

2015-16 NEW YORK STATE EXECUTIVE BUDGET

**EDUCATION, LABOR AND FAMILY ASSISTANCE
ARTICLE VII LEGISLATION**

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Legislative Bill Drafting Commission
12572-01-5

S. -----
Senate

IN SENATE--Introduced by Sen

--read twice and ordered printed,
and when printed to be committed
to the Committee on

----- A.
Assembly

IN ASSEMBLY--Introduced by M. of A.

with M. of A. as co-sponsors

--read once and referred to the
Committee on

BUDGBI

(Enacts into law major components of
legislation necessary to implement
the state education, labor, housing
and family assistance budget for the
2015-2016 state fiscal year)

Educ. computation of school aid

AN ACT

to amend the education law, in
relation to contracts for excel-
lence, apportionment of school aid,
the teachers of tomorrow teacher
recruitment and retention program
and waivers from certain duties; to
amend the state finance law, in
relation to moneys appropriated from
the commercial gaming revenue fund;
to amend chapter 756 of the laws of
1992, relating to funding a program

IN SENATE

Senate introducer's signature

The senators whose names are circled below wish to join me in the sponsorship
of this proposal:

s15 Addabbo	s49 Farley	s63 Kennedy	s40 Murphy	s10 Sanders
s46 Amedore	s17 Felder	s34 Klein	s54 Nozzolio	s23 Savino
s11 Avella	s02 Flanagan	s28 Krueger	s58 O'Mara	s41 Serino
s42 Bonacic	s55 Funke	s24 Lanza	s62 Ortt	s29 Serrano
s04 Boyle	s59 Gallivan	s39 Larkin	s60 Panepinto	s51 Seward
s44 Breslin	s12 Gianaris	s37 Latimer	s21 Parker	s09 Skelos
s38 Carlucci	s22 Golden	s01 LaValle	s13 Peralta	s26 Squadron
s14 Comrie	s47 Griffo	s52 Libous	s30 Perkins	s16 Stavisky
s03 Croci	s20 Hamilton	s45 Little	s61 Ranzenhofer	s35 Stewart-
s50 DeFrancisco	s06 Hannon	s05 Marcellino	s48 Ritchie	Cousins
s32 Diaz	s36 Hassell-	s43 Marchione	s33 Rivera	s53 Valesky
s18 Dilan	Thompson	s07 Martins	s56 Robach	s08 Venditto
s31 Espaillat	s27 Hoylman	s25 Montgomery	s19 Sampson	s57 Young

IN ASSEMBLY

Assembly introducer's signature

The Members of the Assembly whose names are circled below wish to join me in the
multi-sponsorship of this proposal:

a049 Abbate	a045 Cymbrowitz	a135 Johns	a003 Murray	a016 Schimel
a092 Abinanti	a053 Davila	a077 Joyner	a133 Nojay	a140 Schimminger
a084 Arroyo	a034 DenDekker	a020 Kaminsky	a037 Nolan	a076 Seawright
a035 Aubry	a054 Dilan	a094 Katz	a130 Oaks	a087 Sepulveda
a120 Barclay	a081 Dinowitz	a074 Kavanagh	a069 O'Donnell	a065 Silver
a106 Barrett	a147 DiPietro	a142 Kearns	a051 Ortiz	a027 Simanowitz
a060 Barron	a115 Duprey	a040 Kim	a091 Otis	a052 Simon
a082 Benedetto	a004 Englebright	a131 Kolb	a132 Palmesano	a036 Simotas
a042 Bichotte	a109 Fahy	a105 Lalor	a002 Palumbo	a104 Skartados
a079 Blake	a071 Farrell	a013 Lavine	a088 Paulin	a099 Skoufiss
a117 Blankenbush	a126 Finch	a134 Lawrence	a141 Peoples-	a022 Solages
a062 Borelli	a008 Fitzpatrick	a050 Lentol	Stokes	a114 Stec
a098 Brabenec	a124 Friend	a125 Lifton	a058 Perry	a110 Steck
a026 Braunstein	a095 Galef	a072 Linares	a059 Persaud	a127 Stirpe
a044 Brennan	a137 Gantt	a102 Lopez	a086 Pichardo	a112 Tedisco
a119 Brindisi	a007 Garbarino	a123 Lupardo	a089 Pretlow	a101 Tenney
a138 Bronson	a148 Giglio	a010 Lupinacci	a073 Quart	a001 Thiele
a046 Brook-Krasny	a080 Gjonaj	a121 Magee	a019 Ra	a061 Titone
a093 Buchwald	a066 Glick	a129 Magnarelli	a012 Raia	a031 Titus
a118 Butler	a023 Goldfeder	a064 Malliotakis	a006 Ramos	a055 Walker
a103 Cahill	a150 Goodell	a030 Markey	a078 Rivera	a146 Walter
a043 Camara	a075 Gottfried	a090 Mayer	a128 Roberts	a041 Weinstein
a145 Ceretto	a005 Graf	a108 McDonald	a056 Robinson	a024 Weprin
a033 Clark	a100 Gunther	a014 McDonough	a068 Rodriguez	a113 Woerner
a047 Colton	a139 Hawley	a017 McKevitt	a067 Rosenthal	a143 Wozniak
a032 Cook	a083 Heastie	a107 McLaughlin	a025 Rozic	a070 Wright
a144 Corwin	a028 Hevesi	a038 Miller	a116 Russell	a096 Zebrowski
a085 Crespo	a048 Hikind	a015 Montesano	a149 Ryan	
a122 Crouch	a018 Hooper	a136 Morelle	a009 Saladino	
a021 Curran	a097 Jaffee	a057 Mosley	a111 Santabarbara	
a063 Cusick	a011 Jean-Pierre	a039 Moya	a029 Scarborough	

1) Single House Bill (introduced and printed separately in either or
both houses). Uni-Bill (introduced simultaneously in both houses and printed
as one bill. Senate and Assembly introducer sign the same copy of the bill).

2) Circle names of co-sponsors and return to introduction clerk with 2
signed copies of bill and 4 copies of memorandum in support (single house);
or 4 signed copies of bill and 8 copies of memorandum
in support (uni-bill).

for work force education conducted by the consortium for worker education in New York city, in relation to reimbursements for the 2015-2016 school year; to amend chapter 756 of the laws of 1992, relating to funding a program for work force education conducted by the consortium for worker education in New York city, in relation to withholding a portion of employment preparation education aid and in relation to extending the effectiveness of such chapter; to amend chapter 169 of the laws of 1994 relating to certain provisions related to the 1994-95 state operations, aid to localities, capital projects and debt service budgets; to amend chapter 82 of the laws of 1995, amending the education law and other laws relating to state aid to school districts and the appropriation of funds for the support of government; to amend section 7 of chapter 472 of the laws of 1998 amending the education law relating to the lease of school buses by school districts; to amend chapter 147 of the laws of 2001 amending the education law relating to conditional appointment of school district, charter school or BOCES employees; to amend chapter 425 of the laws of 2002 amending the education law relating to the provision of supplemental educational services, attendance at a safe public school and the suspension of pupils who bring a firearm to or possess a firearm at a school, in relation to the effectiveness thereof; to amend chapter 101 of the laws of 2003 amending the education law relating to implementation of the No Child Left Behind Act of 2001, in relation to extending the expiration of certain provisions of such chapters; allocates school bus driver training grants to school districts and boards of cooperative education services; allows for eligible school districts to receive special apportionments for salary expenses; allows for eligible school districts to receive special apportionments for public pension accruals; allows

any moneys appropriated to the state education department to be suballocated to other state departments or agencies and/or shall be made available for specific payment of aid; allows the city school district of the city of Rochester to purchase services as a non-component school district; specifies amounts of state funds set aside for each school district for the purpose of the development, maintenance or expansion of magnet schools or magnet school programs; prohibits moneys appropriated for the support of public libraries to be used for library construction (Part A); to amend the education law, in relation to streamlining higher education program approvals for SUNY and CUNY (Part B); to amend the education law, in relation to creating the New York state get on your feet loan forgiveness program (Part C); to amend the education law, in relation to eligibility requirements and conditions governing general awards, academic performance awards and student loans; eligibility requirements for assistance under the higher education opportunity programs and the collegiate science and technology entry program; the definition of "resident"; financial aid opportunities for students of the state university of New York, the city university of New York and community colleges; and the program requirements for the New York state college choice tuition savings program; and to repeal subdivision 3 of section 661 of such law relating thereto (Part D); to amend the education law and the tax law, in relation to enacting the "education tax credit act" (Part E); to amend the banking law, in relation to creating a standard financial aid award letter (Part F); to amend the education law, the business corporation law, the partnership law and the limited liability company law, in relation to certified public accountants (Part G); to amend the education law, in relation to the implementation by all colleges and universi-

ties in the state of New York of sexual assault, dating violence, domestic violence, and stalking prevention and response policies and procedures (Part H); to amend the social services law, in relation to increasing the standards of monthly need for aged, blind and disabled persons living in the community (Part I); to amend the family court act, in relation to family court proceedings, jurisdiction of the court, the definition of juvenile delinquent, the definition of a designated felony act, the procedures regarding the adjustment of cases from criminal courts to family court, the age at which children may be tried as an adult for various felonies, and the manner in which courts handle juvenile delinquent cases; to amend the social services law, in relation to state reimbursement for expenditures made by social services districts for various services; to amend the social services law, in relation to the definitions of juvenile delinquent and persons in need of supervision; to amend the penal law, in relation to the definition of infancy and the authorized dispositions, sentences, and periods of post-release supervision for juvenile offenders; to amend the criminal procedure law, in relation to the definition of juvenile offender; to amend the criminal procedure law, in relation to the arrest of a juvenile offender without a warrant; in relation to conditional sealing of certain convictions for offenses committed by a defendant twenty years of age or younger; in relation to removal of certain proceedings to family court; in relation to joinder of offenses and consolidation of indictments; in relation to appearances and hearings for and placements of certain juvenile offenders; in relation to raising the age for juvenile offender status; in relation to creating a youth part for certain proceedings involving juvenile offenders; to amend the correction law, in relation to

requiring that no county jail be used for the confinement of persons under the age of eighteen; to amend the education law, in relation to certain contracts with the office of children and family services; to amend the education law, in relation to the possession of a gun on school grounds by a student; to amend the executive law, in relation to persons in need of supervision or youthful offenders; to amend part K of chapter 57 of the laws of 2012, amending the education law, relating to authorizing the board of cooperative educational services to enter into contracts with the commissioner of children and family services to provide certain services, in relation to making such provisions permanent; to repeal certain sections of the family court act relating to custody and detention of juvenile and youthful offenders; to repeal section 180.75 of the criminal procedure law relating to proceedings upon a felony complaint against a juvenile offender; and to repeal certain provisions of the correction law relating to the housing of prisoners and other persons in custody (Part J); to amend the social services law, in relation to state reimbursement and subsidies for the adoption of children (Part K); to amend the social services law, the family court act, the public health law and the executive law, in relation to implementing provisions required by the federal preventing sex trafficking and strengthening families act (Part L); to utilize reserves in the mortgage insurance fund for various housing purposes (Part M); to amend the labor law, in relation to the minimum wage (Part N); to amend the labor law, in relation to authorized absences by healthcare professionals who volunteer to fight the Ebola virus disease overseas; and providing for the repeal of such provisions upon expiration thereof (Part O); to amend the labor law, the workers' compensation law and chapter 784 of the laws of 1951,

constituting the New York state defense emergency act, in relation to eliminating certain fees charged by the department of labor; and to repeal certain provisions of the labor law and the workers' compensation law relating thereto (Part P); and to amend the education law, in relation to requiring experiential learning as a requirement for graduation (Part Q)

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

1 Section 1. This act enacts into law major components of legislation
2 which are necessary to implement the state fiscal plan for the 2015-2016
3 state fiscal year. Each component is wholly contained within a Part
4 identified as Parts A through Q. The effective date for each particular
5 provision contained within such Part is set forth in the last section of
6 such Part. Any provision in any section contained within a Part, includ-
7 ing the effective date of the Part, which makes a reference to a section
8 "of this act", when used in connection with that particular component,
9 shall be deemed to mean and refer to the corresponding section of the
10 Part in which it is found. Section three of this act sets forth the
11 general effective date of this act.

12 PART A

13 Section 1. Paragraph e of subdivision 1 of section 211-d of the educa-
14 tion law, as amended by section 1 of part A of chapter 56 of the laws of
15 2014, is amended to read as follows:

16 e. Notwithstanding paragraphs a and b of this subdivision, a school
17 district that submitted a contract for excellence for the two thousand
18 eight--two thousand nine school year shall submit a contract for excel-
19 lence for the two thousand nine--two thousand ten school year in
20 conformity with the requirements of subparagraph (vi) of paragraph a of
21 subdivision two of this section unless all schools in the district are
22 identified as in good standing and provided further that, a school
23 district that submitted a contract for excellence for the two thousand
24 nine--two thousand ten school year, unless all schools in the district
25 are identified as in good standing, shall submit a contract for excel-
26 lence for the two thousand eleven--two thousand twelve school year which

1 shall, notwithstanding the requirements of subparagraph (vi) of para-
2 graph a of subdivision two of this section, provide for the expenditure
3 of an amount which shall be not less than the product of the amount
4 approved by the commissioner in the contract for excellence for the two
5 thousand nine--two thousand ten school year, multiplied by the
6 district's gap elimination adjustment percentage and provided further
7 that, a school district that submitted a contract for excellence for the
8 two thousand eleven--two thousand twelve school year, unless all schools
9 in the district are identified as in good standing, shall submit a
10 contract for excellence for the two thousand twelve--two thousand thir-
11 teen school year which shall, notwithstanding the requirements of
12 subparagraph (vi) of paragraph a of subdivision two of this section,
13 provide for the expenditure of an amount which shall be not less than
14 the amount approved by the commissioner in the contract for excellence
15 for the two thousand eleven--two thousand twelve school year and
16 provided further that, a school district that submitted a contract for
17 excellence for the two thousand twelve--two thousand thirteen school
18 year, unless all schools in the district are identified as in good
19 standing, shall submit a contract for excellence for the two thousand
20 thirteen--two thousand fourteen school year which shall, notwithstanding
21 the requirements of subparagraph (vi) of paragraph a of subdivision two
22 of this section, provide for the expenditure of an amount which shall be
23 not less than the amount approved by the commissioner in the contract
24 for excellence for the two thousand twelve--two thousand thirteen school
25 year and provided further that, a school district that submitted a
26 contract for excellence for the two thousand thirteen--two thousand
27 fourteen school year, unless all schools in the district are identified
28 as in good standing, shall submit a contract for excellence for the two

1 thousand fourteen--two thousand fifteen school year which shall,
2 notwithstanding the requirements of subparagraph (vi) of paragraph a of
3 subdivision two of this section, provide for the expenditure of an
4 amount which shall be not less than the amount approved by the commis-
5 sioner in the contract for excellence for the two thousand thirteen--two
6 thousand fourteen school year; and provided further that, a school
7 district that submitted a contract for excellence for the two thousand
8 fourteen--two thousand fifteen school year, unless all schools in the
9 district are identified as in good standing, shall submit a contract for
10 excellence for the two thousand fifteen--two thousand sixteen school
11 year which shall, notwithstanding the requirements of subparagraph (vi)
12 of paragraph a of subdivision two of this section, provide for the
13 expenditure of an amount which shall be not less than the amount
14 approved by the commissioner in the contract for excellence for the two
15 thousand fourteen--two thousand fifteen school year. For purposes of
16 this paragraph, the "gap elimination adjustment percentage" shall be
17 calculated as the sum of one minus the quotient of the sum of the school
18 district's net gap elimination adjustment for two thousand ten--two
19 thousand eleven computed pursuant to chapter fifty-three of the laws of
20 two thousand ten, making appropriations for the support of government,
21 plus the school district's gap elimination adjustment for two thousand
22 eleven--two thousand twelve as computed pursuant to chapter fifty-three
23 of the laws of two thousand eleven, making appropriations for the
24 support of the local assistance budget, including support for general
25 support for public schools, divided by the total aid for adjustment
26 computed pursuant to chapter fifty-three of the laws of two thousand
27 eleven, making appropriations for the local assistance budget, including
28 support for general support for public schools. Provided, further, that

1 such amount shall be expended to support and maintain allowable programs
2 and activities approved in the two thousand nine--two thousand ten
3 school year or to support new or expanded allowable programs and activ-
4 ities in the current year.

5 § 2. The closing paragraph of subdivision 5-a of section 3602 of the
6 education law, as amended by section 8 of part A of chapter 57 of the
7 laws of 2013, is amended to read as follows:

8 For the two thousand eight--two thousand nine school year, each school
9 district shall be entitled to an apportionment equal to the product of
10 fifteen percent and the additional apportionment computed pursuant to
11 this subdivision for the two thousand seven--two thousand eight school
12 year. For the two thousand nine--two thousand ten through two thousand
13 [fourteen] fifteen--two thousand [fifteen] sixteen school years, each
14 school district shall be entitled to an apportionment equal to the
15 amount set forth for such school district as "SUPPLEMENTAL PUB EXCESS
16 COST" under the heading "2008-09 BASE YEAR AIDS" in the school aid
17 computer listing produced by the commissioner in support of the budget
18 for the two thousand nine--two thousand ten school year and entitled
19 "SA0910".

20 § 3. Subdivision 12 of section 3602 of the education law, as amended
21 by section 10 of part A of chapter 57 of the laws of 2013, is amended to
22 read as follows:

23 12. Academic enhancement aid. A school district that as of April first
24 of the base year has been continuously identified as a district in need
25 of improvement for at least five years shall, for the two thousand
26 eight--two thousand nine school year, be entitled to an additional
27 apportionment equal to the positive remainder, if any, of (a) the lesser
28 of fifteen million dollars or the product of the total foundation aid

1 base, as defined by paragraph j of subdivision one of this section,
2 multiplied by ten percent (0.10), less (b) the positive remainder of (i)
3 the sum of the total foundation aid apportioned pursuant to subdivision
4 four of this section and the supplemental educational improvement grants
5 apportioned pursuant to subdivision eight of section thirty-six hundred
6 forty-one of this article, less (ii) the total foundation aid base.

7 For the two thousand nine--two thousand ten through two thousand four-
8 teen--two thousand fifteen school years, each school district shall be
9 entitled to an apportionment equal to the amount set forth for such
10 school district as "EDUCATION GRANTS, ACADEMIC EN" under the heading
11 "2008-09 BASE YEAR AIDS" in the school aid computer listing produced by
12 the commissioner in support of the budget for the two thousand nine--two
13 thousand ten school year and entitled "SA0910", and such apportionment
14 shall be deemed to satisfy the state obligation to provide an apportion-
15 ment pursuant to subdivision eight of section thirty-six hundred forty-
16 one of this article.

17 For the two thousand fifteen--two thousand sixteen year, each school
18 district shall be entitled to an apportionment equal to the amount set
19 forth for such school district as "ACADEMIC ENHANCEMENT" under the head-
20 ing "2014-15 ESTIMATED AIDS" in the school aid computer listing produced
21 by the commissioner in support of the budget for the two thousand four-
22 teen--two thousand fifteen school year and entitled "SA141-5", and such
23 apportionment shall be deemed to satisfy the state obligation to provide
24 an apportionment pursuant to subdivision eight of section thirty-six
25 hundred forty-one of this article.

26 § 4. The opening paragraph of subdivision 16 of section 3602 of the
27 education law, as amended by section 11 of part A of chapter 57 of the
28 laws of 2013, is amended to read as follows:

1 Each school district shall be eligible to receive a high tax aid
2 apportionment in the two thousand eight--two thousand nine school year,
3 which shall equal the greater of (i) the sum of the tier 1 high tax aid
4 apportionment, the tier 2 high tax aid apportionment and the tier 3 high
5 tax aid apportionment or (ii) the product of the apportionment received
6 by the school district pursuant to this subdivision in the two thousand
7 seven--two thousand eight school year, multiplied by the due-minimum
8 factor, which shall equal, for districts with an alternate pupil wealth
9 ratio computed pursuant to paragraph b of subdivision three of this
10 section that is less than two, seventy percent (0.70), and for all other
11 districts, fifty percent (0.50). Each school district shall be eligible
12 to receive a high tax aid apportionment in the two thousand nine--two
13 thousand ten through two thousand twelve--two thousand thirteen school
14 years in the amount set forth for such school district as "HIGH TAX AID"
15 under the heading "2008-09 BASE YEAR AIDS" in the school aid computer
16 listing produced by the commissioner in support of the budget for the
17 two thousand nine--two thousand ten school year and entitled "SA0910".
18 Each school district shall be eligible to receive a high tax aid appor-
19 tionment in the two thousand thirteen--two thousand fourteen [school
20 year and the two thousand fourteen--two thousand fifteen] through two
21 thousand fifteen--two thousand sixteen school [year] years equal to the
22 greater of (1) the amount set forth for such school district as "HIGH
23 TAX AID" under the heading "2008-09 BASE YEAR AIDS" in the school aid
24 computer listing produced by the commissioner in support of the budget
25 for the two thousand nine--two thousand ten school year and entitled
26 "SA0910" or (2) the amount set forth for such school district as "HIGH
27 TAX AID" under the heading "2013-14 ESTIMATED AIDS" in the school aid

1 computer listing produced by the commissioner in support of the execu-
2 tive budget for the 2013-14 fiscal year and entitled "BT131-4".

3 § 5. The opening paragraph of subdivision 10 of section 3602-e of the
4 education law, as amended by section 21 of part A of chapter 56 of the
5 laws of 2014, is amended to read as follows:

6 Notwithstanding any provision of law to the contrary, for aid payable
7 in the two thousand eight--two thousand nine school year, the grant to
8 each eligible school district for universal prekindergarten aid shall be
9 computed pursuant to this subdivision, and for the two thousand nine--
10 two thousand ten and two thousand ten--two thousand eleven school years,
11 each school district shall be eligible for a maximum grant equal to the
12 amount computed for such school district for the base year in the elec-
13 tronic data file produced by the commissioner in support of the two
14 thousand nine--two thousand ten education, labor and family assistance
15 budget, provided, however, that in the case of a district implementing
16 programs for the first time or implementing expansion programs in the
17 two thousand eight--two thousand nine school year where such programs
18 operate for a minimum of ninety days in any one school year as provided
19 in section 151-1.4 of the regulations of the commissioner, for the two
20 thousand nine--two thousand ten and two thousand ten--two thousand elev-
21 en school years, such school district shall be eligible for a maximum
22 grant equal to the amount computed pursuant to paragraph a of subdivi-
23 sion nine of this section in the two thousand eight--two thousand nine
24 school year, and for the two thousand eleven--two thousand twelve school
25 year each school district shall be eligible for a maximum grant equal to
26 the amount set forth for such school district as "UNIVERSAL PREKINDER-
27 GARTEN" under the heading "2011-12 ESTIMATED AIDS" in the school aid
28 computer listing produced by the commissioner in support of the enacted

1 budget for the 2011-12 school year and entitled "SA111-2", and for two
2 thousand twelve--two thousand thirteen[, two thousand thirteen--two
3 thousand fourteen and two thousand fourteen--two thousand fifteen]
4 through two thousand fifteen--two thousand sixteen school years each
5 school district shall be eligible for a maximum grant equal to the
6 greater of (i) the amount set forth for such school district as
7 "UNIVERSAL PREKINDERGARTEN" under the heading "2010-11 BASE YEAR AIDS"
8 in the school aid computer listing produced by the commissioner in
9 support of the enacted budget for the 2011-12 school year and entitled
10 "SA111-2", or (ii) the amount set forth for such school district as
11 "UNIVERSAL PREKINDERGARTEN" under the heading "2010-11 BASE YEAR AIDS"
12 in the school aid computer listing produced by the commissioner on May
13 fifteenth, two thousand eleven pursuant to paragraph b of subdivision
14 twenty-one of section three hundred five of this chapter, and provided
15 further that the maximum grant shall not exceed the total actual grant
16 expenditures incurred by the school district in the current school year
17 as approved by the commissioner.

18 § 6. The opening paragraph of section 3609-a of the education law, as
19 amended by section 4 of part A of chapter 56 of the laws of 2014, is
20 amended to read as follows:

21 For aid payable in the two thousand seven--two thousand eight school
22 year through the [two thousand thirteen--two thousand fourteen] two
23 thousand fifteen--two thousand sixteen school year, "moneys apportioned"
24 shall mean the lesser of (i) the sum of one hundred percent of the
25 respective amount set forth for each school district as payable pursuant
26 to this section in the school aid computer listing for the current year
27 produced by the commissioner in support of the budget which includes the
28 appropriation for the general support for public schools for the

1 prescribed payments and individualized payments due prior to April first
2 for the current year plus the apportionment payable during the current
3 school year pursuant to subdivision six-a and subdivision fifteen of
4 section thirty-six hundred two of this part minus any reductions to
5 current year aids pursuant to subdivision seven of section thirty-six
6 hundred four of this part or any deduction from apportionment payable
7 pursuant to this chapter for collection of a school district basic
8 contribution as defined in subdivision eight of section forty-four
9 hundred one of this chapter, less any grants provided pursuant to
10 subparagraph two-a of paragraph b of subdivision four of section nine-
11 ty-two-c of the state finance law, less any grants provided pursuant to
12 subdivision six of section ninety-seven-nnnn of the state finance law,
13 less any grants provided pursuant to subdivision twelve of section thir-
14 ty-six hundred forty-one of this article, or (ii) the apportionment
15 calculated by the commissioner based on data on file at the time the
16 payment is processed; provided however, that for the purposes of any
17 payments made pursuant to this section prior to the first business day
18 of June of the current year, moneys apportioned shall not include any
19 aids payable pursuant to subdivisions six and fourteen, if applicable,
20 of section thirty-six hundred two of this part as current year aid for
21 debt service on bond anticipation notes and/or bonds first issued in the
22 current year or any aids payable for full-day kindergarten for the
23 current year pursuant to subdivision nine of section thirty-six hundred
24 two of this part. The definitions of "base year" and "current year" as
25 set forth in subdivision one of section thirty-six hundred two of this
26 part shall apply to this section. For aid payable in the two thousand
27 fourteen--two thousand fifteen school year, reference to such "school

1 aid computer listing for the current year" shall mean the printouts
2 entitled "SA141-5".

3 § 7. The education law is amended by adding a new section 3609-h to
4 read as follows:

5 § 3609-h. Moneys apportioned to school districts for commercial gaming
6 grants pursuant to subdivision six of section ninety-seven-nnnn of the
7 state finance law, when and how payable commencing July first, two thou-
8 sand fourteen. Notwithstanding the provisions of section thirty-six
9 hundred nine-a of this part, apportionments payable pursuant to subdivi-
10 sion six of section ninety-seven-nnnn of the state finance law shall be
11 paid pursuant to this section. The definitions of "base year" and
12 "current year" as set forth in subdivision one of section thirty-six
13 hundred two of this part shall apply to this section.

14 1. The moneys apportioned by the commissioner to school districts
15 pursuant to subdivision six of section ninety-seven-nnnn of the state
16 finance law for the two thousand fourteen-two thousand fifteen school
17 year and thereafter shall be paid as a commercial gaming grant, as
18 computed pursuant to such subdivision, as follows:

19 a. For the two thousand fourteen--two thousand fifteen school year,
20 one hundred percent of such grant shall be paid on the same date as the
21 payment computed pursuant to clause (v) of subparagraph three of para-
22 graph b of subdivision one of section thirty-six hundred nine-a of this
23 article.

24 b. For the two thousand fifteen--two thousand sixteen school year and
25 thereafter, seventy percent of such grant shall be paid on the same date
26 as the payment computed pursuant to clause (ii) of subparagraph three of
27 paragraph b of subdivision one of section thirty-six hundred nine-a of
28 this article, and thirty percent of such grant shall be paid on the same

1 date as the payment computed pursuant to clause (v) of subparagraph
2 three of paragraph b of subdivision one of section thirty-six hundred
3 nine-a of this article.

4 2. Any payment to a school district pursuant to this section shall be
5 general receipts of the district and may be used for any lawful purpose
6 of the district.

7 § 8. Paragraph b of subdivision 2 of section 3612 of the education
8 law, as amended by section 5 of part A of chapter 56 of the laws of
9 2014, is amended to read as follows:

10 b. Such grants shall be awarded to school districts, within the limits
11 of funds appropriated therefor, through a competitive process that takes
12 into consideration the magnitude of any shortage of teachers in the
13 school district, the number of teachers employed in the school district
14 who hold temporary licenses to teach in the public schools of the state,
15 the number of provisionally certified teachers, the fiscal capacity and
16 geographic sparsity of the district, the number of new teachers the
17 school district intends to hire in the coming school year and the number
18 of summer in the city student internships proposed by an eligible school
19 district, if applicable. Grants provided pursuant to this section shall
20 be used only for the purposes enumerated in this section. Notwithstand-
21 ing any other provision of law to the contrary, a city school district
22 in a city having a population of one million or more inhabitants receiv-
23 ing a grant pursuant to this section may use no more than eighty percent
24 of such grant funds for any recruitment, retention and certification
25 costs associated with transitional certification of teacher candidates
26 for the school years two thousand one--two thousand two through [two
27 thousand fourteen--two thousand fifteen] two thousand fifteen--two thou-
28 sand sixteen.

1 § 9. Subdivision 6 of section 4402 of the education law, as amended by
2 section 9 of part A of chapter 56 of the laws of 2014, is amended to
3 read as follows:

4 6. Notwithstanding any other law, rule or regulation to the contrary,
5 the board of education of a city school district with a population of
6 one hundred twenty-five thousand or more inhabitants shall be permitted
7 to establish maximum class sizes for special classes for certain
8 students with disabilities in accordance with the provisions of this
9 subdivision. For the purpose of obtaining relief from any adverse fiscal
10 impact from under-utilization of special education resources due to low
11 student attendance in special education classes at the middle and
12 secondary level as determined by the commissioner, such boards of educa-
13 tion shall, during the school years nineteen hundred ninety-five--nine-
14 ty-six through June thirtieth, two thousand [fifteen] sixteen of the two
15 thousand [fourteen] fifteen--two thousand [fifteen] sixteen school year,
16 be authorized to increase class sizes in special classes containing
17 students with disabilities whose age ranges are equivalent to those of
18 students in middle and secondary schools as defined by the commissioner
19 for purposes of this section by up to but not to exceed one and two
20 tenths times the applicable maximum class size specified in regulations
21 of the commissioner rounded up to the nearest whole number, provided
22 that in a city school district having a population of one million or
23 more, classes that have a maximum class size of fifteen may be increased
24 by no more than one student and provided that the projected average
25 class size shall not exceed the maximum specified in the applicable
26 regulation, provided that such authorization shall terminate on June
27 thirtieth, two thousand. Such authorization shall be granted upon filing
28 of a notice by such a board of education with the commissioner stating

1 the board's intention to increase such class sizes and a certification
2 that the board will conduct a study of attendance problems at the
3 secondary level and will implement a corrective action plan to increase
4 the rate of attendance of students in such classes to at least the rate
5 for students attending regular education classes in secondary schools of
6 the district. Such corrective action plan shall be submitted for
7 approval by the commissioner by a date during the school year in which
8 such board increases class sizes as provided pursuant to this subdivi-
9 sion to be prescribed by the commissioner. Upon at least thirty days
10 notice to the board of education, after conclusion of the school year in
11 which such board increases class sizes as provided pursuant to this
12 subdivision, the commissioner shall be authorized to terminate such
13 authorization upon a finding that the board has failed to develop or
14 implement an approved corrective action plan.

15 § 10. The education law is amended by adding a new section 4403-a to
16 read as follows:

17 § 4403-a. Waivers from certain duties. 1. A local school district,
18 approved private school or board of cooperative educational services may
19 submit an application for a waiver from any requirement imposed on such
20 district, school or board of cooperative educational services pursuant
21 to section forty-four hundred two or section forty-four hundred three of
22 this article, and regulations promulgated thereunder, for a specific
23 school year. Such application shall be submitted at least sixty days in
24 advance of the proposed date on which the waiver would be effective and
25 shall be in a form prescribed by the commissioner.

26 2. Before submitting an application for a waiver, the local school
27 district, approved private school or board of cooperative educational
28 services shall provide notice of the proposed waiver to the parents or

1 persons in a parental relationship to the students that would be
2 impacted by the waiver if granted. Such notice shall be in a form and
3 manner that would ensure that such parents or persons in a parental
4 relationship would be aware of all relevant changes that would occur
5 under the waiver, and shall include information on the form, manner and
6 date by which parents may submit written comments on the proposed waiv-
7 er. The local school district, approved private school, or board of
8 cooperative educational services shall provide at least sixty days for
9 such parents or persons in a parental relationship to submit written
10 comments, and shall include in the waiver application submitted to the
11 commissioner pursuant to subdivision one of this section any written
12 comments received from such parents or persons in a parental relation to
13 such students.

14 3. The commissioner may grant a waiver from any requirement imposed on
15 a local school district, approved private school or board of cooperative
16 educational services pursuant to section forty-four hundred two or
17 section forty-four hundred three of this article, upon a finding that
18 such waiver would enable a local school district, approved private
19 school or board of cooperative educational services to implement an
20 innovative special education program that is consistent with applicable
21 federal requirements, and would enhance student achievement and/or
22 opportunities for placement in regular classes and programs. In making
23 such determination, the commissioner shall consider any comments
24 received by the local school district, approved private school or board
25 of cooperative educational services from parents or persons in a
26 parental relation to the students that would be directly affected by the
27 waiver if granted.

1 4. Any local school district, approved private school or board of
2 cooperative educational services granted a waiver shall submit an annual
3 report to the commissioner regarding the operation and evaluation of the
4 program no later than thirty days after the end of each school year for
5 which a waiver is granted.

6 § 11. Subparagraph (i) of paragraph a of subdivision 10 of section
7 4410 of the education law is amended by adding a new clause (C) to read
8 as follows:

9 (C) Notwithstanding any other provision of law, rule or regulation to
10 the contrary, for the two thousand fifteen--two thousand sixteen school
11 year and thereafter, to be phased-in over no more than four years start-
12 ing in the two thousand fifteen--two thousand sixteen school year, the
13 commissioner, subject to the approval of the director of the budget,
14 shall establish regional tuition rates for special education itinerant
15 services based on average actual costs in accordance with a methodology
16 established pursuant to subdivision four of section forty-four hundred
17 five of this article.

18 § 12. Section 97-nnnn of the state finance law is amended by adding a
19 new subdivision 6 to read as follows:

20 6. a. Moneys appropriated from the fund for the two thousand four-
21 teen--two thousand fifteen and two thousand fifteen--two thousand
22 sixteen school years, for the purposes of providing aid pursuant to
23 paragraph a of subdivision three of this section shall be apportioned
24 and paid by the education department on or after April first, two thou-
25 sand fifteen.

26 b. Each school district eligible to receive total foundation aid
27 pursuant to section thirty-six hundred two of the education law shall
28 receive a commercial gaming grant in an amount equal to the product of

1 the amount of the appropriation of such commercial gaming grants for the
2 current state fiscal year multiplied by the district's commercial gaming
3 ratio. The "commercial gaming ratio" shall be equal to the quotient of
4 the moneys apportioned for such district pursuant to section thirty-six
5 hundred nine-a of the education law as set forth in the school aid
6 computer listing produced by the commissioner in support of the enacted
7 state budget for the current school year, divided by the sum of such
8 moneys apportioned for all school districts as set forth in such school
9 aid computer listing in support of the enacted state budget for the
10 current school year.

11 Moneys to be appropriated from the fund in any state fiscal year,
12 commencing on and after April first, two thousand fifteen, for the
13 purposes of providing aid pursuant to this subparagraph shall be appor-
14 tioned and paid by the education department pursuant to section thirty-
15 six hundred nine-h of the education law.

16 § 13. Subdivision b of section 2 of chapter 756 of the laws of 1992,
17 relating to funding a program for work force education conducted by the
18 consortium for worker education in New York city, as amended by section
19 12 of part A of chapter 56 of the laws of 2014, is amended to read as
20 follows:

21 b. Reimbursement for programs approved in accordance with subdivision
22 a of this section [for the 2011--2012 school year shall not exceed 62.9
23 percent of the lesser of such approvable costs per contact hour or
24 twelve dollars and fifteen cents per contact hour, reimbursement] for
25 the 2012--2013 school year shall not exceed 63.3 percent of the lesser
26 of such approvable costs per contact hour or twelve dollars and thirty-
27 five cents per contact hour, reimbursement for the 2013--2014 school
28 year shall not exceed 62.3 percent of the lesser of such approvable

1 costs per contact hour or twelve dollars and sixty-five cents per
2 contact hour, [and] reimbursement for the 2014--2015 school year shall
3 not exceed 61.6 percent of the lesser of such approvable costs per
4 contact hour or [eight] thirteen dollars per contact hour, and
5 reimbursement for the 2015--2016 school year shall not exceed 60.7
6 percent of the lesser of such approvable costs per contact hour or thir-
7 teen dollars and forty cents per contact hour where a contact hour
8 represents sixty minutes of instruction services provided to an eligible
9 adult. Notwithstanding any other provision of law to the contrary, [for
10 the 2011--2012 school year such contact hours shall not exceed one
11 million seven hundred one thousand five hundred seventy (1,701,570)
12 hours; whereas] for the 2012--2013 school year such contact hours shall
13 not exceed one million six hundred sixty-four thousand five hundred
14 thirty-two (1,664,532) hours; whereas for the 2013--2014 school year
15 such contact hours shall not exceed one million six hundred forty-nine
16 thousand seven hundred forty-six (1,649,746) hours; whereas for the
17 2014--2015 school year such contact hours shall not exceed one million
18 [six hundred twenty-five thousand (1,625,000)] six hundred eighteen
19 thousand nine hundred twenty-nine (1,618,929) hours; whereas for the
20 2015--2016 school year such contact hours shall not exceed one million
21 four hundred fourteen thousand five hundred fourteen (1,414,514) hours.
22 Notwithstanding any other provision of law to the contrary, the appor-
23 tionment calculated for the city school district of the city of New York
24 pursuant to subdivision 11 of section 3602 of the education law shall be
25 computed as if such contact hours provided by the consortium for worker
26 education, not to exceed the contact hours set forth herein, were eligi-
27 ble for aid in accordance with the provisions of such subdivision 11 of
28 section 3602 of the education law.

1 § 14. Section 4 of chapter 756 of the laws of 1992, relating to fund-
2 ing a program for work force education conducted by the consortium for
3 worker education in New York city, is amended by adding a new subdivi-
4 sion t to read as follows:

5 t. The provisions of this subdivision shall not apply after the
6 completion of payments for the 2015--2016 school year. Notwithstanding
7 any inconsistent provisions of law, the commissioner of education shall
8 withhold a portion of employment preparation education aid due to the
9 city school district of the city of New York to support a portion of the
10 costs of the work force education program. Such moneys shall be credited
11 to the elementary and secondary education fund-local assistance account
12 and shall not exceed eleven million five hundred thousand dollars (\$11,
13 500,000).

14 § 15. Section 6 of chapter 756 of the laws of 1992, relating to fund-
15 ing a program for work force education conducted by the consortium for
16 worker education in New York city, as amended by section 14 of part A of
17 chapter 56 of the laws of 2014, is amended to read as follows:

18 § 6. This act shall take effect July 1, 1992, and shall be deemed
19 repealed on June 30, [2015] 2016.

20 § 16. Subdivision 1 of section 167 of chapter 169 of the laws of 1994,
21 relating to certain provisions related to the 1994-95 state operations,
22 aid to localities, capital projects and debt service budgets, as amended
23 by section 15 of part A of chapter 56 of the laws of 2014, is amended to
24 read as follows:

25 1. Sections one through seventy of this act shall be deemed to have
26 been in full force and effect as of April 1, 1994 provided, however,
27 that sections one, two, twenty-four, twenty-five and twenty-seven
28 through seventy of this act shall expire and be deemed repealed on March

1 31, 2000; provided, however, that section twenty of this act shall apply
2 only to hearings commenced prior to September 1, 1994, and provided
3 further that section twenty-six of this act shall expire and be deemed
4 repealed on March 31, 1997; and provided further that sections four
5 through fourteen, sixteen, and eighteen, nineteen and twenty-one through
6 twenty-one-a of this act shall expire and be deemed repealed on March
7 31, 1997; and provided further that sections three, fifteen, seventeen,
8 twenty, twenty-two and twenty-three of this act shall expire and be
9 deemed repealed on March 31, [2016] 2017.

10 § 17. Subdivisions 22 and 24 of section 140 of chapter 82 of the laws
11 of 1995, amending the education law and other laws relating to state aid
12 to school districts and the appropriation of funds for the support of
13 government, as amended by section 16 of part A of chapter 56 of the laws
14 of 2014, are amended to read as follows:

15 (22) sections one hundred twelve, one hundred thirteen, one hundred
16 fourteen, one hundred fifteen and one hundred sixteen of this act shall
17 take effect on July 1, 1995; provided, however, that section one hundred
18 thirteen of this act shall remain in full force and effect until July 1,
19 [2015] 2016 at which time it shall be deemed repealed;

20 (24) sections one hundred eighteen through one hundred thirty of this
21 act shall be deemed to have been in full force and effect on and after
22 July 1, 1995; provided further, however, that the amendments made pursu-
23 ant to section one hundred twenty-four of this act shall be deemed to be
24 repealed on and after July 1, [2015] 2016;

25 § 18. Section 7 of chapter 472 of the laws of 1998, amending the
26 education law relating to the lease of school buses by school districts,
27 as amended by section 26 of part A of chapter 57 of the laws of 2013, is
28 amended to read as follows:

1 § 7. This act shall take effect September 1, 1998, and shall expire
2 and be deemed repealed September 1, [2015] 2017.

3 § 19. Section 12 of chapter 147 of the laws of 2001, amending the
4 education law relating to conditional appointment of school district,
5 charter school or BOCES employees, as amended by section 18 of part A of
6 chapter 56 of the laws of 2014, is amended to read as follows:

7 § 12. This act shall take effect on the same date as chapter 180 of
8 the laws of 2000 takes effect, and shall expire July 1, [2015] 2016 when
9 upon such date the provisions of this act shall be deemed repealed.

10 § 20. Section 4 of chapter 425 of the laws of 2002, amending the
11 education law relating to the provision of supplemental educational
12 services, attendance at a safe public school and the suspension of
13 pupils who bring a firearm to or possess a firearm at a school, as
14 amended by section 19 of part A of chapter 56 of the laws of 2014, is
15 amended to read as follows:

16 § 4. This act shall take effect July 1, 2002 and shall expire and be
17 deemed repealed June 30, [2015] 2016.

18 § 21. Section 5 of chapter 101 of the laws of 2003, amending the
19 education law relating to implementation of the No Child Left Behind Act
20 of 2001, as amended by section 20 of part A of chapter 56 of the laws of
21 2014, is amended to read as follows:

22 § 5. This act shall take effect immediately; provided that sections
23 one, two and three of this act shall expire and be deemed repealed on
24 June 30, [2015] 2016.

25 § 22. School bus driver training. In addition to apportionments other-
26 wise provided by section 3602 of the education law, for aid payable in
27 the 2015-2016 school year, the commissioner of education shall allocate
28 school bus driver training grants to school districts and boards of

1 cooperative educational services pursuant to sections 3650-a, 3650-b and
2 3650-c of the education law, or for contracts directly with not-for-pro-
3 fit educational organizations for the purposes of this section. Such
4 payments shall not exceed four hundred thousand dollars (\$400,000) per
5 school year.

6 § 23. Special apportionment for salary expenses. a. Notwithstanding
7 any other provision of law, upon application to the commissioner of
8 education, not sooner than the first day of the second full business
9 week of June 2016 and not later than the last day of the third full
10 business week of June 2016, a school district eligible for an apportion-
11 ment pursuant to section 3602 of the education law shall be eligible to
12 receive an apportionment pursuant to this section, for the school year
13 ending June 30, 2016, for salary expenses incurred between April 1 and
14 June 30, 2015 and such apportionment shall not exceed the sum of (i) the
15 deficit reduction assessment of 1990--1991 as determined by the commis-
16 sioner of education, pursuant to paragraph f of subdivision 1 of section
17 3602 of the education law, as in effect through June 30, 1993, plus (ii)
18 186 percent of such amount for a city school district in a city with a
19 population in excess of 1,000,000 inhabitants, plus (iii) 209 percent of
20 such amount for a city school district in a city with a population of
21 more than 195,000 inhabitants and less than 219,000 inhabitants accord-
22 ing to the latest federal census, plus (iv) the net gap elimination
23 adjustment for 2010--2011, as determined by the commissioner of educa-
24 tion pursuant to chapter 53 of the laws of 2010, plus (v) the gap elimi-
25 nation adjustment for 2011--2012 as determined by the commissioner of
26 education pursuant to subdivision 17 of section 3602 of the education
27 law, and provided further that such apportionment shall not exceed such
28 salary expenses. Such application shall be made by a school district,

1 after the board of education or trustees have adopted a resolution to do
2 so and in the case of a city school district in a city with a population
3 in excess of 125,000 inhabitants, with the approval of the mayor of such
4 city.

5 b. The claim for an apportionment to be paid to a school district
6 pursuant to subdivision a of this section shall be submitted to the
7 commissioner of education on a form prescribed for such purpose, and
8 shall be payable upon determination by such commissioner that the form
9 has been submitted as prescribed. Such approved amounts shall be payable
10 on the same day in September of the school year following the year in
11 which application was made as funds provided pursuant to subparagraph
12 (4) of paragraph b of subdivision 4 of section 92-c of the state finance
13 law, on the audit and warrant of the state comptroller on vouchers
14 certified or approved by the commissioner of education in the manner
15 prescribed by law from moneys in the state lottery fund and from the
16 general fund to the extent that the amount paid to a school district
17 pursuant to this section exceeds the amount, if any, due such school
18 district pursuant to subparagraph (2) of paragraph a of subdivision 1 of
19 section 3609-a of the education law in the school year following the
20 year in which application was made.

21 c. Notwithstanding the provisions of section 3609-a of the education
22 law, an amount equal to the amount paid to a school district pursuant to
23 subdivisions a and b of this section shall first be deducted from the
24 following payments due the school district during the school year
25 following the year in which application was made pursuant to subpara-
26 graphs (1), (2), (3), (4) and (5) of paragraph a of subdivision 1 of
27 section 3609-a of the education law in the following order: the lottery
28 apportionment payable pursuant to subparagraph (2) of such paragraph

1 followed by the fixed fall payments payable pursuant to subparagraph (4)
2 of such paragraph and then followed by the district's payments to the
3 teachers' retirement system pursuant to subparagraph (1) of such para-
4 graph, and any remainder to be deducted from the individualized payments
5 due the district pursuant to paragraph b of such subdivision shall be
6 deducted on a chronological basis starting with the earliest payment due
7 the district.

8 § 24. Special apportionment for public pension accruals. a. Notwith-
9 standing any other provision of law, upon application to the commission-
10 er of education, not later than June 30, 2016, a school district eligi-
11 ble for an apportionment pursuant to section 3602 of the education law
12 shall be eligible to receive an apportionment pursuant to this section,
13 for the school year ending June 30, 2016 and such apportionment shall
14 not exceed the additional accruals required to be made by school
15 districts in the 2004--2005 and 2005--2006 school years associated with
16 changes for such public pension liabilities. The amount of such addi-
17 tional accrual shall be certified to the commissioner of education by
18 the president of the board of education or the trustees or, in the case
19 of a city school district in a city with a population in excess of
20 125,000 inhabitants, the mayor of such city. Such application shall be
21 made by a school district, after the board of education or trustees have
22 adopted a resolution to do so and in the case of a city school district
23 in a city with a population in excess of 125,000 inhabitants, with the
24 approval of the mayor of such city.

25 b. The claim for an apportionment to be paid to a school district
26 pursuant to subdivision a of this section shall be submitted to the
27 commissioner of education on a form prescribed for such purpose, and
28 shall be payable upon determination by such commissioner that the form

1 has been submitted as prescribed. Such approved amounts shall be payable
2 on the same day in September of the school year following the year in
3 which application was made as funds provided pursuant to subparagraph
4 (4) of paragraph b of subdivision 4 of section 92-c of the state finance
5 law, on the audit and warrant of the state comptroller on vouchers
6 certified or approved by the commissioner of education in the manner
7 prescribed by law from moneys in the state lottery fund and from the
8 general fund to the extent that the amount paid to a school district
9 pursuant to this section exceeds the amount, if any, due such school
10 district pursuant to subparagraph (2) of paragraph a of subdivision 1 of
11 section 3609-a of the education law in the school year following the
12 year in which application was made.

13 c. Notwithstanding the provisions of section 3609-a of the education
14 law, an amount equal to the amount paid to a school district pursuant to
15 subdivisions a and b of this section shall first be deducted from the
16 following payments due the school district during the school year
17 following the year in which application was made pursuant to subpara-
18 graphs (1), (2), (3), (4) and (5) of paragraph a of subdivision 1 of
19 section 3609-a of the education law in the following order: the lottery
20 apportionment payable pursuant to subparagraph (2) of such paragraph
21 followed by the fixed fall payments payable pursuant to subparagraph (4)
22 of such paragraph and then followed by the district's payments to the
23 teachers' retirement system pursuant to subparagraph (1) of such para-
24 graph, and any remainder to be deducted from the individualized payments
25 due the district pursuant to paragraph b of such subdivision shall be
26 deducted on a chronological basis starting with the earliest payment due
27 the district.

1 § 25. a. Notwithstanding any other law, rule or regulation to the
2 contrary, any moneys appropriated to the state education department may
3 be suballocated to other state departments or agencies, as needed, to
4 accomplish the intent of the specific appropriations contained therein.

5 b. Notwithstanding any other law, rule or regulation to the contrary,
6 moneys appropriated to the state education department from the general
7 fund/aid to localities, local assistance account-001, shall be for
8 payment of financial assistance, as scheduled, net of disallowances,
9 refunds, reimbursement and credits.

10 c. Notwithstanding any other law, rule or regulation to the contrary,
11 all moneys appropriated to the state education department for aid to
12 localities shall be available for payment of aid heretofore or hereafter
13 to accrue and may be suballocated to other departments and agencies to
14 accomplish the intent of the specific appropriations contained therein.

15 d. Notwithstanding any other law, rule or regulation to the contrary,
16 moneys appropriated to the state education department for general
17 support for public schools may be interchanged with any other item of
18 appropriation for general support for public schools within the general
19 fund local assistance account office of prekindergarten through grade
20 twelve education programs.

21 § 26. Notwithstanding the provision of any law, rule, or regulation to
22 the contrary, the city school district of the city of Rochester, upon
23 the consent of the board of cooperative educational services of the
24 supervisory district serving its geographic region may purchase from
25 such board for the 2015--2016 school year, as a non-component school
26 district, services required by article 19 of the education law.

27 § 27. The amounts specified in this section shall be a set aside from
28 the state funds which each such district is receiving from the total

1 foundation aid: for the purpose of the development, maintenance or
2 expansion of magnet schools or magnet school programs for the 2015--2016
3 school year. To the city school district of the city of New York there
4 shall be paid forty-eight million one hundred seventy-five thousand
5 dollars (\$48,175,000) including five hundred thousand dollars (\$500,000)
6 for the Andrew Jackson High School; to the Buffalo city school district,
7 twenty-one million twenty-five thousand dollars (\$21,025,000); to the
8 Rochester city school district, fifteen million dollars (\$15,000,000);
9 to the Syracuse city school district, thirteen million dollars
10 (\$13,000,000); to the Yonkers city school district, forty-nine million
11 five hundred thousand dollars (\$49,500,000); to the Newburgh city school
12 district, four million six hundred forty-five thousand dollars
13 (\$4,645,000); to the Poughkeepsie city school district, two million four
14 hundred seventy-five thousand dollars (\$2,475,000); to the Mount Vernon
15 city school district, two million dollars (\$2,000,000); to the New
16 Rochelle city school district, one million four hundred ten thousand
17 dollars (\$1,410,000); to the Schenectady city school district, one
18 million eight hundred thousand dollars (\$1,800,000); to the Port Chester
19 city school district, one million one hundred fifty thousand dollars
20 (\$1,150,000); to the White Plains city school district, nine hundred
21 thousand dollars (\$900,000); to the Niagara Falls city school district,
22 six hundred thousand dollars (\$600,000); to the Albany city school
23 district, three million five hundred fifty thousand dollars
24 (\$3,550,000); to the Utica city school district, two million dollars
25 (\$2,000,000); to the Beacon city school district, five hundred sixty-six
26 thousand dollars (\$566,000); to the Middletown city school district,
27 four hundred thousand dollars (\$400,000); to the Freeport union free
28 school district, four hundred thousand dollars (\$400,000); to the Green-

1 burgh central school district, three hundred thousand dollars
2 (\$300,000); to the Amsterdam city school district, eight hundred thou-
3 sand dollars (\$800,000); to the Peekskill city school district, two
4 hundred thousand dollars (\$200,000); and to the Hudson city school
5 district, four hundred thousand dollars (\$400,000). Notwithstanding the
6 provisions of this section, a school district receiving a grant pursuant
7 to this section may use such grant funds for: (i) any instructional or
8 instructional support costs associated with the operation of a magnet
9 school; or (ii) any instructional or instructional support costs associ-
10 ated with implementation of an alternative approach to reduction of
11 racial isolation and/or enhancement of the instructional program and
12 raising of standards in elementary and secondary schools of school
13 districts having substantial concentrations of minority students. The
14 commissioner of education shall not be authorized to withhold magnet
15 grant funds from a school district that used such funds in accordance
16 with this paragraph, notwithstanding any inconsistency with a request
17 for proposals issued by such commissioner. For the purpose of attendance
18 improvement and dropout prevention for the 2015--2016 school year, for
19 any city school district in a city having a population of more than one
20 million, the setaside for attendance improvement and dropout prevention
21 shall equal the amount set aside in the base year. For the 2015--2016
22 school year, it is further provided that any city school district in a
23 city having a population of more than one million shall allocate at
24 least one-third of any increase from base year levels in funds set aside
25 pursuant to the requirements of this subdivision to community-based
26 organizations. Any increase required pursuant to this subdivision to
27 community-based organizations must be in addition to allocations
28 provided to community-based organizations in the base year. For the

1 purpose of teacher support for the 2015--2016 school year: to the city
2 school district of the city of New York, sixty-two million seven hundred
3 seven thousand dollars (\$62,707,000); to the Buffalo city school
4 district, one million seven hundred forty-one thousand dollars
5 (\$1,741,000); to the Rochester city school district, one million seven-
6 ty-six thousand dollars (\$1,076,000); to the Yonkers city school
7 district, one million one hundred forty-seven thousand dollars
8 (\$1,147,000); and to the Syracuse city school district, eight hundred
9 nine thousand dollars (\$809,000). All funds made available to a school
10 district pursuant to this section shall be distributed among teachers
11 including prekindergarten teachers and teachers of adult vocational and
12 academic subjects in accordance with this section and shall be in addi-
13 tion to salaries heretofore or hereafter negotiated or made available;
14 provided, however, that all funds distributed pursuant to this section
15 for the current year shall be deemed to incorporate all funds distrib-
16 uted pursuant to former subdivision 27 of section 3602 of the education
17 law for prior years. In school districts where the teachers are repres-
18 ented by certified or recognized employee organizations, all salary
19 increases funded pursuant to this section shall be determined by sepa-
20 rate collective negotiations conducted pursuant to the provisions and
21 procedures of article 14 of the civil service law, notwithstanding the
22 existence of a negotiated agreement between a school district and a
23 certified or recognized employee organization.

24 § 28. Support of public libraries. The moneys appropriated for the
25 support of public libraries by a chapter of the laws of 2015 enacting
26 the aid to localities budget shall be apportioned for the 2015-2016
27 state fiscal year in accordance with the provisions of sections 271,
28 272, 273, 282, 284, and 285 of the education law as amended by the

1 provisions of this chapter and the provisions of this section, provided
2 that library construction aid pursuant to section 273-a of the educa-
3 tion law shall not be payable from the appropriations for the support of
4 public libraries and provided further that no library, library system or
5 program, as defined by the commissioner of education, shall receive less
6 total system or program aid than it received for the year 2001-2002
7 except as a result of a reduction adjustment necessary to conform to the
8 appropriations for support of public libraries.

9 Notwithstanding any other provision of law to the contrary the moneys
10 appropriated for the support of public libraries for the year 2015-2016
11 by a chapter of the laws of 2015 enacting the education, labor and fami-
12 ly assistance budget shall fulfill the state's obligation to provide
13 such aid and, pursuant to a plan developed by the commissioner of educa-
14 tion and approved by the director of the budget, the aid payable to
15 libraries and library systems pursuant to such appropriations shall be
16 reduced proportionately to assure that the total amount of aid payable
17 does not exceed the total appropriations for such purpose.

18 § 29. Severability. The provisions of this act shall be severable, and
19 if the application of any clause, sentence, paragraph, subdivision,
20 section or part of this act to any person or circumstance shall be
21 adjudged by any court of competent jurisdiction to be invalid, such
22 judgment shall not necessarily affect, impair or invalidate the applica-
23 tion of any such clause, sentence, paragraph, subdivision, section, part
24 of this act or remainder thereof, as the case may be, to any other
25 person or circumstance, but shall be confined in its operation to the
26 clause, sentence, paragraph, subdivision, section or part thereof
27 directly involved in the controversy in which such judgment shall have
28 been rendered.

1 § 30. This act shall take effect immediately, and shall be deemed to
2 have been in full force and effect on and after April 1, 2015, provided,
3 however, that:

4 1. Sections one, eight, nine, thirteen, fourteen, twenty-two, twenty-
5 six and twenty-seven of this act shall take effect July 1, 2015.

6 2. Sections seven and twelve of this act shall take effect April 1,
7 2014.

8 3. Section six of this act shall take effect July 1, 2014.

9 4. Section eleven of this act shall take effect April 1, 2015 and
10 shall first apply to reimbursement for services and programs provided
11 pursuant to section 4410 of the education law in the 2015-16 school
12 year.

13 5. The amendments to chapter 756 of the laws of 1992, relating to
14 funding a program for work force education conducted by a consortium for
15 worker education in New York City, made by sections thirteen and four-
16 teen of this act shall not affect the repeal of such chapter and shall
17 be deemed repealed therewith.

18 6. Section seventeen of this act shall take effect immediately and
19 shall be deemed to have been in full force and effect on and after the
20 effective date of section 140 of chapter 82 of the laws of 1995.

21 PART B

22 Section 1. Section 355 of the education law is amended by adding a new
23 subdivision 20 to read as follows:

24 20. Notwithstanding any law, rule, or regulation to the contrary, any
25 new curriculum or program of study offered by a four year college or
26 community college that does not require board of regents approval of a

1 master plan amendment and that is approved by the board of trustees
2 shall be deemed registered with the department. The board of trustees
3 shall notify the department within thirty days of any such approvals.
4 Nothing in this subdivision shall be deemed to limit the department's
5 existing authority to act on complaints concerning the institution,
6 including the authority to de-register the program.

7 § 2. Section 6206 of the education law is amended by adding a new
8 subdivision 18 to read as follows:

9 18. Notwithstanding any law, rule, or regulation to the contrary, any
10 new curriculum or program of study offered by a four year college or
11 community college that does not require board of regents approval of a
12 master plan amendment and that is approved by the board of trustees
13 shall be deemed registered with the department. The board of trustees
14 shall notify the department within thirty days of any such approvals.
15 Nothing in this subdivision shall be deemed to limit the department's
16 existing authority to act on complaints concerning the institution,
17 including the authority to de-register the program.

18 § 3. This act shall take effect immediately and shall be deemed to
19 have been in full force and effect on and after April 1, 2015.

20 PART C

21 Section 1. The education law is amended by adding a new section 679-g
22 to read as follows:

23 § 679-g. New York state get on your feet loan forgiveness program. 1.
24 Purpose. The president shall grant student loan forgiveness awards for
25 the purpose of alleviating the burden of federal student loan debt for
26 recent New York state college graduates.

1 2. Eligibility. To be eligible for an award pursuant to this section,
2 an applicant shall: (a) have graduated from a high school located in New
3 York state or attended an approved New York state program for a state
4 high school equivalency diploma and received such high school equivalen-
5 cy diploma; (b) have graduated and obtained an undergraduate degree from
6 a college or university with its headquarters located in New York state
7 in or after the two thousand fourteen--fifteen academic year; (c) apply
8 for this program within two years of college graduation; (d) be a
9 participant in a federal income-driven repayment plan whose payment
10 amount is generally ten percent of discretionary income; (e) have income
11 of less than fifty thousand dollars; (f) be a resident of New York
12 state; and (g) work in New York state, if employed. For purposes of this
13 program, "income" shall be the total adjusted gross income of the appli-
14 cant, the applicant's spouse and the applicant's parents as reported on
15 the prior year's filed New York state income tax return.

16 3. Awards. An applicant whose annual income is less than fifty thou-
17 sand dollars shall be eligible to receive an award equal to one hundred
18 percent of his or her monthly federal income-driven repayment plan
19 payments for the first two years of repayment under the federal program.

20 4. Rules and regulations. The corporation is authorized to promulgate
21 rules and regulations, and may promulgate emergency regulations neces-
22 sary for the implementation of the provisions of this section.

23 § 2. This act shall take effect immediately and shall be deemed to
24 have been in full force and effect on and after April 1, 2015.

1 Section 1. This act shall be known and may be cited as the "New York
2 state DREAM Act".

3 § 2. Subdivision 3 of section 661 of the education law is REPEALED.

4 § 3. Paragraph a of subdivision 5 of section 661 of the education law,
5 as amended by chapter 466 of the laws of 1977, is amended to read as
6 follows:

7 a. (i) Except as provided in subdivision two of section six hundred
8 seventy-four of this part and subparagraph (ii) of this paragraph, an
9 applicant for an award at the undergraduate level of study must either
10 [(i)] (a) have been a legal resident of the state for at least one year
11 immediately preceding the beginning of the semester, quarter or term of
12 attendance for which application for assistance is made, or [(ii)] (b)
13 be a legal resident of the state and have been a legal resident during
14 his or her last two semesters of high school either prior to graduation,
15 or prior to admission to college. Provided further that persons shall be
16 eligible to receive awards under section six hundred sixty-eight or
17 section six hundred sixty-nine of this part who are currently legal
18 residents of the state and are otherwise qualified.

19 (ii) An applicant who is not a legal resident of the state eligible
20 pursuant to subparagraph (i) of this paragraph, but is a United States
21 citizen, an alien lawfully admitted for permanent residence in the
22 United States, an individual of a class of refugees paroled by the
23 attorney general of the United States under his or her parole authority
24 pertaining to the admission of aliens to the United States, or an appli-
25 cant without lawful immigration status shall be eligible for an award at
26 the undergraduate level of study provided that the student:

27 (a) attended a registered New York state high school for two or more
28 years, graduated from a registered New York state high school, lived

1 continuously in New York state while attending an approved New York
2 state high school, applied for attendance at the institution of higher
3 education for the undergraduate study for which an award is sought, and
4 attended within five years of receiving a New York state high school
5 diploma; or

6 (b) attended an approved New York state program for a state high
7 school equivalency diploma, lived continuously in New York state while
8 attending an approved New York state program for a general equivalency
9 diploma, received a state high school equivalency diploma, subsequently
10 applied for attendance at the institution of higher education for the
11 undergraduate study for which an award is sought, earned admission based
12 on that general equivalency diploma, and attended the institution of
13 higher education for the undergraduate study for which an award is
14 sought within five years of receiving a state high school equivalency
15 diploma; or

16 (c) is otherwise eligible for the payment of tuition and fees at a
17 rate no greater than that imposed for resident students of the state
18 university of New York, the city university of New York or community
19 colleges as prescribed in subparagraph eight of paragraph h of subdivi-
20 sion two of section three hundred fifty-five or paragraph (a) of subdivi-
21 vision seven of section six thousand two hundred six of this chapter.

22 Provided, further, that a student without lawful immigration status
23 shall also be required to file an affidavit with such institution of
24 higher education stating that the student has filed an application to
25 legalize his or her immigration status, or will file such an application
26 as soon as he or she is eligible to do so.

1 § 4. Paragraph b of subdivision 5 of section 661 of the education law,
2 as amended by chapter 466 of the laws of 1977, is amended to read as
3 follows:

4 b. [An] (i) Except as otherwise provided in subparagraph (ii) of this
5 paragraph, an applicant for an award at the graduate level of study must
6 either [(i)] (a) have been a legal resident of the state for at least
7 one year immediately preceding the beginning of the semester, quarter or
8 term of attendance for which application for assistance is made, or
9 [(ii)] (b) be a legal resident of the state and have been a legal resi-
10 dent during his or her last academic year of undergraduate study and
11 have continued to be a legal resident until matriculation in the gradu-
12 ate program.

13 (ii) An applicant who is not a legal resident of the state eligible
14 pursuant to subparagraph (i) of this paragraph, but is a United States
15 citizen, an alien lawfully admitted for permanent residence in the
16 United States, an individual of a class of refugees paroled by the
17 attorney general of the United States under his or her parole authority
18 pertaining to the admission of aliens to the United States, or an appli-
19 cant without lawful immigration status shall be eligible for an award at
20 the graduate level of study provided that the student:

21 (a) attended a registered New York state high school for two or more
22 years, graduated from a registered New York state high school, lived
23 continuously in New York state while attending an approved New York
24 state high school, applied for attendance at the institution of higher
25 education for the graduate study for which an award is sought, and
26 attended within ten years of receiving a New York state high school
27 diploma; or

1 (b) attended an approved New York state program for a state high
2 school equivalency diploma, lived continuously in New York state while
3 attending an approved New York state program for a general equivalency
4 diploma, received a state high school equivalency diploma, subsequently
5 applied for attendance at the institution of higher education for the
6 graduate study for which an award is sought, and attended the institu-
7 tion of higher education for the graduate study for which an award is
8 sought within ten years of receiving a state high school equivalency
9 diploma; or

10 (c) is otherwise eligible for the payment of tuition and fees at a
11 rate no greater than that imposed for resident students of the state
12 university of New York, the city university of New York or community
13 colleges as prescribed in subparagraph eight of paragraph h of subdivi-
14 sion two of section three hundred fifty-five or paragraph (a) of subdivi-
15 vision seven of section six thousand two hundred six of this chapter.

16 Provided, further, that a student without lawful immigration status
17 shall also be required to file an affidavit with such institution of
18 higher education stating that the student has filed an application to
19 legalize his or her immigration status, or will file such an application
20 as soon as he or she is eligible to do so.

21 § 5. Paragraph d of subdivision 5 of section 661 of the education law,
22 as amended by chapter 844 of the laws of 1975, is amended to read as
23 follows:

24 d. If an applicant for an award allocated on a geographic basis has
25 more than one residence in this state, his or her residence for the
26 purpose of this article shall be his or her place of actual residence
27 during the major part of the year while attending school, as determined
28 by the commissioner; and further provided that an applicant who does not

1 have a residence in this state and is eligible for an award pursuant to
2 subparagraph (ii) of paragraph a or subparagraph (ii) of paragraph b of
3 this subdivision shall be deemed to reside in the geographic area of the
4 institution of higher education in which he or she attends for purposes
5 of an award allocated on a geographic basis.

6 § 6. Paragraph e of subdivision 5 of section 661 of the education law,
7 as added by chapter 630 of the laws of 2005, is amended to read as
8 follows:

9 e. Notwithstanding any other provision of this article to the contra-
10 ry, the New York state [residency] eligibility [requirement] require-
11 ments for receipt of awards [is] set forth in paragraphs a and b of this
12 subdivision are waived for a member, or the spouse or dependent of a
13 member, of the armed forces of the United States on full-time active
14 duty and stationed in this state.

15 § 7. Clauses (i) and (ii) of subparagraph 8 of paragraph h of subdivi-
16 sion 2 of section 355 of the education law, as added by chapter 327 of
17 the laws of 2002, are amended to read as follows:

18 (i) attended an approved New York high school for two or more years,
19 graduated from an approved New York high school, lived continuously in
20 New York state while attending an approved New York high school, and
21 applied for attendance [at] and attended an institution or educational
22 unit of the state university within five years of receiving a New York
23 state high school diploma; or

24 (ii) attended an approved New York state program for general equiv-
25 alency diploma exam preparation, received a general equivalency diploma
26 issued within New York state, lived continuously in New York state while
27 attending an approved New York state program for general equivalency
28 diploma exam preparation, and subsequently applied for attendance [at],

1 earned admission based on that general equivalency diploma, and attended
2 an institution or educational unit of the state university within five
3 years of receiving a general equivalency diploma issued within New York
4 state; or

5 § 8. Subparagraphs (i) and (ii) of paragraph (a-1) of subdivision 7 of
6 section 6206 of the education law, as amended by chapter 260 of the laws
7 of 2011, are amended to read as follows:

8 (i) attended an approved New York high school for two or more years,
9 graduated from an approved New York high school, lived continuously in
10 New York state while attending an approved New York high school, and
11 applied for attendance [at] and attended an institution or educational
12 unit of the city university within five years of receiving a New York
13 state high school diploma; or

14 (ii) attended an approved New York state program for general equiv-
15 alency diploma exam preparation, received a general equivalency diploma
16 issued within New York state, lived continuously in New York state while
17 attending an approved New York state program for general equivalency
18 diploma exam preparation, and subsequently applied for attendance [at],
19 earned admission based on that general equivalency diploma, and attended
20 an institution or educational unit of the city university within five
21 years of receiving a general equivalency diploma issued within New York
22 state; or

23 § 8-a. Paragraph (a) of subdivision 7 of section 6206 of the education
24 law, as amended by chapter 327 of the laws of 2002, the opening para-
25 graph as amended by section 2 of part 0 of chapter 58 of the laws of
26 2006, is amended to read as follows:

27 (a) The board of trustees shall establish positions, departments,
28 divisions and faculties; appoint and in accordance with the provisions

1 of law fix salaries of instructional and non-instructional employees
2 therein; establish and conduct courses and curricula; prescribe condi-
3 tions of student admission, attendance and discharge; and shall have the
4 power to determine in its discretion whether tuition shall be charged
5 and to regulate tuition charges, and other instructional and non-in-
6 structional fees and other fees and charges at the educational units of
7 the city university. The trustees shall review any proposed community
8 college tuition increase and the justification for such increase. The
9 justification provided by the community college for such increase shall
10 include a detailed analysis of ongoing operating costs, capital, debt
11 service expenditures, and all revenues. The trustees shall not impose a
12 differential tuition charge based upon need or income. All students
13 enrolled in programs leading to like degrees at the senior colleges
14 shall be charged a uniform rate of tuition, except for differential
15 tuition rates based on state residency. The trustees shall further
16 provide that the payment of tuition and fees by any student who is not a
17 resident of New York state, other than a non-immigrant alien within the
18 meaning of paragraph (15) of subsection (a) of section 1101 of title 8
19 of the United States Code, shall be paid at a rate or charge no greater
20 than that imposed for students who are residents of the state if such
21 student:

22 (i) attended an approved New York high school for two or more years,
23 graduated from an approved New York high school, lived continuously in
24 New York state while attending an approved New York high school, and
25 applied for attendance [at] and attended an institution or educational
26 unit of the city university within five years of receiving a New York
27 state high school diploma; or

1 (ii) attended an approved New York state program for general equiv-
2 alency diploma exam preparation, received a general equivalency diploma
3 issued within New York state, lived continuously in New York state while
4 attending an approved New York state program for general equivalency
5 diploma exam preparation, and subsequently applied for attendance [at],
6 earned admission based on that general equivalency diploma, and attended
7 an institution or educational unit of the city university within five
8 years of receiving a general equivalency diploma issued within New York
9 state; or

10 (iii) was enrolled in an institution or educational unit of the city
11 university in the fall semester or quarter of the two thousand one--two
12 thousand two academic year and was authorized by such institution or
13 educational unit to pay tuition at the rate or charge imposed for
14 students who are residents of the state.

15 A student without lawful immigration status shall also be required to
16 file an affidavit with such institution or educational unit stating that
17 the student has filed an application to legalize his or her immigration
18 status, or will file such an application as soon as he or she is eligi-
19 ble to do so. The trustees shall not adopt changes in tuition charges
20 prior to the enactment of the annual budget. The board of trustees may
21 accept as partial reimbursement for the education of veterans of the
22 armed forces of the United States who are otherwise qualified such sums
23 as may be authorized by federal legislation to be paid for such educa-
24 tion. The board of trustees may conduct on a fee basis extension courses
25 and courses for adult education appropriate to the field of higher
26 education. In all courses and courses of study it may, in its
27 discretion, require students to pay library, laboratory, locker, break-
28 age and other instructional and non-instructional fees and meet the cost

1 of books and consumable supplies. In addition to the foregoing fees and
2 charges, the board of trustees may impose and collect fees and charges
3 for student government and other student activities and receive and
4 expend them as agent or trustee.

5 § 9. Subdivision 5 of section 6301 of the education law, as amended by
6 chapter 327 of the laws of 2002, is amended to read as follows:

7 5. "Resident." A person who has resided in the state for a period of
8 at least one year and in the county, city, town, intermediate school
9 district, school district or community college region, as the case may
10 be, for a period of at least six months, both immediately preceding the
11 date of such person's registration in a community college or, for the
12 purposes of section sixty-three hundred five of this article, his or her
13 application for a certificate of residence; provided, however, that this
14 term shall include any student who is not a resident of New York state,
15 other than a non-immigrant alien within the meaning of paragraph (15) of
16 subsection (a) of section 1101 of title 8 of the United States Code, if
17 such student:

18 (i) attended an approved New York high school for two or more years,
19 graduated from an approved New York high school, lived continuously in
20 New York state while attending an approved New York high school, and
21 applied for attendance [at an institution or educational unit of the
22 state university] and attended a community college within five years of
23 receiving a New York state high school diploma; or

24 (ii) attended an approved New York state program for general equiv-
25 alency diploma exam preparation, received a general equivalency diploma
26 issued within New York state, lived continuously in New York state while
27 attending an approved New York state program for general equivalency
28 diploma exam preparation, and subsequently applied for attendance [at an

1 institution or educational unit of the state university], earned admis-
2 sion based on that general equivalency diploma, and attended a community
3 college within five years of receiving a general equivalency diploma
4 issued within New York state; or

5 (iii) was enrolled in [an institution or educational unit of the state
6 university] a community college in the fall semester or quarter of the
7 two thousand one--two thousand two academic year and was authorized by
8 such [institution or educational unit] community college to pay tuition
9 at the rate or charge imposed for students who are residents of the
10 state.

11 Provided, further, that a student without lawful immigration status
12 shall also be required to file an affidavit with such [institution or
13 educational unit] community college stating that the student has filed
14 an application to legalize his or her immigration status, or will file
15 such an application as soon as he or she is eligible to do so.

16 In the event that a person qualified as above for state residence, but
17 has been a resident of two or more counties in the state during the six
18 months immediately preceding his or her application for a certificate of
19 residence pursuant to section sixty-three hundred five of this chapter,
20 the charges to the counties of residence shall be allocated among the
21 several counties proportional to the number of months, or major fraction
22 thereof, of residence in each county.

23 § 10. Paragraph d of subdivision 3 of section 6451 of the education
24 law, as amended by chapter 149 of the laws of 1972, is amended to read
25 as follows:

26 d. Any necessary supplemental financial assistance, which may include
27 the cost of books and necessary maintenance for such enrolled students,
28 including students without lawful immigration status provided that the

1 student meets the requirements set forth in subparagraph (ii) of para-
2 graph a or subparagraph (ii) of paragraph b of subdivision five of
3 section six hundred sixty-one of this chapter, as applicable; provided,
4 however, that such supplemental financial assistance shall be furnished
5 pursuant to criteria promulgated by the commissioner with the approval
6 of the director of the budget.

7 § 11. Subparagraph (v) of paragraph a of subdivision 4 of section 6452
8 of the education law, as added by chapter 917 of the laws of 1970, is
9 amended to read as follows:

10 (v) Any necessary supplemental financial assistance, which may include
11 the cost of books and necessary maintenance for such students, including
12 students without lawful immigration status provided that the student
13 meets the requirements set forth in subparagraph (ii) of paragraph a or
14 subparagraph (ii) of paragraph b of subdivision five of section six
15 hundred sixty-one of this chapter, as applicable; provided, however,
16 that such supplemental financial assistance shall be furnished pursuant
17 to criteria promulgated by such universities and approved by the regents
18 and the director of the budget.

19 § 12. Paragraph (a) of subdivision 2 of section 6455 of the education
20 law, as added by chapter 285 of the laws of 1986, is amended to read as
21 follows:

22 (a) (i) Undergraduate science and technology entry program moneys may
23 be used for tutoring, counseling, remedial and special summer courses,
24 supplemental financial assistance, program administration, and other
25 activities which the commissioner may deem appropriate. To be eligible
26 for undergraduate collegiate science and technology entry program
27 support, a student must be a resident of New York [who is], or meet the
28 requirements of subparagraph (ii) of this paragraph, and must be either

1 economically disadvantaged or from a minority group historically under
2 represented in the scientific, technical, health and health-related
3 professions, and [who demonstrates] must demonstrate interest in and a
4 potential for a professional career if provided special services. Eligi-
5 ble students must be in good academic standing, enrolled full time in an
6 approved, undergraduate level program of study, as defined by the
7 regents.

8 (ii) An applicant who is not a legal resident of the state eligible
9 pursuant to subparagraph (i) of this paragraph, but is a United States
10 citizen, an alien lawfully admitted for permanent residence in the
11 United States, an individual of a class of refugees paroled by the
12 attorney general of the United States under his or her parole authority
13 pertaining to the admission of aliens to the United States, or an appli-
14 cant without lawful immigration status shall be eligible for an award at
15 the undergraduate level of study provided that the student:

16 (a) attended a registered New York state high school for two or more
17 years, graduated from a registered New York state high school, lived
18 continuously in New York state while attending an approved New York
19 state high school, applied for attendance at the institution of higher
20 education for the undergraduate study for which an award is sought, and
21 attended within five years of receiving a New York state high school
22 diploma; or

23 (b) attended an approved New York state program for a state high
24 school equivalency diploma, lived continuously in New York state while
25 attending an approved New York state program for a general equivalency
26 diploma, received a state high school equivalency diploma, subsequently
27 applied for attendance at the institution of higher education for the
28 undergraduate study for which an award is sought, earned admission based

1 on that general equivalency diploma, and attended the institution of
2 higher education for the undergraduate study for which an award is
3 sought within five years of receiving a state high school equivalency
4 diploma; or

5 (c) is otherwise eligible for the payment of tuition and fees at a
6 rate no greater than that imposed for resident students of the state
7 university of New York, the city university of New York or community
8 colleges as prescribed in subparagraph eight of paragraph h of subdivi-
9 sion two of section three hundred fifty-five or paragraph (a) of subdivi-
10 vision seven of section six thousand two hundred six of this chapter.

11 Provided, further, that a student without lawful immigration status
12 shall also be required to file an affidavit with such institution of
13 higher education stating that the student has filed an application to
14 legalize his or her immigration status, or will file such an application
15 as soon as he or she is eligible to do so.

16 § 13. Paragraph (a) of subdivision 3 of section 6455 of the education
17 law, as added by chapter 285 of the laws of 1986, is amended to read as
18 follows:

19 (a) (i) Graduate science and technology entry program moneys may be
20 used for recruitment, academic enrichment, career planning, supplemental
21 financial assistance, review for licensing examinations, program admin-
22 istration, and other activities which the commissioner may deem appro-
23 priate. To be eligible for graduate collegiate science and technology
24 entry program support, a student must be a resident of New York [who
25 is], or meet the requirements of subparagraph (ii) of this paragraph,
26 and must be either economically disadvantaged or from a minority group
27 historically underrepresented in the scientific, technical and health-
28 related professions. Eligible students must be in good academic stand-

1 ing, enrolled full time in an approved graduate level program, as
2 defined by the regents.

3 (ii) An applicant who is not a legal resident of the state eligible
4 pursuant to subparagraph (i) of this paragraph, but is a United States
5 citizen, an alien lawfully admitted for permanent residence in the
6 United States, an individual of a class of refugees paroled by the
7 attorney general of the United States under his or her parole authority
8 pertaining to the admission of aliens to the United States, or an appli-
9 cant without lawful immigration status shall be eligible for an award at
10 the graduate level of study provided that the student:

11 (a) attended a registered New York state high school for two or more
12 years, graduated from a registered New York state high school, lived
13 continuously in New York state while attending an approved New York
14 state high school, applied for attendance at the institution of higher
15 education for the graduate study for which an award is sought, and
16 attended within ten years of receiving a New York state high school
17 diploma; or

18 (b) attended an approved New York state program for a state high
19 school equivalency diploma, lived continuously in New York state while
20 attending an approved New York state program for a general equivalency
21 diploma, received a state high school equivalency diploma, subsequently
22 applied for attendance at the institution of higher education for the
23 graduate study for which an award is sought, and attended the institu-
24 tion of higher education for the graduate study for which an award is
25 sought within ten years of receiving a state high school equivalency
26 diploma; or

27 (c) is otherwise eligible for the payment of tuition and fees at a
28 rate no greater than that imposed for resident students of the state

1 university of New York, the city university of New York or community
2 college as prescribed in subparagraph eight of paragraph h of subdivi-
3 sion two of section three hundred fifty-five or paragraph (a) of subdi-
4 vision seven of section six thousand two hundred six of this chapter.

5 Provided, further, that a student without lawful immigration status
6 shall also be required to file an affidavit with such institution of
7 higher education stating that the student has filed an application to
8 legalize his or her immigration status, or will file such an application
9 as soon as he or she is eligible to do so.

10 § 14. Subparagraph (i) of paragraph a of subdivision 2 of section
11 695-e of the education law, as amended by chapter 593 of the laws of
12 2003, is amended to read as follows:

13 (i) the name, address and social security number [or], employer iden-
14 tification number, or individual taxpayer identification number of the
15 account owner unless a family tuition account that was in effect prior
16 to the effective date of the chapter of the laws of two thousand fifteen
17 that amended this subparagraph does not allow for a taxpayer identifica-
18 tion number, in which case a taxpayer identification number shall be
19 allowed upon the expiration of the contract;

20 § 15. Subparagraph (iii) of paragraph a of subdivision 2 of section
21 695-e of the education law, as amended by chapter 593 of the laws of
22 2003, is amended to read as follows:

23 (iii) the name, address, and social security number, employer iden-
24 tification number, or individual taxpayer identification number of the
25 designated beneficiary, unless a family tuition account that was in
26 effect prior to the effective date of the chapter of the laws of two
27 thousand fifteen that amended this subparagraph does not allow for a

1 taxpayer identification number, in which case a taxpayer identification
2 number shall be allowed upon the expiration of the contract; and

3 § 16. The president of the higher education services corporation shall
4 establish an application form and procedures that shall allow a student
5 applicant that meets the requirements set forth in subparagraph (ii) of
6 paragraph a or subparagraph (ii) of paragraph b of subdivision 5 of
7 section 661 of the education law to apply directly to the higher educa-
8 tion services corporation for applicable awards without having to submit
9 information to any other state or federal agency. All information
10 contained with the applications filed with such corporation shall be
11 deemed confidential, except that the corporation shall be entitled to
12 release information to participating institutions as necessary for the
13 administration of financial aid programs and to the extent required
14 pursuant to article six of the public officers law or otherwise required
15 by law.

16 § 17. The higher education services corporation is authorized to
17 promulgate rules and regulations, and may promulgate emergency regu-
18 lations, necessary for the implementation of the provisions of this act.

19 § 18. This act shall take effect on the ninetieth day after the issu-
20 ance of regulations and the development of an application form by the
21 president of the higher education services corporation or on the nineti-
22 eth day after it shall have become a law, whichever shall be later;
23 provided however, notwithstanding the foregoing, this act shall not take
24 effect unless the legislature enacts, by no later than March 31, 2015, a
25 chapter of law identical to legislation submitted by the Governor pursu-
26 ant to Article VII of the New York Constitution as Part E of legislative
27 bill numbers S. 2006 and A. 3006 relating to an education tax credit
28 program that would make available \$100 million in tax credits annually

1 to provide a tax credit incentive to encourage individual and business
2 donations to support public schools' educational improvement programs as
3 well as public and non-public school scholarships for elementary and
4 secondary school students. Provided, that the amendments to paragraph
5 (a) of subdivision 7 of section 6206 of the education law, made by
6 section eight-a of this act, shall take effect upon the expiration and
7 repeal of the amendments to such paragraph made by section 4 of chapter
8 260 of the laws of 2011 pursuant to section 16 of chapter 260 of the
9 laws of 2011, as amended. Provided further, however, that the amend-
10 ments to subparagraphs (i) and (ii) of paragraph (a-1) of subdivision 7
11 of section 6206 of the education law made by section eight of this act
12 shall not affect the expiration of such paragraph and shall be deemed to
13 expire therewith; provided that the president of the higher education
14 services corporation shall notify the legislative bill drafting commis-
15 sion upon the occurrence of the issuance of regulations and the develop-
16 ment of an application form provided for in this section in order that
17 the commission may maintain an accurate and timely effective data base
18 of the official text of the laws of the state of New York in furtherance
19 of effectuating the provisions of section 44 of the legislative law and
20 section 70-b of the public officers law.

21

PART E

22 Section 1. Short title. This act shall be known and may be cited as
23 the "education tax credit act".

24 § 2. The education law is amended by adding a new article 25 to read
25 as follows:

1 ARTICLE 25

2 EDUCATION TAX CREDIT PROGRAM

3 Section 1209. Short title.

4 1210. Definitions.

5 1211. Approval to issue certificates of receipt.

6 1212. Applications for approval to issue certificates of
7 receipt.

8 1213. Application approval for certificates of receipts.

9 1214. Revocation of approval to issue certificates of receipt.

10 1215. Reporting and recordkeeping.

11 1216. Joint annual report.

12 1217. Commissioner; powers.

13 § 1209. Short title. This article shall be known and may be cited as
14 the "education tax credit program".

15 § 1210. Definitions. For the purposes of this section, the following
16 terms shall have the following meanings:

17 1. "Authorized contribution" means the contribution amount that is
18 listed on the contribution authorization certificate issued to a taxpay-
19 er.

20 2. "Contribution" means a donation paid by cash, check, electronic
21 funds transfer, debit card or credit card that is made by a taxpayer
22 during the taxable year.

23 3. "Educational program" means an academic or similar program of a
24 public school that enhances the curriculum or academic program of the
25 public school, or provides a pre-kindergarten program to a public
26 school. For purposes of this definition, the instruction, materials,
27 programs and other activities offered by or through an educational
28 program may include, but are not limited to, the following features: (a)

1 instruction or materials promoting health, physical education, and fami-
2 ly and consumer sciences; literary, performing and visual arts; math-
3 ematics, social studies, technology and scientific achievement; (b)
4 instruction or programming to meet the education needs of at-risk
5 students or students with disabilities, including tutoring or coun-
6 seling; or (c) the use of specialized instructional materials, instruc-
7 tors or instruction not provided by a public school.

8 4. "Educational scholarship organization" means an entity that: (a) is
9 exempt from taxation under paragraph three of subsection (c) of section
10 five hundred one of the internal revenue code; (b) uses at least ninety
11 percent of the qualified contributions received during the calendar year
12 and any income derived from qualified contributions during such year for
13 scholarships; (c) provides more than fifty percent of its scholarships
14 during a calendar year to eligible pupils who reside in a household that
15 has an income not to exceed one hundred fifty percent of the income
16 qualification required for the reduced price school lunches under the
17 National School Lunch Act, provided however for the purposes of an
18 educational scholarship organization fulfilling such requirement, an
19 educational scholarship organization may enter into an agreement with
20 another educational scholarship organization or organizations to jointly
21 report their scholarship information to meet such requirement; (d)
22 deposits and holds qualified contributions and any income derived from
23 qualified contributions in an account that is separate from the organ-
24 ization's operating or other funds until such qualified contributions or
25 income are withdrawn for use; (e) provides scholarships to eligible
26 pupils for use at not fewer than three qualified schools; and (f) is
27 approved to issue certificates of receipt pursuant to this article.

1 5. "Eligible pupil" means a child who is: (a) a resident of this
2 state; (b) of school age in accordance with subdivision one of section
3 thirty-two hundred two of this chapter or who is four years of age on or
4 before December first of the year in which such child is enrolled in a
5 pre-kindergarten program; (c) attends or is about to attend a qualified
6 school; and (d) resides in a household which has a federal adjusted
7 gross income of two hundred fifty thousand dollars or less, provided
8 however, for households with three or more dependent children, such
9 income level shall be increased by ten thousand dollars per dependent
10 child, not to exceed three hundred thousand dollars.

11 6. "Local education fund" means a not-for-profit entity which: (a) is
12 exempt from taxation under paragraph three of subsection (c) of section
13 five hundred one of the internal revenue code; (b) is established for
14 the purpose of supporting at least one public school or a public school
15 district located in this state; (c) uses at least ninety percent of the
16 qualified contributions received during the calendar year and any income
17 derived from qualified contributions during such months to support the
18 public school or schools or public school district or districts that
19 such fund has been established to support; (d) deposits and holds quali-
20 fied contributions and any income derived from qualified contributions
21 in an account that is separate from the fund's operating or other funds
22 until such qualified contributions or income are withdrawn for use; and
23 (e) is approved to issue certificates of receipt pursuant to this arti-
24 cle.

25 7. "Non-public school" means any not-for-profit pre-kindergarten
26 program or elementary or secondary sectarian or nonsectarian school
27 located in this state, other than a public school, that provides

1 instruction at one or more locations to an eligible pupil in accordance
2 with subdivision two of section thirty-two hundred four of this chapter.

3 8. "Public education entity" means a public school district or a
4 public school in this state, provided that such public school district
5 or public school: (a) deposits and holds qualified contributions and any
6 income derived from such qualified contributions in an account that is
7 separate from the public school or public school district's operating or
8 other funds until such qualified contributions or income are withdrawn
9 for use; and (b) is approved to receive authorized contributions and
10 issue certificates of receipt pursuant to this article.

11 9. "Public school" means any free elementary or secondary school in
12 this state pursuant to article eleven of the constitution, but shall not
13 include a charter school authorized by article fifty-six of this chap-
14 ter.

15 10. "Qualified contribution" means the authorized contribution made by
16 a taxpayer to a public education entity, school improvement organiza-
17 tion, local education fund, or educational scholarship organization
18 listed in the contribution authorization certificate issued to the
19 taxpayer for which the taxpayer has received a certificate of receipt
20 from such entity, fund or organization. A contribution does not qualify
21 if the taxpayer designates the taxpayer's contribution to an entity or
22 organization for the direct benefit of any particular or specified
23 student.

24 11. "Qualified school" means a public school or non-public school
25 located in this state.

26 12. "Scholarship" means an educational scholarship or tuition grant
27 awarded to an eligible pupil to attend a qualified school in an amount
28 not to exceed the tuition charged to attend such school less any other

1 educational scholarship or tuition grant received by such eligible pupil
2 or his or her parent, parents, legal guardian, or legal guardians for
3 such eligible pupil's tuition; provided, however, in the case of an
4 eligible pupil attending a public school of a district of which such
5 pupil is not a resident, the amount of the educational scholarship or
6 tuition grant awarded may not exceed the tuition charged by the public
7 school pursuant to paragraph d of subdivision four of section thirty-two
8 hundred two of this chapter, but only if the school district of which
9 such pupil is a resident is not required to pay for such tuition.

10 13. "School improvement organization" means a not-for-profit entity
11 which: (a) is exempt from taxation under paragraph three of subsection
12 (c) of section five hundred one of the internal revenue code; (b) uses
13 at least ninety percent of the qualified contributions received during
14 the calendar year and any income derived from qualified contributions
15 during such months to assist public schools or public school districts
16 located in this state in their provision of educational programs, either
17 by making contributions to one or more public schools or public school
18 districts located in this state or providing educational programs to, or
19 in conjunction with, one or more public schools or public school
20 districts located in this state; (c) deposits and holds qualified
21 contributions and any income derived from qualified contributions in an
22 account that is separate from the organization's operating or other
23 funds until such qualified contributions or income are withdrawn for
24 use; and (d) is approved to issue certificates of receipt pursuant to
25 this article. Such term includes a pre-kindergarten program or not-for-
26 profit entity that allows the taxpayer to choose to donate to a program,
27 project or initiative for use in a public school.

1 § 1211. Approval to issue certificates of receipt. 1. Public schools
2 and public school districts. All public schools and public school
3 districts shall be approved to issue certificates of receipt for quali-
4 fied contributions in accordance with section forty-two of the tax law,
5 provided, that such public school or public school district shall not be
6 approved if either: (a) such public school or public school district
7 fails to deposit and hold qualified contributions and any income derived
8 from qualified contributions in an account that is separate from the
9 school or school district's operating or other funds until such quali-
10 fied contributions or income are withdrawn for use; or (b) the commis-
11 sioner has revoked such approval for such public school or public school
12 district pursuant to section twelve hundred fourteen of this article.

13 2. School improvement organizations, educational scholarship organiza-
14 tions and local education funds. No school improvement organization,
15 educational scholarship organization or local education fund shall issue
16 any certificates of receipt without filing an application pursuant to
17 section twelve hundred twelve of this article and receiving approval
18 pursuant to section twelve hundred thirteen of this article.

19 § 1212. Applications for approval to issue certificates of receipt.
20 Each school improvement organization, educational scholarship organiza-
21 tion and local education fund shall submit an application to the commis-
22 sioner for approval to issue certificates of receipt in the form and
23 manner prescribed by the commissioner, provided that such application
24 shall include: (a) submission of documentation that such school improve-
25 ment organization, local education fund or educational scholarship
26 organization has been granted exemption from taxation under paragraph
27 three of subsection (c) of section five hundred one of the internal
28 revenue code; (b) a list of names and addresses of all members of the

1 governing board of the school improvement organization, local education
2 fund or educational scholarship organization; and (c) an educational
3 scholarship organization shall provide criteria for the awarding of
4 scholarships to eligible students.

5 § 1213. Application approval for certificates of receipt. 1. In gener-
6 al. The commissioner shall review each application to issue certif-
7 icates of receipt pursuant to this article. The commissioner shall
8 publish criteria used to determine selection and establish an appeals
9 process for applications that are not approved.

10 2. Notification. Applicants shall be notified of the commissioner's
11 determination within five business days of the determination.

12 § 1214. Revocation of approval to issue certificates of receipt. The
13 commissioner, in consultation with the commissioner of taxation and
14 finance, may revoke the approval of a school improvement organization,
15 educational scholarship organization, local education fund, public
16 school or public school district to issue certificates of receipt upon a
17 finding that such organization, fund, school or school district has
18 violated this article or section forty-two of the tax law. These
19 violations shall include, but not be limited to, any of the following:
20 (a) failure to meet the requirements of this article or section forty-
21 two of the tax law; (b) the failure to maintain full and adequate
22 records with respect to the receipt of qualified contributions; (c) the
23 failure to supply such records to the commissioner, department of taxa-
24 tion and finance, or the department when requested; or (d) the failure
25 to provide notice to the department of taxation and finance of the issu-
26 ance or non-issuance of certificates of receipt pursuant to section
27 forty-two of the tax law; provided, however, that the commissioner shall
28 not revoke approval pursuant to this section based upon a violation of

1 tax law unless the commissioner of taxation and finance agrees that
2 revocation is warranted; and provided further that the commissioner
3 shall not revoke approval pursuant to this section when the failure to
4 comply is due to clerical error and not negligence or intentional disre-
5 gard for the law. Within five days of the determination revoking
6 approval, the commissioner shall provide notice of such revocation to
7 the educational scholarship organization, school improvement organiza-
8 tion, local education fund, public school, or public school district and
9 to the department of taxation and finance. The commissioner shall estab-
10 lish an appeals process for determinations revoking approvals.

11 § 1215. Reporting and recordkeeping. 1. Reporting. Each educational
12 scholarship organization, school improvement organization, local educa-
13 tion fund, public school and public school district that receives quali-
14 fied contributions shall report to the commissioner and the department
15 of taxation and finance by January thirty-first of each calendar year.
16 Such report shall be in the form and manner prescribed by the commis-
17 sioner in consultation with the commissioner of taxation and finance.

18 2. Recordkeeping. Each educational scholarship organization, school
19 improvement organization, local education fund, public school and public
20 school district that issued at least one certificate of receipt shall
21 maintain records including: (a) notifications received from the depart-
22 ment of taxation and finance; (b) notifications made to the department
23 of taxation and finance; (c) copies of qualified contributions received;
24 (d) copies of the deposit of such qualified contributions; (e) copies of
25 issued certificates of receipt; (f) annual financial statements; (g) in
26 the case of school improvement organizations, educational scholarship
27 organizations and local education funds, the application submitted
28 pursuant to section twelve hundred twelve of this article and the

1 approval issued by the commissioner; and (h) any other information
2 prescribed by the commissioner. Such records shall be maintained by the
3 entity or organization for five years.

4 § 1216. Joint annual report. On or before the last day of May for each
5 calendar year, the commissioner of taxation and finance and the commis-
6 sioner, jointly, shall submit a written report as provided in subdivi-
7 sion (k) of section forty-two of the tax law.

8 § 1217. Commissioner; powers. The commissioner shall promulgate on an
9 emergency basis regulations necessary for the implementation of this
10 section. The commissioner shall make any application required to be
11 filed pursuant to this article available to applicants within sixty days
12 of the effective date of this article.

13 § 3. The education law is amended by adding a new section 1503-a to
14 read as follows:

15 § 1503-a. Power to accept and solicit gifts and donations. 1. The
16 trustees or boards of education of all school districts organized by
17 special laws or pursuant to the provisions of a general law are hereby
18 authorized and empowered to accept gifts, donations, and contributions
19 to the district and to solicit the same.

20 2. Notwithstanding any other provision of this chapter or of any other
21 general or special law to the contrary, the receipt of such gifts,
22 donations and contributions made pursuant to article twenty-five of this
23 chapter, and any income derived therefrom, shall be disregarded for the
24 purposes of all apportionments, computations, and determinations of
25 state aid.

26 § 4. The tax law is amended by adding a new section 42 to read as
27 follows:

1 § 42. Education tax credit. (a) Definitions. For the purposes of this
2 section, the following terms have the same definition as in section
3 twelve hundred ten of the education law: "Authorized contribution",
4 "Contribution", "Educational program", "Educational scholarship organ-
5 ization", "Eligible pupil", "Local education fund", "Non-public school",
6 "Public education entity", "Public school", "Qualified contribution",
7 "Qualified school", "Scholarship", and "School improvement organiza-
8 tion".

9 (b) Allowance of credit. A taxpayer subject to tax under article
10 nine-A or twenty-two of this chapter shall be allowed an education tax
11 credit against such tax, pursuant to the provisions referenced in subdi-
12 vision (1) of this section, with respect to qualified contributions made
13 during the taxable year.

14 (c) Amount of credit. The amount of the credit shall be the lesser of
15 seventy-five percent of the taxpayer's total qualified contributions or
16 one million dollars. If the taxpayer is a partner in a partnership or
17 shareholder of a New York S corporation, then the cap imposed by the
18 preceding sentence shall be applied at the entity level, so that the
19 aggregate credit allowed to all the partners or shareholders of each
20 such entity in the taxable year does not exceed one million dollars.

21 (d) Information to be posted on the department's website. Beginning on
22 the sixteenth day of January of each year, the commissioner shall main-
23 tain on the department's website a running total of the amount of avail-
24 able credit for which taxpayers may apply pursuant to this section.
25 Additionally, the commissioner shall maintain on the department's
26 website a list of the school improvement organizations, local education
27 funds and educational scholarship organizations approved to issue
28 certificates of receipt pursuant to article twenty-five of the education

1 law. The commissioner shall also maintain on the department's website a
2 list of public education entities, school improvement organizations,
3 local education funds and educational scholarship organizations whose
4 approval to issue certificates of receipt has been revoked along with
5 the date of such revocation.

6 (e) Applications for contribution authorization certificates. Prior to
7 making a contribution to a public education entity, school improvement
8 organization, local education fund, or educational scholarship organiza-
9 tion, the taxpayer shall apply to the department for a contribution
10 authorization certificate for such contribution. Such application shall
11 be in the form and manner prescribed by the department. The department
12 may allow taxpayers to make multiple applications on the same form,
13 provided that each contribution listed on such application shall be
14 treated as a separate application and that the department shall issue
15 separate contribution authorization certificates for each such applica-
16 tion.

17 (f) Contribution authorization certificates. 1. Issuance of certif-
18 icates. The commissioner shall issue contribution authorization certif-
19 icates in two phases. In phase one, which begins on the first day of
20 January and ends on the fifteenth day of January, the commissioner shall
21 accept applications for contribution authorization certificates but
22 shall not issue any such certificates. Commencing after the sixteenth
23 day of January, the commissioner shall issue contribution authorization
24 certificates for applications received during phase one, provided that
25 if the aggregate total of the contributions for which applications have
26 been received during phase one exceeds the amount of the credit cap in
27 subdivision (h) of this section, the authorized contribution amount
28 listed on each contribution authorization certificate shall equal the

1 pro-rata share of the credit cap. If the credit cap is not exceeded,
2 phase two commences on January sixteenth and ends on November first. The
3 commissioner shall issue contribution authorization certificates on a
4 first-come first serve basis based upon the date the department received
5 the taxpayer's application for such certificate; provided, however, that
6 if on any day the department receives applications requesting contrib-
7 ution authorization certificates for contributions that in the aggregate
8 exceed the amount of the remaining available credit on such day, the
9 authorized contribution amount listed in each contribution authorization
10 certificate shall be the taxpayer's pro-rata share of the remaining
11 available credit. For purposes of determining a taxpayer's pro-rata
12 share of remaining available credit, the commissioner shall multiply the
13 amount of remaining available credit by a fraction, the numerator of
14 which equals the total contribution amount listed on the taxpayer's
15 application and the denominator of which equals the aggregate amount of
16 contributions listed on the applications for contribution authorization
17 certificates received on such day. Contribution authorization certif-
18 icates for applications received during phase one shall be mailed no
19 later than the fifth day of February. Contribution authorization certif-
20 icates for applications received during phase two shall be mailed within
21 twenty days of receipt of such applications. Provided, however, that no
22 contribution authorization certificates for applications received during
23 phase two shall be issued until all of the contribution authorization
24 certificates for applications received during phase one have been
25 issued.

26 2. Contribution authorization certificate contents. Each contribution
27 authorization certificate shall state: (i) the date such certificate was
28 issued; (ii) the date by which the authorized contributions listed in

1 the certificate must be made, which shall be no later than November
2 thirtieth of the year for which the contribution authorization certif-
3 icate was issued; (iii) the taxpayer's name and address; (iv) the amount
4 of authorized contributions; (v) the contribution authorization certif-
5 icate's certificate number; (vi) the name and address of the public
6 education entity, school improvement organization, local education fund
7 or educational scholarship organization for which the taxpayer may make
8 the authorized contribution; and (vii) any other information that the
9 commissioner deems necessary.

10 3. Notification of the issuance of a contribution authorization
11 certificate. Upon issuance of a contribution authorization certificate,
12 the commissioner shall notify the educational scholarship organization,
13 public education entity, school improvement organization or local educa-
14 tion fund of the issuance of the contribution authorization certificate
15 to a taxpayer. Such notification shall include: (i) the taxpayer's name
16 and address; (ii) the date such certificate was issued; (iii) the date
17 by which the authorized contribution listed in the notification must be
18 made by the taxpayer; (iv) the amount of the authorized contribution;
19 (v) contribution authorization certificate; and (vi) any other informa-
20 tion that the commissioner deems necessary.

21 (g) Certificate of receipt. 1. In general. No public education entity,
22 school improvement organization, local education fund, or educational
23 scholarship organization shall issue a certificate of receipt for any
24 contribution made by a taxpayer unless such public education entity,
25 school improvement organization, local education fund, or educational
26 scholarship organization has been approved to issue certificates of
27 receipt pursuant to article twenty-five of the education law. No public
28 education entity, school improvement organization, local education fund,

1 or educational scholarship organization shall issue a certificate of
2 receipt for a contribution made by a taxpayer unless such public educa-
3 tion entity, school improvement organization, local education fund, or
4 educational scholarship organization has received notice from the
5 department that the department issued a credit authorization certificate
6 to the taxpayer for such contribution.

7 2. Timely contribution. If a taxpayer makes an authorized contribution
8 to the public education entity, school improvement organization, local
9 education fund, or educational scholarship organization set forth on the
10 authorization certificate issued to the taxpayer no later than the date
11 by which such authorized contribution is required to be made, such
12 public education entity, school improvement organization, local educa-
13 tion fund, or educational scholarship organization shall, within thirty
14 days of receipt of the authorized contribution, issue to the taxpayer a
15 written certificate of receipt; provided, however, that if the taxpayer
16 contributes an amount that is less than the amount listed on the taxpay-
17 er's contribution authorization certificate, the taxpayer shall not be
18 issued a certificate of receipt for such contribution.

19 3. Certificate of receipt contents. Each certificate of receipt shall
20 state: (i) the name and address of the issuing public education entity,
21 school improvement organization, local education fund, or educational
22 scholarship organization; (ii) the taxpayer's name and address; (iii)
23 the date for each contribution; (iv) the amount of each contribution and
24 the corresponding contribution authorization certificate number; (v) the
25 total amount of contributions; and (vi) any other information that the
26 commissioner deems necessary.

27 4. Notification to the department for the issuance of a certificate of
28 receipt. Upon the issuance of a certificate of receipt, the issuing

1 public education entity, school improvement organization, local educa-
2 tion fund, or educational scholarship organization shall, within thirty
3 days of issuing the certificate of receipt, provide the department with
4 notification of the issuance of such certificate in the form and manner
5 prescribed by the department.

6 5. Notification to the department of the non-issuance of a certificate
7 of receipt. Each public education entity, school improvement organiza-
8 tion, local education fund, or educational scholarship organization that
9 received notification from the department pursuant to subdivision (d) of
10 this section regarding the issuance of a contribution authorization
11 certificate to a taxpayer shall, within thirty days of the expiration
12 date for such authorized contribution, provide notification to the
13 department for each taxpayer that failed to make the authorized contrib-
14 ution to such public education entity, school improvement organization,
15 local education fund, or educational scholarship organization in the
16 form and manner prescribed by the department.

17 6. Failure to notify the department. Within thirty days of discovery
18 of the failure of any public education entity, school improvement organ-
19 ization, local education fund, or educational scholarship organization
20 to comply with the notification requirements prescribed by paragraphs
21 four and five of this subdivision, the commissioner shall issue a notice
22 of compliance failure to such entity, program fund or organization. Such
23 entity, program fund or organization shall have thirty days from the
24 date of such notice to make the notifications prescribed by paragraphs
25 four and five of this subdivision. Such period may be extended for an
26 additional thirty days upon the request of the entity, program fund or
27 organization. Upon the expiration of the period for compliance set forth
28 in the notice prescribed by this paragraph, the commissioner shall noti-

1 fy the commissioner of education that such entity, program fund or
2 organization failed to make the notifications prescribed by paragraphs
3 four and five of this subdivision.

4 (h) Credit cap. The maximum permitted credits under this section
5 available annually to all taxpayers for qualified contributions for
6 calendar year two thousand sixteen and all following years shall be one
7 hundred million dollars. The maximum permitted credits under this
8 section for qualified contributions shall be allocated fifty percent to
9 public education entities, school improvement organizations, and local
10 education funds and fifty percent to educational scholarship organiza-
11 tions.

12 (i) Additions to the credit cap. Unissued certificates of receipt. Any
13 amounts for which the department receives notification of non-issuance
14 of a certificate of receipt shall be added to the cap prescribed in
15 subdivision (h) of this section for the immediately following year.

16 (j) Other requirements; miscellaneous. 1. Record keeping. Each taxpay-
17 er shall, for each taxable year for which the education tax credit
18 provided for under this section is claimed, maintain records of the
19 following information: (i) contribution authorization certificates
20 obtained pursuant to subdivision (f) of this section, and (ii) certif-
21 icates of receipt obtained pursuant to subdivision (g) of this section.

22 2. Regulations. The commissioner is hereby authorized to promulgate
23 and adopt on an emergency basis regulations necessary for the implemen-
24 tation of this section.

25 (k) Joint annual report. On or before the last day of May for each
26 calendar year, for the immediately preceding year, the commissioner and
27 the commissioner of education shall jointly submit a written report to
28 the governor, the temporary president of the senate, the speaker of the

1 assembly, the chairman of the senate finance committee and the chairman
2 of the assembly ways and means committee regarding the credit. Such
3 report shall contain information for articles nine-A and twenty-two of
4 this chapter, respectively, regarding: (i) the number of applications
5 received; (ii) the number of and aggregate value of the contribution
6 authorization certificates issued for contributions to public education
7 entities, school improvement organizations, local education funds, and
8 educational scholarship organizations, respectively; (iii) the geograph-
9 ical distribution by county, to the extent feasible, of (A) the applica-
10 tions for contribution authorization certificates, distribution by the
11 county, to the extent feasible, of (B) the public education entities,
12 school improvement organizations, local education funds, and educational
13 scholarship organizations listed on the issued contribution authori-
14 zation certificates; and (iv) information, including geographical
15 distribution by county, to the extent feasible, of the number of eligi-
16 ble pupils that received scholarships, the number of qualified schools
17 attended by eligible pupils that received such scholarships, and the
18 average value of scholarships received by such eligible pupils. The
19 commissioner and designated employees of the department and the commis-
20 sioner of education and designated employees of the department of educa-
21 tion shall be allowed and are directed to share and exchange information
22 regarding the school improvement organizations, local education funds
23 and educational scholarship organizations that applied for approval to
24 be authorized to receive qualified contributions; and the public educa-
25 tion entities, school improvement organizations, local education funds,
26 and educational scholarship organizations authorized to issue certif-
27 icates of receipt, including information contained in or derived from

1 application forms and reports submitted to the department of education
2 or the commissioner of education.

3 (1) Cross references. For application of the credit provided for in
4 this section, see the following provisions of this chapter:

5 (1) Article 9-A: section 210-B; subdivision 50;

6 (2) Article 22: section 606, subsection (ccc);

7 § 5. Paragraph (b) of subdivision 9 of section 208 of the tax law is
8 amended by adding a new subparagraph 22 to read as follows:

9 (22) The amount of any federal deduction for charitable contributions
10 allowed under section one hundred seventy of the internal revenue code
11 to the extent such contributions are used as the basis of the calcu-
12 lation of the education tax credit allowed under subdivision fifty of
13 section two hundred ten-B of this article.

14 § 6. Section 210-B of the tax law is amended by adding a new subdivi-
15 sion 50 to read as follows:

16 50. Education tax credit. (a) Allowance of credit. A taxpayer shall be
17 allowed a credit, to be computed as provided in section forty-two of
18 this chapter, against the tax imposed by this article.

19 (b) Application of credit. The credit allowed under this subdivision
20 for any taxable year shall not reduce the tax due for that year to less
21 than the amount prescribed in paragraph (d) of subdivision one of
22 section two hundred ten of this article. If the amount of credit allow-
23 able under this subdivision for any taxable year reduces the tax to such
24 amount or if the taxpayer otherwise pays tax on the fixed dollar minimum
25 the excess allowed for a taxable year may be carried over to the follow-
26 ing year or years for up to five years and may be deducted from the
27 taxpayer's tax for such year or years.

1 § 7. Subparagraph (B) of paragraph 1 of subsection (i) of section 606
2 of the tax law is amended by adding a new clause (xli) to read as
3 follows:

4 <u>(xli) Education tax credit</u>	<u>Amount of credit under</u>
5 <u>under subsection (ccc)</u>	<u>subdivision fifty of section</u>
6	<u>two hundred ten-B</u>

7 § 8. Section 606 of the tax law is amended by adding a new subsection
8 (ccc) to read as follows:

9 (ccc) Education tax credit. Allowance of credit. A taxpayer shall be
10 allowed a credit to be computed as provided in section forty-two of this
11 chapter, against the tax imposed by this article. If the amount of cred-
12 it allowable under this subsection for any taxable year shall exceed the
13 taxpayer's tax for such year, the excess allowed for a taxable year may
14 be carried over to the following year or years for up to five years and
15 may be deducted from the taxpayer's tax for such year or years.

16 § 9. Subsection (g) of section 615 of the tax law is amended by adding
17 a new paragraph 3 to read as follows:

18 (3) With respect to an individual who has claimed the education tax
19 credit for qualified contributions pursuant to subdivision (ccc) of
20 section six hundred six of this article, the taxpayer's New York item-
21 ized deduction shall be reduced by any charitable contribution deduction
22 allowed under section one hundred seventy of the internal revenue code
23 with respect to such qualified contributions.

24 § 10. Severability. If any provision of this section or the applica-
25 tion thereof to any person or circumstances is held invalid, such inva-
26 lidity shall not affect other provisions or applications of the section
27 which can be given effect without the invalid provision or application,

1 and to this end the provisions of this section are declared to be sever-
2 able.

3 § 11. This act shall take effect immediately and shall apply to taxa-
4 ble years beginning on or after January 1, 2016; provided however,
5 notwithstanding the foregoing, this act shall not take effect unless the
6 legislature enacts, by no later than March 31, 2015, a chapter of law
7 identical to legislation submitted by the Governor pursuant to Article
8 VII of the New York Constitution as Part D of legislative bill numbers
9 S.2006 and A.3006 relating to the establishment by the president of the
10 higher education services corporation of an application form and proce-
11 dures that shall allow a student applicant that meets the requirements
12 set forth in subparagraph (ii) of paragraph (a) or subparagraph (ii) of
13 paragraph b of subdivision 5 of section 661 of the education law to
14 apply directly to the higher education services corporation for applica-
15 ble awards without having to submit information to any other state or
16 federal agency.

17 PART F

18 Section 1. The banking law is amended by adding a new section 9-w to
19 read as follows:

20 § 9-w. Standard financial aid award letter. The superintendent of
21 financial services in consultation with the president of the higher
22 education services corporation shall develop a standard financial aid
23 award letter which shall clearly delineate (a) the estimated cost of
24 attendance, (b) all financial aid offered, with an explanation as to
25 which components will require repayment, (c) any expected student and/or
26 family contribution, (d) campus-specific graduation, median borrowing,

1 and loan default rates, and (e) any other information as determined by
2 the superintendent in consultation with the president. The superinten-
3 dent shall publish and make available such standard letter by December
4 thirty-first, two thousand fifteen and thereafter. Each college, voca-
5 tional institution, and any other institution that offers an approved
6 program as defined in section six hundred one of the education law shall
7 utilize the standard letter issued by the department of financial
8 services in responding to all financial aid applicants for the two thou-
9 sand sixteen--two thousand seventeen academic year and thereafter. The
10 superintendent shall promulgate regulations implementing this section.

11 § 2. This act shall take effect immediately and shall be deemed to
12 have been in full force and effect on and after April 1, 2015.

13 PART G

14 Section 1. Section 7408 of the education law is amended by adding a
15 new subdivision 6 to read as follows:

16 6. Notwithstanding any other provision of law, any firm established to
17 lawfully engage in the practice of public accountancy pursuant to arti-
18 cle fifteen of the business corporation law, articles one and eight-B of
19 the partnership law, or articles twelve and thirteen of the limited
20 liability company law shall be deemed authorized to register pursuant to
21 this section.

22 § 2. Section 1503 of the business corporation law is amended by adding
23 a new paragraph (h) to read as follows:

24 (h) Any firm established for the business purpose of incorporating as
25 a professional service corporation formed to lawfully engage in the
26 practice of public accountancy, as such practice is respectively defined

1 under article one hundred forty-nine of the education law shall be
2 required to show (1) that a simple majority of the ownership of the
3 firm, in terms of financial interests, including ownership-based compen-
4 sation, and voting rights held by the firm's owners, belongs to individ-
5 uals licensed to practice public accountancy in some state, and (2) that
6 all shareholders of a professional service corporation whose principal
7 place of business is in this state, and who are engaged in the practice
8 of public accountancy in this state, hold a valid license issued under
9 section seventy-four hundred four of the education law or are public
10 accountants licensed under section seventy-four hundred five of the
11 education law. Although firms may include non-licensee owners, the firm
12 and its owners must comply with rules promulgated by the state board for
13 public accountancy. Notwithstanding the provisions of this paragraph, a
14 firm incorporated under this section may not have non-licensee owners if
15 the firm's name includes the words "certified public accountant," or
16 "certified public accountants," or the abbreviations "CPA" or "CPAs".
17 Each non-licensee owner of a firm that is incorporated under this
18 section shall be (1) a natural person who actively participates in the
19 business of the firm or its affiliated entities, or (2) an entity,
20 including, but not limited to, a partnership or professional corpo-
21 ration, provided each beneficial owner of an equity interest in such
22 entity is a natural person who actively participates in the business
23 conducted by the firm or its affiliated entities. For purposes of this
24 subdivision, "actively participate" means to provide services to clients
25 or to otherwise individually take part in the day-to-day business or
26 management of the firm. Such a firm shall have attached to its certif-
27 icate of incorporation a certificate or certificates demonstrating the
28 firm's compliance with this paragraph, in lieu of the certificate or

1 certificates required by subparagraph (ii) of paragraph (b) of this
2 section.

3 § 3. Section 1507 of the business corporation law is amended by adding
4 a new paragraph (c) to read as follows:

5 (c) Any firm established for the business purpose of incorporating as
6 a professional service corporation pursuant to paragraph (h) of section
7 fifteen hundred three of this article may issue shares to individuals
8 who are authorized by law to practice in this state a profession which
9 such corporation is authorized to practice and who are or have been
10 engaged in the practice of such profession in such corporation or a
11 predecessor entity, or who will engage in the practice of such profes-
12 sion in such corporation within thirty days of the date such shares are
13 issued and may also issue shares to employees of the corporation not
14 licensed as certified public accountants, provided that:

15 (i) at least fifty-one percent of the outstanding shares of stock of
16 the corporation are owned by certified public accountants,

17 (ii) at least fifty-one percent of the directors are certified public
18 accountants,

19 (iii) at least fifty-one percent of the officers are certified public
20 accountants,

21 (iv) the president, the chairperson of the board of directors and the
22 chief executive officer or officers are certified public accountants.

23 No shareholder of a firm established for the business purpose of incor-
24 porating as a professional service corporation pursuant to paragraph (h)
25 of section fifteen hundred three of this article shall enter into a
26 voting trust agreement, proxy or any other type of agreement vesting in
27 another person, other than another shareholder of the same corporation,
28 the authority to exercise voting power of any or all of his or her

1 shares. All shares issued, agreements made or proxies granted in
2 violation of this section shall be void.

3 § 4. Section 1508 of the business corporation law is amended by adding
4 a new paragraph (c) to read as follows:

5 (c) The directors and officers of any firm established for the busi-
6 ness purpose of incorporating as a professional service corporation
7 pursuant to paragraph (h) of section fifteen hundred three of this arti-
8 cle may include individuals who are not licensed to practice public
9 accountancy, provided however that at least fifty-one percent of the
10 directors, at least fifty-one percent of the officers and the president,
11 the chairperson of the board of directors and the chief executive offi-
12 cer or officers are authorized by law to practice in this state a
13 profession which such corporation is authorized to practice, and are
14 either shareholders of such corporation or engaged in the practice of
15 their professions in such corporation.

16 § 5. Section 1509 of the business corporation law, as amended by chap-
17 ter 550 of the laws of 2011, is amended to read as follows:

18 § 1509. Disqualification of shareholders, directors, officers and
19 employees.

20 If any shareholder, director, officer or employee of a professional
21 service corporation, including a design professional service corpo-
22 ration, or any firm established for the business purpose of incorporat-
23 ing as a professional service corporation pursuant to paragraph (h) of
24 section fifteen hundred three of this article, who has been rendering
25 professional service to the public becomes legally disqualified to prac-
26 tice his profession within this state, he shall sever all employment
27 with, and financial interests (other than interests as a creditor) in,
28 such corporation forthwith or as otherwise provided in section 1510 of

1 this article. All provisions of law regulating the rendering of profes-
2 sional services by a person elected or appointed to a public office
3 shall be applicable to a shareholder, director, officer and employee of
4 such corporation in the same manner and to the same extent as if fully
5 set forth herein. Such legal disqualification to practice his profession
6 within this state shall be deemed to constitute an irrevocable offer by
7 the disqualified shareholder to sell his shares to the corporation,
8 pursuant to the provisions of section 1510 of this article or of the
9 certificate of incorporation, by-laws or agreement among the corporation
10 and all shareholders, whichever is applicable. Compliance with the terms
11 of such offer shall be specifically enforceable in the courts of this
12 state. A professional service corporation's failure to enforce compli-
13 ance with this provision shall constitute a ground for forfeiture of its
14 certificate of incorporation and its dissolution.

15 § 6. Paragraph (a) of section 1511 of the business corporation law, as
16 amended by chapter 550 of the laws of 2011, is amended and new paragraph
17 (c) is added to read as follows:

18 (a) No shareholder of a professional service corporation [or], includ-
19 ing a design professional service corporation, or any firm established
20 for the business purpose of incorporating as a professional service
21 corporation pursuant to paragraph (h) of section fifteen hundred three
22 of this article, may sell or transfer his shares in such corporation
23 except to another individual who is eligible to have shares issued to
24 him by such corporation or except in trust to another individual who
25 would be eligible to receive shares if he were employed by the corpo-
26 ration. Nothing herein contained shall be construed to prohibit the
27 transfer of shares by operation of law or by court decree. No transfer-
28 ee of shares by operation of law or court decree may vote the shares for

1 any purpose whatsoever except with respect to corporate action under
2 sections 909 and 1001 of this chapter. The restriction in the preceding
3 sentence shall not apply, however, where such transferee would be eligi-
4 ble to have shares issued to him if he were an employee of the corpo-
5 ration and, if there are other shareholders, a majority of such other
6 shareholders shall fail to redeem the shares so transferred, pursuant to
7 section 1510 of this article, within sixty days of receiving written
8 notice of such transfer. Any sale or transfer, except by operation of
9 law or court decree or except for a corporation having only one share-
10 holder, may be made only after the same shall have been approved by the
11 board of directors, or at a shareholders' meeting specially called for
12 such purpose by such proportion, not less than a majority, of the
13 outstanding shares as may be provided in the certificate of incorpo-
14 ration or in the by-laws of such professional service corporation. At
15 such shareholders' meeting the shares held by the shareholder proposing
16 to sell or transfer his shares may not be voted or counted for any
17 purpose, unless all shareholders consent that such shares be voted or
18 counted. The certificate of incorporation or the by-laws of the profes-
19 sional service corporation, or the professional service corporation and
20 the shareholders by private agreement, may provide, in lieu of or in
21 addition to the foregoing provisions, for the alienation of shares and
22 may require the redemption or purchase of such shares by such corpo-
23 ration at prices and in a manner specifically set forth therein. The
24 existence of the restrictions on the sale or transfer of shares, as
25 contained in this article and, if applicable, in the certificate of
26 incorporation, by-laws, stock purchase or stock redemption agreement,
27 shall be noted conspicuously on the face or back of every certificate

1 for shares issued by a professional service corporation. Any sale or
2 transfer in violation of such restrictions shall be void.

3 (c) A firm established for the business purpose of incorporating as a
4 professional service corporation pursuant to paragraph (h) of section
5 fifteen hundred three of this article, shall purchase or redeem the
6 shares of a non-licensed professional shareholder in the case of his or
7 her termination of employment within thirty days after such termination.
8 A firm established for the business purpose of incorporating as a
9 professional service corporation pursuant to paragraph (h) of section
10 fifteen hundred three of this article, shall not be required to purchase
11 or redeem the shares of a terminated non-licensed professional share-
12 holder if such shares, within thirty days after such termination, are
13 sold or transferred to another employee of the corporation pursuant to
14 this article.

15 § 7. Paragraph (a) of section 1512 of the business corporation law, as
16 amended by chapter 550 of the laws of 2011, is amended to read as
17 follows:

18 (a) Notwithstanding any other provision of law, the name of a profes-
19 sional service corporation, including a design professional service
20 corporation and any firm established for the business purpose of incor-
21 porating as a professional service corporation pursuant to paragraph (h)
22 of section fifteen hundred three of this article, may contain any word
23 which, at the time of incorporation, could be used in the name of a
24 partnership practicing a profession which the corporation is authorized
25 to practice, and may not contain any word which could not be used by
26 such a partnership. Provided, however, the name of a professional
27 service corporation may not contain the name of a deceased person unless

1 (1) such person's name was part of the corporate name at the time of
2 such person's death; or

3 (2) such person's name was part of the name of an existing partnership
4 and at least two-thirds of such partnership's partners become sharehold-
5 ers of the corporation.

6 § 8. Section 1514 of the business corporation law is amended by adding
7 a new paragraph (c) to read as follows:

8 (c) Each firm established for the business purpose of incorporating as
9 a professional service corporation pursuant to paragraph (h) of section
10 fifteen hundred three of this article shall, at least once every three
11 years on or before the date prescribed by the licensing authority,
12 furnish a statement to the licensing authority listing the names and
13 residence addresses of each shareholder, director and officer of such
14 corporation and certify as the date of certification and at all times
15 over the entire three year period that:

16 (i) at least fifty-one percent of the outstanding shares of stock of
17 the corporation are and were owned by certified public accountants,

18 (ii) at least fifty-one percent of the directors are and were certi-
19 fied public accountants,

20 (iii) at least fifty-one percent of the officers are and were certi-
21 fied public accountants,

22 (iv) the president, the chairperson of the board of directors and the
23 chief executive officer or officers are and were certified public
24 accountants.

25 The statement shall be signed by the president or any certified public
26 accountant vice-president and attested to by the secretary or any
27 assistant secretary of the corporation.

1 § 9. Paragraph (d) of section 1525 of the business corporation law, as
2 added by chapter 505 of the laws of 1983, is amended to read as follows:

3 (d) "Foreign professional service corporation" means a professional
4 service corporation, whether or not denominated as such, organized under
5 the laws of a jurisdiction other than this state, all of the sharehold-
6 ers, directors and officers of which are authorized and licensed to
7 practice the profession for which such corporation is licensed to do
8 business; except that all shareholders, directors and officers of a
9 foreign professional service corporation which provides health services
10 in this state shall be licensed in this state. Notwithstanding any other
11 provision of law a foreign professional service corporation formed to
12 lawfully engage in the practice of public accountancy, as such practice
13 is respectively defined under article one hundred forty-nine of the
14 education law, shall be required to show (1) that a simple majority of
15 the ownership of the firm, in terms of financial interests, including
16 ownership-based compensation, and voting rights held by the firm's
17 owners, belongs to individuals licensed to practice public accountancy
18 in some state, and (2) that all shareholders of a foreign professional
19 service corporation whose principal place of business is in this state,
20 and who are engaged in the practice of public accountancy in this state,
21 hold a valid license issued under section seventy-four hundred four of
22 the education law or are public accountants licensed under section
23 seventy-four hundred five of the education law. Although firms may
24 include non-licensee owners, the firm and its owners must comply with
25 rules promulgated by the state board for public accountancy. Notwith-
26 standing the foregoing, a firm registered under this section may not
27 have non-licensee owners if the firm's name includes the words "certi-
28 fied public accountant," or "certified public accountants," or the

1 abbreviations "CPA" or "CPAs." Each non-licensee owner of a firm that is
2 incorporated under this section shall be (1) a natural person who
3 actively participates in the business of the firm or its affiliated
4 entities, or (2) an entity, including, but not limited to, a partnership
5 or professional corporation, provided each beneficial owner of an equity
6 interest in such entity is a natural person who actively participates in
7 the business conducted by the firm or its affiliated entities. For
8 purposes of this subdivision, "actively participate" means to provide
9 services to clients or to otherwise individually take part in the day-
10 to-day business or management of the firm.

11 § 10. The fourteenth undesignated paragraph of section 2 of the part-
12 nership law, as added by chapter 576 of the laws of 1994, is amended to
13 read as follows:

14 "Professional partnership" means (1) a partnership without limited
15 partners each of whose partners is a professional authorized by law to
16 render a professional service within this state, (2) a partnership with-
17 out limited partners each of whose partners is a professional, at least
18 one of whom is authorized by law to render a professional service within
19 this state or (3) a partnership without limited partners authorized by,
20 or holding a license, certificate, registration or permit issued by the
21 licensing authority pursuant to the education law to render a profes-
22 sional service within this state; except that all partners of a profes-
23 sional partnership that provides medical services in this state must be
24 licensed pursuant to article 131 of the education law to practice medi-
25 cine in this state and all partners of a professional partnership that
26 provides dental services in this state must be licensed pursuant to
27 article 133 of the education law to practice dentistry in this state;
28 [and further] except that all partners of a professional partnership

1 that provides professional engineering, land surveying, architectural
2 and/or landscape architectural services in this state must be licensed
3 pursuant to article 145, article 147 and/or article 148 of the education
4 law to practice one or more of such professions in this state; and
5 further except that all partners of a professional partnership that
6 provides public accountancy services, whose principal place of business
7 is in this state and who provide public accountancy services, must be
8 licensed pursuant to article 149 of the education law to practice public
9 accountancy in this state. Notwithstanding any other provisions of law
10 a professional partnership formed to lawfully engage in the practice of
11 public accountancy, as such practice is respectively defined under arti-
12 cle 149 of the education law, shall be required to show (1) that a
13 simple majority of the ownership of the firm, in terms of financial
14 interests, including ownership-based compensation, and voting rights
15 held by the firm's owners, belongs to individuals licensed to practice
16 public accountancy in some state, and (2) that all shareholders of a
17 professional partnership whose principal place of business is in this
18 state, and who are engaged in the practice of public accountancy in this
19 state, hold a valid license issued under section 7404 of the education
20 law or are public accountants licensed under section 7405 of the educa-
21 tion law. Although firms may include non-licensee owners, the firm and
22 its owners must comply with rules promulgated by the state board for
23 public accountancy. Notwithstanding the foregoing, a firm registered
24 under this section may not have non-licensee owners if the firm's name
25 includes the words "certified public accountant," or "certified public
26 accountants," or the abbreviations "CPA" or "CPAs." Each non-licensee
27 owner of a firm that is incorporated under this section shall be (1) a
28 natural person who actively participates in the business of the firm or

1 its affiliated entities, or (2) an entity, including, but not limited
2 to, a partnership or professional corporation, provided each beneficial
3 owner of an equity interest in such entity is a natural person who
4 actively participates in the business conducted by the firm or its
5 affiliated entities. For purposes of this subdivision, "actively partic-
6 ipate" means to provide services to clients or to otherwise individually
7 take part in the day-to-day business or management of the firm.

8 § 10-a. The fourteenth undesignated paragraph of section 2 of the
9 partnership law, as amended by chapter 475 of the laws of 2014, is
10 amended to read as follows:

11 "Professional partnership" means (1) a partnership without limited
12 partners each of whose partners is a professional authorized by law to
13 render a professional service within this state, (2) a partnership with-
14 out limited partners each of whose partners is a professional, at least
15 one of whom is authorized by law to render a professional service within
16 this state or (3) a partnership without limited partners authorized by,
17 or holding a license, certificate, registration or permit issued by the
18 licensing authority pursuant to the education law to render a profes-
19 sional service within this state; except that all partners of a profes-
20 sional partnership that provides medical services in this state must be
21 licensed pursuant to article 131 of the education law to practice medi-
22 cine in this state and all partners of a professional partnership that
23 provides dental services in this state must be licensed pursuant to
24 article 133 of the education law to practice dentistry in this state;
25 [and further] except that all partners of a professional partnership
26 that provides professional engineering, land surveying, geologic, archi-
27 tectural and/or landscape architectural services in this state must be
28 licensed pursuant to article 145, article 147 and/or article 148 of the

1 education law to practice one or more of such professions in this state;
2 and further except that all partners of a professional partnership that
3 provides public accountancy services, whose principal place of business
4 is in this state and who provide public accountancy services, must be
5 licensed pursuant to article 149 of the education law to practice public
6 accountancy in this state. Notwithstanding any other provisions of law
7 a professional partnership formed to lawfully engage in the practice of
8 public accountancy, as such practice is respectively defined under arti-
9 cle 149 of the education law, shall be required to show (1) that a
10 simple majority of the ownership of the firm, in terms of financial
11 interests, including ownership-based compensation, and voting rights
12 held by the firm's owners, belongs to individuals licensed to practice
13 public accountancy in some state, and (2) that all shareholders of a
14 professional partnership whose principal place of business is in this
15 state, and who are engaged in the practice of public accountancy in this
16 state, hold a valid license issued under section 7404 of the education
17 law or are public accountants licensed under section 7405 of the educa-
18 tion law. Although firms may include non-licensee owners, the firm and
19 its owners must comply with rules promulgated by the state board for
20 public accountancy. Notwithstanding the foregoing, a firm registered
21 under this section may not have non-licensee owners if the firm's name
22 includes the words "certified public accountant," or "certified public
23 accountants," or the abbreviations "CPA" or "CPAs." Each non-licensee
24 owner of a firm that is incorporated under this section shall be (1) a
25 natural person who actively participates in the business of the firm or
26 its affiliated entities, or (2) an entity, including, but not limited
27 to, a partnership or professional corporation, provided each beneficial
28 owner of an equity interest in such entity is a natural person who

1 actively participates in the business conducted by the firm or its
2 affiliated entities. For purposes of this subdivision, "actively partic-
3 ipate" means to provide services to clients or to otherwise individually
4 take part in the day-to-day business or management of the firm.

5 § 11. Subdivision (q) of section 121-1500 of the partnership law, as
6 amended by chapter 554 of the laws of 2013, is amended to read as
7 follows:

8 (q) Each partner of a registered limited liability partnership formed
9 to provide medical services in this state must be licensed pursuant to
10 article 131 of the education law to practice medicine in this state and
11 each partner of a registered limited liability partnership formed to
12 provide dental services in this state must be licensed pursuant to arti-
13 cle 133 of the education law to practice dentistry in this state. Each
14 partner of a registered limited liability partnership formed to provide
15 veterinary services in this state must be licensed pursuant to article
16 135 of the education law to practice veterinary medicine in this state.
17 Each partner of a registered limited liability partnership formed to
18 provide public accountancy services, whose principal place of business
19 is in this state and who provides public accountancy services, must be
20 licensed pursuant to article 149 of the education law to practice public
21 accountancy in this state. Each partner of a registered limited liabil-
22 ity partnership formed to provide professional engineering, land survey-
23 ing, architectural and/or landscape architectural services in this state
24 must be licensed pursuant to article 145, article 147 and/or article 148
25 of the education law to practice one or more of such professions in this
26 state. Each partner of a registered limited liability partnership formed
27 to provide licensed clinical social work services in this state must be
28 licensed pursuant to article 154 of the education law to practice clin-

1 ical social work in this state. Each partner of a registered limited
2 liability partnership formed to provide creative arts therapy services
3 in this state must be licensed pursuant to article 163 of the education
4 law to practice creative arts therapy in this state. Each partner of a
5 registered limited liability partnership formed to provide marriage and
6 family therapy services in this state must be licensed pursuant to arti-
7 cle 163 of the education law to practice marriage and family therapy in
8 this state. Each partner of a registered limited liability partnership
9 formed to provide mental health counseling services in this state must
10 be licensed pursuant to article 163 of the education law to practice
11 mental health counseling in this state. Each partner of a registered
12 limited liability partnership formed to provide psychoanalysis services
13 in this state must be licensed pursuant to article 163 of the education
14 law to practice psychoanalysis in this state. Each partner of a regis-
15 tered limited liability partnership formed to provide applied behavior
16 analysis service in this state must be licensed or certified pursuant to
17 article 167 of the education law to practice applied behavior analysis
18 in this state. Notwithstanding any other provisions of law a limited
19 liability partnership formed to lawfully engage in the practice of
20 public accountancy, as such practice is respectively defined under arti-
21 cle 149 of the education law, shall be required to show (1) that a
22 simple majority of the ownership of the firm, in terms of financial
23 interests, including ownership-based compensation, and voting rights
24 held by the firm's owners, belongs to individuals licensed to practice
25 public accountancy in some state, and (2) that all partners of a limited
26 liability partnership whose principal place of business is in this
27 state, and who are engaged in the practice of public accountancy in this
28 state, hold a valid license issued under section 7404 of the education

1 law or are public accountants licensed under section 7405 of the educa-
2 tion law. Although firms may include non-licensee owners, the firm and
3 its owners must comply with rules promulgated by the state board for
4 public accountancy. Notwithstanding the foregoing, a firm registered
5 under this section may not have non-licensee owners if the firm's name
6 includes the words "certified public accountant," or "certified public
7 accountants," or the abbreviations "CPA" or "CPAs." Each non-licensee
8 owner of a firm that is incorporated under this section shall be (1) a
9 natural person who actively participates in the business of the firm or
10 its affiliated entities, or (2) an entity, including, but not limited
11 to, a partnership or professional corporation, provided each beneficial
12 owner of an equity interest in such entity is a natural person who
13 actively participates in the business conducted by the firm or its
14 affiliated entities. For purposes of this subdivision, "actively partic-
15 ipate" means to provide services to clients or to otherwise individually
16 take part in the day-to-day business or management of the firm.

17 § 11-a. Subdivision (q) of section 121-1500 of the partnership law, as
18 amended by chapter 475 of the laws of 2014, is amended to read as
19 follows:

20 (q) Each partner of a registered limited liability partnership formed
21 to provide medical services in this state must be licensed pursuant to
22 article 131 of the education law to practice medicine in this state and
23 each partner of a registered limited liability partnership formed to
24 provide dental services in this state must be licensed pursuant to arti-
25 cle 133 of the education law to practice dentistry in this state. Each
26 partner of a registered limited liability partnership formed to provide
27 veterinary services in this state must be licensed pursuant to article
28 135 of the education law to practice veterinary medicine in this state.

1 Each partner of a registered limited liability partnership formed to
2 provide public accountancy services, whose principal place of business
3 is in this state and who provides public accountancy services, must be
4 licensed pursuant to article 149 of the education law to practice public
5 accountancy in this state. Each partner of a registered limited liabil-
6 ity partnership formed to provide professional engineering, land survey-
7 ing, geological services, architectural and/or landscape architectural
8 services in this state must be licensed pursuant to article 145, article
9 147 and/or article 148 of the education law to practice one or more of
10 such professions in this state. Each partner of a registered limited
11 liability partnership formed to provide licensed clinical social work
12 services in this state must be licensed pursuant to article 154 of the
13 education law to practice clinical social work in this state. Each part-
14 ner of a registered limited liability partnership formed to provide
15 creative arts therapy services in this state must be licensed pursuant
16 to article 163 of the education law to practice creative arts therapy in
17 this state. Each partner of a registered limited liability partnership
18 formed to provide marriage and family therapy services in this state
19 must be licensed pursuant to article 163 of the education law to prac-
20 tice marriage and family therapy in this state. Each partner of a regis-
21 tered limited liability partnership formed to provide mental health
22 counseling services in this state must be licensed pursuant to article
23 163 of the education law to practice mental health counseling in this
24 state. Each partner of a registered limited liability partnership formed
25 to provide psychoanalysis services in this state must be licensed pursu-
26 ant to article 163 of the education law to practice psychoanalysis in
27 this state. Each partner of a registered limited liability partnership
28 formed to provide applied behavior analysis service in this state must

1 be licensed or certified pursuant to article 167 of the education law to
2 practice applied behavior analysis in this state. Notwithstanding any
3 other provisions of law a limited liability partnership formed to
4 lawfully engage in the practice of public accountancy, as such practice
5 is respectively defined under article 149 of the education law, shall be
6 required to show (1) that a simple majority of the ownership of the
7 firm, in terms of financial interests, including ownership-based compen-
8 sation, and voting rights held by the firm's owners, belongs to individ-
9 uals licensed to practice public accountancy in some state, and (2) that
10 all partners of a limited liability partnership whose principal place of
11 business is in this state, and who are engaged in the practice of public
12 accountancy in this state, hold a valid license issued under section
13 7404 of the education law or are public accountants licensed under
14 section 7405 of the education law. Although firms may include non-li-
15 censee owners, the firm and its owners must comply with rules promulgat-
16 ed by the state board for public accountancy. Notwithstanding the fore-
17 going, a firm registered under this section may not have non-licensee
18 owners if the firm's name includes the words "certified public account-
19 ant," or "certified public accountants," or the abbreviations "CPA" or
20 "CPAs." Each non-licensee owner of a firm that is incorporated under
21 this section shall be (1) a natural person who actively participates in
22 the business of the firm or its affiliated entities, or (2) an entity,
23 including, but not limited to, a partnership or professional corpo-
24 ration, provided each beneficial owner of an equity interest in such
25 entity is a natural person who actively participates in the business
26 conducted by the firm or its affiliated entities. For purposes of this
27 subdivision, "actively participate" means to provide services to clients

1 or to otherwise individually take part in the day-to-day business or
2 management of the firm.

3 § 12. Subdivision (q) of section 121-1502 of the partnership law, as
4 amended by chapter 554 of the laws of 2013, is amended to read as
5 follows:

6 (q) Each partner of a foreign limited liability partnership which
7 provides medical services in this state must be licensed pursuant to
8 article 131 of the education law to practice medicine in the state and
9 each partner of a foreign limited liability partnership which provides
10 dental services in the state must be licensed pursuant to article 133 of
11 the education law to practice dentistry in this state. Each partner of a
12 foreign limited liability partnership which provides veterinary service
13 in the state shall be licensed pursuant to article 135 of the education
14 law to practice veterinary medicine in this state. Each partner of a
15 foreign limited liability partnership which provides professional engi-
16 neering, land surveying, architectural and/or landscape architectural
17 services in this state must be licensed pursuant to article 145, article
18 147 and/or article 148 of the education law to practice one or more of
19 such professions. Each partner of a foreign registered limited liability
20 partnership formed to provide public accountancy services, whose princi-
21 pal place of business is in this state and who provides public accoun-
22 tancy services, must be licensed pursuant to article 149 of the educa-
23 tion law to practice public accountancy in this state. Each partner of a
24 foreign limited liability partnership which provides licensed clinical
25 social work services in this state must be licensed pursuant to article
26 154 of the education law to practice licensed clinical social work in
27 this state. Each partner of a foreign limited liability partnership
28 which provides creative arts therapy services in this state must be

1 licensed pursuant to article 163 of the education law to practice crea-
2 tive arts therapy in this state. Each partner of a foreign limited
3 liability partnership which provides marriage and family therapy
4 services in this state must be licensed pursuant to article 163 of the
5 education law to practice marriage and family therapy in this state.
6 Each partner of a foreign limited liability partnership which provides
7 mental health counseling services in this state must be licensed pursu-
8 ant to article 163 of the education law to practice mental health coun-
9 seling in this state. Each partner of a foreign limited liability part-
10 nership which provides psychoanalysis services in this state must be
11 licensed pursuant to article 163 of the education law to practice
12 psychoanalysis in this state. Each partner of a foreign limited liabil-
13 ity partnership which provides applied behavior analysis services in
14 this state must be licensed or certified pursuant to article 167 of the
15 education law to practice applied behavior analysis in this state.
16 Notwithstanding any other provisions of law a foreign limited liability
17 partnership formed to lawfully engage in the practice of public accoun-
18 tancy, as such practice is respectively defined under article 149 of the
19 education law, shall be required to show (1) that a simple majority of
20 the ownership of the firm, in terms of financial interests, including
21 ownership-based compensation, and voting rights held by the firm's
22 owners, belongs to individuals licensed to practice public accountancy
23 in some state, and (2) that all partners of a foreign limited liability
24 partnership whose principal place of business is in this state, and who
25 are engaged in the practice of public accountancy in this state, hold a
26 valid license issued under section 7404 of the education law or are
27 public accountants licensed under section 7405 of the education law.
28 Although firms may include non-licensee owners, the firm and its owners

1 must comply with rules promulgated by the state board for public accoun-
2 tancy. Notwithstanding the foregoing, a firm registered under this
3 section may not have non-licensee owners if the firm's name includes the
4 words "certified public accountant," or "certified public accountants,"
5 or the abbreviations "CPA" or "CPAs." Each non-licensee owner of a firm
6 that is incorporated under this section shall be (1) a natural person
7 who actively participates in the business of the firm or its affiliated
8 entities, or (2) an entity, including, but not limited to, a partnership
9 or professional corporation, provided each beneficial owner of an equity
10 interest in such entity is a natural person who actively participates in
11 the business conducted by the firm or its affiliated entities. For
12 purposes of this subdivision, "actively participate" means to provide
13 services to clients or to otherwise individually take part in the day-
14 to-day business or management of the firm.

15 § 12-a. Subdivision (q) of section 121-1502 of the partnership law, as
16 amended by chapter 475 of the laws of 2014, is amended to read as
17 follows:

18 (q) Each partner of a foreign limited liability partnership which
19 provides medical services in this state must be licensed pursuant to
20 article 131 of the education law to practice medicine in the state and
21 each partner of a foreign limited liability partnership which provides
22 dental services in the state must be licensed pursuant to article 133 of
23 the education law to practice dentistry in this state. Each partner of
24 a foreign limited liability partnership which provides veterinary
25 service in the state shall be licensed pursuant to article 135 of the
26 education law to practice veterinary medicine in this state. Each part-
27 ner of a foreign limited liability partnership which provides profes-
28 sional engineering, land surveying, geological services, architectural

1 and/or landscape architectural services in this state must be licensed
2 pursuant to article 145, article 147 and/or article 148 of the education
3 law to practice one or more of such professions. Each partner of a
4 foreign registered limited liability partnership formed to provide
5 public accountancy services, whose principal place of business is in
6 this state and who provides public accountancy services, must be
7 licensed pursuant to article 149 of the education law to practice public
8 accountancy in this state. Each partner of a foreign limited liability
9 partnership which provides licensed clinical social work services in
10 this state must be licensed pursuant to article 154 of the education law
11 to practice licensed clinical social work in this state. Each partner of
12 a foreign limited liability partnership which provides creative arts
13 therapy services in this state must be licensed pursuant to article 163
14 of the education law to practice creative arts therapy in this state.
15 Each partner of a foreign limited liability partnership which provides
16 marriage and family therapy services in this state must be licensed
17 pursuant to article 163 of the education law to practice marriage and
18 family therapy in this state. Each partner of a foreign limited liabil-
19 ity partnership which provides mental health counseling services in this
20 state must be licensed pursuant to article 163 of the education law to
21 practice mental health counseling in this state. Each partner of a
22 foreign limited liability partnership which provides psychoanalysis
23 services in this state must be licensed pursuant to article 163 of the
24 education law to practice psychoanalysis in this state. Each partner of
25 a foreign limited liability partnership which provides applied behavior
26 analysis services in this state must be licensed or certified pursuant
27 to article 167 of the education law to practice applied behavior analy-
28 sis in this state. Notwithstanding any other provisions of law a foreign

1 limited liability partnership formed to lawfully engage in the practice
2 of public accountancy, as such practice is respectively defined under
3 article 149 of the education law, shall be required to show (1) that a
4 simple majority of the ownership of the firm, in terms of financial
5 interests, including ownership-based compensation, and voting rights
6 held by the firm's owners, belongs to individuals licensed to practice
7 public accountancy in some state, and (2) that all partners of a foreign
8 limited liability partnership whose principal place of business is in
9 this state, and who are engaged in the practice of public accountancy in
10 this state, hold a valid license issued under section 7404 of the educa-
11 tion law or are public accountants licensed under section 7405 of the
12 education law. Although firms may include non-licensee owners, the firm
13 and its owners must comply with rules promulgated by the state board for
14 public accountancy. Notwithstanding the foregoing, a firm registered
15 under this section may not have non-licensee owners if the firm's name
16 includes the words "certified public accountant," or "certified public
17 accountants," or the abbreviations "CPA" or "CPAs." Each non-licensee
18 owner of a firm that is incorporated under this section shall be (1) a
19 natural person who actively participates in the business of the firm or
20 its affiliated entities, or (2) an entity, including, but not limited
21 to, a partnership or professional corporation, provided each beneficial
22 owner of an equity interest in such entity is a natural person who
23 actively participates in the business conducted by the firm or its
24 affiliated entities. For purposes of this subdivision, "actively
25 participate" means to provide services to clients or to otherwise indi-
26 vidually take part in the day-to-day business or management of the firm.

27 § 13. Subdivision (h) of section 121-101 of the partnership law, as
28 added by chapter 950 of the laws of 1990, is amended to read as follows:

1 (h) "Limited partnership" and "domestic limited partnership" mean,
2 unless the context otherwise requires, a partnership (i) formed by two
3 or more persons pursuant to this article or which complies with subdivi-
4 sion (a) of section 121-1202 of this article and (ii) having one or more
5 general partners and one or more limited partners. Notwithstanding any
6 other provisions of law a limited partnership or domestic limited part-
7 nership formed to lawfully engage in the practice of public accountancy,
8 as such practice is respectively defined under article 149 of the educa-
9 tion law shall be required to show (1) that a simple majority of the
10 ownership of the firm, in terms of financial interests, including owner-
11 ship-based compensation, and voting rights held by the firm's owners,
12 belongs to individuals licensed to practice public accountancy in some
13 state, and (2) that all partners of a limited partnership or domestic
14 limited partnership, whose principal place of business is in this state,
15 and who are engaged in the practice of public accountancy in this state,
16 hold a valid license issued under section 7404 of the education law or
17 are public accountants licensed under section 7405 of the education law.
18 Although firms may include non-licensee owners, the firm and its owners
19 must comply with rules promulgated by the state board for public accoun-
20 tancy. Notwithstanding the foregoing, a firm registered under this
21 section may not have non-licensee owners if the firm's name includes the
22 words "certified public accountant," or "certified public accountants,"
23 or the abbreviations "CPA" or "CPAs." Each non-licensee owner of a firm
24 that is registered under this section shall be (1) a natural person who
25 actively participates in the business of the firm or its affiliated
26 entities, or (2) an entity, including, but not limited to, a partnership
27 or professional corporation, provided each beneficial owner of an equity
28 interest in such entity is a natural person who actively participates in

1 the business conducted by the firm or its affiliated entities. For
2 purposes of this subdivision, "actively participate" means to provide
3 services to clients or to otherwise individually take part in the day-
4 to-day business or management of the firm.

5 § 14. Subdivision (b) of section 1207 of the limited liability company
6 law, as amended by chapter 554 of the laws of 2013, is amended to read
7 as follows:

8 (b) With respect to a professional service limited liability company
9 formed to provide medical services as such services are defined in arti-
10 cle 131 of the education law, each member of such limited liability
11 company must be licensed pursuant to article 131 of the education law to
12 practice medicine in this state. With respect to a professional service
13 limited liability company formed to provide dental services as such
14 services are defined in article 133 of the education law, each member of
15 such limited liability company must be licensed pursuant to article 133
16 of the education law to practice dentistry in this state. With respect
17 to a professional service limited liability company formed to provide
18 veterinary services as such services are defined in article 135 of the
19 education law, each member of such limited liability company must be
20 licensed pursuant to article 135 of the education law to practice veter-
21 inary medicine in this state. With respect to a professional service
22 limited liability company formed to provide professional engineering,
23 land surveying, architectural and/or landscape architectural services as
24 such services are defined in article 145, article 147 and article 148 of
25 the education law, each member of such limited liability company must be
26 licensed pursuant to article 145, article 147 and/or article 148 of the
27 education law to practice one or more of such professions in this state.
28 With respect to a professional service limited liability company formed

1 to provide public accountancy services as such services are defined in
2 article 149 of the education law each member of such limited liability
3 company whose principal place of business is in this state and who
4 provides public accountancy services, must be licensed pursuant to arti-
5 cle 149 of the education law to practice public accountancy in this
6 state. With respect to a professional service limited liability company
7 formed to provide licensed clinical social work services as such
8 services are defined in article 154 of the education law, each member of
9 such limited liability company shall be licensed pursuant to article 154
10 of the education law to practice licensed clinical social work in this
11 state. With respect to a professional service limited liability company
12 formed to provide creative arts therapy services as such services are
13 defined in article 163 of the education law, each member of such limited
14 liability company must be licensed pursuant to article 163 of the educa-
15 tion law to practice creative arts therapy in this state. With respect
16 to a professional service limited liability company formed to provide
17 marriage and family therapy services as such services are defined in
18 article 163 of the education law, each member of such limited liability
19 company must be licensed pursuant to article 163 of the education law to
20 practice marriage and family therapy in this state. With respect to a
21 professional service limited liability company formed to provide mental
22 health counseling services as such services are defined in article 163
23 of the education law, each member of such limited liability company must
24 be licensed pursuant to article 163 of the education law to practice
25 mental health counseling in this state. With respect to a professional
26 service limited liability company formed to provide psychoanalysis
27 services as such services are defined in article 163 of the education
28 law, each member of such limited liability company must be licensed

1 pursuant to article 163 of the education law to practice psychoanalysis
2 in this state. With respect to a professional service limited liability
3 company formed to provide applied behavior analysis services as such
4 services are defined in article 167 of the education law, each member of
5 such limited liability company must be licensed or certified pursuant to
6 article 167 of the education law to practice applied behavior analysis
7 in this state. Notwithstanding any other provisions of law a profes-
8 sional service limited liability company formed to lawfully engage in
9 the practice of public accountancy, as such practice is respectively
10 defined under article 149 of the education law shall be required to show
11 (1) that a simple majority of the ownership of the firm, in terms of
12 financial interests, including ownership-based compensation, and voting
13 rights held by the firm's owners, belongs to individuals licensed to
14 practice public accountancy in some state, and (2) that all members of a
15 limited professional service limited liability company, whose principal
16 place of business is in this state, and who are engaged in the practice
17 of public accountancy in this state, hold a valid license issued under
18 section 7404 of article 149 of the education law or are public account-
19 ants licensed under section 7405 of article 149 of the education law.
20 Although firms may include non-licensee owners, the firm and its owners
21 must comply with rules promulgated by the state board for public accoun-
22 tancy. Notwithstanding the foregoing, a firm registered under this
23 section may not have non-licensee owners if the firm's name includes the
24 words "certified public accountant," or "certified public accountants,"
25 or the abbreviations "CPA" or "CPAs." Each non-licensee owner of a firm
26 that is registered under this section shall be (1) a natural person who
27 actively participates in the business of the firm or its affiliated
28 entities, or (2) an entity, including, but not limited to, a partnership

1 or professional corporation, provided each beneficial owner of an equity
2 interest in such entity is a natural person who actively participates in
3 the business conducted by the firm or its affiliated entities. For
4 purposes of this subdivision, "actively participate" means to provide
5 services to clients or to otherwise individually take part in the day-
6 to-day business or management of the firm.

7 § 14-a. Subdivision (b) of section 1207 of the limited liability
8 company law, as amended by chapter 475 of the laws of 2014, is amended
9 to read as follows:

10 (b) With respect to a professional service limited liability company
11 formed to provide medical services as such services are defined in arti-
12 cle 131 of the education law, each member of such limited liability
13 company must be licensed pursuant to article 131 of the education law to
14 practice medicine in this state. With respect to a professional service
15 limited liability company formed to provide dental services as such
16 services are defined in article 133 of the education law, each member of
17 such limited liability company must be licensed pursuant to article 133
18 of the education law to practice dentistry in this state. With respect
19 to a professional service limited liability company formed to provide
20 veterinary services as such services are defined in article 135 of the
21 education law, each member of such limited liability company must be
22 licensed pursuant to article 135 of the education law to practice veter-
23 inary medicine in this state. With respect to a professional service
24 limited liability company formed to provide professional engineering,
25 land surveying, architectural, landscape architectural and/or geological
26 services as such services are defined in article 145, article 147 and
27 article 148 of the education law, each member of such limited liability
28 company must be licensed pursuant to article 145, article 147 and/or

1 article 148 of the education law to practice one or more of such
2 professions in this state. With respect to a professional service
3 limited liability company formed to provide public accountancy services
4 as such services are defined in article 149 of the education law each
5 member of such limited liability company whose principal place of busi-
6 ness is in this state and who provides public accountancy services, must
7 be licensed pursuant to article 149 of the education law to practice
8 public accountancy in this state. With respect to a professional service
9 limited liability company formed to provide licensed clinical social
10 work services as such services are defined in article 154 of the educa-
11 tion law, each member of such limited liability company shall be
12 licensed pursuant to article 154 of the education law to practice
13 licensed clinical social work in this state. With respect to a profes-
14 sional service limited liability company formed to provide creative arts
15 therapy services as such services are defined in article 163 of the
16 education law, each member of such limited liability company must be
17 licensed pursuant to article 163 of the education law to practice crea-
18 tive arts therapy in this state. With respect to a professional service
19 limited liability company formed to provide marriage and family therapy
20 services as such services are defined in article 163 of the education
21 law, each member of such limited liability company must be licensed
22 pursuant to article 163 of the education law to practice marriage and
23 family therapy in this state. With respect to a professional service
24 limited liability company formed to provide mental health counseling
25 services as such services are defined in article 163 of the education
26 law, each member of such limited liability company must be licensed
27 pursuant to article 163 of the education law to practice mental health
28 counseling in this state. With respect to a professional service limited

1 liability company formed to provide psychoanalysis services as such
2 services are defined in article 163 of the education law, each member of
3 such limited liability company must be licensed pursuant to article 163
4 of the education law to practice psychoanalysis in this state. With
5 respect to a professional service limited liability company formed to
6 provide applied behavior analysis services as such services are defined
7 in article 167 of the education law, each member of such limited liabil-
8 ity company must be licensed or certified pursuant to article 167 of the
9 education law to practice applied behavior analysis in this state.
10 Notwithstanding any other provisions of law a professional service
11 limited liability company formed to lawfully engage in the practice of
12 public accountancy, as such practice is respectively defined under arti-
13 cle 149 of the education law shall be required to show (1) that a simple
14 majority of the ownership of the firm, in terms of financial interests,
15 including ownership-based compensation, and voting rights held by the
16 firm's owners, belongs to individuals licensed to practice public
17 accountancy in some state, and (2) that all members of a limited profes-
18 sional service limited liability company, whose principal place of busi-
19 ness is in this state, and who are engaged in the practice of public
20 accountancy in this state, hold a valid license issued under section
21 7404 of article 149 of the education law or are public accountants
22 licensed under section 7405 of article 149 of the education law.
23 Although firms may include non-licensee owners, the firm and its owners
24 must comply with rules promulgated by the state board for public accoun-
25 tancy. Notwithstanding the foregoing, a firm registered under this
26 section may not have non-licensee owners if the firm's name includes the
27 words "certified public accountant," or "certified public accountants,"
28 or the abbreviations "CPA" or "CPAs." Each non-licensee owner of a firm

1 that is registered under this section shall be (1) a natural person who
2 actively participates in the business of the firm or its affiliated
3 entities, or (2) an entity, including, but not limited to, a partnership
4 or professional corporation, provided each beneficial owner of an equity
5 interest in such entity is a natural person who actively participates in
6 the business conducted by the firm or its affiliated entities. For
7 purposes of this subdivision, "actively participate" means to provide
8 services to clients or to otherwise individually take part in the day-
9 to-day business or management of the firm.

10 § 15. Subdivisions (a) and (f) of section 1301 of the limited liabil-
11 ity company law, subdivision (a) as amended by chapter 554 of the laws
12 of 2013 and subdivision (f) as amended by chapter 170 of the laws of
13 1996, are amended to read as follows:

14 (a) "Foreign professional service limited liability company" means a
15 professional service limited liability company, whether or not denomi-
16 nated as such, organized under the laws of a jurisdiction other than
17 this state, (i) each of whose members and managers, if any, is a profes-
18 sional authorized by law to render a professional service within this
19 state and who is or has been engaged in the practice of such profession
20 in such professional service limited liability company or a predecessor
21 entity, or will engage in the practice of such profession in the profes-
22 sional service limited liability company within thirty days of the date
23 such professional becomes a member, or each of whose members and manag-
24 ers, if any, is a professional at least one of such members is author-
25 ized by law to render a professional service within this state and who
26 is or has been engaged in the practice of such profession in such
27 professional service limited liability company or a predecessor entity,
28 or will engage in the practice of such profession in the professional

1 service limited liability company within thirty days of the date such
2 professional becomes a member, or (ii) authorized by, or holding a
3 license, certificate, registration or permit issued by the licensing
4 authority pursuant to, the education law to render a professional
5 service within this state; except that all members and managers, if any,
6 of a foreign professional service limited liability company that
7 provides health services in this state shall be licensed in this state.
8 With respect to a foreign professional service limited liability company
9 which provides veterinary services as such services are defined in arti-
10 cle 135 of the education law, each member of such foreign professional
11 service limited liability company shall be licensed pursuant to article
12 135 of the education law to practice veterinary medicine. With respect
13 to a foreign professional service limited liability company which
14 provides medical services as such services are defined in article 131 of
15 the education law, each member of such foreign professional service
16 limited liability company must be licensed pursuant to article 131 of
17 the education law to practice medicine in this state. With respect to a
18 foreign professional service limited liability company which provides
19 dental services as such services are defined in article 133 of the
20 education law, each member of such foreign professional service limited
21 liability company must be licensed pursuant to article 133 of the educa-
22 tion law to practice dentistry in this state. With respect to a foreign
23 professional service limited liability company which provides profes-
24 sional engineering, land surveying, architectural and/or landscape
25 architectural services as such services are defined in article 145,
26 article 147 and article 148 of the education law, each member of such
27 foreign professional service limited liability company must be licensed
28 pursuant to article 145, article 147 and/or article 148 of the education

1 law to practice one or more of such professions in this state. With
2 respect to a foreign professional service limited liability company
3 which provides public accountancy services as such services are defined
4 in article 149 of the education law, each member of such foreign profes-
5 sional service limited liability company whose principal place of busi-
6 ness is in this state and who provides public accountancy services,
7 shall be licensed pursuant to article 149 of the education law to prac-
8 tice public accountancy in this state. With respect to a foreign profes-
9 sional service limited liability company which provides licensed clin-
10 ical social work services as such services are defined in article 154 of
11 the education law, each member of such foreign professional service
12 limited liability company shall be licensed pursuant to article 154 of
13 the education law to practice clinical social work in this state. With
14 respect to a foreign professional service limited liability company
15 which provides creative arts therapy services as such services are
16 defined in article 163 of the education law, each member of such foreign
17 professional service limited liability company must be licensed pursuant
18 to article 163 of the education law to practice creative arts therapy in
19 this state. With respect to a foreign professional service limited
20 liability company which provides marriage and family therapy services as
21 such services are defined in article 163 of the education law, each
22 member of such foreign professional service limited liability company
23 must be licensed pursuant to article 163 of the education law to prac-
24 tice marriage and family therapy in this state. With respect to a
25 foreign professional service limited liability company which provides
26 mental health counseling services as such services are defined in arti-
27 cle 163 of the education law, each member of such foreign professional
28 service limited liability company must be licensed pursuant to article

1 163 of the education law to practice mental health counseling in this
2 state. With respect to a foreign professional service limited liability
3 company which provides psychoanalysis services as such services are
4 defined in article 163 of the education law, each member of such foreign
5 professional service limited liability company must be licensed pursuant
6 to article 163 of the education law to practice psychoanalysis in this
7 state. With respect to a foreign professional service limited liability
8 company which provides applied behavior analysis services as such
9 services are defined in article 167 of the education law, each member of
10 such foreign professional service limited liability company must be
11 licensed or certified pursuant to article 167 of the education law to
12 practice applied behavior analysis in this state. Notwithstanding any
13 other provisions of law a foreign professional service limited liability
14 company formed to lawfully engage in the practice of public accountancy,
15 as such practice is respectively defined under article 149 of the educa-
16 tion law shall be required to show (1) that a simple majority of the
17 ownership of the firm, in terms of financial interests, including owner-
18 ship-based compensation, and voting rights held by the firm's owners,
19 belongs to individuals licensed to practice public accountancy in some
20 state, and (2) that all members of a foreign limited professional
21 service limited liability company, whose principal place of business is
22 in this state, and who are engaged in the practice of public accountancy
23 in this state, hold a valid license issued under section 7404 of the
24 education law or are public accountants licensed under section 7405 of
25 the education law. Although firms may include non-licensee owners, the
26 firm and its owners must comply with rules promulgated by the state
27 board for public accountancy. Notwithstanding the foregoing, a firm
28 registered under this section may not have non-licensee owners if the

1 firm's name includes the words "certified public accountant," or "certi-
2 fied public accountants," or the abbreviations "CPA" or "CPAs." Each
3 non-licensee owner of a firm that is registered under this section shall
4 be (1) a natural person who actively participates in the business of the
5 firm or its affiliated entities, or (2) an entity, including, but not
6 limited to, a partnership or professional corporation, provided each
7 beneficial owner of an equity interest in such entity is a natural
8 person who actively participates in the business conducted by the firm
9 or its affiliated entities. For purposes of this subdivision, "actively
10 participate" means to provide services to clients or to otherwise indi-
11 vidually take part in the day-to-day business or management of the firm.

12 (f) "Professional partnership" means (1) a partnership without limited
13 partners each of whose partners is a professional authorized by law to
14 render a professional service within this state, (2) a partnership with-
15 out limited partners each of whose partners is a professional, at least
16 one of whom is authorized by law to render a professional service within
17 this state or (3) a partnership without limited partners authorized by,
18 or holding a license, certificate, registration or permit issued by the
19 licensing authority pursuant to the education law to render a profes-
20 sional service within this state; except that all partners of a profes-
21 sional partnership that provides medical services in this state must be
22 licensed pursuant to article 131 of the education law to practice medi-
23 cine in this state and all partners of a professional partnership that
24 provides dental services in this state must be licensed pursuant to
25 article 133 of the education law to practice dentistry in this state;
26 except that all partners of a professional partnership that provides
27 veterinary services in this state must be licensed pursuant to article
28 135 of the education law to practice veterinary medicine in this state;

1 and further except that all partners of a professional partnership that
2 provides professional engineering, land surveying, architectural, and/or
3 landscape architectural services in this state must be licensed pursuant
4 to article 145, article 147 and/or article 148 of the education law to
5 practice one or more of such professions. With respect to a professional
6 partnership which provides public accountancy services as such services
7 are defined in article 149 of the education law, each member of such
8 professional partnership whose principal place of business is in this
9 state and who provides public accountancy services, shall be licensed
10 pursuant to article 149 of the education law to practice public accoun-
11 tancy. Notwithstanding any other provisions of law a professional part-
12 nership formed to lawfully engage in the practice of public accountancy,
13 as such practice is respectively defined under article 149 of the educa-
14 tion law shall be required to show (1) that a simple majority of the
15 ownership of the firm, in terms of financial interests, including owner-
16 ship-based compensation, and voting rights held by the firm's owners,
17 belongs to individuals licensed to practice public accountancy in some
18 state, and (2) that all members of a limited professional partnership,
19 whose principal place of business is in this state, and who are engaged
20 in the practice of public accountancy in this state, hold a valid
21 license issued under section 7404 of the education law or are public
22 accountants licensed under section 7405 of the education law. Although
23 firms may include non-licensee owners, the firm and its owners must
24 comply with rules promulgated by the state board for public accountancy.
25 Notwithstanding the foregoing, a firm registered under this section may
26 not have non-licensee owners if the firm's name includes the words
27 "certified public accountant," or "certified public accountants," or the
28 abbreviations "CPA" or "CPAs." Each non-licensee owner of a firm that

1 is registered under this section shall be (1) a natural person who
2 actively participates in the business of the firm or its affiliated
3 entities, or (2) an entity, including, but not limited to, a partnership
4 or professional corporation, provided each beneficial owner of an equity
5 interest in such entity is a natural person who actively participates in
6 the business conducted by the firm or its affiliated entities. For
7 purposes of this subdivision, "actively participate" means to provide
8 services to clients or to otherwise individually take part in the day-
9 to-day business or management of the firm.

10 § 15-a. Subdivisions (a) and (f) of section 1301 of the limited
11 liability company law, as amended by chapter 475 of the laws of 2014,
12 are amended to read as follows:

13 (a) "Foreign professional service limited liability company" means a
14 professional service limited liability company, whether or not denomi-
15 nated as such, organized under the laws of a jurisdiction other than
16 this state, (i) each of whose members and managers, if any, is a profes-
17 sional authorized by law to render a professional service within this
18 state and who is or has been engaged in the practice of such profession
19 in such professional service limited liability company or a predecessor
20 entity, or will engage in the practice of such profession in the profes-
21 sional service limited liability company within thirty days of the date
22 such professional becomes a member, or each of whose members and manag-
23 ers, if any, is a professional at least one of such members is author-
24 ized by law to render a professional service within this state and who
25 is or has been engaged in the practice of such profession in such
26 professional service limited liability company or a predecessor entity,
27 or will engage in the practice of such profession in the professional
28 service limited liability company within thirty days of the date such

1 professional becomes a member, or (ii) authorized by, or holding a
2 license, certificate, registration or permit issued by the licensing
3 authority pursuant to, the education law to render a professional
4 service within this state; except that all members and managers, if any,
5 of a foreign professional service limited liability company that
6 provides health services in this state shall be licensed in this state.
7 With respect to a foreign professional service limited liability company
8 which provides veterinary services as such services are defined in arti-
9 cle 135 of the education law, each member of such foreign professional
10 service limited liability company shall be licensed pursuant to article
11 135 of the education law to practice veterinary medicine. With respect
12 to a foreign professional service limited liability company which
13 provides medical services as such services are defined in article 131 of
14 the education law, each member of such foreign professional service
15 limited liability company must be licensed pursuant to article 131 of
16 the education law to practice medicine in this state. With respect to a
17 foreign professional service limited liability company which provides
18 dental services as such services are defined in article 133 of the
19 education law, each member of such foreign professional service limited
20 liability company must be licensed pursuant to article 133 of the educa-
21 tion law to practice dentistry in this state. With respect to a foreign
22 professional service limited liability company which provides profes-
23 sional engineering, land surveying, geologic, architectural and/or land-
24 scape architectural services as such services are defined in article
25 145, article 147 and article 148 of the education law, each member of
26 such foreign professional service limited liability company must be
27 licensed pursuant to article 145, article 147 and/or article 148 of the
28 education law to practice one or more of such professions in this state.

1 With respect to a foreign professional service limited liability company
2 which provides public accountancy services as such services are defined
3 in article 149 of the education law, each member of such foreign profes-
4 sional service limited liability company whose principal place of busi-
5 ness is in this state and who provides public accountancy services,
6 shall be licensed pursuant to article 149 of the education law to prac-
7 tice public accountancy in this state. With respect to a foreign profes-
8 sional service limited liability company which provides licensed clin-
9 ical social work services as such services are defined in article 154 of
10 the education law, each member of such foreign professional service
11 limited liability company shall be licensed pursuant to article 154 of
12 the education law to practice clinical social work in this state. With
13 respect to a foreign professional service limited liability company
14 which provides creative arts therapy services as such services are
15 defined in article 163 of the education law, each member of such foreign
16 professional service limited liability company must be licensed pursuant
17 to article 163 of the education law to practice creative arts therapy in
18 this state. With respect to a foreign professional service limited
19 liability company which provides marriage and family therapy services as
20 such services are defined in article 163 of the education law, each
21 member of such foreign professional service limited liability company
22 must be licensed pursuant to article 163 of the education law to prac-
23 tice marriage and family therapy in this state. With respect to a
24 foreign professional service limited liability company which provides
25 mental health counseling services as such services are defined in arti-
26 cle 163 of the education law, each member of such foreign professional
27 service limited liability company must be licensed pursuant to article
28 163 of the education law to practice mental health counseling in this

1 state. With respect to a foreign professional service limited liability
2 company which provides psychoanalysis services as such services are
3 defined in article 163 of the education law, each member of such foreign
4 professional service limited liability company must be licensed pursuant
5 to article 163 of the education law to practice psychoanalysis in this
6 state. With respect to a foreign professional service limited liability
7 company which provides applied behavior analysis services as such
8 services are defined in article 167 of the education law, each member of
9 such foreign professional service limited liability company must be
10 licensed or certified pursuant to article 167 of the education law to
11 practice applied behavior analysis in this state. Notwithstanding any
12 other provisions of law a foreign professional service limited liability
13 company formed to lawfully engage in the practice of public accountancy,
14 as such practice is respectively defined under article 149 of the educa-
15 tion law shall be required to show (1) that a simple majority of the
16 ownership of the firm, in terms of financial interests, including owner-
17 ship-based compensation, and voting rights held by the firm's owners,
18 belongs to individuals licensed to practice public accountancy in some
19 state, and (2) that all members of a foreign limited professional
20 service limited liability company, whose principal place of business is
21 in this state, and who are engaged in the practice of public accountancy
22 in this state, hold a valid license issued under section 7404 of the
23 education law or are public accountants licensed under section 7405 of
24 the education law. Although firms may include non-licensee owners, the
25 firm and its owners must comply with rules promulgated by the state
26 board for public accountancy. Notwithstanding the foregoing, a firm
27 registered under this section may not have non-licensee owners if the
28 firm's name includes the words "certified public accountant," or "certi-

1 fied public accountants," or the abbreviations "CPA" or "CPAs." Each
2 non-licensee owner of a firm that is registered under this section shall
3 be (1) a natural person who actively participates in the business of the
4 firm or its affiliated entities, or (2) an entity, including, but not
5 limited to, a partnership or professional corporation, provided each
6 beneficial owner of an equity interest in such entity is a natural
7 person who actively participates in the business conducted by the firm
8 or its affiliated entities. For purposes of this subdivision, "actively
9 participate" means to provide services to clients or to otherwise indi-
10 vidually take part in the day-to-day business or management of the firm.

11 (f) "Professional partnership" means (1) a partnership without limited
12 partners each of whose partners is a professional authorized by law to
13 render a professional service within this state, (2) a partnership with-
14 out limited partners each of whose partners is a professional, at least
15 one of whom is authorized by law to render a professional service within
16 this state or (3) a partnership without limited partners authorized by,
17 or holding a license, certificate, registration or permit issued by the
18 licensing authority pursuant to the education law to render a profes-
19 sional service within this state; except that all partners of a profes-
20 sional partnership that provides medical services in this state must be
21 licensed pursuant to article 131 of the education law to practice medi-
22 cine in this state and all partners of a professional partnership that
23 provides dental services in this state must be licensed pursuant to
24 article 133 of the education law to practice dentistry in this state;
25 except that all partners of a professional partnership that provides
26 veterinary services in this state must be licensed pursuant to article
27 135 of the education law to practice veterinary medicine in this state;
28 and further except that all partners of a professional partnership that

1 provides professional engineering, land surveying, geologic, architec-
2 tural, and/or landscape architectural services in this state must be
3 licensed pursuant to article 145, article 147 and/or article 148 of the
4 education law to practice one or more of such professions. With respect
5 to a professional partnership which provides public accountancy services
6 as such services are defined in article 149 of the education law, each
7 member of such professional partnership whose principal place of busi-
8 ness is in this state and who provides public accountancy services,
9 shall be licensed pursuant to article 149 of the education law to prac-
10 tice public accountancy. Notwithstanding any other provisions of law a
11 professional partnership formed to lawfully engage in the practice of
12 public accountancy, as such practice is respectively defined under arti-
13 cle 149 of the education law shall be required to show (1) that a simple
14 majority of the ownership of the firm, in terms of financial interests,
15 including ownership-based compensation, and voting rights held by the
16 firm's owners, belongs to individuals licensed to practice public
17 accountancy in some state, and (2) that all members of a limited profes-
18 sional partnership, whose principal place of business is in this state,
19 and who are engaged in the practice of public accountancy in this state,
20 hold a valid license issued under section 7404 of the education law or
21 are public accountants licensed under section 7405 of the education law.
22 Although firms may include non-licensee owners, the firm and its owners
23 must comply with rules promulgated by the state board for public accoun-
24 tancy. Notwithstanding the foregoing, a firm registered under this
25 section may not have non-licensee owners if the firm's name includes the
26 words "certified public accountant," or "certified public accountants,"
27 or the abbreviations "CPA" or "CPAs." Each non-licensee owner of a firm
28 that is registered under this section shall be (1) a natural person who

1 actively participates in the business of the firm or its affiliated
2 entities, or (2) an entity, including, but not limited to, a partnership
3 or professional corporation, provided each beneficial owner of an equity
4 interest in such entity is a natural person who actively participates in
5 the business conducted by the firm or its affiliated entities. For
6 purposes of this subdivision, "actively participate" means to provide
7 services to clients or to otherwise individually take part in the day-
8 to-day business or management of the firm.

9 § 16. This act shall take effect immediately; provided, however, that
10 sections ten-a, eleven-a, twelve-a, fourteen-a and fifteen-a of this act
11 shall take effect on the same date as sections 25, 26, 27, 22, and 23,
12 respectively, of chapter 475 of the laws of 2014 take effect.

13 PART H

14 Section 1. The education law is amended by adding a new article 129-B
15 to read as follows:

16 ARTICLE 129-B

17 IMPLEMENTATION BY COLLEGES AND UNIVERSITIES OF SEXUAL
18 ASSAULT, DATING VIOLENCE, DOMESTIC VIOLENCE, AND STALKING
19 PREVENTION AND RESPONSE POLICIES AND PROCEDURES

20 Section 6439. General provisions.

21 6440. Definition of affirmative consent to sexual activity.

22 6441. Policy for alcohol and/or drug use amnesty in sexual violence
23 cases.

24 6442. Victim and survivor bill of rights.

25 6443 Response to reports.

1 6444. Campus climate assessments.

2 6445. Options for confidential disclosure.

3 6446. Student onboarding and ongoing education.

4 6447. Privacy in legal challenges to conduct findings.

5 § 6439. General provisions. 1. The trustees or other governing board
6 of each college and university chartered by the regents or incorporated
7 by special act of the legislature and which maintains a campus, unless
8 otherwise provided, shall adopt written rules for implementing all poli-
9 cies required pursuant to this article and for the maintenance of public
10 order on college campuses and other college property used for educa-
11 tional purposes and provide a program for the enforcement thereof. Such
12 policies shall also apply to conduct that has a nexus to a college or
13 university program and/or takes place outside of a college or university
14 property but is in violation of federal, state or local law.

15 2. Sexual assault, domestic violence, dating violence and stalking
16 affect thousands of college and university students in New York state
17 and across the nation. In addition to the trauma caused by such
18 violence, many victims and survivors drop out of school, experience
19 difficulty working, and see promising opportunities cut short. While it
20 is not just college or university students that experience these crimes,
21 these institutions have unique opportunities to educate members of the
22 college community about these crimes and incidents so that we can better
23 safeguard students. Therefore, each college and university must develop
24 and implement the policies required pursuant to this article.

25 3. Each college and university shall annually file with the department
26 on or before the first day of July a certificate of compliance with the
27 provisions of this article.

1 4. If a college or university fails to file a certificate of compli-
2 ance pursuant to subdivision three of this section within sixty days of
3 the time required, such college or university shall not be eligible to
4 receive any state aid or assistance until such certificate of compliance
5 is duly filed.

6 5. Each college and university shall file a copy of all written rules
7 and policies adopted as required in this article with the department on
8 or before the first day of July, two thousand sixteen, and once every
9 ten years thereafter, except that the second filing shall coincide with
10 the required filing under article one hundred twenty-nine-A of this
11 chapter, and continue on the same cycle thereafter.

12 6. A copy of such rules and policies shall be given by each college
13 and university to all students enrolled in said college or university.
14 Each college and university shall also post such rules and policies on
15 its website in an easily accessible manner to the public.

16 7. Colleges and universities shall refer to applicable state and
17 federal law, regulations and policy guidance in developing and imple-
18 menting the policies required pursuant to this article, including refer-
19 ence to state and federal definitions of terms not specifically defined
20 herein.

21 § 6440. Definition of affirmative consent to sexual activity. Each
22 college and university shall adopt a uniform definition of affirmative
23 consent in their code of student conduct or similar document governing
24 student behavior. This definition shall state that "Affirmative consent
25 is a clear, unambiguous, knowing, informed, and voluntary agreement
26 between all participants to engage in sexual activity. Consent is
27 active, not passive. Silence or lack of resistance cannot be interpreted
28 as consent. Seeking and having consent accepted is the responsibility of

1 the person(s) initiating each specific sexual act regardless of whether
2 the person initiating the act is under the influence of drugs and/or
3 alcohol. Consent to any sexual act or prior consensual sexual activity
4 between or with any party does not constitute consent to any other sexu-
5 al act. The definition of consent does not vary based upon a partic-
6 ipant's sex, sexual orientation, gender identity or gender expression.
7 Consent may be initially given but withdrawn at any time. When consent
8 is withdrawn or cannot be given, sexual activity must stop. Consent
9 cannot be given when a person is incapacitated. Incapacitation occurs
10 when an individual lacks the ability to fully and knowingly choose to
11 participate in sexual activity. Incapacitation includes impairment due
12 to drugs or alcohol (whether such use is voluntary or involuntary), the
13 lack of consciousness or being asleep, being involuntarily restrained,
14 if any of the parties are under the age of 17, or if an individual
15 otherwise cannot consent. Consent cannot be given when it is the result
16 of any coercion, intimidation, force, or threat of harm."

17 § 6441. Policy for alcohol and/or drug use amnesty in sexual violence
18 cases. 1. A bystander who reports in good faith or a victim reporting
19 sexual violence to college or university officials or law enforcement
20 shall not be subject to campus conduct action for violations of alcohol
21 and drug use policies occurring at or near the time of the incident.
22 Each college and university shall adopt and implement the following
23 policy: "The health and safety of every student at the
24 (College/University) is of utmost importance. (College/University)
25 recognizes that students who have been drinking and/or using drugs
26 (whether such use is voluntary or involuntary) at the time a sexual
27 violence incident occurs may be hesitant to report such incidents due to
28 fear of potential consequences for their own conduct.

1 (College/University) strongly encourages students to report incidents of
2 sexual violence to campus officials. A bystander reporting in good faith
3 or a victim/survivor reporting a sexual violence incident to
4 (College/University) officials or law enforcement will not be subject to
5 campus conduct action for violations of alcohol and/or drug use policies
6 occurring at or near the time of the sexual violence incident."

7 2. For purposes of this article, the term "sexual violence" shall mean
8 physical sexual acts perpetrated against a person's will or perpetrated
9 where a person is incapable of giving consent including, but not limited
10 to, rape, sexual assault, sexual battery, sexual abuse, and sexual coer-
11 cion. The term "bystander" shall mean a person who observes a crime,
12 impending crime, conflict, unacceptable behavior, or conduct that is in
13 violation of rules or policies of a college or university.

14 § 6442. Victim and survivor bill of rights. 1. Each college and
15 university shall adopt a victim and survivor bill of rights. This bill
16 of rights shall state the following: "All victims and survivors have the
17 right to: (a) Make a report to local law enforcement and/or state
18 police; (b) Have disclosures of sexual violence treated seriously; (c)
19 Make a decision about whether or not to disclose a crime or incident and
20 participate in the conduct or criminal justice process free from outside
21 pressures from college/university officials; (d) Be treated with dignity
22 and to receive from college/university officials courteous, fair, and
23 respectful health care and counseling services; (e) Be free from any
24 suggestion that the victim/survivor is at fault when these crimes and
25 violations are committed, or should have acted in a different manner to
26 avoid such a crime; (f) Describe the incident to as few individuals as
27 practicable and not to be required to unnecessarily repeat a description
28 of the incident; (g) Be free from retaliation by the college/university,

1 the accused, and/or their friends, family and acquaintances; and (h)
2 Exercise civil rights and practice of religion without interference by
3 the investigative, criminal justice, or conduct process of the
4 college/university."

5 2. In accordance with provisions of this section, each college and
6 university shall list the following options in brief: victims and survi-
7 vors have many options that can be pursued simultaneously, including one
8 or more of the following: (a) Receive resources, such as counseling and
9 medical attention; (b) Confidentially or anonymously disclose a crime or
10 violation; (c) Make a report to an employee with the authority to
11 address complaints, including the title IX coordinator, a student
12 conduct employee, a human resources employee, university police or
13 campus security, or family court or civil court; and (d) Make a report
14 to local law enforcement and/or state police.

15 3. This bill of rights shall be distributed annually to students, made
16 available on each college and university website, and posted in each
17 campus residence hall, dining hall, and student union or campus center
18 and shall include links or information to file a report and seek a
19 response, pursuant to section sixty-four hundred forty-three of this
20 article, and the options for confidential disclosure pursuant to section
21 sixty-four hundred forty-four of this article.

22 § 6443. Response to reports. 1. In accordance with the victim/survivor
23 bill of rights set forth in section sixty-four hundred forty-two of this
24 article and the right of victims and survivors to make a report to local
25 law enforcement and/or state police, each college and university shall
26 ensure that victims and survivors are provided with the following infor-
27 mation:

28 a. The right to notify local law enforcement and/or state police;

1 b. The right to report confidentially the incident to college or
2 university officials, who may maintain confidentiality pursuant to
3 applicable laws, and can assist in obtaining services for the victims
4 and survivors;

5 c. The right to disclose confidentially the incident and obtain
6 services from New York state, New York city, or county services;

7 d. The right to report the incident to college or university officials
8 who can offer privacy and can assist in obtaining resources;

9 e. The right to file a criminal complaint with university police
10 and/or campus security;

11 f. The right to file a report of sexual assault, domestic violence,
12 dating violence, and/or stalking, and the right to consult the title IX
13 coordinator for information and assistance. Reports shall be investi-
14 gated in accordance with college or university policy and a
15 victim/survivor's identity shall remain private at all times if said
16 victim/survivor wishes to maintain confidentiality;

17 g. When the accused is an employee, the right to report the incident
18 to the college or university human resources authority or the right to
19 request that a confidential or private employee assist in reporting to
20 the appropriate human resources authority. Disciplinary proceedings will
21 be conducted in accordance with applicable collective bargaining agree-
22 ments. When the accused is an employee of an affiliated entity or vendor
23 of the college, college or university officials will, at the request of
24 the victim/survivor, assist in reporting to the appropriate office of
25 the vendor or affiliated entity and, if the response of the vendor or
26 affiliated entity is not deemed sufficient by the college or university
27 officials, assist in obtaining a persona non grata letter, subject to
28 legal requirements and college policy;

1 h. The right to withdraw a complaint or involvement from the college
2 or university process at any time.

3 2. Each college and university shall ensure that victims and survivors
4 have information about resources, including intervention, mental health
5 counseling, and medical. The policy shall also provide information on
6 sexually transmitted infections, sexual assault forensic examinations,
7 and resources available through the office of victim services, estab-
8 lished pursuant to section six hundred twenty-two of the executive law.

9 3. Each college and university shall ensure that victims and survivors
10 have the following protections and accommodations:

11 a. When the accused is a student, to have the college issue a "no
12 contact order," whereby continued contact with the protected individual
13 would be a violation of college or university policy subject to addi-
14 tional conduct charges; if the accused and a protected person observe
15 each other in a public place, it is the responsibility of the accused to
16 leave the area immediately and without directly contacting the protected
17 person;

18 b. To have assistance from university police or campus security or
19 other college or university officials in obtaining an order of
20 protection or, if outside of New York state, an equivalent protective or
21 restraining order;

22 c. To receive a copy of the order of protection or equivalent and have
23 an opportunity to meet or speak with a college or university official
24 who can explain the order and answer questions about it, including
25 information from the order about the accused's responsibility to stay
26 away from the protected person or persons; that burden does not rest on
27 the protected person or persons;

1 d. A right to an explanation of the consequences for violating these
2 orders, including but not limited to arrest, additional conduct charges,
3 and interim suspension;

4 e. To receive assistance from university police or campus security in
5 effecting an arrest when an individual violates an order of protection
6 or, if university police or campus security does not possess arresting
7 powers, then to call on and assist local law enforcement in effecting an
8 arrest for violating such an order;

9 f. When the accused is a student and presents a continuing threat to
10 the health and safety of the community, to subject the accused to inter-
11 im suspension pending the outcome of a conduct process;

12 g. When the accused is not a student but is a member of the college
13 community and presents a continuing threat to the health and safety of
14 the community, to subject the accused to interim measures in accordance
15 with applicable collective bargaining agreements, employee handbooks,
16 and rules and policies of the college or university;

17 h. When the accused is not a member of the college community, to have
18 assistance from university police or campus security or other college or
19 university officials in obtaining a persona non grata letter, subject to
20 applicable legal requirements and policies; and

21 i. To obtain reasonable and available interim measures and accommo-
22 dations that effect a change in academic, housing, employment, transpor-
23 tation, or other applicable arrangements in order to ensure safety,
24 prevent retaliation, and avoid an ongoing hostile environment.

25 4. Each college and university shall ensure that students participat-
26 ing in the student conduct or judicial process be afforded the following
27 rights and responsibilities:

1 a. The right to file student conduct charges against the accused.
2 Conduct proceedings are governed by the procedures set forth in college
3 or university rules as well as federal and New York state law, includ-
4 ing, where applicable, the due process provisions of the United States
5 constitution and New York state constitution.

6 b. Throughout conduct proceedings, the accused and the victim/survivor
7 shall be provided:

8 (1) The same opportunity to have access to an advisor of their choice,
9 where participation of the advisor in any proceeding shall be in compli-
10 ance with applicable federal laws and the student code of conduct.

11 (2) The right to a prompt response to any complaint and to have the
12 complaint investigated and adjudicated in an impartial, timely, and
13 thorough manner by individuals who receive annual training in conducting
14 investigations of sexual violence, the effects of trauma, and other
15 issues related to sexual violence including but not limited to sexual
16 assault, domestic violence, dating violence, and stalking.

17 (3) The right to an investigation and process that is fair, impartial,
18 and provides a meaningful opportunity to be heard.

19 (4) The right to receive written or electronic notice of any meeting
20 or hearing they are required to or are eligible to attend.

21 (5) The right to have a conduct process run concurrently with a crimi-
22 nal justice investigation and proceeding, except for temporary delays as
23 requested by external municipal entities while law enforcement gathers
24 evidence. To comply with federal law, temporary delays should not last
25 more than ten days except when law enforcement specifically requests and
26 justifies a longer delay.

27 (6) The right to review available evidence in the case file.

1 (7) The right to a range of options for providing testimony via alter-
2 native arrangements, including telephone/videoconferencing or testifying
3 with a room partition.

4 (8) The right to exclude prior sexual history or past mental health
5 history from admittance in the college disciplinary stage that deter-
6 mines responsibility. Past sexual violence findings may be admissible in
7 the disciplinary stage that determines sanction.

8 (9) The right to ask questions of the decision maker and via the deci-
9 sion maker indirectly request responses from other parties and any other
10 witnesses present.

11 (10) The right to make an impact statement during the point of the
12 proceeding where the decision maker is deliberating on appropriate sanc-
13 tions.

14 (11) The right to simultaneous (among the parties) written or elec-
15 tronic notification of the outcome of a conduct proceeding, including
16 the sanction or sanctions.

17 (12) The right to know the sanction or sanctions that may be imposed
18 on the accused based upon the outcome of the conduct proceeding and the
19 reason for the actual sanction imposed. For students found responsible
20 for committing sexual assault, the available sanctions shall be either
21 immediate suspension with additional requirements or expulsion.

22 c. The right to choose whether to disclose or discuss the outcome of a
23 conduct hearing.

24 § 6444. Campus climate assessments. 1. Each college and university
25 shall conduct a campus climate assessment aimed at ascertaining general
26 awareness and knowledge of provisions of this article, developed using
27 standard and commonly recognized research methods, and shall conduct
28 such assessment no less than every other year.

1 2. The assessment shall include questions covering at least the
2 following topics regarding student and employee knowledge about (a) The
3 title IX coordinator's role; (b) Campus policies and procedures address-
4 ing sexual assault; (c) How and where to report sexual violence as a
5 victim, survivor or witness; (d) The availability of resources on and
6 off campus, such as counseling, health, and academic assistance; (e) The
7 prevalence of victimization and perpetration of sexual assault, domestic
8 violence, dating violence, and stalking on and off campus during a set
9 time period; (f) Bystander attitudes and behavior; and (g) Whether
10 victims and survivors reported to the college or university and/or
11 police, and reasons why they did or did not report.

12 3. Each college and university shall take steps to ensure that answers
13 to such assessments remain anonymous and no individual respondent is
14 identified.

15 4. Each college and university shall publish detailed results of such
16 surveys on their Internet website provided that no personally identifi-
17 able information or information which can reasonably lead a reader to
18 identify an individual respondent shall be shared.

19 5. Nothing in this section shall be subject to discovery or admitted
20 into evidence in a federal or state court proceeding or considered for
21 other purposes in any action for damages brought by a private party
22 against a college or university.

23 § 6445. Options for confidential disclosure. In accordance with the
24 victim/survivor bill of rights set forth in section sixty-four hundred
25 forty-two of this article, each college and university shall ensure that
26 victims and survivors have the following information: (a) information
27 regarding privileged and confidential resources they may contact regard-
28 ing violence; (b) information about non-professional counselors and

1 advocates they may contact regarding violence; (c) a plain language
2 explanation of the differences between privacy and confidentiality; (d)
3 information about how the college or university will weigh a request for
4 confidentiality and respond to such a request. Such information shall at
5 minimum include that if a victim/survivor discloses an incident to a
6 college or university employee who is responsible for responding to or
7 reporting sexual violence or sexual harassment, but wishes to maintain
8 confidentiality or does not consent to the institution's request to
9 initiate an investigation, the title IX coordinator must weigh the
10 request against the college or university's obligation to provide a
11 safe, non-discriminatory environment for all members of its community.
12 The college or university will assist with academic, housing, transpor-
13 tation, employment, and other reasonable and available accommodations
14 regardless of reporting choices. The college or university may take
15 proactive steps, such as training or awareness efforts, to combat sexual
16 violence in a general way that does not identify those who disclose or
17 the information disclosed. The college or university may seek consent
18 from those who disclose prior to conducting an investigation. Declining
19 to consent to an investigation will be honored unless the college or
20 university determines in good faith that failure to investigate does not
21 adequately mitigate a potential risk of harm to the disclosing person or
22 other members of the community. Honoring such a request may limit the
23 college or university's ability to meaningfully investigate and pursue
24 conduct action against an accused individual. If the college or univer-
25 sity determines that an investigation is required, it will notify the
26 disclosing person and take immediate action as necessary to protect and
27 assist them. Factors used to determine whether to honor a confidentiali-
28 ty request include, but are not limited to: (1) Whether the accused has

1 a history of violent behavior or is a repeat offender; (2) Whether the
2 incident represents escalation in unlawful conduct on behalf of the
3 accused from previously noted behavior; (3) The increased risk that the
4 accused will commit additional acts of violence; (4) Whether the accused
5 used a weapon or force; (5) Whether the victim/survivor is a minor; and
6 (6) Whether the college or university possesses other means to obtain
7 evidence such as security footage, and whether available information
8 reveals a pattern of perpetration at a given location or by a particular
9 group; (e) information about public awareness and advocacy events,
10 including guarantees that if an individual discloses information through
11 a public awareness event such as candlelight vigils, protests, or other
12 public event, the college or university is not obligated to begin an
13 investigation based on such information. The college or university may
14 use the information provided at such an event to inform its efforts for
15 additional education and prevention efforts; (f) information about meth-
16 ods to anonymously disclose including but not limited to information on
17 relevant confidential hotlines provided by New York state agencies and
18 not-for-profit entities; (g) information regarding institutional crime
19 reporting including but not limited to: reports of certain crimes occur-
20 ring in specific geographic locations that shall be included in the
21 college or university annual security report pursuant to the clery act,
22 20 U.S.C. 1092(f), in an anonymized manner that neither identifies the
23 specifics of the crime or the identity of the victim/survivor; that the
24 college or university is obligated to issue timely warnings of crimes
25 enumerated in the clery act occurring within relevant geography that
26 represent a serious or continuing threat to students and employees,
27 except in those circumstances where issuing such a warning may compro-
28 mise current law enforcement efforts or when the warning itself could

1 potentially identify the victim/survivor; that a victim or survivor
2 shall not be identified in a timely warning; that the family educational
3 rights and privacy act, 20 U.S.C. 1232(g), allows institutions to share
4 information with parents when (1) there is a health or safety emergency,
5 or (2) when the student is a dependent on either parent's prior year
6 federal income tax return, and that generally, the college or university
7 shall not share information about a report of sexual violence with
8 parents without the permission of the victim/survivor.

9 § 6446. Student onboarding and ongoing education. 1. Each college and
10 university shall adopt a comprehensive student onboarding and ongoing
11 education campaign to educate members of the college or university
12 community about sexual assault, domestic violence, dating violence and
13 stalking, in compliance with applicable federal laws, including the
14 clery act as amended by the violence against women act reauthorization
15 of 2013, 20 U.S.C. 1092(f).

16 2. Included in this campaign it shall be a requirement that all new
17 first-year and transfer students shall, during the course of their
18 onboarding to their college or university, receive training on the
19 following topics, using a method and manner appropriate to the institu-
20 tional culture of each college or university: (a) The college or univer-
21 sity prohibits sexual harassment, including sexual violence, other
22 violence or threats of violence, and will offer resources to any victims
23 and survivors of such violence while taking administrative and conduct
24 action regarding any accused individual within the jurisdiction of the
25 college or university; (b) Relevant definitions including, but not
26 limited to, the definitions of sexual violence and consent; (c) Policies
27 apply equally to all students regardless of sexual orientation, gender
28 identity, or gender expression; (d) The role of the title IX coordina-

1 tor, university police or campus security, and other relevant offices
2 that address sexual violence prevention and response; (e) Awareness of
3 violence, its impact on victims and survivors and their friends and
4 family, and its long-term impact; (f) The policies required by sections
5 sixty-four hundred forty-three and sixty-four hundred forty-four of this
6 article, including: (1) How to report sexual violence and other crimes
7 confidentially to college or university officials, campus law enforce-
8 ment and security, and local law enforcement; and (2) How to obtain
9 services and support; (g) Bystander intervention and the importance of
10 taking action, when one can safely do so, to prevent violence; (h) The
11 protections of the policy for alcohol and/or drug use amnesty in sexual
12 violence cases as outlined in section sixty-four hundred forty-one of
13 this article; (i) Risk assessment and reduction including, but not
14 limited to, steps that potential victims and survivors and bystanders
15 can take to lower the incidence of sexual violence; and (j) Consequences
16 and sanctions for individuals who commit these crimes.

17 3. Each college and university shall conduct these trainings for all
18 new students, whether first-year or transfer, undergraduate, graduate,
19 or professional.

20 4. Each college and university shall use multiple methods to educate
21 students about violence prevention and will also share information on
22 sexual violence prevention with parents of enrolling students.

23 5. Each college and university shall offer to all students general and
24 specialized training in sexual violence prevention. Each college and
25 university shall conduct a campaign, compliant with the requirements of
26 the violence against women act, 20 U.S.C. 1092(f), to educate the
27 student population. Further, each college and university shall, as
28 appropriate, provide or expand specific training to include groups such

1 as international students, students that are also employees, leaders and
2 officers of registered or recognized student organizations, and online
3 and distance education students. Each college and university shall also
4 provide specific training to members of groups identified as likely to
5 engage in high-risk behavior.

6 6. Each college and university shall require that student leaders and
7 officers of student organizations recognized by or registered with the
8 college or university, as well as those seeking recognition by the
9 college or university, complete training on sexual violence prevention
10 as part of the approval process, and each college and university shall
11 require that student-athletes complete training on sexual violence
12 prevention prior to participating in intercollegiate athletic competi-
13 tion.

14 7. Methods of training and educating students may include, but are not
15 limited to: (a) President's welcome messaging; (b) Peer theater and peer
16 educational programs; (c) Online training; (d) Social media outreach;
17 (e) First-year seminars and transitional courses; (f) Course syllabi;
18 (g) Faculty teach-ins; (h) Institution-wide reading programs; (i) Post-
19 ers, bulletin boards, and other targeted print and email materials; (j)
20 Programming surrounding large recurring campus events; (k) Partnering
21 with neighboring colleges and universities to offer training and educa-
22 tion; (l) Partnering with state and local community organizations that
23 provide outreach, support, crisis intervention, counseling and other
24 resources to victims and survivors of crimes to offer training and
25 education; and (m) Outreach and partnering with local businesses that
26 attract students to advertise and educate about these policies.

27 8. Each college and university must engage in an occasional assessment
28 of its program and policies established pursuant to provisions of this

1 article, in order to determine effectiveness and relevance for students,
2 by either assessing its own programming or by conducting a review of
3 policies of other colleges and universities and published studies.

4 § 6447. Privacy in legal challenges to conduct findings. In any
5 proceeding brought against a college or university chartered by the
6 regents or incorporated by special act of the legislature and which
7 maintains a campus, challenging a finding that a student was responsible
8 for a violation of the college or university rules, the pleadings and
9 other papers of such a proceeding shall not name or provide identifying
10 information about testifying witnesses (including a victim or survivor
11 of a crime) with the exception of the petitioner, individuals testifying
12 in their professional or expert capacity, and witnesses who waive this
13 right to privacy in a notarized instrument presented to the court.
14 Witnesses shall be identified only as numbered witnesses.

15 § 2. This act shall take effect immediately; provided, however, that
16 sections sixty-four hundred thirty-nine, sixty-four hundred forty,
17 sixty-four hundred forty-two, sixty-four hundred forty-four and sixty-
18 four hundred forty-five of article 29-B of the education law, as added
19 by section one of this act, shall take effect on the one hundred eight-
20 ieth day after it shall have become a law; sections sixty-four hundred
21 forty-one and sixty-four hundred forty-six of article 29-B of the educa-
22 tion law, as added by section one of this act, shall take effect on the
23 sixtieth day after it shall have become a law, and section sixty-four
24 hundred forty-three of article 29-B of the education law, as added by
25 section one of this act, shall take effect on the four hundred twenty-
26 fifth day after it shall have become a law.

1 Section 1. Paragraphs (a), (b), (c) and (d) of subdivision 1 of
2 section 131-o of the social services law, as amended by section 1 of
3 part E of chapter 58 of the laws of 2014, are amended to read as
4 follows:

5 (a) in the case of each individual receiving family care, an amount
6 equal to at least [~~\$139.00~~] \$141.00 for each month beginning on or after
7 January first, two thousand [~~fourteen~~] fifteen.

8 (b) in the case of each individual receiving residential care, an
9 amount equal to at least [~~\$160.00~~] \$163.00 for each month beginning on
10 or after January first, two thousand [~~fourteen~~] fifteen.

11 (c) in the case of each individual receiving enhanced residential
12 care, an amount equal to at least [~~\$190.00~~] \$193.00 for each month
13 beginning on or after January first, two thousand [~~fourteen~~] fifteen.

14 (d) for the period commencing January first, two thousand [~~fifteen~~]
15 sixteen, the monthly personal needs allowance shall be an amount equal
16 to the sum of the amounts set forth in subparagraphs one and two of this
17 paragraph:

18 (1) the amounts specified in paragraphs (a), (b) and (c) of this
19 subdivision; and

20 (2) the amount in subparagraph one of this paragraph, multiplied by
21 the percentage of any federal supplemental security income cost of
22 living adjustment which becomes effective on or after January first, two
23 thousand [~~fifteen~~] sixteen, but prior to June thirtieth, two thousand
24 [~~fifteen~~] sixteen, rounded to the nearest whole dollar.

25 § 2. Paragraphs (a), (b), (c), (d), (e) and (f) of subdivision 2 of
26 section 209 of the social services law, as amended by section 2 of part
27 E of chapter 58 of the laws of 2014, are amended to read as follows:

1 (a) On and after January first, two thousand [fourteen] fifteen, for
2 an eligible individual living alone, [\$808.00] \$820.00; and for an
3 eligible couple living alone, [\$1186.00] \$1204.00.

4 (b) On and after January first, two thousand [fourteen] fifteen, for
5 an eligible individual living with others with or without in-kind
6 income, [\$744.00] \$756.00; and for an eligible couple living with others
7 with or without in-kind income, [\$1128.00] \$1146.00.

8 (c) On and after January first, two thousand [fourteen] fifteen, (i)
9 for an eligible individual receiving family care, [\$987.48] \$999.48 if
10 he or she is receiving such care in the city of New York or the county
11 of Nassau, Suffolk, Westchester or Rockland; and (ii) for an eligible
12 couple receiving family care in the city of New York or the county of
13 Nassau, Suffolk, Westchester or Rockland, two times the amount set forth
14 in subparagraph (i) of this paragraph; or (iii) for an eligible individ-
15 ual receiving such care in any other county in the state, [\$949.48]
16 \$961.48; and (iv) for an eligible couple receiving such care in any
17 other county in the state, two times the amount set forth in subpara-
18 graph (iii) of this paragraph.

19 (d) On and after January first, two thousand [fourteen] fifteen, (i)
20 for an eligible individual receiving residential care, [\$1156.00]
21 \$1168.00 if he or she is receiving such care in the city of New York or
22 the county of Nassau, Suffolk, Westchester or Rockland; and (ii) for an
23 eligible couple receiving residential care in the city of New York or
24 the county of Nassau, Suffolk, Westchester or Rockland, two times the
25 amount set forth in subparagraph (i) of this paragraph; or (iii) for an
26 eligible individual receiving such care in any other county in the
27 state, [\$1126.00] \$1138.00; and (iv) for an eligible couple receiving

1 such care in any other county in the state, two times the amount set
2 forth in subparagraph (iii) of this paragraph.

3 (e) (i) On and after January first, two thousand [fourteen] fifteen,
4 for an eligible individual receiving enhanced residential care,
5 [\\$1415.00] \$1427.00; and (ii) for an eligible couple receiving enhanced
6 residential care, two times the amount set forth in subparagraph (i) of
7 this paragraph.

8 (f) The amounts set forth in paragraphs (a) through (e) of this subdi-
9 vision shall be increased to reflect any increases in federal supple-
10 mental security income benefits for individuals or couples which become
11 effective on or after January first, two thousand [fifteen] sixteen but
12 prior to June thirtieth, two thousand [fifteen] sixteen.

13 § 3. This act shall take effect December 31, 2015.

14 PART J

15 Section 1. Paragraph (vi) of subdivision (a) of section 115 of the
16 family court act, as amended by chapter 222 of the laws of 1994, is
17 amended to read as follows:

18 (vi) proceedings concerning juvenile delinquency as set forth in arti-
19 cle three that are commenced in family court.

20 § 2. Subdivision (e) of section 115 of the family court act, as added
21 by chapter 222 of the laws of 1994, is amended to read as follows:

22 (e) The family court has concurrent jurisdiction with the criminal
23 court over all family offenses as defined in article eight of this act
24 and has concurrent jurisdiction with the youth part of a superior court
25 over any juvenile delinquency proceeding resulting from the removal of

1 the case to the family court pursuant to article seven hundred twenty-
2 five of the criminal procedure law.

3 § 3. Subdivision (b) of section 117 of the family court act, as
4 amended by chapter 7 of the laws of 2007, is amended to read as follows:

5 (b) For every juvenile delinquency proceeding under article three of
6 this act involving an allegation of an act committed by a person which,
7 if done by an adult, would [be a crime (i) defined in sections 125.27
8 (murder in the first degree); 125.25 (murder in the second degree);
9 135.25 (kidnapping in the first degree); or 150.20 (arson in the first
10 degree) of the penal law committed by a person thirteen, fourteen or
11 fifteen years of age; or such conduct committed as a sexually motivated
12 felony, where authorized pursuant to section 130.91 of the penal law;
13 (ii) defined in sections 120.10 (assault in the first degree); 125.20
14 (manslaughter in the first degree); 130.35 (rape in the first degree);
15 130.50 (criminal sexual act in the first degree); 135.20 (kidnapping in
16 the second degree), but only where the abduction involved the use or
17 threat of use of deadly physical force; 150.15 (arson in the second
18 degree); or 160.15 (robbery in the first degree) of the penal law
19 committed by a person thirteen, fourteen or fifteen years of age; or
20 such conduct committed as a sexually motivated felony, where authorized
21 pursuant to section 130.91 of the penal law; (iii) defined in the penal
22 law as an attempt to commit murder in the first or second degree or
23 kidnapping in the first degree committed by a person thirteen, fourteen
24 or fifteen years of age; or such conduct committed as a sexually moti-
25 vated felony, where authorized pursuant to section 130.91 of the penal
26 law; (iv) defined in section 140.30 (burglary in the first degree);
27 subdivision one of section 140.25 (burglary in the second degree);
28 subdivision two of section 160.10 (robbery in the second degree) of the

1 penal law; or section 265.03 of the penal law, where such machine gun or
2 such firearm is possessed on school grounds, as that phrase is defined
3 in subdivision fourteen of section 220.00 of the penal law committed by
4 a person fourteen or fifteen years of age; or such conduct committed as
5 a sexually motivated felony, where authorized pursuant to section 130.91
6 of the penal law; (v) defined in section 120.05 (assault in the second
7 degree) or 160.10 (robbery in the second degree) of the penal law
8 committed by a person fourteen or fifteen years of age but only where
9 there has been a prior finding by a court that such person has previous-
10 ly committed an act which, if committed by an adult, would be the crime
11 of assault in the second degree, robbery in the second degree or any
12 designated felony act specified in clause (i), (ii) or (iii) of this
13 subdivision regardless of the age of such person at the time of the
14 commission of the prior act; or (vi) other than a misdemeanor, committed
15 by a person at least seven but less than sixteen years of age, but only
16 where there has been two prior findings by the court that such person
17 has committed a prior act which, if committed by an adult would be a
18 felony] constitute a designated felony act as defined in subdivision
19 eight of section 301.2 of such article:

20 (i) There is hereby established in the family court in the city of New
21 York at least one "designated felony act part." Such part or parts shall
22 be held separate from all other proceedings of the court, and shall have
23 jurisdiction over all proceedings involving such an allegation that are
24 not referred to the youth part of a superior court. All such proceedings
25 shall be originated in or be transferred to this part from other parts
26 as they are made known to the court.

1 (ii) Outside the city of New York, all proceedings involving such an
2 allegation shall have a hearing preference over every other proceeding
3 in the court, except proceedings under article ten.

4 § 4. Subdivision 1 of section 301.2 of the family court act, as added
5 by chapter 920 of the laws of 1982, is amended to read as follows:

6 1. "Juvenile delinquent" means a person [over seven and less than
7 sixteen years of age, who, having committed an act that would constitute
8 a crime if committed by an adult, (a) is not criminally responsible for
9 such conduct by reason of infancy, or (b) is the defendant in an action
10 ordered removed from a criminal court to the family court pursuant to
11 article seven hundred twenty-five of the criminal procedure law]:

12 (a) who is:

13 (i) ten or eleven years of age who committed an act that would consti-
14 tute a crime as defined in section 125.27 (murder in the first degree)
15 or 125.25 (murder in the second degree) of the penal law if committed by
16 an adult; or

17 (ii) at least twelve years of age and less than sixteen years of age
18 who committed an act that would constitute a crime if committed by an
19 adult; or

20 (iii) sixteen years of age or commencing January first, two thousand
21 eighteen, sixteen or seventeen years of age who committed an act that
22 would constitute a crime, or disorderly conduct as defined in section
23 240.20 of the penal law, or harassment in the second degree as defined
24 in section 240.26 of the penal law if committed by an adult; and

25 (b) who is either:

26 (i) not criminally responsible for such conduct by reason of infancy;
27 or

1 (ii) the defendant in an action based on such act that has been
2 ordered to the family court pursuant to article seven hundred twenty-
3 five of the criminal procedure law.

4 § 5. Subdivisions 8 and 9 of section 301.2 of the family court act,
5 subdivision 8 as amended by chapter 7 of the laws of 2007 and subdivi-
6 sion 9 as added by chapter 920 of the laws of 1982, are amended to read
7 as follows:

8 8. "Designated felony act" means an act which, if done by an adult,
9 would be a crime: (i) defined in sections 125.27 (murder in the first
10 degree); 125.25 (murder in the second degree); 135.25 (kidnapping in the
11 first degree); or 150.20 (arson in the first degree) of the penal law
12 committed by a person thirteen, fourteen or fifteen years of age; or
13 such conduct committed as a sexually motivated felony, where authorized
14 pursuant to section 130.91 of the penal law; (ii) defined in sections
15 120.10 (assault in the first degree); 125.20 (manslaughter in the first
16 degree); 130.35 (rape in the first degree); 130.50 (criminal sexual act
17 in the first degree); 130.70 (aggravated sexual abuse in the first
18 degree); 135.20 (kidnapping in the second degree) but only where the
19 abduction involved the use or threat of use of deadly physical force;
20 150.15 (arson in the second degree) or 160.15 (robbery in the first
21 degree) of the penal law committed by a person thirteen, fourteen or
22 fifteen years of age; or such conduct committed as a sexually motivated
23 felony, where authorized pursuant to section 130.91 of the penal law;
24 (iii) defined in the penal law as an attempt to commit murder in the
25 first or second degree or kidnapping in the first degree committed by a
26 person thirteen, fourteen or fifteen years of age; or such conduct
27 committed as a sexually motivated felony, where authorized pursuant to
28 section 130.91 of the penal law; (iv) defined in section 140.30

1 (burglary in the first degree); subdivision one of section 140.25
2 (burglary in the second degree); subdivision two of section 160.10
3 (robbery in the second degree) of the penal law; or section 265.03 of
4 the penal law, where such machine gun or such firearm is possessed on
5 school grounds, as that phrase is defined in subdivision fourteen of
6 section 220.00 of the penal law committed by a person fourteen or
7 fifteen years of age; or such conduct committed as a sexually motivated
8 felony, where authorized pursuant to section 130.91 of the penal law;
9 (v) defined in section 120.05 (assault in the second degree) or 160.10
10 (robbery in the second degree) of the penal law committed by a person
11 fourteen or fifteen years of age but only where there has been a prior
12 finding by a court that such person has previously committed an act
13 which, if committed by an adult, would be the crime of assault in the
14 second degree, robbery in the second degree or any designated felony act
15 specified in paragraph (i), (ii), or (iii) of this subdivision regard-
16 less of the age of such person at the time of the commission of the
17 prior act; [or] (vi) other than a misdemeanor committed by a person at
18 least [seven] twelve but less than [sixteen] seventeen years of age, or
19 commencing January first, two thousand eighteen a person at least twelve
20 but less than eighteen years of age, but only where there has been two
21 prior findings by the court that such person has committed a prior felo-
22 ny; or (vii) that constitutes a class A felony; a violent felony offense
23 as defined in subdivision one of section 70.02 of the penal law; a felo-
24 ny offense defined in article one hundred twenty-five or four hundred
25 ninety of the penal law; vehicular assault in the second degree as
26 defined in section 120.03 of the penal law; vehicular assault in the
27 first degree as defined in section 120.04 of the penal law; aggravated
28 vehicular assault as defined in section 120.04-a of the penal law;

1 murder in the second degree as defined in subdivisions one and two of
2 section 125.25 of the penal law and in subdivision three of such section
3 provided that the underlying crime for the murder charge is one for
4 which such person is criminally responsible; a specified offense defined
5 in subdivision two of section 130.90 of the penal law when committed as
6 a sexually motivated felony; tampering with a witness in the third
7 degree as defined by section 215.11, tampering with a witness in the
8 second degree as defined by section 215.12, or tampering with a witness
9 in the first degree as defined by section 215.13 of the penal law,
10 provided such offense is committed in relation to a criminal proceeding
11 for an offense or an attempt or conspiracy to commit an offense speci-
12 fied in this subdivision; aggravated criminal contempt as defined in
13 section 215.52 of the penal law; or an attempt or conspiracy to commit
14 any offense specified in this subdivision, provided such attempt or
15 conspiracy is a felony committed by a person sixteen years old or,
16 commencing January first, two thousand eighteen a person sixteen or
17 seventeen years old.

18 9. "Designated class A felony act" means a designated felony act
19 [defined in paragraph (i) of subdivision eight] that would constitute a
20 class A felony if committed by an adult.

21 § 6. Subdivision 1 of section 302.1 of the family court act, as added
22 by chapter 920 of the laws of 1982, is amended to read as follows:

23 1. The family court has exclusive original jurisdiction over any
24 proceeding to determine whether a person is a juvenile delinquent
25 commenced in family court and concurrent jurisdiction with the youth
26 part of a superior court over any such proceeding removed to the family
27 court pursuant to article seven hundred twenty-five of the criminal
28 procedure law.

1 § 7. Section 304.1 of the family court act, as added by chapter 920 of
2 the laws of 1982, subdivision 2 as amended by chapter 419 of the laws of
3 1987, is amended to read as follows:

4 § 304.1. Detention. 1. A facility certified by the state [division for
5 youth] office of children and family services as a juvenile detention
6 facility must be operated in conformity with the regulations of the
7 state [division for youth and shall be subject to the visitation and
8 inspection of the state board of social welfare] office of children and
9 family services.

10 2. No child to whom the provisions of this article may apply shall be
11 detained in any prison, jail, lockup, or other place used for adults
12 convicted of crime or under arrest and charged with crime without the
13 approval of the state [division for youth] office of children and family
14 services in the case of each child and the statement of its reasons
15 therefor. The state [division for youth] office of children and family
16 services shall promulgate and publish the rules which it shall apply in
17 determining whether approval should be granted pursuant to this subdivi-
18 sion.

19 3. [The detention of a child under ten years of age in a secure
20 detention facility shall not be directed under any of the provisions of
21 this article.

22 4.] A detention facility which receives a child under subdivision four
23 of section 305.2 shall immediately notify the child's parent or other
24 person legally responsible for his care or, if such legally responsible
25 person is unavailable the person with whom the child resides, that he
26 has been placed in detention.

27 § 8. Subdivision 1 of section 304.2 of the family court act, as added
28 by chapter 683 of the laws of 1984, is amended to read as follows:

1 (1) Upon application by the presentment agency, or upon application by
2 the probation service as part of the adjustment of a case, the court may
3 issue a temporary order of protection against a respondent for good
4 cause shown, ex parte or upon notice, at any time after a juvenile is
5 taken into custody, pursuant to section 305.1 or 305.2 or upon the issu-
6 ance of an appearance ticket pursuant to section 307.1 or upon the
7 filing of a petition pursuant to section 310.1.

8 § 9. Subdivision 1 of section 305.1 of the family court act, as added
9 by chapter 920 of the laws of 1982, is amended to read as follows:

10 1. A private person may take a child [under the age of sixteen] who
11 may be subject to the provisions of this article for committing an act
12 that would be a crime if committed by an adult into custody in cases in
13 which [he] such private person may arrest an adult for a crime under
14 section 140.30 of the criminal procedure law.

15 § 10. Subdivision 2 of section 305.2 of the family court act, as added
16 by chapter 920 of the laws of 1982, is amended to read as follows:

17 2. An officer may take a child [under the age of sixteen] who may be
18 subject to the provisions of this article for committing an act that
19 would be a crime if committed by an adult into custody without a warrant
20 in cases in which [he] the officer may arrest a person for a crime under
21 article one hundred forty of the criminal procedure law.

22 § 11. Paragraph (b) of subdivision 4 of section 305.2 of the family
23 court act, as amended by chapter 492 of the laws of 1987, is amended to
24 read as follows:

25 (b) forthwith and with all reasonable speed take the child directly,
26 and without his first being taken to the police station house, to the
27 family court located in the county in which the act occasioning the
28 taking into custody allegedly was committed, or, when the family court

1 is not in session, to the most accessible magistrate, if any, designated
2 by the appellate division of the supreme court in the applicable depart-
3 ment to conduct a hearing under section 307.4 of this part, unless the
4 officer determines that it is necessary to question the child, in which
5 case he may take the child to a facility designated by the chief admin-
6 istrator of the courts as a suitable place for the questioning of chil-
7 dren or, upon the consent of a parent or other person legally responsi-
8 ble for the care of the child, to the child's residence and there
9 question him for a reasonable period of time; or

10 § 12. Subdivision 1 of section 306.1 of the family court act, as
11 amended by chapter 645 of the laws of 1996, is amended to read as
12 follows:

13 1. Following the arrest of a child alleged to be a juvenile delin-
14 quent, or the filing of a delinquency petition involving a child who has
15 not been arrested, the arresting officer or other appropriate police
16 officer or agency shall take or cause to be taken fingerprints of such
17 child if:

18 (a) the child is eleven years of age or older and the crime which is
19 the subject of the arrest or which is charged in the petition consti-
20 tutes a class [A or B] A-1 felony; [or]

21 (b) the child is twelve years of age or older and the crime which is
22 the subject of the arrest or which is charged in the petition consti-
23 tutes a class A or B felony; or

24 (c) the child is thirteen years of age or older and the crime which is
25 the subject of the arrest or which is charged in the petition consti-
26 tutes a class C, D or E felony.

1 § 13. Section 307.3 of the family court act, as added by chapter 920
2 of the laws of 1982, subdivisions 1 and 2 as amended by chapter 419 of
3 the laws of 1987, is amended to read as follows:

4 § 307.3. Rules of court authorizing release before filing of petition.

5 1. The agency responsible for operating a detention facility pursuant to
6 section two hundred eighteen-a of the county law, five hundred [ten-a]
7 three of the executive law or other applicable provisions of law, shall
8 release a child in custody before the filing of a petition to the custo-
9 dy of his parents or other person legally responsible for his care, or
10 if such legally responsible person is unavailable, to a person with whom
11 he resides, when the events occasioning the taking into custody do not
12 appear to involve allegations that the child committed a delinquent act.

13 2. When practicable such agency may release a child before the filing
14 of a petition to the custody of his parents or other person legally
15 responsible for his care, or if such legally responsible person is
16 unavailable, to a person with whom he resides, when the events occasion-
17 ing the taking into custody appear to involve allegations that the child
18 committed a delinquent act; provided, however, that such agency must
19 release the child if:

20 (a) such events appear to involve only allegations that the child
21 committed acts that would constitute no more than a violation if commit-
22 ted by an adult; or

23 (b) such events appear to involve only allegations that the child
24 committed acts that would constitute more than a violation but no more
25 than a misdemeanor if committed by an adult if:

26 (i) the alleged acts did not result in any physical harm to another
27 person;

1 (ii) the child does not have any prior adjudications for an act that
2 would constitute a felony if committed by an adult;

3 (iii) the child has no more than one prior adjudication for an act
4 that would constitute a misdemeanor if committed by an adult and that
5 act also did not result in any physical harm to another person; and

6 (iv) the child was assessed at a low risk on the applicable detention
7 risk assessment instrument approved by the office of children and family
8 services unless the agency determines that detention is necessary
9 because the respondent otherwise poses an imminent risk to public safety
10 and states the reasons for such determination in the child's record.

11 3. If a child is released under this section, the child and the person
12 legally responsible for his care shall be issued a family court appear-
13 ance ticket in accordance with section 307.1.

14 4. If the agency for any reason does not release a child under this
15 section, such child shall be brought before the appropriate family
16 court, or when such family court is not in session, to the most accessi-
17 ble magistrate, if any, designated by the appellate division of the
18 supreme court in the applicable department; provided, however, that if
19 such family court is not in session and if a magistrate is not avail-
20 able, such youth shall be brought before such family court within seven-
21 ty-two hours or the next day the court is in session, whichever is soon-
22 er. Such agency shall thereupon file an application for an order
23 pursuant to section 307.4 and shall forthwith serve a copy of the appli-
24 cation upon the appropriate presentment agency. Nothing in this subdivi-
25 sion shall preclude the adjustment of suitable cases pursuant to section
26 308.1.

1 § 14. Paragraph (c) of subdivision 4 of section 307.4 of the family
2 court act, as added by chapter 920 of the laws of 1982, is amended to
3 read as follows:

4 (c) the events occasioning the taking into custody appear to involve
5 acts which constitute juvenile delinquency, unless the court finds and
6 states facts and reasons which would support a detention order pursuant
7 to section 320.5, or, in the case of a juvenile who is charged with an
8 act allegedly committed when he or she was sixteen years of age or older
9 that would constitute a crime if committed by an adult, an order for
10 bail pursuant to section 320.5 of this article.

11 § 15. Section 308.1 of the family court act, as added by chapter 920
12 of the laws of 1982, subdivision 2 as amended by section 3 of part V of
13 chapter 55 of the laws of 2012, subdivision 4 as amended by chapter 264
14 of the laws of 2003, subdivisions 5 and 8 as amended by chapter 398 of
15 the laws of 1983, and subdivision 6 as amended by chapter 663 of the
16 laws of 1985, is amended to read as follows:

17 § 308.1. [Rules of court for preliminary] Preliminary procedure;
18 adjustment of cases. 1. [Rules of court shall authorize and determine
19 the circumstances under which the] The probation service may confer with
20 any person seeking to have a juvenile delinquency petition filed, the
21 potential respondent and other interested persons concerning the advis-
22 ability of requesting that a petition be filed in accordance with this
23 section.

24 2. (a) Except as provided in subdivisions three [and], four, and thir-
25 teen of this section, the probation service may[, in accordance with
26 rules of court,] attempt to adjust [suitable cases] a case before a
27 petition is filed if the probation service determines that the case is
28 suitable for adjustment based on the assessed level of risk that the

1 youth will commit another act that would constitute a crime as deter-
2 mined by a validated risk assessment instrument and the extent of any
3 physical injury to the victim.

4 (b) If a child is assessed at a low level of risk and the events in
5 the case appear to involve only allegations that the child committed
6 acts that would constitute a violation or a misdemeanor if committed by
7 an adult, the probation service must diligently attempt to adjust the
8 case. Such attempts may include the use of a juvenile review board
9 comprised of appropriate community members to work with the child and
10 his or her family on developing recommended adjustment activities. The
11 probation service may stop attempting to adjust such a case if it deter-
12 mines that there is no substantial likelihood that the youth will bene-
13 fit from attempts at adjustment in the time remaining for adjustment or
14 the time for adjustment has expired.

15 (c) The inability of the respondent or his or her family to make
16 restitution shall not be a factor in a decision to adjust a case or in a
17 recommendation to the presentment agency pursuant to subdivision six of
18 this section.

19 (d) The probation service may make an application to the court for a
20 temporary order of protection as part of the adjustment of a case in
21 accordance with section 304.2 of this article.

22 (e) Nothing in this section shall prohibit the probation service or
23 the court from directing a respondent to obtain employment and to make
24 restitution from the earnings from such employment. Nothing in this
25 section shall prohibit the probation service or the court from directing
26 an eligible person to complete an education reform program in accordance
27 with section four hundred fifty-eight-1 of the social services law.

1 3. The probation service shall not attempt to adjust a case that
2 commenced in family court in which the child has allegedly committed a
3 designated felony act that involves allegations that the child caused
4 physical injury to a person unless [it] the probation service has
5 received the written approval of the court.

6 4. The probation service shall not attempt to adjust a case in which
7 the child has allegedly committed a delinquent act which would be a
8 crime defined in section 120.25, (reckless endangerment in the first
9 degree), subdivision one of section 125.15, (manslaughter in the second
10 degree), subdivision one of section 130.25, (rape in the third degree),
11 subdivision one of section 130.40, (criminal sexual act in the third
12 degree), subdivision one or two of section 130.65, (sexual abuse in the
13 first degree), section 135.65, (coercion in the first degree), section
14 140.20, (burglary in the third degree), section 150.10, (arson in the
15 third degree), section 160.05, (robbery in the third degree), subdivi-
16 sion two, three or four of section 265.02, (criminal possession of a
17 weapon in the third degree), section 265.03, (criminal possession of a
18 weapon in the second degree), or section 265.04, (criminal possession of
19 a [dangerous] weapon in the first degree) of the penal law where the
20 child has previously had one or more adjustments of a case in which such
21 child allegedly committed an act which would be a crime specified in
22 this subdivision unless it has received written approval from the court
23 and the appropriate presentment agency.

24 5. The fact that a child is detained prior to the filing of a petition
25 shall not preclude the probation service from adjusting a case; upon
26 adjusting such a case the probation service shall notify the detention
27 facility to release the child.

1 6. The probation service shall not transmit or otherwise communicate
2 to the presentment agency any statement made by the child to a probation
3 officer. However, the probation service may make a recommendation
4 regarding adjustment of the case to the presentment agency and provide
5 such information, including any report made by the arresting officer and
6 record of previous adjustments and arrests, as it shall deem relevant.

7 7. No statement made to the probation service prior to the filing of a
8 petition may be admitted into evidence at a fact-finding hearing or, if
9 the proceeding is transferred to a criminal court, at any time prior to
10 a conviction.

11 8. The probation service may not prevent any person who wishes to
12 request that a petition be filed from having access to the appropriate
13 presentment agency for that purpose.

14 9. Efforts at adjustment [pursuant to rules of court] under this
15 section may not extend for a period of more than two months [without],
16 or, for a period of more than four months if the probation service
17 determines that adjustment beyond the first two months is warranted
18 because documented barriers to adjustment exist or changes need to be
19 made to the child's services plan, except upon leave of the court, which
20 may extend the adjustment period for an additional two months.

21 10. If a case is not adjusted by the probation service, such service
22 shall notify the appropriate presentment agency of that fact within
23 forty-eight hours or the next court day, whichever occurs later.

24 11. The probation service may not be authorized under this section to
25 compel any person to appear at any conference, produce any papers, or
26 visit any place.

27 12. The probation service shall certify to the division of criminal
28 justice services and to the appropriate police department or law

1 enforcement agency whenever it adjusts a case in which the potential
2 respondent's fingerprints were taken pursuant to section 306.1 in any
3 manner other than the filing of a petition for juvenile delinquency for
4 an act which, if committed by an adult, would constitute a felony,
5 provided, however, in the case of a child [eleven or] twelve years of
6 age, such certification shall be made only if the act would constitute a
7 class A or B felony, or, in the case of a child eleven years of age,
8 such certification shall be made only if the act would constitute a
9 class A-1 felony.

10 13. The [provisions of this section] probation service shall not
11 [apply] attempt to adjust a case where the petition is an order of
12 removal to the family court pursuant to article seven hundred twenty-
13 five of the criminal procedure law unless it has received the written
14 approval of the court.

15 § 16. Paragraph (c) of subdivision 3 of section 311.1 of the family
16 court act, as added by chapter 920 of the laws of 1982, is amended to
17 read as follows:

18 (c) the fact that the respondent is a person [under sixteen years of]
19 of the necessary age to be a juvenile delinquent at the time of the
20 alleged act or acts;

21 § 17. Subdivision 1 of section 320.5 of the family court act, as added
22 by chapter 920 of the laws of 1982, is amended to read as follows:

23 1. At the initial appearance, the court in its discretion may (a)
24 release the respondent [or], (b) direct his detention, or, (c) in the
25 case of a respondent who is charged with an act allegedly committed when
26 he or she was sixteen years of age or older that would be a crime if
27 committed by an adult, or in the case of such a respondent whose case
28 has been removed to the family court pursuant to article seven hundred

1 twenty-five of the criminal procedure law, fix bail pursuant to para-
2 graph (e) of subdivision three of this section.

3 § 18. Subdivision 3 of section 320.5 of the family court act is
4 amended by adding two new paragraphs (a-1) and (e) to read as follows:

5 (a-1) Notwithstanding paragraph (a) of this subdivision, the court
6 shall not direct detention if:

7 (i) the events underlying the initial appearance appear to involve
8 only allegations that the child committed acts that would constitute no
9 more than a violation if committed by an adult; or

10 (ii) such events appear to involve only allegations that the child
11 committed acts that would constitute more than a violation but no more
12 than a misdemeanor if committed by an adult if:

13 (1) the alleged acts did not result in any physical harm to another
14 person;

15 (2) the respondent does not have any prior adjudications for an act
16 that would constitute a felony if committed by an adult;

17 (3) the respondent has no more than one prior adjudication for an act
18 that would constitute a misdemeanor if committed by an adult and that
19 act did not result in any physical harm to another person; and

20 (4) the respondent was assessed at a low risk on the applicable
21 detention risk assessment instrument approved by the office of children
22 and family services unless the court determines that detention is neces-
23 sary because the respondent otherwise poses an imminent risk to public
24 safety and states the reasons for such determination in the court order.

25 (e) In the case of a respondent who is charged with an act allegedly
26 committed when he or she was sixteen years of age or older that would be
27 a crime if committed by an adult or in the case of a respondent whose
28 case has been removed to the family court pursuant to article seven

1 hundred twenty-five of the criminal procedure law, if the court finds
2 that the respondent otherwise meets the criteria for placement in
3 detention as set forth in paragraph (a) of this section and that avail-
4 able alternatives to detention, including conditional release, would not
5 prevent such risk, the court may consider the respondent to be a princi-
6 pal under subdivision one of section 500.10 of the criminal procedure
7 law; fix bail in accordance with section 510.30 of the criminal proce-
8 dure law, and order bail in accordance with section 530.10 of the crimi-
9 nal procedure law and the respondent may post bail in accordance with,
10 and otherwise be subject to the applicable provisions of, title P of
11 such law.

12 § 19. Subdivision 5 of section 322.2 of the family court act, as added
13 by chapter 920 of the laws of 1982, paragraphs (a) and (d) as amended by
14 chapter 41 of the laws of 2010, is amended to read as follows:

15 5. (a) If the court finds that there is probable cause to believe
16 that the respondent committed a felony, it shall order the respondent
17 committed to the custody of the commissioner of mental health or the
18 commissioner of [mental retardation and] developmental disabilities for
19 an initial period not to exceed one year from the date of such order.
20 Such period may be extended annually upon further application to the
21 court by the commissioner having custody or his or her designee. Such
22 application must be made not more than sixty days prior to the expira-
23 tion of such period on forms that have been prescribed by the chief
24 administrator of the courts. At that time, the commissioner must give
25 written notice of the application to the respondent, the counsel repres-
26 enting the respondent and the mental hygiene legal service if the
27 respondent is at a residential facility. Upon receipt of such applica-
28 tion, the court must conduct a hearing to determine the issue of capaci-

1 ty. If, at the conclusion of a hearing conducted pursuant to this subdi-
2 vision, the court finds that the respondent is no longer incapacitated,
3 he or she shall be returned to the family court for further proceedings
4 pursuant to this article. If the court is satisfied that the respondent
5 continues to be incapacitated, the court shall authorize continued
6 custody of the respondent by the commissioner for a period not to exceed
7 one year. Such extensions shall not continue beyond a reasonable period
8 of time necessary to determine whether the respondent will attain the
9 capacity to proceed to a fact finding hearing in the foreseeable future
10 but in no event shall continue beyond the respondent's eighteenth birth-
11 day or, if the respondent was at least sixteen years of age when the act
12 was committed, beyond the respondent's twenty-first birthday.

13 (b) If a respondent is in the custody of the commissioner upon the
14 respondent's eighteenth birthday, or if the respondent was at least
15 sixteen years of age when the act resulting in the respondent's place-
16 ment was committed, beyond the respondent's twenty-first birthday, the
17 commissioner shall notify the clerk of the court that the respondent was
18 in his custody on such date and the court shall dismiss the petition.

19 (c) If the court finds that there is probable cause to believe that
20 the respondent has committed a designated felony act, the court shall
21 require that treatment be provided in a residential facility within the
22 appropriate office of the department of mental hygiene.

23 (d) The commissioner shall review the condition of the respondent
24 within forty-five days after the respondent is committed to the custody
25 of the commissioner. He or she shall make a second review within ninety
26 days after the respondent is committed to his or her custody. Thereaft-
27 er, he or she shall review the condition of the respondent every ninety
28 days. The respondent and the counsel for the respondent, shall be noti-

1 fied of any such review and afforded an opportunity to be heard. The
2 commissioner having custody shall apply to the court for an order
3 dismissing the petition whenever he or she determines that there is a
4 substantial probability that the respondent will continue to be incapac-
5 itated for the foreseeable future. At the time of such application the
6 commissioner must give written notice of the application to the respond-
7 ent, the presentment agency and the mental hygiene legal service if the
8 respondent is at a residential facility. Upon receipt of such applica-
9 tion, the court may on its own motion conduct a hearing to determine
10 whether there is substantial probability that the respondent will
11 continue to be incapacitated for the foreseeable future, and it must
12 conduct such hearing if a demand therefor is made by the respondent or
13 the mental hygiene legal service within ten days from the date that
14 notice of the application was given to them. The respondent may apply to
15 the court for an order of dismissal on the same ground.

16 § 20. Subdivisions 1 and 5 of section 325.1 of the family court act,
17 subdivision 1 as amended by chapter 398 of the laws of 1983, subdivision
18 5 as added by chapter 920 of the laws of 1982, is amended to read as
19 follows:

20 1. At the initial appearance, if the respondent denies a charge
21 contained in the petition and the court determines in accordance with
22 the requirements of section 320.5 of this part that [he] the respondent
23 shall be detained for more than three days pending a fact-finding hear-
24 ing, the court shall schedule a probable-cause hearing to determine the
25 issues specified in section 325.3 of this part.

26 5. Where the petition consists of an order of removal pursuant to
27 article seven hundred twenty-five of the criminal procedure law, unless
28 the removal was pursuant to subdivision three of section 725.05 of such

1 law and the respondent was not afforded a probable cause hearing pursu-
2 ant to subdivision [three] two of section [180.75] 722.20 of such law
3 [for a reason other than his waiver thereof pursuant to subdivision two
4 of section 180.75 of such law], the petition shall be deemed to be based
5 upon a determination that probable cause exists to believe the respond-
6 ent is a juvenile delinquent and the respondent shall not be entitled to
7 any further inquiry on the subject of whether probable cause exists.
8 After the filing of any such petition the court must, however, exercise
9 independent, de novo discretion with respect to release or detention as
10 set forth in section 320.5.

11 § 21. Subdivisions 1 and 2 of section 340.2 of the family court act,
12 as added by chapter 920 of the laws of 1982, are amended to read as
13 follows:

14 1. [The] Except when authorized in accordance with section 346.1 of
15 this part involving a case removed to family court pursuant to article
16 seven hundred twenty-five of the criminal procedure law, the judge who
17 presides at the commencement of the fact-finding hearing shall continue
18 to preside until such hearing is concluded and an order entered pursuant
19 to section 345.1 of this part unless a mistrial is declared.

20 2. The judge who presides at the fact-finding hearing or accepts an
21 admission pursuant to section 321.3 of this article shall preside at any
22 other subsequent hearing in the proceeding, including but not limited to
23 the dispositional hearing except where the case is removed to family
24 court pursuant to article seven hundred twenty-five of the criminal
25 procedure law after a fact-finding hearing has occurred.

26 § 22. Paragraph (a) of subdivision 2 of section 352.2 of the family
27 court act, as amended by chapter 880 of the laws of 1985, is amended to
28 read as follows:

1 (a) In determining an appropriate order the court shall consider the
2 needs and best interests of the respondent as well as the need for
3 protection of the community. If the respondent has committed a desig-
4 nated felony act the court shall determine the appropriate disposition
5 in accord with section 353.5. In all other cases the court shall order
6 the least restrictive available alternative enumerated in subdivision
7 one of this section which is consistent with the needs and best inter-
8 ests of the respondent and the need for protection of the community;
9 provided, however, that the court shall not direct the placement of a
10 respondent with a commissioner of social services or the office of chil-
11 dren and family services if:

12 (i) the respondent only committed acts that would constitute no more
13 than a violation if committed by an adult; or

14 (ii) the respondent only committed acts that would constitute more
15 than a violation but no more than a misdemeanor if committed by an adult
16 if:

17 (1) the acts did not result in any physical harm to another person;

18 (2) the respondent does not have any prior adjudications for an act
19 that would constitute a felony if committed by an adult;

20 (3) the respondent has no more than one prior adjudication for an act
21 that would constitute a misdemeanor if committed by an adult and that
22 act did not result in any physical harm to another person; and

23 (4) the respondent was assessed at a low risk on the applicable pre-
24 dispositional risk assessment instrument approved by the office of chil-
25 dren and family services unless the court determines that such a place-
26 ment is necessary because the respondent otherwise poses an imminent
27 risk to public safety and states the reasons for such determination in
28 the court order.

1 § 23. Paragraph (a) of subdivision 1 and paragraphs (f) and (h) of
2 subdivision 2 of section 353.2 of the family court act, paragraph (a) of
3 subdivision 1 as added by chapter 920 of the laws of 1982, paragraphs
4 (f) and (h) of subdivision 2 as amended by chapter 124 of the laws of
5 1993, are amended to read as follows:

6 (a) placement of respondent is not or may not be necessary or allow-
7 able;

8 (f) make restitution or perform services for the public good pursuant
9 to section 353.6, provided the respondent is over [ten] twelve years of
10 age;

11 (h) comply with such other reasonable conditions as the court shall
12 determine to be necessary or appropriate to ameliorate the conduct which
13 gave rise to the filing of the petition or to prevent placement with the
14 commissioner of social services or the [division for youth] office of
15 children and family services.

16 § 23-a. Subdivision 3 of section 353.2 of the family court act, as
17 added by chapter 920 of the laws of 1982, paragraph (f) as amended by
18 chapter 465 of the laws of 1992, is amended to read as follows:

19 3. When ordering a period of probation, the court may, as a condition
20 of such order, further require that the respondent:

21 (a) meet with a probation officer when directed to do so by that offi-
22 cer and permit the officer to visit the respondent at home or elsewhere;

23 (b) permit the probation officer to obtain information from any person
24 or agency from whom respondent is receiving or was directed to receive
25 diagnosis, treatment or counseling;

26 (c) permit the probation officer to obtain information from the
27 respondent's school;

1 (d) co-operate with the probation officer in seeking to obtain and in
2 accepting employment, and supply records and reports of earnings to the
3 officer when requested to do so; and

4 (e) obtain permission from the probation officer for any absence from
5 respondent's residence in excess of two weeks[; and

6 (f) with the consent of the division for youth, spend a specified
7 portion of the probation period, not exceeding one year, in a non-secure
8 facility provided by the division for youth pursuant to article nine-
9 teen-G of the executive law].

10 § 24. Subparagraph (iii) of paragraph (a) and paragraph (d) of subdi-
11 vision 4 of section 353.5 of the family court act, as amended by section
12 6 of subpart A of part G of chapter 57 of the laws of 2012, is amended
13 to read as follows:

14 (iii) after the period set under subparagraph (ii) of this paragraph,
15 the respondent shall be placed in a residential facility for a period of
16 twelve months; provided, however, that if the respondent has been placed
17 from a family court in a social services district operating an approved
18 juvenile justice services close to home initiative pursuant to section
19 four hundred four of the social services law for an act committed when
20 the respondent was under sixteen years of age, once the time frames in
21 subparagraph (ii) of this paragraph are met:

22 (d) Upon the expiration of the initial period of placement, or any
23 extension thereof, the placement may be extended in accordance with
24 section 355.3 on a petition of any party or the office of children and
25 family services, or, if applicable, a social services district operating
26 an approved juvenile justice services close to home initiative pursuant
27 to section four hundred four of the social services law, after a dispo-
28 sitional hearing, for an additional period not to exceed twelve months,

1 but no initial placement or extension of placement under this section
2 may continue beyond the respondent's twenty-first birthday, or, for an
3 act that was committed when the respondent was sixteen years of age or
4 older, the respondent's twenty-third birthday.

5 § 25. Paragraph (d) of subdivision 4 of section 353.5 of the family
6 court act, as amended by chapter 398 of the laws of 1983, is amended to
7 read as follows:

8 (d) Upon the expiration of the initial period of placement, or any
9 extension thereof, the placement may be extended in accordance with
10 section 355.3 on a petition of any party or the [division for youth]
11 office of children and family services after a dispositional hearing,
12 for an additional period not to exceed twelve months, but no initial
13 placement or extension of placement under this section may continue
14 beyond the respondent's twenty-first birthday, or, for an act that was
15 committed when the respondent was sixteen years of age or older, the
16 respondent's twenty-third birthday.

17 § 26. The opening paragraph of subdivision 1 of section 353.6 of the
18 family court act, as amended by chapter 877 of the laws of 1983, is
19 amended to read as follows:

20 At the conclusion of the dispositional hearing in cases involving
21 respondents over [ten] twelve years of age the court may:

22 § 27. Section 354.1 of the family court act, as added by chapter 920
23 of the laws of 1982, subdivisions 2, 6, and 7 as amended by chapter 645
24 of the laws of 1996, subdivisions 4 and 5 as amended by chapter 398 of
25 the laws of 1983, is amended to read as follows:

26 § 354.1. Retention and destruction of fingerprints of persons alleged
27 to be juvenile delinquents. 1. If a person whose fingerprints, palm-
28 prints or photographs were taken pursuant to section 306.1 or was

1 initially fingerprinted as a juvenile offender and the action is subse-
2 quently removed to a family court pursuant to article seven hundred
3 twenty-five of the criminal procedure law is adjudicated to be a juve-
4 nile delinquent for a felony, the family court shall forward or cause to
5 be forwarded to the division of criminal justice services notification
6 of such adjudication and such related information as may be required by
7 such division, provided, however, in the case of a person eleven [or
8 twelve] years of age such notification shall be provided only if the act
9 upon which the adjudication is based would constitute a class [A or B]
10 A-1 felony or, in the case of a person twelve years of age, such notifi-
11 cation shall be provided only if the act upon which the adjudication is
12 based would constitute a class A or B felony.

13 2. If a person whose fingerprints, palmprints or photographs were
14 taken pursuant to section 306.1 or was initially fingerprinted as a
15 juvenile offender and the action is subsequently removed to family court
16 pursuant to article seven hundred twenty-five of the criminal procedure
17 law has had all petitions disposed of by the family court in any manner
18 other than an adjudication of juvenile delinquency for a felony, but in
19 the case of acts committed when such person was eleven [or twelve] years
20 of age which would constitute a class [A or B] A-1 felony only, or, in
21 the case of acts committed when such person was twelve years of age
22 which would constitute a class A or B felony only, all such finger-
23 prints, palmprints, photographs, and copies thereof, and all information
24 relating to such allegations obtained by the division of criminal
25 justice services pursuant to section 306.1 shall be destroyed forthwith.
26 The clerk of the court shall notify the commissioner of the division of
27 criminal justice services and the heads of all police departments and

1 law enforcement agencies having copies of such records, who shall
2 destroy such records without unnecessary delay.

3 3. If the appropriate presentment agency does not originate a proceed-
4 ing under section 310.1 for a case in which the potential respondent's
5 fingerprints were taken pursuant to section 306.1, the presentment agen-
6 cy shall serve a certification of such action upon the division of crim-
7 inal justice services, and upon the appropriate police department or law
8 enforcement agency.

9 4. If, following the taking into custody of a person alleged to be a
10 juvenile delinquent and the taking and forwarding to the division of
11 criminal justice services of such person's fingerprints but prior to
12 referral to the probation department or to the family court, an officer
13 or agency, elects not to proceed further, such officer or agency shall
14 serve a certification of such election upon the division of criminal
15 justice services.

16 5. Upon certification pursuant to subdivision twelve of section 308.1
17 or subdivision three or four of this section, the department or agency
18 shall destroy forthwith all fingerprints, palmprints, photographs, and
19 copies thereof, and all other information obtained in the case pursuant
20 to section 306.1. Upon receipt of such certification, the division of
21 criminal justice services and all police departments and law enforcement
22 agencies having copies of such records shall destroy them.

23 6. If a person fingerprinted pursuant to section 306.1 and subsequent-
24 ly adjudicated a juvenile delinquent for a felony, but in the case of
25 acts committed when such a person was eleven [or twelve] years of age
26 which would constitute a class [A or B] A-1 felony only, or, in the case
27 of acts committed when such a person was twelve years of age which would
28 constitute a class A or B felony only, is subsequently convicted of a

1 crime, all fingerprints and related information obtained by the division
2 of criminal justice services pursuant to such section and not destroyed
3 pursuant to subdivisions two, five and seven or subdivision twelve of
4 section 308.1 shall become part of such division's permanent adult crim-
5 inal record for that person, notwithstanding section 381.2 or 381.3.

6 7. When a person fingerprinted pursuant to section 306.1 and subse-
7 quently adjudicated a juvenile delinquent for a felony, but in the case
8 of acts committed when such person was eleven [or twelve] years of age
9 which would constitute a class [A or B] A-1 felony only, or, in the case
10 of acts committed when such a person was twelve years of age which would
11 constitute a class A or B felony, reaches the age of twenty-one, or has
12 been discharged from placement under this act for at least three years,
13 whichever occurs later, and has no criminal convictions or pending crim-
14 inal actions which ultimately terminate in a criminal conviction, all
15 fingerprints, palmprints, photographs, and related information and
16 copies thereof obtained pursuant to section 306.1 in the possession of
17 the division of criminal justice services, any police department, law
18 enforcement agency or any other agency shall be destroyed forthwith. The
19 division of criminal justice services shall notify the agency or agen-
20 cies which forwarded fingerprints to such division pursuant to section
21 306.1 of their obligation to destroy those records in their possession.
22 In the case of a pending criminal action which does not terminate in a
23 criminal conviction, such records shall be destroyed forthwith upon such
24 determination.

25 § 28. Subdivisions 1 and 6 of section 355.3 of the family court act,
26 subdivision 1 as amended by chapter 398 of the laws of 1983, subdivision
27 6 as amended by chapter 663 of the laws of 1985, are amended to read as
28 follows:

1 1. In any case in which the respondent has been placed pursuant to
2 section 353.3 the respondent, the person with whom the respondent has
3 been placed, the commissioner of social services, or the [division for
4 youth] office of children and family services may petition the court to
5 extend such placement. Such petition shall be filed at least sixty days
6 prior to the expiration of the period of placement, except for good
7 cause shown but in no event shall such petition be filed after the
8 original expiration date.

9 6. Successive extensions of placement under this section may be grant-
10 ed, but no placement may be made or continued beyond the respondent's
11 eighteenth birthday without the child's consent and in no event past the
12 child's twenty-first birthday except as provided for in paragraph (d) of
13 subdivision two of section 353.5.

14 § 29. Subdivision 5 of section 355.4 of the family court act, as added
15 by chapter 479 of the laws of 1992, is amended to read as follows:

16 5. Nothing in this section shall: require that consent be obtained
17 from the youth's parent or legal guardian to any medical, dental, or
18 mental health service and treatment when no consent is necessary or the
19 youth is authorized by law to consent on his or her own behalf; preclude
20 a youth from consenting on his or her own behalf to any medical, dental
21 or mental health service and treatment where otherwise authorized by law
22 to do so[, or the division for youth]; or preclude the officer of chil-
23 dren and family services or a social services district from petitioning
24 the court pursuant to section two hundred thirty-three of this act, as
25 appropriate.

26 § 30. Paragraph (b) of subdivision 3 of section 355.5 of the family
27 court act, as amended by chapter 145 of the laws of 2000, is amended to
28 read as follows:

1 (b) subsequent permanency hearings shall be held no later than every
2 twelve months following the respondent's initial twelve months in place-
3 ment but in no event past the respondent's twenty-first birthday;
4 provided, however, that they shall be held in conjunction with an exten-
5 sion of placement hearing held pursuant to section 355.3 of this [arti-
6 cle] part.

7 § 31. Subdivisions 2 and 6 of section 360.3 of the family court act,
8 as added by chapter 920 of the laws of 1982, are amended to read as
9 follows:

10 2. At the time of his first appearance following the filing of a peti-
11 tion of violation the court must: (a) advise the respondent of the
12 contents of the petition and furnish him with a copy thereof; (b) deter-
13 mine whether the respondent should be released or detained pursuant to
14 section 320.5, provided, however, that nothing herein shall authorize a
15 respondent to be detained for a violation of a condition that would not
16 constitute a crime if committed by an adult unless the court determines
17 (i) that the respondent poses a specific imminent threat to public safe-
18 ty and states the reasons for the finding on the record or (ii) the
19 respondent is on probation for an act that would constitute a violent
20 felony as defined in section 70.02 of the penal law if committed by an
21 adult and the use of graduated sanctions have been exhausted without
22 success; and (c) ask the respondent whether he wishes to make any state-
23 ment with respect to the violation. If the respondent makes a statement,
24 the court may accept it and base its decision thereon; the provisions of
25 subdivision two of section 321.3 shall apply in determining whether a
26 statement should be accepted. If the court does not accept such state-
27 ment or if the respondent does not make a statement, the court shall
28 proceed with the hearing. Upon request, the court shall grant a reason-

1 able adjournment to the respondent to enable him to prepare for the
2 hearing.

3 6. At the conclusion of the hearing the court may revoke, continue or
4 modify the order of probation or conditional discharge. If the court
5 revokes the order, it shall order a different disposition pursuant to
6 section 352.2, provided, however, that nothing herein shall authorize
7 the placement of a respondent for a violation of a condition that would
8 not constitute a crime if committed by an adult unless the court deter-
9 mines (i) that the respondent poses a specific imminent threat to public
10 safety and states the reasons for the finding on the record or (ii) the
11 respondent is on probation for an act that would constitute a violent
12 felony as defined in section 70.02 of the penal law if committed by an
13 adult and the use of graduated sanctions have been exhausted without
14 success. If the court continues the order of probation or conditional
15 discharge, it shall dismiss the petition of violation.

16 § 32. Section 712 of the family court act, as amended by chapter 920
17 of the laws of 1982, subdivision (a) as amended by section 7 of part G
18 of chapter 58 of the laws of 2010, subdivision (b) as amended by chapter
19 465 of the laws of 1992, subdivision (g) as amended by section 2 of part
20 B of chapter 3 of the laws of 2005, subdivision (h) as added by chapter
21 7 of the laws of 1999, subdivision (i) as amended and subdivisions (j),
22 (k), (l) and (m) as added by chapter 38 of the laws of 2014, is amended
23 to read as follows:

24 § 712. Definitions. As used in this article, the following terms shall
25 have the following meanings:

26 (a) "Person in need of supervision". A person less than eighteen years
27 of age who does not attend school in accordance with the provisions of
28 part one of article sixty-five of the education law or who is incorrigi-

1 ble, ungovernable or habitually disobedient and beyond the lawful
2 control of a parent or other person legally responsible for such child's
3 care, or other lawful authority, or who violates the provisions of
4 section 221.05 or 230.00 of the penal law, or who appears to be a sexu-
5 ally exploited child as defined in paragraph (a), (c) or (d) of subdivi-
6 sion one of section four hundred forty-seven-a of the social services
7 law, but only if the child consents to the filing of a petition under
8 this article.

9 (b) ["Detention". The temporary care and maintenance of children away
10 from their own homes as defined in section five hundred two of the exec-
11 utive law.

12 (c) "Secure detention facility". A facility characterized by phys-
13 ically restricting construction, hardware and procedures.

14 (d) "Non-secure detention facility". A facility characterized by the
15 absence of physically restricting construction, hardware and procedures.

16 (e)] "Fact-finding hearing". A hearing to determine whether the
17 respondent did the acts alleged to show that he violated a law or is
18 incorrigible, ungovernable or habitually disobedient and beyond the
19 control of his parents, guardian or legal custodian.

20 [(f)] (c) "Dispositional hearing". A hearing to determine whether the
21 respondent requires supervision or treatment.

22 [(g)] (d) "Aggravated circumstances". Aggravated circumstances shall
23 have the same meaning as the definition of such term in subdivision (j)
24 of section one thousand twelve of this act.

25 [(h)] (e) "Permanency hearing". A hearing held in accordance with
26 paragraph (b) of subdivision two of section seven hundred fifty-four or
27 section seven hundred fifty-six-a of this article for the purpose of
28 reviewing the foster care status of the respondent and the appropriate-

1 ness of the permanency plan developed by the social services official on
2 behalf of such respondent.

3 [(i)] (f) "Diversion services". Services provided to children and
4 families pursuant to section seven hundred thirty-five of this article
5 for the purpose of avoiding the need to file a petition [or direct the
6 detention of the child]. Diversion services shall include: efforts to
7 adjust cases pursuant to this article before a petition is filed, or by
8 order of the court, after the petition is filed but before fact-finding
9 is commenced; and preventive services provided in accordance with
10 section four hundred nine-a of the social services law to avert the
11 placement of the child [into foster care], including crisis intervention
12 and respite services. Diversion services may also include, in cases
13 where any person is seeking to file a petition that alleges that the
14 child has a substance use disorder or is in need of immediate detoxifi-
15 cation or substance use disorder services, an assessment for substance
16 use disorder; provided, however, that notwithstanding any other
17 provision of law to the contrary, the designated lead agency shall not
18 be required to pay for all or any portion of the costs of such assess-
19 ment or substance use disorder or detoxification services, except in
20 cases where medical assistance for needy persons may be used to pay for
21 all or any portion of the costs of such assessment or services.

22 [(j)] (g) "Substance use disorder". The misuse of, dependence on, or
23 addiction to alcohol and/or legal or illegal drugs leading to effects
24 that are detrimental to the person's physical and mental health or the
25 welfare of others.

26 [(k)] (h) "Assessment for substance use disorder". Assessment by a
27 provider that has been certified by the office of alcoholism and
28 substance abuse services of a person less than eighteen years of age

1 where it is alleged that the youth is suffering from a substance use
2 disorder which could make a youth a danger to himself or herself or
3 others.

4 [(1)] (i) "A substance use disorder which could make a youth a danger
5 to himself or herself or others". A substance use disorder that is
6 accompanied by the dependence on, or the repeated use or abuse of, drugs
7 or alcohol to the point of intoxication such that the person is in need
8 of immediate detoxification or other substance use disorder services.

9 [(m)] (j) "Substance use disorder services". Substance use disorder
10 services shall have the same meaning as provided for in section 1.03 of
11 the mental hygiene law.

12 § 33. The part heading of part 2 of article 7 of the family court act
13 is amended to read as follows:

14 CUSTODY [AND DETENTION]

15 § 34. Section 720 of the family court act, as amended by chapter 419
16 of the laws of 1987, subdivision 3 as amended by section 9 of subpart B
17 of part Q of chapter 58 of the laws of 2011, subdivision 5 as amended by
18 section 3 of part E of chapter 57 of the laws of 2005, and paragraph (c)
19 of subdivision 5 as added by section 8 of part G of chapter 58 of the
20 laws of 2010, is added to read as follows:

21 § 720. Detention precluded. [1.] The detention of a child shall not be
22 directed under any of the provisions of this article, except as other-
23 wise authorized by the interstate compact on juveniles. No child to whom
24 the provisions of this article may apply, shall be detained in any pris-
25 on, jail, lockup, or other place used for adults convicted of crime or
26 under arrest and charged with a crime.

27 [2. The detention of a child in a secure detention facility shall not
28 be directed under any of the provisions of this article.

1 3. Detention of a person alleged to be or adjudicated as a person in
2 need of supervision shall, except as provided in subdivision four of
3 this section, be authorized only in a foster care program certified by
4 the office of children and family services, or a certified or approved
5 family boarding home, or a non-secure detention facility certified by
6 the office and in accordance with section seven hundred thirty-nine of
7 this article. The setting of the detention shall take into account (a)
8 the proximity to the community in which the person alleged to be or
9 adjudicated as a person in need of supervision lives with such person's
10 parents or to which such person will be discharged, and (b) the existing
11 educational setting of such person and the proximity of such setting to
12 the location of the detention setting.

13 4. Whenever detention is authorized and ordered pursuant to this arti-
14 cle, for a person alleged to be or adjudicated as a person in need of
15 supervision, a family court in a city having a population of one million
16 or more shall, notwithstanding any other provision of law, direct
17 detention in a foster care facility established and maintained pursuant
18 to the social services law. In all other respects, the detention of such
19 a person in a foster care facility shall be subject to the identical
20 terms and conditions for detention as are set forth in this article and
21 in section two hundred thirty-five of this act.

22 5. (a) The court shall not order or direct detention under this arti-
23 cle, unless the court determines that there is no substantial likelihood
24 that the youth and his or her family will continue to benefit from
25 diversion services and that all available alternatives to detention have
26 been exhausted; and

27 (b) Where the youth is sixteen years of age or older, the court shall
28 not order or direct detention under this article, unless the court

1 determines and states in its order that special circumstances exist to
2 warrant such detention.

3 (c) If the respondent may be a sexually exploited child as defined in
4 subdivision one of section four hundred forty-seven-a of the social
5 services law, the court may direct the respondent to an available short-
6 term safe house as defined in subdivision two of section four hundred
7 forty-seven-a of the social services law as an alternative to
8 detention.]

9 § 35. Section 727 of the family court act is REPEALED.

10 § 36. Section 728 of the family court act, subdivision (a) as amended
11 by chapter 41 of the laws of 2010, subdivision (b) as amended by chapter
12 419 of the laws of 1987, subdivision (d) as added by chapter 145 of the
13 laws of 2000, paragraph (i) as added and paragraph (ii) of subdivision
14 (d) as renumbered by section 5 of part E of chapter 57 of the laws of
15 2005, and paragraph (iii) as amended and paragraph (iv) of subdivision
16 (d) as added by section 10 of subpart B of part Q of chapter 58 of the
17 laws of 2011, is amended to read as follows:

18 § 728. Discharge[,] or release [or detention] by judge after hearing
19 and before filing of petition in custody cases. (a) If a child in
20 custody is brought before a judge of the family court before a petition
21 is filed, the judge shall hold a hearing for the purpose of making a
22 preliminary determination of whether the court appears to have jurisdic-
23 tion over the child. At the commencement of the hearing, the judge shall
24 advise the child of his or her right to remain silent, his or her right
25 to be represented by counsel of his or her own choosing, and of the
26 right to have an attorney assigned in accord with part four of article
27 two of this act. The judge must also allow the child a reasonable time
28 to send for his or her parents or other person or persons legally

1 responsible for his or her care, and for counsel, and adjourn the hear-
2 ing for that purpose.

3 (b) After hearing, the judge shall order the release of the child to
4 the custody of his parent or other person legally responsible for his
5 care if the court does not appear to have jurisdiction.

6 (c) An order of release under this section may, but need not, be
7 conditioned upon the giving of a recognizance in accord with [sections]
8 section seven hundred twenty-four (b) (i).

9 [(d) Upon a finding of facts and reasons which support a detention
10 order pursuant to this section, the court shall also determine and state
11 in any order directing detention:

12 (i) that there is no substantial likelihood that the youth and his or
13 her family will continue to benefit from diversion services and that all
14 available alternatives to detention have been exhausted; and

15 (ii) whether continuation of the child in the child's home would be
16 contrary to the best interests of the child based upon, and limited to,
17 the facts and circumstances available to the court at the time of the
18 hearing held in accordance with this section; and

19 (iii) where appropriate, whether reasonable efforts were made prior to
20 the date of the court hearing that resulted in the detention order, to
21 prevent or eliminate the need for removal of the child from his or her
22 home or, if the child had been removed from his or her home prior to the
23 court appearance pursuant to this section, where appropriate, whether
24 reasonable efforts were made to make it possible for the child to safely
25 return home; and

26 (iv) whether the setting of the detention takes into account the prox-
27 imity to the community in which the person alleged to be or adjudicated
28 as a person in need of supervision lives with such person's parents or

1 to which such person will be discharged, and the existing educational
2 setting of such person and the proximity of such setting to the location
3 of the detention setting.]

4 § 37. Section 729 of the family court act is REPEALED.

5 § 38. Section 735 of the family court act, as added by section 7 of
6 part E of chapter 57 of the laws of 2005, subdivision (b) as amended by
7 chapter 38 of the laws of 2014, and paragraph (i) of subdivision (d) as
8 amended by chapter 535 of the laws of 2011, is amended to read as
9 follows:

10 § 735. Preliminary procedure; diversion services. (a) Each county and
11 any city having a population of one million or more shall offer diver-
12 sion services as defined in section seven hundred twelve of this article
13 to youth who are at risk of being the subject of a person in need of
14 supervision petition. Such services shall be designed to provide an
15 immediate response to families in crisis[, to identify and utilize
16 appropriate alternatives to detention] and to divert youth from being
17 the subject of a petition in family court. Each county and such city
18 shall designate either the local social services district or the
19 probation department as lead agency for the purposes of providing diver-
20 sion services.

21 (b) The designated lead agency shall:

22 (i) confer with any person seeking to file a petition, the youth who
23 may be a potential respondent, his or her family, and other interested
24 persons, concerning the provision of diversion services before any peti-
25 tion may be filed; and

26 (ii) diligently attempt to prevent the filing of a petition under this
27 article or, after the petition is filed, to prevent the placement of the

1 youth [into foster care] in accordance with section seven hundred
2 fifty-six of this article; and

3 (iii) assess whether the youth would benefit from residential respite
4 services; and

5 (iv) assess whether the youth is a sexually exploited child as defined
6 in section four hundred forty-seven-a of the social services law and, if
7 so, whether such youth should be referred to a safe house; and

8 (v) determine whether [alternatives to detention are appropriate to
9 avoid remand of the youth to detention] the youth and his or her family
10 should be referred to an available family support center; and

11 [(v)] (vi) determine whether an assessment of the youth for substance
12 use disorder by an office of alcoholism and substance abuse services
13 certified provider is necessary when a person seeking to file a petition
14 alleges in such petition that the youth is suffering from a substance
15 use disorder which could make the youth a danger to himself or herself
16 or others. Provided, however, that notwithstanding any other provision
17 of law to the contrary, the designated lead agency shall not be required
18 to pay for all or any portion of the costs of such assessment or for any
19 substance use disorder or detoxification services, except in cases where
20 medical assistance for needy persons may be used to pay for all or any
21 portion of the costs of such assessment or services. The office of alco-
22 holism and substance abuse services shall make a list of its certified
23 providers available to the designated lead agency.

24 (c) Any person or agency seeking to file a petition pursuant to this
25 article which does not have attached thereto the documentation required
26 by subdivision (g) of this section shall be referred by the clerk of the
27 court to the designated lead agency which shall schedule and hold, on
28 reasonable notice to the potential petitioner, the youth and his or her

1 parent or other person legally responsible for his or her care, at least
2 one conference in order to determine the factual circumstances and
3 determine whether the youth and his or her family should receive diver-
4 sion services pursuant to this section. Diversion services shall include
5 clearly documented diligent attempts to provide appropriate services to
6 the youth and his or her family unless it is determined that there is no
7 substantial likelihood that the youth and his or her family will benefit
8 from further diversion attempts. Notwithstanding the provisions of
9 section two hundred sixteen-c of this act, the clerk shall not accept
10 for filing under this part any petition that does not have attached
11 thereto the documentation required by subdivision (g) of this section.

12 (d) Diversion services shall include documented diligent attempts to
13 engage the youth and his or her family in appropriately targeted commu-
14 nity-based services, but shall not be limited to:

15 (i) providing, at the first contact, information on the availability
16 of or a referral to services in the geographic area where the youth and
17 his or her family are located that may be of benefit in avoiding the
18 need to file a petition under this article; including the availability,
19 for up to twenty-one days, of a residential respite program, if the
20 youth and his or her parent or other person legally responsible for his
21 or her care agree, and the availability of other non-residential crisis
22 intervention programs such as a family support center, family crisis
23 counseling or alternative dispute resolution programs or an educational
24 program as defined in section four hundred fifty-eight-1 of the social
25 services law.

26 (ii) scheduling and holding at least one conference with the youth and
27 his or her family and the person or representatives of the entity seek-
28 ing to file a petition under this article concerning alternatives to

1 filing a petition and services that are available. Diversion services
2 shall include clearly documented diligent attempts to provide appropri-
3 ate services to the youth and his or her family before it may be deter-
4 mined that there is no substantial likelihood that the youth and his or
5 her family will benefit from further attempts.

6 (iii) where the entity seeking to file a petition is a school district
7 or local educational agency, the designated lead agency shall review the
8 steps taken by the school district or local educational agency to
9 improve the youth's attendance and/or conduct in school and attempt to
10 engage the school district or local educational agency in further diver-
11 sion attempts, if it appears from review that such attempts will be
12 beneficial to the youth.

13 (e) The designated lead agency shall maintain a written record with
14 respect to each youth and his or her family for whom it considers
15 providing or provides diversion services pursuant to this section. The
16 record shall be made available to the court at or prior to the initial
17 appearance of the youth in any proceeding initiated pursuant to this
18 article.

19 (f) Efforts to prevent the filing of a petition pursuant to this
20 section may extend until the designated lead agency determines that
21 there is no substantial likelihood that the youth and his or her family
22 will benefit from further attempts. Efforts at diversion pursuant to
23 this section may continue after the filing of a petition where the
24 designated lead agency determines that the youth and his or her family
25 will benefit from further attempts to prevent placement of the youth
26 [from entering foster care] in accordance with section seven hundred
27 fifty-six of this article.

1 (g) (i) The designated lead agency shall promptly give written notice
2 to the potential petitioner whenever attempts to prevent the filing of a
3 petition have terminated, and shall indicate in such notice whether
4 efforts were successful. The notice shall also detail the diligent
5 attempts made to divert the case if a determination has been made that
6 there is no substantial likelihood that the youth will benefit from
7 further attempts. No persons in need of supervision petition may be
8 filed pursuant to this article during the period the designated lead
9 agency is providing diversion services. A finding by the designated lead
10 agency that the case has been successfully diverted shall constitute
11 presumptive evidence that the underlying allegations have been success-
12 fully resolved in any petition based upon the same factual allegations.
13 No petition may be filed pursuant to this article by the parent or other
14 person legally responsible for the youth where diversion services have
15 been terminated because of the failure of the parent or other person
16 legally responsible for the youth to consent to or actively participate.

17 (ii) The clerk of the court shall accept a petition for filing only if
18 it has attached thereto the following:

19 (A) if the potential petitioner is the parent or other person legally
20 responsible for the youth, a notice from the designated lead agency
21 indicating there is no bar to the filing of the petition as the poten-
22 tial petitioner consented to and actively participated in diversion
23 services; and

24 (B) a notice from the designated lead agency stating that it has
25 terminated diversion services because it has determined that there is no
26 substantial likelihood that the youth and his or her family will benefit
27 from further attempts, and that the case has not been successfully
28 diverted.

1 (h) No statement made to the designated lead agency or to any agency
2 or organization to which the potential respondent, prior to the filing
3 of the petition, or if the petition has been filed, prior to the time
4 the respondent has been notified that attempts at diversion will not be
5 made or have been terminated, or prior to the commencement of a fact-
6 finding hearing if attempts at diversion have not terminated previously,
7 may be admitted into evidence at a fact-finding hearing or, if the
8 proceeding is transferred to a criminal court, at any time prior to a
9 conviction.

10 § 39. Section 739 of the family court act, as amended by chapter 920
11 of the laws of 1982, subdivision (a) as amended by section 10 of part G
12 of chapter 58 of the laws of 2010, subdivision (c) as added by chapter
13 145 of the laws of 2000, is amended to read as follows:

14 § 739. Release or [detention] referral after filing of petition and
15 prior to order of disposition. [(a)] After the filing of a petition
16 under section seven hundred thirty-two of this part, the court in its
17 discretion may release the respondent [or direct his or her detention].
18 If the respondent may be a sexually exploited child as defined in subdi-
19 vision one of section four hundred forty-seven-a of the social services
20 law, the court may direct the respondent to an available short-term safe
21 house [as an alternative to detention. However, the court shall not
22 direct detention unless it finds and states the facts and reasons for so
23 finding that unless the respondent is detained there is a substantial
24 probability that the respondent will not appear in court on the return
25 date and all available alternatives to detention have been exhausted.

26 (b) Unless the respondent waives a determination that probable cause
27 exists to believe that he is a person in need of supervision, no
28 detention under this section may last more than three days (i) unless

1 the court finds, pursuant to the evidentiary standards applicable to a
2 hearing on a felony complaint in a criminal court, that such probable
3 cause exists, or (ii) unless special circumstances exist, in which cases
4 such detention may be extended not more than an additional three days
5 exclusive of Saturdays, Sundays and public holidays.

6 (c) Upon a finding of facts and reasons which support a detention
7 order pursuant to subdivision (a) of this section, the court shall also
8 determine and state in any order directing detention:

9 (i) whether continuation of the respondent in the respondent's home
10 would be contrary to the best interests of the respondent based upon,
11 and limited to, the facts and circumstance available to the court at the
12 time of the court's determination in accordance with this section; and

13 (ii) where appropriate, whether reasonable efforts were made prior to
14 the date of the court order directing detention in accordance with this
15 section, to prevent or eliminate the need for removal of the respondent
16 from his or her home or, if the respondent had been removed from his or
17 her home prior to the court appearance pursuant to this section, where
18 appropriate, whether reasonable efforts were made to make it possible
19 for the respondent to safely return home].

20 § 40. Section 741-a of the family court act, as amended by section 3
21 of part B of chapter 327 of the laws of 2007, is amended to read as
22 follows:

23 § 741-a. Notice and right to be heard. The foster parent caring for
24 [the child] a sexually exploited child placed in accordance with section
25 seven hundred fifty-six of this article or any pre-adoptive parent or
26 relative providing care for the respondent shall be provided with notice
27 of any permanency hearing held pursuant to this article by the social
28 services official. Such foster parent, pre-adoptive parent or relative

1 shall have the right to be heard at any such hearing; provided, however,
2 no such foster parent, pre-adoptive parent or relative shall be
3 construed to be a party to the hearing solely on the basis of such
4 notice and right to be heard. The failure of the foster parent, pre-a-
5 doptive parent, or relative caring for the child to appear at a perman-
6 ency hearing shall constitute a waiver of the right to be heard and such
7 failure to appear shall not cause a delay of the permanency hearing nor
8 shall such failure to appear be a ground for the invalidation of any
9 order issued by the court pursuant to this section.

10 § 41. Section 747 of the family court act is REPEALED.

11 § 42. Section 748 of the family court act is REPEALED.

12 § 43. Subdivision (b) of section 749 of the family court act, as
13 amended by chapter 806 of the laws of 1973, is amended to read as
14 follows:

15 (b) On its own motion, the court may adjourn the proceedings on
16 conclusion of a fact-finding hearing or during a dispositional hearing
17 to enable it to make inquiry into the surroundings, conditions and
18 capacities of the respondent. An [adjournment on the court's motion may
19 not be for a period of more than ten days if the respondent is detained,
20 in which case not more than a total of two such adjournments may be
21 granted in the absence of special circumstances. If the respondent is
22 not detained, an] adjournment may be for a reasonable time, but the
23 total number of adjourned days may not exceed two months.

24 § 44. Paragraph (a) of subdivision 2 of section 754 of the family
25 court act, as amended by chapter 7 of the laws of 1999, is amended to
26 read as follows:

27 (a) The order shall state the court's reasons for the particular
28 disposition. If the court places the child in accordance with section

1 seven hundred fifty-six of this part, the court in its order shall
2 determine: (i) whether continuation in the child's home would be contra-
3 ry to the best interest of the child and where appropriate, that reason-
4 able efforts were made prior to the date of the dispositional hearing
5 held pursuant to this article to prevent or eliminate the need for
6 removal of the child from his or her home and, if the child was removed
7 from his or her home prior to the date of such hearing, that such
8 removal was in the child's best interest and, where appropriate, reason-
9 able efforts were made to make it possible for the child to return safe-
10 ly home. If the court determines that reasonable efforts to prevent or
11 eliminate the need for removal of the child from the home were not made
12 but that the lack of such efforts was appropriate under the circum-
13 stances, the court order shall include such a finding; and (ii) in the
14 case of a child who has attained the age of sixteen, the services need-
15 ed, if any, to assist the child to make the transition from foster care
16 to independent living. [Nothing in this subdivision shall be construed
17 to modify the standards for directing detention set forth in section
18 seven hundred thirty-nine of this article.]

19 § 45. Section 756 of the family court act, as amended by chapter 920
20 of the laws of 1982, paragraph (i) of subdivision (a) as amended by
21 chapter 309 of the laws of 1996, the opening paragraph of paragraph (ii)
22 of subdivision (a) as amended by section 11 of part G of chapter 58 of
23 the laws of 2010, subdivision (b) as amended by chapter 7 of the laws of
24 1999, and subdivision (c) as amended by section 10 of part E of chapter
25 57 of the laws of 2005, is amended to read as follows:

26 § 756. Placement. (a) (i) For purposes of section seven hundred
27 fifty-four, the court may place the child in its own home or in the

1 custody of a suitable relative or other suitable private person [or a
2 commissioner of social services], subject to the orders of the court.

3 (ii) [Where the child is placed] If the court finds that the respond-
4 ent is a sexually exploited child as defined in subdivision one of
5 section four hundred forty-seven-a of the social services law, the court
6 may place the child with the commissioner of the local social services
7 district[, the court] and may direct the commissioner to place the child
8 with an authorized agency or class of authorized agencies, including[,
9 if the court finds that the respondent is a sexually exploited child as
10 defined in subdivision one of section four hundred forty-seven-a of the
11 social services law,] an available long-term safe house. Unless the
12 dispositional order provides otherwise, the court so directing shall
13 include one of the following alternatives to apply in the event that the
14 commissioner is unable to so place the child:

15 (1) the commissioner shall apply to the court for an order to stay,
16 modify, set aside, or vacate such directive pursuant to the provisions
17 of section seven hundred sixty-two or seven hundred sixty-three; or

18 (2) the commissioner shall return the child to the family court for a
19 new dispositional hearing and order.

20 (b) Placements under this section may be for an initial period of
21 twelve months. The court may extend a placement pursuant to section
22 seven hundred fifty-six-a. In its discretion, the court may recommend
23 restitution or require services for public good pursuant to section
24 seven hundred fifty-eight-a in conjunction with an order of placement.
25 For the purposes of calculating the initial period of placement, such
26 placement shall be deemed to have commenced sixty days after the date
27 the child was removed from his or her home in accordance with the
28 provisions of this article. [If the respondent has been in detention

1 pending disposition, the initial period of placement ordered under this
2 section shall be credited with and diminished by the amount of time
3 spent by the respondent in detention prior to the commencement of the
4 placement unless the court finds that all or part of such credit would
5 not serve the best interests of the respondent.

6 (c) A placement pursuant to this section with the commissioner of
7 social services shall not be directed in any detention facility, but the
8 court may direct detention pending transfer to a placement authorized
9 and ordered under this section for no more than than fifteen days after
10 such order of placement is made. Such direction shall be subject to
11 extension pursuant to subdivision three of section three hundred nine-
12 ty-eight of the social services law, upon written documentation to the
13 office of children and family services that the youth is in need of
14 specialized treatment or placement and the diligent efforts by the
15 commissioner of social services to locate an appropriate placement.]

16 § 46. Section 758-a of the family court act, as amended by chapter 73
17 of the laws of 1979, subdivision 1 as amended by chapter 4 of the laws
18 of 1987, paragraph (b) of subdivision 1 as amended by chapter 575 of the
19 laws of 2007, subdivision 2 as amended by chapter 309 of the laws of
20 1996, and subdivision 3 as separately amended by chapter 568 of the laws
21 of 1979, is amended to amended to read as follows:

22 § 758-a. Restitution. 1. In cases involving acts of [infants] children
23 over [ten] twelve and less than [sixteen] eighteen years of age, the
24 court may

25 (a) recommend as a condition of placement, or order as a condition of
26 probation or suspended judgment, restitution in an amount representing a
27 fair and reasonable cost to replace the property or repair the damage
28 caused by the [infant] child, not, however, to exceed one thousand

1 dollars. [In the case of a placement, the court may recommend that the
2 infant pay out of his or her own funds or earnings the amount of
3 replacement or damage, either in a lump sum or in periodic payments in
4 amounts set by the agency with which he is placed, and in the case of
5 probation or suspended judgment, the] The court may require that the
6 [infant] child pay out of his or her own funds or earnings the amount of
7 replacement or damage, either in a lump sum or in periodic payments in
8 amounts set by the court; and/or

9 (b) order as a condition of placement, probation, or suspended judg-
10 ment, services for the public good including in the case of a crime
11 involving willful, malicious, or unlawful damage or destruction to real
12 or personal property maintained as a cemetery plot, grave, burial place,
13 or other place of interment of human remains, services for the mainte-
14 nance and repair thereof, taking into consideration the age and physical
15 condition of the [infant] child.

16 2. [If the court recommends restitution or requires services for the
17 public good in conjunction with an order of placement pursuant to
18 section seven hundred fifty-six, the placement shall be made only to an
19 authorized agency which has adopted rules and regulations for the super-
20 vision of such a program, which rules and regulations shall be subject
21 to the approval of the state department of social services. Such rules
22 and regulations shall include, but not be limited to provisions (i)
23 assuring that the conditions of work, including wages, meet the stand-
24 ards therefor prescribed pursuant to the labor law; (ii) affording
25 coverage to the child under the workers' compensation law as an employee
26 of such agency, department or institution; (iii) assuring that the enti-
27 ty receiving such services shall not utilize the same to replace its

1 regular employees; and (iv) providing for reports to the court not less
2 frequently than every six months, unless the order provides otherwise.

3 3.] If the court requires restitution or services for the public good
4 [as a condition of probation or suspended judgment], it shall provide
5 that an agency or person supervise the restitution or services and that
6 such agency or person report to the court not less frequently than every
7 six months, unless the order provides otherwise. Upon the written notice
8 sent by a school district to the court and the appropriate probation
9 department or agency which submits probation recommendations or reports
10 to the court, the court may provide that such school district shall
11 supervise the performance of services for the public good.

12 [4.] 3. The court, upon receipt of the reports provided for in subdi-
13 vision two [or three] of this section may, on its own motion or the
14 motion of any party or the agency, hold a hearing to determine whether
15 the [placement] condition should be altered or modified.

16 § 47. Section 774 of the family court act is amended to read as
17 follows:

18 § 774. Action on petition for transfer. On receiving a petition under
19 section seven hundred seventy-three, the court may proceed under
20 sections seven hundred thirty-seven, seven hundred thirty-eight or seven
21 hundred thirty-nine with respect to the issuance of a summons or warrant
22 [and sections seven hundred twenty-seven and seven hundred twenty-nine
23 govern questions of detention and failure to comply with a promise to
24 appear]. Due notice of the petition and a copy of the petition shall
25 also be served personally or by mail upon the office of the locality
26 chargeable for the support of the person involved and upon the person
27 involved and his parents and other persons.

1 § 48. Section 153-k of the social services law is amended by adding a
2 new subdivision 2-a to read as follows:

3 2-a. Notwithstanding any other provision of law to the contrary,
4 commencing January first, two thousand seventeen, state reimbursement
5 shall be made available for one hundred percent of expenditures made by
6 social services districts, exclusive of any federal funds made available
7 for such purposes, for preventive services, aftercare services, inde-
8 pendent living services and foster care services provided to youth age
9 sixteen years of age or older when such services would not otherwise
10 have been provided to such youth absent the provisions in a chapter of
11 the laws of two thousand fifteen that increased the age of juvenile
12 jurisdiction above fifteen years of age.

13 § 49. Subdivisions 5 and 6 of section 371 of the social services law,
14 subdivision 5 as added by chapter 690 of the laws of 1962, and subdivi-
15 sion 6 as amended by chapter 596 of the laws of 2000, are amended to
16 read as follows:

17 5. "Juvenile delinquent" means a person [over seven and less than
18 sixteen years of age who does any act which, if done by an adult, would
19 constitute a crime] as defined in section 301.2 of the family court act.

20 6. "Person in need of supervision" means a person [less than eighteen
21 years of age who is habitually truant or who is incorrigible, ungoverna-
22 ble or habitually disobedient and beyond the lawful control of a parent
23 or other person legally responsible for such child's care, or other
24 lawful authority] as defined in section seven hundred twelve of the
25 family court act.

26 § 50. Article 6 of the social services law is amended by adding a new
27 title 12 to read as follows:

1 TITLE 12

2 FAMILY SUPPORT CENTERS

3 Section 458-m. Family support centers.

4 458-n. Funding for family support centers.

5 § 458-m. Family support centers. 1. As used in this title, the term
6 "family support center" shall mean a program established pursuant to
7 this title to provide community-based supportive services to children
8 and families with the goal of preventing a child from being adjudicated
9 a person in need of supervision under article seven of the family court
10 act.

11 2. Family support centers shall provide comprehensive services to such
12 children and their families, either directly or through referrals with
13 partner agencies, including, but not limited to:

14 (a) rapid family assessments and screenings;

15 (b) crisis intervention;

16 (c) family mediation and skills building;

17 (d) mental and behavioral health services including cognitive inter-
18 ventions;

19 (e) case management;

20 (f) respite services; and

21 (g) other family support services.

22 3. To the extent practicable, the services that are provided shall be
23 trauma sensitive, family focused, gender-responsive, where appropriate,
24 and evidence and/or strength based and shall be tailored to the individ-
25 ualized needs of the child and family based on the assessments and
26 screenings conducted by such family support center.

27 4. Family support centers shall have the capacity to serve families
28 outside of regular business hours including evenings or weekends.

1 § 458-n. Funding for family support centers. 1. Notwithstanding any
2 other provision of law to the contrary, to the extent that funds are
3 available for such purpose, the office of children and family services
4 shall distribute funding to the highest need social services districts
5 to contract with not-for-profit corporations to operate family support
6 centers in accordance with the provisions of this title and the specific
7 program model requirements issued by the office.

8 2. Notwithstanding any other provision of law to the contrary, when
9 determining the highest need social services districts pursuant to this
10 subdivision, the office may consider factors that may include, but are
11 not necessarily limited to:

12 (a) the total amount of available funding and the amount of funding
13 required for family support centers to meet the objectives outlined in
14 section 458-m of this title;

15 (b) relevant, available statistics regarding each district, which may
16 include, but not necessarily be limited to:

17 (i) the availability of services within such district to prevent or
18 reduce detention or residential placement of youth pursuant to article
19 seven of the family court act;

20 (ii) relative to the youth population of such social services
21 district:

22 (1) the number of petitions filed pursuant to article seven of the
23 family court act; or

24 (2) the number of placements of youth into residential care or
25 detention pursuant to article seven of the family court act;

26 (c) any reported performance outcomes reported to the office pursuant
27 to subdivision three of this section for programs that previously
28 received funding pursuant to this title; or

1 (d) other appropriate factors as determined by the office.

2 3. Social services districts receiving funding under this title shall
3 report to the office of children and family services, in the form and
4 manner and at such times as determined by the office, on the performance
5 outcomes of any family support center located within such district that
6 receives funding under this title.

7 § 51. Subdivisions 3, 3-a, 11 and 12 of section 398 of the social
8 services law, subdivision 3 as amended by chapter 419 of the laws of
9 1987, paragraph (c) of subdivision 3 as amended by section 19 of part E
10 of chapter 57 of the laws of 2005, subdivision 3-a as added by section 1
11 of subpart B of part G of chapter 57 of the laws of 2012, subdivision 11
12 as added by chapter 514 of the laws of 1976 and subdivision 12 as
13 amended by section 12 of subpart B of part Q of chapter 58 of the laws
14 of 2011, are amended to read as follows:

15 3. As to delinquent children [and persons in need of supervision]:

16 (a) Investigate complaints as to alleged delinquency of a child.

17 (b) Bring such case of alleged delinquency when necessary before the
18 family court.

19 (c) Receive within fifteen days from the order of placement as a
20 public charge any delinquent child committed or placed [or person in
21 need of supervision placed] in his or her care by the family court
22 provided, however, that the commissioner of the social services district
23 with whom the child is placed may apply to the state commissioner or his
24 or her designee for approval of an additional fifteen days, upon written
25 documentation to the office of children and family services that the
26 youth is in need of specialized treatment or placement and the diligent
27 efforts by the commissioner of social services to locate an appropriate
28 placement.

1 [3-a. As to delinquent children:

2 (a)] (d) (1) Conditionally release any juvenile delinquent placed with
3 the district to aftercare whenever the district determines conditional
4 release to be consistent with the needs and best interests of such juve-
5 nile delinquent, that suitable care and supervision can be provided, and
6 that there is a reasonable probability that such juvenile delinquent can
7 be conditionally released without endangering public safety; provided,
8 however, that such conditional release shall be made in accordance with
9 the regulations of the office of children and family services, and
10 provided further that no juvenile delinquent while absent from a facili-
11 ty or program without the consent of the director of such facility or
12 program shall be conditionally released by the district solely by reason
13 of the absence.

14 (2) It shall be a condition of such release that a juvenile delinquent
15 so released shall continue to be the responsibility of the social
16 services district for the period provided in the order of placement.

17 (3) The social services district may provide clothing, services and
18 other necessities for any conditionally released juvenile delinquent, as
19 may be required, including medical care and services not provided to
20 such juvenile delinquent as medical assistance for needy persons pursu-
21 ant to title eleven of article five of this chapter.

22 (4) The social services district, pursuant to the regulations of the
23 office of children and family services, may cause a juvenile delinquent
24 to be returned to a facility operated and maintained by the district, or
25 an authorized agency under contract with the district, at any time with-
26 in the period of placement, where there is a violation of the conditions
27 of release or a change of circumstances.

1 (5) Juvenile delinquents conditionally released by a social services
2 district may be provided for as follows:

3 (i) If, in the opinion of the social services district, there is no
4 suitable parent, relative or guardian to whom a juvenile delinquent can
5 be conditionally released, and suitable care cannot otherwise be
6 secured, the district may conditionally release such juvenile delinquent
7 to the care of any other suitable person; provided that where such suit-
8 able person has no legal relationship with the juvenile, the district
9 shall advise such person of the procedures for obtaining custody or
10 guardianship of the juvenile.

11 (ii) If a conditionally released juvenile delinquent is subject to
12 article sixty-five of the education law or elects to participate in an
13 educational program leading to a high school diploma, he or she shall be
14 enrolled in a school or educational program leading to a high school
15 diploma following release, or, if such release occurs during the summer
16 recess, upon the commencement of the next school term. If a condi-
17 tionally released juvenile delinquent is not subject to article sixty-
18 five of the education law, and does not elect to participate in an
19 educational program leading to a high school diploma, steps shall be
20 taken, to the extent possible, to facilitate his or her gainful employ-
21 ment or enrollment in a vocational program following release.

22 [(b)] (e) When a juvenile delinquent placed with the social services
23 district is absent from placement without consent, such absence shall
24 interrupt the calculation of time for his or her placement. Such inter-
25 ruption shall continue until such juvenile delinquent returns to the
26 facility or authorized agency in which he or she was placed. Provided,
27 however, that any time spent by a juvenile delinquent in custody from

1 the date of absence to the date placement resumes shall be credited
2 against the time of such placement provided that such custody:

3 (1) was due to an arrest or surrender based upon the absence; or

4 (2) arose from an arrest or surrender on another charge which did not
5 culminate in a conviction, adjudication or adjustment.

6 [(c)] (f) In addition to the other requirements of this section, no
7 juvenile delinquent placed with a social services district operating an
8 approved juvenile justice services close to home initiative pursuant to
9 section four hundred four of this chapter pursuant to a restrictive
10 placement under the family court act shall be released except pursuant
11 to section 353.5 of the family court act.

12 11. In the case of [a child who is adjudicated a person in need of
13 supervision or] a juvenile delinquent and is placed by the family court
14 with the [division for youth] office of children and family services and
15 who is placed by [the division for youth] such office with an authorized
16 agency pursuant to court order, the social services official shall make
17 expenditures in accordance with the regulations of the department for
18 the care and maintenance of such child during the term of such placement
19 subject to state reimbursement pursuant to section one hundred fifty-
20 three-k of this title[, or article nineteen-G of the executive law in
21 applicable cases].

22 12. A social services official shall be permitted to place persons
23 adjudicated [in need of supervision or] delinquent[, and alleged persons
24 to be in need of supervision] in detention pending transfer to a place-
25 ment, in the same foster care facilities as are providing care to desti-
26 tute, neglected, abused or abandoned children. Such foster care facili-
27 ties shall not provide care to a youth in the care of a social services
28 official as a convicted juvenile offender.

1 § 52. Subdivision 8 of section 404 of the social services law, as
2 added by section 1 of subpart A of part G of chapter 57 of the laws of
3 2012, is amended to read as follows:

4 8. (a) Notwithstanding any other provision of law to the contrary[,]
5 except as provided for in paragraph (a-1) of this subdivision, eligible
6 expenditures during the applicable time periods made by a social
7 services district for an approved juvenile justice services close to
8 home initiative shall, if approved by the department of family assist-
9 ance, be subject to reimbursement with state funds only up to the extent
10 of an annual appropriation made specifically therefor, after first
11 deducting therefrom any federal funds properly received or to be
12 received on account thereof; provided, however, that when such funds
13 have been exhausted, a social services district may receive state
14 reimbursement from other available state appropriations for that state
15 fiscal year for eligible expenditures for services that otherwise would
16 be reimbursable under such funding streams. Any claims submitted by a
17 social services district for reimbursement for a particular state fiscal
18 year for which the social services district does not receive state
19 reimbursement from the annual appropriation for the approved close to
20 home initiative may not be claimed against that district's appropriation
21 for the initiative for the next or any subsequent state fiscal year.

22 (i) State funding for reimbursement shall be, subject to appropri-
23 ation, in the following amounts: for state fiscal year 2013-14,
24 \$35,200,000 adjusted by any changes in such amount required by subpara-
25 graphs (ii) and (iii) of this paragraph; for state fiscal year 2014-15,
26 \$41,400,000 adjusted to include the amount of any changes made to the
27 state fiscal year 2013-14 appropriation under subparagraphs (ii) and
28 (iii) of this paragraph plus any additional changes required by such

1 subparagraphs; and, such reimbursement shall be, subject to appropri-
2 ation, for all subsequent state fiscal years in the amount of the prior
3 year's actual appropriation adjusted by any changes required by subpara-
4 graphs (ii) and (iii) of this paragraph.

5 (ii) The reimbursement amounts set forth in subparagraph (i) of this
6 paragraph shall be increased or decreased by the percentage that the
7 average of the most recently approved maximum state aid rates for group
8 residential foster care programs is higher or lower than the average of
9 the approved maximum state aid rates for group residential foster care
10 programs in existence immediately prior to the most recently approved
11 rates.

12 (iii) The reimbursement amounts set forth in subparagraph (i) of this
13 paragraph shall be increased if either the population of alleged juve-
14 nile delinquents who receive a probation intake or the total population
15 of adjudicated juvenile delinquents placed on probation combined with
16 the population of adjudicated juvenile delinquents placed out of their
17 homes in a setting other than a secure facility pursuant to section
18 352.2 of the family court act, increases by at least ten percent over
19 the respective population in the annual baseline year. The baseline year
20 shall be the period from July first, two thousand ten through June thir-
21 tieth, two thousand eleven or the most recent twelve month period for
22 which there is complete data, whichever is later. In each successive
23 year, the population of the previous July first through June thirtieth
24 period shall be compared to the baseline year for determining any
25 adjustments to a state fiscal year appropriation. When either population
26 increases by ten percent or more, the reimbursement will be adjusted by
27 a percentage equal to the larger of the percentage increase in either
28 the number of probation intakes for alleged juvenile delinquents or the

1 total population of adjudicated juvenile delinquents placed on probation
2 combined with the population of adjudicated juvenile delinquents placed
3 out of their homes in a setting other than a secure facility pursuant to
4 section 352.2 of the family court act.

5 (iv) The social services district and/or the New York city department
6 of probation shall provide an annual report including the data required
7 to calculate the population adjustment to the New York city office of
8 management and budget, the division of criminal justice services and the
9 state division of the budget no later than the first day of September
10 following the close of the previous July first through June thirtieth
11 period.

12 (a-1) Commencing January first, two thousand seventeen, state
13 reimbursement shall be made available for one hundred percent of eligi-
14 ble expenditures made by a social services district, exclusive of any
15 federal funds made available for such purposes, for approved juvenile
16 justice services under an approved close to home initiative provided to
17 youth age sixteen years of age or older when such services would not
18 otherwise have been provided to such youth absent the provisions in a
19 chapter of the laws of two thousand fifteen that increased the age of
20 juvenile jurisdiction above fifteen years of age.

21 (b) The department of family assistance is authorized, in its
22 discretion, to make advances to a social services district in antic-
23 ipation of the state reimbursement provided for in this section.

24 (c) A social services district shall conduct eligibility determi-
25 nations for federal and state funding and submit claims for reimburse-
26 ment in such form and manner and at such times and for such periods as
27 the department of family assistance shall determine.

1 (d) Notwithstanding any inconsistent provision of law or regulation of
2 the department of family assistance, state reimbursement shall not be
3 made for any expenditure made for the duplication of any grant or allow-
4 ance for any period.

5 (e) Claims submitted by a social services district for reimbursement
6 shall be paid after deducting any expenditures defrayed by fees, third
7 party reimbursement, and any non-tax levy funds including any donated
8 funds.

9 (f) The office of children and family services shall not reimburse any
10 claims for expenditures for residential services that are submitted more
11 than twenty-two months after the calendar quarter in which the expendi-
12 tures were made.

13 (g) Notwithstanding any other provision of law, the state shall not be
14 responsible for reimbursing a social services district and a district
15 shall not seek state reimbursement for any portion of any state disal-
16 lowance or sanction taken against the social services district, or any
17 federal disallowance attributable to final federal agency decisions or
18 to settlements made, when such disallowance or sanction results from the
19 failure of the social services district to comply with federal or state
20 requirements, including, but not limited to, failure to document eligi-
21 bility for the federal or state funds in the case record. To the extent
22 that the social services district has sufficient claims other than those
23 that are subject to disallowance or sanction to draw down the full annu-
24 al appropriation, such disallowance or sanction shall not result in a
25 reduction in payment of state funds to the district unless the district
26 requests that the department use a portion of the appropriation toward
27 meeting the district's responsibility to repay the federal government
28 for the disallowance or sanction and any related interest payments.

1 (h) Rates for residential services. (i) The office shall establish the
2 rates, in accordance with section three hundred ninety-eight-a of this
3 chapter, for any non-secure facilities established under an approved
4 juvenile justice services close to home initiative. For any such non-se-
5 cure facility that will be used primarily by the social services
6 district with an approved close to home initiative, final authority for
7 establishment of such rates and any adjustments thereto shall reside
8 with the office, but such rates and any adjustments thereto shall be
9 established only upon the request of, and in consultation with, such
10 social services district.

11 (ii) A social services district with an approved juvenile justice
12 services close to home initiative for juvenile delinquents placed in
13 limited secure settings shall have the authority to establish and
14 adjust, on an annual or regular basis, maintenance rates for limited
15 secure facilities providing residential services under such initiative.
16 Such rates shall not be subject to the provisions of section three
17 hundred ninety-eight-a of this chapter but shall be subject to maximum
18 cost limits established by the office of children and family services.

19 § 53. Paragraph (a) of subdivision 1 of section 409-a of the social
20 services law, as amended by chapter 87 of the laws of 1993, subparagraph
21 (i) as amended by chapter 342 of the laws of 2010, and subparagraph (ii)
22 as amended by section 22 of part C of chapter 83 of the laws of 2002, is
23 amended to read as follows:

24 (a) A social services official shall provide preventive services to a
25 child and his or her family, in accordance with the family's service
26 plan as required by section four hundred nine-e of this chapter and the
27 social services district's child welfare services plan submitted and
28 approved pursuant to section four hundred nine-d of this chapter, upon a

1 finding by such official that [(i)] the child will be placed, returned
2 to or continued in foster care unless such services are provided and
3 that it is reasonable to believe that by providing such services the
4 child will be able to remain with or be returned to his or her family,
5 and for a former foster care youth under the age of twenty-one who was
6 previously placed in the care and custody or custody and guardianship of
7 the local commissioner of social services or other officer, board or
8 department authorized to receive children as public charges where it is
9 reasonable to believe that by providing such services the former foster
10 care youth will avoid a return to foster care [or (ii) the child is the
11 subject of a petition under article seven of the family court act, or
12 has been determined by the assessment service established pursuant to
13 section two hundred forty-three-a of the executive law, or by the
14 probation service where no such assessment service has been designated,
15 to be at risk of being the subject of such a petition, and the social
16 services official determines that the child is at risk of placement into
17 foster care]. Such finding shall be entered in the child's uniform case
18 record established and maintained pursuant to section four hundred
19 nine-f of this chapter. The commissioner shall promulgate regulations to
20 assist social services officials in making determinations of eligibility
21 for mandated preventive services pursuant to this [subparagraph] para-
22 graph.

23 § 54. Section 30.00 of the penal law, as amended by chapter 481 of the
24 laws of 1978, subdivision 2 as amended by chapter 7 of the laws of 2007,
25 is amended to read as follows:

26 § 30.00 Infancy.

27 1. Except as provided in [subdivision] subdivisions two and three of
28 this section, a person less than [sixteen] seventeen years old, or,

1 commencing January first, two thousand eighteen, a person less than
2 eighteen years old is not criminally responsible for conduct.

3 2. A person thirteen, fourteen [or], fifteen, or sixteen years of age
4 or, commencing January first, two thousand eighteen, a person seventeen
5 years of age is criminally responsible for acts constituting murder in
6 the second degree as defined in subdivisions one and two of section
7 125.25 and in subdivision three of such section provided that the under-
8 lying crime for the murder charge is one for which such person is crimi-
9 nally responsible or for such conduct as a sexually motivated felony,
10 where authorized pursuant to section 130.91 of the penal law; and a
11 person fourteen [or], fifteen, or sixteen years of age or, commencing
12 January first, two thousand eighteen, seventeen years of age is crimi-
13 nally responsible for acts constituting the crimes defined in section
14 135.25 (kidnapping in the first degree); 150.20 (arson in the first
15 degree); subdivisions one and two of section 120.10 (assault in the
16 first degree); 125.20 (manslaughter in the first degree); subdivisions
17 one and two of section 130.35 (rape in the first degree); subdivisions
18 one and two of section 130.50 (criminal sexual act in the first degree);
19 130.70 (aggravated sexual abuse in the first degree); 140.30 (burglary
20 in the first degree); subdivision one of section 140.25 (burglary in the
21 second degree); 150.15 (arson in the second degree); 160.15 (robbery in
22 the first degree); subdivision two of section 160.10 (robbery in the
23 second degree) of this chapter; or section 265.03 of this chapter, where
24 such machine gun or such firearm is possessed on school grounds, as that
25 phrase is defined in subdivision fourteen of section 220.00 of this
26 chapter; or defined in this chapter as an attempt to commit murder in
27 the second degree or kidnapping in the first degree, or for such conduct

1 as a sexually motivated felony, where authorized pursuant to section
2 130.91 of the penal law.

3 3. A person sixteen or, commencing January first, two thousand eigh-
4 teen, seventeen years of age is criminally responsible for acts consti-
5 tuting a violent felony defined in section 70.02 of this chapter; acts
6 constituting any crime in this chapter that is classified as a class A
7 felony excepting those class A felonies which require, as an element of
8 the offense, that the defendant be eighteen years of age or older; acts
9 constituting the crimes defined in section 120.03 (vehicular assault in
10 the second degree); 120.04 (vehicular assault in the first degree);
11 120.04-a (aggravated vehicular assault); 125.10 (criminally negligent
12 homicide); 125.11 (aggravated criminally negligent homicide); 125.12
13 (vehicular manslaughter in the second degree); 125.13 (vehicular
14 manslaughter in the first degree); 125.14 (aggravated vehicular homi-
15 cide); 125.15 (manslaughter in the second degree); 125.20 (manslaughter
16 in the first degree); 125.21 (aggravated manslaughter in the second
17 degree); 125.22 (aggravated manslaughter in the first degree); 215.11
18 (tampering with a witness in the third degree) provided that the crimi-
19 nal proceeding in which the person is tampering is one for which such
20 person is criminally responsible; 215.12 (tampering with a witness in
21 the second degree) provided that the criminal proceeding in which the
22 person is tampering is one for which such person is criminally responsi-
23 ble; 215.13 (tampering with a witness in the first degree) provided that
24 the criminal proceeding in which the person is tampering is one for
25 which such person is criminally responsible; 215.52 (aggravated criminal
26 contempt); acts constituting a specified offense defined in subdivision
27 two of section 130.91 of this chapter when committed as a sexually moti-
28 vated felony; acts constituting a specified offense defined in subdivi-

1 sion three of section 490.05 of this chapter when committed as an act of
2 terrorism; acts constituting a felony defined in article 490 of this
3 chapter; and acts constituting a crime set forth in subdivision one of
4 section 105.10 and section 105.15 provided that the underlying crime for
5 the conspiracy charge is one for which such person is criminally respon-
6 sible. Provided however, a person sixteen or seventeen years of age is
7 criminally responsible for acts constituting an offense set forth in the
8 vehicle and traffic law and shall be considered a person over the age of
9 eighteen for the prosecution of acts constituting an offense set forth
10 in the vehicle and traffic law.

11 4. In any prosecution for an offense, lack of criminal responsibility
12 by reason of infancy, as defined in this section, is a defense.

13 § 55. Subdivision 2 of section 60.02 of the penal law, as amended by
14 chapter 471 of the laws of 1980, is amended to read as follows:

15 (2) If the sentence is to be imposed upon a youthful offender finding
16 which has been substituted for a conviction for any felony, and the
17 person is eighteen years of age or younger, the court must impose a
18 sentence authorized to be imposed upon a person convicted of a class E
19 felony provided, however, that (a) the court must not impose a sentence
20 of [conditional discharge or] unconditional discharge if the youthful
21 offender finding was substituted for a conviction of a felony defined in
22 article two hundred twenty of this chapter; and (b) notwithstanding
23 paragraph (e) of subdivision two of section 70.00 of this title, if a
24 term of imprisonment is imposed, such term shall be a definite sentence
25 of one year or less, or a determinate sentence, the term of which must
26 be at least one year and must not exceed three years, and must include,
27 as a part thereof, a period of post-release supervision in accordance
28 with subdivision two-b of section 70.45 of this chapter. In any case,

1 where a court imposes a sentence of imprisonment in conjunction with a
2 sentence of probation or conditional discharge, such imprisonment term
3 shall not be in excess of six months, or in the case of an intermittent
4 term, not in excess of four months in accordance with paragraph (d) of
5 subdivision two of section 60.01 of this article.

6 § 56. Section 60.10 of the penal law, as amended by chapter 411 of the
7 laws of 1979, is amended to read as follows:

8 § 60.10 Authorized disposition; juvenile offender.

9 1. When a juvenile offender is convicted of a class A felony, other
10 than murder in the second degree as defined by section 125.25, arson in
11 the first degree as defined by section 150.20 or kidnapping in the first
12 degree as defined by section 135.25 of this chapter, the court shall
13 sentence the defendant to imprisonment pursuant to the provisions of
14 section 70.00, 70.06, 70.07, 70.08, or 70.71 of this chapter, as appli-
15 cable. When a juvenile offender is convicted of [a] any other crime, the
16 court shall sentence the defendant to imprisonment in accordance with
17 section 70.05 or sentence [him] the defendant upon a youthful offender
18 finding in accordance with section 60.02 of this chapter.

19 2. Subdivision one of this section shall apply when sentencing a juve-
20 nile offender notwithstanding the provisions of any other law that deals
21 with the authorized sentence for persons who are not juvenile offenders.
22 Provided, however, that the limitation prescribed by this section shall
23 not be deemed or construed to bar use of a conviction of a juvenile
24 offender, other than a juvenile offender who has been adjudicated a
25 youthful offender pursuant to section 720.20 of the criminal procedure
26 law, except as provided in subdivision three of this section as a previ-
27 ous or predicate felony offender under section 70.04, 70.06, 70.07,
28 70.08 [or], 70.10, 70.70, 70.71, 70.80, or 485.10 of this chapter, when

1 sentencing a person who commits a felony after [he] such person has
2 reached the age of [sixteen] seventeen as of January first, two thousand
3 seventeen, and eighteen as of January first, two thousand eighteen.

4 3. The limitation prescribed by this section shall not be deemed or
5 construed to bar use of a conviction of a juvenile offender who has been
6 adjudicated a youthful offender pursuant to section 720.20 of the crimi-
7 nal procedure law for an offense committed when such person was sixteen
8 or seventeen years old as a previous or predicate felony offender under
9 section 70.04, 70.06, 70.07, 70.08, 70.10, 70.70, 70.71, 70.80 or 485.10
10 of this chapter, when sentencing a person who commits a violent felony
11 as defined by subdivision one of section 70.02 of this title after such
12 person has reached the age of seventeen as of January first, two thou-
13 sand seventeen and eighteen as of January first, two thousand eighteen.

14 § 57. Section 70.05 of the penal law, as added by chapter 481 of the
15 laws of 1978, subdivision 1 as amended by chapter 615 of the laws of
16 1984, paragraph (e) of subdivision 2 as added and paragraph (c) of
17 subdivision 3 as amended by chapter 435 of the laws of 1998, paragraph
18 (a) of subdivision 3 as amended by chapter 174 of the laws of 2003, is
19 amended to read as follows:

20 § 70.05 Sentence of imprisonment for juvenile offender.

21 1. [Indeterminate sentence] Sentence. A sentence of imprisonment for
22 a juvenile offender convicted of a class A felony other than murder in
23 the second degree as defined by section 125.25, arson in the first
24 degree as defined by section 150.20 or kidnapping in the first degree as
25 defined by section 135.25 of this chapter, shall be imposed by the court
26 pursuant to the provisions of section 70.00, 70.06, 70.07, 70.08, or
27 70.71 of this chapter, as applicable. A sentence of imprisonment for the
28 class A-1 felony of murder in the second degree committed by a juvenile

1 offender shall be an indeterminate sentence. When such a sentence is
2 imposed, the court shall impose [a] the minimum period of imprisonment
3 and maximum term in accordance with the provisions of subdivision two of
4 this section [and the minimum period of imprisonment shall be as
5 provided in subdivision three of this section]. Except as provided here-
6 in, a sentence of imprisonment for any other felony committed by a juve-
7 nile offender shall be a determinate sentence. When such a sentence is
8 imposed, the court shall impose a term of imprisonment in whole or half
9 years in accordance with the provisions of subdivision three of this
10 section and a period of post-release supervision in accordance with the
11 provisions of subdivision two-b of section 70.45 of this article. The
12 court shall further provide that where a juvenile offender is under
13 placement pursuant to article three of the family court act, any
14 sentence imposed pursuant to this section which is to be served consec-
15 utively with such placement shall be served in a facility designated
16 pursuant to subdivision four of section 70.20 of this article prior to
17 service of the placement in any previously designated facility.

18 2. [Maximum term of] Indeterminate sentence. [The maximum term of an
19 indeterminate sentence for a juvenile offender shall be at least three
20 years and the term shall be fixed as follows:

21 (a)] For the class A felony of murder in the second degree, the maxi-
22 imum term shall be life imprisonment; and the minimum period of imprison-
23 ment shall be specified in the sentence as follows:

24 (a) where the defendant was thirteen years old at the time of such
25 offense, the minimum period of imprisonment shall be at least five years
26 but shall not exceed nine years;

1 (b) where the defendant was fourteen years old at the time of such
2 offense, the minimum period of imprisonment shall be at least seven and
3 one-half years but shall not exceed fifteen years; and

4 (c) where the defendant was sixteen or seventeen years old at the time
5 of such offense, the minimum period of imprisonment shall be at least
6 ten years but shall not exceed fifteen years.

7 ~~[(b)]~~ 3. Determinate sentence. (a) For the class A felony of arson in
8 the first degree, or for the class A felony of kidnapping in the first
9 degree where: (i) the defendant was fourteen or fifteen years old at the
10 time of such offense the determinate term shall be fixed by the court,
11 and shall be at least [twelve] ~~four~~ years but shall not exceed fifteen
12 years; and (ii) the defendant was sixteen or seventeen years old at the
13 time of such offense, the determinate term shall be fixed by the court,
14 and shall be at least four years but shall not exceed ten years;

15 ~~[(c)]~~ (b) For a class B felony, where: (i) the defendant was fourteen
16 or fifteen years old at the time of such offense, the determinate term
17 shall be fixed by the court, and shall be at least one year but shall
18 not exceed [ten] ~~seven~~ years; and (ii) the defendant was sixteen or
19 seventeen years old at the time of such offense, the determinate term
20 shall be fixed by the court, and shall be at least one year but shall
21 not exceed seven years; provided, however, that where the defendant is
22 convicted of a class B violent felony and the court finds aggravating
23 circumstances that bear directly upon the manner in which the crime was
24 committed, including the severity of injury to the victim and the gravi-
25 ty of risk to public safety, the court shall sentence the defendant
26 pursuant to paragraph (a) of subdivision three of section 70.02 of this
27 article;

1 [(d)] (c) For a class C felony, where: (i) the defendant was fourteen
2 or fifteen years old at the time of such offense, the determinate term
3 shall be fixed by the court, and shall be at least one year but shall
4 not exceed [seven] five years; and (ii) the defendant was sixteen or
5 seventeen years old at the time of such offense, the determinate term
6 shall be fixed by the court, and shall be at least one year but shall
7 not exceed five years;

8 [(e)] (d) For a class D felony, where: (i) the defendant was fourteen
9 or fifteen years old at the time of such offense, the determinate term
10 shall be fixed by the court, and shall be at least one year but shall
11 not exceed [four] three years; and (ii) the defendant was sixteen or
12 seventeen years old at the time of such offense, the determinate term
13 shall be fixed by the court, and shall be at least one year but shall
14 not exceed three years; and

15 (e) For a class E felony, where the defendant was sixteen or seventeen
16 years old at the time of such offense, the determinate term shall be
17 fixed by the court, and shall be at least one year but shall not exceed
18 two years.

19 [3. Minimum period of imprisonment. The minimum period of imprisonment
20 under an indeterminate sentence for a juvenile offender shall be speci-
21 fied in the sentence as follows:

22 (a) For the class A felony of murder in the second degree, the minimum
23 period of imprisonment shall be fixed by the court and shall be not less
24 than five years but shall not exceed nine years provided, however, that
25 where the sentence is for an offense specified in subdivision one or two
26 of section 125.25 of this chapter and the defendant was fourteen or
27 fifteen years old at the time of such offense, the minimum period of

1 imprisonment shall be not less than seven and one-half years but shall
2 not exceed fifteen years;

3 (b) For the class A felony of arson in the first degree, or for the
4 class A felony of kidnapping in the first degree, the minimum period of
5 imprisonment shall be fixed by the court and shall be not less than four
6 years but shall not exceed six years; and

7 (c) For a class B, C or D felony, the minimum period of imprisonment
8 shall be fixed by the court at one-third of the maximum term imposed.]

9 § 58. Subdivision 1 of section 70.20 of the penal law, as amended by
10 section 124 of subpart B of part C of chapter 62 of the laws of 2011, is
11 amended to read as follows:

12 1. [(a)] Indeterminate or determinate sentence. Except as provided in
13 subdivision four of this section, when an indeterminate or determinate
14 sentence of imprisonment is imposed, the court shall commit the defend-
15 ant to the custody of the state department of corrections and community
16 supervision for the term of his or her sentence and until released in
17 accordance with the law; provided, however, that a defendant sentenced
18 pursuant to subdivision seven of section 70.06 shall be committed to the
19 custody of the state department of corrections and community supervision
20 for immediate delivery to a reception center operated by the department.

21 [(b) The court in committing a defendant who is not yet eighteen years
22 of age to the department of corrections and community supervision shall
23 inquire as to whether the parents or legal guardian of the defendant, if
24 present, will grant to the minor the capacity to consent to routine
25 medical, dental and mental health services and treatment.

26 (c) Notwithstanding paragraph (b) of this subdivision, where the court
27 commits a defendant who is not yet eighteen years of age to the custody
28 of the department of corrections and community supervision in accordance

1 with this section and no medical consent has been obtained prior to said
2 commitment, the commitment order shall be deemed to grant the capacity
3 to consent to routine medical, dental and mental health services and
4 treatment to the person so committed.

5 (d) Nothing in this subdivision shall preclude a parent or legal guar-
6 dian of an inmate who is not yet eighteen years of age from making a
7 motion on notice to the department of corrections and community super-
8 vision pursuant to article twenty-two of the civil practice law and
9 rules and section one hundred forty of the correction law, objecting to
10 routine medical, dental or mental health services and treatment being
11 provided to such inmate under the provisions of paragraph (b) of this
12 subdivision.

13 (e) Nothing in this section shall require that consent be obtained
14 from the parent or legal guardian, where no consent is necessary or
15 where the defendant is authorized by law to consent on his or her own
16 behalf to any medical, dental, and mental health service or treatment.]

17 § 59. Subdivision 2 of section 70.20 of the penal law, as amended by
18 chapter 437 of the laws of 2013, is amended to read as follows:

19 2. [(a)] Definite sentence. Except as provided in subdivision four of
20 this section, when a definite sentence of imprisonment is imposed, the
21 court shall commit the defendant to the county or regional correctional
22 institution for the term of his sentence and until released in accord-
23 ance with the law.

24 [(b) The court in committing a defendant who is not yet eighteen years
25 of age to the local correctional facility shall inquire as to whether
26 the parents or legal guardian of the defendant, if present, will grant
27 to the minor the capacity to consent to routine medical, dental and
28 mental health services and treatment.

1 (c) Nothing in this subdivision shall preclude a parent or legal guar-
2 dian of an inmate who is not yet eighteen years of age from making a
3 motion on notice to the local correction facility pursuant to article
4 twenty-two of the civil practice law and rules and section one hundred
5 forty of the correction law, objecting to routine medical, dental or
6 mental health services and treatment being provided to such inmate under
7 the provisions of paragraph (b) of this subdivision.]

8 § 60. Subdivision 4 of section 70.20 of the penal law, as amended by
9 section 124 of subpart B of part C of chapter 62 of the laws of 2011, is
10 amended to read as follows:

11 4. (a) Notwithstanding any other provision of law to the contrary, a
12 juvenile offender[,] or a juvenile offender who is adjudicated a youth-
13 ful offender [and], who is given an indeterminate or a definite
14 sentence, and who is under the age of twenty-one at the time of sentenc-
15 ing, shall be committed to the custody of the commissioner of the office
16 of children and family services who shall arrange for the confinement of
17 such offender in [secure] facilities of the office. The release or
18 transfer of such offenders from the office of children and family
19 services shall be governed by section five hundred eight of the execu-
20 tive law. If the juvenile offender or juvenile offender who is adjudi-
21 cated a youthful offender is convicted and is twenty-one years of age or
22 older at the time of sentencing, he or she shall be delivered to the
23 department of corrections and community supervision.

24 (a-1) Notwithstanding any other provision of law to the contrary, a
25 person who is convicted as an adult for committing a crime, other than a
26 vehicle and traffic offense, when he or she was sixteen or seventeen
27 years of age who is sentenced on or after December first, two thousand
28 fifteen to a term of at least one year of imprisonment and who is under

1 the age of eighteen at the time he or she is sentenced shall be commit-
2 ted to the custody of the commissioner of the office of children and
3 family services who shall arrange for the confinement of such offender
4 in facilities of the office. The release or transfer of such offenders
5 from the office of children and family services shall be governed by
6 section five hundred eight of the executive law.

7 (b) The court in committing [a juvenile offender and youthful offen-
8 der] an offender under eighteen years of age to the custody of the
9 office of children and family services shall inquire as to whether the
10 parents or legal guardian of the youth, if present, will consent for the
11 office of children and family services to provide routine medical,
12 dental and mental health services and treatment.

13 (c) Notwithstanding paragraph (b) of this subdivision, where the court
14 commits an offender to the custody of the office of children and family
15 services in accordance with this section and no medical consent has been
16 obtained prior to said commitment, the commitment order shall be deemed
17 to grant consent for the office of children and family services to
18 provide for routine medical, dental and mental health services and
19 treatment to the offender so committed.

20 (d) Nothing in this subdivision shall preclude a parent or legal guar-
21 dian of an offender who is not yet eighteen years of age from making a
22 motion on notice to the office of children and family services pursuant
23 to article twenty-two of the civil practice law and rules objecting to
24 routine medical, dental or mental health services and treatment being
25 provided to such offender under the provisions of paragraph (b) of this
26 subdivision.

27 (e) Nothing in this section shall require that consent be obtained
28 from the parent or legal guardian, where no consent is necessary or

1 where the offender is authorized by law to consent on his or her own
2 behalf to any medical, dental and mental health service or treatment.

3 § 60-a. Paragraph (f) of subdivision 1 of section 70.30 of the penal
4 law, as added by chapter 481 of the laws of 1978 and relettered by chap-
5 ter 3 of the laws of 1995, is amended to read as follows:

6 (f) [The aggregate maximum term of consecutive sentences imposed upon
7 a juvenile offender for two or more crimes, not including a class A
8 felony, committed before he has reached the age of sixteen, shall, if it
9 exceeds ten years, be deemed to be ten years. If consecutive indetermi-
10 nate sentences imposed upon a juvenile offender include a sentence for
11 the class A felony of arson in the first degree or for the class A felo-
12 ny of kidnapping in the first degree, then the aggregate maximum term of
13 such sentences shall, if it exceeds fifteen years, be deemed to be
14 fifteen years. Where the aggregate maximum term of two or more consec-
15 utive sentences is reduced by a calculation made pursuant to this para-
16 graph, the aggregate minimum period of imprisonment, if it exceeds one-
17 half of the aggregate maximum term as so reduced, shall be deemed to be
18 one-half of the aggregate maximum term as so reduced.] (i) The aggregate
19 term or maximum term of consecutive sentences imposed upon a juvenile
20 offender for two or more crimes, other than two or more sentences that
21 include a sentence for a class A felony, or a sentence for a class B
22 violent felony imposed pursuant to paragraph (a) of subdivision three of
23 section 70.02 of this article, committed prior to the time the person
24 was imprisoned under any of such sentences shall, if it exceeds ten
25 years, be deemed to be ten years, provided:

26 (A) Where all of such consecutive sentences are determinate and the
27 aggregate term exceeds ten years, the juvenile offender shall be deemed
28 to be serving a determinate term of ten years; and

1 (B) Where all of such consecutive sentences are indeterminate and the
2 aggregate maximum term exceeds ten years, the juvenile offender shall be
3 deemed to be serving an indeterminate sentence, the maximum term of
4 which shall be deemed to be ten years and the aggregate minimum period
5 of which, if it exceeds five years, shall be deemed to be five years;
6 and

7 (C) Where one or more of such consecutive sentences is a determinate
8 sentence and one or more of which is an indeterminate sentence:

9 (1) if the aggregate term of the determinate sentences is equal to or
10 exceeds ten years, the juvenile offender shall be deemed to be serving a
11 determinate term of ten years; and

12 (2) if the term or aggregate term of the determinate sentence or
13 sentences is less than ten years, the juvenile offender shall be deemed
14 to be serving an indeterminate sentence, the maximum term of which shall
15 be deemed to be ten years, and the minimum period of which shall be
16 deemed to be five years or six-sevenths of the term or aggregate term of
17 the determinate sentence or sentences, whichever is greater.

18 (ii) The aggregate maximum term of consecutive sentences imposed upon
19 a juvenile offender for two or more crimes, at least one of which is the
20 class A felony of arson in the first degree as defined by section 150.20
21 or kidnapping in the first degree as defined by section 135.25 of this
22 chapter but no other class A felony, and does not include a sentence
23 imposed for a class B violent felony imposed pursuant to paragraph (a)
24 of subdivision three of section 70.02 of this article, committed prior
25 to the time the person was imprisoned under any of such sentences shall,
26 if it exceeds fifteen years, be deemed to be fifteen years, provided:

1 (A) Where all of such consecutive sentences are determinate and the
2 aggregate term exceeds fifteen years, the juvenile offender shall be
3 deemed to be serving a determinate term of fifteen years; and

4 (B) Where all of such consecutive sentences are indeterminate and the
5 aggregate maximum term exceeds fifteen years, the juvenile offender
6 shall be deemed to be serving an indeterminate sentence, the maximum
7 term of which shall be deemed to be fifteen years and the aggregate
8 minimum period of which, if it exceeds seven and one-half years, shall
9 be deemed to be seven and one-half years; and

10 (C) Where one or more of such consecutive sentences is a determinate
11 sentence and one or more of which is an indeterminate sentence:

12 (1) if the aggregate term of the determinate sentences is equal to or
13 exceeds fifteen years, the juvenile offender shall be deemed to be serv-
14 ing a determinate term of fifteen years; and

15 (2) if the term or aggregate term of the determinate sentence or
16 sentences is less than fifteen years, the juvenile offender shall be
17 deemed to be serving an indeterminate sentence, the maximum term of
18 which shall be deemed to be fifteen years, and the minimum period of
19 which shall be deemed to be seven and one-half years or six-sevenths of
20 the term or aggregate term of the determinate sentence or sentences,
21 whichever is greater.

22 § 61. Section 70.45 of the penal law is amended by adding a new subdi-
23 vision 2-b to read as follows:

24 2-b. Periods of post-release supervision for juvenile offenders and
25 youthful offenders. (a) The period of post-release supervision for a
26 determinate sentence imposed upon a youthful offender or a juvenile
27 offender adjudicated a youthful offender must be fixed by the court at
28 one year.

1 (b) The period of post-release supervision for a determinate sentence
2 imposed upon a juvenile offender not adjudicated a youthful offender
3 must be fixed by the court in whole or half years as follows:

4 (i) such period shall be one year whenever a determinate sentence of
5 imprisonment is imposed upon a conviction of a class D or class E felony
6 offense;

7 (ii) such period shall be not less than one year nor more than two
8 years whenever a determinate sentence of imprisonment is imposed upon a
9 conviction of a class C felony offense;

10 (iii) such period shall be not less than one year nor more than three
11 years whenever a determinate sentence of imprisonment is imposed upon a
12 conviction of a class B felony offense; provided, however, that such
13 period shall be imposed pursuant to subdivision two or two-a of this
14 section, as applicable, whenever a determinate sentence is imposed upon
15 a conviction of a class B violent felony offense pursuant to paragraph
16 (a) of subdivision three of section 70.02 of this article; and

17 (iv) such period shall be not less than one year nor more than five
18 years whenever a determinate sentence of imprisonment is imposed upon a
19 conviction of the class A felony offense of arson in the first degree as
20 defined by section 150.20 or kidnapping in the first degree as defined
21 by section 135.25 of this chapter, and a five-year period shall be
22 imposed pursuant to subdivision two of this section whenever a determi-
23 nate sentence imposed upon a juvenile offender for any other class A
24 felony.

25 § 62. Subdivision 18 of section 10.00 of the penal law, as amended by
26 chapter 7 of the laws of 2007, is amended to read as follows:

27 18. "Juvenile offender" means (1) a person thirteen years old who is
28 criminally responsible for acts constituting murder in the second degree

1 as defined in subdivisions one and two of section 125.25 of this chapter
2 or such conduct as a sexually motivated felony, where authorized pursu-
3 ant to section 130.91 of [the penal law; and] this chapter;

4 (2) a person fourteen [or], fifteen or sixteen years old or commencing
5 January first, two thousand eighteen, seventeen years old who is crimi-
6 nally responsible for acts constituting the crimes defined in subdivi-
7 sions one and two of section 125.25 (murder in the second degree) and in
8 subdivision three of such section provided that the underlying crime for
9 the murder charge is one for which such person is criminally responsi-
10 ble; section 135.25 (kidnapping in the first degree); 150.20 (arson in
11 the first degree); subdivisions one and two of section 120.10 (assault
12 in the first degree); 125.20 (manslaughter in the first degree); subdivi-
13 sions one and two of section 130.35 (rape in the first degree); subdivi-
14 sions one and two of section 130.50 (criminal sexual act in the first
15 degree); 130.70 (aggravated sexual abuse in the first degree); 140.30
16 (burglary in the first degree); subdivision one of section 140.25
17 (burglary in the second degree); 150.15 (arson in the second degree);
18 160.15 (robbery in the first degree); subdivision two of section 160.10
19 (robbery in the second degree) of this chapter; or section 265.03 of
20 this chapter, where such machine gun or such firearm is possessed on
21 school grounds, as that phrase is defined in subdivision fourteen of
22 section 220.00 of this chapter; or defined in this chapter as an attempt
23 to commit murder in the second degree or kidnapping in the first degree,
24 or such conduct as a sexually motivated felony, where authorized pursu-
25 ant to section 130.91 of [the penal law] this chapter; and

26 (3) a person sixteen, or commencing January first, two thousand eigh-
27 teen, a person sixteen or seventeen years old who is criminally respon-
28 sible for acts constituting a violent felony defined in section 70.02 of

1 this chapter; acts constituting any crime in this chapter that is clas-
2 sified as a class A felony excepting those class A felonies which
3 require, as an element of the offense, that the defendant be eighteen
4 years of age or older; acts constituting the crimes defined in section
5 120.03 (vehicular assault in the second degree); 120.04 (vehicular
6 assault in the first degree); 120.04-a (aggravated vehicular assault);
7 125.10 (criminally negligent homicide); 125.11 (aggravated criminally
8 negligent homicide); 125.12 (vehicular manslaughter in the second
9 degree); 125.13 (vehicular manslaughter in the first degree); 125.14
10 (aggravated vehicular homicide); 125.15 (manslaughter in the second
11 degree); 125.20 (manslaughter in the first degree); 125.21 (aggravated
12 manslaughter in the second degree); 125.22 (aggravated manslaughter in
13 the first degree); 215.11 (tampering with a witness in the third degree)
14 provided that the criminal proceeding in which the person is tampering
15 is one for which such person is criminally responsible; 215.12 (tamper-
16 ing with a witness in the second degree) provided that the criminal
17 proceeding in which the person is tampering is one for which such person
18 is criminally responsible; 215.13 (tampering with a witness in the first
19 degree) provided that the criminal proceeding in which the person is
20 tampering is one for which such person is criminally responsible; 215.52
21 (aggravated criminal contempt); acts constituting a specified offense
22 defined in subdivision two of section 130.91 of this chapter when
23 committed as a sexually motivated felony; acts constituting a specified
24 offense defined in subdivision three of section 490.05 of this chapter
25 when committed as an act of terrorism; acts constituting a felony
26 defined in article four hundred ninety of this chapter; and acts consti-
27 tuting a crime set forth in subdivision one of section 105.10 and
28 section 105.15 of this chapter provided that the underlying crime for

1 the conspiracy charge is one for which such person is criminally respon-
2 sible.

3 § 63. Subdivision 42 of section 1.20 of the criminal procedure law, as
4 amended by chapter 7 of the laws of 2007, is amended to read as follows:

5 42. "Juvenile offender" means (1) a person, thirteen years old who is
6 criminally responsible for acts constituting murder in the second degree
7 as defined in subdivisions one and two of section 125.25 of the penal
8 law, or such conduct as a sexually motivated felony, where authorized
9 pursuant to section 130.91 of the penal law; [and] (2) a person fourteen
10 [or], fifteen or sixteen years old, or commencing January first, two
11 thousand eighteen, seventeen years old who is criminally responsible for
12 acts constituting the crimes defined in subdivisions one and two of
13 section 125.25 (murder in the second degree) and in subdivision three of
14 such section provided that the underlying crime for the murder charge is
15 one for which such person is criminally responsible; section 135.25
16 (kidnapping in the first degree); 150.20 (arson in the first degree);
17 subdivisions one and two of section 120.10 (assault in the first
18 degree); 125.20 (manslaughter in the first degree); subdivisions one and
19 two of section 130.35 (rape in the first degree); subdivisions one and
20 two of section 130.50 (criminal sexual act in the first degree); 130.70
21 (aggravated sexual abuse in the first degree); 140.30 (burglary in the
22 first degree); subdivision one of section 140.25 (burglary in the second
23 degree); 150.15 (arson in the second degree); 160.15 (robbery in the
24 first degree); subdivision two of section 160.10 (robbery in the second
25 degree) of the penal law; or section 265.03 of the penal law, where such
26 machine gun or such firearm is possessed on school grounds, as that
27 phrase is defined in subdivision fourteen of section 220.00 of the penal
28 law; or defined in the penal law as an attempt to commit murder in the

1 second degree or kidnapping in the first degree, or such conduct as a
2 sexually motivated felony, where authorized pursuant to section 130.91
3 of the penal law; and (3) a person sixteen or, commencing January first,
4 two thousand eighteen, a person sixteen or seventeen years old who is
5 criminally responsible for acts constituting a violent felony defined in
6 section 70.02 of the penal law; acts constituting any crime in the penal
7 law that is classified as a class A felony excepting those class A felo-
8 nies which require, as an element of the offense, that the defendant be
9 eighteen years of age or older; acts constituting the crimes defined in
10 section 120.03 (vehicular assault in the second degree); 120.04 (vehicu-
11 lar assault in the first degree); 120.04-a (aggravated vehicular
12 assault); 125.10 (criminally negligent homicide); 125.11 (aggravated
13 criminally negligent homicide); 125.12 (vehicular manslaughter in the
14 second degree); 125.13 (vehicular manslaughter in the first degree);
15 125.14 (aggravated vehicular homicide); 125.15 (manslaughter in the
16 second degree); 125.20 (manslaughter in the first degree); 125.21
17 (aggravated manslaughter in the second degree); 125.22 (aggravated
18 manslaughter in the first degree); 215.11 (tampering with a witness in
19 the third degree) provided that the criminal proceeding in which the
20 person is tampering is one for which such person is criminally responsi-
21 ble; 215.12 (tampering with a witness in the second degree) provided
22 that the criminal proceeding in which the person is tampering is one for
23 which such person is criminally responsible; 215.13 (tampering with a
24 witness in the first degree) provided that the criminal proceeding in
25 which the person is tampering is one for which such person is criminally
26 responsible; 215.52 (aggravated criminal contempt); acts constituting a
27 specified offense defined in subdivision two of section 130.91 of the
28 penal law when committed as a sexually motivated felony; acts constitut-

1 ing a specified offense defined in subdivision three of section 490.05
2 of the penal law when committed as an act of terrorism; acts constitut-
3 ing a felony defined in article four hundred ninety of the penal law;
4 and acts constituting a crime set forth in subdivision one of section
5 105.10 and section 105.15 of the penal law provided that the underlying
6 crime for the conspiracy charge is one for which such person is crimi-
7 nally responsible.

8 § 64. Subdivision 6 of section 140.20 of the criminal procedure law,
9 as added by chapter 411 of the laws of 1979, is amended to read as
10 follows:

11 6. Upon arresting a juvenile offender without a warrant, the police
12 officer shall immediately notify the parent or other person legally
13 responsible for his or her care or the person with whom he or she is
14 domiciled, that the juvenile offender has been arrested, and the
15 location of the facility where he or she is being detained. If the offi-
16 cer determines that it is necessary to question a juvenile offender or a
17 child under eighteen years of age who fits within the definition of a
18 juvenile offender as defined in section 30.00 of the penal law, the
19 officer must take the juvenile to a facility designated by the chief
20 administrator of the courts as a suitable place for the questioning of
21 children or, upon the consent of a parent or other person legally
22 responsible for the care of the juvenile, to the juvenile's residence
23 and there question him or her for a reasonable period of time. A juve-
24 nile offender shall not be questioned pursuant to this section unless
25 the juvenile and a person required to be notified pursuant to this
26 subdivision, if present, have been advised:

27 (a) of the juvenile's right to remain silent;

1 (b) that the statements made by the juvenile may be used in a court of
2 law;

3 (c) of the juvenile's right to have an attorney present at such ques-
4 tioning; and

5 (d) of the juvenile's right to have an attorney provided for him or
6 her without charge if he or she is indigent.

7 In determining the suitability of questioning and determining the
8 reasonable period of time for questioning such a juvenile offender, the
9 juvenile's age, the presence or absence of his or her parents or other
10 persons legally responsible for his or her care and notification pursu-
11 ant to this subdivision shall be included among relevant considerations.

12 § 65. Subdivision 5 of section 140.27 of the criminal procedure law,
13 as added by chapter 411 of the laws of 1979, is amended to read as
14 follows:

15 5. Upon arresting a juvenile offender without a warrant, the peace
16 officer shall immediately notify the parent or other person legally
17 responsible for his care or the person with whom he or she is domiciled,
18 that the juvenile offender has been arrested, and the location of the
19 facility where he or she is being detained. If the officer determines
20 that it is necessary to question a juvenile offender or a child under
21 eighteen years of age who fits within the definition of a juvenile
22 offender as defined in section 30.00 of the penal law the officer must
23 take the juvenile to a facility designated by the chief administrator of
24 the courts as a suitable place for the questioning of children or, upon
25 the consent of a parent or other person legally responsible for the care
26 of the juvenile, to the juvenile's residence and there question him or
27 her for a reasonable period of time. A juvenile offender shall not be
28 questioned pursuant to this section unless the juvenile and a person

1 required to be notified pursuant to this subdivision, if present, have
2 been advised:

3 (a) of the juvenile's right to remain silent;

4 (b) that the statements made by the juvenile may be used in a court of
5 law;

6 (c) of the juvenile's right to have an attorney present at such ques-
7 tioning; and

8 (d) of the juvenile's right to have an attorney provided for him or
9 her without charge if he or she is indigent.

10 In determining the suitability of questioning and determining the
11 reasonable period of time for questioning such a juvenile offender, the
12 juvenile's age, the presence or absence of his or her parents or other
13 persons legally responsible for his or her care and notification pursu-
14 ant to this subdivision shall be included among relevant considerations.

15 § 66. Subdivision 5 of section 140.40 of the criminal procedure law,
16 as added by chapter 411 of the laws of 1979, is amended to read as
17 follows:

18 5. If a police officer takes an arrested juvenile offender into
19 custody, the police officer shall immediately notify the parent or other
20 person legally responsible for his or her care or the person with whom
21 he or she is domiciled, that the juvenile offender has been arrested,
22 and the location of the facility where he or she is being detained. If
23 the officer determines that it is necessary to question a juvenile
24 offender or a child under eighteen years of age who fits within the
25 definition of a juvenile offender as defined in section 30.00 of the
26 penal law the officer must take the juvenile to a facility designated by
27 the chief administrator of the courts as a suitable place for the ques-
28 tioning of children or, upon the consent of a parent or other person

1 legally responsible for the care of the juvenile, to the juvenile's
2 residence and there question him or her for a reasonable period of time.
3 A juvenile offender shall not be questioned pursuant to this section
4 unless the juvenile and a person required to be notified pursuant to
5 this subdivision, if present, have been advised:

6 (a) of the juvenile's right to remain silent;

7 (b) that the statements made by the juvenile may be used in a court of
8 law;

9 (c) of the juvenile's right to have an attorney present at such ques-
10 tioning; and

11 (d) of the juvenile's right to have an attorney provided for him or
12 her without charge if he or she is indigent.

13 In determining the suitability of questioning and determining the
14 reasonable period of time for questioning such a juvenile offender, the
15 juvenile's age, the presence or absence of his or her parents or other
16 persons legally responsible for his or her care and notification pursu-
17 ant to this subdivision shall be included among relevant considerations.

18 § 67. The criminal procedure law is amended by adding a new section
19 160.56 to read as follows:

20 § 160.56 Conditional sealing of certain convictions for offenses commit-
21 ted by a defendant twenty years of age or younger or by a
22 defendant convicted as a juvenile offender.

23 1. When a defendant is convicted for only one eligible offense, on or
24 after the effective date of this section, which was committed when he or
25 she was twenty years of age or younger and the defendant has no prior
26 criminal convictions, the court shall certify upon conviction that the
27 defendant is apparently eligible for conditional sealing and shall sche-
28 dule the defendant's case for review at the expiration of the time peri-

1 od set forth in subdivision two of this section. Such review shall not
2 require a motion or appearance by a defendant. Upon the expiration of
3 the time period set forth in subdivision two of this section, the court
4 shall notify the district attorney that the case is under review. If the
5 district attorney does not provide notice of opposition to sealing with-
6 in forty-five days of receipt of the notification and the court deter-
7 mines that the defendant meets the criteria for sealing as set forth in
8 this section, the court shall order that the record be conditionally
9 sealed. If the district attorney opposes sealing, he or she shall noti-
10 fy the court of the reasons for opposition. If the court has determined,
11 sua sponte, or the district attorney has notified the court, that the
12 defendant does not meet the criteria for conditional sealing, the court
13 must provide the defendant, on notice to the district attorney, with
14 notice and an opportunity to dispute such finding.

15 Whenever the court determines by a preponderance of the evidence that
16 all criteria for sealing have been satisfied and orders a record condi-
17 tionally sealed, the clerk of the court shall immediately notify the
18 commissioner of the division of criminal justice services that the
19 conviction shall be conditionally sealed. For purposes of this section,
20 an eligible offense is any misdemeanor or felony other than a felony
21 offense defined in article one hundred twenty-five of the penal law, a
22 violent felony offense defined in section 70.02 of the penal law, a
23 class A felony offense defined in the penal law, or an offense for which
24 registration as a sex offender is required pursuant to article six-C of
25 the correction law.

26 2. An eligible offense may be conditionally sealed only:

27 (a) after the following time periods have elapsed:

1 (i) for a misdemeanor, at least two years have passed since: the entry
2 of the judgment or, if the defendant was sentenced to a conditional
3 discharge or a period of probation, including a period of incarceration
4 imposed in conjunction with a sentence of probation or conditional
5 discharge, the completion of the defendant's term of probation or condi-
6 tional discharge, or if the defendant was sentenced to incarceration,
7 the defendant's release from incarceration, whichever is the longest; or
8 (ii) for an eligible felony, other than a felony conviction as a juve-
9 nile offender as defined in subdivision forty-two of section 1.20 of
10 this chapter, at least five years have passed since: the entry of the
11 judgment or, if the defendant was sentenced to a conditional discharge
12 or a period of probation, including a period of incarceration imposed in
13 conjunction with a sentence of probation or conditional discharge, the
14 completion of the defendant's term of probation or conditional
15 discharge, or if the defendant was sentenced to incarceration, the
16 defendant's release from incarceration, whichever is the longest; or
17 (iii) for a conviction as a juvenile offender, as defined in subdivi-
18 sion forty-two of section 1.20 of this chapter, at least ten years have
19 passed since: the entry of the judgment or, if the defendant was
20 sentenced to a conditional discharge or a period of probation, including
21 a period of incarceration imposed in conjunction with a sentence of
22 probation or conditional discharge, the completion of the defendant's
23 term of probation or conditional discharge, or if the defendant was
24 sentenced to incarceration, the defendant's release from incarceration,
25 whichever is the longest; and
26 (b) if the defendant has not been convicted of any other crime.
27 2-a. No record shall be sealed pursuant to this section while charges
28 are pending for any offense.

1 2-b. No record shall be sealed pursuant to this section while the
2 defendant is subject to supervision by the department of corrections and
3 community supervision. Upon the successful completion of such super-
4 vision, if the time periods set forth in paragraph (a) of subdivision
5 two of this section have elapsed from the date of defendant's release
6 from incarceration, the court may order the record conditionally sealed
7 pursuant to the provisions of this section.

8 3. When a conviction is sealed pursuant to this section, all official
9 records and papers relating to the arrest, prosecution, and conviction,
10 including all duplicates and copies thereof, on file with the division
11 of criminal justice services or any court shall be sealed and not made
12 available to any person or public or private agency; provided, however,
13 the division shall retain any fingerprints, palmprints and photographs,
14 or digital images of the same.

15 4. Records sealed pursuant to this section shall be made available to:

16 (a) the defendant or the defendant's designated agent;

17 (b) qualified agencies, as defined in subdivision nine of section
18 eight hundred thirty-five of the executive law, and federal and state
19 law enforcement agencies, when acting within the scope of their law
20 enforcement duties;

21 (c) any state or local officer or agency with responsibility for the
22 issuance of licenses to possess guns, when the person has made applica-
23 tion for such a license; or

24 (d) any prospective employer of a police officer or peace officer as
25 those terms are defined in subdivisions thirty-three and thirty-four of
26 section 1.20 of this chapter, in relation to an application for employ-
27 ment as a police officer or peace officer; provided, however, that every
28 person who is an applicant for the position of police officer or peace

1 officer shall be furnished with a copy of all records obtained under
2 this paragraph and afforded an opportunity to make an explanation there-
3 to.

4 5. If, subsequent to the sealing of records pursuant to this section,
5 the person who is the subject of such records is arrested for or charged
6 with any misdemeanor or felony offense, such records shall be unsealed
7 immediately and remain unsealed; provided, however, that if such new
8 misdemeanor or felony arrest results in a termination in favor of the
9 accused as defined in subdivision three of section 160.50 of this arti-
10 cle or by conviction for a non-criminal offense as described in section
11 160.55 of this article, such unsealed records shall be conditionally
12 sealed pursuant to this section.

13 6. A defendant who was convicted of only one eligible offense prior to
14 the effective date of this section may apply to the court of conviction,
15 on an application promulgated by the division of criminal justice
16 services, for the conditional sealing of such conviction if:

17 (a) the offense was committed when the defendant was twenty-one years
18 of age or younger; and

19 (b) the applicable time periods specified in subdivision two of this
20 section have elapsed; and

21 (c) the defendant has not been convicted of any other crime; and

22 (d) no charges are pending for any crime.

23 There shall be no fee associated with this application and no personal
24 appearance by the defendant is required.

25 7. When an application is made for sealing pursuant to subdivision six
26 of this section, the court shall notify the district attorney. If the
27 district attorney does not provide notice of opposition to sealing with-
28 in forty-five days of receipt of the application and the court deter-

1 mines that the defendant meets the criteria for sealing set forth in
2 this section and that sealing is in the interest of justice, the court
3 may order that the record be conditionally sealed in the manner set
4 forth in this section and notify the division of criminal justice
5 services of the same. If the district attorney opposes the application,
6 the court shall schedule a hearing upon notice to all parties. If the
7 court, at the conclusion of the hearing determines by a preponderance of
8 the evidence that such conviction should be sealed in the interest of
9 justice, the court shall order that the conviction be sealed and notify
10 the commissioner of the division of criminal justice services of the
11 same.

12 § 68. Section 180.75 of the criminal procedure law is REPEALED.

13 § 69. Subdivisions (a) and (b) of section 190.71 of the criminal
14 procedure law, subdivision (a) as amended by chapter 7 of the laws of
15 2007, subdivision (b) as added by chapter 481 of the laws of 1978, are
16 amended to read as follows:

17 (a) Except as provided in subdivision six of section 200.20 of this
18 chapter, a grand jury may not indict (i) a person thirteen years of age
19 for any conduct or crime other than conduct constituting a crime defined
20 in subdivisions one and two of section 125.25 (murder in the second
21 degree) or such conduct as a sexually motivated felony, where authorized
22 pursuant to section 130.91 of the penal law; (ii) a person fourteen
23 [or], fifteen, sixteen or commencing January first, two thousand eigh-
24 teen, seventeen years of age for any conduct or crime other than conduct
25 constituting a crime defined in subdivisions one and two of section
26 125.25 (murder in the second degree) and in subdivision three of such
27 section provided that the underlying crime for the murder charge is one
28 for which such person is criminally responsible; 135.25 (kidnapping in

1 the first degree); 150.20 (arson in the first degree); subdivisions one
2 and two of section 120.10 (assault in the first degree); 125.20
3 (manslaughter in the first degree); subdivisions one and two of section
4 130.35 (rape in the first degree); subdivisions one and two of section
5 130.50 (criminal sexual act in the first degree); 130.70 (aggravated
6 sexual abuse in the first degree); 140.30 (burglary in the first
7 degree); subdivision one of section 140.25 (burglary in the second
8 degree); 150.15 (arson in the second degree); 160.15 (robbery in the
9 first degree); subdivision two of section 160.10 (robbery in the second
10 degree) of the penal law; subdivision four of section 265.02 of the
11 penal law, where such firearm is possessed on school grounds, as that
12 phrase is defined in subdivision fourteen of section 220.00 of the penal
13 law; or section 265.03 of the penal law, where such machine gun or such
14 firearm is possessed on school grounds, as that phrase is defined in
15 subdivision fourteen of section 220.00 of the penal law; or defined in
16 the penal law as an attempt to commit murder in the second degree or
17 kidnapping in the first degree, or such conduct as a sexually motivated
18 felony, where authorized pursuant to section 130.91 of the penal law;
19 (iii) a person sixteen or commencing January first, two thousand eigh-
20 teen, seventeen years of age for any conduct or crime other than conduct
21 constituting a violent felony defined in section 70.02 of the penal law;
22 a crime that is classified as a class A felony excepting those class A
23 felonies which require, as an element of the offense, that the defendant
24 be eighteen years of age or older; a crime defined in the following
25 sections of the penal law: section 120.03 (vehicular assault in the
26 second degree); 120.04 (vehicular assault in the first degree); 120.04-a
27 (aggravated vehicular assault); 125.10 (criminally negligent homicide);
28 125.11 (aggravated criminally negligent homicide); 125.12 (vehicular

1 manslaughter in the second degree); 125.13 (vehicular manslaughter in
2 the first degree); 125.14 (aggravated vehicular homicide); 125.15
3 (manslaughter in the second degree); 125.20 (manslaughter in the first
4 degree); 125.21 (aggravated manslaughter in the second degree); 125.22
5 (aggravated manslaughter in the first degree); 215.11 (tampering with a
6 witness in the third degree) provided that the criminal proceeding in
7 which the person is tampering is one for which such person is criminally
8 responsible; 215.12 (tampering with a witness in the second degree)
9 provided that the criminal proceeding in which the person is tampering
10 is one for which such person is criminally responsible; 215.13 (tamper-
11 ing with a witness in the first degree) provided that the criminal
12 proceeding in which the person is tampering is one for which such person
13 is criminally responsible; 215.52 (aggravated criminal contempt); acts
14 constituting a specified offense defined in subdivision two of section
15 130.91 of the penal law when committed as a sexually motivated felony;
16 acts constituting a specified offense defined in subdivision three of
17 section 490.05 of the penal law when committed as an act of terrorism;
18 acts constituting a felony defined in article four hundred ninety of the
19 penal law; and acts constituting a crime set forth in subdivision one of
20 section 105.10 and section 105.15 of the penal law provided that the
21 underlying crime for the conspiracy charge is one for which such person
22 is criminally responsible.

23 (b) A grand jury may vote to file a request to remove a charge to the
24 family court if it finds that a person [thirteen, fourteen or fifteen]
25 sixteen, or commencing January first, two thousand eighteen, seventeen
26 years of age or younger did an act which, if done by a person over the
27 age of sixteen, or commencing January first, two thousand eighteen,
28 seventeen, would constitute a crime provided (1) such act is one for

1 which it may not indict; (2) it does not indict such person for a crime;
2 and (3) the evidence before it is legally sufficient to establish that
3 such person did such act and competent and admissible evidence before it
4 provides reasonable cause to believe that such person did such act.

5 § 70. Subdivision 6 of section 200.20 of the criminal procedure law,
6 as added by chapter 136 of the laws of 1980, is amended to read as
7 follows:

8 6. Where an indictment charges at least one offense against a defend-
9 ant who was under the age of [sixteen] seventeen, or commencing January
10 first, two thousand eighteen, eighteen at the time of the commission of
11 the crime and who did not lack criminal responsibility for such crime by
12 reason of infancy, the indictment may, in addition, charge in separate
13 counts one or more other offenses for which such person would not have
14 been criminally responsible by reason of infancy, if:

15 (a) the offense for which the defendant is criminally responsible and
16 the one or more other offenses for which he would not have been crimi-
17 nally responsible by reason of infancy are based upon the same act or
18 upon the same criminal transaction, as that term is defined in subdivi-
19 sion two of section 40.10 of this chapter; or

20 (b) the offenses are of such nature that either proof of the first
21 offense would be material and admissible as evidence in chief upon a
22 trial of the second, or proof of the second would be material and admis-
23 sible as evidence in chief upon a trial of the first.

24 § 71. The opening paragraph of subdivision 1 and subdivision 5 of
25 section 210.43 of the criminal procedure law; as added by chapter 411 of
26 the laws of 1979, are amended to read as follows:

27 After [a motion by a juvenile offender, pursuant to subdivision five
28 of section 180.75 of this chapter, or after] arraignment of a juvenile

1 offender upon an indictment, the superior court may, on motion of any
2 party or on its own motion:

3 [5. a. If the court orders removal of the action to family court, it
4 shall state on the record the factor or factors upon which its determi-
5 nation is based, and, the court shall give its reasons for removal in
6 detail and not in conclusory terms.

7 b. The district attorney shall state upon the record the reasons for
8 his consent to removal of the action to the family court. The reasons
9 shall be stated in detail and not in conclusory terms.]

10 § 72. Paragraph (g) of subdivision 5 of section 220.10 of the criminal
11 procedure law, as amended by chapter 410 of the laws of 1979, subpara-
12 graph (iii) as amended by chapter 264 of the laws of 2003, the second
13 undesignated paragraph as amended by chapter 920 of the laws of the laws
14 of 1982 and the closing paragraph as amended by chapter 411 of the laws
15 of 1979, is amended to read as follows:

16 (g) Where the defendant is a juvenile offender, the provisions of
17 paragraphs (a), (b), (c) and (d) of this subdivision shall not apply and
18 any plea entered pursuant to subdivision three or four of this section,
19 must be as follows:

20 (i) If the indictment charges a person fourteen [or], fifteen or
21 sixteen, or commencing January first, two thousand eighteen, seventeen
22 years old with the crime of murder in the second degree any plea of
23 guilty entered pursuant to subdivision three or four must be a plea of
24 guilty of a crime for which the defendant is criminally responsible;

25 (ii) If the indictment does not charge a crime specified in subpara-
26 graph (i) of this paragraph, then any plea of guilty entered pursuant to
27 subdivision three or four of this section must be a plea of guilty of a

1 crime for which the defendant is criminally responsible unless a plea of
2 guilty is accepted pursuant to subparagraph (iii) of this paragraph;

3 (iii) Where the indictment does not charge a crime specified in
4 subparagraph (i) of this paragraph, the district attorney may recommend
5 removal of the action to the family court. Upon making such recommenda-
6 tion the district attorney shall submit a subscribed memorandum setting
7 forth: (1) a recommendation that the interests of justice would best be
8 served by removal of the action to the family court; and (2) if the
9 indictment charges a thirteen year old with the crime of murder in the
10 second degree, or a fourteen [or], fifteen or sixteen year old, or
11 commencing January first two thousand eighteen, seventeen year old with
12 the crimes of rape in the first degree as defined in subdivision one of
13 section 130.35 of the penal law, or criminal sexual act in the first
14 degree as defined in subdivision one of section 130.50 of the penal law,
15 or an armed felony as defined in paragraph (a) of subdivision forty-one
16 of section 1.20 of this chapter specific factors, one or more of which
17 reasonably supports the recommendation, showing, (i) mitigating circum-
18 stances that bear directly upon the manner in which the crime was
19 committed, or (ii) where the defendant was not the sole participant in
20 the crime, that the defendant's participation was relatively minor
21 although not so minor as to constitute a defense to the prosecution, or
22 (iii) possible deficiencies in proof of the crime, or (iv) where the
23 juvenile offender has no previous adjudications of having committed a
24 designated felony act, as defined in subdivision eight of section 301.2
25 of the family court act, regardless of the age of the offender at the
26 time of commission of the act, that the criminal act was not part of a
27 pattern of criminal behavior and, in view of the history of the offen-
28 der, is not likely to be repeated.

1 If the court is of the opinion based on specific factors set forth in
2 the district attorney's memorandum that the interests of justice would
3 best be served by removal of the action to the family court, a plea of
4 guilty of a crime or act for which the defendant is not criminally
5 responsible may be entered pursuant to subdivision three or four of this
6 section, except that a thirteen year old charged with the crime of
7 murder in the second degree may only plead to a designated felony act,
8 as defined in subdivision eight of section 301.2 of the family court
9 act.

10 Upon accepting any such plea, the court must specify upon the record
11 the portion or portions of the district attorney's statement the court
12 is relying upon as the basis of its opinion and that it believes the
13 interests of justice would best be served by removal of the proceeding
14 to the family court. Such plea shall then be deemed to be a juvenile
15 delinquency fact determination and the court upon entry thereof must
16 direct that the action be removed to the family court in accordance with
17 the provisions of article seven hundred twenty-five of this chapter.

18 § 73. Section 410.60 of the criminal procedure law, as amended by
19 chapter 652 of the laws of 2008, is amended to read as follows:

20 § 410.60 Appearance before court.

21 (a) A person who has been taken into custody pursuant to section
22 410.40 or section 410.50 of this article for violation of a condition of
23 a sentence of probation or a sentence of conditional discharge must
24 forthwith be brought before the court that imposed the sentence. Where a
25 violation of probation petition and report has been filed and the person
26 has not been taken into custody nor has a warrant been issued, an
27 initial court appearance shall occur within ten business days of the
28 court's issuance of a notice to appear. If the court has reasonable

1 cause to believe that such person has violated a condition of the
2 sentence, it may commit him or her to the custody of the sheriff or fix
3 bail or release such person on his or her own recognizance for future
4 appearance at a hearing to be held in accordance with section 410.70 of
5 this article. If the court does not have reasonable cause to believe
6 that such person has violated a condition of the sentence, it must
7 direct that he or she be released.

8 (b) A juvenile offender who has been taken into custody pursuant to
9 section 410.40 or section 410.50 of this article for violation of a
10 condition of a sentence of probation or a sentence of conditional
11 discharge must forthwith be brought before the court that imposed the
12 sentence. Where a violation of probation petition and report has been
13 filed and the person has not been taken into custody nor has a warrant
14 been issued, an initial court appearance shall occur within ten business
15 days of the court's issuance of a notice to appear. If the court has
16 reasonable cause to believe that such person has violated a condition of
17 the sentence, it may commit him or her to the custody of the sheriff or
18 fix bail or release such person on his or her own recognizance for
19 future appearance at a hearing to be held in accordance with section
20 410.70 of this article. Provided, however, nothing herein shall author-
21 ize a juvenile to be detained for a violation of a condition that would
22 not constitute a crime if committed by an adult unless the court deter-
23 mines (i) that the juvenile poses a specific imminent threat to public
24 safety and states the reasons for the finding on the record or (ii) the
25 juvenile is on probation for an act that would constitute a violent
26 felony as defined in section 70.02 of the penal law if committed by an
27 adult and the use of graduated sanctions has been exhausted without
28 success. If the court does not have reasonable cause to believe that

1 such person has violated a condition of the sentence, it must direct
2 that the juvenile be released.

3 § 74. Subdivision 5 of section 410.70 of the penal law, as amended by
4 chapter 17 of the laws of 2014, is amended to read as follows:

5 5. Revocation; modification; continuation. (a) At the conclusion of
6 the hearing the court may revoke, continue or modify the sentence of
7 probation or conditional discharge. Where the court revokes the
8 sentence, it must impose sentence as specified in subdivisions three and
9 four of section 60.01 of the penal law. Where the court continues or
10 modifies the sentence, it must vacate the declaration of delinquency and
11 direct that the defendant be released. If the alleged violation is
12 sustained and the court continues or modifies the sentence, it may
13 extend the sentence up to the period of interruption specified in subdi-
14 vision two of section 65.15 of the penal law, but any time spent in
15 custody in any correctional institution pursuant to section 410.60 of
16 this article shall be credited against the term of the sentence.
17 Provided further, where the alleged violation is sustained and the court
18 continues or modifies the sentence, the court may also extend the
19 remaining period of probation up to the maximum term authorized by
20 section 65.00 of the penal law. Provided, however, a defendant shall
21 receive credit for the time during which he or she was supervised under
22 the original probation sentence prior to any declaration of delinquency
23 and for any time spent in custody pursuant to this article for an
24 alleged violation of probation.

25 (b) Notwithstanding paragraph (a) of this subdivision, nothing herein
26 shall authorize the placement of a juvenile for a violation of a condi-
27 tion that would not constitute a crime if committed by an adult unless
28 the court determines (i) that the juvenile poses a specific imminent

1 threat to public safety and states the reasons for the finding on the
2 record or (ii) the juvenile is on probation for an act that would
3 constitute a violent felony as defined in section 70.02 of the penal law
4 if committed by an adult and the use of graduated sanctions has been
5 exhausted without success.

6 § 75. The criminal procedure law is amended by adding a new section
7 410.90-a to read as follows:

8 § 410.90-a Superior court; youth part.

9 Notwithstanding any other provisions of this article, all proceedings
10 relating to a juvenile offender shall be heard in the youth part of the
11 superior court having jurisdiction and any intrastate transfers under
12 this article shall be between courts designated as a youth part pursuant
13 to article seven hundred twenty-two of this chapter.

14 § 76. Section 510.15 of the criminal procedure law, as amended by
15 chapter 411 of the laws of 1979, subdivision 1 as designated and subdivi-
16 sion 2 as added by chapter 359 of the laws of 1980, is amended to read
17 as follows:

18 § 510.15 Commitment of principal under [sixteen] seventeen or eighteen.

19 1. When a principal who is under the age of [sixteen] seventeen, or
20 commencing January first, two thousand eighteen under the age of eigh-
21 teen, is committed to the custody of the sheriff the court must direct
22 that the principal be taken to and lodged in a place certified by the
23 state [division for youth] office of children and family services as a
24 juvenile detention facility for the reception of children. Where such a
25 direction is made the sheriff shall deliver the principal in accordance
26 therewith and such person shall although lodged and cared for in a juve-
27 nile detention facility continue to be deemed to be in the custody of
28 the sheriff. No principal [under the age of sixteen] to whom the

1 provisions of this section may apply shall be detained in any prison,
2 jail, lockup, or other place used for adults convicted of a crime or
3 under arrest and charged with the commission of a crime [without the
4 approval of the state division for youth in the case of each principal
5 and the statement of its reasons therefor]. The sheriff shall not be
6 liable for any acts done to or by such principal resulting from negli-
7 gence in the detention of and care for such principal, when the princi-
8 pal is not in the actual custody of the sheriff.

9 2. Except upon consent of the defendant or for good cause shown, in
10 any case in which a new securing order is issued for a principal previ-
11 ously committed to the custody of the sheriff pursuant to this section,
12 such order shall further direct the sheriff to deliver the principal
13 from a juvenile detention facility to the person or place specified in
14 the order.

15 § 77. Subdivision 1 of section 720.10 of the criminal procedure law,
16 as amended by chapter 411 of the laws of 1979, is amended to read as
17 follows:

18 1. "Youth" means a person charged with a crime alleged to have been
19 committed when he was at least sixteen years old and less than [nine-
20 teen] twenty-one years old or a person charged with being a juvenile
21 offender as defined in subdivision forty-two of section 1.20 of this
22 chapter.

23 § 78. Subdivision 3 of section 720.15 of the criminal procedure law,
24 as amended by chapter 774 of the laws of 1985, is amended to read as
25 follows:

26 3. The provisions of subdivisions one and two of this section requir-
27 ing or authorizing the accusatory instrument filed against a youth to be
28 sealed, and the arraignment and all proceedings in the action to be

1 conducted in private shall not apply in connection with a pending charge
2 of committing any [felony] sex offense as defined in the penal law. [The
3 provisions of subdivision one requiring the accusatory instrument filed
4 against a youth to be sealed shall not apply where such youth has previ-
5 ously been adjudicated a youthful offender or convicted of a crime.]

6 § 79. Subdivision 1 of section 720.20 of the criminal procedure law,
7 as amended by chapter 652 of the laws of 1974, is amended to read as
8 follows:

9 1. Upon conviction of an eligible youth, the court must order a pre-
10 sentence investigation of the defendant. After receipt of a written
11 report of the investigation and at the time of pronouncing sentence the
12 court must determine whether or not the eligible youth is a youthful
13 offender. Such determination shall be in accordance with the following
14 criteria:

15 (a) If in the opinion of the court the interest of justice would be
16 served by relieving the eligible youth from the onus of a criminal
17 record and by not imposing an indeterminate term of imprisonment of more
18 than four years, the court may, in its discretion, find the eligible
19 youth is a youthful offender; [and]

20 (b) Where the conviction is had in a local criminal court and the
21 eligible youth had not prior to commencement of trial or entry of a plea
22 of guilty been convicted of a crime or found a youthful offender, the
23 court must find he is a youthful offender[.]; and

24 (c) There shall be a presumption to grant youthful offender status to
25 an eligible youth who has not previously been convicted and sentenced or
26 adjudicated for a felony, unless the district attorney upon motion with
27 not less than seven days notice to such person or his or her attorney

1 demonstrates to the satisfaction of the court that the interests of
2 justice require otherwise.

3 § 79-a. Subdivision 1 of section 720.35 of the criminal procedure law,
4 as amended by chapter 402 of the laws of 2014, is amended to read as
5 follows:

6 1. [A] Except as provided in subdivision three of section 60.10 of the
7 penal law, a youthful offender adjudication is not a judgment of
8 conviction for a crime or any other offense, and does not operate as a
9 disqualification of any person so adjudged to hold public office or
10 public employment or to receive any license granted by public authority
11 but shall be deemed a conviction only for the purposes of transfer of
12 supervision and custody pursuant to section two hundred fifty-nine-m of
13 the executive law. A defendant for whom a youthful offender adjudication
14 was substituted, who was originally charged with prostitution as defined
15 in section 230.00 of the penal law or loitering for the purposes of
16 prostitution as defined in subdivision two of section 240.37 of the
17 penal law provided that the person does not stand charged with loitering
18 for the purpose of patronizing a prostitute, for an offense allegedly
19 committed when he or she was sixteen or seventeen years of age, shall be
20 deemed a "sexually exploited child" as defined in subdivision one of
21 section four hundred forty-seven-a of the social services law and there-
22 fore shall not be considered an adult for purposes related to the charg-
23 es in the youthful offender proceeding or a proceeding under section
24 170.80 of this chapter.

25 § 80. The criminal procedure law is amended by adding a new article
26 722 to read as follows:

1 ARTICLE 722

2 PROCEEDINGS AGAINST JUVENILE OFFENDERS; ESTABLISHMENT OF YOUTH

3 PART AND RELATED PROCEDURES

4 Section 722.00 Probation case planning and services.

5 722.10 Youth part of the superior court established.

6 722.20 Proceedings upon a complaint.

7 § 722.00 Probation case planning and services.

8 1. Every probation department shall conduct a risk and needs assess-
9 ment with respect to any juvenile released on recognizance, released
10 under supervision, or posting bail at or following arraignment by a
11 youth part within its jurisdiction. The court shall order any such juve-
12 nile to report within seven calendar days to the probation department
13 for purposes of assessment. Based upon the assessment findings, the
14 probation department shall refer the juvenile to available specialized
15 and evidence-based services to mitigate any risks identified and to
16 address individual needs.

17 2. Any juvenile undergoing services shall execute appropriate and
18 necessary consent forms, where applicable, to ensure that the probation
19 department may communicate with any service provider and receive
20 progress reports with respect to services offered and/or delivered
21 including, but not limited to, diagnosis, treatment, prognosis, test
22 results, juvenile attendance and information regarding juvenile compli-
23 ance or noncompliance with program service requirements, if any.

24 3. Nothing shall preclude the probation department and juvenile from
25 entering into a voluntary written/formal case plan as to terms and
26 conditions to be met, including, but not limited to, reporting to the
27 probation department and other probation department contacts, undergoing
28 alcohol, substance abuse, or mental health testing, participating in

1 specific services, adhering to service program requirements, and school
2 attendance, where applicable.

3 4. When preparing a pre-sentence investigation report of any such
4 youth, the probation department shall incorporate a summary of the
5 assessment findings, any referrals and progress with respect to mitigat-
6 ing risk and addressing any identified juvenile needs.

7 § 722.10 Youth part of the superior court established.

8 The chief administrator of the courts is hereby directed to establish,
9 in a superior court in each county of the state that exercises criminal
10 jurisdiction, a part of court to be known as the youth part of the supe-
11 rior court for the county in which such court presides. Judges presid-
12 ing in the youth part shall receive training in specialized areas,
13 including, but not limited to, juvenile justice, adolescent development
14 and effective treatment methods for reducing crime commission by adoles-
15 cents. The youth part shall have exclusive jurisdiction of all
16 proceedings in relation to juvenile offenders.

17 § 722.20 Proceedings upon a complaint.

18 1. When a juvenile offender is arraigned before a youth part, the
19 provisions of this section shall apply in lieu of the provisions of
20 sections 180.30, 180.50 and 180.70 of this chapter.

21 2. The youth part shall hold a hearing on the complaint. At the
22 conclusion of the hearing, the court must dispose of the felony
23 complaint as follows:

24 (a) If there is reasonable cause to believe that the defendant commit-
25 ted a crime for which a person under the age of eighteen is criminally
26 responsible, the court must order that the defendant be held for the
27 action of a grand jury; or

1 (b) If there is not reasonable cause to believe that the defendant
2 committed a crime for which a person under the age of eighteen is crimi-
3 nally responsible but there is reasonable cause to believe that the
4 defendant is a "juvenile delinquent", as defined in subdivision one of
5 section 301.2 of the family court act, the court must specify the act or
6 acts it found reasonable cause to believe the defendant did and direct
7 that the action be removed to the family court in accordance with the
8 provisions of article seven hundred twenty-five of this title; or

9 (c) If there is not reasonable cause to believe that the defendant
10 committed any criminal act, the court must dismiss the felony complaint
11 and discharge the defendant from custody if he or she is in custody, or
12 if he or she is at liberty on bail, it must exonerate the bail.

13 3. Notwithstanding the provisions of subdivision two this section, a
14 youth part shall, (a) order removal of an action against a juvenile
15 offender accused of robbery in the second degree as defined in subdivi-
16 sion two of section 160.10; and a juvenile offender accused of commit-
17 ting a violent felony offense as defined in subdivision one of section
18 70.02 of the penal law at age sixteen, or after January first, two thou-
19 sand eighteen, at age sixteen or seventeen, for which a youth age
20 fifteen or younger is not criminally responsible, to the family court
21 pursuant to the provisions of article seven hundred twenty-five of this
22 chapter if, after consideration of the factors set forth in paragraph
23 (c) of this subdivision, the court determines that to do so would be in
24 the interests of justice. Provided, however, that the court shall find
25 that such removal is not in the interests of justice if the youth played
26 a primary role in commission of the crime or aggravating circumstances,
27 including but not limited to the youth's use of a weapon, are present.
28 (b) at the request of the district attorney, order removal of an action

1 against a juvenile offender, other than an action subject to paragraph
2 (a) of this subdivision, to the family court pursuant to the provisions
3 of article seven hundred twenty-five of this chapter if, upon consider-
4 ation of the criteria set forth in paragraph (c) of this subdivision, it
5 is determined that to do so would be in the interests of justice. Where,
6 however, the felony complaint charges the juvenile offender charged with
7 murder in the second degree as defined in section 125.25 of the penal
8 law; rape in the first degree, as defined in subdivision one of section
9 130.35 of the penal law; criminal sexual act in the first degree, as
10 defined in subdivision one of section 130.50 of the penal law; or an
11 armed felony as defined in paragraph (a) of subdivision forty-one of
12 section 1.20 of this chapter, a determination that such action be
13 removed to the family court shall, in addition, be based upon a finding
14 of one or more of the following factors: (i) mitigating circumstances
15 that bear directly upon the manner in which the crime was committed;
16 (ii) where the defendant was not the sole participant in the crime, the
17 defendant's participation was relatively minor although not so minor as
18 to constitute a defense to the prosecution; or (iii) possible deficien-
19 cies in the proof of the crime.

20 (c) In making its determination pursuant to paragraph (a) of this
21 subdivision the court shall, to the extent applicable, examine individ-
22 ually and collectively, the following:

23 (i) the seriousness and circumstances of the offense;

24 (ii) the extent of harm caused by the offense;

25 (iii) the evidence of guilt, whether admissible or inadmissible at
26 trial;

27 (iv) the history, character and condition of the defendant;

1 (v) the purpose and effect of imposing upon the defendant a sentence
2 authorized for the offense;

3 (vi) the impact of a removal of the case to the family court on the
4 safety or welfare of the community;

5 (vii) the impact of a removal of the case to the family court upon the
6 confidence of the public in the criminal justice system;

7 (viii) where the court deems it appropriate, the attitude of the
8 complainant or victim with respect to the motion; and

9 (ix) any other relevant fact indicating that a judgment of conviction
10 in the criminal court would serve no useful purpose.

11 (d) For the purpose of making a determination pursuant to this
12 section, any evidence which is not legally privileged may be introduced.
13 If the defendant testifies, his or her testimony may not be introduced
14 against him or her in any future proceeding, except to impeach his or
15 her testimony at such future proceeding as inconsistent prior testimony.

16 (e) This section shall not be construed to limit the powers of the
17 grand jury.

18 4. If an action involving a defendant who is sixteen or, commencing
19 January first, two thousand eighteen, seventeen years of age is removed
20 to family court, the youth part shall retain concurrent jurisdiction
21 with the family court. At any time that it is determined by the family
22 court or the youth part that continuing the proceeding in family court
23 is not appropriate, the case may be returned to the youth part.

24 5. If an action is not removed to the family court pursuant to subdi-
25 vision three of this section, the youth part shall hear the case sitting
26 as a criminal court or, in its discretion, when the defendant is sixteen
27 or commencing January first, two thousand eighteen, seventeen years of
28 age the youth part may retain it as a juvenile delinquency proceeding

1 for all purposes, and shall make such proceeding fully subject to the
2 provisions and grant any relief available under article three of the
3 family court act.

4 § 81. The opening paragraph and subdivisions 2 and 3 of section 725.05
5 of the criminal procedure law, as added by chapter 481 of the laws of
6 1978, are amended to read as follows:

7 When a [court] youth part directs that an action or charge is to be
8 removed to the family court the [court] youth part must issue an order
9 of removal in accordance with this section. Such order must be as
10 follows:

11 2. Where the direction is authorized pursuant to paragraph (b) of
12 subdivision [three] two of section [180.75] 722.20 of this [chapter]
13 title, it must specify the act or acts it found reasonable cause to
14 believe the defendant did.

15 3. Where the direction is authorized pursuant to subdivision [four]
16 three of section [180.75] 722.20 of this [chapter] title, it must speci-
17 fy the act or acts it found reasonable cause to allege.

18 § 82. Section 725.20 of the criminal procedure law, as added by chap-
19 ter 481 of the laws of 1978, subdivisions 1 and 2 as amended by chapter
20 411 of the laws of 1979, is amended to read as follows:

21 § 725.20 Record of certain actions removed.

22 1. The provisions of this section shall apply in any case where an
23 order of removal to the family court is entered pursuant to a direction
24 authorized by subdivision [four] three of section [180.75] 722.20 of
25 this title, [or section 210.43,] or subparagraph (iii) of paragraph
26 [(h)] (g) of subdivision five of section 220.10 of this chapter, or
27 section 330.25 of this chapter.

1 2. When such an action is removed the court that directed the removal
2 must cause the following additional records to be filed with the clerk
3 of the county court or in the city of New York with the clerk of the
4 supreme court of the county wherein the action was pending and with the
5 division of criminal justice services:

6 (a) A certified copy of the order of removal;

7 (b) [Where the direction is one authorized by subdivision four of
8 section 180.75 of this chapter, a copy of the statement of the district
9 attorney made pursuant to paragraph (b) of subdivision six of section
10 180.75 of this chapter;

11 (c) Where the direction is authorized by section 180.75, a copy of
12 the portion of the minutes containing the statement by the court pursu-
13 ant to paragraph (a) of subdivision six of such section 180.75;

14 (d)] Where the direction is one authorized by subparagraph (iii) of
15 paragraph [(h)] (g) of subdivision five of section 220.10 or section
16 330.25 of this chapter, a copy of the minutes of the plea of guilty,
17 including the minutes of the memorandum submitted by the district attor-
18 ney and the court;

19 [(e) Where the direction is one authorized by subdivision one of
20 section 210.43 of this chapter, a copy of that portion of the minutes
21 containing the statement by the court pursuant to paragraph (a) of
22 subdivision five of section 210.43;

23 (f) Where the direction is one authorized by paragraph (b) of subdi-
24 vision one of section 210.43 of this chapter, a copy of that portion of
25 the minutes containing the statement of the district attorney made
26 pursuant to paragraph (b) of subdivision five of section 210.43;] and

27 [(g)] (c) In addition to the records specified in this subdivision,
28 such further statement or submission of additional information pertain-

1 ing to the proceeding in criminal court in accordance with standards
2 established by the commissioner of the division of criminal justice
3 services, subject to the provisions of subdivision three of this
4 section.

5 3. It shall be the duty of said clerk to maintain a separate file for
6 copies of orders and minutes filed pursuant to this section. Upon
7 receipt of such orders and minutes the clerk must promptly delete such
8 portions as would identify the defendant, but the clerk shall neverthe-
9 less maintain a separate confidential system to enable correlation of
10 the documents so filed with identification of the defendant. After
11 making such deletions the orders and minutes shall be placed within the
12 file and must be available for public inspection. Information permit-
13 ting correlation of any such record with the identity of any defendant
14 shall not be divulged to any person except upon order of a justice of
15 the supreme court based upon a finding that the public interest or the
16 interests of justice warrant disclosure in a particular cause for a
17 particular case or for a particular purpose or use.

18 § 83. Subdivision 1 of section 500-a of the correction law is amended
19 by adding a new paragraph (h) to read as follows:

20 (h) Notwithstanding any other provision of law no county jail shall be
21 used for the confinement of any person under the age of eighteen. Place-
22 ment of any person under the age of eighteen shall be determined by the
23 office of children and family services.

24 § 84. Subdivision 4 of section 500-b of the correction law is
25 REPEALED.

26 § 85. Subparagraph 3 of paragraph (c) of subdivision 8 of section
27 500-b of the correction law is REPEALED.

1 § 86. Subdivision 13 of section 500-b of the correction law is
2 REPEALED.

3 § 87. Subparagraph 8 of paragraph h of subdivision 4 of section 1950
4 of the education law, as amended by section 1 of part G of chapter 58 of
5 the laws of 2014, is amended to read as follows:

6 (8) To enter into contracts with the commissioner of the office of
7 children and family services pursuant to subdivision six-a of section
8 thirty-two hundred two of this chapter to provide to such office, for
9 the benefit of youth in its custody, any special education programs,
10 related services [and], career and technical education services and any
11 other programs provided by the board of cooperative educational services
12 to component school districts. Any such proposed contract shall be
13 subject to the review and approval of the commissioner to determine that
14 it is an approved cooperative educational service. Services provided
15 pursuant to such contracts shall be provided at cost, and the board of
16 cooperative educational services shall not be authorized to charge any
17 costs incurred in providing such services to its component school
18 districts.

19 § 88. Subparagraph 1 of paragraph d of subdivision 3 of section 3214
20 of the education law, as amended by chapter 425 of the laws of 2002, is
21 amended to read as follows:

22 (1) Consistent with the federal gun-free schools act, any public
23 school pupil who is determined under this subdivision to have brought a
24 firearm to or possessed a firearm at a public school shall be suspended
25 for a period of not less than one calendar year and any nonpublic school
26 pupil participating in a program operated by a public school district
27 using funds from the elementary and secondary education act of nineteen
28 hundred sixty-five who is determined under this subdivision to have

1 brought a firearm to or possessed a firearm at a public school or other
2 premises used by the school district to provide such programs shall be
3 suspended for a period of not less than one calendar year from partic-
4 ipation in such program. The procedures of this subdivision shall apply
5 to such a suspension of a nonpublic school pupil. A superintendent of
6 schools, district superintendent of schools or community superintendent
7 shall have the authority to modify this suspension requirement for each
8 student on a case-by-case basis. The determination of a superintendent
9 shall be subject to review by the board of education pursuant to para-
10 graph c of this subdivision and the commissioner pursuant to section
11 three hundred ten of this chapter. Nothing in this subdivision shall be
12 deemed to authorize the suspension of a student with a disability in
13 violation of the individuals with disabilities education act or article
14 eighty-nine of this chapter. A superintendent shall refer the pupil
15 under the age of sixteen who has been determined to have brought a weap-
16 on or firearm to school in violation of this subdivision to a present-
17 ment agency for a juvenile delinquency proceeding consistent with arti-
18 cle three of the family court act except a student fourteen or fifteen
19 years of age who qualifies for juvenile offender status under subdivi-
20 sion forty-two of section 1.20 of the criminal procedure law; provided
21 however, that commencing on January first, two thousand seventeen, a
22 superintendent shall refer the pupil under the age of seventeen who has
23 been determined to have brought a weapon or firearm to school in
24 violation of this subdivision to a presentment agency for a juvenile
25 delinquency proceeding consistent with article three of the family court
26 act except a student who qualifies for juvenile offender status under
27 subdivision forty-two of section 1.20 of the criminal procedure law; and
28 provided further that commencing on January first, two thousand eigh-

1 teen, a superintendent shall refer the pupil under the age of eighteen
2 who has been determined to have brought a weapon or firearm to school in
3 violation of this subdivision to a presentment agency for a juvenile
4 delinquency proceeding consistent with article three of the family court
5 act except a student who qualifies for juvenile offender status under
6 subdivision forty-two of section 1.20 of the criminal procedure law. A
7 superintendent shall refer any pupil sixteen years of age or older or a
8 student fourteen or fifteen years of age who qualifies for juvenile
9 offender status under subdivision forty-two of section 1.20 of the crim-
10 inal procedure law, who has been determined to have brought a weapon or
11 firearm to school in violation of this subdivision to the appropriate
12 law enforcement officials.

13 § 89. Paragraph e of subdivision 3 of section 3214 of the education
14 law, as amended by chapter 170 of the laws of 2006, is amended to read
15 as follows:

16 e. Procedure after suspension. Where a pupil has been suspended pursu-
17 ant to this subdivision and said pupil is of compulsory attendance age,
18 immediate steps shall be taken for his or her attendance upon instruc-
19 tion elsewhere or for supervision [or detention] of said pupil pursuant
20 to the provisions of article seven of the family court act. Where a
21 pupil has been suspended for cause, the suspension may be revoked by the
22 board of education whenever it appears to be for the best interest of
23 the school and the pupil to do so. The board of education may also
24 condition a student's early return to school and suspension revocation
25 on the pupil's voluntary participation in counseling or specialized
26 classes, including anger management or dispute resolution, where appli-
27 cable.

1 § 90. Paragraph b of subdivision 4 of section 3214 of the education
2 law, as amended by chapter 181 of the laws of 2000, is amended to read
3 as follows:

4 b. The school authorities may institute proceedings before a court
5 having jurisdiction to determine the liability of a person in parental
6 relation to contribute towards the maintenance of a school delinquent
7 under [sixteen] seventeen years of age ordered to attend upon instruc-
8 tion under confinement. If the court shall find the person in parental
9 relation able to contribute towards the maintenance of such a minor, it
10 may issue an order fixing the amount to be paid weekly.

11 § 91. Subdivisions 3 and 4 of section 246 of the executive law, as
12 amended by section 10 of part D of chapter 56 of the laws of 2010, are
13 amended to read as follows:

14 3. Applications from counties or the city of New York for state aid
15 under this section shall be made by filing with the division of criminal
16 justice services, a detailed plan, including cost estimates covering
17 probation services for the fiscal year or portion thereof for which aid
18 is requested. Included in such estimates shall be clerical costs and
19 maintenance and operation costs as well as salaries of probation person-
20 nel, family engagement specialists and such other pertinent information
21 as the commissioner of the division of criminal justice services may
22 require. Items for which state aid is requested under this section shall
23 be duly designated in the estimates submitted. The commissioner of the
24 division of criminal justice services, after consultation with the state
25 probation commission and the director of the office of probation and
26 correctional alternatives, shall approve such plan if it conforms to
27 standards relating to the administration of probation services as speci-
28 fied in the rules adopted by him or her.

1 4. An approved plan and compliance with standards relating to the
2 administration of probation services promulgated by the commissioner of
3 the division of criminal justice services shall be a prerequisite to
4 eligibility for state aid.

5 The commissioner of the division of criminal justice services may take
6 into consideration granting additional state aid from an appropriation
7 made for state aid for county probation services for counties or the
8 city of New York when a county or the city of New York demonstrates that
9 additional probation services were dedicated to intensive supervision
10 programs[,] and intensive programs for sex offenders [or programs
11 defined as juvenile risk intervention services]. The commissioner shall
12 grant additional state aid from an appropriation dedicated to juvenile
13 risk intervention services coordination by probation departments which
14 shall include, but not be limited to, probation services performed under
15 article three of the family court act or article seven hundred twenty-
16 two of the criminal procedure law. The administration of such additional
17 grants shall be made according to rules and regulations promulgated by
18 the commissioner of the division of criminal justice services. Each
19 county and the city of New York shall certify the total amount collected
20 pursuant to section two hundred fifty-seven-c of this chapter. The
21 commissioner of the division of criminal justice services shall thereup-
22 on certify to the comptroller for payment by the state out of funds
23 appropriated for that purpose, the amount to which the county or the
24 city of New York shall be entitled under this section. The commissioner
25 shall, subject to an appropriation made available for such purpose,
26 establish and provide funding to probation departments for a continuum
27 of evidence-based intervention services for youth alleged or adjudicated
28 juvenile delinquents pursuant to article three of the family court act

1 or for eligible youth before or sentenced under the youth part in
2 accordance with article seven hundred twenty-two of the criminal proce-
3 dure law.

4 § 92. Section 502 of the executive law, as added by chapter 465 of the
5 laws of 1992, subdivision 3 as amended by section 1 of subpart B of part
6 Q of chapter 58 of the laws of 2011, is amended to read as follows:

7 § 502. Definitions. Unless otherwise specified in this article:

8 1. "Director" means the [director of the division for youth] commis-
9 sioner of the office of children and family services.

10 2. ["Division] "Division", "Office" or "division for youth" means the
11 [division for youth] office of children and family services.

12 3. "Detention" means the temporary care and maintenance of youth held
13 away from their homes pursuant to article three or seven of the family
14 court act, or, commencing January first, two thousand eighteen, pursuant
15 to article three of the family court act, or held pending a hearing for
16 alleged violation of the conditions of release from an office of chil-
17 dren and family services facility or authorized agency, or held pending
18 a hearing for alleged violation of the condition of parole or post-re-
19 lease supervision as a juvenile offender, or held pending return to a
20 jurisdiction other than the one in which the youth is held, or held
21 pursuant to a securing order of a criminal court if the youth named
22 therein as principal is charged as a juvenile offender or held pending a
23 hearing on an extension of placement or held pending transfer to a
24 facility upon commitment or placement by a court. Only alleged or
25 convicted juvenile offenders who have not attained their eighteenth or,
26 commencing January first, two thousand seventeen, their twenty-first
27 birthday shall be subject to detention in a detention facility.

1 4. For purposes of this article, the term "youth" shall [be synonymous
2 with the term "child" and means] mean a person not less than [seven] ten
3 years of age and not more than twenty or commencing January first, two
4 thousand seventeen, not more than twenty-three years of age.

5 5. "Placement" means the transfer of a youth to the custody of the
6 [division] office pursuant to the family court act.

7 6. "Commitment" means the transfer of a youth to the custody of the
8 [division] office pursuant to the penal law.

9 7. "Conditional release" means the transfer of a youth from facility
10 status to aftercare supervision under the continued custody of the
11 [division] office.

12 8. "Discharge" means the termination of [division] office custody of a
13 youth.

14 9. "Aftercare" means supervision of a youth on conditional release or
15 post-release status under the continued custody of the division.

16 § 93. Subdivision 7 of section 503 of the executive law, as amended by
17 section 2 of subpart B of part Q of chapter 58 of the laws of 2011, is
18 amended to read as follows:

19 7. The person in charge of each detention facility shall keep a record
20 of all time spent in such facility for each youth in care. The detention
21 facility shall deliver a certified transcript of such record to the
22 office, social services district, or other agency taking custody of the
23 youth pursuant to article three [or seven] of the family court act,
24 before, or at the same time as the youth is delivered to the office,
25 district or other agency, as is appropriate.

26 § 94. Subdivision 1 of section 505 of the executive law, as amended by
27 chapter 465 of the laws of 1992, is amended to read as follows:

1 1. There shall be a facility director of each [division for youth]
2 office of children and family services operated facility. Such facility
3 director shall be appointed by the [director] commissioner of the [divi-
4 sion] office of children and family services and the position shall be
5 in the noncompetitive class and designated as confidential as defined by
6 subdivision two-a of section forty-two of the civil service law. The
7 facility director shall have [two years] such experience [in appropriate
8 titles in state government. Such facility director shall have such] and
9 other qualifications as may be prescribed by the [director] commissioner
10 of the [division,] office of children and family services based on
11 differences in duties, levels of responsibility, size and character of
12 the facility, knowledge, skills and abilities required, and other
13 factors affecting the position [and]. Such facility director shall
14 serve at the pleasure of the [director] commissioner of the [division]
15 office of children and family services.

16 § 95. Section 507-a of the executive law, as amended by chapter 465 of
17 the laws of 1992, paragraph (a) of subdivision 1 as amended by chapter
18 309 of the laws of 1996, is amended to read as follows:

19 § 507-a. Placement and commitment; procedures. 1. Youth may be placed
20 in or committed to the custody of the [division] office of children and
21 family services:

22 (a) for placement, as a juvenile delinquent pursuant to the family
23 court act; or

24 (b) for commitment pursuant to the penal law.

25 2. (a) Consistent with other provisions of law, only those youth who
26 have reached the age of [seven] ten, but who have not reached the age of
27 twenty-one may be placed in[, committed to or remain in] the [divi-
28 sion's] custody of the office of children and family services. Except as

1 provided for in paragraph (a-1) of this subdivision, no youth who has
2 reached the age of twenty-one may remain in custody of the office of
3 children and family services.

4 (a-1) (i) A youth who is committed to the office of children and fami-
5 ly services as a juvenile offender or youthful offender may remain in
6 the custody of the office during the period of his or her sentence
7 beyond the age of twenty-one in accordance with the provisions of subdi-
8 vision five of section five hundred eight of this article but in no
9 event may such a youth remain in the custody of the office beyond his or
10 her twenty-third birthday; and (ii) a youth found to have committed a
11 designated class A felony act who is restrictively placed with the
12 office under subdivision four of section 353.5 of the family court act
13 for committing an act on or after the youth's sixteenth birthday may
14 remain in the custody of the office of children and family services up
15 to the age of twenty-three in accordance with his or her placement
16 order.

17 (a-2) Whenever it shall appear to the satisfaction of the [division]
18 office of children and family services that any youth placed therewith
19 is not of proper age to be so placed or is not properly placed, or is
20 mentally or physically incapable of being materially benefited by the
21 program of the [division] office, the [division] office shall cause the
22 return of such youth to the county from which placement was made.

23 (b) The [division] office shall deliver such youth to the custody of
24 the placing court, along with the records provided to the [division]
25 office pursuant to section five hundred seven-b of this article, there
26 to be dealt with by the court in all respects as though no placement had
27 been made.

1 (c) The cost and expense of the care and return of such youth incurred
2 by the [division] office shall be reimbursed to the state by the social
3 services district from which such youth was placed in the manner
4 provided by section five hundred twenty-nine of this article.

5 3. The [division] office may photograph any youth in its custody.
6 Such photograph may be used only for the purpose of assisting in the
7 return of conditionally released children and runaways pursuant to
8 section five hundred ten-b of this article. Such photograph shall be
9 destroyed immediately upon the discharge of the youth from [division]
10 office custody.

11 4. (a) A youth placed with or committed to the [division] office may,
12 immediately following placement or commitment, be remanded to an appro-
13 priate detention facility.

14 (b) The [division] office shall admit a [child] youth placed [with the
15 division] under its care to a facility of the [division] office within
16 fifteen days of the date of the order of placement with the [division]
17 office and shall admit a juvenile offender committed to the [division]
18 office to a facility of the [division] office within ten days of the
19 date of the order of commitment to the [division] office, except as
20 provided in section five hundred seven-b of this article.

21 5. Consistent with other provisions of law, in the discretion of the
22 [director, youth] commissioner of the office of children and family
23 services, youth placed within the office under the family court act who
24 attain the age of eighteen while in [division] custody of the office and
25 who are not required to remain in the placement with the office as a
26 result of a dispositional order of the family court may reside in a
27 non-secure facility until the age of twenty-one, provided that such

1 youth attend a full-time vocational or educational program and are like-
2 ly to benefit from such program.

3 § 96. Section 508 of the executive law, as added by chapter 481 of the
4 laws of 1978 and as renumbered by chapter 465 of the laws of 1992,
5 subdivision 1 as amended by chapter 738 of the laws of 2004, subdivision
6 2 as amended by chapter 572 of the laws of 1985, subdivisions 4, 5, 6
7 and 7 as amended by section 97 of subpart B of part C of chapter 62 of
8 the laws of 2011, subdivision 8 as added by chapter 560 of the laws of
9 1984 and subdivision 9 as added by chapter 7 of the laws of 2007, is
10 amended to read as follows:

11 § 508. Juvenile offender facilities. 1. The office of children and
12 family services shall maintain [secure] facilities for the care and
13 confinement of juvenile offenders committed [for an indeterminate,
14 determinate or definite sentence] to the office pursuant to the sentenc-
15 ing provisions of the penal law. Such facilities shall provide appropri-
16 ate services to juvenile offenders including but not limited to residen-
17 tial care, educational and vocational training, physical and mental
18 health services, and employment counseling.

19 1-a. Any new facilities developed by the office of children and family
20 services to serve the additional youth placed with the office as a
21 result of raising the age of juvenile jurisdiction shall, to the extent
22 practicable, consist of smaller, more home-like facilities located near
23 the youths' homes and families that provide gender-responsive program-
24 ming, services and treatment in small, closely supervised groups that
25 offer extensive and on-going individual attention and encourage support-
26 ive peer relationships.

27 2. Juvenile offenders committed to the office for committing crimes
28 prior to the age of sixteen shall be confined in such facilities [until

1 the age of twenty-one] in accordance with their sentences, and shall not
2 be released, discharged or permitted home visits except pursuant to the
3 provisions of this section.

4 [(a) The director of the division for youth may authorize the transfer
5 of a juvenile offender in his custody, who has been convicted of
6 burglary or robbery, to a school or center established and operated
7 pursuant to title three of this article at any time after the juvenile
8 offender has been confined in a division for youth secure facility for
9 one year or one-half of his minimum sentence, whichever is greater.

10 (b) The director of the division for youth may authorize the transfer
11 of a juvenile offender in his custody, who has been convicted of
12 burglary or robbery, and who is within ninety days of release as estab-
13 lished by the board of parole, to any facility established and operated
14 pursuant to this article.

15 (c) A juvenile offender may be transferred as provided in paragraphs
16 (a) and (b) herein, only after the director determines that there is no
17 danger to public safety and that the offender shall substantially bene-
18 fit from the programs and services of another division facility. In
19 determining whether there is a danger to public safety the director
20 shall consider: (i) the nature and circumstances of the offense includ-
21 ing whether any physical injury involved was inflicted by the offender
22 or another participant; (ii) the record and background of the offender;
23 and (iii) the adjustment of the offender at division facilities.

24 (d) For a period of six months after a juvenile offender has been
25 transferred pursuant to paragraph (a) or (b) herein, the juvenile offen-
26 der may have only accompanied home visits. After completing six months
27 of confinement following transfer from a secure facility, a juvenile
28 offender may not have an unaccompanied home visit unless two accompanied

1 home visits have already occurred. An "accompanied home visit" shall
2 mean a home visit during which the juvenile offender shall be accompa-
3 nied at all times while outside the facility by appropriate personnel of
4 the division for youth designated pursuant to regulations of the direc-
5 tor of the division.

6 (e) The director of the division for youth shall promulgate rules and
7 regulations including uniform standards and procedures governing the
8 transfer of juvenile offenders from secure facilities to other facili-
9 ties and the return of such offenders to secure facilities. The rules
10 and regulations shall provide a procedure for the referral of proposed
11 transfer cases by the secure facility director, and shall require a
12 determination by the facility director that transfer of a juvenile
13 offender to another facility is in the best interests of the division
14 for youth and the juvenile offender and that there is no danger to
15 public safety.

16 The rules and regulations shall further provide for the establishment
17 of a division central office transfer committee to review transfer cases
18 referred by the secure facility directors. The committee shall recommend
19 approval of a transfer request to the director of the division only upon
20 a clear showing by the secure facility director that the transfer is in
21 the best interests of the division for youth and the juvenile offender
22 and that there is no danger to public safety. In the case of the denial
23 of the transfer request by the transfer committee, the juvenile offender
24 shall remain at a secure facility. Notwithstanding the recommendation
25 for approval of transfer by the transfer committee, the director of the
26 division may deny the request for transfer if there is a danger to
27 public safety or if the transfer is not in the best interests of the
28 division for youth or the juvenile offender.

1 The rules and regulations shall further provide a procedure for the
2 immediate return to a secure facility, without a hearing, of a juvenile
3 offender transferred to another facility upon a determination by that
4 facility director that there is a danger to public safety.]

5 3. The [division] office of children and family services shall report
6 in writing to the sentencing court and district attorney, not less than
7 once every six months during the period of confinement, on the status,
8 adjustment, programs and progress of the offender.

9 4. [The office of children and family services may apply to the
10 sentencing court for permission to transfer a youth not less than
11 sixteen nor more than eighteen years of age to the department of
12 corrections and community supervision. Such application shall be made
13 upon notice to the youth, who shall be entitled to be heard upon the
14 application and to be represented by counsel. The court shall grant the
15 application if it is satisfied that there is no substantial likelihood
16 that the youth will benefit from the programs offered by the office
17 facilities.

18 5.] The office of children and family services may transfer an offen-
19 der not less than eighteen [nor more than twenty-one] years of age to
20 the department of corrections and community supervision if the commis-
21 sioner of the office certifies to the commissioner of corrections and
22 community supervision that there is no substantial likelihood that the
23 youth will benefit from the programs offered by office facilities.

24 [6. At age twenty-one, all] 5. (a) All juvenile offenders committed to
25 the office for committing a crime prior to the youth's sixteenth birth-
26 day who still have time left on their sentences of imprisonment shall be
27 transferred at age twenty-one to the custody of the department of

1 corrections and community supervision for confinement pursuant to the
2 correction law.

3 [7.] (b) All juvenile offenders committed to the office for committing
4 a crime on or after their sixteenth birthday who still have time left on
5 their sentences of imprisonment shall be transferred to the custody of
6 the department of corrections and community supervision for confinement
7 pursuant to the correction law after completing two years of care in
8 office of children and family services facilities unless they are within
9 four months of completing the imprisonment portion of their sentence and
10 the office determines, in its discretion, on a case-by-case basis that
11 the youth should be permitted to remain with the office for the addi-
12 tional short period of time necessary to enable them to complete their
13 sentence. In making such a determination, the factors the office may
14 consider include, but are not limited to, the age of the youth, the
15 amount of time remaining on the youth's sentence of imprisonment, the
16 level of the youth's participation in the program, the youth's educa-
17 tional and vocational progress, the opportunities available to the youth
18 through the office and through the department, and the length of the
19 youth's post-release supervision sentence. Nothing in this paragraph
20 shall authorize a youth to remain in an office facility beyond his or
21 her twenty-third birthday.

22 (c) All juvenile offenders who are eligible to be released from an
23 office of children and family services facility before they are required
24 to be transferred to the department of corrections and community super-
25 vision and who are able to complete the full-term of their post-release
26 supervision sentences before they turn twenty-three years of age shall
27 remain with the office of children and family services for post-release
28 supervision.

1 (d) All juvenile offenders released from an office of children and
2 family services facility before they are transferred to the department
3 of corrections and community supervision who are unable to complete the
4 full-term of their post-release supervision sentences before they turn
5 twenty-three years of age shall be under the supervision of the depart-
6 ment of corrections and community supervision until expiration of the
7 maximum term or period of sentence, or expiration of supervision,
8 including any post-release supervision as the case may be provided,
9 however, that the office shall assist such department in planning for
10 the youth's post-release supervision.

11 6. While in the custody of the office of children and family services,
12 an offender shall be subject to the rules and regulations of the office,
13 except that his or her parole, post-release supervision, temporary
14 release and discharge shall be governed by the laws applicable to
15 inmates of state correctional facilities and his or her transfer to
16 state hospitals in the office of mental health shall be governed by
17 section five hundred nine of this chapter. The commissioner of the
18 office of children and family services shall, however, establish and
19 operate temporary release programs at office of children and family
20 services facilities and provide post-release supervision programs for
21 eligible juvenile offenders and [contract with the department of
22 corrections and community supervision for the provision of parole]
23 provide supervision [services] for temporary releasees and juveniles on
24 post-release supervision. The rules and regulations for these programs
25 shall not be inconsistent with the laws for temporary release and post-
26 release supervision applicable to inmates of state correctional facili-
27 ties. For the purposes of temporary release programs for juvenile offen-
28 ders only, when referred to or defined in article twenty-six of the

1 correction law, "institution" shall mean any facility designated by the
2 commissioner of the office of children and family services, "department"
3 shall mean the office of children and family services, "inmate" shall
4 mean a juvenile offender residing in an office of children and family
5 services facility, and "commissioner" shall mean the [director] commis-
6 sioner of the office of children and family services. For the purposes
7 of such post-release supervision for juvenile offenders under paragraph
8 (c) of subdivision five of this section only, when referred to in
9 section 70.45 of the penal law or article twelve-B of the executive law,
10 the term "department of corrections and community supervision", "depart-
11 ment", "division of parole", "division", "board of parole" and "board"
12 shall mean the office of children and family services, and the term
13 "commissioner" shall mean the office of children and family services.
14 Time spent in office of children and family services facilities and in
15 juvenile detention facilities shall be credited towards the sentence
16 imposed in the same manner and to the same extent applicable to inmates
17 of state correctional facilities.

18 [8] 7. Whenever a juvenile offender or a juvenile offender adjudi-
19 cated a youthful offender shall be delivered to the director of [a divi-
20 sion for youth] an office of children and family services facility
21 pursuant to a commitment to the [director of the division for youth]
22 office of children and family services, the officer so delivering such
23 person shall deliver to such facility director a certified copy of the
24 sentence received by such officer from the clerk of the court by which
25 such person shall have been sentenced, a copy of the report of the
26 probation officer's investigation and report, any other pre-sentence
27 memoranda filed with the court, a copy of the person's fingerprint
28 records, a detailed summary of available medical records, psychiatric

1 records and reports relating to assaults, or other violent acts,
2 attempts at suicide or escape by the person while in the custody of a
3 local detention facility.

4 [9] 8. Notwithstanding any provision of law, including section five
5 hundred one-c of this article, the office of children and family
6 services shall make records pertaining to a person convicted of a sex
7 offense as defined in subdivision (p) of section 10.03 of the mental
8 hygiene law available upon request to the commissioner of mental health
9 or the commissioner of [mental retardation and] the office for persons
10 with developmental disabilities, as appropriate; a case review panel;
11 and the attorney general; in accordance with the provisions of article
12 ten of the mental hygiene law.

13 § 97. Subdivisions 1, 2, 4, 5 and 5-a of section 529 of the executive
14 law, subdivisions 1, 4 and 5 as added by chapter 906 of the laws of
15 1973, paragraph (c) of subdivision 1 as amended and paragraph (d) of
16 subdivision 1 as added by chapter 881 of the laws of 1976, subdivision 2
17 as amended by chapter 430 of the laws of 1991, paragraph (c) of subdivi-
18 sion 5 as amended by chapter 722 of the laws of 1979 and subdivision 5-a
19 as added by chapter 258 of the laws of 1974, are amended to read as
20 follows:

21 1. Definitions. As used in this section:

22 (a) "authorized agency", "certified boarding home", "local charge" and
23 "state charge" shall have the meaning ascribed to such terms by the
24 social services law;

25 (b) "aftercare supervision" shall mean supervision of released or
26 discharged youth, not in foster care; and,

27 (c) "foster care" shall mean residential care, maintenance and super-
28 vision provided to released or discharged youth, or youth otherwise in

1 the custody of the [division for youth, in a division foster family home
2 certified by the division.

3 (d) "division foster family home" means a service program provided in
4 a home setting available to youth under the jurisdiction of the division
5 for youth] office of children and family services.

6 2. [Expenditures] Except as provided in subdivision five of this
7 section, expenditures made by the [division for youth] office of chil-
8 dren and family services for care, maintenance and supervision furnished
9 youth, including alleged and adjudicated juvenile delinquents [and
10 persons in need of supervision,] placed or referred, pursuant to titles
11 two or three of this article, and juvenile offenders committed pursuant
12 to section 70.05 of the penal law, in the [division's] office's programs
13 and facilities, shall be subject to reimbursement to the state by the
14 social services district from which the youth was placed or by the
15 social services district in which the juvenile offender resided at the
16 time of commitment, in accordance with this section and the regulations
17 of the [division,] office as follows: fifty percent of the amount
18 expended for care, maintenance and supervision of local charges includ-
19 ing juvenile offenders.

20 [4. Expenditures made by the division for youth] 3. The costs for
21 foster care provided by voluntary authorized agencies to juvenile delin-
22 quents placed in the care of the office of children and family services
23 shall be [subject to reimbursement to the state by] the responsibility
24 of the social services district from which the youth was placed, and
25 shall be subject to reimbursement from the state in accordance with [the
26 regulations of the division, as follows: fifty percent of the amount
27 expended for care, maintenance and supervision of local charges] section
28 one hundred fifty-three-k of the social services law.

1 [5] 4. (a) [Expenditures] Except as provided in subdivision five of
2 this section, expenditures made by the [division for youth] office of
3 children and family services for aftercare supervision shall be subject
4 to reimbursement to the state by the social services district from which
5 the youth was placed, in accordance with regulations of the [division]
6 office, as follows: fifty percent of the amount expended for aftercare
7 supervision of local charges.

8 (b) Expenditures made by social services districts for aftercare
9 supervision of adjudicated juvenile delinquents [and persons in need of
10 supervision provided (prior to the expiration of the initial or extended
11 period of placement or commitment) by the aftercare staff of the facili-
12 ty from which the youth has been released or discharged, other than
13 those under the jurisdiction of the division for youth, in which said
14 youth was placed or committed, pursuant to directions of the family
15 court,] shall be subject to reimbursement by the state[, upon approval
16 by the division and in accordance with its regulations, as follows:

17 (1) the full amount expended by the district for aftercare supervision
18 of state charges;

19 (2) fifty percent of the amount expended by the district for aftercare
20 supervision of local charges] in accordance with section one hundred
21 fifty-three-k of the social services law.

22 (c) Expenditures made by the [division for youth] office of children
23 and family services for contracted programs and contracted services
24 pursuant to subdivision seven of section five hundred one of this arti-
25 cle, except with respect to urban homes and group homes, shall be
26 subject to reimbursement to the state by the social services district
27 from which the youth was placed, in accordance with this section and the
28 regulations of the [division] office as follows: fifty percent of the

1 amount expended for the operation and maintenance of such programs and
2 services.

3 5. Notwithstanding any other provision of law to the contrary, no
4 reimbursement shall be required from a social services district for
5 expenditures made by the office of children and family services on or
6 after December first, two thousand fifteen for the care, maintenance,
7 supervision or aftercare supervision of youth age sixteen years of age
8 or older that would not otherwise have been made absent pursuant to the
9 provisions of a chapter of the laws of two thousand fifteen that
10 increased the age of juvenile jurisdiction above fifteen years of age or
11 that authorized the placement in office of children and family services
12 facilities of certain other youth who committed a crime on or after
13 their sixteenth birthdays.

14 5-a. The social services district responsible for reimbursement to the
15 state shall remain the same if during a period of placement or extension
16 thereof, a child commits a criminal act while in [a division] an office
17 of children and family services facility, during an authorized absence
18 therefrom or after absconding therefrom and is returned to the [divi-
19 sion] office following adjudication or conviction for the act by a court
20 with jurisdiction outside the boundaries of the social services district
21 which was responsible for reimbursement to the state prior to such adju-
22 dication or conviction.

23 § 98. Subdivision 1, the opening paragraph of subdivision 2 and
24 subparagraphs (i) and (iii) of paragraph (a) of subdivision 3 of section
25 529-b of the executive law, as added by section 3 of subpart B of part Q
26 of chapter 58 of the laws of 2011, are amended to read as follows:

27 1. (a) Notwithstanding any provision of law to the contrary, eligible
28 expenditures by an eligible municipality for services to divert youth at

1 risk of, alleged to be, or adjudicated as juvenile delinquents [or
2 persons alleged or adjudicated to be in need of supervision], or youth
3 alleged to be or convicted as juvenile offenders from placement in
4 detention or in residential care or to divert persons alleged or adjudi-
5 cated to be in need of supervision from being placed away from their
6 homes, shall be subject to state reimbursement under the supervision and
7 treatment services for juveniles program for up to sixty-two percent of
8 the municipality's expenditures, subject to available appropriations and
9 exclusive of any federal funds made available for such purposes, not to
10 exceed the municipality's distribution under the supervision and treat-
11 ment services for juveniles program.

12 (b) The state funds appropriated for the supervision and treatment
13 services for juveniles program shall be distributed to eligible munici-
14 palities by the office of children and family services based on a plan
15 developed by the office which may consider historical information
16 regarding the number of youth seen at probation intake for an alleged
17 act of delinquency, the number of alleged persons in need of supervision
18 receiving diversion services under section seven hundred thirty-five of
19 the family court act, the number of youth remanded to detention, the
20 number of juvenile delinquents placed with the office, the number of
21 juvenile delinquents [and persons in need of supervision] placed in
22 residential care with the municipality, the municipality's reduction in
23 the use of detention and residential placements, and other factors as
24 determined by the office. Such plan developed by the office shall be
25 subject to the approval of the director of the budget. The office is
26 authorized, in its discretion, to make advance distributions to a muni-
27 cipality in anticipation of state reimbursement.

1 As used in this section, the term "municipality" shall mean a county,
2 or a city having a population of one million or more, and "supervision
3 and treatment services for juveniles" shall mean community-based
4 services or programs designed to safely maintain youth in the community
5 pending a family court disposition or conviction in criminal court and
6 services or programs provided to youth adjudicated as juvenile delin-
7 quents [or persons in need of supervision,] or youth alleged to be juve-
8 nile offenders to prevent residential placement of such youth or a
9 return to placement where such youth have been released to the community
10 from residential placement or programs provided to youth adjudicated
11 persons in need of supervision to maintain such youth in their homes.

12 Supervision and treatment services for juveniles may include but are not
13 limited to services or programs that:

14 (i) an analysis that identifies the neighborhoods or communities from
15 which the greatest number of juvenile delinquents [and persons in need
16 of supervision] are remanded to detention or residentially placed and
17 from which the greatest number of alleged persons in need of supervision
18 are offered diversion services;

19 (iii) a description of how the services and programs proposed for
20 funding will reduce the number of youth from the municipality who are
21 detained and residentially or otherwise placed; how such services and
22 programs are family-focused; and whether such services and programs are
23 capable of being replicated across multiple sites;

24 § 99. Subdivisions 2, 4, 5, 6 and 7 of section 530 of the executive
25 law, subdivisions 2 and 4 as amended by section 4 of subpart B of part Q
26 of chapter 58 of the laws of 2011, paragraphs (a) and (d) of subdivision
27 2 as amended by section 1 of part M of chapter 57 of the laws of 2012,
28 subdivision 5 as amended by chapter 920 of the laws of 1982, subpara-

1 graphs 1, 2 and 4 of paragraph (a) and paragraph (b) of subdivision 5 as
2 amended by section 5 of subpart B of part Q of chapter 58 of the laws of
3 2011, subdivision 6 as amended by chapter 880 of the laws of 1976, and
4 subdivision 7 as amended by section 6 of subpart B of part Q of chapter
5 58 of the laws of 2011, are amended and a new subdivision 8 is added to
6 read as follows:

7 2. [Expenditures] Except as provided for in subdivision eight of this
8 section, expenditures made by municipalities in providing care, mainte-
9 nance and supervision to youth in detention facilities designated pursu-
10 ant to sections seven hundred twenty and 305.2 of the family court act
11 and certified by [the division for youth] office of children and family
12 services, shall be subject to reimbursement by the state, as follows:

13 (a) Notwithstanding any provision of law to the contrary, eligible
14 expenditures by a municipality during a particular program year for the
15 care, maintenance and supervision [in foster care programs certified by
16 the office of children and family services, certified or approved family
17 boarding homes, and non-secure detention facilities certified by the
18 office for those youth alleged to be persons in need of supervision or
19 adjudicated persons in need of supervision held pending transfer to a
20 facility upon placement; and] in secure and non-secure detention facili-
21 ties certified by the office in accordance with section five hundred
22 three of this article for those youth alleged to be juvenile delin-
23 quents; adjudicated juvenile delinquents held pending transfer to a
24 facility upon placement, and juvenile delinquents held at the request of
25 the office of children and family services pending extension of place-
26 ment hearings or release revocation hearings or while awaiting disposi-
27 tion of such hearings; and youth alleged to be or convicted as juvenile
28 offenders and, prior to January first, two thousand eighteen, youth

1 alleged to be persons in need of supervision or adjudicated persons in
2 need of supervision held pending transfer to a facility upon placement
3 in foster care programs certified by the office of children and family
4 services, certified or approved family boarding homes, and non-secure
5 detention facilities certified by the office, shall be subject to state
6 reimbursement for up to fifty percent of the municipality's expendi-
7 tures, exclusive of any federal funds made available for such purposes,
8 not to exceed the municipality's distribution from funds that have been
9 appropriated specifically therefor for that program year. Municipalities
10 shall implement the use of detention risk assessment instruments in a
11 manner prescribed by the office so as to inform detention decisions.
12 Notwithstanding any other provision of state law to the contrary, data
13 necessary for completion of a detention risk assessment instrument may
14 be shared among law enforcement, probation, courts, detention adminis-
15 trators, detention providers, and the attorney for the child upon
16 retention or appointment; solely for the purpose of accurate completion
17 of such risk assessment instrument, and a copy of the completed
18 detention risk assessment instrument shall be made available to the
19 applicable detention provider, the attorney for the child and the court.

20 (b) The state funds appropriated for juvenile detention services shall
21 be distributed to eligible municipalities by the office of children and
22 family services based on a plan developed by the office which may
23 consider historical information regarding the number of youth remanded
24 to detention, the municipality's reduction in the use of detention, the
25 municipality's youth population, and other factors as determined by the
26 office. Such plan developed by the office shall be subject to the
27 approval of the director of the budget. The office is authorized, in its

1 discretion, to make advance distributions to a municipality in antic-
2 ipation of state reimbursement.

3 (c) A municipality may also use the funds distributed to it for juve-
4 nile detention services under this section for a particular program year
5 for sixty-two percent of a municipality's eligible expenditures for
6 supervision and treatment services for juveniles programs approved under
7 section five hundred twenty-nine-b of this title for services that were
8 not reimbursed from a municipality's distribution under such program
9 provided to at-risk, alleged or adjudicated juvenile delinquents or
10 persons alleged or adjudicated to be in need of supervision, or alleged
11 to be or convicted as juvenile offenders in community-based non-residen-
12 tial settings. Any claims submitted by a municipality for reimbursement
13 for detention services or supervision and treatment services for juve-
14 niles provided during a particular program year for which the munici-
15 pality does not receive state reimbursement from the municipality's
16 distribution of detention services funds for that program year may not
17 be claimed against the municipality's distribution of funds available
18 under this section for the next applicable program year. The office may
19 require that such claims be submitted to the office electronically at
20 such times and in the manner and format required by the office.

21 [(d) (i)] (2-a) (a) Notwithstanding any provision of law or regulation
22 to the contrary, any information or data necessary for the development,
23 validation or revalidation of the detention risk assessment instrument
24 shall be shared among local probation departments, the office of
25 probation and correctional alternatives and, where authorized by the
26 division of criminal justice services, the entity under contract with
27 the division to provide information technology services related to youth
28 assessment and screening, the office of children and family services,

1 and any entity under contract with the office of children and family
2 services to provide services relating to the development, validation or
3 revalidation of the detention risk assessment instrument. Any such
4 information and data shall not be commingled with any criminal history
5 database. Any information and data used and shared pursuant to this
6 section shall only be used and shared for the purposes of this section
7 and in accordance with this section. Such information shall be shared
8 and received in a manner that protects the confidentiality of such
9 information. The sharing, use, disclosure and redisclosure of such
10 information to any person, office, or other entity not specifically
11 authorized to receive it pursuant to this section or any other law is
12 prohibited.

13 [(ii)] (b) The office of children and family services shall consult
14 with individuals with professional research experience and expertise in
15 criminal justice; social work; juvenile justice; and applied mathemat-
16 ics, psychometrics and/or statistics to assist the office in determining
17 the method it will use to: develop, validate and revalidate such
18 detention risk assessment instrument; and analyze the effectiveness of
19 the use of such detention risk assessment instrument in accomplishing
20 its intended goals; and analyze, to the greatest extent possible any
21 disparate impact on detention outcomes for juveniles based on race, sex,
22 national origin, economic status and any other constitutionally
23 protected class, regarding the use of such instrument. The office shall
24 consult with such individuals regarding whether it is appropriate to
25 attempt to analyze whether there is any such disparate impact based on
26 sexual orientation and, if so, the best methods to conduct such analy-
27 sis. The office shall take into consideration any recommendations given

1 by such individuals involving improvements that could be made to such
2 instrument and process.

3 [(iii)] (c) Data collected for the purposes of completing the
4 detention risk assessment instrument from any source other than an offi-
5 cially documented record shall be confirmed as soon as practicable.
6 Should any data originally utilized in completing the risk assessment
7 instrument be found to conflict with the officially documented record,
8 the risk assessment instrument shall be completed with the officially
9 documented data and any corresponding revision to the risk categori-
10 zation shall be made. The office shall periodically revalidate any
11 approved risk assessment instrument. The office shall conspicuously post
12 any approved detention risk assessment instrument on its website and
13 shall confer with appropriate stakeholders, including but not limited
14 to, attorneys for children, presentment agencies, probation, and the
15 family court, prior to revising any validated risk assessment instru-
16 ment. Any such revised risk assessment instrument shall be subject to
17 periodic empirical validation.

18 4. (a) The municipality must notify the office of children and family
19 services of state aid received under other state aid formulas by each
20 detention facility for which the municipality is seeking reimbursement
21 pursuant to this section, including but not limited to, aid for educa-
22 tion, probation and mental health services.

23 (b) Except as provided in subdivision eight of this section: (i) In
24 computing reimbursement to the municipality pursuant to this section,
25 the office shall insure that the aggregate of state aid under all state
26 aid formulas shall not exceed fifty percent of the cost of care, mainte-
27 nance and supervision provided to detainees eligible for state
28 reimbursement under subdivision two of this section, exclusive of feder-

1 al aid for such purposes not to exceed the amount of the municipality's
2 distribution under the juvenile detention services program.

3 [(c)] (ii) Reimbursement for administrative related expenditures as
4 defined by the office of children and family services, for secure and
5 nonsecure detention services shall not exceed seventeen percent of the
6 total approved expenditures for facilities of twenty-five beds or more
7 and shall not exceed twenty-one percent of the total approved expendi-
8 tures for facilities with less than twenty-five beds.

9 5. (a) Except as provided in paragraph (b) of this subdivision, care,
10 maintenance and supervision for the purpose of this section shall mean
11 and include only:

12 (1) temporary care, maintenance and supervision provided to alleged
13 juvenile delinquents and persons in need of supervision in detention
14 facilities certified pursuant to sections seven hundred twenty and 305.2
15 of the family court act by the office of children and family services,
16 pending adjudication of alleged delinquency or alleged need of super-
17 vision by the family court, or pending transfer to institutions to which
18 committed or placed by such court or while awaiting disposition by such
19 court after adjudication or held pursuant to a securing order of a crim-
20 inal court if the person named therein as principal is under sixteen
21 years of age; or[,]

22 (1-a) commencing on January first, two thousand eighteen, temporary
23 care, maintenance, and supervision provided to alleged juvenile delin-
24 quents in detention facilities certified by the office of children and
25 family services, pending adjudication of alleged delinquency by the
26 family court, or pending transfer to institutions to which committed or
27 placed by such court or while awaiting disposition by such court after

1 adjudication or held pursuant to a securing order of a criminal court if
2 the person named therein as principal is under twenty-one; or

3 (2) temporary care, maintenance and supervision provided juvenile
4 delinquents in approved detention facilities at the request of the
5 office of children and family services pending release revocation hear-
6 ings or while awaiting disposition after such hearings; or

7 (3) temporary care, maintenance and supervision in approved detention
8 facilities for youth held pursuant to the family court act or the inter-
9 state compact on juveniles, pending return to their place of residence
10 or domicile[.]; or

11 (4) prior to January first, two thousand eighteen, temporary care,
12 maintenance and supervision provided youth detained in foster care
13 facilities or certified or approved family boarding homes pursuant to
14 article seven of the family court act.

15 (b) Payments made for reserved accommodations, whether or not in full
16 time use, approved and certified by the office of children and family
17 services [and certified pursuant to sections seven hundred twenty and
18 305.2 of the family court act], in order to assure that adequate accom-
19 modations will be available for the immediate reception and proper care
20 therein of youth for which detention costs are reimbursable pursuant to
21 paragraph (a) of this subdivision, shall be reimbursed as expenditures
22 for care, maintenance and supervision under the provisions of this
23 section, provided the office shall have given its prior approval for
24 reserving such accommodations.

25 6. The [director of the division for youth] office of children and
26 family services may adopt, amend, or rescind all rules and regulations,
27 subject to the approval of the director of the budget and certification

1 to the chairmen of the senate finance and assembly ways and means
2 committees, necessary to carry out the provisions of this section.

3 7. The agency administering detention for each county and the city of
4 New York shall submit to the office of children and family services, at
5 such times and in such form and manner and containing such information
6 as required by the office of children and family services, an annual
7 report on youth remanded pursuant to article three or seven of the fami-
8 ly court act who are detained during each calendar year including,
9 commencing January first, two thousand twelve, the risk level of each
10 detained youth as assessed by a detention risk assessment instrument
11 approved by the office of children and family services provided, howev-
12 er, that the report due January first, two thousand nineteen and there-
13 after shall not be required to contain any information on youth who are
14 subject to article seven of the family court act. The office may
15 require that such data on detention use be submitted to the office elec-
16 tronically. Such report shall include, but not be limited to, the reason
17 for the court's determination in accordance with section 320.5 or seven
18 hundred thirty-nine of the family court act, if applicable, to detain
19 the youth; the offense or offenses with which the youth is charged; and
20 all other reasons why the youth remains detained. The office shall
21 submit a compilation of all the separate reports to the governor and the
22 legislature.

23 8. Notwithstanding any other provisions of law to the contrary,
24 commencing January first, two thousand seventeen, state reimbursement
25 shall be made available for one hundred percent of a municipality's
26 eligible expenditures for the care, maintenance and supervision of youth
27 sixteen years of age or older in non-secure and secure detention facili-
28 ties when such detention would not otherwise have occurred absent the

1 provisions of a chapter of the laws of two thousand fifteen that
2 increased the age of juvenile jurisdiction above fifteen years of age.

3 § 100. Section 4 of part K of chapter 57 of the laws of 2012, amending
4 the education law, relating to authorizing the board of cooperative
5 educational services to enter into contracts with the commissioner of
6 children and family services to provide certain services, is amended to
7 read as follows:

8 § 4. This act shall take effect July 1, 2012 [and shall expire June
9 30, 2015 when upon such date the provisions of this act shall be deemed
10 repealed].

11 § 101. This act shall take effect immediately; provided, however,
12 that:

13 1. the amendments to subdivision 4 of section 353.5 of the family
14 court act made by section twenty-four of this act shall not affect the
15 expiration and reversion of such subdivision and shall expire and be
16 deemed repealed therewith, when upon such date the provisions of section
17 twenty-five of this act shall take effect;

18 2. the amendments to section 153-k of the social services law made by
19 section forty-eight of this act shall not affect the expiration of such
20 section and shall expire and be deemed repealed therewith;

21 3. the amendments to section 404 of the social services law made by
22 section fifty-two of this act shall not affect the expiration of such
23 section and shall expire and be deemed repealed therewith;

24 4. the amendments to subdivision 1 of section 70.20 of the penal law
25 made by section fifty-eight of this act shall not affect the expiration
26 of such subdivision and shall expire and be deemed repealed therewith;

27 5. the amendments to paragraph (f) of subdivision 1 of section 70.30
28 of the penal law made by section sixty-a of this act shall not affect

1 the expiration of such paragraph and shall be deemed to expire there-
2 with;

3 6. the amendments to subparagraph 8 of paragraph h of subdivision 4 of
4 section 1950 of the education law made by section eighty-seven of this
5 act shall not affect the repeal of such subparagraph and shall be deemed
6 repealed therewith;

7 7. the amendments to subparagraph 1 of paragraph d of subdivision 3 of
8 section 3214 of the education law made by section eighty-eight of this
9 act shall not affect the expiration of such paragraph and shall be
10 deemed to expire therewith; and

11 8. the amendments to the second undesignated paragraph of subdivision
12 4 of section 246 of the executive law made by section ninety-one of this
13 act shall not affect the expiration of such paragraph and shall expire
14 and be deemed repealed therewith.

15 PART K

16 Section 1. The section heading of section 456 of the social services
17 law, as added by chapter 865 of the laws of 1977, is amended to read as
18 follows:

19 State reimbursement and payments.

20 § 2. Paragraphs (c) and (d) of subdivision 1 of section 456 of the
21 social services law, as amended by chapter 601 of the laws of 1994, are
22 amended to read as follows:

23 [(c) one hundred per centum of such payments after first deducting
24 therefrom any federal funds properly to be received on account of such
25 payments, for children placed out for adoption by a voluntary authorized
26 agency or for children being adopted after being placed out for adoption

1 by a voluntary authorized agency in accordance with the provisions of
2 this title,] or [(d)] (c) one hundred per centum of such payments after
3 first deducting therefrom any federal funds properly to be received on
4 account of such payments, for children placed out for adoption or being
5 adopted after being placed out for adoption by an Indian tribe as refer-
6 enced in subdivision seven of section four hundred fifty-one of this
7 title.

8 § 3. Section 456 of the social services law is amended by adding a new
9 subdivision 3 to read as follows:

10 3. Notwithstanding any other provision of law to the contrary, for a
11 child who has been placed for adoption by a voluntary authorized agency
12 with guardianship and custody or care and custody of such child, as
13 referenced in subdivision one of section four hundred fifty-one of this
14 title, payments available under section four hundred fifty-three, four
15 hundred fifty-three-a or four hundred fifty-four of this title shall be
16 made by the state pursuant to a written agreement between an official of
17 the office of children and family services and the persons who applied
18 for such payments prior to adoption. Notwithstanding any other provision
19 of law to the contrary, the office of children and family services shall
20 not enter into written agreements for, or issue, any such payments in
21 instances where the person or persons applying for such payments reside
22 outside of the state of New York at the time the application for such
23 payments is made.

24 § 4. This act shall take effect July 1, 2015 and shall only apply to
25 applications for payments under sections 453, 453-a or 454 of the social
26 services law that are made on or after such effective date; provided,
27 however, that effective immediately the commissioner of the office of
28 children and family services is authorized and directed to promulgate

1 such rules and regulations as he or she deems necessary to implement the
2 provisions of this act on or before its effective date.

3 PART L

4 Section 1. Section 458-a of the social services law is amended by
5 adding three new subdivisions 6, 7 and 8 to read as follows:

6 6. "Successor guardian" shall mean a person or persons named in the
7 agreement in effect between the relative guardian and social services
8 official for kinship guardianship assistance payments pursuant to this
9 title to provide care and guardianship for a child in the event of death
10 or incapacity of the relative guardian, as set forth in section four
11 hundred fifty-eight-b of this title, who has assumed care for and is the
12 guardian or permanent guardian of such child, provided that such person
13 was appointed guardian or permanent guardian of such child following, or
14 due to, the death or incapacity of the relative guardian.

15 7. "Prospective successor guardian" shall mean a person or persons
16 whom a prospective relative guardian or a relative guardian seeks to
17 name in the original kinship guardianship assistance agreement, or any
18 amendment thereto, as set forth in section four hundred fifty-eight-b of
19 this title, as the person or persons to provide care and guardianship
20 for a child in the event of the death or incapacity of a relative guard-
21 ian.

22 8. "Incapacity" shall mean a substantial inability to care for a child
23 as a result of: (a) a physically debilitating illness, disease or inju-
24 ry; or (b) a mental impairment that results in a substantial inability
25 to understand the nature and consequences of decisions concerning the
26 care of a child.

1 § 2. Subdivision 4 of section 458-b of the social services law is
2 amended by adding two new paragraphs (e) and (f) to read as follows:

3 (e) The original kinship guardianship assistance agreement executed in
4 accordance with this section and any amendments thereto may name an
5 appropriate person to act as a successor guardian for the purpose of
6 providing care and guardianship for a child in the event of death or
7 incapacity of the relative guardian.

8 (f) A fully executed agreement between a relative guardian and a
9 social services official may be amended to add or modify terms and
10 conditions mutually agreeable to the relative guardian and the social
11 services official, including the naming of an appropriate person to
12 provide care and guardianship for a child in the event of death or inca-
13 capacity of the relative guardian.

14 § 3. Subdivision 5 of section 458-b of the social services law, as
15 added by section 4 of part F of chapter 58 of the laws of 2010, is
16 amended to read as follows:

17 5. (a) Once the prospective relative guardian with whom a social
18 services official has entered into an agreement under subdivision four
19 of this section has been issued letters of guardianship for the child
20 and the child has been finally discharged from foster care to such rela-
21 tive, a social services official shall make monthly kinship guardianship
22 assistance payments for the care and maintenance of the child.

23 (b) A social services district shall make monthly kinship guardianship
24 assistance payments for the care and maintenance of a child to a succes-
25 sor guardian in the event of death or incapacity of a relative guardian,
26 provided however that such payments shall not be authorized until the
27 successor guardian is granted guardianship or permanent guardianship of
28 a child and assumes care of such child; provided, further, however, that

1 if the successor guardian assumes care of the child prior to being
2 granted guardianship or permanent guardianship of the child, payments
3 under this title shall be made retroactively from: (i) in the event of
4 death of the relative guardian, the date the successor guardian assumed
5 care of the child or the date of death of the relative guardian, which-
6 ever is later; or (ii) in the event of incapacity of the relative guard-
7 ian, the date the successor guardian assumed care of the child or the
8 date of incapacity of the relative guardian, whichever is later.

9 (c) In the event that a successor guardian assumed care and was
10 awarded guardianship or permanent guardianship of a child due to the
11 incapacity of a relative guardian and the relative guardian is subse-
12 quently awarded or resumes guardianship or permanent guardianship of
13 such child and assumes care of such child after the incapacity ends, a
14 social services official shall make monthly kinship guardianship assist-
15 ance payments for the care and maintenance of the child to the relative
16 guardian, in accordance with the terms of the fully executed written
17 agreement.

18 § 4. Paragraph (b) of subdivision 7 of section 458-b of the social
19 services law, as added by section 4 of part F of chapter 58 of the laws
20 of 2010, is amended to read as follows:

21 (b) (i) Notwithstanding paragraph (a) of this subdivision, and except
22 as provided for in paragraph (b) of subdivision five of this section, no
23 kinship guardianship assistance payments may be made pursuant to this
24 title if the social services official determines that the relative guar-
25 dian is no longer legally responsible for the support of the child,
26 including if the status of the legal guardian is terminated or the child
27 is no longer receiving any support from such guardian. In accordance
28 with the regulations of the office, a relative guardian who has been

1 receiving kinship guardianship assistance payments on behalf of a child
2 under this title must keep the social services official informed, on an
3 annual basis, of any circumstances that would make the relative guardian
4 ineligible for such payments or eligible for payments in a different
5 amount.

6 (ii) Notwithstanding paragraph (a) of this subdivision, and except as
7 provided for in paragraph (c) of subdivision five of this section, no
8 kinship guardianship assistance payments may be made pursuant to this
9 title to a successor guardian if the social services official determines
10 that the successor guardian is no longer legally responsible for the
11 support of the child, including if the status of the successor guardian
12 is terminated or the child is no longer receiving any support from such
13 guardian. A successor guardian who has been receiving kinship guardian-
14 ship assistance payments on behalf of a child under this title must keep
15 the social services official informed, on an annual basis, of any
16 circumstances that would make the successor guardian ineligible for such
17 payments or eligible for payments in a different amount.

18 § 5. Subdivision 8 of section 458-b of the social services law, as
19 added by section 4 of part F of chapter 58 of the laws of 2010, is
20 amended to read as follows:

21 8. The placement of the child with the relative guardian or successor
22 guardian and any kinship guardianship assistance payments made on behalf
23 of the child under this section shall be considered never to have been
24 made when determining the eligibility for adoption subsidy payments
25 under title nine of this article of a child in such legal guardianship
26 arrangement.

1 § 6. Subdivision 2 of section 458-d of the social services law, as
2 added by section 4 of part F of chapter 58 of the laws of 2010, is
3 amended to read as follows:

4 2. In addition, a social services official shall make payments for the
5 cost of care, services and supplies payable under the state's program of
6 medical assistance for needy persons provided to any child for whom
7 kinship guardianship assistance payments are being made under this title
8 who is not eligible for medical assistance under subdivision one of this
9 section and for whom the relative or successor guardian is unable to
10 obtain appropriate and affordable medical coverage through any other
11 available means, regardless of whether the child otherwise qualifies for
12 medical assistance for needy persons. Payments pursuant to this subdivi-
13 sion shall be made only with respect to the cost of care, services, and
14 supplies which are not otherwise covered or subject to payment or
15 reimbursement by insurance, medical assistance or other sources.
16 Payments made pursuant to this subdivision shall only be made if the
17 relative or successor guardian applies to obtain such medical coverage
18 for the child from all available sources, unless the social services
19 official determines that the relative guardian has good cause for not
20 applying for such coverage; which shall include that appropriate cover-
21 age is not available or affordable.

22 § 7. Subdivisions 1 and 2 of section 458-f of the social services law,
23 as added by section 4 of part F of chapter 58 of the laws of 2010, are
24 amended to read as follows:

25 1. Any person aggrieved by the decision of a social services official
26 not to make a payment or payments pursuant to this title or to make such
27 payment or payments in an inadequate or inappropriate amount or the
28 failure of a social services official to determine an application under

1 this title within thirty days after filing, or the failure of a social
2 services district to approve a prospective successor guardian, may
3 appeal to the office of children and family services, which shall review
4 the case and give such person an opportunity for a fair hearing thereon
5 and render its decision within thirty days. All decisions of the office
6 of children and family services shall be binding upon the social
7 services district involved and shall be complied with by the social
8 services official thereof.

9 2. The only issues which may be raised in a fair hearing under this
10 section are: (a) whether the social services official has improperly
11 denied an application for payments under this title; (b) whether the
12 social services official has improperly discontinued payments under this
13 title; (c) whether the social services official has determined the
14 amount of the payments made or to be made in violation of the provisions
15 of this title or the regulations of the office of children and family
16 services promulgated hereunder; [or] (d) whether the social services
17 official has failed to determine an application under this title within
18 thirty days; or (e) whether the social services official has improperly
19 denied an application to name a prospective successor guardian in the
20 original kinship guardianship assistance agreement for payments pursuant
21 to this title or any amendments thereto.

22 § 8. Paragraph (c) of subdivision 7 of section 353.3 of the family
23 court act, as amended by section 6 of part G of chapter 58 of the laws
24 of 2010, is amended to read as follows:

25 (c) Where the respondent is placed pursuant to subdivision two or
26 three of this section, such report shall contain a plan for the release,
27 or conditional release (pursuant to section five hundred ten-a of the
28 executive law), of the respondent to the custody of his or her parent or

1 other person legally responsible, [to independent living] or to another
2 permanency alternative as provided in paragraph (d) of subdivision seven
3 of section 355.5 of this part. If the respondent is subject to article
4 sixty-five of the education law or elects to participate in an educa-
5 tional program leading to a high school diploma, such plan shall
6 include, but not be limited to, the steps that the agency with which the
7 respondent is placed has taken and will be taking to facilitate the
8 enrollment of the respondent in a school or educational program leading
9 to a high school diploma following release, or, if such release occurs
10 during the summer recess, upon the commencement of the next school term.
11 If the respondent is not subject to article sixty-five of the education
12 law and does not elect to participate in an educational program leading
13 to a high school diploma, such plan shall include, but not be limited
14 to, the steps that the agency with which the respondent is placed has
15 taken and will be taking to assist the respondent to become gainfully
16 employed or enrolled in a vocational program following release.

17 § 9. Paragraph (b) of subdivision 7 of section 355.5 of the family
18 court act, as added by chapter 7 of the laws of 1999, is amended to read
19 as follows:

20 (b) in the case of a respondent who has attained the age of [sixteen]
21 fourteen, the services needed, if any, to assist the respondent to make
22 the transition from foster care to independent living;

23 § 10. Paragraph (d) of subdivision 7 of section 355.5 of the family
24 court act, as amended by chapter 181 of the laws of 2000, is amended to
25 read as follows:

26 (d) with regard to the completion of placement ordered by the court
27 pursuant to section 353.3 or 355.3 of this [article] part: whether and
28 when the respondent: (i) will be returned to the parent; (ii) should be

1 placed for adoption with the local commissioner of social services
2 filing a petition for termination of parental rights; (iii) should be
3 referred for legal guardianship; (iv) should be placed permanently with
4 a fit and willing relative; or (v) should be placed in another planned
5 permanent living arrangement with a significant connection to an adult
6 willing to be a permanency resource for the respondent if the respondent
7 is age sixteen or older and (A) the office of children and family
8 services or the local commissioner of social services has documented to
9 the court [a]: (1) the intensive, ongoing, and, as of the date of the
10 hearing, unsuccessful efforts made to return the respondent home or
11 secure a placement for the respondent with a fit and willing relative
12 including adult siblings, a legal guardian, or an adoptive parent,
13 including through efforts that utilize search technology including
14 social media to find biological family members for children, (2) the
15 steps being taken to ensure that (I) the respondent's foster family home
16 or child care facility is following the reasonable and prudent parent
17 standard in accordance with guidance provided by the United States
18 department of health and human services, and (II) the respondent has
19 regular, ongoing opportunities to engage in age or developmentally
20 appropriate activities including by consulting with the respondent in an
21 age-appropriate manner about the opportunities of the respondent to
22 participate in activities; and (B) the office of children and family
23 services or the local commissioner of social services has documented to
24 the court and the court has determined that there are compelling
25 [reason] reasons for determining that it [would] continues to not be in
26 the best interest of the respondent to return home, be referred for
27 termination of parental rights and placed for adoption, placed with a
28 fit and willing relative, or placed with a legal guardian; and (C) the

1 court has made a determination explaining why, as of the date of this
2 hearing, another planned living arrangement with a significant
3 connection to an adult willing to be a permanency resource for the
4 respondent is the best permanency plan for the respondent; and

5 § 11. Subdivision 8 of section 355.5 of the family court act, as added
6 by section 2 of part B of chapter 327 of the laws of 2007, is amended to
7 read as follows:

8 8. At the permanency hearing, the court shall consult with the
9 respondent in an age-appropriate manner regarding the permanency plan
10 for the respondent; provided, however, that if the respondent is age
11 sixteen or older and the requested permanency plan for the respondent is
12 placement in another planned permanent living arrangement with a signif-
13 icant connection to an adult willing to be a permanency resource for the
14 respondent, the court must ask the respondent about the desired perman-
15 ency outcome for the respondent.

16 § 12. Subparagraph (ii) of paragraph (a) of subdivision 2 of section
17 754 of the family court act, as amended by chapter 7 of the laws of
18 1999, is amended to read as follows:

19 (ii) in the case of a child who has attained the age of [sixteen]
20 fourteen, the services needed, if any, to assist the child to make the
21 transition from foster care to independent living. Nothing in this
22 subdivision shall be construed to modify the standards for directing
23 detention set forth in section seven hundred thirty-nine of this arti-
24 cle.

25 § 13. The closing paragraph of paragraph (b) of subdivision 2 of
26 section 754 of the family court act, as added by chapter 7 of the laws
27 of 1999, is amended to read as follows:

1 If the court determines that reasonable efforts are not required
2 because of one of the grounds set forth above, a permanency hearing
3 shall be held within thirty days of the finding of the court that such
4 efforts are not required. At the permanency hearing, the court shall
5 determine the appropriateness of the permanency plan prepared by the
6 social services official which shall include whether and when the child:
7 (A) will be returned to the parent; (B) should be placed for adoption
8 with the social services official filing a petition for termination of
9 parental rights; (C) should be referred for legal guardianship; (D)
10 should be placed permanently with a fit and willing relative; or (E)
11 should be placed in another planned permanent living arrangement with a
12 significant connection to an adult willing to be a permanency resource
13 for the child if the child is age sixteen or older and if the [social
14 services official has documented to the court a compelling reason for
15 determining that it would not be in the best interest of the child to
16 return home, be referred for termination of parental rights and placed
17 for adoption, placed with a fit and willing relative, or placed with a
18 legal guardian] requirements of subparagraph (E) of paragraph (iv) of
19 subdivision (d) of section seven hundred fifty-six-a of this part have
20 been met. The social services official shall thereafter make reasonable
21 efforts to place the child in a timely manner and to complete whatever
22 steps are necessary to finalize the permanent placement of the child as
23 set forth in the permanency plan approved by the court. If reasonable
24 efforts are determined by the court not to be required because of one of
25 the grounds set forth in this paragraph, the social services official
26 may file a petition for termination of parental rights in accordance
27 with section three hundred eighty-four-b of the social services law.

1 § 14. Paragraph (ii) of subdivision (d) of section 756-a of the family
2 court act, as amended by section 4 of part B of chapter 327 of the laws
3 of 2007, is amended to read as follows:

4 (ii) in the case of a child who has attained the age of [sixteen]
5 fourteen, the services needed, if any, to assist the child to make the
6 transition from foster care to independent living;

7 § 15. Paragraphs (iii) and (iv) of subdivision (d) of section 756-a of
8 the family court act, as amended by section 4 of part B of chapter 327
9 of the laws of 2007, are amended to read as follows:

10 (iii) in the case of a child placed outside New York state, whether
11 the out-of-state placement continues to be appropriate and in the best
12 interests of the child; [and]

13 (iv) whether and when the child: (A) will be returned to the parent;
14 (B) should be placed for adoption with the social services official
15 filing a petition for termination of parental rights; (C) should be
16 referred for legal guardianship; (D) should be placed permanently with a
17 fit and willing relative; or (E) should be placed in another planned
18 permanent living arrangement with a significant connection to an adult
19 willing to be a permanency resource for the child if the child is age
20 sixteen or older and (1) the social services official has documented to
21 the court [a]: (I) intensive, ongoing, and, as of the date of the hear-
22 ing, unsuccessful efforts made by the social services district to return
23 the child home or secure a placement for the child with a fit and will-
24 ing relative including adult siblings, a legal guardian, or an adoptive
25 parent, including through efforts that utilize search technology includ-
26 ing social media to find biological family members for children, (II)
27 the steps the social services district is taking to ensure that (A) the
28 child's foster family home or child care facility is following the

1 reasonable and prudent parent standard in accordance with guidance
2 provided by the United States department of health and human services,
3 and (B) the child has regular, ongoing opportunities to engage in age or
4 developmentally appropriate activities including by consulting with the
5 child in an age-appropriate manner about the opportunities of the child
6 to participate in activities; and (2) the social services district has
7 documented to the court and the court has determined that there are
8 compelling [reason] reasons for determining that it [would] continues to
9 not be in the best interest of the child to return home, be referred for
10 termination of parental rights and placed for adoption, placed with a
11 fit and willing relative, or placed with a legal guardian; and (3) the
12 court has made a determination explaining why, as of the date of the
13 hearing, another planned living arrangement with a significant
14 connection to an adult willing to be a permanency resource for the child
15 is the best permanency plan for the child; and

16 (v) where the child will not be returned home, consideration of appro-
17 priate in-state and out-of-state placements.

18 § 16. Subdivision (d-1) of section 756-a of the family court act, as
19 added by section 4 of part B of chapter 327 of the laws of 2007, is
20 amended to read as follows:

21 (d-1) At the permanency hearing, the court shall consult with the
22 respondent in an age-appropriate manner regarding the permanency plan;
23 provided, however, that if the respondent is age sixteen or older and
24 the requested permanency plan for the respondent is placement in another
25 planned permanent living arrangement with a significant connection to an
26 adult willing to be a permanency resource for the respondent, the court
27 must ask the respondent about the desired permanency outcome for the
28 respondent.

1 § 17. Paragraph (v) of subdivision (c) of section 1039-b of the family
2 court act, as amended by section 5 of part B of chapter 327 of the laws
3 of 2007, is amended to read as follows:

4 (v) should be placed in another planned permanent living arrangement
5 with a significant connection to an adult willing to be a permanency
6 resource for the child if the child is age sixteen or older and if the
7 [social services official has documented to the court a compelling
8 reason for determining that it would not be in the best interests of the
9 child to return home, be referred for termination of parental rights and
10 placed for adoption, placed with a fit and willing relative, or placed
11 with a legal guardian] requirements of clause (E) of subparagraph (i) of
12 paragraph two of subdivision (d) of section one thousand eighty-nine of
13 this chapter have been met. The social services official shall there-
14 after make reasonable efforts to place the child in a timely manner,
15 including consideration of appropriate in-state and out-of-state place-
16 ments, and to complete whatever steps are necessary to finalize the
17 permanent placement of the child as set forth in the permanency plan
18 approved by the court. If reasonable efforts are determined by the court
19 not to be required because of one of the grounds set forth in this para-
20 graph, the social services official may file a petition for termination
21 of parental rights in accordance with section three hundred
22 eighty-four-b of the social services law.

23 § 18. Item (v) of clause 7 of subparagraph (A) of paragraph (i) of
24 subdivision (b) of section 1052 of the family court act, as amended by
25 section 7 of part B of chapter 327 of the laws of 2007, is amended to
26 read as follows:

27 (v) should be placed in another planned permanent living arrangement
28 that includes a significant connection to an adult [who is] willing to

1 be a permanency resource for the child, if the child is age sixteen or
2 older and if the [social services official has documented to the court a
3 compelling reason for determining that it would not be in the best
4 interest of the child to return home, be referred for termination of
5 parental rights and placed for adoption, placed with a fit and willing
6 relative, or placed with a legal guardian] requirements of clause (E) of
7 subparagraph (i) of paragraph two of subdivision (d) of section one
8 thousand eighty-nine of the chapter have been met. The social services
9 official shall thereafter make reasonable efforts to place the child in
10 a timely manner, including consideration of appropriate in-state and
11 out-of-state placements, and to complete whatever steps are necessary to
12 finalize the permanent placement of the child as set forth in the
13 permanency plan approved by the court. If reasonable efforts are deter-
14 mined by the court not to be required because of one of the grounds set
15 forth in this paragraph, the social services official may file a peti-
16 tion for termination of parental rights in accordance with section three
17 hundred eighty-four-b of the social services law.

18 § 19. Subparagraph (v) of paragraph 1 of subdivision (c) of section
19 1089 of the family court act, as added by section 27 of part A of chap-
20 ter 3 of the laws of 2005, is amended to read as follows:

21 (v) placement in another planned permanent living arrangement that
22 includes a significant connection to an adult who is willing to be a
23 permanency resource for the child if the child is age sixteen or older,
24 including documentation of: (A) intensive, ongoing, and, as of the date
25 of the hearing, unsuccessful efforts to return the child home or secure
26 a placement for the child with a fit and willing relative including
27 adult siblings, a legal guardian, or an adoptive parent, including
28 through efforts that utilize search technology including social media to

1 find biological family members for children, (B) the steps being taken
2 to ensure that (I) the child's foster family home or child care facility
3 is following the reasonable and prudent parent standard in accordance
4 with the guidance provided by the United States department of health and
5 human services, and (II) the child has regular, ongoing opportunities to
6 engage in age or developmentally appropriate activities including by
7 consulting with the child in an age-appropriate manner about the oppor-
8 tunities of the child to participate in activities, and (C) the compel-
9 ling [reason] reasons for determining that it [would] continues to not
10 be in the best interests of the child to be returned home, placed for
11 adoption, placed with a legal guardian, or placed with a fit and willing
12 relative;

13 § 20. The opening paragraph of subdivision (d) of section 1089 of the
14 family court act, as amended by chapter 334 of the laws of 2009, is
15 amended to read as follows:

16 Evidence, court findings and order. The provisions of subdivisions (a)
17 and (c) of section one thousand forty-six of this act shall apply to all
18 proceedings under this article. The permanency hearing shall include an
19 age appropriate consultation with the child; provided, however that if
20 the child is age sixteen or older and the requested permanency plan for
21 the child is placement in another planned permanent living arrangement
22 with a significant connection to an adult willing to be a permanency
23 resource for the child, the court must ask the child about the desired
24 permanency outcome for the child. At the conclusion of each permanency
25 hearing, the court shall, upon the proof adduced, [which shall include
26 age-appropriate consultation with the child who is the subject of the
27 permanency hearing,] and in accordance with the best interests and safe-
28 ty of the child, including whether the child would be at risk of abuse

1 or neglect if returned to the parent or other person legally responsi-
2 ble, determine and issue its findings, and enter an order of disposition
3 in writing:

4 § 21. Clause (E) of subparagraph (i) of paragraph 2 of subdivision (d)
5 of section 1089 of the family court act, as added by section 27 of part
6 A of chapter 3 of the laws of 2005, is amended to read as follows:

7 (E) placement in another planned permanent living arrangement that
8 includes a significant connection to an adult willing to be a permanency
9 resource for the child if the [local social services official has docu-
10 mented to] child is age sixteen or older and the court [a] has deter-
11 mined that as of the date of the permanency hearing, another planned
12 permanency living arrangement with a significant connection to an adult
13 willing to be a permanency resource for the child is the best permanency
14 plan for the child and there are compelling [reason] reasons for deter-
15 mining that it [would] continues to not be in the best interests of the
16 child to return home, be referred for termination of parental rights and
17 placed for adoption, placed with a fit and willing relative, or placed
18 with a legal guardian;

19 § 22. Subdivision 2 of section 4173 of the public health law, as
20 amended by chapter 644 of the laws of 1988, is amended to read as
21 follows:

22 2. A certified copy or certified transcript of a birth record shall be
23 issued only upon order of a court of competent jurisdiction or upon a
24 specific request therefor by the person, if eighteen years of age or
25 more, or by a parent or other lawful representative of the person to
26 whom the record of birth relates including an authorized representative
27 of the office of children and family services or a local social services

1 district if the person is in the care and custody or custody and guardi-
2 anship of such entity.

3 § 23. Paragraph (b) of subdivision 1 of section 4174 of the public
4 health law, as amended by chapter 396 of the laws of 1989, is amended to
5 read as follows:

6 (b) issue certified copies or certified transcripts of birth certif-
7 icates only (1) upon order of a court of competent jurisdiction, or (2)
8 upon specific request therefor by the person, if eighteen years of age
9 or more, or by a parent or other lawful representative of the person, to
10 whom the record of birth relates including authorized representatives of
11 a local social services district if the person is in the care and custo-
12 dy or custody and guardianship of such district, or (3) upon specific
13 request therefor by a department of a state or the federal government of
14 the United States;

15 § 24. Subdivision 4 of section 4174 of the public health law, as
16 amended by section 132 of subpart B of part C of chapter 62 of the laws
17 of 2011, is amended to read as follows:

18 4. No fee shall be charged for a search, certification, certificate,
19 certified copy or certified transcript of a record to be used for school
20 entrance, employment certificate or for purposes of public relief or
21 when required by the veterans administration to be used in determining
22 the eligibility of any person to participate in the benefits made avail-
23 able by the veterans administration or when required by a board of
24 elections for the purposes of determining voter eligibility or when
25 requested by the department of corrections and community supervision or
26 a local correctional facility as defined in subdivision sixteen of
27 section two of the correction law for the purpose of providing a certi-
28 fied copy or certified transcript of birth to an inmate in anticipation

1 of such inmate's release from custody or when requested by the office of
2 children and family services or an authorized agency for the purpose of
3 providing a certified copy or certified transcript of birth to a youth
4 placed in the care and custody or custody and guardianship of the local
5 commissioner of social services or the care and custody or custody and
6 guardianship of the office of children and family services [pursuant to
7 article three of the family court act] in anticipation of such youth's
8 discharge from placement or foster care.

9 § 25. Subdivision 1 of section 837-e of the executive law, as amended
10 by chapter 690 of the laws of 1994, is amended to read as follows:

11 1. There is hereby established through electronic data processing and
12 related procedures, a statewide central register for missing children
13 which shall be compatible with the national crime information center
14 register maintained pursuant to the federal missing children act of
15 nineteen hundred eighty-two[, such missing]. As used in this article,
16 the term missing child [hereinafter defined as] shall mean any person
17 under the age of eighteen years, or any youth, under the age of twenty-
18 one years, that the office of children and family services or a local
19 department of social services has responsibility for placement, care, or
20 supervision, or who is the subject child of a child protective investi-
21 gation, is receiving services under section 477 of the Social Security
22 Act, or has run away from foster care, where such office or department
23 has reasonable cause to believe that such youth is, or is at risk of
24 being, a sex trafficking victim, who is missing from his or her normal
25 and ordinary place of residence and whose whereabouts cannot be deter-
26 mined by a person responsible for the child's care and any child known
27 to have been taken, enticed or concealed from the custody of his or her
28 lawful guardian by a person who has no legal right to do so.

1 § 26. Severability. If any clause, sentence, paragraph, subdivision,
2 section or part contained in any part of this act shall be adjudged by
3 any court of competent jurisdiction to be invalid, such judgment shall
4 not affect, impair, or invalidate the remainder thereof, but shall be
5 confined in its operation to the clause, sentence, paragraph, subdivi-
6 sion, section or part contained in any part thereof directly involved in
7 the controversy in which such judgment shall have been rendered. It is
8 hereby declared to be the intent of the legislature that this act would
9 have been enacted even if such invalid provisions had not been included
10 herein.

11 § 27. This act shall take effect immediately, provided however that
12 sections eight through twenty-four of this act shall take effect Septem-
13 ber 1, 2015 and section twenty-five of this act shall take effect Janu-
14 ary 1, 2016.

15 PART M

16 Section 1. Notwithstanding any other provision of law, the housing
17 trust fund corporation may provide, for purposes of the rural rental
18 assistance program, a sum not to exceed twenty-one million six hundred
19 forty-two thousand dollars for the fiscal year ending March 31, 2016.
20 Notwithstanding any other provision of law, and subject to the approval
21 of the New York state director of the budget, the board of directors of
22 the state of New York mortgage agency shall authorize the transfer to
23 the housing trust fund corporation, for the purposes of reimbursing any
24 costs associated with rural rental assistance program contracts author-
25 ized by this section, a total sum not to exceed twenty-one million six
26 hundred forty-two thousand dollars, such transfer to be made from (i)

1 the special account of the mortgage insurance fund created pursuant to
2 section 2429-b of the public authorities law, in an amount not to exceed
3 the actual excess balance in the special account of the mortgage insur-
4 ance fund, as determined and certified by the state of New York mortgage
5 agency for the fiscal year 2014-2015 in accordance with section 2429-b
6 of the public authorities law, if any, and/or (ii) provided that the
7 reserves in the project pool insurance account of the mortgage insurance
8 fund created pursuant to section 2429-b of the public authorities law
9 are sufficient to attain and maintain the credit rating (as determined
10 by the state of New York mortgage agency) required to accomplish the
11 purposes of such account, the project pool insurance account of the
12 mortgage insurance fund, such transfer to be made as soon as practicable
13 but no later than June 30, 2015. Notwithstanding any other provision of
14 law, such funds may be used by the corporation in support of contracts
15 scheduled to expire in the fiscal year ending March 31, 2016 for as many
16 as 10 additional years; in support of contracts for new eligible
17 projects for a period not to exceed 5 years; and in support of contracts
18 which reach their 25 year maximum in and/or prior to the fiscal year
19 ending March 31, 2016 for an additional one year period.

20 § 2. Notwithstanding any other provision of law, the housing finance
21 agency may provide, for costs associated with the rehabilitation of
22 Mitchell Lama housing projects, a sum not to exceed forty-two million
23 dollars for the fiscal year ending March 31, 2016. Notwithstanding any
24 other provision of law, and provided that the reserves in the project
25 pool insurance account of the mortgage insurance fund created pursuant
26 to section 2429-b of the public authorities law are sufficient to attain
27 and maintain the credit rating (as determined by the state of New York
28 mortgage agency) required to accomplish the purposes of such account,

1 the board of directors of the state of New York mortgage agency shall
2 authorize the transfer from the project pool insurance account of the
3 mortgage insurance fund to the housing finance agency, for the purposes
4 of reimbursing any costs associated with Mitchell Lama housing projects
5 authorized by this section, a total sum not to exceed forty-two million
6 dollars as soon as practicable but no later than March 31, 2016.

7 § 3. Notwithstanding any other provision of law, the housing trust
8 fund corporation may provide, for purposes of the neighborhood preserva-
9 tion program, a sum not to exceed eight million four hundred seventy-
10 nine thousand dollars for the fiscal year ending March 31, 2016.
11 Notwithstanding any other provision of law, and subject to the approval
12 of the New York state director of the budget, the board of directors of
13 the state of New York mortgage agency shall authorize the transfer to
14 the housing trust fund corporation, for the purposes of reimbursing any
15 costs associated with neighborhood preservation program contracts
16 authorized by this section, a total sum not to exceed eight million four
17 hundred seventy-nine thousand dollars, such transfer to be made from (i)
18 the special account of the mortgage insurance fund created pursuant to
19 section 2429-b of the public authorities law, in an amount not to exceed
20 the actual excess balance in the special account of the mortgage insur-
21 ance fund, as determined and certified by the state of New York mortgage
22 agency for the fiscal year 2014-2015 in accordance with section 2429-b
23 of the public authorities law, if any, and/or (ii) provided that the
24 reserves in the project pool insurance account of the mortgage insurance
25 fund created pursuant to section 2429-b of the public authorities law
26 are sufficient to attain and maintain the credit rating (as determined
27 by the state of New York mortgage agency) required to accomplish the
28 purposes of such account, the project pool insurance account of the

1 mortgage insurance fund, such transfer to be made as soon as practicable
2 but no later than June 30, 2015.

3 § 4. Notwithstanding any other provision of law, the housing trust
4 fund corporation may provide, for purposes of the rural preservation
5 program, a sum not to exceed three million five hundred thirty-nine
6 thousand dollars for the fiscal year ending March 31, 2016. Notwith-
7 standing any other provision of law, and subject to the approval of the
8 New York state director of the budget, the board of directors of the
9 state of New York mortgage agency shall authorize the transfer to the
10 housing trust fund corporation, for the purposes of reimbursing any
11 costs associated with rural preservation program contracts authorized by
12 this section, a total sum not to exceed three million five hundred thir-
13 ty-nine thousand dollars, such transfer to be made from (i) the special
14 account of the mortgage insurance fund created pursuant to section
15 2429-b of the public authorities law, in an amount not to exceed the
16 actual excess balance in the special account of the mortgage insurance
17 fund, as determined and certified by the state of New York mortgage
18 agency for the fiscal year 2014-2015 in accordance with section 2429-b
19 of the public authorities law, if any, and/or (ii) provided that the
20 reserves in the project pool insurance account of the mortgage insurance
21 fund created pursuant to section 2429-b of the public authorities law
22 are sufficient to attain and maintain the credit rating (as determined
23 by the state of New York mortgage agency) required to accomplish the
24 purposes of such account, the project pool insurance account of the
25 mortgage insurance fund, such transfer to be made as soon as practicable
26 but no later than June 30, 2015.

27 § 5. Notwithstanding any other provision of law, the housing trust
28 fund corporation may provide, for purposes of the rural and urban commu-

1 nity investment fund program created pursuant to article XXVII of the
2 private housing finance law, a sum not to exceed seventeen million
3 dollars for the fiscal year ending March 31, 2016. Notwithstanding any
4 other provision of law, and provided that the reserves in the project
5 pool insurance account of the mortgage insurance fund created pursuant
6 to section 2429-b of the public authorities law are sufficient to attain
7 and maintain the credit rating (as determined by the state of New York
8 mortgage agency) required to accomplish the purposes of such account,
9 the board of directors of the state of New York mortgage agency shall
10 authorize the transfer from the project pool insurance account of the
11 mortgage insurance fund to the housing trust fund corporation, for the
12 purposes of reimbursing any costs associated with rural and urban commu-
13 nity investment fund program contracts authorized by this section, a
14 total sum not to exceed seventeen million dollars as soon as practicable
15 but not later than March 31, 2016.

16 § 6. Notwithstanding any other provision of law, the housing trust
17 fund corporation may provide, for the purposes of carrying out the
18 provisions of the low income housing trust fund program created pursuant
19 to article XVIII of the private housing finance law, a sum not to exceed
20 seven million five hundred thousand dollars for the fiscal year ending
21 March 31, 2016. Notwithstanding any other provision of law, and provided
22 that reserves in the project pool insurance account of the mortgage
23 insurance fund created pursuant to section 2429-b of the public authori-
24 ties law are sufficient to attain and maintain the credit rating (as
25 determined by the state of New York mortgage agency) required to accom-
26 plish the purposes of such account, the board of directors of the state
27 of New York mortgage agency shall authorize the transfer from the
28 project pool insurance account of the mortgage insurance fund to the

1 housing trust fund corporation, for the purposes of carrying out the
2 provisions of the low income housing trust fund program created pursuant
3 to article XVIII of the private housing finance law authorized by this
4 section, a total sum not to exceed seven million five hundred thousand
5 dollars as soon as practicable but no later than March 31, 2016.

6 § 7. Notwithstanding any other provision of law, the housing trust
7 fund corporation may provide, for purposes of the homes for working
8 families program for deposit in the housing trust fund created pursuant
9 to section 59-a of the private housing finance law and subject to the
10 provisions of article XVIII of the private housing finance law, a sum
11 not to exceed eight million five hundred thousand dollars for the fiscal
12 year ending March 31, 2016. Notwithstanding any other provision of law,
13 and provided that the reserves in the project pool insurance account of
14 the mortgage insurance fund created pursuant to section 2429-b of the
15 public authorities law are sufficient to attain and maintain the credit
16 rating (as determined by the state of New York mortgage agency) required
17 to accomplish the purposes of such account, the board of directors of
18 the state of New York mortgage agency shall authorize the transfer from
19 the project pool insurance account of the mortgage insurance fund to the
20 housing trust fund corporation, for the purposes of reimbursing any
21 costs associated with homes for working families program contracts
22 authorized by this section, a total sum not to exceed eight million five
23 hundred thousand dollars as soon as practicable but no later than March
24 31, 2016.

25 § 8. Notwithstanding any other provision of law, the homeless housing
26 and assistance corporation may provide, for purposes of the New York
27 state supportive housing program, the solutions to end homelessness
28 program or the operational support for AIDS housing program, or to qual-

1 ified grantees under those programs, in accordance with the requirements
2 of those programs, a sum not to exceed sixteen million three hundred
3 forty thousand dollars for the fiscal year ending March 31, 2016. The
4 homeless housing and assistance corporation may enter into an agreement
5 with the office of temporary and disability assistance to administer
6 such sum in accordance with the requirements of the programs. Notwith-
7 standing any other provision of law, and subject to the approval of the
8 director of the budget, the board of directors of the state of New York
9 mortgage agency shall authorize the transfer to the homeless housing and
10 assistance corporation, a total sum not to exceed sixteen million three
11 hundred forty thousand dollars, such transfer to be made from (i) the
12 special account of the mortgage insurance fund created pursuant to
13 section 2429-b of the public authorities law, in an amount not to exceed
14 the actual excess balance in the special account of the mortgage insur-
15 ance fund, as determined and certified by the state of New York mortgage
16 agency for the fiscal year 2014-2015 in accordance with section 2429-b
17 of the public authorities law, if any, and/or (ii) provided that the
18 reserves in the project pool insurance account of the mortgage insurance
19 fund created pursuant to section 2429-b of the public authorities law
20 are sufficient to attain and maintain the credit rating (as determined
21 by the state of New York mortgage agency) required to accomplish the
22 purposes of such account, the project pool insurance account of the
23 mortgage insurance fund, such transfer to be made as soon as practicable
24 but no later than March 31, 2016.

25 § 9. This act shall take effect immediately.

1 Section 1. Subdivision 1 of section 652 of the labor law, as amended
2 by section 1 of part P of chapter 57 of the laws of 2013, is amended to
3 read as follows:

4 1. Statutory. Every employer shall pay to each of its employees for
5 each hour worked a wage of not less than:

6 \$4.25 on and after April 1, 1991,

7 \$5.15 on and after March 31, 2000,

8 \$6.00 on and after January 1, 2005,

9 \$6.75 on and after January 1, 2006,

10 \$7.15 on and after January 1, 2007,

11 \$8.00 on and after December 31, 2013,

12 \$8.75 on and after December 31, 2014,

13 \$9.00 on and after December 31, 2015,

14 \$11.50 in a city with a population in excess of one million and \$10.50

15 in the remainder of the state on and after December 31, 2016 or, if

16 greater, such other wage as may be established by federal law pursuant

17 to 29 U.S.C. section 206 or its successors

18 or such other wage as may be established in accordance with the

19 provisions of this article.

20 § 2. This act shall take effect immediately.

21 PART O

22 Section 1. The labor law is amended by adding a new section 202-m to
23 read as follows:

24 § 202-m. Healthcare professionals who volunteer to fight the Ebola

25 virus disease overseas. 1. Findings and policy of the state. It is here-

26 by found and declared that the Ebola virus disease is a rare and poten-

1 tially deadly disease caused by infection with one of four Ebola virus
2 strains known to cause disease in humans, that the World Health Organ-
3 ization has declared that the current Ebola virus disease outbreak in
4 West Africa constitutes a public health emergency of international
5 concern, and that the centers for disease control and prevention of the
6 United States department of health and human services has reported that
7 the number of future Ebola virus disease cases will reach extraordinary
8 levels without a scale-up of interventions. It is hereby declared to be
9 the policy of the state to work with its international partners to help
10 eradicate the Ebola virus disease by supporting the dedicated New York
11 state healthcare professionals who seek to provide invaluable help to
12 this effort.

13 2. Bill of rights. A healthcare professional who volunteers to fight
14 Ebola is protected by existing state laws that prohibit discrimination
15 on the basis of an actual or perceived disability. Upon return from
16 fighting Ebola overseas, a healthcare professional will be provided with
17 a bill of rights outlining these existing anti-discrimination laws. In
18 addition to these existing anti-discrimination laws, and in accordance
19 with the provisions of this section, healthcare professionals shall have
20 the right to seek a leave of absence to volunteer to fight Ebola over-
21 seas without adverse employment consequences.

22 3. Definitions. For the purposes of this section, the following terms
23 shall have the following meanings:

24 (a) "Employee" means any individual healthcare professional who
25 performs services for hire for an employer but shall not include an
26 independent contractor.

27 (b) "Employer" means a person or entity that employs a healthcare
28 professional and includes an individual, corporation, limited liability

1 company, partnership, association, nonprofit organization, group of
2 persons, county, town, city, school district, public authority, state
3 agency, or other governmental subdivision of any kind.

4 (c) "Fight Ebola" means to serve as a healthcare professional in a
5 country that has been classified as having widespread transmission of
6 the Ebola virus disease by the centers for disease control and
7 prevention of the United States department of health and human services.

8 (d) "Healthcare professional" means:

9 (i) a physician licensed pursuant to article one hundred thirty-one of
10 the education law;

11 (ii) a physician assistant licensed pursuant to article one hundred
12 thirty-one-B of the education law;

13 (iii) a nurse practitioner licensed pursuant to article one hundred
14 thirty-nine of the education law;

15 (iv) a registered professional nurse licensed pursuant to article one
16 hundred thirty-nine of the education law; and

17 (v) other healthcare professions as added by the commissioner.

18 (e) "Leave of absence" means time away from work that is excused. Such
19 time shall be unpaid, unless the employee requests that such time, or a
20 portion thereof, be paid pursuant to a charge against paid leave that
21 has accrued to such employee.

22 (f) "Undue hardship" means an absence requiring significant expense or
23 difficulty, including a significant interference with the safe or effi-
24 cient operation of the workplace or a violation of a bona fide seniority
25 system. Factors to be considered in determining whether an absence
26 constitutes an undue economic hardship shall include, but not be limited
27 to the identifiable cost of the absence, including the costs of loss of
28 productivity and of retraining, hiring or transfer of employees, in

1 relation to the size and operating costs of the employer and other known
2 or reasonably foreseeable absences, the overall financial resources of
3 the employer, the number of employees at the employee's facility, the
4 employee's role within the facility, the type of operation of the
5 employer, including the structure and functions of the employee within
6 it, the impact on the operation of the employer, and the employer's
7 ability to hire temporary or new employees with the requisite skills to
8 ensure the employer's continued operations.

9 (g) "Volunteer" means to freely offer services to fight Ebola and
10 includes such services without regard to whether they are compensated.

11 4. Leave of absence by healthcare professionals who volunteer to fight
12 Ebola. An employee covered by this section has the right to request a
13 leave of absence to volunteer to fight Ebola from his or her employer as
14 herein provided. An employer shall grant such request for a leave of
15 absence to volunteer to fight Ebola, unless the employee's absence
16 imposes an undue hardship on the employer's business or operations.

17 5. Duration of the leave of absence. (a) The duration of the leave of
18 absence shall be the full time period requested by the employee, which
19 shall include travel time, service volunteering to fight Ebola, and a
20 reasonable period of rest and recovery. If the employer determines that
21 an absence for that full period of time would constitute an undue hard-
22 ship, the employer and employee shall work together to determine whether
23 there is a shorter period of time that would not constitute an undue
24 hardship that would still allow the employee to volunteer to fight
25 Ebola. If the employer and employee agree on a shorter period, that
26 shall be the duration of the leave of absence under this paragraph.
27 Otherwise, if they are unable to agree on a shorter period, the leave of
28 absence shall be deemed denied.

1 (b) The duration of leave of absence, as determined pursuant to para-
2 graph (a) of this subdivision shall be extended to include any addi-
3 tional period of time that the employee becomes subject to a mandatory
4 quarantine period imposed at the end of the employee's voluntary service
5 to fight Ebola.

6 6. Leave of absence request. An employee's request for a leave of
7 absence pursuant to this section shall be made, in writing, to his or
8 her employer at least twenty-one days prior to the employee's proposed
9 start date of such leave of absence. The employee's request shall, at a
10 minimum:

11 (a) identify the duration of leave sought, including the anticipated
12 start and end dates of the volunteer service, together with any addi-
13 tional time sought for transportation and for rest prior to returning to
14 work;

15 (b) identify the service to be volunteered, including the country and
16 the organization with whom the employee will be volunteering; and

17 (c) certify that such service constitutes volunteering to fight Ebola,
18 within the meaning of this section.

19 7. Notarization. Upon the employer's request, an employee who has been
20 granted a leave of absence in accordance with this section shall provide
21 his or her employer with a notarized statement from the organization or
22 entity with whom the employee will be volunteering. The statement shall:

23 (a) identify the anticipated start and end dates of the volunteer
24 service and the terms of service, including any compensation and bene-
25 fits to be provided;

26 (b) identify the service to be volunteered, including the country and
27 the organization with whom the employee will be volunteering; and

1 (c) certify that such service constitutes volunteering to fight Ebola,
2 within the meaning of this section.

3 8. Benefits during leave. Employees who take leave under this section
4 shall be restored at the completion of such leave to the same or compa-
5 rable position without loss of seniority, shall be entitled to partic-
6 ipate in insurance or other benefits offered by the employer pursuant to
7 established rules and practices relating to employees on furlough or
8 leave of absence in effect with the employer at the time such employee
9 made request to take leave of absence as provided in this section.

10 9. Retaliation prohibited. An employer shall not retaliate against an
11 employee for requesting or obtaining a leave of absence as provided by
12 this section.

13 10. Retention of benefits. The provisions of this section shall not
14 affect or prevent an employer from providing leave in addition to leave
15 allowed under any other provision of law. The provisions of this section
16 shall not affect an employee's rights with respect to any other employee
17 benefit provided by law, rule or regulation.

18 11. Collective bargaining. Nothing set forth in this section shall be
19 construed to impede, infringe, or diminish the rights and benefits that
20 accrue to employees through bona fide collective bargaining agreements,
21 or otherwise diminish the integrity of an existing collective bargaining
22 agreement.

23 12. Review of denial of leave. An employee whose request for leave
24 under this section has been denied may petition the commissioner for
25 review of such denial, which review shall be expeditiously conducted.

26 13. Rules and regulations. The commissioner may promulgate such rules
27 and regulations as may be necessary for the purposes of carrying out the
28 provisions of this section.

1 § 2. This act shall take effect on the thirtieth day after it shall
2 have become a law; provided, however, that subdivision four of section
3 202-m of the labor law, as added by section one of this act, shall
4 expire and be deemed repealed December 1, 2016, and provided, further
5 that this act shall expire and be deemed repealed December 1, 2017.

6 PART P

7 Section 1. Subdivision 3 of section 204 of the labor law, as amended
8 by section 2 of part A of chapter 57 of the laws of 2004, is amended to
9 read as follows:

10 3. Fees. A fee of two hundred dollars shall be charged the owner or
11 lessee of each boiler internally inspected and seventy-five dollars for
12 each boiler externally inspected by the commissioner, provided however,
13 that the external inspection of multiple boilers connected to a common
14 header or of separate systems owned or leased by the same party and
15 located in the same building, with a combined input which is 300,000
16 BTU/hour or less, shall be charged a single inspection fee, and further
17 provided that, not more than two hundred seventy-five dollars shall be
18 charged for the inspection of any one boiler for any year; except that
19 [in the case] no fee shall be charged for internal or external
20 inspections by the commissioner of an antique steam engine maintained as
21 a hobby and displayed at agricultural fairs and other gatherings[, a fee
22 of twenty-five dollars only shall be charged the owner or lessee thereof
23 for each boiler internally inspected by the commissioner and a fee of
24 twenty-five dollars only shall be charged for each boiler externally
25 inspected by the commissioner, but not more than fifty dollars shall be
26 charged for the inspection of any one such boiler for any year, and

1 except that in the case] or of a miniature boiler [a fee of fifty
2 dollars only shall be charged for the inspection of any one such boiler
3 for any year. Such fee shall be payable within thirty days after
4 inspection].

5 § 2. Subdivision 1 of section 212-b of the labor law, as amended by
6 section 6 of part A of chapter 57 of the laws of 2004, is amended to
7 read as follows:

8 1. No person shall operate a farm labor camp commissary, or cause or
9 allow the operation of a farm labor camp commissary, without a permit
10 from the commissioner to do so, and unless such permit is in full force
11 and effect. Application for such permit shall be made on a form
12 prescribed by the commissioner [and shall be accompanied by a non-re-
13 fundable fee of forty dollars].

14 § 3. Subdivision 1 of section 74 of chapter 784 of the laws of 1951,
15 constituting the New York state defense emergency act, as amended by
16 section 12 of part A of chapter 57 of the laws of 2004, is amended to
17 read as follows:

18 1. Employers in defense work may make applications for dispensation
19 pursuant to this article in such manner and upon such forms as the
20 commissioner of labor shall prescribe. [Each application shall be
21 accompanied by a non-refundable fee of forty dollars payable to the
22 commissioner.] The commissioner of labor may, after hearing upon due
23 notice, revoke dispensations not necessary to maintain maximum possible
24 production in defense work.

25 § 4. Subdivision 5 of section 161 of the labor law, as amended by
26 section 1 of part A of chapter 57 of the laws of 2004, is amended to
27 read as follows:

1 5. If there shall be practical difficulties or unnecessary hardship in
2 carrying out the provisions of this section or the rules promulgated
3 hereunder, the commissioner may make a variation therefrom if the spirit
4 of the act be observed and substantial justice done. Such variation
5 shall describe the conditions under which it shall be permitted and
6 shall apply to substantially similar conditions. A properly indexed
7 record of variations shall be kept by the department. [Each application
8 for a variation shall be accompanied by a non-refundable fee of forty
9 dollars.]

10 § 5. Paragraph b of subdivision 4 of section 212-a of the labor law,
11 as amended by section 5 of part A of chapter 57 of the laws of 2004, is
12 amended to read as follows:

13 b. The application for such registration shall be made on a form
14 prescribed by the commissioner, shall contain information on wages,
15 working conditions, housing, and on such other matters as the commis-
16 sioner may prescribe [and shall be accompanied by a non-refundable fee
17 of forty dollars]. Copies of the application, or summaries thereof
18 containing the above information, shall be made available by the commis-
19 sioner to the registrant, and the registrant shall give a copy to each
20 worker, preferably at the time of recruitment, but in no event later
21 than the time of arrival in this state. A copy shall also be kept posted
22 at all times in a conspicuous place in any camp in which such workers
23 are housed.

24 § 6. Paragraph b of subdivision 2 of section 212-a of the labor law,
25 as amended by section 4 of part A of chapter 57 of the laws of 2004, is
26 amended to read as follows:

27 b. The application for such certificate of registration shall be made
28 on a form prescribed by the commissioner, shall contain information on

1 wages, working conditions, housing and on such other matters as the
2 commissioner may prescribe [and shall be accompanied by a non-refundable
3 fee of two hundred dollars]. It shall be countersigned by each grower or
4 processor who utilizes the services of such farm labor contractor, as
5 provided in subdivision three of this section. Copies of the applica-
6 tion, or summaries thereof containing the above information, shall be
7 made available by the commissioner to the registrant, and the registrant
8 shall give a copy to each worker, preferably at the time of recruitment,
9 but in no event later than the time of arrival in this state if the
10 worker comes from outside of the state, or the time of commencement of
11 work if the worker does not come from outside of the state. A copy shall
12 also be kept posted at all times in a conspicuous place in any camp in
13 which such workers are housed. Each applicant shall submit his or her
14 fingerprints with his or her application for a certificate of registra-
15 tion. Such fingerprints shall be submitted to the division of criminal
16 justice services for a state criminal history record check, as defined
17 in subdivision one of section three thousand thirty-five of the educa-
18 tion law, and may be submitted to the federal bureau of investigation
19 for a national criminal history record check.

20 § 7. Subdivision 2 of section 352 of the labor law is REPEALED.

21 § 8. Subdivisions 5 and 6 of section 919 of the labor law, as added by
22 chapter 565 of the laws of 2002, are amended to read as follows:

23 5. A professional employer organization shall be exempt from the
24 registration requirements specified in this section [and from the fees
25 specified in section nine hundred twenty of this article] if such
26 professional employer organization:

27 (a) submits a properly executed request for registration and exemption
28 on a form provided by the department;

1 (b) is domiciled outside this state and is licensed or registered as a
2 professional employer organization in another state that has the same or
3 greater requirements as this article;

4 (c) does not maintain an office in this state or solicit in any manner
5 clients located or domiciled within this state; and

6 (d) does not have more than twenty-five worksite employees in this
7 state.

8 6. The registration and exemption of a professional employer organiza-
9 tion under subdivision five of this section shall be valid for one year.
10 [Each de minimis registrant shall pay to the department upon initial
11 registration, and upon each annual renewal thereafter, a registration
12 fee in the amount of two hundred fifty dollars.]

13 § 9. Section 920 of the labor law is REPEALED.

14 § 10. Subdivision 4 of section 134 of the workers' compensation law,
15 as amended by chapter 6 of the laws of 2007, is amended to read as
16 follows:

17 4. Employers required to participate in the workplace safety and loss
18 prevention program established by this section shall be permitted to
19 utilize the services of either the department of labor, or a private
20 safety and loss consultant which has been certified by the department of
21 labor [and has paid the appropriate certification fee prescribed by
22 rules and regulations promulgated under this section]. Private safety
23 and loss consultants may charge employers a fee for their services[, and
24 where employers elect to have the services provided by the department of
25 labor, they shall pay for such services in accordance with fee schedules
26 established by the department of labor's rules and regulations].

27 § 11. Subdivision 5 of section 134 of the workers' compensation law is
28 REPEALED.

1 § 12. Subdivision 10 of section 134 of the workers' compensation law,
2 as amended by chapter 6 of the laws of 2007 and as further amended by
3 section 104 of part A of chapter 62 of the laws of 2011, is amended to
4 read as follows:

5 10. The commissioner of labor, in consultation with the superintendent
6 of financial services, shall promulgate rules and regulations for the
7 certification of safety and loss management specialists. Such rules and
8 regulations shall include provisions that outline the minimum qualifica-
9 tions for safety and loss management specialists, procedures for certifi-
10 cation, causes for revocation or suspension of certification and appro-
11 priate administrative and judicial review procedures, and violations and
12 penalties for misuse of certification by certified safety and loss
13 management specialists[, and fees for certificate and certificate
14 renewal].

15 § 13. Subdivision 2 of section 345-a of the labor law, as added by
16 chapter 503 of the laws of 1998, is amended to read as follows:

17 2. For the purposes of this section, the exercise of reasonable care
18 or diligence by a manufacturer or contractor shall be presumed if, prior
19 to the execution of such contract or subcontract, and annually thereaft-
20 er, such manufacturer or contractor receives from the department written
21 assurance of compliance with section three hundred forty-one of this
22 article. [The department may charge a reasonable fee for providing such
23 assurance to a manufacturer or contractor.]

24 § 14. Subdivisions 6 and 7 of section 819 of the labor law are
25 REPEALED and subdivision 5, as amended by chapter 319 of the laws of
26 2004, is amended to read as follows:

27 5. The entity possesses a tag issued by the department with an iden-
28 tification number affixed and identifying each machine[;].

1 § 15. Section 204-a of the labor law is REPEALED.

2 § 16. This act shall take effect immediately.

3 PART Q

4 Section 1. Subdivision 2 of section 355 of the education law is
5 amended by adding a new paragraph f-1 to read as follows:

6 f-1. Notwithstanding any law, rule or regulation to the contrary, the
7 state university of New York board of trustees shall pass a resolution
8 by December thirty-first, two thousand fifteen, providing that students
9 enrolled in an academic program of the state university of New York
10 shall be required to participate in an approved experiential or applied
11 learning activity as a degree requirement. Such resolution shall define
12 approved experiential or applied learning activities, methods of faculty
13 oversight and assessment, responsibilities of business, corporate, non-
14 profit or other entities hosting students, and a plan for full implemen-
15 tation of this requirement.

16 § 2. Section 6206 of the education law is amended by adding a new
17 subdivision 18 to read as follows:

18 18. Notwithstanding any law, rule or regulation to the contrary, the
19 city university of New York board of trustees shall pass a resolution by
20 December thirty-first, two thousand fifteen, providing that students
21 enrolled in an academic program of the city university of New York shall
22 be required to participate in an approved experiential or applied learn-
23 ing activity as a degree requirement. Such resolution shall define
24 approved experiential or applied learning activities, methods of faculty
25 oversight and assessment, responsibilities of business, corporate, non-

1 profit or other entities hosting students, and a plan for full implemen-
2 tation of this requirement.

3 § 3. This act shall take effect immediately and shall be deemed to
4 have been in full force and effect on and after April 1, 2015.

5 § 2. Severability clause. If any clause, sentence, paragraph, subdivi-
6 sion, section or part of this act shall be adjudged by any court of
7 competent jurisdiction to be invalid, such judgment shall not affect,
8 impair, or invalidate the remainder thereof, but shall be confined in
9 its operation to the clause, sentence, paragraph, subdivision, section
10 or part thereof directly involved in the controversy in which such judg-
11 ment shall have been rendered. It is hereby declared to be the intent of
12 the legislature that this act would have been enacted even if such
13 invalid provisions had not been included herein.

14 § 3. This act shall take effect immediately provided, however, that
15 the applicable effective date of Parts A through Q of this act shall be
16 as specifically set forth in the last section of such Parts.