Any renunciation of this compact by a party state shall:

1. be effected in the same manner by which the party state ratified this compact; and

2. become effective one hundred eighty days after written notice of renunciation is provided by the party state to each other party state and to the federal government.

ARTICLE X--SEVERABILITY

The provisions of this compact shall be severable, and if any phrase, clause, sentence, or provision of this compact is declared to be contrary to the constitution of any participating state, or to the constitution of the United States, or the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If a portion of this compact is held contrary to the constitution of any party state, all other portions of this compact shall remain in full force and effect as to the remaining party states and in full force and effect as to the party state affected, as to all other provisions.

ARTICLE XI--ADJUDICATION OF DISPUTES

(a) The council shall:

1. have initial authority to make determinations with respect to any dispute regarding:

a. interpretation of this compact;

b. any rule or standard established by the council pursuant to article VI; and

c. any dispute or controversy between any parties to this compact; and

2. hold a hearing concerning any dispute described in paragraph one of this subdivision at a regularly scheduled meeting of the council and only render a decision based upon a majority vote of the members of the

council. Such decision shall be published pursuant to the requirements of subdivision (e) of article VI.

(b) The FBI shall exercise immediate and necessary action to preserve the integrity of the III system, maintain system policy and standards, protect the accuracy and privacy of records, and to prevent abuses, until the council holds a hearing on such matters.

(c) The FBI or a party state may appeal any decision of the council to the attorney general, and thereafter may file suit in the appropriate district court of the United States, which shall have original jurisdiction of all cases or controversies arising under this compact. Any suit arising under this compact and initiated in a state court shall be removed to the appropriate district court of the United States in the manner provided by section fourteen hundred forty-six of title twenty-eight of the United States code, or other statutory authority.

* ARTICLE 39

OFFICE OF BUSINESS PERMITS

Section 875. Declaration of purpose.
876. Definitions.
877. Office of business permits.
878. General functions, powers and duties.
879. Assistance of other state agencies.
880. Comprehensive permit information.
881. Master application procedure.
882. Pre-application conferences.
883. Conceptual review.
884. Permit coordination and assistance to applicants.
885. Consolidated hearings.
886. Permit authority retained.
887. Implementation of services.
888. Federal and local government participation.
889. Program responsibilities.
889-a. Business permit assistance in empire zones.
890. Temporary assignment or permanent transfer of personnel.
891. Advisory council.
892. Reports to the governor and the legislature.

893. Termination of authority.

* NB Authority of office terminated per § 893 (December 31, 1995)

*** § 875. Declaration of purpose.** The legislature finds and determines as follows:

1. Increasing regulation of business in the state has been accompanied by a proliferation of permits entailing multiple requirements, jurisdictional overlaps, and business uncertainties. More than thirty-five state agencies issue permits affecting business. Permits number in the hundreds in statute with still more in rules and regulations. Business moves in a maze of permits, licenses, and approvals.

2. The public interest will be served by overcoming the delays and burdensome permit requirements which too often accompany business regulation and by fixing responsibility for continuing and comprehensive action designed to consolidate, simplify, or expedite the permit procedures of state agencies.

3. Accomplishment of these purposes will be facilitated through the establishment of an office for business permits and a program of business permit assistance in state government which will provide comprehensive permit information, one-stop service for permit applicants, and the coordination of permit processing and review.

4. It is the intent of the legislature that the program of business permit assistance will be directed to commercial, or non-profit, business undertakings, projects, and activities rather than to the routine issuance of licenses and permits for individual privileges, including the occupational licenses for practicing a trade or profession, licenses for operating a motor vehicle and amateur sporting licenses, such as for hunting and fishing.

5. It is the further intent of the legislature that the program of

business permit assistance focus primarily on those business undertakings needing special help with state agency requirements and procedures and, generally improve the delivery of governmental services to businesses locating or expanding in the state.

6. The program of business permit assistance will thereby constitute an economic advantage to the state and facilitate such undertakings as commercial, industrial and residential developments; medical, social, and educational installations; industrial location or expansion; changes in manufacturing, production, and distribution processes; local government projects; and general construction.

* NB Authority of office terminated per § 893 December 31, 1995

*** § 876. Definitions.** When used in this article:

1. "Office" means the office of business permits created by this article.

2. "Director" means the director of the office of business permits.

3. "State agency" means any department, board, bureau, commission, division, office, council or agency of the state, or a public benefit corporation or public authority at least one of whose members is appointed by the governor.

4. "Permit" means the whole or part of any state agency permit, license, certificate, approval, registration, charter, or similar form of permission required by law or by state agency rules and regulations having the force and effect of law.

5. "Person" means any individual, proprietorship, partnership, association, cooperative, corporation, nonprofit organization, state or local government agency, and any other organization required to obtain one or more permits.

6. "Applicant" means any person acting on his behalf or authorized to

act on behalf of any other person for the purpose of securing a permit.

* NB Authority of office terminated per § 893 December 31, 1995

*** § 877. Office of business permits.** 1. There is hereby created in the executive department an office of business permits. The head of the office shall be the director of business permits who shall be appointed by the governor, by and with the advice and consent of the senate, and who shall hold office at the pleasure of the governor.

2. The director shall devote his whole time and capacity to his duties as director. He shall receive an annual salary to be fixed by the governor within the amount made available therefor by appropriation and shall be allowed his actual and necessary expenses in the performance of his duties.

3. The director shall direct the work of the office and shall be the chief executive officer of the office. The director may appoint such officers and employees as he may deem necessary, prescribe their duties, fix their compensation, and provide for the reimbursement of their expenses, all within amounts made available therefor by appropriation.

4. The director shall report to the secretary to the governor on the activities of the office to ensure their consistency with the overall economic development policies of the state.

5. The secretary to the governor, working with state agency heads concerned with economic affairs shall assure that the activities of the office are fully coordinated with related activities of state agencies providing related services.

* NB Authority of office terminated per § 893 December 31, 1995

*** § 878. General functions, powers and duties.** The office of business permits, by and through the director or his duly authorized officers and employees, shall have the following functions, powers and duties:

1. To provide comprehensive information on permits required for business undertakings, projects, and activities in the state and to make such information available to applicants and generally to any person.

2. To develop a master application procedure to expedite the identification and processing of such permits.

3. To assist applicants in obtaining timely and efficient permit review and the resolution of issues arising therefrom.

4. To consolidate hearings required pursuant to permit applications when feasible and advantageous.

5. To provide the conceptual review of business undertakings at an early stage of planning to provide interested persons with an official opinion as to the general acceptability of such undertakings.

6. To encourage and facilitate the participation of federal and local government agencies in permit coordination.

7. To make recommendations for eliminating, consolidating, simplifying, expediting, or otherwise improving permit procedures affecting business undertakings.

14. To assist any person in the preparation of a petition for a declaratory ruling to be submitted pursuant to section two hundred six of the state administrative procedure act.

15. To monitor agency compliance with section two hundred six of the state administrative procedure act and to make recommendations to agencies for improving such compliance.

17. To adopt such rules and regulations, procedures, instructions, and forms as are required to carry out the functions, powers, and duties imposed upon the office by this article.

* NB Authority of office expired per § 893 December 31, 1995

*** § 879. Assistance of other state agencies.** To effectuate the purposes of this article, the director may request and shall be entitled to receive from any state agency, and the same are authorized to provide, such assistance, services, facilities, and data as will enable the office to carry out its functions, powers, and duties, and such funding, including but not limited to charge backs for allocated costs, and temporarily assigned personnel as the director of the budget may approve.

* NB Authority of office terminated per § 893 December 31, 1995

*** § 880. Comprehensive permit information.** 1. Not later than ninety days from the effective date of this article each state agency required to review, approve or grant permits for business undertakings, projects, and activities shall report to the office in a form prescribed by the office on each and every type of such review, approval, and permit administered by the state agency. Application forms, applicable agency rules, and the estimated time period necessary for permit application consideration based on experience and statutory or regulatory requirements shall accompany each state agency report.

2. Each state agency required to review, approve or grant permits for business undertakings, projects, and activities shall subsequent to its report pursuant to subdivision one of this section provide the office with a report of any new permit or modification of any existing permit, together with applicable forms, rules, and information required under subdivisions one and two of this section regarding such new or modified permit. No new or modified permit shall become effective until thirty days after the office has been provided with such report, provided, however, that the thirty day period may be dispensed with for any new or modified permit adopted as an emergency measure in accordance with the provisions of the state administrative procedure act. When any new or modified permit is adopted as an emergency action in accordance with the provisions of the state administrative procedure act, the office shall be notified of such action by the adopting state agency within five days after the effective date of such action.

3. The office shall prepare an information file on state agency permit requirements upon receipt of the state agency reports and shall develop methods for its maintenance, revision, updating, and ready access.

4. The office shall provide comprehensive permit information on the basis of the foregoing. The office may prepare and distribute publications, guides, and other materials based upon the state agency reports and the information file which will serve the convenience of permit applicants and which will explain permit requirements affecting business, including requirements having multiple permit or multiple state agency aspects.

* NB Authority of office terminated per § 893 December 31, 1995

*** § 881. Master application procedure.** 1. The office shall develop and implement a master application procedure to expedite the identification and processing of permits for business undertakings, projects, and activities. A master application shall be made on a form prescribed by the office, such form to be designed primarily for the convenience of applicants confronting requirements for multiple permits from one or more state agencies, and shall provide for concise and specific information necessary to a determination of those permits which are or may be required for the undertaking, project, or activity.

2. Use of the master application procedure shall be at the option of any person proposing a business undertaking, project or activity. The office shall assist any person upon request in preparing a master application, describe the procedures involved, and provide such other information from the comprehensive permit information file as may be helpful or necessary.

3. Upon receipt of a master application the office shall immediately notify in writing each state agency having a possible interest in the proposed business undertaking, project, or activity with respect to permits which are or may be required.

4. Each state agency so notified shall respond to the office within fifteen days of receipt of the notice and shall advise the office whether one or more permits under its jurisdiction are or may be required for the business undertaking, project, or activity described in the master application. The response shall specify the permits which in the opinion of the agency are or may be required, if any, and shall indicate the fees to be charged.

5. Any state agency so notified which responds that it does not have an interest in the permit requirements of the business undertaking, project, or activity described in the master application, or which does not respond within the time period specified in subdivision four of this section, shall not require a permit for the undertaking, project, or activity described in the master application.

6. The provisions of subdivision five of this section shall not apply if the master application contained false, misleading or deceptive information, or failed to include pertinent information, the lack of which could reasonably lead a state agency to misjudge the applicability of permits under its jurisdiction, or if new permit requirements or related standards subsequently became effective for which a state agency had no discretion in establishing the effective date thereof.

7. The office, following the fifteen day notice and response period, shall promptly provide the person having submitted a master application with application forms and related information for all permits specified by the interested state agencies and shall advise such person:

(a) that all such forms are to be completed and submitted to the interested state agencies; or, at the option of the applicant,

(b) that the office will receive all such forms as a package with the fees to be charged, if any, and that the office will immediately separate and submit such forms and any allocable fees to the interested state agencies.

8. An applicant may withdraw a master application at any time without forfeiture of any permit approval applied for or obtained under the master application procedures contained in this section.

* NB Authority of office terminated per § 893 December 31, 1995

*** § 882. Pre-application conferences.** The office, at the request of any person proceeding in accordance with section eight hundred eighty-one of this article, may conduct a pre-application conference, pending the submission of application forms, in which the interested state agencies shall participate in order to clarify the nature and scope of their interest and provide guidance to the person in relation to permit application review processes and in order to coordinate agency actions and data compilation or submission regarding permit requirements. Other state agencies having responsibilities for business promotion and regulation may participate in any such conference at the discretion of the director.

* NB Authority of office terminated per § 893 December 31, 1995

*** § 883. Conceptual review.** 1. The office at the request of the director may, at the request of any person proceeding in accordance with section eight hundred eighty-one of this article, provide a conceptual review of a proposed business undertaking, project, or activity which may require multiple permits, which will take place in phases over an extended period of time, or which will involve substantial expense for preparing detailed plans, specifications, and permit applications. Each interested state agency shall participate in the conceptual review; and the person shall provide such information in addition to that provided in the master application as the state agencies shall reasonably request.

2. After consideration of the master application and any additional information, each interested state agency shall render to the person a written conceptual review determination, which will provide an official opinion as to the general acceptability of the proposed business undertaking, project, or activity and which will state all permits which such agency would require, the standards and conditions which would have to be met in order to obtain approval of such permits, and any properly related circumstances or findings.

3. Each interested state agency participating in the conceptual review shall render the written conceptual review determination within a period not exceeding sixty days from the date fixed by the director, provided, however, that such period may be extended by the director at the request of an interested state agency for the further consideration of the master application and any additional information provided in accordance with subdivision one of this section. The director shall advise the person having requested the conceptual review of such extension, the reasons therefor, and the revised period fixed by the director for rendering the conceptual review determination; and such person shall be entitled to confer with the office and with any state agency having been granted an extension of time to ascertain what further information, if any, is required to facilitate the conceptual review determination.

4. A conceptual review determination shall not relieve the person from the responsibility of obtaining any required permits and shall be contingent upon the submission of such detailed plans, specifications and information as may be required for permit applications. A conceptual review determination shall remain in effect indefinitely for the proposed business undertaking, project, or activity as described in the master application and any additional information submitted as part of the conceptual review, provided, however, that if new permit requirements or related standards, over which a state agency has no control or discretion in establishing the effective date thereof, subsequently become effective, such new permit requirements or standards shall not be considered to have been part of the conceptual review determination.

5. The office shall provide in its rules for the procedures to be followed in the conduct of a conceptual review and shall coordinate the delivery of conceptual review determinations to the person, provided, however, that any state agency authorized to conduct a conceptual review under other provisions of law may, in consultation with the person and the director, elect to follow such provisions with respect to rendering the conceptual review determination authorized by this section.

* NB Authority of office terminated per § 893 December 31, 1995

*** § 884. Permit coordination and assistance to applicants.** 1. Any applicant for permits required for a business undertaking, project or activity may confer with the office to obtain assistance in the prompt and efficient processing and review of applications.

2. The office shall, so far as possible, render such assistance; and the director may designate an officer or employee of the office to act as an expediter with the purpose of:

(a) facilitating contacts for the applicant with state agencies responsible for processing and reviewing permit applications;

(b) arranging conferences to clarify the interest and requirements of any such state agency with respect to permit applications;

(c) considering with state agencies the feasibility of consolidating hearings and data required of the applicant;

(d) assisting the applicant in the resolution of outstanding issues identified by state agencies, including delays experienced in permit review; and

(e) coordinating federal, state, and local permit review actions to the extent practicable.

* NB Authority of office terminated per § 893 December 31, 1995

*** § 885. Consolidated hearings.** 1. Any applicant for permits required for a business undertaking, project, or activity, or any state agency having jurisdiction of the required permits, may request the office to coordinate any public hearings. The office may consolidate such hearings insofar as may be feasible.

2. A consolidated hearing shall be conducted in a manner consistent with the state administrative procedure act. The director or his designee shall be the presiding officer and shall establish an agenda for, and regulate, the course of the hearing. A representative of each state agency within whose jurisdiction a specific application lies shall conduct that portion of the hearing pertaining to the submission of information and data relating to such application. The hearing may be

continued by the presiding officer when appropriate and shall be recorded in a suitable manner.

3. The office, with the consent of the state agencies having permit jurisdiction, may provide for a pre-hearing conference to assist in the disposition of the type, time, place, and parties of the consolidated hearing, the simplification of the issues, the stipulations as to agreed facts and necessary documents, and any other relevant matters.

* NB Authority of office terminated per § 893 December 31, 1995

*** § 886. Permit authority retained.** Each state agency having jurisdiction to approve or deny a permit shall have the continuing power heretofore or hereafter vested in it to make such determinations. The provisions of this article shall not lessen or reduce such powers and shall modify the procedures followed in carrying out such powers only to the extent provided herein.

* NB Authority of office terminated per § 893 December 31, 1995

*** § 887. Implementation of services.** 1. Not later than six months from the effective date of this article, the office shall establish the permit information, coordination, and assistance services provided for in section eight hundred eighty through section eight hundred eighty-five of this article, except as otherwise provided in subdivision three of this section.

2. Services so rendered by the office shall be made available without charge, provided that nothing contained herein shall relieve an applicant of any part of the fees or charges established for the review and approval of permit applications or relieve an applicant of any of the apportioned costs of a consolidated hearing conducted under section eight hundred eighty-five of this article.

3. Under its rules the office shall provide for the implementation of the master application procedure contained in section eight hundred eighty-one of this article and shall specify the permits to which the

master application procedure is applicable. Prior to the adoption of any rule relating to the inclusion, exclusion, or addition of permits to which the master application procedure is applicable, the office shall give notice of such rule and hold a public hearing thereon.

4. Each state agency having jurisdiction of any permit to which the master application procedure is applicable shall designate an officer or employee to act as permit liaison officer to cooperate with the office in carrying out the provisions of this article.

* NB Authority of office terminated per § 893 December 31, 1995

*** § 888. Federal and local government participation.** 1. Federal and local government permit agencies shall be encouraged to participate in the business permit information, coordination, and assistance services of the office and to make information available to applicants through the office with respect to any business undertaking, project, or activity which is referred to the office under the provisions of this article.

2. The office shall, so far as is practicable, advise applicants of federal and local agency permit requirements and shall maintain an information file on permits for which the state has delegated issuance authority to local government agencies.

3. The director shall consult with local government officials with respect to cooperation in coordinating state and local permit application and review procedures and shall recommend to the governor and the legislature any actions which would facilitate such coordination.

* NB Authority of office terminated per § 893 December 31, 1995

*** § 889. Program responsibilities.** 1. The office shall obtain and keep on an annual basis appropriate statistical data regarding the number of permits issued by state agencies, the amount of time necessary for the permits to be issued, the cost of obtaining such permits, the types of

projects for which specific permits are issued, a geographic distribution of permits issued, and other pertinent data which the director deems appropriate. The office shall analyze such data by type of permit and by agency responsible and make its findings available to the public.

2. The office shall conduct or cause to be conducted a thorough review of permit requirements and the need by the state to require such permits. The office shall draw on such review, on its direct experience and its statistical analyses to prepare recommendations from time to time for the appropriate agencies, the legislature, and the governor regarding how to:

(a) eliminate unnecessary or antiquated permit requirements;

(b) consolidate duplicative or overlapping permit requirements;

(c) simplify overly complex or lengthy application procedures;

(d) expedite time consuming agency review and approval procedures; or,

(e) otherwise improve the permitting processes in the state.

3. Prior to the adoption of any new or modified permit which is not expressly mandated by legislative direction, the office shall conduct a review in the following manner:

(a) A state agency proposing to adopt a new or modified permit not expressly legislatively mandated, shall, thirty days prior to its effective date, file such proposed action with the office. The office shall conduct its review in accordance with the following standards:

(i) necessity: whether the proposed new or modified permit is the most effective means of carrying out the intent of the legislature;

(ii) duplication: whether the permit duplicates or overlaps another existing permit;

(iii) simplicity: whether the requirements of the permit impose overly complex or lengthy application or reporting procedures and forms.

The office shall review and comment upon the proposed permit, and submit its findings in writing to the submitting state agency, the administrative regulations review commission and the secretary to the governor within twenty-one days of receipt of the proposed permit.

(b) Any new or modified non-legislatively mandated permit adopted as

an emergency measure shall be submitted to the office within five days after its effective date. The office shall review and comment on the permit according to the criteria listed in paragraph (a) of this subdivision and report to the submitting state agency, the administrative regulations review commission and the secretary to the governor within five days of receipt of notice of the emergency action.

(c) Any applicant or holder of a permit may petition the office in writing to review the need for the permit. The office shall acknowledge such petition within five days of its receipt. Such review shall be conducted within sixty days of receipt and the office's findings shall be submitted in writing to the petitioner, the state agency, the administrative regulations review commission and the secretary to the governor.

* NB Authority of office terminated per § 893 December 31, 1995

*** § 889-a. Business permit assistance in empire zones.** (a) Upon the designation of an empire zone pursuant to article eighteen-B of the general municipal law, the office, by and through the director or his duly authorized officers and employees, shall establish a business permit assistance program to provide in such empire zone the business permit assistance services authorized in this article. Such program shall enable an applicant for a permit for a business undertaking, project or activity in an empire zone to confer with the office to obtain on-site assistance in the empire zone in the prompt and efficient processing and review of applications for such permits.

(b) In providing such on-site permit assistance, the director may designate one or more officers or employees of the office to act as permit assistance managers to fulfill, with respect to empire zones, the purposes set forth in subdivision two of section eight hundred eighty-four of this article.

(c) The director may request and shall receive the assistance of any state agency having jurisdiction over any business permits to be issued in an empire zone in designating an officer or employee of such agency to coordinate agency efforts in cooperation with the office in providing a business permit assistance program for such empire zone.

(d) Any state agency having jurisdiction of any business permits to be

issued in an empire zone shall, to the maximum extent feasible, establish procedures to expedite applications for business permits in an empire zone.

(e) To the extent provided for in any agreement between the office and a county, city, town or village, as authorized by article eighteen-B of the general municipal law, the office may provide a business permit assistance program to applicants for permits required by such county, city, town or village for a business undertaking, project or activity in an empire zone.

* NB Authority of office terminated per § 893 December 31, 1995

*** § 890. Temporary assignment or permanent transfer of personnel.** The director, in consultation with the head of the agency concerned and with the approval of the director of the budget, may provide for the temporary assignment or transfer of officers and employees of state agencies to the office on a permanent or temporary basis in a manner consistent with and authorized by the civil service law as the director of the office may deem necessary to the performance of the functions and duties of the office. Employees permanently transferred shall be transferred without further examination or qualification and shall retain their respective civil service classification and status. Any such employee who, at the time of such transfer, has a temporary or provisional appointment shall be transferred subject to the same right of removal, examination or termination as though such transfer had not been made. No existing right or benefit, including retirement benefits or remedy of any character, shall be lost, impaired or affected by reason of this article. Transfer of employees pursuant to this article shall be governed solely and exclusively by the provisions hereof notwithstanding other provisions of the law.

* NB Authority of office terminated per § 893 December 31, 1995

*** § 891. Advisory council.** 1. There shall be an advisory council in the office consisting of the secretary to the governor ex officio and six appointive members. The appointive members shall include one member each appointed by the governor on the recommendation of the temporary

president of the senate and the speaker of the assembly and four other members representative of business-related interests in the state appointed by the governor. The governor shall designate one of the appointive members as chairman and one as vice-chairman of the advisory council. The director shall not serve as a member of the advisory council but shall serve as secretary to the council.

2. The appointive members shall serve for terms of three years each. Vacancies shall be filled in the manner of original appointment for the unexpired terms. Members of the advisory council shall receive no compensation for their services but shall be reimbursed for all expenses actually and necessarily incurred by them in performance of their duties. The advisory council shall meet not less than quarterly in each year. Special meetings may be held at the call of the chairman.

3. The advisory council shall have the power to consider any matter relating to the services of the office and advise the director on office policies, goals, and operation. The council may also:

(a) assist in establishing policy guidelines for the conduct of the office;

(b) review and comment on proposed rules and regulations of the office prior to their adoption; and

(c) submit recommendations to the governor and the legislature at any time for the improvement, modification, or extension of the service of the office and for actions designed to eliminate, consolidate, simplify, or expedite permit procedures of state agencies.

* NB Authority of office terminated per § 893 December 31, 1995

*** § 892. Reports to the governor and the legislature.** The office shall thereafter make an annual report to the governor and the legislature not later than December thirty-first of each year.

* NB Authority of office terminated per § 893 December 31, 1995

*** § 893. Termination of authority.** Unless expressly extended by act of the legislature, the authority of the office to provide services under

this article shall terminate on December thirty-first, nineteen hundred ninety-five, provided, however, that any master application still pending with the office on or before such date shall be processed to conclusion in accordance with the provisions of this article.

* NB Authority of office terminated per § 893 December 31, 1995

* ARTICLE 41

OFFICE OF URBAN REVITALIZATION

Section 894. Declaration of purpose.
895. Definitions.
896. Office of urban revitalization.
897. General functions, powers and duties.
898. Assistance of other state agencies.
899. Comprehensive grant information.
900. Designation of target areas for concentrated revitalization.
901. Implementation of services.
902. Federal and local government participation.
903. Temporary assignment or permanent transfer of personnel.
904. Reports to the governor, cabinet and the legislature.
905. Termination of authority.
906. Contract authority.
907. Separability.

* NB Expired March 31, 1985

*** § 894. Declaration of purpose.** The legislature finds and determines as follows:

1. The urban areas of the state of New York have unique characteristics, needs, conditions and opportunities. These urban areas are vital to the economic, social and general health of our state. The magnitude of the challenge of economic habilitation of those distressed urban areas which are in need of assistance is such that a concentrated effort by the state in cooperation with these communities is required.

2. Past efforts on the part of the state to facilitate necessary assistance to distressed urban areas have been characterized by specific and innovative program approaches to individual symptoms of blight and deterioration. The state has firmly established through these individual program approaches its commitment to preserving the viability of urban areas. Numerous agencies have been created, empowered and funded to assist and coordinate these efforts in specific areas of need.

3. Efforts have further been made, through the establishment of the urban affairs cabinet, to facilitate and to enhance the coordination of state programs and efforts intended to remedy the problems of urban blight and deterioration.

4. Despite these tangible past and present commitments to urban preservation and development, the legislature hereby finds and determines that many of the urban areas of our state continue to suffer from blight and deterioration of basic public services, the private economic sector, housing stock and other critical elements of community vitality.

5. It is further found and declared that the numerous efforts of the state designed to address and to correct existing and encroaching indices of community distress must be strengthened and enhanced and assistance to local and community agencies and organizations designed to maximize the amount of financial and other assistance directed to distressed urban areas must be improved.

6. It is therefore, the intent of the legislature to establish an office of urban revitalization. The legislature intends that such office shall augment the efforts of the urban cabinet in coordinating the programs and efforts of the state agencies and public benefit corporations to remedy existent problems in distressed urban areas. Said office shall also be empowered to assure the provision of technical assistance to localities and community organizations engaging the improvement of economic, housing, industrial and commercial revitalization of distressed communities. The legislature intends that this office serve these organizations in order to maximize their

abilities to successfully obtain assistance from all available private and public sources.

7. It is further the intent of the legislature to empower the office to initiate, subject to legislative authorization and appropriations for that purpose, programs of financial assistance to local and community agencies and organizations consistent with the policy of enhancing the revitalization of distressed urban areas.

8. These programs of assistance to distressed urban communities and community organizations will thereby constitute an economic advantage to the state and facilitate the implementation of the revitalization of distressed urban areas.

* NB Expired March 31, 1985

*** § 895. Definitions.** When used in this article:

1. "Office" means the office of urban revitalization created by this article.

2. "Director" means the executive director of the urban affairs cabinet and chief administrative officer of the office of urban revitalization.

3. "State agency" means any department, board, bureau, commission, division, office, council or agency of the state, or a public benefit corporation or authority authorized by the laws of the state.

4. "Federal agency" means any department, office, council or agency of the federal government, or any public benefit corporation or authority authorized by federal statute.

5. "Local agency" means any community organization created for the purposes of enhancing the revitalization of distressed urban areas.

6. "Distressed urban area" means communities within cities or urban

counties of the state characterized by blight, stagnating or declining tax base, an unemployment rate in excess of the statewide average, an aged housing stock, a stagnating or declining population or the existence of ten per centum or more of the population at or below the poverty level.

7. "Cabinet" means the urban revitalization affairs cabinet created pursuant to an executive order to assist the governor in the coordination of state policies and programs affecting urban areas.

* NB Expired March 31, 1985

*** § 896. Office of urban revitalization.** 1. There is hereby created in the executive department an office of urban revitalization. The head of the office shall be the director of urban revitalization who shall be appointed by the governor and who shall hold office at the pleasure of the governor.

2. The director shall receive an annual salary to be fixed by the governor within the amount made available therefor by an appropriation and shall be allowed his actual and necessary expenses in the performance of his duties.

3. The director shall direct the work of the office and shall be the chief executive officer of the office. The director may appoint such officers and employees as he may deem necessary, prescribe their duties, fix their compensation, and provide for the reimbursement of their expenses, all within amounts made available therefor by appropriation.

4. The director shall report to the secretary to the governor on the activities of the office and shall serve as the secretary's staff representative to assure the implementation of urban policy recommendations developed by the cabinet and approved by the governor.

5. The director shall prepare and submit annually, on or before January first, a comprehensive report, pursuant to section nine hundred four of this article.

6. The secretary to the governor shall assure that all state agencies provide the director with assistance in advancing the purposes of the office and to assure that the activities of the office are fully coordinated with the activities of state agencies providing related services.

* NB Expired March 31, 1985

*** § 897. General functions, powers and duties.** The office of urban revitalization by and through the director or his duly authorized officers and employees, shall have the following functions, powers and duties;

1. To provide comprehensive information on existing state, federal and local urban development and revitalization programs upon request to any local agency located in distressed urban area of the state.

2. To receive notification from all state agencies engaged in urban development and revitalization programs of program descriptions, appropriation data, application procedures and local agencies or community non-profit organizations receiving state assistance for such programs. The office shall, upon receipt of such notification, make available a listing of existing programs and assure that all related local agencies are notified of their existence.

3. To assist, upon request, applicant local agencies located in distressed urban areas in obtaining timely and efficient responses from state and federal agencies, to assist such applicants in consideration of alternative program grant strategies and to assist state and federal agencies in cooperative approaches to address the needs of such applicants.

4. To review application procedures formulated by state agencies and to recommend improvements designed to increase the efficiency of these procedures and to enhance the probability for the success of such applications from local agencies located in distressed urban areas.

5. To make available to local agencies, individuals and corporations located in distressed urban areas assistance concerning grant applications procedures and techniques and job development opportunities and to encourage the assistance of the private sector in effectuating the revitalization of distressed urban areas.

6. To administer local assistance programs authorized by the legislature pursuant to statute, within amounts appropriated therefor, designed to encourage revitalization of distressed urban areas.

7. To assist the governor, the cabinet and the legislature in the coordination, consolidation and improvement of state policy for distressed urban areas, through the establishment, as far as is practical, of offices in such areas, through the holding of public hearings and to represent the governor before federal agencies on matters of importance to coordinate policy for the revitalization of such areas.

8. To apply for and receive, consistent with the appropriation, notification, and approval requirements of the state finance law, grants or financial assistance from federal agencies.

9. To adopt such rules and regulations, procedures, instructions, and forms as are required to carry out the functions, powers and duties imposed upon the office by this article.

10. To serve as staff for the cabinet in the formation of agendas for regular meetings, the preparation of minutes of such meetings, the development of policy papers and assuring the implementation of policies and programs proposed by the cabinet and adopted by the governor.

* NB Expired March 31, 1985

*** § 898. Assistance of other state agencies.** To effectuate the purposes of this article, the director may request and shall be entitled to receive from any state agency, and the same are authorized to

provide, such assistance, services, facilities, and data as will enable the office to carry out its functions, powers, and duties, and such temporarily or permanently assigned personnel as the director of the budget may approve.

* NB Expired March 31, 1985

*** § 899. Comprehensive grant information.** 1. The office shall request such specific information as the director determines to be necessary concerning assistance programs and grants administered by federal, state, and local agencies designed to enhance the revitalization of distressed urban areas. Such information shall be provided, upon request, to local agencies for the purpose of maximizing the coordination of program and grant participation by such agencies.

2. Not later than March first, nineteen hundred eighty, the office shall report to the governor and the legislature upon the availability of grants, financial assistance and technical assistance for the purposes of the revitalization of distressed urban areas. Such report shall comment upon the adequacy of current methods for the dissemination of information to local agencies and governmental units and shall contain recommendations for the improvement of the dissemination of such information.

3. Any applicant, located in distressed urban areas, for program grants to improve the physical or economic condition of such areas may confer with the office to obtain assistance in the prompt and efficient processing and review of application.

4. The office shall, so far as possible, render such assistance; and the director may designate an officer or employee of the office to act as an expeditor for the purpose of:

(a) Facilitating contacts for the applicant with state, federal or local agencies responsible for processing and reviewing grant applications;

(b) Arranging conferences to clarify the interest and requirements of any such agency with respect to grant applications;

(c) Considering with the agencies the feasibility of consolidating hearings and data required of the applicant;

(d) Assisting the applicant in the resolution of outstanding issues identified by the agencies, including delays experienced in application review; and

(e) Coordinating federal, state, and local grant application review actions and assistance programs to the extent practicable.

* NB Expired March 31, 1985

*** § 900. Designation of target areas for concentrated revitalization.** 1. The office shall recommend to the cabinet the designation of specific distressed urban areas wherein a program of concentrated revitalization shall be directed based upon an assessment of extraordinary need as determined by the director.

2. Upon the recommendation of the cabinet and the approval of the governor to so designate an area wherein a program of concentrated revitalization shall be directed, the office, in cooperation with federal, state and local governments and agencies shall develop a plan to effectuate such targeted concentrated revitalization. Such plan may include the formation of not-for-profit corporations or subsidiaries of existent public benefit corporations in such areas, the redirection of existing programs and resources for the benefit of such areas, and the creation of such new or expanded programs in such areas as may be authorized by law.

* NB Expired March 31, 1985

*** § 901. Implementation of services.** 1. Services rendered by this office shall be made available without charge, provided that nothing contained herein shall relieve an applicant of any part of existing fees or charges established for the review and approval of grant applications by the agencies.

2. Each state agency involved in the administration of a program grant or technical assistance effort designed to improve physical or economic

conditions of distressed urban areas shall designate an officer or employee to act as program liaison officer to cooperate with and assist the office in carrying out the provisions of this article.

* NB Expired March 31, 1985

*** § 902. Federal and local government participation.** 1. Federal and local government agencies involved in the administration of a program grant or technical assistance effort designed to improve physical or economic conditions in distressed urban areas shall be encouraged to participate in the assistance services of the office and to make information available to applicants through the office with respect to any related program undertaking, project, or activity which is referred to the office under the provisions of this article.

2. The director shall consult with federal and local government officials with respect to cooperation in coordinating federal, state and local assistance programs to distressed urban areas and shall recommend to the governor and the legislature any programs which would facilitate such coordination.

* NB Expired March 31, 1985

*** § 903. Temporary assignment or permanent transfer of personnel.** The director, in consultation with the head of the state agency concerned and with the approval of the director of the budget, may provide for the temporary or permanent assignment or transfer of officers and employees of state agencies to the office employees permanently transferred shall be transferred without further examination or qualification and shall retain their respective civil service classification and status. Any employee who, at the time of such transfer, has a temporary or provisional appointment shall be transferred subject to the same right of removal, examination or termination as though such transfer had not been made. No existing right or benefit, including retirement benefits or remedy of any character, shall be lost, impaired or affected by reason of this article. The director of the budget shall be responsible for timely notification of all such assignments and transfers to the

chairman of the senate finance committee and the chairman of the assembly ways and means committee. Transfer of employees pursuant to this article shall be governed solely and exclusively by the provisions hereof notwithstanding other provisions of the law.

* NB Expired March 31, 1985

*** § 904. Reports to the governor, cabinet and the legislature.** The office shall hereafter make an annual report, to be received on or before January first, to the governor, the cabinet and the legislature concerning the assistance activities undertaken by the office, recommendations for legislative proposals, data concerning program activities in distressed urban areas and other pertinent information as may be required.

* NB Expired March 31, 1985

*** § 905. Termination of authority.** Unless expressly extended by law, the authority of the office to provide services under this article shall terminate on March thirty-first, nineteen hundred eighty-five.

* NB Expired March 31, 1985

*** § 906. Contract authority.** The office is hereby empowered to enter into any agreement or contract with any state agency necessary or convenient to carry out the provisions of this article.

* NB Expired March 31, 1985

*** § 907. Separability.** If any clause, sentence, paragraph, section or part of this article shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

* NB Expired March 31, 1985

ARTICLE 42

WATERFRONT REVITALIZATION

OF COASTAL AREAS AND INLAND WATERWAYS

Section 910. Legislative findings.
911. Definitions.
912. Declaration of policy.
913. Functions; powers and duties.
914. Coastal area boundary.
915. Optional local government waterfront revitalization programs for coastal areas and inland waterways.
915-b. Water dependent uses.
916. Benefits of approved waterfront revitalization programs.
917. Technical assistance.
918. Financial assistance.
919. Coordination of state actions and programs.
920. Data collection and inventory.
921. Amendment of coastal zone management program.
922. Comprehensive harbor management plans.

§ 910. Legislative findings. The legislature hereby finds that New York state's coastal area and inland waterways are unique with a variety of natural, recreational, industrial, commercial, ecological, cultural, aesthetic and energy resources of statewide and national significance.

The resources of the state's coastal areas and inland waterways are increasingly subject to the pressures of population growth and economic development, which include requirements for industry, commerce, residential development, recreation and for the production of energy. These competing demands result in the loss of living marine resources and wildlife, the diminution of open space areas, shoreline erosion, permanent, adverse changes to ecological systems and a loss of economic opportunities.

The social and economic well-being and the general welfare of the

people of the state are critically dependent upon the preservation, enhancement, protection, development and use of the natural and man-made resources of the state's coastal area and inland waterways.

The legislature further finds that it is in the interest of the people of the state that coordinated and comprehensive policy and planning for preservation, enhancement, protection, development and use of the state's coastal and inland waterway resources take place to insure the proper balance between natural resources and the need to accommodate the needs of population growth and economic development.

§ 911. Definitions. As used in this article, the following terms shall have the meaning ascribed to them, unless the context otherwise requires:

1. "Coastal area" shall mean (a) the state's coastal waters, and (b) the adjacent shorelands, including landlocked waters and subterranean waters, to the extent such coastal waters and adjacent lands are strongly influenced by each other including, but not limited to, islands, wetlands, beaches, dunes, barrier islands, cliffs, bluffs, inter-tidal estuaries and erosion prone areas. The coastal area extends to the limit of the state's jurisdiction on the water side and inland only to encompass those shorelands, the uses of which have a direct and significant impact on the coastal waters. The coastal area boundaries are as shown on the coastal area map on file in the office of the secretary of state as required in section nine hundred fourteen of this article.

2. "Coastal area boundaries" shall mean the boundaries prepared by the secretary of state pursuant to section forty-seven of chapter four hundred sixty-four of the laws of nineteen hundred seventy-five.

3. "Coastal waters" means lakes Erie and Ontario, the St. Lawrence and Niagara rivers, the Hudson river south of the federal dam at Troy, the East river, the Harlem river, the Kill von Kull and Arthur Kill, Long Island sound and the Atlantic ocean, and their connecting water bodies,

bays, harbors, shallows and marshes.

4. "Inland waterways" shall mean (a) the state's major inland lakes consisting of lakes Baldwin, Ballston, Big Tupper, Black, Brant, Campfire, Canadarago, Canandaigua, Carmel, Casse, Cazenovia, Cayuga, Champlain, Charles, Chateaugay, Chautauqua, Chazy, Conesus, Cranberry, Dean Pond (in the county of Putnam), Drew, East Caroga, Dickiebusch, Echo (in the county of Westchester), George, Gilead, Glencoma, Great Sacandaga, Honeoye, Indian, Journeys End, Junior (in the county of Westchester), Furnace Brook, Katonah, Kentwood, Keuka, Kirk, Kitchawan, Little Wolf (in the county of Franklin), Lincolndale, Long, Lost (in the county of Putnam), Meahagh, Mirror, MacGregor, Mahopac, Minerva, Mohegan, Nimham, Neatahwanta, Northville, Oceola, Oneida, Onondaga, Oscaleta, Ossi, Otisco, Otsego, Owasco, Palmer, Paradox, Peach, Peekskill, Placid, Purdys, Putnam, Raquette, Rippowam, Ronkonkoma, Round, Sacandaga, Saratoga, Schroon, Secor, Seneca, Shenorock, Skaneateles, Silver (in the county of Wyoming), Sagamore, Saranac, Seven Hills, Simon (in the county of Franklin), Sparkle, Tibet, Tonetta, Teakettle Spout, Truesdale, Waccabuc, West Caroga, White (in the county of Sullivan) and Wixon, and the Fulton chain of lakes; (b) the state's major rivers comprised of the Allegheny, Ausable, Battenkill, Black, Boquet, Bronx, Canisteo, Chaumont (including Chaumont bay), Chemung, Chenango, Cohocton, Delaware, Deer, Genesee, Grasse, Great Chazy, Hoosic, Hudson north of the federal dam at Troy, Indian, Little (in the Adirondack park), Little Ausable, Little Salmon (including north and south branches), Mad, Mettowee, Mohawk, Oswegatchie, Oswego, Pocantico, Racquette, Sacandaga, Salmon, Saranac, Saw Mill, Schroon, St. Regis, Susquehanna, Tenmile, Tioga, Tioughnioga, Wallkill and Buffalo rivers, and the north and middle branches of the Moose river; (c) the state's major creeks comprised of the 18 Mile Creek located in Erie county, Chittenango Creek, Bash Bish and Kinderhook Creek located in Columbia county, Kinderhook Creek located in Rensselaer county, Basher Kill, Bushkill, Cattaraugus, Cayadutta, North Chuctanunda, Cincinnati, East Kill, Esopus (including upper and lower branches), Ferguson, Fish (including east and west branches), Gooseberry, Great Valley, Kennyetto, Little Sandy, Moodna, Moyer, Mud Creek located in Oneida county, Ninemile Creek, Onondaga, Oriskany, Peekskill Hollow, Reall, Roeliff

Jansen Kill, Rondout, Sandy, Sauquoit, Schoharie, Shawangunk Kill, Six Mile Creek, South Sandy, Oatka, Tonawanda, West Kill, Scajaquada, Wappinger, Webatuck, Wassaic, Willsey in the village of Wurtsboro, Wood Creek located in Herkimer county, Wood Creek located in Oneida county, Black Creek located in Monroe county, Black Creek located in Genesee and Wyoming counties, Ellicott Creek located in Erie county, Wynantskill, Claverack, Taghkanic, Agawamuck, Wyomanock, and Ley Creek and Butternut Creek located in Onondaga county, Nanticoke and Sawkill (in Ulster county), Fishkill Creek, Saw Kill and Fall Kill located in Dutchess county, Otter Kill Creek located in Orange county, Black Meadow Creek located in Orange county, and the Silver Lake Outlet located in Wyoming county; (d) the Barge Canal System as defined in section two of the canal law; and (e) the adjacent shorelands to the extent that such inland waters and adjacent lands are strongly influenced by each other including, but not limited to, islands, wetlands, beaches, dunes, barrier islands, cliffs, bluffs and erosion prone areas.

5. "State agency" means any department, bureau, commission, board, public authority or other agency of the state, including any public benefit corporation any member of which is appointed by the governor.

6. "Comprehensive harbor management plan" shall mean a plan to address the problems of conflict, congestion and competition for space in the use of harbors, surface waters and underwater lands of the state within a city, town or village or abounding a city, town or village to a distance of fifteen hundred feet from shore. A harbor management plan must consider regional needs and, where applicable, must consider the competing needs of commercial shipping and recreational boating, commercial and recreational fishing and shellfishing, aquaculture and waste management, mineral extraction, dredging, public access, recreation, habitat and other natural resource protection, water quality, open space, aesthetic values and common law riparian or littoral rights, and the public interest in such lands underwater.

7. "Water dependent use" means an activity which can only be conducted on, in, over or adjacent to a water body because such activity requires direct access to that water body, and which involves, as an integral

part of such activity, the use of the water.

§ 912. Declaration of policy. It is hereby declared to be the public policy of the state of New York within the coastal areas and inland waterways:

1. To achieve a balance between economic development and preservation that will permit the beneficial use of coastal and inland waterway resources while preventing the loss of living marine resources and wildlife, diminution of open space areas or public access to the waterfront, shoreline erosion, impairment of scenic beauty, or permanent adverse changes to ecological systems.

2. To encourage the development and use of existing ports and small harbors including use and maintenance of viable existing infrastructures, and to reinforce their role as valuable components within the state's transportation and industrial network.

3. To conserve, protect and where appropriate promote commercial and recreational use of fish and wildlife resources and to conserve and protect fish and wildlife habitats identified by the department of environmental conservation as critical to the maintenance or re-establishment of species of fish or wildlife. Such protection shall include mitigation of the potential impact from adjacent land use or development.

4. To encourage and facilitate public access for recreational purposes.

5. To minimize damage to natural resources and property from flooding and erosion, including proper location of new land development, protection of beaches, dunes, barrier islands, bluffs and other critical coastal and inland waterway features and use of non-structural measures, whenever possible.

6. To encourage the restoration and revitalization of natural and

man-made resources.

7. To encourage the location of land development in areas where infrastructure and public services are adequate.

8. To conserve and protect agricultural lands as valued natural and ecological resources which provide for open spaces, clean air sheds and aesthetic value as well as for agricultural use.

9. To assure consistency of state actions and, where appropriate, federal actions, with policies of the coastal area and inland waterways, and with accepted waterfront revitalization programs of the area defined or addressed by such programs.

10. To work cooperatively with the federal government, local governments and private parties to implement programs to control and abate sources of nonpoint source pollution that may affect coastal and inland waterways.

11. To cooperate and coordinate with other states, the federal government and Canada to attain a consistent policy towards coastal and inland waterway management.

12. To encourage and assist local governments in the coastal area and inland waterways to use all their powers that can be applied to achieve these objectives.

13. To facilitate the redevelopment of urban waterfronts.

14. To encourage local governments to enter into intermunicipal agreements to protect their shared environment and improve their region's economic strength.

15. To encourage state agencies to provide technical and financial assistance for implementation of local waterfront revitalization programs.

16. To encourage local governments and state agencies to celebrate, protect and enhance the special places that made waterfronts distinct ecological systems and the preferred locations for people to live, work and recreate.

§ 913. Functions; powers and duties. The secretary shall have the following functions, powers and duties:

1. To advise the governor and agencies of state government concerning planning, programs and policies for the achievement of wise use of the land and water resources of coastal areas and inland waterways, giving full consideration to ecological, cultural, historic, aesthetic values and the needs for economic development and to encourage public and private institutions to preserve, protect, enhance, develop and use coastal and inland waterway resources in a manner consistent with the purposes and policies of this article.

2. To evaluate and make recommendations on federal, state and local programs and legislation relating to coastal and inland waterway resources issues;

3. To review and approve acceptable waterfront revitalization programs as herein provided;

4. To review, evaluate and issue recommendations and opinions concerning programs and actions of state agencies which may have the potential to affect the policies and purposes of this article, including but not limited to, programs within the jurisdiction of the departments of state, agriculture and markets, environmental conservation, public service, commerce and transportation, the offices of energy and parks and recreation and the office of general services.

5. To enter into contracts with any person, firm, corporation, municipality or governmental agency;

6. To adopt, amend or rescind such rules and regulations as may be

necessary or convenient to the performance of the functions, powers and duties of the secretary; and

7. To do all other things necessary or convenient to carry out the functions, powers and duties expressly set forth in this article or as may from time to time be confined upon the secretary by the legislature of the state.

§ 914. Coastal area boundary. 1. The coastal area boundary is hereby adopted as part of this article as though fully incorporated herein. Such boundary delineates the coastal area, which shall be the area within which the coastal policies and purposes shall apply.

2. A representation of the coastal area boundary shall be on file in the office of the secretary. The secretary shall file with the clerk of each county and local government which has any portion of its jurisdiction within the boundaries of the coastal area, a copy of the representation of such affected portion of the coastal area boundary and a copy of the representation of the coastal area boundary of the affected portion of any adjacent municipality. The secretary shall provide a copy of the representation of the coastal area boundary to each state agency having jurisdiction over programs identified pursuant to this article. The secretary, on its own initiative or on petition submitted in such form or manner as the secretary may prescribe by rule or regulation, may amend the coastal area boundary to correct errors or make changes that are in furtherance of the policies and purposes of this article. All such changes shall be filed with the clerk of each county and local government affected thereby.

§ 915. Optional local government waterfront revitalization programs for coastal areas and inland waterways. 1. It is the intention of this article to offer the fullest possible support by the state and its agencies to those local governments that desire to revitalize their waterfronts. Accordingly, any local government or two or more local governments acting jointly which has any portion of its jurisdiction

contiguous to the state's coastal waters or inland waterways and which desires to participate may submit a waterfront revitalization program to the secretary as herein provided.

2. The secretary may provide technical and financial assistance as provided in sections nine hundred seventeen and nine hundred eighteen to any local government for the preparation of a waterfront revitalization program for the purposes of this article.

3. A local government or two or more local governments acting jointly which intends to submit a waterfront revitalization program for the purposes of this article is strongly encouraged to consult, during its preparation, with other entities that may be affected by its program, including local governments, county and regional agencies, appropriate port authorities, community based groups and state and federal agencies. On request by the local government, the secretary shall take appropriate action to facilitate such consultation.

4. The secretary shall prepare and distribute guidelines and regulations for local governments desiring to prepare, or cause to be prepared, a waterfront revitalization program (hereinafter referred to as the "program"). Such guidelines shall provide that the program will be consistent with the policies and purposes of this article generally and shall include, but not be limited to:

a. Boundaries of the waterfront area;

b. An inventory of natural and historic resources of the waterfront area to be protected;

c. A statement of the goals and objectives of the program;

d. Identification of the uses and projects, public and private, to be accommodated in the waterfront area;

e. Description of proposed means for long-term management and maintenance of waterfront development and activities including

organizational structures and responsibilities and appropriate land use controls;

f. Description of necessary and appropriate state actions for successful implementation of the program; and

g. Specification of the adequate authority and capability of the local government to implement the program.

5. The secretary shall approve any local government waterfront revitalization program as eligible for the benefits set forth in section nine hundred sixteen of this article if he finds that such program will be consistent with coastal policies and will achieve the waterfront revitalization purposes of this article. In making such determination, the secretary shall find that the program incorporates each of the following to an extent commensurate with the particular circumstances of that local government:

a. The facilitation of appropriate industrial and commercial uses which require or can benefit substantially from a waterfront location, such as but not limited to waterborne transportation facilities and services, and support facilities for commercial fishing and aquaculture.

b. The increased use of and access to coastal waters and the waterfront for water-related activities such as boating, swimming, fishing, walking and picnicking.

c. The promotion and preservation of scenic, historic, cultural and natural resources as community amenities and tourist designations.

d. The strengthening of the economic position of the state's major ports and small harbors.

e. The redevelopment of deteriorated or formerly developed waterfronts through the re-use of existing infrastructure and building stock and the removal of deteriorated structures and unsightly conditions that have negative effects upon the waterfront area and adjacent neighborhoods,

and appropriate new development.

f. The application of local aesthetic considerations in the design of new structures and the redevelopment of waterfront sites.

g. The protection of sensitive ecological areas, including but not limited to dunes, tidal and freshwater wetlands, fish and wildlife habitats, and the protective capability of coastal land features. Such protection will assure that land use or development will not affect such areas.

h. A statement identifying those elements of the program which can be implemented by the local government, unaided, and those that can only be implemented with the aid of other levels of government or other agencies. Such statement shall include those permit, license, certification or approval programs, grant, loan, subsidy or other funding assistance programs, facilities construction and planning programs which may affect the achievement of the waterfront revitalization program.

i. The establishment of a comprehensive harbor management plan and the means for its implementation.

* 5-a. Nothing herein shall preclude the secretary from approving a portion or component of a local waterfront revitalization program provided such portion or component constitutes a discrete and cohesive, yet comprehensive, treatment of the subject or subjects addressed, which may be related to environmental, social, regional growth management or economic considerations.

* NB Effective upon approval by the secretary of commerce

6. Before approving any such waterfront revitalization program, or any amendments thereto, as eligible for the benefits of this article, the secretary shall consult with potentially affected state and federal agencies; the secretary shall not approve any such program if he finds after such consultation that there is a conflict with any state or federal policies.

7. Where there is a conflict between a submitted waterfront revitalization program and any state or federal policy, at the request of the local government or the state or federal agency affected, the secretary shall attempt to reconcile and resolve the differences between the submitted program and such policies and shall meet with the local government and involved state and federal agencies to this end.

8. Subsequent to approval of the local program by the secretary, state agency actions shall be consistent to the maximum extent practicable with the local program. Provided, however, that nothing in this article shall be construed to authorize or require the issuance of any permit, license, certification, or other approval or the approval of any grant, loan or other funding assistance which is denied by the state agency having jurisdiction, pursuant to other provisions of law or which is conditioned by such agency pursuant to other provisions of law until such conditions are met.

Where implementation of an approved local program depends upon the availability of other than local funds and program actions, the secretary shall meet with the involved state and federal agencies to explore the possibility of programming of such assistance, including pre-permitting of sites for waterfront redevelopment, in a manner that would provide the maximum practicable assistance toward the implementation of the local program.

9. Before undertaking any action pursuant to any programs identified pursuant to paragraph (h) of subdivision five of section nine hundred fifteen of this article the affected state agency shall submit, through appropriate existing clearing house procedures including but not limited to the state environmental quality review law, information on the proposed action to local government. The local government shall identify potential conflicts and so notify the secretary. Upon notification of the conflict, the secretary will confer with the affected state agency and the local government to modify the proposed action to be consistent with the local plan.

10. Any local government which has had a waterfront revitalization

program approved pursuant to this section may withdraw its program at any time by filing with the secretary a copy of a resolution of its legislative body providing for such withdrawal. Upon receipt of such resolution, the secretary shall immediately notify all affected state agencies.

§ 915-b. Water dependent uses. Notwithstanding any other provision of law, water dependent use activities as defined in subdivision eleven of section nine hundred eleven of this article, shall not be considered a private nuisance, provided such activities were commenced prior to the surrounding activities and have not been determined to be the cause of conditions dangerous to life or health as determined by the commissioner of health, the local health officer, or local board of health pursuant to sections thirteen hundred, thirteen hundred-a, thirteen hundred three and thirteen hundred four of the public health law and any disturbance to enjoyment of land has not materially increased.

§ 916. Benefits of approved waterfront revitalization programs. In recognition of the state policy set forth in this article to encourage the revitalization of waterfront areas in a manner consistent with local objectives, the following benefits shall apply where a local government waterfront revitalization program has been approved pursuant to section nine hundred fifteen or section nine hundred fifteen-a of this article.

1. a. The secretary shall examine programs operated by state agencies which may have the potential to affect the policies and purposes of an approved waterfront revitalization program. Such examination shall include programs which involve issuance of permits, licenses, certifications and other forms of approval of land use or development, the provision of grants, loans and other funding assistance which leads to or influences land use or development, directly undertaken land use or development and planning activities. The secretary shall, within sixty days after approval of a waterfront revitalization program, identify actions under such state agency programs which are likely to affect the achievement of the policies and purposes of such approved

program, and shall notify the affected state agency. The secretary may at any time identify additional actions and notify the affected state agencies thereof.

b. The state agency program actions so identified shall be undertaken in a manner which is consistent to the maximum extent practicable with the approved waterfront revitalization program. Reviews by state agencies of proposed actions to determine consistency with approved waterfront revitalization programs shall be coordinated with and made a part of other agency procedures, including reviews conducted under the state environmental quality review act as provided in article eight of the environmental conservation law.

2. The office of business permits shall conduct continuing studies of means of expediting development called for in approved programs. The secretary shall assist the office of business permits in the conduct of such studies, which should address the consolidation, simplification, expediting or otherwise improving permit procedures which may affect development called for in such areas taking into account the state policy set forth in this article to provide consistency of program actions at all levels of government for such areas.

3. The secretary shall consult and work with state agencies, including, but not limited to, the urban development corporation, the job development authority, the environmental facilities corporation, the office of parks, recreation and historic preservation and the departments of economic development and transportation, to seek to identify additional means of effectuating approved waterfront revitalization programs. The secretary shall make recommendations to local, state and federal agencies and the legislature, as appropriate.

§ 917. Technical assistance. The secretary shall encourage and assist local governments in the preparation of waterfront revitalization programs and in the administration and implementation of approved programs. Such assistance shall be provided on request by the local government and shall include, as may be deemed appropriate by the

secretary, the provision of maps, data, criteria, model implementation provisions, and technical counsel and advice. In addition, the secretary shall facilitate consultation and coordination among local, county, regional, state and federal agencies and community based groups in connection with the preparation and administration of approved waterfront revitalization programs, and to facilitate the development of projects called for by approved programs.

§ 918. Financial assistance. 1. The secretary may enter into a contract or contracts for grants or payments to be made, within the limits of any appropriations therefor, for the following:

a. To any local governments, or to two or more local governments, for projects approved by the secretary which lead to preparation of a waterfront revitalization program; provided, however, that such grants or payments shall not exceed seventy-five percent of the approved cost of such projects provided, however, in environmental justice communities, such assistance payments and/or technical assistance shall not exceed eighty-five percent of the cost of the program;

b. To any local government or local government agency for research, design, and other activities which serve to facilitate construction projects provided for in an approved waterfront revitalization program; provided, however, that such projects shall take into account the future physical climate risk due to sea level rise, and/or storm surges and/or flooding, based on available data predicting the likelihood of future extreme weather events including hazard risk analysis data if applicable and provided, further, that such grants or payments shall not exceed ten percent of the estimated cost of such construction project.

2. Funds available for the purposes of this section shall be allocated in a fair and equitable manner; such allocation shall reflect the initiative shown by local governments in preparing waterfront revitalization programs and in carrying them out.

§ 919. Coordination of state actions and programs. 1. Actions directly undertaken by state agencies within the coastal area including grants, loans or other funding assistance, land use and development, or planning, and land transactions shall be consistent with the coastal area policies of this article. Provided, however, that nothing in this article shall be construed to authorize or require the issuance of any permit, license, certification, or other approval or the approval of any grant, loan or other funding assistance which is denied by the state agency having jurisdiction, pursuant to other provisions of law or which is conditioned by such agency pursuant to other provisions of law until such conditions are met.

2. The secretary shall review actions proposed by state agencies which may affect the achievement of the policies of this article and shall make recommendations to such agencies with respect to achievement of such policies.

3. The commissioner of environmental conservation shall amend the regulations promulgated pursuant to article eight of the environmental conservation law as necessary and appropriate to assure adequate consideration of impacts on the use and conservation of coastal resources.

§ 920. Data collection and inventory. 1. The secretary shall maintain a resource inventory of information collected pursuant to coastal and inland waterways program planning including significant natural areas, historic sites, agricultural lands and water dependent use areas.

2. The secretary may collect additional information to supplement the inventory and may delegate the preparation of such information to appropriate state and local agencies.

3. The secretary shall make this inventory available to state agencies, local governments and the public for planning purposes.

§ 921. Amendment of coastal zone management program. 1. The secretary shall amend this state's coastal zone management program submitted to the United States secretary of commerce pursuant to section fourteen hundred fifty-five of the coastal zone management act (16 USC §§ 1451 et seq.), to incorporate the requirements of this section and the findings and purposes specified in title sixteen of article fifteen of the environmental conservation law and shall formally submit the proposed amendments to the United States secretary of commerce.

2. After approval by the United States secretary of commerce of the amendments submitted pursuant to subdivision one of this section, the secretary shall, under section nine hundred nineteen of this article, consider the requirements, findings and purposes specified under subdivision one of this section, if applicable, when reviewing actions proposed by state agencies which may affect the achievement of the policies of this article, and make recommendations to such agencies with respect to achievement thereof.

§ 922. Comprehensive harbor management plans. 1. In order to implement a comprehensive harbor management plan the local legislative body of a city, town or village may adopt, amend and enforce local laws or ordinances, not inconsistent with the laws of this state or the United States, to regulate the construction, size and location of wharves, docks, moorings, piers, jetties, platforms, breakwaters or other structures, temporary or permanent, in, on or above waters and the use of surface waters and underwater lands within a city, town or village or bounding a city, town or village to a distance of fifteen hundred feet from the shore. Such local laws or ordinances may provide for the imposition of fees for reasonable expenses incurred by the city, town or village in carrying out this regulatory authority.

2. No 1oca1 1aw or ordinance adopted pursuant to the powers granted by this section shall take effect until it shall have been submitted to and approved in writing by the secretary of state, nor shall such 1oca1 1aw or ordinance affect projects and facilities undertaken or constructed by public authorities for which a statutory exemption has been provided or

public authorities formed by compact with another state or any subsidiary thereof formed pursuant to bi-state legislation. The secretary of state shall not approve any local law or ordinance without first consulting with the commissioner of general services and other interested state agencies administering state-owned lands underwater, nor shall the secretary approve any local law or ordinance not in accordance with any comprehensive harbor management plan adopted as part of a local waterfront revitalization program by the local legislative body of the city, town or village and approved by the secretary pursuant to this article.

3. (a) Municipalities on lakes, other than those lakes identified in subdivision four of section nine hundred eleven of this article, may, pursuant to this section, develop cooperative lakewide local waterfront revitalization programs and harbor management plans.

(b) Where no local waterfront revitalization program and harbor management plan exists which has been cooperatively prepared by all of the municipalities which border the shores of such a lake, no local law or ordinance adopted by one such municipality pursuant to a harbor management plan shall be approved without a finding by the secretary of state that the local law or ordinance is consistent as well with the management of the lake by, and interests of, the lake residents and its municipalities as a whole.

(c) Where an organization or entity has been created by statute to provide lakewide planning or regulation, such local laws or ordinances shall be consistent with the plans developed by such organization or entity pursuant to the procedures required in such statute.

4. No provision of this chapter shall be deemed to diminish the authority of any city, town or village pertaining to the regulation of harbors, surface waters and underwater lands granted by any other law, charter, patent or other instrument. Nor shall it be read to authorize local harbor management plans displacing conforming water-dependent businesses in existence on the effective date of this section.

5. Any conveyances of interests pursuant to subdivision seven of section seventy-five of the public lands law and any permits issued

pursuant to subdivision one of section 15-0503 of the environmental conservation law shall be consistent, insofar as possible, with approved comprehensive harbor management plans adopted pursuant to this section.

ARTICLE 44

COUNCIL ON PROFESSIONAL CAREER OPPORTUNITY

Section 940. Definitions.
941. Council on professional career opportunity.
942. Powers and duties of the council.
943. Utilization of other agency assistance.

§ 940. Definitions. As used in this article:

1. "Professional field" shall mean a profession licensed by the regents.

2. "Professional education program" shall mean an approved postsecondary program leading to a degree in a profession licensed by the regents.

3. "Minority" shall mean a resident of New York state or a permanent resident noncitizen residing in New York state who is a member of a group historically underrepresented in the scientific, technical, health, and health-related professions as defined by the regents after consultation with the council.

4. "Council" shall mean the council on professional opportunity.

§ 941. Council on professional career opportunity. * 1. There is hereby created within the executive department a council on professional career opportunity consisting of eleven members as follows: the commissioner of education, the commissioner of health, the chancellor of the state university of New York, the chancellor of the city university of New York, and the president of the higher education services

corporation or their designees under written designation; and six additional members to be appointed by the governor, including two members appointed upon the recommendation of the temporary president of the senate and two members appointed upon the recommendation of the speaker of the assembly. The council shall include at least one representative of an independent institution of higher education. Due consideration shall be given to the appointment of members recognized for their expertise in the fields of education and minority group issues. The governor shall designate one of the appointive members as chairperson to serve as such at the pleasure of the governor. The council shall terminate March thirty-first, two thousand three.

* NB State council terminated 3/31/2003

2. The council shall meet once each annual quarter and as frequently as its business may require. The appointed members of the council shall be reimbursed for their reasonable and necessary traveling and other expenses incurred in the performance of their official duties. No additional compensation for services rendered pursuant to this chapter shall be received by members of the council.

§ 942. Powers and duties of the council. 1. The council on professional career opportunity shall have the following powers and duties:

a. to recommend goals and objectives for the enrollment and graduation of minority and disadvantaged students in public and independent institutions of higher education offering professional education programs;

b. to monitor and evaluate progress in increasing the representation of minority and disadvantaged students in professional education programs;

c. to advise the governor and the legislature on strategies to increase access to professional careers and professional education programs on the part of minority and disadvantaged persons;

d. to recommend revisions to laws, rules, and regulations to effectuate the purposes of this article;

e. to accept and expend any grants, awards, or other funds or appropriations as may be available to the council to effectuate the purposes of this chapter.

2. At the request of the council, institutions of higher education offering professional education programs shall furnish to the council such reports and information as it may require to effectuate the purposes of this article.

3. The council shall, by February first, nineteen hundred eighty-six and annually thereafter, submit a written report to the governor and the legislature setting forth the recommendations and activities of the council on matters within the scope of its powers as set forth in the article, describing progress made in achieving goals and objectives.

4. The council shall study and advise the governor and the legislature on the problems of recruitment, enrollment, and retention of minority and disadvantaged students in professional education programs.

5. The council shall appoint such officers, agents, consultants, and special committees it deems necessary to carry out the provisions of this article.

6. For the purpose of advising and assisting the council in carrying out its powers and duties in regard to medical education there is hereby established an advisory committee on medical education comprised of eleven members. The members and chairperson of the advisory committee shall be selected by the chairperson of the council and shall include representatives of public and independent institutions of higher education offering an approved program in medicine and physicians authorized or licensed to practice medicine within the state of New York. The membership of the advisory committee shall include minority representation.

§ 943. Utilization of other agency assistance. To effectuate the purposes of this article, any department, division, board, bureau, commission or agency of the state or of any political subdivision thereof shall, at the request of the council, provide to the council such facilities, assistance and data as will enable the council properly to carry out its powers and duties.

ARTICLE 45

INTERNAL CONTROL RESPONSIBILITIES OF STATE AGENCIES

Section 950. Definitions.
951. Internal control responsibilities.
952. Internal audit responsibilities.
953. Independent audits of the executive chamber and the division of the budget.
954. Independent audits of the department of audit and control and the department of law.

§ 950. Definitions. As used in this article, the following terms shall have the following meanings:

1. "Internal control". A process that integrates the activities, plans, attitudes, policies, systems, resources and efforts of the people of an organization working together, and that is designed to provide reasonable assurance that the organization will achieve its objectives and mission. The objectives of an internal control system include, but are not limited to: the safeguarding of assets; checking the accuracy and reliability of accounting data and financial reporting; promoting the effectiveness and efficiency of operations; ensuring compliance with applicable laws and regulations; and encouraging adherence to prescribed managerial policies. Internal control review processes are used periodically to evaluate the ongoing internal control system and to assess and monitor the implementation of necessary corrective actions.

2. "Internal audit". An appraisal activity established by the management of an organization for the review of operations as a means of assuring conformance with management policies and the effectiveness of internal control, and conducted in conformance with generally accepted standards for internal auditing.

3. "State agency". Any state department, state university of New York, city university of New York, board, bureau, division, commission, committee, council, office or other governmental entity performing a governmental or proprietary function for the state, or any combination thereof as provided in subdivision two of section nine hundred fifty-one of this article, except any public authority or public benefit corporation, the judiciary or the state legislature.

4. "Judiciary". The courts and court-related programs, including the office of court administration, of the state-funded portion of the unified court system and all components thereof as provided in subdivision two of section two hundred forty-nine-a of the judiciary law.

5. "State legislature". The legislature of the state of New York, including all components thereof as provided in subdivision two of section ninety of the legislative law.

6. "Covered authority". Any public authority or public benefit corporation, other than a bi-state authority or public benefit corporation, a majority of whose members are appointed by the governor or serve as members by virtue of holding state offices to which they were appointed by the governor, or any combination thereof.

§ 951. Internal control responsibilities. 1. The head of each state agency shall:

a. establish and maintain for the agency guidelines for a system of internal control that are in accordance with this article and internal control standards;

b. establish and maintain for the agency a system of internal control and a program of internal control review. The program of internal control review shall be designed to identify internal control weaknesses, identify actions that are needed to correct these weaknesses, monitor the implementation of necessary corrective actions and periodically assess the adequacy of the agency's ongoing internal control;

c. make available to each officer and employee of the agency a clear and concise statement of the generally applicable management policies and standards with which the officer or employee of such agency shall be expected to comply. Such statement shall emphasize the importance of effective internal control to the agency and the responsibility of each officer and employee for effective internal control;

d. designate an internal control officer, who shall report to the head of the agency, to implement and review the internal control responsibilities established pursuant to this section;

e. implement education and training efforts to ensure that officers and employees within such agency have achieved adequate awareness and understanding of internal control standards and, as appropriate, evaluation techniques; and

f. periodically evaluate the need for an internal audit function.

2. In order to identify all state agencies and their responsibilities for the purposes of implementing the provisions of this article, the director of the division of the budget shall issue and update as necessary a schedule which lists all covered state agencies.

§ 952. Internal audit responsibilities. 1. The director of the division of the budget, after reviewing the evaluation of the head of each state agency as to the need for an internal audit function, shall issue and, at the director's discretion, periodically revise a schedule

of state agencies (other than the department of audit and control and the department of law) which are required to establish and maintain an internal audit function. The comptroller and the attorney general or their designees shall determine, and periodically review such determination of, whether an internal audit function within their respective departments is required. Establishment of such function shall be based upon an evaluation of exposure to risk, costs and benefits of implementation, and any other factors that are determined to be relevant. The head of each state agency listed in the budget director's schedule, and the comptroller and the attorney general if they or their designees so determine, shall establish an internal audit function which operates in accordance with generally accepted professional standards for internal auditing. Any such internal audit function shall be directed by an internal audit director who shall report directly to the head of such state agency. Notwithstanding any other provision of law, each internal audit director shall be appointed by the head of the state agency based on appropriate internal auditing credentials of the proposed appointee, consistent with generally accepted standards for internal auditing, including internal auditing education and experience. The position of internal audit director shall be an exempt position and except in the case of the department of audit and control and department of law, such appointment shall be subject to the approval of the director of the budget. For agencies for which an independent audit is not required pursuant to sections nine hundred fifty-three and nine hundred fifty-four of this article, the internal audit function shall evaluate the agency's internal controls and operations. The internal audit function shall also identify internal control weaknesses that have not been corrected and make recommendations to correct these weaknesses.

2. In the event the head of a state agency does not establish an internal audit function pursuant to subdivision one of this section, he or she shall nevertheless establish and maintain the program of internal control review required by section nine hundred fifty-one of this article.

§ 953. Independent audits of the executive chamber and the division of

the budget. 1. At least once every three years, the independent certified public accountant or accountants selected pursuant to this section shall conduct audits of the internal controls of the executive chamber and the division of the budget, either as a single audit or separately. Such audits shall be performed in accordance with generally accepted government auditing standards and shall include a report on whether the executive chamber and division of the budget's internal controls are established and functioning in a manner that provides reasonable assurance that they meet the objectives of internal control as defined in section nine hundred fifty of this article. The report shall identify the internal controls both evaluated and not evaluated and shall identify internal control weaknesses that have not been corrected and actions that are recommended to correct these weaknesses. If any such internal control weaknesses are significant or material with respect to the entity, the independent auditor shall so state. The governor and the director of the budget shall make available to the public the results of such audits, including any related management letters. The governor and director of the budget and any officer or employee of the executive chamber and the division of the budget shall make available upon request to such independent certified public accountants all books and records relevant to such independent audits.

2. The governor and the director of the budget, either separately or jointly, shall request proposals from independent certified public accountants for audits of the internal controls of the executive chamber and the division of the budget. The requests for proposals shall include a reference to the requirements for audits conducted pursuant to subdivision one of this section. The governor and the director of the budget shall select such independent auditor or auditors in accordance with a competitive procedure including an evaluation, based on quality and price factors, of those proposals received in response to such requests for proposals.

§ 954. Independent audits of the department of audit and control and the department of law. 1. At least once every three years, the independent certified public accountants selected pursuant to this

section shall conduct audits of the internal controls of the department of audit and control and the department of law, respectively. Such audits shall be performed in accordance with generally accepted government auditing standards and shall include a report on whether the departments' internal controls are established and functioning in a manner that provides reasonable assurance that they meet the objectives of internal control as defined in section nine hundred fifty of this article. The report shall identify the internal controls both evaluated and not evaluated and shall identify internal control weaknesses that have not been corrected and actions that are recommended to correct these weaknesses. If any such internal control weaknesses are significant or material with respect to such departments, the independent auditors shall so state. The comptroller and the attorney general shall make available to the public the results of such audits, including any related management letters. The comptroller and attorney general and any officer or employee of such departments shall make available upon request to such independent certified public accountants all books and records relevant to such independent audits.

2. The comptroller and the attorney general shall request proposals from independent certified public accountants for audits of the internal controls of their respective departments. The requests for proposals shall include a reference to the requirements for audits conducted pursuant to subdivision one of this section. The comptroller and attorney general shall select such independent auditors in accordance with a competitive procedure including an evaluation, based on quality and price factors, of those proposals received in response to such requests for proposals.

3. Whenever the comptroller or the comptroller's appointee is a member of any board, commission, committee, council, or corporation, which constitutes a state agency, the governing body of such board, commission, committee, council, or corporation shall select an independent auditor for the purpose of conducting audits of internal controls in accordance with this section.

* ARTICLE 45-A

TEMPORARY STATEWIDE HEALTH ADVISORY BOARD

Section 957. Temporary statewide health advisory board.

* NB Expired June 30, 1996

*** § 957. Temporary statewide health advisory board.** 1. There is hereby created in the executive department a temporary statewide health advisory board, hereafter referred to in this section as the "board", which shall consist of the commissioner of health, the commissioner of social services, the superintendent of insurance, and the director of the division of the budget, or their designees, plus two additional members appointed by the governor and six additional members with expertise in the delivery of medical care, provision of health and health related services, health care financing, labor issues, health consumer affairs, and/or employer issues who shall be appointed as follows: two members by the temporary president of the senate; two members by the speaker of the assembly; one member by the minority leader of the senate and one member by the minority leader of the assembly. All such appointments shall be made by April first, nineteen hundred ninety-four. The commissioner of health and the superintendent of insurance shall serve as co-chairmen of the board.

2. Vacancies to the board shall be filled in the same manner as the member whose vacancy is being filled was appointed.

3. The members of the board shall receive no compensation for their services as members, but shall be allowed their actual and necessary expenses incurred in the performance of their duties.

4. State agencies shall cooperate with the board in implementation of its functions.

5. The board is hereby authorized and directed to:

(a) review all applications for grants authorized pursuant to section twenty-eight hundred fourteen of the public health law and advise the commissioner of health concerning their appropriateness;

(b) review all proposals submitted by applicants funded pursuant to section twenty-eight hundred fourteen of the public health law to operate a health network containing a reimbursement component, global budget, or a health care demonstration;

(c) make recommendations to the commissioner of health for authorization of such proposals;

(d) make recommendations to the governor and the legislature concerning the waiver, modification or suspension of the requirements of any provisions of law or regulation to effectuate any global budget, or health care demonstration approved pursuant to this chapter and other changes in the health care delivery system; and

(e) make recommendations to the governor and legislature to promote the conversion or retraining of hospital employees to other health care occupations, as may be necessary, as a result of demonstrations proposed in this chapter.

6. Any proposal to operate a health network, global budget, or a health care demonstration not recommended for approval by the board pursuant to this chapter shall not be authorized to operate by the commissioner of health.

* NB Expired June 30, 1996

ARTICLE 45-B

LYME AND TICK-BORNE DISEASES WORKING GROUP

Section 958. Lyme and tick-borne diseases working group.

§ 958. Lyme and tick-borne diseases working group. 1. There is hereby created in the executive department a Lyme and tick-borne diseases working group consisting of the:

(a) commissioner of health;

(b) commissioner of the office of mental health;

(c) commissioner of environmental conservation;

(d) superintendent of financial services, who shall serve ex officio and who may designate representatives to act on their behalf; and

(e) six additional members to be appointed by the governor.

2. The governor shall also appoint eight members to the working group on the recommendation of the legislative leaders as follows:

(a) the temporary president of the senate shall recommend three members;

(b) the speaker of the assembly shall recommend three members;

(c) the minority leader of the senate shall recommend one member; and

(d) the minority leader of the assembly shall recommend one member.

3. Members appointed to the working group shall include, but not be limited to, at least one of each of the following, each of whom must have experience working with issues related to Lyme and tick-borne diseases:

(a) an infectious disease specialist;

(b) a general practitioner;

(c) a mental health practitioner;

(d) an entomologist;

(e) an epidemiologist;

(f) a representative of health insurance providers; and

(g) a representative of a tick-borne disease advocacy organization.

4. The commissioner of health shall serve, ex officio, as the chair of the working group, and the governor shall designate the vice chair of the working group. In appointing members of the working group, appointing authorities shall ensure that such members, as a group, represent diverse scientific perspectives relevant to the duties of the working group. The members of the working group, except those who serve ex officio, shall be allowed their actual and necessary expenses incurred in the performance of their duties under this article but shall receive no additional compensation for services rendered pursuant to this article.

5. The working group, on call of the chair, shall meet at least twice each year and at such other times as may be necessary. The working group may establish quorum requirements and other rules and procedures regarding conduct of its meetings and other affairs.

6. The working group shall have the following powers and responsibilities:

(a) review current best practices for the diagnosis, treatment and prevention of Lyme and tick-borne diseases, as well as any reports or recommendations from the twenty-first century workgroup for disease elimination and reduction, pursuant to section two hundred sixty-six of the public health law;

(b) provide recommendations including, but not limited to:

(i) improvements to the delivery of care for patients and suspected patients of Lyme and tick-borne diseases, particularly those from endemic areas of the state;

(ii) collaborations among county departments of health to promote effective strategies to combat Lyme and tick-borne diseases, including best practices for prevention and reporting;

(iii) interagency collaborations to streamline state efforts to combat the spread of Lyme and tick-borne diseases;

(iv) identifying opportunities to collaborate with the federal government, non-profit entities, or private organizations on projects addressing these diseases;

(v) data collection and reporting requirements of Lyme and tick-borne disease, including but not limited to, those for healthcare providers; and

(vi) any other regulations or guidelines concerning Lyme and tick-borne diseases; and

(c) prepare and issue a report on the working group's findings and recommendations by May first, two thousand twenty-three to the governor, the temporary president of the senate and the speaker of the assembly.

7. If any appointments to the working group are not made by April fifteenth, two thousand nineteen, then the working group may proceed to meet and fulfill its responsibilities, pursuant to paragraphs two and three of this section, without such appointees.

ARTICLE 46

LONG ISLAND SOUTH SHORE ESTUARY RESERVE

Section 960. Short title.

961. Legislative declaration.
961-a. Legislative findings and intent.
962. Definitions.
963. Designation of planning entity or entities.
964. Long Island South Shore Estuary reserve council.
964-a. Powers of the council.
964-b. Duties of the council.
965. Advisory committees to the council.
966. Comprehensive management plan.
967. Cooperation of state and municipal agencies.
968. Acceptance of monies.
969. Limitations on the regulation of hunting, fishing and recreational activities.
970. Affect on other laws.
970-a. Severability.

§ 960. Short title. This article shall be known and may be cited as the "Long Island South Shore Estuary Reserve Act."

§ 961. Legislative declaration. The legislature hereby declares it to be in the public interest to protect and manage the South Shore Estuary System as a single integrated estuary. It is further in the public interest to establish a council made up of representatives of state and local governments and private citizens to create a South Shore Estuary Reserve, prepare a comprehensive management plan and make recommendations to preserve, protect and enhance the natural, recreational, economic and educational resources of the reserve, which the state and local governments may incorporate into policy, laws or regulations.

§ 961-a. Legislative findings and intent. The legislature hereby finds that the tidal waters located between the southern shore of Long Island and the coastal barrier beaches constitute a maritime region of statewide importance, referred to as the South Shore Estuary.

The legislature finds that within the South Shore Estuary and the associated lands and water bodies that discharge into or affect the South Shore Estuary, that the federal, state and local governments own and manage significant interdependent properties in the form of parks, preserves, historic sites, open space and underwater lands, which help to sustain biological productivity and diversity, economic viability and recreational enjoyment.

The legislature also finds that the South Shore Estuary System contains and supports many unique marine habitats and locally significant populations and a diversity of rare, threatened and endangered species of plants and animals and the protection of their habitats is in the best interest of the people of New York.

The legislature further finds that the South Shore Estuary system contains numerous streams that flow into the bays; freshwater and tidal wetlands that serve as a breeding ground, source of primary production for the food chain and a natural filter media; and productive clam fisheries that are mutually supportive and ultimately dependent upon the maintenance of the hydrologic and ecologic integrity of the region.

The legislature, in addition, finds that the South Shore Estuary is of tremendous economic and social importance to the state, containing the largest concentration of recreational and commercial vessels, marinas and other water dependent businesses, supporting hundreds of baymen with a livelihood harvesting clams, finfish and other marine organisms and providing recreation opportunities to millions of residents and tourists each year.

The legislature finds that there is a multitude of governmental entities and agencies that share responsibility for the regulation, management, and protection of the Estuary and its resources and which govern private and public land use and activities; and despite existing programs, the water quality and productivity of the South Shore Estuary have declined due to the intensity and variety of land uses in a highly developed suburban setting which produce point and nonpoint source of

pollution.

The legislature finds that this region, in which there are private and public water and land uses which depend upon the health and productivity of the South Shore Estuary, could better be protected and managed through the development of a comprehensive management plan.

Therefore, the legislature finds that the purpose of this article is to provide a means for public and private interests to act collectively and pool resources and expertise to: integrate and coordinate existing programs and studies; identify and make recommendations to mitigate pollution sources in order to maintain or enhance water quality, maximize natural productivity and improve management of shellfish harvest areas to insure economic viability and minimize health risk; make recommendations on policies designed to balance the preservation of natural resources while providing adequate access and use of resources for the public as well as stability for water dependent businesses and tourism; make recommendations on methods to protect the value of existing public and private investment that has already been made in the region; and provide direction for state and local governments to protect, preserve and properly manage the unique natural resources of the South Shore estuary for the benefit of existing and future generations.

However, it is not the legislature's intent for this article or the management plan created pursuant to this article to be construed to require or to be used as a basis for requiring a cumulative analysis or a generic environmental impact statement pursuant to article eight of the environmental conservation law from any applicant, owner of property, the state, its political subdivision or any agencies thereof as a precondition for the approval of any proposed development, action or alteration of the same proposed to be undertaken within the geographic area designated as the Long Island South Shore Estuary Reserve, unless otherwise required by law.

§ 962. Definitions. As used in this article, the following terms shall

mean and include:

1. "Council" shall mean the Long Island South Shore Estuary reserve council created by section nine hundred sixty-four of this article.

2. "Department" shall mean the secretary of state or his or her designee.

3. "Estuary" shall mean all or part of the mouth of a river or stream or any body of water having an unimpaired natural connection with the open sea and within which sea water is measurably diluted with fresh-water derived from land drainage, including associated aquatic ecosystems and those portions of tributaries draining into the estuary up to the historic height of migration of anadromous fish or the historic head of tidal influence, whichever is higher.

4. "Long Island South Shore Estuary Reserve" or "Reserve" shall mean all the water and underwater lands comprising the South Shore Estuary and the lands which gather and transmit precipitation as either groundwater or run-off into such system and which are designated on a map prepared by a designated planning entity and adopted by the council.

5. "South Shore Estuary" shall mean the Estuary located on the South Shore of Long Island between the western boundary of the Town of Hempstead and the Eastern Boundary of Shinnecock Bay.

6. "Plan" shall mean the comprehensive management plan created pursuant to section nine hundred sixty-six of this article.

§ 963. Designation of planning entity or entities. The secretary of state, after consultation with the council, shall designate a planning entity or entities for the purposes of assisting the council in conducting research and developing the plan.

§ 964. Long Island South Shore Estuary reserve council. 1. There is

hereby established a Long Island South Shore Estuary reserve council to assist in the development, advise in the implementation, and review the effectiveness of a comprehensive management plan for the Long Island South Shore Estuary Reserve that the state and local governments may implement.

2. The council shall consist of twenty-three voting members: the secretary of state, who shall be the chair; the county executive of the county of Nassau; the county executive of the county of Suffolk; the supervisor of the city of Long Beach, the supervisors of the towns of Hempstead, Oyster Bay, Babylon, Islip, Brookhaven and Southampton; a mayor, appointed by the conference of mayors, from a village bordering the South Shore Estuary to represent the villages within the South Shore Estuary Reserve, all of the aforementioned whom may appoint a designee; the chair of the citizens advisory committee; the chair of the technical advisory committee; a member of the Great South Bay Audubon Society, the dean of the Marine Sciences Research Center at Stony Brook or his or her designee, a member of the New York Sportsfishing Federation, a representative of the Long Island Association, and a representative of the Long Island Builders Institute, Incorporated, however, if any of the previous five member organizations decline to serve on the council, a replacement organization which represents the same interests as the organization that is vacating shall be nominated by a majority of the remaining voting members of the council and appointed by the secretary of state; the secretary of state shall appoint one member who shall be a representative of a property owner association from a community or communities bordering the South Shore Estuary to represent the interests of property owners within the South Shore Estuary Reserve; the county executive of the county of Nassau shall appoint two members, one of whom shall be a representative of the marina industry and one of whom shall be a representative of a regional environmental organization; the county executive of the county of Suffolk shall appoint two members, one of whom shall be a representative of a local baymen's association and one of whom shall be a representative of the charter or party boat industry. All members shall reside in Nassau or Suffolk county and shall have demonstrated expertise in the functional areas to be addressed by the council.

3. The department shall convene and conduct the council's meetings and record and prepare minutes.

4. Terms of appointment. The terms of all members who are elected public officials shall be concurrent with their terms of office. All other members shall serve for a term of four years or thereafter until a successor is appointed. An appointment to fill a vacancy shall be made for the remainder of the affected term in the same manner as the original appointment was made. Such appointment shall be made within sixty days of the date the position becomes vacant.

5. Thirteen voting members shall constitute a quorum. Any action requiring a vote or any adoption by the council shall require an affirmative vote of at least a majority of all the voting members.

6. If any member of the council fails to attend at least sixty percent of the meetings during a period of twelve consecutive months, the department shall notify the designating authority.

7. The members of the council shall serve without compensation and shall not be reimbursed for personal expenses.

§ 964-a. Powers of the council. The council shall have the following powers:

1. To conduct or contract for necessary planning, scientific and environmental studies pertaining to the reserve, where insufficient data exists;

2. To utilize, to the extent feasible, the staff and facilities of state and local agencies subject to the approval of such agencies to carry out the provisions of this article; and

3. To contract within amounts appropriated for services deemed necessary for the performance of the council's functions.

§ 964-b. Duties of the council. The council shall have the following duties:

1. To meet not less than once every two months until the adoption of the plan and to encourage attendance at such meeting of representatives of local governments and interested parties affected by the deliberations of the council;

2. To send copies of the minutes of each meeting to each town and village within the reserve, the county executive of the county of Nassau, the county executive of the county of Suffolk, the members of the Assembly and Senate representing areas within the reserve, and any other interested party upon request;

3. To hold public hearings pursuant to section nine hundred sixty-six of this article;

4. To designate land and water bodies to be included in the reserve as defined in subdivision four of section nine hundred sixty-two of this article and to adopt and publish a map and written description delineating the boundary of the reserve;

5. To make appointments to the advisory committees authorized pursuant to section nine hundred sixty-five of this article, and to create other advisory committees as necessary;

6. To review and evaluate existing studies, modeling, methodologies, data and recommendations for their application to the plan;

7. To adopt a comprehensive management plan for the Long Island South Shore Estuary Reserve which the state and local governments may implement. Estuary segmentation or partitioning of the estuary into spatial units may be necessary at times for summarizing data for geographic areas, for the development of certain scientific models, or for interim management measures. The council shall prioritize problems

and opportunities within the estuary based upon use impairments, resource management needs and areas experiencing intense recreational use;

8. To identify funding mechanisms for the preparation and implementation of the plan;

9. To identify specific tasks or studies and the amount of funding necessary to carry out the provisions of this article and report such findings to the governor and the legislature;

10. To prepare interim reports and recommendations;

11. To prepare or cause to be prepared educational materials designed to inform the public about the value of the Estuary, its appropriate uses and methods to protect it;

12. To consider designation of the South Shore Estuary into the Federal National Estuary program pursuant to section three hundred twenty of the Federal Clean Water Act. Development of a nomination application for federal designation of the South Shore Estuary may be concurrent with the development of the comprehensive management plan;

13. To encourage, and where feasible, facilitate implementation of the recommendations of the plan;

14. To encourage individuals, corporations, associations, and public entities to protect and preserve the unique resources of the reserve; and

15. To biannually review the plan and the effectiveness of its implementation, and where necessary, revise the plan and submit such revision to each town and village within the reserve, the governor, the legislature and any other interested party upon request.

§ 965. Advisory committees to the council. The council shall establish

advisory committees to make recommendations and provide guidance to the council for the preparation and implementation of the comprehensive management plan. A citizens advisory committee, technical advisory committee, management advisory committee, and a local government advisory committee shall be formed. The committees may prepare reports, recommend studies and submit findings and recommendations to the council. The council shall make the initial appointments to the advisory committees. Each appointed member shall be a voting member of the advisory committee. The advisory committees shall meet and elect a chair. Once a chair is elected, the committee can appoint other voting members with expertise related to the function of the committee.

1. The citizens advisory committee shall be comprised of representatives of citizens or civic groups, environmental groups, user groups, and business organizations. The purpose of the committee shall be to integrate citizens' and user groups' concerns in the planning and decision-making process and to encourage public education and involvement. The committee membership shall include but not be limited to a representative of the Fire Island Association, a representative of Bluepoints Company Incorporated, a representative of a recreational boating association, a member of the Tribal council of the Shinnecock Indian Reservation, and a member of the Long Island Farm Bureau.

2. The technical advisory committee shall be comprised of individuals with technical expertise, including but not limited to scientists, engineers and planners. The purpose of the committee shall be to review and oversee studies, interpret and evaluate existing and new data to determine causes and effects of environmental problems, and provide technical support for the development of management measures and policies. The committee membership shall include but not be limited to the director of the Marine Science Center at the Long Island University at Southampton; the executive director of the Long Island Regional Planning Board; the director of the New York Sea Grant Institute and the director of the Long Island Maritime Museum, all of the aforementioned whom may appoint a designee.

3. The management advisory committee shall be comprised of

representatives of government agencies associated with developing policy, regulating activities or enforcing laws and regulations affecting the South Shore Estuary Reserve. The purpose of the committee shall be to analyze existing laws, regulations and management programs and to make recommendations for improvements thereof. The committee membership shall include but not be limited to the secretary of state, the director of region one of the department of environmental conservation, the director of the Long Island region office of parks, recreation and historic preservation, the commissioner of the department of economic development, the commissioner of the Suffolk county department of health services and the commissioner of the Nassau county department of health, all of the aforementioned whom may appoint a designee. The council shall request the participation of the director of region two of the federal environmental protection agency, the secretary of the United States department of the interior, and the director of the Fire Island National Seashore, all of whom may appoint a designee.

4. The local government advisory committee shall be comprised of representatives of towns, cities and villages. The purpose of the committee is to provide input regarding land use issues, zoning, planning and local implementation.

§ 966. Comprehensive management plan. 1. The purpose of the plan is to make recommendations to integrate and coordinate existing programs and studies; mitigate pollution; balance preservation, recreation and economic development; protect appropriate existing investment; and protect the natural resources. The plan shall include but not be limited to the following, to the extent possible, considering financial resources and technological limitations:

(a) A statement of the public value of the reserve, including its ecological, economic, social, hydrologic and educational values, together with the general goals and objectives of the plan;

(b) A map and written description delineating the boundary of the reserve;

(c) An estimate of the economic value of the commercial and recreational industry and the tourism industry dependent upon the

reserve;

(d) An inventory of all public lands and lands available for public use within the reserve specifying use, facilities and trails for public use, and the management agency with jurisdiction over the property;

(e) Identification of inventories compiled by the department pursuant to section nine hundred twenty of article forty-two of this chapter, including significant natural areas, historic sites, agricultural lands and water dependent areas;

(f) An identification and evaluation of existing regulatory and management programs, as well as all agencies having any jurisdiction within the reserve which affect land use and activities within the reserve;

(g) An evaluation of land use and zoning within the reserve and their actual or potential effects on water quality and productivity of the reserve;

(h) An inventory of point sources of pollution and an assessment of nonpoint sources of pollution, including suggested strategies for mitigation;

(i) An identification of areas containing contaminated sediments and sources that are contributing significantly to the decline of water quality and that need special attention;

(j) An assessment of trends in water quality within the reserve;

(k) An assessment of dredging and navigation needs in the South Shore Estuary taking into account environmental impact and public safety;

(l) Management recommendations for the preservation of plant, fish and wildlife and their habitats;

(m) Management recommendations for protection and management of dedicated public land;

(n) Management recommendations for protecting and supporting indigenous economic activities such as aquaculture, finfishing, shellfishing, boating and tourism;

(o) Recommendations for increased enforcement of laws and regulations pertaining to preservation and management of resources;

(p) Identification of environmentally sensitive land suitable for acquisition and dedication for public uses;

(q) Recommendations for institutional arrangements to coordinate and improve management of land and water resources, to maximize efficiency

such as coordinating review pursuant to article eight of the environmental conservation law and article forty-two of this chapter, and to adopt uniform policies among agencies where appropriate;

(r) Recommendations for land use management as it relates to maintenance or enhancement of surface water quality and the resources within the reserve, including changes in zoning and restrictions on activities where appropriate within the reserve;

(s) Recommendations for best management practices for private and public landowners to minimize chemical pollution, sedimentation and erosion;

(t) Recommendations for management of commercial, recreational and tourism activities that may threaten sensitive habitats;

(u) Strategies to resolve conflicts among competing demands of the resources and to achieve a balance among economic and recreational activities and preservation of natural resources;

(v) An identification of policies, land use controls and management measures that should be incorporated into the state coastal management program and local waterfront revitalization programs adopted pursuant to article forty-two of this chapter; and

(w) A local participation plan, which describes how local citizens, officials and members of the tourism, fishing and marine industries will participate in the implementation of the management plan and which contains a statement identifying support for such program by the participating local governments.

2. Within one hundred eighty days after the appointments to the council have been made, the council shall adopt a statement of goals and objectives; adopt a map and boundaries of the South Shore Estuary Reserve for purposes of this article and develop a work plan which shall include a timetable to guide the progress of its compliance with this article. Within such time period, the council shall also hold two public scoping sessions, one in Nassau county and one in Suffolk county for the development of the plan.

The council shall hold at least two public hearings at different locations, one in Nassau county and one in Suffolk county within the reserve on the draft plan before adoption. The council shall adopt a

final plan within four years of the effective date of this article unless insufficient funding is made available or obtained through appropriations, grants or gifts. The adopted plan shall be submitted to each town and village within the reserve, the county executive of the county of Nassau, the county executive of the county of Suffolk, and to the governor and the legislature.

3. The council shall continue to convene to fulfill its duties pursuant to subdivisions eleven, twelve, thirteen and fourteen of section nine hundred sixty-four-b of this article.

§ 967. Cooperation of state and municipal agencies. The council may request and shall be provided with such cooperation, assistance, services and data, to the maximum extent feasible, subject to the approval of such agency, from any department, advisory board, task force, commission, bureau or any other agency having jurisdiction over land and water within the reserve, as are necessary to carry out the council's duties pursuant to this article. The council shall utilize the expertise of the marine resources advisory council established pursuant to section 13-0350 of the environmental conservation law. The council shall also seek technical assistance from, consult with and coordinate its actions with the department.

§ 968. Acceptance of monies. The designated planning entity or entities may accept any grant or appropriation from federal, state and municipal sources and any gift for use to carry out the provisions of this article. An application from a designated planning entity or entities shall be eligible for assistance pursuant to sections nine hundred seventeen and nine hundred eighteen of this chapter for the development and implementation of the comprehensive management plan. The expenditure of such monies shall be consistent with the recommendation of the council and shall not exceed the grants, appropriations and gifts received by the designated planning entity or entities.

§ 969. Limitations on the regulation of hunting, fishing and recreational activities. Nothing in this article shall be interpreted to authorize the regulation of hunting, fishing, trapping, possession of wildlife or other recreational activities in the reserve, except as otherwise provided by law.

*** § 970. Affect on other laws.** Nothing in this article shall affect the police powers, local planning powers, zoning powers or authority to regulate any activity by villages, towns or counties within the reserve or the police powers of the state to regulate any activity within the reserve or affect the authority of any state or public agency in the management of any state or public lands within the reserve.

* NB There are 2 § 970's

§ 970-a. Severability. The provisions of this article shall be severable and if any portion thereof or the applicability thereof to any person or circumstances shall be held invalid, the remainder of this article and the application thereof shall not be affected thereby.

ARTICLE 48

JOB TRAINING COORDINATION

Section 970*2. Statement of purpose.
971. Definitions.
972. Job training and special services plan.
974. Special coordinating functions of the council.
975. Assistance of other agencies.

*** § 970. Statement of purpose.** It is the purpose of this article to ensure:

1. that all federal and state funds utilized for job training and job development programs are spent in the most economical, efficient and effective manner;

2. that unnecessary duplication and overlapping among such programs is eliminated; and

3. that the various job training and job development programs administered or funded by state agencies are implemented in a coordinated manner so as to maximize the effectiveness of each of these programs individually and of their overall effectiveness.

* NB There are 2 § 970's

§ 971. Definitions. Whenever used in this article:

1. "Act" means the federal Job Training Partnership Act as enacted into law by Public Law 97-300.

2. "Council" means the committee, board or council established by the governor to meet the requirements of section one hundred twenty-two of the act for a state job training coordinating council.

3. "Plan" means the governor's coordination and special services plan as required by section one hundred twenty-one of the act.

4. "Workforce preparation programs" means employment and training programs and human resource utilization activities including but not limited to job training and development, vocational education, public assistance employment, labor market information and employment services.

5. "Service delivery areas" means the areas designated by the governor in accordance with the provisions of section one hundred one of the act.

§ 972. Job training and special services plan. 1. In developing the job training and special services plan required by section one hundred twenty-one of the act, the governor shall provide guidelines and criteria for coordinating the activities to be funded with moneys under the act with related activities of the state education department, local

school districts including the boards of cooperative educational services, the state vocational education advisory council, the department of social services and the local social services districts, the department of labor including the job service, the office of vocational rehabilitation, the department of commerce, the division for youth, post-secondary institutions in the state particularly community colleges and other institutions providing technical training opportunities, the department of commerce and other state and local agencies and authorities involved in economic development activities.

2. All such agencies shall provide the governor with such assistance and information as he may need in preparing, implementing, and evaluating the implementation of the plan.

3. The plan shall set forth performance goals for programs funded under the act and criteria to be used in awarding the incentive grants available under the act. Such goals and criteria shall be designed to foster greater coordination among the workforce preparation programs funded under the act and among these and other workforce preparation programs.

§ 974. Special coordinating functions of the council. 1. The council shall have the responsibility to:

a. encourage the efficient and effective use of the entire range of workforce preparation programs in operation in the state by (i) emphasis of this objective as it carries out its responsibilities for the development of the governor's coordination and the special services plan, the review of service delivery area plans, and the establishment of coordination criteria; (ii) serving as a focal point for state efforts to overcome coordination obstacles and to settle interagency disagreements that harm or interfere with a comprehensive approach; (iii) fostering the development of information sharing, communication among interested parties, and effective means for the measurement and publicizing of coordination performance.

b. review and comment on the coordination mechanisms presented in service delivery area plans and in the administrative arrangements employed by state and local agencies administering workforce preparation program;

c. identify barriers to coordination and work to overcome them by such means as recommending coordinative measures to service delivery areas, the governor and, when appropriate, the legislature;

d. identify exemplary coordination practices and successful program models among the service delivery areas and encourage the use of those in other service delivery areas.

2. On or before March first, nineteen hundred eighty-four, the committee shall report to the governor and the legislature on the operation of workforce preparation programs funded under the act. Such report shall include, but not be limited to, the following:

a. an analysis of opportunities for improving the effectiveness of workforce preparation programs in the state;

b. an analysis of the performance of workforce preparation programs in the state including comparisons of the effectiveness and efficiency of programs of various types, programs in the various service delivery areas in the state and comparisons of the effectivness and efficiency of New York state programs with those of other states;

c. an analysis of administrative arrangements and coordinative mechanisms currently being utilized in the management of workforce preparation programs in New York state and recommendations for enhancing linkages among business, labor, educational institutions, social services agencies and other service providers;

d. recommendations for statutory or regulatory changes necessary for achieving a coordinated and consolidated statewide vocational, occupational and job skills training program;

e. recommendations for changes in the program performance standards used in evaluating programs funded under the act and suggested performance standards for other workforce preparation program components including methodologies for dealing with difficulties such as the higher costs of serving clients with special placement problems and the different economic conditions in the various regions of the state;

f. recommendations for better utilization of educational resources in the workforce preparation field with specific attention to eliminating duplicative efforts and coordinating programming efforts between boards of cooperative educational services and community colleges;

g. an evaluation of the labor market information system including an assessment of the effectiveness of the state occupational information coordinating committee and the possibility of alternative means of gathering and disseminating labor market information; and

h. a discussion of opportunities for improving the labor exchange mechanisms, including the job service, that are used in workforce preparation programs.

§ 975. Assistance of other agencies. All agencies, departments, divisions, boards, officers and public corporations of the state shall cooperate with the council and provide whatever assistance the commitee may require to fulfill its purposes. Assistance may include, but need not be limited to, consultation with and use of agency staff and the provision of statistical and policy data.

ARTICLE 49

WORKFORCE PREPARATION EVALUATION ACT

Section 980. Definition.
981. Program implementation.
982. Evaluation.

§ 980. Definition. For purposes of this article, "workforce preparation program" shall mean a program that provides targeted educational, occupational or training services for the purpose of effecting the employability of the participant, provides training or employment services, supports an economic development activity by enhancing the skills of the state's workforce, prepares individuals for employment, improves opportunities for individuals to become employed, or promotes understanding of the state labor force market through statistical studies.

§ 981. Program implementation. 1. On or before September first, nineteen hundred eighty-nine and every September first thereafter, each state agency administratively responsible for workforce preparation activities shall prepare a separate program plan for each workforce preparation program that such agency administers. Each plan shall include a description of proposed program activities, a description of a mechanism for funding distribution, program objectives, population to be served, institutions eligible to receive funds, and a description of the coordination and linkages between this program and other program activities funded separately. Such plan shall also include an evaluation component as part of the implementation of each program which shall describe how the agency will monitor the delivery of services under the program and which shall set forth the measure of effectiveness of the services being provided.

2. Program plans shall be submitted to the job training coordinating council, as defined in subdivision two of section nine hundred seventy-one of this chapter, the speaker of the assembly, the temporary president of the senate, and the chair of the legislative commission on skills development and career education for review and comment.

3. The provisions of this section shall not exempt any agency from requirements relating to the preparation and submission of program plans pursuant to any other provision of law.

§ 982. Evaluation. 1. The evaluation component of each program plan shall, at a minimum, include the following:

(a) a statement on legislative history and intent;

(b) a statement of program objectives which identifies outcomes attributable to the program, anticipated performance levels, and indicators of the effectiveness of the program;

(c) defined quantitative measures which will be included as part of the evaluation report including, but not limited to, a description of the targeted population, criteria for participant selection, demographics on participants, measures of program activity, inventory of services provided, and budget information on programs and administrative expenditures including, but not limited to, costs per participant. For those programs where an objective is job placement, data shall include information on the occupations which participants enter, the rate of job retention, pre-program wage earnings and post-program wage earnings as well as other appropriate measures which indicate the extent to which program activities meet program objectives. For those programs where the objectives are other than job placement, such as youth employment and training programs, occupationally related basic competency programs, programs which provide services supporting individuals in jobs, and employee skills upgrading programs, data shall, at a minimum, represent measures which indicate the extent to which program activities meet program objectives. Other performance indicators that appropriately describe the effect of the program and data which reflects follow-up activity appropriate to the services provided shall also be included as part of the evaluation report;

(d) a statement of methodology which will result in a comparison of program outcomes against program objectives; and

(e) any additional evaluation information as may be required by law.

2. (a) The evaluation report for each workforce preparation program shall be submitted to the job training coordinating council, as defined in subdivision two of section nine hundred seventy-one of this chapter, for review and recommendation.

(b) The report shall include, at a minimum, all program data and an analysis which compares performance outcomes against program objectives as specified in the evaluation component of the program plan defined

herein and shall include an evaluation of activity for the completed program year immediately preceding the issuance of the report and an interim evaluation of current program year activity if applicable.

3. Based on the review conducted pursuant to paragraph (a) of subdivision two of this section, the council shall prepare a unified summary of evaluation reports submitted by each agency pursuant to this article for submission to the speaker of the assembly, the temporary president of the senate, and the chair of the legislative commission on skills development and career education no later than January thirty-first, nineteen hundred ninety and each year thereafter provided, however, that the council shall make available each individual program evaluation report submitted pursuant to this article upon request of the legislature. The council shall include in such summary recommendations to the governor and the legislature relating to improved program coordination and service delivery, program improvements or enhancements and necessary statutory changes.

4. The provisions of this section shall not exempt any agency from requirements relating to the evaluation of workforce preparation programs pursuant to any other provision of law.

ARTICLE 49-A
NEW YORK STATE FAMILY POLICY

Section 990. Legislative findings.
991. Family policy guidelines.
992. Implementation of the family policy.

§ 990. Legislative findings. 1. The legislature finds that the children of this state are at the same time both our most important resource and our most vulnerable citizens. Children best develop their unique potential in a caring and healthy family environment either with their birth parents or other relatives or in an adoptive family, with support from other nurturing environments, especially the schools and the community. As such, children need a special state policy to ensure

the strength and viability of their families.

2. The legislature further finds that there is a critical lack of services available to families and that the shortage of such services is exacerbated by a lack of coordination of the many existing programs and policies of state and local governments that impact on children and families. The legislature also finds that the planning and provision of services for children and their families would be enhanced by the establishment of a family policy to ensure that all state and local planning and provision of services are effectuated in a manner that maximizes support and strengthening of the family structure. Such actions also must be directed toward stemming the human and financial costs of the unnecessary placement of children outside their homes, while ensuring the safety and well-being of children by providing needed services to them and their families and, when appropriate, toward supporting permanency planning for children through adoption or other means.

§ 991. Family policy guidelines. All state and local government programs should be guided by the following principles:

1. Families are best served by comprehensive programs which are directed towards all aspects of individual and family development.

2. Families who are the consumers of services should be partners in the planning, delivery and evaluation of those services.

3. Families needs can be met best by developing and nurturing their inherent strengths.

4. Families deserve a realistic level of economic security.

5. Families receive the greatest benefit from flexible, accessible and comprehensive services which are delivered in a manner which is culturally and linguistically sensitive to their needs.

6. Families are best served when intervention occurs as early as possible and is designed to give priority to prevention of family disintegration. Primary emphasis should be given to establishing safe, nurturing environments which support the healthy growth of all family members.

7. Families who have members placed in care settings outside the nuclear family must be provided with services to help them reunite. If return is not possible, plans for alternative permanent care must be made by agencies caring for the child.

8. Families deserve services which are coordinated and where special attention is paid to ongoing accessibility to multiple services.

9. Families receive the greatest benefit from effective services delivered by a qualified, trained workforce. This workforce, especially direct caregivers, must receive professional recognition, support and appropriate compensation.

10. Families need public and voluntary human services systems which work together and are accountable to society, each other and the people they serve.

§ 992. Implementation of the family policy. The family policy shall be implemented by the state council on children and families pursuant to paragraph (f) of subdivision two of section 483-b of the social services law.

ARTICLE 49-B

COMMISSION ON FORENSIC SCIENCE AND ESTABLISHMENT OF DNA IDENTIFICATION INDEX

Section 995. Definitions.
995-a. Commission on forensic science.
995-b. Powers and duties of the commission.
995-c. State DNA identification index.

995-d. Confidentiality.
995-e. Applicability.
995-f. Penalties.

§ 995. Definitions. When used in this article, the following words and terms shall have the meanings ascribed to them in this section:

1. For purposes of general forensic analysis the term "forensic laboratory" shall mean any laboratory operated by the state or unit of local government that performs forensic testing on evidence in a criminal investigation or proceeding or for purposes of identification.

2. For purposes of forensic DNA analysis, the term "forensic DNA laboratory" shall mean any forensic laboratory operated by the state or unit of local government, that performs forensic DNA testing on crime scenes or materials derived from the human body for use as evidence in a criminal proceeding or for purposes of identification and the term "forensic DNA testing" shall mean any test that employs techniques to examine deoxyribonucleic acid (DNA) derived from the human body for the purpose of providing information to resolve issues of identification. Regulation pursuant to this article shall not include DNA testing on materials derived from the human body pursuant to title five of article five of the public health law for the purpose of determining a person's genetic disease or medical condition and shall not include a laboratory operated by the federal government.

3. "DNA testing methodology" means methods and procedures used to extract and analyze DNA material, as well as the methods, procedures, assumptions, and studies used to draw statistical inferences from the test results.

4. "Blind external proficiency testing" means a test sample that is presented to a forensic laboratory for forensic DNA testing through a second agency, and which appears to the analysts to involve routine evidence submitted for forensic DNA testing.

5. "DNA" means deoxyribonucleic acid.

6. "State DNA identification index" means the DNA identification record system for New York state established pursuant to this article.

7. "Designated offender" means a person convicted of any felony defined in any chapter of the laws of the state or any misdemeanor defined in the penal law except: (a) a person convicted of prostitution under section 230.00 of the penal law, or (b) a person whose participation in the offense is determined by a court to have been a result of having been a victim of sex trafficking under section 230.34 of the penal law, sex trafficking of a child under section 230.34-a of the penal law, or trafficking in persons under the trafficking victims protection act (United States Code, Title 22, Chapter 78).

8. "DNA record" means DNA identification information prepared by a forensic DNA laboratory and stored in the state DNA identification index for purposes of establishing identification in connection with law enforcement investigations or supporting statistical interpretation of the results of DNA analysis. A DNA record is the objective form of the results of a DNA analysis sample.

9. "DNA subcommittee" shall mean the subcommittee on forensic DNA laboratories and forensic DNA testing established pursuant to subdivision thirteen of section nine hundred ninety-five-b of this article.

10. "Commission" shall mean the commission on forensic science established pursuant to section nine hundred ninety-five-a of this article.

§ 995-a. Commission on forensic science. 1. There is hereby created in the executive department, the commission on forensic science, which shall consist of the following fourteen members: (a) the commissioner of the division of criminal justice services who shall be chair of the commission and the commissioner of the department of health or his or

her designee, who shall serve as an ex-officio member of the commission;

(b) twelve members appointed by the governor.

2. Of the members appointed by the governor,

(a) one member shall be the chair of the New York state crime laboratory advisory committee;

(b) one member shall be the director of a forensic laboratory located in New York state;

(c) one member shall be the director of the office of forensic services within the division of criminal justice services;

(d) two members shall be a scientist having experience in the areas of laboratory standards or quality assurance regulation and monitoring and shall be appointed upon the recommendation of the commissioner of health;

(e) one member shall be a representative of a law enforcement agency and shall be appointed upon the recommendation of the commissioner of criminal justice services;

(f) one member shall be a representative of prosecution services who shall be appointed upon the recommendation of the commissioner of criminal justice services;

(g) one member shall be a representative of the public criminal defense bar who shall be appointed upon the recommendation of an organization representing public defense services;

(h) one member shall be a representative of the private criminal defense bar who shall be appointed upon the recommendation of an organization of such bar;

(i) two members shall be members-at-large, one of whom shall be appointed upon the recommendation of the temporary president of the senate, and one of whom shall be appointed upon the recommendation of the speaker of the assembly; and

(j) one member, who shall be an attorney or judge with a background in privacy issues and biomedical ethics, shall be appointed upon the recommendation of the chief judge of the court of appeals.

3. Of the members appointed by the governor, each member shall be appointed to serve a three year term. Any member appointed by the governor may be reappointed for additional three year terms.

4. Any member chosen to fill a vacancy created otherwise than by expiration of term shall be appointed by the governor for the unexpired term of the member he or she is to succeed. Any such vacancy shall be filled in the same manner as the original appointment.

5. The commission shall meet at least four times each year and may establish its own rules and procedures concerning the conduct of its meetings and other affairs not inconsistent with law.

6. No member of the commission on forensic science shall be disqualified from holding any public office or employment, nor shall he or she forfeit any such office or employment, by reason of his or her appointment hereunder, and members of the commission shall not be required to take and file oaths of office before serving on the commission.

7. Members of the commission shall receive no compensation for their services but shall be allowed their actual and necessary expenses incurred in the performance of their functions hereunder.

§ 995-b. Powers and duties of the commission. 1. The commission shall develop minimum standards and a program of accreditation for all forensic laboratories in New York state, including establishing minimum qualifications for forensic laboratory directors and such other personnel as the commission may determine to be necessary and appropriate, and approval of forensic laboratories for the performance of specific forensic methodologies. Nothing in this article shall be deemed to preclude forensic laboratories from performing research and validation studies on new methodologies and technologies which may not yet be approved by the commission at that time.

In designing a system of accreditation pursuant to this article, the commission shall evaluate other systems of accreditation.

2. The minimum standards and program of accreditation shall be

designed to accomplish the following objectives:

(a) increase and maintain the effectiveness, efficiency, reliability, and accuracy of forensic laboratories, including forensic DNA laboratories;

(b) ensure that forensic analyses, including forensic DNA testing, are performed in accordance with the highest scientific standards practicable;

(c) promote increased cooperation and coordination among forensic laboratories and other agencies in the criminal justice system;

(d) ensure compatibility, to the extent consistent with the provisions of this article and any other applicable provision of law pertaining to privacy or restricting disclosure or redisclosure of information, with other state and federal forensic laboratories to the extent necessary to share and exchange information, data and results of forensic analyses and tests; and

(e) set forth minimum requirements for the quality and maintenance of equipment.

2-a. Any program of forensic laboratory accreditation with respect to a DNA laboratory pursuant to this section shall be under the direction of the DNA subcommittee established pursuant to subdivision thirteen of this section. Such subcommittee shall have the sole authority to grant, deny, review or modify a DNA forensic laboratory accreditation pursuant to this article, provided that such authority shall be effectuated through binding recommendations made by the DNA subcommittee to the commission. In the event the commission disagrees with any of the binding recommendations of the DNA subcommittee made pursuant to this article, the commission may so notify such subcommittee and request such subcommittee to reasonably review such binding recommendations. The DNA subcommittee shall conduct such review and either forward revised binding recommendations to the commission or indicate, with the reasons therefor, that following such review such subcommittee has determined that such binding recommendations shall not be revised.

3. The program of forensic laboratory accreditation shall include, at a minimum, the following requirements:

(a) an initial laboratory inspection, and routine inspections, as

necessary, to ensure compliance with accreditation requirements;

(b) routine internal and external proficiency testing of all laboratory personnel involved in forensic analysis, including blind external proficiency testing if the commission, or the DNA subcommittee as the case may be, determines such a blind proficiency testing program to be practicable and appropriate. In determining whether a blind proficiency testing program is practicable and appropriate, the commission, or the DNA subcommittee as the case may be, shall consider such factors as accuracy and reliability of laboratory results, cost-effectiveness, time, allocation of resources, and availability;

(c) quality control and quality assurance protocols, a method validation procedure and a corrective action and remedial program;

(d) annual certification to the commission by the forensic laboratories of their continued compliance with the requirements of the accreditation program which certification, in the case of a forensic DNA laboratory, shall be forwarded to the DNA subcommittee;

(e) the accreditation of a forensic laboratory may be revoked, suspended or otherwise limited, upon a determination by the commission or, in the case of a forensic DNA laboratory, upon the binding recommendation of the DNA subcommittee, that the laboratory or one or more persons in its employ:

(i) is guilty of misrepresentation in obtaining a forensic laboratory accreditation;

(ii) rendered a report on laboratory work actually performed in another forensic laboratory without disclosing the fact that the examination or procedure was performed by such other forensic laboratory;

(iii) showed a pattern of excessive errors in the performance of forensic laboratory examination procedures;

(iv) failed to file any report required to be submitted pursuant to this article or the rules and regulations promulgated pursuant thereto; or

(v) violated in a material respect any provision of this article or the rules and regulations promulgated pursuant thereto; and

(f) no forensic laboratory accreditation shall be revoked, suspended, or otherwise limited without a hearing. The commission shall serve written notice of the alleged violation, together with written notice of

the time and place of the hearing, which notice shall be mailed by certified mail to the holder of the forensic laboratory accreditation at the address of such holder at least twenty-one days prior to the date fixed for such hearing. An accredited laboratory may file a written answer to the charges with the commission, not less than five days prior to the hearing.

4. A laboratory director who knowingly operates a laboratory without obtaining the accreditation required by this article, or who, with the intent to mislead or deceive, misrepresents a material fact to the commission or DNA subcommittee, shall be subject to a civil penalty not to exceed seventy-five hundred dollars and such other penalties as are prescribed by the law.

5. The commission and the DNA subcommittee established pursuant to subdivision thirteen of this section may require and receive from any agency of the state or any political subdivision thereof such assistance and data as may be necessary to enable the commission or DNA subcommittee to administer the provisions of this article. The commission or DNA subcommittee may enter into such cooperative arrangements with the division of criminal justice services, the department of health, and any other state agency, each of which is authorized to enter into such cooperative arrangements as shall be necessary or appropriate. Upon request of the commission or DNA subcommittee, any state agency may transfer to the commission such officers and employees as the commission or DNA subcommittee may deem necessary from time to time to assist the commission or DNA subcommittee in carrying out its functions and duties. Officers and employees so transferred shall not lose their civil service status or rights, and shall remain in the negotiating unit, if any, established prior to such transfer.

6. All of the commission's records, reports, assessments, and evaluation with respect to accreditation, implementation of quality assurance standards (including proficiency testing) and monitoring thereof, shall be archived by the commission.

7. The commission and DNA subcommittee may establish, appoint, and set terms of members to as many advisory councils as it deems necessary to provide specialized expertise to the commission with respect to new forensic technologies including DNA testing methodologies.

8. The commission or DNA subcommittee shall designate one or more entities for the performance of proficiency tests required pursuant to the provisions of this article.

9. After reviewing recommendations from the division of criminal justice services, the commission, in consultation with the DNA subcommittee, shall promulgate a policy for the establishment and operation of a DNA identification index consistent with the operational requirements and capabilities of the division of criminal justice services. Such policy shall address the following issues:

(a) the forensic DNA methodology or methodologies to be utilized in compiling the index;

(b) procedures for assuring that the state DNA identification index contains the following safeguards:

(i) that any records maintained as part of such an index are accurate and complete;

(ii) that effective software and hardware designs are instituted with security features to prevent unauthorized access to such records;

(iii) that periodic audits will be conducted to ensure that no illegal disclosures of such records have taken place;

(iv) that access to record information system facilities, systems operating environments, data file contents whether while in use or when stored in a media library is restricted to authorized personnel only;

(v) that operation programs are used that will prohibit inquiry, record updates, or destruction of records from any source other than an authorized source of inquiry, update, or destruction of records;

(vi) that operational programs are used to detect and store for the output of authorized employees only all unauthorized attempts to penetrate the state DNA identification index;

(vii) that adequate and timely procedures exist to insure that any subject of the state DNA identification index has the right of access to and review of records relating to such individual contained in such

index for the purpose of ascertaining their accuracy and completeness, including procedures for review of information maintained about such individuals and administrative review (including procedures for administrative appeal) and the necessary documentation to demonstrate that the information is inaccurate or incomplete;

(viii) that access to the index will be granted to an agency authorized by this article to have such access only pursuant to a written use and dissemination agreement, a copy of which is filed with the commission, which agreement sets forth the specific procedures by which such agency shall implement the provisions of subparagraphs (i) through (vii) of this paragraph, as applicable, and which agreement specifically prohibits the redisclosure by such agency of any information obtained from the DNA identification index; and

(ix) such policy shall provide for the mutual exchange, use and storage of DNA records with the system of DNA identification utilized by the federal bureau of investigation provided that the commission determines that such exchange, use and storage are consistent with the provisions of this article and applicable provisions of law.

10. Review, and if necessary, recommend modifications to, a plan for implementation of the DNA identification index submitted by the commissioner of criminal justice services pursuant to section nine hundred ninety-five-c of this article.

11. Upon the recommendation of the DNA subcommittee established pursuant to subdivision thirteen of this section, the commission shall designate one or more approved methodologies for the performance of forensic DNA testing, and shall review and act upon applications by forensic DNA laboratories for approval to perform forensic DNA testing.

12. Promulgate standards for a determination of a match between the DNA records contained in the state DNA identification index and a DNA record of a person submitted for comparison therewith.

13. (a) The commission shall establish a subcommittee on forensic DNA laboratories and forensic DNA testing. The chair of the subcommittee shall be appointed by the chair of the commission. The chair of the

subcommittee shall appoint six other members to the subcommittee, one of whom shall represent the discipline of molecular biology and be appointed upon the recommendation of the commissioner of the department of health, one of whom shall represent the discipline of population genetics and be appointed upon the recommendation of the commissioner of the department of health, one of whom shall be representative of the discipline of laboratory standards and quality assurance regulation and monitoring and be appointed upon the recommendation of the commissioner of the department of health, one of whom shall be a forensic scientist and be appointed upon the recommendation of the commissioner of the department of health, one of whom shall be representative of the discipline of population genetics and be appointed upon the recommendation of the commissioner of criminal justice services and one of whom shall be representative of the discipline of forensic science and be appointed upon the recommendation of the commissioner of criminal justice services. Members of the DNA subcommittee shall serve for three year terms and be subject to the conditions of service specified in section nine hundred ninety-five-a of this article.

(b) The DNA subcommittee shall assess and evaluate all DNA methodologies proposed to be used for forensic analysis, and make reports and recommendations to the commission as it deems necessary. The DNA subcommittee shall make binding recommendations for adoption by the commission addressing minimum scientific standards to be utilized in conducting forensic DNA analysis including, but not limited to, examination of specimens, population studies and methods employed to determine probabilities and interpret test results. The DNA subcommittee may require a demonstration by an independent laboratory of any proposed forensic DNA testing methodology proposed to be used by a forensic laboratory.

(c) The DNA subcommittee shall make binding recommendations for adoption by the commission with regard to an accreditation program for laboratories performing forensic DNA testing in accordance with the provisions of the state administrative procedure act. Such recommendations shall include the adoption and implementation of internal and external proficiency testing programs, including, if possible, a blind external proficiency testing program for forensic laboratories performing forensic DNA testing. The DNA subcommittee shall

also provide the commission with a list of accepted proficiency testers.

(d) The DNA subcommittee shall be authorized to advise the commission on any other matters regarding the implementation of scientific controls and quality assurance procedures for the performance of forensic DNA testing, or on any other matters referred to it by the commission.

§ 995-c. State DNA identification index. 1. Following the promulgation of a policy by the commission pursuant to subdivision nine of section nine hundred ninety-five-b of this article, the commissioner of criminal justice services is authorized to promulgate a plan for the establishment of a computerized state DNA identification index within the division of criminal justice services.

2. Following the review and approval of the plan by the DNA subcommittee and the commission and the filing of such plan with the speaker of the assembly and the temporary president of the senate, the commissioner of criminal justice services is hereby authorized to establish a computerized state DNA identification index pursuant to the provisions of this article.

3. (a) Any designated offender subsequent to conviction and sentencing for a crime specified in subdivision seven of section nine hundred ninety-five of this article, shall be required to provide a sample appropriate for DNA testing to determine identification characteristics specific to such person and to be included in a state DNA identification index pursuant to this article.

(b) (i) In the case of a designated offender who is sentenced to a term of imprisonment, such sample shall be collected by the public servant to whose custody the designated offender has been committed.

(ii) In the case of a designated offender who is sentenced to a term of probation, including a sentence of probation imposed in conjunction with a sentence of imprisonment when a sample has not already been taken, such sample shall be collected by the probation department supervising the designated offender.

(iii) In the case of a designated offender whose sentence does not include either a term of imprisonment or a term of probation, outside of

the city of New York, the court shall order that a court officer take a sample or that the designated offender report to an office of the sheriff of that county, and when the designated offender does so, such sample shall be collected by the sheriff's office. Within the city of New York, the court shall order that the sample be collected by a court officer.

(iv) Nothing in this paragraph shall prohibit the collection of a DNA sample from a designated offender by any court official, state or local correction official or employee, probation officer, parole officer, police officer, peace officer, other law enforcement official, or designated personnel of the division of criminal justice services who has been notified by the division of criminal justice services that such designated offender has not provided a DNA sample. Upon notification by the division of criminal justice services that a designated offender has not provided a DNA sample, such court official, state or local correction official or employee, probation officer, parole officer, police officer, peace officer or other law enforcement official, or designated personnel of the division of criminal justice services shall collect the DNA sample.

4. The commissioner of the division of criminal justice services, in consultation with the commission, the commissioner of health, the director of the office of probation and correctional alternatives and the department of corrections and community supervision, shall promulgate rules and regulations governing the procedures for notifying designated offenders of the requirements of this section.

5. The sample shall be collected, stored and forwarded to any forensic DNA laboratory which has been authorized by the commission to perform forensic DNA testing and analysis for inclusion in the state DNA identification index. Such laboratory shall promptly perform the requisite testing and analysis, and forward the resulting DNA record only to the state DNA identification index in accordance with the regulations of the division of criminal justice services. Such laboratory shall perform DNA analysis only for those markers having value for law enforcement identification purposes. For the purposes of this article, the term "marker" shall have the meaning generally

ascribed to it by members of the scientific community experienced in the use of DNA technology.

6. DNA records contained in the state DNA identification index shall be released only for the following purposes:

(a) to a federal law enforcement agency, or to a state or local law enforcement agency or district attorney's office for law enforcement identification purposes upon submission of a DNA record in connection with the investigation of the commission of one or more crimes or to assist in the recovery or identification of specified human remains, including identification of missing persons, provided that there exists between the division and such agency a written agreement governing the use and dissemination of such DNA records in accordance with the provisions of this article;

(b) for criminal defense purposes, to a defendant or his or her representative, who shall also have access to samples and analyses performed in connection with the case in which such defendant is charged;

(c) after personally identifiable information has been removed by the division, to an entity authorized by the division for the purpose of creating or maintaining a population statistics database or for identification research and protocol development for forensic DNA analysis or quality control purposes.

7. Requests for DNA records must be in writing, or in a form prescribed by the division authorized by the requesting party, and, other than a request pursuant to paragraph (b) of subdivision six of this section, maintained on file at the state DNA identification index in accordance with rules and regulations promulgated by the commissioner of the division of criminal justice services.

8. The defendant, including the representative of a defendant, in a criminal action or proceeding shall have access to information in the state DNA identification index relating to the number of requests previously made for a comparison search and the name and identity of any requesting party.

9. (a) Upon receipt of notification of a reversal or a vacatur of a conviction, or of the granting of a pardon pursuant to article two-A of this chapter, of an individual whose DNA record has been stored in the state DNA identification index in accordance with this article by the division of criminal justice services, the DNA record shall be expunged from the state DNA identification index, and such individual may apply to the court in which the judgment of conviction was originally entered for an order directing the expungement of any DNA record and any samples, analyses, or other documents relating to the DNA testing of such individual in connection with the investigation or prosecution of the crime which resulted in the conviction that was reversed or vacated or for which the pardon was granted. A copy of such application shall be served on the district attorney and an order directing expungement may be granted if the court finds that all appeals relating to the conviction have been concluded; that such individual will not be retried, or, if a retrial has occurred, the trier of fact has rendered a verdict of complete acquittal, and that expungement will not adversely affect the investigation or prosecution of some other person or persons for the crime. The division shall, by rule or regulation, prescribe procedures to ensure that the DNA record in the state DNA identification index, and any samples, analyses, or other documents relating to such record, whether in the possession of the division, or any law enforcement or police agency, or any forensic DNA laboratory, including any duplicates or copies thereof, at the discretion of the possessor thereof, are either destroyed or returned to such individual, or to the attorney who represented him or her at the time such reversal, vacatur or pardon, was granted. The commissioner shall also adopt by rule and regulation a procedure for the expungement in other appropriate circumstances of DNA records contained in the index.

(b) As prescribed in this paragraph, if an individual, either voluntarily or pursuant to a warrant or order of a court, has provided a sample for DNA testing in connection with the investigation or prosecution of a crime and (i) no criminal action against the individual relating to such crime was commenced within the period specified by section 30.10 of the criminal procedure law, or (ii) a criminal action was commenced against the individual relating to such crime which resulted in a complete acquittal, or (iii) a criminal action against the

individual relating to such crime resulted in a conviction that was subsequently reversed or vacated, or for which the individual was granted a pardon pursuant to article two-A of this chapter, such individual may apply to the supreme court or the court in which the judgment of conviction was originally entered for an order directing the expungement of any DNA record and any samples, analyses, or other documents relating to the DNA testing of such individual in connection with the investigation or prosecution of such crime. A copy of such application shall be served on the district attorney and an order directing expungement may be granted if the court finds that the individual has satisfied the conditions of one of the subparagraphs of this paragraph; that if a judgment of conviction was reversed or vacated, all appeals relating thereto have been concluded and the individual will not be retried, or, if a retrial has occurred, the trier of fact has rendered a verdict of complete acquittal, and that expungement will not adversely affect the investigation or prosecution of some other person or persons for the crime. If an order directing the expungement of any DNA record and any samples, analyses or other documents relating to the DNA testing of such individual is issued, such record and any samples, analyses, or other documents shall, at the discretion of the possessor thereof, be destroyed or returned to such individual or to the attorney who represented him or her in connection with the application for the order of expungement.

§ 995-d. Confidentiality. 1. All records, findings, reports, and results of DNA testing performed on any person shall be confidential and may not be disclosed or redisclosed without the consent of the subject of such DNA testing. Such records, findings, reports and results shall not be released to insurance companies, employers or potential employers, health providers, employment screening or personnel companies, agencies, or services, private investigation services, and may not be disclosed in response to a subpoena or other compulsory legal process or warrant, or upon request or order of any agency, authority, division, office, corporation, partnership, or any other private or public entity or person, except that nothing contained herein shall prohibit disclosure in response to a subpoena issued on behalf of the

subject of such DNA record or on behalf of a party in a civil proceeding where the subject of such DNA record has put such record in issue.

2. Notwithstanding the provisions of subdivision one of this section, records, findings, reports, and results of DNA testing, other than a DNA record maintained in the state DNA identification index, may be disclosed in a criminal proceeding to the court, the prosecution, and the defense pursuant to a written request on a form prescribed by the commissioner of the division of criminal justice services. Notwithstanding the provisions of subdivision one of this section, a DNA record maintained in the state DNA identification index may be disclosed pursuant to section nine hundred ninety-five-c of this article.

§ 995-e. Applicability. This article shall not apply to a forensic DNA laboratory operated by any agency of the federal government, or to any forensic DNA test performed by any such federal laboratory.

§ 995-f. Penalties. Any person who (a) intentionally discloses a DNA record, or the results of a forensic DNA test or analysis, to an individual or agency other than one authorized to have access to such records pursuant to this article or (b) intentionally uses or receives DNA records, or the results of a forensic DNA test or analysis, for purposes other than those authorized pursuant to this article or (c) any person who knowingly tampers or attempts to tamper with any DNA sample or the collection container without lawful authority shall be guilty of a class E felony.

ARTICLE 49-C

COMMUNITY ADVISORY BOARD FOR THE MODERNIZATION AND REVITALIZATION OF SUNY DOWNSTATE HEALTH SCIENCES UNIVERSITY

§ 996. Community advisory board for the modernization and revitalization of SUNY Downstate health sciences university.

§ 996. Community advisory board for the modernization and revitalization of SUNY Downstate health sciences university. 1. Advisory board established. (a) There shall be established the advisory board for the modernization and revitalization of SUNY Downstate (hereinafter referred to as "the advisory board"). The advisory board shall review and examine a variety of options to strengthen SUNY Downstate and promote longer term viability for its dual education and healthcare mission. In conducting its study, the advisory board will consider the following factors:

(i) Overall healthcare service delivery trends and models;

(ii) Historic and projected financials for the hospital and the campus;

(iii) Current state of building infrastructure and capital needs;

(iv) Community healthcare needs, outcomes, and health disparities;

(v) Existing inpatient and outpatient service offerings and health outcomes;

(vi) Capacity and availability of inpatient and outpatient services in the broader primary and secondary service areas;

(vii) Efficiency of operations and quality of healthcare services benchmarking; and

(viii) Training needs for students and employment outcomes.

2. Advisory board members. The advisory board shall consist of the following members: (a) the commissioner of the department of health; (b) one representative of organized labor representing employees at the state university of New York pursuant to article fourteen of the civil service law, who shall be appointed by the governor upon recommendation of the president of the union representing the greatest number of employees at SUNY Downstate; (c) one member appointed by the temporary president of the senate; (d) one member appointed by the speaker of the assembly; (e) three members appointed by the governor; (f) one member appointed by the governor upon the joint recommendation of Brooklyn community boards 9 and 17; and (g) the chancellor of the state university of New York.

3. Outreach. The advisory board shall solicit recommendations from healthcare experts, county health departments, community-based

organizations, state and regional healthcare industry associations, labor unions, experts in hospital operations, and other interested parties. The advisory board shall hold no less than three public hearings with requisite public notice to solicit input and recommendations from any interested party.

4. Compensation. The members of the advisory board shall receive no compensation for their service as members, but shall be allowed their actual and necessary expenses incurred in the performance of their duties.

5. Recommendations and report. (a) The advisory board shall complete a study and provide written recommendations to prioritize healthcare services provided in the SUNY Downstate service area. The written recommendations shall include a reasonable, scalable and fiscally responsible plan for the financial health, viability and sustainability of SUNY Downstate; provided, however, that such plan shall incorporate utilization of all available state and federally available appropriated amounts, and shall not exceed more than two hundred fifty percent of such amounts.

(b) A report of the advisory board's recommendations shall be provided to the governor, the temporary president of the senate, and the speaker of the assembly no later than April first, two thousand twenty-five.

6. Certificate of need. The public health and health planning council and the commissioner of health are prohibited from reviewing or approving any certificate of need application related to a reduction in inpatient services pursuant to any article of law or regulation that may affect a change to inpatient services at SUNY Downstate health sciences university until at least April first, two thousand twenty-five.

ARTICLE 50

INTERPRETATION

Section 1000. Interpretation.
1001. Saving clause.
1002. Laws repealed.

1003. Time of taking effect.

§ 1000. Interpretation. 1. The provisions of this chapter in so far as they are substantially the same as the existing law on July first, nineteen hundred fifty-one, shall be construed as a continuation of the provisions of the former executive law and not as a new enactment.

2. If any clause, sentence, paragraph, section or part of this chapter shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section, or part thereof directly involved in the controversy in which such judgment shall have been rendered.

§ 1001. Saving clause. 1. Any act of the legislature of the year nineteen hundred fifty-one which, in form, amends or repeals or purports to amend or repeal any provision or provisions of the former executive law shall be legally effective notwithstanding the repeal of such former executive law by this chapter and shall be construed as an amendment or repeal, as the case may be, of the corresponding provision or provisions of this chapter irrespective of whether such provision or provisions are contained in this chapter in one or more than one article, section, subdivision or other part thereof and such corresponding provision or provisions shall be deemed and construed to be amended, modified, changed or repealed as though the same had been expressly and in terms so amended or repealed.

2. Any act of the legislature of the year nineteen hundred fifty-one which adds or purports to add a new article, section, subdivision or other provision of the law to the former executive law shall be legally effective notwithstanding the repeal of such former executive law by this chapter and shall be construed as having been added to this chapter and shall be given full effect according to its context as if the same had been added expressly and in terms of this chapter and shall be deemed and construed to have been inserted in this chapter in

juxtaposition to and as modifying the effect of the corresponding provision or provisions of this chapter.

§ 1002. Laws repealed. Chapter twenty-three of the laws of nineteen hundred nine, entitled "An act in relation to executive officers, constituting chapter eighteen of the consolidated laws, " and all acts amendatory thereof and supplemental thereto, constituting the executive law as heretofore in effect, are hereby repealed.

§ 1003. Time of taking effect. This act shall take effect July first, nineteen hundred fifty-one.