JUDICIARY LAW

Laws 1909, Chap. 35.

AN ACT in relation to the administration of justice, constituting chapter thirty of the consolidated laws.

Became a law February 17, 1909, with the approval of the Governor.

Passed, three-fifths being present.

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

CHAPTER 30 OF THE CONSOLIDATED LAWS

JUDICIARY LAW

Article 1. Short title (§§ 1--1-a).

2. General provisions relating to courts and judges (§§ 2--39-b).

2-A. State commission on judicial conduct (§§ 40-48).

3. Court of appeals (§§ 51-60).

3-A. Commission on judicial nomination. (§§ 61-68).

4. Appellate division (§§ 70-109).

4-a. Official referees (§§ 114-125).

5. Supreme court (§§ 140-174).

5-A. The city court of the city of New York (§§ 176-177).

5-B. Special narcotics parts of the supreme court in cities with a population of one million or more (§§ 177-a--177-d).

6. The surrogates' courts (§§ 179-181).

6-A. County judges, surrogates and certain district attorneys (§§ 182-188).

7. County court (§§ 190-208).

7-A. Judicial administration (§§ 210--219-e).

7-B. Compensation of judges and justices of the unified court system (§§ 220-224).

7-C. Of the court for the trial of impeachments (§§ 240-248).

7-D. Internal control responsibilities of the judiciary (§§ 249--249-c).

8. Clerks (§§ 250-283).

9. Stenographers (§§ 290-320).

10-A. Grand jury stenographers (§§ 321-330).

10. Attendants, officers and messengers (§§ 340-352).

11. Criers (§§ 360-364).
12. Interpreters (§§ 380-391).
13. Sheriffs and constables (§§ 400--411-b).
13-A. Judicial proceedings for the removal of public officers by impeachment (§§ 415-428).
14. Law reporting (§§ 430-438).
15. Attorneys and counsellors (§§ 460-499).
15-A. State commission on prosecutorial conduct (§§ 499-a--499-j).
16. Selection of jurors (§§ 500-528).
19. Contempts (§§ 750-781).
20. Collection of fines (§§ 790-796).
20-A. Remission of fines and forfeitures (§§ 798--799-a).
21. Court libraries (§§ 810-815).
21-A. Community dispute resolution centers program (§§ 849-a--849-g).
21-B. Justice court assistance program (§§ 849-h--849-k).
21-C. Court-appointed special advocates program (§§ 849-l--849-m).
22. Judicial hearing officers (§§ 850-854).
22-A. Judicial wellness or assistance committees (§ 857).
22-B. Hope card act (§ 858).
22-C. New York state judicial security act (§ 859).
23. Laws repealed; when to take effect (§§ 860-861).

ARTICLE 1

SHORT TITLE

Section 1. Short title.
1-a. Definition.

§ 1. Short title. This chapter shall be known as the "Judiciary Law."

§ 1-a. Definition. As used in this chapter, the word "minor" or "infant" shall mean any person who has not attained the age of eighteen

years.

ARTICLE 2

GENERAL PROVISIONS RELATING TO COURTS AND JUDGES

Section 2. Courts of record.

2-a. Jurisdiction and powers of courts continued.

2-b. General powers of courts of record.

3. Use of term "court" prohibited.

4. Sittings of courts to be public.

4-a. Certain powers of the courts regarding civil arrests.

5. Courts not to sit on Sunday except in special cases nor on Saturday in certain cases.

6. Adjournment of term of court of record to future day.

7. Adjournment of term on non-appearance of judge.

7-a. Vacancies or changes in judges; power of judge out of office.

7-b. Continuance of out of court proceedings before judges of same court.

7-c. Continuance of special proceeding before another officer.

8. Emergency relocations of court terms.

9. Recusal; reason.

10. Courtroom designated the "Judge James F. Reitz Memorial Courtroom".

13. Court or judge may direct the filing of original stenographic minutes with clerk.

13-a. Power to remove certain officers and to appoint successors.

13-b. Oath of referee, receiver, commissioner or appraiser.

14. Disqualification of judge by reason of interest or consanguinity.

15. Judge of court of record not disqualified because a resident or a taxpayer.

16. Judge prohibited from practicing law in his court.

17. Judge prohibited from practicing in cause which has been before him.

18. Judge prohibited from taking fees for advice in matters before him.
19. Judge must not be interested in costs.
20. Ex officio judge must not be interested in costs or compensation of attorneys or counsellors in his court.
21. Judge other than of court of appeals or appellate division not to decide question argued during his absence.
22. Certificates as to year of birth to be filed by certain judicial officers.
23. Age limitation on term of judicial office.
24. Compensation of judges after removal.
25. Retirement of state-paid full-time judges or justices of the unified court system and housing judges appointed pursuant to subdivision (f) of section one hundred ten of the New York city civil court act for disability.
25-a. Retirement of judicial officers.
27. (No section heading)
28. Amendment of minutes of stenographer.
29. Seal of court of record.
30. Lost or destroyed seal must be replaced.
30-a. Seal of Kings county and of the county clerk, the supreme court and the county court in said county.
30-b. Seal of New York county and of the county clerk and the supreme court.
30-c. Seal of Franklin county and of the county clerk and the supreme court.
30-d. Seal of Albany county and of the county clerk and the supreme court.
30-e. Seal of Livingston county and of the county clerk and the supreme court.
30-f. Seal of Cortland county and of the county clerk, the supreme court and the county court in said county.
31. Seals and records of former superior city courts.
33. Expense of certain criminal prosecutions to be borne by the state.
34. Apportionment of expenses related to salaries or compensation paid by the state in the first instance.

35. Assignment of counsel to indigent persons and appointment of physicians in certain proceedings.
35-a. Statements to be filed by judges or justices fixing or approving fees, commissions, or other compensation for persons appointed by courts to perform services in actions and proceedings.
35-b. Assignment of counsel and related services in criminal actions in which a death sentence may be imposed.
36. Personal assistants to judges and justices.
37. Salary plan for non-judicial employees.
39. Unified court budget; first instance payments by state; provision for prepayment; payment by localities; transfer of non-judicial personnel.
39-a. Mediation.
39-b. Special provisions relating to court facilities.

§ 2. Courts of record. Each of the following courts of the state is a court of record:

1. The court for the trial of impeachments.

2. A court on the judiciary.

3. The court of appeals.

4. The appellate division of the supreme court in each department.

5. The supreme court.

6. The court of claims.

7. A county court in each county, except the counties of New York, Bronx, Kings, Queens and Richmond.

8. The family court.

9. A surrogate's court in each county.

10. Each city court outside the city of New York.

11. The district court in each county or portion thereof in which such court shall be established.

12. The civil court of the city of New York and the criminal court of the city of New York.

All courts other than those specified in this section are courts not of record.

§ 2-a. Jurisdiction and powers of courts continued. Each court of the state shall continue to exercise the jurisdiction and powers now vested in it by law, according to the course and practice of the court, except as otherwise prescribed by statute or rules adopted in conformance thereto.

§ 2-b. General powers of courts of record. A court of record has power

1. to issue a subpoena requiring the attendance of a person found in the state to testify in a cause pending in that court, subject, however, to the limitations prescribed by law with respect to the portion of the state in which the process of the local court of record may be served;

2. to administer an oath to a witness in the exercise of the powers and duties of the court and;

3. to devise and make new process and forms of proceedings, necessary to carry into effect the powers and jurisdiction possessed by it.

§ 3. Use of term "court" prohibited. No person, firm, association or corporation shall hereafter use or employ the term "court" as part of or

in connection with the name of any body, board, bureau, association, organization or corporation, or in referring to any body, board, bureau, association, organization or corporation, in such manner as to be calculated reasonably to lead to the belief that the body, board, bureau, association, organization or corporation is vested with judicial power or is a part of the judicial system of the state; the use of such term being expressly limited by this section for reference to a court of record or a court not of record, duly organized and existing under the laws of the state as a part of the judicial system of the state.

Any violation of this section shall be a misdemeanor.

§ 4. Sittings of courts to be public. The sittings of every court within this state shall be public, and every citizen may freely attend the same, except that in all proceedings and trials in cases for divorce, seduction, rape, assault with intent to commit rape, bastardy, filiation, or a crime formerly defined in sections 130.50, 130.45, and 130.40 of the penal law, the court may, in its discretion, exclude therefrom all persons who are not directly interested therein, excepting jurors, witnesses, and officers of the court.

§ 4-a. Certain powers of the courts regarding civil arrests. In order to maintain access to the court and open judicial proceedings for all persons in their individual capacity and to prevent interference with the needs of judicial administration, a court has the power to issue appropriate judicial orders to protect the privilege from civil arrest, in accordance with article three of the civil rights law.

§ 5. Courts not to sit on Sunday except in special cases nor on Saturday in certain cases. A court shall not be opened, or transact any business on Sunday, nor shall a court transact any business on a Saturday in any case where such day is kept as a holy day by any party to the case, except to receive a verdict or discharge a jury and for the receipt by the criminal court of the city of New York or a court of

special sessions of a plea of guilty and the pronouncement of sentence thereon in any case in which such court has jurisdiction. An adjournment of a court on Saturday, unless made after a cause has been committed to a jury, must be to some other day than Sunday. But this section does not prevent the exercise of the jurisdiction of a magistrate, where it is necessary to preserve the peace, or, in a criminal case, to arrest, commit or discharge a person charged with an offense, or the granting of an injunction order by a justice of the supreme court when in his judgment it is necessary to prevent irremediable injury or the service of a summons with or without a complaint if accompanied by an injunction order and an order of such justice permitting service on that day. Furthermore, no provision of this section shall be deemed to prohibit or prevent the conducting on Saturday and/or Sunday of any arbitration or mediation proceeding, provided all parties and the tribunal consent to such proceeding in writing. A writing purporting to provide consent of any party that is not prepared by the party shall only be sufficient to establish consent upon a finding by the tribunal by clear and convincing evidence, that such party has affirmatively consented to such proceedings on a Saturday or Sunday as the case may be; such finding to be made part of the record of any further proceedings.

§ 6. Adjournment of term of court of record to future day. Any term of a court of record may be adjourned from day to day, or to a specified future day, by an entry in the minutes. Any judge of the court may so adjourn a term thereof, in the absence of a sufficient number of judges to hold the term.

§ 7. Adjournment of term on non-appearance of judge. If a judge, authorized to hold a term of a court, does not come to the place where the term is appointed to be held, or to which it shall have been adjourned by the judge, before four o'clock in the afternoon of the day so appointed or of such adjourned day, the sheriff or clerk must then open the term, and forthwith adjourn it, or again adjourn it, as the case may be, to nine o'clock in the morning of the next day. If the judge attends by four o'clock in the afternoon of the second day of the

term as appointed or as adjourned by such judge, he must open the term; otherwise the sheriff or the clerk must adjourn it without day. If, before four o'clock of the second day of the term as appointed or as adjourned by the judge, the sheriff or the clerk receives from a judge, authorized to hold the term, a written direction to adjourn the term to a future day certain, he must adjourn it accordingly, instead of adjourning it as above prescribed. The direction must be entered in the minutes as an order.

§ 7-a. Vacancies or changes in judges; power of judge out of office. A civil or criminal action or special proceeding in a court of record is not discontinued by a vacancy or change in the judges of the court or by the re-election or re-appointment of a judge, but it must be continued, heard and determined by the court as constituted at the time of the hearing or determination. After a judge is out of office, he may settle a transcript or statement for a record on appeal or make any return of proceedings had before him while he was in office, and may be compelled so to do by the court in which the action or special proceeding is pending.

§ 7-b. Continuance of out of court proceedings before judges of same court. At any stage of a special proceeding instituted before a judge of a court of record out of court, or a proceeding commenced before a judge out of court in an action or special proceeding pending in a court of record, such proceeding or special proceeding may be continued before any other judge of the same court, who may exercise all powers in the matter as if it had been originally instituted before him.

§ 7-c. Continuance of special proceeding before another officer. In case of the death, sickness, resignation, removal from office, absence from the county, or other disability of an officer before whom or in whose court a special proceeding has been instituted, where no express provision is made by law for the continuance thereof, it may be continued before or in the court of

1. the officer's successor, or

2. if there is no successor capable of acting, any other officer residing in the same county before whom it might have been originally instituted, or

3. if there is neither a successor nor an officer specified in paragraph two capable of acting, an officer in an adjoining county who would originally have had jurisdiction of the subject matter had it occurred or existed in the latter county. An officer substituted, as prescribed by law, to continue a special proceeding instituted before another, may exercise all powers in the special proceeding, as if it had been originally instituted before him.

§ 8. Emergency relocations of court terms. 1. Notwithstanding any other provision of law, if an emergency or other exigent circumstance or the imminent threat thereof prevents the safe and practicable holding of a term of any court at the location designated by law therefor, then:

a. the governor, after consultation with the chief judge or his or her designee if practicable, may by executive order appoint another location for the temporary holding of such term if it is a term of a trial court; or

b. where the governor has not acted pursuant to paragraph a of this subdivision, or if it is a term of a court other than a trial court, the chief judge or his or her designee (or the presiding justice of an appellate division or his or her designee if it is a term of such appellate division or of an appellate term established in the judicial department served by such appellate division) may by order appoint another location for the temporary holding of such term; except that, where the court is a trial court, nothing in this paragraph shall prevent the issuance of a superseding order pursuant to paragraph a of this subdivision.

2. To the extent practicable, an order pursuant to subdivision one of this section:

a. shall designate the most proximate location in which such term of court safely and practicably can be held, without limitation based on the judicial department, judicial district, county, city, town, village or other geographical district for which such court was established;

b. shall be made in conformance with state and local disaster preparedness plans governing the continued effective operation of the civil and criminal justice systems pursuant to sections twenty-two and twenty-three of the executive law; and

c. for a trial court other than the court of claims, shall be made after consultation with the chief executive officer of the county, city, town or village for which such court was established and the chief executive officer of the corresponding county, city, town or village to which the term of such court temporarily would be relocated, or their designees.

3. An order pursuant to subdivision one of this section shall be effective for no more than thirty days and may be reauthorized for successive periods of no more than thirty days each in like fashion as an original order. As soon as practicable, such order shall be filed with the office of court administration and the office of the clerk of each county affected thereby, and shall be publicized by the best means practicable and for such duration as such order shall provide.

4. Every term of court subject to an order pursuant to subdivision one of this section shall, for the duration of such order, continue to preside for the original judicial department, judicial district, county, city, town, village or other geographical district for which such court was established, and every action and proceeding in such term shall be subject to the same substantive and procedural law as would have applied had such term not been temporarily relocated.

5. Notwithstanding any other provision of section thirty-nine of this

article, if an order pursuant to subdivision one of this section shall temporarily relocate a term of court outside the county, city, town or village for which such court was established, then the costs of temporarily providing facilities suitable and sufficient for the transaction of business of such court outside such county, city, town or village shall be charges upon the office of court administration.

§ 9. Recusal; reason. Any judge who recuses himself or herself from sitting in or taking any part in the decision of an action, claim, matter, motion or proceeding shall provide the reason for such recusal in writing or on the record; provided, however, that no judge shall be required to provide a reason for such recusal when the reason may result in embarrassment, or is of a personal nature, affecting the judge or a person related to the judge within the sixth degree by consanguinity or affinity.

§ 10. Courtroom designated the "Judge James F. Reitz Memorial Courtroom". Room three hundred one of the Putnam supreme and county court shall be designated and known as the "Judge James F. Reitz Memorial Courtroom".

§ 13. Court or judge may direct the filing of original stenographic minutes with clerk. The court or a judge thereof may, in its or his discretion, upon or without an application for that purpose make an order directing the stenographer to file with the clerk, forthwith or within a specified time, the original stenographic notes taken upon a trial or hearing.

§ 13-a. Power to remove certain officers and to appoint successors. A referee, receiver, commissioner or appraiser appointed by a court or judge may be removed by the same court or judge. In case of the death, resignation, removal, or neglect or refusal to serve of any such officer, another person may be appointed in his stead.

§ 13-b. Oath of referee, receiver, commissioner or appraiser. A referee, receiver, commissioner or appraiser appointed by a court or judge, before entering upon his duties, shall be sworn faithfully and fairly to discharge the trust committed to him. The oath may be waived upon consent of all parties.

§ 14. Disqualification of judge by reason of interest or consanguinity. A judge shall not sit as such in, or take any part in the decision of, an action, claim, matter, motion or proceeding to which he is a party, or in which he has been attorney or counsel, or in which he is interested, or if he is related by consanguinity or affinity to any party to the controversy within the sixth degree. The degree shall be ascertained by ascending from the judge to the common ancestor, descending to the party, counting a degree for each person in both lines, including the judge and party, and excluding the common ancestor. But no judge of a court of record shall be disqualified in any action, claim, matter, motion or proceeding in which an insurance company is a party or is interested by reason of his being a policy holder therein. No judge shall be deemed disqualified from passing upon any litigation before him because of his ownership of shares of stock or other securities of a corporate litigant, provided that the parties, by their attorneys, in writing, or in open court upon the record, waive any claim as to disqualification of the judge.

§ 15. Judge of court of record not disqualified because a resident or a taxpayer. A judge of a court of record is not disqualified from hearing or deciding an action, claim, matter, motion or proceeding, by reason of his being a resident or taxpayer of a town, village, city, or county, interested therein.

§ 16. Judge prohibited from practicing law in his court. A judge shall not practice or act as an attorney or counsellor in a court of which he

is, or is entitled to act as a member, or in an action, claim, matter, motion or proceeding originating in that court.

§ 17. Judge prohibited from practicing in cause which has been before him. A judge or surrogate or former judge or surrogate shall not act as attorney or counsellor in any action, claim, matter, motion or proceeding, which has been before him in his official character.

§ 18. Judge prohibited from taking fees for advice in matters before him. A judge or other judicial officer shall not demand or receive a fee or other compensation for giving his advice in an action, claim, matter, motion or proceeding pending before him, or which he has reason to believe will be brought before him for decision; or for preparing a paper or other proceeding, relating to such action, claim, matter, motion or proceeding; except a justice of the peace, in a case where a fee is expressly allowed to him by law.

§ 19. Judge must not be interested in costs. A judge shall not, directly or indirectly, be interested in the costs of an action, claim, matter, motion or proceeding, brought before him, or in a court of which he is, or is entitled to act as a member, except an action, claim, matter, motion or proceeding to which he is a party, or in which he is interested.

§ 20. Ex officio judge must not be interested in costs or compensation of attorneys or counsellors in his court. An ex officio judge shall not, directly or indirectly, be interested in the costs, or the compensation of an attorney or counsellor, in the court of which he is ex officio a judge.

§ 21. Judge other than of court of appeals or appellate division not to decide question argued during his absence. A judge other than a judge

of the court of appeals, or of the appellate division of the supreme court, shall not decide or take part in the decision of a question, which was argued orally in the court, when he was not present and sitting therein as a judge.

§ 22. Certificates as to year of birth to be filed by certain judicial officers. Every judge, justice and surrogate of a court of record or not of record, except a town justice or a village justice must, within ten days after he enters on the duties of his office, execute and file in the office of court administration a certificate stating the year in which he was born and the time when his official term will expire either by completion of a full term or by reason of the disability of age prescribed in section twenty-three of this chapter. Every such judge, justice and surrogate now holding office, unless he has already so complied, shall similarly execute and file such certificate within sixty days after this section as hereby amended takes effect.

§ 23. Age limitation on term of judicial office. No person shall hold the office of judge, justice or surrogate of any court, whether of record or not of record, except a justice of the peace of a town or police justice of a village, longer than until and including the last day of December next after he shall be seventy years of age, except that a judge or justice in office or elected or appointed to office at the effective date of this section, as to whom no provision limiting his right to hold office to the close of the year following his attaining the age of seventy years was applicable prior to the effective date of this section, may continue in office during the term for which he was elected or appointed.

§ 24. Compensation of judges after removal. Any judge or justice of any court who shall be removed pursuant to section nine of article six of the constitution, for any cause not involving moral delinquency, shall continue to receive, until the expiration of the term for which he was elected, or until the time fixed by this section, a sum equal to

one-half of the salary of his office as fixed by law at the time of such removal, to be paid to him at the same times and in the same manner as said salary was payable when he was so removed. If said sum would exceed three thousand dollars no greater sum shall be annually paid said judge or justice than three thousand dollars. The payment of any sum pursuant to the provisions of this section shall cease at the death of such judge or justice or on the last day of December next after he shall be seventy years of age, notwithstanding the term for which he was elected shall not then have expired. No person shall be entitled to the benefit of this section unless the resolution of removal shall state that he is removed for a cause not involving moral delinquency, and shall recommend the continuance of such compensation.

§ 25. Retirement of state-paid full-time judges or justices of the unified court system and housing judges appointed pursuant to subdivision (f) of section one hundred ten of the New York city civil court act for disability. 1. A state-paid full-time judge or justice of the unified court system or housing judge appointed pursuant to subdivision (f) of section one hundred ten of the New York city civil court act may apply for the special disability allowance provided for in this section by filing with the appellate division of the supreme court in which he resides (a) his petition, duly verified, stating that for reasons specified he is incapacitated to perform the duties of his office; and (b) his resignation. If the appellate division shall determine that such judge or justice is incapacitated, it may make and enter an order retiring such judge or justice from office. Upon the filing in the office of court administration of a certified copy of such order and such resignation, the office of such judge or justice shall be vacant.

2. Such a judge or justice so retired from office shall, if eligible, apply for retirement and shall retire from the retirement system or systems of which he is a member. All such retirements shall be in accordance with and take effect pursuant to law governing such system or systems.

3. Any such judge or justice shall receive from the unit or units of government responsible for the payment of his salary a special disability allowance, which together with his pension or pensions, if any, from such retirement system or systems, computed without optional modification, shall equal two-thirds of the annual salary which such judge or justice was receiving at the time of his retirement from office; provided, however, that in no event shall the special disability allowance exceed an amount which together with his retirement allowance or allowances computed without optional modification will equal such annual salary.

The cost of providing the special disability allowance shall be apportioned among the units of government in the same ratio as such units contributed to the total annual salary he was receiving at the time of his retirement.

4. In the case of a judge or justice ineligible to retire, the special disability allowance shall begin to accrue on the date of filing of the certified copy of the order together with his resignation in the office of court administration. In the case of a judge or justice eligible to retire, the special disability allowance or appropriate portion thereof shall begin to accrue on the same date as his retirement from the retirement system of which he is a member becomes effective, or the filing of the certified copy of the order together with his resignation, whichever shall last occur.

5. The special disability allowance provided for in subdivision three shall be payable on the first day of each month to each such judge or justice until the expiration of the term for which he had been elected or appointed or the last day of December next after he shall be seventy years of age or his death, whichever shall first occur.

6. The special disability allowance provided for in this section shall not reduce or suspend any retirement allowance of any such judge or justice, notwithstanding any other provision of law.

§ 25-a. Retirement of judicial officers. 1. A judicial officer retired from office for disability shall, if eligible, apply for retirement and shall retire from the retirement system or systems of which he is a member. All such retirements shall be in accordance with and take effect pursuant to law governing such system or systems.

2. Any such judicial officer shall receive from the unit or units of government responsible for the payment of his salary a special disability allowance, which together with his pension or pensions, if any, from such retirement system or systems, computed without optional modification, shall equal two-thirds of the annual salary which such judicial officer was receiving at the time of his retirement from office; provided, however, that in no event shall the special disability allowance exceed an amount which together with his retirement allowance or allowances computed without optional modification will equal such annual salary.

In the case of a justice of the supreme court, the cost of providing the special disability allowance shall be apportioned among the units of government in the same ratio as such units contributed to the total annual salary he was receiving at the time of his retirement from office.

3. The special disability allowance or appropriate portion thereof shall begin to accrue on the same date that his retirement from the retirement system of which he is a member becomes effective. In the case of a judicial officer ineligible to retire, the special disability allowance shall begin to accrue on the date of the entry of the order by the court of appeals.

4. The special disability allowance provided for in subdivision two shall be payable to each such judicial officer on the first day of each month until the expiration of the term for which he had been elected or appointed or the last day of December next after he shall be seventy years of age or his death, whichever shall first occur.

5. The special disability allowance provided for in this section shall

not reduce or suspend any retirement allowance of any such judicial officer, notwithstanding any other provision of law.

§ 27. (a) Except as provided in subdivision (b) of this section, judgments and accounts must be computed in dollars and cents. In all judgments or decrees rendered by any court for any debt, damages or costs, in all executions issued thereupon, and in all accounts arising from proceedings in courts the amount shall be computed, as near as may be, in dollars and cents, rejecting lesser fractions; and no judgment, or other proceeding, shall be considered erroneous for such omissions.

(b) In any case in which the cause of action is based upon an obligation denominated in a currency other than currency of the United States, a court shall render or enter a judgment or decree in the foreign currency of the underlying obligation. Such judgment or decree shall be converted into currency of the United States at the rate of exchange prevailing on the date of entry of the judgment or decree.

§ 28. Amendment of minutes of stenographer. After any ruling, decision, remark or comment of a judge during a trial, duly objected to or excepted to, has been made, the same shall not be altered or amended in the minutes of such trial, furnished by the stenographer, by the judge presiding at the trial without the consent of the party objecting or excepting thereto whether the same is made during the charge of the court to the jury or at any other time during the trial.

§ 29. Seal of court of record. The seal of each court of record in the state, now in use, shall continue to be the seal of the court in which it is in use. A description of each of such seals, must be deposited and recorded in the office of court administration, unless it has already been done; and must remain of record.

The provisions of this section shall not be applicable in those cases where special provisions are otherwise made by law.

§ 30. Lost or destroyed seal must be replaced. When the seal of a court is so injured, that it can not be conveniently used, the court must cause it to be destroyed; and when the seal of a court is lost or destroyed, the court must cause a new seal to be made, similar in all respects to the former seal, which shall become the seal of the court. The expense of a new seal for a county clerk, or a local court in a city, must be paid as part of the contingent expenses of the county or of the court, as the case requires. The expense of a new seal for any other court, except a surrogate's court, must be paid from the state treasury.

The provisions of this section shall not be applicable in those cases where special provisions are otherwise made by law.

§ 30-a. Seal of Kings county and of the county clerk, the supreme court and the county court in said county. 1. The county of Kings, the county clerk of said county and the supreme court and the county court therein, shall have and use the following seal:

Description of seal

The seal shall be approximately two and one-quarter inches in diameter and shall consist of two concentric circles. The space between the outer and inner circles shall be colored azure blue. In the upper part of said space shall be inscribed in capital letters the words: "SEAL OF KINGS COUNTY," and in the lower part the words: "NEW YORK."

The interior of the inner circle shall have a white or plain background. Upon such background shall be superimposed a relief map of Kings county. The map shall be of orange color. It shall be subdivided by naming and delineating thereon the boundaries of the six original colonial towns which now comprise the county of Kings and by specifying thereon the date of settlement or legal establishment of each of such towns, namely: town of Flatlands, 1636; town of Gravesend, 1645; town of Brooklyn, 1646; town of Flatbush, 1652; town of New Utrecht, 1657; and town of Bushwick, 1660.

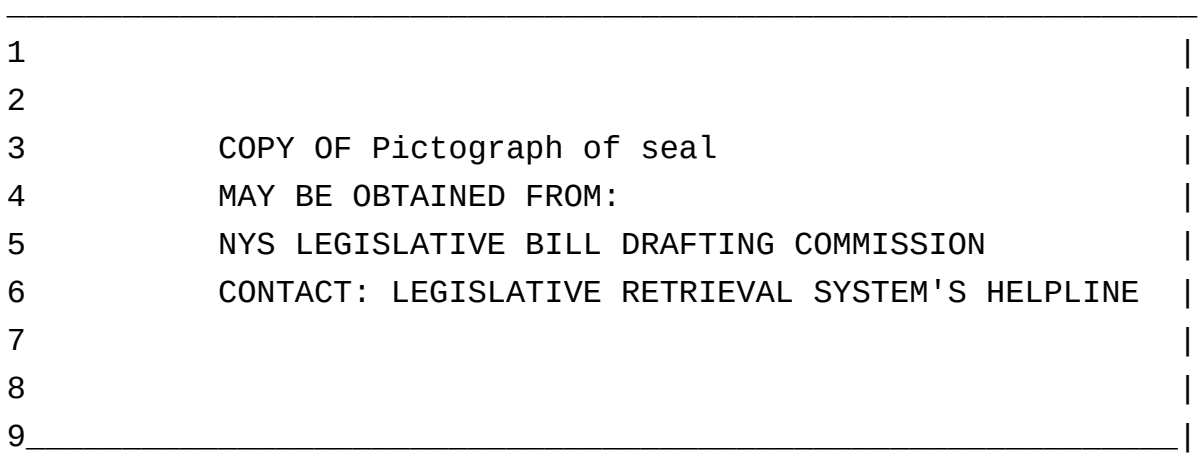
Above said map, inside the inner circle, shall be inscribed in capital letters the Dutch maxim: "EENDRAGHT MAAKT MAGT." The literal English translation of this maxim is: "Unity makes might." The meaning of this maxim is: "In union there is strength." The maxim was originally adopted by Peter Stuyvesant, the governor from sixteen hundred forty-six to sixteen hundred sixty-four of the New Netherlands in America. It also was inscribed upon the first flag of the city of Brooklyn.

Below said map, inside the inner circle, shall be inscribed in capital letters the words: "THE SIX ORIGINAL TOWNS."

The orange color of the map is intended to symbolize the "House of Orange" and to memorialize the Dutch who governed the New Netherlands (which included the said six original colonial towns) until sixteen hundred sixty-four, when they were occupied by the British.

Pictograph of seal

The following is an enlarged pictograph of said seal (the blue and orange coloring being omitted):



2. The county clerk of Kings county shall cause the design of said seal (in black and white, the orange and blue colors being omitted) to be engraved upon metal. From time to time he shall obtain and make available, and keep in good order and repair as many of such engraved metal seals as may be necessary for the proper performance of the duties of his office and of the duties of the clerks and officers in the

supreme court and county court authorized to use said seal. All the expense incurred by the county clerk incident to said seal shall be a county charge against the county of Kings.

3. Such seal shall be used and affixed only: (a) by the county clerk of Kings county or by any deputy or clerk duly authorized by him; and (b) by any justice of the supreme court resident in Kings county or by any judge of the county court in said county, or by any clerk or officer duly authorized by said justice or judge.

4. The use of said seal or of any replica or simulation thereof, in form or substance, by any unauthorized person or for any wrongful purpose, is prohibited. Any violation of this prohibition shall be deemed to be a misdemeanor and punishable as such.

§ 30-b. Seal of New York county and of the county clerk and the supreme court. 1. The county of New York, the county clerk of said county and the supreme court therein, shall have and use the following seal:

Description of Seal

The seal shall be approximately two and one-quarter inches in diameter and shall consist of two concentric circles. The upper part of the space between such circles shall be inscribed with the words, in capital letters, "COUNTY OF NEW YORK," and in the lower part shall be inscribed "NOVEMBER 1, 1683," and such seal, further, shall bear the following:

Arms: Upon a shield, saltire wise, the sails of a windmill. Between the sails, in chief a beaver, in base a beaver, and on each flank a flour barrel.

Supporters: Dexter, a sailor, his right arm bent, and holding in his right hand a plummet; his left arm bent, his left hand resting on the top of the shield; above his right shoulder a cross-staff. Sinister, an Indian of Manhattan, his right arm bent, his right hand resting on top of the shield, his left hand holding the upper end of a bow, the lower

end of which rests on the ground. Shield and supporters resting upon a horizontal laurel branch.

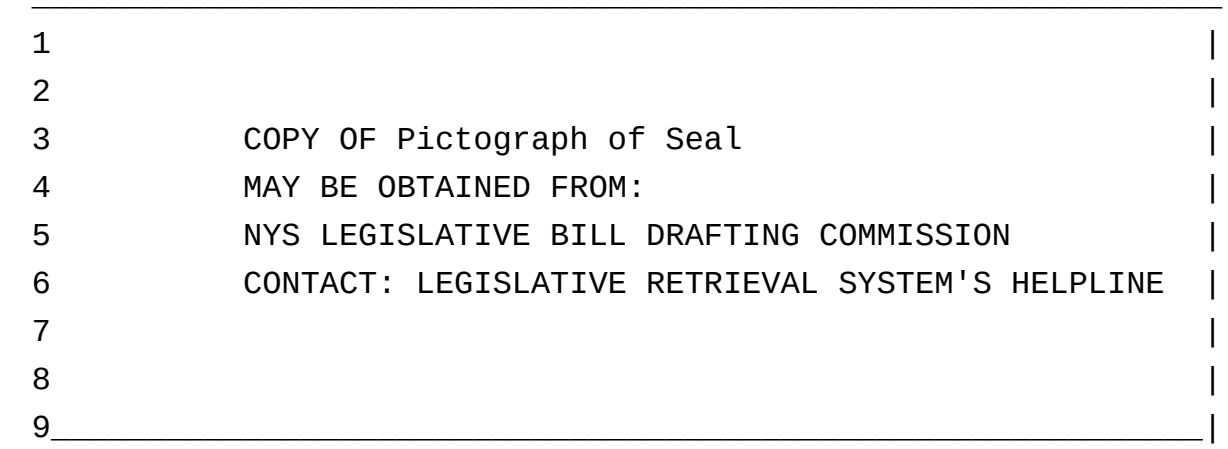
Date: Beneath the horizontal laurel branch the date 1664, being the year of the capture of New Amsterdam by the English and the first use of the name of the city of New York.

Crest: Upon a hemisphere, an American eagle with wings displayed.

Legend: Upon a ribbon encircling the lower half of the design the words "Sigillum Civitatis Novi Eboraci".

Pictograph of Seal

The following is an enlarged pictograph of said seal:



2. The county clerk of New York county shall cause the design of said seal (in black and white) to be engraved upon metal. From time to time he shall obtain and make available, and keep in good order and repair as many of such engraved metal seals as may be necessary for the proper performance of the duties of his office and of the duties of the clerks and officers in the supreme court authorized to use said seal. All the expense incurred by the county clerk incident to said seal shall be a county charge against the county of New York.

3. Such seal shall be used and affixed only: (a) by the county clerk of New York county or by any deputy or clerk duly authorized by him; and (b) by any justice of the supreme court resident in New York county, or

by any clerk or officer duly authorized by said justice.

4. The use of said seal or of any replica or simulation thereof, in form or substance, by any unauthorized person or for any wrongful purpose, is prohibited. Any violation of this prohibition shall be deemed to be a misdemeanor and punishable as such.

§ 30-c. Seal of Franklin county and of the county clerk and the supreme court. 1. The county of Franklin, the county clerk of said county and the supreme court therein, shall have and use the following seal:

Description of Seal

The Seal shall be approximately 2 1/4 inches in diameter and shall consist of two concentric circles; the inner circle to be divided into four parts; the upper part of the space between such circles shall be inscribed with the words in capital block letters "FRANKLIN COUNTY" in the lower part shall be inscribed in capital block letters the word "SEAL", and such Seal shall further bear the following: a farm scene depicting a barn and silo in the upper left-hand one-quarter; a winter scene of a person skiing in the upper right hand one-quarter; a scene of a woodland stream in the lower right-hand one-quarter and a scene of a deer in the lower left-hand one-quarter. It is intended that the foregoing scenes depict acts found in Franklin county, including farming, skiing, hiking, fishing and hunting.

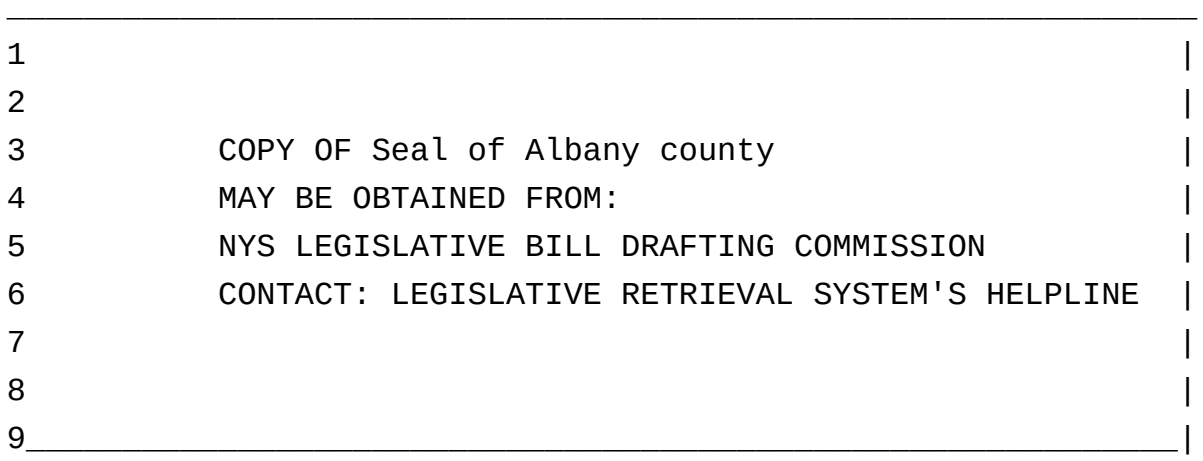
2. The county clerk of Franklin county shall cause the design of said seal (in black and white) to be engraved upon metal. From time to time he shall obtain and make available, and keep in good order and repair as many of such engraved metal seals as may be necessary for the proper performance of the duties of his office and of the duties of the clerks and officers in the supreme court authorized to use said seal. All the expense incurred by the county clerk incident to said seal shall be a county charge against the county of Franklin.

3. Such seal shall be used and affixed only: (a) by the county clerk

of Franklin county or by any deputy or clerk duly authorized by him; and (b) by any justice of the supreme court resident in Franklin county, or by any clerk or officer duly authorized by said justice.

4. The use of said seal or of any replica or simulation thereof, in form or substance, by any unauthorized person or for any wrongful purpose, is prohibited. Any violation of this prohibition shall be deemed to be a misdemeanor and punishable as such.

§ 30-d. Seal of Albany county and of the county clerk and the supreme court. 1. The county of Albany, the county clerk of said county and the supreme court therein, shall have and use the following seal:



Description of Seal

The Seal shall consist of two concentric circles; the upper part of the space between such circles shall be inscribed with the words in capital block letters "SEAL OF THE COUNTY OF ALBANY," the lower part shall be inscribed in capital block letters the year "1683", and inside the inner circle such Seal shall bear the following: a depiction in outline form of Henry Hudson's ship "Half Moon," encircled by leaves and berries of a holly plant, joined by ribbon at bottom. Said flora shall represent the county's natural heritage, while said ship shall represent the historic nature of the county as the northernmost point of Hudson's voyage up the great river now bearing his name and defining the county's eastern border. Said year of 1683 represents the year of creation of the County of Albany.

2. The county clerk of Albany county shall cause the design of said seal (in black and white) to be engraved upon metal. From time to time he or she shall obtain and make available, and keep in good order and repair as many of such engraved metal seals as may be necessary for the proper performance of the duties of the office and of the duties of the clerks and officers in the supreme court authorized to use said seal. All the expense incurred by the county clerk incident to said seal shall be a county charge against the county of Albany.

3. Such seal shall be used and affixed only: (a) by the county clerk of Albany county or by any deputy or clerk duly authorized by him; (b) by any justice of the supreme court resident in Albany county, or by any clerk or officer duly authorized by said justice; and (c) the County Executive or other person authorized by law to execute official documents on behalf of the county.

4. The use of said seal or of any replica or simulation thereof, in form or substance, by any unauthorized person or for any wrongful purpose, is prohibited. Any violation of this prohibition shall be deemed to be a misdemeanor and punishable as such.

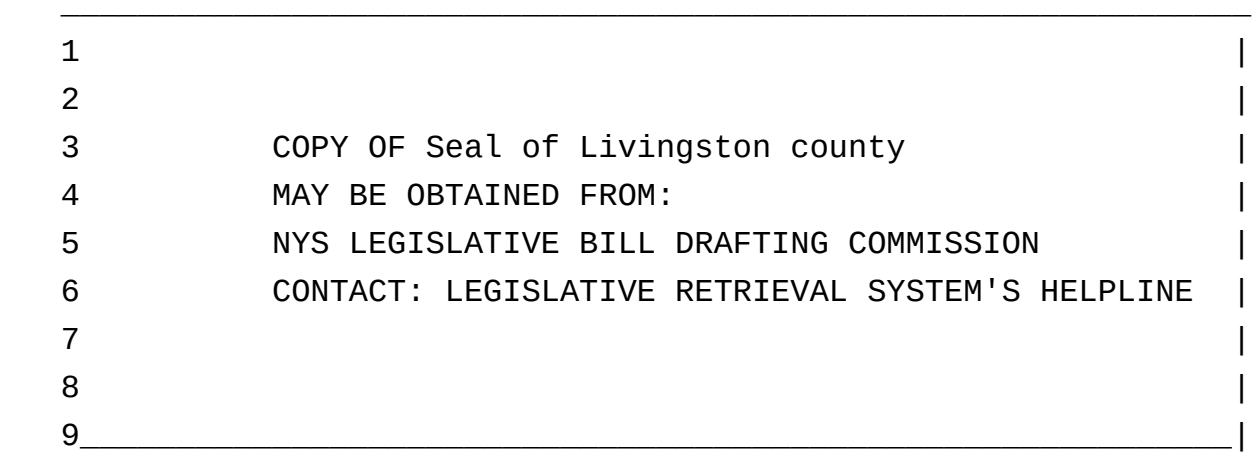
§ 30-e. Seal of Livingston county and of the county clerk and the supreme court. 1. The county of Livingston, the county clerk of said county and the supreme court therein, shall have and use the following seal:

Description of Seal

The Seal shall be approximately 2 1/4 inches in diameter and shall consist of two concentric circles. The space between the outer and inner circles shall have a white or plain background; the upper part of the space between such circles shall be inscribed with the words in capital block letters "LIVINGSTON COUNTY" and in the lower part shall be inscribed with the words in capital block letters "NEW YORK STATE." The interior circle shall have a dark background. Upon such background shall be superimposed a relief map of Livingston county. The map shall have a white or plain background and shall bear a depiction of the cupola of

the Livingston county courthouse with the numbers "1821" located below the cupola.

The following is an enlarged pictograph of said seal:



2. The county clerk of Livingston county shall cause the design of said seal (in black and white) to be engraved upon metal. From time to time he shall obtain and make available, and keep in good order and repair as many of such engraved metal seals as may be necessary for the proper performance of the duties of his office and of the duties of the clerks and officers in the supreme court authorized to use said seal. All the expense incurred by the county clerk incident to said seal shall be a county charge against the county of Livingston.

3. Such seal shall be used and affixed only:

(a) by the county clerk of Livingston county or by any deputy or clerk duly authorized by him; and

(b) by any justice of the supreme court resident in Livingston county, or by any clerk or officer duly authorized by said justice.

4. The use of said seal or of any replica or simulation thereof, in form or substance, by any unauthorized person or for any wrongful purpose, is prohibited. Any violation of this prohibition shall be deemed to be a misdemeanor and punishable as such.

§ 30-f. Seal of Cortland county and of the county clerk, the supreme

court and the county court in said county. 1. The county of Cortland, the county clerk of said county and the supreme court and the county court therein shall have and use the following seal:

Description of Seal

The seal shall be approximately 2 1/4 inches in diameter. The outer border shall consist of inverted scallops with an inner smooth circle border. Along the upper outside of the circle shall be the inscription in capital block lettering "SEAL OF CORTLAND COUNTY, N.Y." Along the lower outside of the circle shall be the inscription in capital block lettering "A.D. 1808." The center shall consist of a shield topped by an eagle and wreath of laurels. The shield shall feature 13 stars in a field of blue, above a red and white striped base. The left side of the seal shall consist of a man with a sheaf of wheat. The right side of the seal shall consist of a man with a hammer and wheel, with a factory behind. Both men shall have hands resting on the center shield. The foreground of the seal, at the base of the shield shall consist of a mound of Cortland apples.

2. The county clerk of Cortland county shall cause the design of said seal (in black and white) to be engraved upon metal. From time to time the county clerk shall obtain and make available, and keep in good order and repair as many of such engraved metal seals as may be necessary for the proper performance of the duties of the office and of the duties of the clerks and officers in the supreme and county courts authorized to use said seal. All the expense incurred by the county clerk incident to said seal shall be a county charge against the county of Cortland.

3. Such seal shall be used and affixed only:

(a) by the county clerk of Cortland county or by any deputy or clerk duly authorized by them;

(b) by any judicial clerk of the supreme or county court resident in Cortland county, duly authorized by said county clerk; and

(c) any county officer or other person authorized by law to execute official documents on behalf of the county.

4. The use of said seal or of any replica or simulation thereof, in

form or substance, by any unauthorized person or for any wrongful purpose, is prohibited. Any violation of this prohibition shall be deemed to be a misdemeanor and punishable as such.

§ 31. Seals and records of former superior city courts. The seals, books, files, records, papers and documents of the superior court of the city of New York, the court of common pleas for the city and county of New York, the superior court of Buffalo, and the city court of Brooklyn, shall be deposited in the offices of the clerks of the several counties in which said courts have heretofore existed, and shall be kept and preserved by said clerks, separate and apart from the other books, records, papers and documents in their respective offices, and shall be kept in charge of special deputy-clerks, to be designated by said county clerks, so as to be readily accessible for inspection; and the justices of the supreme court, and the said clerks of the said several counties, respectively, shall have the same powers with respect to the said books, files, records, papers and documents as the judges and clerks of said superior court of the city of New York, and the court of common pleas for the city and county of New York, the superior court of Buffalo and the city court of Brooklyn, respectively, had and possessed in reference thereto.

§ 33. Expense of certain criminal prosecutions to be borne by the state. The expenses of an investigation or prosecution in any county of a matter or charge connected with, growing out of or relating to a contract or contracts between the state, or any department, board, commission or officer thereof, and any individual, firm or corporation, if such prosecution or investigation shall have been ordered, directed, or recommended by the governor, the legislature, a joint committee of both houses of the legislature or a committee of either house, shall be borne by the state. Such expenses shall be paid in the first instance by the county, as the expenses of other criminal investigations or prosecutions therein, but the county shall be reimbursed therefor out of moneys appropriated for such purpose. Payments by the state under this section shall be made from the treasury on the audit and warrant of the

comptroller to the order of the treasurer of the proper county, upon his certified statement of the items of expenses paid by the county on account of such investigations or prosecutions, accompanied by the written approval of the attorney-general thereon. Such payments may be made at any time during the pendency of any such investigation or prosecution, for expenses accrued and paid by the county to the date of the account, but not oftener than once in three months.

§ 34. Apportionment of expenses related to salaries or compensation paid by the state in the first instance. Whenever in this chapter provision is made for the apportionment among counties of salaries or compensation paid by the state in the first instance, such apportionment shall also include expenses attributable to such salaries or compensation, including but not limited to: contributions to the New York state employees' retirement system, including a proportionate part of the administrative expense thereof; the employer's share of the premium for the coverage of the officers or employees receiving such salaries or compensation under the health insurance plan created by article eleven of the civil service law, and a proportionate share of the expenses of the administration of such plan; and contributions to the social security contribution fund; provided, however, that in the case of any such expenses attributable to the salaries or compensation of justices and official referees of the supreme court, there shall be apportioned among the counties of any judicial district or judicial department only a portion of such expenses bearing the same relation to the total thereof as the amount of such salaries or compensation apportioned among such counties bears to the total of the salaries or compensation payable to such justices and official referees of the supreme court.

The amounts of salaries, compensation and such expenses to be apportioned among the counties of any judicial district or judicial department shall be certified to the department of taxation and finance by the comptroller not later than the first day of July in each year.

§ 35. Assignment of counsel to indigent persons and appointment of physicians in certain proceedings. 1. a. When a court orders a hearing in a proceeding upon a writ of habeas corpus to inquire into the cause of detention of a person in custody in a state institution, or when it orders a hearing in a civil proceeding to commit or transfer a person to or retain a person in a state institution when such person is alleged to be mentally ill, mentally defective or a person with substance use disorder, or when it orders a hearing for the commitment of the guardianship and custody of a child to an authorized agency by reason of the mental illness or developmental disability of a parent, or when it orders a hearing to determine whether consent to the adoption of a child shall be required of a parent who is alleged to be mentally ill or developmentally disabled, or when it orders a hearing to determine the best interests of a child when the parent of the child revokes a consent to the adoption of such child and such revocation is opposed or in any adoption or custody proceeding if it determines that assignment of counsel in such cases is mandated by the constitution of this state or of the United States, the court may assign counsel to represent such person if it is satisfied that such person is financially unable to obtain counsel. Upon an appeal taken from an order entered in any such proceeding, the appellate court may assign counsel to represent such person upon the appeal if it is satisfied that such person is financially unable to obtain counsel.

b. Upon an appeal in a criminal action or in a proceeding in the family court or surrogate's court wherein the defendant or person entitled to counsel pursuant to the family court act or surrogate's court procedure act, is financially unable to obtain counsel, the court of appeals or the appellate division of the supreme court may assign counsel other than in the manner as is prescribed in section seven hundred twenty-two of the county law only when it is satisfied that special circumstances require such assignment.

2. The chief administrator of the courts may enter into an agreement with a legal aid society for the society to provide assigned counsel in the proceedings specified in subdivision one of this section. The agreement shall be in a form approved by the chief administrator and

shall provide a general plan for a program of assigned counsel services to be provided by such society. It shall also provide that the society shall be reimbursed on a cost basis for services rendered.

3. a. No counsel assigned pursuant to this section shall seek or accept any fee for representing the person for whom he or she is assigned without approval of the court as herein provided. Whenever it appears that such person is financially able to obtain counsel or make partial payment for the representation, counsel may report this fact to the court and the court may terminate the assignment or authorize payment, as the interests of justice may dictate, to such counsel. Counsel assigned hereunder shall at the conclusion of the representation receive compensation at a rate of one hundred fifty-eight dollars per hour for time expended in court, and one hundred fifty-eight dollars per hour for time reasonably expended out of court, and shall receive reimbursement for expenses reasonably incurred.

b. For representation upon a hearing, compensation and reimbursement shall be fixed by the court wherein the hearing was held and such compensation shall not exceed ten thousand dollars. For representation in an appellate court, compensation and reimbursement shall be fixed by such court and such compensation shall not exceed ten thousand dollars. In extraordinary circumstances the court may provide for compensation in excess of the foregoing limits.

4. In any proceeding described in paragraph a of subdivision one of this section, when a person is alleged to be mentally ill, mentally defective or a person with substance use disorder, the court which ordered the hearing may appoint no more than two psychiatrists, certified psychologists or physicians to examine and testify at the hearing upon the condition of such person. A psychiatrist, psychologist or physician so appointed shall, upon completion of their services, receive reimbursement for expenses reasonably incurred and reasonable compensation for such services, to be fixed by the court. Such compensation shall not exceed three thousand dollars, except that in extraordinary circumstances the court may provide for compensation in excess of the foregoing limits.

4-a. In any proceeding under article ten of the mental hygiene law, the court which ordered the hearing may appoint no more than two psychiatrists, certified psychologists or physicians to examine and testify at the hearing upon the condition of such person. A psychiatrist, psychologist or physician so appointed shall, upon completion of his or her services, receive reimbursement for expenses reasonably incurred and reasonable compensation for such services, to be fixed by the court in accordance with subdivision (a) of section 10.15 of the mental hygiene law.

5. All expenses for compensation and reimbursement under this section shall be a state charge to be paid out of funds appropriated to the administrative office for the courts for that purpose. Any rules and orders respecting the assignment and compensation of counsel, and the appointment and compensation of psychiatrists, psychologists or physicians pursuant to this section and the form and manner of processing of a claim submitted pursuant to this section shall be adopted by the chief administrator. Each claim for compensation and reimbursement pursuant to subdivisions three and four of this section shall be submitted for approval to the court which made the assignment or appointment, and shall be on such form as the chief administrator may direct. After such claim is approved by the court, it shall be certified to the comptroller for payment by the state, out of the funds appropriated for that purpose.

6. Assigned counsel and guardians ad litem appointed pursuant to the provisions of title two of article nine-B of the social services law shall be compensated in accordance with the provisions of this section.

7. Whenever the supreme court or a surrogate's court shall appoint counsel in a proceeding over which the family court might have exercised jurisdiction had such action or proceeding been commenced in family court or referred thereto pursuant to law, and under circumstances whereby, if such proceeding were pending in family court, such court would be authorized by section two hundred forty-nine of the family court act to appoint an attorney for the child, such counsel shall be

compensated in accordance with the provisions of this section.

8. Whenever supreme court shall exercise jurisdiction over a matter which the family court might have exercised jurisdiction had such action or proceeding been commenced in family court or referred thereto pursuant to law, and under circumstances whereby, if such proceedings were pending in family court, such court would be required by section two hundred sixty-two of the family court act to appoint counsel, supreme court shall also appoint counsel and such counsel shall be compensated in accordance with the provisions of this section.

§ 35-a. Statements to be filed by judges or justices fixing or approving fees, commissions, or other compensation for persons appointed by courts to perform services in actions and proceedings. 1. (a) On the first business day of each week any judge or justice who has during the preceding week fixed or approved one or more fees or allowances of more than five hundred dollars for services performed by any person appointed by the court in any capacity, including but not limited to appraiser, special guardian, guardian ad litem, general guardian, referee, counsel, special referee, auctioneer, special examiner, conservator, committee of incompetent or receiver, shall file a statement with the office of court administration on a form to be prescribed by the state administrator. The statement shall show the name and address of the appointee, the county and the title of the court in which the services of the appointee were performed, the court docket index or file number assigned to the action or proceeding, if any, the title of the action or proceeding, the nature of the action or proceeding, the name of the judge or justice who appointed the person, the person or interest which the appointee represented, whether or not the proceeding was contested, the fee fixed or approved by the judge or justice, the gross value of the subject matter of the proceeding, the number of hours spent by the appointee in performing the service, the nature of the services performed and such other information relating to the appointment as the state administrator shall require. The judge or justice shall certify that the fee, commission, allowance or other compensation fixed or approved is a reasonable award for the services rendered by the appointee, or is fixed

by statute. If the fee, commission, allowance or other compensation for services performed pursuant to an appointment described in this section is either specified as to amount by statute or fixed by statute as a percentage of the value of the subject matter of the action or proceeding, the judge or justice shall specify the statutory fee, commission or allowance and shall specify the section of the statute authorizing the payment of the fee, commission, allowance or other compensation.

(b) Paragraph (a) shall not apply to any compensation awarded to appointees assigned to represent indigent persons pursuant to Article 18-B of the county law, counsel assigned pursuant to section thirty-five of the judiciary law or counsel appointed pursuant to the family court act.

(c) Any judge or justice who fixes or approves compensation for services performed by persons appointed as referees to examine accounts of incompetents pursuant to section 78.25 of the mental hygiene law shall file, annually, with the office of court administration a statement containing such information regarding such appointments as the state administrator shall require.

2. The office of court administration shall annually submit to the appellate division of the supreme court in each of the judicial departments of the state a report containing a summary of the information contained in the statements filed with it pursuant to this section by the judges and justices sitting in courts in that department during the preceding year. Each appellate division of the supreme court shall keep and file such reports and shall have power to make such rules respecting the supervision of all such court appointees within its judicial department as it may deem necessary.

3. The statements and reports required by this section shall be matters of public record and available for public inspection. Each court may permit the information contained therein to be made available for publication at such times and in such manner as it may deem proper.

§ 35-b. Assignment of counsel and related services in criminal actions

in which a death sentence may be imposed. 1. Notwithstanding any other provision of law to the contrary, in every criminal action in which a defendant is charged with murder in the first degree as defined in section 125.27 of the penal law, or in any criminal action in which a defendant is charged with murder in the second degree as defined in section 125.25 of the penal law and the district attorney confirms upon inquiry by the court that the district attorney is undertaking an investigation to determine whether the defendant can or should be charged with murder in the first degree as defined in section 125.27 of the penal law and the court determines that there is a reasonable likelihood the defendant will be so charged, if the defendant is or becomes financially unable to obtain adequate representation or investigative, expert or other reasonably necessary services at any time either (a) prior to judgment, or (b) after the entry of a judgment imposing a sentence of death but before final resolution of a direct appeal pursuant to subdivision one of section 450.70 of the criminal procedure law and of an appeal pursuant to subdivision two or three of section 450.70 of the criminal procedure law from an order denying an initial post judgment motion pursuant to section 440.10 or 440.20 of the criminal procedure law, the defendant shall be entitled to the appointment of counsel and investigative, expert and such other reasonably necessary services in accordance with the provisions of this section. Prior to the appointment of counsel pursuant to this section, the court shall determine whether the defendant is or has become financially unable to obtain adequate representation. In the event such defendant seeks to file any subsequent motion, he or she shall not be eligible for the appointment of counsel pursuant to this section.

2. The appointment of counsel shall be made by the trial court if made prior to the entry of a judgment including a sentence of death or by the court of appeals, except as otherwise provided in this subdivision, if made after the entry of a judgment including a sentence of death. With respect to counsel at trial and at a separate sentencing proceeding, the court shall appoint two attorneys, one to be designated "lead" counsel and the other to be designated "associate" counsel. The appointment of any such counsel shall be made from a list of four proposed teams of qualified lead and associate counsel provided to the appropriate court

by the capital defender office. Alternatively, the court may, with the consent of the capital defender office, appoint the office to represent the defendant. At least one of the proposed teams of qualified lead and associate counsel on any list submitted pursuant to this subdivision shall regularly practice within the judicial department in which the defendant has been charged. With respect to a jurisdiction in which the capital defender office has entered into an agreement to provide representation with a legal aid society, office of public defender or other not-for-profit organization providing criminal defense services, the capital defender office may designate the society, public defender or organization for appointment as counsel pursuant to this section and need not submit a list of four proposed teams of qualified lead and associate counsel for appointment. In the event that counsel is not appointed pursuant to the foregoing provisions of this subdivision, the court may appoint any attorney whose name appears on a roster established pursuant to subdivision five of this section for appointment as lead or associate counsel. In the event no such attorney is available, the court may appoint an attorney eligible for appointment pursuant to article eighteen-B of the county law who is competent to represent defendants charged with murder and other serious felonies. With respect to an appeal from a judgment including a sentence of death, the court of appeals shall assign lead counsel only, but for good cause shown, the court may assign associate counsel. With respect to an initial motion pursuant to section 440.10 or 440.20 of the criminal procedure law, and any appeal therefrom, the appropriate court shall assign lead counsel only. The trial court shall assign counsel in connection with such a motion and the court of appeals shall assign counsel in connection with any appeal therefrom.

3. There is hereby created a capital defender office, to be governed by a three member board of directors. No attorney who is employed as a judge, prosecutor or in a law enforcement capacity shall be eligible to serve on such board. The board members shall be appointed in the following manner: one member shall be appointed by the chief judge of the court of appeals, one member shall be appointed by the temporary president of the senate and one member shall be appointed by the speaker of the assembly. Each member shall be appointed to serve a three year

term and vacancies shall be filled in the same manner as the original appointment. Members of the board shall receive no compensation but shall be reimbursed all reasonable and necessary expenses incidental to their duties.

4. Within the amounts appropriated therefor:

(a) The board of directors shall have the authority to appoint a capital defender, who shall have the authority in consultation with the board of directors to hire attorneys as deputy capital defenders, investigators and such other staff as the capital defender and the board of directors deem necessary to effectuate the purposes of the capital defender office.

(b) The capital defender office shall be authorized as follows:

(i) Upon appointment in accordance with the provisions of this section, to act as counsel for defendants and to furnish such investigative, expert and other reasonably necessary services as the capital defender deems appropriate;

(ii) To provide legal or other advice or, to the extent not otherwise available, any other assistance to counsel appointed pursuant to this section;

(iii) To provide investigative, expert or other reasonably necessary services to defendants charged with murder in the first degree who are not represented by the capital defender office, provided that such defendants (A) are or have become financially unable to obtain adequate investigative, expert or other reasonably necessary services and are represented by counsel appointed pursuant to this section, and (B) have obtained pursuant to this section the approval of a trial court for the same investigative, expert or other reasonably necessary services, provided, however, that such defendants have not received such services from other sources;

(iv) To determine, in consultation with the administrative board of the judicial conference, proposed minimum standards for lead and associate counsel in capital cases. In determining the minimum standards, the capital defender office in consultation with the administrative board of the judicial conference shall consider among other factors both the needs of the state for an adequate number of attorneys to represent defendants in capital cases and the needs of

defendants in capital cases for competent counsel. The minimum standards, and any modifications thereto which the capital defender office in consultation with the administrative board of the judicial conference may from time to time propose, shall be submitted for approval to the court of appeals. Prior to approving the minimum standards and any modifications thereto the court shall invite the submission of written comments from interested parties;

(v) To provide continuing legal education, training, advice and assistance to attorneys representing or seeking to represent defendants in capital cases; and

(vi) To enter into an agreement with a legal aid society, office of public defender or other not-for-profit organization providing criminal defense services to designate and provide counsel pursuant to this section. Any agreement shall require that the society, public defender or organization effectuate the purposes and provisions of this section and may be terminated by the capital defender office by serving notice on the society, public defender or organization sixty days prior to the effective date of termination. Upon the termination of any agreement, the representation provided by the society, public defender or organization shall continue until the proceeding is concluded or the court relieves the society, public defender or organization and appoints successor counsel pursuant to this section. The capital defender office may require such reports as it deems necessary in connection with such agreement and shall monitor compliance with its terms. A society, public defender or organization which enters into an agreement pursuant to this section shall not be the exclusive provider of counsel within such society's, public defender's or organization's jurisdiction. In the event that a defendant is not represented by such a society, public defender or organization due to a conflict, counsel shall be appointed in accordance with the provisions of subdivision two of this section.

5. (a) A screening panel shall be established in each judicial department consisting of four members, two of whom shall be appointed by the board of directors of the capital defender office and two of whom shall be appointed by the presiding justice of each judicial department. Each screening panel shall establish and periodically update a roster of attorneys qualified for appointment as lead counsel or associate counsel

pursuant to the provisions of this section. The capital defender office, in consultation with the administrative board of the judicial conference, shall promulgate regulations to provide that qualified attorneys whose names appear on such rosters and who wish to be appointed to represent defendants in capital cases, are given fair opportunity to receive such appointments. Each screening panel shall also promulgate and periodically update, in consultation with the administrative board of the judicial conference, a schedule of fees to be paid attorneys pursuant to this section in each department, which schedule shall be subject to the approval of the court of appeals. Prior to approving fee schedules, the court shall invite the submission of written comments from interested parties. Fee schedules shall be promulgated and approved after reviewing the rates of compensation generally paid in the department to attorneys with substantial experience in the representation of defendants charged with murder or other serious felonies, and shall be adequate to ensure that qualified attorneys are available to represent defendants eligible to receive counsel pursuant to this section.

(b) Each appellate division, in consultation with the screening panel, shall establish the rates of fees and expenses to be paid for expert, investigative and other reasonably necessary services pursuant to this section.

6. (a) When a defendant has been charged in an accusatory instrument with murder in the first degree as defined in section 125.27 of the penal law or with murder in the second degree as defined in section 125.25 of the penal law, the district attorney shall notify the capital defender office.

(b) The clerk of the superior court wherein a judgment that includes a sentence of death has been entered and the clerk of the court of appeals upon an order affirming a judgment that includes a sentence of death shall notify the capital defender office of the judgment or order. Notice need not be given when the defendant has retained counsel of his or her own choosing or when appellate or post-conviction counsel has already been appointed pursuant to this section and when counsel advises that he or she will continue to act on the defendant's behalf.

(c) Notice to the capital defender office required pursuant to

paragraph (a) or (b) of this subdivision shall consist of telephone, facsimile, E-mail or other prompt electronic means of notification forthwith, which shall be followed by first class mail notification within two business days of the charge, sentence or affirmance. The failure to give notice shall not affect the validity of any indictment, conviction, judgment or order.

7. Whenever a defendant is charged with murder in the first degree, or a defendant has been charged with murder in the second degree as defined in section 125.25 of the penal law and the court determines after confirmation by the district attorney pursuant to subdivision one of this section that there is a reasonable likelihood the defendant will be charged with murder in the first degree and the defendant is financially unable to obtain counsel as determined by the court and an attorney has not yet been appointed to represent such defendant pursuant to the provisions of this section, the capital defender office may provide or arrange to provide temporary legal representation to the defendant. No arraignment shall be delayed on account of any representation to be provided or arranged pursuant to this subdivision. Any temporary representation provided pursuant to this subdivision shall cease upon the court's appointment of an attorney pursuant to this section.

8. Whenever prior to entry of judgment a defendant is charged with murder in the first degree, or a defendant has been charged with murder in the second degree as defined in section 125.25 of the penal law and the court determines after confirmation by the district attorney pursuant to subdivision one of this section that there is a reasonable likelihood the defendant will be charged with murder in the first degree, and the defendant is or becomes financially unable, as determined by the court, to obtain adequate investigative, expert or other reasonably necessary services and the court has not appointed the capital defender office to represent the defendant, the trial court shall authorize the defendant's attorney to obtain such services on behalf of the defendant and shall order the payment of reasonable fees and expenses therefor; provided, however, that the court shall first find in an ex parte proceeding that such investigative, expert or other services are reasonably necessary for the representation of the

defendant whether in connection with issues relating to guilt or sentencing. Upon a finding that timely procurement of such services could not practicably await prior authorization, the court may authorize the provision and payment for such services nunc pro tunc. Whenever a court disapproves, in whole or in part, a request for authorization or voucher, the defendant may apply to a justice of an intermediate appellate court for an order approving the request or voucher.

9. Any compensation, fee or expense to be paid pursuant to this section shall be a state charge payable on vouchers approved by the court which fixed the same, after audit by and on the warrant of the comptroller. Each claim for compensation and reimbursement shall be supported by a sworn statement specifying the time expended, services rendered, expenses incurred and reimbursement or compensation applied for or received in the same case from any other source. With respect to compensation to be paid to counsel pursuant to this section, the appropriate court shall review and determine the reasonableness of the number of hours expended out of court.

10. Whenever it appears that a defendant is financially able to obtain adequate representation or investigative, expert or other such services, or to make partial payment for such representation or other services, counsel shall inform the court and the court may terminate the assignment of counsel or authorize payment, as the interests of justice may dictate, to the capital defender office or the state.

11. The provisions of this section shall cease to apply on the tenth day, or such later day as the court may determine to be reasonably necessary to provide for successor counsel if prior counsel is to be relieved, following the entry of either a final judgment or order not subject to further review by an appellate court, or a prosecutorial determination, which necessarily precludes an imposition of a sentence of death, whereupon the provisions of article eighteen-A or article eighteen-B of the county law shall be applicable.

12. Nothing in this section shall be construed to authorize the appointment of counsel, investigative, expert or other services or the

provision of assistance, other than continuing legal education, training and advice, with respect to the filing, litigation, or appeal of a petition for a writ of habeas corpus in any federal court; nor shall anything in this section be construed to authorize the appointment of attorneys, investigative, expert or other services in connection with any proceedings other than trials, including separate sentencing proceedings, of defendants charged with murder in the first degree, appeals from judgments including a sentence of death, and initial motions pursuant to section 440.10 or 440.20 of the criminal procedure law and any appeals therefrom.

§ 36. Personal assistants to judges and justices. 1. Notwithstanding any other provisions of law, each justice of the supreme court may appoint and at pleasure remove one law clerk and one secretary, subject to standards and administrative policies promulgated pursuant to section twenty-eight of article six of the constitution.

2. Should a judge or justice of the unified court system cease to hold office for any reason other than expiration of his term, his personal assistants shall continue in office until a successor is appointed or elected to fill such vacancy. Until such vacancy is filled, the chief administrator of the courts shall determine the functions to be performed by such personal assistants.

§ 37. Salary plan for non-judicial employees. 1. Salary schedules for nonjudicial officers and employees allocated to salary grades; promulgation; placement thereon. (a) The chief administrator of the courts shall promulgate salary schedules for state-paid positions in the unified court system, allocated to salary grades, in accordance with law.

(b) This paragraph shall apply to each nonjudicial officer or employee of the unified court system in a position allocated to a salary grade and paid pursuant to a salary schedule, who moves to another position allocated to the same salary grade, provided (i) his or her former position is in a collective negotiating unit established pursuant to

article fourteen of the civil service law and his or her new position is in another collective negotiating unit or not in any such unit, or (ii) his or her former position is not in a collective negotiating unit and his or her new position is in such a unit. Each such nonjudicial officer or employee shall receive a basic annual salary upon such movement, to be determined as follows:

(1) Where his or her new position is paid pursuant to the same salary schedule as his or her former position, such nonjudicial officer or employee shall be paid the same basic annual salary in his or her new position as he or she received in his or her former position.

(2) Where his or her new position is paid pursuant to a salary schedule ("new salary schedule"), which is different from the salary schedule pursuant to which he or she was paid in his or her former position ("former salary schedule"), he or she shall be placed on such new salary schedule and paid a basic annual salary on such new salary schedule which shall equal a rate that represents the same proportion of the maximum salary of his or her grade on the new salary schedule, as his or her basic annual salary under the former salary schedule represented of the maximum salary of his or her grade on such former salary schedule.

2. All state-paid positions in the competitive, non-competitive and labor classes in the unified court system shall be allocated to a salary grade by the administrative board of the judicial conference and shall be paid in accordance with this section. In the discretion of the administrative board any or all state-paid exempt class positions may also be so paid, within the appropriation available therefor.

3. Additional increment. Notwithstanding any inconsistent provision of this chapter, when an employee holding a position allocated to a salary grade prescribed in subdivision one of this section has reached, on or after April first, nineteen hundred ninety-nine, a salary equal to or in excess of the maximum salary of the grade of his or her position and thereafter has rendered continuous service in such position, or in a position in the same salary grade, he or she shall be entitled, on the first day of the fiscal year following completion of four years of such service, to an additional increment of the grade to which his or her

position is allocated, and following completion of eight years of such service, to a second additional increment of such grade. The salary of such employee shall not be increased, pursuant to the provisions of this subdivision, to an amount in excess of the maximum salary of the grade of his or her position plus one additional increment of such grade or, upon qualifying for such second additional increment, to an amount in excess of the maximum salary of the grade of his or her position plus two additional increments of such grade.

For the purposes of this subdivision: (a) an employee who has reached a salary equal to or in excess of the maximum salary of the grade of his position and whose position, on or after April first, nineteen hundred seventy-two is reallocated to a higher salary grade shall be deemed to have had continuous service at the maximum salary of the grade of his position, notwithstanding the fact that, as a result of such reallocation, he is not receiving the maximum salary of the higher salary grade to which his position is reallocated;

(b) an employee who has not reached the maximum salary of the grade of his position and whose position, on or after April first, nineteen hundred seventy-two is reallocated to a higher salary grade shall be deemed to have reached the maximum salary of the grade of his position on the date on which he would otherwise have reached the maximum salary of the grade from which his position was reallocated;

(c) when a position, on or after April first, nineteen hundred seventy-two, is reclassified to a title allocated to a higher salary grade, with no substantial change in duties and responsibilities from those associated with the former title, the incumbent's eligibility for additional increments authorized by this subdivision shall be determined as though his position had been reallocated to such higher salary grade; such employee shall not be deemed to be appointed or promoted to a position in a higher grade for purposes of determining his salary therein;

(d) when an employee is appointed or promoted to a position in a higher salary grade or, in a case not subject to the provisions of paragraph (c) of this subdivision, when a position is reclassified to a title allocated to a higher salary grade and the incumbent thereof is appointed or promoted to such reclassified title, his or her eligibility

for additional increments authorized by this subdivision shall be determined on the basis of his or her service after the date of such appointment or promotion, except that, notwithstanding the other provisions of this subdivision, where his or her salary upon appointment or promotion is equal to or greater than the maximum salary of the grade of his or her position plus one additional increment of such grade but less than such maximum salary plus two additional increments of such grade, he or she shall be eligible for an additional increment in accordance with the provisions of this subdivision upon completion of four years of continuous service in such position following appointment or promotion;

(e) an employee who has been on a preferred list pursuant to the rules of the administrative board of the judicial conference or section two hundred forty-three of the military law, or has been on leave of absence, or who has resigned, and who has been reinstated to his position or a similar position, shall be deemed to have continuous service; provided, however, that such employee shall be credited with service in his position only in a fiscal year for which he would otherwise be entitled to receive an increment in such position if he were not receiving a salary equal to or in excess of the maximum salary of the grade of his position;

(f) an employee shall not be credited with service in his position in any fiscal year where such service was unsatisfactory or insufficient to render him eligible for an annual increment if he were not receiving a salary equal to or in excess of the maximum salary of the grade of his position, but the failure to receive credit for such year shall not constitute an interruption of his continuous service;

(g) when an employee is appointed, demoted or reinstated from a higher grade position to a lower grade position, he shall receive credit toward eligibility for additional increments in the lower grade position for his years of service in the higher grade position as though such service had been rendered in the lower grade positions.

4. Annual increments; determination of salaries. (a) Rates of compensation. An employee holding a position allocated to one of the salary grades included in subdivision one of this section shall receive the minimum salary of the salary grade to which his position is

allocated, plus the number of increments which corresponds with the number of his years in service in such position, unless his services during the year immediately preceding shall have been found to be unsatisfactory. No employee shall receive an increment which would result in his receiving an annual salary in excess of the maximum of the salary grade to which his position is allocated or of the amount to which he may be entitled pursuant to subdivision one of this act.

(b) Appointment above minimum salary in certain cases. Notwithstanding any other provision of this chapter, with respect to positions allocated to salary grades in subdivision one of this section, if the annual salary of an employee subject to the provisions of this section who has rendered twenty-six bi-weekly periods of service during the period from April first, nineteen hundred seventy through March thirty-first, nineteen hundred seventy-two is less than six thousand dollars per year, such employee in lieu of such annual salary shall receive an annual salary of six thousand dollars.

(c) Notwithstanding any other provision of this chapter no employee whose salary is below the minimum of the salary grade to which his position is allocated shall receive more than two increments in the fiscal year beginning April first, nineteen hundred seventy-three.

5. Appointments and promotions to higher grade positions. (a) If an employee is appointed or promoted to a position in a higher grade, he shall receive an increase in salary, upon such appointment or promotion, which is equivalent to the full increment payable in the position to which he is appointed or promoted, or he shall be paid the minimum salary of the grade of the position to which he is appointed or promoted, whichever results in a higher annual salary.

(b) Upon the reallocation of a position to a higher salary grade, the salary of any employee previously appointed or promoted from such position to another position in a higher grade shall not be less than the salary which he would otherwise be entitled to receive if such promotion occurred immediately following such reallocation.

(c) For the purpose of computing future increments such employee shall be credited with the number of years of service in the higher grade position to which he is appointed or promoted which corresponds with his resulting rate of compensation as determined pursuant to this

subdivision.

6. Appointments, transfers, reinstatements, demotions and displacements to lower grade positions. If an employee is demoted or displaced to a position in a lower grade, or is appointed, transferred or reinstated to a position in a lower grade, he shall, upon such demotion, appointment, displacement, transfer, or reinstatement, receive the rate of compensation which corresponds with the total number of his years of service in the positions from which and to which he is demoted, displaced, appointed, transferred or reinstated, as the case may be, and, for the purpose of computing future increments, he shall be credited with the number of years of service in such position which corresponds with such rate of compensation. If an employee is demoted to a position in a lower grade, he shall, upon such demotion, be paid the salary in such lower grade which corresponds with the number of his years of service in the grade from which he was demoted, or, in the discretion of the administrative board of the judicial conference, he may be paid a higher rate of compensation, not exceeding the maximum of the grade to which such position is allocated, and not exceeding the rate of compensation received prior to such demotion, and, for the purpose of computing future increments, he shall be credited with the number of years of service in such position which corresponds with such rate of compensation.

7. Appointment, transfers and reinstatements to similar grade positions. If an employee is transferred to a similar position, or is appointed or reinstated to a position in the same salary grade, he shall be paid the same salary in such new position as he received in his former position, except that, in the case of a transfer, if such salary does not correspond with the schedule established for the new position, he shall be paid the rate of compensation for the new position which most nearly corresponds with the salary he is then receiving. An employee so appointed, transferred or reinstated shall be eligible to receive the increments in the schedule established for the new position based upon the number of his years of service in the new position and in his former position.

8. Appointments, promotions, reinstatements, and transfer of employees occupying non-allocated positions. An employee who has been continuously occupying a position which is not allocated to one of the salary grades described in subdivision one of this section and who is appointed, promoted, reinstated, or transferred to a position allocated to one of the salary grades in such subdivision the minimum salary of which is equal to or lower than the annual rate of compensation then received by such employee, shall, upon such appointment, promotion, reinstatement or transfer, be paid the minimum salary of the grade of such allocated positions plus the number of increments which corresponds to the number of years of his service in his former unallocated position or positions during which he received a salary equal to or in excess of the minimum salary of the position to which he is appointed, promoted, reinstated or transferred, not to exceed the salary that he was receiving in his former position immediately prior to the date of such appointment, promotion, reinstatement or transfer, and not to exceed the maximum salary of his new position.

For the purpose of computing future increments, he shall be credited with the number of years of service in such new position which corresponds with such rate of compensation. For the purposes of this subdivision, the annual rate of compensation of the incumbent of an unallocated position compensable on an hourly or per diem basis or on any basis other than at an annual salary rate, shall be deemed to be the compensation which would have been payable if the services were required on a full time annual basis for the number of hours per day and days per week established by law or administrative rule or order.

8-a. Allocation of non-allocated positions. (a) When a non-allocated position is allocated to one of the salary grades described in subdivision one of this section, the annual salary of the incumbent thereof shall be determined in accordance with this subdivision.

(b) Notwithstanding the provisions of paragraph (c) of this subdivision, the annual salary of any non-allocated position, compensable on an annual basis, shall not, upon allocation to a salary grade, be reduced for the then permanent incumbent by reason of any provision of this section so long as such position is held by the then

permanent incumbent.

(c) When a non-allocated position is allocated to one of the salary grades described in subdivision one of this section, the incumbent thereof, whether employed on a permanent or temporary basis, shall be paid the minimum salary of the salary grade to which such position is allocated, plus the number of increments which corresponds with the number of his years of service in such position; provided, however, that such incumbent shall not receive an annual salary in excess of the maximum salary of the grade to which his position is allocated or the amount to which he may be entitled pursuant to subdivision three of this section, as the case may be.

(d) No employee whose salary would be increased by such allocation shall have any claim against the state for the difference, if any, between his former salary and that which he should receive as a result of such allocation for the period prior to the date such allocation became effective.

9. Accrual of increments. Annual increments shall take effect on the first day of each fiscal year, subject, however, to the provisions of section forty-four of the state finance law. An employee who has served the equivalent of at least twelve complete payroll periods of actual service during the fiscal year in his position shall be eligible to receive an increment in such position on the first day of the next succeeding fiscal year; provided, however, that an employee appointed or promoted at any time during the fiscal year, who received an increase in salary upon such appointment or promotion which was less than two full increments of the grade of the position to which he was appointed or promoted shall be eligible to receive in such position on the first day of the next succeeding fiscal year the difference between two full increments of the grade of such position and the increase in salary which he received upon such appointment or promotion, notwithstanding the fact that he has less than the equivalent of twelve complete payroll periods of actual service in such position during the fiscal year. Notwithstanding the provisions of this section, where an employee receiving the maximum salary or the maximum salary plus the first additional increment, as the case may be, of the grade of his position is appointed or promoted to a position in the next higher salary grade,

his salary on the first day of the fiscal year on which he would otherwise be entitled to the first additional increment of the grade of his former position, if he had been receiving the maximum salary in his former position at the time of such appointment or promotion, or on the first day of the fiscal year on which he would otherwise be entitled to the second additional increment of the grade of his former position, if he had been receiving the maximum salary plus the first additional increment in his former position at the time of such appointment or promotion, shall not be less than the salary to which he would be entitled if such appointment or promotion occurred on such first day of the fiscal year.

10. Service credit for temporary and provisional employment. Except as otherwise expressly provided herein, temporary or provisional service shall be treated in the same manner as permanent service for the purpose of this section.

11. Reallocations; adjustment of salaries. When any position allocated to a salary grade in subdivision one of this section is reallocated on or after April first, nineteen hundred seventy-two to a higher salary grade other than grade thirty-eight, the annual salary of a then incumbent on the effective date of such reallocation shall be determined as follows:

(a) If, on the effective date of such reallocation, the annual salary of such incumbent would otherwise, if such reallocation did not occur, be identical with the hiring, first, second, third, fourth, fifth, sixth or seventh year rate of compensation of the lower grade from which such position is reallocated, or a rate of compensation equal to one or two additional increments above the maximum salary of such lower grade, his or her annual salary shall be increased to the corresponding rate of compensation of the higher grade to which such position is reallocated.

(b) If, on the effective date of such reallocation, the annual salary of such incumbent would otherwise, if such reallocation did not occur, be less than the rate of compensation equal to two additional increments above the maximum salary of the lower grade from which such position is reallocated, and not identical with the hiring, first, second, third, fourth, fifth, sixth or seventh year rate of compensation of such lower

grade or with the rate of compensation equal to one additional increment above the maximum salary of such lower grade, his or her annual salary shall be the salary he or she would otherwise receive on the date of such reallocation in such lower grade if such reallocation did not occur plus the difference between the next higher rate of compensation of such lower grade and the corresponding rate of compensation of the higher grade to which such position is reallocated.

(c) If, on the effective date of such reallocation, the annual salary, of such incumbent would otherwise, if such reallocation did not occur, exceed the rate of compensation equal to two additional increments above the maximum salary of the lower grade from which such position is reallocated, his annual salary shall be the annual salary he would otherwise receive if such reallocation did not occur plus the difference between such rate of compensation and the corresponding rate of compensation of the higher grade to which his position is reallocated, but his salary shall not be increased to an amount in excess of the maximum salary of the grade to which his position is reallocated plus two additional increments of such grade.

If an employee has been appointed or promoted from one position allocated to a salary grade in subdivision one of this section to another position allocated to a higher salary grade and his former position, on or after April first, nineteen hundred seventy-two, and within two years after such appointment or promotion, is reallocated to a higher salary grade, the salary of such employee in the second position on the effective date of such reallocation shall not be less than the salary which he would otherwise be entitled to receive on such date had such appointment or promotion occurred on such date.

The provisions of this subdivision shall apply to temporary and provisional employees, as well as permanent employees.

When a position allocated to a salary grade in subdivision one of this section is reclassified to a title allocated to a higher salary grade, and such reclassification represents no substantial change in duties and responsibilities from those associated with the former title, the incumbent thereof may continue to serve in such position without further

examination, and his salary in his new title shall be determined in accordance with the provisions of this subsection.

12. Status of employees upon transfer of functions. The salary of any employee of a civil division, public authority or other public benefit corporation who upon transfer of his functions to the state, is transferred to a position in the unified court system which is allocated to a salary grade, and the salary of any employee of a private institution or enterprise, whose employment is continued in an allocated position pursuant to law upon the acquisition by the unified court system of such institution or enterprise, shall be prescribed by the chief administrator of the courts within amounts available therefor, at a rate between the minimum salary of the grade to which the employee's position is allocated and the maximum salary of such grade plus two additional increments; provided, however, that if the salary received by such employee immediately prior to such transfer or entry into service with the unified court system was an amount greater than the minimum salary of the grade to which his position is allocated and less than the maximum salary of such grade plus two additional increments of such grade, his salary as prescribed by the chief administrator shall not exceed the salary received by him immediately prior to such transfer or entry. For the purpose of computing future increments, such employee shall be credited with the number of years of service in such position which corresponds with his salary as determined pursuant to this subdivision.

§ 39. Unified court budget; first instance payments by state; provision for prepayment; payment by localities; transfer of non-judicial personnel. 1. Notwithstanding any other provision of law, and except as provided in subdivision three of this section the state shall pay in the first instance from regular appropriations, beginning April first, nineteen hundred seventy-seven the expenses for the supreme court and appellate divisions and appellate terms thereof, county courts, family courts, surrogate's courts, civil court of the city of New York, criminal court of the city of New York, district courts, city courts, the county clerks' offices in the city of New York and those

portions of the county clerks' offices outside the city of New York that perform services pursuant to the role of the county clerk as clerk of the court where the budgets of the political subdivisions separately identify those services, and commissioners of jurors and their staffs where separate from the county clerks, or, of not so separate, where the budgets of the political subdivisions separately identify that function.

2. Notwithstanding any other provision of law, the allocation of costs of the courts and court-related agencies set forth in subdivision one of this section to each political subdivision shall be as follows:

(a) Effective for the state fiscal year beginning April first, nineteen hundred seventy-nine, the state comptroller shall deduct from any moneys payable to each such political subdivision from the local assistance account twenty-five percent of the amount set forth in column A. In the event that the judiciary budget adopted for the fiscal year beginning April first, nineteen hundred seventy-nine includes an allocation for any political subdivision that is less than the appropriated budget used to calculate column A, then the deduction to the locality shall be proportionately reduced. The amount to be deducted pursuant to this paragraph, as reduced pursuant to the provisions of this subdivision or any other provision of law, shall be deducted pursuant to a plan prepared by the state comptroller with the approval of the state director of the budget. Such plan shall, to the extent practicable, provide for the amount of such deductions to coincide with the state first instance payments for the expenses enumerated in subdivision one of this section. In lieu of deducting such amount from moneys payable from the local assistance account, the plan prepared by the state comptroller with the approval of the state director of the budget may provide for the rendering of monthly or bi-monthly statements requiring the payment of fractional portions of such amount, and may provide for the payment of interest at a rate to be fixed by the state comptroller, not to exceed six percent per annum, in the event payment shall not be made at the time and in the amount prescribed therein.

Sub-parg.	Net Local Commitment Column A

1. Albany Co.	1,070,972
2. Allegany Co.	163,292
3. Broome Co.	631,332
4. Cattaraugus Co.	283,404
5. Cayuga Co.	276,422
6. Chautauqua Co.	505,825
7. Chemung Co.	417,520
8. Chenango Co.	163,660
9. Clinton Co.	375,908
10. Columbia Co.	218,664
11. Cortland Co.	136,530
12. Delaware Co.	132,998
13. Dutchess Co.	1,306,400
14. Erie Co.	4,477,957
15. Essex Co.	185,590
16. Franklin Co.	227,027
17. Fulton Co.	353,064
18. Genesee Co.	293,468
19. Greene Co.	209,268
20. Hamilton Co.	64,839
21. Herkimer Co.	235,259
22. Jefferson Co.	351,634
23. Lewis Co.	103,147
24. Livingston Co.	176,190
25. Madison Co.	238,472
26. Monroe Co.	3,202,248
27. Montgomery Co.	311,582
28. Nassau Co.	17,989,885
29. Niagara Co.	1,101,979
30. Oneida Co.	971,718
31. Onondaga Co.	1,899,769
32. Ontario Co.	338,318
33. Orange Co.	1,271,126
34. Orleans Co.	133,546
35. Oswego Co.	499,791
36. Otsego Co.	221,928
37. Putnam Co.	274,839

38. Rensselaer Co.	584,464
39. Rockland Co.	1,385,788
40. St. Lawrence Co.	444,423
41. Saratoga Co.	445,098
42. Schenectady Co.	650,378
43. Schoharie Co.	120,366
44. Schuyler Co.	69,832
45. Seneca County	147,571
46. Steuben Co.	377,784
47. Suffolk Co.	12,667,065
48. Sullivan Co.	391,361
49. Tioga Co.	136,855
50. Tompkins Co.	291,294
51. Ulster Co.	569,779
52. Warren Co.	323,586
53. Washington Co.	245,885
54. Wayne Co.	281,637
55. Westchester Co.	4,855,637
56. Wyoming Co.	172,799
57. Yates Co.	99,050
58. City of Albany	312,321
59. City of Binghamton	208,564
60. City of Buffalo	1,297,555
61. City of Mt. Vernon	330,491
62. City of New Rochelle	300,473
63. City of New York	81,528,585
64. City of Niagara Falls	252,006
65. City of Rochester	902,475
66. City of Rome	82,972
67. City of Schenectady	152,607
68. City of Syracuse	712,583
69. City of Troy	158,576
70. City of Utica	264,612
71. City of White Plains	311,387
72. City of Yonkers	759,013
73. City of Amsterdam	37,126
74. City of Auburn	62,938

75. City of Batavia	38,790
76. City of Beacon	24,085
77. City of Canandaigua	35,301
78. City of Cohoes	38,892
79. City of Corning	23,067
80. City of Cortland	39,104
81. City of Dunkirk	54,523
82. City of Elmira	107,398
83. City of Fulton	31,947
84. City of Geneva	34,909
85. City of Glen Cove	87,917
86. City of Glens Falls	58,427
87. City of Gloversville	32,404
88. City of Hornell	30,769
89. City of Hudson	15,934
90. City of Ithaca	106,175
91. City of Jamestown	75,074
92. City of Johnstown	28,346
93. City of Kingston	46,983
94. City of Lackawanna	94,215
95. City of Little Falls	18,583
96. City of Lockport	67,567
97. City of Long Beach	222,129
98. City of Mechanicville	20,935
99. City of Middletown	62,970
100. City of Newburgh	85,009
101. City of North Tonawanda	88,793
102. City of Norwich	28,893
103. City of Ogdensburg	54,133
104. City of Olean	43,699
105. City of Oneida	25,331
106. City of Oneonta	46,804
107. City of Oswego	57,552
108. City of Peekskill	92,493
109. City of Plattsburgh	39,544
110. City of Port Jervis	33,701
111. City of Poughkeepsie	92,647

112. City of Rensselaer	22,920
113. City of Rye	42,620
114. City of Salamanca	16,719
115. City of Saratoga Springs	67,444
116. City of Sherrill	6,643
117. City of Tonawanda	71,307
118. City of Watertown	120,076
119. City of Watervliet	21,274

(a-1) (i) Effective for each state fiscal year beginning April first, nineteen hundred ninety-five, the state comptroller shall, on or before the end of that fiscal year: (1) deduct from any moneys payable to the city of New York from the local assistance account as state aid for the support of local government the amount certified to him or her by the chief administrator of the courts immediately following the close of such fiscal year pursuant to subparagraph (ii) of this paragraph, and (2) transfer the amount of such deduction from the local assistance account to the New York city county clerks' operations offset fund.

(ii) On or before March first in each year commencing with March first, nineteen hundred ninety-six, the chief administrator shall determine and certify to the comptroller the difference between (1) the amount of the disbursements under the judiciary budget made during the fiscal year ending the previous March thirty-first for the payment of services and expenses incurred in that fiscal year by the offices of the county clerks of the city of New York, excluding services and expenses incurred by those offices in discharge of a county clerk's powers and duties as commissioner of jurors, and (2) the aggregate receipts derived by the state from the fees specified in paragraphs one and two of subdivision (f) of section eight thousand twenty and section eight thousand twenty-one of the civil practice law and rules during the fiscal year commencing April first, nineteen hundred ninety.

(iii) On or before March first, nineteen hundred ninety-seven, and each March first thereafter, the chief administrator shall determine the actual difference between (1) the amount of the disbursements under the judiciary budget made during the fiscal year ending the previous March thirty-first for the payment of services and expenses incurred in that fiscal year by the offices of the county clerks of the city of New York, excluding services and expenses incurred by those offices in discharge

of a county clerk's powers and duties as commissioner of jurors and (2) the aggregate receipts derived from the state from the fees specified in paragraphs one and two of subdivision (f) of section eight thousand twenty and section eight thousand twenty-one of the civil practice law and rules during the preceding fiscal year. The chief administrator shall compare this actual amount of difference with the projected amount of difference calculated pursuant to subparagraph (ii) of this paragraph and certify the difference between the two amounts to the comptroller. Such amount shall be added to, or deleted from, as the case may be, the amount of the deduction made from state aid payments to the city of New York pursuant to subparagraph (i) of this paragraph.

(b) To the extent the moneys so estimated by the state comptroller with the approval of the state director of the budget to be payable to such political subdivision from the local assistance fund during any state fiscal year are insufficient to provide for the deduction of the amount required to be deducted pursuant to this subdivision, each such political subdivision shall pay on a monthly basis to the commissioner of taxation and finance an amount determined by the state comptroller and the state director of the budget to provide for payment of the amount by which the estimated moneys payable to such political subdivision is insufficient. The amount of such payments may be adjusted from time to time as the estimate of moneys payable to such political subdivision is adjusted.

(c) For the state fiscal year commencing April first, nineteen hundred seventy-nine, each political subdivision shall repay to the State of New York an amount equal to twenty-five precent of its portion of the amount appropriated in the first instance from the state purposes fund to the judiciary for the state fiscal year commencing April first, nineteen hundred seventy-six, as determined by the state department of taxation and finance.

(d) Except as provided in subdivision three of this section, the allocation of costs to each political subdivision for its share of the expenses of the courts and court related agencies of the unified court system set forth in subdivision one of this section shall be determined by law for the fiscal year commencing April first, nineteen hundred seventy-nine, and no allocation of such costs to political subdivisions shall be made for any fiscal year commencing on or after April first,

nineteen hundred eighty.

(e) All fees collected pursuant to sections eighteen hundred three, eighteen hundred three-A and nineteen hundred eleven of the New York city civil court act, all fees collected pursuant to state law by the county clerks in the city of New York, except as otherwise provided herein with respect to fees collected pursuant to subdivision (a) of section eight thousand eighteen of the civil practice law and rules and except those fees collected by the clerk of Richmond county which in the other counties of the city of New York are collected by the city registers, all fees collected pursuant to section eight thousand eighteen of the civil practice law and rules except only to the extent of one hundred sixty-five dollars of any fee collected pursuant to subparagraph (i) of paragraph one of subdivision (a) of such section and except for those collected pursuant to subparagraph (ii) of paragraph one of paragraph three of such subdivision (a), all fees collected pursuant to section eight thousand twenty of the civil practice law and rules except for those collected pursuant to subdivisions (f), (g) and (h) of said section, all fees collected pursuant to section eight thousand twenty-two of the civil practice law and rules, all fees collected pursuant to section twenty-four hundred two of the surrogate's court procedure act, all fees collected pursuant to section eighteen hundred three, eighteen hundred three-A and subdivision (a) of section nineteen hundred eleven of the uniform district court act, all fees collected pursuant to section eighteen hundred three, eighteen hundred three-A and subdivision (a) of section nineteen hundred eleven of the uniform city court act and all fines, penalties and forfeitures collected pursuant to subdivision eight of section eighteen hundred three of the vehicle and traffic law, except such fines, penalties and forfeitures collected by the Nassau county traffic and parking violations agency, section 71-0211 of the environmental conservation law, section two hundred one of the navigation law and subdivision one of section 27.13 of the parks, recreation and historic preservation law shall be paid to the state commissioner of taxation and finance on a monthly basis no later than ten days after the last day of each month. The additional fee of five dollars collected by county clerks in New York city pursuant to paragraph three of subdivision (a) of section eight thousand eighteen of the civil practice law and rules shall be

distributed monthly by the county clerks as follows: four dollars and seventy-five cents to the commissioner of education for deposit into the local government records management improvement funds; and twenty-five cents to the city of New York.

(f) Effective April first, nineteen hundred seventy-seven, the state shall no longer make any payments pursuant to section thirty-four-a of this chapter nor any payments pursuant to section ninety-nine-l of the general municipal law for matters handled by the criminal court of the city of New York, the district courts and city courts.

(g) The amounts to be deducted from the local assistance fund and to be paid by political subdivisions to the state of New York, and the fees to be paid to the state commissioner of taxation and finance pursuant to paragraphs (a), (b), (c) and (e) of subdivision two of this section are hereby made available for the reimbursement of expenditures made by the judiciary in the first instance from state purposes appropriations authorized by subdivision one of this section.

Notwithstanding any other provision of law, the comptroller is hereby authorized to repay from such amounts and such fees the expenditures made by the judiciary in the first instance from state purposes appropriations authorized by subdivision one of this section.

3. (a) Notwithstanding any other provision of law, all goods, services and facilities presently furnished and paid for by any political subdivision to the courts and court-related agencies affected by this section not included in that portion of the budget of the political subdivision used in the computation of the amounts set forth in subdivision two of this section, shall continue to be furnished and paid for by the political subdivision. Each political subdivision shall also be responsible for supplying such additional facilities suitable and sufficient for the transaction of business as may become needed after the effective date of this subdivision. In the event that a political subdivision during any state fiscal year ceases to provide any such goods, services and facilities, the state administrator shall determine the value of such goods, services and facilities and shall notify the state comptroller of such determination. During each state fiscal year in which a political subdivision ceases to provide such goods, services

and facilities, an amount equal to the value of such services shall be deducted by the state comptroller from any moneys payable to such political subdivision from the local assistance fund. All federal moneys allocated as of March thirty-first, nineteen hundred seventy-seven by any political subdivision for goods, services or facilities in the courts or court-related agencies affected by this section shall continue to be so allocated for as long as those federal moneys remain available to that political subdivision, except that, if the federal moneys granted to the political subdivision from which such goods, services or facilities are provided are reduced below the amount granted as of March thirty-first, nineteen hundred seventy-seven, the political subdivision may make a proportionate reduction in the federal moneys allocated for such goods, services or facilities.

(b) Political subdivisions which provide security services for the courts, the cost of which is not included in that portion of the budget of the political subdivision used in the computation of the amounts set forth in column A in paragraph (a) of subdivision two of this section shall be entitled to reimbursement by the state within the amounts appropriated to the administrative office for the courts for that purpose.

(c) All employees providing goods and services pursuant to this subdivision shall remain the employees of the political subdivision. All deputy sheriffs or police officers providing security services in the courts shall be deemed persons providing services pursuant to this subdivision.

4. In preparing and submitting to the administrative board the itemized estimates of the annual financial needs of the courts and court-related agencies set forth in subdivision one of this section, the state administrator shall consider the relative caseloads of such courts and agencies in the event that increases in such itemized estimates are proposed for inclusion in the judiciary budget submission to the legislature.

5. The state administrator shall render an annual statement of the amount determined pursuant to paragraph (c) of subdivision two of this section to each political subdivision on or about the fifteenth day of

September of each year. The amount set forth in such statement shall be paid to the state commissioner of taxation and finance by the city of New York no more than thirty days after receipt thereof and by all other political subdivisions on or before the thirty-first of January of the following year. In the event that any political subdivision fails to remit a payment due at the time specified herein, the comptroller shall withhold payments of installments or quarterly payments of state assistance due such political subdivision pursuant to the provisions of article four-a of the state finance law until the indebtedness due from such political subdivision pursuant to this subdivision shall be paid in full or until the installments or quarterly payments of such state assistance or portions thereof so withheld shall equal the amount so due from the political subdivision pursuant to this subdivision.

6. Notwithstanding any other provision of law, and except as provided in paragraph (c) of subdivision three of this section, commencing April first, nineteen hundred seventy-seven all justices, judges, and nonjudicial officers and employees of the courts and court-related agencies of the unified court system set forth in subdivision one of this section shall be employees of the state of New York and the salaries, wages, hours and other terms and conditions of their employment shall be determined in accordance with the provisions of this section.

(a) Such justices, judges, and nonjudicial officers and employees shall be placed on the payroll of the state of New York and shall be entitled to the salaries, wages, hours and other terms and conditions of employment to which they were entitled pursuant to any law or contract in effect immediately prior to the effective date hereof, except that they shall receive the rates of reimbursement for travel and lodging expenses provided by the state to state-paid nonjudicial officers and employees of the unified court system not affected by this paragraph, provided, however, that where an agreement has expired with no successor contract yet having been executed prior to the effective date hereof a contract subsequently executed and retroactive to the expiration of such predecessor contract shall be controlling. Such salaries, wages, hours and other terms and conditions of employment shall continue in effect until altered by state law or by the terms of a successor contract,

except that salaries, wages, hours and other terms and conditions of employment of such nonjudicial officers and employees not provided pursuant to contract and hours and other terms and conditions of employment of justices and judges may be altered by administrative action in accordance with law. Provided, however, that no liability shall be deemed to accrue to the state as result of any such law or contract for any period prior to April first, nineteen hundred seventy-seven.

(b) Notwithstanding any provision of paragraph (a) of this subdivision every local law enacted, contract entered into or action taken by a political subdivision or other instrumentality of the state on or after the effective date of this paragraph with respect to the terms or conditions of employment of any such justice, judge, non-judicial officer or employee shall be subject to the prior approval of the administrative board of the judicial conference. Provided, however, that any such local law, contract or action affecting any such justice, judge, non-judicial officer or employee of any court of the unified court system located in a city for which an emergency financial control board has been created shall be subject only to the prior approval of such emergency financial control board.

(c) For the purposes of this section, the term "salary" shall mean the annual salary otherwise payable to any judge, justice or nonjudicial officer or employee to whom the provisions of this section are applicable, exclusive of overtime compensation and any allowance in lieu of maintenance. The salary of the incumbent of a position compensable on an hourly or per diem basis, or on any basis other than at an annual salary rate, shall be deemed to be the salary which would otherwise be payable if the services were required on a full time annual basis for the number of hours per day and days per week established by law or administrative rules or orders for regular full-time employees.

(d) Notwithstanding any other provision of law:

(i) Any nonjudicial officer or employee of the courts and court-related agencies of the unified court system who becomes an employee of the state of New York pursuant to this subdivision may, at the option of such officer or employee, be credited with sick leave earned and accumulated but unused at the time he becomes a state employee, but not in excess of two hundred days and shall be credited

with vacation leave earned and accumulated but unused at the time he becomes a state employee, but not in excess of forty days. Notwithstanding the foregoing, such nonjudicial officer or employee, with the approval of the state administrator, may elect at any time to be credited with additional sick leave credits by the state, to the extent such credits were earned prior to April first, nineteen hundred seventy-seven and not already so credited pursuant to this subparagraph (i); in such event, such sick leave credits shall not be available for the purposes of subparagraph (iii) of this paragraph. The state shall not award credit or compensation for any other time or leave credits, and shall not be liable for any terminal leave benefits based upon time or leave credits earned prior to April first, nineteen hundred seventy-seven.

(ii) Every such nonjudicial officer or employee shall be entitled to receive payments for time or leave credits, other than sick leave or terminal leave, attributable to service rendered prior to April first, nineteen hundred seventy-seven, and not transferred to the state pursuant to subparagraph (i), which payments such nonjudicial officer or employee would otherwise have received from the political subdivision had he been involuntarily terminated without fault from the employ of the political subdivision on March thirty-first, nineteen hundred seventy-seven. Such credits shall be payable in cash before July first, nineteen hundred seventy-seven, if such credits would have been so payable by the political subdivision or if such officer or employee would otherwise have been retained on the payroll of the political subdivision until any such credits had been exhausted.

(iii) At the time of retirement or any other permanent separation without fault from the employment of the state, any such nonjudicial officer or employee shall be entitled to receive from the political subdivision payments for terminal leave based upon any time and leave credits accrued before April first, nineteen hundred seventy-seven, and not transferred to the state pursuant to subparagraph (i) nor used in the computation of any award of compensation pursuant to subparagraph (ii) of this paragraph, which payments such nonjudicial officer or employee would otherwise have received from the political subdivision had he retired or separated from the service of the political subdivision on March thirty-first, nineteen hundred seventy-seven. If

such officer or employee retires, such entitlement shall include payments he would have received from the political subdivision as if he had been eligible to retire and as if he had retired on March thirty-first, nineteen hundred seventy-seven. Any nonjudicial officer or employee who retires or is separated from service after March thirty-first, nineteen hundred seventy-seven, who is not entitled to receive payment hereunder solely because of insufficient service with the political subdivision prior to April first, nineteen hundred seventy-seven, shall receive from the political subdivision pro rata payments based upon such nonjudicial officer or employee's time and service with such local subdivision provided he is otherwise entitled to receive such payments based upon his combined service with the political subdivision and the state pursuant to a collective bargaining agreement negotiated with the state. Such credits shall be payable in cash if such credits would have been so payable by the political subdivision or if such officer or employee would otherwise have been retained on the payroll of the political subdivision until any such credits had been exhausted.

(e) (i) Notwithstanding any other provision of law, all justices, judges and nonjudicial officers and employees of the courts and court-related agencies of the unified court system who became employees of the state of New York pursuant to this subdivision shall receive insurance benefits as set forth in this paragraph. Such justices, judges and nonjudicial officers or employees may elect to receive all of the insurance benefits provided by the state to state-paid justices, judges and nonjudicial officers and employees of the unified court system immediately prior to the effective date hereof. If such election is not made, such justices, judges and nonjudicial officers and employees shall be entitled to receive the insurance benefits to which they were entitled pursuant to any law or contract in effect immediately prior to the effective date hereof, in which case the political subdivision from which such justices, judges and nonjudicial officers and employees were entitled to receive insurance benefits shall continue to provide such insurance coverage and such justices, judges and nonjudicial officers and employees shall be deemed employees of the political subdivisions for purposes of receiving such insurance coverage and for the processing of claims thereunder. The state shall reimburse each political

subdivision for the amount of premiums paid pursuant to this paragraph or, in the case of self-insurance, for the cost of the benefit paid by the political subdivision. Insurance benefits provided pursuant to this paragraph shall continue in effect until altered by law, administrative action in accordance with law, or, for those officers and employees receiving insurance benefits pursuant to contract, by the terms of a successor contract. Nothing in this paragraph shall preclude the state from enrolling any such justice, judge or nonjudicial officer or employee in the state insurance plan upon his withdrawal from the insurance plan paid for by the political subdivision pursuant to this paragraph. Notwithstanding any other provision of this chapter, all justices, judges and nonjudicial officers and employees of the eleventh judicial district shall have the same dual insurance coverage, consisting of the state insurance plan and the insurance plan paid for by the political subdivision pursuant to this paragraph, which is provided to the justices, judges and nonjudicial officers and employees of the first and second judicial districts.

(ii) Notwithstanding the provisions of subparagraph (i) of this paragraph, all state-paid justices and judges and all state-paid nonjudicial officers and employees of the unified court system not in any collective negotiating unit established pursuant to article fourteen of the civil service law who, on the day immediately preceding the effective date of this subparagraph, are enrolled in a health insurance plan paid for by a political subdivision, shall be deemed withdrawn therefrom and shall exclusively be enrolled in the state health insurance plan.

(f) All monetary contributions made by a political subdivision prior to April first, nineteen hundred seventy-seven on behalf of an individual justice, judge or nonjudicial officer or employee to a welfare fund administered by an employee organization or by a political subdivision shall, commencing April first, nineteen hundred seventy-seven, be paid by the state.

(g) Each political subdivision shall be liable for the satisfaction of any claims by any officer or employee arising out of the terms and conditions of his employment prior to the date on which such officer or employee became a state employee pursuant to this subdivision.

7. Upon the termination of the period of unchallenged representation of any employee organization certified or recognized to represent employees of the courts or court related agencies of the unified court system, petitions may be filed with the public employment relations board to alter negotiating units in accordance with the standards set forth in section two hundred seven of the civil service law; provided, however, that such board shall not alter any such negotiating unit comprised exclusively of such employees or that part of any other negotiating unit comprised of such employees. The provisions of this subdivision shall be applicable in any case in which the negotiating unit is so defined on the effective date of this subdivision in accordance with the provisions of either section two hundred seven or section two hundred twelve of the civil service law, as the case may be. Nothing herein shall preclude the merger of negotiating units of such employees with the consent of the administrative board of the judicial conference and the recognized or certified representatives of the negotiating units involved.

8. (a) The administrative board of the judicial conference shall adopt a classification structure for all non-judicial officers and employees who become employees of the state of New York pursuant to this section which shall provide for the classification of positions in accordance with duties required to be performed in title in these positions and in accordance with the responsibilities of the position and the volume of work in the court or court-related agency in which the position exists. Nothing in this section shall prohibit the subsequent restructuring of the classification and duties of employees in accordance with the rules of the administrative board. The administrative board in accordance with section two hundred nineteen of this article shall determine, retroactive to April first, nineteen hundred seventy-seven, the salary grade of each employee who becomes an employee of the state of New York pursuant to this section; provided, however, nothing herein contained shall be deemed to diminish: (i) the right of any employee organization to negotiate wages or salaries pursuant to article fourteen of the civil service law, or; (ii) the right of any employee to receive wages or salaries pursuant to subdivision six of this section. Notwithstanding any other provision of law, an application to the public employment

relations board seeking a designation by the board that certain persons are managerial or confidential may be filed at any time before April first, nineteen hundred seventy-eight, and thereafter pursuant to the provisions of the civil service law.

(b) A nonjudicial officer or employee whose position is allocated to a salary grade pursuant to paragraph (a) of this subdivision shall be placed into that salary grade at the salary received by such officer or employee immediately prior to said allocation or at the minimum of that grade, whichever is higher. The salary of such officer or employee within such salary grade, as determined by this paragraph, shall establish the increment step into which the employee shall be placed and shall determine the number of years of service to be credited within such salary grade as of April first, nineteen hundred seventy-seven, for the purpose of computing future increments. Each employee shall thereafter receive increment credit for each subsequent year of service in such position up to the maximum prescribed by section two hundred nineteen of this article.

9. (a) On and after the effective date of this paragraph all justices, judges and nonjudicial officers and employees of the courts and court-related agencies of the unified court system set forth in subdivision one who become employees of the state pursuant to subdivision six of this section shall thereupon become members of the New York state employees retirement system to the extent permitted or required by the provisions of the retirement and social security law, and the reserves in any other retirement system shall be transferred to the New York state employees retirement system without any request by them or any notice to the retirement systems, except that: (1) any such justice, judge or nonjudicial officer or employee who is a member of the New York city employees' retirement system or the New York city teachers' retirement system may elect to continue membership in the New York city employees' retirement system or the New York city teachers' retirement system, as the case may be, and (2) any justice or judge who is a member of both the New York city employees' retirement system and the New York state employees' retirement system may elect to continue membership in the New York city employees' retirement system and to discontinue membership in the New York state employees' retirement

system. Any election pursuant to this paragraph shall be made no later than the ninetieth day next succeeding the date on which the provisions hereof become effective, by filing a written notice thereof with the administrative head of the New York state employees' retirement system and the New York city employees' retirement system or the New York city teachers' retirement system and, once made and filed, shall be irrevocable. Upon the retirement of a justice, judge or nonjudicial officer or employee who has made such an election, the calculation of final average salary by the New York city employees' retirement system or the New York city teachers' retirement system shall be performed as if the salary earned as a state employee on and after such effectiveness were earned in New York city employment. In the case of a justice, judge or nonjudicial officer or employee who remains or becomes a member of the New York state employees' retirement system pursuant to this paragraph, the New York city employees' retirement system or the New York city teachers' retirement system shall make a transfer of reserves, contributions and credits to the New York state employees' retirement system, in the manner required by section forty-three of the retirement and social security law. In the case of an election to continue in the New York city employees' retirement system by a justice or judge who is a member of both retirement systems, the New York state employees' retirement system shall make a transfer of reserves, contributions and credits to the New York city employees' retirement system, in the manner provided by section forty-three of such law.

(b) The comptroller of the city of New York shall certify to the state administrator the amount of money required to be paid by the state of New York for pension costs resulting from elections made pursuant to paragraph (a) of this subdivision. The comptroller of the state of New York shall pay to the New York city employees' retirement system or the New York city teachers' retirement system, upon approval by the state administrator, the amounts so certified by the comptroller of the city of New York. The comptroller of the city of New York shall also certify to the state administrator the amount of money required to be contributed by each of such employees. The comptroller of the state of New York shall be authorized to withhold the contribution of such employees and pay that amount to the New York city employees' retirement system or the New York city teachers' retirement system. The amount so

certified pursuant to this paragraph shall be the same as the amounts required to be contributed for similarly situated city employees by the city of New York and by employees of the city of New York.

10. (a) Notwithstanding any other provision of law, commencing April first, nineteen hundred eighty-three, in the event the chief administrator of the courts, in his sole discretion, determines that court security services provided by the county of Westchester pursuant to subdivision three of this section should be provided by employees of the unified court system: (i) the state shall be responsible for providing security services to the courts in such county, and (ii) all permanent officers and employees of the department of public safety service of such county who provide security services in the courts of such county pursuant to subdivision three of this section shall be eligible to become employees of the state of New York upon filing a notice of state employment election with the chief administrator of the courts in a manner and form determined by the chief administrator; provided, however, that such employment shall be subject to acceptance by the employee of the salary, wages, hours and other terms and conditions of employment enjoyed by other state employees in the negotiating unit into which his position is placed.

(b) Each nonjudicial officer and employee who files a notice of state employment election as provided in paragraph (a) of this subdivision shall be placed on a payroll of the state of New York in a position which shall be classified and allocated pursuant to the classification structure, established by the chief administrator of the courts on May twenty-eighth, nineteen hundred seventy-nine. The salary of each such nonjudicial officer and employee shall be his salary on March thirty-first, nineteen hundred eighty-three, plus such number of increments equalling his years of permanent service in his county position on March thirty-first, nineteen hundred eighty-three, not to exceed the maximum of the salary grade of the position to which he is allocated hereunder. Eligibility for future increments shall be based solely upon state service commencing upon the effective date of this subdivision.

(c) Notwithstanding any other provision of law:

(i) Any nonjudicial officer or employee of the courts and court

related agencies of the unified court system who becomes an employee of the state of New York pursuant to paragraph (a) of this subdivision, may, at the option of such officer or employee, be credited with sick leave earned and accumulated but unused at the time he becomes a state employee, but not in excess of two hundred days and shall be credited with vacation leave earned and accumulated but unused at the time he becomes a state employee, but not in excess of forty days. The state shall not award credit or compensation for any other time or leave credits and shall not be liable for any terminal leave benefits based upon time or leave credits earned prior to April first, nineteen hundred eighty-three.

(ii) Each such nonjudicial officer or employee shall be entitled to receive payments from the county of Westchester for time or leave credits, other than sick leave or terminal leave, attributable to service prior to April first, nineteen hundred eighty-three and not transferred to the state pursuant to subparagraph (i) of this paragraph, which payments such nonjudicial officer or employee would otherwise have received from the county had he been involuntarily terminated without fault from the employ of the county on March thirty-first, nineteen hundred eighty-three. Such credits shall be payable in cash before July first, nineteen hundred eighty-three, if such credits would have been so payable by the county of Westchester or if such officer or employee would otherwise have been retained on the payroll of the county until any such credits have been exhausted.

(iii) At the time of retirement, or any other permanent separation without fault from the employment of the state, any such nonjudicial officer or employee shall be entitled to receive from the county of Westchester payments for terminal leave based upon any time and leave credits accrued before April first, nineteen hundred eighty-three, and not transferred to the state pursuant to subparagraph (i) of this paragraph, which payments such nonjudicial officer or employee would otherwise have received from the county had he retired or separated from the service of the county on March thirty-first, nineteen hundred eighty-three.

(d) Upon the effective date of this subdivision, each officer and employee who elects to become a state employee pursuant to paragraph (a) of this subdivision shall have permanent status in his state position

without further examination or qualification. Each officer and employee having permanent status in a competitive class county position who does not make such election shall have his name entered upon an appropriate preferred list for reinstatement to the same or similar positions in the service of the county of Westchester.

§ 39-a. Mediation. 1. Where, pursuant to paragraph (a) of subdivision three of section thirty-nine of this article, the chief administrator of the courts determines that a political subdivision has ceased or failed during a state fiscal year to provide goods, services and facilities of a specified value, he or she may not notify the state comptroller of his or her determination in accordance with such paragraph unless the chief executive officer of the affected political subdivision is first notified thereof and provided a period of thirty days in which to request mediation in accordance with subdivisions three and four of this section. Where mediation is so requested, the chief administrator may only notify the state comptroller of his or her determination, pursuant to paragraph (a) of subdivision three of section thirty-nine of this article, under the circumstances set forth in subdivision four of this section.

2. In the event that the court facilities capital review board determines not to approve an assessment and plan submitted by the chief executive officer of a political subdivision pursuant to section sixteen hundred eighty-c of the public authorities law, or the board fails to act upon such assessment and plan within sixty days of submission thereof to the board and the chief administrator disapproves the assessment and plan, the chief administrator shall consult with such chief executive officer in an effort to resolve any matters in dispute, and shall, if the chief executive officer so requests, request mediation in accordance with subdivisions three and four of this section.

3. Mediation shall consist of expedited proceedings to effectuate the voluntary resolution of any dispute between the court facilities capital review board and a political subdivision concerning approval of a capital plan pursuant to section sixteen hundred eighty-c of the public

authorities law or the chief administrator's determination pursuant to paragraph (a) of subdivision three of section thirty-nine of this article. The mediator shall be appointed by agreement of the chief administrator and the chief executive officer of the affected political subdivision from a list of mediators submitted by the American Arbitration Association.

4. In mediating the dispute, the mediator shall take into consideration, in addition to any other relevant factors, the political subdivision's legal obligation under section thirty-nine of this article to provide goods, services and facilities suitable and sufficient for the transaction of business, and the financial ability of the political subdivision to pay for the goods, services and facilities in light of the totality of its needs and the resources available. In the event the chief administrator and the chief executive officer of the political subdivision fail to achieve agreement within ninety days after commencement of the mediation, or such longer period as they may agree upon, the chief administrator may notify the state comptroller as provided in paragraph (a) of subdivision three of section thirty-nine of this article provided:

(a) mediation was requested pursuant to subdivision one of this section, or

(b) mediation was requested pursuant to subdivision two of this section and at least twenty-four months have elapsed since the effective date of this section.

§ 39-b. Special provisions relating to court facilities. 1. For purposes of this section:

(a) the term "court facilities" shall mean facilities for the transaction of business by the state-paid courts and court-related agencies of the unified court system and the judicial and nonjudicial personnel thereof, including rooms and accommodations for the courts and court-related agencies of the unified court system, the judges, justices and the clerical, administrative and other personnel thereof.

(b) the term "cleaning of court facilities" shall mean those services and activities that are necessary to insure that the interior of each

court facility is and remains a clean and healthful environment in which to transact the business of the unified court system. These services and activities include, but are not limited to: removal of trash and debris; maintenance of appropriate standards of hygiene; painting; pest control; and replacement of consumable items such as light bulbs, soap, toilet paper and paper towelling. They also shall include the making of minor repairs in accordance with rules of the chief judge.

(c) the term "political subdivision" shall include each county of the state outside the city of New York and each city of the state.

2. Commencing April first, nineteen hundred ninety-eight, the state shall be responsible for the cleaning of court facilities and, subject to the provisions of paragraphs (b) and (c) of subdivision three of this section, shall pay the cost thereof out of funds appropriated from the court facilities incentive aid fund to the judiciary for that purpose.

3. (a) Notwithstanding any provision herein, the state shall enter into a contract with a political subdivision pursuant to which such political subdivision shall provide for the cleaning of court facilities located therein except that, where any such political subdivision shall fail to comply with the provisions of such contract, the chief administrator may proceed pursuant to an alternative plan for the cleaning of court facilities located in such political subdivision subject to the approval of such alternative plan by the court facilities capital review board in the same manner as the approval of the capital plan of a political subdivision pursuant to section sixteen hundred eighty-c of the public authorities law.

(b) Any contract with a political subdivision entered pursuant to paragraph (a) of this subdivision for the cleaning of court facilities in that political subdivision during a fiscal year ending prior to April first, two thousand one shall provide that the political subdivision shall pay the cost of such cleaning in the first instance and that the state shall reimburse the political subdivision from funds appropriated from the court facilities incentive aid fund an amount equaling: (i) twenty-five percent of all expenses the political subdivision actually and necessarily incurred in compliance with this paragraph if the fiscal year commenced April first, nineteen hundred ninety-eight, (ii) fifty

percent of all expenses the political subdivision actually and necessarily incurred in compliance with this paragraph if the fiscal year commenced April first, nineteen hundred ninety-nine, and (iii) seventy-five percent of all expenses the political subdivision actually and necessarily incurred in compliance with this paragraph if the fiscal year commenced April first, two thousand.

(c) Where a political subdivision shall fail to enter into a contract pursuant to paragraph (a) of this subdivision for the cleaning of court facilities in that political subdivision during a fiscal year ending prior to April first, two thousand one or to comply with provisions of such a contract once entered into, and the chief administrator proceeds pursuant to an alternative plan pursuant to such paragraph, the chief administrator shall certify that fact to the state comptroller, the director of the budget, the chair of the senate finance committee and the chair of the assembly ways and means committee, along with the cost of such alternative plan to the state in such fiscal year. In such event, the political subdivision shall be required to reimburse the state for a percentage of such cost as follows:

(i) in the fiscal year commencing April first, nineteen hundred ninety-eight, seventy-five percent;

(ii) in the fiscal year commencing April first, nineteen hundred ninety-nine, fifty percent; and

(iii) in the fiscal year commencing April first, two thousand, twenty-five percent.

Effective for each fiscal year in which a political subdivision is required to reimburse the state pursuant to this paragraph, the state comptroller shall: (i) deduct from any moneys payable to such political subdivision from the local assistance fund the amount of such reimbursement, and (ii) transfer the amount of such deduction from the local assistance fund to the court facilities incentive aid fund.

4. Notwithstanding the provisions of subdivisions two and three of this section, where, for a state fiscal year commencing on or after April first, nineteen hundred ninety-eight, a political subdivision demonstrates to the chief administrator that its net liability under this section on account of expenses incurred pursuant to this section for its court facilities during that state fiscal year is greater than

the difference between: (i) the amount of those expenses and (ii) the amount of state assistance to which the political subdivision would have been entitled, on account of expenses paid during such fiscal year, pursuant to the provisions of paragraph (a) of subdivision two of section fifty-four-j of the state finance law in effect prior to enactment of chapter six hundred eighty-six of the laws of nineteen hundred ninety-six had such provisions remained in effect, then, for that fiscal year, the amount of reimbursement the political subdivision is owed by the state shall be increased or the amount of reimbursement it owes the state shall be decreased, as appropriate, so that the political subdivision's net liability under this section for the fiscal year equals such difference. For purposes of this subdivision, a political subdivision's net liability under this section for a state fiscal year shall equal: (i) the difference between the amount of the expenses for court facilities in such political subdivision incurred by the state pursuant to this section and the amount of reimbursement owed the state therefor by the political subdivision in such fiscal year, if paragraph (c) of subdivision three of this section applies, or (ii) the amount of reimbursement owed by the state to the political subdivision in such fiscal year pursuant to paragraph (b) of subdivision three of this section, if such paragraph (b) applies.

ARTICLE 2-A

STATE COMMISSION ON JUDICIAL CONDUCT

Section 40. Definitions.

40-a. Recycled products.

41. State commission on judicial conduct; organization.

42. Functions; powers and duties.

43. Panels; referees.

44. Complaint; investigation; hearing and disposition.

45. Confidentiality of records.

46. Breach of confidentiality of commission information.

47. Resignation not to divest commission or court of appeals of jurisdiction.

48. Courts on the judiciary; former commission on judicial conduct; jurisdiction and powers.

§ 40. Definitions. For the purposes of this article the following terms have the following meanings:

1. "Commission" means the state commission on judicial conduct.

2. "Judge" means a judge or justice of any court of the unified court system.

3. "Hearing" means a proceeding under subdivision four of section forty-four of this article.

4. "Member of the bar" means a person admitted to the practice of law in this state for at least five years.

§ 40-a. Recycled products. All products purchased by the courts shall be recycled products, which meet contract specifications, unless the product is only available without recycled content, and provided that the cost of the recycled product does not exceed a cost premium of ten percent above the cost of a comparable product that is not a recycled product or, if at least fifty percent of the secondary materials utilized in the manufacture of that product are generated from the waste stream in New York state, the cost of the recycled product does not exceed a cost premium of fifteen percent above the cost of a comparable product that is not a recycled product. For the purpose of this section and until July first, nineteen hundred ninety-six, "recycled product" shall mean any product which has been manufactured from secondary materials, as defined in subdivision one of section two hundred sixty-one of the economic development law, and meets secondary material content requirements adopted by the office of general services under subdivision one of section one hundred seventy-seven of the state finance law for products available to the courts under state contract or, if no such contract for such product is available, any product which meets the secondary material content requirements adopted by the courts with respect to a specific commodity procurement by the court. On and

after July first, nineteen hundred ninety-six, "recycled product" shall mean, for the purposes of this section, any product which has been manufactured from secondary materials, as defined in subdivision one of section two hundred sixty-one of the economic development law, and which meets the requirements of subdivision two of section 27-0717 of the environmental conservation law and regulations promulgated pursuant thereto. Whenever purchasing or causing the purchase of printing on recycled paper pursuant to this section, the courts shall require the printed material to contain the official state recycling emblem established pursuant to subdivision two of section 27-0717 of the environmental conservation law and regulations promulgated pursuant thereto if such paper has been approved by the department of environmental conservation as satisfying the requirements of such statute and regulations, or, if such paper has not been so approved, require the printed material to include a printed statement which indicates the percentages of pre-consumer and post-consumer recycled material content of such paper.

§ 41. State commission on judicial conduct; organization. 1. A state commission on judicial conduct is hereby established. The commission shall consist of eleven members, of whom four shall be appointed by the governor, one by the temporary president of the senate, one by the minority leader of the senate, one by the speaker of the assembly, one by the minority leader of the assembly and three by the chief judge of the court of appeals. Of the members appointed by the governor one person shall be a member of the bar of the state but not a judge, two shall not be members of the bar, judges or retired judges, and one shall be a judge. Of the members appointed by the chief judge one person shall be a justice of the appellate division of the supreme court, one person shall be a judge of a court other than the court of appeals or appellate divisions and one person shall be a justice of a town or village court. None of the persons to be appointed by the legislative leaders shall be judges or retired judges.

2. Membership on the commission by a judge shall not constitute the holding of a public office and no judge shall be required to take and

file an oath of office before serving on the commission. The members of the commission shall elect one of their number to serve as chairman during his term of office or for a period of two years, whichever is shorter.

3. The persons first appointed by the governor shall have respectively one, two, three, and four year terms as he shall designate. The persons first apppointed by the chief judge of the court of appeals shall have respectively two, three and four year terms as he shall designate. The person first appointed by the temporary president of the senate shall have a one year term. The person first appointed by the minority leader of the senate shall have a two year term. The person first appointed by the speaker of the assembly shall have a four year term. The person first appointed by the minority leader of the assembly shall have a three year term. Each member of the commission shall be appointed thereafter for a term of four years. Commission membership of a judge or justice appointed by the governor or the chief judge shall terminate if such member ceases to hold the judicial position which qualified him for such appointment. Membership shall also terminate if a member attains a position which would have rendered him ineligible for appointment at the time of his appointment. A vacancy shall be filled by the appointing officer for the remainder of the term.

4. If a member of the commission who is a judge is the subject of a complaint or investigation with respect to his qualifications, conduct, fitness to perform or performance of his official duties, he shall be disqualified from participating in any and all proceedings with respect thereto.

5. Each member of the commission shall serve without salary or other compensation, but shall be entitled to receive actual and necessary expenses incurred in the discharge of his or her duties.

6. For any action taken pursuant to subdivisions four through eight of section forty-four or subdivision two of section forty-three of this article, eight members of the commission shall constitute a quorum of the commission and the concurrence of six members of the commission

shall be necessary. Two members of a three member panel of the commission shall constitute a quorum of the panel and the concurrence of two members of the panel shall be necessary for any action taken.

7. The commission shall appoint and at pleasure may remove an administrator who shall be a member of the bar who is not a judge or retired judge. The administrator of the commission may appoint such deputies, assistants, counsel, investigators and other officers and employees 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.

§ 42. Functions; powers and duties. The commission shall have the following functions, powers and duties:

1. To conduct hearings and investigations, 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 that it may deem relevant or material to an investigation; and the commission may designate any of its members or any member of its staff to exercise any such powers, provided, however, that except as is otherwise provided in section forty-three of this article, only a member of the commission or the administrator shall exercise the power to subpoena witnesses or require the production of books, records, documents or other evidence.

2. To confer immunity when the commission deems it necessary and proper in accordance with section 50.20 of the criminal procedure law; provided, however, that at least forty-eight hours prior written notice of the commission's intention to confer such immunity is given the attorney general and the appropriate district attorney.

3. To request and receive from any court, department, division, board, bureau, commission, or other agency of the state or political subdivision thereof or any public authority such assistance, information and data as will enable it properly to carry out its functions, powers

and duties.

4. To report annually, on or before the first day of March in each year and at such other times as the commission shall deem necessary, to the governor, the legislature and the chief judge of the court of appeals, with respect to proceedings which have been finally determined by the commission. Such reports may include legislative and administrative recommendations. The contents of the annual report and any other report shall conform to the provisions of this article relating to confidentiality.

5. To adopt, promulgate, amend and rescind rules and procedures, not otherwise inconsistent with law, necessary to carry out the provisions and purposes of this article. All such rules and procedures shall be filed in the offices of the chief administrator of the courts and the secretary of state.

6. To do all other things necessary and convenient to carry out its functions, powers and duties expressly set forth in this article.

§ 43. Panels; referees. 1. The commission may delegate any of its functions, powers and duties to a panel of three of its members, one of whom shall be a member of the bar, except that no panel shall confer immunity in accordance with section 50.20 of the criminal procedure law. No panel shall be authorized to take any action pursuant to subdivisions four through eight of section forty-four of this article or subdivision two of this section.

2. The commission may designate a member of the bar who is not a judge or a member of the commission or its staff as a referee to hear and report to the commission in accordance with the provisions of section forty-four of this article. Such referee shall be empowered to conduct hearings, 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 that the referee may deem relevant or material to the subject of the hearing.

§ 44. Complaint; investigation; hearing and disposition. 1. The commission shall receive, initiate, investigate and hear complaints with respect to the conduct, qualifications, fitness to perform, or performance of official duties of any judge, and, in accordance with the provisions of subdivision d of section twenty-two of article six of the constitution, may determine that a judge be admonished, censured or removed from office for cause, including, but not limited to, misconduct in office, persistent failure to perform his duties, habitual intemperance and conduct, on or off the bench, prejudicial to the administration of justice, or that a judge be retired for mental or physical disability preventing the proper performance of his judicial duties. A complaint shall be in writing and signed by the complainant and, if directed by the commission, shall be verified. Upon receipt of a complaint (a) the commission shall conduct an investigation of the complaint; or (b) the commission may dismiss the complaint if it determines that the complaint on its face lacks merit. If the complaint is dismissed, the commission shall so notify the complainant. If the commission shall have notified the judge of the complaint, the commission shall also notify the judge of such dismissal.

2. The commission may, on its own motion, initiate an investigation of a judge with respect to his qualifications, conduct, fitness to perform or the performance of his official duties. Prior to initiating any such investigation, the commission shall file as part of its record a written complaint, signed by the administrator of the commission, which complaint shall serve as the basis for such investigation.

3. In the course of an investigation, the commission may require the appearance of the judge involved before it, in which event the judge shall be notified in writing of his required appearance, either personally, at least three days prior to such appearance, or by certified mail, return receipt requested, at least five days prior to such appearance. In either case a copy of the complaint shall be served upon the judge at the time of such notification. The judge shall have the right to be represented by counsel during any and all stages of the

investigation in which his appearance is required and to present evidentiary data and material relevant to the complaint. A transcript shall be made and kept with respect to all proceedings at which testimony or statements under oath of any party or witness shall be taken, and the transcript of the judge's testimony shall be made available to the judge without cost. Such transcript shall be confidential except as otherwise permitted by section forty-five of this article.

4. If in the course of an investigation, the commission determines that a hearing is warranted it shall direct that a formal written complaint signed and verified by the administrator be drawn and served upon the judge involved, either personally or by certified mail, return receipt requested. The judge shall file a written answer to the the complaint with the commission within twenty days of such service. If, upon receipt of the answer, or upon expiration of the time to answer, the commission shall direct that a hearing be held with respect to the complaint, the judge involved shall be notified in writing of the date of the hearing either personally, at least twenty days prior thereto, or by certified mail, return receipt requested, at least twenty-two days prior thereto. Upon the written request of the judge, the commission shall, at least five days prior to the hearing or any adjourned date thereof, make available to the judge without cost copies of all documents which the commission intends to present at such hearing and any written statements made by witnesses who will be called to give testimony by the commission. The commission shall, in any case, make available to the judge at least five days prior to the hearing or any adjourned date thereof any exculpatory evidentiary data and material relevant to the complaint. The failure of the commission to timely furnish any documents, statements and/or exculpatory evidentiary data and material provided for herein shall not affect the validity of any proceedings before the commission provided that such failure is not substantially prejudicial to the judge. The complainant may be notified of the hearing and unless he shall be subpoenaed as a witness by the judge, his presence thereat shall be within the discretion of the commission. The hearing shall not be public unless the judge involved shall so demand in writing. At the hearing the commission may take the

testimony of witnesses and receive evidentiary data and material relevant to the complaint. The judge shall have the right to be represented by counsel during any and all stages of the hearing and shall have the right to call and cross-examine witnesses and present evidentiary data and material relevant to the complaint. A transcript of the proceedings and of the testimony of witnesses at the hearing shall be taken and kept with the records of the commission.

5. Subject to the approval of the commission, the administrator and the judge may agree on a statement of facts and may stipulate in writing that the hearing shall be waived. In such a case, the commission shall make its determination upon the pleadings and the agreed statement of facts.

6. If, after a formal written complaint has been served pursuant to subdivision four of this section, or during the course of or after a hearing, the commission determines that no further action is necessary, the complaint shall be dismissed and the complainant and the judge shall be so notified in writing.

7. After a hearing, the commission may determine that a judge be admonished, censured, removed or retired. The commission shall transmit its written determination, together with its findings of fact and conclusions of law and the record of the proceedings upon which its determination is based, to the chief judge of the court of appeals who shall cause a copy thereof to be served either personally or by certified mail, return receipt requested, on the judge involved. Upon completion of service, the determination of the commission, its findings and conclusions and the record of its proceedings shall be made public and shall be made available for public inspection at the principal office of the commission and at the office of the clerk of the court of appeals. The judge involved may either accept the determination of the commission or make written request to the chief judge, within thirty days after receipt of such determination, for a review thereof by the court of appeals. If the commission has determined that a judge be admonished or censured, and if the judge accepts such determination or fails to request a review thereof by the court of appeals, the

commission shall thereupon admonish or censure him in accordance with its findings. If the commission has determined that a judge be removed or retired, and if the judge accepts such determination or fails to request a review thereof by the court of appeals, the court of appeals shall thereupon order his removal or retirement in accordance with the findings of the commission.

8. (a) The court of appeals may suspend a judge or justice from exercising the powers of his office while there is pending a determination by the commission for his removal or retirement, or while he is charged in this state with a felony by an indictment or an information filed pursuant to section six of article one of the constitution. The suspension shall continue upon conviction and, if the conviction becomes final, he shall be removed from office. The suspension shall be terminated upon reversal of the conviction and dismissal of the accusatory instrument.

(b) Upon the recommendation of the commission or on its own motion, the court may suspend a judge or justice from office when he is charged with a crime punishable as a felony under the laws of this state, or any other crime which involves moral turpitude. The suspension shall continue upon conviction and, if the conviction becomes final, he shall be removed from office. The suspension shall be terminated upon reversal of the conviction and dismissal of the accusatory instrument.

(c) A judge or justice who is suspended from office by the court shall receive his judicial salary during such period of suspension, unless the court directs otherwise. If the court has so directed and such suspension is thereafter terminated, the court may direct that he shall be paid his salary for such period of suspension.

(d) Nothing in this subdivision shall prevent the commission from determining that a judge or justice be admonished, censured, removed, or retired pursuant to subdivision seven of this section.

9. In its review of a determination of the commission, the court of appeals shall review the commission's findings of fact and conclusions of law on the record of the proceedings upon which the commission's determination was based. After such review, the court may accept or reject the determined sanction; impose a different sanction including

admonition, censure, removal or retirement for the reasons set forth in subdivision one of this section; or impose no sanction.

10. If during the course of or after an investigation or hearing, the commission determines that the complaint or any allegation thereof warrants action, other than in accordance with the provisions of subdivisions seven and eight of this section, within the powers of: (a) a person having administrative jurisdiction over the judge involved in the complaint or; (b) an appellate division of the supreme court; or (c) a presiding justice of an appellate division of the supreme court; or (d) the chief judge of the court of appeals; or (e) the governor; or (f) an applicable district attorney's office or other prosecuting agency, the commission shall refer such complaint or the appropriate allegations thereof and any evidence or material related thereto to such person, agency or court for such action as may be deemed proper or necessary.

11. The commission shall notify the complainant of its disposition of the complaint.

§ 45. Confidentiality of records. 1. Except as hereinafter provided, all complaints, correspondence, commission proceedings and transcripts thereof, other papers and data and records of the commission shall be confidential and shall not be made available to any person except pursuant to section forty-four of this article. The commission and its designated staff personnel shall have access to confidential material in the performance of their powers and duties. If the judge who is the subject of a complaint so requests in writing, copies of the complaint, the transcripts of hearings by the commission thereon, if any, and the dispositive action of the commission with respect to the complaint, such copies with any reference to the identity of any person who did not participate at any such hearing suitably deleted therefrom, except the subject judge or complainant, shall be made available for inspection and copying to the public, or to any person, agency or body designated by such judge.

2. Notwithstanding any provision in this section, the commission, with

the consent of the applicant, shall provide the record of any proceeding pursuant to a formal written complaint against an applicant for judicial appointment in which the applicant's misconduct was established, any pending complaint against an applicant, and the record to date of any pending proceeding pursuant to a formal written complaint against an applicant for judicial appointment:

(a) to the commission on judicial nomination established by article three-A of this chapter, with respect to applicants for appointment to the court of appeals;

(b) to the governor with respect to all applicants whom the governor indicates are under consideration for any judicial appointment; and

(c) to the temporary president of the senate and the chairman of the senate judiciary committee with respect to all nominees for judicial appointments which are subject to the advice and consent of the senate. The commission shall respond within fifteen days of a request for the information provided for in this subdivision.

§ 46. Breach of confidentiality of commission information. 1. Any staff member, employee or agent of the state commission on judicial conduct who violates any of the provisions of section forty-five of this article shall be subject to a reprimand, a fine, suspension or removal by the commission.

2. Within ten days after the commission has acquired knowledge that a staff member, employee or agent of the commission has or may have breached the provisions of section forty-five of this article, written charges against such staff member, employee or agent shall be prepared and signed by the chairman of the commission and filed with the commission. Within five days after receipt of charges, the commission shall determine, by a vote of the majority of all the members of the commission, whether probable cause for such charges exists. If such determination is affirmative, within five days thereafter a written statement specifying the charges in detail and outlining his rights under this section shall be forwarded to the accused staff member, employee or agent by certified mail. The commission may suspend the staff member, employee or agent, with or without pay, pending the final

determination of the charges. Within ten days after receipt of the statement of charges, the staff member, employee or agent shall notify the commission in writing whether he desires a hearing on the charges. The failure of the staff member, employee or agent to notify the commission of his desire to have a hearing within such period of time shall be deemed a waiver of the right to a hearing. If the hearing has been waived, the commission shall proceed, within ten days after such waiver, by a vote of a majority of all the members of such commission, to determine the charges and fix the penalty or punishment, if any, to be imposed as hereinafter provided.

3. Upon receipt of a request for a hearing, the commission shall schedule a hearing, to be held at the commission offices, within twenty days after receipt of the request therefor, and shall immediately notify in writing the staff member, employee or agent of the time and place thereof.

4. The commission shall have the power to establish necessary rules and procedures for the conduct of hearings under this section. Such rules shall not require compliance with technical rules of evidence. All such hearings shall be held before a hearing panel composed of three members of the commission selected by the commission. Each hearing shall be conducted by the chairman of the panel who shall be selected by the panel. The staff member, employee or agent shall have a reasonable opportunity to defend himself and to testify on his own behalf. He shall also have the right to be represented by counsel, to subpoena witnesses and to cross-examine witnesses. All testimony taken shall be under oath which the chairman of the panel is hereby authorized to administer. A record of the proceedings shall be made and a copy of the transcript of the hearing shall, upon written request, be furnished without charge to the staff member, employee or agent involved.

5. Within five days after the conclusion of a hearing, the panel shall forward a report of the hearing, including its findings and recommendations, including its recommendations as to penalty or punishment, if one is warranted, to the commission and to the accused staff member, employee or agent. Within ten days after receipt of such

report the commission shall determine whether it shall implement the recommendations of the panel. If the commission shall determine to implement such recommendations, which shall include the penalty or punishment, if any, of a reprimand, a fine, suspension for a fixed time without pay or dismissal, it shall do so within five days after such determination. If the charges against the staff member, employee or agent are dismissed, he shall be restored to his position with full pay for any period of suspension without pay and the charges shall be expunged from his record.

6. The accused staff member, employee or agent may seek review of the determination of the commission by way of a special proceeding pursuant to article seventy-eight of the civil practice law and rules.

§ 47. Resignation not to divest commission or court of appeals of jurisdiction. The jurisdiction of the court of appeals and the commission pursuant to this article shall continue notwithstanding that a judge resigns from office after a determination of the commission that the judge be removed from office has been transmitted to the chief judge of the court of appeals, or in any case in which the commission's determination that a judge should be removed from office shall be transmitted to the chief judge of the court of apppeals within one hundred twenty days after receipt by the chief administrator of the courts of the resignation of such judge. Any determination by the court of appeals that a judge who has resigned should be removed from office shall render such judge ineligible to hold any other judicial office. The chief administrator of the courts shall give written notice to the commission of the resignation of any judge who is the subject of an investigation within five days after his receipt thereof.

§ 48. Courts on the judiciary; former commission on judicial conduct; jurisdiction and powers. Notwithstanding any other law to the contrary: 1. If a court on the judiciary shall have been convened before the first day of April, nineteen hundred seventy-eight, and the proceeding therein shall not have been concluded by that date, the court on the judiciary

shall have continuing jurisdiction beyond that date to conclude the proceeding in accordance with the provisions of section twenty-two of article six of the constitution in effect on the thirty-first day of March, nineteen hundred seventy-eight.

2. If, pursuant to the former provisions of section twenty-two of article six of the constitution and article two-A of the judiciary law, a complaint had been received by the former commission on judicial conduct but a court on the judiciary had not been convened in respect to such matter on or before the thirty-first day of March, nineteen hundred seventy-eight, a court on the judiciary shall not be convened, and the provisions of section twenty-two of article six of the constitution, as such section took effect on the first day of April, nineteen hundred seventy-eight, and the provisions of this article shall apply.

3. All matters pending before the former commission on judicial conduct on the thirty-first day of March, nineteen hundred seventy-eight, shall be transferred to and, effective the first day of April, nineteen hundred seventy-eight, shall be pending before the commission on judicial conduct established by section twenty-two of article six of the constitution, as such section took effect on the first day of April, nineteen hundred seventy-eight, and all files and records of the former commission shall be transferred to, and shall become files and records of the new commission created by this article from and after the first day of April, nineteen hundred seventy-eight.

4. All provisions of law enacted to take effect on or after the first day of April, nineteen hundred seventy-eight, relating to procedures before the commission on judicial conduct established by section twenty-two of article six of the constitution, as such section took effect on the first day of April, nineteen hundred seventy-eight, and all rules adopted by such commission, shall apply to (1) all matters coming before the commission on or after the first day of April, nineteen hundred seventy-eight, and (2) all matters transferred to such commission pursuant to subdivision three of this section.

5. The commission shall succeed to the exercise of all of the

functions, powers and duties of the former commission on judicial conduct including the power to continue any investigation, proceeding or matter pending undetermined before such former commission pursuant to the former provisions of article two-A of this chapter and the power to act as counsel to conduct any proceeding before a court on the judiciary, pursuant to the former provisions of subdivision f of section twenty-two of article six of the constitution, provided, however, that any recommendation or determination by the commission in any matter pending undetermined before such former commission shall be made in accordance with the provisions of this article.

6. Any action taken, function performed or proceeding conducted by the commission on judicial conduct pursuant to the authority of section twenty-two of article six of the constitution, as such section took effect on the first day of April nineteen hundred seventy-eight, prior to the date on which the provisions of this article became effective, are hereby legalized, ratified and confirmed.

ARTICLE 3

COURT OF APPEALS

Section 51. Court of appeals may make rules of practice for its court.
52. General rule or order of court of appeals must be published.
53. Rule-making power of court of appeals as to admission of attorneys and counsellors.
54. Terms of court of appeals.
55. Chambers for judges of court of appeals.
56. Court of appeals to appoint state board of law examiners.
57. Appointment of clerks, messenger and attendants.
58. Appointment of clerks to judges of court of appeals.
59. Duty of court of appeals to direct action on forfeiture of bond given by clerk of court.
60. Court of appeals building.

§ 51. Court of appeals may make rules of practice for its court. The court of appeals may from time to time adopt, amend, or rescind rules,

not inconsistent with the constitution or statutes of the state, regulating the practice and proceedings in the court.

§ 52. General rule or order of court of appeals must be published. A general rule or order of the court of appeals does not take effect until it has been published in the state register.

§ 53. Rule-making power of court of appeals as to admission of attorneys and counsellors. 1. The court of appeals may from time to time adopt, amend, or rescind rules not inconsistent with the constitution or statutes of the state, regulating the admission of attorneys and counsellors at law, to practice in all the courts of record of the state.

2. The court may make such provisions as it shall deem proper for admission to practice as attorneys and counsellors, of persons who have been admitted to practice in other states or countries.

3. The court shall prescribe rules providing for a uniform system of examination of candidates for admission to practice as attorneys and counsellors, which shall govern the state board of law examiners in the performance of its duties. The court shall not by its rules cause to be barred from examination or, upon successful completion of the examination process, subsequent admission to the state bar, provided he or she shall otherwise meet any requirements for admission, any person who is currently admitted to practice in the jurisdiction of another state and has received a degree from a law school which qualifies such person to practice law in such state, other than a law school which grants credit for correspondence courses, provided that such person has been engaged in the actual practice of law in the state in which they are admitted for no less than five years.

4. The rules established by the court of appeals, touching the admission of attorneys and counsellors to practice in the courts of record of the state, shall not be changed or amended, except by a

majority of the judges of that court. A copy of each amendment to such rules must, within five days after it is adopted, be filed in the office of the secretary of state.

5. Nothing contained in this chapter prevents the court of appeals from dispensing, in the rules established by it, with the whole or any part of the stated period of clerkship required from an applicant, or with the examination where the applicant is a graduate of the Albany law school, Union university, or of the New York university school of law, or of the school of law of Columbia university, or of the university of Buffalo school of law, or of the Cornell law school, or of the Syracuse university college of law, or of the Brooklyn law school, or of the Fordham university school of law, or of any law school, duly registered by the regents of the university of the state of New York which requires a three year course for graduation and produces his diploma upon his application for admission to practice.

6. Nothing contained in this chapter prevents the court of appeals from adopting rules for the licensing, as a legal consultant, without examination and without regard to citizenship, of a person admitted to practice in a foreign country as an attorney or counsellor or the equivalent. Any person so licensed shall not practice in the courts of the state but may render legal services in the state within limitations prescribed in rules adopted by the court of appeals and shall subject to the foregoing be governed by the provisions of section ninety and article fifteen of this chapter.

§ 54. Terms of court of appeals. The terms of the court of appeals must be appointed to be held at such times and places as the court thinks proper, and continued as long as the public interest requires.

A term of the court may be appointed to be held in a building other than that designated by law for holding courts.

A term may be adjourned from the place where it is appointed to be held, to another place in the same city.

One or more of the judges may adjourn a term, without day, or to a day certain.

§ 55. Chambers for judges of court of appeals. In case of the refusal or neglect of the board of supervisors of a county to provide chambers for a resident judge of the court of appeals pursuant to section two hundred eighteen of the county law, the judge may rent and maintain chambers in such county offices suitable for his or her use, and the necessary expense thereof shall be a charge upon the county and, when paid, subject to reimbursement by the state in accordance with section fifty-four-j of the state finance law as if the county had leased the facilities for such chambers.

§ 56. Court of appeals to appoint state board of law examiners. The court of appeals shall, from time to time, appoint five members of the bar to constitute the state board of law examiners. Each member of such board shall hold office for a term of three years, and until the appointment of his successor.

§ 57. Appointment of clerks, messenger and attendants. The court of appeals may, from time to time, by an order entered in its minutes, appoint and remove its clerk, a law clerk, a messenger, and such attendants or other clerks as it deems necessary.

§ 58. Appointment of clerks to judges of court of appeals. Each judge of the court of appeals may appoint and at pleasure remove a clerk. The chief judge, in addition thereto, is authorized to appoint a confidential clerk.

§ 59. Duty of court of appeals to direct action on forfeiture of bond given by clerk of court. If the bond given by the clerk of the court of

appeals, before entering upon his duties, as prescribed by law, is forfeited by a breach of its condition, the court of appeals must, by order, direct an action to be brought thereon. The money recovered must be applied, under the direction of the court of appeals, to indemnify the persons aggrieved by the breach, in proportion to their respective losses, and to make good any other loss, occasioned by the breach.

§ 60. Court of appeals building. The chief judge of the court of appeals shall have supervision and control of the court of appeals building in the city of Albany, with the grounds and premises adjacent or appurtenant thereto or connected therewith belonging to the state so far as such grounds and premises now and hereafter shall be laid out and completed.

ARTICLE 3-A

COMMISSION ON JUDICIAL NOMINATION

Section 61. Definitions.
62. Organization of the commission.
63. Functions of the commission.
64. Additional functions of the commission.
65. Rules of the commission.
66. Confidentiality of proceedings and records.
67. Breach of confidentiality of commission information.
68. Procedures when vacancies occur.

§ 61. Definitions. For the purpose of this article, the following terms shall have the following meanings:

1. "Commission" means the commission on judicial nomination.

2. "Candidate" means a person who is constitutionally eligible to hold the office of chief judge or associate judge of the court of appeals and (a) who has requested the commission to consider his qualifications to hold such office; or (b) who has been recommended for consideration by

the commission by another person, including a community or professional organization; or (c) who has agreed to be considered by the commission at the commission's request.

§ 62. Organization of the commission. 1. A commission on judicial nomination is hereby established. The commission shall consist of twelve members of whom four shall be appointed by the governor, four by the chief judge of the court of appeals, and one each by the speaker of the assembly, the temporary president of the senate, the minority leader of the senate, and the minority leader of the assembly. Of the four members appointed by the governor, no more than two shall be enrolled in the same political party, two shall be members of the bar of the state, and two shall not be members of the bar of the state. Of the four members appointed by the chief judge of the court of appeals, no more than two shall be enrolled in the same political party, two shall be members of the bar of the state, and two shall not be members of the bar of the state. No member of the commission shall hold or have held any judicial office or hold any elected public office for which he receives compensation during his period of service, except that the governor and the chief judge may each appoint no more than one former judge or justice of the unified court system to such commission. No member of the commission shall hold any office in any political party. No member of the judicial nominating commission shall be eligible for appointment to judicial office in any court of the state during the member's period of service or within one year thereafter. The members of the commission shall be residents of the state.

2. The members first appointed by the governor shall have respectively one, two, three and four-year terms as he shall designate. The members first appointed by the chief judge of the court of appeals shall have respectively one, two, three and four-year terms as he shall designate. The member first appointed by the temporary president of the senate shall have a one-year term. The member first appointed by the minority leader of the senate shall have a two-year term. The member first appointed by the speaker of the assembly shall have a four-year term. The member first appointed by the minority leader of the assembly shall

have a three-year term. Each subsequent appointment shall be for a term of four years.

3. A vacancy shall be deemed to occur immediately upon the appointment or election of any member to an office that would disqualify him for appointment to, or membership on, the commission. A vacancy occuring for any reason other than by expiration of term shall be filled by the appointing officer for the remainder of the unexpired term.

4. The members shall designate one of their number to serve as chairman for a period of two years or until his term of office expires, whichever period is shorter.

5. Each member of the commission shall be entitled to receive his actual and necessary expenses incurred in the discharge of his duties.

6. Ten members of the commission shall constitute a quorum.

§ 63. Functions of the commission. 1. The commission shall consider and evaluate the qualifications of candidates for appointment to the offices of chief judge and associate judge of the court of appeals and, as a vacancy occurs in any such office, shall recommend to the governor persons who by their character, temperament, professional aptitude and experience are well qualified to hold such judicial office.

2. (a) In recognition of the unique responsibilities of the chief judge of the court of appeals for policies of judicial administration, for a vacancy in the office of chief judge the commission shall recommend to the governor seven persons.

(b) For a vacancy in the office of associate judge, the commission shall recommend to the governor at least three persons and not more than seven persons. Should more than one vacancy exist at the same time in the office of associate judge, the number of persons recommended by the commission to the governor shall be at least three plus one additional person for each vacancy in such office, and not more than seven plus one additional person for each vacancy in such office.

(c) Should vacancies exist in the offices of chief judge and associate judge at the same time, the commission shall recommend for the office of associate judge the number of persons as provided in paragraph (b) of this subdivision, provided, however, that in addition thereto the commission may also recommend for associate judge any of the persons who have been recommended to the governor for the office of chief judge.

3. A recommendation to the governor shall require the concurrence of eight members of the commission. The recommendations to the governor shall be transmitted to the governor in a single written report which shall be released to the public by the commission at the time it is submitted to the governor. The report shall be in writing, signed only by the chairman, and shall include the commission's findings relating to the character, temperament, professional aptitude, experience, qualifications and fitness for office of each candidate who is recommended to the governor.

4. No person shall be recommended to the governor who has not consented to be a candidate, who has not been personally interviewed by a quorum of the membership of the commission, and who has not filed a financial statement with the commission, on a form to be prescribed by the commission. The financial statement shall consist of a sworn statement of the person's assets, liabilities and sources of income, and any other relevant financial information which the commission may require. The commission shall transmit to the governor the financial statement filed by each person who is recommended. The governor shall make available to the public the financial statement filed by the person who is appointed to fill a vacancy. The financial statements filed by all other persons recommended to the governor, but not appointed by him, shall be confidential.

§ 64. Additional functions of the commission. The commission shall have the following functions, powers and duties:

1. Establish procedures to assure that persons who may be well qualified for appointment to the court of appeals, other than those who

have requested consideration or who have been recommended for consideration by others, are encouraged to agree to be considered by the commission.

2. Conduct investigations, administer oaths or affirmations, subpoena witnesses and compel their attendance, examine them under oath or affirmation and require the production of any books, records, documents or other evidence that it may deem relevant or material to its evaluation of candidates.

3. Require from any court, department, division, board, bureau, commission, or other agency of the state or political subdivision thereof or any public authority such assistance, information and data, as will enable it properly to evaluate the qualifications of candidates, subject to any absolute judicial or executive privilege, where one exists.

Notwithstanding any other provision of law, the commission, with the consent of the applicant, shall be entitled to require from the commission on judicial conduct the record of any proceeding pursuant to a formal written complaint against an applicant for judicial appointment to the court of appeals, in which the applicant's misconduct was established, any pending complaint against an applicant, and the record to date of any pending proceeding pursuant to a formal written complaint against such applicant for appointment to the court of appeals. The commission on judicial conduct shall have fifteen days within which to respond to a request made pursuant to this subdivision.

4. Require the appearance of any candidate before it and interview any person concerning the qualifications of any candidate.

5. Communicate with the governor concerning the qualifications of any person whom it has recommended to the governor, and communicate with the senate concerning the qualifications of the person appointed by the governor.

6. The commission may appoint, and at pleasure remove, a counsel and

such other staff as it may require from time to time, and prescribe their powers and duties. The commission shall fix the compensation of its staff and provide for reimbursement of their expenses within the amounts appropriated by law.

7. Do all other things necessary and convenient to carry out its functions pursuant to this article.

§ 65. Rules of the commission. 1. The commission shall adopt, and may amend, written rules of procedure not inconsistent with law.

2. Rules of the commission shall be filed with the secretary of state and the clerk of the court of appeals and shall be published in the official compilation of codes, rules and regulations of the state. Upon request of any person, the secretary of state shall furnish a copy of the commission's rules without charge.

3. Rules of the commission may prescribe forms and questionnaires to be completed and, if required by the commission, verified by candidates.

4. Rules of the commission shall provide that upon the completion by the commission of its consideration and evaluation of the qualifications of a candidate, there shall be no reconsideration of such candidate for the vacancy for which he was considered, except with the concurrence of nine members of the commission.

§ 66. Confidentiality of proceedings and records. 1. All communications to the commission, and its proceedings, and all applications, correspondence, interviews, transcripts, reports and all other papers, files and records of the commission shall be confidential and privileged and, except for the purposes of article two hundred ten of the penal law, shall not be made available to any person except as otherwise provided in this article.

2. The governor shall have access to all papers and information

relating to persons recommended to him by the commission. The senate shall have access to all papers and information relating to the person appointed by the governor to fill a vacancy. All information that is not publicly disclosed in accordance with subdivisions three and four of section sixty-three of this article, or disclosed in connection with the senate's confirmation of the appointment, shall remain confidential and privileged, except for the purposes of article two hundred ten of the penal law.

3. Neither the members of the commission nor its staff shall publicly divulge the names of, or any information concerning, any candidate except as otherwise provided in this article.

§ 67. Breach of confidentiality of commission information. 1. Any staff member, employee or agent of the state commission on judicial nomination who violates any of the provisions of section sixty-six of this article shall be subject to a reprimand, a fine, suspension or removal by the commission.

2. Within ten days after the commission has acquired knowledge that a staff member, employee or agent of the commission has or may have breached the provisions of section sixty-six of this article, written charges against such staff member, employee or agent shall be prepared and signed by the chairman of the commission and filed with the commission. Within five days after receipt of charges, the commission shall determine, by a vote of the majority of all the members of the commission, whether probable cause for such charges exists. If such determination is affirmative, within five days thereafter a written statement specifying the charges in detail and outlining his rights under this section shall be forwarded to the accused staff member, employee or agent by certified mail. The commission may suspend the staff member, employee or agent, with or without pay, pending the final determination of the charges. Within ten days after receipt of the statement of charges, the staff member, employee or agent shall notify the commission in writing whether he desires a hearing on the charges. The failure of the staff member, employee or agent to notify the

commission of his desire to have a hearing within such period of time shall be deemed a waiver of the right to a hearing. If the hearing has been waived, the commission shall proceed, within ten days after such waiver, by a vote of a majority of all the members of such commission, to determine the charges and fix the penalty or punishment, if any, to be imposed as hereinafter provided.

3. Upon receipt of a request for a hearing, the commission shall schedule a hearing, to be held at the commission offices, within twenty days after receipt of the request therefor, and shall immediately notify in writing the staff member, employee or agent of the time and place thereof.

4. The commission shall have the power to establish necessary rules and procedures for the conduct of hearings under this section. Such rules shall not require compliance with technical rules of evidence. All such hearings shall be held before a hearing panel composed of three members of the commission selected by the commission. Each hearing shall be conducted by the chairman of the panel who shall be selected by the panel. The staff member, employee or agent shall have a reasonable opportunity to defend himself and to testify on his own behalf. He shall also have the right to be represented by counsel, to subpoena witnesses and to cross-examine witnesses. All testimony taken shall be under oath which the chairman of the panel is hereby authorized to administer. A record of the proceedings shall be made and a copy of the transcript of the hearing shall, upon written request, be furnished without charge to the staff member, employee or agent involved.

5. Within five days after the conclusion of a hearing, the panel shall forward a report of the hearing, including its findings and recommendations, including its recommendations as to penalty or punishment, if one is warranted, to the commission and to the accused staff member, employee or agent. Within ten days after receipt of such report the commission shall determine whether it shall implement the recommendations of the panel. If the commission shall determine to implement such recommendations, which shall include the penalty or punishment, if any, of a reprimand, a fine, suspension for a fixed time

without pay or dismissal, it shall do so within five days after such determination. If the charges against the staff member, employee or agent are dismissed, he shall be restored to his position with full pay for any period of suspension without pay and the charges shall be expunged from his record.

6. The accused staff member, employee or agent may seek review of the determination of the commission by way of a special proceeding pursuant to article seventy-eight of the civil practice law and rules.

§ 68. Procedures when vacancies occur. 1. Whenever a vacancy will occur in the office of chief judge or associate judge of the court of appeals by expiration of term:

(a) on December thirty-first in a year fixed by the constitution for the election of the governor, the clerk of the court of appeals shall notify the commission of the anticipated vacancy no later than May first. The commission shall make its recommendations to the governor-elect, on December first. The governor shall make his appointment from among those persons recommended to him by the commission no sooner than January first nor later than January fifteenth thereafter; or

(b) on December thirty-first in a year fixed by the constitution for the election of members of the senate but not the governor, the clerk of the court of appeals shall notify the commission of the anticipated vacancy no later than May first. The commission shall make its recommendations to the governor on December first. The governor shall make his appointment from among those persons recommended to him by the commission no sooner than January first nor later than January fifteenth thereafter; or

(c) on December thirty-first in any other year, the clerk of the court of appeals shall notify the commission of the anticipated vacancy no later than May first. The commission shall make its recommendations to the governor no later than October fifteenth. The governor shall make his appointment from among those persons recommended to him by the commission no sooner than November fifteenth nor later than December first thereafter; or

(d) on any other date, the clerk of the court of appeals shall notify the commission of the anticipated vacancy no later than eight months prior to the date such vacancy will occur. The commission shall make its recommendations to the governor no later than sixty days prior to the date of such vacancy. The governor shall make his appointment from among those persons recommended to him by the commission no sooner than fifteen nor more than thirty days after receipt of the commission's recommendations.

2. Whenever a vacancy occurs other than by expiration of term, the clerk of the court of appeals shall immediately notify the commission of such vacancy. The commission shall make its recommendations to the governor no later than one hundred twenty days after receipt of such notice. The governor shall make his appointment from among those persons recommended to him by the commission no sooner than fifteen days nor later than thirty days after receipt of the commission's recommendations.

2-a. Whenever the governor's appointment, upon advice and consent of the senate, for chief judge of the court of appeals, causes a vacancy in the office of associate judge of the court of appeals, the governor may make an appointment for the associate judge vacancy from among the commission's recommendations for the preceding chief judge vacancy, provided that the associate judge vacancy occurs within sixty days from the promulgation of recommendations by the commission for the preceding chief judge vacancy. The governor may make such appointment immediately upon the occurrence of the associate judge vacancy. If the governor does not appoint a nominee from among those recommended for the preceding chief judge vacancy within fifteen days of the occurrence of the associate judge vacancy, or upon notice from the governor, whichever occurs sooner, the clerk of the court of appeals shall notify the commission of the vacancy. Notwithstanding any other limitations of time established by this section, the commission shall make its recommendations to the governor no later than one hundred twenty days after receipt of such notice, and the governor shall make his or her appointment from among those persons recommended to him or her by the commission no sooner than fifteen days nor later than thirty days after

receipt of the commission's recommendations.

3. Whenever a vacancy occurs and the senate is not in session to give its advice and consent to an appointment to fill such vacancy, the governor shall make an interim appointment from among those persons recommended to him by the commission. An interim appointment shall continue until the senate shall pass upon the governor's selection. If the senate confirms an appointment, the judge shall serve a term as provided in subdivision a of section two of article six of the constitution, commencing from the date of his interim appointment. If the senate rejects an appointment, a vacancy in the office shall occur sixty days after such rejection. If an interim appointment to the court of appeals be made from among the justices of the supreme court or the appellate divisions thereof, that appointment shall not affect the justice's existing office, nor create a vacancy in the supreme court, or the appellate division thereof, unless such appointment is confirmed by the senate and the appointee shall assume such office. If an interim appointment of chief judge of the court of appeals be made from among the associate judges, an interim appointment of associate judge shall be made in like manner; in such case, the appointment as chief judge shall not affect the existing office of associate judge, unless such appointment as chief judge is confirmed by the senate and the appointee shall assume such office.

4. (a) If the senate is in session at the time the governor makes an appointment pursuant to subdivision one or two of this section, the appointment shall be made in accordance with the provisions of section seven of the public officers law. The senate shall confirm or reject such appointment no later than thirty days after receipt of the nomination from the governor. A vacancy shall be deemed to occur upon the rejection by the senate of such an appointment.

(b) Whenever the governor has made an interim appointment pursuant to subdivision three of this section, he shall communicate on the first day that the senate is in session following the making of the interim appointment, a written nomination to the senate in accordance with the provisions of section seven of the public officers law. The senate shall confirm or reject such appointment no later than thirty days after

receipt of the nomination from the governor.

5. The failure of any officer or body to perform any act within a limitation of time established by this section shall not invalidate any appointment to the office of chief judge or associate judge of the court of appeals.

ARTICLE 4

APPELLATE DIVISION

Section 70. Judicial departments.

71. Designations by governor of justices of appellate division.

72. Revocation of designation of justice of appellate division.

75. Location of appellate court in each department.

76. Appellate division may compel sheriff to attend to room in which court is held.

77. Courthouse of appellate division in first department.

78. Justices of appellate division in first department may make rules for management of law libraries and court-houses of appellate division and supreme court.

79. Appointment of terms of appellate division in each department.

80. Time for appointment of terms of appellate division in the first department.

81. Associate justice of appellate division to preside in absence of presiding justice.

82. Quorum and number necessary to a sitting and decision of appellate division.

85. Power of appellate division as to calendars and administration of justice.

86. Designation by appellate division of special and trial terms of the supreme court.

88. Designation by presiding justice of appellate division of justice to hold term of supreme court.

89. Disposition of records, books and papers; rules.

90. Admission to and removal from practice by appellate division; character committees.
91. Designation and compensation of papers in first, second, tenth and eleventh judicial districts for publication of calendars and notices.
92. General powers conferred upon presiding justice and appellate division in first department.
93. Appointment of clerks and deputy clerks of the appellate divisions.
94. Appointment of clerical and other assistants of appellate division in first department.
95. Appointment of clerical and other assistants of appellate division in second department.
97. Appointment of consultation clerks in third and fourth departments.
98. Appointment of confidential stenographer and assistant deputy clerk in third and fourth judicial departments.
99. Appointment of attendants by justices of the appellate division.
99-a. Appointment of employees of appellate divisions in the third and fourth departments.
100. Power of justices of appellate division of first department to appoint confidential clerk of the appellate term.
101. Power of justices of appellate division of second department to appoint clerical and other personnel of the appellate term.
102. Power of justices of appellate division in first department to appoint special deputy clerks for each part or term of the supreme court in the first judicial district.
103. Power of justices of appellate division in first department to designate supreme court jury clerk.
104. Power of justices of appellate division in first department to appoint stenographers for the supreme court.
105. Power of justices of appellate division in first

department to appoint typists.

106. Power of justices of appellate division in first department to appoint interpreters for supreme court.

107. Power of justices of appellate division in first department to regulate attendance and duties of officers of supreme court in first district.

108. Retirement of officers and employees by the justices of the appellate division, first department.

109. Appointment of a calendar clerk in the ninth judicial district.

§ 70. Judicial departments. The state is hereby divided into four judicial departments. The first department shall consist of the counties embraced within the first and twelfth judicial districts; the second department shall consist of the counties embraced within the second, ninth, tenth, eleventh and thirteenth judicial districts; the third department shall consist of the counties embraced within the third, fourth and sixth judicial districts; the fourth department shall consist of the counties embraced within the fifth, seventh and eighth judicial districts.

§ 71. Designations by governor of justices of appellate division. From all the justices elected to the supreme court the governor shall designate those who shall constitute the appellate division in each department, and he shall designate the presiding justice thereof, who shall act as such during his term of office, and shall be a resident of the department. The other justices shall be designated for terms of five years, or the unexpired portions of their respective terms of office, if less than five years. From time to time, as the terms of such designations expire, or vacancies occur, the governor shall make new designations. He may also, on request of any appellate division, make temporary designations in case of the absence or inability to act of any justice in such appellate division, for service during such absence or inability to act. In case any appellate division shall certify to the governor that one or more additional justices are needed for the speedy

disposition of the business before it, the governor may designate an additional justice or justices; but when the need for such additional justice or justices shall no longer exist, the appellate division shall so certify to the governor and thereupon service under such designation or designations shall cease. A majority of the justices designated to sit in any appellate division shall at all times be residents of the department. A designation of a justice of the appellate division of the supreme court must be in writing, and filed in the office of court administration.

§ 72. Revocation of designation of justice of appellate division. Upon the written request of a justice designated for the appellate division, the governor may revoke his designation by an order to be filed in the office of court administration. Where such designation is revoked, the governor may prescribe the duties to be performed by such justice in holding court in any part of the state, from the time of such revocation until the taking effect of the next appointment of terms, as prescribed in this chapter, for the judicial department in which such justice resides.

§ 75. Location of appellate court in each department. The appellate court shall be located, respectively, in the first department, in the county of New York; in the second department, in the borough of Brooklyn; in the third department, in the city of Albany; and in the fourth department, in city of Rochester; but terms thereof may be held elsewhere in such departments, whenever in the discretion of the justices thereof, respectively, public interests may require.

§ 76. Appellate division may compel sheriff to attend to room in which court is held. The appellate division of the supreme court may enforce the performance of the duty by the sheriff of causing the room in which a term of the appellate division is held, to be properly heated, ventilated, lighted, and kept comfortably clean and in order.

§ 77. Courthouse of appellate division in first department. The building erected under chapter one hundred ninety-six of the laws of eighteen hundred ninety-seven is hereby constituted the courthouse of the appellate division of the supreme court in the first department, and shall be under the control and supervision of the justices thereof. Such justices are hereby authorized to appoint a custodian of such building, who shall be janitor thereof, and such engineers, cleaners and other persons as in their opinion shall be necessary for the preservation, safety and care thereof. The custodian of such building shall, under the direction of such justices have general charge thereof and of the records, books and papers therein, so far as may be necessary to preserve and protect the same, and shall be responsible to them for the preservation thereof, and shall, with the approval in writing of such justices or a majority of them, purchase the supplies necessary for the maintenance of the building, and for lighting, heating and keeping such building and furniture therein in repair and with the approval of such justices make necessary contracts therefor. The engineers, cleaners and other persons who shall be appointed pursuant to this section, other than the custodian of such building, shall be selected by such justices in pursuance of such rules as may from time to time be prescribed in regard thereto by the state civil service commission. The compensation to be paid to the custodian, engineer, cleaners and other persons appointed pursuant to this section shall be fixed by the justices of the appellate division of the supreme court in the first department, and shall, together with the amount to be paid for the supplies furnished for the maintenance of such building and for lighting, heating and keeping such building and the furniture therein in repair, be a county charge, and shall be paid by the comptroller of the city of New York upon the certificate of the presiding justice thereof or a majority of the justices assigned to such appellate division.

§ 78. Justices of appellate division in first department may make rules for management of law libraries and court-houses of appellate division and supreme court. The justices of the appellate division in the first department shall from time to time make such rules as they may

deem necessary for the management and protection of the law libraries and for the protection and management of the court-houses and court-rooms of the appellate division and of the supreme court.

§ 79. Appointment of terms of appellate division in each department. The terms of the appellate divisions of the supreme court are to be appointed by the appellate division in each department, and are to be held at such times and places and shall continue as long as the appellate division deems proper.

An appointment of a term or terms of an appellate division must be made and filed in the office of court administration at least thirty days before the commencement of such term or terms. The governor may, when in his opinion the public interest so requires, appoint one or more extraordinary terms of the appellate division of the supreme court in any department. He must designate the time and place of holding the same and he must give notice of the appointment in such manner as, in his judgment, the public interest requires.

§ 80. Time for appointment of terms of appellate division in the first department. The justices of the appellate division in the first department shall fix a time and place for holding the terms of the appellate division in the first department on or before the first day of December in each year.

§ 81. Associate justice of appellate division to preside in absence of presiding justice. If the presiding justice is not present at the sitting of the appellate division, the associate justice presiding in the department having served the longest time as such, or, if two are present who have served the same length of time, the elder of them must act as presiding justice until a presiding justice attends.

§ 82. Quorum and number necessary to a sitting and decision of

appellate division. No more than five justices of the appellate division in any department shall sit in any case. In each department four of the justices shall constitute a quorum, and the concurrence of three shall be necessary to a decision. If three justices do not concur in a decision, a reargument must be ordered.

§ 85. Power of appellate division as to calendars and administration of justice. The appellate division of each department may provide by rule for the manner of making up calendars in each county embraced within the department; for the classification, for the purposes of trial, of actions placed upon such calendars and for the making up of two or more calendars within such classification; for the continuance on such calendars, from term to term, of actions for which notes of issue have been once served and filed, without a second or further serving and filing thereof; and also from time to time may provide rules as it may deem necessary generally to promote the efficient transaction of business and the orderly administration of justice therein.

§ 86. Designation by appellate division of special and trial terms of the supreme court. The justices of the appellate division in each department shall have power to fix the times and places for holding special and trial terms of the supreme court held therein, and to assign the justices in the departments to hold such terms; or make rules therefor; and may from time to time make additional appointments and designations, or change or alter those already made.

The justices of the appellate division in the first department shall from time to time as they may deem necessary fix a time and place in the first judicial district for holding special terms for condemnation proceedings affecting property in the city of New York located within the counties of New York and Bronx and assign the justices to hold the same. The justices of the appellate division in the second department shall from time to time as they may deem necessary fix a time and place in the second judicial district for holding special terms for condemnation proceedings affecting property in the city of New York

located within such district; and in the eleventh judicial district for such proceeding affecting property in such city located within the county of Queens, and assign the justices to hold the same. The assignment of any justice to hold a special term for condemnation proceedings shall not have the effect of revoking his assignments to other parts or terms of the supreme court and when not actually engaged in holding such special term he shall hold such other parts or terms of the court to which he has been or may be assigned. Any designation or assignment to service in the said special term for condemnation proceedings may at any time be revoked by the appellate division so designating.

§ 88. Designation by presiding justice of appellate division of justice to hold term of supreme court. If it appear to the satisfaction of the presiding justice of the appellate division in any department that a special or trial term of the supreme court duly appointed therein is in danger of failing, he may designate a justice who resides in that department to hold such term in the absence of the justice assigned thereto. If in the opinion of such presiding justice it is not practicable to make a designation from his department, he shall so inform the governor who may thereupon designate for such term a justice from any department.

§ 89. Disposition of records, books and papers; rules. 1. Notwithstanding any other provisions of law except as hereinafter provided, the chief administrator of the courts, with the advice and consent of the administrative board of the courts, shall adopt rules providing for the retention and disposition of records in all courts and agencies of the unified court system, including records of commissioners of jurors. Such rules shall provide, among other things, that, unless a permanent record by microphotography or other method of microimaging first is made and permanently retained, judgment rolls and other records, books and papers that affect the mental illness or the sanity or competency of any person shall be retained for at least fifty years; and that the judgment rolls and other records, books and papers that

affect the marital rights or status or the custody or lineage of any person and judgment rolls regardless of their age that affect title to real property shall be retained permanently.

2. Notwithstanding any other provisions of law, the justices of the appellate division of the supreme court in each judicial department may on application of the district attorney of any county within its judicial department, direct, by order, that the district attorney destroy, sell or otherwise dispose of or cause to be destroyed, sold or otherwise disposed of any records, books or papers in the care, custody or control of the district attorney which are more than twenty-five years old and are no longer in current use, the retention of which in the opinion of the justices of the appellate division would serve no legal, practical or useful purpose, except permanent records of criminal cases, printed and bound volumes of cases on appeal and original indictments. The justices of the appellate division as a condition of such disposition may require the written consent of any state or local department or agency having an interest in such records, books or papers.

§ 90. Admission to and removal from practice by appellate division; character committees. 1. a. Upon the state board of law examiners certifying that a person has passed the required examination, or that the examination has been dispensed with, the appellate division of the supreme court in the department to which such person shall have been certified by the state board of law examiners, if it shall be satisfied that such person possesses the character and general fitness requisite for an attorney and counsellor-at-law and has satisfied the requirements of section 3-503 of the general obligations law, shall admit him to practice as such attorney and counsellor-at-law in all the courts of this state, provided that he has in all respects complied with the rules of the court of appeals and the rules of the appellate divisions relating to the admission of attorneys.

b. Upon the application, pursuant to the rules of the court of appeals, of any person who has been admitted to practice law in another

state or territory or the District of Columbia of the United States or in a foreign country, to be admitted to practice as an attorney and counsellor-at-law in the courts of this state without taking the regular bar examination, the appellate division of the supreme court, if it shall be satisfied that such person is currently admitted to the bar in such other jurisdiction or jurisdictions, that at least one such jurisdiction in which he is so admitted would similarly admit an attorney or counsellor-at-law admitted to practice in New York state to its bar without examination and that such person possesses the character and general fitness requisite for an attorney and counsellor-at-law and has satisfied the requirements of section 3-503 of the general obligations law, shall admit him to practice as such attorney and counsellor-at-law in all the courts of this state, provided, that he has in all respects complied with the rules of the court of appeals and the rules of the appellate divisions relating to the admission of attorneys. Such application, which shall conform to the requirements of section 3-503 of the general obligations law, shall be submitted to the appellate division of the supreme court in the department specified in the rules of the court of appeals.

c. The members of the committee appointed by the appellate division in each department to investigate the character and fitness of applicants for admission to the bar, shall be entitled to their necessary traveling, hotel and other expenses, incurred in the performance of their duties, payable by the state out of moneys appropriated therefor, upon certificate of the presiding justice of the appellate division by which such committee is appointed.

d. The committee on character and fitness appointed by the appellate division of the supreme court in the first judicial department and the committee on character and fitness appointed by the appellate division of the supreme court of the second judicial department, may each, with the written consent of the justices of each of such appellate divisions or a majority of such justices, acting for their respective appellate divisions, from time to time, appoint and remove a secretary, stenographers and assistants, and procure a suitable office for each committee, properly furnished and equipped and all books, stationery,

blanks, postal cards, expressage and postage stamps as shall be required for the proper performance of the duties of each such committee.

e. The salaries of such secretary, stenographers and assistants shall be fixed for each department by the justices of the appellate division in each department or a majority of them in each department.

f. The salaries of such secretary, stenographers and assistants and the necessary expenses under the terms of this act in the first judicial department, shall, in the said first judicial department, be paid by the comptroller of the city of New York.

g. The salaries of such secretary, stenographers and assistants and the necessary expenses under the terms of this act in the second judicial department shall be certified by the presiding justice of such department to the state comptroller who shall audit the same. The state department of taxation and finance shall pay such salaries and expenses and shall apportion the same among the counties comprising the second judicial department. Such counties shall reimburse the state for such compensation. The time and method of such apportionment and the time and method of such reimbursement shall be as specified in section seventy-four of this chapter.

2. The supreme court shall have power and control over attorneys and counsellors-at-law and all persons practicing or assuming to practice law, and the appellate division of the supreme court in each department is authorized to censure, suspend from practice or remove from office any attorney and counsellor-at-law admitted to practice who is guilty of professional misconduct, malpractice, fraud, deceit, crime or misdemeanor, or any conduct prejudicial to the administration of justice; and the appellate division of the supreme court is hereby authorized to revoke such admission for any misrepresentation or suppression of any information in connection with the application for admission to practice.

It shall be the duty of the appellate division to insert in each order of suspension or removal hereafter rendered a provision which shall

command the attorney and counsellor-at-law thereafter to desist and refrain from the practice of law in any form, either as principal or as agent, clerk or employee of another. In addition it shall forbid the performance of any of the following acts, to wit:

a. The appearance as an attorney or counsellor-at-law before any court, judge, justice, board, commission or other public authority.

b. The giving to another of an opinion as to the law or its application, or of any advice in relation thereto.

In case of suspension only, the order may limit the command to the period of time within which such suspension shall continue, and if justice so requires may further limit the scope thereof.

If an attorney and counsellor-at-law has been heretofore removed from office, the appellate division shall upon application of any attorney and counsellor-at-law, or of any incorporated bar association, and upon such notice to the respondent as may be required, amend the order of removal by adding thereto as a part thereof, provisions similar to those required to be inserted in orders hereafter made.

If a certified copy of such order or of such amended order, be served upon the attorney and counsellor-at-law suspended or removed from office, a violation thereof may be punished as a contempt of court.

2-a. a. The provisions of this subdivision shall apply in all cases of an attorney licensed, registered or admitted to practice in this state who has failed after receiving appropriate notice, to comply with a summons, subpoena or warrant relating to a paternity or child support proceeding involving him or her personally, or who is in arrears in payment of child support or combined child and spousal support which matter shall be referred to the appropriate appellate division by a court pursuant to the requirements of section two hundred forty-four-c of the domestic relations law or pursuant to section four hundred fifty-eight-b or five hundred forty-eight-b of the family court act.

b. Upon receipt of an order from the court based on arrears in payment of child support or combined child and spousal support pursuant to one of the foregoing provisions of law, the appropriate appellate division within thirty days of receipt of such order, if it finds such person to be so licensed, registered or admitted, shall provide notice to such attorney of, and initiate, a hearing which shall be held by it at least twenty days and no more than thirty days after the sending of such notice to the attorney. The hearing shall be held solely for the purpose of determining whether there exists as of the date of the hearing proof that full payment of all arrears of support established by the order of the court to be due from the licensed, registered or admitted attorney have been paid. Proof of such payment shall be a certified check showing full payment of established arrears or a notice issued by the court or the support collection unit where the order is payable to the support collection unit designated by the appropriate social services district. Such notice shall state that full payment of all arrears of support established by the order of the court to be due have been paid. The licensed attorney shall be given full opportunity to present such proof of payment at the hearing in person or by counsel. The only issue to be determined as a result of the hearing is whether the arrears have been paid. No evidence with respect to the appropriateness of the court order or ability of the respondent party in arrears to comply with such order shall be received or considered by the disciplinary committee.

c. Upon receipt of an order from the court based on failure to comply with a summons, subpoena, or warrant relating to a paternity or child support proceeding, the appropriate appellate division within thirty days of receipt of such order, if it finds such person to be so licensed, registered or admitted, shall provide notice to such attorney that his or her license shall be suspended within sixty days of such notice to the attorney unless the conditions in paragraph e of this section are met.

d. Notwithstanding any inconsistent provision of this section or of any other provision of law to the contrary, the license to practice law in this state of an attorney admitted to practice shall be suspended by the appellate division if, at the hearing provided for by paragraph b of

this subdivision, the licensed attorney fails to present proof of payments as required by such subdivision. Such suspension shall not be lifted unless the original court or the support collection unit, where the court order is payable to the support collection unit designated by the appropriate social services district, issues notice to the appellate division that full payment of all arrears of support established by the order of the original court to be due have been paid.

e. Notwithstanding any inconsistent provision of this section or of any other provision of law to the contrary, the license of an attorney admitted to practice law in this state shall be suspended by the appellate division, in accordance with paragraph c of this subdivision unless the court terminates its order to commence suspension proceedings. Such suspension shall not be lifted unless the court issues an order to the appellate division terminating its order to commence suspension proceedings.

f. The appellate division shall inform the original court of all actions taken hereunder.

g. This subdivision two-a applies to paternity and child support proceedings commenced under, and support obligations paid pursuant to any order of child support or child and spousal support issued under provisions of section two hundred thirty-six or two hundred forty of the domestic relations law, or article four, five, five-A or five-B of the family court act.

h. Notwithstanding any inconsistent provision of this section or of any other provision of law to the contrary, the provisions of this subdivision two-a shall apply to the exclusion of any other requirements of this section and to the exclusion of any other requirement of law to the contrary.

2-b. Notwithstanding any general or special law or rule or regulation to the contrary, no attorney licensed in this state may be removed or otherwise subject to discipline, including reprimand, censure, monetary fine, or the revocation, suspension, or cancellation of the attorney's

license, for advising or representing a client or prospective client related to reproductive health care or gender-affirming care, as defined by section 570.17 of the criminal procedure law, if the sole reason for such removal or discipline is that (i) the client offered, provided, facilitated, or received reproductive health care or gender-affirming care that is unlawful in another state; (ii) another state's laws create actual or potential liability for the reproductive health care or gender-affirming care offered, provided, facilitated, or received by the client; or (iii) the attorney is subject to actual or potential liability, removal, or discipline in another jurisdiction based on the reproductive health care or gender-affirming care offered, provided, facilitated, or received by their client, so long as the attorney's conduct complies with the laws of this state and meets the standards set forth in the Rules of Professional Conduct promulgated by the judicial departments of the appellate division of the New York state supreme court.

3. The suspension or removal of an attorney or counsellor-at-law, by the appellate division of the supreme court, operates as a suspension or removal in every court of the state.

4. a. Any person being an attorney and counsellor-at-law who shall be convicted of a felony as defined in paragraph e of this subdivision, shall upon such conviction, cease to be an attorney and counsellor-at-law, or to be competent to practice law as such.

b. Whenever any attorney and counsellor-at-law shall be convicted of a felony as defined in paragraph e of this subdivision, there may be presented to the appellate division of the supreme court a certified or exemplified copy of the judgment of such conviction, and thereupon the name of the person so convicted shall, by order of the court, be struck from the roll of attorneys.

c. Whenever an attorney shall be convicted of a crime in a court of the United States or of any state, territory or district, including this state, whether by a plea of guilty or nolo contendere or from a verdict after trial or otherwise, the attorney shall file, within thirty days

thereafter, with the appellate division of the supreme court, the record of such conviction.

The failure of the attorney to so file shall be deemed professional misconduct provided, however, that the appellate division may upon application of the attorney, grant an extension upon good cause shown.

d. For purposes of this subdivision, the term serious crime shall mean any criminal offense denominated a felony under the laws of any state, district or territory or of the United States which does not constitute a felony under the laws of this state, and any other crime a necessary element of which, as determined by statutory or common law definition of such crime, includes interference with the administration of justice, false swearing, misrepresentation, fraud, willful failure to file income tax returns, deceit, bribery, extortion, misappropriation, theft, or an attempt or conspiracy or solicitation of another to commit a serious crime.

e. For purposes of this subdivision, the term felony shall mean any criminal offense classified as a felony under the laws of this state or any criminal offense committed in any other state, district, or territory of the United States and classified as a felony therein which if committed within this state, would constitute a felony in this state.

f. Any attorney and counsellor-at-law convicted of a serious crime, as defined in paragraph d of this subdivision, whether by plea of guilty or nolo contendere or from a verdict after trial or otherwise, shall be suspended upon the receipt by the appellate division of the supreme court of the record of such conviction until a final order is made pursuant to paragraph g of this subdivision.

Upon good cause shown the appellate division of the supreme court may, upon application of the attorney or on its own motion, set aside such suspension when it appears consistent with the maintenance of the integrity and honor of the profession, the protection of the public and the interest of justice.

g. Upon a judgment of conviction against an attorney becoming final the appellate division of the supreme court shall order the attorney to show cause why a final order of suspension, censure or removal from office should not be made.

h. If the attorney requests a hearing, the appellate division of the supreme court shall refer the proceeding to a referee, justice or judge appointed by the appellate division for hearing, report and recommendation.

After said hearing, the appellate division may impose such discipline as it deems proper under the facts and circumstances.

5. a. If such removal or debarment was based upon conviction for a serious crime or upon a felony conviction as defined in subdivision four of this section, and such felony conviction was subsequently reversed or pardoned by the president of the United States, or governor of this or another state of the United States, the appellate division shall have power to vacate or modify such order or debarment, provided, however, that if such attorney or counsellor-at-law has been removed from practice in another jurisdiction, a pardon in said jurisdiction shall not be a basis for application for re-admission in this jurisdiction unless he shall have been readmitted in the jurisdiction where pardoned.

b. If such removal or debarment was based upon conviction for a felony as defined in subdivision four of this section, the appellate division shall have power to vacate or modify such order or debarment after a period of seven years provided that such person has not been convicted of a crime during such seven-year period.

c. An attorney and counsellor-at-law who has been convicted of a felony without the state and whose name has been struck from the roll of attorneys prior to July thirteenth, nineteen hundred seventy-nine by virtue of the provisions of subdivision four of this section may, if he alleges that such felony committed without the state would not constitute a felony if committed within the state, petition the appellate division to vacate or modify such debarment. If the appellate

division finds that the felony of which the attorney and counsellor-at-law has been convicted without the state would not constitute a felony if committed within the state, it shall grant a hearing and may retroactively vacate or modify such debarment and impose such discipline as it deems just and proper under the facts and circumstances.

The attorney and counsellor-at-law shall petition for reinstatement by filing in the appellate division a copy of the order of removal together with a request for a hearing pursuant to the provisions of this paragraph. Upon such application, the order of removal shall be deemed an order of suspension for the purposes of a proceeding pursuant to this paragraph.

6. Before an attorney or counsellor-at-law is suspended or removed as prescribed in this section, a copy of the charges against him must be delivered to him personally within or without the state or, in case it is established to the satisfaction of the presiding justice of the appellate division of the supreme court to which the charges have been presented, that he cannot with due diligence be served personally, the same may be served upon him by mail, publication or otherwise as the said presiding justice may direct, and he must be allowed an opportunity of being heard in his defense. In all cases where the charges are served in any manner other than personally, and the attorney and counsellor-at-law so served does not appear, an application may be made by such attorney or in his behalf to the presiding justice of the appellate division of the supreme court to whom the charges were presented at any time within one year after the rendition of the judgment, or final order of suspension or removal, and upon good cause shown and upon such terms as may be deemed just by such presiding justice, such attorney and counsellor-at-law must be allowed to defend himself against such charges.

The justices of the appellate division in any judicial department, or a majority of them, may make an order directing the expenses of any disciplinary proceedings, and the necessary costs and disbursements of the petitioner in prosecuting such charges, including the expense of any

preliminary investigation in relation to professional conduct of an attorney and counsellor-at-law, to be paid out of funds appropriated to the office of court administration for that purpose.

6-a. a. Where the appellate division of supreme court orders the censure, suspension from practice or removal from office of an attorney or counsellor-at-law following disciplinary proceedings at which it found, based upon a preponderance of the legally admissible evidence, that such attorney or counsellor-at-law wilfully misappropriated or misapplied money or property in the practice of law, its order may require him or her to make monetary restitution in accordance with this subdivision. Its order also may require that he or she reimburse the lawyers' fund for client protection of the state of New York for awards made to the person whose money or property was wilfully misappropriated or misapplied.

b. Monetary restitution, as authorized hereunder, shall be made to the person whose money or property was wilfully misappropriated or misapplied and shall be for the amount or value of such money or property, as found in the disciplinary proceedings. In the event that such person dies prior to completion of such restitution, any amount remaining to be paid shall be paid to the estate of the deceased.

c. Any payment made as restitution pursuant to this subdivision shall not limit, preclude or impair any liability for damages in any civil action or proceeding for an amount in excess of such payment; nor shall any order of the appellate division made hereunder deprive a criminal court of any authority pursuant to article sixty of the penal law.

d. An order issued pursuant to this subdivision may be entered as a civil judgment. Such judgment shall be enforceable as a money judgment in any court of competent jurisdiction by any person to whom payments are due thereunder, or by the lawyers' fund for client protection where it has been subrogated to the rights of such person.

e. Where an attorney or counsellor-at-law is permitted to resign from office, the appellate division may, if appropriate, issue an order as

provided herein requiring him or her to make payments specified by this subdivision.

f. Notwithstanding any other provision of this subdivision, no order may be issued hereunder unless the person required to make payments under such order first is given an opportunity to be heard in opposition thereto.

7. In addition to the duties prescribed by section seven hundred of the county law, it shall be the duty of any district attorney within a department, when so designated by the justices of the appellate division of the supreme court in such department, or a majority of them, to prosecute all proceedings for the removal or suspension of attorneys and counsellors-at-law or the said justices, or a majority of them may appoint any attorney and counsellor-at-law to conduct a preliminary investigation and to prosecute any disciplinary proceedings and, during or upon the termination of the investigation or proceedings, may fix the compensation to be paid to such attorney and counsellor-at-law for the services rendered, which compensation shall be a charge against the county specified in his certificate and shall be paid thereon.

8. Any petitioner or respondent in a disciplinary proceeding against an attorney or counsellor-at-law under this section, including a bar association or any other corporation or association, shall have the right to appeal to the court of appeals from a final order of any appellate division in such proceeding upon questions of law involved therein, subject to the limitations prescribed by section three of article six of the constitution of this state.

9. No objection shall be taken to the appointment of any member of the bar to act as referee or judge in a disciplinary proceeding under this section on the ground that he is a member of a bar association or other corporation or association which is the petitioner therein.

10. Any statute or rule to the contrary notwithstanding, all papers, records and documents upon the application or examination of any person for admission as an attorney and counsellor at law and upon any

complaint, inquiry, investigation or proceeding relating to the conduct or discipline of an attorney or attorneys, shall be sealed and be deemed private and confidential. However, upon good cause being shown, the justices of the appellate division having jurisdiction are empowered, in their discretion, by written order, to permit to be divulged all or any part of such papers, records and documents. In the discretion of the presiding or acting presiding justice of said appellate division, such order may be made either without notice to the persons or attorneys to be affected thereby or upon such notice to them as he may direct. In furtherance of the purpose of this subdivision, said justices are also empowered, in their discretion, from time to time to make such rules as they may deem necessary. Without regard to the foregoing, in the event that charges are sustained by the justices of the appellate division having jurisdiction in any complaint, investigation or proceeding relating to the conduct or discipline of any attorney, the records and documents in relation thereto shall be deemed public records.

§ 91. Designation and compensation of papers in first, second, tenth and eleventh judicial districts for publication of calendars and notices. 1. The justices of the appellate division in the first department, or a majority of them, shall be vested with and exercise from time to time the power to designate a daily law journal, published in the first judicial department, in which shall be published all calendars of such courts of record in and for the first judicial department as such justices shall select, together with every notice and advertisement of judicial proceedings which shall be required to be published in one or more papers in such judicial department. Such calendars, unless otherwise provided by the justices of the appellate division, shall contain the numbers and titles of the causes and names of the attorneys appearing therein, with such particulars and notices in respect to such calendars or the causes thereon as may be specified by the clerk of the appellate division under the order of the appellate division.

2. The justices of the appellate division in the second department, or a majority of them, are hereby authorized to contract, from year to

year, for the payment to the owner of the daily law journal designated pursuant to law by the justices of the appellate division in the first department for the publication of legal notices, of such compensation as they deem to be fair and reasonable for publishing calendars, decisions, opinions, disposition of cases, judgments, notices of pendency, liens, assignments, appointments of referees and receivers, assignments of justices and judges and other similar matters relating to the courts in the second, tenth and eleventh judicial districts; but this shall not in any way be construed to include notices or advertisements in actions or judicial proceedings required by law to be published in one or more newspapers.

The amount of such compensation shall be annually included in the budget of the appellate division in the second department. Such compensation shall be certified by the presiding justice of such department to the state comptroller who shall audit the same. The state department of taxation and finance shall pay such compensation and shall apportion the same among the counties comprising the second, tenth and eleventh judicial districts. Such counties shall reimburse the state for such compensation. The time and method of such apportionment and the time and method of such reimbursement shall be as specified in section seventy-four of this chapter.

3. The justices of the appellate division in the first department, or a majority of them, shall, any provision of law to the contrary notwithstanding, from time to time designate such newspapers in such department as in their opinion have such a circulation as is calculated to give public notice of a legal publication, and from time to time revoke such designation. To entitle a newspaper to such a designation, it must file with the clerk of the appellate division a statement, duly verified, showing approximately the size and extent of its circulation, the time and place of its regular publication, and a statement of its charges for legal publications.

Whenever a notice, summons, citation, order or other paper shall be required by any provision of law, or by the order of any court or judge thereof, or of a surrogate or of the clerk of a court or any other

official or individual, to be published in a newspaper in the first department, or public notice of any application to a court or judge or other officer shall be required to be given by publication thereof in a newspaper in the first department, or where any court or judge thereof or a surrogate or other judicial officer or public officer is authorized or required to designate a newspaper in the first department for the publication of any notice, summons, citation, order or other paper, the newspaper designated by any court or judge thereof, or surrogate or other judicial or public officer, shall be a newspaper designated by the appellate division of the supreme court in the first department as hereinbefore provided, and no such publication shall be deemed to give the notice required to be given if the same is published in any newspaper in the first department which has not been designated by an order of the appellate division of the supreme court in the first department; and the publication of such notice, summons, citation, order or other paper in any undesignated newspaper in the first department shall not be deemed a compliance with any such provision of law or order of any court or judge.

§ 92. General powers conferred upon presiding justice and appellate division in first department. Except as otherwise provided in this article, all the powers heretofore conferred by law upon the presiding justice of the general term of the supreme court in the first judicial department, the chief judge of the court of common pleas for the city and county of New York, and the chief judge of the superior court of the city of New York, either or all of them, are vested in the presiding justice of the appellate division of the supreme court in the first department. All the powers heretofore conferred by law upon the general term of the supreme court in the first judicial department, upon the general term of the superior court of the city of New York and upon the general term of the court of common pleas for the city and county of New York, are conferred upon and vested in the appellate division of the supreme court in the first department. And all the powers conferred by law upon the supreme court in the first judicial district, upon the superior court of the city of New York and upon the court of common pleas for the city and county of New York, other than as courts of first

instance in actions and special proceedings, are also conferred upon and vested in said appellate division.

§ 93. Appointment of clerks and deputy clerks of the appellate divisions. 1. The justices of the appellate division of the supreme court in each department shall, from time to time, appoint and shall have the power to remove a clerk.

2. The presiding justice of the appellate division of the supreme court in each of the third and fourth departments, shall, with the approval of the other justices of said department, have power to appoint and remove a deputy to the clerk of said appellate division.

§ 94. Appointment of clerical and other assistants of appellate division in first department. The justices of the appellate division of the supreme court in the first judicial department, or a majority of them, are authorized to appoint and at pleasure remove a clerk, deputy clerk and all necessary other assistants in said court and to prescribe the duties and fix the salaries thereof. Except as provided in the state finance law, such salaries and all other necessary expenses of such appellate division, shall be audited by the state comptroller out of moneys appropriated therefor by law. The state department of taxation and finance shall pay such salaries in equal biweekly installments and shall apportion the total amount of such salaries and expenses among the counties comprising the first judicial department. Such counties shall reimburse the state for such salaries and expenses. The time and method of such reimbursement shall be as specified in section seventy-four of this chapter. Provided, however, that the present deputy clerk, assistant clerks, confidential clerk, typewriter operators, crier and assistant to the crier of said appellate division shall be continued in office.

§ 95. Appointment of clerical and other assistants of appellate division in second department. The justices of the appellate division of

the supreme court in the second judicial department, or a majority of them, are authorized to appoint and at pleasure remove deputy clerks and other necessary assistants and attendants, and to prescribe the duties and fix the salaries thereof. Except as provided in the state finance law, such salaries shall be certified by the presiding justice of such appellate division to the state comptroller who shall audit the same. The state department of taxation and finance shall pay such salaries in equal semi-monthly instalments, and shall apportion the total amount thereof among the counties comprising the second judicial department. Such counties shall reimburse the state for such salaries. The time and method of such apportionment and the time and method of such reimbursement shall be as specified in section seventy-four of this chapter.

§ 97. Appointment of consultation clerks in third and fourth departments. The presiding justice of the appellate division of the supreme court in each of the third and fourth departments, with the approval of the other justices of said department, shall have power to appoint and remove a consultation clerk, who shall be an expert stenographer.

§ 98. Appointment of confidential stenographer and assistant deputy clerk in third and fourth judicial departments. The justices of the appellate division of the supreme court, in each of the third and fourth judicial departments, may appoint and at their pleasure remove a confidential stenographer to the court, who shall also act as an assistant deputy and stenographer to the clerk of said court, at an annual salary to be fixed by said justices at not to exceed five thousand dollars per annum. The salary of each such confidential stenographer shall be certified by the presiding justice of the department to which the stenographer is appointed to the state comptroller who shall audit the same. The state department of taxation and finance shall pay such salaries in monthly installments and shall apportion the amount of the salary of the confidential stenographer to the appellate division of the supreme court in each of the third and

fourth judicial departments among the counties comprising the third and fourth judicial departments respectively. Such counties shall reimburse the state for such salaries. The time and method of such apportionment and the time and method of such reimbursement shall be as specified in section seventy-four of this chapter.

§ 99. Appointment of attendants by justices of the appellate division. 1. Each of the justices of the appellate division of the supreme court in the first department shall appoint and at pleasure remove four attendants upon the court. Each of said attendants may also be removed by the appellate division, but not until he has been informed of the cause of the proposed removal and has been allowed an opportunity to make an explanation.

2. The justices of the appellate division of the supreme court in the second department, or a majority of them, are authorized to appoint and at pleasure remove all necessary attendants.

3. The justices of the appellate division of the supreme court in each of the third and fourth departments shall have power to appoint and remove not more than three attendants, one of whom shall act as crier.

§ 99-a. Appointment of employees of appellate divisions in the third and fourth departments. The justices of the appellate division of the supreme court in the third and fourth departments, or a majority of them, are authorized to appoint and at pleasure remove not more than two additional employees, than are employed at the time this act takes effect, to prescribe the duties and fix the salaries thereof. Except as provided in the state finance law, such salaries shall be certified by the appropriate presiding justice of each such appellate division to the state comptroller who shall audit the same. The state department of taxation and finance shall pay such salaries in equal semi-monthly instalments, and shall apportion the total amount thereof among the counties comprising the appropriate judicial department. Such counties shall reimburse the state for such salaries. The time and method of such

apportionment and the time and method of such reimbursement shall be as specified in section seventy-four of this chapter.

§ 100. Power of justices of appellate division of first department to appoint confidential clerk of the appellate term. The justices of the appellate division of the supreme court in the first department, or a majority of them, are authorized to appoint in their discretion, and at pleasure remove, a confidential clerk of the appellate term of the said supreme court, or such tribunal as may hereafter be charged with the duty of hearing appeals from the city court of the city of New York and the municipal court of the city of New York, or either of them in the first department, and fix the salary of said confidential clerk. The board of estimate of the city of New York is authorized and empowered to provide the means to pay such salary.

§ 101. Power of justices of appellate division of second department to appoint clerical and other personnel of the appellate term. The justices of the appellate division of the supreme court in the second department, or a majority of them, are authorized to appoint in their discretion, and to remove at pleasure, for the appellate term of the supreme court in the second department, a chief clerk, one deputy clerk, one assistant deputy clerk, and all necessary other assistants and personnel in said court, and to prescribe the duties and fix the salaries thereof. Except as provided in the state finance law, such salaries and all other necessary expenses of such appellate term, shall be paid by the state comptroller out of moneys appropriated therefor by law. The state department of taxation and finance shall pay such salaries in equal biweekly installments and shall apportion the total amount of such salaries and expenses among the counties comprising the second judicial department. Such counties shall reimburse the state for such salaries and expenses. The time and method of such reimbursement shall be as specified in section seventy-four of this chapter.

§ 102. Power of justices of appellate division in first department to

appoint special deputy clerks for each part or term of the supreme court in the first judicial district. The justices of the appellate division of the supreme court in the first department, or a majority of them, shall appoint and at pleasure remove, for each part or term of the supreme court in the first judicial district a special deputy clerk of the supreme court, and all necessary assistants to each of such special deputies and fix the salaries thereof. The board of estimate of the city of New York is authorized and empowered to provide the means to pay such salaries.

§ 103. Power of justices of appellate division in first department to designate supreme court jury clerk. The justices of the appellate division of the supreme court in the first department, or a majority of them, shall designate and at pleasure revoke such designation and make a new designation of two of the special deputy clerks appointed pursuant to section one hundred and two and assigned to a trial term, one of whom shall be supreme court jury clerk for the county of New York and one of whom shall be supreme court jury clerk for the county of the Bronx.

§ 104. Power of justices of appellate division in first department to appoint stenographers for the supreme court. The justices of the appellate division of the supreme court in the first department, or a majority of them, must appoint, and may at pleasure remove, a stenographer for each part or term of the supreme court.

§ 105. Power of justices of appellate division in first department to appoint typists. The justices of the appellate division of the supreme court in the first department, or a majority of them, may appoint, and at pleasure remove, one or more typists, as shall be necessary, for the appellate term, or for the special and trial terms of the supreme court in the first judicial district.

§ 106. Power of justices of appellate division in first department to

appoint interpreters for supreme court. The justices of the appellate division of the supreme court in the first department, or a majority of them, may appoint and at pleasure remove such number of interpreters for the supreme court as in their opinion shall be necessary.

§ 107. Power of justices of appellate division in first department to regulate attendance and duties of officers of supreme court in first district. The justices of the appellate division of the supreme court in the first department shall from time to time make such rules as they may deem necessary to regulate the attendance and prescribe the duties of criers, interpreters, stenographers, librarians, clerks, assistants and attendants of the supreme court in the first judicial district, except the confidential attendants of the justices of the supreme court, whose attendance shall be regulated and duties prescribed by the justice who appointed such confidential attendant.

§ 108. Retirement of officers and employees by the justices of the appellate division, first department. 1. The appellate division of the supreme court in the first department is authorized in its discretion to retire any clerk, assistant clerk, clerk to a justice, general law assistant to justices, stenographer, typewriter, interpreter, librarian, assistant librarian, crier, assistant crier, telephone operator or attendant who shall have served as such in such appellate division or in the supreme court in and for the first judicial district or in any court which has been consolidated with the supreme court, or as an appointee of a justice of such court or courts, or in the court of general sessions, or who has had charge of the records of any such court in the office of the clerks of the counties of New York and Bronx, and who shall have become physically or mentally incapacitated for the further performance of the duties of his position. Such person, however, shall have been employed prior to such retirement for at least twenty years in the aggregate in one or more of such positions heretofore mentioned, or such person immediately prior to such retirement shall have been employed continuously for at least ten years in one or more of such positions including service in the court of general sessions, and in

addition thereto shall have also served or been employed at any time prior thereto in one or more places or positions in any court, department or office of the state or of the county or city of New York, or as an appointee of a justice of such court or courts. Such combined employment, however, shall aggregate at least twenty years. Any person or persons retired from service pursuant to this subdivision shall be paid out of the funds apportioned to the supreme court of the first department an annual sum for annuity to be determined by such appellate division but not exceeding one-half of the average amount of his annual salary or compensation for a period of two years preceding the time of such retirement.

Such annuity shall be paid in equal monthly installments during the lifetime of the person or persons so retired.

2. Any clerk, assistant clerk, clerk to a justice, stenographer, typewriter, interpreter, librarian, assistant librarian, crier, assistant crier, telephone operator or attendant who shall have served as such in such appellate division or in the supreme court in and for the first judicial district or in any court which has been consolidated with the supreme court in and for the first judicial district, or as an appointee of a justice of such court or courts, or who has had charge of the records of any such court in the office of the clerks of the counties of New York and Bronx, who shall have been employed for at least twenty-five years in the aggregate in one or more of such positions or who shall have immediately prior to retirement been employed without interruption of more than six months for at least twelve and one-half years in one or more of such positions, and in addition thereto shall have also served or been employed at any time prior thereto in one or more places or positions in any court, department or office of the state or of the county or city of New York, or as an appointee of a justice of such court or courts. Such combined employment, however, shall aggregate at least twenty-five years. Upon his own application in writing to the appellate division of the supreme court in the first department, he shall be retired by such appellate division and shall be awarded, granted and paid an annual sum for annuity equal to one-half of the average amount of his annual salary or

compensation for a period of two years preceding the time of such retirement. Any such employee or officer who loses such position or employment without any fault or misconduct on his part after fourteen years' total service in one or more of the positions or employments heretofore specified in or connected with such appellate division or supreme court in and for the first judicial district or in any court which has been consolidated with the supreme court in and for the first judicial district, or as an appointee of a justice of such court or courts, or as a clerk to a justice of such appellate division or the supreme court, or who has had charge of the records of any such court in the office of the clerks of the counties of New York and Bronx, shall be entitled forthwith to retirement and to an annual sum or annuity as hereinafter provided and shall be retired by such appellate division as of the date of the loss of such position or employment. Such employee or officer, however, so losing his position or employment shall have, within one full calendar month after the loss of such position or employment, made or had application made on his behalf in writing to such appellate division for such retirement, and shall be awarded, granted and paid an annual sum for annuity equal to as many twenty-fifths of one-half of the average amount of his annual salary or compensation for a period of two years preceding the date of the loss of his position or employment as he has served aggregate years. Any additional service rendered, prior to such services last above specified, in one or more places or positions in any court, department or office of the state or of the county or city of New York by an employee or officer so losing such position or employment shall also be credited in estimating such aggregate years of service. Such annuity shall be paid in equal monthly installments during the lifetime of the person or persons so retired. Any person or persons retired from service pursuant to this subdivision of this section shall be paid out of the funds apportioned to the supreme court of the first department, and from moneys to be apportioned to such court for such purposes to be raised as hereinafter provided, and from the contributions to the retirement fund in such manner as the appellate division shall provide by order upon such retirement. Such annuities shall be a charge upon the counties of New York and Bronx and the board of estimate of the city of New York shall provide for the raising of the necessary funds therefor and for

paying the same in accordance with the order made on retirement. The comptroller of the city of New York shall deduct and retain monthly from the salary or compensation of each employee or officer one per centum of his monthly salary. Such moneys so deducted or retained shall be paid into what shall be known as the retirement fund, which fund and all moneys which shall form a part thereof as hereinafter provided, or thereafter accrue to it, shall be held by such comptroller for the purposes of this section with his usual powers of disposition and investment, subject, however, to the direction, control and approval of such appellate division. Every person to whom this section applies, shall be deemed to consent and agree to the deduction made and provided for herein and shall receipt in full for his salary or compensation and such payment shall be a full and complete discharge and acquittance of all claims or demands whatsoever for the services rendered by such person during the period covered by such payment.

3. If any employee or officer who is eligible for retirement pursuant to this section shall have served for a period of fifty years in the aggregate in one or more of the positions enumerated in this section, and shall be retired after such period of service, pursuant to this section, he shall be awarded, granted and paid an annual sum for annuity equal to the salary received by him at the time of his retirement.

4. If any officer or employee who is eligible for retirement pursuant to this section shall have served for a period of more than twenty-five years but less than fifty years in the aggregate in one or more of the positions enumerated in this section, and shall be retired, after such period of service, pursuant to this section, he shall be awarded, granted and paid in addition to the annuity provided in subdivision two of this section an annual sum for annuity equal to one per cent of the salary received by him at the time of his retirement for each year of such service in excess of twenty-five years but not to exceed in all three-quarters of the salary received by him at the time of his retirement.

5. The board of estimate of the city of New York is authorized to adopt a resolution providing that the deduction from the salary or

compensation of an employee or officer made pursuant to this section need not be made and that no contribution in lieu thereof need be made by such an employee or officer during the one year period commencing with July first, nineteen hundred sixty and, by similar resolution, provide that no such deduction need be made and that no contribution in lieu thereof need be made by such an employee or officer during the one year period commencing with July first, nineteen hundred sixty-one.

6. The board of estimate of the city of New York is authorized to adopt a resolution providing that the deduction from the salary or compensation of an employee or officer made pursuant to this section need not be made and that no contribution in lieu thereof need be made by such an employee or officer during the one year period commencing with July first, nineteen hundred sixty-two.

7. The mayor of the city of New York is authorized to adopt an executive order providing that the deduction from the salary or compensation of an employee or officer made pursuant to this section need not be made and that no contribution in lieu thereof need be made by such an employee or officer during the one year period commencing with July first, nineteen hundred sixty-three.

8. The mayor of the city of New York is authorized to adopt an executive order providing that the deduction from the salary or compensation of an employee or officer made pursuant to this section need not be made and that no contribution in lieu thereof need be made by such an employee or officer during the one year period commencing with July first, nineteen hundred sixty-four.

9. The mayor of the city of New York is authorized to adopt an executive order providing that the deduction from the salary or compensation of an employee or officer made pursuant to this section need not be made and that no contribution in lieu thereof need be made by such employee or officer during the one-year period commencing with July first, nineteen hundred sixty-five.

10. The mayor of the city of New York is authorized to adopt an

executive order providing that the deduction from the salary or compensation of an employee or officer made pursuant to this section need not be made and that no contribution in lieu thereof need be made by such employee or officer during the one-year period commencing with July first, nineteen hundred sixty-six.

11. The mayor of the city of New York is authorized to adopt an executive order providing that the deduction from the salary or compensation of an employee or officer made pursuant to this section need not be made and that no contribution in lieu thereof need be made by such employee or officer during the one-year period commencing with July first, nineteen hundred sixty-seven.

12. The mayor of the city of New York is authorized to adopt an executive order providing that the deduction from the salary or compensation of an employee or officer made pursuant to this section need not be made and that no contribution in lieu thereof need be made by such employee or officer during the one-year period commencing with July first, nineteen hundred sixty-eight.

13. The mayor of the city of New York is authorized to adopt an executive order providing that the deduction from the salary or compensation of a employee or officer made pursuant to this section need not be made and that no contribution in lieu thereof need be made by such employee or officer during the one-year period commencing with July first, nineteen hundred sixty-nine.

14. The mayor of the city of New York is authorized to adopt an executive order providing that the deduction from the salary or compensation of an employee or officer made pursuant to this section need not be made and that no contribution in lieu thereof need be made by such employee or officer during the one year period commencing with July first, nineteen hundred seventy.

§ 109. Appointment of a calendar clerk in the ninth judicial district. The administrative judge of the ninth judicial district is authorized to

appoint and at pleasure remove a calendar clerk for the ninth judicial district, to prescribe his duties and fix his salary. The salary of the calendar clerk shall be certified by the administrative judge to the state comptroller who shall audit the same. The state department of taxation and finance shall pay such salary in biweekly instalments and shall apportion the amount of the salary of the calendar clerk among the counties comprising the ninth judicial district. Such counties shall reimburse the state for such salary. The time and method of such appointment and the time and method of such reimbursement shall be as specified in section seventy-four of this chapter.

ARTICLE 4-a

OFFICIAL REFEREES

Section 114. Retired judges of the court of appeals.
115. Retired justices of the supreme court.
116. Official referees.
117. Powers of official referees.
118. Expenses of official referees of the supreme court.
119. Official referees of the city court of the city of New York.
120. Official referees of the court of claims.
121. Official referees of the municipal court of the city of New York.
121-a. Assignment of official referees.
122. Compensation of official referees.
123. Restrictions on official referees.
124. Suspension and removal of official referees.
125. Future official referees.

§ 114. Retired judges of the court of appeals. 1. Any judge of the court of appeals, retired pursuant to subdivision b of section twenty-five of article six of the constitution, may, upon his application, be certified by the administrative board for service as a justice of the supreme court upon findings (a) that he has the mental and physical capacity to perform the duties of such office and (b) that

his services are necessary to expedite the business of the supreme court. A copy of such certificate shall be filed with the appellate division of the department in which such retired judge resides and in the office of court administration.

2. Any such certification shall be valid for a term of two years beginning on the date of filing the certificate. At the expiration of such term, the retired judge may be certified for additional terms of two years each by the administrative board upon findings of continued mental and physical capacity and need for his services. No retired judge may serve under any such certification beyond the last day of December in the year in which he reaches the age of seventy-six.

3. A retired judge so certified shall for all purposes, other than determining the number of justices in a judicial district for the purposes of subdivision d of section six of article six of the constitution and section one hundred forty-a of this chapter, but including powers, duties, salary, status and rights, be a justice of the supreme court in the district in which he resides when so certified. A retired judge shall be subject to assignment by the appellate division of the supreme court of the judicial department of his residence.

4. The provisions of this section shall also be applicable to a judge who has not yet reached the age of seventy-six and who reached the age of seventy and retired as a judge of the court of appeals prior to the effective date of this section.

§ 115. Retired justices of the supreme court. 1. Any justice of the supreme court, retired pursuant to subdivision b of section twenty-five of article six of the constitution, may, upon his application, be certified by the administrative board for service as a retired justice of the supreme court upon findings (a) that he has the mental and physical capacity to perform the duties of such office and (b) that his services are necessary to expedite the business of the supreme court. A copy of such certificate shall be filed with the appellate division of the department in which such retired justice resides and in the office

of court administration.

2. Any such certification shall be valid for a term of two years beginning on the date of filing the certificate. At the expiration of such term the retired justice may be certified for additional terms of two years each by the administrative board upon findings of continued mental and physical capacity and need for his services. No retired justice may serve under any such certification beyond the last day of December in the year in which he reaches the age of seventy-six.

3. A retired justice so certified shall for all purposes, other than determining the number of justices in a judicial district for the purposes of subdivision d of section six of article six of the constitution and section one hundred forty-a of this chapter, but including powers, duties, salary, status and rights, be a justice of the supreme court in the district in which he resides when so certified. A retired justice shall be subject to assignment by the appellate division of the supreme court of the judicial department of his residence.

4. The provisions of this section shall also be applicable to a justice of the supreme court, a judge of the county court of a county within the city of New York, and a judge of the court of general sessions of the county of New York who has not yet reached the age of seventy-six and who reached the age of seventy and retired as such justice or judge prior to the effective date of this section.

§ 116. Official referees. Official referees in office on the effective date of this section shall, for the remainder of their terms for which they were appointed or certified, be official referees of the court in which they were appointed or certified as such or the successor court, as the case may be. At the expiration of the term of an official referee of the court of appeals or the supreme court, his office shall be abolished and he shall be subject to the provisions of section one hundred fourteen or one hundred fifteen of this chapter.

§ 117. Powers of official referees. As to all motions, actions or proceedings submitted to an official referee by stipulation of the parties appearing therein, or order of the court, except matrimonial actions, the same shall be deemed duly referred to said official referee and he shall proceed therein with the same power and authority as a justice presiding at a regular special term of the supreme court and entertain and grant motions for a new trial, grant stays and orders to show cause, and he shall have similar jurisdiction and authority as to any other action or proceeding referred to him by order of the supreme court including matrimonial actions. Every official referee shall have the power to administer oaths and take acknowledgments; the violation of an order of such official referee may be punished as for a contempt of court by the court at special term.

§ 118. Expenses of official referees of the supreme court. Each official referee of the supreme court hereby continued in office shall be furnished with all necessary office room and supplies, which shall be a charge upon the county in which he resides.

§ 119. Official referees of the city court of the city of New York. Every official referee of the city court of the city of New York in the first or second judicial department who, pursuant to former provisions of this section, is acting and in the discharge of his duties as such official referee at the time this section as hereby amended takes effect, may continue to act as referee, without any compensation to be paid by the parties, to hear and report upon or to hear and determine: (1) any action, claim, matter, motion or special proceeding pending in the city court of the city of New York, referable by statute or the rules and practice of said court, in which the justice making the order of reference shall deem that for any reason the expenses of such reference shall not be borne by the parties to such action, claim, matter, motion or proceeding; (2) any action, claim, matter or special proceeding in such court referred upon consent of the parties thereto.

Any such official referee of the city court may sit and discharge the

duties in any county within the city of New York.

Such referee or referees shall not charge or receive from the parties to an action, claim, matter, motion or proceeding referred, any fee or compensation for any service as such referee. If the services of a stenographer should be required in the action, claim, matter, motion or proceeding, such stenographer shall be selected by said referee from the official stenographers of the city court and the parties shall not be required to pay any of the fees of such stenographer for taking the testimony or furnishing one copy thereof to the referee if the referee shall order such copy.

The justices of the appellate division in each department shall have power to fix the times and places for the hearing of references by official referees of the city court of the city of New York hereby continued in office, and to assign such official referees for such service to any court of record within such department, and to adopt, amend or rescind rules therefor.

§ 120. Official referees of the court of claims. Every official referee of the court of claims in the four respective judicial departments who, pursuant to former provisions of this section, is acting and in the discharge of his duties as such official referee, at the time this section as hereby amended takes effect, may continue to hear and determine or hear and report upon any claim against the state referred to him by the court of claims, upon the consent of the attorney-general and the claimant. He shall receive no compensation from the parties for his services as such referee. Such a referee also shall render such temporary assistance to the court of claims as he shall be designated to perform by the presiding judge thereof, whenever such court requires such assistance because of the illness of a judge or his disqualification to hear a particular matter, and also whenever there is such an accumulation of work before the court as to render such assistance necessary in order to enable it promptly to dispose of the business before it. When so assisting such court, under designation from the presiding judge, such referee shall be deemed an acting judge of the

court and shall have the powers and jurisdiction of a judge of such court.

§ 121. Official referees of the municipal court of the city of New York. Every official referee of the municipal court of the city of New York in the first or second judicial department who, pursuant to former provisions of this section, is acting and in the discharge of his duties as such official referee at the time this section as hereby amended takes effect, may continue to act as referee and to hear and report upon or to hear and determine any action, claim, motion, matter or proceeding referred to him as provided in this section.

To any such official referee of the municipal court of the city of New York there may be referred to hear and report upon or to hear and determine by the president justice or acting president justice of that court any action, matter, claim, motion or proceeding pending in such court which now or hereafter may be referable by statute or rules and practice of court, in which the president justice or acting president justice shall deem that for any reason the expense of such reference should not be borne by the parties to such action, claim, matter, motion or proceeding, and such official referee of the municipal court of the city of New York shall not charge or receive from the parties to the action, claim, motion, matter or proceeding referred to him any fee or compensation for any services rendered as such referee. The justices of the appellate division in each department shall also have power to fix the times and places for the hearing of references by the official referees of the municipal court of the city of New York hereby continued in office, and to assign such official referees for such service to any court of record within such department, and to adopt, amend or rescind rules therefor.

If the services of a stenographer shall be required in the action, claim, matter, motion or proceeding so referred, an official stenographer shall be selected by such official referee of the municipal court of the city of New York from the official stenographers of that court, and the parties to the action, claim, matter, motion or

proceeding shall not be required to pay any of the fees of such stenographer for taking the testimony and furnishing one copy thereof to the referee if the referee shall order such copy.

§ 121-a. Assignment of official referees. The justices of the appellate division in each department shall have power to fix the time and places for the hearing of references within their respective departments by the official referees of the supreme court.

Every official referee shall devote his whole time to the duties of his office. The work of official referees shall be regularly reviewed by the justices of the appellate divisions of the supreme court. Official referees may be assigned for service as in any county, judicial department or district, without regard to his place of residence or district or department of appointment and when so assigned shall perform all of the duties regularly discharged by an official referee. The several appellate divisions of the supreme court shall promptly adopt rules and procedures for the requisition, transfer and assignment of official referees.

§ 122. Compensation of official referees. Every official referee continued in office and serving under the provisions of this article shall receive as compensation one-half of the amount now or hereafter paid to the incumbent of the office which he held prior to his retirement; provided, however, that any official referee of the municipal court of the city of New York in the first or second judicial department so continued in office shall receive as compensation three-fourths of the amount paid to the incumbent of the office which he held prior to his retirement. Any official referee of the city court of the city of New York who is serving as such on April tenth, nineteen hundred forty-six, shall be entitled to receive as compensation, two-thirds of the amount paid to the incumbent of the office which he held prior to his retirement. Any official referee of the supreme court heretofore or hereafter appointed who shall be assigned for service as such official referee in any county outside of the county wherein he

resides, and any official referee of the court of appeals who shall be assigned for service as such official referee in any county outside of the county wherein he resides, shall receive in addition to the compensation provided for by this chapter, his actual traveling expenses from his residence to the place in such county where he has been assigned for services as such official referee and, if such place is less than twenty-five miles from his residence, the sum of ten dollars per diem and if such place where he has been so assigned is more than twenty-five miles from his residence the sum of twenty dollars per diem and he shall receive such additional moneys during the time that he is actually engaged in rendering services as an official referee in such county. The manner of payment of such compensation and its sources are to be the same as in the case of the incumbent of the office from which such official referee has retired.

§ 123. Restrictions on official referees. No official referee continued in office and serving under this article, as amended, shall during his continuance in office, other than as member of a constitutional convention, or the incumbent of a non-salaried office in the educational system of the state hold any other public office or trust, elective or appointive, practice law, act as attorney or counsellor in any court of this state, or act as receiver or commissioner, or unofficial referee in any court, but shall devote his whole time and capacity to the duties of his office as such official referee.

§ 124. Suspension and removal of official referees. Any official referee continued in office and serving under the provisions of this article, as amended, except an official referee of the court of appeals, may be suspended or removed by the justices of the appellate division in the department in which the appointment was made.

§ 125. Future official referees. Except as otherwise provided in this article, no retired judge or justice of any court of this state shall

hereafter be designated or act as official referee under the provisions of this article and the right heretofore existing of judges and justices to act as official referee pursuant to appointment or without appointment, except as otherwise provided in this article, is hereby abolished. The term of office of each official referee qualifying, pursuant to the provisions of this article, after the date when this act becomes effective shall, notwithstanding any other provision in this article, expire automatically on the thirty-first day of December in the year in which he will have attained the age of seventy-six years.

ARTICLE 5

SUPREME COURT

Section 140. Division of state into judicial districts.

140-a. Number of supreme court justices in each judicial district.

140-b. General jurisdiction of supreme court.

141. Designation of supreme court justices to hold court in another county.

147. Holding special and trial terms.

147-a. Powers of justice of supreme court.

148. Trial term may be held in parts.

149. Governor may appoint extraordinary terms and name justices to hold them.

150. Printing calendars in certain counties.

151. Publishing calendars in Monroe county.

152. Publishing calendars in Erie county.

153. Records kept by special deputy clerks shall be part of records of supreme court.

154. Duty of supreme court justices in first judicial district to enforce rules made by appellate division of first department.

155. Supreme court seal.

156. Appointment of special deputy clerks for the supreme court in Queens county.

158. Appointment of calendar clerk for Westchester county in the ninth judicial district.

158-a. Appointment of calendar clerk for Dutchess county in the ninth judicial district.
158-b. Appointment of calendar clerk for Schenectady county in the fourth judicial district.
158-c. Appointment of calendar clerk for Putnam county and other necessary assistants.
160. Appointment of temporary stenographer where official stenographer fails to attend term.
161. Amount spent for services of temporary stenographer to be deducted from salary of official stenographer.
162. Justice of supreme court to certify amount of expenses of stenographer attending term.
163. Justices of supreme court in third and fourth judicial districts to certify to the department of taxation and finance amount of salaries and expenses of stenographers.
164. Emergency stenographers in criminal cases.
165. Power of supreme court justices in Nassau county to appoint law stenographers and typists.
165-a. Power of supreme court justices in Dutchess county to appoint law stenographers and typists.
165-b. Power of supreme court justices in Rockland county to appoint law stenographers and typists.
165-c. Power of supreme court justices in Putnam county to appoint law stenographers and typists.
165-d. Power of supreme court justices in Orange county to appoint law stenographers and typists.
165-e. Power of supreme court justices in Westchester county to appoint secretarial assistants.
166. Power of supreme court justices in first judicial district to appoint attendants for supreme court.
167. Powers of supreme court justices in the third judicial district residing in Albany and Rensselaer counties to appoint confidential court attendants.
168. Power of supreme court justices in Kings, Queens, Richmond, Nassau and Suffolk counties to appoint court officers.

168*2. Classification of certain attendants.
169. Continuation in office of certain attendants and clerks.
170. Power of supreme court justices in Rockland county to appoint court officer or attendant.
171. Powers of supreme court justices residing in Erie county to appoint court officers to attend terms.
172. Power of supreme court justices residing in Kings and Queens counties to appoint interpreters.
173. Power of supreme court justices residing in Erie county together with county judge of Erie county to appoint criers.
173-a. Power of supreme court justices in Erie county to appoint a secretary and junior secretaries to such justices.
173-b. Power of supreme court justices of the eight judicial district to appoint a confidential law assistant to such justices.
173-c. Power of supreme court trial justices of eighth judicial district to appoint stenographers.
174. Maintenance of supreme court house building in Kings county.

§ 140. Division of state into judicial districts. The state is hereby divided into thirteen judicial districts, pursuant to the provisions of the first section of the sixth article of the constitution, which districts shall be arranged as follows:

The first judicial district shall consist of the county of New York;

The second judicial district shall consist of the county of Kings;

The third judicial district shall consist of the counties of Columbia, Sullivan, Ulster, Greene, Albany, Schoharie and Rensselaer;

The fourth judicial district shall consist of the counties of Warren, Saratoga, Washington, Essex, Franklin, Saint Lawrence, Clinton, Montgomery, Hamilton, Fulton and Schenectady;

The fifth judicial district shall consist of the counties of Onondaga, Oneida, Oswego, Herkimer, Jefferson and Lewis;

The sixth judicial district shall consist of the counties of Otsego, Delaware, Madison, Chenango, Broome, Tioga, Chemung, Tompkins, Cortland and Schuyler;

The seventh judicial district shall consist of the counties of Livingston, Wayne, Seneca, Yates, Ontario, Steuben, Monroe and Cayuga;

The eighth judicial district shall consist of the counties of Erie, Chautauqua, Cattaraugus, Orleans, Niagara, Genesee, Allegany and Wyoming;

The ninth judicial district shall consist of the counties of Westchester, Putnam, Dutchess, Orange and Rockland;

The tenth judicial district shall consist of the counties of Nassau and Suffolk.

The eleventh judicial district shall consist of the county of Queens. The creation of such eleventh district shall not affect or impair the rights, privileges or compensation of any officer or employee of the supreme court in office on the first day of September, nineteen hundred and sixty-two in the tenth judicial district as theretofore constituted; each such officer or employee employed in the county of Queens on such date shall thereafter be an officer or employee for the eleventh judicial district and each such officer or employee employed in the counties of Nassau and Suffolk on such date shall thereafter be an officer or employee for the tenth judicial district.

The twelfth judicial district shall consist of the county of Bronx. The creation of such twelfth district shall not affect or impair the rights, privileges or compensation of any officer or employee of the supreme court in office on the first day of January, nineteen hundred eighty-three in the first judicial district as theretofore constituted;

each such officer or employee employed in the county of Bronx on such date shall thereafter be an officer or employee for the twelfth judicial district and each such officer or employee employed in the county of New York on such date shall thereafter be an officer or employee for the first judicial district.

The thirteenth judicial district shall consist of the county of Richmond. The creation of such thirteenth district shall not affect or impair the rights, privileges or compensation of any officer or employee of the supreme court in office on the first day of January, two thousand eight in the second judicial district as theretofore constituted; each such officer or employee employed in the county of Richmond on such date shall thereafter be an officer or employee for the thirteenth judicial district and each such officer or employee employed in the county of Kings on such date shall thereafter be an officer or employee for the second judicial district.

§ 140-a. Number of supreme court justices in each judicial district. The number of justices of the supreme court in each judicial district shall be as follows:

1. First district, thirty-eight;

2. Second district, fifty-three;

3. Third district, seventeen;

4. Fourth district, fourteen;

5. Fifth district, nineteen;

6. Sixth district, eleven;

7. Seventh district, twenty;

8. Eighth district, twenty-eight;

9. Ninth district, thirty-four;

10. Tenth district, fifty-one;

11. Eleventh district, forty-four;

12. Twelfth district, twenty-nine;

13. Thirteenth district, nine.

No person may serve in the office of justice of the supreme court unless he or she has been admitted to practice law in the state of New York for at least ten years as of the date he or she commences the duties of office.

§ 140-b. General jurisdiction of supreme court. The general jurisdiction in law and equity which the supreme court possesses under the provisions of the constitution includes all the jurisdiction which was possessed and exercised by the supreme court of the colony of New York at any time, and by the court of chancery in England on the fourth day of July, seventeen hundred seventy-six, with the exceptions, additions and limitations created and imposed by the constitution and laws of the state. Subject to those exceptions and limitations the supreme court of the state has all the powers and authority of each of those courts and may exercise them in like manner.

§ 141. Designation of supreme court justices to hold court in another county. At the request of the presiding justice of any judicial department, the presiding justice of any of the other departments of the state may consent to the assignment from among the trial justices of any judicial district in his department, of such justices as in his opinion may be spared from said district, without prejudice to the work or interests of such district, to hold trial or special terms in the department from whence the request may come.

No consent shall be given hereunder to the assignment of a justice or justices from any district that will not leave at all times at least two trial justices in such district; and no allowance given by any statute for services, or expenses, rendered, or incurred by any trial justice for sitting in the first or second departments shall be paid, unless assigned with such consent as hereinbefore provided.

§ 147. Holding special and trial terms. A special term or a trial term must be held by one judge, except that when private property located within the city of New York shall be taken for public use by the city of New York, the compensation to be made therefor shall be ascertained by a special term for condemnation proceedings of the supreme court. At least one special term and two trial terms must be appointed to be held in each year in each county separately organized. Two or more trial terms may be appointed to be held and may be held at the same time in any county. Fulton and Hamilton counties shall be deemed one county for the purposes of this section. A special term of the supreme court may be adjourned to a future day, and to any place within the judicial district, by an entry in the minutes. After the discharge of the jury, a trial and special term may be adjourned in like manner, for the trial of issues by the court. Any such adjourned term may be further adjourned from time to time, as the justice holding the same directs. Special terms may be held at the chambers of the justice or elsewhere in the judicial district, but an action triable by the court without a jury, which was upon the calendar of a term before it was adjourned to the chambers of a justice under this section, may be tried at the term so adjourned to chambers only by consent of both parties.

§ 147-a. Powers of justice of supreme court. Any justice of the supreme court has power to hold a special or trial term of the supreme court in any county for the whole or any portion of the term, and to act upon any business which regularly comes before the term in which he is sitting, except where he is personally disqualified from sitting, in a

particular action or special proceeding. Each justice, at all reasonable times, when not engaged in holding court, must transact such judicial business as may be done out of court.

§ 148. Trial term may be held in parts. A trial term of the supreme court in any county may be held in two or more parts, and a jury panel may be summoned to serve in each part, or jurors may be drawn from one panel, and the panel may be divided according to the number of parts by drawing from the panel a sufficient number for each part and returning to the panel the jurors not drawn for service.

§ 149. Governor may appoint extraordinary terms and name justices to hold them. 1. The governor may, when, in his opinion the public interest requires, appoint one or more extraordinary special or trial terms of the supreme court. He must designate the time and place of holding the same, and name the justice who shall hold or preside at such term, and he must give notice of the appointment in such manner as, in his judgment, the public interest requires. The governor may terminate the assignment of the justice named by him to hold a term appointed pursuant to this section, and may name another justice in his place to hold the same term. In such event, the grand jury drawn to attend such term shall continue to serve thereat until discharged in the manner prescribed by law. A justice named to preside at an extraordinary term appointed under this section shall have power to order the drawing of a grand jury or grand juries in place of or in addition to the grand jury originally drawn for such term. Such other grand jury or grand juries shall be summoned in the manner prescribed for grand juries in general and shall be subject to all the provisions of law applicable to a grand jury summoned pursuant to sections five hundred thirty-one, six hundred nine and six hundred eighty-four of this chapter.

2. A motion involving a matter pending before such extraordinary special or trial term shall be made returnable at such term, except that, in the exercise of discretion, a justice of the appellate division of the supreme court in the department in which such extraordinary

special or trial term is being held may grant permission for such motion to be heard at a term of such appellate division.

§ 150. Printing calendars in certain counties. The supreme court may, from time to time, by order, require the clerk to cause to be printed for the use of the members and officers thereof, the necessary copies of the calendar of causes, prepared for a term of the court. But this section does not apply to the county of New York or to the county of Monroe.

§ 151. Publishing calendars in Monroe county. The justices of the supreme court elected in the seventh judicial district, or a majority of them, shall designate a daily paper published in the city of Rochester, in which shall be printed day calendars of the courts of record held in and for the county of Monroe and the city of Rochester as may be specified by the clerks of such courts respectively, under the orders of such courts.

§ 152. Publishing calendars in Erie county. The board of supervisors of the county of Erie may exercise from time to time the power to designate as hereafter provided a daily newspaper published in the city of Buffalo in which shall be printed day calendars of the courts of record held in and for the county of Erie as may be specified by the clerks of such courts respectively under the orders of such courts. Said board of supervisors is hereby further authorized to contract with the lowest responsible bidder among the daily newspapers published within the city of Buffalo from year to year for the publication of said day calendars by such duly designated newspaper as hereinbefore provided.

§ 153. Records kept by special deputy clerks shall be part of records of supreme court. The minutes of the part or term of the supreme court to which any of the special deputy clerks appointed as provided in section one hundred and two of this chapter, is assigned by the justices

of the appellate division of the supreme court in the first department, or by the presiding justice thereof, kept by him and the records kept by the supreme court jury clerk in the first judicial district, shall be a part of the records of the supreme court.

The minutes and records kept by the special deputy clerks to the clerk of the county containing a city having a population of not less than three hundred thousand and not more than one million wholly within the county shall be part of the records of the supreme court.

§ 154. Duty of supreme court justices in first judicial district to enforce rules made by appellate division of first department. It shall be the duty of every justice of the supreme court in the first judicial district to enforce the rules made by the appellate division in the first department pursuant to section seventy-eight of this chapter and to require the commissioner of public works to do all acts necessary to give full force and effect to such of said rules as relate to the management and protection of the court-houses and court-rooms of the supreme court.

§ 155. Supreme court seal. The seal kept by the county clerk of each county shall continue to be the seal of the supreme court, in that county.

The provisions of this section shall not be applicable in those cases where special provisions are otherwise made by law.

§ 156. Appointment of special deputy clerks for the supreme court in Queens county. The justices of the supreme court residing in the county of Queens, or a majority of them, shall appoint and at pleasure remove a special deputy to the county clerk of the county of Queens for each part or term of the supreme court, and may appoint as many assistants to such clerk as may be necessary for the transaction of the business of such court.

§ 158. Appointment of calendar clerk for Westchester county in the ninth judicial district. The justices of the supreme court for the ninth judicial district, or the majority of them, may appoint and may at pleasure remove a calendar clerk in and for the county of Westchester. No person shall be eligible to such appointment unless he shall be a resident elector of the county of Westchester. His qualifications and fitness for the office shall be determined and approved by the justices making the appointment. He shall have charge of all the calendars of the supreme court in and for said county and shall be governed by and have such powers as are provided by the rules and/or regulations adopted from time to time in accordance with statute. The board of supervisors of Westchester county shall fix the salary of such clerk and may authorize him to employ within the appropriations made by said board, such clerical force or other assistants as it shall determine.

§ 158-a. Appointment of calendar clerk for Dutchess county in the ninth judicial district. The justices of the supreme court for the ninth judicial district, or the majority of them, may appoint and may at pleasure remove a calendar clerk in and for the county of Dutchess. No person shall be eligible to such appointment unless he shall be a resident elector of the county of Dutchess. His qualifications and fitness for the office shall be determined and approved by the justices making the appointment. He shall have charge of all the calendars of the supreme court in and for said county and shall be governed by and have such powers as are provided by the rules and/or regulations adopted from time to time in accordance with statute. The board of supervisors of Dutchess county shall fix the salary of such clerk and may authorize him to employ within the appropriations made by said board, such clerical force or other assistants as it shall determine.

§ 158-b. Appointment of calendar clerk for Schenectady county in the fourth judicial district. The justices of the supreme court for the fourth judicial district, or the majority of them, may appoint and may

at pleasure remove a calendar clerk in and for the county of Schenectady. No person shall be eligible to such appointment unless he shall be a resident elector of the county of Schenectady. His qualifications and fitness for the office shall be determined and approved by the justices making the appointment. He shall have charge of all the calendars of the supreme court in and for said county and shall be governed by and have such powers as are provided by the rules and/or regulations adopted from time to time in accordance with statute. The county board of representatives of Schenectady county shall fix the salary of such clerk and may authorize him to employ within the appropriations made by said board, such clerical force or other assistants as it shall determine.

§ 158-c. Appointment of calendar clerk for Putnam county and other necessary assistants. Subject to the provisions of article 7-A of this law, upon the nomination of the administrative judge of the supreme court for the ninth judicial district, the justices of the appellate division or a majority of them may appoint and at pleasure remove a calendar clerk, and other necessary assistants, in and for the County of Putnam and their compensation shall be fixed by said justices of the appellate division within the amount appropriated for such purposes by the board of supervisors of said county. No person shall be eligible to such appointment unless he shall be a resident elector of the county of Putnam.

§ 160. Appointment of temporary stenographer where official stenographer fails to attend term. If an official stenographer shall not be in attendance at a trial term of the supreme court, or a special term of the supreme court where issues of fact are triable, the justice presiding at the term may, in his discretion, employ a stenographer who shall be paid such compensation as the justice shall by his certificate fix, not to exceed thirty dollars for each day's attendance, and ten cents for each mile for travel to and from his residence to the place where the term is held, together with a reasonable sum for his necessary expenses and stationery. The sum so fixed shall be a charge upon the

county in which the term shall be held, and shall be paid by the county treasurer upon such certificate from the court fund or the fund from which jurors are paid.

§ 161. Amount spent for services of temporary stenographer to be deducted from salary of official stenographer. If the official stenographer of the judicial district in which such term shall be held shall have been duly assigned to attend such term, and it does not appear to the satisfaction of the justice that the failure to attend was excusable, the justice may cause an order of the court to be entered at such term, that the portion of the sum so paid by the county treasurer, which was allowed for the per diem compensation for the services of the stenographer employed at such term, shall be deducted from the salary of the official stenographer who shall have been so assigned to attend such term, and the clerk of such county shall transmit to the department of taxation and finance a certified copy of such order, and such department shall deduct such amount from the salary of such official stenographer and pay the same to the treasurer of said county.

§ 162. Justice of supreme court to certify amount of expenses of stenographer attending term. The amount to which the stenographers of the supreme court are entitled for expenses, as prescribed in section three hundred thirteen of this chapter, must be certified by the judge holding or presiding at the term.

§ 163. Justices of supreme court in third and fourth judicial districts to certify to the department of taxation and finance amount of salaries and expenses of stenographers. Each of the justices of the supreme court assigned to hold special terms in the third and fourth judicial districts appointing a stenographer pursuant to subdivision five of section one hundred and fifty-nine of this chapter shall annually on the first day of October fix and transmit to the department of taxation and finance the amount allowed to such stenographer for salary and expenses as provided by section three hundred sixteen of this

chapter.

§ 164. Emergency stenographers in criminal cases. Where the prompt disposition of charges against a person accused of the commission of a crime is deemed necessary, or the ends of justice require, the justice presiding at a term of the supreme court where issues of fact are triable, in his discretion, may employ one or more stenographers in addition to the regularly assigned stenographer, to assist in the taking and transcribing of the minutes of such trial. Such stenographer or stenographers shall be paid for his services such reasonable compensation as the justice shall by his certificate fix, together with a reasonable sum for his necessary traveling expenses, if any, and stationery. The sum so fixed shall be a charge upon the county in which the term shall be held and shall be paid by the county treasurer upon such certificate from the court fund or the fund from which jurors are paid.

§ 165. Power of supreme court justices in Nassau county to appoint law stenographers and typists. The justice or justices of the supreme court residing in Nassau county, or a majority of them, may appoint and at pleasure remove and prescribe the duties of twenty law stenographers and typists, who shall receive such compensation as may be fixed by the board of supervisors of such county. Such compensation shall be a charge against such county and shall be paid by the treasurer thereof in bi-weekly installments upon the certificate of such justice or justices, or a majority of them.

§ 165-a. Power of supreme court justices in Dutchess county to appoint law stenographers and typists. The justice or justices of the supreme court residing in Dutchess county, or a majority of them, may appoint and at pleasure remove and prescribe the duties of a confidential law stenographer and typist, who shall receive such compensation as may be fixed by the board of supervisors of such county. Such compensation shall be a charge against such county and shall be paid by the treasurer

thereof in monthly installments upon the certificate of any such justice or, if all such justices have died or are disabled, of the Dutchess county judge or Dutchess county surrogate.

§ 165-b. Power of supreme court justices in Rockland county to appoint law stenographers and typists. The justice or justices of the supreme court residing in Rockland county, or a majority of them, may appoint and at pleasure remove and prescribe the duties of a confidential law stenographer and typist, who shall receive such compensation as may be fixed by the board of supervisors of such county. Such compensation shall be a charge against such county and shall be paid by the treasurer thereof in monthly installments upon the certificate of such justice or justices, or a majority of them.

§ 165-c. Power of supreme court justices in Putnam county to appoint law stenographers and typists. The justice or justices of the supreme court residing in Putnam county, or a majority of them, may appoint and at pleasure remove and prescribe the duties of a confidential law stenographer and typist, who shall receive such compensation as may be fixed by the board of supervisors of such county. Such compensation shall be a charge against such county and shall be paid by the treasurer thereof in monthly installments upon the certificate of such justice or justices, or a majority of them, or, if all such justices have died or are disabled, of the county judge of such county.

§ 165-d. Power of supreme court justices in Orange county to appoint law stenographers and typists. The justice or justices of the supreme court residing in Orange county, or a majority of them, may appoint and at pleasure remove and prescribe the duties of a confidential law stenographer and typist, who shall receive such compensation as may be fixed by the board of supervisors of such county. Such compensation shall be a charge against such county and shall be paid by the treasurer thereof in bi-weekly installments upon the certificate of such justice or justices, or a majority of them, or, if all such justices have died

or are disabled, of the county judge of such county.

§ 165-e. Power of supreme court justices in Westchester county to appoint secretarial assistants. The justices of the supreme court residing in Westchester county, or a majority of them, may appoint and at pleasure remove and prescribe the duties of six secretarial assistants, who shall receive such compensation as may be fixed by the board of supervisors of such county. Such compensation shall be a charge against such county and shall be paid by the commissioner of finance thereof in bi-weekly installments upon the certificate of such justices, or a majority of them.

§ 166. Power of supreme court justices in first judicial district to appoint attendants for supreme court. Each of the justices of the supreme court in the first judicial district shall appoint and at pleasure remove four attendants upon the court. Each of said attendants may also be removed by the appellate division, but not until he has been informed of the cause of the proposed removal and has been allowed an opportunity to make an explanation.

§ 167. Powers of supreme court justices in the third judicial district residing in Albany and Rensselaer counties to appoint confidential court attendants. Each of the justices of the supreme court in the third judicial district residing in Albany and Rensselaer counties may appoint and at pleasure remove a confidential court attendant, who shall perform such duties at chambers and in court as such justices, respectively, shall prescribe.

*** § 168. Power of supreme court justices in Kings, Queens, Richmond, Nassau and Suffolk counties to appoint court officers.** The justices of the supreme court for the second judicial district residing in Kings county, or a majority of them; the justice or justices of the supreme court residing in Richmond county, or a majority of them; the justices

of the supreme court for the eleventh judicial district residing in Queens county, or a majority of them; the justice or justices of the supreme court residing in Nassau county, or a majority of them; the justice or justices of the supreme court residing in Suffolk county, or a majority of them, may appoint, and at pleasure remove all clerks, attendants, messengers, and court officers in the supreme court in said counties, and fix their compensation except where such compensation is fixed by law. In the event of there being no resident justice in the county of Richmond, the power vested in and exercised by the resident justice or justices of Richmond county shall then be vested in the justices or a majority of them residing in Kings county during such period.

* NB There are 2 § 168's

*** § 168. Classification of certain attendants.** A confidential attendant to a justice of supreme court who has held such position for not less than ten years shall, upon the death or retirement of such justice, be classified as a court attendant under the provisions of the civil service law, and shall retain such classification after the death or retirement of such justice; but a justice who shall succeed such a retiring justice shall have the same right and power to appoint a confidential attendant outside of the civil service list as has existed heretofore.

* NB There are 2 § 168's

§ 169. Continuation in office of certain attendants and clerks. A confidential attendant or clerk to a justice of the supreme court shall, upon the death or retirement of such justice, continue in office until an appointment of a confidential attendant or clerk shall be made by the justice elected or appointed to fill such vacancy.

§ 170. Power of supreme court justices in Rockland county to appoint court officer or attendant. The justice or justices of the supreme court, residing in Rockland county, may appoint, and at pleasure remove,

a court officer or attendant, to attend at the judge's chambers in such county, and the special terms of the supreme court, held at such chambers; such court officer or attendant to receive a salary to be fixed by such resident justice, or justices, not exceeding six hundred dollars per annum, to be paid monthly by the county treasurer of such county, upon the certificate of such justice or justices.

§ 171. Powers of supreme court justices residing in Erie county to appoint court officers to attend terms. In addition to the constables, or deputy sheriffs, notified by the sheriff to attend a term of court pursuant to section four hundred and three of this chapter, the justices of the supreme court of the eighth judicial district residing in the county of Erie, or a majority of them, shall, in their discretion, appoint and at their pleasure may remove one or more court officers to attend at the justices' chambers and at special terms of the supreme court held in the county of Erie.

§ 172. Power of supreme court justices residing in Kings and Queens counties to appoint interpreters. A majority of the justices of the supreme court for the second judicial district, residing in the county of Kings and a majority of the justices of the supreme court for the eleventh judicial district, residing in the county of Queens, may respectively appoint an interpreter or interpreters to attend the terms of the supreme court in each of the counties of Kings and Queens. The appointing justices shall fix the salaries of such interpreters who shall hold office during good behavior.

§ 173. Power of supreme court justices residing in Erie county together with county judge of Erie county to appoint criers. The justices of the supreme court residing in Erie county together with the county judge of Erie county, or a majority of them, shall appoint, and may at pleasure remove one or more criers for all the courts of record held in the said county of Erie.

§ 173-a. Power of supreme court justices in Erie county to appoint a secretary and junior secretaries to such justices. The justices of the supreme court residing in Erie county, or a majority of them, may appoint and at pleasure remove and prescribe the duties of a secretary and two junior secretaries to said justices who shall receive such compensation as may be fixed by the board of supervisors of such county. Such compensation shall be a charge against such county and shall be paid by the treasurer thereof in semi-monthly installments.

§ 173-b. Power of supreme court justices of the eight judicial district to appoint a confidential law assistant to such justices. The justices of the supreme court of the eighth judicial district, or a majority of them, may appoint and at pleasure remove and prescribe the duties of a confidential law assistant to such justices. Such confidential law assistant shall be an attorney and counsellor at law and shall receive such salary as shall be fixed by such justices, or a majority of them. Such salary shall be audited by the state comptroller and paid by the state department of taxation and finance in equal semi-monthly installments when certified to such comptroller by a justice of the supreme court of the eighth judicial district. Such department shall apportion the amount of such salary among the counties of the eighth judicial district. Such counties shall reimburse the state therefor. The time and method of such apportionment and the time and method of such reimbursement shall be as specified in section seventy-four of this chapter.

§ 173-c. Power of supreme court trial justices of eighth judicial district to appoint stenographers. Each of the resident trial justices of the supreme court in the eighth judicial district, except those residing in Erie county, may appoint and at pleasure remove and prescribe the duties of a stenographer. Each stenographer shall receive an annual salary as established by the board of supervisors of the county of the appointing judge's residence. Such salary shall be a charge against the county of the appointing justice's residence and

shall be paid by the treasurer thereof in semi-monthly installments.

§ 174. Maintenance of supreme court house building in Kings county. The supreme court house building in Kings county shall be maintained under the supervision of the justices of the supreme court residing in the county of Kings and their successors in office, who shall appoint and may at pleasure remove a custodian, an engineer and such other employees as may be necessary therefor. The expense of such maintenance shall be borne by the city of New York and shall be provided for as in the case of other public buildings in such city.

ARTICLE 5-A
THE CITY COURT OF THE CITY OF NEW YORK

Section 176. Justices of city court of the city of New York.
177. Commissioner of records of city court of the City of New York; appointment; salary; duties.

§ 176. Justices of city court of the city of New York. The justices of the city court of the city of New York shall be elected upon the expiration of the terms of office of the present incumbents or their successors at the next ensuing general election. The full term of office of a justice of the city court of New York shall be ten years. When a vacancy shall occur otherwise than by expiration of term of office of a justice of such court, it shall be filled for a full term at the next general election and until the vacancy is so filled the governor, by and with the advice and consent of the senate if the senate shall be in session, or if not in session, the governor may fill such vacancy by appointment.

The successors of the present nine justices who when elected or appointed were residents of the county of New York, shall be residents of and shall be elected by the electors in New York county. The successors to the present four justices, who when elected or appointed were residents of the county of the Bronx, shall be residents of and

shall be elected by the electors in Bronx county. The successors to the present five justices, who when elected or appointed were residents of the county of Kings, shall be residents of and shall be elected by the electors in Kings county. The successors to the present three justices, who when elected or appointed were residents of the county of Queens, shall be residents of and shall be elected by the electors in Queens county. The successors to the present justice, who when elected or appointed was a resident of the county of Richmond, shall be a resident of and shall be elected by the electors in Richmond county.

The annual salary and compensation of each justice of the city court of the city of New York, other than the chief justice thereof, for all services performed by him shall be twenty-five thousand dollars. The annual salary and compensation of the chief justice of such court for all such services shall be twenty-six thousand dollars.

§ 177. Commissioner of records of city court of the city of New York; appointment; salary; duties. (1) The presiding justice shall appoint a commissioner of records and a deputy commissioner of records who shall be authorized to act generally for and in place of the commissioner of records. Such commissioner shall appoint, subject to the prior approval of the presiding justice, subordinates to assist him in the performance of his duties. The salary of such commissioner, deputy commissioner and subordinates shall be fixed by the presiding justice, and shall be paid out of appropriations therefor made by the city of New York.

(2) Such commissioner shall examine into the arrangement and condition of the records, documents, books and papers, deposited or filed in the office of the clerk of the city court of the city of New York in each county within such city, and into the condition and sufficiency of the indices thereof. He shall collate and arrange the same in such manner as may be necessary for their restoration and preservation, and shall take such steps as may be necessary to provide convenient references thereto and for such examination and use as the public interest and convenience may require. He shall cause copies thereof to be made whenever by reason of age, use, exposure, or any casualty such copies shall in his judgment be necessary, and after such a copy has been compared with the original

it shall be certified by such commissioner, and shall thereafter be admitted in evidence, and shall be considered for all other purposes with the same effect as the original. The original shall be placed in a suitable enclosure by such commissioner, and shall be preserved, properly endorsed and indexed, for such examination as may be directed by an order of the court in any action or proceeding in which the accuracy of the copy may be questioned. Such duties shall be performed under such conditions and regulations as may be approved by the presiding justice, and in a manner which shall permit the examination and use of such records, documents, books, papers and indices, as the public interest and convenience may require.

(3) The office of commissioner of records of the city court shall terminate upon the completion of the duties in this section prescribed.

ARTICLE 5-B
SPECIAL NARCOTICS PARTS OF THE SUPREME COURT IN CITIES WITH A POPULATION OF ONE MILLION OR MORE

Section 177-a. Declaration of legislative findings and intent.
177-b. Special narcotics parts; establishment.
177-c. Special narcotics parts; prosecutorial organization.
177-d. Special narcotics parts; procedure.

§ 177-a. Declaration of legislative findings and intent. The legislature hereby finds and declares that an emergency of grave dimensions exists in narcotics law enforcement in cities having a population of one million or more. The overall law enforcement effort has not been successful in stemming the distribution of narcotic drugs. The legislature finds that the ineffectiveness of official efforts to contain the narcotics traffic is due in significant part to the inability of the overburdened criminal justice system to cope with the enormous volume of narcotics cases.

The legislature further finds that this crisis, which transcends the traditional jurisdictional boundaries of the counties wholly contained within such cities having a population of one million or more, demands

coordinated prosecution, centralized direction and the infusion of massive new resources.

The legislature declares that without these new directions and resources, this crisis will intensify and very shortly overwhelm the already strained criminal justice system.

Based upon the above findings the legislature hereby declares that an emergency narcotics court program is required.

It is the intent of the legislature that the emergency narcotics program should be coordinated by the division of criminal justice of the office of planning services in cooperation with the criminal justice coordinating councils of such cities. The program would be implemented by the joint efforts of the district attorneys of the counties within cities having a population of one million or more, the judiciary, and other criminal justice services acting in accordance with a mutually agreed upon plan. The legislature contemplates that the program authorized herein shall consist of the establishment of special narcotics parts in the supreme court in cities having a population of one million or more to hear and determine narcotic cases from within counties wholly contained in a city having a population of one million or more, commencing not later than the September nineteen hundred seventy-two term and continuing thereafter during the duration of the emergency.

The legislature declares that the resources necessary for these special narcotics parts of the supreme court can be made available only through a combination of federal funds from the law enforcement assistance administration of the United States department of justice, and state and local funds, services and facilities. To this end the legislature declares that in order to utilize presently appropriated federal funds, all necessary agreements shall be entered into forthwith.

§ 177-b. Special narcotics parts; establishment. 1. There shall be established in cities having a population of one million or more in the

supreme court special narcotics parts in such numbers and at such locations as shall be designated by the administrative board of the judicial conference of the state of New York to effectuate the purposes of this article. Such parts shall hear and determine narcotics indictments assigned thereto from any part of the supreme court in any county within such cities.

As used in this article, "narcotics indictment" means an indictment charging a crime that is prosecutable in any county wholly contained in a city within cities having a population of one million or more involving the sale or possession of a narcotic drug and any other offense properly joined therewith.

2. Notwithstanding any other provision of law, upon or after arraignment on a narcotics indictment filed in the supreme court in any county within such cities and before entry of a plea of guilty or commencement of trial, such supreme court may order that the indictment and action be assigned to a special narcotics part of the supreme court.

3. The trial of an indictment in a special narcotics part shall for all purposes be deemed to be a trial in the county in which the indictment was filed, but the administrative board of the judicial conference may promulgate rules, orders or regulations to be applicable to such parts in place and instead of the rules, orders or regulations applicable to courts in the county where the indictment was filed. The administrative board shall provide by rule, order or regulation for at least the following matters: the procedure of the part; its auxiliary services; the assignment of judicial personnel; the appointment of terms; and transmittal of all papers in the action, including all undertakings for appearances of the defendant and of the witnesses, to the part of the supreme court to which the action has been assigned.

§ 177-c. Special narcotics parts; prosecutorial organization. The district attorneys of the counties wholly contained in a city having a population of one million or more shall formulate and adopt a plan designed to effect the purposes of this article. The plan shall provide

for the following matters:

(i) the appointment of an assistant district attorney to the staff of one of the district attorneys to administer the program established pursuant to the plan;

(ii) the appointment of a staff to operate under the direction and supervision of the assistant district attorney appointed pursuant to paragraph (i);

(iii) the establishment of standards, administrative policies, and procedures to govern the performance of the prosecutorial functions in connection with narcotics cases, including but not limited to guidelines governing applications by the assistant district attorney appointed pursuant to paragraph (i) for the impaneling of a grand jury; and

(iv) any other matters, pertaining to the effective administration of the program and fulfillment of the purposes of this article.

§ 177-d. Special narcotics parts; procedure. Notwithstanding any other provision of law,

(i) a narcotics indictment returned in any county within such cities may be prosecuted in the special narcotics part to which it is assigned pursuant to section one hundred seventy-seven-b irrespective of the county in which the part is held and in which the crime charged was committed;

(ii) any assistant district attorney appointed pursuant to the plan authorized by section one hundred seventy-seven-c may prosecute all offenses cognizable by any special narcotics part irrespective of the county in which the part is held and in which the crime charged was committed; and

(iii) upon the application of the assistant district attorney in charge of the special narcotics parts appointed pursuant to the plan authorized by section one hundred seventy-seven-c, one or more grand juries may be drawn and impaneled for a special narcotics part upon the order of the justice assigned to such part, which grand jury may exercise all the powers of a grand jury in the county in which it is impaneled and may in addition exercise its powers with respect to the alleged commission of an offense in any county wholly contained in a city having a population of one million or more involving the sale or

possession of a narcotic drug and any other offense that could be properly joined therewith in an indictment.

ARTICLE 6

THE SURROGATES' COURTS

Section 179. Surrogates, New York county and Kings county.
180. Surrogates, New York county; vacancies.
181. Surrogates court, New York county; expenses.

§ 179. Surrogates, New York county and Kings county. The surrogate's courts of New York county and Kings county shall each consist of two surrogates.

§ 180. Surrogates, New York county; vacancies. When the official term of either surrogate of New York county will expire at the close of any year by the effluxion of time or the disability of age, the successor of each surrogate shall be chosen at the preceding general election. Vacancies otherwise occurring shall be filled for a full term at the next general election happening not less than three months after such vacancy occurs; and until any such vacancy shall be so filled, the governor, by and with the advice and consent of the senate if the senate shall be in session, may appoint and fill such vacancy, or if not in session the governor may appoint and fill such vacancy. Any such appointment shall continue until and including the last day of December next after the election at which the vacancy shall be filled.

§ 181. Surrogate's court, New York county; expenses. The surrogates of New York county, not later than the first day of February in each year, shall submit to the director of the budget of the city of New York an estimate of the requirements for current expenses of their office and court for the ensuing fiscal year. Such estimate shall contain a statement of each of the salaries of the officers, clerks, attendants, employees and subordinates in such office and court.

ARTICLE 6-A

COUNTY JUDGES, SURROGATES AND CERTAIN DISTRICT ATTORNEYS

Section 182. Number of judges of the county court in each county.
183-a. Compensation of certain district attorneys.
184. Number of judges of the surrogate's court, county judges to serve as judges of surrogate's court.
185. Separate office of surrogate in the counties of Chautauqua, Nassau and Rockland.
186. Offices of county judge and surrogate in Fulton county combined.
188. Additional duties of surrogate of Clinton county.

§ 182. Number of judges of the county court in each county. The number of judges of the county court in each county shall be as follows:

Subd.	Name of county	Subd.	Name of county
1.	Albany, two;	28.	Nassau, fourteen;
2.	Allegany, two;	29.	Niagara, two;
3.	Broome, two;	30.	Oneida, two;
4.	Cattaraugus, two;	31.	Onondaga, three;
5.	Cayuga, one;	32.	Ontario, two;
6.	Chautauqua, one;	33.	Orange, three;
7.	Chemung, two;	34.	Orleans, one;
8.	Chenango, one;	35.	Oswego, two;
9.	Clinton, one;	36.	Otsego, two;

10. Columbia, two;
11. Cortland, two;
12. Delaware, one;
13. Dutchess, two;
14. Erie, five;
15. Essex, one;
16. Franklin, one;
17. Fulton, two;
18. Genesee, one;
19. Greene, two;
20. Hamilton, one;
21. Herkimer, one;
22. Jefferson, one;
23. Lewis, one;
24. Livingston, two;
25. Madison, two;
26. Monroe, six;
27. Montgomery, one;
37. Putnam, two;
38. Rensselaer, two;
39. Rockland, three;
40. St. Lawrence, one;
41. Saratoga, one;
42. Schenectady, one;
43. Schoharie, one;
44. Schuyler, one;
45. Seneca, one;
46. Steuben, two;
47. Suffolk, eleven;
48. Sullivan, two;
49. Tioga, one;
50. Tompkins, three;
51. Ulster, one;
52. Warren, one;
53. Washington, two;
54. Wayne, three;
55. Westchester, eight;
56. Wyoming, two;
57. Yates, one.

In those counties having more than one judge of the county court, the compensation of each such judicial officer shall be the same and the powers, duties and jurisdiction of each of said judges shall be coordinate and coequal. However, in the absence of a designation pursuant to section 217 of this law, the county judge senior in point of service, shall be vested with all administrative powers and duties appertaining to that court.

No person may serve in the office of judge of the county court unless he or she has been admitted to practice law in the state of New York for at least five years as of the date he or she commences the duties of office.

§ 183-a. Compensation of certain district attorneys. Notwithstanding

any other provision of law, the district attorney of each county having a population of more than five hundred thousand according to the last federal census, exclusive of the counties of New York, Bronx, Kings, Queens and Richmond, shall receive an annual salary equivalent to that of a justice of the state supreme court together with such additional compensation as the legislative body of such county may provide by local law. Further, that the district attorney of each county having a population of more than one hundred thousand and less than five hundred thousand according to the last federal census, exclusive of the county of Richmond, and the district attorney of any county, the board of supervisors of which has designated such office as a full-time position pursuant to subdivision eight of section seven hundred of the county law, shall receive an annual salary equivalent to that of county judge in the county in which the district attorney is elected or appointed, together with such additional compensation as the legislative body of such county may provide by local law.

§ 184. Number of judges of the surrogate's court, county judges to serve as judges of surrogate's court. 1. The number of judges of the surrogate's court for each county, whether without or within the city of New York, shall be equal to the number of separate elective offices or office of judge of the surrogate's court for such county authorized by law on the thirty-first day of August, nineteen hundred sixty-two, except those authorized by certificate filed pursuant to section one hundred eighty-nine-c of the judiciary law, as added by chapter six hundred ninety-four of the laws of nineteen hundred fifty, subsequent to March first, nineteen hundred sixty-two.

2. Except where a separate surrogate has been or shall be elected, the county judge of each county outside of the city of New York shall be and serve as judge of the surrogate's court for his county.

§ 185. Separate office of surrogate in the counties of Chautauqua, Nassau and Rockland. There is established a separate office of surrogate in the counties of Chautauqua, Nassau and Rockland. The election and

term of such surrogate shall be in the manner provided by section twelve of article six of the constitution. He shall have all the powers now established by law.

§ 186. Offices of county judge and surrogate in Fulton county combined. The office of county judge and the office of surrogate in Fulton county are hereby combined and on and after the effective date of this act all the functions, powers and duties of such surrogate shall be exercised and performed by each county judge of such county.

§ 188. Additional duties of surrogate of Clinton county. On and after the effective date of this act, all the functions, powers and duties of the county court in Clinton county shall be exercised and performed by the surrogate of such county in addition to his duties as such surrogate and his powers, duties and jurisdiction in the county court shall be co-ordinate and co-equal with the county judge of such county.

ARTICLE 7

COUNTY COURT

Section 190. Jurisdiction of county court.

190-a. When domestic or foreign corporation or joint-stock association deemed resident.

190-b. Power of county court and county judge co-extensive with that of supreme court and supreme court justice.

190-c. Terms of county court.

190-d. Place of holding terms of county court.

190-e. Appointment of term to be filed with county clerk.

190-f. Terms of county court in Erie, Onondaga, Monroe, Nassau and Suffolk counties may be held in parts.

191. Power of county judge to hear special proceeding that supreme court justice can hear at chambers.

193. Incapacity, disqualification or absence of the county judges of Suffolk, Dutchess, Ulster and Schenectady counties.

194. Printing calendar of county court.
195. County court seal.
197. Appointment of confidential clerks by county judges of Kings, Queens, Erie, Monroe, Nassau, Onondaga, Rockland, Dutchess and Saint Lawrence counties and by special county judge of Erie county.
198. Appointment of stenographers of county courts.
200. Power of county judges of certain counties to appoint criers for courts of record.
202. Power of county judge of Erie county to appoint court attendant.
203. Appointment of court attendant by special county judge of Erie county.
204. Power of county judge of Nassau county to appoint court officers.
207. Retirement of officers and employees by the judges of the county court of Kings county.
208. Retirement of officers and employees by the judges of the court of general sessions of the county of New York.

§ 190. Jurisdiction of county court. The jurisdiction of each county court, except the county courts of counties within the city of New York, extends to the following actions and special proceedings, in addition to the jurisdiction, power and authority conferred upon a county court in a particular case by special statutory provision:

1. An action for the partition of real property, for dower, for the foreclosure, redemption or satisfaction of a mortgage upon real property, for the foreclosure of a lien arising out of a contract for the sale of real property, for specific performance of a contract relating to real property, for the enforcement or foreclosure of a mechanic's lien on real property, for reformation or rescission of a deed, contract or mortgage affecting real property, or to compel the determination of a claim to real property under article fifteen of the real property actions and proceedings law, where the real property to which the action relates is situated within the county; or to foreclose

a lien upon a chattel in a case specified in section two hundred six of the lien law where the lien does not exceed twenty-five thousand dollars in amount and the chattel is found within the county.

2. An action in favor of the executor, administrator or assignee of a judgment creditor, or in a proper case in favor of the judgment creditor, to recover a judgment for money remaining due upon a judgment rendered in the same court.

3. An action for any other cause, where the defendant, or if there are two or more defendants, where all of them, at the time of the commencement of the action, reside in the county, or where a defendant has an office for the transaction of business within the county and the cause of action arose therein, or where the defendant is a foreign corporation that is doing business within the county and the cause of action arose therein and where the complaint in such action demands judgment for a sum of money only not exceeding twenty-five thousand dollars; or to recover one or more chattels the aggregate value of which does not exceed twenty-five thousand dollars with or without damages for the taking or detention thereof.

4. The custody of the person and the care of the property, concurrently with the supreme court, of a resident of the county who is adjudicated incompetent to manage his affairs by reason of age, drunkenness, mental illness or other cause or for whom a conservator has been appointed; and any special proceeding which the supreme court has jurisdiction to entertain for the appointment of a committee of the person or of the property of such an incompetent person or conservatee or for the sale or other disposition of the real property situated within the county of a person wherever resident who is incompetent, who is a conservatee or who is an infant, or for the sale or other disposition of the real property, situated within the county, of a domestic religious corporation.

5. Notwithstanding any other provision of law to the contrary, any proceeding which the supreme court has jurisdiction to entertain to review the actions or determinations of the state board of parole.

6. An action for any claim against a restitution fund established by such court resulting from its criminal jurisdiction.

§ 190-a. When domestic or foreign corporation or joint-stock association deemed resident. For the purpose of determining jurisdiction under section one hundred ninety, a domestic corporation or joint-stock association is deemed a resident of a county in which its principal place of business is established by or pursuant to a statute or by its articles of association, or in which its principal place of business or any part of its plant, shops, factories or offices is actually located, or in the case of a railroad corporation, in which any portion of the road operated by it is located, and a foreign corporation is to be deemed a resident of a county if it maintains any plant, store, office, warehouse or other facility for doing business within such county; and personal service of a paper by which an action or special proceeding is commenced, made within the county, as prescribed in the civil practice law and rules, is sufficient service thereof upon a domestic corporation wherever it is located.

§ 190-b. Power of county court and county judge co-extensive with that of supreme court and supreme court justice. 1. Where a county court has jurisdiction of an action or a special proceeding, it possesses the same jurisdiction, power and authority in and over the same, and in the course of the proceedings therein, that the supreme court possesses in a like case; and it may render any judgment or grant either party any relief that the supreme court may render or grant in a like case, and may send its process and other mandates into any county of the state for service or execution and enforce obedience thereto in the same manner as the supreme court.

2. The county judge possesses the same power and authority in such action or special proceeding that a justice of the supreme court possesses in a like action or special proceeding brought in the supreme court.

3. The county judge possesses the same power and authority in a special proceeding which can be lawfully instituted before him out of court that a justice of the supreme court possesses in a like special proceeding instituted before him out of court.

§ 190-c. Terms of county court. 1. The county judge must, from time to time, appoint the times and places for holding terms of his court.

2. At least two terms, for the trial of issues of law or of fact, must be appointed to be held in each year.

3. Each term may continue as long as the county judge deems necessary.

4. The county judge may, by a new appointment, change the day appointed for holding a term, or appoint one or more additional terms, or dispense with the holding of a term, without affecting any other term or terms theretofore appointed to be held.

6. The county court is always open for the transaction of any business for which notice is not required to be given to an adverse party, except where it is specially prescribed by law that the business must be done at a stated term.

7. A statute or rule conferring power upon or authorizing a proceeding to be taken at a specified term of court, if the provision is applicable to a county court, is to be construed as applying to any term of the county court held pursuant to an appointment made as prescribed by law.

§ 190-d. Place of holding terms of county court. Each term must be held at the place designated by statute for that purpose; except that the county judge may, from time to time, adjourn a term to any place within the county, for the hearing and decision of motions and appeals, and trials and other proceedings without a jury; and may appoint as many terms as he thinks proper to be held, either at the court-house or

elsewhere in the county, for the same purpose.

§ 190-e. Appointment of term to be filed with county clerk. Each appointment, made as prescribed in section one hundred and ninety and one hundred and ninety-one of this chapter, must be filed in the county clerk's office.

§ 190-f. Terms of county court in Erie, Onondaga, Monroe, Nassau and Suffolk counties may be held in parts. In the county of Erie or in the counties of Onondaga, Monroe, Nassau and Suffolk trial or special terms of the county court for any purpose may be held in two or more parts, by the county judge of such county and such county judge or judges of other counties as may be requested to act, and a jury panel may be summoned to serve in each part, or jurors may be drawn from one panel to serve in each part.

§ 191. Power of county judge to hear special proceeding that supreme court justice can hear at chambers. A county judge within his county has the power to, and upon proper application shall, at a reasonable time, hear and determine any special proceeding which a supreme court justice is authorized to hear and determine at chambers.

§ 193. Incapacity, disqualification or absence of the county judges of Suffolk, Dutchess, Ulster and Schenectady counties. If the county judge of Suffolk county, Dutchess county, Ulster county or Schenectady county is for any reason incapacitated, disqualified, or incapable to act in an action or special proceeding or other matter pending or about to be instituted in the county court of his county, or before him, or if he is for any reason absent from his county, then the action or special proceeding or other matter may be continued or instituted before either a justice of the supreme court within the same judicial district as the county judge or the surrogate of the county, who shall possess the same power and authority in the action or special proceeding or other matter

which the county judge possesses in a like action or proceeding or matter brought in the county court.

§ 194. Printing calendar of county court. A county court may, from time to time, by order, require the clerk to cause to be printed for the use of the members and officers thereof, the necessary copies of the calendar of causes, prepared for a term of the court. But this section does not apply to the counties within the city of New York.

§ 195. County court seal. The seal kept by the county clerk of each county except in the county of New York, shall continue to be the seal of the county court in that county.

The provisions of this section shall not be applicable in those cases where special provisions are otherwise made by law.

§ 197. Appointment of confidential clerks by county judges of Kings, Queens, Erie, Monroe, Nassau, Onondaga, Rockland, Dutchess and Saint Lawrence counties and by special county judge of Erie county. Each of the county judges of the counties of Kings, Queens, Erie, Monroe, Nassau, Onondaga, Rockland, Dutchess and Saint Lawrence shall, and the special county judge of the county of Erie may, appoint and at pleasure remove, a confidential clerk. Such clerks shall be exempt from competitive examination, and their fitness and qualifications for the office shall be approved by the judge making the appointment.

§ 198. Appointment of stenographers of county courts. The county judge, or a majority of the county judges, of each of the county courts, may, subject to the approval of the appropriate appellate division, appoint and at pleasure remove stenographers of said court. The county judge, or majority of the county judges, of each of the county courts may, subject to the approval of the appropriate appellate division, temporarily appoint a stenographer or stenographers temporarily to

assist or temporarily to replace any stenographer or stenographers otherwise appointed under this section. Such temporary stenographer or stenographers shall be paid a reasonable compensation as fixed by the legislative body of the county.

§ 200. Power of county judges of certain counties to appoint criers for courts of record. The county judge of each county, except Kings and Erie, from time to time, may appoint and at pleasure remove, a crier for the courts of record held in his county, other than the appellate divisions of the supreme court.

§ 202. Power of county judge of Erie county to appoint court attendant. The county judge of Erie county may appoint, and at pleasure remove, one court officer to attend his court in said county, and to perform such duties in respect thereto as the said county judge may prescribe.

§ 203. Appointment of court attendant by special county judge of Erie county. The special county judge of the county of Erie may appoint and at pleasure remove one court officer to attend his court in said county and to perform such duties in respect thereto as the said special county judge may prescribe. Said court officer shall possess all the power of an officer designated by the sheriff to attend upon a court and shall receive such salary as shall be fixed from time to time by the board of supervisors of Erie county.

§ 204. Power of county judge of Nassau county to appoint court officers. The county judge of the county of Nassau may appoint and at pleasure remove all clerks, attendants, messengers and court officers in the county court in said county, who shall perform such duties in respect to said court as the said county judge may prescribe. Such clerks, attendants, messengers and court officers shall receive such salaries as shall be fixed from time to time by the board of supervisors

of Nassau county, to be paid by the treasurer of said county in equal monthly installments.

§ 207. Retirement of officers and employees by the judges of the county court of Kings county. 1. The judges of the county court of the county of Kings are hereby authorized, in their discretion, to retire any clerk, deputy clerk, assistant clerk, record clerk, stenographer, interpreter, chief court attendant, assistant chief court attendant, court attendant, probation officer, detective, warden of the grand jury, messenger, or any other attache of said court, who shall have served as such in the said court and who shall have become physically or mentally incapacitated for the further performance of the duties of his position, provided, however, that such person shall have been employed prior to such retirement for at least twenty years in the aggregate in one or more of such positions heretofore mentioned, or provided that such person immediately prior to such retirement shall have been employed continuously for at least ten years in one or more of such positions and in addition thereto shall have also served or been employed at any time prior thereto in one or more places or positions in any court, department or office of the state or of the county of Kings or city of New York, provided, however, such combined employment shall aggregate at least twenty years. Any person or persons retired from service pursuant to this subdivision shall be paid out of the funds apportioned to the said court an annual sum for annuity to be determined by the said judges of the court, but not exceeding one-half of the average amount of his annual salary or compensation for a period of two years preceding the time of such retirement. Such annuity shall be paid in equal monthly installments during the lifetime of the person or persons so retired.

2. Any clerk, deputy clerk, assistant clerk, record clerk, stenographer, interpreter, chief court attendant, assistant chief court attendant, court attendant, probation officer, detective, warden of the grand jury, messenger, or any other attache of the county court of Kings county, who shall have served as such in the said court and who shall have been employed for at least twenty-five years in the aggregate in one or more of such positions or who shall have immediately prior to

retirement been employed continuously for at least twelve and one-half years in one or more of such positions and in addition thereto shall have also served or been employed at any time prior thereto in one or more places or positions in any court, department or office of the state or of the city of New York or county of Kings, provided, however, that such combined employment shall aggregate at least twenty-five years, shall upon his own application in writing to the said judges of the county court of Kings county be retired by the said judges, and shall be awarded, granted and paid an annual sum for annuity equal to one-half of the average amount of his annual salary or compensation for a period of two years preceding the time of such retirement. Any employee heretofore mentioned in this section who after twenty years' service in the manner heretofore prescribed in subdivision one of this section loses such position or employment without any fault or misconduct on his part, shall be retired by such judges as of the date of the loss of his position or employment, provided, however, the said employee so losing his position or employment shall have within one full calendar month after the loss of such position or employment, made, or had application made on his behalf in writing for such retirement, and shall be awarded, granted and paid an annual sum for annuity equal to as many twenty-fifths of one-half of the average amount of his annual salary or compensation for a period of two years preceding the date of the loss of his position or employment as he has served aggregate years. Such annuity shall be paid in equal monthly installments during the lifetime of the person or persons so retired. Any person or persons retired from service pursuant to this section, shall be paid by the comptroller of the city of New York, upon the order of the judges of said court in the same manner that the salaries or wages of his former position were customarily paid to him, and the same shall be a charge upon the funds or moneys in the custody of the said comptroller, in like manner as are payments to the employees of said court: provided, however, that the funds or moneys in his custody, to the credit of the retirement fund, as hereinafter mentioned, and any funds apportioned to the county court of Kings county, be first applied to such payments. No employee in service at the time this section takes effect shall be retired pursuant to this subdivision unless within one full calendar month after this section takes effect he shall have signified his intention in writing to the

said judges that he desires to take advantage of this section. The said judges of the county court of Kings county shall forthwith upon receipt of such notice or notices forward to the comptroller of the city of New York the names of all persons who have signified their intention to take advantage of this subdivision pursuant to the provisions thereof. The comptroller of the city of New York shall at the end of the second full calendar month after this section takes effect and at the end of each full calendar month thereafter deduct and retain monthly from the salary or compensation of each employee entitled to take advantage of this subdivision who has signified in the manner aforesaid his intention to take advantage thereof, and of each employee entitled to take advantage of the subdivision who may hereafter be employed or appointed, three per centum of his monthly salary. Such moneys so deducted or retained as aforesaid shall by the said comptroller be paid into what shall be known as the retirement fund, which fund and all moneys which shall form a part thereof as hereinafter provided, or thereafter accrue to it, shall be held by said comptroller for the purposes of this section with his usual powers of disposition and investment, subject, however, to the direction, control and approval of the said judges of the county court of Kings county. Every person to whom this subdivision applies who shall have signified his intention to take advantage thereof, who shall continue in his employment after this section takes effect, as well as every person to whom this subdivision applies, who may hereafter be employed or appointed to a position or place, shall be deemed to consent and agree to the deduction made and provided for herein and shall receipt in full for his salary or compensation and such payment shall be a full and complete discharge and acquittance of all claims or demands whatsoever for the services rendered by such person during the period covered by such payment.

3. Upon the death of a member of this retirement system, there shall be paid to his estate, or to such person having an insurable interest in his life as he shall have nominated by written designation, duly executed and filed with the comptroller of the city of New York, his accumulated deductions.

§ 208. Retirement of officers and employees by the judges of the court of general sessions of the county of New York. 1. The judges of the court of general sessions of the county of New York are hereby authorized, in their discretion, to retire any clerk, deputy clerk, assistant clerk, record clerk, stenographer, interpreter, warden to the grand jury, chief court attendant, attendant or an appointee of a judge of such court, who shall have served as such in the court of general sessions and who shall have become physically or mentally incapacitated for the further performance of the duties of his position. Such person, however, shall have been employed prior to such retirement for at least twenty years in the aggregate in one or more of such positions heretofore mentioned, or such person immediately prior to such retirement shall have been employed continuously for at least ten years in one or more of such positions and in addition thereto shall have also served or been employed at any time prior thereto in one or more places or positions in any court, department, or office of the state or of the county or city of New York. Such combined employment, however, shall aggregate at least twenty years. Any person or persons retired from service pursuant to this subdivision shall be paid out of the funds apportioned to such court an annual sum for annuity to be determined by such judges, but not exceeding one-half of the average amount of his annual salary or compensation for a period of two years preceding the time of such retirement. Such annuity shall be paid in equal monthly installments during the lifetime of the person or persons so retired.

2. Any clerk, deputy clerk, assistant clerk, record clerk, stenographer, interpreter, warden to the grand jury, chief court attendant, attendant, or appointee of a judge of the court of general sessions, who shall have served as such in the court of general sessions, and who shall have been employed for at least twenty-five years in the aggregate in one or more of such positions, or who shall have immediately prior to retirement been employed continuously for at least twelve and one-half years in one or more of such positions, and in addition thereto shall have also served or been employed at any time prior thereto in one or more places or positions in any court, department or office of the state or of the city or county of New York, provided, however, that such combined employment shall aggregate at

least twenty-five years, upon his own application in writing to such judges, shall be retired by the judges, and shall be awarded, granted and paid an annual sum for annuity equal to one-half of the average amount of his annual salary or compensation for a period of two years preceding the time of such retirement. Any such employee heretofore mentioned who, after twenty years' service in the manner heretofore prescribed in subdivision one of this section, loses such position or employment without any fault or misconduct on his part shall be retired by such judges as of the date of the loss of his position or employment. Such employee, however, so losing his position or employment shall have, within one full calendar month after the loss of such position or employment, made or had application made on his behalf in writing to such judges for such retirement, and shall be awarded, granted and paid an annual sum for annuity equal to as many twenty-fifths of one-half of the average amount of his annual salary or compensation for a period of two years preceding the date of the loss of his position or employment as he has served aggregate years. Such annuity shall be paid in equal monthly installments during the lifetime of the person or persons so retired. Any person or persons retired from service pursuant to this section shall be paid out of the funds apportioned to such court, and from the contributions to the retirement fund in such manner as such judges shall provide by order upon such retirement. The comptroller of the city of New York shall deduct and retain monthly from the salary or compensation of each employee three per centum of his monthly salary. Such moneys so deducted or retained shall be paid into what shall be known as the retirement fund by the comptroller, which fund and all moneys which shall form a part thereof as hereinafter provided, or thereafter accrue to it, shall be held by such comptroller for the purposes of this section with his usual powers of disposition and investment, subject, however, to the direction, control and approval of such judges. Every person to whom this subdivision applies shall be deemed to consent and agree to the deduction made and provided for herein and shall receipt in full for his salary or compensation, and such payment shall be a full and complete discharge and acquittance of all claims or demands whatsoever for the services rendered by such person during the period covered by such payment.

3. The accumulated deductions since the first day of October, nineteen hundred twenty, of any member of the general sessions court pension fund, who may join or become a member of the New York city employees' retirement system, shall be transferred to such New York city employees' retirement system, and be there credited to the account of such member on account of payment due from him into such New York city employees' retirement system.

ARTICLE 7-A

JUDICIAL ADMINISTRATION

Section 210. Administrative officers of the unified court system.
211. Administrative functions of the chief judge of the court of appeals.
211-a. Required reports in capital cases.
212. Functions of the chief administrator of the courts.
213. Functions of the administrative board of the courts.
214. Judicial conference of the state of New York.
214-a. Functions of the judicial conference.
215. Special provisions applicable to appropriations made to the judiciary in the legislature and judiciary budget.
216. Additional duties of the chief administrator; certain cases.
217. Judicial associations; functions.
218. Audio-visual coverage of judicial proceedings.
219. Capital plans for court facilities.
219-a. The New York state judicial institute.
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219-c. Crimes involving sexual assault and the sexual abuse of minors; judicial training.
219-d. Rules reviving certain actions; sexual offenses against children.
219-e. Rules reviving certain actions; sexual offenses.

§ 210. Administrative officers of the unified court system. 1. The chief judge of the court of appeals shall be the chief judge of the

state of New York and shall be the chief judicial officer of the unified court system.

2. The administrative board of the courts shall consist of the chief judge, who shall serve as chairman, and the presiding justices of the appellate divisions of the supreme court. The members of the administrative board shall serve without compensation but shall be entitled to reimbursement for expenses actually and necessarily incurred by them in the performance of their duties.

3. The chief judge shall appoint, with the advice and consent of the administrative board, a chief administrator of the courts who shall serve at his pleasure. The chief administrator may be a judge or justice of the unified court system, in which event he shall be called the chief administrative judge of the courts, and he shall have all the functions, powers and duties of the chief administrator. He shall receive an annual salary to be fixed by the chief judge within the amount made available therefor by appropriation and he shall be entitled to reimbursement for expenses actually and necessarily incurred by him in the performance of his duties.

§ 211. Administrative functions of the chief judge of the court of appeals. 1. The chief judge, after consultation with the administrative board, shall establish standards and administrative policies for general application to the unified court system throughout the state, including but not limited to standards and administrative policies relating to:

(a) The dispatch of judicial business, the designation of administrative judges, hours of court, assignment of terms and judges, transfer of judges and causes among the courts of the unified court system, the assignment and reassignment of administrative functions performed by judicial and nonjudicial personnel, the need for additional judicial or nonjudicial personnel, and the publication of judicial opinions.

(b) The adoption, amendment, recission and implementation of rules and orders regulating practice and procedure in the courts, subject to the reserved power of the legislature provided for in section thirty of

article six of the constitution.

(c) The form and preparation of the itemized estimates of the annual financial needs of the unified court system.

(d) Personnel practices affecting nonjudicial personnel including: title structure, job definition, classification, qualifications, appointments, promotions, transfers, leaves of absence, resignations and reinstatements, performance ratings, removal, sick leaves, vacations and time allowances. Statewide standards and policies concerning personnel practices relating to nonjudicial personnel shall be consistent with the civil service law, and shall be promulgated after a public hearing at which affected nonjudicial employees or their representatives shall have the opportunity to submit criticisms, objections and suggestions relating to the proposed standards and policies.

(e) Administrative methods and systems of the unified court system.

(f) The form, content, maintenance and disposition of court records.

(g) Fiscal, accounting and auditing practices, the collection of fines and fees, and the custody and disposition of court funds.

(g-1) A system of internal control for the unified court system, pursuant to article seven-D of this chapter.

(h) The purchase, distribution and allocation of equipment and supplies.

(i) The maintenance and management of law libraries, provision of rooms and accommodations for the courts of the unified court system, the judges, justices and the clerical and administrative personnel thereof.

* (j) The continuing development and implementation of methods and techniques designed to reduce significantly the trauma to child witnesses likely to be caused by testifying in court proceedings.

* NB Effective until September 1, 2027

* (j) The examination of the operation of the courts and the state of their dockets and the investigation of criticisms and recommendations.

* NB Effective September 1, 2027

* (k) The appropriate education and training of judges and non-judicial courtroom personnel concerning the social and psychological stages of child development to ensure that they adopt or modify, where appropriate, courtroom procedures, including the questioning and treatment of a child witness by the parties, to protect the child from emotional or psychological harm.

* NB Repealed September 1, 2027

* (l) The examination of the operation of the courts and the state of their dockets and the investigation of criticisms and recommendations.

* NB Repealed September 1, 2027

2. The chief judge shall submit such standards and administrative policies to the court of appeals, together with the recommendations, if any, of the administrative board. Such standards and administrative policies shall be promulgated by the chief judge after approval by the court of appeals.

3. Whenever there is a vacancy in the office of chief judge or if the chief judge shall be unable to exercise the duties, functions or powers of his office, during the period of such vacancy or inability the court of appeals shall designate an associate judge of that court to act in his stead.

4. By September first, nineteen hundred eighty-eight, the chief judge, after consultation with the administrative board, shall approve a form of annual statement of financial disclosure which form shall apply to all judges, justices, officers and employees of the courts of record of the unified court system, who receive annual compensation at or above the filing rate defined by paragraph (l) of subdivision one of section seventy-three-a of the public officers law or are determined to hold a policy-making position pursuant to the rules and regulations promulgated pursuant to this subdivision. Such form of annual statement of financial disclosure shall be substantially similar to the form set forth in subdivision three of section seventy-three-a of the public officers law. Within one year after approval of such form, the chief judge shall cause the chief administrator of the courts to promulgate rules or regulations which require every judge, justice, officer and employee of the courts of record of the unified court system, who receives annual compensation at or above the filing rate defined by paragraph (l) of subdivision one of section seventy-three-a of the public officers law or is determined to hold a policy-making position, to report the information required by the approved form effective first with respect to a filing which shall be required in nineteen hundred ninety-one (generally applicable to

information for the preceding calendar year) and thereafter, effective for future annual filings. Such rules and regulations shall also provide for the determination, by the appointing authority, of policy-makers who shall be required to file the annual statement of financial disclosure required by this subdivision. Any judge, justice, officer or employee of the courts of record of the unified court system who, pursuant to such rules or regulations, is required to file a completed annual statement of financial disclosure and who makes such filing in accordance with the requirements contained in such rules or regulations, shall be deemed to have satisfied the requirements of any other law mandating the filing of a completed annual statement of financial disclosure for the applicable calendar year which might otherwise apply to such judges, justices, officers or employees, and no duplicate filing shall be required on account of any other such law, notwithstanding the provisions of such other law.

5. Consistent with the provisions of section eight of this chapter, the chief judge may relocate a term of court if an emergency or other exigent circumstance or the imminent threat thereof prevents the safe and practicable holding of such term at the location designated by law therefor.

§ 211-a. Required reports in capital cases. The court of appeals shall promulgate rules to ensure that in every criminal action in which a defendant is indicted for the commission of an offense defined in section 125.27 of the penal law, the clerk of the trial court shall prepare a data report as provided by this section not later than forty-five days following the disposition of the case by the trial court; provided, however, that if the indictment is dismissed, no such data report shall be required. The data reports shall be in a form determined by the court of appeals. Data reports shall be prepared by the clerk of the trial court by reviewing the record and upon consultation with the prosecutor and the attorney for the defendant and after completion shall be forwarded to the clerk of the court of appeals. The form and the content of the report shall be consistent with the purpose of assisting the court of appeals in determining

pursuant to section 470.30 of the criminal procedure law, whether a particular sentence of death is disproportionate or excessive in the context of penalties imposed in similar cases, considering both the crime or crimes and the defendant. Data reports developed pursuant to this section shall be compiled into a single uniform capital case data report, which shall be available for use by appellants in capital cases in accordance with disclosure rules promulgated by the court of appeals.

§ 212. Functions of the chief administrator of the courts. 1. The chief administrator of the courts, on behalf of the chief judge, shall supervise the administration and operation of the unified court system. In the exercise of such responsibility, the chief administrator shall have such powers and duties as may be delegated to him by the chief judge and, in addition, the following functions, powers and duties which shall be exercised as the chief judge may provide and in accordance with such standards and administrative policies as may be promulgated pursuant to section twenty-eight of article six of the constitution:

(a) Prepare the itemized estimates of the annual financial needs of the unified court system, in accordance with section one of article seven of the constitution. Such itemized estimates, approved by the court of appeals and certified by the chief judge, shall be transmitted to the governor not later than the first day of December in each year for inclusion in the budget without revision. The chief administrator shall forthwith transmit copies of such itemized estimates to the chairmen of the senate finance and judiciary committees and the assembly ways and means and judiciary committees.

(b) Establish an administrative office for the courts and appoint and remove such deputies, assistants, counsel and employees as he may deem necessary and fix their salaries within the appropriation made available therefor.

(c) Establish the hours, terms and parts of court, assign judges and justices to them, and make necessary rules therefor.

(d) Designate deputy chief administrators and administrative judges for any or all of the courts of the unified court system, except the appellate divisions and the court of appeals.

(e) Act as "chief executive officer" and exercise the functions,

powers and duties of a "public employer" under the provisions of article fourteen of the civil service law.

(f) Make recommendations to the legislature and the governor for laws and programs to improve the administration of justice and the operation of the unified court system; and, with respect to any bill proposing law which is likely to have a substantial and direct effect upon the unified court system, prepare a judicial impact statement upon written request of the chairman of the standing committee of the senate or assembly to which the bill has been referred or upon his own initiative. The statement shall be submitted as soon as practicable to the chairman of the appropriate committee and contain, to the extent feasible and relevant, the chief administrator's projections of the impact of the proposed law on the functioning of the courts and related agencies of the unified court system, including: (i) administration; (ii) caseload; (iii) personnel; (iv) procedure; (v) revenues; (vi) expenses; (vii) physical facilities; and (viii) such additional considerations as may be requested by the committee chairman, or included by the chief administrator.

(g) Receive and consider proposed amendments to the civil practice law and rules and the criminal procedure law, and conduct studies and recommend changes therein.

(h) Hold hearings and conduct investigations. The chief administrator may issue a subpoena requiring a person to attend before him and be examined under oath with reference to any aspect of the unified court system, and require the production of books or papers with reference thereto.

(i) Adopt, amend and rescind all rules and orders necessary to execute the functions of his office.

(j) Collect, compile and publish statistics and other data with respect to the unified court system and submit annually, on or before the fifteenth day of March, to the legislature and the governor a report of his activities and the state of the unified court system during the preceding year.

(k) Require all personnel of the unified court system, county clerks and law enforcement officers to furnish any information and statistical data as will enable him to execute the functions of his office.

(l) Request and receive from any court or agency of the state or any

political subdivision thereof such assistance, information and data as will enable him to execute the functions of his office.

(m) Undertake research, studies and analyses of the administration and operation of the unified court system including, but not limited to, the organization, budget, jurisdiction, procedure, and administrative, clerical, fiscal and personnel practices thereof.

(n) Accept as agent of the state any grant or gift for the purpose of executing the functions of his or her office; provided, however, where a grant or gift is of money, the chief administrator shall dispose of same as provided in section eleven of the state finance law.

(o) Contract for goods and services on behalf of the unified court system.

(p) Promote cooperation and coordination between the unified court system and other agencies of the state or its political subdivisions.

(q) Create advisory committees to assist him in the execution of the functions of his office.

(r) Establish educational programs, seminars and institutes for the judicial and nonjudicial personnel of the unified court system.

(s) Delegate to any deputy, assistant, court or administrative judge, administrative functions, powers and duties possessed by him.

(t) Do all other things necessary and convenient to carry out his functions, powers and duties.

(u) Review and approve plans, specifications, designs and cost estimates for the design, acquisition, construction, reconstruction, rehabilitation, improvement, furnishing or equipping of court facilities pursuant to a capital plan approved in accordance with section sixteen hundred eighty-c of the public authorities law; provided, however, that in the event that such plans, specifications, designs or cost estimates effect a substantial change in an approved capital plan, such plans, specifications, designs or cost estimates must be approved by the court facilities capital review board in accordance with section sixteen hundred eighty-c of the public authorities law.

(v) Insure that appropriate public notice is given of the provisions of section 215.22 of the penal law.

(w) Adopt, after consultation with the office of indigent legal services, the appropriate local magistrates association, institutional providers of criminal defense services and other members of the criminal

defense bar, local government officials, including the district attorney, and with the approval of the administrative board of the courts, a plan for the establishment, in accordance with paragraph (c) of this subdivision, of off-hours arraignment parts in select local criminal courts of a county to be held in such courts on a rotating basis for the conduct of arraignments and other preliminary proceedings incidental thereto, and for arrest warrant returns in criminal cases, where the use of such parts will facilitate the availability of public defenders or assigned counsel for defendants in need of legal representation at such proceedings. To the extent practicable, and notwithstanding that any such plan shall designate off-hours arraignment parts in fewer than all of the local criminal courts of a county, each plan authorized by this paragraph shall provide for the periodic assignment of all of the judges and justices of all of the local criminal courts in the affected county to the off-hours arraignment parts designated therein. The chief administrator shall give appropriate public notice of each off-hours arraignment part established hereunder and each judicial assignment made thereto.

(x) Not permit the unified court system to sell any data regarding judicial proceedings related to residential tenancy, rent or eviction to any third party. Such prohibition includes data collected, stored or utilized by any third-party vendors who have contracts with the unified court system.

(y) Collect, compile, and publish statistics and other demographic data provided in accordance with subparagraph (i) of this paragraph and submit annually, on or before the fifteenth day of March, to the legislature and the governor a report of his or her findings.

(i) The chief administrator shall annually request that each judge and justice of the state-paid courts of the unified court system disclose to the office of court administration information as to his or her race/ethnicity, sex, sexual orientation, gender identity, veteran status, and disability status. Compliance with this request by a judge or justice shall be entirely voluntary; and any information disclosed to the office of court administration may only be released publicly in the form of aggregated statistical data that does not identify a justice or judge.

(ii) The report required by this paragraph shall include separate

charts showing the race/ethnicity, sex, sexual orientation, gender identity, disability status and veteran status of:

(A) all responding judges and justices of the unified court system, including sub-charts for all elected judges and justices and all appointed judges and justices by appointing authority;

(B) all responding judges of the court of appeals;

(C) all responding justices of the appellate division, including sub-charts for appellate division justices in each appellate department;

(D) all responding justices of the supreme court, including sub-charts for supreme court justices elected in each judicial district;

(E) all responding judges of the court of claims;

(F) all responding justices of the surrogate's court;

(G) all responding judges of the county courts;

(H) all responding judges of the district courts, including sub-charts for each district court;

(I) all responding judges of the family court, including sub-charts for family court judges appointed in New York city and family court judges elected outside New York city;

(J) all responding judges of the New York city civil court;

(K) all responding judges of the New York city criminal court;

(L) all responding judges of the city courts, including sub-charts for city court judges who are appointed and city court judges who are elected; and

(M) all responding judges of the New York city housing court.

(iv) The report required by this paragraph shall use the following ethnic and racial categories: American Indian or Alaska Native, Asian, Black or African-American, Hispanic or Latino, Native Hawaiian or other Pacific Islander, White, some other race, and more than one race, as those categories are defined by the United States Census Bureau for reporting purposes.

(v) The demographic data reported, disclosed, or released pursuant to this subdivision shall also indicate the percentage of respondents who declined to respond.

2. The chief administrator shall also:

(a) Designate the justices of the appellate terms of the supreme court and the places where such appellate terms shall be held, in accordance

with the provisions of section eight of article six of the constitution.

(b) Promulgate rules of conduct for judges and justices of the unified court system with the approval of the court of appeals, in accordance with the provisions of section twenty of article six of the constitution.

(c) Temporarily assign judges and justices of the unified court system, in accordance with the provisions of section twenty-six of article six of the constitution.

(d) Adopt rules and orders regulating practice in the courts as authorized by statute with the advice and consent of the administrative board of the courts, in accordance with the provisions of section thirty of article six of the constitution.

(e) Prepare forms and compile data on family offenses, proceedings or actions in all courts, including but not limited to the following information:

(i) the offense alleged;

(ii) the relationship of the alleged offender to the petitioner or complainant;

(iii) the court where the action or proceeding was instituted;

(iv) the disposition; and

(v) in the case of dismissal, the reasons therefor.

In executing this requirement, the chief administrator may adopt rules requiring appropriate law enforcement or criminal justice agencies to identify actions and proceedings involving family offenses and, with respect to such actions and proceedings, to report, in such form and manner as the chief administrator shall prescribe, the information specified herein.

The chief administrator of the courts shall adopt rules to facilitate record sharing and other communication among the supreme, criminal and family courts, subject to applicable provisions of the domestic relations law, criminal procedure law and the family court act pertaining to the confidentiality, expungement and sealing of records, where such courts exercise concurrent jurisdiction over family offense proceedings or proceedings involving orders of protection.

(f) Have the power to prescribe forms pursuant to section 10.40 of the

criminal procedure law.

(g) Designate by rule one supreme court library within each judicial district to serve as the repository of materials transmitted by state agencies pursuant to paragraph c of subdivision four of section one hundred two of the executive law.

(h) (i) Formulate, establish and maintain a plan or plans to encourage and reward unusual and meritorious suggestions and accomplishments by state employees and suggestions of retired state employees promoting efficiency and economy in the performance of any function of the unified court system.

(ii) Make and render merit awards to or for the benefit of state employees and retired state employees nominated to receive them in accordance with such plan or plans. The chief administrator may determine the nature and extent of such merit awards, which may include but shall not be limited to certificates, medals or other appropriate insignia, or cash awards in such amounts as may be fixed by the chief administrator.

(iii) Adopt and promulgate rules and regulations governing the operation of any plan or plans established hereunder, the eligibility and qualifications of state employees and retired state employees participating therein, the character and quality of suggestions and accomplishments submitted for consideration, the method of their submission and the procedure for their review, nominations for merit awards, and the kind, character and value of such awards, and such other rules and regulations as may be deemed necessary or appropriate for the proper administration of any plan or plans established hereunder.

(i) Review the practices and procedures of the unified court system regarding fair treatment standards for crime victims and implement recommendations for change, in accordance with the provisions of article twenty-three of the executive law.

(j) Notwithstanding any provision of law, rule or regulation to the contrary, establish a system for the posting of bail and the payment of fines, mandatory surcharges, court fees, and other monies payable to a court, county clerk in his or her capacity as clerk of court, or the office of court administration, or to a sheriff upon enforcing a court order or delivering a court mandate pursuant to article eighty of the civil practice law and rules, by means of a credit card or similar

device. Notwithstanding any provision of law to the contrary, the chief administrator may require a party making a payment in such manner also to pay a reasonable administrative fee. In establishing such system, the chief administrator shall seek the assistance of the state comptroller who shall assist in developing such system so as to ensure that such funds shall be returned to any jurisdiction which, by law, may be entitled to them. The chief administrator shall periodically accord the head of each police department or police force and of any state department, agency, board, commission or public authority having police officers who fix pre-arraignment bail pursuant to section 150.30 of the criminal procedure law an opportunity to have the system established pursuant to this paragraph apply to the posting of pre-arraignment bail with police officers under his or her jurisdiction.

(k) Upon application, certify former judges or justices of the unified court system and former housing judges of the civil court of the city of New York who served for at least two years in such position to solemnize marriages.

(l) Establish a panel which shall issue advisory opinions to judges and justices of the unified court system upon the request of any one judge or justice, concerning one or more issues related to ethical conduct or proper execution of judicial duties or possible conflicts between private interests and official duties.

(i) The panel shall have no executive, administrative or appointive duties except as provided otherwise in this paragraph or in rules and regulations adopted to implement this paragraph. The panel shall consist of such number of members who possess such qualifications and serve for such terms as the rules and regulations shall provide. Each member shall serve without compensation but shall be reimbursed for expenses actually and necessarily incurred in the performance of his or her official duties for the panel. Notwithstanding any inconsistent provisions of this or any other law, general, special or local, no officer or employee of the state or any public corporation, as defined in article two-A of the general construction law, shall be deemed to have forfeited or shall forfeit his office or employment or any benefits provided under the retirement and social security law or under any public retirement system maintained by the state or any of its subdivisions by reason of his or her being a member of the panel.

(ii) The panel shall issue a written advisory opinion to the judge or justice making the request based upon the particular facts and circumstances of the case, which shall be detailed in the request and in any additional material supplied by the judge or justice at the instance of the panel. If the individual facts and circumstances provided are insufficient in detail to enable the panel to render an advisory opinion, the panel shall request supplementary information from the judge or justice to enable it to render such opinion. If such supplementary information is still insufficient or is not provided, the panel shall so state and shall not render an advisory opinion based upon what it considers to be insufficient detail.

(iii) Notwithstanding any other provisions of law, requests for advisory opinions, advisory opinions issued by the panel to an individual judge or justice of the unified court system, and the facts and circumstances upon which they are based, shall be and remain confidential between the panel and the individual judge or justice making the request; provided, however, that the panel shall publish its advisory opinion and the facts and circumstances upon which it is based with appropriate deletions of names of persons, places and things which might tend to identify either the judge or justice making the request or any other judge or justice of the unified court system; and deliberations of the panel shall be and remain totally confidential.

(iv) Actions of any judge or justice of the uniform court system taken in accordance with findings or recommendations contained in an advisory opinion issued by the panel shall be presumed proper for the purposes of any subsequent investigation by the state commission on judicial conduct.

(m) Expend funds made available in a political subdivision pursuant to section five hundred twenty-one of this chapter for the purposes of improving, furnishing or equipping jury assembly rooms, jury deliberation rooms, offices for commissioners of jurors, and such other court facilities in such political subdivision as are required to effectuate the policies of the state declared in section five hundred of this chapter; except that, in any state fiscal year, no expenditure may be made hereunder for any purpose where funds have been made available by appropriation in such fiscal year to pay the cost thereof. Nor shall this paragraph, and any expenditures made hereunder, relieve any

political subdivision of its obligation under section thirty-nine of this chapter to provide goods, services and facilities suitable and sufficient for the transaction of business by courts and court-related agencies.

* (n) Have the power to authorize a court under subdivision (b) of section forty-three hundred seventeen of the civil practice law and rules to order a reference to determine an application for an order of protection (including a temporary order of protection) that, in accordance with law, is made ex parte or where all parties besides the applicant default in appearance; provided, however, this paragraph shall only apply to applications brought in family court during the hours that the court is in session, and after five o'clock p.m. Training about domestic violence shall be required for all persons who are designated to serve as references as provided in this paragraph.

* NB Repealed September 1, 2027

(o) Notwithstanding the provisions of paragraph (n) of this subdivision, have the power to authorize family courts in the seventh and eighth judicial districts to establish a judicial hearing officer pilot program (hereinafter referred to as "pilot program") and, under subdivision (b) of section forty-three hundred seventeen of the civil practice law and rules, order a reference to determine an application for an order of protection or temporary order of protection, that, in accordance with law, is made ex parte or where all parties beside the applicant default in appearance; provided, however, that the chief administrator shall not exercise this power without prior consultation with the presiding justice of the fourth judicial department. Training about domestic violence shall be required for all judicial hearing officers in the pilot program.

On or before the first day of April in each year, the chief administrator of the courts shall submit a report concerning the judicial hearing officer pilot program to the governor, the temporary president of the senate, the speaker of the assembly, and the chief judge of the state. Such report shall include the number of applications for an order of protection determined by judicial hearing officers in the pilot program, the disposition of such applications, and such other data, information, and analysis as are necessary to evaluate the

efficacy of the pilot program in the administration of justice in response to domestic violence.

(p) Adopt rules authorizing payment of compensation and travel expenses for judges and justices temporarily assigned to town and village courts pursuant to subdivision two of section one hundred six of the uniform justice court act.

(q) Adopt rules to require transmission, to the criminal justice information services division of the federal bureau of investigation or to the division of criminal justice services, of the name and other identifying information of each person who has a guardian appointed for him or her pursuant to any provision of state law, based on a determination that as a result of marked subnormal intelligence, mental illness, incapacity, condition or disease, he or she lacks the mental capacity to contract or manage his or her own affairs. Any such records transmitted directly to the federal bureau of investigation must also be transmitted to the division of criminal justice services, and any records received by the division of criminal justice services pursuant to this paragraph may be checked against the statewide license and record database.

(r) Ensure that cases eligible for judicial diversion pursuant to article two hundred sixteen of the criminal procedure law shall be assigned to court parts in the manner provided by the chief administrator and that, to the extent practicable, such cases are presided over by judges who, by virtue of the structure, caseload and resources of the parts and the judges' training, are in the best position to provide effective supervision over such cases, such as the drug treatment courts. In compliance with these provisions, the chief administrator shall give due weight to the need for diverted defendants to make regular court appearances, and be closely supervised by the court, for the duration of drug treatment and the pendency of the criminal charge.

(s) Establish rules for special proceedings authorized by subsection (d) of section 9--518 of the uniform commercial code. Such rules may authorize the court in which such a special proceeding is pending to order a referee to hear and determine such special proceeding.

(t) Make available translation services to all family and supreme courts to assist in the translation of orders of protection and

temporary orders of protection, as provided in this paragraph, where the person protected by and/or the person subject to the order of protection has limited English proficiency or has a limited ability to read English:

(i) Translation services shall be made available to all family and supreme courts in the ten languages most frequently used in the courts of each judicial department in accordance with the schedule in subparagraph (ii) of this paragraph, and any additional languages that the chief administrator of the courts deems appropriate;

(ii) (A) In three languages from among the ten most frequently used in the courts of each judicial department, by January first, two thousand eighteen;

(B) In three additional languages from among the ten most frequently used in the courts of each judicial department, by June thirtieth, two thousand nineteen; and

(C) In four additional languages from among the ten most frequently used in the courts of each judicial department, by December thirty-first, two thousand twenty; and

(iii) Upon issuance of an order of protection or temporary order of protection, the court shall inquire of any person who is protected by it or subject to it, who has made an appearance, whether translation services are needed. The court shall advise the party or parties of the availability of such translation services;

(iv) The authority provided by this paragraph shall be in addition to, and shall not be deemed to diminish or reduce any rights of the parties under existing law.

(t-1) Issue reports concerning the availability of translation services where orders of protection and temporary orders of protection are issued; special pilot programs. (i) The chief administrator of the courts shall submit to the legislature, the governor, and the chief judge of the state the following reports:

(A) Not later than April first, two thousand nineteen, a report on the availability and use of translation services in the courts for orders of protection and temporary orders of protection, including but not limited to the languages for which written and oral translation is provided; the number of parties that received translated documents, broken down by language and judicial department; the number of parties receiving

interpretation, broken down by language and judicial department; the number of people who requested a translated document and did not receive it; and the number of cases in which a court interpreter was used to communicate with either party and an order of protection or temporary order of protection was issued but in which a translated document was not provided to either party. Such report shall contain recommendations for further legislation relating to the availability of such translation services as the chief administrator of the courts shall deem appropriate; and

(B) Not later than April first, two thousand eighteen, a report evaluating the technical and operational issues involved in subjecting the following orders of protection and temporary orders of protection to the same requirements, relative to translation and interpretation of such orders, as are applicable to orders of protection and temporary orders of protection issued under section one hundred sixty-nine of the family court act: (I) orders of protection and temporary orders of protection issued under section 530.12 or 530.13 of the criminal procedure law; and (II) orders of protection and temporary orders of protection issued by a town or village justice court.

(ii) The office of court administration shall establish and oversee two pilot programs, as follows:

(A) In one town or village court within each judicial district, to develop best practices for the use of written translation and interpretation services for orders of protection and temporary orders of protection in the justice courts. Following consultation with the state magistrates association, the conference of mayors, the association of towns, the unified court system's advisory committee on language access, and such other parties as may be interested, the chief administrator shall include an analysis and evaluation of this pilot program, together with a plan for its expansion throughout the justice court system, in the report required pursuant to clause (B) of subparagraph (i) of this paragraph.

(B) In one county in the city of New York and two counties outside such city, to develop best practices for the use of written translation and interpretation services for orders of protection and temporary orders of protection issued in the state-paid criminal courts of such counties. Following consultation with the state district attorneys

association, representatives of the criminal defense bar, representatives of domestic violence prevention legal services providers, the unified court system's advisory committee on language access, and such other parties as may be interested, the chief administrator shall include an analysis and evaluation of this pilot program, together with a plan for its expansion throughout the state, in the report required pursuant to clause (B) of subparagraph (i) of this paragraph.

(u) (i) (A) Not later than February first in each calendar year, the chief administrator of the courts shall submit to the legislature, the governor and the chief judge of the state a report evaluating the state's experience with programs in the use of electronic means for the commencement of actions and proceedings and the service of papers therein as authorized by law and containing such recommendations for further legislation as he or she shall deem appropriate. In the preparation of such report, the chief administrator shall consult with each county clerk in whose county a program has been implemented in the supreme and/or county court, each district attorney in whose county a program has been implemented in criminal cases in the courts of such county, the advisory committees established pursuant to subparagraphs (ii) through (vi) of this paragraph, the organized bar including but not limited to city, state, county and women's bar associations; the office of indigent legal services; institutional legal service providers; not-for-profit legal service providers; public defenders; attorneys assigned pursuant to article eighteen-B of the county law; unaffiliated attorneys who regularly appear in proceedings that are or have been affected by any programs that have been implemented or who may be affected by the proposed recommendations for further legislation; representatives of victims' rights organizations; and any other persons in whose county a program has been implemented in any of the courts therein as deemed to be appropriate by the chief administrator, and afford them an opportunity to submit comments with respect to such implementation for inclusion in the report and address any such comments.

Public comments shall also be sought via a prominent posting on the website of the office of court administration. All comments received

from any source shall be posted for public review on the same website.

(B) The report submitted hereunder in the two thousand seventeen calendar year shall include:

(I) the evaluation specified in subparagraph (vi) of this paragraph, including the entities or individuals consulted, input received, all issues encountered or otherwise brought to the attention of the chief administrator or his or her agents, all solutions devised to address the issues, presentment of all outstanding issues, including but not limited to any issues relating to the use of electronic means for filing by unrepresented litigants, any recommendations of the advisory committee to the chief administrator, along with recommendations for legislation in relation to the use of electronic means for the origination of juvenile delinquency proceedings under article three of the family court act and abuse or neglect proceedings pursuant to article ten of the family court act in family court and the filing and service of papers in such pending proceedings.

(II) the evaluation specified in subparagraph (v) of this paragraph, including the entities or individuals consulted, the input received, all issues encountered or otherwise brought to the attention of the chief administrator or his or her agents, all solutions devised to address the issues, presentment of all outstanding issues, including but not limited to any issues relating to the use of electronic means for filing by unrepresented litigants, recommendations of the advisory committee to the chief administrator, along with recommendations for legislation in relation to the use of electronic means for the commencement of criminal actions and the filing and service of papers in pending criminal actions and proceedings.

(III) the evaluation specified in subparagraph (ii) of this paragraph, including the entities or individuals consulted, input received, all issues encountered or otherwise brought to the attention of the chief administrator or his or her agents, all solutions devised to address the issues, presentment of all outstanding issues, including but not limited to any issues relating to the use of electronic means for filing by unrepresented litigants, any recommendations of the advisory committee to the chief administrator, along with recommendations for legislation in relation to the use of electronic means for the commencement of actions and proceedings and the service and filing of papers therein in

the supreme court.

(IV) the evaluation specified in subparagraph (iii) of this paragraph, including the entities or individuals consulted, input received, all issues encountered or otherwise brought to the attention of the chief administrator or his or her agents, all solutions devised to address the issues, presentment of all outstanding issues, including but not limited to any issues relating to the use of electronic means for filing by unrepresented litigants, any recommendations of the advisory committee to the chief administrator, along with recommendations for legislation in relation to the use of electronic means for the commencement of actions and proceedings and the service and filing of papers therein in the surrogate's court.

(V) the evaluation specified in subparagraph (iv) of this paragraph, including the entities or individuals consulted, input received, all issues encountered or otherwise brought to the attention of the chief administrator or his or her agents, all solutions devised to address the issues, presentment of all outstanding issues, including but not limited to any issues relating to the use of electronic means for filing by unrepresented litigants, any recommendations of the advisory committee to the chief administrator, along with recommendations for legislation in relation to the use of electronic means for the commencement of actions and proceedings and the service and filing of papers therein in the civil court of the city of New York.

In the report, the chief administrator also shall address issues that bear upon the need for the courts, district attorneys and others to retain papers filed with courts or served upon parties in criminal proceedings where electronic means can or have been used and make recommendations for such changes in laws requiring retention of such papers as the chief administrator may deem appropriate.

(ii) The chief administrator shall maintain an advisory committee to consult with him or her in the implementation of laws affecting the program in the use of electronic means for the commencement of civil actions and proceedings and the service and filing of papers therein in the supreme court. This committee shall consist of such number of members as the chief administrator shall designate, among which there shall be representatives of the organized bar including but not limited

to city, state, county and women's bar associations; institutional legal service providers; not-for-profit legal service providers; attorneys assigned pursuant to article eighteen-B of the county law; unaffiliated attorneys who regularly appear in proceedings that are or have been affected by the programs that have been implemented or who may be affected by any recommendations for further legislation concerning the use of electronic means for the commencement of actions and proceedings and the service and filing of papers therein in the supreme court; and any other persons in whose county a program has been implemented in any of the courts therein as deemed to be appropriate by the chief administrator. No fewer than half of the members of this advisory committee shall be upon the recommendation of the New York state association of county clerks. Such committee shall help the chief administrator to evaluate the impact of such electronic filing program on litigants including unrepresented parties, practitioners and the courts and to obtain input from those who are or would be affected by such electronic filing program, including unrepresented parties, city, state, county and women's bar associations; institutional legal service providers; not-for-profit legal service providers; attorneys assigned pursuant to article eighteen-B of the county law; unaffiliated attorneys who regularly appear in proceedings that are or have been affected by the programs that have been implemented or who may be affected by any recommendations for further legislation concerning the use of the electronic filing program in the supreme court; and any other persons in whose county a program has been implemented in any of the courts therein as deemed to be appropriate by the chief administrator.

(iii) The chief administrator shall maintain an advisory committee to consult with him or her in the implementation of laws affecting the program in the use of electronic means for the commencement of actions and proceedings and the service and filing of papers therein in the surrogate's court. This committee shall consist of such number of members as the chief administrator shall designate among which there shall be chief clerks of surrogate's courts; representatives of the organized bar including but not limited to city, state, county and women's bar associations; institutional providers of legal services; not-for-profit legal service providers; attorneys assigned pursuant to article eighteen-B of the county law; unaffiliated attorneys who

regularly appear in proceedings that are or have been affected by the programs that have been implemented or who may be affected by any recommendations for further legislation concerning the use of electronic means for the commencement of actions and proceedings and the service and filing of papers therein in the surrogate's court; and any other persons in whose county a program has been implemented in any of the courts therein as deemed to be appropriate by the chief administrator. Such committee shall help the chief administrator to evaluate the impact of such electronic filing program on litigants including unrepresented parties, practitioners and the courts and to obtain input from those who are or would be affected by such electronic filing program, including unrepresented parties, city, state, county and women's bar associations; institutional legal service providers; not-for-profit legal service providers; attorneys assigned pursuant to article eighteen-B of the county law; unaffiliated attorneys who regularly appear in proceedings that are or have been affected by the programs that have been implemented or who may be affected by any recommendations for further legislation concerning the use of the electronic filing program in the surrogate's court; and any other persons in whose county a program has been implemented in any of the courts therein as deemed to be appropriate by the chief administrator.

(iv) The chief administrator shall maintain an advisory committee to consult with him or her in the implementation of laws affecting the program in the use of electronic means for the commencement of civil actions and proceedings and the service and filing of papers therein in the civil court of the city of New York, the district courts, the city courts outside New York city, and the town and village justice courts. This committee shall consist of such number of members as the chief administrator shall designate, among which there shall be the chief clerk of the civil court of the city of New York; one or more chief clerks of the district courts, the city courts outside New York city, and the town and village justice courts; the president of the state magistrates' association or his or her designee; representatives of the organized bar including but not limited to city, state, county and women's bar associations; and unaffiliated attorneys who regularly appear in proceedings that are or have been affected by the programs that have been implemented or who may be affected by any recommendations

for further legislation concerning the use of electronic means for the commencement of actions and proceedings and the service and filing of papers therein in any of the courts specified in this subparagraph; and any other persons as deemed appropriate by the chief administrator. Such committee shall help the chief administrator to evaluate the impact of such electronic filing program on litigants including unrepresented parties, practitioners and the courts and to obtain input from those who are or would be affected by such electronic filing program, including unrepresented parties, city, state, county and women's bar associations; institutional legal service providers; not-for-profit legal service providers; attorneys assigned pursuant to article eighteen-B of the county law; unaffiliated attorneys who regularly appear in proceedings that are or have been affected by the programs that have been implemented or who may be affected by any recommendations for further legislation concerning the use of the electronic filing program in any of the courts specified in this subparagraph; and any other persons in whose county a program has been implemented in any of the courts therein as deemed to be appropriate by the chief administrator.

(v) The chief administrator shall maintain an advisory committee to consult with him or her in the implementation of laws affecting the program in the use of electronic means for the commencement of criminal actions and the filing and service of papers in pending criminal actions and proceedings. The committee shall consist of such number of members as will enable the chief administrator to obtain input from those who are or would be affected by such electronic filing program, and such members shall include county clerks; chief clerks of supreme, county and other courts; district attorneys; representatives of the office of indigent legal services; not-for-profit legal service providers; public defenders; statewide and local specialty bar associations whose membership devotes a significant portion of their practice to assigned criminal cases pursuant to subparagraph (i) of paragraph (a) of subdivision three of section seven hundred twenty-two of the county law; institutional providers of criminal defense services and other members of the criminal defense bar; representatives of victims' rights organizations; unaffiliated attorneys who regularly appear in proceedings that are or would be affected by such electronic filing program and other interested members of the criminal justice community.

Such committee shall help the chief administrator to evaluate the impact of such electronic filing program on litigants including unrepresented parties, practitioners and the courts and to obtain input from those who are or would be affected by such electronic filing program, including unrepresented parties, district attorneys, not-for-profit legal service providers, public defenders, statewide and local specialty bar associations whose membership devotes a significant portion of their practice to assigned criminal cases pursuant to subparagraph (i) of paragraph (a) of subdivision three of section seven hundred twenty-two of the county law; institutional providers of criminal defense services and other members of the criminal defense bar, representatives of victims' rights organizations, unaffiliated attorneys who regularly appear in proceedings that are or would be affected by such electronic filing program and other interested members of the criminal justice community.

(vi) The chief administrator shall maintain an advisory committee to consult with him or her in the implementation of laws affecting the program in the use of electronic means for the origination of proceedings in family court and the filing and service of papers in such pending proceedings. The committee shall consist of such number of members as will enable the chief administrator to obtain input from those who are or would be affected by such electronic filing program, and such members shall include chief clerks of family courts; representatives of authorized presentment and child protective agencies; other appropriate county and city government officials; institutional providers of legal services for children and/or parents; not-for-profit legal service providers; public defenders; representatives of the office of indigent legal services; attorneys assigned pursuant to article eighteen-B of the county law; and other members of the family court bar; representatives of victims' rights organizations; unaffiliated attorneys who regularly appear in proceedings that are or would be affected by such electronic filing program; and other interested members of the family practice community. Such committee shall help the chief administrator to evaluate the impact of such electronic filing program on litigants including unrepresented parties, practitioners and the courts and to obtain input from those who are or would be affected by such electronic filing program, including unrepresented parties,

representatives of authorized presentment and child protective agencies, other appropriate county and city government officials, institutional providers of legal services for children and/or parents, not-for-profit legal service providers, public defenders, attorneys assigned pursuant to article eighteen-B of the county law and other members of the family court bar, representatives of victims' rights organizations, unaffiliated attorneys who regularly appear in proceedings that are or would be affected by such electronic filing program, and other interested members of the criminal justice community.

(u-1) Compile and publish data on misdemeanor offenses in all courts, disaggregated by county, including the following information:

(i) the aggregate number of misdemeanors charged, by indictment or the filing of a misdemeanor complaint or information;

(ii) the offense charged;

(iii) the race, ethnicity, age, and sex of the individual charged;

(iv) whether the individual was issued a summons or appearance ticket, was subject to custodial arrest, and/or was held prior to arraignment as a result of the alleged misdemeanor;

(v) the precinct or location where the alleged misdemeanor occurred;

(vi) the disposition, including, as the case may be, dismissal, acquittal, adjournment in contemplation of dismissal, plea, conviction, or other disposition;

(vii) in the case of dismissal, the reasons therefor; and

(viii) the sentence imposed, if any, including fines, fees, and surcharges.

(v) Have the power to establish pilot programs for the filing of petitions for temporary orders of protection by electronic means and for the issuance of such orders by audio-visual means pursuant to subdivision (b) of section one hundred fifty-three-c of the family court act. The chief administrator shall maintain an up-to-date and publicly-available listing of the sites, if any, at which such applications for ex parte temporary orders of protection may be filed, and at which electronic appearances in support of such applications may be sought, in accordance with such section one hundred fifty-three-c of the family court act. In developing such pilot program, the chief administrator shall strive for a program that is regionally diverse, and takes into consideration, among other things, the availability of public

transportation, population density and the availability of facilities for conducting such program.

(v-1) Compile and publish data on violations, to the greatest extent practicable, in all courts, disaggregated by county, including the following information:

(i) the aggregate number of violations charged by the filing of an information;

(ii) the violation charged;

(iii) the race, ethnicity, age, and sex of the individual charged;

(iv) whether the individual was issued a summons or appearance ticket, was subject to custodial arrest, and/or was held prior to arraignment as a result of the alleged violation;

(v) the precinct or location where the alleged violation occurred;

(vi) the disposition, including, as the case may be, dismissal, acquittal, conviction, or other disposition;

(vii) in the case of dismissal, the reasons therefor; and

(viii) the sentence imposed, if any, including fines, fees, and surcharges.

* (w) To the extent practicable, establish such number of human trafficking courts as may be necessary to fulfill the purposes of subdivision five of section 170.15 and subdivision four of section 180.20 of the criminal procedure law.

* NB There are 2 par (w)'s

* (w) Adopt rules and regulations standardizing use of court-appointed special advocate (CASA) programs in this state and governing the structure, administration and operation of such programs.

* NB There are 2 par (w)'s

(w-1) The chief administrator shall include the information required by paragraphs (u-1) and (v-1) of this subdivision in the annual report submitted to the legislature and the governor pursuant to paragraph (j) of subdivision one of this section. The chief administrator shall also make the information required by paragraphs (u-1) and (v-1) of this subdivision available to the public by posting it on the website of the office of court administration and shall update such information on a monthly basis. The 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.

(x) Take such actions and adopt such measures as may be necessary to ensure that no written or electronic report of a criminal history record search conducted by the office of court administration, other than a search conducted solely for the internal recordkeeping or case management purposes of the judiciary or for a bona fide research purpose, contains information relating to an undisposed case. For purposes of this paragraph, "undisposed case" shall mean a criminal action or proceeding, or an arrest incident, appearing in the criminal history records of the office of court administration for which no conviction, imposition of sentence, order of removal 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 such records for a period of at least five years preceding the issuance of such report. Nothing contained in this paragraph shall be deemed to permit or require the release, disclosure or other dissemination by the office of court administration of criminal history record information that has been sealed in accordance with law.

(x-1) Nothing in paragraphs (u-1) and (v-1) of this subdivision shall be construed as granting authority to the chief administrator, a criminal justice or law enforcement agency, a governmental entity, or any agent or representative of the foregoing, to use, disseminate, or publish any individual's name, date of birth, NYSID, social security number, docket number, or other unique identifier in violation of the criminal procedure law, the general business law, or any other law.

(y) Take such actions and adopt such measures as may be necessary to ensure that no written or electronic report of a criminal history record search conducted by the office of court administration, other than a search conducted solely for the internal recordkeeping or case management purposes of the judiciary or for a bona fide research purpose, contains information about any action or proceeding terminated prior to November first, nineteen ninety-one in favor of the accused, as defined by section 160.50 of the criminal procedure law, or sealed in the manner provided by section 160.55 of the criminal procedure law.

(y-1) Nothing in paragraphs (u-1) and (v-1) of this subdivision shall be construed as granting authority to the chief administrator, a criminal justice or law enforcement agency, a governmental entity, a party, a judge, a prosecutor, or any agent or representative of the

foregoing to introduce, use, disseminate, publish or consider any records in any judicial or administrative proceeding expunged or sealed under applicable provisions of the criminal procedure law, the family court act, or any other law.

(z) take such actions and adopt such measures as may be necessary to ensure that a certificate of disposition or a written or electronic report of a criminal history search conducted for the public by the office of court administration contains only records of convictions, if any, and information about pending cases. This limitation shall not apply to searches conducted for the internal recordkeeping or case management purposes of the judiciary, or produced to the court, the people, and defense counsel in a criminal proceeding, or for a bona fide research purpose, or, where appropriate, to the defendant or defendant's designated agent.

(z-1) In executing the requirements of paragraphs (u-1) and (v-1) of this section, the chief administrator may adopt rules consistent with the requirements of paragraphs (x-1) and (y-1) of this subdivision to secure the information specified herein from the office of the state comptroller in such form and manner as the chief administrator shall prescribe. Further, to facilitate this provision, the chief administrator shall adopt rules to facilitate record sharing, retention and other necessary communication among the criminal courts and law enforcement agencies, subject to applicable provisions of the criminal procedure law, the family court act, and any other law pertaining to the confidentiality, expungement and sealing of records.

* (aa) (i) In order to maintain access to the court and open judicial proceedings for all persons in their individual capacity and to prevent interference with the needs of judicial administration, consistent with section twenty-eight of the civil rights law and section four-a of this chapter, shall promulgate rules to ensure the following:

(A) any representative of a law enforcement agency who, while acting in an official capacity, enters a New York state courthouse intending to observe an individual or take an individual into custody shall identify himself or herself to uniformed court personnel and state his or her specific law enforcement purpose and the proposed enforcement action to be taken; any such representative who has a warrant or order concerning such intended arrest shall provide a copy of such warrant or order to

such court personnel;

(B) any such warrant or order concerning such intended enforcement action shall be promptly reviewed by a judge or court attorney;

(C) information about any such proposed enforcement action shall be transmitted to and reviewed by appropriate court system personnel, including the judge presiding over any case involving the subject of that enforcement action;

(D) except in extraordinary circumstances, no arrest may be made by a representative of a law enforcement agency in a courtroom absent leave of the court;

(E) no civil arrest shall be executed inside a New York state courthouse except pursuant to a judicial warrant or judicial order authorizing the arrest;

(F) an unusual occurrence report shall be filed by court system personnel for every enforcement action taken inside the courthouse, including the observation of court proceedings by a representative of a law enforcement agency acting in such person's official capacity; and

(G) copies of all judicial warrants and judicial orders authorizing an arrest and provided to court personnel pursuant to this paragraph and the rules promulgated thereunder shall be maintained by the chief administrator in a central record repository, appropriately indexed or filed alphabetically by name.

(ii) The chief administrator shall publish on the unified court system website and provide to the governor, the speaker of the assembly and the temporary president of the senate an annual report compiling statistics, aggregated by county, setting forth the date each such judicial warrant or judicial order was signed, the judge and court which issued such judicial warrant or judicial order and the location of such court as shown by such document, the date such judicial warrant or judicial order was presented to counsel for the unified court system, a description of the type of judicial warrant or judicial order and, to the extent known to court personnel, whether or not an arrest occurred with respect to such warrant and the date and specific location of such arrest.

* NB There are 2 par (aa)'s

* (aa) Not later than January first, two thousand twenty-two, make available Spanish translations of the additional notices in consumer credit transaction actions and proceedings required by section 306-d and

subdivision (j) of rule 3212 of the civil practice law and rules, and make available form affidavits required for a motion for default judgment in a consumer credit transaction action or proceeding required by subdivision (f) of section 3215 of the civil practice law and rules.

* NB There are 2 par (aa)'s

(bb) To the extent practicable, establish such number of veterans treatment courts as may be necessary to fulfill the purposes of subdivision five of section 170.15, subdivision four of section 180.20, section 230.11 and section 230.21 of the criminal procedure law.

(cc) Make available form affidavits required for a motion for default judgment in an action arising from medical debt as required by subdivision (f) of section thirty-two hundred fifteen of the civil practice law and rules.

(dd) Promulgate a standardized form and process for individuals to notify the office of court administration of convictions subject to sealing under section 160.57 of the criminal procedure law, but for which the office has not sealed or taken the requisite action for related records.

(ee) Promulgate a standardized form and process for individuals authorized to request sealed records pursuant to subparagraph (xiii) of paragraph (d) of subdivision one of section 160.57 of the criminal procedure law.

* (ff) Adopt rules necessary and appropriate to effectuate part six of article three of the estates, powers and trusts law regarding electronic wills.

* NB Effective December 12, 2027

§ 213. Functions of the administrative board of the courts. 1. The administrative board shall consult with the chief judge with respect to the establishment of administrative standards and policies for general application throughout the state, in accordance with section twenty-eight of article six of the constitution.

2. The administrative board shall have the powers of advice and consent with respect to: (a) the appointment of a chief administrator of the courts, as provided in section twenty-eight of article six of the

constitution; and (b) pursuant to the provisions of section thirty of article six of the constitution, the adoption of rules regulating practice and procedure in the courts by the chief administrator as authorized by law.

3. The administrative board shall have such other consultative functions as may be required by the chief judge.

§ 214. Judicial conference of the state of New York. 1. The judicial conference of the state of New York is hereby continued. It shall consist of the chief judge of the court of appeals who shall serve as chairman, the presiding justice of the appellate division of each judicial department, one trial justice of the supreme court from each of the state's four judicial departments, one judge each of the court of claims, the county court, the surrogate's court, the family court, the civil court of the city of New York, the criminal court of the city of New York, one judge of a city court outside the city of New York, one judge of a district court, one justice of a town or village court, and from each judicial department, one member of the bar of this state.

2. The chief judge of the court of appeals and the presiding justices of the appellate divisions shall be members of the judicial conference during their respective terms of office. The other members shall be chosen by the judges of the courts on which they sit, except that the administrative board of the courts shall appoint the members of the bar, and the justice from a town or village court.

3. The term of members of the judicial conference shall be for two years, except as otherwise provided in subdivision two of this section. Members shall be eligible for reappointment to the conference. A vacancy occurring otherwise than by expiration of term shall be filled in the same manner as an original appointment for the unexpired term. A member shall not receive any compensation for serving on the judicial conference but shall be allowed his actual and necessary expenses incurred in the performance of his duties as a member.

4. The chairmen and the ranking minority members of each of the committees on judiciary and on codes of the senate and assembly shall be ex officio members of the judicial conference.

§ 214-a. Functions of the judicial conference. The judicial conference shall:

1. study and recommend changes in laws, statutes and rules relating to civil, criminal and family law practice which, in its opinion, will promote simplicity in procedure, the just determination of cases and controversies, and the elimination of unjustifiable expense and delay in litigation in the unified court system; and

2. advise the chief administrator with respect to the establishment of educational programs, seminars and institutes for the judicial and nonjudicial personnel of the unified court system; and

3. consult with the chief judge and the chief administrator, as they may require, with respect to the administration and operation of the unified court system.

§ 215. Special provisions applicable to appropriations made to the judiciary in the legislature and judiciary budget. 1. The amount appropriated for any program within a major purpose within the schedule of appropriations made to the judiciary in any fiscal year in the legislature and judiciary budget for such year may be increased or decreased by interchange with any other program within that major purpose with the approval of the chief administrator of the courts who shall file such approval with the department of audit and control and copies thereof with the senate finance committee and the assembly ways and means committee except that the total amount appropriated for any major purpose may not be increased or decreased by more than the aggregate of five percent of the first five million dollars, four percent of the second five million dollars and three percent of amounts in excess of ten million dollars of an appropriation for the major

purpose. The allocation of maintenance undistributed appropriations made for later distribution to major purposes contained within a schedule shall not be deemed to be part of such total increase or decrease.

2. Notwithstanding any other provision of law, monies appropriated to the judiciary in any fiscal year in the legislature and judiciary budget for such year may be used in part to reimburse state-paid judges and justices, except those of city courts outside the city of New York, for transportation and travel expenses in accordance with section two hundred twenty-two of this chapter; provided, however, such reimbursement may be up to but not in excess of such maximum amount per day as the chief administrator shall prescribe by rule.

§ 216. Additional duties of the chief administrator; certain cases. 1. The chief administrator of the courts shall designate the appropriate persons, including but not limited to district attorneys, criminal and family court clerks, corporation counsels, county attorneys, victims assistance unit staff, probation officers, warrant officers, sheriffs, police officers or any other law enforcement officials, to inform any petitioner bringing a proceeding under article eight of the family court act or a complainant in an action which would be subject to the provisions of section 530.11 of the criminal procedure law, before such proceeding or action is commenced, of the procedures available for the institution of family offense proceedings, including but not limited to the following:

(a) That there is concurrent jurisdiction with respect to family offenses in both family court and the criminal courts;

(b) That a family court proceeding is a civil proceeding and is for the purpose of attempting to keep the family unit intact. Referrals for counseling, or counseling services, are available through probation for this purpose;

(c) That a proceeding in the criminal courts is for the purpose of prosecution of the offender and can result in a criminal conviction of the offender;

(d) That a proceeding or action subject to the provisions of this section is initiated at the time of the filing of an accusatory

instrument or filing a family court petition, not at the time of arrest, or request for arrest, if any;

(f) That an arrest may precede the commencement of a family court or a criminal court proceeding, but an arrest is not a requirement for commencing either proceeding.

2. No official or other person designated pursuant to subdivision one of this section shall discourage or prevent any person who wishes to file a petition or sign or initiate a proceeding in a criminal court from having access to any court for that purpose.

3. The chief administrator shall prescribe an appropriate form to implement subdivision two of this section.

4. The chief administrator of the courts shall collect data in relation to the number of cases in which the basic child support obligation, as defined in section two hundred forty of the domestic relations law and section four hundred thirteen of the family court act, was ordered; the number of cases in which the order deviated from such basic child support obligation and the reasons therefor; the incomes of the parties; the number of children, and the amount of child support awarded pursuant to the child support standards act; and amounts of alimony or maintenance, or allocations of property included in orders or judgments that include a provision for child support pursuant to the child support standards act, and shall report such data to the temporary president of the senate, speaker of the assembly, chairpersons of the judiciary and children and families committees, and the governor on or before the first day of April of each year. In collecting such data, the chief administrator shall not disclose the identities of the parties or disclose information that would tend to reveal the identities of the parties.

5. The chief administrator of the courts, in conjunction with the division of criminal justice services, shall collect data and report every six months 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 a hate crime was charged; 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; 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. Further, the chief administrator of the courts shall collect data and report every month regarding pretrial commitments to local correctional facilities. Such data shall include but not be limited to age, gender, racial and ethnic background of the principal; both beginning and end dates of pretrial commitment to the custody of the sheriff; total days of pretrial commitment to the custody of the sheriff; the type of commitment ordered by the court; the top charge at arrest and arraignment; and whether the principal had been previously released from custody in the case. Such 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 twelve months after this subdivision shall have become a law, and shall include data from the first six months following the enactment of this section. Reports for subsequent periods shall be published every six months thereafter; provided, however, that the pretrial detention admissions and discharges report will be published every month.

6. The chief administrator of the courts, in conjunction with the division of criminal justice services, shall collect data and report annually regarding the impact of article two hundred forty-five of the criminal procedure law. Such data and report shall contain information regarding the implementation of article two hundred forty-five of the

criminal procedure law, including procedures used to implement the article, resources needed for implementation, monies received pursuant to section ninety-nine-hh of the state finance law, including the amount of money utilized for the services and expenses eligible pursuant to subdivision three of such section, information regarding cases where discovery obligations are not met, and information regarding case outcomes. 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 the effective date of this section, and shall include data from the first twelve months following the enactment of this section. Reports for subsequent years shall be published annually thereafter.

§ 217. Judicial associations; functions. There shall be a judicial association for each of the courts of the unified court system. The members of each association shall be the justices of the supreme court, the judges of the court of claims, the county court, the surrogate's court, the family court, the district court, the civil court of the city of New York, the criminal court of the city of New York, the city courts outside the city of New York, or the justices of the town and village courts, as the case may be. Each association shall hold at least one annual meeting, at which its members shall elect officers, confer on matters of mutual interest and conduct such other business relating to the performance of their judicial functions as they deem appropriate. Each judicial association shall designate one of its members to consult with the chief judge and the chief administrator with respect to the impact of administrative policies on the functioning of the courts and related agencies of the unified court system.

*** § 218. Audio-visual coverage of judicial proceedings.** 1. Authorization. Notwithstanding the provisions of section fifty-two of the civil rights law and subject to the provisions of this section, the chief judge of the state or his designee may authorize an experimental program in which presiding trial judges, in their discretion, may permit audio-visual coverage of civil and criminal court proceedings, including

trials.

2. Definitions. For purposes of this section:

(a) "Administrative judge" shall mean the administrative judge of each judicial district; the administrative judge of Nassau county or of Suffolk county; the administrative judge of the civil court of the city of New York or of the criminal court of the city of New York; or the presiding judge of the court of claims.

(b) "Audio-visual coverage" shall mean the electronic broadcasting or other transmission to the public of radio or television signals from the courtroom, the recording of sound or light in the courtroom for later transmission or reproduction, or the taking of still or motion pictures in the courtroom by the news media.

(c) "News media" shall mean any news reporting or news gathering agency and any employee or agent associated with such agency, including television, radio, radio and television networks, news services, newspapers, magazines, trade papers, in-house publications, professional journals or any other news reporting or news gathering agency, the function of which is to inform the public, or some segment thereof.

(d) "Presiding trial judge" shall mean the justice or judge presiding over proceedings at which audio-visual coverage is authorized pursuant to this section.

(e) "Covert or undercover capacity" shall mean law enforcement activity involving criminal investigation by peace or police officers who usually and customarily wear no uniform, badge, or other official identification in public view.

(f) "Arraignment" shall have the same meaning as such term is defined in subdivision nine of section 1.20 of the criminal procedure law.

(g) "Suppression hearing" shall mean a hearing on a motion made pursuant to the provisions of section 710.20 of the criminal procedure law; a hearing on a motion to determine the admissibility of any prior criminal, vicious or immoral acts of a defendant and any other hearing held to determine the admissibility of evidence.

(h) "Nonparty witness" shall mean any witness in a criminal trial proceeding who is not a party to such proceeding; except an expert or professional witness, a peace or police officer who acted in the course of his or her duties and was not acting in a covert or undercover

capacity in connection with the instant court proceeding, or any government official acting in an official capacity, shall not be deemed to be a "nonparty witness".

(i) "Visually obscured" shall mean that the face of a participant in a criminal trial proceeding shall either not be shown or shall be rendered visually unrecognizable to the viewer of such proceeding by means of special editing by the news media.

3. Requests for coverage of proceedings; administrative review.

(a) Prior to the commencement of the proceedings, any news media interested in providing audio-visual coverage of court proceedings shall file a request with the presiding trial judge, if assigned, or if no assignment has been made, to the judge responsible for making such assignment. Requests for audio-visual coverage shall be made in writing and not less than seven days before the commencement of the judicial proceeding, and shall refer to the individual proceeding with sufficient identification to assist the presiding trial judge in considering the request. Where circumstances are such that an applicant cannot reasonably apply seven or more days before the commencement of the proceeding, the presiding trial judge may shorten the time period for requests.

(b) Permission for news media coverage shall be at the discretion of the presiding trial judge. An order granting or denying a request for audio-visual coverage of a proceeding shall be in writing and shall be included in the record of such proceeding. Such order shall contain any restrictions imposed by the judge on the audio-visual coverage and shall contain a statement advising the parties that any violation of the order is punishable by contempt pursuant to article nineteen of this chapter. Such order for initial access shall be subject only to review by the appropriate administrative judge; there shall be no further judicial review of such order or determination during the pendency of such proceeding before such trial judge. No order allowing audio-visual coverage of a proceeding shall be sealed.

(c) Subject to the provisions of subdivision seven of this section, upon a request for audio-visual coverage of court proceedings, the presiding trial judge shall, at a minimum, take into account the following factors: (i) the type of case involved; (ii) whether such

coverage would cause harm to any participant in the case or otherwise interfere with the fair administration of justice, the advancement of a fair trial or the rights of the parties; (iii) whether any order directing the exclusion of witnesses from the courtroom prior to their testimony could be rendered substantially ineffective by allowing audio-visual coverage that could be viewed by such witnesses to the detriment of any party; (iv) whether such coverage would interfere with any law enforcement activity; or (v) involve lewd or scandalous matters.

(d) A request for audio-visual coverage made after the commencement of a trial proceeding in which a jury is sitting shall not be granted unless, (i) counsel for all parties to the proceeding consent to such coverage, or (ii) the request is for coverage of the verdict and/or sentencing in such proceeding.

4. Supervision of audio-visual coverage; mandatory pretrial conference; judicial discretion.

(a) Audio-visual coverage of a court proceeding shall be subject to the supervision of the presiding trial judge. In supervising audio-visual coverage of court proceedings, in particular any which involve lewd or scandalous matters, a presiding trial judge shall, where necessary for the protection of any participant or to preserve the welfare of a minor, prohibit all or any part of the audio-visual coverage of such participant, minor or exhibit.

(b) A pretrial conference shall be held in each case in which audio-visual coverage of a proceeding has been approved. At such conference the presiding trial judge shall review, with counsel and the news media who will participate in the audio-visual coverage, the restrictions to be imposed. Counsel shall convey to the court any concerns of prospective witnesses with respect to audio-visual coverage.

(c) There shall be no limitation on the exercise of discretion under this subdivision except as provided by law. The presiding trial judge may at any time modify or reverse any prior order or determination.

5. Consent. (a) Audio-visual coverage of judicial proceedings, except for arraignments and suppression hearings, shall not be limited by the objection of counsel, parties, or jurors, except for a finding by the presiding trial judge of good or legal cause.

(b) Audio-visual coverage of arraignments and suppression hearings shall be permitted only with the consent of all parties to the proceeding; provided, however, where a party is not yet represented by counsel consent may not be given unless the party has been advised of his or her right to the aid of counsel pursuant to subdivision four of section 170.10 or 180.10 of the criminal procedure law and the party has affirmatively elected to proceed without counsel at such proceeding.

(c) Counsel to each party in a criminal trial proceeding shall advise each nonparty witness that he or she has the right to request that his or her image be visually obscured during said witness' testimony, and upon such request the presiding trial judge shall order the news media to visually obscure the visual image of the witness in any and all audio-visual coverage of the judicial proceeding.

6. Restrictions relating to equipment and personnel; sound and light criteria. Where audio-visual coverage of court proceedings is authorized pursuant to this section, the following restrictions shall be observed:

(a) Equipment and personnel:

(i) No more than two electronic or motion picture cameras and two camera operators shall be permitted in any proceeding.

(ii) No more than one photographer to operate two still cameras with not more than two lenses for each camera shall be permitted in any proceeding.

(iii) No more than one audio system for broadcast purposes shall be permitted in any proceeding. Audio pickup for all media purposes shall be effectuated through existing audio systems in the court facility. If no technically suitable audio system is available, microphones and related wiring essential for media purposes shall be supplied by those persons providing audio-visual coverage. Any microphones and sound wiring shall be unobtrusive and located in places designated by the presiding trial judge.

(iv) Notwithstanding the provisions of subparagraphs (i), (ii) and (iii) of this paragraph, the presiding trial judge may modify his original order to increase or decrease the amount of equipment that will be permitted into a courtroom on a finding of special circumstances so long as it will not impair the dignity of the court or the judicial process.

(v) Notwithstanding the provisions of subparagraphs (i), (ii) and (iii) of this paragraph, the equipment authorized therein shall not be admitted into a court proceeding unless all persons interested in providing audio-visual coverage of such proceedings shall have entered into pooling arrangements for their respective groups. Furthermore, a pool operator for the electronic and motion picture media and a pool operator for the still photography media shall be selected, and procedures for cost sharing and dissemination of audio-visual material established. The court shall not be called upon to mediate or resolve any dispute as to such arrangements. In making pooling arrangements, consideration shall be given to educational users' needs for full coverage of entire proceedings.

(b) Sound and light criteria:

(i) Only electronic and motion picture cameras, audio equipment and still camera equipment which do not produce distracting sound or light shall be employed to cover judicial proceedings. The chief administrator of the courts shall promulgate a list of acceptable equipment models.

(ii) No motorized drives shall be permitted, and no moving lights, flash attachments, or sudden lighting changes shall be permitted during judicial proceedings.

(iii) No light or signal visible or audible to trial participants shall be used on any equipment during audio-visual coverage to indicate whether it is operating.

(iv) It shall be the affirmative duty of any person desiring to use equipment other than that authorized by the chief administrator to demonstrate to the presiding trial judge, adequately in advance of any proceeding, that the equipment sought to be utilized meets acceptable sound and light criteria. A failure to obtain advance judicial approval for equipment shall preclude its use in any proceeding.

(v) With the concurrence of the presiding trial judge modifications and additions may be made to light sources existing in the facility, provided such modification or additions are installed and maintained at the expense of the news media who are providing audio-visual coverage and provided they are not distracting or otherwise offensive.

(c) Location of equipment and personnel. Cameras, equipment and personnel shall be positioned in locations designated by the presiding trial judge.

(i) All audio-visual coverage operators shall assume their assigned, fixed position within the designated area and once established in such position, shall act in a manner so as not to call attention to their activities.

(ii) The areas so designated shall provide reasonable access to coverage with the least possible interference with court proceedings. Equipment that is not necessary for audio-visual coverage from inside the courtroom shall be located in an area outside the courtroom.

(d) Movement of equipment during proceedings. Equipment shall not be placed in, moved about or removed from the courtroom, and related personnel shall not move about the courtroom, except prior to commencement or after adjournment of proceedings each day, or during a recess. Camera film and lenses shall be changed only during a recess in proceedings.

7. Restrictions on audio-visual coverage. Notwithstanding the initial approval of a request for audio-visual coverage of any court proceeding, the presiding trial judge shall have discretion throughout the proceeding to revoke such approval or limit such coverage, and may where appropriate exercise such discretion to limit, restrict or prohibit audio or video broadcast or photography of any part of the proceeding in the courtroom, or of the name or features of any participant therein. In any case, audio-visual coverage shall be limited as follows:

(a) no audio pickup or audio broadcast of conferences which occur in a court facility between attorneys and their clients, between co-counsel of a client, or between counsel and the presiding trial judge, shall be permitted without the prior express consent of all participants in the conference;

(b) no conference in chambers shall be subject to audio-visual coverage;

(c) no audio-visual coverage of the selection of the prospective jury during voir dire shall be permitted;

(d) no audio-visual coverage of the jury, or of any juror or alternate juror, while in the jury box, in the courtroom, in the jury deliberation room during recess, or while going to or from the deliberation room at any time shall be permitted; provided, however, that, upon consent of the foreperson of a jury, the presiding trial judge may, in his or her

discretion, permit audio coverage of such foreperson delivering a verdict;

(e) no audio-visual coverage shall be permitted of a witness, who as a peace or police officer acted in a covert or undercover capacity in connection with the instant court proceeding, without the prior written consent of such witness;

(f) no audio-visual coverage shall be permitted of a witness, who as a peace or police officer is currently engaged in a covert or undercover capacity, without the prior written consent of such witness;

(g) no audio-visual coverage shall be permitted of the victim in a prosecution for rape, criminal sexual act, sexual abuse or other sex offense under article one hundred thirty or section 255.25 of the penal law; notwithstanding the initial approval of a request for audio-visual coverage of such a proceeding, the presiding trial judge shall have discretion throughout the proceeding to limit any coverage which would identify the victim, except that said victim can request of the presiding trial judge that audio-visual coverage be permitted of his or her testimony, or in the alternative the victim can request that coverage of his or her testimony be permitted but that his or her image shall be visually obscured by the news media, and the presiding trial judge in his or her discretion shall grant the request of the victim for the coverage specified;

(h) no audio-visual coverage of any arraignment or suppression hearing shall be permitted without the prior consent of all parties to the proceeding; provided, however, where a party is not yet represented by counsel consent may not be given unless the party has been advised of his or her right to the aid of counsel pursuant to subdivision four of section 170.10 or 180.10 of the criminal procedure law and the party has affirmatively elected to proceed without counsel at such proceeding;

(i) no judicial proceeding shall be scheduled, delayed, reenacted or continued at the request of, or for the convenience of the news media;

(j) no audio-visual coverage of any participant shall be permitted if the presiding trial judge finds that such coverage is liable to endanger the safety of any person;

(k) no audio-visual coverage of any judicial proceedings which are by law closed to the public, or which may be closed to the public and which have been closed by the presiding trial judge shall be permitted; and

(l) no audio-visual coverage shall be permitted which focuses on or features a family member of a victim or a party in the trial of a criminal case, except while such family member is testifying. Audio-visual coverage operators shall make all reasonable efforts to determine the identity of such persons, so that such coverage shall not occur.

8. Violations. Any violation of an order or determination issued under this section shall be punishable as a contempt pursuant to article nineteen of this chapter.

9. Review committee. (a) There shall be created a committee to review audio-visual coverage of court proceedings. The committee shall consist of twelve members, three to be appointed by the governor, three to be appointed by the chief judge of the courts, two to be appointed by the majority leader of the senate, two to be appointed by the speaker of the assembly, one to be appointed by the minority leader of the senate and one to be appointed by minority leader of the assembly. The chair of the committee shall be appointed by the chief judge of the courts. At least one member of the committee and no more than two members of the committee shall be a representative of the broadcast media, be employed by the broadcast media, or receive compensation from the broadcast media. At least two members of the committee shall be members of the bar, engaged in the practice of law, and regularly conduct trials and/or appellate arguments; and at least one member of the committee shall by professional training and expertise be qualified to evaluate and analyze research methodology relevant to analyzing the impact and effect of audio-visual coverage of judicial proceedings. No one who has served on an earlier committee established by law to review audio-visual coverage of judicial proceedings in New York state may be appointed to such committee. No member or employee of the executive, legislative, or judicial branches of the state government may be appointed to such committee.

(b) The members of the committee shall serve without compensation for their services as members of the committee, except that each of the nonpublic members of the committee may be allowed the necessary and actual travel, meals and lodging expenses which he or she shall incur in

the performance of his or her duties under this section. Any expenses incurred pursuant to this section shall be a charge against the office of court administration.

(c) The committee shall have the power, duty and responsibility to evaluate, analyze, and monitor the provisions of this section. The office of court administration and all participants in proceedings where audio-visual coverage was permitted, including judges, attorneys and jurors, shall cooperate with the committee in connection with the review of the impact of audio-visual coverage on such proceedings. The committee shall request participation and assistance from the New York state bar association and other bar associations. The committee shall issue a report to the legislature, the governor, and the chief judge evaluating the efficacy of the program and whether any public benefits accrue from the program, any abuses that occurred during the program, and the extent to which and in what way the conduct of participants in court proceedings changes when audio-visual coverage is present. The committee shall expressly and specifically analyze and evaluate the degree of compliance by trial judges and the media with the provisions of this section and the effect of audio-visual coverage on the conduct of trial judges both inside and outside the courtroom. Such report shall be submitted to the legislature, the governor and the chief judge by January thirty-first, nineteen hundred ninety-seven.

10. Rules and regulations. The chief administrator shall promulgate appropriate rules and regulations for the implementation of the provisions of this section after affording all interested persons, agencies and institutions an opportunity to review and comment thereon. Such rules and regulations shall include provisions to ensure that audio-visual coverage of trial proceedings shall not interfere with the decorum and dignity of courtrooms and court facilities.

11. Duration. The provisions of this section shall be of no force and effect after June thirtieth, nineteen hundred ninety-seven.

* NB Expired June 30, 1997

§ 219. Capital plans for court facilities. The chief executive officer

of each political subdivision of the state specified in paragraph (a) of subdivision two of section thirty-nine of this chapter shall, not later than twenty-four months after the effective date of this section, prepare and submit to the chief administrator an assessment of the suitability and sufficiency for the transaction of business of the facilities it furnishes the courts, together with a plan for the acquisition, design, construction, reconstruction, rehabilitation, improvement and financing of such facilities and such additional facilities as may be needed by the unified court system as reasonably determined by the chief administrator after consultation with the chief executive officer. In making such determinations, the chief administrator may establish priorities among the facilities' needs within each political subdivision if he or she determines that it is practicable and in the best interests of the unified court system to do so. Each such assessment and plan shall be in the form prescribed by the chief administrator and prepared in compliance with such standards and administrative policies as may be promulgated pursuant to section twenty-eight of article six of the constitution and shall be subject to the approval of the court facilities capital review board. Following such approval, they shall constitute the capital plan for the political subdivision by which they were prepared.

§ 219-a. The New York state judicial institute. 1. There shall be established a New York state judicial institute (hereinafter referred to in this section as the "institute"). This institute shall serve as a continuing statewide center for the provision of education, training and research facilities for all judges and justices of the unified court system.

2. The chief administrator of the courts may enter into an agreement jointly with the dormitory authority and with any other person, firm, association, corporation or agency pursuant to which facilities for such institute shall be constructed or otherwise provided and thereafter maintained. The maximum amount of bonds that may be issued for such institute is sixteen million one hundred five thousand dollars, exclusive of bonds issued to fund any reserve fund or funds, pay costs

of issuance and refund bonds. Expenses of the unified court system in relation to this agreement shall be paid out of funds appropriated from the court facilities incentive aid fund to the judiciary for that purpose.

3. Except as otherwise provided in the agreement specified in subdivision two of this section, the institute shall be deemed a court-related agency of the unified court system and shall be operated by nonjudicial employees thereof.

§ 219-b. The New York state court officer academy. 1. There shall be established a New York state court officer academy (hereinafter referred to in this section as the "academy"). This academy shall serve as a center for the provision of education and training to New York state court officers and other non-judicial employees of the New York state courts.

2. The chief administrator of the courts may enter into one or more agreements jointly with the dormitory authority and with any other person, firm, association, corporation or agency pursuant to which facilities for such academy shall be procured, constructed or otherwise provided and thereafter maintained; provided that: (a) a branch of such academy shall be established on the property or properties located in the county of Kings; and (b) a second branch of such academy shall be established in one or more facilities within the county of Saratoga. Expenses of the unified court system in relation to such an agreement or agreements shall be paid out of funds appropriated to the judiciary for that purpose.

3. Except as otherwise provided in an agreement specified in subdivision two of this section, the academy shall be deemed a court-related agency of the unified court system and shall be operated by nonjudicial employees thereof.

§ 219-c. Crimes involving sexual assault and the sexual abuse of

minors; judicial training. The office of court administration shall provide training for judges and justices with respect to crimes involving sexual assault, and the sexual abuse of minors.

§ 219-d. Rules reviving certain actions; sexual offenses against children. The chief administrator of the courts shall promulgate rules for the timely adjudication of revived actions brought pursuant to section two hundred fourteen-g of the civil practice law and rules.

§ 219-e. Rules reviving certain actions; sexual offenses. The chief administrator of the courts shall promulgate rules for the timely adjudication of revived actions brought pursuant to section two hundred fourteen-j of the civil practice law and rules.

ARTICLE 7-B

COMPENSATION OF JUDGES AND JUSTICES OF THE UNIFIED COURT SYSTEM

Section 220. Compensation of judges and justices to be a state charge.
221. Salary of judges of the court of appeals.
221-a. Salary of justices of the appellate divisions of supreme court.
221-b. Salary of justices of the supreme court.
221-bb. Additional compensation of justices of the supreme court; service in appellate term.
221-c. Salary of judges of the court of claims.
221-d. Salary of judges of the county court.
221-e. Salary of judges of the family court.
221-f. Salary of judges of the surrogate's court.
221-g. Salary of judges of the civil court of the city of New York and the criminal court of the city of New York.
221-h. Salary of judges of the district court.
221-i. Salary of judges of the city courts outside the city of New York.

222. Expenses of judges and justices.
223. Compensation of deputy chief administrators of the courts and deputy or assistant administrative judges.
224. Compensation of judges on temporary assignment.

§ 220. Compensation of judges and justices to be a state charge. The salaries and expenses of judges and justices of the unified court system, except justices of town and village courts, shall be paid by the state subject to the provisions of section thirty-nine of this chapter. Salaries shall be paid in twenty-six bi-weekly installments.

§ 221. Salary of judges of the court of appeals. The annual salaries of the chief judge and associate judges of the court of appeals shall be as follows:

Chief Judge	156,000
Associate Judge	151,200

§ 221-a. Salary of justices of the appellate divisions of supreme court. The annual salaries of the presiding justices and associate justices of the appellate divisions of the supreme court shall be as follows:

Presiding Justice	147,600
Associate Justice	144,000

§ 221-b. Salary of justices of the supreme court. The annual salary of a justice of the supreme court shall be as follows:

Justice	136,700

§ 221-bb. Additional compensation of justices of the supreme court; service in appellate term. A justice of the supreme court who shall be designated by the appellate division of the supreme court to serve in an appellate term in the manner provided in section eight of article six of

the constitution shall receive, in addition to his or her judicial salary as established by law, the sum of three thousand dollars annually as compensation for his or her services in appellate term.

§ 221-c. Salary of judges of the court of claims. The annual salaries of the presiding judge and judges of the court of claims shall be as follows:

Presiding Judge	144,000
Judge	136,700

§ 221-d. Salary of judges of the county court. The annual salary of each judge of a county court shall be as follows:

County	
Albany	131,400
Allegany	119,800
Broome	119,800
Cattaraugus	119,800
Cayuga	122,700
Chautauqua	119,800
Chemung	119,800
Chenango	119,800
Clinton	121,200
Columbia	119,800
Cortland	119,800
Delaware	119,800
Dutchess	125,600
Erie	125,600
Essex	119,800
Franklin	119,800
Fulton	119,800
Genesee	119,800
Greene	119,800
Hamilton	119,800
Herkimer	119,800
Jefferson	119,800

Lewis	119,800
Livingston	119,800
Madison	119,800
Monroe	125,600
Montgomery	119,800
Nassau	136,700
Niagara	119,800
Oneida	119,800
Onondaga	125,600
Ontario	119,800
Orange	125,600
Orleans	119,800
Oswego	119,800
Otsego	119,800
Putnam	131,400
Rensselaer	119,800
Rockland	125,600
St. Lawrence	119,800
Saratoga	119,800
Schenectady	119,800
Schoharie	119,800
Schuyler	119,800
Seneca	119,800
Steuben	119,800
Suffolk	136,700
Sullivan	127,000
Tioga	119,800
Tompkins	122,700
Ulster	131,400
Warren	119,800
Washington	119,800
Wayne	119,800
Westchester	136,700
Wyoming	119,800
Yates	119,800

§ 221-e. Salary of judges of the family court. The annual salary of each judge of a family court shall be as follows:

County	
Albany	119,800
Broome	125,600
Bronx	136,700
Chautauqua	119,800
Chemung	119,800
Dutchess	125,600
Erie	125,600
Fulton	119,800
Genesee	119,800
Herkimer	119,800
Jefferson	119,800
Kings	136,700
Monroe	125,600
Montgomery	119,800
Nassau	136,700
New York	136,700
Niagara	119,800
Oneida	125,600
Onondaga	125,600
Orange	125,600
Oswego	119,800
Queens	136,700
Rensselaer	119,800
Richmond	136,700
Rockland	125,600
St. Lawrence	119,800
Saratoga	119,800
Schenectady	119,800
Suffolk	136,700
Sullivan	127,000
Ulster	127,000
Warren	119,800
Westchester	136,700

§ 221-f. Salary of judges of the surrogate's court. The annual salary of each judge of a surrogate's court shall be as follows:

County	
Albany	119,800
Broome	119,800
Bronx	136,700
Cayuga	119,800
Chautauqua	119,800
Clinton	121,200
Dutchess	135,800
Erie	129,900
Jefferson	119,800
Kings	136,700
Monroe	135,800
Montgomery	119,800
Nassau	136,700
New York	136,700
Oneida	119,800
Onondaga	135,800
Ontario	119,800
Orange	125,600
Oswego	119,800
Queens	136,700
Rensselaer	119,800
Richmond	136,700
Rockland	125,600
St. Lawrence	119,800
Saratoga	119,800
Schenectady	119,800
Steuben	119,800
Suffolk	136,700
Ulster	119,800
Westchester	136,700

§ 221-g. Salary of judges of the civil court of the city of New York

and the criminal court of the city of New York. The annual salaries of judges of the civil court of the city of New York and of the criminal court of the city of New York shall be as follows:

Judge of the Civil Court	125,600
Judge of the Criminal Court	125,600

§ 221-h. Salary of judges of the district court. The annual salaries of the presidents of the boards of judges and judges of the district court in Nassau and Suffolk counties shall be as follows:

District Court in Nassau County	
President of the Board of Judges	126,900
Judge	122,700
District Court in Suffolk County	
President of the Board of Judges	126,900
Judge	122,700

§ 221-i. Salary of judges of the city courts outside the city of New York. Except as otherwise provided by chapter five hundred sixty-seven of the laws of two thousand ten, the annual salary of each judge of a city court outside the city of New York shall be as follows (where this section provides different salaries for judicial positions on the same court having the same title, the greater salary shall be paid the person holding the position paid the greater salary on the day immediately preceding the day on which such salaries took effect):

City	Title	
Albany	City Court Judge (FT)	113,900
Amsterdam	City Court Judge (FT)	108,800
Amsterdam	City Court Judge	27,200
Auburn	City Court Judge (FT)	108,800

Auburn	City Court Judge	54,400
Batavia	City Court Judge (FT)	108,800
Batavia	City Court Judge	27,200
Beacon	City Court Judge (FT)	108,800
Beacon	City Court Judge	27,200
Binghamton	City Court Judge (FT)	108,800
Buffalo	Chief Judge (FT)	115,100
Buffalo	City Court Judge (FT)	113,900
Canandaigua	City Court Judge (FT)	108,800
Canandaigua	City Court Judge	27,200
Cohoes	City Court Judge	54,400
Corning	City Court Judge (FT)	108,800
Corning	City Court Judge	27,200
Cortland	City Court Judge (FT)	108,800
Cortland	City Court Judge	54,400
Dunkirk	City Court Judge (FT)	108,800
Dunkirk	City Court Judge	27,200
Elmira	City Court Judge (FT)	108,800
Fulton	City Court Judge (FT)	108,800
Fulton	City Court Judge	27,200
Geneva	City Court Judge	54,400
Geneva	City Court Judge	27,200
Glen Cove	City Court Judge	54,400
Gloversville	City Court Judge (FT)	108,800
Gloversville	City Court Judge	27,200
Glens Falls	City Court Judge (FT)	108,800
Glens Falls	City Court Judge	27,200
Hornell	City Court Judge	54,400
Hornell	City Court Judge	27,200
Hudson	City Court Judge	54,400
Hudson	City Court Judge	27,200
Ithaca	City Court Judge (FT)	108,800
Jamestown	City Court Judge (FT)	108,800
Johnstown	City Court Judge	54,400
Johnstown	City Court Judge	27,200
Kingston	City Court Judge (FT)	108,800
Lackawanna	City Court Judge (FT)	108,800

Lackawanna	City Court Judge	54,400
Lockport	City Court Judge (FT)	108,800
Long Beach	City Court Judge (FT)	118,300
Little Falls	City Court Judge	27,200
Mechanicville	City Court Judge	27,200
Middletown	City Court Judge (FT)	108,800
Mount Vernon	City Court Judge (FT)	118,300
Mount Vernon	City Court Judge	54,400
Newburgh	City Court Judge (FT)	108,800
Niagara Falls	Chief Judge (FT)	115,100
Niagara Falls	City Court Judge (FT)	113,900
Norwich	City Court Judge (FT)	108,800
Norwich	City Court Judge	27,200
New Rochelle	City Court Judge (FT)	118,300
North Tonawanda	City Court Judge (FT)	108,800
North Tonawanda	City Court Judge	54,400
Ogdensburg	City Court Judge (FT)	108,800
Ogdensburg	City Court Judge	27,200
Olean	City Court Judge (FT)	108,800
Olean	City Court Judge	27,200
Oneida	City Court Judge (FT)	108,800
Oneida	City Court Judge	27,200
Oneonta	City Court Judge	54,400
Oneonta	City Court Judge	27,200
Oswego	City Court Judge (FT)	108,800
Oswego	City Court Judge	27,200
Peekskill	City Court Judge (FT)	108,800
Peekskill	City Court Judge	54,400
Poughkeepsie	City Court Judge (FT)	108,800
Plattsburgh	City Court Judge (FT)	108,800
Plattsburgh	City Court Judge	27,200
Port Jervis	City Court Judge	54,400
Rensselaer	City Court Judge	54,400
Rensselaer	City Court Judge	27,200
Rochester	Chief Judge (FT)	115,100
Rochester	City Court Judge (FT)	113,900
Rome	City Court Judge (FT)	113,900

Rye	City Court Judge (FT)	108,800
Rye	City Court Judge	54,400
Salamanca	City Court Judge	54,400
Salamanca	City Court Judge	27,200
Saratoga Springs	City Court Judge (FT)	108,800
Schenectady	City Court Judge (FT)	108,800
Sherrill	City Court Judge	27,200
Syracuse	Chief Judge (FT)	115,100
Syracuse	City Court Judge (FT)	113,900
Tonawanda	City Court Judge (FT)	108,800
Tonawanda	City Court Judge	54,400
Troy	City Court Judge (FT)	113,900
Troy	City Court Judge	81,600
Utica	Chief Judge (FT)	115,100
Utica	City Court Judge (FT)	113,900
Watertown	City Court Judge (FT)	108,800
Watertown	City Court Judge	27,200
Watervliet	City Court Judge	54,400
White Plains	City Court Judge (FT)	116,800
Yonkers	Chief Judge (FT)	119,500
Yonkers	City Court Judge (FT)	118,300

§ 222. Expenses of judges and justices. Notwithstanding any other provision of law, and subject to such rules and regulations as the chief administrator shall prescribe:

(a) each judge of the court of appeals, each justice of the supreme court, including the justices of the appellate divisions thereof, and each judge of the court of claims shall be reimbursed for his or her actual and necessary transportation expenses, and such other travel expenses not to exceed seventy-five dollars per day as he or she shall actually and necessarily incur in the performance of his or her judicial duties outside the county wherein he or she is provided chambers and other than in a county having a population in excess of seven hundred thousand or in a city having a population in excess of one million, and not to exceed one hundred fifteen dollars per day in a county having a population in excess of seven hundred thousand or in a city having a

population in excess of one million. For the purpose of such reimbursement of expenses, the city of New York shall be deemed to be one county;

(b) when any judge of the county court, the surrogate's court, the family court, the district court, the civil court of the city of New York or the criminal court of the city of New York shall be required to perform judicial duties outside the county of his residence, he or she shall be reimbursed for his or her actual and necessary transportation expenses, and such other travel expenses not to exceed seventy-five dollars per day incurred other than in a county having a population in excess of seven hundred thousand or in a city having a population in excess of one million, and not to exceed one hundred fifteen dollars per day in a county having a population in excess of seven hundred thousand or in a city having a population in excess of one million. For the purpose of such reimbursement of expenses, the city of New York shall be deemed to be one county.

§ 223. Compensation of deputy chief administrators of the courts and deputy or assistant administrative judges. (a) A judge who is designated the deputy chief administrator of the courts for the city of New York, and a judge who is designated the deputy chief administrator of the courts outside the city of New York shall each receive an annual salary equal to the annual salary paid to an associate justice of the appellate division of the supreme court.

(b) A judge who is designated a deputy or assistant administrative judge within the city of New York and a judge who is designated an administrative judge for a judicial district or county outside the city of New York shall receive, in addition to his or her judicial salary, the sum of four thousand eight hundred dollars annually as compensation for his or her services as an administrative judge; except that the presiding judge of an appellate term shall receive, in addition to all other compensation, the sum of three thousand dollars annually as compensation for his or her services as an administrative judge.

§ 224. Compensation of judges on temporary assignment. Every

state-paid judge or justice of the unified court system who is assigned from the court to which he or she was elected or appointed to another court or who is assigned to perform judicial duties at a location outside the county of his or her residence or, in the case of a judge or justice residing in the city of New York, outside such city, shall, during the time of such assignment, receive either the compensation to which he or she is entitled in the court to which he or she was elected or appointed, or the compensation received by a judge or justice in the court or location to which he or she is assigned, whichever is higher.

ARTICLE 7-C
OF THE COURT FOR THE TRIAL OF IMPEACHMENTS

Section 240. Its jurisdiction.
241. Members of the court.
242. Presiding judge.
243. Secretary and officers.
244. Seal of the court.
245. Time of holding the court.
246. Oath to members of the court.
247. Adjournments, etc.
248. Compensation of members and officers of the court.

§ 240. Its jurisdiction. The court for the trial of impeachments has power to try impeachments, when presented by the assembly, of all civil officers of the state, except justices of the peace, justices of justices' courts, police justices, and their clerks, for willful and corrupt misconduct in office.

§ 241. Members of the court. The court is composed of the president of the senate, the senators, or a majority of them, and the judges of the court of appeals, or a majority of them, but on the trial of an impeachment against the governor or lieutenant-governor, the lieutenant-governor can not act as a member of the court.

§ 242. Presiding judge. The president of the senate, or in case of his impeachment, death or absence, the chief judge of the court of appeals, or in the absence of both, such other member as the court may elect, is the presiding judge of the court.

§ 243. Secretary and officers. The secretary and officers of the senate are the clerk and officers of the court for the trial of impeachments.

§ 244. Seal of the court. The seal of the court for the trial of impeachments now deposited and recorded in the office of the secretary of state shall continue to be the seal of this court and must be kept in the custody of the secretary of the senate.

§ 245. Time of holding the court. Upon the delivery of an impeachment from the assembly to the senate the president of the senate must cause the court to be summoned to meet at the capitol in the city of Albany, on a day not less than thirty nor more than sixty days from the day of the delivery of the articles of impeachment.

§ 246. Oath to members of the court. At the time and place appointed, and before the court proceeds to act upon the impeachment, the clerk must administer to the presiding judge, and the presiding judge to each of the members of the court then present, an oath or affirmation truly and impartially to try and determine the impeachment; and no member of the court can act or vote upon the impeachment, or any question arising thereon, without having taken this oath or affirmation.

§ 247. Adjournments, etc. The court may adjourn from time to time and hold its sessions at such place as it may determine, but no more than two sessions of the court can be held during the recess of the

legislature in any one year.

§ 248. Compensation of members and officers of the court. The writ and process of the court must be signed by the clerk and attested in the name of the president of the senate. The president of the senate and each senator are entitled to receive for their services and expenses while actually attending the court the same rate of compensation as an associate judge of the court of appeals is entitled by law to receive for his services and expenses as such judge for the same time. The other officers of the court, excepting the judges of the court of appeals, are entitled to the same compensation for their attendance thereon, and for traveling to and from the place where it is held, as is allowed them for attending a meeting of the senate, but no such compensation shall be received for attending the court during a session of the legislature.

ARTICLE 7-D
INTERNAL CONTROL RESPONSIBILITIES OF THE JUDICIARY

Section 249. Definitions.
249-a. Internal control responsibilities.
249-b. Internal audit responsibilities.
249-c. Independent audits.

§ 249. 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. "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 this article.

§ 249-a. Internal control responsibilities. 1. The chief judge shall:

a. establish and maintain for the judiciary guidelines for a system of internal control;

b. establish and maintain for the judiciary a system of internal control and a program of internal control review. The program of internal review shall be designed to identify internal control weaknesses and identify actions that are needed to correct these weaknesses; and

c. designate one or more internal control officers to implement and review the internal control responsibilities established pursuant to this section.

2. In order to identify all components of the judiciary and their responsibilities for the purposes of implementing the provisions of this article, the chief judge shall issue and, at his or her discretion, periodically revise a schedule which lists all such components.

§ 249-b. Internal audit responsibilities. 1. The chief judge or his or her designee shall determine, and periodically review his or her determination of, whether an internal audit function within the judiciary 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. In the event it is determined that an internal audit function is required, the chief judge 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 chief administrative judge. The internal audit function shall evaluate the judiciary's internal controls, identify internal control weaknesses that have not been corrected and make recommendations to correct these weaknesses.

2. In the event the chief judge 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 two hundred forty-nine-a of this article.

§ 249-c. Independent audits. 1. At least once every three years, the independent certified public accountant selected pursuant to this section shall conduct audits of the internal controls of the judiciary. Such audits shall be performed in accordance with generally accepted government auditing standards and shall include a report on whether the judiciary'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 two hundred forty-nine 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 judiciary, the independent auditor shall so state. The chief judge shall make available to the public the results of such audits, including any related management

letters. The chief judge and any officer or employee of the judiciary shall make available upon request to such independent certified public accountants all books and records relevant to such independent audits.

2. The chief judge shall request proposals from independent certified public accountants for audits of the internal controls of the judiciary. The requests for proposals shall include a reference to the requirements for audits conducted pursuant to subdivision one of this section. The chief judge shall select such independent auditor 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.

ARTICLE 8

Clerks

Section 250. Clerk not to practice in his court.

251. Clerks in courts of record within the territory of the first, second, tenth and eleventh judicial districts not to be appointed referees, receivers, or commissioners.

251-a. Confidential clerks to justices of supreme court not to be appointed referees, receivers or commissioners.

252. Clerks not to receive fees except as prescribed by law.

253. Clerk's fees upon naturalization.

254. Reports by clerks to state officers.

255. Clerk must search files upon request and certify as to result.

255-a. Power of courts over docket.

255-b. Dockets of clerks to be public.

255-c. Uniform transcript and certificate act.

256. Duties of clerk of court of appeals.

257. Power of clerk of court of appeals as to assistants and deputy.

258. Powers and duties of deputy clerks of court of appeals.

259. Duties of clerk to judge of court of appeals.

260. Salary of clerk of court of appeals.

261. Salary of deputy clerk of court of appeals.
262. Compensation of clerks to judges of court of appeals.
263. Salary of law clerk of court of appeals.
264. Duties of clerk of appellate division in each department.
265. Fees of clerk of appellate division; in each judicial department; justices thereof to make rules.
265-a. Deputy clerk or attendant of appellate division in third department to act as librarian.
266. Consultation clerks of appellate division in third and fourth departments.
267. Certificates of appointment of clerks of the appellate division in third and fourth departments.
268. Compensation of clerks and deputy clerks of appellate division.
269. Salary of clerks to justices of appellate division of first and second departments.
270. Special deputy appointed by justices of the appellate division in first department.
271. Clerks of supreme court not required to attend special term in certain cases.
271-a. Appointment of administrative clerk in fifth judicial district.
272. Duty of confidential clerks to justices of supreme court in second, ninth and tenth districts.
273. Salary of clerks to justices of supreme court.
274. Duty of special deputy clerks for the supreme court in Queens county.
275. Salary of special deputy clerks for the supreme court in Queens county.
281. Salary of confidential clerks to county judges of Kings, Queens, Erie, Nassau, Onondaga, Rockland, Dutchess and Saint Lawrence counties and to special county judge of Erie county.
282. Business hours in offices of clerks of courts of record in New York city.
282-a. Extension of time for filing papers with clerks of court.
283. (No section heading).

§ 250. Clerk not to practice in his court. The clerk, deputy clerk, or special deputy clerk of a court shall not, during his continuance in office, practice as attorney or counsellor in that court.

§ 251. Clerks in courts of record within the territory of the first, second, tenth and eleventh judicial districts not to be appointed referees, receivers, or commissioners. No person holding the office of clerk, deputy clerk, special deputy clerk, assistant special deputy clerk, or assistant in the clerk's office, of a court of record within the first, second, tenth and eleventh judicial districts or territory comprising the same, shall hereafter be appointed by any court or judge, a referee, receiver or commissioner; except that a person holding such office who is an attorney in good standing admitted to practice in the state may be appointed as a referee to serve without fee where authorized by any provision of the civil practice law and rules or any other law.

§ 251-a. Confidential clerks to justices of supreme court not to be appointed referees, receivers or commissioners. No person holding the office of confidential clerk or law secretary to a justice of the supreme court shall hereafter be appointed by any court or judge in any action or proceeding instituted in the supreme court, a referee, receiver or commissioner, except that in uncontested matrimonial actions, a confidential clerk or law secretary who is an attorney in good standing admitted to practice in the state may be appointed by an administrative judge to serve without fee as a referee for the purpose of hearing and reporting to the court.

§ 252. Clerks not to receive fees except as prescribed by law. Each clerk of a court must perform all the duties required of him, in the course and practice of the court, without fee or reward, except as expressly prescribed by law.

§ 253. Clerk's fees upon naturalization. The clerk of any court, which has jurisdiction to naturalize a noncitizen, is entitled, for the services specified in this section, to the following fees:

For all services, upon the filing of a declaration of intention by a noncitizen to become a citizen, including the oath or affirmation, the recording of the same, and a certificate thereof delivered to the noncitizen, twenty cents.

For all services, upon the admission of the noncitizen to be a citizen, including the recording of the papers, and a certified copy of the record, which must be delivered to any person requiring it, fifty cents.

§ 254. Reports by clerks to state officers. When a court of competent jurisdiction shall make a determination as to the parentage of any person, the clerk of the court shall forthwith transmit to the state commissioner of health on a form prescribed by him a written notification of such entry together with such other facts as may assist in identifying the birth record of the person whose parentage was in issue. When the person whose parentage has been determined is under the age of eighteen years, such clerk shall also transmit forthwith to the state commissioner of the office of children and family services for recordation in the putative father registry established pursuant to section three hundred seventy-two-c of the social services law, on a form prescribed by such commissioner in consultation with the office of court administration, a notification of the determination including the name and address of the person whose parentage was determined and the person who was determined to be the father.

Whenever an order of adoption has been made by a court of competent jurisdiction the clerk of such court shall forthwith transmit to the state commissioner of health on a form prescribed by him a written notification of such order, together with the name given to the adopted

person at its birth and such other facts as may assist in identifying the birth record of the person adopted and with a copy of the form required by subdivision seven-a of section one hundred twelve and subdivision nine of section one hundred fifteen-b of the domestic relations law and paragraph (e) of subdivision five of section three hundred eighty-three-c and paragraph (a) of subdivision two of section three hundred eighty-four of the social services law.

If any determination as to parentage or order of adoption of a person as aforesaid shall be reversed, set aside, or abrogated by a later judgment, decree or order of the same or of a higher court, that fact shall be immediately communicated in writing to the state commissioner of health, and, in addition, in the case of a determination as to parentage, to the state commissioner of the office of children and family services, on a form prescribed by him by the clerk of the court which entered such judgment, decree, or order.

Whenever it appears to any clerk, aforesaid, that the person whose parentage was in issue or the person adopted was born in New York city, the clerk shall transmit the written notification aforesaid to the department of health of such city, together with a copy of the form required by subdivision seven-a of section one hundred twelve and subdivision nine of section one hundred fifteen-b of the domestic relations law and paragraph (e) of subdivision five of section three hundred eighty-three-c and paragraph (a) of subdivision two of section three hundred eighty-four of the social services law, and also transmit copies of such documents to the state commissioner of health.

§ 255. Clerk must search files upon request and certify as to result. A clerk of a court must, upon request, and upon payment of, or offer to pay, the fees allowed by law, or, if no fees are expressly allowed by law, fees at the rate allowed to a county clerk for a similar service, diligently search the files, papers, records, and dockets in his office; and either make one or more transcripts or certificates of change therefrom, and certify to the correctness thereof, and to the search, or certify that a document or paper, of which the custody legally belongs

to him, can not be found.

§ 255-a. Power of courts over docket. A court has the same power and jurisdiction concerning the docket of its judgment kept by the county clerk of the county in which it was rendered that it has concerning the docket kept by its own clerk; the judgment may be docketed and changes effected in the docket in the county clerk's office of any other county only upon the filing of a transcript or certificate of change issued by the county clerk of the county in which the judgment was rendered.

§ 255-b. Dockets of clerks to be public. A docket-book, kept by a clerk of a court, must be kept open, during the business hours fixed by law, for search and examination by any person.

§ 255-c. Uniform transcript and certificate act. 1. Every transcript of a judgment hereafter given by any clerk, judge or justice of a court of record or of a court not of record, or by any county clerk, shall be on paper eleven inches in width by eight-and-a-half inches in length. It shall be substantially in the following form:

TRANSCRIPT OF JUDGMENT

JUDGMENT DEBTOR

Surname	Given Name	Trade or Profession	Last Known Address

JUDGMENT CREDITOR		AMOUNT OF JUDGMENT	JUDGMENT RENDERED
Name	Address	Damages	Court County Date Hr. & Min.
		Costs	JUDGMENT DOCKETED
		Total	Date Hr. & Min.

ATTORNEY FOR JUDGMENT CREDITOR		REMARKS: DATE AND MANNER OF CHANGE OF STATUS OF JUDGMENT	
Name	Address		
EXECUTION		SATISFIED	
When Issued	When Returned Unsatisfied	When	How and to What Extent

This form is to be immediately followed by the following certification with the appropriate words being chosen among those which appear in brackets, except that in the event the person certifying the transcript keeps no seal, the words "and affixed my official seal" shall be omitted:

STATE OF NEW YORK
COUNTY OF.....

(seal)

I,.....(Clerk, Judge or Justice) of the (County of.....; or.....Court, County of.....), hereby certify that the above is a correct transcript from the docket of judgments in my office.

IN TESTIMONY WHEREOF, I have hereunto set my name and affixed my official seal this.....day of.....19.....

(Clerk, Judge or Justice).

Any change in the status of the judgment since the time of its original entry on the docket of the person certifying the transcript shall be indicated in the space provided for "REMARKS; DATE AND MANNER OF CHANGE OF STATUS OF JUDGMENT" the same to include any assignment, reversal, modification, discharge, and any other such disposition affecting the judgment; satisfactions and reductions, to whatever extent and in whatever fashion the same are affected, shall be indicated in the space entitled "SATISFIED--WHEN, HOW AND TO WHAT EXTENT."

2. Every certificate attesting to any execution on, or reduction or

full or partial satisfaction of, a judgment, or to any change in the status of a judgment, hereafter given by any clerk, judge or justice of a court of record or of a court not of record, or by any county clerk, shall be of the same size and form as for a transcript of judgment as described and illustrated under subdivision one of the section, except that the words "Certificate of Disposition of Judgment" shall replace the words "Transcript of Judgment" wherever the same may appear on either side thereof, and excepting further that between the two sentences constituting the certification there shall be an additional sentence, to read: "And I further certify that the above judgment has ..... " The space provided shall be of sufficient length to contain all data relevant to the matter for which the certificate is issued.

3. In the event that the space provided for any information which must be contained in any such transcript or certificate be insufficient, the same may be set forth on a separate paper or papers of the same size, to be attached to said transcript or certificate by a staple or other equally permanent means, and in that space on the original transcript or certificate which proved insufficient to contain the necessary matter there shall appear a reference to the attached paper or papers, adequately identifying the same. Each such added paper shall be subscribed at the very end of the matter contained thereon by the same person who certifies the transcript or certificate to which said paper or papers shall be attached.

§ 256. Duties of clerk of court of appeals. 1. The clerk of the court of appeals must keep his office at the city of Albany.

2. Before entering upon the duties of his office, he must subscribe, and file the constitutional oath of office.

3. He must, within ten days after the first day of January, and after the first day of July, in each year, render to the comptroller an accurate account, under oath, of all fees received by him for his official services, since the last account was rendered; and must pay the same into the treasury of the state.

4. The judges of the court of appeals or a majority of them shall have the power to make, from time to time, rules fixing and regulating the fees of the clerk of the court of appeals and all his duties in relation to such fees.

§ 257. Power of clerk of court of appeals as to assistants and deputy. 1. The clerk of the court of appeals, by a writing, under his hand and the seal of the court, filed in his office, from time to time must appoint, and may at pleasure remove, a deputy-clerk.

2. He may with the approbation in writing, of the judges of the court, or a majority of them, employ as many assistants in his office, as are necessary. He may from time to time appoint, and at pleasure remove, his assistants. Each assistant is entitled to a compensation, fixed and to be paid as prescribed by law.

3. He may appoint one of his assistants as special deputy clerk.

§ 258. Powers and duties of deputy clerks of court of appeals. 1. Before entering upon his duties, the deputy clerk of the court of appeals must subscribe, and file in the clerk's office, the constitutional oath of office.

2. While the clerk is absent from his office, or from the sitting of the court, or the office of clerk is vacant, the deputy clerk has all the powers and is subject to all the duties of the clerk.

3. The special deputy clerk possesses, in the absence of the clerk, and the deputy clerk, the same power and authority as the clerk, at any sitting of the court which he attends, with respect to the business transacted thereat.

§ 259. Duties of clerk to judge of court of appeals. The clerk

appointed by each judge of the court of appeals shall perform such services as the judge appointing him may require.

§ 260. Salary of clerk of court of appeals. The clerk of the court of appeals shall receive a salary of ten thousand dollars per annum.

§ 261. Salary of deputy clerk of court of appeals. The deputy clerk of the court of appeals shall receive a salary of five thousand two hundred dollars per annum.

§ 262. Compensation of clerks to judges of court of appeals. The clerk appointed by each judge of the court of appeals shall be entitled to a compensation to be fixed by such judge, not exceeding four thousand dollars a year. The compensation herein provided shall be paid monthly by the department of taxation and finance upon the certificate of the judge.

§ 263. Salary of law clerk of court of appeals. The law clerk of the court of appeals shall receive a salary of not to exceed five thousand dollars a year.

§ 264. Duties of clerk of appellate division in each department. 1. The clerk of the appellate division in each department shall keep his office at a place to be designated by the justices appointing him.

2. A term of the appellate division of the supreme court must be attended by the clerk of the appellate division of the supreme court, appointed for the department in which the term is held, who must act under the direction of the court or of the presiding justice.

3. The clerk of the appellate division in any department, with whom is filed a copy of the rules made by the justices of his department for

fixing the times and places for holding special and trial terms, and for assigning justices to hold special and trial terms, must immediately transmit a copy thereof, certified by him, to each of the justices of the supreme court in such department not designated as justices of an appellate division.

4. The clerk of each department of the appellate division, upon the payment of the fees allowed by law, must deliver to the person admitted to practice as an attorney and counsellor a certificate under his hand and official seal, stating that such person has been so admitted, that he has taken and subscribed the constitutional oath of office as prescribed in section four hundred sixty-six of this chapter and that he has registered with the administrative office of the courts as required by section four hundred sixty-eight-a of this chapter.

§ 265. Fees of clerk of appellate division; in each judicial department; justices thereof to make rules. Notwithstanding any other provision of law:

(a) The clerk of the appellate division of the supreme court in each judicial department, for his official services shall be entitled to receive for and on behalf of the state such reasonable fees as may be prescribed by rules as hereinafter provided. He shall account to the state comptroller for the moneys from such fees and shall pay into the state treasury all such moneys.

(b) The justices of each appellate division or a majority of them shall have the power to make, from time to time, rules fixing and regulating the fees of the clerk of such appellate division, his undertaking, and all his duties in relation to such fees.

§ 265-a. Deputy clerk or attendant of appellate division in third department to act as librarian. The deputy clerk of the appellate division of the supreme court in the third judicial department or any attendant of said court shall also act under direction of said court as librarian and have charge of the library in use by said court.

§ 266. Consultation clerks of appellate division in third and fourth departments. The consultation clerks appointed by the justices of the appellate division in each of the third and fourth departments, shall act under the direction of said justices and shall attend the sittings of said court and render such clerical and stenographic services thereat and during the official consultations as the justices of said department may require, and shall, under the direction of said justices, make up and prepare for filing in the office of the clerk the official list of decisions to be rendered by said court.

§ 267. Certificates of appointment of clerks of the appellate division in third and fourth departments. A certificate of the appointment of each of the clerks specified in this section shall be filed with the comptroller of the state:

1. A certificate of the appointment of each of the clerks of the appellate division in the third and fourth departments, signed by the presiding justice of the judicial department for which said clerk is appointed.

2. A certificate of the appointment of the deputy clerks in the third and fourth departments and the consultation clerk in the fourth department, signed by the justices of said respective departments.

§ 268. Compensation of clerks and deputy clerks of appellate division.

2. The salary of the clerk of the appellate division in the second judicial department shall be fixed by the justices of the said appellate division or a majority of them, to be paid quarterly by the department of taxation and finance out of the public treasury of the state.

3. The clerks of the appellate division in each of the third and fourth departments shall be paid an annual salary to be fixed by the justices of said departments at not exceeding eight thousand five

hundred dollars to be paid by the department of taxation and finance to such appointees monthly.

4. The salary of the deputy clerk of the appellate division of the third department shall be not to exceed six thousand two hundred fifty dollars per year and shall be certified by the presiding justice of such appellate division to the state comptroller who shall audit the same. The state department of taxation and finance shall pay such salary monthly, and shall apportion the amount thereof among the counties comprising the third judicial department. Such counties shall reimburse the state for such salary. The time and method of such apportionment and the time and method of such reimbursement shall be as specified in section seventy-four of this chapter.

5. The clerk of the appellate division of each of the third and fourth departments, in addition to the salary herein provided shall be entitled to receive his necessary disbursements for postage, telephone, telegraph and express charges, to be certified by the presiding justice of said department, and to be paid in the same manner as his salary.

6. The compensation herein provided for the clerk and the deputy clerk of the appellate division of the third and fourth departments, shall be in lieu of all fees and charges, and neither said clerk nor deputy clerk shall hereafter be permitted to charge or receive any fee whatever in addition to his salary, for any official service rendered by him.

7. The compensation of the consultation clerk to the justices of the appellate division of the third department shall be fixed by said justices at not to exceed fifty-five hundred dollars per year, to be paid in the same manner as the salary of the deputy clerk of said department.

8. The salary of the deputy clerk of the appellate division of the fourth department and of the consultation clerk to the justices of the appellate division of the fourth department shall be fixed by said justices at not to exceed six thousand two hundred fifty dollars per year for the deputy clerk and at not to exceed five thousand five

hundred dollars per year for the consultation clerk. Such salaries shall be certified by the presiding justice of such appellate division to the state comptroller who shall audit the same. The state department of taxation and finance shall pay such salaries monthly, and shall apportion the total amount thereof among the counties comprising the fourth judicial department. Such counties shall reimburse the state for such salaries. The time and method of such apportionment and the time and method of such reimbursement shall be as specified in section seventy-four of this chapter.

§ 269. Salary of clerks to justices of appellate division of first and second departments. 1. Each of the clerks appointed pursuant to section ninety-six of this chapter by the justices of the appellate division of the first and second departments shall receive as salary a sum to be fixed by the justices of each appellate division.

2. Except as provided in the state finance law, each of the presiding justices of the appellate divisions of the first and second departments shall certify such salaries to the state comptroller who shall audit the same. The state department of taxation and finance shall pay such salaries in equal biweekly installments, and shall apportion the total amount of each department among the counties comprising each judicial department. Such counties shall reimburse the state therefor. The time and method of such apportionment and the time and method of such reimbursement shall be as specified in section seventy-four of this chapter.

§ 270. Special deputy appointed by justices of the appellate division in first department. 1. In the county of New York, the special deputy clerk assigned by the justices of the appellate division of the first department to part one of the special term of the supreme court shall be known as the calendar clerk of special term part one; the special deputy clerk assigned to part two of the special term shall be known as the ex parte clerk; the special deputy clerk assigned to part three of the special term shall be known as special term calendar clerk for trials;

the special deputy clerk assigned to part two of the trial term shall be known as the trial term calendar clerk. In the county of Bronx, the special deputy clerk assigned to part one of the trial term shall be known as the trial term calendar clerk; the special deputy clerk assigned to part one of the special term shall be known as the special term calendar clerk. The justices of the appellate division in the first department shall at pleasure revoke any of such designations or assignments and make new designations or change the assignments of any of the special deputy clerks and any of the assistants to special deputy clerks appointed pursuant to section one hundred and two, as they may deem necessary.

2. It shall be the duty of each of the said special deputy clerks and the assistants to attend each session of the part or term of the supreme court to which he is assigned and keep the minutes thereof and to perform such other duties therein as shall be prescribed by the rules made by the justices of the appellate division in said department; such special deputy clerks and assistants to be subject to the supervision of the county clerk of the county wherein such special and trial terms are appointed to be held.

3. The special deputy clerk designated as supreme court jury clerk in addition to the duties now imposed upon him, shall keep a record of all the jurors summoned and of the attendance and service of the jurors empaneled in the various trial terms of the supreme court in said district, and of all fines imposed upon such jurors and perform such other duties relating to such jurors or their service, attendance, and the fines imposed upon them as may be prescribed by the rules made by the said appellate division in said department.

§ 271. Clerks of supreme court not required to attend special term in certain cases. Where a special term of the supreme court is adjourned to the chambers of a justice of the court, pursuant to section one hundred and forty-seven of this chapter, the attendance of the clerk is not required, unless the justice directs him to attend.

§ 271-a. Appointment of administrative clerk in fifth judicial district. 1. The justices of the supreme court for the fifth judicial district, or a majority of them, may designate and at pleasure remove one of the clerks of the court as an administrative clerk. He shall have charge of all the calendars of the supreme court in and for such district and shall have such additional powers and perform such additional duties as are provided by the rules or regulations adopted from time to time in accordance with statute, or as may be assigned by the justices.

2. The actual and necessary expenses of such clerk incurred by him in the performance of his official duties shall be paid upon proper proof thereof, and upon the approval of a justice of the supreme court in the fifth judicial district designated for such purpose by a majority of the other justices therein in a written instrument filed with the state comptroller. The state comptroller shall audit the expenses of such administrative clerk and the department of taxation and finance shall pay the same when certified to the state comptroller in the manner herein prescribed.

3. The administrative clerk hereby authorized shall annually receive as compensation for services rendered in connection with the duties hereby imposed, not to exceed two thousand dollars in addition to the salary or compensation paid him by the county by which he is employed. The additional compensation provided for by this subdivision shall be determined and paid in the same manner as expenses under this section.

4. The total amount of the additional compensation and expenses of such clerk as herein authorized shall be apportioned by the department of taxation and finance among the counties of the fifth judicial district, which shall reimburse the state therefor, and the time and method of apportionment and reimbursement shall be as specified in section seventy-four of this chapter.

§ 272. Duty of confidential clerks to justices of supreme court in

second, ninth and tenth districts. It shall be the duty of the confidential clerks appointed by justices of the supreme court for the second, ninth and tenth judicial districts to attend the sittings of the said court at all special terms and trial terms presided over by the justice by whom he is appointed, and to perform such other duties as shall be assigned to him by said justice.

§ 273. Salary of clerks to justices of supreme court. 1. Each of the clerks appointed by the justices of the supreme court in the first judicial district, pursuant to subdivision one of section one hundred and fifty-seven of this chapter, shall receive as salary a sum to be fixed by the justices thereof, or a majority of them, not designated as justices of the appellate division.

2. Each of the confidential clerks to the justices of the supreme court in the second judicial district, other than justices of the appellate division, shall receive an annual salary, the amount of which shall be fixed by a majority of said justices. The money required to pay such salaries shall be raised and paid in the same manner as the money required to pay salaries of attendants and officers of the supreme court in said district.

2-a. Each of the confidential clerks appointed by the justices of the supreme court in the eleventh judicial district shall receive as a salary a sum to be fixed by the justices thereof, or a majority of them, not designated as justices of the appellate division. The money required to pay such salaries shall be raised and paid in the same manner required to pay salaries of attendants and officers of the supreme court in said districts.

3. Each of the confidential clerks to the justices of the supreme court in the tenth judicial district, other than justices of the appellate division residing in the tenth judicial district, shall receive an annual salary to be fixed by the justices of the supreme court residing in the tenth judicial district other than justices of the appellate division, or a majority of them. Such salaries shall be

audited by the state comptroller and paid by the state department of taxation and finance in equal monthly payments when certified to such comptroller by the justice who made the appointment or in case of his death or disability by any other justice of the tenth judicial district. The total amount of such salaries shall be apportioned by such department among the counties of Nassau and Suffolk. Such counties shall reimburse the state therefor. The time and method of such apportionment and the time and method of such reimbursement shall be as specified in section seventy-four of this chapter.

4. Each of the confidential clerks to the justices of the supreme court in the fifth judicial district appointed pursuant to subdivision four of section one hundred fifty-seven of this chapter, shall receive an annual salary of three thousand dollars; provided, however, that in case of the appointment by such a justice of both a confidential clerk and confidential deputy clerk, such confidential clerk and such deputy clerk shall each receive an annual salary to be fixed by the justice appointing him, or them, not to exceed in the aggregate for both such confidential clerk and deputy clerk the sum of three thousand dollars. Each of such salaries shall be audited by the state comptroller and paid by the state department of taxation and finance, in equal monthly payments when certified to such comptroller by the justice who made the appointment or, in case of his death or disability, by any other justice of the fifth judicial district. An appropriation in any year for salary of such a confidential clerk, to any such justice, shall be available for payment of the salaries of both the confidential clerk and confidential deputy clerk to the same justice, if such be appointed. The total amount of such salaries shall be apportioned by such department among the counties comprising the fifth judicial district. Such counties shall reimburse the state therefor. The time and method of such apportionment and the time and method of such reimbursement shall be as specified in section seventy-four of this chapter.

5. Each of the clerks to the justices of the supreme court in the sixth judicial district shall receive an annual salary to be fixed by the justice appointing him, of not to exceed three thousand dollars. Each of such salaries shall be audited by the state comptroller and paid

by the state department of taxation and finance in equal quarterly payments when certified to such comptroller by the justice who made the appointment or, in case of his death or disability, by any other justice of the sixth judicial district. The total amount of such salaries shall be apportioned by such department among the counties comprising the sixth judicial district. Such counties shall reimburse the state therefor. The time and method of such apportionment and the time and method of such reimbursement shall be as specified in section seventy-four of this chapter.

6. Each of the clerks to the justices of the supreme court in the seventh judicial district shall receive an annual salary, to be fixed by the justice appointing him, of not to exceed twenty-five hundred dollars, provided, however, that in case of the appointment by such justice of both a confidential clerk and one or two confidential deputy clerk or clerks, such confidential clerk and such confidential deputy clerk or clerks shall each receive an annual salary to be fixed by the justice making the appointment, not to exceed in the aggregate for both such confidential clerk and confidential deputy clerk or clerks the sum of twenty-five hundred dollars. Each of such salaries shall be audited by the state comptroller and paid by the state department of taxation and finance in equal monthly payments when certified to such comptroller by the justice who made the appointment or, in case of his death or disability, by any other justice of the seventh judicial district. The total amount of such salaries shall be apportioned by such department among the counties comprising the seventh judicial district. Such counties shall reimburse the state therefor. The time and method of such apportionment and the time and method of such reimbursement shall be as specified in section seventy-four of this chapter.

7. Each of the clerks to the justices of the supreme court in the eighth judicial district, shall receive an annual salary, to be fixed by the justice appointing him, of not to exceed six thousand dollars. Each of such salaries shall be audited by the state comptroller and paid by the state department of taxation and finance in equal monthly payments when certified to such comptroller by the justice who made the appointment or, in case of his death or disability, by any other justice

of the eighth judicial district. The total amount of such salaries shall be apportioned by such department among the counties comprising the eighth judicial district. Such counties shall reimburse the state therefor. The time and method of such apportionment and the time and method of such reimbursement shall be as specified in section seventy-four of this chapter.

8. Each confidential clerk employed by a justice of the supreme court in and for the ninth judicial district, pursuant to the provisions of subdivision eight of section one hundred fifty-seven of this chapter, shall receive an annual salary not to exceed the sum of eight thousand five hundred ninety dollars, together with the actual and necessary expenses incurred by him in the performance of his official duties, to be paid upon proper proof thereof, and upon the approval of the justice of the supreme court in whose behalf the official duties are rendered. The state comptroller shall audit the salary and expenses of each confidential clerk and the state department of taxation and finance shall pay to each confidential clerk his salary, in equal monthly payments, and also his expenses when certified to the state comptroller by the justice who made the appointment, or if he has died or is disabled, by any other justice of the ninth judicial district. The total amount of all salaries and expenses of all confidential clerks of the ninth judicial district shall be apportioned by the department of taxation and finance among the counties of Westchester, Rockland, Orange, Dutchess and Putnam which shall reimburse the state therefor, and the time and method of apportionment and reimbursement shall be those specified in section seventy-four of this chapter.

9. Each of the confidential law clerks to the justices of the supreme court in the third judicial district shall receive an annual salary to be fixed by the justice appointing him, of not to exceed five thousand dollars. Each of such salaries shall be audited by the state comptroller and paid by the state department of taxation and finance in equal monthly payments when certified to such comptroller by the justice who made the appointment or, in case of his death or disability, by any other justice of the third judicial district. The total amount of such salaries shall be apportioned by such department among the counties

comprising the third judicial district. Such counties shall reimburse the state therefor. The time and method of such apportionment and the time and method of such reimbursement shall be as specified in section seventy-four of this chapter.

10. Each of the confidential law clerks to the justices of the supreme court in the fourth judicial district shall receive an annual salary to be fixed by the justice appointing him, of not to exceed five thousand dollars. Each of such salaries shall be audited by the state comptroller and paid by the state department of taxation and finance in equal monthly payments when certified to such comptroller by the justice who made the appointment or, in case of his death or disability, by any other justice of the fourth judicial district. The total amount of such salaries shall be apportioned by such department among the counties comprising the fourth judicial district. Such counties shall reimburse the state therefor. The time and method of such apportionment and the time and method of such reimbursement shall be as specified in section seventy-four of this chapter.

§ 274. Duty of special deputy clerks for the supreme court in Queens county. It shall be the duty of each of the special deputy clerks appointed by the supreme court justices residing in Queens county pursuant to section one hundred and fifty-six of this chapter, to attend each session of the part or term of the supreme court to which he is assigned and keep the minutes thereof and to perform such other duties as shall be prescribed by the rules made by such justices; each such special deputy clerk shall be subject to the supervision of the county clerk, and shall possess the same power and authority as the county clerk at any sitting or term of the court which he attends, with respect to the business transacted thereat.

§ 275. Salary of special deputy clerks for the supreme court in Queens county. The salary of the special deputy clerks mentioned in section two hundred and seventy-four shall be fixed by the justices of the supreme court residing in the county, or a majority of them, and when so

fixed shall be paid from the court funds of said county.

§ 281. Salary of confidential clerks to county judges of Kings, Queens, Erie, Nassau, Onondaga, Rockland, Dutchess and Saint Lawrence counties and to special county judge of Erie county. Each of the confidential clerks appointed pursuant to section one hundred ninety-seven of this chapter by the county judges of Kings and Queens counties shall receive for their services the same aggregate annual salary paid to the clerks to judges of the court of general sessions of the county of New York, so as to maintain a continuing equalization of the gross salary and compensation paid to such clerk. Such salary or compensation shall be paid by the comptroller of the city of New York, in equal monthly installments. The confidential clerk appointed pursuant to said section by the county judge of Erie county and the confidential clerk appointed pursuant to said section by the special county judge of Erie county shall receive such salary as shall be fixed from time to time by the board of supervisors of said county, to be paid by the treasurer of the county of Erie in equal monthly installments. The confidential clerk appointed pursuant to said section by the county judges of Nassau county, Onondaga county, Rockland county and Dutchess county shall receive such salary as shall be fixed from time to time by the respective boards of supervisors of said counties, to be paid by the treasurers of said counties in equal monthly installments. The confidential clerk appointed pursuant to said section by the county judge of Saint Lawrence county shall receive a salary of three hundred dollars per annum, to be paid by the treasurer of the county of Saint Lawrence, in equal monthly installments.

§ 282. Business hours in offices of clerks of courts of record in New York city. 1. The offices of clerks of courts of record in the counties of New York, Kings, Queens, Richmond and Bronx shall remain open for the transaction of business from nine o'clock in the forenoon to four o'clock in the afternoon everyday except Saturdays, Sundays and holidays and except in the months of July and August when said offices shall remain open for the transaction of business from nine o'clock in the

forenoon to two o'clock in the afternoon except Saturdays, Sundays and holidays.

2. Whenever the last day on which any paper shall be filed or act done or performed in any such office expires on Saturday, Sunday, public holiday or a day when such office is closed for the transaction of business, the time therefor is hereby extended to and including the next business day such office is open for the transaction of business.

§ 282-a. Extension of time for filing papers with clerks of court. Whenever the last day on which any paper is required to be filed with a clerk of a court outside the city of New York expires on a Saturday, Sunday, a public holiday or a day when the office of such clerk is closed for the transaction of business, the time therefor is hereby extended to and including the next business day such office is open for the transaction of business.

§ 283. Each such typist or stenographer to an official referee appointed pursuant to section one hundred twenty-six of this chapter shall receive an annual salary to be fixed by the official referee appointing him, not to exceed thirty-six hundred dollars. The manner and time of payment of such salary shall be the same as that provided for clerks to justices of the supreme court in each district as set forth in section two hundred seventy-three of this chapter.

ARTICLE 9

Stenographers

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§ 290. Stenographers are officers of court. Each stenographer, specified in this chapter or the civil practice act, surrogate's court act, court of claims act or New York city civil court act is an officer of the court or courts, for or by which he is appointed. From and after the first day of September, nineteen hundred and sixty-two, stenographers serving as such in the first judicial district who were transferred thereto on that date from the court of general sessions of the county of New York shall be deemed to be stenographers specified in this chapter and subject to the provisions of this article nine.

§ 291. Qualifications of stenographers. A person shall not be appointed to the office of stenographer, unless he is skilled in the stenographic art.

§ 292. Original stenographic notes part of proceedings in cause. The original stenographic notes, taken by a stenographer, are part of the proceedings in the cause.

§ 293. Stenographers must not be interested in certain printing contracts. No stenographer of any court in this state shall be, or

become, interested, directly or indirectly, as contracting party, partner, stockholder or otherwise, in, or in the performance of, any contract, work or business relating to the preparation or printing of any case, or any case and exceptions, or any case containing exceptions on appeal, or any bill of exceptions, or papers on appeal from non-enumerated motions, or briefs or points of counsel in any case in any court of this state. If any such stenographer shall be, or become, so interested in any such work of preparation or printing, unless the same shall be devolved upon him by law, he shall forfeit his office.

§ 294. Stenographers of courts must file oath of office. Each stenographer specified in this chapter or the civil practice act, surrogate's court act, court of claims act or New York city civil court act, before entering upon the discharge of his duties, must subscribe the constitutional oath of office, and file the same in the office of the clerk of the court, or, in the supreme court, in the office of the clerk of the county where the term sits, or the judge resides, by which or by whom he is appointed.

§ 295. Complete stenographic notes to be taken. Each stenographer specified in this chapter or the civil practice act, surrogate's court act, court of claims act or New York city civil court act must take full stenographic notes of the testimony and of all other proceedings in each cause tried or heard. Such stenographer shall take complete stenographic notes of each ruling or decision of the presiding judge, and when the trial is by jury each and every remark or comment of such judge during the trial, when requested so to do by either party, together with each and every exception taken to any such ruling, decision, remark or comment by or on behalf of any party to the action.

§ 296. Stenographer must file notes with clerk when so directed by court. Where the court, or a judge thereof, has made an order, pursuant to section thirteen of this chapter, directing the stenographer to file with the clerk, forthwith or within a specified time, the original

stenographic notes taken upon a trial or hearing, the stenographer must file the same accordingly.

§ 297. Preservation of original notes for two years when not filed with clerk. Unless the original stenographic notes taken upon a trial or hearing, are filed, pursuant to an order, made as prescribed in section thirteen of this chapter, they must be carefully preserved by the stenographer, for two years after the trial or hearing; or for such greater period of time and in such manner as may be provided by the chief administrator of the courts.

§ 298. Stenographer must preserve records of his predecessor. If the stenographer dies, or his office becomes otherwise vacant, before the expiration of the time specified in section two hundred and ninety-eight, the original stenographic notes taken upon trials and hearings must be delivered to his successor in office, to be held by him with like effect, as if they had been taken by him.

§ 299. Stenographers must furnish gratuitously copies of proceedings to judges. Each stenographer, specified in this chapter or the civil practice act, surrogate's court act, court of claims act or New York city civil court act, must, upon request, furnish, with all reasonable diligence and without charge, to the judge holding a term or sitting, which he has attended, a copy written out at length from his stenographic notes, of the testimony and proceedings, or a part thereof, upon a trial or hearing, at that term or sitting. But this section does not affect a provision of law authorizing the judge to direct a party or the parties to an action or special proceeding, or the county treasurer, to pay the stenographer's fees for such a copy.

§ 300. Stenographer must furnish certified transcript of proceedings to parties on payment of fees. The stenographer shall, upon the payment of his fees allowed by law therefor, furnish a certified transcript of

the whole or any part of his minutes, in any case reported by him, to any party to the action requiring the same.

§ 301. Duty of stenographers with reference to writing out proceedings in full. The original stenographic notes must be written out at length by the stenographer, if a judge of the court so directs, or if the stenographer is required so to do, by a person entitled by law to a copy of the same, so written out. Unless such a direction is given, or such a requisition is made, the stenographer is not bound so to write them out.

§ 302. Stenographers must furnish copies of proceedings. 1. Every stenographer in a court of record must, upon request, furnish, with all reasonable diligence, to the defendant in a criminal case, or a party, or his attorney in a civil cause, a copy, written out at length from his stenographic notes, of the testimony and proceedings, or a part thereof, upon the trial or hearing, upon payment, by the person requiring the same, of the fees allowed by law.

2. Except as provided in subdivision three of this section, in any civil or criminal case, if the district attorney, the attorney general or the judge presiding at the trial, or any appellate court or judge thereof, requires such a copy, the stenographer is entitled to his fees therefor; but he must furnish it, upon receiving a certificate of the sum to which he is entitled. The amount thereof must be paid by the treasurer of the county or city, as the case may be, where the trial or hearing is held, upon the certificate of the district attorney, attorney general, the judge presiding at the trial or hearing, or the appellate court or judge thereof, from the court fund, or the fund from which jurors are paid, or from any other available fund.

3. In any civil case when a transcript may be necessary, if the attorney general requires such a copy, the cost of such copy shall be paid out of funds appropriated to the department of law for that purpose.

§ 303. Provisions relating to stenographers applicable to assistant stenographers. The provisions of the preceding sections of this article and section thirteen of this chapter are also applicable to each assistant-stenographer, now in office, or appointed or employed, pursuant to any provision of this chapter or the civil practice act, surrogate's court act or court of claims act; except that the stenographic notes, taken by an assistant-stenographer, must, if he dies or his office becomes otherwise vacant, be delivered to the stenographer, to be held by him with like effect, as if they had been taken by him.

§ 303-a. Assignment of stenographers. Stenographers of the county court or surrogate's court may serve in either of said courts with the consent and under the direction of the respective judges thereof.

§ 304. Apportionment of stenographer's salary and duplication of stenographic minutes. When, by provision of law, a justice of the supreme court of this state, by his order, in writing, duly entered in a county clerk's office in the judicial district of said justice, apportions the stenographer's salary among the several counties of said judicial district, or requires the duplication of any stenographic notes taken in said judicial district, no notice of the application for said order shall be adjudged necessary upon any board of supervisors in said judicial district, and the liability for compensation for such services shall be deemed fixed upon the performance of the work.

§ 305. Duty of stenographers appointed by justices of appellate division in first department for the supreme court. Each stenographer appointed by the justices of the appellate division of the first department for each part or term of the supreme court pursuant to section one hundred and four of this chapter must attend the sittings of the term or part to which he is assigned or the sitting of such other term or part of said court as directed by the presiding justice of the

appellate division.

§ 306. Compensation of stenographers and confidential clerks appointed by justices of the appellate division. 1. The stenographers appointed by the justices of the appellate division of the first department for each part or term of the supreme court pursuant to section one hundred and four of this chapter shall receive an annual salary to be fixed by such justices of the appellate division, or a majority of them, and the board of estimate of the city of New York shall provide for raising and paying the same.

2. The compensation of each stenographer or confidential clerk appointed by the justices of the appellate division of the third and fourth departments shall not exceed three thousand seven hundred and fifty dollars a year; provided, however, that in case of the appointment by such a justice of both a confidential clerk and a stenographer the apportionment of the respective salaries for such positions shall be directed by such justice within the amount appropriated for both positions; such compensation to be paid by the department of taxation and finance upon the certificate of the justice by whom such person or persons are employed.

§ 307. Salary of typist in first department of appellate division. The salary or compensation to be paid to each of the typists appointed pursuant to section one hundred five of this chapter by the justices of the appellate division of the supreme court in the first judicial department shall be fixed by said justices of the appellate division, or a majority of them, in their discretion, to be paid by the city of New York, and the board of estimate shall provide for raising and paying the same.

§ 308. Stenographers appointed by justices of supreme court to attend terms. 1. The stenographers appointed pursuant to section one hundred and fifty-nine of this chapter, by the justices of the supreme court,

residing in the county of Kings, shall severally attend, as directed by the respective justices appointing them, the terms of the appellate division and trial and special terms of the supreme court, in the county of Kings.

2. Each of the stenographers, appointed pursuant to said section one hundred and fifty-nine, by the justices of the supreme court, for the second judicial district, who do not reside in the county of Kings, must attend as directed by the justice appointing him the trial and special terms of the supreme court, held in the counties of Suffolk, Queens, Nassau and Richmond, or either of them, and, when not thus officially engaged, the stated terms of the county court, in each of those counties.

3. Each of the stenographers appointed pursuant to said section one hundred and fifty-nine by the justices of the supreme court, for the ninth judicial district must attend, as directed by the justice appointing him, the trial and special terms of the supreme court held in the counties of Westchester, Putnam, Dutchess, Orange and Rockland, or either of them, and when not thus officially engaged, the stated terms of the county court in each of those counties.

4. Each of the stenographers appointed pursuant to said section one hundred and fifty-nine, by the justices of the supreme court for each judicial district except the first, second and ninth shall attend such special and trial terms of the supreme court in his judicial district as he shall be assigned to attend by the justices of the supreme court, or a majority of them, for such district.

§ 309. Duty of stenographers in eighth judicial district. The stenographers of the supreme court in the eighth judicial district appointed pursuant to section one hundred and fifty-nine of this chapter shall report and transcribe opinions for the justices of the supreme court, when required, without additional compensation, and shall, within twenty days after notice by an attorney or party that he intends to appeal, make a case and exceptions or bill of exceptions in a criminal

or civil action, or that briefs are to be made or arguments prepared in an action tried before the court without a jury, file with the clerk of the county in which the venue of such action is laid a transcript of the minutes taken by him on such trial together with such notice attached thereto. The stenographer shall be entitled to the amount provided by the civil practice law and rules as the same is now or may hereafter be amended, for each folio of transcript so filed, and such amount shall be paid by the treasurer of the county wherein the venue of such action is laid, upon the order of the justice presiding at such trial.

The attorney giving such notice and the party shall be jointly and severally liable for the amount so paid by the county treasurer for such transcript, unless within six months after the filing of such transcript such attorney or party shall file with the clerk of the county in which the venue of such action is laid proof by affidavit that an appeal has been taken in good faith with the intent to prosecute the same, a case and exceptions or bill of exceptions in a civil or criminal action has been made and filed or briefs or arguments have been prepared and made in an action tried before the court without a jury. If such affidavit is not filed as aforesaid, the party or his attorney giving such notice shall pay to the county treasurer on demand, the amount paid by the said treasurer to the stenographer for such transcript and the treasurer may recover said amount in his name of office, in an action in any court of competent jurisdiction against said attorney and party. The provisions of this section, relating to stenographers making and filing transcripts of minutes and the payment therefor by the county treasurer, shall not apply to transcripts of minutes taken by stenographers in civil actions or proceedings tried or heard in Genesee and Erie counties. The fee for making and filing such transcripts in Genesee and Erie counties shall be paid by the attorney or party who shall request such making and filing.

§ 310. Duties of stenographers to justices of supreme court in third and fourth judicial districts. The stenographer to each of the justices of the supreme court in the third and fourth judicial districts, appointed pursuant to section one hundred and fifty-eight of this chapter, must attend and perform all such services, as may be required

of him in reporting, writing out, copying and otherwise assisting in all judicial proceedings before the justice appointing him, and also in transmitting papers to the county clerk's office in said district for filing and entry therein.

§ 311. Appointment of assistant stenographer in Kings county. A stenographer, appointed as prescribed in subdivision one of section one hundred and fifty-nine of this chapter by the justices of the supreme court residing in the county of Kings, may, with the consent of the judge holding or presiding at a special or trial term of the supreme court, employ an assistant-stenographer to aid him in the discharge of his duties at that term, whose compensation must be paid by the stenographer and shall not become a county charge.

§ 312. Salary of stenographers appointed by justices of supreme court for each judicial district except first and second. Each of the stenographers appointed by the justices of the supreme court pursuant to subdivisions four, six, seven, eight, nine and ten of section one hundred and fifty-nine of this chapter shall receive an annual salary of six thousand six hundred forty-seven dollars and fifty cents. Each of such salaries shall be audited by the state comptroller and paid by the state department of taxation and finance in equal monthly payments when certified to such comptroller by a justice of the supreme court of the judicial district for which such stenographer shall have been appointed, provided, however, if any such stenographer shall have been assigned to or works principally for an official referee, such certificate may be made by one of such justices or by the official referee. The salary of the stenographer or stenographers for each judicial district shall be apportioned by such department among the counties of the judicial district for which such stenographer or stenographers have been appointed and such counties shall reimburse the state therefor. The time and method of such apportionment and the time and method of such reimbursement shall be as specified in section seventy-four of this chapter.

§ 313. Expenses of stenographers appointed by justices of supreme court for each judicial district except first and second. Each of the stenographers specified in section three hundred and twelve is also entitled to payment of his actual and necessary expenses, while attending court, including stationery, and ten cents for each mile for his actual travel, between the place of holding each term and his residence, going and returning, or from term to term, as the case may be. The amount thereof must be paid upon the certificate of the judge holding or presiding at the term by the treasurer of the county where the term is held, from the court fund, or the fund from which jurors are paid. But mileage shall not be computed beyond the bounds of the judicial district, except where the usual line of travel, from one point to another within that district, passes partly through another judicial district.

§ 314. Fees and expenses of supreme court stenographer for services performed at request of official referees. The fees of a supreme court stenographer or a stenographer of the county or surrogate's court of the county in which the action, matter or proceeding is tried and determined for taking testimony or furnishing one copy thereof, as provided by section one hundred and sixteen of this chapter, when required by an official referee, shall be at the rate allowed in the supreme court. The stenographer is also entitled to payment of his actual and necessary expenses. The amount thereof must be paid upon the certificate of the official referee by the treasurer of the county in which the action or proceeding is pending, from the court fund, or the fund from which jurors are paid.

§ 315. Salary of stenographers appointed by justices of the supreme court residing in the second, tenth and eleventh judicial districts. 1. The stenographers appointed pursuant to section one hundred and fifty-nine of this chapter, by the justices of the supreme court residing in the second and eleventh judicial districts shall receive an annual salary to be fixed by said justices, or a majority of them, in

each such district and the expenses thereof shall be raised with the annual tax levy as a county charge.

2. Each stenographer appointed as prescribed in section one hundred fifty-nine of this chapter, by the justices of the supreme court for the tenth judicial district, shall receive an annual salary to be fixed by said justices, or a majority of them, at not to exceed six thousand dollars. Such salaries shall be audited by the state comptroller and paid by the state department of taxation and finance in equal monthly payments when certified to such comptroller by a justice of the tenth judicial district. The total amount of such salaries shall be apportioned by such department among the counties in the tenth judicial district. Such counties shall reimburse the state therefor. The time and method of such apportionment and the time and method of such reimbursement shall be as specified in section seventy-four of this chapter.

§ 316. Compensation of stenographers appointed by certain justices of supreme court in third and fourth judicial districts. Each stenographer appointed pursuant to subdivision five of section one hundred fifty-nine of this chapter, by a justice of the supreme court assigned to hold special terms in the third or fourth judicial districts, shall receive a salary, fixed by the justice making the appointment, not exceeding three thousand dollars per annum and also a reasonable sum for actual necessary expenses while traveling to and from said terms, and while attending court, including stationery, equipment and supplies necessary to the transaction of the duties of such stenographer. The salaries and expenses of each such stenographer shall be audited by the state comptroller and paid by the state department of taxation and finance in equal quarterly payments when certified to such comptroller by the justice who made the appointment or in case of his death or disability, by any other justice of the same judicial district as such justice. Such department shall apportion the total amount of the salaries and actual necessary expenses of the stenographer or stenographers appointed in the third judicial district and of the stenographer or stenographers appointed in the fourth judicial district among the counties comprising

the third and fourth judicial districts respectively. Such counties shall reimburse the state therefor. The time and method of such apportionments and the time and method of such reimbursement shall be as specified in section seventy-four of this chapter.

§ 317. Stenographers of county courts. 1. The stenographer of the county court of each of the counties of Albany, Erie, Monroe, Oneida, Rensselaer, Jefferson and Niagara must attend each term of the said court where issues of fact in civil and criminal cases are triable. The stenographers of the county court of Kings and Queens counties must attend each term of said court. The stenographer of the county court of Jefferson county shall as a part of his official duties also act as stenographer to the grand jury of said county, and shall, at the request of the district attorney, attend preliminary hearings in criminal cases prior to the action of the grand jury thereupon.

2. The stenographers appointed in the various counties specified in subdivision two of section one hundred and ninety-eight of this chapter, shall also report and transcribe opinions for the said county judges, as well as special proceedings where a stenographer is required, without additional compensation.

3. The stenographer of the county court of Niagara county shall within twenty days after notice by a party that he intends to appeal, make a case and exceptions or bill of exceptions in a civil or criminal action, or that briefs are to be made or arguments prepared in an action tried before the court without a jury, file with the clerk of said county a transcript of the minutes taken by him upon such trial.

4. Each of the stenographers appointed in the county court of Albany, Kings, Queens, Richmond and Bronx counties as prescribed in section one hundred and ninety-eight of this chapter, may, with the consent of the county judge, or judges, appoint an assistant stenographer, to aid him in the discharge of his duties, whose compensation shall be paid by the stenographer appointing him, and is not a county charge.

§ 318. Compensation of stenographers of county courts. The court stenographer or reporter of any county court shall receive an annual salary fixed by the legislative body of that county. This compensation is a charge upon the county, and may be audited, allowed and paid as other county charges.

§ 319. Taking of hearings by official stenographer. Upon any hearing provided for in article one hundred seventy or article one hundred eighty of the criminal procedure law, by or before any local criminal court by which an official stenographer shall have been appointed, under provision of law therefor, stenographic minutes of the hearing shall be taken by such stenographer. Where the defendant is charged with a felony and is either held for the action of a grand jury or not so held, upon the request of the district attorney a copy of such stenographic minutes, notwithstanding the provisions of any other law, shall be furnished by such official stenographer to the district attorney of the county. Such stenographer shall be compensated at the rate prescribed by the civil practice law and rules, and such compensation shall be a county charge.

§ 319-a. Employment of a stenographer upon hearing on charge of felony. In a hearing held in a criminal proceeding upon a charge of felony, in a town or village court, unless pursuant to law a stenographer be regularly employed by it, such court may, if the defendant be represented by counsel, employ a stenographer to take testimony on such examination. The compensation of such stenographer shall be fixed by the board of supervisors and shall be a county charge.

§ 320. Fees of stenographer on appeals; Niagara county court. Upon an appeal by the defendant from a judgment of the county court of Niagara county on a conviction after indictment, the stenographer of the court shall be entitled to the fees prescribed by the civil practice law and rules for transcribing the minutes of the trial, to be paid by the

appellant.

ARTICLE 10-A

GRAND JURY STENOGRAPHERS

Section 321. Appointment of stenographers.
322. Stenographers to be citizens and residents of county where appointed.
323. Evidence of appointment and filing same; stenographer's oath.
324. Revocation of appointment.
325. Stenographers' duties.
326. Misdemeanor for stenographer to violate provisions of this article.
327. Compensation and payment of stenographers.
328. Designation of temporary stenographers to take place of or in addition to official stenographers.
329. Designation of temporary stenographer in special cases.
330. Transcription of testimony by typists duly sworn.

§ 321. Appointment of stenographers. It shall be lawful for the district attorney of any county of this state, to appoint a stenographer to take the testimony given before the grand juries in said county.

a. In the county of Kings, it shall be lawful for the district attorney of said county to appoint twelve stenographers, each of whom shall have authority to take and transcribe the testimony given before the grand juries in the said county of Kings, and such appointment shall be in writing, under the hand and seal of such district attorney, and shall be filed in the county clerk's office of said county of Kings.

b. In the county of Erie, it shall be lawful for the district attorney of said county to appoint six stenographers, each of whom shall have authority to take and transcribe the testimony given before the grand juries in said county of Erie, and such appointments shall be in writing, under the hand and seal of such district attorney, and shall be

filed in the county clerk's office of said county of Erie.

c. In the county of New York, it shall be lawful for the district attorney of such county to appoint fifteen stenographers, each of whom shall have authority to take and transcribe the testimony given before the grand juries in said county of New York, and such appointments shall be in writing, under the hand and seal of such district attorney, and shall be filed in the county clerk's office of said county of New York.

d. In the county of Rockland, it shall be lawful for the district attorney of said county to appoint two stenographers, each of whom shall have authority to take and transcribe the testimony given before the grand juries in said county of Rockland, and such appointments shall be in writing under the hand and seal of such district attorney, and shall be filed in the county clerk's office in the county of Rockland.

e. In the county of Onondaga, it shall be lawful for the district attorney of said county to appoint five stenographers, each of whom shall have authority to take and transcribe the testimony given before the grand juries in the said county of Onondaga, and such appointments shall be in writing under the hand and seal of such district attorney, and shall be filed in the county clerk's office in the county of Onondaga.

f. In the county of Queens, it shall be lawful for the district attorney of said county to appoint ten stenographers, each of whom shall have authority to take and transcribe the testimony given before the grand juries in the said county of Queens, and such appointments shall be in writing, under the hand and seal of such district attorney, and shall be filed in the county clerk's office of said county of Queens.

g. In the county of Monroe, it shall be lawful for the district attorney of such county to appoint six stenographers, to be known as the first, second, third, fourth, fifth and sixth stenographers, each of whom shall have authority to take and transcribe the testimony given before the grand juries in said county of Monroe, and each of whom shall be considered as an assistant to the district attorney and under his

direction and control; and authority is further granted to the district attorney of the county of Monroe, if certified to by him, to appoint temporarily grand jury stenographers who shall have the same powers, responsibilities and duties as the first, second, third, fourth, fifth and sixth stenographers, and compensation therefor shall be chargeable to the county of Monroe and within the comparable bracket salary schedules, and such temporary grand jury stenographers shall retain and receive all benefits as the first, second, third, fourth, fifth and sixth stenographers do, including state retirement benefits, Blue Cross and Blue Shield, and all other benefits, the same as the regular stenographers and other public employees.

h. In the county of Westchester it shall be lawful for the district attorney of such county to appoint three stenographers, to be known as the first, second and third stenographer, each of whom, shall have authority to take and transcribe the testimony given before the grand juries in said county of Westchester, and each of whom, shall be considered as an assistant to the district attorney and under his direction and control. Every stenographer so appointed whenever directed by the district attorney, shall have authority to attend upon and take and transcribe the testimony given at coroner's inquests and the examination and trial of criminal cases, which said testimony so taken and transcribed shall be for the exclusive use and benefit of the district attorney, unless otherwise ordered by the court, or otherwise agreed upon by the district attorney. The appointment of a stenographer by said district attorney shall be deemed a revocation of any prior appointment of a stenographer.

i. In the county of Orange, it shall be lawful for the district attorney of said county to appoint six stenographers, each of whom shall have authority to take and transcribe the testimony given before the grand juries in said county of Orange, and such appointments shall be in writing under the hand and seal of such district attorney, and shall be filed in the county clerk's office in the county of Orange.

j. In the county of Dutchess, it shall be lawful for the district attorney of said county, to appoint two stenographers each of whom shall

have authority to take and transcribe the testimony given before the grand juries in said county of Dutchess, and such appointments shall be in writing under the hand and seal of such district attorney and shall be filed in the county clerk's office in the county of Dutchess.

k. In the county of Oneida, it shall be lawful for the district attorney of said county to appoint five stenographers, each of whom shall have authority to take and transcribe the testimony given before the grand juries in said county of Oneida, and such appointments shall be in writing under the hand and seal of such district attorney, and shall be filed in the county clerk's office in the county of Oneida.

§ 322. Stenographers to be citizens and residents of county where appointed. Every stenographer appointed under the provisions of this title shall be a citizen and resident of the county in which he is appointed, except that the district attorney of Warren county may appoint a stenographer residing either in the county of Washington or in the county of Saratoga and the district attorney of Hamilton county may appoint a stenographer residing in the county of Fulton and the district attorney of Wyoming county may appoint a stenographer residing either in the county of Genesee or in the county of Livingston and the district attorney of Madison county may appoint a stenographer residing either in the county of Onondaga or in the county of Oneida or in any county in the sixth judicial district and the district attorney of Allegany county may appoint a stenographer residing in the county of Steuben or in any county in the eighth judicial district and the district attorney of Niagara county may appoint a stenographer residing in the county of Erie, Genesee or Orleans and the district attorneys of Chemung, Tioga, Tompkins and Otsego counties may each appoint a stenographer residing in any county in the sixth judicial district and the district attorney of Schoharie county may appoint a stenographer residing in any county in the third judicial district and the district attorney of Washington county may appoint a stenographer residing either in the county of Saratoga or in the county of Warren and the district attorney of Saratoga county may appoint a stenographer residing in either Schenectady county, or Albany county or Rensselaer county and the

district attorneys of Columbia and Greene counties may appoint a stenographer residing in any county of the third judicial district and the district attorneys of Seneca county, Ontario county, Wayne county, Livingston county and Yates county may appoint a stenographer residing in any county of the seventh judicial district and the district attorney of Cayuga county may appoint a stenographer residing in the county of Onondaga, the county of Tompkins or in any county of the seventh judicial district and the district attorney of Albany county may appoint a stenographer residing in either Schenectady county or in any county of the third judicial district and the district attorneys of Rockland and Putnam counties may appoint a stenographer residing in any county of the ninth judicial district and the district attorney in Orleans county may appoint a stenographer residing in any county of the eighth judicial district and the several district attorneys within the city of New York may appoint stenographers residing in any county within such city and the district attorneys of Lewis and Oswego counties may appoint a stenographer residing in any county in the fifth judicial district and the district attorney of Chautauqua county may appoint a stenographer residing in Erie county and the district attorney of Cattaraugus county may appoint a stenographer residing in any county in the eighth judicial district and the district attorney of Schenectady county may appoint a stenographer residing in either Albany county or in any county of the third judicial district and the district attorney of Jefferson county may appoint a stenographer residing in the county of St. Lawrence, or in any county of the fifth judicial district and the district attorney of Broome county may appoint a stenographer residing in the county of Onondaga or in any county of the sixth judicial district and the district attorney of Orange county may appoint a stenographer residing in Orange county or any county adjoining Orange county and the district attorney of Westchester county may appoint a stenographer residing in any county of the ninth judicial district.

§ 323. Evidence of appointment and filing same; stenographer's oath. Every appointment made pursuant to this article shall be in writing under the hand of the official who makes the same, and shall be filed in the clerk's office of the county in which such appointment is made.

Every appointee, before he enters upon the duties of his office, shall take and subscribe the constitutional oath of office, and shall make oath before the county clerk that he will keep secret all matters and things occurring before such grand juries.

§ 324. Revocation of appointment. Any appointment made under the provisions of this article may be revoked by the district attorney, which revocation must be in writing and be filed in the office of the clerk of the county in which such appointment was filed.

§ 325. Stenographers' duties. 1. It shall be lawful for any stenographer duly appointed and qualified as hereinbefore provided, to attend and be present at the session of every grand jury impaneled in the county in which he is appointed, and it shall be his duty to take in shorthand or upon a typewriting machine the testimony introduced before such grand juries, and, except when his original notes and minutes and the exhibits pertaining thereto have been impounded as hereinafter provided for, to furnish to the district attorney of such county a full copy of all such testimony as such district attorney shall require, but he shall not permit any other person to take a copy of the same, nor of any portion thereof, nor to read the same, or any portion thereof, except upon the written order of the court duly made after hearing the said district attorney provided, however, that the judge presiding over the term of court for which any grand jury is drawn, may at any time during the sitting of such grand jury and upon petition signed by its foreman or acting foreman and certified by its clerk to have been authorized by twelve or more of the grand jurors constituting such grand jury, impound the stenographer's original notes and minutes and the exhibits pertaining thereto, or any portion of such original notes, minutes, and exhibits, and may order them to be delivered to him and placed in his custody or in the custody of a public officer named by him. When so impounded, such original notes, minutes, and exhibits shall not be taken from the custody of such judge or such public officer except upon the order of such judge, who, upon the written requisition of the foreman or acting foreman of such grand jury, shall deliver them

or order them to be delivered to such foreman or acting foreman for use in the grand jury room during the hours when the grand jury is actually in session. Except as above provided, all of the said original notes and minutes shall be kept in custody of said district attorney, and neither the same, nor a copy of the same, or any portion of the same, shall be taken from the office of said district attorney, excepting as above provided. Nothing contained in this section, however, shall be construed to prohibit a grand jury from inspecting its own minutes and exhibits while in session.

2. Where an application follows a demand to produce any transcript of testimony at a grand jury proceeding pursuant to paragraph (b) of subdivision two of section 331.2 or paragraph (a) of subdivision one of section 331.4 of the family court act the presentment agency and respondent shall be given notice of such application and an opportunity to be heard.

§ 326. Misdemeanor for stenographer to violate provisions of this article. Every stenographer appointed as aforesaid, who violates any provision of this article is guilty of a misdemeanor.

§ 327. Compensation and payment of stenographers. Each stenographer appointed as aforesaid shall receive such compensation for services rendered while engaged in taking testimony before a grand jury, as shall be determined by the board of supervisors or county legislature of the county in which he is appointed, excepting that in the county of New York, such compensation shall be fixed by the board of estimate and apportionment of the city of New York, and such compensation shall not be less than five nor more than ten dollars per day; and in addition thereto such stenographer shall be entitled to and shall be allowed for a copy of testimony furnished to the district attorney the same rate per folio as is prescribed by the civil practice law and rules, and such stenographer shall receive the same compensation for all copies of the evidence in excess of three copies, furnished by him to the district attorney. Such compensation shall be a county charge, and shall be paid

by the treasurer of such county upon the affidavit of the stenographer and the certificate of the district attorney specifying the number of days of actual service and the number of folios furnished; excepting that in the counties of Broome, Cayuga, Delaware, Erie, Monroe, Oneida, Otsego, Rockland, Schenectady, Tioga and Westchester the salaries of said stenographers shall be fixed by the board of supervisors or county legislature and in the counties of Monroe, Niagara and Oneida such stenographers in addition to such salary, shall be entitled to and shall be allowed for a copy of testimony furnished to the district attorney the fees prescribed by the civil practice law and rules. Such compensation shall be a county charge, and shall be paid by the treasurer of said county upon the affidavit of the stenographers and the certificate of the district attorney specifying the number of folios furnished; and excepting that in the county of Queens said stenographers shall receive a salary of one thousand dollars per annum, and in the county of Ulster, twelve hundred dollars per annum; and excepting that in the county of Kings the salaries of said stenographers shall be fixed by the board of estimate and apportionment of the city of New York; and excepting that in the county of Orange said stenographers shall receive a salary in an amount as shall be prescribed in the annual county budget. Such salaries shall be a county charge and shall be paid monthly, and in Erie, Oneida, Rockland, Westchester and Niagara counties semi-monthly, by the treasurer of said county in the same manner as the salaries of other county officers are paid.

§ 328. Designation of temporary stenographers to take place of or in addition to official stenographers. 1. In case of the absence by reason of illness, or other cause, of the official stenographer to any grand jury in any county of this state, the district attorney of the county may designate a stenographer to perform the duties of such official stenographer during such absence, and the stenographer so designated shall receive the compensation which the official stenographer would have received for the same service, and the same shall be deducted from the salary of the official stenographer.

2. Whenever it shall appear to the judge or justice presiding at a

term of court for which a grand jury has been drawn that the public welfare will be promoted by a more expeditious disposition of the offenses to be inquired into by such grand jury or that the volume of business to be taken up and disposed of by it requires it, he may make an order directing the district attorney of the county in which such grand jury is sitting to appoint one or more additional grand jury stenographers to assist the official stenographer or stenographers. Upon the filing of such order in the office of the clerk of such county and the service of a copy thereof upon the district attorney of such county, the latter shall designate and appoint as many temporary stenographers as such order directs and each such appointment shall be made in the manner prescribed by section three hundred twenty-three.

3. Each stenographer appointed in pursuance of the provisions of subdivision two of this section shall be subject to all the duties, penalties and provisions specified in this article as though he were appointed pursuant to the provisions of section three hundred twenty-one hereof and shall receive as compensation for his services such sum as shall be determined by the board of supervisors or county legislature of the county in which he is appointed, except that in the counties embraced within the city of New York the compensation of said stenographers shall be fixed by the board of estimate of the city of New York.

4. The term of office of any temporary stenographer appointed under the provisions of subdivision two of this section shall terminate at such time as the judge or justice ordering the appointment may thereafter determine, but in no event shall it continue beyond the time of the discharge by the court of the grand jury for which the temporary appointment was made.

§ 329. Designation of temporary stenographer in special cases. If, pursuant to law, the attorney general or a deputy attorney general, attend before the grand jury in any county, the attorney general may appoint a temporary stenographer to take the testimony given before the grand jury in respect of matters or investigations before the grand jury

conducted by the attorney general or such deputy attorney general, and may fix his compensation. Every such appointee before he enters upon the duties of his office shall take and subscribe the constitutional oath of office, and shall make oath before the county clerk of such county that he will keep secret all matters and things occurring before such grand jury. Such stenographer shall take and transcribe the testimony given before the grand jury in respect of the matter or investigation conducted by the attorney general or deputy attorney general, and shall furnish to him a full copy of all such testimony as he shall require. Except as provided in section three hundred twenty-five, such stenographer shall not permit any other person to take a copy of the same or any portion thereof, nor to read the same or any portion thereof except upon the written order of the court duly made after hearing the attorney general or deputy attorney general.

§ 330. Transcription of testimony by typists duly sworn. The transcription of testimony taken by a stenographer may be effected by means of a dictating machine to be transcribed by a typist or typists duly authorized and appointed by the district attorney. Such typist or typists shall make oath that they will keep secret all testimony so dictated to them for transcription.

ARTICLE 10
ATTENDANTS, OFFICERS AND MESSENGERS

Section 340. Salary of messenger of court of appeals.
341. Duty of attendants at term of appellate division.
342. Duties of court officers, attendants and messengers of courts in Kings, Queens, Richmond, Nassau and Suffolk counties.
343. Duties of attendants for supreme and county courts in Monroe county.
344. Number of attendants upon courts in certain counties.
345. Compensation of attendants of appellate division in third and fourth departments.
346. Salary of attendants of courts in the first department and

of the appellate division.
348. Salary of attendants of courts in Queens, Nassau and Suffolk counties.
350. Salary of attendants of supreme court in Richmond county.
351. Salary of confidential court attendants of the supreme court justices in the third judicial district residing in Albany and Rensselaer counties.
352. Powers and salary of court officers appointed in Erie county.

§ 340. Salary of messenger of court of appeals. The messenger appointed to attend on the judges of the court of appeals shall receive a salary of one thousand six hundred dollars per annum, to be paid in monthly instalments.

§ 341. Duty of attendants at term of appellate division. A term of the appellate division of the supreme court must be attended by not more than three attendants appointed by such court, one of whom shall act as crier; all of whom must act under the direction of the court or of the presiding justice. The fees of such attendants for attending a term of the appellate division must be paid out of the treasury of the state.

§ 342. Duties of court officers, attendants and messengers of courts in Kings, Queens, Richmond, Nassau and Suffolk counties. Each of the persons appointed a court officer, attendant or messenger of the supreme court or county court of Kings, Queens or Richmond counties as prescribed in sections one hundred and sixty-eight and two hundred one of this chapter, must attend, from day to day, the terms and sittings, within his county, of the court to which he is assigned, to preserve order, and perform whatever services may be required of him, by the judge presiding thereat. The attendant or messenger of the supreme court in Nassau and Suffolk counties, respectively, appointed as prescribed by section one hundred and sixty-eight of this chapter must attend, from day to day, the terms and sittings of the said court to which he is

assigned by the justice or justices by whom he was appointed; to preserve order and perform whatever services may be required of him by the judge presiding thereat; and shall attend at the chambers provided for the justices of said court in said county and perform such other duties thereat, in addition to his duties as court attendant, as may be prescribed by the justice or justices sitting therein.

§ 343. Duties of attendants for supreme and county courts in Monroe county. Each of the persons appointed an attendant in the supreme or county court by the sheriff of Monroe county pursuant to section four hundred and nine of this chapter must attend from day to day the terms and sittings of the court to which he is assigned, to preserve order and to perform such other services as may be required by the judge or justice presiding thereat, and shall attend at chambers and perform such other duties in and about said court-house in addition to their duties as court attendants, as may be prescribed by said justices and judges.

§ 344. Number of attendants upon courts in certain counties. In any county where the compensation of the attendants provided for in section four hundred and three of this chapter, is now fixed by statute at the sum of three dollars per day and mileage, the number of attendants to be appointed for any one term of court, pursuant to said section, shall not exceed eighteen.

§ 345. Compensation of attendants of appellate division in third and fourth departments. Each of the attendants appointed by the justices of the appellate division of the fourth department shall receive a compensation of three thousand four hundred fifty dollars per year, payable monthly. Each of the attendants appointed by the justices of the appellate division of the third department shall receive a compensation to be fixed by said justices at not to exceed three thousand four hundred fifty dollars per year, payable monthly. Such attendants shall also be entitled to receive their traveling expenses to and from their homes to the place where said sessions are held, not exceeding once in

each term. The compensation of the attendants shall be paid by the department of taxation and finance upon the certificate of the presiding justice of the department.

§ 346. Salary of attendants of courts in the first department and of the appellate division. The salaries of the attendants of the supreme court in the first judicial district shall be fixed by the justices of the supreme court of the first judicial district or a majority of them and the board of estimate of the city of New York shall provide for raising and paying the same. The salaries of the attendants of the appellate division, first department and the salaries of the confidential attendants to the justices of the appellate division, first department, who are stenographers, shall be fixed by the justices of the said appellate division and such compensation shall be paid by the department of taxation and finance as provided by section ninety-four of this chapter.

§ 348. Salary of attendants of courts in Queens, Nassau and Suffolk counties. The court attendants appointed for the supreme court in the county of Queens, pursuant to section one hundred and sixty-eight of this chapter shall each receive an annual salary to be fixed by the justice or justices in said section mentioned; and the court attendants appointed for the county court in said county pursuant to section two hundred of this chapter shall each receive an annual salary to be fixed by the county judge of said county and all of such salaries shall be a county charge; the court attendant appointed for the supreme court in the counties of Nassau or Suffolk, respectively, pursuant to section one hundred and sixty-eight of this chapter, shall receive a salary, to be fixed by the justice or justices appointing him, to be a county charge.

§ 350. Salary of attendants of supreme court in Richmond county. Each of the attendants appointed for the supreme court in the county of Richmond, shall receive a salary to be fixed by the justice or justices residing in Richmond county, or by a majority of them; such salary, so

fixed, shall be subject to the approval of the board of estimate of the city of New York, in its discretion, and shall be a county charge.

§ 351. Salary of confidential court attendants of the supreme court justices in the third judicial district residing in Albany and Rensselaer counties. The confidential court attendants appointed by the justices of the supreme court in the third judicial district residing in Albany and Rensselaer counties, pursuant to section one hundred sixty-four of this chapter, shall each receive an annual salary not in excess of five thousand dollars, which shall be a charge upon the counties of Albany and Rensselaer, respectively, and shall be paid by the treasurer of each such county, respectively, upon certificate of such justice in monthly installments.

§ 352. Powers and salary of court officers appointed in Erie county. The officers appointed pursuant to sections one hundred seventy-three and two hundred two of this chapter to attend upon the courts of Erie county shall possess all the powers of officers designated by sheriffs to attend upon such courts. They shall each receive such salary as shall be fixed by the justices of the supreme court residing in Erie county, or a majority of them, to be paid in equal semi-monthly payments by the treasurer of the county of Erie.

ARTICLE 11

CRIERS

Section 360. Salary of crier of court of appeals.
361 Duties of crier and assistant crier of appellate division of first department.
362. Criers not required to attend special term supreme court in certain cases.
363. Compensation of criers in each county except Kings and Erie.
364. Compensation of criers of courts in Erie County.

§ 360. Salary of crier of court of appeals. The crier of the court of appeals shall receive an annual salary of twenty-eight hundred dollars to be paid in equal monthly instalments and the comptroller is directed to draw his warrant for the same.

§ 361. Duties of crier and assistant crier of appellate division of first department. The duties of the crier and assistant crier of the appellate division in the first department, shall be such as may be prescribed by the rules made by the said appellate division.

§ 362. Criers not required to attend special term supreme court in certain cases. Where a special term of the supreme court is adjourned to the chambers of a justice of the court, pursuant to section one hundred and forty-seven of this chapter, the attendance of the crier is not required unless the justice directs him to attend.

§ 363. Compensation of criers in each county except Kings and Erie. The crier appointed pursuant to section two hundred of this chapter by the county judge of each county, except Kings and Erie, to be crier for the courts of record held in his county is entitled to a compensation to be fixed by the board of supervisors and to be paid as prescribed by law, except in the county of Westchester where the compensation of such crier shall be fixed by the county judge, not to exceed the sum of one thousand two hundred dollars a year to be paid in equal monthly payments by the treasurer of Westchester county in full compensation for all services rendered by him, and except in the county of Queens, where such crier shall receive an annual salary to be fixed by the county judges of said county, to be paid in equal monthly payments and to be a county charge.

§ 364. Compensation of criers of courts in Erie county. The salary of the criers appointed for Erie county by the justices of the supreme

court residing in Erie county together with the county judge of Erie county, in pursuance of section one hundred and seventy-three of this chapter, shall be fixed by the justices of the supreme court residing in Erie county, or a majority of them; and when so fixed shall be paid in equal monthly payments by the treasurer of Erie county, in full compensation for all services rendered by said criers.

ARTICLE 12

INTERPRETERS

Section 380. Salary of interpreters appointed for supreme court by appellate division of the first department.
386. Appointment and compensation of court interpreters generally.
387. Temporary appointment of interpreters.
388. Polish and Italian interpreters for Erie county.
389. Appointment of additional interpreter for Westchester county.
390. Equal access to court proceedings for deaf or hard of hearing person.
391. Limited English proficient litigants' data.

§ 380. Salary of interpreters appointed for supreme court by appellate division of the first department. 1. The salary of each of the official interpreters for the supreme court in the first judicial district appointed by the justices of the appellate division shall be fixed by the justices of the appellate division of the supreme court, first department, or a majority of them, and the board of estimate of the city of New York shall provide for raising and paying the same.

§ 386. Appointment and compensation of court interpreters generally. The county judge and the district attorney of the county may appoint one interpreter, who shall act as and be the court interpreter for such county. Such interpreter shall hold office during the pleasure of the county judge and district attorney and they shall appoint his successor

in office. Said interpreter shall receive a salary to be fixed by the board of supervisors of said county, which shall be a charge upon the county, to be paid monthly, in the same manner as other county officials are paid. Said interpreter so appointed shall, before entering upon his duties, file in the office of the county clerk, the constitutional oath of office. The provisions of this section, however, shall not apply to the counties of New York, Kings and Queens, nor to any other county in which the appointment or compensation of court interpreters therein is governed by a special or local act or by any special provision of a general act.

§ 387. Temporary appointment of interpreters. If the services of an interpreter be required in any court and there be no unemployed official interpreter to act therein, the court may appoint an interpreter to act temporarily in such court. Such interpreter shall before entering upon his duties file with the clerk of the court the constitutional oath of office. The court shall fix the compensation of such interpreter at not more than twenty-five dollars per day for each day's actual attendance by direction of the presiding judge or justice and such compensation shall be paid from the court fund of the county upon the order of the court.

§ 388. Polish and Italian interpreters for Erie county. The county clerk of the county of Erie shall appoint a Polish and an Italian interpreter to serve as such, under the direction of the presiding judge or justice, at the criminal terms of the county and supreme court, and before grand juries, in Erie county. Each of such interpreters shall be entitled to an annual salary to be fixed by the board of supervisors of Erie county and payable by the county of Erie, at the same time and in the same manner as the salaries of other county officers.

§ 389. Appointment of additional interpreter for Westchester county. In addition to the interpreter authorized to be appointed under section three hundred and eighty-six, the county judge and district attorney of

the county of Westchester may appoint one additional interpreter for such county and all the provisions of such section applicable shall apply thereto.

§ 390. Equal access to court proceedings for deaf or hard of hearing person. 1. Whenever any deaf or hard of hearing person is a party to a legal proceeding of any nature, or a witness or juror or prospective juror therein, the court in all instances shall appoint a qualified interpreter who is certified by a recognized national or New York state credentialing authority as approved by the chief administrator of the courts to interpret the proceeding to, and the testimony of, such deaf or hard of hearing person; provided, however, where compliance with this section would cause unreasonable delay in court proceedings, the court shall be authorized to temporarily appoint an interpreter who is otherwise qualified to interpret the proceedings to, and the testimony of, such deaf or hard of hearing person until a certified interpreter is available. In any criminal action in a state-funded court, the court shall also appoint such an interpreter to interpret the proceedings to a deaf or hard of hearing person who is the victim of the crime or may appoint such interpreter for the deaf or hard of hearing members of the immediate family (parent or spouse) of a victim of the crime when specifically requested to do so by such victim or family member. The fee for all such interpreting services shall be a charge upon the state at rates of compensation established by rule of the chief administrator; except that where such interpreting services are rendered in a justice court, the fee therefor shall be paid as provided by law in effect on July first, nineteen hundred ninety-one.

2. (a) Notwithstanding the provisions of subdivision one of this section, a court may, upon request of a deaf or hard of hearing person or upon its own motion, and in lieu of appointing an interpreter as otherwise required in such subdivision one, provide an assistive listening device, a stenographer who can furnish communication access real-time translation or any other appropriate auxiliary aid or service.

(b) For purposes of this subdivision, the following terms shall have the following meanings:

(i) "Stenographer" means any individual who fulfills the requirements of section two hundred ninety-one of this chapter.

(ii) "Communication access real-time translation (CART)" means the instantaneous translation of everything that is spoken in the court room via a real-time feed, which by means of software converts shorthand transcription into real-time captioning immediately which can be displayed on a computer or monitor.

§ 391. Limited English proficient litigants' data. 1. For the purposes of this section, the following terms shall have the following meanings:

(a) "primary language" means the dominant language a litigant speaks in everyday situations, including but not limited to their home, work, school, and community environments;

(b) "limited English proficient (LEP) litigant" means a participant in a legal proceeding, whose limited ability to speak or understand the English language, has created a communications barrier to understanding his or her legal rights or impairs his or her ability to participate fully in court programs or services; and

(c) "language assistance services" means oral and written services needed to assist LEP litigants to communicate effectively with court personnel and to provide LEP litigants with meaningful access to, and an equal opportunity to participate fully in, court programs or services, so that LEP litigants are placed in the same position as similarly situated persons for whom there is no such barrier.

2. The office of court administration shall collect and maintain data on all limited English proficient litigants in all courts within this state; provided, however, that such data shall not be collected from those courts designated as town or village courts. At a minimum, the office of court administration shall collect and maintain data on the following:

(a) the number of limited English proficient litigants who are litigants in courts within this state, disaggregated by court and county, and the primary language of such litigants;

(b) the number of such limited English proficient litigants served, disaggregated by court and county, the type of language assistance

services provided and the primary language of the litigant served; and

(c) the number of interpreter personnel employed by the courts, disaggregated by court and county and the language translated or interpreted by such personnel.

3. The office of court administration shall make the data required by this section publicly available on its website, provided, however, that such data shall not include identifying information and nothing in this section shall be construed to permit the office of court administration to use, disseminate, or publish any identifying information, including a litigant's name, date of birth, social security number, docket number, or other unique identifier.

ARTICLE 13

SHERIFFS AND CONSTABLES

Section 400. Sheriff may command power of county to overcome resistance.

401. Sheriff must certify to court names of persons resisting execution of mandate.

402. Sheriff or deputy to attend term of appellate division.

403. Sheriff must notify constables and deputies to attend terms.

404. Sheriff or constable not required to attend special term supreme court in certain cases.

405. Sheriff need not attend or designate officers to attend terms of courts in Erie county unless requested.

406. Sheriff, deputy or constable must act as crier when directed by court.

407. Deputy sheriff must attend court as notified.

408. Designation by sheriff of Monroe county of attendants for supreme and county courts.

409. Designation by sheriff of Onondaga county of court attendants for supreme and county courts.

410. Appointment of court attendants in Oneida county.

411-a. Court attendant in Herkimer county.

411-b. Designation by sheriff of Dutchess county of attendants

for certain courts in such county.

§ 400. Sheriff may command power of county to overcome resistance. If a sheriff, to whom a mandate is directed and delivered, finds, or has reason to apprehend, that resistance will be made to the execution thereof, he may command all persons in his county, or as many as he thinks proper, and with such arms as he directs, to assist him in overcoming the resistance and, if necessary, in arresting and confining the resisters, their aiders and abettors, to be dealt with according to law.

§ 401. Sheriff must certify to court names of persons resisting execution of mandate. The sheriff must certify to the court, from which or by whose authority the mandate was issued, the names of the resisters, their aiders and abettors, as far as he can ascertain the same, to the end that they may be punished for their contempt of the court.

§ 402. Sheriff or deputy to attend term of appellate division. A term of the appellate division of the supreme court must be attended by the sheriff of the county in which it is held, his under sheriff, or one of his deputies, each of whom must act under the direction of the court or of the presiding justice. The sheriff of the county must cause the room in which a term of the appellate division is held to be properly heated, ventilated, lighted, and kept comfortably clean and in order. The sheriff must also provide the court with all necessary stationery and minute-books, upon the written requisition of the court or of the justice presiding at the term, and shall defray the necessary expense of telegraphing the day calendar to such county clerks as the court shall direct; also the necessary expense of transmitting printed cases and papers to the reporter; to the various libraries and to the justices of the appellate division. The fees of the sheriff for attending a term of the appellate division and all expenses incurred by a sheriff in obedience to this section must be audited by the comptroller and paid

out of the treasury of the state.

§ 403. Sheriff must notify constables and deputies to attend terms. The sheriff of each county, except New York, Bronx, Kings, and Queens, must within a reasonable time before the sitting, in his county, of any term of court, notify, in writing or personally, as many constables or deputy sheriffs of his county, as he deems necessary, to appear and attend upon the term during its sitting.

§ 404. Sheriff or constable not required to attend special term supreme court in certain cases. Where a special term of the supreme court is adjourned to the chambers of a justice of the court, pursuant to section one hundred and forty-seven of this chapter, the attendance of the sheriff or a constable is not required unless the justice directs them to attend.

§ 405. Sheriff need not attend or designate officers to attend terms of courts in Erie county unless requested. The sheriff of the county of Erie shall not be required to attend or designate any officer to attend at justices' chambers or at special terms of the supreme court, or at any term of the county court and surrogate's court held in said county of Erie unless requested so to do by the justice, judge or surrogate presiding thereat.

§ 406. Sheriff, deputy or constable must act as crier when directed by court. A sheriff, deputy sheriff, or constable, attending a term of a court of record, must, when required by the court, act as crier therein; and he is not entitled to any additional compensation for that service.

§ 407. Deputy sheriff must attend court as notified. Each constable or deputy sheriff, seasonably notified, as prescribed in section four hundred and three of this chapter, must attend the term accordingly; and

for each day's neglect he may be fined by the court, at the term at which he was notified to attend, a sum not exceeding five dollars.

§ 408. Designation by sheriff of Monroe county of attendants for supreme and county courts. The sheriff of the county of Monroe is hereby authorized, by and with the consent and approval of the justices of the supreme court of the seventh judicial district, residing in the county of Monroe, and the county judges of Monroe county, respectively, to appoint and with the consent of said justices and judges at pleasure, to remove such deputies to be attendants for the supreme court and the county court, respectively, held in and for the county of Monroe, as such justices and judges shall deem necessary.

§ 409. Designation by sheriff of Onondaga county of court attendants for supreme and county courts. The sheriff of the county of Onondaga is hereby authorized by and with the consent and approval of the trial justices of the supreme court of the fifth judicial district residing in the county of Onondaga and the county judges of Onondaga county, respectively, to appoint and with the consent of said justices and judges at pleasure to remove not to exceed twenty-nine deputies, at least seven of whom shall be women, to be attendants for the supreme and county courts of Onondaga county, who shall hold office until removal as herein provided and whose duty it shall be to attend the various terms of such courts held in and for the county of Onondaga and act as attendants thereat and perform such other services as shall be required and designated by said trial justices and county judges. They shall have all the powers of constables and shall receive an annual salary to be fixed by the board of supervisors of Onondaga county. If at any term of the supreme or county court held in and for the county of Onondaga additional attendants shall be necessary, the judge presiding at such term shall certify such fact to the sheriff of Onondaga county, and the number of additional attendants required and said sheriff shall appoint temporary attendants in the number specified by said judge to attend said term of court.

§ 410. Appointment of court attendants in Oneida county. The resident supreme court justices of Oneida county and the county judge of Oneida county are hereby authorized to appoint, and may at their pleasure remove, both permanent and temporary court attendants in and for the supreme and county courts of Oneida county, whose duty it shall be to attend the various terms of such courts held in and for the county of Oneida and act as attendants and court criers thereat, and to perform such other services as shall be required and designated by said justices and the county judge of the county of Oneida. Said court attendants shall possess all the power of an officer designated by the sheriff to attend upon the court and shall receive such salaries as shall be fixed from time to time by the board of supervisors of Oneida county.

§ 411-a. Court attendant in Herkimer county. The county judge and surrogate of the county of Herkimer is hereby authorized by and with the consent and approval of the trial justice of the supreme court, residing in Herkimer county, to appoint a court attendant in and for the supreme and county courts in Herkimer county, whose duty it shall be to attend the various terms of such courts held in and for the county of Herkimer and act as attendant and court crier thereat and to perform such other services as shall be required and designated by said justice and judge. Said court officer shall possess all the power of an officer designated by the sheriff to attend upon the court and shall receive such salary as shall be fixed from time to time by the board of supervisors of Herkimer county.

§ 411-b. Designation by sheriff of Dutchess county of attendants for certain courts in such county. The sheriff of the county of Dutchess is hereby authorized to designate such number of deputy sheriffs as shall be authorized by resolution of the board of supervisors of such county, who shall act as attendants at all terms of the supreme court, county court, surrogate's court, and family court held in such county, and who shall perform any and all other duties required of or imposed upon them by law or by such sheriff. Such deputies shall receive such

compensation as may be fixed and determined by the board of supervisors of such county.

ARTICLE 13-A

JUDICIAL PROCEEDINGS FOR THE REMOVAL OF PUBLIC OFFICERS BY IMPEACHMENT

Section 415. Impeachment to be delivered to president of the senate.
416. Copy of impeachment served on defendant.
417. Service, how made.
418. Proceedings, if defendant does not appear.
419. Defendant may object to sufficiency of, or deny impeachment.
420. Form of objection or denial.
421. Proceedings thereon.
422. Two-thirds necessary to conviction.
423. Judgment on conviction, how pronounced.
424. Adoption of resolution.
425. Nature of the judgment.
426. Officer, when impeached, disqualified to act until acquitted.
427. Presiding officer, when president of the senate is impeached.
428. Impeachment, not a bar to indictment.

§ 415. Impeachment to be delivered to president of the senate. When an officer of the state is impeached by the assembly, the articles of impeachment must be delivered to the president of the senate.

§ 416. Copy of impeachment served on defendant. The president of the senate must thereupon cause a copy of the articles of impeachment, with a notice to appear and answer the same, at the time and place appointed for the meeting of the court, to be served on the defendant, not less than twenty days before the day fixed for the meeting of the court.

§ 417. Service, how made. The service must be upon the defendant personally, or if he cannot, upon diligent inquiry, be found in the state, the court, upon proof of that fact may order publication to be made in such manner as it deems proper, of a notice requiring him to appear at a specified time and place, and answer the articles of impeachment.

§ 418. Proceedings, if defendant does not appear. If the defendant does not appear, the court, upon proof of service or publication as provided in the last two sections, may of its own motion, or for cause shown, assign another day or place for hearing the impeachment; or may then, or at any other time which it may appoint, proceed in the absence of the defendant, to trial and judgment.

§ 419. Defendant may object to sufficiency of, or deny impeachment. When the defendant appears, he must answer the articles of impeachment; which he may do, either by objection to their sufficiency, or that of any article therein, or by denying the truth of the same.

§ 420. Form of objection or denial. If the defendant object to the sufficiency of the impeachment, the objection must be in writing, but need not be in any specific form; it being sufficient, if it present intelligibly the grounds of the objection. If he deny the truth of the impeachment, the denial may be oral, and without oath, and must be entered upon the minutes.

§ 421. Proceedings thereon. If an objection to the sufficiency of the impeachment be not sustained by a majority of the members of the court who heard the argument, the defendant must forthwith answer the articles of impeachment. If he plead guilty, or refuse to plead, the court must render judgment of conviction against him. If he deny the matters charged the court must, at such time as it may appoint, proceed to try

the impeachment, and may adjourn the trial from time to time until concluded.

§ 422. Two-thirds necessary to conviction. The defendant cannot be convicted on an impeachment, without the concurrence of two-thirds of the members present during the trial; and if such two-thirds do not concur in a conviction, the defendant must be declared acquitted.

§ 423. Judgment on conviction, how pronounced. After conviction, the court must immediately, or at such other time as it may appoint, pronounce judgment, in the form of a resolution, entered upon the minutes of the court. The vote upon the passage thereof must be taken by yeas and nays, and must also be entered upon the minutes.

§ 424. Adoption of resolution. On the adoption of the resolution, by a majority of the members present, who voted on the question of acquittal or conviction, it becomes the judgment of the court.

§ 425. Nature of the judgment. Upon conviction, the judgment must be either:

1. That the defendant be removed from office; or

2. That he be removed from office and disqualified to hold and enjoy a particular office or class of offices, or any office of profit, trust or honor whatever under this state.

§ 426. Officer, when impeached, disqualified to act until acquitted. No officer shall exercise his office, after articles of impeachment against him shall have been delivered to the senate, until he is acquitted.

§ 427. Presiding officer, when president of the senate is impeached. If the president of the senate be impeached, notice of the impeachment must be immediately given to the senate by the assembly, that another president may be chosen.

§ 428. Impeachment, not a bar to indictment. If the offense for which the defendant is impeached be a crime, the prosecution thereof is not barred by the impeachment.

ARTICLE 14

LAW REPORTING

Section 430. Law reporting bureau; state reporter.
431. Causes to be reported.
432. Copies of opinions, decisions and papers to be furnished to state reporter.
433. Contents of reports.
433-a. Printing and publication of reports.
434. Contracts for publication of reports.
435. Qualifications of state reporter and deputies.
436. Compensation of state reporter and deputy state reporter; reporters; office expense; fees.
437. Duty of state reporter on expiration of term.
438. Copyright of notes prepared by law reporting bureau.

§ 430. Law reporting bureau; state reporter. There is hereby created and established the law reporting bureau of the state of New York. The bureau shall be under the direction and control of a state reporter, who shall be appointed and be removable by the court of appeals by an order entered in its minutes. The state reporter shall be assisted by a first deputy state reporter and such other deputy state reporters and such staff as may be necessary, all of whom shall be appointed and be removable by the court of appeals.

§ 431. Causes to be reported. The law reporting bureau shall report every cause determined in the court of appeals and every cause determined in the appellate divisions of the supreme court, unless otherwise directed by the court deciding the cause; and, in addition, any cause determined in any other court which the state reporter, with the approval of the court of appeals, considers worthy of being reported because of its usefulness as a precedent or its importance as a matter of public interest.

Each reported decision shall be published as soon as practicable after it is rendered.

§ 432. Copies of opinions, decisions and papers to be furnished to state reporter. With the exception of court of appeals and appellate division causes directed not to be reported, as provided in section four hundred thirty-one of this article, the judges or justices of every court of record, including surrogates, shall promptly cause to be delivered to the state reporter, without charge, a copy of every written opinion rendered in causes determined therein. The judges or justices of the court of appeals and of the appellate divisions and the appellate terms of the supreme court shall, in addition, cause to be delivered to the state reporter, without charge, a list of all decisions rendered by the respective courts, together with copies of such points of counsel and records and papers on appeal, if practicable, as the state reporter may require.

§ 433. Contents of reports. The law reporting bureau shall prepare and publish with the reports the usual headnotes, tables and indexes and in the report of every cause determined in the court of appeals and the appellate divisions of the supreme court the name of the judge or justice who presided at the hearing or trial of such cause in the court of original jurisdiction. The report of a cause, in addition to the opinion, or opinions shall contain as much of the facts, arguments of counsel, decision, or any other matter in the cause as the state

reporter shall deem necessary.

§ 433-a. Printing and publication of reports. Causes determined in the court of appeals shall be published and printed in bound volumes entitled "New York Reports". Causes determined in the appellate divisions of the supreme court shall be published and printed in bound volumes entitled "Appellate Division Reports Supreme court". Causes determined in any other court shall be printed and published in bound volumes entitled "Miscellaneous Reports".

Such reports shall contain all of the matter prepared and published by the law reporting bureau pursuant to the provisions of section four hundred thirty-three of the judiciary law.

The legislature may appropriate such state moneys as may be necessary to secure the printing and publications of said reports in accordance with the provisions of this section.

§ 434. Contracts for publication of reports. 1. The printing and publication of the court of appeals reports, the appellate division reports, the miscellaneous reports and the combined official series shall be done under contract as hereinafter provided.

2. Said contract shall be let and said publication shall be made by and under the direction of the state reporter.

3. In each year immediately preceding the expiration of the contract to be let as hereinafter provided, the state reporter shall give notice that a contract will be let for said printing and publication, together with a reference to this section, and that on or before the first day of April in such year, the state reporter will receive sealed proposals for such contract. Such notice shall be given beginning in the first week of January in the procurement opportunities newsletter published by the commissioner of economic development pursuant to section one hundred forty-two of the economic development law.

4. Said contract shall be let to the person who will publish and sell said reports and said combined official series, together with the weekly advance sheets thereof, and furnish the required copies to the various state and county officials, on terms deemed by said state reporter most advantageous to the public and the state, regard being had to the proper execution of the work. Said contract shall be let not earlier than the first of May, nor later than the first of June, in such years.

5. (a) Said contract shall require the contractor to continue to publish such reports and the combined official series thereof (with weekly advance sheets thereof to be published as early as practicable after the decisions of said courts shall be handed down), and shall fix the prices at which said publications and each of them, in the various styles of binding and weights and quality of paper, and the sizes and the number of pages of each, shall be delivered within the state of New York.

(b) Said contract also shall provide that the contractor may produce and market such reports and the combined official series thereof in any medium or format, besides bound volumes and printed advance sheets, including but not limited to microfiche, ultrafiche, on-line computer retrieval data base, and CD-ROM (compact disc-read only memory), subject to prior approval by the state reporter and the chief judge of the court of appeals.

6. Said contract shall require the contractor to furnish the state library with fifty-eight copies of the court of appeals and appellate division reports and three copies of the miscellaneous reports, and also to furnish copies of each of said publications as follows: One of each to the clerk of each county, for the use of the county; one of each to the attorney general, for the use of his office; one of each to the state comptroller, for the use of his office; one of each to the clerk of the court of appeals, for the use of that court, and one of each to each judge or justice of a court of record, for the use of his office; and one of each to the various public law libraries in the state, and the expense of delivery thereof shall be borne by the state.

7. Publication under said contract shall commence on the first day of January, nineteen hundred and forty-one, and shall continue until December thirty-first, nineteen hundred and forty-five (unless said contract is previously annulled by the state reporter); thereafter said contracts shall be made for the period of five years each.

8. Said contractor shall agree that he will promptly after the publication of each volume of said reports, and constantly thereafter, keep the same on hand for open and public sale, and will deliver the same, complete, bound and lettered, to any and to all persons desiring to purchase, at a price for each which shall be fixed by said contract.

9. Said contract shall contain such other provisions as in the judgment of the state reporter may be necessary to safeguard the interests of the state and of the public, and shall be subject to the approval of the chief judge of the court of appeals. The form of the proposed contract complete as to all its terms, except the prices to be paid the contractor, shall be prepared by the state reporter and be placed on file in the office of the law reporting bureau on or before the day of the first publication of notice under subdivision three of this section.

10. To every proposal there shall be annexed a bond executed by the proposed contractor, with sureties conditioned for the faithful performance of said contract, which bond shall be approved as to form, manner of execution, amount and sufficiency of sureties, by the chief judge of the court of appeals.

11. The right to reject any and every proposal if deemed unfavorable or disadvantageous is reserved to the state reporter, and the state reporter may readvertise until bids advantageous to the state and to the public have been secured.

12. If the state reporter determines that a contract has not been faithfully kept and performed by the contractor, or whenever in the judgment of the state reporter the public interest may so require, of which the state reporter shall be exclusive judge and his decision shall

be final, the state reporter may, by an instrument in writing signed by him and approved by the chief judge of the court of appeals and filed in the office of the secretary of state, modify said contract in the interest of justice, or annul said contract from a time specified in said instrument and thereupon immediately enter into a new contract likewise to be approved by the chief judge of the court of appeals.

13. Neither the state reporter nor any of his deputies nor any of the employees of the law reporting bureau shall have any pecuniary interest in said reports or said contracts.

14. Nothing provided in this article shall affect the obligation of any contracts for the printing and publication of the aforementioned reports, or any of them, in force on July first, nineteen hundred thirty-eight; but the state reporter shall succeed to all the powers, rights and interests with respect to said contracts, possessed by the previous official reporters or board of reporters by whom said contracts were let.

§ 435. Qualifications of state reporter and deputies. No one shall be appointed to the office of state reporter or of deputy state reporter who is not an attorney and counselor of this state; provided, however, that the limitation contained herein with respect to appointment to the office of deputy state reporter shall not apply to any deputy supreme court reporter or assistant supreme court reporter transferred from the office of the supreme court reporter to the law reporting bureau in accordance with the direction contained in section six of chapter four hundred ninety-four of the laws of nineteen hundred thirty-eight.

§ 436. Compensation of state reporter and deputy state reporter; reporters; office expense; fees. The state reporter shall receive an annual salary of nine thousand dollars, and the first deputy reporter an annual salary of seven thousand five hundred dollars. In addition thereto, such allowances shall be made for any other deputies, for clerk hire and for office expenses as the legislature shall from time to time

direct.

Neither the state reporter nor any of his deputies nor any of the employees of the law reporting bureau shall receive to his own use any moneys or fees derived from the sale of any reports or of any copies of opinions, but all such moneys and fees shall be paid into the treasury of the state.

§ 437. Duty of state reporter on expiration of term. The state reporter must, on the appointment of his successor, deliver to him all papers in his hands, pertaining to a cause which he has not reported, or which are not necessary to be retained by him to complete the publication of a volume which is then partly printed. After the expiration of his term of office he shall not deliver a paper specified in this section, or a copy thereof, to any person other than his successor in office, or the publisher of a partly printed volume; except that a copy of such a paper may be furnished by him, during a vacancy in the office, to a judge of the court, or to the attorney for a party to the cause to which it relates.

§ 438. Copyright of notes prepared by law reporting bureau. The copyright of the statement of facts, of the head notes and of all other notes or references prepared by the law reporting bureau must be taken by and shall be vested in the secretary of state for the benefit of the people of the state. The secretary of state is authorized by a writing filed in his office to grant to any person, firm or corporation, under such terms and conditions as he and the chief judge of the state of New York may determine to be for the best interests of the state, the right to publish the above mentioned copyrighted matter.

ARTICLE 15
ATTORNEYS AND COUNSELLORS

Section 460. Examination and admission of attorneys.
460-b. Applications for special arrangements.

461. Compensation of state board of law examiners; appointment and compensation of employees.
462. Annual account by state board of law examiners.
463. Times and places of examinations.
464. Certification by state board of successful candidates.
465. Fee for examinations and for credential review for admission on motion; disposition; refunds; funds.
466. Attorney's oath of office.
467. Registration of attorneys.
468. Official registration of attorneys to be kept by the chief administrator of the courts.
468-a. Biennial registration of attorneys.
468-b. Clients' security fund of the state of New York.
469. Continuance where attorney is member of legislature.
470. Attorneys having offices in this state may reside in adjoining state.
471. Attorney who is judge's partner or clerk prohibited from practicing before him or in his court.
472. Attorney who is surrogate's parent or child prohibited from practicing berfore him.
473. Constables, coroners, criers and attendants prohibited from practicing during term of office.
474. Compensation of attorney or counsellor.
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482. Employment by attorney of person to aid, assist or abet in the solicitation of business or the procurement through solicitation of a retainer to perform legal services.
483. Signs advertising services as attorney at law.
484. None but attorneys to practice in the state.
485. Violation of certain preceding sections a misdemeanor.
485-a. Violation of certain sections a class E felony.
486. Practice of law by attorney who has been disbarred, suspended, or convicted of a felony.
486-a. Conviction for felony of person who is an attorney and counselor at law; notice thereof to be given by clerk to appropriate appellate division of the supreme court.
487. Misconduct by attorneys.
488. Buying demands on which to bring an action.
489. Purchase of claims by corporations or collection agencies.
490. Limitation.
491. Sharing of compensation by attorneys prohibited.
492. Use of attorney's name by another.
493. Attorneys forbidden to defend criminal prosecutions carried on by their partners, or formerly by themselves.
494. Attorneys may defend themselves.
495. Corporations and voluntary associations not to practice law.
496. (Enacted without section heading).
497. Attorneys fiduciary funds; interest-bearing accounts.
498. Professional referrals.
499. Lawyer assistance committees.

§ 460. Examination and admission of attorneys. An applicant for admission to practice as an attorney or counsellor in this state, must be examined and licensed to practice as prescribed in this chapter and in the rules of the court of appeals. Race, creed, color, national origin, noncitizen status or sex shall constitute no cause for refusing any person examination or admission to practice.

§ 460-b. Applications for special arrangements. 1. The state board of law examiners shall provide a procedure for review of applications for special arrangements from any person applying for examination for admission to practice as an attorney and counsellor-at-law which shall include provisions that if the applicant's claim for special arrangements is denied, such board shall provide the applicant an appeal of the decision before the full board prior to the date of the examination for which such special arrangements were requested.

2. The state board of law examiners shall render an annual report on the number of law examinees each time a test is given; the number of those examinees requesting special arrangements; the types of special arrangements requested; and those requests granted and/or denied.

§ 461. Compensation of state board of law examiners; appointment and compensation of employees. The court of appeals shall fix the compensation of the members of the state board of law examiners appointed by it as provided by section fifty-six of this chapter. The court of appeals may provide and furnish proper and suitable quarters for said board in the court of appeals hall or authorize it to procure the same elsewhere in the city of Albany; and may authorize said board to appoint and remove a clerk, a stenographer and other necessary employees whose compensation shall be fixed by the court. The compensation of members of said board, and of the clerk, stenographer and other employees of the board shall be fixed within the amount annually provided by appropriation. All such compensation and expenses shall be paid after audit by and upon the warrant of the comptroller in

the manner provided by law.

§ 462. Annual account by state board of law examiners. The state board of law examiners shall render an annual account of all its receipts and disbursements to the court of appeals.

§ 463. Times and places of examinations. There shall be examinations of all persons applying for admission to practice as attorneys and counsellors-at-law at least twice in each year in each judicial department, and at such other times and places as the court of appeals may direct.

§ 464. Certification by state board of successful candidates. Every person who shall pass the examination, and every person who has received a dispensation from the taking of the examination, shall be certified by the state board of law examiners to the appellate division of the supreme court of the department specified in the rules of the court of appeals, provided such person shall have in other respects complied with the rules regulating admission to practice as attorneys and counsellors, which fact shall be determined by said board before certification.

§ 465. Fee for examinations and for credential review for admission on motion; disposition; refunds; funds. 1. Every person applying for examination for admission to practice as an attorney and counselor at law shall pay a fee of two hundred fifty dollars, or seven hundred fifty dollars if, to qualify to take the bar examination, the person must satisfy the rules of the court of appeals for the admission of attorneys and counselors at law governing the study of law in a foreign country, for each taking or retaking of the examination, or if dispensation has been received from the taking of the examination, four hundred dollars for credential review for admission on motion. All such fees shall be paid into the state treasury in the manner provided by section one hundred twenty-one of the state finance law.

2. Moneys heretofore or hereafter received by the board as fees pursuant to this section may, within three years from the receipt thereof, be refunded to the applicant paying the same, on satisfactory proof that:

a. Such moneys were in excess of the amount required by this section, to the extent of such excess, or

b. The applicant failed to take the examination for which such fee was paid because of illness, removal from the state or for any other reason or cause which, in the judgment and discretion of the board, justified or excused his failure to take such examination.

Such refunds shall, upon approval by the board and after audit by the state comptroller, be paid from moneys appropriated for such purpose.

§ 466. Attorney's oath of office. 1. Each person, admitted as prescribed in this chapter must, upon his or her admission, take the constitutional oath of office in open court, and subscribe the same in a roll or book, to be kept in the office of the clerk of the appellate division of the supreme court for that purpose.

2. Any person now in actual service in the armed forces of the United States or whose induction or enlistment therein is imminent, or within sixty days after such person (1) has been honorably discharged, or (2) has received a discharge other than bad conduct or dishonorable from such service, if such person has a qualifying condition, as defined in section one of the veterans' services law, or (3) has received a discharge other than bad conduct or dishonorable from such service, if such person is a discharged LGBT veteran, as defined in section one of the veterans' services law, if the appellate division of the supreme court in the department in which such person resides is not in session, may subscribe and take the oath before a justice of that court, with the same force and effect as if it were taken in open court, except that in the first department the oath must be taken before the presiding justice or, in his or her absence, before the senior justice.

§ 467. Registration of attorneys. The clerks of each appellate division shall forward to the clerk of the court of appeals and the chief administrator of the courts a list of attorneys newly admitted to practice. Such list shall be forwarded at such times and in such form as the clerk of the court of appeals and the chief administrator shall provide.

§ 468. Official registration of attorneys to be kept by the chief administrator of the courts. 1. It shall be the duty of the chief administrator of the courts to enter in a bound book or volume to be kept by him for that purpose, which shall be known and designated as and is hereby made the "official register of attorneys and counsellors-at-law in the state of New York," the names and residences of attorneys newly admitted to practice in the alphabetical order of the first letter of their surnames, the title of the court and the time and place where admitted. The said "official register of attorneys and counsellors-at-law in the state of New York," is hereby declared to be a public record and presumptive evidence that the individuals therein named were admitted to practice as attorneys and counsellors-at-law in the courts of record of this state.

2. The chief administrator shall provide the public with information contained in such official register. Upon request, the office of court administration shall disclose whether a person is registered as an attorney as required by section four hundred sixty-eight-a of this chapter. Where the official register indicates that an attorney has resigned from the bar, or has been removed or suspended from practice by an appellate division of the supreme court and has not been readmitted to practice, that fact shall also be disclosed.

§ 468-a. Biennial registration of attorneys. 1. Every attorney and counsellor-at-law admitted to practice in this state on or before January first, nineteen hundred eighty-two, whether resident or

nonresident, shall file a biennial registration statement with the administrative office of the courts on or before March first, nineteen hundred eighty-two in such form as the chief administrator of the courts shall prescribe. An attorney who is admitted to practice after January first, nineteen hundred eighty-two and on or before January first, nineteen hundred eighty-six, shall file a registration statement within sixty days after the date of admission. An attorney who is admitted to practice after January first, nineteen hundred eighty-six shall file a registration statement prior to taking the constitutional oath of office.

2. Attorneys shall register biennially on the dates prescribed by the chief administrator. In the event of a change in information previously submitted, an attorney shall file an amended statement within thirty days of such change.

3. The chief administrator shall prescribe the form in which such registry of attorneys shall be maintained and the procedures for public access thereto, and may make all such other rules and regulations necessary and appropriate to implement and enforce the provisions of this section.

4. The biennial registration fee shall be three hundred seventy-five dollars, sixty dollars of which shall be allocated to and be deposited in a fund established pursuant to the provisions of section ninety-seven-t of the state finance law, fifty dollars of which shall be allocated to and shall be deposited in a fund established pursuant to the provisions of section ninety-eight-b of the state finance law, twenty-five dollars of which shall be allocated to be deposited in a fund established pursuant to the provisions of section ninety-eight-c of the state finance law, and the remainder of which shall be deposited in the attorney licensing fund. Such fee shall be required of every attorney who is admitted and licensed to practice law in this state, whether or not the attorney is engaged in the practice of law in this state or elsewhere, except attorneys who certify to the chief administrator of the courts that they have retired from the practice of law.

5. Noncompliance by an attorney with the provisions of this section and the rules promulgated hereunder shall constitute conduct prejudicial to the administration of justice and shall be referred to the appropriate appellate division of the supreme court for disciplinary action.

§ 468-b. Clients' security fund of the state of New York. 1. The court of appeals shall appoint a board of trustees to administer the lawyers' fund for client protection of the state of New York established pursuant to section ninety-seven-t of the state finance law. Such board shall consist of seven members. Of the trustees first appointed, three shall be appointed for a term of three years; two for a term of two years; and two for a term of one year. As each such term expires, each new appointment shall be for a term of three years. The court of appeals may require such reports or audits of the board as it shall from time to time deem to be necessary or desirable.

2. The board shall have the power to receive, hold, manage and distribute the funds collected hereunder for the purpose of maintaining the integrity and protecting the good name of the legal profession by reimbursing, in the discretion of the trustees to the extent they may deem proper and reasonable, losses caused by the dishonest conduct of attorneys admitted to practice in this state. For purposes of this section, the term "dishonest conduct" shall mean misappropriation or wilful misapplication of clients' money, securities, or other property, by an attorney admitted to practice in this state.

3. The board of trustees shall adopt regulations for the administration of the lawyers' fund for client protection of the state of New York and the procedures for presentation, consideration, allowance and payment of claims, including the establishment of a maximum limitation for awards to claimants.

4. The board of trustees shall have the sole discretion to determine the merits of claims presented for reimbursement, the amount of such

reimbursement and the terms under which such reimbursement shall be made. Such terms of reimbursement shall require that the claimant execute such instruments, take such action or enter into such agreements as the board of trustees shall require, including assignments, subrogation agreements and promises to cooperate with the board of trustees in making claims against the attorney whose dishonest conduct resulted in the claim.

5. The board of trustees shall serve without compensation but shall be entitled to receive their actual and necessary expenses incurred in the discharge of their duties.

6. The board of trustees may employ and at pleasure remove such personnel as it may deem necessary for the performance of its functions and fix their compensation within the amounts made available therefor.

7. The board of trustees shall be considered employees of the state for the purpose of section seventeen of the public officers law.

8. All payments from the lawyers' fund for client protection of the state of New York shall be made by the state comptroller upon certification and authorization of the board of trustees of said fund.

9. Acceptance of an award of reimbursement from the lawyers' fund for client protection shall, to the extent of such award, (a) subrogate the fund to any right or cause of action that accrued to the claimant as a consequence of the dishonest conduct that resulted in the claimant's award and (b) create a lien in favor of the fund that shall attach to any money asset that is designated to be paid to the claimant from, or on behalf of, the attorney who caused the claimant's loss. If the fund fully reimburses the claimant's loss, as determined by the board of trustees, the lien shall be in the amount of the fund's award. If the claimant's loss exceeds the fund's award, the lien shall not extend to the claimant's right to recover additional restitution from the attorney for the claimant's unreimbursed loss. In the event of a recovery by the fund, a claimant shall be entitled to any money recovered in excess of the fund's award of reimbursement to the claimant.

§ 469. Continuance where attorney is member of legislature. When a party to a civil action or proceeding shows by his or his attorney's affidavit that his attorney is a member of the legislature of the state of New York, that the legislature is in regular or special session or that not more than ten days have elapsed since the adjournment sine die of such session, that such attorney is the only one employed by the party who is prepared to try the cause, and that due to the performance of his legislative duties he is then unable to try the cause, the court shall grant a stay of the trial without prejudice to its place on the calendar, provided that no such stay shall extend to more than ten days after the adjournment sine die of the session of the legislature.

§ 470. Attorneys having offices in this state may reside in adjoining state. A person, regularly admitted to practice as an attorney and counsellor, in the courts of record of this state, whose office for the transaction of law business is within the state, may practice as such attorney or counsellor, although he resides in an adjoining state.

§ 471. Attorney who is judge's partner or clerk prohibited from practicing before him or in his court. The law partner or clerk of a judge shall not practice before him, as attorney or counsellor in any cause, or be employed in any cause which originated before him. A law partner of, or person connected in law business with a judge, shall not practice or act as an attorney or counsellor, in a court, of which the judge is, or is entitled to act as a member, or in a cause originating in that court; except where the latter is a member of a court, ex officio, and does not officiate or take part, as a member of that court, in any of the proceedings therein.

§ 472. Attorney who is surrogate's parent or child prohibited from practicing berfore him. A surrogate's parent or child shall not practice or be employed as attorney or counsel, in any case, in which his partner

or clerk is prohibited by law from so practicing, or being employed.

§ 473. Constables, coroners, criers and attendants prohibited from practicing during term of office. A constable, coroner, crier, or attendant of a court, shall not, during his continuance in office, practice as an attorney or counsellor in any court, nor shall a sheriff, under-sheriff, deputy-sheriff, or sheriff's clerk so practice in the county in which he is elected or appointed.

§ 474. Compensation of attorney or counsellor. The compensation of an attorney or counsellor for his services is governed by agreement, express or implied, which is not restrained by law, except that no agreement made hereafter between an attorney and a guardian of an infant for the compensation of such attorney, dependent upon the success of the prosecution by said attorney of a claim belonging to said infant, or by which such attorney is to receive a percentage of any recovery or award in behalf of such infant or a sum equal to a percentage of any such recovery or award, shall be valid or enforceable unless made as hereinafter provided. An attorney may contract with the guardian of an infant to prosecute, by suit or otherwise, any claim for the benefit of an infant for a compensation to said attorney dependent upon the success in the prosecution of such claim, subject to the power of the court, as hereinafter provided, to fix the amount of such compensation. Whenever such a contract shall have been entered into between an attorney and a guardian of an infant, upon the recovery of a judgment, or the obtaining of an award in behalf of the said infant, or upon any compromise or settlement of such claim, the attorney may apply, upon notice to the guardian, to the judge, justice or surrogate before whom the said action or proceeding was tried, or to whom an application for compromise or settlement was made, in case the said action or proceeding was tried, or the said application was made at a court held within this state; or to a special term of said court, in case the said action or proceeding was tried before some person other than a justice thereof, or said claim was compromised or settled after said suit was begun, or in case of the death or disability of the judge or justice before whom the action was

tried; or to special term of the supreme court in case the recovery, award, compromise or settlement was not had in any court of this state. Such application shall set forth briefly the contract, the services performed by the attorney and pray that there be awarded to him a suitable amount out of the recovery, award, compromise or settlement obtained through his efforts as attorney on behalf of the infant. The court, judge or surrogate to which such application is made, upon being satisfied that due notice of the said application as been given to the said guardian, shall proceed summarily to determine the value of the services of said attorney, taking such proof from either the attorney or the guardian by affidavit, reference or the examination of witnesses before the said court, judge or surrogate, as may seem to be necessary and proper, and shall thereupon make an order determining the suitable compensation for the attorney for his services therein, which sum shall thereafter be received by the said attorney for his services in behalf of the said infant; and no other compensation shall be paid or allowed by the guardian for such services out of the estate of said infant. If a copy of such order awarding the compensation with notice of entry be thereafter served by the said attorney upon the adverse party to the said litigation or the person making such compromise or settlement and upon the custodian of the funds recovered, in case there be such custodian, such award shall become and constitute a lien to the amount thereof on behalf of the said attorney upon such recovery, award, settlement or fund.

§ 474-a. Contingent fees for attorneys in claims or actions for medical, dental or podiatric malpractice. 1. For the purpose of this section, the term "contingent fee" shall mean any attorney's fee in any claim or action for medical, dental or podiatric malpractice, whether determined by judgment or settlement, which is dependent in whole or in part upon the success of the prosecution by the attorney of such claim or action, or which is to consist of a percentage of any recovery, or a sum equal to a percentage of any recovery, in such claim or action.

2. Notwithstanding any inconsistent judicial rule, a contingent fee in a medical, dental or podiatric malpractice action shall not exceed the

amount of compensation provided for in the following schedule:

30 percent of the first $250,000 of the sum recovered;
25 percent of the next $250,000 of the sum recovered;
20 percent of the next $500,000 of the sum recovered;
15 percent of the next $250,000 of the sum recovered;
10 percent of any amount over $1,250,000 of the sum recovered.

3. Such percentages shall be computed on the net sum recovered after deducting from the amount recovered expenses and disbursements for expert testimony and investigative or other services properly chargeable to the enforcement of the claim or prosecution of the action. In computing the fee, the costs as taxed, including interest upon a judgment, shall be deemed part of the amount recovered. For the following or similar items there shall be no deduction in computing such percentages: liens, assignments or claims in favor of hospitals, for medical care, dental care, podiatric care and treatment by doctors and nurses, or of self-insurers or insurance carriers.

4. In the event that claimant's or plaintiff's attorney believes in good faith that the fee schedule set forth in subdivision two of this section, because of extraordinary circumstances, will not give him adequate compensation, application for greater compensation may be made upon affidavit with written notice and an opportunity to be heard to the claimant or plaintiff and other persons holding liens or assignments on the recovery. Such application shall be made to the justice of the trial part to which the action had been sent for trial; or, if it had not been sent to a part for trial, then to the justice presiding at the trial term calendar part of the court in which the action had been instituted; or, if no action had been instituted, then to the justice presiding at the trial term calendar part of the Supreme Court for the county in the judicial department in which the attorney has an office. Upon such application, the justice, in his discretion, if extraordinary circumstances are found to be present, and without regard to the claimant's or plaintiff's consent, may fix as reasonable compensation for legal services rendered an amount greater than that specified in the schedule set forth in subdivision two of this section, provided, however, that such greater amount shall not exceed the fee fixed

pursuant to the contractual arrangement, if any, between the claimant or plaintiff and the attorney. If the application is granted, the justice shall make a written order accordingly, briefly stating the reasons for granting the greater compensation; and a copy of such order shall be served on all persons entitled to receive notice of the application.

5. Any contingent fee in a claim or action for medical, dental or podiatric malpractice brought on behalf of an infant shall continue to be subject to the provisions of section four hundred seventy-four of this chapter.

§ 474-b. Attorney retainer statements. The office of court administation shall make available to the department of social services copies of retainer statements or closing statements filed with the office of court administration pursuant to the rules of the appellate divisions, or relevant information contained therein, for the purpose of enabling the department to compare a list of parties against the department's public assistance and medical assistance recipient listings in order for the department to determine the potential for recovery of such assistance paid, consistent with applicable law.

§ 475. Attorney's lien in action, special or other proceeding. From the commencement of an action, special or other proceeding in any court or before any state, municipal or federal department, except a department of labor, or the service of an answer containing a counterclaim, or the initiation of any means of alternative dispute resolution including, but not limited to, mediation or arbitration, or the provision of services in a settlement negotiation at any stage of the dispute, the attorney who appears for a party has a lien upon his or her client's cause of action, claim or counterclaim, which attaches to a verdict, report, determination, decision, award, settlement, judgment or final order in his or her client's favor, and the proceeds thereof in whatever hands they may come; and the lien cannot be affected by any settlement between the parties before or after judgment, final order or determination. The court upon the petition of the client or attorney may

determine and enforce the lien.

§ 475-a. Notice of lien. If prior to the commencement of an action, arbitration, mediation or a form of alternative dispute resolution, or a special or other proceeding, an attorney serves a notice of lien upon the person or persons against whom his or her client has or may have a claim or cause of action, the attorney has a lien upon the claim or cause of action from the time such notice is given, which attaches to a verdict, report, determination, decision, award, settlement or final order in his or her client's favor of any court, arbitral tribunal or of any state, municipal or federal department, except a department of labor, and to any money or property which may be recovered on account of such claim or cause of action in whatever hands they may come; and the lien cannot be affected by any settlement between the parties after such notice of lien is given. The notice shall, (1) be served by either personal service or registered mail; (2) be in writing; (3) state that the relationship of attorney and client has been established, the nature of the claim or cause of action, and that the attorney claims a lien on such claim or cause of action; (4) be signed by the client, or by a person on his or her behalf whose relationship is shown, and which signature shall also be witnessed by a disinterested person whose address shall also be given; and (5) be signed by the attorney. A lien obtained under this section shall otherwise have the same effect and be enforced in the same manner as a lien obtained under section four hundred seventy-five of this article.

§ 476. Action against attorney for lending his name in suits and against person using name. If an attorney knowingly permits a person not being his general law partner, or a clerk in his office, to sue out a mandate, or to prosecute or defend an action in his name, he, and the person who so uses his name, each forfeits to the party against whom the mandate has been sued out, or the action prosecuted or defended, the sum of fifty dollars, to be recovered in an action.

§ 476-a. Action for unlawful practice of the law. 1. The attorney-general may maintain an action upon his or her own information or upon the complaint of a private person or of a bar association organized and existing under the laws of this state against any person, partnership, corporation, or association, and any employee, agent, director, or officer thereof who commits any act or engages in any conduct prohibited by law as constituting the unlawful practice of the law. The term "action" as used in this subdivision shall be construed to include both civil actions and criminal actions.

The term "unlawful practice of the law" as used in this article shall include, but is not limited to,

(a) any act prohibited by penal law sections two hundred seventy, two hundred seventy-a, two hundred seventy-e, two hundred seventy-one, two hundred seventy-five, two hundred seventy-five-a, two hundred seventy-six, two hundred eighty or fourteen hundred fifty-two, or

(b) any other act forbidden by law to be done by any person not regularly licensed and admitted to practice law in this state, or

(c) any act punishable by the supreme court as a criminal contempt of court under section seven hundred fifty-B of this chapter.

2. Such a civil action may also be maintained by a bar association organized and existing under the laws of the state of New York, upon an application to the supreme court of the state of New York, or a justice thereof, for leave to bring the same by such bar association on good cause shown therefor and proof that a written request was made upon the attorney-general to bring such an action and that more than twenty days have elapsed since the making of such request and he or she has failed or refused to bring such an action.

§ 476-b. Injunction to restrain defendant from unlawful practice of the law. In a civil action brought as prescribed in section four hundred seventy-six-a of this article, the final judgment in favor of the plaintiff shall perpetually restrain the defendant from the commission or continuance of the act complained of. A temporary restraining order to restrain the commission or continuance thereof may be granted upon

proof, by affidavit, that the defendant has violated any of the provisions of such section. The provisions of statute or rule relating generally to injunctions as provisional remedies in actions apply to such a temporary restraining order and the proceedings thereupon, except that the plaintiff shall not be required to file any undertaking before the issuance of such temporary restraining order, shall not be liable for costs and shall not be liable for damages sustained by reason of the restraining order in cases where judgment is rendered in favor of the person, firm or corporation sought to be enjoined.

§ 476-c. Investigation by the attorney-general. 1. The attorney-general is empowered to conduct an investigation of any complaint of unlawful practice of the law and in connection therewith, the attorney-general, his deputy, assistant, special assistant or other officer designated by him for such purpose is empowered to subpoena witnesses, compel their attendance, examine them under oath before him or the supreme court of the state of New York, or a justice thereof, and require the production of any books or papers which he deems relevant or material to the inquiry. Such power of subpoena and of examination shall not abate or terminate by reason of the commencement or pendency of any action or proceeding brought by the attorney-general under section four hundred seventy-six-a.

2. No person shall be excused from attending such inquiry in pursuance to the mandates of a subpoena, or from producing a paper or book, or from being examined or required to answer a question on the ground of failure of tender or payment of a witness fee or mileage, unless at the time of such appearance or production, as the case may be, such witness makes demand for such payment as a condition precedent to the offering of testimony or production required by the subpoena and unless such payment is not thereupon made. Such provisions for payment of witness fee or mileage do not apply to any officer, director or person in the employ of any person, partnership, corporation, company, trust or association whose conduct or practices are being investigated.

3. It shall be the duty of all public officers, their deputies,

assistants, subordinates, clerks or 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 or within their power. Any officer participating in such inquiry who shall disclose to any person other than the attorney-general the name of any witness examined or any other information obtained upon such inquiry except as directed by the attorney-general shall be guilty of a misdemeanor.

§ 477. Settlement of actions for personal injury. If, in an action commenced to recover damages for a personal injury or for death as the result of a personal injury, an attorney having or claiming to have a lien for services performed or to be performed who shall have appeared for the person or persons having or claiming to have a right of action for such injury or death, no settlement or adjustment of such action shall be valid, unless consented to in writing by such attorney and by the person or persons for whom he shall have appeared, or approved by an order of the court in which such action is brought.

§ 478. Practicing or appearing as attorney-at-law without being admitted and registered. It shall be unlawful for any natural person to practice or appear as an attorney-at-law or as an attorney and counselor-at-law for a person other than himself or herself in a court of record in this state, or to furnish attorneys or counsel or an attorney and counsel to render legal services, or to hold himself or herself out to the public as being entitled to practice law as aforesaid, or in any other manner, or to assume to be an attorney or counselor-at-law, or to assume, use, or advertise the title of lawyer, or attorney and counselor-at-law, or attorney-at-law or counselor-at-law, or attorney, or counselor, or attorney and counselor, or equivalent terms in any language, in such manner as to convey the impression that he or she is a legal practitioner of law or in any manner to advertise that he or she either alone or together with any other persons or person has, owns, conducts or maintains a law office or law and collection office, or office of any kind for the practice of

law, without having first been duly and regularly licensed and admitted to practice law in the courts of record of this state, and without having taken the constitutional oath. Provided, however, that nothing in this section shall be held to apply (1) to officers of societies for the prevention of cruelty to animals, duly appointed, when exercising the special powers conferred upon such corporations under section fourteen hundred three of the not-for-profit corporation law; or (2) to law students who have completed at least two semesters of law school or persons who have graduated from a law school, who have taken the examination for admittance to practice law in the courts of record in the state immediately available after graduation from law school, or the examination immediately available after being notified by the board of law examiners that they failed to pass said exam, and who have not been notified by the board of law examiners that they have failed to pass two such examinations, acting under the supervision of a legal aid organization when such students and persons are acting under a program approved by the appellate division of the supreme court of the department in which the principal office of such organization is located and specifying the extent to which such students and persons may engage in activities otherwise prohibited by this statute; or (3) to law students who have completed at least two semesters of law school, or to persons who have graduated from a law school approved pursuant to the rules of the court of appeals for the admission of attorneys and counselors-at-law and who have taken the examination for admission to practice as an attorney and counselor-at-law immediately available after graduation from law school or the examination immediately available after being notified by the board of law examiners that they failed to pass said exam, and who have not been notified by the board of law examiners that they have failed to pass two such examinations, when such students or persons are acting under the supervision of the state or a subdivision thereof or of any officer or agency of the state or a subdivision thereof, pursuant to a program approved by the appellate division of the supreme court of the department within which such activities are taking place and specifying the extent to which they may engage in activities otherwise prohibited by this statute and those powers of the supervising governmental entity or officer in connection with which they may engage in such activities; or (4) an attorney and

counselor-at-law or the equivalent who is admitted to the bar in another state, territory, district or foreign country and who has been admitted to practice pro hac vice in the state of New York within the limitations prescribed in the rules of the court of appeals; or (5) an attorney licensed as a legal consultant under rules adopted by the court of appeals pursuant to subdivision six of section fifty-three of this chapter and rendering legal services in the state within limitations prescribed in such rules.

§ 479. Soliciting business on behalf of an attorney. It shall be unlawful for any person or his agent, employee or any person acting on his behalf, to solicit or procure through solicitation either directly or indirectly legal business, or to solicit or procure through solicitation a retainer, written or oral, or any agreement authorizing an attorney to perform or render legal services, or to make it a business so to solicit or procure such business, retainers or agreements.

§ 480. Entering hospital to negotiate settlement or obtain release or statement. It shall be unlawful for any person to enter a hospital for the purpose of negotiating a settlement or obtaining a general release or statement, written or oral, from any person confined in said hospital or sanitarium as a patient, with reference to any personal injuries for which said person is confined in said hospital or sanitarium within fifteen days after the injuries were sustained, unless at least five days prior to the obtaining or procuring of such general release or statement such injured party has signified in writing his willingness that such general release or statement be given. This section shall not apply to a person entering a hospital for the purpose of visiting a person therein confined, as his attorney or on behalf of his attorney.

§ 481. Aiding, assisting or abetting the solicitation of persons or the procurement of a retainer for or on behalf of an attorney. It shall be unlawful for any person in the employ of or in any capacity attached

to any hospital, sanitarium, police department, prison or court, or for a person authorized to furnish bail bonds, to communicate directly or indirectly with any attorney or person acting on his behalf for the purpose of aiding, assisting or abetting such attorney in the solicitation of legal business or the procurement through solicitation of a retainer, written or oral, or any agreement authorizing the attorney to perform or render legal services.

§ 482. Employment by attorney of person to aid, assist or abet in the solicitation of business or the procurement through solicitation of a retainer to perform legal services. It shall be unlawful for an attorney to employ any person for the purpose of soliciting or aiding, assisting or abetting in the solicitation of legal business or the procurement through solicitation either directly or indirectly of a retainer, written or oral, or of any agreement authorizing the attorney to perform or render legal services.

§ 483. Signs advertising services as attorney at law. It shall be unlawful for any person to maintain on real property or to permit or allow any other person to maintain, on such property a sign, in any language, to the effect that an attorney-at-law or legal services are available therein unless the full name of the attorney-at-law or the firm rendering such services is set forth thereon. In any prosecution for violation of the provisions of this section the existence of such a sign on real property shall be presumptive evidence that it was placed or permitted to exist thereon with the knowledge and consent of the person or persons in possession of said premises.

§ 484. None but attorneys to practice in the state. No natural person shall ask or receive, directly or indirectly, compensation for appearing for a person other than himself as attorney in any court or before any magistrate, or for preparing deeds, mortgages, assignments, discharges, leases or any other instruments affecting real estate, wills, codicils, or any other instrument affecting the disposition of property after

death, or decedents' estates, or pleadings of any kind in any action brought before any court of record in this state, or make it a business to practice for another as an attorney in any court or before any magistrate unless he has been regularly admitted to practice, as an attorney or counselor, in the courts of record in the state; but nothing in this section shall apply (1) to officers of societies for the prevention of cruelty to animals, duly appointed, when exercising the special powers conferred upon such corporations under section fourteen hundred three of the not-for-profit corporation law; or (2) to law students who have completed at least two semesters of law school or persons who have graduated from a law school, who have taken the examination for admittance to practice law in the courts of record in the state immediately available after graduation from law school, or the examination immediately available after being notified by the board of law examiners that they failed to pass said exam, and who have not been notified by the board of law examiners that they have failed to pass two such examinations, acting under the supervision of a legal aid organization, when such students and persons are acting under a program approved by the appellate division of the supreme court of the department in which the principal office of such organization is located and specifying the extent to which such students and persons may engage in activities prohibited by this statute; or (3) to persons who have graduated from a law school approved pursuant to the rules of the court of appeals for the admission of attorneys and counselors-at-law and who have taken the examination for admission to practice as an attorney and counselor-at-law immediately available after graduation from law school or the examination immediately available after being notified by the board of law examiners that they failed to pass said exam, and who have not been notified by the board of law examiners that they have failed to pass two such examinations, when such persons are acting under the supervision of the state or a subdivision thereof or of any officer or agency of the state or a subdivision thereof, pursuant to a program approved by the appellate division of the supreme court of the department within which such activities are taking place and specifying the extent to which they may engage in activities otherwise prohibited by this statute and those powers of the supervising governmental entity or officer in connection with which they may engage in such activities;

or (4) an attorney and counselor-at-law or the equivalent who is admitted to the bar in another state, territory, district or foreign country and who has been admitted to practice pro hac vice in the State of New York within the limitations prescribed in the rules of the court of appeals; or (5) an attorney licensed as a legal consultant under rules adopted by the court of appeals pursuant to subdivision six of section fifty-three of this chapter and rendering legal services in the state within limitations prescribed in such rules.

§ 485. Violation of certain preceding sections a misdemeanor. Except as provided in section four hundred eighty-five-a of this article, any person violating the provisions of section four hundred seventy-eight, four hundred seventy-nine, four hundred eighty, four hundred eighty-one, four hundred eighty-two, four hundred eighty-three or four hundred eighty-four of this article, shall be guilty of a misdemeanor.

§ 485-a. Violation of certain sections a class E felony. Any person who violates the provisions of sections four hundred seventy-eight, four hundred eighty-four, four hundred eighty-six or four hundred ninety-five of this article is guilty of a class E felony when he or she: (1) falsely holds himself or herself out as a person licensed to practice law in this state, a person otherwise permitted to practice law in this state, or a person who can provide services that only attorneys are authorized to provide; and (2) causes another person to suffer monetary loss or damages exceeding one thousand dollars or other material damage resulting from impairment of a legal right to which he or she is entitled.

§ 486. Practice of law by attorney who has been disbarred, suspended, or convicted of a felony. Any person whose admission to practice as an attorney and counselor-at-law has been revoked or who has been removed from office as attorney and counselor-at-law or, being an attorney and counselor-at-law, has been convicted of a felony or has been suspended from practice and has not been duly and regularly reinstated, who does

any act forbidden by the provisions of this article to be done by any person not regularly admitted to practice law in the courts of record of this state, unless the judgment, decree or order suspending him shall permit such act, shall be guilty of a misdemeanor unless otherwise provided by section four hundred eighty-five-a of this article.

§ 486-a. Conviction for felony of person who is an attorney and counselor at law; notice thereof to be given by clerk to appropriate appellate division of the supreme court. Whenever it appears from the record that a person who has been convicted of any crime which is a felony, is an attorney and counselor at law of this state, it shall be the duty of the clerk of every court in which such conviction is had to ascertain:

(a) the place and date of such person's admission to practice as attorney and counselor at law; and

(b) his last office and residence addresses; and, within five days after the imposition of sentence, to transmit a certified copy of the judgment of conviction to the clerk of the appellate division of the supreme court in the judicial department in which such person was admitted to practice. Said copy of the judgment shall set forth, in addition to all the facts usually stated therein, the place and the date of admission to practice of such convicted attorney and his last office and residence addresses.

§ 487. Misconduct by attorneys. An attorney or counselor who:

1. Is guilty of any deceit or collusion, or consents to any deceit or collusion, with intent to deceive the court or any party; or,

2. Wilfully delays his client's suit with a view to his own gain; or, wilfully receives any money or allowance for or on account of any money which he has not laid out, or becomes answerable for,

Is guilty of a misdemeanor, and in addition to the punishment prescribed therefor by the penal law, he forfeits to the party injured

treble damages, to be recovered in a civil action.

§ 488. Buying demands on which to bring an action. An attorney or counselor shall not:

1. Directly or indirectly, buy, take an assignment of or be in any manner interested in buying or taking an assignment of a bond, promissory note, bill of exchange, book debt, or other thing in action, with the intent and for the purpose of bringing an action thereon.

2. By himself or herself, or by or in the name of another person, either before or after action brought, promise or give, or procure to be promised or given, a valuable consideration to any person, as an inducement to placing, or in consideration of having placed, in his or her hands, or in the hands of another person, a demand of any kind, for the purpose of bringing an action thereon, or of representing the claimant in the pursuit of any civil remedy for the recovery thereof. But this subdivision does not apply to:

a. an agreement between attorneys and counselors, or either, to divide between themselves the compensation to be received;

b. a lawyer representing an indigent or pro bono client paying court costs and expenses of litigation on behalf of the client;

c. a lawyer advancing court costs and expenses of litigation, the repayment of which may be contingent on the outcome of the matter; or

d. a lawyer, in an action in which an attorney's fee is payable in whole or in part as a percentage of the recovery in the action, paying on the lawyer's own account court costs and expenses of litigation. In such case, the fee paid to the attorney from the proceeds of the action may include an amount equal to such costs and expenses incurred.

3. A lawyer that offers services as described in paragraphs b, c and d of subdivision two of this section shall not, either directly or through

any media used to advertise or otherwise publicize the lawyer's services, promise or advertise his or her ability to advance or pay costs and expenses of litigation in such manner as to state or imply that such ability is unique or extraordinary when such is not the case.

4. An attorney or counselor who violates the provisions of this section is guilty of a misdemeanor.

§ 489. Purchase of claims by corporations or collection agencies. 1. No person or co-partnership, engaged directly or indirectly in the business of collection and adjustment of claims, and no corporation or association, directly or indirectly, itself or by or through its officers, agents or employees, shall solicit, buy or take an assignment of, or be in any manner interested in buying or taking an assignment of a bond, promissory note, bill of exchange, book debt, or other thing in action, or any claim or demand, with the intent and for the purpose of bringing an action or proceeding thereon; provided however, that bills receivable, notes receivable, bills of exchange, judgments or other things in action may be solicited, bought, or assignment thereof taken, from any executor, administrator, assignee for the benefit of creditors, trustee or receiver in bankruptcy, or any other person or persons in charge of the administration, settlement or compromise of any estate, through court actions, proceedings or otherwise. Nothing herein contained shall affect any assignment heretofore or hereafter taken by any moneyed corporation authorized to do business in the state of New York or its nominee pursuant to a subrogation agreement or a salvage operation, or by any corporation organized for religious, benevolent or charitable purposes. Any corporation or association violating the provisions of this section shall be liable to a fine of not more than five thousand dollars; any person or co-partnership, violating the provisions of this section, and any officer, trustee, director, agent or employee of any person, co-partnership, corporation or association violating this section who, directly or indirectly, engages or assists in such violation, is guilty of a misdemeanor.

2. Except as set forth in subdivision three of this section, the

provisions of subdivision one of this section shall not apply to any assignment, purchase or transfer hereafter made of one or more bonds, promissory notes, bills of exchange, book debts, or other things in action, or any claims or demands, if such assignment, purchase or transfer included bonds, promissory notes, bills of exchange and/or book debts, issued by or enforceable against the same obligor (whether or not also issued by or enforceable against any other obligors), having an aggregate purchase price of at least five hundred thousand dollars, in which event the exemption provided by this subdivision shall apply as well to all other items, including other things in action, claims and demands, included in such assignment, purchase or transfer (but only if such other items are issued by or enforceable against the same obligor, or relate to or arise in connection with such bonds, promissory notes, bills of exchange and/or book debts or the issuance thereof).

3. The rights of an indenture trustee, its agents and employees shall not be affected by the provisions of subdivision two of this section.

§ 490. Limitation. Sections four hundred eighty-eight and four hundred eighty-nine of this chapter do not prohibit the receipt of a bond, promissory note, bill of exchange, book debt, or other thing in action, in payment for property sold, or for services actually rendered, or for a debt antecedently contracted; or from buying or receiving a bill of exchange, draft, or other thing in action for the purpose of remittance.

§ 491. Sharing of compensation by attorneys prohibited. 1. It shall be unlawful for any person, partnership, corporation, or association to divide with or receive from, or to agree to divide with or receive from, any attorney-at-law or group of attorneys-at-law, whether practicing in this state or elsewhere, either before or after action brought, any portion of any fee or compensation, charged or received by such attorney-at-law or any valuable consideration or reward, as an inducement for placing, or in consideration of having placed, in the hands of such attorney-at-law, or in the hands of another person, a claim or demand of any kind for the purpose of collecting such claim, or

bringing an action thereon, or of representing claimant in the pursuit of any civil remedy for the recovery thereof. But this section does not apply to an agreement between attorneys and counsellors-at-law to divide between themselves the compensation to be received.

2. Any person violating any of the provisions of this section is guilty of a misdemeanor.

§ 492. Use of attorney's name by another. If an attorney knowingly permits any person, not being his general law partner or a clerk in his office, to sue out any process or to prosecute or defend any action in his name, except as authorized by this section, such attorney, and every person who shall so use his name, is guilty of a misdemeanor.

Whenever an action or proceeding is authorized by law to be prosecuted or defended in the name of the people, or of any public officer, board of officers, or municipal corporation, on behalf of another party, the attorney-general, or district attorney, or attorney of such public officer or board or corporation may permit any proceeding therein, to be taken in his name by an attorney to be chosen by the party in interest.

§ 493. Attorneys forbidden to defend criminal prosecutions carried on by their partners, or formerly by themselves. An attorney, who directly or indirectly advises in relation to, or aids or promotes the defense of any action or proceeding in any court, the prosecution of which is carried on, aided or promoted by a person as district attorney or other public prosecutor, with whom such attorney is directly or indirectly connected as a partner; or who, having himself prosecuted or in any manner aided or promoted any action of proceeding in any court, as district attorney or other public prosecutor, afterwards directly or indirectly advises in relation to, or takes any part in, the defense thereof, as attorney or otherwise; or who takes or receives any valuable consideration from or on behalf of any defendant in any such action, upon any understanding or agreement whatever, express or implied, having relation to the defense thereof, is guilty of a misdemeanor.

§ 494. Attorneys may defend themselves. The last section does not prohibit an attorney from defending himself in person, as attorney or as counsel, when prosecuted either civilly or criminally.

§ 495. Corporations and voluntary associations not to practice law. 1. No corporation or voluntary association shall (a) practice or appear as an attorney-at-law for any person in any court in this state or before any judicial body, nor

(b) make it a business to practice as an attorney-at-law, for any person, in any of said courts, nor

(c) hold itself out to the public as being entitled to practice law, or to render legal services or advice, nor

(d) furnish attorneys or counsel, nor

(e) render legal services of any kind in actions or proceedings of any nature or in any other way or manner, nor

(f) assume in any other manner to be entitled to practice law, nor

(g) assume, use or advertise the title of lawyer or attorney, attorney-at-law, or equivalent terms in any language in such manner as to convey the impression that it is entitled to practice law or to furnish legal advice, services or counsel, nor

(h) advertise that either alone or together with or by or through any person whether or not a duly and regularly admitted attorney-at-law, it has, owns, conducts or maintains a law office or an office for the practice of law, or for furnishing legal advice, services or counsel.

2. No corporation or voluntary association shall itself or by or through its officers, agents or employees, solicit any claim or demand, or taken an assignment thereof, for the purpose of representing any person in the pursuit of any civil remedy, nor solicit any claim or demand for the purpose of representing as attorney-at-law, or of furnishing legal advice, services or counsel to, a person sued or about to be sued in any action or proceeding or against whom an action or proceeding has been or is about to be brought, or who may be affected by any action or proceeding which has been or may be instituted in any

court or before any judicial body.

Nothing herein contained shall affect any assignment heretofore or hereafter taken by any moneyed corporation authorized to do business in the state of New York or its nominee pursuant to a subrogation agreement or a salvage operation. Any corporation or voluntary association violating the provisions of this subdivision or of subdivision one of this section shall be liable to a fine of not more than five thousand dollars and every officer, trustee, director, agent or employee of such corporation or voluntary association who directly or indirectly engages in any of the acts prohibited in this subdivision or in subdivision one of this section or assists such corporation or voluntary association to do such prohibited acts is guilty of a misdemeanor. The fact that such officer, trustee, director, agent or employee shall be a duly and regularly admitted attorney-at-law, shall not be held to permit or allow any such corporation or voluntary association to do the acts so prohibited nor shall such fact be a defense upon the trial of any of the persons mentioned herein for a violation of the provisions of this subdivision or subdivision one of this section.

3. No voluntary association or corporation shall ask or receive directly or indirectly, compensation for preparing deeds, mortgages, assignments, discharges, leases, or any other instruments affecting real estate, wills, codicils, or any other instruments affecting disposition of property after death or decedents' estates, or pleadings of any kind in actions or proceedings of any nature. Any association or corporation violating the provisions of this subdivision is guilty of a misdemeanor unless otherwise provided by section four hundred eighty-five-a of this article.

4. Subdivisions one and two of this section shall not apply to any corporation or voluntary association lawfully engaged in a business authorized by the provisions of any existing statute.

5. This section shall not apply to a corporation or voluntary association lawfully engaged in the examination and insuring of titles to real property, in the preparation of any deeds, mortgages,

assignments, discharges, leases or any other instruments affecting real property insofar as such instruments are necessary to the examination and insuring of titles, and necessary or incidental to loans made by any such corporation or association; nor shall it prohibit a corporation or voluntary association from employing an attorney or attorneys in and about its own immediate affairs or in any litigation to which it is or may be a party. Nothing herein contained shall be construed to prevent a corporation or association from furnishing to any person, lawfully engaged in the practice of law, such information or such clerical services in and about his professional work as, except for the provisions of this section, may be lawful, provided that at all times the lawyer receiving such information or such services shall maintain full professional and direct responsibility to his clients for the information and services so received. But no corporation shall be permitted to render any services which cannot lawfully be rendered by a person not admitted to practice law in this state nor to solicit directly or indirectly professional employment for a lawyer.

6. This section shall not apply to a corporation organized under article fifteen, or authorized to do business in this state under article fifteen-A, of the business corporation law.

7. This section does not apply to organizations which offer prepaid legal services; to non-profit organizations whether incorporated or unincorporated, organized and operating primarily for a purpose other than the provision of legal services and which furnish legal services as an incidental activity in furtherance of their primary purpose; or to organizations which have as their primary purpose the furnishing of legal services to indigent persons.

*** § 496. An organization described in subdivision seven of section four hundred ninety-five of this article shall file with the appellate division** department in which its principal office is located a statement describing the nature and purposes of the organization, the composition of its governing body, the type of legal services being made available, and the names and addresses of any attorneys and counselors-at-law

employed by the organization or with whom commitments have been made. An updating of this information shall be furnished the appropriate appellate division on or before July first of each year and the names and addresses of attorneys and counselors-at-law who rendered legal services during that year shall be included.

* NB Enacted without section heading.

§ 497. Attorneys fiduciary funds; interest-bearing accounts. 1. An "interest on lawyer account" or "IOLA" is an unsegregated interest-bearing deposit account with a banking institution for the deposit by an attorney of qualified funds.

2. "Qualified funds" are moneys received by an attorney in a fiduciary capacity from a client or beneficial owner and which, in the judgment of the attorney, are too small in amount or are reasonably expected to be held for too short a time to generate sufficient interest income to justify the expense of administering a segregated account for the benefit of the client or beneficial owner. In determining whether funds are qualified for deposit in an IOLA account, an attorney may use as a guide the regulation adopted by the board of trustees of the IOLA fund pursuant to subdivision four of section ninety-seven-v of the state finance law.

2-a. "Funds received in a fiduciary capacity" are funds received by an attorney from a client or beneficial owner in the course of the practice of law, including but not limited to funds received in an escrow capacity, but not including funds received as trustee, guardian or receiver in bankruptcy.

3. A "banking institution" means a bank, trust company, savings bank, savings and loan association, credit union or foreign banking corporation whether incorporated, chartered, organized or licensed under the laws of this state or the United States, provided that such banking institution conducts its principal banking business in this state.

4. (a) An attorney shall have discretion, in accordance with the code

of professional responsibility, to determine whether moneys received by an attorney in a fiduciary capacity from a client or beneficial owner shall be deposited in non-interest, or in interest bearing accounts. If in the judgment of an attorney any moneys received are qualified funds, such funds shall be deposited in an IOLA account in a banking institution of his or her choice offering such accounts.

(b) The decision as to whether funds are nominal in amount or expected to be held for a short period of time rests exclusively in the sound judgment of the lawyer or law firm. Ordinarily, in determining the type of account into which to deposit particular funds held for a client, a lawyer or law firm shall take into consideration the following factors:

(i) the amount of interest the funds would earn during the period they are expected to be deposited;

(ii) the cost of establishing and administering the account, including the cost of the lawyer or law firm's services;

(iii) the capability of the banking institution, through subaccounting, to calculate and pay interest earned by each client's funds, net of any transaction costs, to the individual client.

(c) All qualified funds shall be deposited in an IOLA account unless they are deposited in:

(i) a separate interest bearing account for the particular client or client's matter on which the interest will be paid to the client; or

(ii) an interest bearing trust account at a banking institution with provision by the bank or by the depositing lawyer or law firm for computation of interest earned by each client's funds and the payment thereof to the client.

(d) Notwithstanding the deposit requirements of this subdivision, no attorney or law firm shall be liable in damages nor held to answer for a charge of professional misconduct for failure to deposit qualified funds in an IOLA account.

5. No attorney or law firm shall be liable in damages nor held to answer for a charge of professional misconduct because of a deposit of moneys to an IOLA account pursuant to a judgment in good faith that such moneys were qualified funds.

6. a. An attorney or law firm which receives qualified funds in the

course of its practice of law and establishes and maintains an IOLA account shall do so by (1) designating the account as "(name of attorney/law firm IOLA account)" with the approval of the banking institution; and (2) notifying the IOLA fund within thirty days of establishing the IOLA account of the account number and name and address of the banking institution where the account is deposited.

b. The rate of interest payable on any IOLA account shall be not less than the rate paid by the banking institution on similar accounts maintained at that institution, and the banking institution shall not impose on such accounts any charges or fees greater than it imposes on similar accounts maintained at that institution.

c. With respect to IOLA accounts, the banking institution shall:

(i) Remit at least quarterly any interest earned on the account directly to the IOLA fund, after deduction of service charges or fees, if any, are applied.

(ii) Transmit to the IOLA fund with each remittance a statement showing at least the name of the account, service charges or fees deducted, if any, and the amount of net interest remitted from such account.

(iii) Transmit to each attorney or law firm which maintains an IOLA account a statement showing at least the name of the account, service charges or fees deducted, if any, and the amount of interest remitted from such account.

(iv) Be permitted to impose reasonable service charges for the preparation and issuance of the statement.

(v) Have no duty to inquire or determine whether deposits consist of qualified funds.

7. a. Payment from an IOLA account to or upon the order of the attorney maintaining such account shall be a valid and sufficient release of any claims by any person or entity against any banking institution for any payments so made.

b. Any remittance of interest to the IOLA fund by a banking institution pursuant to this section shall be a valid and sufficient

release and discharge of any claims by any person or entity against such banking institution for any payment so made, and no action shall be maintained against any banking institution solely for opening, offering, or maintaining an IOLA account, for accepting any funds for deposit to any such account or for remitting any interest to the IOLA fund.

8. Nothing contained in this section shall be construed to require any banking institution to offer, accept or maintain IOLA accounts.

9. All papers, records, documents or other information identifying an attorney, client or beneficial owner of an IOLA account shall be confidential and shall not be disclosed by a banking institution except with the consent of the attorney maintaining the account or as permitted by any law, regulation or adminstrative requirement.

10. An attorney or law firm that can establish that compliance with subdivision six of this section has resulted in any banking service charges or fees shall be entitled to reimbursement of such expense from the interest on lawyer account fund by filing a claim with supporting documentation with the fund.

§ 498. Professional referrals. 1. There shall be no cause of action for damages arising against any association or society of attorneys and counsellors at law authorized to practice in the state of New York for referring any person or persons to a member of the profession for the purpose of obtaining legal services, provided that such referral was made without charge and as a public service by said association or society, and without malice, and in the reasonable belief that such referral was warranted, based upon the facts disclosed.

2. The communications between a member or authorized agent of an association or society of attorneys or counselors at law and any person, persons or entity communicating with such member or authorized agent for the purpose of seeking or obtaining a professional referral shall be deemed to be privileged on the same basis as the privilege provided by law for communications between attorney and client. Such privilege may

be waived only by the person, persons or entity who has furnished information to the association or society, its members or authorized agents.

3. For the purposes of this section, "association or society of attorneys or counsellors at law" shall mean any such organization, whether incorporated or unincorporated, which offers professional referrals as an incidental service in the normal course of business, but which business does not include the providing of legal services.

§ 499. Lawyer assistance committees. 1. Confidential information privileged. The confidential relations and communications between a member or authorized agent of a lawyer assistance committee sponsored by a state or local bar association and any person, firm or corporation communicating with such committee, its members or authorized agents shall be deemed to be privileged on the same basis as those provided by law between attorney and client. Such privilege may be waived only by the person, firm or corporation which has furnished information to the committee.

2. Immunity from liability. Any person, firm or corporation in good faith providing information to, or in any other way participating in the affairs of, any of the committees referred to in subdivision one of this section shall be immune from civil liability that might otherwise result by reason of such conduct. For the purpose of any proceeding, the good faith of any such person, firm or corporation shall be presumed.

ARTICLE 15-A

STATE COMMISSION ON PROSECUTORIAL CONDUCT

Section 499-a. Establishment of commission.
499-b. Definitions.
499-c. State commission on prosecutorial conduct; organization.
499-d. Functions; powers and duties.
499-e. Panels; referees.
499-f. Complaint; investigation; hearing and disposition.

499-g. Confidentiality of records.
499-h. Breach of confidentiality of commission information.
499-i. Resignation not to divest commission and the appellate division of jurisdiction.
499-j. Effect.

§ 499-a. Establishment of commission. There is hereby created within the executive department a state commission of prosecutorial conduct. The commission shall have the authority to review and investigate the conduct of prosecutors upon the filing of a complaint with the commission to examine whether a prosecutor or prosecutors has committed conduct in the course of his or her official duties or under color of state law potentially violative of statutes, the legal rights of private persons, whether statutory, constitutional or otherwise; case law; or court rules, including, but not limited to the New York Rules of Professional Conduct, 22 NYCRR 1200, or any subset thereof or successor thereto, including but not limited to Rule 3.8 (Special Responsibilities of Prosecutors and Other Government Lawyers).

§ 499-b. Definitions. For the purposes of this article the following terms have the following meanings:

1. "Commission" means the state commission on prosecutorial conduct.

2. "Prosecutor" means a district attorney or any assistant district attorney of any county of the state in an action to exact any criminal penalty, fine, sanction or forfeiture.

3. "Hearing" means a proceeding under subdivision four of section four hundred ninety-nine-f of this article.

4. "Member of the bar" means a person admitted to the practice of law in this state for at least five years.

5. "Retired judge" shall mean a former judge or justice of the unified

court system who was qualified as an attorney during such service and served as such a judge or justice for at least five years.

§ 499-c. State commission on prosecutorial conduct; organization. 1. The commission shall consist of eleven members, of whom four shall be appointed by the governor, one by the temporary president of the senate, one by the minority leader of the senate, one by the speaker of the assembly, one by the minority leader of the assembly and three by the chief judge of the court of appeals.

(a) Of the members appointed by the governor, two shall be attorneys providing public defense services who have provided such services for at least five years, and two shall be active, former or retired prosecutors with at least five years of prosecutorial experience.

(b) Of the members appointed by the chief judge, two shall be retired judges, one of whom shall possess significant work experience providing public defense services and one of whom shall have significant prosecutorial experience; one shall be a full time law professor or dean at an accredited law school with significant criminal law experience.

(c) Of the members appointed by the legislative leaders, two shall be attorneys providing defense services and two shall be active, former, or retired prosecutors. Each candidate for appointment as an attorney providing defense services shall have provided such services for at least five years and each candidate for appointment as an active, former or retired prosecutor shall have had at least five years of prosecutorial experience. After the speaker of the assembly and temporary president of the senate shall have made their initial appointments, the minority leaders of each house shall make their appointments to the commission in a manner to ensure an equal number of attorneys providing defense services and active, former or retired prosecutors. After such initial appointments, successive appointments must be made in a manner to ensure an equal number of attorneys providing defense services and active, former or retired prosecutors. A temporary imbalance in the number of prosecutors and defense attorneys pending new appointments shall not prevent the commission from conducting business.

2. Membership on the commission by a prosecutor shall not constitute the holding of a public office and no prosecutor shall be required to take and file an oath of office before serving on the commission. The members of the commission shall elect one of their number to serve as chairperson during his or her term of office or for a period of two years, whichever is shorter. Members of the commission who fail to participate for ninety days may be replaced by the original appointing authority for the remainder of the term.

3. The persons first appointed by the governor shall have respectively three and four year terms as he or she shall designate. The persons first appointed by the chief judge of the court of appeals shall have respectively two, three and four year terms as he or she shall designate. The person first appointed by the temporary president of the senate shall have a three year term. The person first appointed by the minority leader of the senate shall have a two year term. The person first appointed by the speaker of the assembly shall have a three year term. The person first appointed by the minority leader of the assembly shall have a two year term. Each member of the commission shall be appointed thereafter for a term of four years. Membership shall terminate if a member attains a position which would have rendered him or her ineligible for appointment at the time of his or her appointment. A vacancy shall be filled by the appointing officer for the remainder of the term.

4. If a member of the commission who is a prosecutor is the subject of a complaint or investigation with respect to his or her qualifications, conduct, fitness to perform or performance of his or her official duties, he or she shall be disqualified from participating in any and all proceedings with respect thereto. If a member of the commission is employed in the same organization as the subject of a complaint or investigation with respect to his or her qualifications, conduct, fitness to perform, or performance of his or her official duties, he or she shall be disqualified from participating in any and all proceedings with respect thereto.

5. Each member of the commission shall serve without salary or other

compensation, but shall be entitled to receive actual and necessary expenses incurred in the discharge of his or her duties.

6. For any action taken pursuant to subdivisions four through seven of section four hundred ninety-nine-f or subdivision two of section four hundred ninety-nine-e of this article, eight members of the commission shall constitute a quorum of the commission and the concurrence of six members of the commission shall be necessary. Two members of a three member panel of the commission shall constitute a quorum of the panel and the concurrence of two members of the panel shall be necessary for any action taken.

7. The commission shall appoint and at pleasure may remove an administrator who shall be a member of the bar who is not an active, former or retired prosecutor. The administrator of the commission may appoint such deputies, assistants, counsel, investigators and other officers and employees as he or she may deem necessary, prescribe their powers and duties, fix their compensation and provide for reimbursement of their expenses within the amounts appropriated therefor. No appointment of an administrator shall be valid unless approved by an executive appointee, the appointee of the temporary president of the senate, and the appointee of the speaker of the assembly.

§ 499-d. Functions; powers and duties. The commission shall have the following functions, powers and duties:

1. To conduct hearings and investigations, 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 that it may deem relevant or material to an investigation; and the commission may designate any of its members or any member of its staff to exercise any such powers, provided, however, that except as is otherwise provided in section four hundred ninety-nine-e of this article, only a member of the commission or the administrator shall exercise the power to subpoena witnesses or require the production of books, records, documents or other evidence.

In accordance with section twenty-three hundred four of the civil practice law and rules, a request to withdraw or modify a subpoena issued pursuant to this article may be made to the person who issued it and/or to the commission. The prosecuting agency may inform the commission, by affirmation with specificity and particularity, in a form and manner in which shall be prescribed by the commission, of its position that the commission's investigations will substantially interfere with the agency's own criminal investigation. If the prosecuting agency informs the commission of its basis for that position, the commission shall only exercise its powers in a way that will not interfere with an agency's active investigation or prosecution and in no event shall the commission exercise its powers prior to the earlier of: (a) the filing of an accusatory instrument with respect to the crime or crimes that led to such prosecuting agency's investigation and underlie the complaint; or (b) one year from the commencement of the occurrence of the crime or crimes that led to such prosecuting agency's investigation and underlie the complaint.

2. To confer immunity when the commission deems it necessary and proper in accordance with section 50.20 of the criminal procedure law; provided, however, that at least forty-eight hours prior written notice of the commission's intention to confer such immunity is given the attorney general and the appropriate district attorney.

3. To request and receive from any court, department, division, board, bureau, commission, or other agency of the state or political subdivision thereof or any public authority such assistance, information and data as will enable it properly to carry out its functions, powers and duties.

4. To report annually, on or before the first day of March in each year and at such other times as the commission shall deem necessary, to the governor, the legislature and the chief judge of the court of appeals, with respect to proceedings which have been finally determined by the commission. Such reports may include legislative and administrative recommendations. The contents of the annual report and any other report shall conform to the provisions of this article

relating to confidentiality.

5. To adopt, promulgate, amend and rescind rules and procedures, not otherwise inconsistent with law, necessary to carry out the provisions and purposes of this article. All such rules and procedures shall be filed in the offices of the chief administrator of the courts and the secretary of state.

6. To do all other things necessary and convenient to carry out its functions, powers and duties expressly set forth in this article.

§ 499-e. Panels; referees. 1. The commission may delegate any of its functions, powers and duties to a panel of three of its members, one of whom shall be a member of the bar, except that no panel shall confer immunity in accordance with section 50.20 of the criminal procedure law. No panel shall be authorized to take any action pursuant to subdivisions four through nine of section four hundred ninety-nine-f of this article or subdivision two of this section.

2. The commission may designate a member of the bar who is not a prosecutor or a member of the commission or its staff as a referee to hear and report to the commission in accordance with the provisions of section four hundred ninety-nine-f of this article. Such referee shall be empowered to conduct hearings, 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 that the referee may deem relevant or material to the subject of the hearing.

§ 499-f. Complaint; investigation; hearing and disposition. 1. The commission shall receive, initiate, investigate and hear complaints with respect to the conduct or performance of official duties of any prosecutor; and may make a recommendation to the governor that a prosecutor be removed from office for cause, for, including, but not limited to, misconduct in office, as evidenced by his or her departure

from his or her obligations under appropriate statute, case law, and/or New York Rules of Professional Conduct, 22 NYCRR 1200, or any subset thereof or successor thereto, including but not limited to Rule 3.8 (Special Responsibilities of Prosecutors and Other Government Lawyers), persistent failure to perform his or her duties, conduct prejudicial to the administration of justice, or that a prosecutor be retired for mental or physical disability preventing the proper performance of his or her prosecutorial duties. A complaint shall be in writing and signed by the complainant and, if directed by the commission, shall be verified. Upon receipt of a complaint (a) the commission shall conduct an investigation of the complaint; or (b) the commission may dismiss the complaint if it determines that the complaint on its face lacks merit. If the complaint is dismissed, the commission shall so notify the complainant. If the commission shall have notified the prosecutor of the complaint, the commission shall also notify the prosecutor of such dismissal. Pursuant to paragraph a of subdivision four of section ninety of this chapter, any person being an attorney and counselor-at-law who shall be convicted of a felony as defined in paragraph e of subdivision four of section ninety of this chapter, shall upon such conviction, cease to be any attorney and counselor-at-law, or to be competent to practice law as such.

2. The commission may, on its own motion, initiate an investigation of a prosecutor with respect to his or her conduct or the performance of his or her official duties. Prior to initiating any such investigation, the commission shall file as part of its record a written complaint, signed by the administrator of the commission, which complaint shall serve as the basis for such investigation.

3. In the course of an investigation, the commission may require the appearance of the prosecutor involved before it, in which event the prosecutor shall be notified in writing of his or her required appearance, either personally, at least three days prior to such appearance, or by certified mail, return receipt requested, at least five days prior to such appearance. In either case a copy of the complaint shall be served upon the prosecutor at the time of such notification. The prosecutor shall have the right to be represented by

counsel during any and all stages of the investigation in which his or her appearance is required and to present evidentiary data and material relevant to the complaint. A transcript shall be made and kept with respect to all proceedings at which testimony or statements under oath of any party or witness shall be taken, and the transcript of the prosecutor's testimony shall be made available to the prosecutor without cost. Such transcript shall be confidential except as otherwise permitted by section four hundred ninety-nine-g of this article.

4. If in the course of an investigation, the commission determines that a hearing is warranted it shall direct that a formal written complaint signed and verified by the administrator be drawn and served upon the prosecutor involved, either personally or by certified mail, return receipt requested. The prosecutor shall file a written answer to the complaint with the commission within twenty days of such service. If, upon receipt of the answer, or upon expiration of the time to answer, the commission shall direct that a hearing be held with respect to the complaint, the prosecutor involved shall be notified in writing of the date of the hearing either personally, at least twenty days prior thereto, or by certified mail, return receipt requested, at least twenty-two days prior thereto. Upon the written request of the prosecutor, the commission shall, at least five days prior to the hearing or any adjourned date thereof, make available to the prosecutor without cost copies of all documents which the commission intends to present at such hearing and any written statements made by witnesses who will be called to give testimony by the commission. The commission shall, in any case, make available to the prosecutor at least five days prior to the hearing or any adjourned date thereof any exculpatory evidentiary data and material relevant to the complaint. The failure of the commission to timely furnish any documents, statements and/or exculpatory evidentiary data and material provided for herein shall not affect the validity of any proceedings before the commission provided that such failure is not substantially prejudicial to the prosecutor. The complainant may be notified of the hearing and unless he or she shall be subpoenaed as a witness by the prosecutor, his or her presence thereat shall be within the discretion of the commission. The hearing shall not be public unless the prosecutor involved shall so demand in

writing. At the hearing the commission may take the testimony of witnesses and receive evidentiary data and material relevant to the complaint. The prosecutor shall have the right to be represented by counsel during any and all stages of the hearing and shall have the right to call and cross-examine witnesses and present evidentiary data and material relevant to the complaint. A transcript of the proceedings and of the testimony of witnesses at the hearing shall be taken and kept with the records of the commission.

5. Subject to the approval of the commission, the administrator and the prosecutor may agree on a statement of facts and may stipulate in writing that the hearing shall be waived. In such a case, the commission shall rely upon the agreed statement of facts in forming the commission's findings of fact.

6. If, after a formal written complaint has been served pursuant to subdivision four of this section, or during the course of or after a hearing, the commission determines that no further action is necessary, the complaint shall be dismissed and the complainant and the prosecutor shall be so notified in writing.

7. The commission shall transmit its findings of fact and recommendations and the record of the proceedings upon which such findings and recommendations are based, to the attorney grievance committee of the appellate division in the department where the prosecutor was admitted to practice, which shall cause a copy thereof to be served either personally or by certified mail, return receipt requested, on the prosecutor involved. Upon completion of service, the commission's findings and recommendations and the record of its proceedings shall be made public and shall be made available for public inspection at the principal office of the commission and at the office of the clerk of the appellate division in the department in which the record was filed. If the commission's findings and recommendations include any recommendation that any prosecutor should be removed or retired, the commission shall simultaneously transmit its findings, recommendations, and record of its proceedings to the governor. Records of a prosecuting agency provided by the agency to the commission

pursuant to this article shall not be subject to disclosure by the commission under article six of the public officers law.

8. The attorney grievance committee of the appellate division that receives the commission's report may accept or reject the recommended sanction; impose a different sanction; or impose no sanction.

9. If during the course of or after an investigation or hearing, the commission determines that the complaint or any allegation thereof warrants action, other than in accordance with the provisions of subdivisions seven and eight of this section, within the powers of: (a) a person having administrative jurisdiction over the prosecutor involved in the complaint; or (b) the attorney grievance committee of the appellate division in the department where the prosecutor was admitted to practice; or (c) the governor pursuant to subdivision (b) of section thirteen of article thirteen of the constitution; or (d) an applicable district attorney's office, the commission shall refer such complaint or the appropriate allegations thereof and any evidence or material related thereto to such person, agency or court for such action as may be deemed proper or necessary.

10. The commission shall notify the complainant of its disposition of the complaint.

§ 499-g. Confidentiality of records. Except as hereinafter provided, all complaints, correspondence, commission proceedings and transcripts thereof, other papers and data and records of the commission shall be confidential and shall not be made available to any person except pursuant to section four hundred ninety-nine-f of this article. The commission and its designated staff personnel shall have access to confidential material in the performance of their powers and duties. If the prosecutor who is the subject of a complaint so requests in writing, copies of the complaint, the transcripts of hearings by the commission thereon, if any, and the dispositive action of the commission with respect to the complaint, such copies with any reference to the identity of any person who did not participate at any such hearing suitably

deleted therefrom, except the subject prosecutor or complainant, shall be made available for inspection and copying to the public, or to any person, agency or body designated by such prosecutor.

§ 499-h. Breach of confidentiality of commission information. 1. Any staff member, employee or agent of the state commission on prosecutorial conduct who violates any of the provisions of section four hundred ninety-nine-g of this article shall be subject to a reprimand, a fine, suspension or removal by the commission.

2. Within ten days after the commission has acquired knowledge that a staff member, employee or agent of the commission has or may have breached the provisions of section four hundred ninety-nine-g of this article, written charges against such staff member, employee or agent shall be prepared and signed by the chairman of the commission and filed with the commission. Within five days after receipt of charges, the commission shall determine, by a vote of the majority of all the members of the commission, whether probable cause for such charges exists. If such determination is affirmative, within five days thereafter a written statement specifying the charges in detail and outlining his or her rights under this section shall be forwarded to the accused staff member, employee or agent by certified mail. The commission may suspend the staff member, employee or agent, with or without pay, pending the final determination of the charges. Within ten days after receipt of the statement of charges, the staff member, employee or agent shall notify the commission in writing whether he or she desires a hearing on the charges. The failure of the staff member, employee or agent to notify the commission of his or her desire to have a hearing within such period of time shall be deemed a waiver of the right to a hearing. If the hearing has been waived, the commission shall proceed, within ten days after such waiver, by a vote of a majority of all the members of such commission, to determine the charges and fix the penalty or punishment, if any, to be imposed as hereinafter provided.

3. Upon receipt of a request for a hearing, the commission shall schedule a hearing, to be held at the commission offices, within twenty

days after receipt of the request therefor, and shall immediately notify in writing the staff member, employee or agent of the time and place thereof.

4. The commission shall have the power to establish necessary rules and procedures for the conduct of hearings under this section. Such rules shall not require compliance with technical rules of evidence. All such hearings shall be held before a hearing panel composed of three members of the commission selected by the commission. Each hearing shall be conducted by the chairperson of the panel who shall be selected by the panel. The staff member, employee or agent shall have a reasonable opportunity to defend himself and to testify on his or her own behalf. He or she shall also have the right to be represented by counsel, to subpoena witnesses and to cross-examine witnesses. All testimony taken shall be under oath which the chairperson of the panel is hereby authorized to administer. A record of the proceedings shall be made and a copy of the transcript of the hearing shall, upon written request, be furnished without charge to the staff member, employee or agent involved.

5. Within five days after the conclusion of a hearing, the panel shall forward a report of the hearing, including its findings and recommendations, including its recommendations as to penalty or punishment, if one is warranted, to the commission and to the accused staff member, employee or agent. Within ten days after receipt of such report the commission shall determine whether it shall implement the recommendations of the panel. If the commission shall determine to implement such recommendations, which shall include the penalty or punishment, if any, of a reprimand, a fine, suspension for a fixed time without pay or dismissal, it shall do so within five days after such determination. If the charges against the staff member, employee or agent are dismissed, he or she shall be restored to his or her position with full pay for any period of suspension without pay and the charges shall be expunged from his or her record.

6. The accused staff member, employee or agent may seek review of the recommendation by the commission by way of a special proceeding pursuant

to article seventy-eight of the civil practice law and rules.

§ 499-i. Resignation not to divest commission and the appellate division of jurisdiction. The jurisdiction of the appellate division and the commission pursuant to this article shall continue notwithstanding that a prosecutor resigns from office after a recommendation by the commission that the prosecutor be removed from office has been transmitted to the governor, or in any case in which the commission's recommendation that a prosecutor should be removed from office shall be transmitted to the governor within one hundred twenty days after receipt by the chief administrator of the courts of the resignation of such prosecutor. Any determination by the governor that a prosecutor who has resigned should be removed from office shall render such prosecutor ineligible to hold any other prosecutorial office.

§ 499-j. Effect. The powers, duties, and functions of the state commission on prosecutorial conduct shall not supersede the powers and duties of the governor as outlined in section thirteen of article thirteen of the New York state constitution.

ARTICLE 16

SELECTION OF JURORS

Section 500. Declaration of policy.
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525. Trial and grand jurors; duration of service.
526. Presentation of claims by jurors and disposition of unclaimed fees.
527. Procedure for noncompliance.
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§ 500. Declaration of policy. It is the policy of this state that all litigants in the courts of this state entitled to trial by jury shall have the right to grand and petit juries selected at random from a fair cross-section of the community in the county or other governmental subdivision wherein the court convenes; and that all eligible citizens shall have the opportunity to serve on grand and petit juries in the courts of this state, and shall have an obligation to serve when summoned for that purpose, unless excused.

§ 501. Application of article. Except as otherwise provided, the provisions of this article shall apply to grand and petit jurors in all courts of the unified court system in which a jury may be drawn, whether such courts are of record or not of record.

§ 502. Commissioner of jurors. (a) The office of commissioner of jurors is hereby established for each county in the state except

counties within cities having a population of one million or more. In counties within such cities the county clerk shall exercise the duties and have the powers of the commissioner of jurors. The commissioner shall perform such services for all of the courts within the county, as may be prescribed by law or rules of the appellate division for the department embracing the county.

(b) In those counties in which, on the effective date of this article, a commissioner of jurors is in office, the commissioner shall continue in office until the expiration of his term.

(c) The commissioner shall be an officer of all courts located in the county in which he acts and shall have authority to administer oaths or affirmations as to any matter relating to his duties under this article or the rules of the appropriate appellate division adopted pursuant thereto.

(d) The commissioner shall take any steps necessary to enforce the laws and rules relating to the drawing, selection, summoning and impanelling of jurors.

(e) The commissioner may designate from among the members of his staff, by a certificate filed in the office of the county clerk and the office of the commissioner, one or more deputies or assistants to perform any of his duties as required by law. Whenever reference is made to the commissioner in this article or the rules adopted pursuant thereto, such reference shall be deemed to apply also to deputies or assistants duly designated by him, except where the contrary intent is plainly apparent from the context.

§ 503. County jury board. (a) There shall be established for each county a jury board composed as follows:

1. In counties outside cities having a population of one million or more, except in the counties of Albany, Westchester, Suffolk and Nassau, the county jury board shall consist of one justice of the supreme court residing in the county, or if there is no justice residing therein, a justice residing in the judicial district embracing the county to be designated by the appropriate appellate division, who shall act as chairman; the judge of the county court, or if there be more than one,

then the senior county judge; and a member of the county legislature to be designated by the county legislature, provided that no such member of the county legislature shall be designated if he engages in the practice of law.

2. In the county of Albany, the county jury board shall consist of the county judge, the surrogate and a member of the county legislature, all to be designated in the manner provided in subdivision one of this section. In the county of Westchester, the county jury board shall consist of the administrative judge of the ninth judicial district if he be a resident of Westchester County, and if not, the senior resident justice of the supreme court; the senior county judge; and the county executive. In the counties of Nassau and Suffolk, the county jury board shall consist of the justices of the supreme court residing in the county, the surrogate and the judges of the county court.

3. In counties within cities having a population of one million or more, the county jury board shall consist of the presiding justice of the appellate division of the judicial department embracing the county, or his designee from among the justices of the supreme court; two justices of the supreme court residing in the county to be designated by the appellate division of such department; and the county clerk of the county.

(b) The county jury board shall meet at least annually and at such additional times as may be necessary to carry out the purposes of this article. The commissioner of jurors shall act as secretary to the county jury board.

§ 504. Appointment and removal of commissioner of jurors. (a) Except in counties within cities having a population of one million or more, the county jury board, or a majority thereof, shall appoint a commissioner of jurors for a term of four years and shall fill any vacancy occurring in such office in the same manner as an original appointment. The county jury board may, in its discretion, appoint the county clerk or other county officer or employee to serve as commissioner of jurors. A county clerk's term of office as commissioner

shall be coterminus with his term of office as county clerk.

(b) The commissioner shall be removable for cause by the appellate division of the supreme court in the judicial department embracing the county, upon written charges and opportunity to be heard after due notice thereof. If such commissioner is the county clerk, the appellate division may remove him from the office of commissioner in the same manner.

§ 505. Oath of office. Before entering upon the duties of his office a commissioner appointed under this article, and each deputy, assistant or employee, shall take the oath of office prescribed by law and file the same with the office of court administration and in the office of the county clerk without charge.

§ 506. Source of names. The commissioner of jurors shall cause the names of prospective jurors to be selected at random from the voter registration lists, and from such other available lists of the residents of the county as the chief administrator of the courts shall specify, such as lists of utility subscribers, licensed operators of motor vehicles, registered owners of motor vehicles, state and local taxpayers, persons applying for or receiving family assistance, medical assistance or safety net assistance, persons receiving state unemployment benefits and persons who have volunteered to serve as jurors by filing with the commissioner their names and places of residence.

§ 507. Random selection. The commissioner of jurors shall select the names of prospective jurors, or cause them to be selected, at random from the sources provided in section five hundred six. The selection may be accomplished by mechanical means or by any other method designed to implement the purposes of this article.

§ 508. Number to be selected. The commissioner of jurors shall draw at

random for each term and each separate part of a term of court at which issues are triable by jury, such number of petit jurors and such number of grand jurors as he believes necessary, unless otherwise specified by order of the appellate division or by written order of the judge appointed to hold the part or term of court. Jurors shall be drawn in such manner, and serve for such period of time, as the appropriate appellate division shall prescribe by rule.

§ 509. Qualification of jurors. (a) The commissioner of jurors shall determine the qualifications of a prospective juror on the basis of information provided on the juror's qualification questionnaire. The commissioner of jurors may also consider other information including information obtained from public agencies concerning previous criminal convictions. The commissioner may require the fingerprinting of all persons drawn for grand jury service. A record of the persons who are found not qualified or who are excused, and the reasons therefor, shall be maintained by the commissioner of jurors. The county jury board shall have the power to review any determination of the commissioner as to qualifications and excuses. Such questionnaires and records shall be considered confidential and shall not be disclosed except to the county jury board or as permitted by the appellate division.

(b) The commissioner may mail to each prospective juror the juror qualification questionnaire. The person to whom the questionnaire is mailed shall complete and sign it and return it to the commissioner within ten days of mailing. If the questionnaire has not been returned or properly completed, or if the commissioner otherwise determines that a personal interview is required, the commissioner may summon the prospective juror to appear before him or her for the purpose of filling out the questionnaire or being examined as to his or her competence, qualifications, eligibility and liability to serve as a juror. Such person shall not be entitled to any fee or mileage when responding for such purpose. The summons may be served personally or by leaving it at the person's residence or place of business with a person of suitable age and discretion, or by mail. If served personally or by substitution the summons shall require the person summoned to attend not less than five days after service. If served by mail the summons shall require the

person summoned to attend not less than eight days after mailing.

§ 510. Qualifications. In order to qualify as a juror a person must:

1. Be a citizen of the United States, and a resident of the county.

2. Be not less than eighteen years of age.

3. Not have been convicted of a felony.

4. Be able to understand and communicate in the English language.

§ 513. Form of questionnaire. The questionnaire to be filled out by prospective jurors shall be in such form as the chief administrator of the courts may prescribe.

§ 516. Commissioner of jurors to summon jurors. The commissioner of jurors shall summon each juror drawn for jury service by serving upon him a summons and specifying the place where and the time when he is required to attend. The summons may be served by mail, or the commissioner may direct the sheriff to serve the summons personally or by leaving it at the juror's residence or place of business with a person of suitable age and discretion.

§ 517. Excuses and postponements. (a) (1) Except as otherwise provided in paragraph two of this subdivision, the commissioner of jurors may, in such commissioner's discretion, on the application of a prospective juror who has been summoned to attend, excuse such prospective juror from a part or the whole of the time of jury service or may postpone the time of jury service to a later day during the same or any subsequent term of the court, provided that if the prospective juror is a breastfeeding mother and submits with her application a note from a physician or nurse practitioner indicating that the prospective juror is

breastfeeding, the commissioner shall excuse the prospective juror or postpone the time of jury service. The application shall be presented to the commissioner at such time and in such manner as such commissioner shall require, except that an application for postponement of the initial date for jury service may be made by telephone.

(2) An application for postponement of jury service shall be granted hereunder provided: (i) such service has not already been postponed or excused, (ii) the application is made at such time and in such manner as the commissioner of jurors requires, and (iii) the postponement is to a date certain when the court is in session not more than six months after the date on which such service otherwise is to commence and such date is selected by the prospective juror, provided that if the prospective juror is a breastfeeding mother, the postponement date may be a date certain up to two years after the date on which such service otherwise is to commence.

(b) A person whose application has been denied by the commissioner, or who has not applied to the commissioner for an excuse or postponement, may apply to the trial court, or to the court having supervision of the grand jury, as the case may be, which may, in its discretion, excuse such person from a part or the whole of the time of jury service, or may postpone the time of jury service to a later day during the same or any subsequent term of the court. If the applicant cannot personally attend, he or she shall send the summons and application by a person capable of making the necessary proof in relation to the application.

(c) In determining whether an application for excusal should be granted, the commissioner or the court shall consider whether the applicant has a mental or physical condition that causes him or her to be incapable of performing jury service or there is any other fact indicates that attendance for jury service in accordance with the summons would cause undue hardship or extreme inconvenience to the applicant, a person under his or her care or supervision, or the public. Except as provided in paragraph two of subdivision (a) of this section, in determining whether an application for postponement should be granted, the commissioner or the court shall be guided by standards promulgated by the chief administrator of the courts.

§ 518. Discharge by the court. The court shall discharge a person from serving as a trial or a grand juror whenever it satisfactorily appears that he or she is not qualified.

§ 519. Right of juror to be absent from employment. Any person who is summoned to serve as a juror under the provisions of this article and who notifies their employer to that effect prior to the commencement of a term of service shall not, on account of absence from employment by reason of such jury service, be subject to discharge or penalty. An employer may, however, withhold wages of any such employee serving as a juror during the period of such service; provided that an employer who employs more than ten employees shall not withhold the first seventy-two dollars of such juror's daily wages during the first three days of jury service. Withholding of wages in accordance with this section shall not be deemed a penalty. Violation of this section shall constitute a criminal contempt of court punishable pursuant to section seven hundred fifty of this chapter.

§ 519-a. Right of sequestered jurors to be provided with food conforming to religious tenets. 1. Every juror shall have the right to be provided upon request meals consisting of food or food products prepared in accordance with the religious requirements of the person when meals would be otherwise provided during any period in which the jury has been sequestered by the court.

2. Upon the swearing in of every jury, the court shall inform the jury of the provisions of subdivision one of this section and shall request each juror electing the benefits thereof to so signify and shall direct an appropriate public officer or employee to accordingly make suitable arrangements for the provision of conforming food or food products for meals provided during any period in which the jury is sequestered.

§ 520. Trial jurors to serve in other parts, terms or courts. Trial jurors drawn for service pursuant to the provisions of this article may

serve as trial jurors in any term or part of the same court when it sits in terms or parts, or in any other court in the same county or in the case of an order issued pursuant to paragraph (b) of subdivision two of section 230.20 of the criminal procedure law providing for an enlarged jury pool, in any court in the same judicial district. When serving in such other term, part or court their service shall have the same force and effect as if they had been drawn as trial jurors for service in such other term, part or court.

§ 521. Fees and travel expenses of jurors. (a) Except as provided in subdivision (b) of this section, trial and grand jurors in each court of the unified court system shall be entitled to an allowance equal to the sum of seventy-two dollars per day for each and every day of physical attendance wherein the court convenes, except that no person who is employed shall be entitled to receive such allowance if, pursuant to section five hundred nineteen of this article, their employer is prohibited from withholding the first seventy-two dollars of wages of such person during such period and such person's daily wages equal or exceed seventy-two dollars. If such person's daily wages are less than seventy-two dollars, such person shall be entitled to receive an allowance hereunder equal to the difference between seventy-two dollars and the amount of their daily wages. Such fees and those expenses actually and necessarily incurred in providing food and lodging for jurors shall be a state charge payable out of funds appropriated to the office of court administration for that purpose.

(b) No employee shall be entitled to receive the per diem allowance authorized by subdivision (a) of this section for any regularly scheduled workday on which jury service is rendered if, on such day, his or her wages are not withheld on account of such service.

(c) Notwithstanding any other provision of this section, a trial or grand juror may waive entitlement to the allowance authorized by subdivision (a) of this section. In such event the amount of such allowance shall be available to the chief administrator of the courts solely for the purposes specified in paragraph (m) of subdivision two of section two hundred twelve of this chapter, except that any such amounts not expended in such fashion as of the close of the fiscal year in which

they became available shall be transferred by the comptroller to the supplemental jury facilities fund established pursuant to section ninety-four-c of the state finance law.

§ 521-a. Fees of trial jury. In any action or special proceeding in a court of the unified court system that requires a juror's physical attendance for more than thirty days, the court, by an order entered into the minutes, shall notify the commissioner of jurors of such service. The commissioner of jurors, upon receipt of such order and upon verification of such service by the clerk of the court shall, upon conclusion of such service, authorize as an additional allowance, the sum of six dollars per day for each and every day of physical attendance in excess of thirty days, wherein the court convenes. Such fees shall be a state charge payable out of funds appropriated to the office of court administration for the purpose.

§ 522. Appellate divisions to make rules. The appellate divisions of the supreme court in each judicial department shall adopt rules consistent with this article and with such standards and policies as the administrative board may establish in order to effectuate the policy and provisions of this article.

§ 523. Sheriff's jurors. The county clerk of each county in a city having a population of one million or more shall select annually from the persons qualified to act as trial jurors, the names of such number of persons as he deems necessary to constitute the sheriff's jurors for that year.

The county clerk shall draw and summon panels of sheriff's jurors, upon request of the sheriff.

§ 524. Disqualification of former jurors. (a) A person who has served on a grand or petit jury in any court of the unified court system or in

a federal court shall not be competent to serve again as a trial or grand juror in any court of the unified court system for six years subsequent to the last day of such service, provided, however, that any person who serves on a grand or petit jury for more than ten days shall not be competent to serve again as a trial or grand juror for eight years subsequent to the last day of such service.

(b) Nothing contained in this section shall invalidate a verdict returned by trial jury or an indictment returned by a grand jury when such trial or grand jury includes one or more trial or grand jurors not competent by virtue of such previous service.

(c) Notwithstanding the provisions of subdivision (a) of this section, if the commissioner of jurors, after consultation with and concurrence of the district administrative judge or judges, or in the counties within the city of New York the deputy chief administrative judge, shall determine that:

(i) compliance with the requirements of subdivision (a) of this section would be impracticable, the commissioner may reduce the period of incompetency for persons whose service consists of fewer than three days to a period of not less than two years; or

(ii) the period of incompetency for all jurors pursuant to subdivision (a) of this section may be extended without interfering with the commissioner's ability to comply with the provisions of section five hundred eight of this article, the commissioner may increase the period of incompetency.

(d) Notwithstanding the provisions of this section, the period during which a person shall not be competent to serve as a trial or grand juror pursuant to this section shall be one-half the period specified in subdivision (a) or (c) of this section, as appropriate, where such person so requests on a form to be provided by the commissioner of jurors. Such a request may be submitted at any time during the period of incompetency.

§ 525. Trial and grand jurors; duration of service. (a) Except as provided in subdivision (d) of this section, service of trial jurors in courts of the unified court system shall not be more than five court days actual attendance or for such shorter period as the commissioner of

jurors shall determine, except that such service shall continue until the conclusion of any trial in which a juror may be engaged.

(b) Service of grand jurors in courts of the unified court system shall be for the duration of the term for which they have been drawn, unless sooner discharged; except that if the term of a grand jury has been extended by written order of the court having supervision of such grand jury, service shall continue until such grand jury has been discharged.

(c) For the purposes of this section, actual attendance shall include a juror's actual physical attendance wherein the court convenes or service by means of a telephone standby system whereby a juror shall remain available to report for jury service upon notification by means of telephone or other electronic communication.

(d) If the commissioner of jurors, after consultation with and concurrence of the district administrative judge or judges, or in the counties within the city of New York the deputy chief administrative judge, shall determine that sufficient numbers of potential jurors cannot be provided to any term or part of court the commissioner may extend such period of jury service for such additional period as may be necessary.

§ 526. Presentation of claims by jurors and disposition of unclaimed fees. All jurors who have served in a court of the unified court system pursuant to a duly issued summons as provided for in this article and are entitled to an allowance therefor must present their claims to the proper official designated by law for the payment of juror's fees on or before the thirty-first of December of the year next succeeding or following the year in which such services were rendered and performed. Failure to comply with this section shall be a forfeiture of the payment for such claims or services. All summonses or notices issued pursuant to this article requiring jurors to attend at a term of court or at a session of the grand jury shall have imprinted thereon the foregoing provision relating to forfeiture of fees. All moneys or jurors' fees forfeited by the provisions of this section shall be transferred to the state comptroller and applied to the fund from which they were paid on or before the first day of April, in each year.

§ 527. Procedure for noncompliance. 1. The commissioner of jurors may bring a proceeding for noncompliance against any person who fails to respond to a juror qualification questionnaire pursuant to section five hundred nine of this article; or who fails to attend after having been summoned pursuant to section five hundred sixteen of this article. Such person shall be subject to a civil penalty not to exceed two hundred fifty dollars for failing to respond or attend in violation of the provisions of this article. Imposition of such penalty shall be in accordance with the provisions of this section and all penalties paid shall be the property of the state.

2. No penalty hereunder may be imposed upon any person unless it is established that he or she received the juror's qualification questionnaire or summons and unless such person is served, either personally or by first-class mail, with a notice of noncompliance. The notice of noncompliance shall be in a form prescribed by the chief administrator of the courts and shall:

(a) Describe the particular instance of noncompliance for which a penalty is sought to be imposed;

(b) Require the person served, at a time and in a manner to be specified in such notice, to respond to the notice by admitting his or her noncompliance or requesting a hearing thereon;

(c) Advise the person served that failure to respond to such notice shall be deemed an admission of noncompliance and a default judgment may be entered against such person for a penalty hereunder.

3. (a) Whenever a person served with a notice of noncompliance fails to respond to such notice or admits his or her noncompliance, the court or judicial hearing officer shall have the authority to impose a penalty in an amount not to exceed two hundred fifty dollars and shall issue an order fixing a date certain for jury service by the respondent.

(b) (i) Whenever a person served with a notice of noncompliance requests a hearing thereon, such hearing shall be scheduled and the person so notified not sooner than thirty days in advance of the hearing date.

(ii) Each hearing shall be before the court or the judicial hearing officer assigned for that purpose and shall be conducted in accordance with procedures established by the chief administrator of the courts therefore; provided, however, that rules of evidence shall not apply except those relating to privileged communications. A judicial hearing officer so assigned may issue a subpoena to require the attendance at a hearing of persons to give testimony or to produce books, papers or other things relevant to the hearing.

(iii) Whenever a judicial hearing officer presides over a hearing hereunder he shall cause a record to be made thereof in the manner prescribed by the chief administrator.

(iv) The court or the judicial hearing officer shall determine whether, by a preponderance of the evidence presented, the charge specified in the notice of noncompliance has been sustained. Such charge may not be sustained upon a finding of undue hardship or extreme inconvenience as set forth in subdivision (c) of section five hundred seventeen of this chapter or for any other excuse based on a good and sufficient cause. If the charge is sustained the court or the judicial hearing officer shall have the authority to impose a penalty in an amount not to exceed two hundred fifty dollars and shall issue an order fixing a date certain for jury service by the respondent. If the charges are not sustained, the court or the hearing officer shall issue an order fixing a date certain for jury service by the respondent unless an affidavit is filed.

4. Failure to comply with the terms of the order shall subject the respondent to such criminal and civil penalties as may otherwise be provided by law.

5. (a) In the event an order imposes a penalty, the court or the judicial hearing officer shall have the authority to determine the amount of and to enter a civil judgment thereon. Such judgment shall be enforceable as a money judgment in any court of competent jurisdiction.

(b) (i) Notwithstanding the provisions of paragraph (a) of this subdivision, when a default judgment is sought hereunder, an affidavit shall be submitted that additional notice has been given, at least twenty days before the entry of such judgment, to the person who has

failed to respond by mailing a copy of the notice of noncompliance by first-class mail to such person at his or her place of residence in an envelope bearing the legend "personal and confidential" and not indicating on the outside of the envelope that the communication is from a court, the commissioner of jurors or any other public officer or official. In the event such mailing is returned as undeliverable by the post office before the entry of the default judgment, a copy of the notice of noncompliance shall then be mailed in the same manner to the person who has failed to respond at his or her place of employment if known.

(ii) The additional notice shall be mailed not less than twenty days after service of the notice of noncompliance pursuant to subdivision two of this section. An affidavit of mailing pursuant to this paragraph shall be executed by the person mailing the notice and shall be filed with the judgment. Where there has been compliance with the requirements of this paragraph, failure of the person to whom the additional notice is addressed to receive such additional notice shall not preclude the entry of a default judgement.

6. The commissioner of jurors shall have the authority to receive penalties imposed pursuant to this section. Such penalties shall be paid to the state commissioner of taxation and finance on a monthly basis no later than ten days after the last day of each month.

§ 528. Collection of demographic data. The commissioner of jurors shall collect demographic data for jurors who present for jury service, including each juror's race and/or ethnicity, age and sex, and the chief administrator of the courts shall submit the data in an annual report to the governor, the speaker of the assembly, the temporary president of the senate and the chief judge of the court of appeals.

ARTICLE 19
CONTEMPTS

Section 750. Power of courts to punish for criminal contempts.
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§ 750. Power of courts to punish for criminal contempts.

A. A court of record has power to punish for a criminal contempt, a person guilty of any of the following acts, and no others:

1. Disorderly, contemptuous, or insolent behavior, committed during

its sitting, in its immediate view and presence, and directly tending to interrupt its proceedings, or to impair the respect due to its authority.

2. Breach of the peace, noise, or other disturbance, directly tending to interrupt its proceedings.

3. Wilful disobedience to its lawful mandate.

4. Resistance wilfully offered to its lawful mandate.

5. Contumacious and unlawful refusal to be sworn as a witness; or, after being sworn, to answer any legal and proper interrogatory.

6. Publication of a false, or grossly inaccurate report of its proceedings. But a court can not punish as a contempt, the publication of a true, full, and fair report of a trial, argument, decision, or other proceeding therein.

7. Wilful failure to obey any mandate, process or notice issued pursuant to articles sixteen, seventeen, eighteen, eighteen-a or eighteen-b of the judiciary law, or to rules adopted pursuant thereto, or to any other statute relating thereto, or refusal to be sworn as provided therein, or subjection of an employee to discharge or penalty on account of his absence from employment by reason of jury or subpoenaed witness service in violation of this chapter or section 215.11 of the penal law. Applications to punish the accused for a contempt specified in this subdivision may be made by notice of motion or by order to show cause, and shall be made returnable at the term of the supreme court at which contested motions are heard, or of the county court if the supreme court is not in session.

B. In addition to the power to punish for a criminal contempt as set forth in subdivision A, the supreme court has power under this section to punish for a criminal contempt any person who unlawfully practices or assumes to practice law; and a proceeding under this subdivision may be instituted on the court's own motion or on the motion of any officer

charged with the duty of investigating or prosecuting unlawful practice of law, or by any bar association incorporated under the laws of this state.

C. A court not of record has only such power to punish for a criminal contempt as is specifically granted to it by statute and no other.

§ 751. Punishment for criminal contempts. 1. Except as provided in subdivisions (2), (3) and (4), punishment for a contempt, specified in section seven hundred fifty, may be by fine, not exceeding one thousand dollars, or by imprisonment, not exceeding thirty days, in the jail of the county where the court is sitting, or both, in the discretion of the court. Where the punishment for contempt is based on a violation of an order of protection issued under section 530.12 or 530.13 of the criminal procedure law, imprisonment may be for a term not exceeding three months. Where a person is committed to jail, for the nonpayment of a fine, imposed under this section, he must be discharged at the expiration of thirty days; but where he is also committed for a definite time, the thirty days must be computed from the expiration of the definite time.

Such a contempt, committed in the immediate view and presence of the court, may be punished summarily; when not so committed, the party charged must be notified of the accusation, and have a reasonable time to make a defense.

2. (a) Where an employee organization, as defined in section two hundred one of the civil service law, wilfully disobeys a lawful mandate of a court of record, or wilfully offers resistance to such lawful mandate, in a case involving or growing out of a strike in violation of subdivision one of section two hundred ten of the civil service law, the punishment for each day that such contempt persists may be by a fine fixed in the discretion of the court. In the case of a government exempt from certain provisions of article fourteen of the civil service law, pursuant to section two hundred twelve of such law, the court may, as an additional punishment for such contempt, order forfeiture of the rights

granted pursuant to the provisions of paragraph (b) of subdivision one, and subdivision three of section two hundred eight of such law, for such specified period of time, as the court shall determine or, in the discretion of the court, for an indefinite period of time subject to restoration upon application, with notice to all interested parties, supported by proof of good faith compliance with the requirements of subdivision one of section two hundred ten of the civil service law since the date of such violation, such proof to include, for example, the successful negotiation, without a violation of subdivision one of section two hundred ten of the civil service law, of a contract covering the employees in the unit affected by such violation; provided, however, that where a fine imposed pursuant to this subdivision remains wholly or partly unpaid, after the exhaustion of the cash and securities of the employee organization, such forfeiture shall be suspended to the extent necessary for the unpaid portion of such fine to be accumulated by the public employer and transmitted to the court. In fixing the amount of the fine and/or duration of the forfeiture, the court shall consider all the facts and circumstances directly related to the contempt, including, but not limited to: (i) the extent of the wilful defiance of or a resistance to the court's mandate (ii) the impact of the strike on the public health, safety, and welfare of the community and (iii) the ability of the employee organization to pay the fine imposed; and the court may consider (i) the refusal of the employee organization or the appropriate public employer, as defined in section two hundred one of the civil service law, or the representatives thereof, to submit to the mediation and fact-finding procedures provided in section two hundred nine of the civil service law and (ii) whether, if so alleged by the employee organization, the appropriate public employer or its representatives engaged in such acts of extreme provocation as to detract from the responsibility of the employee organization for the strike. In determining the ability of the employee organization to pay the fine imposed, the court shall consider both the income and the assets of such employee organization.

(b) In the event membership dues and sums equivalent to dues are collected by the public employer as provided respectively in paragraph (b) of subdivision one and subdivision three of section two hundred eight of the civil service law, the books and records of such public

employer shall be prima facie evidence of the amount so collected.

(c) (i) An employee organization appealing an adjudication and fine for criminal contempt imposed pursuant to subdivision two of this section, shall not be required to pay such fine until such appeal is finally determined.

(ii) The court to which such an appeal is taken shall, on motion of any party thereto, grant a preference in the hearing thereof.

3. (a) Where a union or hospital wilfully disobeys a lawful mandate of a court of record, or wilfully offers resistance to such lawful mandate, in a case involving or growing out of a violation of section seven hundred thirteen of the labor law, the punishment for each day that such contempt persists may be by a fine fixed in the discretion of the court. In fixing the amount of such fine, the court shall consider all the facts and circumstances directly related to the contempt, including, but not limited to: (i) the extent of the wilful defiance of, or resistance to, the court's mandate (ii) the impact of the strike or lockout on the public health, safety and welfare of the community and (iii) the ability of the union or hospital to pay the fine imposed; and the court may consider (i) the refusal of the union or hospital, or the representatives thereof, to submit to or comply with, the fact-finding and arbitration procedures provided in section seven hundred sixteen of the labor law. In determining the ability of the union or hospital to pay the fine imposed, the court shall consider both the income and the assets of such union or hospital.

(b) A union or hospital appealing an adjudication and fine for criminal contempt imposed pursuant to this subdivision, shall not be required to pay such fine until such appeal is finally determined. The court to which such an appeal is taken shall, on motion of any party thereto, grant a preference in the hearing thereof.

(c) As used in this subdivision, "union" shall mean any labor organization or company union as defined in section seven hundred one of the labor law, and "hospital" shall mean any non-profit-making hospital or residential care center as defined in that section.

4. Where any person wilfully disobeys a lawful mandate of the supreme court issued pursuant to subdivision twelve of section sixty-three of

the executive law, the punishment for each day that such contempt persists may be by a fine fixed in the discretion of the court, but not to exceed five thousand dollars per day. In fixing the amount of the fine, the court shall consider all the facts and circumstances directly related to the contempt, including, but not limited to: (i) the extent of the wilful defiance of or resistance to the court's mandate, (ii) the amount of gain obtained by the wilful disobedience of the mandate, and (iii) the effect upon the public of the wilful disobedience.

5. Where any member of the news media as defined in subdivision two of section two hundred eighteen of this chapter, willfully disobeys a lawful mandate of a court issued pursuant to such section, the punishment for each day that such contempt persists may be by a fine fixed in the discretion of the court, but not to exceed five thousand dollars per day or imprisonment, not exceeding thirty days, in the jail of the county where the court is sitting or both, in the discretion of the court. In fixing the amount of the fine, the court shall consider all the facts and circumstances directly related to the contempt, including, but not limited to: (i) the extent of the willful defiance of or resistance to the court's mandate, (ii) the amount of gain obtained by the willful disobedience of the mandate, and (iii) the effect upon the public and the parties to the proceeding of the willful disobedience.

§ 752. Requisites of commitment for criminal contempt; review of certain mandates. Where a person is committed for contempt, as prescribed in section seven hundred fifty-one, the particular circumstances of his offense must be set forth in the mandate of commitment. Such mandate, punishing a person summarily for a contempt committed in the immediate view and presence of the court, is reviewable by a proceeding under article seventy-eight of the civil practice law and rules.

§ 753. Power of courts to punish for civil contempts.

A. A court of record has power to punish, by fine and imprisonment, or either, a neglect or violation of duty, or other misconduct, by which a right or remedy of a party to a civil action or special proceeding, pending in the court may be defeated, impaired, impeded, or prejudiced, in any of the following cases:

1. An attorney, counsellor, clerk, sheriff, coroner, or other person, in any manner duly selected or appointed to perform a judicial or ministerial service, for a misbehavior in his office or trust, or for a wilful neglect or violation of duty therein; or for disobedience to a lawful mandate of the court, or of a judge thereof, or of an officer authorized to perform the duties of such a judge.

2. A party to the action or special proceeding, for putting in fictitious bail or a fictitious surety, or for any deceit or abuse of a mandate or proceeding of the court.

3. A party to the action or special proceeding, an attorney, counsellor, or other person, for the non-payment of a sum of money, ordered or adjudged by the court to be paid, in a case where by law execution can not be awarded for the collection of such sum except as otherwise specifically provided by the civil practice law and rules; or for any other disobedience to a lawful mandate of the court.

4. A person, for assuming to be an attorney or counsellor, or other officer of the court, and acting as such without authority; for rescuing any property or person in the custody of an officer, by virtue of a mandate of the court; for unlawfully detaining, or fraudulently and wilfully preventing, or disabling from attending or testifying, a witness, or a party to the action or special proceeding, while going to, remaining at, or returning from, the sitting where it is noticed for trial or hearing; and for any other unlawful interference with the proceedings therein.

5. A person subpoenaed as a witness, for refusing or neglecting to obey the subpoena, or to attend, or to be sworn, or to answer as a witness.

6. A person duly notified to attend as a juror, at a term of the court, for improperly conversing with a party to an action or special proceeding, to be tried at that term, or with any other person, in relation to the merits of that action or special proceeding; or for receiving a communication from any person, in relation to the merits of such an action or special proceeding, without immediately disclosing the same to the court; or a person who attends and acts or attempts to act as a juror in the place and stead of a person who has been duly notified to attend.

7. An inferior magistrate, or a judge or other officer of an inferior court, for proceeding, contrary to law, in a cause or matter, which has been removed from his jurisdiction to the court inflicting the punishment; or for disobedience to a lawful order or other mandate of the latter court.

8. In any other case, where an attachment or any other proceeding to punish for a contempt, has been usually adopted and practiced in a court of record, to enforce a civil remedy of a party to an action or special proceeding in that court, or to protect the right of a party.

B. A court not of record has such power to punish for a civil contempt as is specifically granted to it by statute.

§ 753-a. Contempts in cases involving or growing out of labor disputes. 1. Notwithstanding any inconsistent provision of law, where the alleged contempt is punishable under section seven hundred fifty and/or section seven hundred fifty-three and arises out of any failure or refusal to obey any mandate of a court contained in or incidental to an injunction order granted by such court in any case involving or growing out of a labor dispute, no punishment, prescribed by either of such sections, shall be meted out except after a trial by jury to which the defendant shall be entitled as a matter of right; provided, however, that this section shall not apply to any alleged contempt of such an injunction order committed in the presence of the court.

2. As used in this section and in subdivision three of section 215.50 of the penal law:

(a) A case shall be held to involve or to grow out of a labor dispute when the case involves persons who are engaged in the same industry, trade, craft or occupation; or who are employees of one employer; or who are members of the same or an affiliated organization of employers or employees; whether such dispute is between one or more employers or associations of employers and one or more employees or associations of employees; between one or more employers or associations of employers and one or more employers or associations of employers; or between one or more employees or associations of employees and one or more employees or associations of employees; or when the case involves any conflicting or competing interests in a "labor dispute" (as hereinafter defined) of "persons participating or interested" therein (as hereinafter defined).

(b) The term "labor dispute" includes any controversy concerning terms or conditions of employment, or concerning the association or representation of persons in negotiating, fixing, maintaining, changing or seeking to arrange terms or conditions of employment, or concerning employment relations, or any other controversy arising out of the respective interests of employer and employee, regardless of whether or not the disputants stand in the relation of employer and employee.

(c) A person or association shall be held to be a person participating or interested in a labor dispute if relief is sought against him or it and if he or it is engaged in the industry, trade, craft or occupation in which such dispute occurs, or is a member, officer or agent of any association of employers or employees engaged in such industry, trade, craft or occupation.

§ 754. Special proceeding to punish for contempt punishable civilly. Sections seven hundred and fifty, seven hundred and fifty-one, and seven hundred and fifty-two, do not extend to a special proceeding to punish a person in a case specified in section seven hundred and fifty-three. In a case specified in section seven hundred and fifty-three, or in any other case where it is specially prescribed by law, that a court of record, or a judge thereof, or a referee appointed by the court, has

power to punish, by fine and imprisonment, or either, or generally as a contempt, a neglect or violation of duty, or other misconduct; and a right or remedy of a party to a civil action or special proceeding pending in the court, or before the judge or the referee, may be defeated, impaired, impeded, or prejudiced thereby, the offense must be punished as prescribed in the following sections of this article.

§ 755. When punishment may be summary. Where the offense is committed in the immediate view and presence of the court, or of the judge or referee, upon a trial or hearing, it may be punished summarily. For that purpose, an order must be made by the court, judge, or referee, stating the facts which constitute the offense and which bring the case within the provisions of this section, and plainly and specifically prescribing the punishment to be inflicted therefor. Such order is reviewable by a proceeding under article seventy-eight of the civil practice law and rules.

§ 756. Application to punish for contempt; procedure. An application to punish for a contempt punishable civilly may be commenced by notice of motion returnable before the court or judge authorized to punish for the offense, or by an order of such court or judge requiring the accused to show cause before it, or him, at a time and place therein specified, why the accused should not be punished for the alleged offense. The application shall be noticed, heard and determined in accordance with the procedure for a motion on notice in an action in such court, provided, however, that, except as provided in section fifty-two hundred fifty of the civil practice law and rules or unless otherwise ordered by the court, the moving papers shall be served no less than ten and no more than thirty days before the time at which the application is noticed to be heard. The application shall contain on its face a notice that the purpose of the hearing is to punish the accused for a contempt of court, and that such punishment may consist of fine or imprisonment, or both, according to law together with the following legend printed or type written in a size equal to at least eight point bold type:

WARNING:

YOUR FAILURE TO APPEAR
IN COURT MAY RESULT IN
YOUR IMMEDIATE ARREST
AND IMPRISONMENT FOR
CONTEMPT OF COURT.

§ 757. Application to punish for contempt committed before referee. Where the offense is committed upon the trial of an issue referred to a referee appointed by the court, or consists of a witness's non-attendance, or refusal to be sworn or testify, before him, the application prescribed in this section may be made returnable before him or before the court. The application shall contain on its face a notice that the purpose of the hearing is to punish the accused for a contempt of court, and that such punishment may consist of fine or imprisonment, or both, according to law.

§ 758. Notice to delinquent officer to show cause. Where it is prescribed by law, or by the rules of civil practice, that a notice may be served in behalf of a party, upon a sheriff or other person, requiring him to return a mandate, delivered to him, or to show cause, at a term of a court, why he should not be punished, or why an attachment should not be issued against him, for a contempt of the court; the party, in whose behalf the notice is served, may, at the time specified therein, file with the clerk, proof, by affidavit or other written evidence, of the delivery of the mandate to the accused; of the default or other act, upon the occurrence of which, he was entitled to serve the notice; of the service of the notice; and of the failure to comply therewith. Thereupon the proceedings are the same, as where an order to show cause is made, and it, and a copy of the affidavits upon which it is granted, are served upon the accused.

§ 760. When application may be made. An application may be made, either before or after the final judgment in the action, or the final order in the special proceeding.

§ 761. Notice to accused; service. An application to punish for contempt in a civil contempt proceeding shall be served upon the accused, unless service upon the attorney for the accused be ordered by the court or judge.

§ 767. When habeas corpus may issue. If the accused is in the custody of a sheriff, or other officer, by virtue of an execution against his person, or by virtue of a mandate for any other contempt or misconduct, or a commitment on a criminal charge the court, upon proof of the facts, may issue a writ of habeas corpus, directed to the officer, requiring him to bring the accused before it, to answer for the offense charged. The officer to whom the writ is directed, or upon whom it is served, must bring him before the court, and detain him at the place where the court is sitting, until the further order of the court.

§ 770. Final order directing punishment; exception. Upon the return of an application to punish for contempt, or upon a hearing held upon a warrant of commitment issued pursuant to section seven hundred seventy-two or seven hundred seventy-three of this article, the court shall inform the offender that he or she has the right to the assistance of counsel, and when it appears that the offender is financially unable to obtain counsel, the court may in its discretion assign counsel to represent him or her. If it is determined that the accused has committed the offense charged; and that it was calculated to, or actually did, defeat, impair, impede, or prejudice the rights or remedies of a party to an action or special proceeding, brought in the court, or before the judge or referee; the court, judge, or referee must make a final order directing that he or she be punished by fine or imprisonment, or both, as the nature of the case requires. A warrant of commitment must issue accordingly, except as hereinafter provided. Where an application is made under this article and in pursuance of section two hundred forty-five of the domestic relations law or any other section of law for a final order directing punishment for failure to pay alimony,

maintenance or counsel fees pursuant to an order of the court or judge in an action for divorce or separation and the defaulting spouse appears and satisfies the court or a judge before whom the application may be pending that he or she has no means or property or income to comply with the terms of the order at the time, the court or judge may in its or his discretion deny the application to punish the defaulting spouse, without prejudice to the applicant's rights and without prejudice to a renewal of the application upon notice and after proof that the financial condition of the defaulting spouse is changed.

Where an application is made to punish an offender for an offense committed with respect to an enforcement procedure under the civil practice law and rules, if the offender appear and comply and satisfy the court or a judge before whom the application shall be pending that he has at the time no means or property or income which could be levied upon pursuant to an execution issued in such an enforcement procedure, the court or judge shall deny the application to punish the offender without prejudice to the applicant's rights and without prejudice to a renewal of the application upon notice and after proof that the financial condition of the offender has changed.

§ 771. Punishment upon return of habeas corpus. Where the accused is brought up by virtue of a writ of habeas corpus, he must, after the final order is made, be remanded to the custody of the sheriff, or other officer, to whom the writ was directed. If the final order directs that he be punished by imprisonment, or committed until the payment of a sum of money, he must be so imprisoned or committed, upon his discharge from custody under the mandate, by virtue of which he is held by the sheriff, or other officer.

§ 772. Punishment upon return of application. Upon the return of an application to punish for contempt, the questions which arise must be determined, as upon any other motion; and, if the determination is to the effect specified in section seven hundred and seventy, the order thereupon must be to the same effect as the final order therein

prescribed.

Except as hereinafter provided, the offender may be committed upon a certified copy of the order so made, without further process. Where the commitment is ordered to punish an offense committed with respect to an enforcement procedure under the civil practice law and rules or pursuant to section two hundred forty-five of the domestic relations law, and the defendant has not appeared upon the return of the application, the final order directing punishment and commitment of the offender shall include a provision granting him leave to purge himself of the contempt within ten days after personal service of the order by performance of the act or duty the omission of which constitutes the misconduct for which he is to be punished, and the act or duty to be performed shall be specified in the order. Upon a certified copy of the order, together with proof by affidavit that more than ten days have elapsed since personal service thereof upon the offender, and that the act or duty specified has not been performed, the court may issue without notice a warrant directed to the sheriff or other enforcement officer of any jurisdiction in which the offender may be found. The warrant shall command such officer to arrest the offender forthwith and bring him before the court, or a judge thereof, to be committed or for such further disposition as the court in its discretion shall direct.

§ 773. Amount of fine. If an actual loss or injury has been caused to a party to an action or special proceeding, by reason of the misconduct proved against the offender, and the case is not one where it is specially prescribed by law, that an action may be maintained to recover damages for the loss or injury, a fine, sufficient to indemnify the aggrieved party, must be imposed upon the offender, and collected, and paid over to the aggrieved party, under the direction of the court. The payment and acceptance of such a fine constitute a bar to an action by the aggrieved party, to recover damages for the loss or injury.

Where it is not shown that such an actual loss or injury has been caused, a fine may be imposed, not exceeding the amount of the complainant's costs and expenses, and two hundred and fifty dollars in

addition thereto, and must be collected and paid, in like manner. A corporation may be fined as prescribed in this section.

If a fine is imposed to punish an offense committed with respect to an enforcement procedure under the civil practice law and rules or pursuant to section two hundred forty-five of the domestic relations law, and it has not been shown that such an actual loss or injury has been caused and the defendant has not appeared upon the return of the application, the order imposing fine, if any, shall include a provision granting the offender leave to purge himself of the contempt within ten days after personal service of the order by appearing and satisfying the court that he is unable to pay the fine or, in the discretion of the court, by giving an undertaking in a sum to be fixed by the court conditioned upon payment of the fine plus costs and expenses and his appearance and performance of the act or duty, the omission of which constitutes the misconduct for which he is to be punished. The order may also include a provision committing the offender to prison until the fine plus costs and expenses are paid, or until he is discharged according to law. Upon a certified copy of the order imposing fine, together with proof by affidavit that more than ten days have elapsed since personal service thereof upon the offender, and that the fine plus costs and expenses has not been paid, the court may issue without notice a warrant directed to the sheriff or other enforcement officer of any jurisdiction in which the offender may be found. The warrant shall command such officer to arrest the offender forthwith and bring him before the court, or a judge thereof, to be committed or for such other disposition as the court in its discretion shall direct.

§ 774. Length of imprisonment and periodic review of proceedings. 1. Where the misconduct proved consists of an omission to perform an act or duty, which is yet in the power of the offender to perform, he shall be imprisoned only until he has performed it, and paid the fine imposed, but if he shall perform the act or duty required to be performed, he shall not be imprisoned for the fine imposed more than three months if the fine is less than five hundred dollars, or more than six months if the fine is five hundred dollars or more. In such case, the order, and

the warrant of commitment, if one is issued, must specify the act or duty to be performed, and the sum to be paid. In every other case, where special provision is not otherwise made by law, the offender may be imprisoned for a reasonable time, not exceeding six months, and until the fine, if any, is paid; and the order, and the warrant of commitment, if any, must specify the amount of the fine, and the duration of the imprisonment. If the term of imprisonment is not specified in the order, the offender shall be imprisoned for the fine imposed three months if the fine is less than five hundred dollars, and six months if the fine imposed is five hundred dollars or more. If the offender is required to serve a specified term of imprisonment, and in addition to pay a fine, he shall not be imprisoned for the nonpayment of such fine for more than three months if such fine is less than five hundred dollars or more than six months if the fine imposed is five hundred dollars or more in addition to the specified time of imprisonment.

2. In all instances where any offender shall have been imprisoned pursuant to article nineteen of the judiciary law and where the term of such imprisonment is specified to be an indeterminate period of time or for a term of more than three months, such offender, if not then discharged by law from imprisonment, shall within ninety days after the commencement of such imprisonment be brought, by the sheriff, or other officer, as a matter of course personally before the court imposing such imprisonment and a review of the proceedings shall then be held to determine whether such offender shall be discharged from imprisonment. At periodic intervals of not more than ninety days following such review, the offender, if not then discharged by law from imprisonment, shall be brought, by the sheriff, or other officer, as a matter of course personally before the court imposing such imprisonment and further reviews of the proceedings shall then be held to determine whether such offender shall be discharged from imprisonment. Where such imprisonment shall have arisen out of or during the course of any action or proceeding, the clerk of the court before which such review of the proceedings shall be held, or the judge or justice of such court in case there be no clerk, shall give reasonable notice in writing of the date, time and place of each such review to each party or his attorney who shall have appeared of record in such action or proceeding, at their

last known address.

§ 775. When court may release offender. Where an offender, imprisoned as prescribed in this article, is unable to endure the imprisonment, or to pay the sum, or perform the act or duty, required to be paid or performed, in order to entitle him to be released, the court, judge, or referee may, in its or his discretion, and upon such terms as justice requires, make an order, directing him to be discharged from the imprisonment.

Where the commitment was made to punish a contempt of court committed with respect to an enforcement procedure under the civil practice law and rules, and the offender has purged himself of contempt as provided in section seven hundred seventy-two or seven hundred seventy-three of this article, the court out of which the execution was issued shall make an order directing him to be discharged from the imprisonment.

§ 776. Offender liable to indictment. A person, punished as prescribed in this article, may, notwithstanding, be indicted for the same misconduct, if it is an indictable offense; but the court, before which he is convicted, must, in forming its sentence, take into consideration the previous punishment.

§ 777. Proceedings when accused does not appear. Where a person has given an undertaking for his appearance, as prescribed in this article and fails to appear, on the return day of the application, the court may either issue a warrant of commitment, or make an order, directing the undertaking to be prosecuted; or both.

§ 778. Prosecution of undertaking by person aggrieved. The order directing the undertaking to be prosecuted, may, in the discretion of the court, direct the prosecution thereof, by and in the name of any party aggrieved by the misconduct of the accused. In such a case, the

plaintiff may recover damages, to the extent of the loss or injury sustained by him, by reason of the misconduct, together with the costs and expenses of prosecuting the special proceeding in which the warrant was issued; not exceeding the sum specified in the undertaking.

§ 779. Prosecution of undertaking by attorney-general or district attorney. If no party is aggrieved by the misconduct of the accused, the order must, and, in any case where the court thinks proper so to direct, it may, direct the prosecution of the undertaking, by the attorney-general, or by the district attorney of the county in which it was given, in the name of the people. In an action, brought pursuant to the order, the people are entitled to recover the entire sum, specified in the undertaking. Out of the money collected, the court, which directed the prosecution, must direct that the person, at whose instance the warrant was issued, be paid such a sum as it thinks proper, to satisfy the costs and expenses incurred by him, and to compensate him for any loss or injury sustained by him, by reason of the misconduct. The residue of the money must be paid into the treasury of the state.

§ 780. Sheriff liable for taking insufficient sureties. After the return of an execution, issued upon a judgment, rendered in an action upon the undertaking, an action, to recover the amount of the judgment, may be maintained against the sheriff, where it appears that, at the time when the undertaking was given, the sureties were insufficient, and the sheriff had reasonable grounds to doubt their sufficiency. Such an action may be maintained by the plaintiff, in whose favor the judgment was recovered. If the people were plaintiffs, the action must be prosecuted by the attorney-general or the district attorney; and any money collected therein must be disposed of, as prescribed in the last section.

§ 781. Punishment of misconduct at trial term. Where a misconduct, which is punishable by fine or imprisonment, as prescribed in this article, occurs at a trial term, or with respect to a mandate returnable

at such term, and was not punished at the term at which it occurred, the supreme court may inquire into and punish the misconduct, as if it had occurred at a special term of the supreme court, held in the same county, or with respect to a mandate returnable at such a special term.

ARTICLE 20
COLLECTION OF FINES

Section 790. Clerk to make schedule of fines imposed.
791. Issue and contents of warrant.
792. Execution of warrant.
793. Return of warrant.
794. Proceedings if fine not collected.
795. Liability of sheriff for omission of duty.
796. Application of article.

§ 790. Clerk to make schedule of fines imposed. Where a fine has been imposed by a court of record, upon a grand or trial juror, or upon any officer or other person, without being accompanied with an order for the immediate commitment of the person so fined, until the fine is paid, the clerk of the court, immediately after the close of the term at which the fine was imposed, must prepare a schedule, containing, in separate columns, the following matters:

1. The name of each person fined.

2. His place of residence, where it appears, from the papers on file or before the court, to be within the county.

3. The amount of the fine imposed upon him.

4. The cause for which the fine was imposed.

The clerk must subjoin to the schedule a certificate, to the effect, that it contains a true abstract of the orders imposing fines, and must annex it to the warrant specified in the next section.

§ 791. Issue and contents of warrant. The clerk must immediately issue a warrant, under the seal of the court, directed to the sheriff of the county, and commanding him to collect from each of the persons named in the schedule annexed to the warrant, the sum therein set opposite that person's name; and to pay over the sum collected to the treasurer of the county. The clerk must include in the said annexed schedule the name of each person who has been fined, prior to the issuing thereof, and whose fine remains then wholly or partly unpaid, and not remitted by the court. The warrant is the process of the court, by which the fines were imposed. If a delinquent resides in another county, a separate warrant, for the collection of the fine imposed upon him, with an appropriate schedule annexed thereto, must be issued, in like manner, to the sheriff of the county where he resides.

§ 792. Execution of warrant. The sheriff to whom a warrant is issued, must collect each fine out of the personal property of the person fined, as prescribed by law or the rules of civil practice for the collection, by levy upon and sale of personal property, of an execution issued out of a court of record; and he is entitled to like fees thereupon. If sufficient personal property of a delinquent can not be found to pay the fine and the fees, the sheriff must arrest the delinquent, and detain him in custody until he pays the same, as upon an execution against the person, issued in an action, out of the supreme court; and he is entitled to like fees thereupon.

§ 793. Return of warrant. The sheriff must return the warrant, with his proceeding thereupon, at the term of the court; or, where the fine was imposed, in any county except New York, by the supreme court, or the county court at the term of the county court; held next after the expiration of sixty days from the receipt thereof. If he fails to do so, the district attorney must take the same proceedings to compel a return, as may be taken by a judgment creditor, where a sheriff omits to return an execution, issued out of the supreme court.

§ 794. Proceedings if fine not collected. Where it appears, by the return, that a fine remains uncollected, and it does not appear that the sheriff has the delinquent in custody, the district attorney must, if he has good reason to believe that the sheriff might, with due diligence, have collected the fine, or arrested and detained the delinquent, commence an action against the sheriff, in the name of the people. Otherwise he must direct the clerk to issue a new warrant, or to include the fine in the schedule, annexed to the next warrant, to be issued by him. A new warrant may, from time to time, be issued, or the fine may be included in the schedule annexed to a subsequent warrant, until it is collected.

§ 795. Liability of sheriff for omission of duty. An action may be maintained, in behalf of the people, against a sheriff, to whom a warrant is directed and delivered, as prescribed in this article, to recover damages for any omission of duty with respect to the same, in a case where a judgment creditor might maintain an action against a sheriff, to whom an execution issued out of the supreme court is directed and delivered. In such an action, the people are entitled to recover the same damages, which a judgment creditor would be entitled to recover, if the order imposing the fine was a judgment of the supreme court.

§ 796. Application of article. This article does not apply to a case, where special provision for the collection of a fine is otherwise made by law.

ARTICLE 20-A

REMISSION OF FINES AND FORFEITURES

Section 798. Remitting fines and penalties and discharging recognizances.
799. Restrictions upon power to remit.

799-a. Notice of application for remission and discharge and costs on remission.

§ 798. Remitting fines and penalties and discharging recognizances. Upon the application of a person, who has been fined by a court, or of a person whose recognizance has become forfeited, or of his surety or of a person who has posted cash bail, or bail by credit card or similar device which has been forfeited, the county court of the county in which the term of the court was held, where the fine was imposed, or the recognizance taken, may, except as otherwise prescribed in section seven hundred and ninety-nine; upon good cause shown, and upon such terms as it deems just, make an order, remitting the fine, wholly or partly, or the forfeiture of the recognizance, or part of the penalty thereof; or it may discharge the recognizance. If a fine so remitted has been paid, the county treasurer, or other officer, in whose hands the money remains, must pay the same, or the part remitted, according to the order.

§ 799. Restrictions upon power to remit. Section seven hundred and ninety-eight does not authorize a county court to remit any part of a fine exceeding two hundred and fifty dollars imposed by the supreme court upon conviction for a criminal offense; or a fine to any amount imposed by a court upon an officer or other person, for an actual contempt of court, or for disobedience to its process, or other mandate; or to remit or discharge a recognizance taken in its county for the appearance of a person in another county. In the latter case, the power of remitting or discharging the recognizance is vested in the county court of the county, in which the person is bound to appear.

§ 799-a. Notice of application for remission and discharge and costs on remission. An application for an order, as prescribed in section seven hundred and ninety-eight, cannot be heard, until such notice thereof as the court deems reasonable, has been given to the district-attorney of the county, and until he has had an opportunity to

examine the matter, and prepare to resist the application. And upon granting such an order, the court must always impose, as a condition thereof, the payment of the costs and expenses, if any, incurred in an action or special proceeding for the collection of the fine, or the penalty of the recognizance.

ARTICLE 21

COURT LIBRARIES

Section 810. Chief judge's library.
811. Court of appeals judges' law libraries.
812. Appellate division libraries.
813. Court law libraries.
814. Care and management of court law libraries.
815. Supreme court library at Richmond.

§ 810. Chief judge's library. The consultation library of the court of appeals is continued. This library shall be under the exclusive supervision of that court and the chief judge may add thereto from any funds available.

§ 811. Court of appeals judges' law libraries. The law libraries of the judges of the court of appeals are continued. Each judge has sole custody and control of the library assigned to him or to her and on expiration of the judge's term of office he or she shall deliver it to his or her successor. The judge may add to it from any funds available.

§ 812. Appellate division libraries. The libraries heretofore established for the appellate divisions of the supreme court are continued. They are under exclusive supervision of the respective appellate divisions. The justices of the court shall be trustees thereof who shall continue to be vested with all the powers with regard thereto now possessed by those justices.

§ 813. Court law libraries. Each county of the state shall have a court law library which shall be governed as provided by section eight hundred fourteen of this article. Such libraries shall be open to the public, however, the chief administrator of the courts may issue guidelines for the use and operation of such libraries. All supreme court and county court libraries established as of the effective date of this section are continued as court law libraries, including the following as they have been named:

JOSEPH F. BARNARD MEMORIAL LIBRARY AT POUGHKEEPSIE;

DAVID L. FOLLETT MEMORIAL LIBRARY AT NORWICH;

HAMILTON ODELL LIBRARY AT MONTICELLO;

EMORY A. CHASE MEMORIAL LIBRARY AT CATSKILL;

FRANCIS BERGAN LAW LIBRARY AT ALBANY;

LOUIS H. FOLMER LAW LIBRARY AT CORTLAND;

JOSEPH F. EGAN MEMORIAL SUPREME COURT LAW LIBRARY AT SCHENECTADY;

ERNEST N. WARREN LAW LIBRARY AT ITHACA;

F. WALTER BLISS SUPREME COURT LIBRARY AT SCHOHARIE;

JOSEPH P. MOLINARI SUPREME COURT LIBRARY AT COOPERSTOWN;

COURT OF APPEALS LIBRARY AT SYRACUSE;

CHARLES B. SWARTWOOD LAW LIBRARY AT ELMIRA and

F. WARREN TRAVERS SUPREME COURT LIBRARY AT TROY.

§ 814. Care and management of court law libraries. 1. Each court law library shall be under the care and management of the chief administrator of the courts. Each shall have a board of trustees, which shall consist of four members, all of whom shall be residents of the county in which the library is located, and who shall be appointed by the chief administrator in accordance with this section. The chair of the board shall be a justice of the supreme court or, if no justice resides in the county, a judge of the county court, family court or of the surrogate's court of the county. Of the remaining members of the board, one shall be an attorney who has been admitted to the practice of law in this state; one shall be a member of the board of supervisors or other legislative body of the county in which the library is located, or in the case of a county wholly contained within a city, of the legislative body of such city, and one member shall be appointed upon the recommendation of the president of the county bar association. In addition to the four members of each board of trustees provided for hereinabove, the chief administrator of the courts may, in his discretion, appoint such other members as he deems appropriate. The members of the board shall serve without pay for a term of two years and shall be eligible to be reappointed to successive terms of office. Membership on a board of trustees shall terminate whenever a member ceases to be a resident of the county, or ceases to hold public office if the holding of such public office was required at the time of such member's appointment to the board. A vacancy shall be filled for the unexpired term in the same manner as an original appointment.

2. Each board of trustees shall provide the chief administrator with such assistance as he or she shall require in maintaining and operating the court law library.

3. In the event of any change in the designation of a court law library for the purpose of receiving materials transmitted pursuant to paragraph c of subdivision four of section one hundred two of the executive law, the chief administrator shall cause the previously designated library within such judicial district to transfer all such materials in its possession to the newly designated library.

4. The provisions of this section shall not apply to the supreme court library in borough of Brooklyn nor to the supreme court library at Buffalo until April first, nineteen hundred ninety-four. Such libraries are continued as court law libraries under the provisions of this article effective April first, nineteen hundred ninety-four.

§ 815. Supreme court library at Richmond. The law library for the county officials of the county of Richmond, as now constituted and all of the books therein, shall be the law library of the supreme court of the state of New York in the thirteenth judicial district and shall be in the care and custody and under the control of the justices of the supreme court of the state of New York in the thirteenth judicial district or a majority of them, not designated as justices of the appellate division, who shall be the trustees thereof. The trustees shall have power to receive by gift, devise or bequest any property given or conveyed for the purpose of a law library and to hold and manage and dispose of the same, and may make rules and regulations for the management and protection of said library and prescribe penalties for the violation thereof. They may sue for and recover such penalties and may maintain actions for injury to said library. They may also designate from among their number a library committee or committees, the members of which shall have the power to administer the rules and regulations prescribed by the said trustees. The trustees may employ and appoint such persons as they may deem necessary for the proper care, management and maintenance of said library and fix their salaries. The library and the equipment shall also be available for the use of the surrogate, family and criminal court judges, district attorney and other county officials of the county of Richmond and the judges of the civil court of the city of New York presiding in such county. The librarian and the assistant librarian, shall, in addition to the duties of librarian and assistant librarian, perform any and all duties as may be required of or imposed upon them by said trustees. The trustees may also procure proper furniture for the said library, purchase books therefor and defray all the expenses incidental to its care and management. They shall yearly ascertain the amount necessary for the aforesaid purposes and certify it to the board of estimate who shall provide for raising

and paying the same.

ARTICLE 21-A

COMMUNITY DISPUTE RESOLUTION

CENTERS PROGRAM

Section 849-a. Definitions.
849-b. Establishment and administration of centers.
849-c. Application procedures.
849-d. Payment procedures.
849-e. Funding.
849-f. Rules and regulations.
849-g. Reports.

§ 849-a. Definitions. For the purposes of this article:

1. "Center" means a community dispute center which provides conciliation, mediation, arbitration or other forms and techniques of dispute resolution.

2. "Mediator" means an impartial person who assists in the resolution of a dispute.

3. "Grant recipient" means any nonprofit organization that administers a community dispute resolution center pursuant to this article, and is organized for the resolution of disputes or for religious, charitable or educational purposes.

§ 849-b. Establishment and administration of centers. 1. There is hereby established the community dispute resolution center program, to be administered and supervised under the direction of the chief administrator of the courts, to provide funds pursuant to this article for the establishment and continuance of dispute resolution centers on the basis of need in neighborhoods, and to provide funds for the establishment and implementation of a pilot program in accordance with

subdivision (b) of section four hundred twenty-five of the family court act.

2. Every center shall be operated by a grant recipient.

3. All centers shall be operated pursuant to contract with the chief administrator and shall comply with all provisions of this article. The chief administrator shall promulgate rules and regulations to effectuate the purposes of this article, including provisions for periodic monitoring and evaluation of the program.

4. A center shall not be eligible for funds under this article unless:

(a) it complies with the provisions of this article and the applicable rules and regulations of the chief administrator;

(b) it provides neutral mediators who have received at least twenty-five hours of training in conflict resolution techniques;

(c) it provides dispute resolution without cost to indigents and at nominal or no cost to other participants;

(d) it provides that during or at the conclusion of the dispute resolution process there shall be a written agreement or decision setting forth the settlement of the issues and future responsibilities of each party and that such agreement or decision shall be available to a court which has adjourned a pending action pursuant to section 170.55 of the criminal procedure law or, in the case of written agreements reached pursuant to the pilot program established pursuant to subdivision (b) of section four hundred twenty-five of the family court act, that such agreement shall be submitted to the family court for approval in accordance with such section;

(e) it does not make monetary awards except upon consent of the parties and such awards do not exceed the monetary jurisdiction of the small claims part of the justice court, except that where an action has been adjourned in contemplation of dismissal pursuant to section 215.10 of the criminal procedure law, a monetary award not in excess of five thousand dollars may be made; and

(f) it does not accept for dispute resolution any defendant who is named in a filed felony complaint, superior court information, or indictment, charging: (i) a class A felony, or (ii) a violent felony

offense as defined in section 70.02 of the penal law, or (iii) any drug offense as defined in article two hundred twenty of the penal law, or (iv) a felony upon the conviction of which defendant must be sentenced as a second felony offender, a second violent felony offender, or a persistent violent felony offender pursuant to sections 70.06, 70.04 and 70.08 of the penal law, or a felony upon the conviction of which defendant may be sentenced as a persistent felony offender pursuant to section 70.10 of such law.

5. Parties must be provided in advance of the dispute resolution process with a written statement relating:

(a) their rights and obligations;

(b) the nature of the dispute;

(c) their right to call and examine witnesses;

(d) that a written decision with the reasons therefor will be rendered; and

(e) that the dispute resolution process will be final and binding upon the parties.

6. Except as otherwise expressly provided in this article, all memoranda, work products, or case files of a mediator are confidential and not subject to disclosure in any judicial or administrative proceeding. Any communication relating to the subject matter of the resolution made during the resolution process by any participant, mediator, or any other person present at the dispute resolution shall be a confidential communication.

§ 849-c. Application procedures. 1. Funds appropriated or available for the purposes of this article may be allocated for programs proposed by eligible centers. Nothing in this article shall preclude existing resolution centers from applying for funds made available under this article provided that they are otherwise in compliance with this article.

2. Centers shall be selected by the chief administrator from applications submitted.

3. The chief administrator shall require that applications submitted for funding include, but need not be limited to the following:

(a) The cost of each of the proposed centers components including the proposed compensation of employees.

(b) A description of the proposed area of service and number of participants who may be served.

(c) A description of available dispute resolution services and facilities within the proposed geographical area.

(d) A description of the applicant's proposed program, including support of civic groups, social services agencies and criminal justice agencies to accept and make referrals; the present availability of resources; and the applicant's administrative capacity.

(e) Such additional information as is determined to be needed pursuant to rules of the chief administrator.

§ 849-d. Payment procedures. 1. Upon the approval of the chief administrator, funds appropriated or available for the purposes of this article shall be used for the costs of operation of approved programs. The methods of payment or reimbursement for dispute resolution costs shall be specified by the chief administrator and may vary among centers. All such arrangements shall conform to the eligibility criteria of this article and the rules and regulations of the chief administrator.

2. Except as provided in section four hundred twenty-five of the family court act, the state share of the cost of any center approved under this section shall include a basic grant of up to forty thousand dollars for each county served by the center and may include an additional amount not exceeding fifty per centum of the difference between the approved estimated cost of the program and the basic grant.

§ 849-e. Funding. 1. The chief administrator may accept and disburse from any public or private agency or person, any money for the purposes of this article.

2. The chief administrator may also receive and disburse federal funds for purposes of this article, and perform services and acts as may be necessary for the receipt and disbursement of such federal funds.

(a) A grant recipient may accept funds from any public or private agency or person for the purposes of this article.

(b) The state comptroller, the chief administrator and their authorized representatives, shall have the power to inspect, examine and audit the fiscal affairs of the program.

(c) Centers shall, whenever reasonably possible, make use of public facilities at free or nominal cost.

§ 849-f. Rules and regulations. The chief administrator shall promulgate rules and regulations to effectuate the purposes of this article.

§ 849-g. Reports. Each resolution center funded pursuant to this article shall annually provide the chief administrator with statistical data regarding the operating budget, the number of referrals, categories or types of cases referred, number of parties serviced, number of disputes resolved, nature of resolution, amount and type of awards, rate of compliance, returnees to the resolution process, duration and estimated costs of hearings and such other information the chief administrator may require and the cost of hearings as the chief administrator requires. The chief administrator shall thereafter report annually to the governor and the temporary president of the senate, speaker of the assembly, and chairpersons of the judiciary and children and families committees regarding the operation and success of the centers funded pursuant to this article. The chief administrator shall include in such report all the information for each center that is required to be in the report from each center to the chief administrator. Such annual report shall also evaluate and make recommendations regarding the operation and success of such center.

ARTICLE 21-B

JUSTICE COURT ASSISTANCE PROGRAM

Section 849-h. Establishment and administration of program.
849-i. Application procedures.
849-j. Payment procedures; audits.
849-k. Reports.

§ 849-h. Establishment and administration of program. 1. There is hereby established a justice court assistance program (hereinafter referred to in this article as the "program"), to be administered and supervised under the direction of the chief administrator of the courts, to provide funds pursuant to this article to assist the operation of town and village justice courts. The chief administrator shall promulgate rules and regulations to effectuate the purposes of this article, including provisions for periodic monitoring and evaluation of the program. Each town or village receiving funds pursuant to this article shall comply with all such rules and regulations and with all provisions of this article.

2. Funds available pursuant to this article may be used for any purpose having as its end enhancement of the justice courts' ability to provide suitable and sufficient services to their respective communities. These purposes may include, but shall not be limited to, automation of court operations; improvement or expansion of court facilities; provision of appropriate means for the recording of court proceedings; provision of lawbooks, treatises and related materials; and provision of appropriate training for justices and for nonjudicial court staff. Except as may otherwise be provided by rule of the chief administrator, funds available pursuant to this article shall not be used to compensate justices and nonjudicial court staff, nor shall they be used as a means of reducing funding provided by a town or village to its justice court.

§ 849-i. Application procedures. 1. Each town and village having a justice court may make an individual application for funds available

pursuant to this article, or two or more such towns or villages, or towns and villages, may make a joint application for such funds. All applications shall be submitted to the chief administrator of the courts for his or her approval.

2. The chief administrator shall require that applications submitted for funding provide such information as he or she deems necessary, including at least the following:

(a) The amount of funding sought.

(b) A detailed description of the purpose or purposes to which the funding will be applied.

(c) A detailed description of the court or courts making the application, including information as to staffing, caseload, budget and facilities as well as general information about the community or communities served, where such general information would be pertinent to the purpose to which the funding will be applied.

3. In determining whether to approve an application, the chief administrator shall consider:

(a) Whether the applicant has complied with all rules and regulations governing the program and all pertinent provisions of this article;

(b) The likely impact of approving such application upon the court or courts to be affected thereby, upon the communities served, and upon the judiciary generally;

(c) The availability of other sources of funding to pay some or all of the costs for which the application seeks funding under the program;

(d) The number and content of all other applications for funding then available under the program;

(e) The extent of funding already received under the program by the applicant (or joint applicants) pursuant to past applications; and

(f) The magnitude of the funding appropriated for the purposes of this article.

4. Notwithstanding any other provision of law, the chief administrator shall not approve any application for funding in excess of thirty thousand dollars unless such application is a joint application and the aggregate funding sought thereunder does not exceed an amount equaling

the product of the number of joint applicants making such application and thirty thousand dollars.

§ 849-j. Payment procedures; audits. 1. Upon approval of an application, the chief administrator, within available appropriations, may authorize disbursement of funds in any amount up to the amount sought by the application. Such disbursement may be by advance payment to the applicant (or joint applicants, as appropriate) before it incurs the cost for which its application sought funding, by reimbursement to the applicant after it incurs and pays such costs in the first instance, or by some combination thereof, as the chief administrator determines is appropriate under the circumstances.

2. The state comptroller, the chief administrator and their authorized representatives shall have the power to inspect, examine and audit the fiscal affairs of the applicant (or applicants) to an approved application granted pursuant to this article to the extent necessary to determine whether funding received under the program has been used in accordance with the purpose or purposes for which it was sought in the application, and whether there has been compliance with all rules and regulations governing the program and the provisions of this article.

§ 849-k. Reports. The chief administrator of the courts shall report annually to the governor and the legislature regarding the operation and success of the program established by this article.

ARTICLE 21-C

COURT-APPOINTED SPECIAL ADVOCATES PROGRAM

Section 849-l. Appointment.
849-m. Confidentiality.

§ 849-l. Appointment. A person employed by, or volunteering for, a court-appointed special advocate (CASA) program shall not be eligible

for appointment by a family court to assist such court unless such program is in compliance with the rules and regulations of the chief administrator of the courts adopted pursuant to paragraph (w) of subdivision two of section two hundred twelve of this chapter, and such program has been approved by the chief administrator. Such person or volunteer so appointed shall only exercise the functions and duties specifically authorized by the court.

§ 849-m. Confidentiality. Each CASA program shall safeguard the confidentiality of all information and material in accordance with applicable state and federal laws, rules and regulations and, to this end, shall ensure that all of its board members, officers, employees and volunteers are trained in, and comply with, such laws, rules and regulations.

ARTICLE 22

JUDICIAL HEARING OFFICERS

Section 850. Designation of judicial hearing officers.
851. Assignments.
852. Compensation.
853. Powers of judicial hearing officers.
854. Chief administrator to make rules.

§ 850. Designation of judicial hearing officers. 1. Subject to the provisions of subdivision three of this section and to rules of the chief administrator of the courts, any person who has served as a judge or justice of a court of record of the unified court system or of a city court which is not a court of record, but who no longer holds judicial office, may, upon his application, be designated by the chief administrator as a judicial hearing officer upon a determination by the chief administrator (a) that the former judge has the mental and physical capacity to perform the duties of such office and (b) that the services of that former judge are necessary to expedite the business of the courts.

2. The term of service of a judicial hearing officer shall be fixed by the chief administrator.

3. No person who has been removed from a judicial position pursuant to section twenty-two of article six of the constitution may be designated as a judicial hearing officer.

4. Each person, upon designation as a judicial hearing officer as provided herein, shall file with the chief administrator a sworn statement that such person will faithfully and fairly do such acts and make such determinations and reports as may be required by the designation as a judicial hearing officer.

§ 851. Assignments. 1. The chief administrator of the courts shall establish panels of judicial hearing officers for such courts or geographical areas as the chief administrator deems appropriate.

2. Assignments to a pending matter or to a part of court shall be made from each such panel as required by the judicial or administrative needs of the courts and in conformance with law and such rules as the chief administrator may promulgate.

§ 852. Compensation. 1. For the performance of an assignment hereunder, each judicial hearing officer shall receive his actual and necessary expenses thereby incurred plus compensation in an amount to be established by the chief administrator of the courts. Such expenses and compensation shall be state charges payable out of funds appropriated to the administrative office for the courts for such purpose. A judicial hearing officer shall receive no other compensation for the performance of services in such capacity.

2. Notwithstanding any other provision of law, where a person is a "retired person", as such term is defined in article seven of the retirement and social security law, service as a judicial hearing

officer shall be subject to the provisions of that article.

§ 853. Powers of judicial hearing officers. Each judicial hearing officer shall have such powers as may be provided by law.

§ 854. Chief administrator to make rules. The chief administrator of the courts shall promulgate rules in order to effectuate the provisions of this article.

ARTICLE 22-A

JUDICIAL WELLNESS OR ASSISTANCE COMMITTEES

Section 857. Judicial wellness or assistance committees.

§ 857. Judicial wellness or assistance committees. 1. Confidential information privileged. The confidential relations and communications between a member or authorized agent of a judicial wellness or assistance committee sponsored by a state or local bar association and any person, firm or corporation communicating with such committee, its members or authorized agents, shall be deemed to be privileged on the same basis as those provided by law between attorney and client. Such privilege may be waived only by the person, firm or corporation which has furnished information to the committee. This privilege shall not extend to information received by a judge or lawyer serving as a member of a judicial wellness or assistance committee that a judge is committing or is likely to commit a substantial violation of the rules governing judicial conduct.

2. Immunity from liability. Any person, firm or corporation in good faith providing information to, or in any other way participating in the affairs of, any of the committees referred to in subdivision one of this section shall be immune from civil liability that might otherwise result by reason of such conduct. For the purpose of any proceeding, the good faith of any such person, firm or corporation shall be presumed.

ARTICLE 22-B

HOPE CARD ACT

Section 858. Hope cards.

§ 858. Hope cards. 1. As used in this section, "hope card" shall mean either:

(a) a digital image of the final order of protection as issued in court, delivered via text message, email or other electronic communication; or

(b) a durable, wallet-sized physical card that contains a summary of information about a final order of protection.

2. The office of court administration shall develop a program to issue a hope card to any party protected by a final order of protection. The program shall allow protected parties to request a hope card at the time a final order of protection has been issued while in court, and the ability to apply at a later date. A hope card shall be provided at no cost to a protected party. For the purposes of determining whether reasonable cause for an arrest exists under paragraph (b) of subdivision four of section 140.10 of the criminal procedure law, a hope card shall have the same effect as a copy of an underlying order of protection in indicating the prior issuance of such an order.

3. The wallet-sized, physical hope card shall contain a summary of the order of protection, including:

(a) the name and date of birth of the primary protected party and any other protected parties;

(b) the name and date of birth of the individual restrained;

(c) the issuing court and judge;

(d) the docket or dockets, case or cases or indictment number or indictment numbers for the relevant case or cases, and the final order number; and

(e) the date of issuance and expiration of the final order.

4. Any protected party may elect to receive a hope card:

(a) in digital form, delivered via text message, email or other electronic communication;

(b) in physical form, printed on a durable, wallet-sized card; or

(c) both.

5. Applications for hope cards shall be made accessible in an online portal developed and maintained by the office of court administration, as well as a paper form to be made available at any court with jurisdiction to issue an order of protection.

ARTICLE 22-C

NEW YORK STATE JUDICIAL SECURITY ACT

Section 859. New York state judicial security act.

§ 859. New York state judicial security act. 1. Definitions. As used in this article:

(a) "Eligible individual" shall mean an actively employed or former:

(i) judge or justice of the unified court system or judge of the housing part of the civil court of the city of New York; or

(ii) a federal judge, which shall include a federal judge or a senior, recalled, or retired federal judge sitting or maintaining chambers in New York, where such federal judge means:

(A) a justice of the United States or a judge of the United States, as those terms are defined in section 451 of title 28, United States Code;

(B) a bankruptcy judge appointed under section 152 of title 28, United States Code;

(C) a United States magistrate judge appointed under section 631 of title 28, United States Code;

(D) a judge confirmed by the United States Senate and empowered by statute in any commonwealth, territory, or possession to perform the duties of a federal judge;

(E) a judge of the United States Court of Federal Claims appointed under section 171 of title 28, United States Code;

(F) a judge of the United States Court of Appeals for Veterans Claims

appointed under section 7253 of title 38, United States Code;

(G) a judge of the United States Court of Appeals for the Armed Forces appointed under section 942 of title 10, United States Code;

(H) a judge of the United States Tax Court appointed under section 7443 of the Internal Revenue Code of 1986; or

(I) a special trial judge of the United States Tax Court appointed under section 7443A of the Internal Revenue Code of 1986.

(b) "Immediate family" shall mean, for each eligible individual, the spouse, former spouse, parent, child, and sibling.

(c) "Personal information" shall include the following for an eligible individual and, if such individual so indicates as provided in subparagraph (ii) of paragraph (a) of subdivision two of this section, for the members of their immediate family: (i) home address, including primary residence and secondary residences; (ii) unlisted telephone number; (iii) personal cell phone number; (iv) personal email address; (v) social security number; (vi) driver's license number; (vii) license plate number; (viii) marital status and identity of any present and former spouse; (ix) identity of children under the age of eighteen; (x) name and address of a school or day care facility attended by an immediate family member; (xi) bank account number; (xii) credit or debit card number; and (xiii) personal identification number (PIN).

(d) "Cease making public the personal information" of an identified person shall mean deleting, redacting or otherwise removing any existing posting on the internet and any display or publication in any medium accessible to the public containing such personal information and ceasing the sharing, trading, or transferring of such personal information with others, as is specified in the written request of the eligible individual on whose behalf the notification is made.

(e) "Excluded entity" means a commercial entity engaged in the following activity:

(i) reporting, news-gathering, speaking, or other activity intended to inform the public on matters of public interest or public concern;

(ii) using personal information internally, providing access to businesses under common ownership or affiliated by corporate control, or selling or providing data for transaction or service requested by or concerning the individual whose personal information is being transferred;

(iii) providing publicly available information via real-time or near real-time alert services for health or safety purposes;

(iv) any activity where the commercial entity is a consumer reporting agency subject to the Fair Credit Reporting Act (15 U.S.C. 1681, et seq.);

(v) any activity where the commercial entity is a financial institution subject to the Gramm-Leach-Bliley Act (Public Law 106-102) and regulations implementing that Act;

(vi) providing 411 directory assistance or directory information services, including name, address, and telephone number, on behalf of or as a function of a telecommunications carrier;

(vii) any activity where the commercial entity is subject to the privacy regulations promulgated under section 264(c) of the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. 1320-d note); and

(viii) the collection and sale or licensing of personal information incidental to conducting the activities described in this paragraph.

(f) "Public agency" shall mean an agency of the state of New York and any of its political subdivisions.

2. Written request. (a) An eligible individual or their representative may submit a written request to their employer or former employer. To be enforceable, a written request shall be signed by an eligible individual, or their representative, and specify:

(i) those items of personal information that the eligible individual wishes to be kept from being made public;

(ii) the identity of members of the eligible individual's immediate family and whether, for purposes of the written request, their personal information should be deemed to include that of such immediate family members; and

(iii) each person, business, association, and public or private agency that the eligible individual wishes to bar from making public the personal information of such eligible individual.

(b) The employer may develop procedures to review and process written requests.

(c) (i) If a written request has been properly submitted and is complete, the employer for an active or former judge or justice of the

unified court system or active or former judge of the housing part of the civil court of the city of New York, as appropriate, shall, within five business days of receipt of such written request from an eligible individual, notify each person, business, association, and public or private agency identified in the written request that (A) within seventy-two hours of receipt of such notification, that such person, business, association, and public or private agency must cease making public the personal information of the eligible individual identified in such request, and (B) they must make reasonable efforts to ensure that the personal information of the eligible individual is not made available on any website or subsidiary website controlled by that person, business, or association. For purposes of this subparagraph, notification shall be by certified mail, return receipt requested, either at the recipient's last known residence (if recipient is a person) or at the recipient's principal office (which shall be the location at which the office of the chief executive officer of the recipient is generally located).

(ii) If a written request has been properly submitted and is complete, the employer of an active or former federal judge of a federal court established in New York may notify each person, business, association, and public or private agency identified in the written request that (A) within seventy-two hours of receipt of such notification, they must cease making public the personal information of the eligible individual identified in such request, and (B) they must make reasonable efforts to ensure that the personal information of the eligible individual is not made available on any website or subsidiary website controlled by that person, business, or association. For purposes of this subparagraph, notification may be by certified mail, return receipt requested, either at the recipient's last known residence (if the recipient is a person) or at the recipient's principal office (which shall be the location at which the office of the chief executive officer of the recipient is generally located).

(iii) Notwithstanding any provision of this paragraph to the contrary, subparagraphs (i) and (ii) of this paragraph shall not apply to:

(A) display of the personal information of an eligible individual if such information is relevant to and displayed as part of a news story, commentary, editorial, or other speech on a matter of public concern;

(B) personal information that the eligible individual voluntarily publishes after the effective date of this section;

(C) personal information received from a public agency or from an agency of the federal government; and

(D) permissible uses of personal information pursuant to the Driver's Privacy Protection Act (18 U.S.C. § 2721 et seq.), except that no eligible individual making a written request under this article shall be deemed to have given express consent to share personal information for the purposes of 18 U.S.C. § 2721(b), unless the written request contains an express declaration to the contrary.

3. Recipient of notification not to make an eligible individual's personal information public. After a person, business, association, or public or private agency has received a notification pursuant to paragraph (c) of subdivision two of this section, they shall have seventy-two hours to cease making public the personal information of the eligible individual identified in such notification.

4. (a) An eligible individual may seek an injunction or declaratory relief in a court of competent jurisdiction against a person, business, association, or public or private agency that, after receiving a notification pursuant to paragraph (c) of subdivision two of this section, fails to timely comply with the requirements of such notification. If the court grants such injunctive or declaratory relief, the affected person, business, association, or agency shall be required to pay the eligible individual's costs and reasonable attorney's fees.

(b) Upon a violation of any order granting injunctive or declarative relief obtained pursuant to this subdivision, the court issuing such order may: (i) where the violator is a public agency, impose a fine not exceeding one thousand dollars and require the payment of court costs and reasonable attorney's fees; or (ii) where the violator is a person, business, association, or private agency, award damages to the affected eligible individual in an amount up to a maximum of three times the actual damages, but not less than four thousand dollars, and require the payment of court costs and reasonable attorney's fees.

5. Notwithstanding any other provision of law, where the department of

motor vehicles receives a notification pursuant to paragraph (c) of subdivision two of this section, such department shall comply therewith except that, where the notification requires the department to cease making a person's address public, the department may make their business address public.

ARTICLE 23
LAWS REPEALED; WHEN TO TAKE EFFECT

Section 860. Laws repealed.
861. When to take effect.

§ 860. Laws repealed. Of the laws enumerated in the schedule hereto annexed, that portion specified in the last column is hereby repealed.

§ 861. When to take effect. This chapter shall take effect immediately.