STATE OF NEW YORK

9505--B

IN ASSEMBLY

January 18, 2018

A BUDGET BILL, submitted by the Governor pursuant to article seven of the Constitution -- read once and referred to the Committee on Ways and Means -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the criminal procedure law, in relation to time limits for a speedy trial (Part A); intentionally omitted (Part B); to amend the criminal procedure law, in relation to the issuance of securing orders and in relation to making conforming changes (Part C); to amend the criminal procedure law and the penal law, in relation to establishing new criminal discovery rules; and to repeal article 240 of the criminal procedure law relating thereto (Part D); to amend the civil practice law and rules, the county law and the general municipal law, in relation to restricting forfeiture actions and creating greater accountability for seized assets; and to amend the criminal procedure law and the penal law, in relation to reporting certain demographic data (Part E); to amend part H of chapter 503 of the laws of 2009 relating to the disposition of monies recovered by county district attorneys before the filing of an accusatory instrument, in relation to the effectiveness thereof (Part F); to amend the correction law, in relation to eliminating reimbursements to counties for personal service expenses related to the transportation of state ready inmates (Part G); to amend the correction law, in relation to programmatic accomplishments for merit and limited credit time (Part H); to repeal subdivision 9 of section 201 of the correction law, in relation to supervision fees (Part I); to authorize two pilot temporary release programs for certain inmates whose offenses and disciplinary records would render them eligible to receive a limited credit time allowance (Part J); to amend the banking law, in relation to licensing considerations for check cashers (Subpart A); intentionally omitted (Subpart B); to amend the executive law, in relation to licensing considerations for bingo suppliers (Subpart C); to amend the executive law, in relation to licensing considerations for notary publics (Subpart D); to amend the general municipal law, in relation to licensing considerations for suppliers of games of chance, for games of chance licensees, for bingo licensees, and for lessors of premises to bingo licen-

EXPLANATION--Matter in <u>italics</u> (underscored) is new; matter in brackets [ ] is old law to be omitted.

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sees (Subpart E); to amend the insurance law, in relation to licensing considerations for insurer adjusters and for employment with insurance adjusters; and to repeal certain provisions of such law relating thereto (Subpart F); to amend the real property law, in relation to licensing considerations for real estate brokers or real estate salesmen (Subpart G); to amend the social services law, in relation to participation as employer in subsidized employer programs (Subpart H); and to amend the vehicle and traffic law, in relation to eligibility for employment by a driver's school (Subpart I)(Part K); to amend the executive law, in relation to allowing for geriatric parole (Part L); to amend the tax law, in relation to suspending the transfer of monies into the emergency services revolving loan fund from the public safety communications account (Part M); intentionally omitted (Part N); intentionally omitted (Part O); to amend the criminal procedure law, in relation to the statute of limitations in criminal prosecution of a sexual offense committed against a child; to amend the civil practice law and rules, in relation to the statute of limitations for civil actions related to a sexual offense committed against a child, reviving such actions otherwise barred by the existing statute of limitations and granting trial preference to such actions; to amend the general municipal law, in relation to providing that the notice of claim provisions shall not apply to such actions; to amend the court of claims act, in relation to providing that the notice of intention to file provisions shall not apply to such actions; to amend the education law, in relation to providing that the notice of claim provisions shall not apply to such actions; and to amend the judiciary law, in relation to judicial training relating to sexual abuse of minors and rules reviving civil actions relating to sexual offenses committed against children (Part P); intentionally omitted (Part Q); intentionally omitted (Part R); intentionally omitted (Part S); to amend chapter 303 of the laws of 1988 relating to the extension of the state commission on the restoration of the capitol, in relation to extending such provisions for an additional five years (Part T); intentionally omitted (Part U); intentionally omitted (Part V); intentionally omitted (Part W); to amend the retirement and social security law and the state finance law, in relation to enacting the New York state secure choice savings program act (Part X); intentionally omitted (Part Y); intentionally omitted (Part Z); intentionally omitted (Part AA); intentionally omitted (Part BB); intentionally omitted (Part CC); to amend the uniform justice court act, in relation to the election of one or more town justices for two or more adjacent towns (Subpart A); intentionally omitted (Subpart B) (Part DD); to amend the general municipal law, in relation to county-wide shared services panels; and providing for the repeal of such provisions upon expiration thereof (Part EE); to amend the public authorities law, in relation to the town of Islip resource recovery agency (Part FF); to provide for the administration of certain funds and accounts related to the 2018-19 budget and authorizing certain payments and transfers; to amend the state finance law, in relation to the debt reduction reserve fund and to payments, transfers and deposits; to amend the New York state urban development corporation act, in relation to funding project costs undertaken by non-public schools; to amend the New York state urban development corporation act, in relation to funding project costs for certain capital projects; to amend chapter 389 of the laws of 1997, relating to the financing of the correctional facilities improvement fund and the youth facility improvement fund, in

relation to the issuance of bonds; to amend the private housing finance law, in relation to housing program bonds and notes; to amend chapter 329 of the laws of 1991, amending the state finance law and other laws relating to the establishment of the dedicated highway and bridge trust fund, in relation to the issuance of bonds; to amend the public authorities law, in relation to the issuance of bonds by the dormitory authority; to amend chapter 61 of the laws of 2005 relating to providing for the administration of certain funds and accounts related to the 2005-2006 budget, in relation to issuance of bonds by the urban development corporation; to amend the New York state urban development corporation act, in relation to the issuance of bonds; to amend the public authorities law, in relation to the state environmental infrastructure projects; to amend chapter 81 of the laws of 2002, relating to providing for the administration of certain funds and accounts related to the 2002-2003 budget, in relation to increasing the aggregate amount of bonds to be issued by the New York state urban development corporation; to amend the public authorities law, in relation to financing of peace bridge and transportation capital projects; to amend the public authorities law, in relation to dormitories at certain educational institutions other than state operated institutions and statutory or contract colleges under the jurisdiction of the state university of New York; to amend the New York state medical care facilities finance agency act, in relation to bonds and mental health facilities improvement notes; to amend chapter 61 of the laws of 2005, relating to providing for the administration of certain funds and accounts related to the 2005-2006 budget, in relation to increasing the bonding limit for certain public protection facilities; to amend chapter 59 of the laws of 2017 relating to providing for the administration of certain funds and accounts related to the 2017-18 budget and authorizing certain payments and transfers, in relation to the effectiveness thereof; to amend chapter 63 of the laws of 2005, relating to the composition and responsibilities of the New York state higher education capital matching grant board, in relation to increasing the amount of authorized matching capital grants; to amend the public authorities law, in relation to increasing the amount of bonds authorized to be issued; to amend the facilities development corporation act, in relation to authorizing the issuance of bonds in relation to grants made to voluntary agencies; and providing for the repeal of certain provisions upon expiration thereof (Part GG); intentionally omitted (Part HH); intentionally omitted (Part II); to amend the penal law, in relation to establishing incapacity to consent when a person is under arrest, in detention or otherwise in actual custody (Part JJ); intentionally omitted (Part KK); to amend the public authorities law, in relation to authorizing the dormitory authority to construct and finance certain juvenile detention facilities (Part LL); to amend the public service law, in relation to creating the state office of the utility consumer advocate (Part MM); to amend the public service law, in relation to utility intervenor reimbursement; and to amend the state finance law, in relation to establishing the utility intervenor account (Part NN); to amend the county law, in relation to plans for representation of persons accused of a crime or certain parties in family court or surrogate's court (Part OO); to amend the state finance law, in relation to the cost effectiveness of consultant contracts by state agencies (Part PP); to amend the criminal procedure law and the judiciary law, in relation to functions of the chief administrator of the courts; and to amend the executive law, in

relation to reporting requirements (Part QQ); to amend the criminal procedure law, in relation to allowing a court to waive certain surcharges and fees; and to repeal certain provisions of the penal law relating thereto(Part RR); to amend the executive law, in relation to requiring employers to make a conditional offer of employment before inquiring about any criminal convictions of a prospective employee (Part SS); to amend the correction law, in relation to restricting the use of segregated confinement and creating alternative therapeutic and rehabilitative confinement options (Part TT); to amend the penal law and the criminal procedure law, in relation to sealing records for certain proceedings (Part UU); to amend the criminal procedure law, in relation to a judicial diversion program for certain felony offenders (Part VV); to amend the executive law, in relation to ethnic or racial profiling (Part WW); to amend the criminal procedure law, in relation to grand jury proceedings (Part XX); to amend the executive law and the criminal procedure law, in relation to establishing the office of special investigation (Part YY); to amend the state finance law, in relation to amending the definition of prior year aid to include certain assistance received by a village (Part ZZ); to amend the legislative law, in relation to extending the expiration of payments to members of the assembly serving in a special capacity; and to amend chapter 141 of the laws of 1994, amending the legislative law and the state finance law relating to the operation and administration of the legislature, in relation to extending such provisions (Part AAA); to amend the civil practice law and rules and the state finance law, in relation to the disposal of property upon a judgment or order of forfeiture (Part BBB); to amend the insurance law, in relation to charitable bail organizations (Part CCC); to amend the correction law and the penal law, in relation to merit time allowance credits in local correctional facilities (Part DDD); to amend the mental hygiene law, the public health law and the executive law, in relation to establishing a training program for first responders for handling emergency situations involving individuals with autism spectrum disorder and other developmental disabilities (Part EEE); to amend the insurance law, the social services law, the education law and the public health law, in relation to requiring health insurance policies to include coverage of all FDA-approved contraceptive drugs, devices, and products, as well as voluntary sterilization procedures, contraceptive education and counseling, and related follow up services and prohibiting a health insurance policy from imposing any cost-sharing requirements or other restrictions or delays with respect to this coverage (Subpart A); to amend the public health law, in relation to enacting the reproductive health act and revising existing provisions of law regarding abortion; to amend the penal law, the criminal procedure law, the county law and the judiciary law, in relation to abortion; to repeal certain provisions of the public health law relating to abortion; to repeal certain provisions of the education law relating to the sale of contraceptives; and to repeal certain provisions of the penal law relating to abortion (Subpart B); to amend the public health law, in relation to establishing a maternal mortality review board (Subpart C); to amend the education law, in relation to appointees to the state board for medicine (Subpart D); to amend the penal law and the criminal procedure law, in relation to the possession of weapons by domestic violence offenders; and to repeal section 530.14 of the criminal procedure law and section 842-a of the family court act relating thereto (Subpart E); to amend the penal law,

the criminal procedure law and the family court act, in relation to the crime of coercion in the second and third degree (Subpart F); to amend the public health law, in relation to extending the time of storage of forensic rape kits by hospitals; to amend the public health law, the executive law and the insurance law, in relation to sexual assault forensic exams; and repealing certain provisions of such law relating thereto (Subpart G); to amend the executive law, in relation to expanding the scope of unlawful discriminatory practices to include public educational institutions (Subpart H); to amend the executive law, the tax law, and the state finance law, in relation to discrimination and sexual harassment; to amend the civil practice law and rules, in relation to arbitration agreements; to amend the executive law, in relation to prohibiting the state and local agencies from entering into contracts with companies requiring employees to stipulate to binding arbitration for all disputes; to amend the labor law, in relation to employment contract provisions waiving certain substantive and procedural rights; to amend the public officers law, in relation to requiring reimbursement of funds paid by state agencies and entities and public entities for the payment of awards adjudicated in discrimination claims; to amend the civil practice law and rules, in relation to confidentiality provisions in settlement of discrimination actions; and to amend the general obligations law, in relation to confidentiality provisions related to discrimination; to amend the executive law, in relation to creating a model policy prohibiting discrimination; to amend the state finance law, in relation to requiring a statement on discrimination, including sexual harassment, in bids to the state; to amend the tax law, in relation to requiring a statement on discrimination, including sexual harassment, in applications for state credits; to amend the executive law, in relation to requiring the division of human rights to promulgate an anti-discrimination pamphlet; to amend the executive law, in relation to creating training materials prohibiting discrimination in the workplace; to amend the executive law, in relation to unlawful discriminatory practices relating to persons who perform work for an employer as a contractor, independent contractor, subcontractor, volunteer, or any other type of employment opportunity; to amend the executive law, in relation to requiring the attorney-general to prosecute or defend upon request of the commissioner of labor or the state division of human rights discrimination by reason of sex, sexual orientation, military status, disability, predisposing genetic characteristics, familial status, marital status, or domestic violence victim status; and to amend the general municipal law, in relation to discrimination (Subpart I); relating to the creation of computer science education standards (Subpart J); intentionally omitted (Subpart K); to amend the public health law, in relation to providing feminine hygiene products in public and charter schools (Subpart L); to amend the executive law, in relation to standards requiring assembly group A occupancies and mercantile group M occupancies to have diaper changing stations available for use by both male and female occupants (Subpart M); and to amend the insurance law, in relation to insurance coverage of in vitro fertilization and other fertility preservation treatments (Subpart N) (Part FFF); to amend the election law, in relation to authorizing computer generated registration lists; in relation to the list of supplies to be delivered to poll sites (Part GGG); to amend the election law, in relation to political contributions (Part HHH); and to amend the election law, in relation to early voting (Part III)

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

Section 1. This act enacts into law major components of legislation which are necessary to implement the state fiscal plan for the 2018-2019 state fiscal year. Each component is wholly contained within a Part identified as Parts A through III. The effective date for each particular provision contained within such Part is set forth in the last section of such Part. Any provision in any section contained within a Part, including the effective date of the Part, which makes a reference to a section "of this act", when used in connection with that particular component, shall be deemed to mean and refer to the corresponding section of the Part in which it is found. Section three of this act sets forth the general effective date of this act.

PART A

Section 1. This act shall be known and may be cited as "Kalief's law".

§ 2. Section 30.30 of the criminal procedure law, as added by chapter 184 of the laws of 1972, paragraph (a) of subdivision 3 as amended by chapter 93 of the laws of 2006, paragraph (a) of subdivision 4 as amended by chapter 558 of the laws of 1982, paragraph (c) of subdivision 4 as amended by chapter 631 of the laws of 1996, paragraph (h) of subdivision 4 as added by chapter 837 of the laws of 1986, paragraph (i) of subdivision 4 as added by chapter 446 of the laws of 1993, paragraph (j) of subdivision 4 as added by chapter 222 of the laws of 1994, paragraph (b) of subdivision 5 as amended by chapter 109 of the laws of 1982, paragraphs (e) and (f) of subdivision 5 as added by chapter 209 of the laws of 1990, is amended to read as follows:

§ 30.30 Speedy trial; time limitations.

1. Except as otherwise provided in subdivision [three] four, a motion made pursuant to paragraph (e) of subdivision one of section 170.30 or paragraph (g) of subdivision one of section 210.20 must be granted where the people are not ready for trial within:

(a) six months of the commencement of a criminal action wherein a defendant is accused of one or more offenses, at least one of which is a felony;

(b) ninety days of the commencement of a criminal action wherein a defendant is accused of one or more offenses, at least one of which is a misdemeanor punishable by a sentence of imprisonment of more than three months and none of which is a felony;

(c) sixty days of the commencement of a criminal action wherein the defendant is accused of one or more offenses, at least one of which is a misdemeanor punishable by a sentence of imprisonment of not more than three months and none of which is a crime punishable by a sentence of imprisonment of more than three months;

(d) thirty days of the commencement of a criminal action wherein the defendant is accused of one or more offenses, at least one of which is a violation and none of which is a crime.

2. Except as provided in subdivision [three] four, where a defendant has been committed to the custody of the sheriff in a criminal action he must be released on bail or on his own recognizance, upon such conditions as may be just and reasonable, if the people are not ready for trial in that criminal action within:

(a) ninety days from the commencement of his commitment to the custody of the sheriff in a criminal action wherein the defendant is accused of one or more offenses, at least one of which is a felony;

(b) thirty days from the commencement of his commitment to the custody of the sheriff in a criminal action wherein the defendant is accused of one or more offenses, at least one of which is a misdemeanor punishable by a sentence of imprisonment of more than three months and none of which is a felony;

(c) fifteen days from the commencement of his commitment to the custody of the sheriff in a criminal action wherein the defendant is accused of one or more offenses, at least one of which is a misdemeanor punishable by a sentence of imprisonment of not more than three months and none of which is a crime punishable by a sentence of imprisonment of more than three months;

(d) five days from the commencement of his commitment to the custody of the sheriff in a criminal action wherein the defendant is accused of one or more offenses, at least one of which is a violation and none of which is a crime.

3. Whenever pursuant to this section a prosecutor states or otherwise provides notice that the people are ready for trial, the court may make inquiry on the record as to their actual readiness. If, after conducting its inquiry, the court determines that the people are not ready to proceed to trial, the prosecutor's statement or notice of readiness shall not be valid for purposes of this section. Following a demand to produce by a defendant pursuant to section 240.20, any statement of trial readiness must be accompanied or preceded by a certification of good faith compliance with the disclosure requirements of section 240.20. This subdivision shall not apply to cases where the defense has waived disclosure requirements. The defense shall be afforded an opportunity to be heard on the record concerning any such inquiry by the court, and concerning whether such disclosure requirements have been met.

3-a. Upon a misdemeanor complaint, a statement of readiness shall not be valid unless the prosecuting attorney certifies that all counts charged in the accusatory instrument meet the requirements of sections 100.15 and 100.40 and those counts not meeting the requirements of sections 100.15 and 100.40 have been dismissed.

4. (a) Subdivisions one and two do not apply to a criminal action wherein the defendant is accused of an offense defined in sections 125.10, 125.15, 125.20, 125.25, 125.26 and 125.27 of the penal law.

(b) A motion made pursuant to subdivisions one or two upon expiration of the specified period may be denied where the people are not ready for trial if the people were ready for trial prior to the expiration of the specified period and their present unreadiness is due to some exceptional fact or circumstance, including, but not limited to, the sudden unavailability of evidence material to the people's case, when the district attorney has exercised due diligence to obtain such evidence and there are reasonable grounds to believe that such evidence will become available in a reasonable period.

(c) A motion made pursuant to subdivision two shall not:

(i) apply to any defendant who is serving a term of imprisonment for another offense;

(ii) require the release from custody of any defendant who is also being held in custody pending trial of another criminal charge as to which the applicable period has not yet elapsed;

(iii) prevent the redetention of or otherwise apply to any defendant who, after being released from custody pursuant to this section or otherwise, is charged with another crime or violates the conditions on which he has been released, by failing to appear at a judicial proceeding at which his presence is required or otherwise.

[4.] 5. In computing the time within which the people must be ready for trial pursuant to subdivisions one and two, the following periods must be excluded:

(a) a reasonable period of delay resulting from other proceedings concerning the defendant, including but not limited to: proceedings for the determination of competency and the period during which defendant is incompetent to stand trial; demand to produce; request for a bill of particulars; pre-trial motions; appeals; trial of other charges; and the period during which such matters are under consideration by the court; or

(b) the period of delay resulting from a continuance granted by the court at the request of, or with the consent of, the defendant or his or her counsel. The court [must] may grant such a continuance only if it is satisfied that postponement is in the interest of justice, taking into account the public interest in the prompt dispositions of criminal charges. A defendant without counsel must not be deemed to have consented to a continuance unless he has been advised by the court of his or her rights under these rules and the effect of his consent, which must be done on the record in open court; or

(c) (i) the period of delay resulting from the absence or unavailability of the defendant. A defendant must be considered absent whenever his location is unknown and he is attempting to avoid apprehension or prosecution, or his location cannot be determined by due diligence. A defendant must be considered unavailable whenever his location is known but his presence for trial cannot be obtained by due diligence; or

(ii) where the defendant has either escaped from custody or has failed to appear when required after having previously been released on bail or on his own recognizance, and provided the defendant is not in custody on another matter, the period extending from the day the court issues a bench warrant pursuant to section 530.70 because of the defendant's failure to appear in court when required, to the day the defendant subsequently appears in the court pursuant to a bench warrant or voluntarily or otherwise; or

(d) a reasonable period of delay when the defendant is joined for trial with a co-defendant as to whom the time for trial pursuant to this section has not run and good cause is not shown for granting a severance; or

(e) the period of delay resulting from detention of the defendant in another jurisdiction provided the district attorney is aware of such detention and has been diligent and has made reasonable efforts to obtain the presence of the defendant for trial; or

(f) the period during which the defendant is without counsel through no fault of the court; except when the defendant is proceeding as his own attorney with the permission of the court; or

(g) other periods of delay occasioned by exceptional circumstances, including but not limited to, the period of delay resulting from a continuance granted at the request of a district attorney if (i) the continuance is granted because of the unavailability of evidence material to the people's case, when the district attorney has exercised due diligence to obtain such evidence and there are reasonable grounds to believe that such evidence will become available in a reasonable period;

or (ii) the continuance is granted to allow the district attorney additional time to prepare the people's case and additional time is justified by the exceptional circumstances of the case. Any such exclusion when a statement of unreadiness has followed a statement of readiness made by the people must be accompanied by supporting facts and approved by the court. The court shall inquire on the record as to the reasons for the people's unreadiness; or

(h) the period during which an action has been adjourned in contemplation of dismissal pursuant to sections 170.55, 170.56 and 215.10 of this chapter[.]; or

(i) [The] the period prior to the defendant's actual appearance for arraignment in a situation in which the defendant has been directed to appear by the district attorney pursuant to subdivision three of section 120.20 or subdivision three of section 210.10[.]; or

(j) the period during which a family offense is before a family court until such time as an accusatory instrument or indictment is filed against the defendant alleging a crime constituting a family offense, as such term is defined in section 530.11 of this chapter.

6. At each court appearance date preceding the commencement of trial in a criminal action, the court, whenever it is practicable to do so, shall rule preliminarily on whether the adjournment period immediately following such court appearance date is to be included or excluded for the purposes of computing the time within which the people must be ready for trial within the meaning of this section. The court's ruling shall be noted in the court file.

7. In computing the time within which the people must be ready for trial, pursuant to subdivision two or paragraphs (b), (c), or (d) of subdivision one of this section, no time attributable to court congestion shall be excluded.

[5.] 8. For purposes of this section, (a) where the defendant is to be tried following the withdrawal of the plea of guilty or is to be retried following a mistrial, an order for a new trial or an appeal or collateral attack, the criminal action and the commitment to the custody of the sheriff, if any, must be deemed to have commenced on the date the withdrawal of the plea of guilty or the date the order occasioning a retrial becomes final;

(b) where a defendant has been served with an appearance ticket, the criminal action must be deemed to have commenced on the date the defendant first appears in a local criminal court in response to the ticket;

(c) where a criminal action is commenced by the filing of a felony complaint, and thereafter, in the course of the same criminal action either the felony complaint is replaced with or converted to an information, prosecutor's information or misdemeanor complaint pursuant to article [180] one hundred eighty or a prosecutor's information is filed pursuant to section 190.70, the period applicable for the purposes of subdivision one must be the period applicable to the charges in the new accusatory instrument, calculated from the date of the filing of such new accusatory instrument; provided, however, that when the aggregate of such period and the period of time, excluding the periods provided in subdivision [four] five, already elapsed from the date of the filing of the felony complaint to the date of the filing of the new accusatory instrument exceeds six months, the period applicable to the charges in the felony complaint must remain applicable and continue as if the new accusatory instrument had not been filed;

(d) where a criminal action is commenced by the filing of a felony complaint, and thereafter, in the course of the same criminal action

either the felony complaint is replaced with or converted to an information, prosecutor's information or misdemeanor complaint pursuant to article [180] one hundred eighty or a prosecutor's information is filed pursuant to section 190.70, the period applicable for the purposes of subdivision two must be the period applicable to the charges in the new accusatory instrument, calculated from the date of the filing of such new accusatory instrument; provided, however, that when the aggregate of such period and the period of time, excluding the periods provided in subdivision [four] five, already elapsed from the date of the filing of the felony complaint to the date of the filing of the new accusatory instrument exceeds ninety days, the period applicable to the charges in the felony complaint must remain applicable and continue as if the new accusatory instrument had not been filed.

(e) where a count of an indictment is reduced to charge only a misdemeanor or petty offense and a reduced indictment or a prosecutor's information is filed pursuant to subdivisions one-a and six of section 210.20, the period applicable for the purposes of subdivision one of this section must be the period applicable to the charges in the new accusatory instrument, calculated from the date of the filing of such new accusatory instrument; provided, however, that when the aggregate of such period and the period of time, excluding the periods provided in subdivision [four] five of this section, already elapsed from the date of the filing of the indictment to the date of the filing of the new accusatory instrument exceeds six months, the period applicable to the charges in the indictment must remain applicable and continue as if the new accusatory instrument had not been filed;

(f) where a count of an indictment is reduced to charge only a misdemeanor or petty offense and a reduced indictment or a prosecutor's information is filed pursuant to subdivisions one-a and six of section 210.20, the period applicable for the purposes of subdivision two of this section must be the period applicable to the charges in the new accusatory instrument, calculated from the date of the filing of such new accusatory instrument; provided, however, that when the aggregate of such period and the period of time, excluding the periods provided in subdivision [four] five of this section, already elapsed from the date of the filing of the indictment to the date of the filing of the new accusatory instrument exceeds ninety days, the period applicable to the charges in the indictment must remain applicable and continue as if the new accusatory instrument had not been filed.

[6.] 9. The procedural rules prescribed in subdivisions one through seven of section 210.45 with respect to a motion to dismiss an indictment are also applicable to a motion made pursuant to subdivision two.

§ 3. Subdivision 6 of section 180.85 of the criminal procedure law, as added by chapter 518 of the laws of 2004, is amended to read as follows:

6. The period from the filing of a motion pursuant to this section until entry of an order disposing of such motion shall not, by reason of such motion, be considered a period of delay for purposes of subdivision [four] five of section 30.30, nor shall such period, by reason of such motion, be excluded in computing the time within which the people must be ready for trial pursuant to such section 30.30.

§ 4. This act shall take effect on the sixtieth day after it shall have become a law.

PART B

Intentionally Omitted

PART C

Section 1. Subdivisions 1, 2, 4, 5, 6, 7, 8 and 9 of section 500.10 of the criminal procedure law are amended and a new subdivision 3-a is added to read as follows:

1. "Principal" means a defendant in a criminal action or proceeding, or a person adjudged a material witness therein, or any other person so involved therein that [he] the principal may by law be compelled to appear before a court for the purpose of having such court exercise control over [his] the principal's person to secure [his] the principal's future attendance at the action or proceeding when required, and who in fact either is before the court for such purpose or has been before it and been subjected to such control.

2. "Release on own recognizance." A court releases a principal on [his] the principal's own recognizance when, having acquired control over [his] the principal's person, it permits [him] the principal to be at liberty during the pendency of the criminal action or proceeding involved upon condition that [he] the principal will appear thereat whenever [his] the principal's attendance may be required and will at all times render [himself] the principal amenable to the orders and processes of the court.

3-a. "Release under non-monetary conditions." A court releases a principal under non-monetary conditions when, having acquired control over a person, it authorizes the person to be at liberty during the pendency of the criminal action or proceeding involved under conditions ordered by the court, which shall be the least restrictive conditions that will reasonably assure the principal's return to court. Such conditions may include, among other conditions reasonable under the circumstances: that the principal be in contact with a pretrial services agency serving principals in that county; that the principal abide by reasonable, specified restrictions on travel that are reasonably related to an actual risk of intentional flight from the jurisdiction; that the principal refrain from possessing a firearm, destructive device or other dangerous weapon; that, when it is shown pursuant to subdivision four of section 510.45 of this title that no other realistic monetary condition or set of non-monetary conditions will suffice to reasonably assure the person's return to court, the person be placed in reasonable pretrial supervision with a pretrial services agency serving principals in that county; that, when it is shown pursuant to paragraph (a) of subdivision four of section 510.40 of this title that no other realistic non-monetary condition or set of non-monetary conditions will suffice to reasonably assure the principal's return to court, the principal's location be monitored with an approved electronic monitoring device, in accordance with such subdivision four of section 510.40 of this title. A principal shall not be required to pay for any part of the cost of release on non-monetary conditions.

4. "Commit to the custody of the sheriff." A court commits a principal to the custody of the sheriff when, having acquired control over [his] the principal's person, it orders that [he] the principal be confined in the custody of the sheriff during the pendency of the criminal action or proceeding involved.

5. "Securing order" means an order of a court committing a principal to the custody of the sheriff[,] or fixing bail, where authorized, or releasing [him on his] the principal on the principal's own recognizance or releasing the principal under non-monetary conditions.

6. "Order of recognizance or bail" means a securing order releasing a principal on [his] the principal's own recognizance or under non-monetary conditions or, where authorized, fixing bail.

7. "Application for recognizance or bail" means an application by a principal that the court, instead of committing [him] the principal to or retaining [him] the principal in the custody of the sheriff, either release [him on his own] the principal on the principal's own recognizance [or], release under non-monetary conditions, or, where authorized, fix bail.

8. "Post bail" means to deposit bail in the amount and form fixed by the court, with the court or with some other authorized public servant or agency.

9. "Bail" means cash bail [or], a bail bond or money paid with a credit card.

§ 2. Section 510.10 of the criminal procedure law, as amended by chapter 459 of the laws of 1984, is amended to read as follows:

§ 510.10 Securing order; when required; alternatives available; standard to be applied.

1. When a principal, whose future court attendance at a criminal action or proceeding is or may be required, [initially] comes under the control of a court, such court [must] shall, in accordance with this title, by a securing order[, either] release [him] the principal on [his] the principal's own recognizance, release the principal under non-monetary conditions, or, where authorized, fix bail or commit [him] the principal to the custody of the sheriff. In all such cases, except where another type of securing order is shown to be required by law, the court shall release the principal pending trial on the principal's own recognizance, unless it is demonstrated and the court makes an individualized determination that the principal is a significant risk of intentional flight to avoid prosecution. If such a finding is made, the court must select the least restrictive alternative and condition or conditions that will reasonably assure the principal's return to court.

2. A principal is entitled to representation by counsel under this chapter in preparing an application for release, when a securing order is being considered and when a securing order is being reviewed for modification, revocation or termination. If the principal is financially unable to obtain counsel, counsel shall be assigned to the principal.

3. In cases where the most serious offense with which the defendant stands charged in the case before the court or a pending case is an offense that is not a class A felony defined in the penal law or a felony enumerated in section 70.02 of the penal law (other than burglary in the second degree as defined in subdivision two of section 140.25 of the penal law or robbery in the second degree as defined in subdivision one of section 160.10 of such law or reporting a false incident in the second degree as defined in section 240.55 of such law), the court shall release the principal pending trial on the principal's own recognizance, unless the court finds on the record or in writing that release on the principal's own recognizance will not reasonably assure the principal's return to court. In such instances, the court shall release the principal under non-monetary conditions, selecting the least restrictive alternative and conditions that will reasonably assure the principal's return to court. The court shall explain its choice of alternative and conditions on the record or in writing.

4. Except as provided in subdivision five of this section, in cases where an offense with which the defendant stands charged in the case before the court or a pending case is a felony enumerated in section

70.02 of the penal law (except burglary in the second degree as defined in subdivision two of section 140.25 of the penal law or robbery in the second degree as defined in subdivision one of section 160.10 of such law or reporting a false incident in the second degree as defined in section 240.55 of such law), the court, unless otherwise prohibited by law, shall release the principal pending trial on the principal's own recognizance or under non-monetary conditions, or fix bail. In such instances, the court shall select the least restrictive alternative and conditions that will reasonably assure the principal's return to court. The court shall explain its choice of alternative and conditions on the record or in writing.

5. In cases where an offense with which the defendant stands charged in the case before the court or a pending case is a felony sex offense as defined in section 70.80 of the penal law, a felony terrorism offense under section 490.10, 490.15, 490.30, 490.35, 490.37, 490.40, 490.45, 490.47, 490.50 or 490.55 of the penal law, a class A felony offense defined in the penal law, a felony offense of witness intimidation under section 215.15, 215.16, or 215.17 of the penal law, a felony offense where a required element thereof is an intent to cause serious physical injury or death to another person and causing such injury or death to such person or a third person, or a felony for when the defendant would be eligible for sentencing under section 70.08 of the penal law, the court, unless otherwise prohibited by law, shall release the principal pending trial under non-monetary conditions, or fix bail, or commit the principal to the custody of the sheriff. In such instances, the court shall select the least restrictive alternative and conditions that will reasonably assure the principal's return to court. The court shall explain its choice of alternative and conditions on the record or in writing.

6. When a securing order is revoked or otherwise terminated in the course of an uncompleted action or proceeding but the principal's future court attendance still is or may be required and [he] the principal is still under the control of a court, a new securing order must be issued. When the court revokes or otherwise terminates a securing order which committed the principal to the custody of the sheriff, the court shall give written notification to the sheriff of such revocation or termination of the securing order.

§ 3. Section 510.20 of the criminal procedure law is amended to read as follows:

§ 510.20 Application for [recognizance or bail; making and determination thereof in general] a change in securing order.

1. Upon any occasion when a court [is required to issue] has issued a securing order with respect to a principal[, or at any time when a] and the principal is confined in the custody of the sheriff as a result of the securing order or a previously issued securing order, [he] the principal may make an application for recognizance, release under non-monetary conditions or bail.

2. (a) The principal is entitled to representation by counsel in the making and presentation of such application. If the principal is financially unable to obtain counsel, counsel shall be assigned to the principal.

(b) Upon such application, the principal must be accorded an opportunity to be heard, present evidence and to contend that an order of recognizance, release under non-monetary conditions or, where authorized, bail must or should issue, that the court should release [him on his] the principal on the principal's own recognizance or under non-mon-

etary conditions rather than fix bail, and that if bail is authorized and fixed it should be in a suggested amount and form.

§ 4. The criminal procedure law is amended by adding a new section 510.25 to read as follows:

§ 510.25 Rehearing after five days in custody.

In addition to any other available pre-conviction motion or procedure, a principal for whom bail is authorized and was fixed, or who was remanded to the custody of the sheriff but is legally eligible for release, and who is in custody five days thereafter shall be brought before the court the next business day for a rehearing on the securing order. The court shall consider the matter in accordance with section 510.10 of this article, de novo, including the principal's individual financial circumstances, hear from the defense and, if they so desire, the people, consider relevant testimony and cross-examination presented, consider any relevant, admissible evidence not legally privileged, and order a new securing order in accordance with the principles and procedures in this article. This process shall continue with additional rehearings, held promptly on reasonable written request of defense counsel, made on notice to the people.

§ 5. Section 510.30 of the criminal procedure law, subparagraph (v) of paragraph (a) of subdivision 2 as amended by chapter 920 of the laws of 1982, subparagraph (vi) of paragraph (a) of subdivision 2 as renumbered by chapter 447 of the laws of 1977, subparagraph (vii) as added and subparagraphs (viii) and (ix) of paragraph (a) of subdivision 2 as renumbered by section 1 of part D of chapter 491 of the laws of 2012, and subdivision 3 as added by chapter 788 of the laws of 1981, is amended to read as follows:

§ 510.30 Application for [recognizance or bail] securing order; rules of law and criteria controlling determination.

1. [Determinations of applications for recognizance or bail are not in all cases discretionary but are subject to rules, prescribed in article five hundred thirty and other provisions of law relating to specific kinds of criminal actions and proceedings, providing (a) that in some circumstances such an application must as a matter of law be granted, (b) that in others it must as a matter of law be denied and the principal committed to or retained in the custody of the sheriff, and (c) that in others the granting or denial thereof is a matter of judicial discretion.

2. To the extent that the issuance of an order of recognizance or bail and the terms thereof are matters of discretion rather than of law, an application is determined on the basis of the following factors and criteria:

(a)] With respect to any principal, the court in all cases, unless otherwise provided by law, must [consider the] impose the least restrictive kind and degree of control or restriction that is necessary to secure [his court attendance] the principal's return to court when required. In determining that matter, the court must, on the basis of available information, consider and take into account[:

(i) The principal's character, reputation, habits and mental condition;

(ii) His employment and financial resources; and

(iii) His family ties and the length of his residence if any in the community; and

(iv) His] information about the principal that is relevant to the principal's return to court, including:

(a) The principal's activities and history;

(b) If the principal is a defendant, the charges facing the principal;
(c) The principal's criminal conviction record if any provided that the court must also consider and take into account the time that has elapsed since the occurrence of such crime or crimes and the age of the principal at the time of the occurrence of such crime or crimes; [and
(v) His] (d) The principal's record of previous adjudication as a juvenile delinquent, as retained pursuant to section 354.2 of the family court act, or, of pending cases where fingerprints are retained pursuant to section 306.1 of such act, or a youthful offender, if any provided that the court must also consider and take into account the time that has elapsed since the occurrence of such delinquency or youthful offender conduct and the age of the principal at the time of such delinquency or youthful offender conduct; [and
(vi) His] (e) The principal's previous record [if any in responding to court appearances when required or] with respect to intentional flight to avoid criminal prosecution; [and
(vii)] (f) If monetary bail is authorized, according to the restrictions set forth in this title, the principal's individual financial circumstances;
(g) Where the principal is charged with a crime or crimes against a member or members of the same family or household as that term is defined in subdivision one of section 530.11 of this title, the following factors:
[(A)] (i) any violation by the principal of an order of protection issued by any court for the protection of a member or members of the same family or household as that term is defined in subdivision one of section 530.11 of this title, whether or not such order of protection is currently in effect; and
[(B)] (ii) the principal's history of use or possession of a firearm; and
[(viii)] (h) If [he] the principal is a defendant, [the weight of the evidence against him in the pending criminal action and any other factor indicating probability or improbability of conviction; or,] in the case of an application for [bail or recognizance] a securing order pending appeal, the merit or lack of merit of the appeal[; and
(ix) If he is a defendant, the sentence which may be or has been imposed upon conviction].
[(b)] 2. Where the principal is a defendant-appellant in a pending appeal from a judgment of conviction, the court must also consider the likelihood of ultimate reversal of the judgment. A determination that the appeal is palpably without merit alone justifies, but does not require, a denial of the application, regardless of any determination made with respect to the factors specified in [paragraph (a)] subdivision one of this section.
3. When bail or recognizance is ordered, the court shall inform the principal, if [he] the principal is a defendant charged with the commission of a felony, that the release is conditional and that the court may revoke the order of release and may be authorized to commit the principal to the custody of the sheriff in accordance with the provisions of subdivision two of section 530.60 of this chapter if [he] the principal commits a subsequent felony while at liberty upon such order.
§ 6. Section 510.40 of the criminal procedure law is amended to read as follows:
§ 510.40 [Application for recognizance or bail; determination thereof, form of securing order and execution thereof] Court notifi-

cation to principal of conditions of release and of alleged violations of conditions of release.

1. [An application for recognizance or bail must be determined by a securing order which either:

(a) Grants the application and releases the principal on his own recognizance; or

(b) Grants the application and fixes bail; or

(c) Denies the application and commits the principal to, or retains him in, the custody of the sheriff.

2.] Upon ordering that a principal be released on [his] the principal's own recognizance, or released under non-monetary conditions, or, if bail has been fixed, upon the posting of bail, the court must direct [him] the principal to appear in the criminal action or proceeding involved whenever [his] the principal's attendance may be required and to [render himself] be at all times amenable to the orders and processes of the court. If such principal is in the custody of the sheriff or at liberty upon bail at the time of the order, the court must direct that [he] the principal be discharged from such custody or, as the case may be, that [his] the principal's bail be exonerated.

[3.] 2. Upon the issuance of an order fixing bail, where authorized, and upon the posting thereof, the court must examine the bail to determine whether it complies with the order. If it does, the court must, in the absence of some factor or circumstance which in law requires or authorizes disapproval thereof, approve the bail and must issue a certificate of release, authorizing the principal to be at liberty, and, if [he] the principal is in the custody of the sheriff at the time, directing the sheriff to discharge [him] the principal therefrom. If the bail fixed is not posted, or is not approved after being posted, the court must order that the principal be committed to the custody of the sheriff. In the event of any such non-approval, the court shall explain promptly in writing the reasons therefor.

3. Non-monetary conditions of release shall be individualized and established in writing by the court. At future court appearances, the court shall consider a lessening of conditions or modification of conditions to a less burdensome form based on the principal's compliance with such conditions of release. In the event of alleged non-compliance with the conditions of release in an important respect, pursuant to this subdivision, additional conditions may be imposed by the court, on the record or in writing, only after notice of the facts and circumstances of such alleged non-compliance, reasonable under the circumstances, affording the principal and the principal's attorney and the people an opportunity to present relevant, admissible evidence, relevant witnesses and to cross-examine witnesses, and a finding by clear and convincing evidence that the principal violated a condition of release in an important respect. Following such a finding, in determining whether to impose additional conditions for non-compliance, the court shall consider and may select conditions consistent with the court's obligation to impose the least restrictive condition or conditions that will reasonably assure the defendant's return to court. The court shall explain on the record or in writing the reasons for its determination and for any changes to the conditions imposed.

4. (a) Electronic monitoring of a principal's location may be ordered only if the court finds, after notice, an opportunity to be heard and an individualized determination explained on the record or in writing, that no other realistic non-monetary condition or set of non-monetary conditions will suffice to reasonably assure a principal's return to court.

(b) The specific method of electronic monitoring of the principal's location must be approved by the court. It must be the least restrictive procedure and method that will reasonably assure the principal's return to court, and unobtrusive to the greatest extent practicable.

(c) Electronic monitoring of the location of a principal may be conducted only by a public entity under the supervision and control of a county or municipality or a non-profit entity under contract to the county, municipality or the state. A county or municipality shall be authorized to enter into a contract with another county or municipality in the state to monitor principals under non-monetary conditions of release in its county, but counties, municipalities and the state shall not contract with any private for-profit entity for such purposes.

(d) Electronic monitoring of a principal's location may be for a maximum period of sixty days, and may be renewed for such period, after notice, an opportunity to be heard and a de novo, individualized determination in accordance with this subdivision, which shall be explained on the record or in writing.

5. If a principal is released under non-monetary conditions, the court shall, on the record and in an individualized written document provided to the principal, notify the principal, in plain language and a manner sufficiently clear and specific:

(a) of any conditions to which the principal is subject, to serve as a guide for the principal's conduct; and

(b) that the possible consequences for violation of such a condition may include revocation of the securing order and the ordering of a more restrictive securing order.

§ 7. The criminal procedure law is amended by adding a new section 510.43 to read as follows:

§ 510.43 Court appearances: additional notifications.

The court or, upon direction of the court, a certified pretrial services agency, shall notify all principals released under non-monetary conditions and on recognizance of all court appearances in advance by text message, telephone call, electronic mail or first class mail. The chief administrator of the courts shall, pursuant to subdivision one of section 10.40 of this chapter, develop a form which shall be offered to the principal at court appearances. On such form, which upon completion shall be retained in the court file, the principal may select one such preferred manner of notice.

§ 8. The criminal procedure law is amended by adding a new section 510.45 to read as follows:

§ 510.45 Pretrial services agencies.

1. The office of court administration shall certify and regularly review for recertification one or more pretrial services agencies in each county to monitor principals released under non-monetary conditions. Such office shall maintain a listing on its public website identifying by county each pretrial services agency so certified in the state.

2. Every such agency shall be a public entity under the supervision and control of a county or municipality or a non-profit entity under contract to the county, municipality or the state. A county or municipality shall be authorized to enter into a contract with another county or municipality in the state to monitor principals under non-monetary conditions of release in its county, but counties, municipalities and the state shall not contract with any private for-profit entity for such purposes.

3. (a) Any questionnaire, instrument or tool used with a principal in the process of considering or determining the principal's possible release on recognizance, release under non-monetary conditions or on bail, or used with a principal in the process of considering or determining a condition or conditions of release or monitoring by a pretrial services agency, shall be promptly made available to the principal and the principal's counsel upon written request. Any such blank form questionnaire, instrument or tool regularly used in the county for such purpose or a related purpose shall be made available to any person promptly upon request.

(b) Any such questionnaire, instrument or tool shall be:

(i) free from discriminatory and disparate impact on detention and other outcomes based on age, race, creed, color, national origin, sexual orientation, gender identity or expression, military status, sex, marital status, disability, or any other constitutionally protected class, regarding the use thereof; and

(ii) empirically validated and regularly revalidated, with such validation and revalidation studies and all underlying data, except personal identifying information for any defendant, publicly available upon request.

4. Monitoring by a pre-trial services agency may be ordered as a non-monetary condition pursuant to this title only if the court finds, after notice, an opportunity to be heard and an individualized determination explained on the record or in writing, that no other realistic non-monetary condition or set of non-monetary conditions will suffice to reasonably assure the principal's return to court.

5. Each pretrial service agency certified by the office of court administration pursuant to this section shall at the end of each year prepare and file with such office an annual report, which the office shall compile, publish on its website and make available upon request to members of the public. Such reports shall not include any personal identifying information for any individual defendants. Each such report, in addition to other relevant information, shall set forth, disaggregated by each county served:

(a) the number of defendants monitored by the agency;

(b) the length of time (in months) each such person was monitored by the agency prior to acquittal, dismissal, release on recognizance, revocation of release on conditions, and sentencing;

(c) the race, ethnicity, age and sex of each person monitored;

(d) the crimes with which each person monitored was charged;

(e) the number of persons monitored for whom release conditions were modified by the court, describing generally for each person or group of persons the type and nature of the condition or conditions added or removed;

(f) the number of persons monitored for whom release under conditions was revoked by the court, and the basis for such revocations; and

(g) the court disposition in each monitoring case, including sentencing information.

§ 9. Section 510.50 of the criminal procedure law is amended to read as follows:

§ 510.50 Enforcement of securing order.

1. When the attendance of a principal confined in the custody of the sheriff is required at the criminal action or proceeding at a particular time and place, the court may compel such attendance by directing the sheriff to produce [him] the principal at such time and place. If the principal is at liberty on [his] the principal's own recognizance or

non-monetary conditions or on bail, [his] the principal's attendance may be achieved or compelled by various methods, including notification and the issuance of a bench warrant, prescribed by law in provisions governing such matters with respect to the particular kind of action or proceeding involved.

2. Except when the principal is charged with a new crime while at liberty, absent relevant, admissible evidence demonstrating that a principal's failure to appear for a scheduled court appearance was willful, the court, prior to issuing a bench warrant for a failure to appear for a scheduled court appearance, shall provide at least forty-eight hours notice to the principal or the principal's counsel that the principal is required to appear, in order to give the principal an opportunity to appear voluntarily.

§ 10. Paragraph (b) of subdivision 2 of section 520.10 of the criminal procedure law, as amended by chapter 784 of the laws of 1972, is amended to read as follows:

(b) The court [may] shall direct that the bail be posted in any one of [two] three or more of the forms specified in subdivision one of this section, designated in the alternative, and may designate different amounts varying with the forms[;], except that one of the forms shall be either an unsecured or partially secured surety bond, as selected by the court.

§ 11. Section 530.10 of the criminal procedure law is amended to read as follows:

§ 530.10 Order of recognizance release under non-monetary conditions or bail; in general.

Under circumstances prescribed in this article, a court, upon application of a defendant charged with or convicted of an offense, is required [or authorized to order bail or recognizance] to issue a securing order for [the release or prospective release of] such defendant during the pendency of either:

1. A criminal action based upon such charge; or

2. An appeal taken by the defendant from a judgment of conviction or a sentence or from an order of an intermediate appellate court affirming or modifying a judgment of conviction or a sentence.

§ 12. Subdivision 4 of section 530.11 of the criminal procedure law, as added by chapter 186 of the laws of 1997, is amended to read as follows:

4. When a person is arrested for an alleged family offense or an alleged violation of an order of protection or temporary order of protection or arrested pursuant to a warrant issued by the supreme or family court, and the supreme or family court, as applicable, is not in session, such person shall be brought before a local criminal court in the county of arrest or in the county in which such warrant is returnable pursuant to article one hundred twenty of this chapter. Such local criminal court may issue any order authorized under subdivision eleven of section 530.12 of this article, section one hundred fifty-four-d or one hundred fifty-five of the family court act or subdivision three-b of section two hundred forty or subdivision two-a of section two hundred fifty-two of the domestic relations law, in addition to discharging other arraignment responsibilities as set forth in this chapter. In making such order, the local criminal court shall consider de novo the [bail] recommendation and securing order, if any, made by the supreme or family court as indicated on the warrant or certificate of warrant. Unless the petitioner or complainant requests otherwise, the court, in addition to scheduling further criminal proceedings, if any, regarding

such alleged family offense or violation allegation, shall make such matter returnable in the supreme or family court, as applicable, on the next day such court is in session.

§ 13. Paragraph (a) of subdivision 8 of section 530.13 of the criminal procedure law, as added by chapter 388 of the laws of 1984, is amended to read as follows:

(a) revoke an order of recognizance, release under non-monetary conditions or bail and commit the defendant to custody; or

§ 14. The opening paragraph of subdivision 1 of section 530.13 of the criminal procedure law, as amended by chapter 137 of the laws of 2007, is amended to read as follows:

When any criminal action is pending, and the court has not issued a temporary order of protection pursuant to section 530.12 of this article, the court, in addition to the other powers conferred upon it by this chapter, may for good cause shown issue a temporary order of protection in conjunction with any securing order [committing the defendant to the custody of the sheriff or as a condition of a pre-trial release, or as a condition of release on bail] or an adjournment in contemplation of dismissal. In addition to any other conditions, such an order may require that the defendant:

§ 15. Subdivision 11 of section 530.12 of the criminal procedure law, as amended by chapter 498 of the laws of 1993, the opening paragraph as amended by chapter 597 of the laws of 1998, paragraph (a) as amended by chapter 222 of the laws of 1994, paragraph (d) as amended by chapter 644 of the laws of 1996, is amended to read as follows:

11. If a defendant is brought before the court for failure to obey any lawful order issued under this section, or an order of protection issued by a court of competent jurisdiction in another state, territorial or tribal jurisdiction, and if, after hearing, the court is satisfied by competent proof that the defendant has willfully failed to obey any such order, the court may:

(a) revoke an order of recognizance or release under non-monetary conditions or revoke an order of bail or order forfeiture of such bail and commit the defendant to custody; or

(b) restore the case to the calendar when there has been an adjournment in contemplation of dismissal and [commit the defendant to custody] establish a securing order; or

(c) revoke a conditional discharge in accordance with section 410.70 of this chapter and impose probation supervision or impose a sentence of imprisonment in accordance with the penal law based on the original conviction; or

(d) revoke probation in accordance with section 410.70 of this chapter and impose a sentence of imprisonment in accordance with the penal law based on the original conviction. In addition, if the act which constitutes the violation of the order of protection or temporary order of protection is a crime or a violation the defendant may be charged with and tried for that crime or violation.

§ 16. Section 530.20 of the criminal procedure law, as amended by chapter 531 of the laws of 1975, subparagraph (ii) of paragraph (b) of subdivision 2 as amended by chapter 218 of the laws of 1979, is amended to read as follows:

§ 530.20 [Order of recognizance or bail;] Securing order by local criminal court when action is pending therein.

When a criminal action is pending in a local criminal court, such court, upon application of a defendant, [must or may order recognizance or bail] shall proceed as follows:

1. [When the defendant is charged, by information, simplified information, prosecutor's information or misdemeanor complaint, with an offense or offenses of less than felony grade only, the court must order recognizance or bail.] (a) In cases where the most serious offense with which the defendant stands charged in the case before the court or a pending case is an offense that is not a class A felony defined in the penal law or a felony enumerated in section 70.02 of the penal law (other than burglary in the second degree as defined in subdivision two of section 140.25 of the penal law or robbery in the second degree as defined in subdivision one of section 160.10 of such law or reporting a false incident in the second degree as defined in section 240.55 of such law), the court shall release the principal pending trial on the principal's own recognizance, unless the court finds on the record or in writing that release on the principal's own recognizance will not reasonably assure the principal's return to court. In such instances, the court shall release the principal under non-monetary conditions, selecting the least restrictive alternative and conditions that will reasonably assure the principal's return to court. The court shall explain its choice of alternative and conditions on the record or in writing.

(b) Except as provided in paragraph (c) of this subdivision, in cases where an offense with which the defendant stands charged in the case before the court or a pending case is a felony enumerated in section 70.02 of the penal law (except burglary in the second degree as defined in subdivision two of section 140.25 of the penal law or robbery in the second degree as defined in subdivision one of section 160.10 of such law or reporting a false incident in the second degree as defined in section 240.55 of such law), the court, unless otherwise prohibited by law, shall release the principal pending trial on the principal's own recognizance, or release the principal under non-monetary conditions, or fix bail. In such instances, the court shall select the least restrictive alternative that will reasonably assure the principal's return to court. The court shall explain its choice of alternative and conditions on the record or in writing.

(c) In cases where an offense with which the defendant stands charged in the case before the court or a pending case is a felony sex offense as defined in section 70.80 of the penal law, a felony terrorism offense under section 490.10, 490.15, 490.30, 490.35, 490.37, 490.40, 490.45, 490.47, 490.50 or 490.55 of the penal law, a class A felony offense defined in the penal law, a felony offense of witness intimidation under section 215.15, 215.16, or 215.17 of the penal law, a felony offense where a required element thereof is an intent to cause serious physical injury or death to another person and causing such injury or death to such person or a third person, or a felony for which the defendant would be eligible for sentencing under section 70.08 of the penal law, the court, unless otherwise prohibited by law, shall release the principal pending trial under non-monetary conditions, or fix bail, or commit the principal to the custody of the sheriff. In such instances, the court shall select the least restrictive alternative and conditions that will reasonably assure the principal's return to court. The court shall explain its choice of alternative and conditions on the record or in writing.

2. When the defendant is charged, by felony complaint, with a felony, the court may, in its discretion, order recognizance, release under non-monetary conditions, or, where authorized, bail or commit the defendant to the custody of the sheriff except as otherwise provided in subdivision one of this section or this subdivision:

(a) A city court, a town court or a village court may not order recognizance or bail when (i) the defendant is charged with a class A felony, or (ii) [it appears that] the defendant has two previous felony convictions;

(b) No local criminal court may order recognizance, release under non-monetary conditions or bail with respect to a defendant charged with a felony unless and until:

(i) The district attorney has been heard in the matter or, after knowledge or notice of the application and reasonable opportunity to be heard, has failed to appear at the proceeding or has otherwise waived his right to do so; and

(ii) The court [has] and counsel for the defendant have been furnished with a report of the division of criminal justice services concerning the defendant's criminal record, if any, or with a police department report with respect to the defendant's prior arrest and conviction record, if any. If neither report is available, the court, with the consent of the district attorney, may dispense with this requirement; provided, however, that in an emergency, including but not limited to a substantial impairment in the ability of such division or police department to timely furnish such report, such consent shall not be required if, for reasons stated on the record, the court deems it unnecessary. When the court has been furnished with any such report or record, it shall furnish a copy thereof to counsel for the defendant or, if the defendant is not represented by counsel, to the defendant.

§ 17. The section heading and subdivisions 1 and 2 of section 530.30 of the criminal procedure law, subdivision 2 as amended by chapter 762 of the laws of 1971, are amended to read as follows:

Order of recognizance, release under non-monetary conditions or bail; by superior court judge when action is pending in local criminal court.

1. When a criminal action is pending in a local criminal court, other than one consisting of a superior court judge sitting as such, a judge of a superior court holding a term thereof in the county, upon application of a defendant, may order recognizance, release under non-monetary conditions or, where authorized, bail when such local criminal court:

(a) Lacks authority to issue such an order, pursuant to [paragraph (a) of subdivision two] the relevant provisions of section 530.20 of this article; or

(b) Has denied an application for recognizance, release under non-monetary conditions or bail; or

(c) Has fixed bail, where authorized, which is excessive; or

(d) Has set a securing order of release under non-monetary conditions which are more restrictive than necessary to reasonably assure the defendant's return to court.

In such case, such superior court judge may vacate the order of such local criminal court and release the defendant on [his own] recognizance or under non-monetary conditions, or where authorized, fix bail in a lesser amount or in a less burdensome form, whichever are the least restrictive alternative and conditions that will reasonably assure the defendant's return to court. The court shall explain its choice of alternative and conditions on the record or in writing.

2. Notwithstanding the provisions of subdivision one of this section, when the defendant is charged with a felony in a local criminal court, a superior court judge may not order recognizance, release under non-monetary conditions or, where authorized, bail unless and until the district attorney has had an opportunity to be heard in the matter and such judge

[has] and counsel for the defendant have been furnished with a report as described in subparagraph (ii) of paragraph (b) of subdivision two of section 530.20 of this article.

§ 18. Section 530.40 of the criminal procedure law, subdivision 3 as amended by chapter 264 of the laws of 2003, and subdivision 4 as amended by chapter 762 of the laws of 1971, is amended to read as follows:

§ 530.40 Order of recognizance, release under non-monetary conditions or bail; by superior court when action is pending therein.

When a criminal action is pending in a superior court, such court, upon application of a defendant, must or may order recognizance or bail as follows:

1. When the defendant is charged with an offense or offenses of less than felony grade only, the court must, unless otherwise provided by law, order recognizance or [bail] release under non-monetary conditions in accordance with this section.

2. When the defendant is charged with a felony, the court may, in its discretion, order recognizance [or], release under non-monetary conditions or, where authorized, bail. In any such case in which an indictment (a) has resulted from an order of a local criminal court holding the defendant for the action of the grand jury, or (b) was filed at a time when a felony complaint charging the same conduct was pending in a local criminal court, and in which such local criminal court or a superior court judge has issued an order of recognizance [or], release under non-monetary conditions or, where authorized, bail which is still effective, the superior court's order may be in the form of a direction continuing the effectiveness of the previous order.

3. In cases where the most serious offense with which the defendant stands charged in the case before the court or a pending case is an offense that is not a class A felony defined in the penal law or a felony enumerated in section 70.02 of the penal law (other than burglary in the second degree as defined in subdivision two of section 140.25 of the penal law or robbery in the second degree as defined in subdivision one of section 160.10 of such law or reporting a false incident in the second degree as defined in section 240.55 of such law), the court shall release the principal pending trial on the principal's own recognizance, unless the court finds on the record or in writing that release on the principal's own recognizance will not reasonably assure the principal's return to court. In such instances, the court shall release the principal under non-monetary conditions, selecting the least restrictive alternative and conditions that will reasonably assure the principal's return to court. The court shall explain its choice of alternative and conditions on the record or in writing.

4. Except as provided in subdivision five of this section, in cases where an offense with which the defendant stands charged in the case before the court or a pending case is a felony enumerated in section 70.02 of the penal law (except burglary in the second degree as defined in subdivision two of section 140.25 of the penal law or robbery in the second degree as defined in subdivision one of section 160.10 of such law or reporting a false incident in the second degree as defined in section 240.55 of such law) the court, unless otherwise prohibited by law, shall release the principal pending trial on the principal's own recognizance, or release the principal under non-monetary conditions, or fix bail, selecting the least restrictive alternative and conditions that will reasonably assure the principal's return to court. The court shall explain its choice of alternative and conditions on the record or in writing.

5. In cases where an offense with which the defendant stands charged in the case before the court or a pending case is a felony sex offense as defined in section 70.80 of the penal law, a felony terrorism offense under section 490.10, 490.15, 490.30, 490.35, 490.37, 490.40, 490.45, 490.47, 490.50 or 490.55 of the penal law, a class A felony offense defined in the penal law, a felony offense of witness intimidation under section 215.15, 215.16, or 215.17 of the penal law, a felony offense where a required element thereof is an intent to cause serious physical injury or death to another person and causing such injury or death to such person or a third person, or a felony for which the defendant is eligible for sentencing under section 70.08 of the penal law, the court, unless otherwise prohibited by law, shall release the principal pending trial under non-monetary conditions, or fix bail, or commit the principal to the custody of the sheriff, selecting the least restrictive alternative and conditions that will reasonably assure the principal's return to court. The court shall explain its choice of alternative and conditions on the record or in writing.

6. Notwithstanding the provisions of [subdivision two] subdivisions two, three, four and five of this section, a superior court may not order recognizance, release under non-monetary conditions or, where authorized, bail, or permit a defendant to remain at liberty pursuant to an existing order, after [he] the defendant has been convicted of either: (a) a class A felony or (b) any class B or class C felony as defined in article one hundred thirty of the penal law committed or attempted to be committed by a person eighteen years of age or older against a person less than eighteen years of age. In either case the court must commit or remand the defendant to the custody of the sheriff.

[4.] 7. Notwithstanding the provisions of [subdivision two] subdivisions two, three, four and five of this section, a superior court may not order recognizance, release under non-monetary conditions or, where authorized, bail when the defendant is charged with a felony unless and until the district attorney has had an opportunity to be heard in the matter and such court [has] and counsel for the defendant have been furnished with a report as described in subparagraph (ii) of paragraph (b) of subdivision two of section 530.20 of this article.

§ 19. Subdivision 1 of section 530.45 of the criminal procedure law, as amended by chapter 264 of the laws of 2003, is amended to read as follows:

1. When the defendant is at liberty in the course of a criminal action as a result of a prior order of recognizance, release under non-monetary conditions or bail and the court revokes such order and then [either], where authorized, fixes no bail or fixes bail in a greater amount or in a more burdensome form than was previously fixed and remands or commits defendant to the custody of the sheriff, or issues a more restrictive securing order, a judge designated in subdivision two of this section, upon application of the defendant following conviction of an offense other than a class A felony or a class B or class C felony offense as defined in article one hundred thirty of the penal law committed or attempted to be committed by a person eighteen years of age or older against a person less than eighteen years of age, and before sentencing, may issue a securing order and [either] release the defendant on [his] the defendant's own recognizance, release the defendant under non-monetary conditions, or, where authorized, fix bail[,] or fix bail in a lesser amount or in a less burdensome form, or issue a less restrictive securing order, than fixed by the court in which the conviction was entered.

§ 20. Section 530.60 of the criminal procedure law, subdivision 1 as amended by chapter 565 of the laws of 2011, subdivision 2 as added by chapter 788 of the laws of 1981 and paragraph (a) of subdivision 2 as amended by chapter 794 of the laws of 1986, is amended to read as follows:

§ 530.60 [Order of recognizance or bail; revocation thereof] Certain modifications of a securing order.

1. Whenever in the course of a criminal action or proceeding a defendant is at liberty as a result of an order of recognizance, release under non-monetary conditions or bail issued pursuant to this chapter, and the court considers it necessary to review such order, [it] whether due to a motion by the people or otherwise, the court may, and except as provided in subdivision two of section 510.50 of this title concerning a failure to appear in court, by a bench warrant if necessary, require the defendant to appear before the court. Upon such appearance, the court, for good cause shown, may revoke the order of recognizance, release under non-monetary conditions, or bail. If the defendant is entitled to recognizance, release under non-monetary conditions, or bail as a matter of right, the court must issue another such order. If [he or she] the defendant is not, the court may either issue such an order or commit the defendant to the custody of the sheriff in accordance with this section.

Where the defendant is committed to the custody of the sheriff and is held on a felony complaint, a new period as provided in section 180.80 of this chapter shall commence to run from the time of the defendant's commitment under this subdivision.

2. (a) Whenever in the course of a criminal action or proceeding a defendant charged with the commission of a felony is at liberty as a result of an order of recognizance, release under non-monetary conditions or bail issued pursuant to this article it shall be grounds for revoking such order that the court finds reasonable cause to believe the defendant committed one or more specified class A or violent felony offenses or intimidated a victim or witness in violation of [sections] section 215.15, 215.16 or 215.17 of the penal law while at liberty.

(b) Except as provided in paragraph (a) of this subdivision, whenever in the course of a criminal action or proceeding a defendant charged with the commission of an offense is at liberty as a result of an order of recognizance, release under non-monetary conditions or bail issued pursuant to this article it shall be grounds for revoking such order and fixing bail in such criminal action or proceeding when the court has found, by clear and convincing evidence, that the defendant:

(i) persistently willfully failed to appear after notice of scheduled appearances in the case before the court; or

(ii) violated an order of protection in the manner prohibited by subdivision (b), (c) or (d) of section 215.51 of the penal law while at liberty; or

(iii) stands charged in such criminal action or proceeding with a sex offense that would require registration as a sex offender pursuant to article six-C of the correction law and, after being so charged, committed another such sex offense while at liberty;

(iv) stands charged in such criminal action or proceeding with a misdemeanor or violation and, after being so charged, intimidated a victim or witness in violation of section 215.15, 215.16 or 215.17 of the penal law while at liberty; or

(v) stands charged in such action or proceeding with a felony and, after being so charged, committed a felony while at liberty.

(c) Before revoking an order of recognizance, release under non-monetary conditions, or bail pursuant to this subdivision, the court must hold a hearing and shall receive any relevant, admissible evidence not legally privileged. The defendant may cross-examine witnesses and may present relevant, admissible evidence on his own behalf. Such hearing may be consolidated with, and conducted at the same time as, a felony hearing conducted pursuant to article one hundred eighty of this chapter. A transcript of testimony taken before the grand jury upon presentation of the subsequent offense shall be admissible as evidence during the hearing. The district attorney may move to introduce grand jury testimony of a witness in lieu of that witness' appearance at the hearing.

[(b)] (d) Revocation of an order of recognizance, release under non-monetary conditions or bail and a new securing order fixing bail or commitment, as specified in this paragraph and pursuant to this subdivision shall be for the following periods[, either]:

(i) Under paragraph (a) of this subdivision, revocation of the order of recognizance, release under non-monetary conditions or, as the case may be, bail, and a new securing order fixing bail or committing the defendant to the custody of the sheriff shall be as follows:

[(i)] (A) For a period not to exceed ninety days exclusive of any periods of adjournment requested by the defendant; or

[(ii)] (B) Until the charges contained within the accusatory instrument have been reduced or dismissed such that no count remains which charges the defendant with commission of a felony; or

[(iii)] (C) Until reduction or dismissal of the charges contained within the accusatory instrument charging the subsequent offense such that no count remains which charges the defendant with commission of a class A or violent felony offense.

Upon expiration of any of the three periods specified within this [paragraph] subparagraph, whichever is shortest, the court may grant or deny release upon an order of bail or recognizance in accordance with the provisions of this article. Upon conviction to an offense the provisions of article five hundred thirty of this chapter shall apply[.]; and

[(c)] (ii) Under paragraph (b) of this subdivision, revocation of the order of recognizance, release under non-monetary conditions or, as the case may be, bail shall result in the issuance of a new securing order which may, if otherwise authorized by law, permit the principal's release on recognizance or release under non-monetary conditions, but shall also render the defendant eligible for an order fixing bail provided, however, that in accordance with the principles in this title the court must select the least restrictive alternative and condition or conditions that will reasonably assure the principal's return to court. Nothing in this subparagraph shall be interpreted as shortening the period of detention, or requiring or authorizing any less restrictive form of a securing order, which may be imposed pursuant to any other law.

(e) Notwithstanding the provisions of paragraph (a) or (b) of this subdivision a defendant, against whom a felony complaint has been filed which charges the defendant with commission of a class A or violent felony offense or violation of section 215.15, 215.16 or 215.17 of the penal law committed while he was at liberty as specified therein, may be committed to the custody of the sheriff pending a revocation hearing for a period not to exceed seventy-two hours. An additional period not to exceed seventy-two hours may be granted by the court upon application of

the district attorney upon a showing of good cause or where the failure to commence the hearing was due to the defendant's request or occurred with his consent. Such good cause must consist of some compelling fact or circumstance which precluded conducting the hearing within the initial prescribed period.

§ 21. Paragraph (a) of subdivision 9 of section 216.05 of the criminal procedure law, as amended by chapter 258 of the laws of 2015, is amended to read as follows:

(a) If at any time during the defendant's participation in the judicial diversion program, the court has reasonable grounds to believe that the defendant has violated a release condition in an important respect or has willfully failed to appear before the court as requested, the court except as provided in subdivision two of section 510.50 of this chapter regarding a failure to appear, shall direct the defendant to appear or issue a bench warrant to a police officer or an appropriate peace officer directing him or her to take the defendant into custody and bring the defendant before the court without unnecessary delay; provided, however, that under no circumstances shall a defendant who requires treatment for opioid abuse or dependence be deemed to have violated a release condition on the basis of his or her participation in medically prescribed drug treatments under the care of a health care professional licensed or certified under title eight of the education law, acting within his or her lawful scope of practice. The relevant provisions of [subdivision one of] section 530.60 of this chapter relating to [revocation of recognizance or bail] issuance of securing orders shall apply to such proceedings under this subdivision.

§ 22. The opening paragraph of section 240.44 of the criminal procedure law, as added by chapter 558 of the laws of 1982, is amended to read as follows:

Subject to a protective order, at a pre-trial hearing held in a criminal court at which a witness is called to testify, each party, [at the conclusion] prior to the commencement of the direct examination of each of its witnesses, shall, upon request of the other party, make available to that party to the extent not previously disclosed:

§ 23. Section 410.60 of the criminal procedure law, as amended by chapter 652 of the laws of 2008, is amended to read as follows:

§ 410.60 Appearance before court.

A person who has been taken into custody pursuant to section 410.40 or section 410.50 of this article for violation of a condition of a sentence of probation or a sentence of conditional discharge must forthwith be brought before the court that imposed the sentence. Where a violation of probation petition and report has been filed and the person has not been taken into custody nor has a warrant been issued, an initial court appearance shall occur within ten business days of the court's issuance of a notice to appear. If the court has reasonable cause to believe that such person has violated a condition of the sentence, it may commit [him] such person to the custody of the sheriff [or], fix bail, release such person under non-monetary conditions or release such person on [his] such person's own recognizance for future appearance at a hearing to be held in accordance with section 410.70 of this article. If the court does not have reasonable cause to believe that such person has violated a condition of the sentence, it must direct that [he] such person be released.

§ 24. Subdivision 3 of section 620.50 of the criminal procedure law is amended to read as follows:

3. A material witness order must be executed as follows:

(a) If the bail is posted and approved by the court, the witness must, as provided in subdivision [three] two of section 510.40, be released and be permitted to remain at liberty; provided that, where the bail is posted by a person other than the witness himself, he may not be so released except upon his signed written consent thereto;

(b) If the bail is not posted, or if though posted it is not approved by the court, the witness must, as provided in subdivision [three] two of section 510.40, be committed to the custody of the sheriff.

§ 25. This act shall take effect on the thirtieth day after it shall have become a law.

PART D

Section 1. Article 240 of the criminal procedure law is REPEALED.

§ 2. The criminal procedure law is amended by adding a new article 245 to read as follows:

ARTICLE 245
DISCOVERY

Section 245.10 Timing of discovery.
245.20 Automatic discovery.
245.25 Disclosure prior to guilty plea deadline.
245.30 Court orders for preservation, access or discovery.
245.35 Court ordered procedures to facilitate compliance.
245.40 Non-testimonial evidence from the defendant.
245.45 DNA comparison order.
245.50 Certificates of compliance.
245.55 Flow of information.
245.60 Continuing duty to disclose.
245.65 Work product.
245.70 Protective orders.
245.75 Waiver of discovery by defendant.
245.80 Remedies or sanctions for non-compliance.
245.85 Admissibility of discovery.

§ 245.10 Timing of discovery.

1. Prosecution's performance of obligations. (a) The prosecution shall perform its initial discovery obligations under subdivision one of section 245.20 of this article as soon as practicable but not later than fifteen calendar days after the defendant's arraignment on an indictment, superior court information, prosecutor's information, information, or simplified information. Portions of materials claimed to be non-discoverable may be withheld pending a determination and ruling of the court under section 245.70 of this article; but the defendant shall be notified in writing that information has not been disclosed under a particular subdivision of such section, and the discoverable portions of such materials shall be disclosed if practicable. When the discoverable materials are exceptionally voluminous, the time period in this paragraph may be stayed by up to an additional thirty calendar days without need for a motion pursuant to subdivision two of section 245.70 of this article.

(b) The prosecution shall perform its supplemental discovery obligations under subdivision three of section 245.20 of this article as soon as practicable but not later than fifteen calendar days before trial.

(c) Upon timely defense request, the prosecution shall disclose materials under paragraph (a) of subdivision one of section 245.20 of this article to any defendant who has been arraigned in a local criminal

court upon a currently undisposed of felony complaint charging an offense which is a subject of a prospective or pending grand jury proceeding, no later than forty-eight hours before the time scheduled for the defendant to testify at a grand jury proceeding pursuant to subdivision five of section 190.50 of this part.

2. Defendant's performance of obligations. The defendant shall perform his or her discovery obligations under subdivision four of section 245.20 of this article not later than thirty calendar days after being served with the prosecution's certificate of compliance pursuant to subdivision one of section 245.50 of this article, except that portions of materials claimed to be non-discoverable may be withheld pending a determination and ruling of the court under section 245.70 of this article; but the prosecution must be notified in writing that information has not been disclosed under a particular section.

§ 245.20 Automatic discovery.

1. Initial discovery for the defendant. The prosecution shall disclose to the defendant, and permit the defendant to discover, inspect, copy or photograph, each of the following items and information when it relates to the subject matter of the case and is in the possession, custody or control of the prosecution or persons under the prosecution's direction or control:

(a) All written or recorded statements, and the substance of all oral statements, made by the defendant or a co-defendant to a public servant engaged in law enforcement activity or to a person then acting under his or her direction or in cooperation with him or her, other than statements made in the course of the criminal transaction.

(b) All transcripts of the testimony of a person who has testified before a grand jury, including but not limited to the defendant or a co-defendant. If in the exercise of reasonable diligence, and due to the limited availability of transcription resources, a transcript is unavailable for disclosure within the time period specified in subdivision one of section 245.10 of this article, such time period may be stayed by up to an additional thirty calendar days without need for a motion pursuant to subdivision two of section 245.70 of this article; except that such disclosure shall be made as soon as practicable and not later than thirty calendar days before a scheduled trial date, unless an order is obtained pursuant to section 245.70 of this article. When the court is required to review grand jury transcripts, the prosecution shall disclose such transcripts to the court expeditiously upon receipt by the prosecutor, notwithstanding the otherwise-applicable time periods for disclosure in this article.

(c) The names of, and addresses or adequate alternative contact information for, all persons other than law enforcement personnel whom the prosecutor knows to have evidence or information relevant to any offense charged or to a potential defense thereto, including a designation by the prosecutor as to which of those persons may be called as witnesses. Information under this subdivision relating to a confidential informant may be withheld, and redacted from discovery materials, without need for a motion pursuant to section 245.70 of this article; but the defendant shall be notified in writing that such information has not been disclosed, unless the court rules otherwise for good cause shown.

(d) The name and work affiliation of all law enforcement personnel whom the prosecutor knows to have evidence or information relevant to any offense charged or to a potential defense thereto, including a designation by the prosecutor as to which of those persons may be called as witnesses. Information under this subdivision relating to undercover

personnel may be withheld, and redacted from discovery materials, without need for a motion pursuant to section 245.70 of this article; but the defendant shall be notified in writing that such information has not been disclosed, unless the court rules otherwise for good cause shown.

(e) All statements, written or recorded or summarized in any writing or recording, made by persons who have evidence or information relevant to any offense charged or to a potential defense thereto, including all police reports and law enforcement agency reports. This provision also includes statements, written or recorded or summarized in any writing or recording, by persons to be called as witnesses at pre-trial hearings.

(f) Expert opinion evidence, including the name, business address, current curriculum vitae, and a list of publications of each expert witness whom the prosecutor intends to call as a witness at trial or a pre-trial hearing, and all reports prepared by the expert that pertain to the case, or if no report is prepared, a written statement of the facts and opinions to which the expert is expected to testify and a summary of the grounds for each opinion. This paragraph does not alter or in any way affect the procedures, obligations or rights set forth in section 250.10 of this title. If in the exercise of reasonable diligence this information is unavailable for disclosure within the time period specified in subdivision one of section 245.10 of this article, that period shall be stayed without need for a motion pursuant to subdivision two of section 245.70 of this article; except that the disclosure shall be made as soon as practicable and not later than sixty calendar days before a scheduled trial date, unless an order is obtained pursuant to section 245.70 of this article. When the prosecution's expert witness is being called in response to disclosure of an expert witness by the defendant, the court shall alter a scheduled trial date, if necessary, to allow the prosecution thirty calendar days to make the disclosure and the defendant thirty calendar days to prepare and respond to the new materials.

(g) All tapes or other electronic recordings which the prosecution intends to introduce at trial or a pre-trial hearing.

(h) All photographs and drawings made or completed by a public servant engaged in law enforcement activity, or which were made by a person whom the prosecutor intends to call as a witness at trial or a pre-trial hearing, or which the prosecution intends to introduce at trial or a pre-trial hearing.

(i) All photographs, photocopies and reproductions made by or at the direction of law enforcement personnel of any property prior to its release pursuant to section 450.10 of the penal law.

(j) All reports, documents, data, calculations or writings, including but not limited to preliminary tests or screening results and bench notes, concerning physical or mental examinations, or scientific tests or experiments or comparisons, and analyses performed electronically, relating to the criminal action or proceeding which were made by or at the request or direction of a public servant engaged in law enforcement activity, or which were made by a person whom the prosecutor intends to call as a witness at trial or a pre-trial hearing, or which the prosecution intends to introduce at trial or a pre-trial hearing.

(k) All evidence and information, including that which is known to police or other law enforcement agencies acting on the government's behalf in the case, that tends to: (i) negate the defendant's guilt as to a charged offense; (ii) reduce the degree of or mitigate the defendant's culpability as to a charged offense; (iii) support a potential defense to a charged offense; (iv) impeach the credibility of a testi-

fying prosecution witness; (v) undermine evidence of the defendant's identity as a perpetrator of a charged offense; (vi) provide a basis for a motion to suppress evidence; or (vii) mitigate punishment. Information under this subdivision shall be disclosed whether or not such information is recorded in tangible form and irrespective of whether the prosecutor credits the information. The prosecutor shall disclose the information expeditiously upon its receipt and shall not delay disclosure if it is obtained earlier than the time period for disclosure in subdivision one of section 245.10 of this article.

(l) A summary of all promises, rewards and inducements made to, or in favor of, persons who may be called as witnesses, as well as requests for consideration by persons who may be called as witnesses and copies of all documents relevant to a promise, reward or inducement.

(m) A list of all tangible objects obtained from, or allegedly possessed by, the defendant or a co-defendant. The list shall include a designation by the prosecutor as to which objects were physically or constructively possessed by the defendant and were recovered during a search or seizure by a public servant or an agent thereof, and which tangible objects were recovered by a public servant or an agent thereof after allegedly being abandoned by the defendant. If the prosecution intends to prove the defendant's possession of any tangible objects by means of a statutory presumption of possession, it shall designate such intention as to each such object. If reasonably practicable, the prosecution shall also designate the location from which each tangible object was recovered. There is also a right to inspect or copy or photograph the listed tangible objects.

(n) Whether a search warrant has been executed and all documents relating thereto, including but not limited to the warrant, the warrant application, supporting affidavits, a police inventory of all property seized under the warrant, and a transcript of all testimony or other oral communications offered in support of the warrant application.

(o) All tangible property that the prosecution intends to introduce in its case-in-chief at trial or a pre-trial hearing. If in the exercise of reasonable diligence the prosecutor has not formed an intention within the time period specified in subdivision one of section 245.10 of this article that an item under this subdivision will be introduced at trial or a pre-trial hearing, such time period shall be stayed without need for a motion pursuant to subdivision two of section 245.70 of this article; but the disclosure shall be made as soon as practicable and subject to the continuing duty to disclose in section 245.60 of this article.

(p) The results of complete criminal history record checks for all defendants and all persons designated as potential prosecution witnesses pursuant to paragraph (c) of this subdivision, other than those witnesses who are experts.

(q) When it is known to the prosecution, the existence of any pending criminal action against all persons designated as potential prosecution witnesses pursuant to paragraph (c) of this subdivision.

(r) The approximate date, time and place of the offense or offenses charged and of the defendant's seizure and arrest.

(s) In any prosecution alleging a violation of the vehicle and traffic law, where the defendant is charged by indictment, superior court information, prosecutor's information, information, or simplified information, the most recent record of inspection, calibration and repair of machines and instruments utilized to perform any scientific tests and experiments and the certification certificate, if any, held by the oper-

ator of the machine or instrument, and all other disclosures required under this article.

(t) In any prosecution alleging a violation of section 156.05 or 156.10 of the penal law, the time, place and manner such violation occurred.

2. Discovery by the prosecution. The prosecutor shall make a diligent, good faith effort to ascertain the existence of material or information discoverable under subdivision one of this section and to cause such material or information to be made available for discovery where it exists but is not within the prosecutor's possession, custody or control; provided that the prosecutor shall not be required to obtain by subpoena duces tecum material or information which the defendant may thereby obtain. This provision shall not require the prosecutor to ascertain the existence of witnesses not known to police or another law enforcement agency, or the written or recorded statements thereof, under paragraph (c) or (e) of subdivision one of this section.

3. Supplemental discovery for the defendant. The prosecution shall disclose to the defendant a list of all misconduct and criminal acts of the defendant not charged in the indictment, superior court information, prosecutor's information, information, or simplified information, which the prosecution intends to use at trial for purposes of (a) impeaching the credibility of the defendant, or (b) as substantive proof of any material issue in the case. In addition the prosecution shall designate whether it intends to use each listed act for impeachment and/or as substantive proof.

4. Reciprocal discovery for the prosecution. (a) The defendant shall, subject to constitutional limitations, disclose to the prosecution, and permit the prosecution to discover, inspect, copy or photograph, any material and relevant evidence within the defendant's or counsel for the defendant's possession or control that is discoverable under paragraphs (f), (g), (h), (j), (l) and (o) of subdivision one of this section, which the defendant intends to offer at trial or a pre-trial hearing, and the names, addresses, birth dates, and all statements, written or recorded or summarized in any writing or recording, of those persons other than the defendant whom the defendant intends to call as witnesses at trial or a pre-trial hearing.

(b) Disclosure of the name, address, birth date, and all statements, written or recorded or summarized in any writing or recording, of a person whom the defendant intends to call as a witness for the sole purpose of impeaching a prosecution witness is not required until after the prosecution witness has testified at trial.

(c) If in the exercise of reasonable diligence the reciprocally discoverable information under paragraph (f) or (o) of subdivision one of this section is unavailable for disclosure within the time period specified in subdivision two of section 245.10 of this article, such time period shall be stayed without need for a motion pursuant to subdivision two of section 245.70 of this article; but the disclosure shall be made as soon as practicable and subject to the continuing duty to disclose in section 245.60 of this article.

5. Stay of automatic discovery; remedies and sanctions. Section 245.10 and subdivisions one, two, three and four of this section shall have the force and effect of a court order, and failure to provide discovery pursuant to such section or subdivision may result in application of any remedies or sanctions permitted for non-compliance with a court order under section 245.80 of this article. However, if in the judgment of either party good cause exists for declining to make any of the disclo-

sures set forth above, such party may move for a protective order pursuant to section 245.70 of this article and production of the item shall be stayed pending a ruling by the court. The opposing party shall be notified in writing that information has not been disclosed under a particular section. When some parts of material or information are discoverable but in the judgment of a party good cause exists for declining to disclose other parts, the discoverable parts shall be disclosed and the disclosing party shall give notice in writing that non-discoverable parts have been withheld.

6. Redactions permitted. Either party may redact social security numbers and tax numbers from disclosures under this article.

§ 245.25 Disclosure prior to guilty plea deadline.

1. Pre-indictment guilty pleas. Upon a felony complaint, where the prosecution has made a pre-indictment guilty plea offer requiring a plea to a crime, the defendant shall have the right upon timely request and reasonable notice to the prosecution to inspect any available police or other law enforcement agency report of a factual nature regarding the arrest or investigation of the charges, and/or any designated and available items or information that could be of material importance to the decision on the guilty plea offer and would be discoverable prior to trial under subdivision one of section 245.20 of this article. The prosecution shall disclose the requested and designated items or information, as well as any known information that tends to be exculpatory or to support a defense to a charged offense, not less than three calendar days prior to the expiration date of any guilty plea offer by the prosecution or any deadline imposed by the court for acceptance of a negotiated guilty plea offer. If the prosecution does not comply with a proper request made pursuant to this subdivision, the court may take appropriate action as necessary to address the non-compliance, including allowing a guilty plea to the original guilty plea offer notwithstanding other provisions of this chapter. The inspection rights under this subdivision do not apply to items or information that are the subject of a protective order under section 245.70 of this article; but if such information tends to be exculpatory, the court shall reconsider the protective order. The court may deny an inspection right under this subdivision when a reasonable person in the defendant's position would not consider the requested and designated item or information to be of material importance to the decision on the guilty plea offer. A defendant may waive his or her rights under this subdivision; but a guilty plea offer may not be conditioned on such waiver.

2. Other guilty pleas. Upon an indictment, superior court information, prosecutor's information, information, simplified information, or misdemeanor complaint, where the prosecution has made a guilty plea offer requiring a plea to a crime, the defendant shall have the right upon timely request and reasonable notice to the prosecution to inspect any available police or other law enforcement agency report of a factual nature regarding the arrest or investigation of the charges, and/or any designated and available items or information that could be of material importance to the decision on the guilty plea offer and would be discoverable prior to trial under subdivision one of section 245.20 of this article. The prosecution shall disclose the requested and designated items or information, as well as any known information that tends to be exculpatory or to support a defense to a charged offense, not less than seven calendar days prior to the expiration date of any guilty plea offer by the prosecution or any deadline imposed by the court for a guilty plea. If the prosecution does not comply with a proper request

made pursuant to this subdivision, the guilty plea offer may be deemed available to the defendant until seven calendar days after the prosecution has made the disclosure or the court may take other appropriate action as necessary to address the non-compliance. The inspection rights under this subdivision do not apply to items or information that are the subject of a protective order under section 245.70 of this article; but if such information tends to be exculpatory, the court shall reconsider the protective order. The court may deny an inspection right under this subdivision when a reasonable person in the defendant's position would not consider the requested and designated item or information to be of material importance to the decision on the guilty plea offer. A defendant may waive his or her rights under this subdivision, but a guilty plea offer may not be conditioned on such waiver.

§ 245.30 Court orders for preservation, access or discovery.

1. Order to preserve evidence. At any time, a party may move for a court order to any individual, agency or other entity in possession, custody or control of items which relate to the subject matter of the case or are otherwise relevant, requiring that such items be preserved for a specified period of time. The court shall hear and rule upon such motions expeditiously. The court may modify or vacate such an order upon a showing that preservation of particular evidence will create significant hardship, on condition that the probative value of that evidence is preserved by a specified alternative means.

2. Order to grant access to premises. At any time, the defendant may move for a court order to any individual, agency or other entity in possession, custody or control of a crime scene or other premises that relates to the subject matter of the case or is otherwise relevant, requiring that counsel for the defendant be granted prompt and reasonable access to inspect, photograph or measure such crime scene or premises, and that the condition of the crime scene or premises remain unchanged in the interim. The court shall hear and rule upon such motions expeditiously. The court may modify or vacate such an order upon a showing that granting access to a particular crime scene or premises will create significant hardship, on condition that the probative value of such location is preserved by a specified alternative means.

3. Discretionary discovery by order of the court. The court in its discretion may, upon a showing by the defendant that the request is reasonable and that the defendant is unable without undue hardship to obtain the substantial equivalent by other means, order the prosecution, or any individual, agency or other entity subject to the jurisdiction of the court, to make available for disclosure to the defendant any material or information which potentially relates to the subject matter of the case and is reasonably likely to be material. A motion under this subdivision must be on notice to any person or entity affected by the order. The court may, upon request of any person or entity affected by the order, modify or vacate the order if compliance would be unreasonable or will create significant hardship. The court may permit a party seeking or opposing a discretionary order of discovery under this subdivision, or another affected person or entity, to submit papers or testify on the record ex parte or in camera. Any such papers and a transcript of such testimony may be sealed and shall constitute a part of the record on appeal.

§ 245.35 Court ordered procedures to facilitate compliance.

To facilitate compliance with this article, and to reduce or streamline litigation of any disputes about discovery, the court in its discretion may issue an order:

1. Requiring that the prosecutor and counsel for the defendant diligently confer to attempt to reach an accommodation as to any dispute concerning discovery prior to seeking a ruling from the court;

2. Requiring a discovery compliance conference at a specified time prior to trial between the prosecutor, counsel for all defendants, and the court or its staff;

3. Requiring the prosecution to file an additional certificate of compliance that states that the prosecutor and/or an appropriate named agent has made reasonable inquiries of all police officers and other persons who have participated in investigating or evaluating the case about the existence of any favorable evidence or information within paragraph (k) of subdivision one of section 245.20 of this article, including such evidence or information that was not reduced to writing or otherwise memorialized or preserved as evidence, and has disclosed any such information to the defendant; and/or

4. Requiring other measures or proceedings designed to carry into effect the goals of this article.

§ 245.40 Non-testimonial evidence from the defendant.

1. Availability. After the filing of an accusatory instrument, and subject to constitutional limitations, the court may, upon motion of the prosecution showing probable cause to believe the defendant has committed the crime, a clear indication that relevant material evidence will be found, and that the method used to secure such evidence is safe and reliable, require a defendant to provide non-testimonial evidence, including to:

(a) Appear in a lineup;

(b) Speak for identification by a witness or potential witness;

(c) Be fingerprinted;

(d) Pose for photographs not involving reenactment of an event;

(e) Permit the taking of samples of the defendant's blood, hair, and other materials of the defendant's body that involves no unreasonable intrusion thereof;

(f) Provide specimens of the defendant's handwriting; and

(g) Submit to a reasonable physical or medical inspection of the defendant's body.

2. Limitations. This section shall not be construed to alter or in any way affect the issuance of a similar court order, as may be authorized by law, before the filing of an accusatory instrument, consistent with such rights as the defendant may derive from the state constitution or the United States constitution. This section shall not be construed to alter or in any way affect the administration of a chemical test where otherwise authorized. An order pursuant to this section may be denied, limited or conditioned as provided in section 245.70 of this article.

§ 245.45 DNA comparison order.

Where property in the prosecution's possession, custody, or control consists of a deoxyribonucleic acid ("DNA") profile obtained from probative biological material gathered in connection with the investigation of the crime, or the defendant, or the prosecution of the defendant, and the defendant establishes (a) that such profile complies with federal bureau of investigation or state requirements, whichever are applicable and as such requirements are applied to law enforcement agencies seeking a keyboard search or similar comparison, and (b) that the data meets state DNA index system or national DNA index system criteria as such criteria are applied to law enforcement agencies seeking such a keyboard search or similar comparison, the court may, upon motion of a defendant against whom an indictment, superior court information,

prosecutor's information, information, or simplified information is pending, order an entity that has access to the combined DNA index system or its successor system to compare such DNA profile against DNA databanks by keyboard searches, or a similar method that does not involve uploading, upon notice to both parties and the entity required to perform the search, upon a showing by the defendant that such a comparison is material to the presentation of his or her defense and that the request is reasonable. For purposes of this section, a "keyboard search" shall mean a search of a DNA profile against the databank in which the profile that is searched is not uploaded to or maintained in the databank.

§ 245.50 Certificates of compliance.

1. By the prosecution. When the prosecution has provided the discovery required by subdivision one of section 245.20 of this article, except for any items or information that are the subject of an order pursuant to section 245.70 of this article, it shall serve upon the defendant and file with the court a certificate of compliance. The certificate of compliance shall state that, after exercising due diligence and making reasonable inquiries to ascertain the existence of material and information subject to discovery, the prosecutor has disclosed and made available all known material and information subject to discovery. It shall also identify the items provided. If additional discovery is subsequently provided prior to trial pursuant to section 245.60 of this article, a supplemental certificate shall be served upon the defendant and filed with the court identifying the additional material and information provided. No adverse consequence to the prosecution or the prosecutor shall result from the filing of a certificate of compliance in good faith; but the court may grant a remedy or sanction for a discovery violation as provided in section 245.80 of this article.

2. By the defendant. When the defendant has provided all discovery required by subdivision four of section 245.20 of this article, except for any items or information that are the subject of an order pursuant to section 245.70 of this article, counsel for the defendant shall serve upon the prosecution and file with the court a certificate of compliance. The certificate shall state that, after exercising due diligence and making reasonable inquiries to ascertain the existence of material and information subject to discovery, counsel for the defendant has disclosed and made available all known material and information subject to discovery. It shall also identify the items provided. If additional discovery is subsequently provided prior to trial pursuant to section 245.60 of this article, a supplemental certificate shall be served upon the prosecution and filed with the court identifying the additional material and information provided. No adverse consequence to the defendant or counsel for the defendant shall result from the filing of a certificate of compliance in good faith; but the court may grant a remedy or sanction for a discovery violation as provided in section 245.80 of this article.

§ 245.55 Flow of information.

1. Sufficient communication for compliance. The district attorney and the assistant responsible for the case, or, if the matter is not being prosecuted by the district attorney, the prosecuting agency and its assigned representative, shall endeavor to ensure that a flow of information is maintained between the police and other investigative personnel and his or her office sufficient to place within his or her possession or control all material and information pertinent to the defendant and the offense or offenses charged, including, but not limit-

ed to, any evidence or information discoverable under paragraph (k) of subdivision one of section 245.20 of this article.

2. Provision of law enforcement agency files. Absent a court order or clear security requirement, upon request by the prosecution, a New York state law enforcement agency shall make available to the prosecution a complete copy of its complete files related to the investigation of the case or the prosecution of the defendant for compliance with this article.

3. 911 telephone call and police radio transmission electronic recordings, police worn body camera recordings and other police recordings. (a) Whenever an electronic recording of a 911 telephone call or a police radio transmission or video or audio footage from a police body-worn camera or other police recording was made or received in connection with the investigation of an apparent criminal incident, the arresting officer or lead detective shall expeditiously notify the prosecution in writing upon the filing of an accusatory instrument of the existence of all such known recordings. The prosecution shall expeditiously take whatever reasonable steps are necessary to ensure that all known electronic recordings of 911 telephone calls, police radio transmissions and video and audio footage and other police recordings made or available in connection with the case are preserved throughout the pendency of the case. Upon the defendant's timely request and designation of a specific electronic recording of a 911 telephone call, the prosecution shall also expeditiously take whatever reasonable steps are necessary to ensure that it is preserved throughout the pendency of the case.

(b) If the prosecution fails to disclose such an electronic recording to the defendant pursuant to paragraph (e), (g) or (k) of subdivision one of section 245.20 of this article due to a failure to comply with this obligation by police officers or other law enforcement or prosecution personnel, the court upon motion of the defendant shall impose an appropriate remedy or sanction pursuant to section 245.80 of this article.

§ 245.60 Continuing duty to disclose.

If either the prosecution or the defendant subsequently learns of additional material or information which it would have been under a duty to disclose pursuant to any provisions of this article at the time of a previous discovery obligation or discovery order, it shall expeditiously notify the other party and disclose the additional material or information as required for initial discovery under this article. This provision also requires expeditious disclosure by the prosecution of material or information that became relevant to the case or discoverable based upon reciprocal discovery received from the defendant pursuant to subdivision four of section 245.20 of this article.

§ 245.65 Work product.

This article does not authorize discovery by a party of those portions of records, reports, correspondence, memoranda, or internal documents of the adverse party which are only the legal research, opinions, theories or conclusions of the adverse party or its attorney or the attorney's agents, or of statements of a defendant, written or recorded or summarized in any writing or recording, made to the attorney for the defendant or the attorney's agents.

§ 245.70 Protective orders.

1. Any discovery subject to protective order. Upon a showing of good cause by either party, the court may at any time order that discovery or inspection of any kind of material or information under this article be

denied, restricted, conditioned or deferred, or make such other order as is appropriate. The court may impose as a condition on discovery to a defendant that the material or information to be discovered be available only to counsel for the defendant; or, alternatively, that counsel for the defendant, and persons employed by the attorney or appointed by the court to assist in the preparation of a defendant's case, may not disclose physical copies of the discoverable documents to a defendant or to anyone else, provided that the prosecution affords the defendant access to inspect redacted copies of the discoverable documents at a supervised location that provides regular and reasonable hours for such access, such as a prosecutor's office, police station, facility of detention, or court. The court may permit a party seeking or opposing a protective order under this section, or another affected person, to submit papers or testify on the record ex parte or in camera. Any such papers and a transcript of such testimony may be sealed and shall constitute a part of the record on appeal. This section does not alter the allocation of the burden of proof with regard to matters at issue, including privilege.

2. Modification of time periods for discovery. Upon motion of a party in an individual case, the court may alter the time periods for discovery imposed by this article upon a showing of good cause.

3. Prompt hearing. Upon request for a protective order, the court shall conduct an appropriate hearing within three business days to determine whether good cause has been shown and when practicable shall render decision expeditiously. Any materials submitted and a transcript of the proceeding may be sealed and shall constitute a part of the record on appeal.

4. Showing of good cause. Good cause under this section may include: constitutional rights or limitations; danger to the integrity of physical evidence; a substantial risk of physical harm, intimidation, economic reprisal, bribery or unjustified annoyance or embarrassment to any person; a substantial risk of an adverse effect upon the legitimate needs of law enforcement, including the protection of the confidentiality of informants; danger to any person stemming from factors such as a defendant's gang affiliation, prior history of interfering with witnesses, or threats or intimidating actions directed at potential witnesses; or other similar factors that also outweigh the usefulness of the discovery.

5. Successor counsel or pro se defendant. In cases in which the attorney-client relationship is terminated prior to trial for any reason, any material or information disclosed subject to a condition that it be available only to counsel for the defendant, or limited in dissemination by protective order or otherwise, shall be provided only to successor counsel for the defendant under the same condition or conditions or be returned to the prosecution, unless the court rules otherwise for good cause shown or the prosecutor gives written consent. Any work product derived from such material or information shall not be provided to the defendant, unless the court rules otherwise or the prosecutor gives written consent. If the defendant is acting as his or her own attorney, the court may regulate the time, place and manner of access to any discoverable material or information; and it may as appropriate appoint persons to assist the defendant in the investigation or preparation of the case. Upon motion or application of a defendant acting as his or her own attorney, the court may at any time modify or vacate any condition or restriction relating to access to discoverable material or information, for good cause shown.

6. Expedited review of adverse ruling. (a) A party that has unsuccessfully sought, or unsuccessfully opposed the granting of, a protective order under this section relating to the name, address, contact information or statements of a person may obtain expedited review of that ruling by an individual justice of the intermediate appellate court to which an appeal from a judgment of conviction in the case would be taken.

(b) Such review shall be sought within two business days of the adverse or partially adverse ruling, by order to show cause filed with the intermediate appellate court. The order to show cause shall in addition be timely served on the lower court and on the opposing party, and shall be accompanied by a sworn affirmation stating in good faith (i) that the ruling affects substantial interests, and (ii) that diligent efforts to reach an accommodation of the underlying discovery dispute with opposing counsel failed or that no accommodation was feasible; except that service on the opposing party, and a statement regarding efforts to reach an accommodation, are unnecessary where the opposing party was not made aware of the application for a protective order and good cause exists for omitting service of the order to show cause on the opposing party. The lower court's order subject to review shall be stayed until the appellate justice renders decision.

(c) The assignment of the individual appellate justice, and the mode of and procedure for the review, are determined by rules of the individual appellate courts. The appellate justice may consider any relevant and reliable information bearing on the issue, and may dispense with written briefs other than supporting and opposing materials previously submitted to the lower court. The appellate justice may dispense with the issuance of a written opinion in rendering his or her decision, and when practicable shall render decision expeditiously. Such review and decision shall not affect the right of a defendant, in a subsequent appeal from a judgment of conviction, to claim as error the ruling reviewed.

7. Compliance with protective order. Any protective order issued under this article is a mandate of the court for purposes of the offense of criminal contempt in subdivision three of section 215.50 of the penal law.

§ 245.75 Waiver of discovery by defendant.

A defendant who does not seek discovery from the prosecution under this article shall so notify the prosecution and the court at the defendant's arraignment on an indictment, superior court information, prosecutor's information, information, or simplified information, or expeditiously thereafter but before receiving discovery from the prosecution pursuant to subdivision one of section 245.20 of this article, and the defendant need not provide discovery to the prosecution pursuant to subdivision four of section 245.20 and section 245.60 of this article. A waiver shall be in writing and signed by the defendant and counsel for the defendant. Such a waiver does not alter or in any way affect the procedures, obligations or rights set forth in sections 250.10, 250.20 and 250.30 of this title, or otherwise established or required by law. The prosecution may not condition a guilty plea offer on the defendant's execution of a waiver under this section.

§ 245.80 Remedies or sanctions for non-compliance.

1. Need for remedy or sanction. (a) When material or information is discoverable under this article but is disclosed belatedly, the court shall impose an appropriate remedy or sanction if the party entitled to disclosure shows that it was prejudiced. Regardless of a showing of

prejudice the party entitled to disclosure shall be given reasonable time to prepare and respond to the new material.

(b) When material or information is discoverable under this article but cannot be disclosed because it has been lost or destroyed, the court shall impose an appropriate remedy or sanction if the party entitled to disclosure shows that the lost or destroyed material may have contained some information relevant to a contested issue. The appropriate remedy or sanction is that which is proportionate to the potential ways in which the lost or destroyed material reasonably could have been helpful to the party entitled to disclosure.

2. Available remedies or sanctions. For failure to comply with any discovery order imposed or issued pursuant to this article, the court may make a further order for discovery, grant a continuance, order that a hearing be reopened, order that a witness be called or recalled, instruct the jury that it may draw an adverse inference regarding the non-compliance, preclude or strike a witness's testimony or a portion of a witness's testimony, admit or exclude evidence, order a mistrial, order the dismissal of all or some of the charges, or make such other order as it deems just under the circumstances; except that any sanction against the defendant shall comport with the defendant's constitutional right to present a defense, and precluding a defense witness from testifying shall be permissible only upon a finding that the defendant's failure to comply with the discovery obligation or order was willful and motivated by a desire to obtain a tactical advantage.

3. Consequences of non-disclosure of statement of testifying prosecution witness. The failure of the prosecutor or any agent of the prosecutor to disclose any written or recorded statement made by a prosecution witness which relates to the subject matter of the witness's testimony shall not constitute grounds for any court to order a new pre-trial hearing or set aside a conviction, or reverse, modify or vacate a judgment of conviction, in the absence of a showing by the defendant that there is a reasonable possibility that the non-disclosure materially contributed to the result of the trial or other proceeding; provided, however, that nothing in this section shall affect or limit any right the defendant may have to a reopened pre-trial hearing when such statements were disclosed before the close of evidence at trial.

§ 245.85 Admissibility of discovery.

The fact that a party has indicated during the discovery process an intention to offer specified evidence or to call a specified witness is not admissible in evidence or grounds for adverse comment at a hearing or a trial.

§ 3. Subdivision 3 of section 610.20 of the criminal procedure law is amended and a new subdivision 4 is added to read as follows:

3. An attorney for a defendant in a criminal action or proceeding, as an officer of a criminal court, may issue a subpoena of such court, subscribed by himself, for the attendance in such court of any witness whom the defendant is entitled to call in such action or proceeding. An attorney for a defendant may not issue a subpoena duces tecum of the court directed to any department, bureau or agency of the state or of a political subdivision thereof, or to any officer or representative thereof, unless the subpoena is endorsed by the court and provides at least three days for the production of the requested materials. In the case of an emergency, the court may by order dispense with the three-day production period. Such a subpoena duces tecum may be issued in behalf of a defendant upon order of a court pursuant to the rules applicable to

civil cases as provided in section twenty-three hundred seven of the civil practice law and rules.

4. The showing required to sustain any subpoena under this section is that the testimony or evidence sought is reasonably likely to be relevant and material to the proceedings, and the subpoena is not overbroad or unreasonably burdensome.

§ 4. Section 65.20 of the criminal procedure law, as added by chapter 505 of the laws of 1985, subdivision 2 as added, the opening paragraph of subdivision 10 as amended and subdivisions 3, 4, 5, 6, 7, 8, 9, 10, 11, 12 and 13 as renumbered by chapter 548 of the laws of 2007, subdivision 7 and paragraph (k) of subdivision 10 as amended by chapter 320 of the laws of 2006 and subdivisions 11 and 12 as amended by chapter 455 of the laws of 1991, is amended to read as follows:

§ 65.20 Closed-circuit television; procedure for application and grounds for determination.

1. Prior to the commencement of a criminal proceeding; other than a grand jury proceeding, either party may apply to the court for an order declaring that a child witness is vulnerable.

2. A child witness should be declared vulnerable when the court, in accordance with the provisions of this section, determines by clear and convincing evidence that the child witness would suffer serious mental or emotional harm that would substantially impair the child witness' ability to communicate with the finder of fact without the use of live, two-way closed-circuit television.

3. A motion pursuant to subdivision one of this section must be made in writing at least eight days before the commencement of trial or other criminal proceeding upon reasonable notice to the other party and with an opportunity to be heard.

4. The motion papers must state the basis for the motion and must contain sworn allegations of fact which, if true, would support a determination by the court that the child witness is vulnerable. Such allegations may be based upon the personal knowledge of the deponent or upon information and belief, provided that, in the latter event, the sources of such information and the grounds for such belief are stated.

5. The answering papers may admit or deny any of the alleged facts and may, in addition, contain sworn allegations of fact relevant to the motion, including the rights of the defendant, the need to protect the child witness and the integrity of the truth-finding function of the trier of fact.

6. Unless all material facts alleged in support of the motion made pursuant to subdivision one of this section are conceded, the court shall, in addition to examining the papers and hearing oral argument, conduct an appropriate hearing for the purpose of making findings of fact essential to the determination of the motion. Except as provided in subdivision [six] seven of this section, it may subpoena or call and examine witnesses, who must either testify under oath or be permitted to give unsworn testimony pursuant to subdivision two of section 60.20 and must authorize the attorneys for the parties to do the same.

7. Notwithstanding any other provision of law, the child witness who is alleged to be vulnerable may not be compelled to testify at such hearing or to submit to any psychological or psychiatric examination. The failure of the child witness to testify at such hearing shall not be a ground for denying a motion made pursuant to subdivision one of this section. Prior statements made by the child witness relating to any allegations of conduct constituting an offense defined in article one hundred thirty of the penal law or incest as defined in section 255.25,

255.26 or 255.27 of such law or to any allegation of words or conduct constituting an attempt to prevent, impede or deter the child witness from cooperating in the investigation or prosecution of the offense shall be admissible at such hearing, provided, however, that a declaration that a child witness is vulnerable may not be based solely upon such prior statements.

8. (a) Notwithstanding any of the provisions of article forty-five of the civil practice law and rules, any physician, psychologist, nurse or social worker who has treated a child witness may testify at a hearing conducted pursuant to subdivision [five] six of this section concerning the treatment of such child witness as such treatment relates to the issue presented at the hearing, provided that any otherwise applicable statutory privileges concerning communications between the child witness and such physician, psychologist, nurse or social worker in connection with such treatment shall not be deemed waived by such testimony alone, except to the limited extent of permitting the court alone to examine in camera reports, records or documents, if any, prepared by such physician, psychologist, nurse or social worker. If upon such examination the court determines that such reports, records or documents, or any one or portion thereof, contain information material and relevant to the issue of whether the child witness is a vulnerable child witness, the court shall disclose such information to both the attorney for the defendant and the district attorney.

(b) At any time after a motion has been made pursuant to subdivision one of this section, upon the demand of the other party the moving party must furnish the demanding party with a copy of any and all of such records, reports or other documents in the possession of such other party and must, in addition, supply the court with a copy of all such reports, records or other documents which are the subject of the demand. At any time after a demand has been made pursuant to this paragraph, the moving party may demand that property of the same kind or character in possession of the party that originally made such demand be furnished to the moving party and, if so furnished, be supplied, in addition, to the court.

9. (a) Prior to the commencement of the hearing conducted pursuant to subdivision [five] six of this section, the district attorney shall, subject to a protective order, comply with the provisions of paragraph (c) of subdivision one of section [240.45] 245.20 of this chapter as they concern any witness whom the district attorney intends to call at the hearing and the child witness.

(b) Before a defendant calls a witness at such hearing, he or she must, subject to a protective order, comply with the provisions of subdivision [two] four of section [240.45] 245.20 of this chapter as they concern all the witnesses the defendant intends to call at such hearing.

10. The court may consider, in determining whether there are factors which would cause the child witness to suffer serious mental or emotional harm, a finding that any one or more of the following circumstances have been established by clear and convincing evidence:

(a) The manner of the commission of the offense of which the defendant is accused was particularly heinous or was characterized by aggravating circumstances.

(b) The child witness is particularly young or otherwise particularly subject to psychological harm on account of a physical or mental condition which existed before the alleged commission of the offense.

(c) At the time of the alleged offense, the defendant occupied a position of authority with respect to the child witness.

(d) The offense or offenses charged were part of an ongoing course of conduct committed by the defendant against the child witness over an extended period of time.

(e) A deadly weapon or dangerous instrument was allegedly used during the commission of the crime.

(f) The defendant has inflicted serious physical injury upon the child witness.

(g) A threat, express or implied, of physical violence to the child witness or a third person if the child witness were to report the incident to any person or communicate information to or cooperate with a court, grand jury, prosecutor, police officer or peace officer concerning the incident has been made by or on behalf of the defendant.

(h) A threat, express or implied, of the incarceration of a parent or guardian of the child witness, the removal of the child witness from the family or the dissolution of the family of the child witness if the child witness were to report the incident to any person or communicate information to or cooperate with a court, grand jury, prosecutor, police officer or peace officer concerning the incident has been made by or on behalf of the defendant.

(i) A witness other than the child witness has received a threat of physical violence directed at such witness or to a third person by or on behalf of the defendant.

(j) The defendant, at the time of the inquiry, (i) is living in the same household with the child witness, (ii) has ready access to the child witness or (iii) is providing substantial financial support for the child witness.

(k) The child witness has previously been the victim of an offense defined in article one hundred thirty of the penal law or incest as defined in section 255.25, 255.26 or 255.27 of such law.

(l) According to expert testimony, the child witness would be particularly [suceptible] susceptible to psychological harm if required to testify in open court or in the physical presence of the defendant.

11. Irrespective of whether a motion was made pursuant to subdivision one of this section, the court, at the request of either party or on its own motion, may decide that a child witness may be vulnerable based on its own observations that a child witness who has been called to testify at a criminal proceeding is suffering severe mental or emotional harm and therefore is physically or mentally unable to testify or to continue to testify in open court or in the physical presence of the defendant and that the use of live, two-way closed-circuit television is necessary to enable the child witness to testify. If the court so decides, it must conduct the same hearing that subdivision [five] six of this section requires when a motion is made pursuant to subdivision one of this section, and it must make findings of fact pursuant to subdivisions [nine] ten and [eleven] twelve of this section, before determining that the child witness is vulnerable.

12. In deciding whether a child witness is vulnerable, the court shall make findings of fact which reflect the causal relationship between the existence of any one or more of the factors set forth in subdivision [nine] ten of this section or other relevant factors which the court finds are established and the determination that the child witness is vulnerable. If the court is satisfied that the child witness is vulnerable and that, under the facts and circumstances of the particular case, the defendant's constitutional rights to an impartial jury or of

confrontation will not be impaired, it may enter an order granting the application for the use of live, two-way closed-circuit television.

13. When the court has determined that a child witness is a vulnerable child witness, it shall make a specific finding as to whether placing the defendant and the child witness in the same room during the testimony of the child witness will contribute to the likelihood that the child witness will suffer severe mental or emotional harm. If the court finds that placing the defendant and the child witness in the same room during the testimony of the child witness will contribute to the likelihood that the child witness will suffer severe mental or emotional harm, the order entered pursuant to subdivision [eleven] twelve of this section shall direct that the defendant remain in the courtroom during the testimony of the vulnerable child witness.

§ 5. Subdivision 5 of section 200.95 of the criminal procedure law, as added by chapter 558 of the laws of 1982, is amended to read as follows:

5. Court ordered bill of particulars. Where a prosecutor has timely served a written refusal pursuant to subdivision four of this section and upon motion, made in writing, of a defendant, who has made a request for a bill of particulars and whose request has not been complied with in whole or in part, the court must, to the extent a protective order is not warranted, order the prosecutor to comply with the request if it is satisfied that the items of factual information requested are authorized to be included in a bill of particulars, and that such information is necessary to enable the defendant adequately to prepare or conduct his defense and, if the request was untimely, a finding of good cause for the delay. Where a prosecutor has not timely served a written refusal pursuant to subdivision four of this section the court must, unless it is satisfied that the people have shown good cause why such an order should not be issued, issue an order requiring the prosecutor to comply or providing for any other order authorized by [subdivision one of section 240.70] section 245.80 of this part.

§ 6. Paragraph (c) of subdivision 1 of section 255.10 of the criminal procedure law, as added by chapter 763 of the laws of 1974, is amended to read as follows:

(c) granting discovery pursuant to article [240] 245; or

§ 7. Subdivision 1 of section 255.20 of the Criminal procedure law, as amended by chapter 369 of the laws of 1982, is amended to read as follows:

1. Except as otherwise expressly provided by law, whether the defendant is represented by counsel or elects to proceed pro se, all pre-trial motions shall be served or filed within forty-five days after arraignment and before commencement of trial, or within such additional time as the court may fix upon application of the defendant made prior to entry of judgment. In an action in which either (a) material or information has been disclosed pursuant to paragraph (m) or (n) of subdivision one of section 245.20, (b) an eavesdropping warrant and application have been furnished pursuant to section 700.70, or (c) a notice of intention to introduce evidence has been served pursuant to section 710.30, such period shall be extended until forty-five days after the last date of such service. If the defendant is not represented by counsel and has requested an adjournment to obtain counsel or to have counsel assigned, such forty-five day period shall commence on the date counsel initially appears on defendant's behalf.

§ 8. Section 340.30 of the criminal procedure law is amended to read as follows:

§ 340.30 Pre-trial discovery and notices of defenses.

The provisions of article two hundred [forty] forty-five, concerning pre-trial discovery by a defendant under indictment in a superior court, and article two hundred fifty, concerning pre-trial notice to the people by a defendant under indictment in a superior court who intends to advance a trial defense of mental disease or defect or of alibi, apply to a prosecution of an information in a local criminal court.

§ 9. Subdivision 14 of section 400.27 of the criminal procedure law, as added by chapter 1 of the laws of 1995, is amended to read as follows:

14. (a) At a reasonable time prior to the sentencing proceeding or a mental retardation hearing:

[(i)] the prosecutor shall, unless previously disclosed and subject to a protective order, make available to the defendant the statements and information specified in subdivision one of section [240.45] 245.20 of this part and make available for inspection, photographing, copying or testing the property specified in subdivision one of section [240.20; and

(ii) the defendant shall, unless previously disclosed and subject to a protective order, make available to the prosecution the statements and information specified in subdivision two of section 240.45 and make available for inspection, photographing, copying or testing, subject to constitutional limitations, the reports, documents and other property specified in subdivision one of section 240.30] 245.20 of this part.

(b) Where a party refuses to make disclosure pursuant to this section, the provisions of section [240.35, subdivision one of section 240.40 and section 240.50] 245.70, 245.75 and/or 245.80 of this part shall apply.

(c) If, after complying with the provisions of this section or an order pursuant thereto, a party finds either before or during a sentencing proceeding or mental retardation hearing, additional material subject to discovery or covered by court order, the party shall promptly make disclosure or apply for a protective order.

(d) If the court finds that a party has failed to comply with any of the provisions of this section, the court may [enter] employ any of the [orders] remedies or sanctions specified in subdivision one of section [240.70] 245.80 of this part.

§ 10. The opening paragraph of paragraph (b) of subdivision 1 of section 440.30 of the criminal procedure law, as added by chapter 19 of the laws of 2012, is amended to read as follows:

In conjunction with the filing or consideration of a motion to vacate a judgment pursuant to section 440.10 of this article by a defendant convicted after a trial, in cases where the court has ordered an evidentiary hearing upon such motion, the court may order that the people produce or make available for inspection property[, as defined in subdivision three of section 240.10 of this part,] in its possession, custody, or control that was secured in connection with the investigation or prosecution of the defendant upon credible allegations by the defendant and a finding by the court that such property, if obtained, would be probative to the determination of defendant's actual innocence, and that the request is reasonable. The court shall deny or limit such a request upon a finding that such a request, if granted, would threaten the integrity or chain of custody of property or the integrity of the processes or functions of a laboratory conducting DNA testing, pose a risk of harm, intimidation, embarrassment, reprisal, or other substantially negative consequences to any person, undermine the proper functions of law enforcement including the confidentiality of informants, or on the basis of any other factor identified by the court in the interests of

justice or public safety. The court shall further ensure that any property produced pursuant to this paragraph is subject to a protective order, where appropriate. The court shall deny any request made pursuant to this paragraph where:

§ 11. Subdivision 10 of section 450.10 of the penal law, as added by chapter 795 of the laws of 1984, is amended to read as follows:

10. Where there has been a failure to comply with the provisions of this section, and where the district attorney does not demonstrate to the satisfaction of the court that such failure has not caused the defendant prejudice, the court shall instruct the jury that it may consider such failure in determining the weight to be given such evidence and may also impose any other sanction set forth in subdivision one of section [240.70] 245.80 of the criminal procedure law; provided, however, that unless the defendant has convinced the court that such failure has caused him undue prejudice, the court shall not preclude the district attorney from introducing into evidence the property, photographs, photocopies, or other reproductions of the property or, where appropriate, testimony concerning its value and condition, where such evidence is otherwise properly authenticated and admissible under the rules of evidence. Failure to comply with any one or more of the provisions of this section shall not for that reason alone be grounds for dismissal of the accusatory instrument.

§ 12. Section 460.80 of the penal law, as added by chapter 516 of the laws of 1986, is amended to read as follows:

§ 460.80 Court ordered disclosure.

Notwithstanding the provisions of article two hundred [forty] forty-five of the criminal procedure law, when forfeiture is sought pursuant to section 460.30 of this [chapter] article, the court may order discovery of any property not otherwise disclosed which is material and reasonably necessary for preparation by the defendant with respect to the forfeiture proceeding pursuant to such section. The court may issue a protective order denying, limiting, conditioning, delaying or regulating such discovery where a danger to the integrity of physical evidence or a substantial risk of physical harm, intimidation, economic reprisal, bribery or unjustified annoyance or embarrassment to any person or an adverse effect upon the legitimate needs of law enforcement, including the protection of the confidentiality of informants, or any other factor or set of factors outweighs the usefulness of the discovery.

§ 13. Subdivision 5 of section 480.10 of the penal law, as added by chapter 655 of the laws of 1990, is amended to read as follows:

5. In addition to information required to be disclosed pursuant to article two hundred [forty] forty-five of the criminal procedure law, when forfeiture is sought pursuant to this article, and following the defendant's arraignment on the special forfeiture information, the court shall order discovery of any information not otherwise disclosed which is material and reasonably necessary for preparation by the defendant with respect to a forfeiture proceeding brought pursuant to this article. Such material shall include those portions of the grand jury minutes and such other information which pertain solely to the special forfeiture information and shall not include information which pertains to the criminal charges. Upon application of the prosecutor, the court may issue a protective order pursuant to section [240.40] 245.70 of the criminal procedure law with respect to any information required to be disclosed pursuant to this subdivision.

§ 14. This act shall take effect on the ninetieth day after it shall have become a law; provided, however, the amendments to section 65.20 of

the criminal procedure law made by section four of this act shall not affect the repeal of such section and shall be deemed repealed therewith.

PART E

Section 1. The opening paragraph and paragraph (a) of subdivision 1 of section 1311 of the civil practice law and rules, the opening paragraph as amended by chapter 655 of the laws of 1990 and paragraph (a) as added by chapter 669 of the laws of 1984, are amended to read as follows:

A civil action may be commenced by the appropriate claiming authority against a criminal defendant to recover the property which constitutes the proceeds of a crime, the substituted proceeds of a crime, an instrumentality of a crime or the real property instrumentality of a crime [or to recover a money judgment in an amount equivalent in value to the property which constitutes the proceeds of a crime, the substituted proceeds of a crime, an instrumentality of a crime, or the real property instrumentality of a crime]. A civil action may be commenced against a non-criminal defendant to recover the property which constitutes the proceeds of a crime, the substituted proceeds of a crime, an instrumentality of a crime, or the real property instrumentality of a crime provided, however, that a judgment of forfeiture predicated upon clause (A) of subparagraph (iv) of paragraph (b) of subdivision three [hereof] of this section shall be limited to the amount of the proceeds of the crime. Any action under this article must be commenced within five years of the commission of the crime and shall be civil, remedial, and in personam in nature and shall not be deemed to be a penalty or criminal forfeiture for any purpose. Except as otherwise specially provided by statute, the proceedings under this article shall be governed by this chapter. An action under this article is not a criminal proceeding and may not be deemed to be a previous prosecution under article forty of the criminal procedure law.

(a) Actions relating to post-conviction forfeiture crimes. An action relating to a post-conviction forfeiture crime must be grounded upon a conviction of a felony defined in subdivision five of section one thousand three hundred ten of this article[, or upon criminal activity arising from a common scheme or plan of which such a conviction is a part,] or upon a count of an indictment or information alleging a felony which was dismissed at the time of a plea of guilty to a felony in satisfaction of such count. A court may not grant forfeiture until such conviction has occurred. However, an action may be commenced, and a court may grant a provisional remedy provided under this article, prior to such conviction having occurred. An action under this paragraph must be dismissed at any time after sixty days of the commencement of the action unless the conviction upon which the action is grounded has occurred, or an indictment or information upon which the asserted conviction is to be based is pending in a superior court. An action under this paragraph shall be stayed during the pendency of a criminal action which is related to it; provided, however, that such stay shall not prevent the granting or continuance of any provisional remedy provided under this article or any other provisions of law.

§ 2. The civil practice law and rules is amended by adding a new section 1311-b to read as follows:

§ 1311-b. Money judgment. If a claiming authority obtains a forfeiture judgment against a defendant for the proceeds, substituted proceeds, instrumentality of a crime or real property instrumentality of a crime,

but is unable to locate all or part of any such property, the claiming authority may apply to the court for a money judgment against the defendant in the amount of the value of the forfeited property that cannot be located. The defendant shall have the right to challenge the valuation of any property that is the basis for such an application. The claiming authority shall have the burden of establishing the value of the property under this section by a preponderance of the evidence.

§ 3. Subdivisions 1, 3 and 4 of section 1312 of the civil practice law and rules, subdivision 1 as added by chapter 669 of the laws of 1984, subdivision 3 as amended and subdivision 4 as added by chapter 655 of the laws of 1990, are amended to read as follows:

1. The provisional remedies of attachment, injunction, receivership and notice of pendency provided for herein, shall be available in all actions to recover property [or for a money judgment] under this article.

3. A court may grant an application for a provisional remedy when it determines that: (a) there is a substantial probability that the claiming authority will be able to demonstrate at trial that the property is the proceeds, substituted proceeds, instrumentality of the crime or real property instrumentality of the crime, that the claiming authority will prevail on the issue of forfeiture, and that failure to enter the order may result in the property being destroyed, removed from the jurisdiction of the court, or otherwise be unavailable for forfeiture; (b) the need to preserve the availability of the property through the entry of the requested order outweighs the hardship on any party against whom the order may operate; and (c) in an action relating to real property, that entry of the requested order will not substantially diminish, impair, or terminate the lawful property interest in such real property of any person or persons other than the defendant or defendants.

4. Upon motion of any party against whom a provisional remedy granted pursuant to this article is in effect, the court may issue an order modifying or vacating such provisional remedy if necessary to permit the moving party to obtain funds for the payment of reasonable living expenses, other costs or expenses related to the maintenance, operation, or preservation of property which is the subject of any such provisional remedy or reasonable and bona fide attorneys' fees and expenses for the representation of the defendant in the forfeiture proceeding or in a related criminal matter relating thereto, payment for which is not otherwise available from assets of the defendant which are not subject to such provisional remedy. Any such motion shall be supported by an affidavit establishing the unavailability of other assets of the moving party which are not the subject of such provisional remedy for payment of such expenses or fees. That funds sought to be released under this subdivision are alleged to be the proceeds, substituted proceeds, instrumentality of a crime or real property instrumentality of a crime shall not be a factor for the court in considering and determining a motion made pursuant to this subdivision.

§ 4. The opening paragraph of subdivision 2 of section 1349 of the civil practice law and rules, as added by chapter 655 of the laws of 1990, is amended to read as follows:

If any other provision of law expressly governs the manner of disposition of property subject to the judgment or order of forfeiture, that provision of law shall be controlling, with the exception that, notwithstanding the provisions of any other law, all forfeited monies and proceeds from forfeited property shall be deposited into and disbursed from an asset forfeiture escrow fund established pursuant to section

six-t of the general municipal law, which shall govern the maintenance of such monies and proceeds from forfeited property. Upon application by a claiming agent for reimbursement of moneys directly expended by a claiming agent in the underlying criminal investigation for the purchase of contraband which were converted into a non-monetary form or which have not been otherwise recovered, the court shall direct such reimbursement from money forfeited pursuant to this article. Upon application of the claiming agent, the court may direct that any vehicles, vessels or aircraft forfeited pursuant to this article be retained by the claiming agent for law enforcement purposes, unless the court determines that such property is subject to a perfected lien, in which case the court may not direct that the property be retained unless all such liens on the property to be retained have been satisfied or pursuant to the court's order will be satisfied. In the absence of an application by the claiming agent, the claiming authority may apply to the court to retain such property for law enforcement purposes. Upon such application, the court may direct that such property be retained by the claiming authority for law enforcement purposes, unless the court determines that such property is subject to a perfected lien. If not so retained, the judgment or order shall direct the claiming authority to sell the property in accordance with article fifty-one of this chapter, and that the proceeds of such sale and any other moneys realized as a consequence of any forfeiture pursuant to this article shall be deposited to an asset forfeiture escrow fund established pursuant to section six-t of the general municipal law and shall be apportioned and paid in the following descending order of priority:

§ 5. Section 1349 of the civil practice law and rules is amended by adding a new subdivision 5 to read as follows:

5. Monies and proceeds from the sale of property realized as a consequence of any forfeiture distributed to the claiming agent or claiming authority of any county, town, city, or village of which the claiming agent or claiming authority is a part, shall be deposited to an asset forfeiture escrow fund established pursuant to section six-t of the general municipal law.

§ 6. Subdivision 2 of section 700 of the county law is amended to read as follows:

2. Within thirty days after the receipt of any fine, penalty, recovery upon any recognizance, monies and proceeds from the sale of property realized as a consequence of any forfeiture, or other money belonging to the county, the district attorney or the claiming authority shall pay the same to the county treasurer. Not later than the first day of February in each year, the district attorney shall make in duplicate a verified true statement of all such moneys received and paid to the county treasurer during the preceding calendar year and at that time shall pay to the county treasurer any balance due. One statement shall be furnished to the county treasurer [and the other], one to the clerk of the board of supervisors and one to the state comptroller. A district attorney who is not re-elected shall make and file the verified statement and pay any balance of such moneys to the county treasurer within thirty days after the expiration of his term.

§ 7. The general municipal law is amended by adding a new section 6-t to read as follows:

§ 6-t. Asset forfeiture escrow fund. 1. As used in this section:

a. The term "governing board", insofar as it is used in reference to a village, shall mean the board of trustees thereof; insofar as it is used in reference to a town, shall mean the town board thereof; insofar as it

is used in reference to a county, shall mean the board of supervisors or the county legislature thereof, as applicable; insofar as it is used in reference to a city, shall mean the "legislative body" thereof, as that term is defined in subdivision seven of section two of the municipal home rule law.

b. The term "chief fiscal officer" shall mean:

(i) In the case of counties operating under (1) an alternative form of county government or charter enacted as a state statute or adopted under the alternative county government law or by local law, the official designated in such statute, consolidated law or local law as the chief fiscal officer, or, if no such designation is made therein, the official possessing powers and duties similar to those of a county treasurer under the county law as shall be designated by local law.

(2) In the case of counties not operating under an alternative form of county government or charter enacted as a state statute or adopted under the alternative county government law or by local law, the treasurer, except that, in the case of counties having a comptroller, it shall mean the comptroller.

(ii) In the case of cities, the comptroller; if a city does not have a comptroller, the treasurer; if a city has neither a comptroller nor a treasurer, such official possessing powers and duties similar to those of a city treasurer as the finance board shall, by resolution, designate. A certified copy of such designation shall be filed with the state comptroller and shall be a public record.

(iii) In the case of towns, the town supervisor; if a town has more than one supervisor, the presiding supervisor.

(iv) In the case of villages, the village treasurer.

c. The term "claiming authority" shall mean the district attorney having jurisdiction over the offense or the attorney general for purpose of those crimes for which the attorney general has criminal jurisdiction in a case where the underlying criminal charge has been, is being or could have been brought by the attorney general, or the appropriate corporation counsel or county attorney, where such corporation counsel or county attorney may act as a claiming authority only with the consent of the district attorney or the attorney general, as appropriate.

d. The term "claiming agent" shall mean and shall include all persons described in subdivision thirty-four of section 1.20 of the criminal procedure law, and sheriffs, undersheriffs and deputy sheriffs of counties within the city of New York.

2. The governing board shall authorize the establishment of an asset forfeiture escrow fund for any claiming agent or claiming authority as is deemed necessary for the monies and proceeds of sale of property realized as a consequence of any forfeiture. The separate identity of such fund shall be maintained.

3. There shall be paid into the asset forfeiture escrow fund all proceeds realized as a consequence of any forfeiture action. Such funds shall include, but are not limited to, all funds and any property (real, personal, tangible and/or intangible) that are forfeited pursuant to agreement or otherwise prior to, in lieu of or after the lodging of criminal charges, pre-indictment, post-indictment, or after conviction by plea or trial. Such funds shall also include funds that are forfeited in compromise of charges that are never brought.

4. The monies and proceeds in the asset forfeiture escrow fund shall be deposited and secured in the manner provided by section ten of this article. All monies and proceeds so deposited in such fund shall be kept in a separate bank account. The chief fiscal officer may invest the

moneys in such fund in the manner provided in section eleven of this article. Any interest earned or capital gains realized on the moneys so deposited or invested shall accrue to and become part of such fund. The separate identity of such fund shall be maintained, whether its assets consist of cash, investments, or both.

5. Every claim for the payment of money from the asset forfeiture escrow fund shall specify the purpose of the requested payment and must be accompanied by a written certification that the expenditure is in compliance with all applicable laws. Payments from such fund shall be made by the chief fiscal officer subject to the required certification and the determination of fund sufficiency.

6. The chief fiscal officer, at the termination of each fiscal year, shall render a detailed report of the operation and condition of the asset forfeiture escrow fund to the governing board and the state comptroller. Such report shall be subject to examination and audit. The chief fiscal officer may account for such fund separate and apart from all other funds of the village, town, county, and city.

§ 8. Section 1352 of the civil practice law and rules, as added by chapter 669 of the laws of 1984, is amended to read as follows:

§ 1352. Preservation of other rights and remedies. The remedies provided for in this article are not intended to substitute for or limit or [supercede] supersede the lawful authority of any public officer or agency or other person to enforce any other right or remedy provided for by law. The exercise of such lawful authority in the forfeiture of property alleged to be the proceeds, substitute proceeds, instrumentality of a crime or real property instrumentality of crime must include the provision of a prompt opportunity to be heard for the owner of seized property in order to ensure the legitimacy and the necessity of its continued retention by law enforcement, as well as clear notice of deadlines for accomplishing the return of such property.

§ 9. Subdivision 11 of section 1311 of the civil practice law and rules is amended by adding a new paragraph (d) to read as follows:

(d) Any stipulation, settlement agreement, judgement, order or affidavit required to be given to the state division of criminal justice services pursuant to this subdivision shall include the defendant's name and such other demographic data as required by the state division of criminal justice services.

§ 10. Subdivision 6 of section 220.50 of the criminal procedure law, as added by chapter 655 of the laws of 1990, is amended to read as follows:

6. Where the defendant consents to a plea of guilty to the indictment, or part of the indictment, or consents to be prosecuted by superior court information as set forth in section 195.20 of this chapter, and if the defendant and prosecutor agree that as a condition of the plea or the superior court information certain property shall be forfeited by the defendant, the description and present estimated monetary value of the property shall be stated in court by the prosecutor at the time of plea. Within thirty days of the acceptance of the plea or superior court information by the court, the prosecutor shall send to the commissioner of the division of criminal justice services a document containing the name of the defendant, the description and present estimated monetary value of the property, any other demographic data as required by the division of criminal justice services and the date the plea or superior court information was accepted. Any property forfeited by the defendant as a condition to a plea of guilty to an indictment, or a part thereof, or to a superior court information, shall be disposed of in accordance

with the provisions of section thirteen hundred forty-nine of the civil practice law and rules.

§ 11. Subdivision 4 of section 480.10 of the penal law, as added by chapter 655 of the laws of 1990, is amended to read as follows:

4. The prosecutor shall promptly file a copy of the special forfeiture information, including the terms thereof, with the state division of criminal justice services and with the local agency responsible for criminal justice planning. Failure to file such information shall not be grounds for any relief under this chapter. The prosecutor shall also report such demographic data as required by the state division of criminal justice services when filing a copy of the special forfeiture information with the state division of criminal justice services.

§ 12. This act shall take effect on the one hundred eightieth day after it shall have become a law and shall apply to crimes which were committed on or after such date.

PART F

Section 1. Section 2 of part H of chapter 503 of the laws of 2009 relating to the disposition of monies recovered by county district attorneys before the filing of an accusatory instrument, as amended by section 25 of part A of chapter 55 of the laws of 2017, is amended to read as follows:

§ 2. This act shall take effect immediately and shall remain in full force and effect until March 31, [2018] 2019, when it shall expire and be deemed repealed.

§ 2. This act shall take effect immediately.

PART G

Section 1. Section 602 of the correction law, as amended by chapter 891 of the laws of 1962, is amended to read as follows:

§ 602. Expenses of sheriff for transporting prisoners. For conveying a prisoner or prisoners to a state prison from the county prison, the sheriff or person having charge of the same shall be reimbursed for the amount of expenses actually and necessarily incurred by him for railroad fare or cost of other transportation and for cost of maintenance of himself and each prisoner in going to the prison, and for his railroad fare or other cost of transportation in returning home, and cost of his maintenance while so returning. [The county shall be reimbursed for a portion of the salary of such sheriff or person for the period, not to exceed thirty-six hours, from the commencement of transportation from the county prison to the return of such sheriff or person to the county prison, the amount of such reimbursement to be computed by adding to the amount of such salary the total amount of the aforesaid expenses incurred for transportation and maintenance and reducing the resulting aggregate amount, first, by fifty per centum of such aggregate amount and, second, by the total amount of the aforesaid expenses incurred for transportation and maintenance.]

§ 2. This act shall take effect April 1, 2018.

PART H

Section 1. Subparagraph (iv) of paragraph (d) of subdivision 1 of section 803 of the correction law, as added by section 7 of chapter 738 of the laws of 2004, is amended to read as follows:

(iv) Such merit time allowance may be granted when an inmate successfully participates in the work and treatment program assigned pursuant to section eight hundred five of this article and when such inmate obtains a general equivalency diploma, an alcohol and substance abuse treatment certificate, a vocational trade certificate following at least six months of vocational programming [or], performs at least four hundred hours of service as part of a community work crew or successfully completes at least two consecutive semesters of college programming with no less than six college credits per semester, that is provided at the correctional facility by a college approved by the New York state board of regents.

Such allowance shall be withheld for any serious disciplinary infraction or upon a judicial determination that the person, while an inmate, commenced or continued a civil action, proceeding or claim that was found to be frivolous as defined in subdivision (c) of section eight thousand three hundred three-a of the civil practice law and rules, or an order of a federal court pursuant to rule 11 of the federal rules of civil procedure imposing sanctions in an action commenced by a person, while an inmate, against a state agency, officer or employee.

§ 2. Subparagraph (iv) of paragraph (d) of subdivision 1 of section 803 of the correction law, as added by section 10-a of chapter 738 of the laws of 2004, is amended to read as follows:

(iv) Such merit time allowance may be granted when an inmate successfully participates in the work and treatment program assigned pursuant to section eight hundred five of this article and when such inmate obtains a general equivalency diploma, an alcohol and substance abuse treatment certificate, a vocational trade certificate following at least six months of vocational programming [or], performs at least four hundred hours of service as part of a community work crew or successfully completes at least two consecutive semesters of college programming with no less than six college credits per semester, that is provided at the correctional facility by a college approved by the New York state board of regents.

Such allowance shall be withheld for any serious disciplinary infraction or upon a judicial determination that the person, while an inmate, commenced or continued a civil action, proceeding or claim that was found to be frivolous as defined in subdivision (c) of section eight thousand three hundred three-a of the civil practice law and rules, or an order of a federal court pursuant to rule 11 of the federal rules of civil procedure imposing sanctions in an action commenced by a person, while an inmate, against a state agency, officer or employee.

§ 3. Paragraph (c) of subdivision 1 of section 803-b of the correction law, as amended by section 1 of part E of chapter 55 of the laws of 2017, is amended to read as follows:

(c) "significant programmatic accomplishment" means that the inmate:

(i) participates in no less than two years of college programming; or

(ii) obtains a masters of professional studies degree; or

(iii) successfully participates as an inmate program associate for no less than two years; or

(iv) receives a certification from the state department of labor for his or her successful participation in an apprenticeship program; or

(v) successfully works as an inmate hospice aid for a period of no less than two years; or

(vi) successfully works in the division of correctional industries' optical program for no less than two years and receives a certification as an optician from the American board of opticianry; or

(vii) receives an asbestos handling certificate from the department of labor upon successful completion of the training program and then works in the division of correctional industries' asbestos abatement program as a hazardous materials removal worker or group leader for no less than eighteen months; or

(viii) successfully completes the course curriculum and passes the minimum competency screening process performance examination for sign language interpreter, and then works as a sign language interpreter for deaf inmates for no less than one year; or

(ix) successfully works in the puppies behind bars program for a period of no less than two years; or

(x) successfully participates in a vocational culinary arts program for a period of no less than two years and earns a servsafe certificate that is recognized by the national restaurant association; or

(xi) successfully completes the four hundred ninety hour training program while assigned to a department of motor vehicles call center, and continues to work at such call center for an additional twenty-one months; or

(xii) receives a certificate from the food production center in an assigned position following the completion of no less than eight hundred hours of work in such position, and continues to work for an additional eighteen months at the food production center[.]; or

(xiii) successfully completes a cosmetology training program and receives a license from the New York state department of state, and thereafter participates in such program for a period of no less than eighteen months; or

(xiv) successfully completes a barbering training program and receives a license from the New York state department of state, and thereafter participates in such program for a period of no less than eighteen months; or

(xv) successfully participates in a computer operator, general business or computer information technology and support vocational program for no less than two years, and earns a Microsoft office specialist certification for Microsoft word, Microsoft powerpoint or Microsoft excel, following the administration of an examination; or

(xvi) successfully completes the thinking for a change cognitive behavioral treatment program within phase two of transitional services, and thereafter, is employed in the work release program for a period of at least eighteen months.

§ 4. This act shall take effect April 1, 2018; provided, however, that the amendments to subparagraph (iv) of paragraph (d) of subdivision 1 of section 803 of the correction law made by section one of this act shall be subject to the expiration and reversion of such section pursuant to subdivision d of section 74 of chapter 3 of the laws of 1995, as amended, when upon such date the provisions of section two of this act shall take effect.

PART I

Section 1. Subdivision 9 of section 201 of the correction law is REPEALED.

§ 2. This act shall take effect April 1, 2018.

PART J

Section 1. Notwithstanding any provision of law or governor's executive order to the contrary regarding inmate eligibility by crime of commitment, the commissioner of corrections and community supervision is hereby authorized to initiate two pilot temporary release programs.

§ 2. The first pilot temporary release program shall be a college educational leave program for no more than fifty inmates at any one time, who otherwise would be ineligible due to their crime of commitment, and whereby, to be eligible, an inmate shall not be serving a sentence for one or more offenses that would render him or her ineligible for a limited credit time allowance as set forth in section 803-b of the correction law. In addition, to be eligible, such inmate shall not have committed a serious disciplinary infraction, maintained an overall negative institutional record, or received a disqualifying judicial determination that would render him or her ineligible for a limited credit time allowance as set forth in section 803-b of the correction law, and such inmate shall be eligible for release on parole or conditional release within two years. An inmate who participates in this pilot program may also be permitted to leave the premises of the institution for the purposes set forth in subdivision 4 of section 851 of the correction law, if otherwise authorized by the department of corrections and community supervision's rules and regulations governing permissible furloughs.

§ 3. The second pilot temporary release program shall be a pilot work release program for no more than fifty inmates at any one time, who otherwise would be ineligible due to their crime of commitment, and whereby, to be eligible, an inmate shall not be serving a sentence for one or more offenses that would render him or her ineligible for a limited credit time allowance as set forth in section 803-b of the correction law. In addition, such inmate shall not have committed a serious disciplinary infraction, maintained an overall negative institutional record, or received a disqualifying judicial determination that would render him or her ineligible for a limited credit time allowance as set forth in section 803-b of the correction law and, such inmate shall be eligible for release on parole or conditional release within two years. An inmate who participates in the pilot work release program may also be permitted to leave the premises of the institution for the purposes set forth in subdivision 4 of section 851 of the correction law, when authorized by the department of corrections and community supervision's rules and regulations governing permissible furloughs.

§ 4. Prior to March first of each year thereafter, the commissioner of corrections and community supervision shall issue a report to the governor, the president of the senate and the speaker of the assembly, on the status of both pilot programs, which shall include, but not be limited to, information on those correctional facilities where the pilot programs are established, information about the total number of inmates who were approved for each of the pilots, whether each inmate participant has been successful or unsuccessful, and information on those colleges which participate in the educational leave pilot.

§ 5. This act shall take effect April 1, 2018.

PART K

Section 1. This Part enacts into law major components of legislation that remove unnecessary mandatory bars on licensing and employment for people with criminal convictions in the categories enumerated therein and replace them with individualized review processes using the factors

set out in article 23-A of the correction law, which addresses the licensing of such individuals. Each component is wholly contained with a Subpart identified as Subparts A through I. Any provision in any section contained within a Subpart, including the effective date of the Subpart, which makes reference to a section "of this act", when used in connection with that particular component, shall be deemed to mean and refer to the corresponding section of the Subpart in which it is found. Section three of this Part sets forth the general effective date of this Part.

SUBPART A

Section 1. Subdivision 6 of section 369 of the banking law, as amended by chapter 164 of the laws of 2003, paragraph (b) as amended by section 6 of part LL of chapter 56 of the laws of 2010, is amended to read as follows:

6. The superintendent may, consistent with article twenty-three-A of the correction law, refuse to issue a license pursuant to this article if he shall find that the applicant, or any person who is a director, officer, partner, agent, employee or substantial stockholder of the applicant, (a) has been convicted of a crime in any jurisdiction or (b) is associating or consorting with any person who has, or persons who have, been convicted of a crime or crimes in any jurisdiction or jurisdictions[; provided, however, that the superintendent shall not issue such a license if he shall find that the applicant, or any person who is a director, officer, partner, agent, employee or substantial stockholder of the applicant, has been convicted of a felony in any jurisdiction or of a crime which, if committed within this state, would constitute a felony under the laws thereof]. For the purposes of this article, a person shall be deemed to have been convicted of a crime if such person shall have pleaded guilty to a charge thereof before a court or magistrate, or shall have been found guilty thereof by the decision or judgment of a court or magistrate or by the verdict of a jury, irrespective of the pronouncement of sentence or the suspension thereof[, unless such plea of guilty, or such decision, judgment or verdict, shall have been set aside, reversed or otherwise abrogated by lawful judicial process or unless the person convicted of the crime shall have received a pardon therefor from the president of the United States or the governor or other pardoning authority in the jurisdiction where the conviction was had, or shall have received a certificate of relief from disabilities or a certificate of good conduct pursuant to article twenty-three of the correction law to remove the disability under this article because of such conviction]. The term "substantial stockholder," as used in this subdivision, shall be deemed to refer to a person owning or controlling ten per centum or more of the total outstanding stock of the corporation in which such person is a stockholder. In making a determination pursuant to this subdivision, the superintendent shall require fingerprinting of the applicant. Such fingerprints shall be submitted to the division of criminal justice services for a state criminal history record check, as defined in subdivision one of section three thousand thirty-five of the education law, and may be submitted to the federal bureau of investigation for a national criminal history record check.

§ 2. This act shall take effect immediately.

SUBPART B

Intentionally Omitted

SUBPART C

Section 1. Clauses 1 and 5 of paragraph (c) of subdivision 2 of section 435 of the executive law, clause 1 as amended by chapter 371 of the laws of 1974 and clause 5 as amended by 437 of the laws of 1962, are amended to read as follows:

(1) a person convicted of a crime [who has not received a pardon, a certificate of good conduct or a certificate of relief from disabilities] if there is a direct relationship between one or more of the previous criminal offenses and the integrity and safety of bingo, considering the factors set forth in article twenty-three-A of the correction law;

(5) a firm or corporation in which a person defined in [subdivision] clause (1), (2), (3) or (4) [above] of this paragraph, or a person married or related in the first degree to such a person, has greater than a ten [per centum] percent proprietary, equitable or credit interest or in which such a person is active or employed.

§ 2. This act shall take effect immediately.

SUBPART D

Section 1. Subdivision 1 of section 130 of the executive law, as amended by section 1 of part LL of chapter 56 of the laws of 2010, paragraph (g) as separately amended by chapter 232 of the laws 2010, is amended to read as follows:

1. The secretary of state may appoint and commission as many notaries public for the state of New York as in his or her judgment may be deemed best, whose jurisdiction shall be co-extensive with the boundaries of the state. The appointment of a notary public shall be for a term of four years. An application for an appointment as notary public shall be in form and set forth such matters as the secretary of state shall prescribe. Every person appointed as notary public must, at the time of his or her appointment, be a citizen of the United States and either a resident of the state of New York or have an office or place of business in New York state. A notary public who is a resident of the state and who moves out of the state but still maintains a place of business or an office in New York state does not vacate his or her office as a notary public. A notary public who is a nonresident and who ceases to have an office or place of business in this state, vacates his or her office as a notary public. A notary public who is a resident of New York state and moves out of the state and who does not retain an office or place of business in this state shall vacate his or her office as a notary public. A non-resident who accepts the office of notary public in this state thereby appoints the secretary of state as the person upon whom process can be served on his or her behalf. Before issuing to any applicant a commission as notary public, unless he or she be an attorney and counsellor at law duly admitted to practice in this state or a court clerk of the unified court system who has been appointed to such position after taking a civil service promotional examination in the court clerk series of titles, the secretary of state shall satisfy himself or herself that the applicant is of good moral character, has the equivalent of a common school education and is familiar with the duties and responsibilities of a notary public; provided, however, that where a notary public applies, before the expiration of his or her term, for reappointment with the county clerk or where a person whose term as notary public shall have expired applies within six months thereafter

for reappointment as a notary public with the county clerk, such qualifying requirements may be waived by the secretary of state, and further, where an application for reappointment is filed with the county clerk after the expiration of the aforementioned renewal period by a person who failed or was unable to re-apply by reason of his or her induction or enlistment in the armed forces of the United States, such qualifying requirements may also be waived by the secretary of state, provided such application for reappointment is made within a period of one year after the military discharge of the applicant under conditions other than dishonorable. In any case, the appointment or reappointment of any applicant is in the discretion of the secretary of state. The secretary of state may suspend or remove from office, for misconduct, any notary public appointed by him or her but no such removal shall be made unless the person who is sought to be removed shall have been served with a copy of the charges against him or her and have an opportunity of being heard. No person shall be appointed as a notary public under this article who has been convicted, in this state or any other state or territory, of a [felony or any of the following offenses, to wit:

(a) Illegally using, carrying or possessing a pistol or other dangerous weapon; (b) making or possessing burglar's instruments; (c) buying or receiving or criminally possessing stolen property; (d) unlawful entry of a building; (e) aiding escape from prison; (f) unlawfully possessing or distributing habit forming narcotic drugs; (g) violating sections two hundred seventy, two hundred seventy-a, two hundred seventy-b, two hundred seventy-c, two hundred seventy-one, two hundred seventy-five, two hundred seventy-six, five hundred fifty, five hundred fifty-one, five hundred fifty-one-a and subdivisions six, ten or eleven of section seven hundred twenty-two of the former penal law as in force and effect immediately prior to September first, nineteen hundred sixty-seven, or violating sections 165.25, 165.30 or subdivision one of section 240.30 of the penal law, or violating sections four hundred seventy-eight, four hundred seventy-nine, four hundred eighty, four hundred eighty-one, four hundred eighty-four, four hundred eighty-nine and four hundred ninety-one of the judiciary law; or (h) vagrancy or prostitution, and who has not subsequent to such conviction received an executive pardon therefor or a certificate of relief from disabilities or a certificate of good conduct pursuant to article twenty-three of the correction law to remove the disability under this section because of such conviction] <u>crime, unless the secretary makes a finding in conformance with all applicable statutory requirements, including those contained in article twenty-three-A of the correction law, that such convictions do not constitute a bar to employment</u>.

§ 2. This act shall take effect immediately.

SUBPART E

Section 1. Paragraphs 1 and 5 of subdivision (a) of section 189-a of the general municipal law, as added by chapter 574 of the laws of 1978, are amended to read as follows:

(1) a person convicted of a crime [who has not received a pardon, a certificate of good conduct or a certificate of relief from disabilities] <u>if there is a direct relationship between one or more of the previous criminal offenses and the integrity or safety of charitable gaming, considering the factors set forth in article twenty-three-A of the correction law</u>;

(5) a firm or corporation in which a person defined in [subdivision] paragraph (1), (2), (3) or (4) [above] of this subdivision has greater than a ten [per centum] percent proprietary, equitable or credit interest or in which such a person is active or employed.

§ 2. Paragraph (a) of subdivision 1 of section 191 of the general municipal law, as amended by section 15 of part LL of chapter 56 of the laws of 2010, is amended to read as follows:

(a) Issuance of licenses to conduct games of chance. If such clerk or department [shall determine] determines:

(i) that the applicant is duly qualified to be licensed to conduct games of chance under this article;

(ii) that the member or members of the applicant designated in the application to manage games of chance are bona fide active members of the applicant and are persons of good moral character and have never been convicted of a crime[, or,] if [convicted, have received a pardon, a certificate of good conduct or a certificate of relief from disabilities pursuant to article twenty-three of the correction law] there is a direct relationship between one or more of the previous criminal offenses and the integrity or safety of charitable gaming, considering the factors set forth in article twenty-three-A of the correction law;

(iii) that such games are to be conducted in accordance with the provisions of this article and in accordance with the rules and regulations of the [board] gaming commission and applicable local laws or ordinances and that the proceeds thereof are to be disposed of as provided by this article[,]; and

[if such clerk or department is satisfied] (iv) that no commission, salary, compensation, reward or recompense whatever will be paid or given to any person managing, operating or assisting therein except as in this article otherwise provided; [it] then such clerk or department shall issue a license to the applicant for the conduct of games of chance upon payment of a license fee of twenty-five dollars for each license period.

§ 3. Subdivision 9 of section 476 of the general municipal law, as amended by chapter 1057 of the laws of 1965, paragraph (a) as amended by section 16 of part LL of chapter 56 of the laws of 2010, is amended to read as follows:

9. "Authorized commercial lessor" shall mean a person, firm or corporation other than a licensee to conduct bingo under the provisions of this article, who or which [shall own] owns or [be] is a net lessee of premises and offer the same for leasing by him, her or it to an authorized organization for any consideration whatsoever, direct or indirect, for the purpose of conducting bingo therein, provided that he, she or it, as the case may be, shall not be

(a) a person convicted of a crime [who has not received a pardon or a certificate of good conduct or a certificate of relief from disabilities pursuant to] if there is a direct relationship between one or more of the previous criminal offenses and the integrity or safety of bingo, considering the factors set forth in article [twenty-three] twenty-three-A of the correction law;

(b) a person who is or has been a professional gambler or gambling promoter or who for other reasons is not of good moral character;

(c) a public officer who receives any consideration, direct or indirect, as owner or lessor of premises offered for the purpose of conducting bingo therein;

(d) a firm or corporation in which a person defined in [subdivision] paragraph (a), (b) or (c) [above] of this subdivision or a person

married or related in the first degree to such a person has greater than a ten [percentum (10%)] percent proprietary, equitable or credit interest or in which such a person is active or employed.

Nothing contained in this subdivision shall be construed to bar any firm or corporation [which] that is not organized for pecuniary profit and no part of the net earnings of which inure to the benefit of any individual, member, or shareholder, from being an authorized commercial lessor solely because a public officer, or a person married or related in the first degree to a public officer, is a member of, active in or employed by such firm or corporation.

§ 4. Paragraph (a) of subdivision 1 of section 481 of the general municipal law, as amended by section 5 of part MM of chapter 59 of the laws of 2017, is amended to read as follows:

(a) Issuance of licenses to conduct bingo. If the governing body of the municipality determines:

(i) that the applicant is duly qualified to be licensed to conduct bingo under this article;

(ii) that the member or members of the applicant designated in the application to conduct bingo are bona fide active members or auxiliary members of the applicant and are persons of good moral character and have never been convicted of a crime [or, if convicted, have received a pardon or a certificate of good conduct or a certificate of relief from disabilities pursuant to article twenty-three] if there is a direct relationship between one or more of the previous criminal offenses and the integrity or safety of bingo, considering the factors set forth in article twenty-three-A of the correction law;

(iii) that such games of bingo are to be conducted in accordance with the provisions of this article and in accordance with the rules and regulations of the commission[, and];

(iv) that the proceeds thereof are to be disposed of as provided by this article[, and if the governing body is satisfied];

(v) that no commission, salary, compensation, reward or recompense [what so ever] whatsoever will be paid or given to any person holding, operating or conducting or assisting in the holding, operation and conduct of any such games of bingo except as in this article otherwise provided; and

(vi) that no prize will be offered and given in excess of the sum or value of five thousand dollars in any single game of bingo and that the aggregate of all prizes offered and given in all of such games of bingo conducted on a single occasion[,] under said license shall not exceed the sum or value of fifteen thousand dollars, then the municipality shall issue a license to the applicant for the conduct of bingo upon payment of a license fee of eighteen dollars and seventy-five cents for each bingo occasion[; provided, however, that].

Notwithstanding anything to the contrary in this paragraph, the governing body shall refuse to issue a license to an applicant seeking to conduct bingo in premises of a licensed commercial lessor where such governing body determines that the premises presently owned or occupied by such applicant are in every respect adequate and suitable for conducting bingo games.

§ 5. This act shall take effect immediately.

SUBPART F

Section 1. Paragraphs 3 and 4 of subsection (d) of section 2108 of the insurance law are REPEALED, and paragraph 5 is renumbered paragraph 3.

§ 2. This act shall take effect immediately.

SUBPART G

Section 1. Section 440-a of the real property law, as amended by chapter 81 of the laws of 1995, the first undesignated paragraph as amended by section 23 of part LL of chapter 56 of the laws of 2010, is amended to read as follows:

§ 440-a. License required for real estate brokers and salesmen. No person, co-partnership, limited liability company or corporation shall engage in or follow the business or occupation of, or hold himself or itself out or act temporarily or otherwise as a real estate broker or real estate salesman in this state without first procuring a license therefor as provided in this article. No person shall be entitled to a license as a real estate broker under this article, either as an individual or as a member of a co-partnership, or as a member or manager of a limited liability company or as an officer of a corporation, unless he or she is twenty years of age or over, a citizen of the United States or an alien lawfully admitted for permanent residence in the United States. No person shall be entitled to a license as a real estate salesman under this article unless he or she is over the age of eighteen years. No person shall be entitled to a license as a real estate broker or real estate salesman under this article who has been convicted in this state or elsewhere of a [felony, of a sex offense, as defined in subdivision two of section one hundred sixty-eight-a of the correction law or any offense committed outside of this state which would constitute a sex offense, or a sexually violent offense, as defined in subdivision three of section one hundred sixty-eight-a of the correction law or any offense committed outside this state which would constitute a sexually violent offense, and who has not subsequent to such conviction received executive pardon therefor or a certificate of relief from disabilities or a certificate of good conduct pursuant to article twenty-three of the correction law, to remove the disability under this section because of such conviction] crime, unless the secretary makes a finding in conformance with all applicable statutory requirements, including those contained in article twenty-three-A of the correction law, that such convictions do not constitute a bar to licensure. No person shall be entitled to a license as a real estate broker or real estate salesman under this article who does not meet the requirements of section 3-503 of the general obligations law.

Notwithstanding [the above] anything to the contrary in this section, tenant associations[,] and not-for-profit corporations authorized in writing by the commissioner of the department of the city of New York charged with enforcement of the housing maintenance code of such city to manage residential property owned by such city or appointed by a court of competent jurisdiction to manage residential property owned by such city shall be exempt from the licensing provisions of this section with respect to the properties so managed.

§ 2. This act shall take effect immediately.

SUBPART H

Section 1. Subdivision 5 of section 336-f of the social services law, as added by section 148 of part B of chapter 436 of the laws of 1997, is amended to read as follows:

5. The social services district shall require every private or not-for-profit employer that intends to hire one or more work activity participants to certify to the district [that] whether such employer has [not], in the past five years, been convicted of a felony or a misdemeanor the underlying basis of which involved workplace safety and health or labor standards. Such employer shall also certify as to all violations issued by the department of labor within the past five years. The social services official in the district in which the participant is placed shall determine whether there is a pattern of convictions or violations sufficient to render the potential employer ineligible. Employers who submit false information under this section shall be subject to criminal prosecution for filing a false instrument.

§ 2. This act shall take effect immediately.

SUBPART I

Section 1. Subdivision 9 of section 394 of the vehicle and traffic law, as separately renumbered by chapters 300 and 464 of the laws of 1960, is amended to read as follows:

9. Employees. [No licensee shall knowingly employ, in connection with a driving school in any capacity whatsoever, any person who has been convicted of a felony, or of any crime involving violence, dishonesty, deceit, indecency, degeneracy or moral turpitude] A licensee may not employ, in connection with a driving school in any capacity whatsoever, a person who has been convicted of a crime, if, after considering the factors set forth in article twenty-three-A of the correction law, the licensee determines that there is a direct relationship between the conviction and employment in the driving school, or that employment would constitute an unreasonable risk to property or to the safety of students, customers, or employees of the driving school, or to the general public.

§ 2. This act shall take effect immediately.

§ 2. Severability clause. If any clause, sentence, paragraph, subdivision, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the intent of the legislature that this act would have been enacted even if such invalid provisions had not been included herein.

§ 3. This act shall take effect immediately provided, however, that the applicable effective date of Subparts A through I of this act shall be as specifically set forth in the last section of such Parts.

PART L

Section 1. The executive law is amended by adding a new section 259-t to read as follows:

§ 259-t. Release on geriatric parole for inmates who are affected by an age-related debility. 1. (a) The board shall have the power to release on geriatric parole any inmate who is at least fifty-five years of age, serving an indeterminate or determinate sentence of imprisonment who, pursuant to subdivision two of this section, has been certified to be suffering from a chronic or serious condition, disease, syndrome, or infirmity, exacerbated by age, that has rendered the inmate so phys-

ically or cognitively debilitated or incapacitated that the ability to provide self-care within the environment of a correctional facility is substantially diminished, provided, however, that no inmate serving a sentence imposed upon a conviction for murder in the first degree, aggravated murder or an attempt or conspiracy to commit murder in the first degree or aggravated murder or a sentence of life without parole shall be eligible for such release, and provided further that no inmate shall be eligible for such release unless in the case of an indeterminate sentence he or she has served at least one-half of the minimum period of the sentence and in the case of a determinate sentence he or she has served at least one-half of the term of his or her determinate sentence. Solely for the purpose of determining geriatric parole eligibility pursuant to this section, such one-half of the minimum period of the indeterminate sentence and one-half of the term of the determinate sentence shall not be credited with any time served under the jurisdiction of the department prior to the commencement of such sentence pursuant to the opening paragraph of subdivision one of section 70.30 of the penal law or subdivision two-a of section 70.30 of the penal law, except to the extent authorized by subdivision three of section 70.30 of the penal law.

(b) Such release shall be granted only after the board considers whether, in light of the inmate's condition, there is a reasonable probability that the inmate, if released, will live and remain at liberty without violating the law, and that such release does not present an unreasonable public safety risk, and shall be subject to the limits and conditions specified in subdivision four of this section. In making this determination, the board shall consider: (i) the factors described in subdivision two of section two hundred fifty-nine-i of this article; (ii) the nature of the inmate's conditions, diseases, syndromes or infirmities and the level of care; (iii) the amount of time the inmate must serve before becoming eligible for release pursuant to section two hundred fifty-nine-i of this article; (iv) the current age of the inmate and his or her age at the time of the crime; and (v) any other relevant factor.

(c) The board shall afford notice to the sentencing court, the district attorney, the attorney for the inmate and, where necessary pursuant to subdivision two of section two hundred fifty-nine-i of this article, the crime victim, that the inmate is being considered for release pursuant to this section and the parties receiving notice shall have fifteen days to comment on the release of the inmate. Release on geriatric parole shall not be granted until the expiration of the comment period provided for in this paragraph.

2. (a) The commissioner, on the commissioner's own initiative or at the request of an inmate, or an inmate's spouse, relative or attorney, may, in the exercise of the commissioner's discretion, direct that an investigation be undertaken to determine whether an assessment should be made of an inmate who appears to be suffering from chronic or serious conditions, diseases, syndromes or infirmities, exacerbated by advanced age that has rendered the inmate so physically or cognitively debilitated or incapacitated that the ability to provide self-care within the environment of a correctional facility is substantially diminished. The chief medical officer responsible for the care and treatment of inmates in each correctional facility shall conduct a monthly review to determine if any inmate in such facility who is over the age of fifty-five and who has not been denied geriatric parole within the last twelve months is potentially eligible for geriatric parole release pursuant to

this section. If an inmate is identified as potentially eligible for geriatric parole release, the chief medical officer shall notify the commissioner and request an investigation to determine whether such an assessment should be made. Any such medical assessment shall be made by a physician licensed to practice medicine in this state pursuant to section sixty-five hundred twenty-four of the education law within fourteen days of the request for such assessment. Such physician shall either be employed by the department, shall render professional services at the request of the department, or shall be employed by a hospital or medical facility used by the department for the medical treatment of inmates. The assessment shall be reported to the commissioner by way of the deputy commissioner for health services or the chief medical officer of the facility within three days of completion of the assessment and shall include but shall not be limited to a description of the conditions, diseases or syndromes suffered by the inmate, a prognosis concerning the likelihood that the inmate will not recover from such conditions, diseases or syndromes, a description of the inmate's physical or cognitive incapacity which shall include a prediction respecting the likely duration of the incapacity, and a statement by the physician of whether the inmate is so debilitated or incapacitated that the ability to provide self-care within the environment of a correctional facility is substantially diminished. This assessment also shall include a recommendation of the type and level of services and level of care the inmate would require if granted geriatric parole and a recommendation for the types of settings in which the services and treatment should be given.

(b) The commissioner, or the commissioner's designee, shall review the assessment and may certify that the inmate is suffering from a chronic or serious condition, disease, syndrome or infirmity, exacerbated by age, that has rendered the inmate so physically or cognitively debilitated or incapacitated that the ability to provide self-care within the environment of a correctional facility is substantially diminished. If the commissioner does not so certify then the inmate shall not be referred to the board for consideration for release on geriatric parole. If the commissioner does so certify, then the commissioner shall, within seven working days of receipt of such assessment, refer the inmate to the board for consideration for release on geriatric parole. However, an inmate will not be referred to the board of parole with diseases, conditions, syndromes or infirmities that pre-existed incarceration unless certified by a physician that such diseases, conditions, syndromes or infirmities, have progressed to render the inmate so physically or cognitively debilitated or incapacitated that the ability to provide self-care within the environment of a correctional facility is substantially diminished.

3. Any certification by the commissioner or the commissioner's designee pursuant to this section shall be deemed a judicial function and shall not be reviewable if done in accordance with law.

4. (a) The board shall issue a determination within twenty-one days after the receipt of a certification by the commissioner. Any inmate approved for geriatric parole shall be released as soon as possible and the department shall make every effort to promptly identify and approve an appropriate placement for such inmate.

(b) Once an inmate is released on geriatric parole, that releasee will then be supervised by the department pursuant to paragraph (b) of subdivision two of section two hundred fifty-nine-i of this article.

(c) The board may require as a condition of release on geriatric parole that the releasee agree to remain under the care of a physician while on geriatric parole and in a hospital established pursuant to article twenty-eight of the public health law, nursing home established pursuant to article twenty-eight-a of the public health law, a hospice established pursuant to article forty of the public health law or any other placement, including a residence with family or others, that can provide appropriate medical and other necessary geriatric care as recommended by the medical assessment required by subdivision two of this section. For those who are released pursuant to this subdivision, a discharge plan shall be completed and state that the availability of the placement has been confirmed, and by whom. Notwithstanding any other provision of law, when an inmate who qualifies for release under this section is cognitively incapable of signing the requisite documentation to effectuate the discharge plan and, after a diligent search no person has been identified who could otherwise be appointed as the inmate's guardian by a court of competent jurisdiction, then, solely for the purpose of implementing the discharge plan, the facility health services director at the facility where the inmate is currently incarcerated shall be lawfully empowered to act as the inmate's guardian for the purpose of effectuating the discharge.

(d) Where appropriate, the board shall require as a condition of release that geriatric parolees be supervised on intensive caseloads at reduced supervision ratios.

5. A denial of release on geriatric parole shall not preclude the inmate from reapplying for geriatric parole or otherwise affect an inmate's eligibility for any other form of release provided for by law.

6. To the extent that any provision of this section requires disclosure of medical information for the purpose of processing an application or making a decision, regarding release on geriatric parole or for the purpose of appropriately supervising a person released on geriatric parole, and that such disclosure would otherwise be prohibited by article twenty-seven-f of that public health law, the provisions of this section shall be controlling.

7. The commissioner and the chair of the board shall be authorized to promulgate rules and regulations for their respective agencies to implement the provisions of this section.

8. Any decision made by the board pursuant to this section may be appealed pursuant to subdivision four of section two hundred fifty-nine-i of this article.

9. The chair of the board shall report annually to the governor, the temporary president of the senate and the speaker of the assembly, the chairpersons of the assembly and senate codes committees, the chairperson of the senate crime and corrections committee, and the chairperson of the assembly corrections committee the number of inmates who have applied for geriatric parole under this section; the number who have been granted geriatric parole; the nature of the illness of the applicants, the counties to which they have been released and the nature of the placement pursuant to the discharge plan; the categories of reasons for denial for those who have been denied; the number of releasees on geriatric parole who have been returned to imprisonment in the custody of the department and the reasons for return. Such report shall also be made publicly available on the department's website.

§ 2. This act shall take effect April 1, 2018.

PART M

Section 1. Paragraph (b) of subdivision 6 of section 186-f of the tax law, as amended by section 1 of part C of chapter 57 of the laws of 2016, is amended to read as follows:

(b) The sum of one million five hundred thousand dollars must be deposited into the New York state emergency services revolving loan fund annually; provided, however, that such sums shall not be deposited for state fiscal years two thousand eleven--two thousand twelve, two thousand twelve--two thousand thirteen, two thousand fourteen--two thousand fifteen, two thousand fifteen--two thousand sixteen, two thousand sixteen--two thousand seventeen [and], two thousand seventeen--two thousand eighteen, two thousand eighteen--two thousand nineteen and two thousand nineteen--two thousand twenty;

§ 2. This act shall take effect April 1, 2018.

PART N

Intentionally Omitted

PART O

Intentionally Omitted

PART P

Section 1. Paragraph (f) of subdivision 3 of section 30.10 of the criminal procedure law, as separately amended by chapters 3 and 320 of the laws of 2006, is amended to read as follows:

(f) For purposes of a prosecution involving a sexual offense as defined in article one hundred thirty of the penal law, other than a sexual offense delineated in paragraph (a) of subdivision two of this section, committed against a child less than eighteen years of age, incest in the first, second or third degree as defined in sections 255.27, 255.26 and 255.25 of the penal law committed against a child less than eighteen years of age, or use of a child in a sexual performance as defined in section 263.05 of the penal law, the period of limitation shall not begin to run until the child has reached the age of [eighteen] twenty-three or the offense is reported to a law enforcement agency or statewide central register of child abuse and maltreatment, whichever occurs earlier.

§ 2. The opening paragraph of section 208 of the civil practice law and rules is designated subdivision (a) and a new subdivision (b) is added to read as follows:

(b) Notwithstanding any provision of law which imposes a period of limitation to the contrary, with respect to all civil claims or causes of action brought by any person for physical, psychological or other injury or condition suffered by such person as a result of conduct which would constitute a sexual offense as defined in article one hundred thirty of the penal law committed against such person who was less than eighteen years of age, incest as defined in section 255.27, 255.26 or 255.25 of the penal law committed against such person who was less than eighteen years of age, or the use of such person in a sexual performance as defined in section 263.05 of the penal law, or a predecessor statute that prohibited such conduct at the time of the act, which conduct was committed against such person who was less than eighteen years of age, such action may be commenced, against any party whose intentional or negligent acts or omissions are alleged to have resulted in the commis-

sion of said conduct, on or before the plaintiff or infant plaintiff reaches the age of fifty years. In any such claim or action, in addition to any other defense and affirmative defense that may be available in accordance with law, rule or the common law, to the extent that the acts alleged in such action are of the type described in subdivision one of section 130.30 of the penal law or subdivision one of section 130.45 of the penal law, the affirmative defenses set forth, respectively, in the closing paragraph of such section of the penal law shall apply.

§ 3. The civil practice law and rules is amended by adding a new section 214-g to read as follows:

§ 214-g. Certain child sexual abuse cases. Notwithstanding any provision of law which imposes a period of limitation to the contrary, every civil claim or cause of action brought against any party alleging intentional or negligent acts or omissions by a person for physical, psychological, or other injury or condition suffered as a result of conduct which would constitute a sexual offense as defined in article one hundred thirty of the penal law committed against a child less than eighteen years of age, incest as defined in section 255.27, 255.26 or 255.25 of the penal law committed against a child less than eighteen years of age, or the use of a child in a sexual performance as defined in section 263.05 of the penal law, or a predecessor statute that prohibited such conduct at the time of the act, which conduct was committed against a child less than eighteen years of age, which is barred as of the effective date of this section because the applicable period of limitation has expired is hereby revived, and action thereon may be commenced not earlier than six months after, and not later than one year and six months after the effective date of this section, subject to paragraph two of subdivision (i) of rule thirty-two hundred eleven of this chapter. In any such claim or action, in addition to any other defense and affirmative defense that may be available in accordance with law, rule or the common law, to the extent that the acts alleged in such action are of the type described in subdivision one of section 130.30 of the penal law or subdivision one of section 130.45 of the penal law, the affirmative defenses set forth, respectively, in the closing paragraph of such section of the penal law shall apply.

§ 4. Rule 3211 of the civil practice law and rules is amended by adding a new subdivision (i) to read as follows:

(i) Motions to dismiss and motions to dismiss affirmative defenses in certain actions in which conduct constituting the commission of certain sexual offenses are alleged. 1. In any action where the plaintiff seeks to revive an action pursuant to section two hundred fourteen-g of this chapter after the effective date of this subdivision which had been time barred, any affirmative defense of laches, delay, or material impairment in the defense or investigation of the claim must be supported by a certificate of merit submitted by a person with knowledge of the facts setting forth the specific manner in which the defense or investigation has been affected. Said certificate must be filed at or before the time in which the answer is served, unless otherwise provided by order of the court.

2. Upon motion by any party, the court shall determine by a preponderance of the evidence, whether defendant has sustained his or her burden of proof on any motion to dismiss the action or on any affirmative defense in which it is alleged that prejudice has been caused to defendant in the investigation or defense of the action directly resulting from a delay in commencing the action. A defendant shall not be deemed prejudiced solely on account of the passage of time.

3. Furthermore, in any such action, in addition to any other defense and affirmative defense that may be available in accordance with law, rule or the common law, to the extent that the acts alleged in such action are of the type described in subdivision one of section 130.30 of the penal law or subdivision one of section 130.45 of the penal law, the affirmative defenses set forth, respectively, in the closing paragraph of such section of the penal law shall apply.

§ 5. Subdivision (a) of rule 3403 of the civil practice law and rules is amended by adding a new paragraph 7 to read as follows:

7. any action which has been revived pursuant to section two hundred fourteen-g of this chapter.

§ 6. Subdivision 8 of section 50-e of the general municipal law, as amended by chapter 24 of the laws of 1988, is amended to read as follows:

8. Inapplicability of section. (a) This section shall not apply to claims arising under the provisions of the workers' compensation law, the volunteer firefighters' benefit law, or the volunteer ambulance workers' benefit law or to claims against public corporations by their own infant wards.

(b) This section shall not apply to any claim made for physical, psychological, or other injury or condition suffered as a result of conduct which would constitute a sexual offense as defined in article one hundred thirty of the penal law committed against a child less than eighteen years of age, incest as defined in section 255.27, 255.26 or 255.25 of the penal law committed against a child less than eighteen years of age, or the use of a child in a sexual performance as defined in section 263.05 of the penal law committed against a child less than eighteen years of age.

§ 7. Section 50-i of the general municipal law is amended by adding a new subdivision 5 to read as follows:

5. Notwithstanding any provision of law to the contrary, this section shall not apply to any claim made against a city, county, town, village, fire district or school district for physical, psychological, or other injury or condition suffered as a result of conduct which would constitute a sexual offense as defined in article one hundred thirty of the penal law committed against a child less than eighteen years of age, incest as defined in section 255.27, 255.26 or 255.25 of the penal law committed against a child less than eighteen years of age, or the use of a child in a sexual performance as defined in section 263.05 of the penal law committed against a child less than eighteen years of age.

§ 8. Section 10 of the court of claims act is amended by adding a new subdivision 10 to read as follows:

10. Notwithstanding any provision of law to the contrary, this section shall not apply to any claim to recover damages for physical, psychological, or other injury or condition suffered as a result of conduct which would constitute a sexual offense as defined in article one hundred thirty of the penal law committed against a child less than eighteen years of age, incest as defined in section 255.27, 255.26 or 255.25 of the penal law committed against a child less than eighteen years of age, or the use of a child in a sexual performance as defined in section 263.05 of the penal law committed against a child less than eighteen years of age.

§ 9. Subdivision 2 of section 3813 of the education law, as amended by chapter 346 of the laws of 1978, is amended to read as follows:

2. Notwithstanding anything to the contrary hereinbefore contained in this section, no action or special proceeding founded upon tort shall be

prosecuted or maintained against any of the parties named in this section or against any teacher or member of the supervisory or administrative staff or employee where the alleged tort was committed by such teacher or member or employee acting in the discharge of his duties within the scope of his employment and/or under the direction of the board of education, trustee or trustees, or governing body of the school unless a notice of claim shall have been made and served in compliance with section fifty-e of the general municipal law. Every such action shall be commenced pursuant to the provisions of section fifty-i of the general municipal law; provided, however, that this section shall not apply to any claim to recover damages for physical, psychological, or other injury or condition suffered as a result of conduct which would constitute a sexual offense as defined in article one hundred thirty of the penal law committed against a child less than eighteen years of age, incest as defined in section 255.27, 255.26 or 255.25 of the penal law committed against a child less than eighteen years of age, or the use of a child in a sexual performance as defined in section 263.05 of the penal law committed against a child less than eighteen years of age.

§ 10. Section 219-c of the judiciary law, as added by chapter 506 of the laws of 2011, is amended to read as follows:

§ 219-c. Crimes involving sexual assault and the sexual abuse of minors; judicial training. The office of court administration shall provide training for judges and justices with respect to crimes involving sexual assault, and the sexual abuse of minors.

§ 11. The judiciary law is amended by adding a new section 219-d to read as follows:

§ 219-d. Rules reviving certain actions; sexual offenses against children. The chief administrator of the courts shall promulgate rules for the timely adjudication of revived actions brought pursuant to section two hundred fourteen-g of the civil practice law and rules.

§ 12. The provisions of this act shall be severable, and if any clause, sentence, paragraph, subdivision or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision or part thereof directly involved in the controversy in which such judgment shall have been rendered.

§ 13. This act shall take effect immediately; except that section ten of this act shall take effect six months after this act shall have become a law; provided, however, that training for cases brought pursuant to section 214-g of the civil practice law and rules, as added by section three of this act, shall commence three months after this act shall have become a law; and section eleven of this act shall take effect three months after this act shall have become a law.

PART Q

Intentionally Omitted

PART R

Intentionally Omitted

PART S

Intentionally Omitted

PART T

Section 1. Section 2 of chapter 303 of the laws of 1988, relating to the extension of the state commission on the restoration of the capitol, as amended by chapter 207 of the laws of 2013, is amended to read as follows:

§ 2. The temporary state commission on the restoration of the capitol is hereby renamed as the state commission on the restoration of the capitol (hereinafter to be referred to as the "commission") and is hereby continued until April 1, [2018] 2023. The commission shall consist of eleven members to be appointed as follows: five members shall be appointed by the governor; two members shall be appointed by the temporary president of the senate; two members shall be appointed by the speaker of the assembly; one member shall be appointed by the minority leader of the senate; one member shall be appointed by the minority leader of the assembly, together with the commissioner of general services and the commissioner of parks, recreation and historic preservation. The term for each elected member shall be for three years, except that of the first five members appointed by the governor, one shall be for a one year term, and two shall be for a two year term, and one of the first appointments by the president of the senate and by the speaker of the assembly shall be for a two year term. Any vacancy that occurs in the commission shall be filled in the same manner in which the original appointment was made. The commission shall elect a chairman and a vice-chairman from among its members. The members of the state commission on the restoration of the capitol shall be deemed to be members of the commission until their successors are appointed. The members of the commission shall receive no compensation for their services, but shall be reimbursed for their expenses actually and necessarily incurred by them in the performance of their duties hereunder.

§ 2. Section 9 of chapter 303 of the laws of 1988, relating to the extension of the state commission on the restoration of the capitol, as amended by chapter 207 of the laws of 2013, is amended to read as follows:

§ 9. This act shall take effect immediately, and shall remain in full force and effect until April 1, [2018] 2023.

§ 3. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2018; provided that the amendments to section 2 of chapter 303 of the laws of 1988 made by section one of this act shall not affect the expiration of such chapter, and shall be deemed to expire therewith.

PART U

Intentionally Omitted

PART V

Intentionally Omitted

PART W

Intentionally Omitted

PART X

Section 1. Short title. This act shall be known and may be cited as the "New York state secure choice savings program act".

§ 2. The retirement and social security law is amended by adding a new article 14-C to read as follows:

ARTICLE 14-C

NEW YORK STATE SECURE CHOICE SAVINGS PROGRAM

§ 570. Definitions. All terms shall have the same meaning as when used in a comparable context in the Internal Revenue Code. As used in this article, the following terms shall have the following meanings:

1. "Board" shall mean the New York secure choice savings program board established under this article.

2. "Superintendent" shall mean the superintendent of the department of financial services.

2-a. "Commissioner" shall mean the commissioner of taxation and finance.

2-b. "Comptroller" shall mean the comptroller of the state.

3. "Employee" shall mean any individual who is eighteen years of age or older, who is employed by an employer, and who earned wages working for an employer in New York state during a calendar year.

4. "Employer" shall mean a person or entity engaged in a business, industry, profession, trade, or other enterprise in New York state, whether for profit or not for profit, that has not offered a qualified retirement plan, including, but not limited to, a plan qualified under sections 401(a), 401(k), 403(a), 403(b), 408(k), 408(p) or 457(b) of the Internal Revenue Code of 1986 in the preceding two years.

5. "Enrollee" shall mean any employee who is enrolled in the program.

6. "Fund" shall mean the New York state secure choice savings program fund established pursuant to section ninety-nine-bb of the state finance law.

7. "Internal Revenue Code" shall mean the Internal Revenue Code of 1986, or any successor law, in effect for the calendar year.

8. "IRA" shall mean a Roth IRA (individual retirement account).

9. "Participating employer" shall mean an employer that elects to provide a payroll deposit retirement savings arrangement as provided for by this article for its employees who are enrollees in the program.

10. "Payroll deposit retirement savings arrangement" shall mean an arrangement by which a participating employer allows enrollees to remit payroll deduction contributions to the program.

11. "Program" shall mean the New York state secure choice savings program.

12. "Wages" means any compensation within the meaning of section 219(f)(1) of the Internal Revenue Code that is received by an enrollee from a participating employer during the calendar year.

§ 571. Program established. There is hereby established a retirement savings program in the form of an automatic enrollment payroll deduction IRA, known as the New York state secure choice savings program. The general administration and responsibility for the proper operation of the program shall be administered by the board for the purpose of promoting greater retirement savings for private-sector employees in a convenient, low-cost, and portable manner.

§ 572. Composition of the board. There is hereby created the New York state secure choice savings program board.

1. The board shall consist of the following seven members:

(a) the commissioner, or his or her designee, who shall serve as chair;

(b) the state comptroller, or his or her designee;

(c) the superintendent, or his or her designee;

(d) two public representatives with expertise in retirement savings plan administration or investment, or both, one of whom shall be appointed by the speaker of the assembly and one of whom shall be appointed by the temporary president of the senate;

(e) a representative of participating employers, appointed by the governor; and

(f) a representative of enrollees, appointed by the governor.

2. Members of the board shall serve without compensation but may be reimbursed for necessary travel expenses incurred in connection with their board duties from funds appropriated for the purpose.

3. The initial appointments shall be as follows: one public representative for four years; the representative of participating employers for three years; and the representative of enrollees for three years. Thereafter, all the governor's appointees shall be for terms of four years.

4. A vacancy in the term of an appointed board member shall be filled for the balance of the unexpired term in the same manner as the original appointment.

§ 573. Fiduciary duty. The board, the individual members of the board, the trustees, any other agents appointed or engaged by the board, and all persons serving as program staff shall discharge their duties with respect to the program solely in the interest of the program's enrollees and beneficiaries as follows:

1. for the exclusive purposes of providing benefits to enrollees and beneficiaries and defraying reasonable expenses of administering the program;

2. by investing with the care, skill, prudence, and diligence under the prevailing circumstances that a prudent person acting in a like capacity and familiar with those matters would use in the conduct of an enterprise of a like character and with like aims; and

3. by using any contributions paid by employees and employers remitting employees' own contributions into the fund exclusively for the purpose of paying benefits to the enrollees of the program, for the cost of administration of the program, and for investments made for the benefit of the program.

§ 574. Duties of the board. In addition to the other duties and responsibilities stated in this article, the board shall:

1. Cause the program to be designed, established and operated in a manner that:

(a) accords with best practices for retirement savings vehicles;

(b) maximizes participation, savings, and sound investment practices including considering the use of automatic enrollment as allowed under federal law;

(c) maximizes simplicity, including ease of administration for participating employers and enrollees;

(d) provides an efficient product to enrollees by pooling investment funds;

(e) ensures the portability of benefits; and

(f) provides for the distribution of enrollee assets in a manner that maximizes financial security in retirement.

2. Explore and establish investment options, subject to this article, that offer enrollees returns on contributions and the conversion of individual retirement savings account balances to secure retirement income without incurring debt or liabilities to the state.

3. Establish the process by which interest, investment earnings, and investment losses are allocated to individual program accounts on a pro rata basis and are computed at the interest rate on the balance of an individual's account.

4. Make and enter into contracts necessary for the administration of the program and fund, including, but not limited to, retaining and contracting with investment managers, private financial institutions, other financial and service providers, consultants, actuaries, counsel, auditors, third-party administrators, and other professionals as necessary.

5. Conduct a review of the performance of any investment vendors every four years, including, but not limited to, a review of returns, fees, and customer service. A copy of reviews shall be posted to the board's Internet website.

6. Determine the number and duties of staff members needed to administer the program and assemble such a staff, including, as needed, employing staff, and appointing a program administrator.

7. Cause moneys in the fund to be held and invested as pooled investments described in this article, with a view to achieving cost savings through efficiencies and economies of scale.

8. Evaluate and establish the process for:

(a) an enrollee to contribute a portion of his or her wages to the program;

(b) participating employers to forward an enrollee's contributions and related information to the program; and

(c) the voluntary enrollment of participating employers in the program.

9. The board may contract with financial service companies and third-party administrators with the capability to receive and process employee information and contributions for payroll deposit retirement savings arrangements or similar arrangements.

10. Design and establish the process for enrollment including the process by which an employee can opt not to participate in the program, select a contribution level, select an investment option, and terminate participation in the program.

11. Accept any grants, appropriations, or other moneys from the state, any unit of federal, state, or local government, or any other person, firm, partnership, or corporation solely for deposit into the fund.

12. Evaluate the need for, and procure as needed, insurance against any and all loss in connection with the property, assets, or activities of the program, and indemnify as needed each member of the board from personal loss or liability resulting from a member's action or inaction as a member of the board.

13. Make provisions for the payment of administrative costs and expenses for the creation, management, and operation of the program. Subject to appropriation, the state may pay administrative costs associated with the creation and management of the program until sufficient assets are available in the fund for that purpose. Thereafter, all administrative costs of the fund, including repayment of any start-up funds provided by the state, shall be paid only out of moneys on deposit therein. However, private funds or federal funding received in order to implement the program until the fund is self-sustaining shall not be repaid unless those funds were offered contingent upon the promise of such repayment. The board shall keep annual administrative expenses as low as possible, but in no event shall they exceed 0.75% of the total fund balance.

14. Allocate administrative fees to individual retirement accounts in the program on a pro rata basis.

15. Set minimum and maximum contribution levels in accordance with limits established for IRAs by the Internal Revenue Code.

16. Facilitate education and outreach to employers and employees.

17. Facilitate compliance by the program with all applicable requirements for the program under the Internal Revenue Code, including tax qualification requirements or any other applicable law and accounting requirements.

18. Carry out the duties and obligations of the program in an effective, efficient, and low-cost manner.

19. Exercise any and all other powers reasonably necessary for the effectuation of the purposes, objectives, and provisions of this article pertaining to the program.

20. Deposit into the New York state secure choice administrative fund all grants, gifts, donations, fees, and earnings from investments from the New York state secure choice savings program fund that are used to recover administrative costs. All expenses of the board shall be paid from the New York state secure choice administrative fund.

21. Determine withdrawal provisions, such as economic hardships, portability and leakage.

22. Determine employee rights and enforcement of penalties.

§ 575. Risk management. The board shall annually prepare and adopt a written statement of investment policy that includes a risk management and oversight program. This investment policy shall prohibit the board, program, and fund from borrowing for investment purposes. The risk management and oversight program shall be designed to ensure that an effective risk management system is in place to monitor the risk levels of the program and fund portfolio, to ensure that the risks taken are prudent and properly managed, to provide an integrated process for overall risk management, and to assess investment returns as well as risk to determine if the risks taken are adequately compensated compared to applicable performance benchmarks and standards. The board shall consider the statement of investment policy and any changes in the investment policy at a public hearing.

§ 576. Investment firms. 1. The board shall engage, after an open bid process, an investment manager or managers to invest the fund and any other assets of the program. In selecting the investment manager or

managers, the board shall take into consideration and give weight to the investment manager's fees and charges in order to reduce the program's administrative expenses.

2. The investment manager or managers shall comply with any and all applicable federal and state laws, rules, and regulations, as well as any and all rules, policies, and guidelines promulgated by the board with respect to the program and the investment of the fund, including, but not limited to, the investment policy.

3. The investment manager or managers shall provide such reports as the board deems necessary for the board to oversee each investment manager's performance and the performance of the fund.

§ 577. Investment options. 1. The board shall establish a default investment option for enrollees who fail to elect an investment option. In making such determination, the board shall consider the cost, risk profile, benefit level and ease of enrollment. The board may change the default option if the board determines that such change is in the best interests of the enrollees.

2. The board may establish the following investment options including but not limited to:

(a) a conservative principal protection fund;

(b) a growth fund;

(c) a secure return fund whose primary objective is the preservation of the safety of principal and the provision of a stable and low-risk rate of return; if the board elects to establish a secure return fund, the board may procure any insurance, annuity, or other product to insure the value of enrollees' accounts and guarantee a rate of return; the cost of such funding mechanism shall be paid out of the fund; under no circumstances shall the board, program, fund, the state, or any participating employer assume any liability for investment or actuarial risk; the board shall determine whether to establish such investment options based upon an analysis of their cost, risk profile, benefit level, feasibility, and ease of implementation; or

(d) an annuity fund.

§ 578. Benefits. Interest, investment earnings, and investment losses shall be allocated to individual program accounts as established by the board pursuant to this article. An individual's retirement savings benefit under the program shall be an amount equal to the balance in the individual's program account on the date the retirement savings benefit becomes payable. The state shall have no liability for the payment of any benefit to any enrollee in the program.

§ 579. Employer and employee information packets and disclosure forms. 1. Prior to the opening of the program for enrollment, the board shall design and disseminate to all employers an employer information packet and an employee information packet, which shall include background information on the program, and necessary disclosures as required by law for employees.

2. The board shall provide for the contents of both the employee information packet and the employer information packet. The employee information packet shall be made available in English, Spanish, Haitian Creole, Chinese, Korean, Russian, Arabic, and any other language the board deems necessary.

3. The employee information packet shall include a disclosure form. The disclosure form shall explain, but not be limited to, all of the following:

(a) the benefits and risks associated with making contributions to the program;

(b) the process for making contributions to the program;
(c) how to opt out of the program;
(d) the process by which an employee can participate in the program with a level of employee contributions other than three percent;
(e) that they are not required to participate or contribute more than three percent;
(f) the process by which an employee can opt out after they have enrolled;
(g) the process for withdrawal of retirement savings;
(h) the process for selecting beneficiaries of their retirement savings;
(i) how to obtain additional information about the program;
(j) that employees seeking financial advice should contact financial advisors, that participating employers are not in a position to provide financial advice, and that participating employers are not liable for decisions employees make pursuant to this article;
(k) information on how to access any available financial literacy programs;
(l) that the program is not an employer-sponsored retirement plan; and
(m) that the program fund is not guaranteed by the state.

4. The employee information packet shall also include a form for an employee to note his or her decision to opt out of participation in the program or elect to participate with a level of employee contributions other than three percent.

5. Participating employers shall supply the employee information packet to existing employees at least one month prior to the participating employers' launch of the program. Participating employers shall supply the employee information packet to new employees at the time of hiring, and new employees may opt out of participation in the program or elect to participate with a level of employee contributions other than three percent at that time.

§ 580. Program implementation and enrollment. Except as otherwise provided in this article, the program shall be implemented, and enrollment of employees shall begin, within twenty-four months after the effective date of this article. The provisions of this section shall be in force after the board opens the program for enrollment.

1. Each participating employer may elect to provide a payroll deposit retirement savings arrangement to allow each employee to participate in the program and begin employee enrollment not later than nine months after the board opens the program for enrollment.

2. Enrollees shall have the ability to select a contribution level into the fund. This level may be expressed as a percentage of wages or as a dollar amount up to the deductible amount for the enrollee's taxable year under section 219(b)(1)(A) of the Internal Revenue Code. Enrollees may change their contribution level at any time, subject to rules promulgated by the board. If an enrollee fails to select a contribution level using the form described in this article, then he or she shall contribute three percent of his or her wages to the program, provided that such contributions shall not cause the enrollee's total contributions to IRAs for the year to exceed the deductible amount for the enrollee's taxable year under section 219(b)(1)(A) of the Internal Revenue Code. Notwithstanding any other provision of law, any enrollee, whose employer fails to make employee deductions in accordance with the provisions in section one hundred ninety-three of the labor law, may bring an action, pursuant to section one hundred ninety-eight of the labor law, to recover such monies. Further, any participating employer,

who fails to make employee deductions in accordance with the provisions in section one hundred ninety-three of the labor law, shall be subject to the penalties and fines provided for in section one hundred ninety-eight-a of the labor law.

3. Enrollees may select an investment option offered under the program. Enrollees may change their investment option at any time, subject to rules promulgated by the board. In the event that an enrollee fails to select an investment option, that enrollee shall be placed in the investment option selected by the board as the default under this article.

4. Following initial implementation of the program pursuant to this section, at least once every year, participating employers shall designate an open enrollment period during which employees who previously opted out of the program may enroll in the program.

5. An employee who opts out of the program who subsequently wants to participate through the participating employer's payroll deposit retirement savings arrangement may only enroll during the participating employer's designated open enrollment period or if permitted by the participating employer at an earlier time.

6. Employers shall retain the option at all times to set up any type of employer-sponsored retirement plan instead of having a payroll deposit retirement savings arrangement to allow employee participation in the program.

7. An enrollee may terminate his or her enrollment in the program at any time in a manner prescribed by the board.

8. (a) The commissioner shall establish a website regarding the secure choice savings program which shall be accessible through the commissioner's own website.

(b) The board shall, in conjunction with the commissioner, establish and maintain a secure website wherein enrollees may log in and acquire information regarding contributions and investment income allocated to, withdrawals from, and balances in their program accounts for the reporting period. Such website must also include information for the enrollees regarding other options available to the employee and how they can transfer their accounts to other programs should they wish to do so. Such website may include any other information regarding the program as the board may determine.

§ 581. Payments. Employee contributions deducted by the participating employer through payroll deduction shall be paid by the participating employer to the fund using one or more payroll deposit retirement savings arrangements established by the board under this article, either:

1. on or before the last day of the month following the month in which the compensation otherwise would have been payable to the employee in cash; or

2. before such later deadline prescribed by the board for making such payments, but not later than the due date for the deposit of tax required to be deducted and withheld relating to collection of income tax at source on wages or for the deposit of tax required to be paid under the unemployment insurance system for the payroll period to which such payments relate.

§ 582. Duty and liability of the state. 1. The state shall have no duty or liability to any party for the payment of any retirement savings benefits accrued by any enrollee under the program. Any financial liability for the payment of retirement savings benefits in excess of funds available under the program shall be borne solely by the entities

with whom the board contracts to provide insurance to protect the value of the program.

2. No state board, commission, or agency, or any officer, employee, or member thereof is liable for any loss or deficiency resulting from particular investments selected under this article, except for any liability that arises out of a breach of fiduciary duty.

§ 583. Duty and liability of participating employers. 1. Participating employers shall not have any liability for an employee's decision to participate in, or opt out of, the program or for the investment decisions of the board or of any enrollee.

2. A participating employer shall not be a fiduciary, or considered to be a fiduciary, over the program. A participating employer shall not bear responsibility for the administration, investment, or investment performance of the program. A participating employer shall not be liable with regard to investment returns, program design, and benefits paid to program participants.

§ 584. Audit and reports. 1. The board shall annually submit:

(a) an audited financial report, prepared in accordance with generally accepted accounting principles, on the operations of the program during each calendar year by July first of the following year to the governor, the commissioner, the speaker of the assembly, the temporary president of the senate, the chair of the assembly ways and means committee, the chair of the senate finance committee, the chair of the assembly labor committee, the chair of the senate labor committee, the chair of the assembly governmental employees committee, and the chair of the senate civil service and pension committee; and

(b) a report prepared by the board, which shall include, but is not limited to, a summary of the benefits provided by the program, including the number of enrollees in the program, the percentage and amounts of investment options and rates of return, and such other information that is relevant to make a full, fair, and effective disclosure of the operations of the program and the fund. The annual audit shall be made by an independent certified public accountant and shall include, but is not limited to, direct and indirect costs attributable to the use of outside consultants, independent contractors, and any other persons who are not state employees for the administration of the program.

2. In addition to any other statements or reports required by law, the board shall provide periodic reports at least annually to enrollees, reporting contributions and investment income allocated to, withdrawals from, and balances in their program accounts for the reporting period. Such reports may include any other information regarding the program as the board may determine.

§ 585. Delayed implementation. If the board does not obtain adequate funds to implement the program within the time frame set forth under this article and is subject to appropriation, the board may delay the implementation of the program.

§ 3. The state finance law is amended by adding two new sections 99-bb and 99-cc to read as follows:

§ 99-bb. New York state secure choice savings program fund. 1. There is hereby established within the sole custody of the commissioner of taxation and finance in consultation with the New York state secure choice savings program board, a new fund to be known as the New York state secure choice savings program fund.

2. The fund shall include the individual retirement accounts of enrollees, which shall be accounted for as individual accounts.

3. Moneys in the fund shall consist of moneys received from enrollees and participating employers pursuant to automatic payroll deductions and contributions to savings made under the New York state secure choice savings program pursuant to article fourteen-C of the retirement and social security law.

4. The fund shall be operated in a manner determined by the New York state secure choice savings program board, provided that the fund is operated so that the accounts of enrollees established under the program meet the requirements for IRAs under the Internal Revenue Code.

5. The amounts deposited in the fund shall not constitute property of the state and the fund shall not be construed to be a department, institution, or agency of the state. Amounts on deposit in the fund shall not be commingled with state funds and the state shall have no claim to or against, or interest in, such funds.

§ 99-cc. New York state secure choice administrative fund. 1. There is hereby established within the sole custody of the commissioner of taxation and finance in consultation with the New York state secure choice savings program board, a new fund to be known as the New York state secure choice administrative fund.

2. The New York state secure choice savings program board shall use moneys in the administrative fund to pay for administrative expenses it incurs in the performance of its duties under the New York state secure choice savings program pursuant to article fourteen-C of the retirement and social security law.

3. The New York state secure choice savings program board shall use moneys in the administrative fund to cover start-up administrative expenses it incurs in the performance of its duties under article fourteen-C of the retirement and social security law.

4. The administrative fund may receive any grants or other moneys designated for administrative purposes from the state, or any unit of federal or local government, or any other person, firm, partnership, or corporation. Any interest earnings that are attributable to moneys in the administrative fund must be deposited into the administrative fund.

§ 4. This act shall take effect immediately.

PART Y

Intentionally Omitted

PART Z

Intentionally Omitted

PART AA

Intentionally Omitted

PART BB

Intentionally Omitted

PART CC

Intentionally Omitted

PART DD

Section 1. This part enacts into law components of legislation relating to local government shared services. Each component is wholly contained within a Subpart identified as Subparts A through B. The effective date for each particular provision contained within such Subpart is set forth in the last section of such Subpart. Any provision in any section contained within a Subpart, including the effective date of the Subpart, which makes a reference to a section "of this act", when used in connection with that particular component, shall be deemed to mean and refer to the corresponding section of the Subpart in which it is found. Section three of this Part sets forth the general effective date of this Part.

SUBPART A

Section 1. Section 106-b of the uniform justice court act, as added by chapter 87 of the laws of 2008, is amended to read as follows:

§ 106-b. Election of [a single] one or more town [justice] justices for two or more adjacent towns.

1. Two or more adjacent towns within the same county, acting by and through their town boards, are authorized to jointly undertake a study relating to the election of [a single] one or more town [justice] justices who shall preside in the town courts of each such town. Such study shall be commenced upon and conducted pursuant to a joint resolution adopted by the town board of each such adjacent town. Such joint resolution or a certified copy thereof shall upon adoption be filed in the office of the town clerk of each adjacent town which adopts the resolution. No study authorized by this subdivision shall be commenced until the joint resolution providing for the study shall have been filed with the town clerks of at least two adjacent towns which adopted such joint resolution.

2. Within thirty days after the conclusion of a study conducted pursuant to subdivision one of this section, each town which shall have adopted the joint resolution providing for the study shall publish, in its official newspaper or, if there be no official newspaper, in a newspaper published in the county and having a general circulation within such town, notice that the study has been concluded and the time, date and place of the town public hearing on such study. Each town shall conduct a public hearing on the study, conducted pursuant to subdivision one of this section, not less than twenty days nor more than thirty days after publication of the notice of such public hearing.

3. The town board of each town party to the study shall conduct a public hearing upon the findings of such study, and shall hear testimony and receive evidence and information thereon with regard to the election of one or more town [justice] justices to preside over the town courts of the adjacent towns which are parties to the joint resolution providing for the study.

4. Within sixty days of the last public hearing upon a study conducted pursuant to subdivision one of this section, town boards of each town which participated in such study shall determine whether the town will participate in a joint plan providing for the election of [a single] one or more town [justice] justices to preside in the town courts of two or more adjacent towns. Every such joint plan shall only be approved by a town by the adoption of a resolution by the town board providing for the adoption of such joint plan. In the event two or more adjacent towns fail to adopt a joint plan, all proceedings authorized by this section

shall terminate and the town courts of such towns shall continue to operate in accordance with the existing provisions of law.

5. Upon the adoption of a joint plan by two or more adjacent towns, the town boards of the towns adopting such plan shall each adopt a joint resolution providing for:

a. the election of [a single] one or more town [justice] justices at large to preside in the town courts of the participating towns;

b. the abolition of the existing office of town justice in the participating towns; and

c. the election of [such single] one or more town [justice] justices shall occur at the next general election of town officers and every fourth year thereafter.

6. Upon the adoption of a joint resolution, such resolution shall be forwarded to the state legislature, and shall constitute a municipal home rule message pursuant to article nine of the state constitution and the municipal home rule law. No such joint resolution shall take effect until state legislation enacting the joint resolution shall have become a law.

7. Every town justice elected to preside in multiple towns pursuant to this section shall have jurisdiction in each of the participating adjacent towns, shall preside in the town courts of such towns, shall maintain separate records and dockets for each town court, and shall maintain a separate bank account for each town court for the deposit of moneys received by each town court.

8. In the event any town court operated pursuant to a joint plan enacted into law pursuant to this section is without the services of the [single] one or more town [justice] justices because of absence or disability, the provisions of section one hundred six of this article and the town law shall apply.

§ 2. This act shall take effect immediately.

SUBPART B

Intentionally Omitted.

§ 2. Severability. If any clause, sentence, paragraph, subdivision, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the intent of the legislature that this act would have been enacted even if such invalid provisions had not been included herein.

§ 3. This act shall take effect immediately; provided, however, that the applicable effective date of Subparts A and B of this Part shall be as specifically set forth in the last section of such Subparts.

PART EE

Section 1. The general municipal law is amended by adding a new article 12-I to read as follows:

ARTICLE 12-I

COUNTY-WIDE SHARED SERVICES PANELS

Section 239-bb. County-wide shared services panels.

§ 239-bb. County-wide shared services panels. 1. Definitions. The following terms shall have the following meanings for the purposes of this article:

a. "County" shall mean any county not wholly contained within a city.

b. "County CEO" shall mean the county executive, county manager or other chief executive of the county, or, where none, the chair of the county legislative body.

c. "Panel" shall mean a county-wide shared services panel established pursuant to subdivision two of this section.

d. "Plan" shall mean a county-wide shared services property tax savings plan.

2. County-wide shared services panels. a. There shall be a county-wide shared services panel in each county consisting of the county CEO, and one representative from each city, town and village in the county. The chief executive officer of each town, city and village shall be the representative to a panel and shall be the mayor, if a city or a village, or shall be the supervisor, if a town. The county CEO shall serve as chair. All panels established in each county pursuant to part BBB of chapter fifty-nine of the laws of two thousand seventeen, and prior to the enactment of this article, shall continue in satisfaction of this section in such form as they were established, provided that the county CEO may alter the membership of the panel consistent with paragraph b of this subdivision.

b. The county CEO may invite any school district, board of cooperative educational services, fire district, fire protection district, or special improvement district in the county to join a panel. Upon such invitation, the governing body of such school district, board of cooperative educational services, fire district, fire protection district, or other special district may accept such invitation by selecting a representative of such governing body, by majority vote, to serve as a member of the panel. Such school district, board of cooperative educational services, fire district, fire protection district or other special district shall maintain such representation until the panel either approves a plan or transmits a statement to the secretary of state on the reason the panel did not approve a plan, pursuant to paragraph d of subdivision seven of this section. Upon approval of a plan or a transmission of a statement to the secretary of state that a panel did not approve a plan in any calendar year, the county CEO may, but need not, invite any school district, board of cooperative educational services, fire district, fire protection district or special improvement district in the county to join a panel thereafter convened.

3. Each county CEO shall, after satisfying the requirements of part BBB of chapter fifty-nine of the laws of two thousand seventeen, revise and update a previously approved plan or develop a new plan. Such plans shall contain new, recurring property tax savings resulting from actions such as, but not limited to, the elimination of duplicative services; shared service arrangements including, joint purchasing, shared highway equipment, shared storage facilities, shared plowing services, and energy and insurance purchasing cooperatives; reducing back office administrative overhead; and better-coordinating services. The secretary of state may provide guidance on the form and structure of such plans.

4. While developing a plan, the county CEO shall regularly consult with, and take recommendations from, the representatives: on the panel; of each collective bargaining unit of the county and the cities, towns, and villages; and of each collective bargaining unit of any participat-

ing school district, board of cooperative educational services, fire district, fire protection district, or special improvement district.

5. The county CEO, the county legislative body and a panel shall accept input from the public, civic, business, labor and community leaders on any proposed plan. The county CEO shall cause to be conducted a minimum of three public hearings prior to submission of a plan to a vote of a panel. All such public hearings shall be conducted within the county, and public notice of all such hearings shall be provided at least one week prior in the manner prescribed in subdivision one of section one hundred four of the public officers law. Civic, business, labor, and community leaders, as well as members of the public, shall be permitted to provide public testimony at any such hearings.

6. a. The county CEO shall submit each plan, accompanied by a certification as to the accuracy of the savings contained therein, to the county legislative body at least forty-five days prior to a vote by the panel.

b. The county legislative body shall review and consider each plan submitted in accordance with paragraph a of this subdivision. A majority of the members of such body may issue an advisory report on each plan, making recommendations as deemed necessary. The county CEO may modify a plan based on such recommendations, which shall include an updated certification as to the accuracy of the savings contained therein.

7. a. A panel shall duly consider any plan properly submitted to the panel by the county CEO and may approve such plan by a majority vote of the panel. Each member of a panel may, prior to the panel-wide vote, cause to be removed from a plan any proposed action affecting the unit of government represented by the respective member. Written notice of such removal shall be provided to the county CEO prior to a panel-wide vote on a plan.

b. Plans approved by a panel shall be transmitted to the secretary of state no later than thirty days from the date of approval by a panel accompanied by a certification as to the accuracy of the savings accompanied therein, and shall be publicly disseminated to residents of the county in a concise, clear, and coherent manner using words with common and everyday meaning.

c. The county CEO shall conduct a public presentation of any approved plan no later than thirty days from the date of approval by a panel. Public notice of such presentation shall be provided at least one week prior in the manner prescribed in subdivision one of section one hundred four of the public officers law.

d. Beginning in two thousand twenty, by January fifteenth following any calendar year during which a panel did not approve a plan and transmit such plan to the secretary of state pursuant to paragraph b of this subdivision, such panel shall release to the public and transmit to the secretary of state a statement explaining why the panel did not approve a plan that year, including, for each vote on a plan, the vote taken by each panel member and an explanation by each panel member of their vote.

8. The secretary of state may solicit, and the panels shall provide at her or his request, advice, guidance and recommendations concerning matters related to the operations of local governments and shared services initiatives, including, but not limited to, making recommendations regarding grant proposals incorporating elements of shared services, government dissolutions, government and service consolidations, or property taxes and such other grants where the secretary deems the input of the panels to be in the best interest of the public.

The panel shall advance such advice, guidance or recommendations by a vote of the majority of the members present at such meeting.

9. The department of state shall prepare a report to the governor, the majority leader of the senate and the speaker of the assembly on the county-wide shared services panels created pursuant to part BBB of chapter fifty-nine of the laws of two thousand seventeen and this article and shall post the report on the department's website. Such report shall be provided on or before January thirty-first, two thousand twenty-one and shall include, but not be limited to, the following:

a. a summary of plans by project category, including, but not limited to, the following:

(1) public health and insurance;

(2) emergency services;

(3) sewer, water, and waste management systems;

(4) energy procurement and efficiency;

(5) parks and recreation;

(6) education and workforce training;

(7) law and courts;

(8) shared equipment, personnel, and services;

(9) joint purchasing;

(10) governmental reorganization;

(11) transportation and highway departments; and

(12) records management and administrative functions.

b. for each of the counties the following information:

(1) a detailed summary of each of the savings plans, including revisions and updates submitted each year or the statement explaining why the county did not approve a plan in any year;

(2) the anticipated savings for each plan;

(3) savings that are actually and demonstrably realized by each plan from implementation through December thirty-first, two thousand twenty;

(4) any costs incurred by the county for the administration of the panels;

(5) the number of cities, towns and villages in the county;

(6) the number of cities, towns and villages that participated in a panel;

(7) the number of school districts, boards of cooperative educational services, fire districts, fire protection districts, or other special districts in the county;

(8) the number of school districts, boards of cooperative educational services, fire districts, fire protection districts, or other special districts invited to participate in a panel;

(9) the number of school districts, boards of cooperative educational services, fire districts, fire protection districts, or other special districts that participated in a panel;

(10) the amount of savings achieved by each participating school district, board of cooperative educational services, fire district, fire protection district or other special district;

(11) the number of recommendations received from units of government within the county;

(12) the number of recommendations received from collective bargaining units;

(13) the number of public hearings held each year and the amount of public participation at such hearings;

(14) any advisory reports approved by the county legislature and any modifications made as a result of an advisory report;

(15) any proposed actions removed at the request of an affected local government;

(16) the number of proposed actions that actually eliminated duplicative services or were new shared service agreements;

(17) any reductions to the tax cap of a participating unit of government due to the transfer of a service; and

(18) any real property tax savings listed by unit of government.

§ 2. If any clause, sentence, paragraph, subdivision, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the intent of the legislature that this act would have been enacted even if such invalid provisions had not been included herein.

§ 3. This act shall take effect immediately and shall expire and be deemed repealed April 1, 2021.

PART FF

Section 1. Subdivision 7 of section 2046-c of the public authorities law, as added by chapter 632 of the laws of the 1982, is amended to read as follows:

7. There shall be an annual independent audit of the accounts and business practices of the agency performed by independent outside auditors [nominated by the director of the division of the budget]. Any such auditor shall serve no more than three consecutive years.

§ 2. This act shall take effect immediately.

PART GG

Section 1. The state comptroller is hereby authorized and directed to loan money in accordance with the provisions set forth in subdivision 5 of section 4 of the state finance law to the following funds and/or accounts:

1. Proprietary vocational school supervision account (20452).
2. Local government records management account (20501).
3. Child health plus program account (20810).
4. EPIC premium account (20818).
5. Education - New (20901).
6. VLT - Sound basic education fund (20904).
7. Sewage treatment program management and administration fund (21000).
8. Hazardous bulk storage account (21061).
9. Federal grants indirect cost recovery account (21065).
10. Low level radioactive waste account (21066).
11. Recreation account (21067).
12. Public safety recovery account (21077).
13. Environmental regulatory account (21081).
14. Natural resource account (21082).
15. Mined land reclamation program account (21084).
16. Great lakes restoration initiative account (21087).
17. Environmental protection and oil spill compensation fund (21200).
18. Public transportation systems account (21401).
19. Metropolitan mass transportation (21402).

20. Operating permit program account (21451).
21. Mobile source account (21452).
22. Statewide planning and research cooperative system account (21902).
23. New York state thruway authority account (21905).
24. Mental hygiene program fund account (21907).
25. Mental hygiene patient income account (21909).
26. Financial control board account (21911).
27. Regulation of racing account (21912).
28. New York Metropolitan Transportation Council account (21913).
29. State university dormitory income reimbursable account (21937).
30. Criminal justice improvement account (21945).
31. Environmental laboratory reference fee account (21959).
32. Clinical laboratory reference system assessment account (21962).
33. Indirect cost recovery account (21978).
34. High school equivalency program account (21979).
35. Multi-agency training account (21989).
36. Interstate reciprocity for post-secondary distance education account (23800).
37. Bell jar collection account (22003).
38. Industry and utility service account (22004).
39. Real property disposition account (22006).
40. Parking account (22007).
41. Courts special grants (22008).
42. Asbestos safety training program account (22009).
43. Batavia school for the blind account (22032).
44. Investment services account (22034).
45. Surplus property account (22036).
46. Financial oversight account (22039).
47. Regulation of Indian gaming account (22046).
48. Rome school for the deaf account (22053).
49. Seized assets account (22054).
50. Administrative adjudication account (22055).
51. Federal salary sharing account (22056).
52. New York City assessment account (22062).
53. Cultural education account (22063).
54. Local services account (22078).
55. DHCR mortgage servicing account (22085).
56. Housing indirect cost recovery account (22090).
57. DHCR-HCA application fee account (22100).
58. Low income housing monitoring account (22130).
59. Corporation administration account (22135).
60. Montrose veteran's home account (22144).
61. Deferred compensation administration account (22151).
62. Rent revenue other New York City account (22156).
63. Rent revenue account (22158).
64. Tax revenue arrearage account (22168).
65. Intentionally omitted.
66. State university general income offset account (22654).
67. Lake George park trust fund account (22751).
68. State police motor vehicle law enforcement account (22802).
69. Highway safety program account (23001).
70. DOH drinking water program account (23102).
71. NYCCC operating offset account (23151).
72. Commercial gaming revenue account (23701).
73. Commercial gaming regulation account (23702).

74. Highway use tax administration account (23801).
75. Fantasy sports administration account (24951).
76. Highway and bridge capital account (30051).
77. Aviation purpose account (30053).
78. State university residence hall rehabilitation fund (30100).
79. State parks infrastructure account (30351).
80. Clean water/clean air implementation fund (30500).
81. Hazardous waste remedial cleanup account (31506).
82. Youth facilities improvement account (31701).
83. Housing assistance fund (31800).
84. Housing program fund (31850).
85. Highway facility purpose account (31951).
86. Information technology capital financing account (32215).
87. New York racing account (32213).
88. Capital miscellaneous gifts account (32214).
89. New York environmental protection and spill remediation account (32219).
90. Mental hygiene facilities capital improvement fund (32300).
91. Correctional facilities capital improvement fund (32350).
92. New York State Storm Recovery Capital Fund (33000).
93. OGS convention center account (50318).
94. Empire Plaza Gift Shop (50327).
95. Centralized services fund (55000).
96. Archives records management account (55052).
97. Federal single audit account (55053).
98. Civil service EHS occupational health program account (55056).
99. Banking services account (55057).
100. Cultural resources survey account (55058).
101. Neighborhood work project account (55059).
102. Automation & printing chargeback account (55060).
103. OFT NYT account (55061).
104. Data center account (55062).
105. Intrusion detection account (55066).
106. Domestic violence grant account (55067).
107. Centralized technology services account (55069).
108. Labor contact center account (55071).
109. Human services contact center account (55072).
110. Tax contact center account (55073).
111. Executive direction internal audit account (55251).
112. CIO Information technology centralized services account (55252).
113. Health insurance internal service account (55300).
114. Civil service employee benefits division administrative account (55301).
115. Correctional industries revolving fund (55350).
116. Employees health insurance account (60201).
117. Medicaid management information system escrow fund (60900).
118. Department of law civil recoveries account.

§ 1-a. The state comptroller is hereby authorized and directed to loan money in accordance with the provisions set forth in subdivision 5 of section 4 of the state finance law to any account within the following federal funds, provided the comptroller has made a determination that sufficient federal grant award authority is available to reimburse such loans:

1. Federal USDA-food and nutrition services fund (25000).
2. Federal health and human services fund (25100).
3. Federal education fund (25200).

4. Federal block grant fund (25250).
5. Federal miscellaneous operating grants fund (25300).
6. Federal unemployment insurance administration fund (25900).
7. Federal unemployment insurance occupational training fund (25950).
8. Federal emergency employment act fund (26000).
9. Federal capital projects fund (31350).

§ 1-b. The state comptroller is hereby authorized and directed to loan money in accordance with the provisions set forth in subdivision 5 of section 4 of the state finance law to any fund within the special revenue, capital projects, proprietary or fiduciary funds for the purpose of payment of any fringe benefit or indirect cost liabilities or obligations incurred.

§ 2. Notwithstanding any law to the contrary, and in accordance with section 4 of the state finance law, the comptroller is hereby authorized and directed to transfer, upon request of the director of the budget, on or before March 31, 2019, up to the unencumbered balance or the following amounts:

Economic Development and Public Authorities:

1. $175,000 from the miscellaneous special revenue fund, underground facilities safety training account (22172), to the general fund.
2. $2,500,000 from the miscellaneous special revenue fund, cable television account (21971), to the general fund.
3. An amount up to the unencumbered balance from the miscellaneous special revenue fund, business and licensing services account (21977), to the general fund.
4. $14,810,000 from the miscellaneous special revenue fund, code enforcement account (21904), to the general fund.
5. $3,000,000 from the general fund to the miscellaneous special revenue fund, tax revenue arrearage account (22168).

Education:

1. $2,294,000,000 from the general fund to the state lottery fund, education account (20901), as reimbursement for disbursements made from such fund for supplemental aid to education pursuant to section 92-c of the state finance law that are in excess of the amounts deposited in such fund for such purposes pursuant to section 1612 of the tax law.
2. $906,800,000 from the general fund to the state lottery fund, VLT education account (20904), as reimbursement for disbursements made from such fund for supplemental aid to education pursuant to section 92-c of the state finance law that are in excess of the amounts deposited in such fund for such purposes pursuant to section 1612 of the tax law.
3. $140,040,000 from the general fund to the New York state commercial gaming fund, commercial gaming revenue account (23701), as reimbursement for disbursements made from such fund for supplemental aid to education pursuant to section 97-nnnn of the state finance law that are in excess of the amounts deposited in such fund for purposes pursuant to section 1352 of the racing, pari-mutuel wagering and breeding law.
4. Moneys from the state lottery fund (20900) up to an amount deposited in such fund pursuant to section 1612 of the tax law in excess of the current year appropriation for supplemental aid to education pursuant to section 92-c of the state finance law.
5. $300,000 from the New York state local government records management improvement fund, local government records management account (20501), to the New York state archives partnership trust fund, archives partnership trust maintenance account (20351).
6. $900,000 from the general fund to the miscellaneous special revenue fund, Batavia school for the blind account (22032).

7. $900,000 from the general fund to the miscellaneous special revenue fund, Rome school for the deaf account (22053).

8. $343,400,000 from the state university dormitory income fund (40350) to the miscellaneous special revenue fund, state university dormitory income reimbursable account (21937).

9. $20,000,000 from any of the state education department special revenue and internal service funds to the miscellaneous special revenue fund, indirect cost recovery account (21978).

10. $8,318,000 from the general fund to the state university income fund, state university income offset account (22654), for the state's share of repayment of the STIP loan.

11. $44,000,000 from the state university income fund, state university hospitals income reimbursable account (22656) to the general fund for hospital debt service for the period April 1, 2018 through March 31, 2019.

12. $4,300,000 from the miscellaneous special revenue fund, office of the professions account (22051), to the miscellaneous capital projects fund, office of the professions electronic licensing account (32200).

Environmental Affairs:

1. $16,000,000 from any of the department of environmental conservation's special revenue federal funds to the environmental conservation special revenue fund, federal indirect recovery account (21065).

2. $5,000,000 from any of the department of environmental conservation's special revenue federal funds to the conservation fund (21150) as necessary to avoid diversion of conservation funds.

3. $3,000,000 from any of the office of parks, recreation and historic preservation capital projects federal funds and special revenue federal funds to the miscellaneous special revenue fund, federal grant indirect cost recovery account (22188).

4. $1,000,000 from any of the office of parks, recreation and historic preservation special revenue federal funds to the miscellaneous capital projects fund, I love NY water account (32212).

5. $28,000,000 from the general fund to the environmental protection fund, environmental protection fund transfer account (30451).

6. $6,500,000 from the general fund to the hazardous waste remedial fund, hazardous waste oversight and assistance account (31505).

7. An amount up to or equal to the cash balance within the special revenue-other waste management & cleanup account (21053) to the capital projects fund (30000) for services and capital expenses related to the management and cleanup program as put forth in section 27-1915 of the environmental conservation law.

Family Assistance:

1. $7,000,000 from any of the office of children and family services, office of temporary and disability assistance, or department of health special revenue federal funds and the general fund, in accordance with agreements with social services districts, to the miscellaneous special revenue fund, office of human resources development state match account (21967).

2. $4,000,000 from any of the office of children and family services or office of temporary and disability assistance special revenue federal funds to the miscellaneous special revenue fund, family preservation and support services and family violence services account (22082).

3. $18,670,000 from any of the office of children and family services, office of temporary and disability assistance, or department of health special revenue federal funds and any other miscellaneous revenues

generated from the operation of office of children and family services programs to the general fund.

4. $140,000,000 from any of the office of temporary and disability assistance or department of health special revenue funds to the general fund.

5. $2,500,000 from any of the office of temporary and disability assistance special revenue funds to the miscellaneous special revenue fund, office of temporary and disability assistance program account (21980).

6. $7,400,000 from any of the office of children and family services, office of temporary and disability assistance, department of labor, and department of health special revenue federal funds to the office of children and family services miscellaneous special revenue fund, multi-agency training contract account (21989).

7. $205,000,000 from the miscellaneous special revenue fund, youth facility per diem account (22186), to the general fund.

8. $621,850 from the general fund to the combined gifts, grants, and bequests fund, WB Hoyt Memorial account (20128).

9. $5,000,000 from the miscellaneous special revenue fund, state central registry (22028), to the general fund.

General Government:

1. $1,566,000 from the miscellaneous special revenue fund, examination and miscellaneous revenue account (22065) to the general fund.

2. $8,083,000 from the general fund to the health insurance revolving fund (55300).

3. $192,400,000 from the health insurance reserve receipts fund (60550) to the general fund.

4. $150,000 from the general fund to the not-for-profit revolving loan fund (20650).

5. $150,000 from the not-for-profit revolving loan fund (20650) to the general fund.

6. $3,000,000 from the miscellaneous special revenue fund, surplus property account (22036), to the general fund.

7. $19,000,000 from the miscellaneous special revenue fund, revenue arrearage account (22024), to the general fund.

8. $1,826,000 from the miscellaneous special revenue fund, revenue arrearage account (22024), to the miscellaneous special revenue fund, authority budget office account (22138).

9. $1,000,000 from the miscellaneous special revenue fund, parking services account (22007), to the general fund, for the purpose of reimbursing the costs of debt service related to state parking facilities.

10. $21,778,000 from the general fund to the centralized services fund, COPS account (55013).

11. $13,960,000 from the general fund to the agencies internal service fund, central technology services account (55069), for the purpose of enterprise technology projects.

12. $5,500,000 from the miscellaneous special revenue fund, technology financing account (22207) to the internal service fund, data center account (55062).

13. $12,500,000 from the internal service fund, human services telecom account (55063) to the internal service fund, data center account (55062).

14. $300,000 from the internal service fund, learning management systems account (55070) to the internal service fund, data center account (55062).

15. $15,000,000 from the miscellaneous special revenue fund, workers' compensation account (21995), to the miscellaneous capital projects fund, workers' compensation board IT business process design fund, (32218).

16. $12,000,000 from the miscellaneous special revenue fund, parking services account (22007), to the centralized services, building support services account (55018).

17. $6,000,000 from the general fund to the internal service fund, business services center account (55022).

Health:

1. A transfer from the general fund to the combined gifts, grants and bequests fund, breast cancer research and education account (20155), up to an amount equal to the monies collected and deposited into that account in the previous fiscal year.

2. A transfer from the general fund to the combined gifts, grants and bequests fund, prostate cancer research, detection, and education account (20183), up to an amount equal to the moneys collected and deposited into that account in the previous fiscal year.

3. A transfer from the general fund to the combined gifts, grants and bequests fund, Alzheimer's disease research and assistance account (20143), up to an amount equal to the moneys collected and deposited into that account in the previous fiscal year.

4. $33,134,000 from the HCRA resources fund (20800) to the miscellaneous special revenue fund, empire state stem cell trust fund account (22161).

5. $6,000,000 from the miscellaneous special revenue fund, certificate of need account (21920), to the miscellaneous capital projects fund, healthcare IT capital subfund (32216).

6. $2,000,000 from the miscellaneous special revenue fund, vital health records account (22103), to the miscellaneous capital projects fund, healthcare IT capital subfund (32216).

7. $2,000,000 from the miscellaneous special revenue fund, professional medical conduct account (22088), to the miscellaneous capital projects fund, healthcare IT capital subfund (32216).

8. $91,304,000 from the HCRA resources fund (20800) to the capital projects fund (30000).

9. $6,550,000 from the general fund to the medical marihuana trust fund, health operation and oversight account (23755).

10. $1,086,000 from the miscellaneous special revenue fund, certificate of need account (21920), to the general fund.

11. A transfer of up to $500 million from the miscellaneous special revenue fund, health care stabilization account to the HCRA resources fund (20800).

Labor:

1. $400,000 from the miscellaneous special revenue fund, DOL fee and penalty account (21923), to the child performer's protection fund, child performer protection account (20401).

2. $11,700,000 from the unemployment insurance interest and penalty fund, unemployment insurance special interest and penalty account (23601), to the general fund.

3. $5,000,000 from the miscellaneous special revenue fund, workers' compensation account (21995), to the training and education program occupation safety and health fund, OSHA-training and education account (21251) and occupational health inspection account (21252).

Mental Hygiene:

1. $10,000,000 from the general fund, to the miscellaneous special revenue fund, federal salary sharing account (22056).
2. $1,800,000,000 from the general fund to the miscellaneous special revenue fund, mental hygiene patient income account (21909).
3. $2,200,000,000 from the general fund to the miscellaneous special revenue fund, mental hygiene program fund account (21907).
4. $100,000,000 from the miscellaneous special revenue fund, mental hygiene program fund account (21907), to the general fund.
5. $100,000,000 from the miscellaneous special revenue fund, mental hygiene patient income account (21909), to the general fund.
6. $3,800,000 from the general fund, to the agencies internal service fund, civil service EHS occupational health program account (55056).
7. $15,000,000 from the chemical dependence service fund, substance abuse services fund account (22700), to the capital projects fund (30000).
8. $3,000,000 from the chemical dependence service fund, substance abuse services fund account (22700), to the mental hygiene capital improvement fund (32305).
9. $3,000,000 from the chemical dependence service fund, substance abuse services fund account (22700), to the general fund.

Public Protection:

1. $1,350,000 from the miscellaneous special revenue fund, emergency management account (21944), to the general fund.
2. $2,087,000 from the general fund to the miscellaneous special revenue fund, recruitment incentive account (22171).
3. $20,773,000 from the general fund to the correctional industries revolving fund, correctional industries internal service account (55350).
4. $60,000,000 from any of the division of homeland security and emergency services special revenue federal funds to the general fund.
5. $8,600,000 from the miscellaneous special revenue fund, criminal justice improvement account (21945), to the general fund.
6. $115,420,000 from the state police motor vehicle law enforcement and motor vehicle theft and insurance fraud prevention fund, state police motor vehicle enforcement account (22802), to the general fund for state operation expenses of the division of state police.
7. $118,500,000 from the general fund to the correctional facilities capital improvement fund (32350).
8. $5,000,000 from the general fund to the dedicated highway and bridge trust fund (30050) for the purpose of work zone safety activities provided by the division of state police for the department of transportation.
9. $10,000,000 from the miscellaneous special revenue fund, statewide public safety communications account (22123), to the capital projects fund (30000).
10. $9,830,000 from the miscellaneous special revenue fund, criminal justice improvement account (21945), to the general fund.
11. $1,000,000 from the general fund to the agencies internal service fund, neighborhood work project account (55059).
12. $7,980,000 from the miscellaneous special revenue fund, fingerprint identification & technology account (21950), to the general fund.
13. $1,100,000 from the state police motor vehicle law enforcement and motor vehicle theft and insurance fraud prevention fund, motor vehicle theft and insurance fraud account (22801), to the general fund.
14. $50,000,000 from the miscellaneous special revenue fund, statewide public safety communications account (22123), to the general fund.

Transportation:

1. $17,672,000 from the federal miscellaneous operating grants fund to the miscellaneous special revenue fund, New York Metropolitan Transportation Council account (21913).

2. $20,147,000 from the federal capital projects fund to the miscellaneous special revenue fund, New York Metropolitan Transportation Council account (21913).

3. $15,058,017 from the general fund to the mass transportation operating assistance fund, public transportation systems operating assistance account (21401), of which $12,000,000 constitutes the base need for operations.

4. $720,000,000 from the general fund to the dedicated highway and bridge trust fund (30050).

5. $244,250,000 from the general fund to the MTA financial assistance fund, mobility tax trust account (23651).

6. $5,000,000 from the miscellaneous special revenue fund, transportation regulation account (22067) to the dedicated highway and bridge trust fund (30050), for disbursements made from such fund for motor carrier safety that are in excess of the amounts deposited in the dedicated highway and bridge trust fund (30050) for such purpose pursuant to section 94 of the transportation law.

7. $3,000,000 from the miscellaneous special revenue fund, traffic adjudication account (22055), to the general fund.

8. $17,421,000 from the mass transportation operating assistance fund, metropolitan mass transportation operating assistance account (21402), to the capital projects fund (30000).

9. Intentionally omitted.

10. $3,662,000 from the miscellaneous special revenue fund, accident prevention course program account (22094), to the dedicated highway and bridge trust fund (30050).

11. $3,065,000 from the miscellaneous special revenue fund, motorcycle safety account (21976), to the dedicated highway and bridge trust fund (30050).

12. $114,000 from the miscellaneous special revenue fund, seized assets account (21906), to the dedicated highway and bridge trust fund (30050).

Miscellaneous:

1. $250,000,000 from the general fund to any funds or accounts for the purpose of reimbursing certain outstanding accounts receivable balances.

2. $500,000,000 from the general fund to the debt reduction reserve fund (40000).

3. $450,000,000 from the New York state storm recovery capital fund (33000) to the revenue bond tax fund (40152).

4. $18,550,000 from the general fund, community projects account GG (10256), to the general fund, state purposes account (10050).

5. $100,000,000 from any special revenue federal fund to the general fund, state purposes account (10050).

§ 3. Notwithstanding any law to the contrary, and in accordance with section 4 of the state finance law, the comptroller is hereby authorized and directed to transfer, on or before March 31, 2019:

1. Upon request of the commissioner of environmental conservation, up to $12,531,400 from revenues credited to any of the department of environmental conservation special revenue funds, including $4,000,000 from the environmental protection and oil spill compensation fund (21200), and $1,819,600 from the conservation fund (21150), to the environmental conservation special revenue fund, indirect charges account (21060).

2. Upon request of the commissioner of agriculture and markets, up to $3,000,000 from any special revenue fund or enterprise fund within the department of agriculture and markets to the general fund, to pay appropriate administrative expenses.

3. Upon request of the commissioner of agriculture and markets, up to $2,000,000 from the state exposition special fund, state fair receipts account (50051) to the miscellaneous capital projects fund, state fair capital improvement account (32208).

4. Upon request of the commissioner of the division of housing and community renewal, up to $6,221,000 from revenues credited to any division of housing and community renewal federal or miscellaneous special revenue fund to the miscellaneous special revenue fund, housing indirect cost recovery account (22090).

5. Upon request of the commissioner of the division of housing and community renewal, up to $5,500,000 may be transferred from any miscellaneous special revenue fund account, to any miscellaneous special revenue fund.

6. Upon request of the commissioner of health up to $8,500,000 from revenues credited to any of the department of health's special revenue funds, to the miscellaneous special revenue fund, administration account (21982).

§ 4. On or before March 31, 2019, the comptroller is hereby authorized and directed to deposit earnings that would otherwise accrue to the general fund that are attributable to the operation of section 98-a of the state finance law, to the agencies internal service fund, banking services account (55057), for the purpose of meeting direct payments from such account.

§ 5. Notwithstanding any law to the contrary, upon the direction of the director of the budget and upon requisition by the state university of New York, the dormitory authority of the state of New York is directed to transfer, up to $22,000,000 in revenues generated from the sale of notes or bonds, the state university income fund general revenue account (22653) for reimbursement of bondable equipment for further transfer to the state's general fund.

§ 6. Notwithstanding any law to the contrary, and in accordance with section 4 of the state finance law, the comptroller is hereby authorized and directed to transfer, upon request of the director of the budget and upon consultation with the state university chancellor or his or her designee, on or before March 31, 2019, up to $16,000,000 from the state university income fund general revenue account (22653) to the state general fund for debt service costs related to campus supported capital project costs for the NY-SUNY 2020 challenge grant program at the University at Buffalo.

§ 7. Notwithstanding any law to the contrary, and in accordance with section 4 of the state finance law, the comptroller is hereby authorized and directed to transfer, upon request of the director of the budget and upon consultation with the state university chancellor or his or her designee, on or before March 31, 2019, up to $6,500,000 from the state university income fund general revenue account (22653) to the state general fund for debt service costs related to campus supported capital project costs for the NY-SUNY 2020 challenge grant program at the University at Albany.

§ 8. Notwithstanding any law to the contrary, the state university chancellor or his or her designee is authorized and directed to transfer estimated tuition revenue balances from the state university collection

fund (61000) to the state university income fund, state university general revenue offset account (22655) on or before March 31, 2019.

§ 9. Notwithstanding any law to the contrary, and in accordance with section 4 of the state finance law, the comptroller is hereby authorized and directed to transfer, upon request of the director of the budget, up to $1,019,348,300 from the general fund to the state university income fund, state university general revenue offset account (22655) during the period of July 1, 2018 through June 30, 2019 to support operations at the state university.

§ 9-a. Notwithstanding any law to the contrary, and in accordance with section 4 of the state finance law, the comptroller is hereby authorized and directed to transfer, upon request of the director of the budget, up to $78,564,000 from the general fund to the state university income fund, state university hospitals income reimbursable account (22656) during the period July 1, 2018 through June 30, 2019 to reflect ongoing state subsidy of SUNY hospitals and to pay costs attributable to the SUNY hospitals' state agency status.

§ 10. Notwithstanding any law to the contrary, and in accordance with section 4 of the state financial law, the comptroller is hereby authorized and directed to transfer, upon request of the director of the budget, up to $20,000,000 from the general fund to the state university income fund, state university general revenue offset account (22655) during the period of July 1, 2018 to June 30, 2019 to support operations at the state university in accordance with the maintenance of effort pursuant to clause (v) of subparagraph (4) of paragraph h of subdivision 2 of section 355 of the education law.

§ 11. Notwithstanding any law to the contrary, and in accordance with section 4 of the state finance law, the comptroller is hereby authorized and directed to transfer, upon request of the state university chancellor or his or her designee, up to $47,436,000 from the state university income fund, state university hospitals income reimbursable account (22656), for services and expenses of hospital operations and capital expenditures at the state university hospitals; and the state university income fund, Long Island veterans' home account (22652) to the state university capital projects fund (32400) on or before June 30, 2019.

§ 12. Notwithstanding any law to the contrary, and in accordance with section 4 of the state finance law, the comptroller, after consultation with the state university chancellor or his or her designee, is hereby authorized and directed to transfer moneys, in the first instance, from the state university collection fund, Stony Brook hospital collection account (61006), Brooklyn hospital collection account (61007), and Syracuse hospital collection account (61008) to the state university income fund, state university hospitals income reimbursable account (22656) in the event insufficient funds are available in the state university income fund, state university hospitals income reimbursable account (22656) to permit the full transfer of moneys authorized for transfer, to the general fund for payment of debt service related to the SUNY hospitals. Notwithstanding any law to the contrary, the comptroller is also hereby authorized and directed, after consultation with the state university chancellor or his or her designee, to transfer moneys from the state university income fund to the state university income fund, state university hospitals income reimbursable account (22656) in the event insufficient funds are available in the state university income fund, state university hospitals income reimbursable account (22656) to pay hospital operating costs or to permit the full transfer of moneys

authorized for transfer, to the general fund for payment of debt service related to the SUNY hospitals on or before March 31, 2019.

§ 13. Notwithstanding any law to the contrary, upon the direction of the director of the budget and the chancellor of the state university of New York or his or her designee, and in accordance with section 4 of the state finance law, the comptroller is hereby authorized and directed to transfer monies from the state university dormitory income fund (40350) to the state university residence hall rehabilitation fund (30100), and from the state university residence hall rehabilitation fund (30100) to the state university dormitory income fund (40350), in an amount not to exceed $80 million from each fund.

§ 14. Notwithstanding any law to the contrary, and in accordance with section 4 of the state finance law, the comptroller is hereby authorized and directed to transfer monies, upon request of the director of the budget, on or before March 31, 2019, from and to any of the following accounts: the miscellaneous special revenue fund, patient income account (21909), the miscellaneous special revenue fund, mental hygiene program fund account (21907), the miscellaneous special revenue fund, federal salary sharing account (22056), or the general fund in any combination, the aggregate of which shall not exceed $350 million.

§ 15. Subdivision 5 of section 97-f of the state finance law, as amended by chapter 18 of the laws of 2003, is amended to read as follows:

5. The comptroller shall from time to time, but in no event later than the fifteenth day of each month, pay over for deposit in the mental hygiene [patient income] <u>general fund state operations</u> account all moneys in the mental health services fund in excess of the amount of money required to be maintained on deposit in the mental health services fund. The amount required to be maintained in such fund shall be (i) twenty percent of the amount of the next payment coming due relating to the mental health services facilities improvement program under any agreement between the facilities development corporation and the New York state medical care facilities finance agency multiplied by the number of months from the date of the last such payment with respect to payments under any such agreement required to be made semi-annually, plus (ii) those amounts specified in any such agreement with respect to payments required to be made other than semi-annually, including for variable rate bonds, interest rate exchange or similar agreements or other financing arrangements permitted by law. Prior to making any such payment, the comptroller shall make and deliver to the director of the budget and the chairmen of the facilities development corporation and the New York state medical care facilities finance agency, a certificate stating the aggregate amount to be maintained on deposit in the mental health services fund to comply in full with the provisions of this subdivision.

§ 16. Notwithstanding any law to the contrary, and in accordance with section 4 of the state finance law, the comptroller is hereby authorized and directed to transfer, at the request of the director of the budget, up to $250 million from the unencumbered balance of any special revenue fund or account, agency fund or account, internal service fund or account, enterprise fund or account, or any combination of such funds and accounts, to the general fund. The amounts transferred pursuant to this authorization shall be in addition to any other transfers expressly authorized in the 2018-19 budget. Transfers from federal funds, debt service funds, capital projects funds, the community projects fund, or funds that would result in the loss of eligibility for federal benefits

or federal funds pursuant to federal law, rule, or regulation as assented to in chapter 683 of the laws of 1938 and chapter 700 of the laws of 1951 are not permitted pursuant to this authorization.

§ 17. Notwithstanding any law to the contrary, and in accordance with section 4 of the state finance law, the comptroller is hereby authorized and directed to transfer, at the request of the director of the budget, up to $100 million from any non-general fund or account, or combination of funds and accounts, to the miscellaneous special revenue fund, technology financing account (22207), the miscellaneous capital projects fund, information technology capital financing account (32215), or the centralized technology services account (55069), for the purpose of consolidating technology procurement and services. The amounts transferred to the miscellaneous special revenue fund, technology financing account (22207) pursuant to this authorization shall be equal to or less than the amount of such monies intended to support information technology costs which are attributable, according to a plan, to such account made in pursuance to an appropriation by law. Transfers to the technology financing account shall be completed from amounts collected by non-general funds or accounts pursuant to a fund deposit schedule or permanent statute, and shall be transferred to the technology financing account pursuant to a schedule agreed upon by the affected agency commissioner. Transfers from funds that would result in the loss of eligibility for federal benefits or federal funds pursuant to federal law, rule, or regulation as assented to in chapter 683 of the laws of 1938 and chapter 700 of the laws of 1951 are not permitted pursuant to this authorization.

§ 18. Notwithstanding any other law to the contrary, up to $145 million of the assessment reserves remitted to the chair of the workers' compensation board pursuant to subdivision 6 of section 151 of the workers' compensation law shall, at the request of the director of the budget, be transferred to the state insurance fund, for partial payment and partial satisfaction of the state's obligations to the state insurance fund under section 88-c of the workers' compensation law.

§ 19. Notwithstanding any law to the contrary, and in accordance with section 4 of the state finance law, the comptroller is hereby authorized and directed to transfer, at the request of the director of the budget, up to $400 million from any non-general fund or account, or combination of funds and accounts, to the general fund for the purpose of consolidating technology procurement and services. The amounts transferred pursuant to this authorization shall be equal to or less than the amount of such monies intended to support information technology costs which are attributable, according to a plan, to such account made in pursuance to an appropriation by law. Transfers to the general fund shall be completed from amounts collected by non-general funds or accounts pursuant to a fund deposit schedule. Transfers from funds that would result in the loss of eligibility for federal benefits or federal funds pursuant to federal law, rule, or regulation as assented to in chapter 683 of the laws of 1938 and chapter 700 of the laws of 1951 are not permitted pursuant to this authorization.

§ 20. Notwithstanding any provision of law to the contrary, as deemed feasible and advisable by its trustees, the power authority of the state of New York is authorized and directed to transfer to the state treasury to the credit of the general fund $20,000,000 for the state fiscal year commencing April 1, 2018, the proceeds of which will be utilized to support energy-related state activities.

§ 21. Notwithstanding any provision of law, rule or regulation to the contrary, the New York state energy research and development authority is authorized and directed to make a contribution of $913,000 to the state treasury to the credit of the general fund on or before March 31, 2019.

§ 21-a. Notwithstanding any provision of law to the contrary, as deemed feasible and advisable by its trustees, the power authority of the state of New York is authorized and directed to transfer up to $50,000,000 to the New York city housing authority pursuant to a plan approved by the director of the budget, in consultation with the New York city housing authority chair and the dormitory authority of the state of New York, for the purpose of replacing and improving heating systems in housing developments owned or operated by the New York city housing authority.

§ 21-b. Notwithstanding any provision of law, rule or regulation to the contrary, the New York state energy research and development authority is authorized and directed to transfer to the public utilities law project up to $750,000 for the services and expenses thereof for the purpose of delivering civil legal services to the poor.

§ 21-c. Notwithstanding any provision of law, rule or regulation to the contrary, the New York state energy research and development authority is authorized and directed to transfer to the energy research and development operating fund established pursuant to section 1859 of the public authorities law in the amount of $23,000,000 from proceeds collected by the authority from the auction or sale of carbon dioxide emission allowances allocated by the department of environmental conservation on or before March 31, 2018, which amount shall be utilized for energy efficiency and weatherization in environmental justice and low income communities through the New York state energy research and development authority Empower NY program and residential solar projects in environmental justice and low income communities through the New York state energy research and development authority Affordable Solar program.

§ 22. Subdivision 5 of section 97-rrr of the state finance law, as amended by section 21 of part XXX of chapter 59 of the laws of 2017, is amended to read as follows:

5. Notwithstanding the provisions of section one hundred seventy-one-a of the tax law, as separately amended by chapters four hundred eighty-one and four hundred eighty-four of the laws of nineteen hundred eighty-one, and notwithstanding the provisions of chapter ninety-four of the laws of two thousand eleven, or any other provisions of law to the contrary, during the fiscal year beginning April first, two thousand [seventeen] <u>eighteen</u>, the state comptroller is hereby authorized and directed to deposit to the fund created pursuant to this section from amounts collected pursuant to article twenty-two of the tax law and pursuant to a schedule submitted by the director of the budget, up to [$2,679,997,000] <u>$2,458,909,000</u>, as may be certified in such schedule as necessary to meet the purposes of such fund for the fiscal year beginning April first, two thousand [seventeen] <u>eighteen</u>.

§ 23. Notwithstanding any law to the contrary, the comptroller is hereby authorized and directed to transfer, upon request of the director of the budget, on or before March 31, 2019, the following amounts from the following special revenue accounts to the capital projects fund (30000), for the purposes of reimbursement to such fund for expenses related to the maintenance and preservation of state assets:

1. $43,000 from the miscellaneous special revenue fund, administrative program account (21982).
2. $1,478,000 from the miscellaneous special revenue fund, helen hayes hospital account (22140).
3. $366,000 from the miscellaneous special revenue fund, New York city veterans' home account (22141).
4. $513,000 from the miscellaneous special revenue fund, New York state home for veterans' and their dependents at oxford account (22142).
5. $159,000 from the miscellaneous special revenue fund, western New York veterans' home account (22143).
6. $323,000 from the miscellaneous special revenue fund, New York state for veterans in the lower-hudson valley account (22144).
7. $2,550,000 from the miscellaneous special revenue fund, patron services account (22163).
8. $830,000 from the miscellaneous special revenue fund, long island veterans' home account (22652).
9. $5,379,000 from the miscellaneous special revenue fund, state university general income reimbursable account (22653).
10. $112,556,000 from the miscellaneous special revenue fund, state university revenue offset account (22655).
11. $557,000 from the miscellaneous special revenue fund, state university of New York tuition reimbursement account (22659).
12. $41,930,000 from the state university dormitory income fund, state university dormitory income fund (40350).
13. $1,000,000 from the miscellaneous special revenue fund, litigation settlement and civil recovery account (22117).

§ 24. Intentionally omitted.

§ 25. Subdivision 6 of section 4 of the state finance law, as amended by section 24 of part UU of chapter 54 of the laws of 2016, is amended to read as follows:

6. Notwithstanding any law to the contrary, at the beginning of the state fiscal year, the state comptroller is hereby authorized and directed to receive for deposit to the credit of a fund and/or an account such monies as are identified by the director of the budget as having been intended for such deposit to support disbursements from such fund and/or account made in pursuance of an appropriation by law. As soon as practicable upon enactment of the budget, the director of the budget shall, but not less than three days following preliminary submission to the chairs of the senate finance committee and the assembly ways and means committee, file with the state comptroller an identification of specific monies to be so deposited. Any subsequent change regarding the monies to be so deposited shall be filed by the director of the budget, as soon as practicable, but not less than three days following preliminary submission to the chairs of the senate finance committee and the assembly ways and means committee.

All monies identified by the director of the budget to be deposited to the credit of a fund and/or account shall be consistent with the intent of the budget for the then current state fiscal year as enacted by the legislature.

The provisions of this subdivision shall expire on March thirty-first, two thousand [eighteen] <u>twenty</u>.

§ 26. Subdivision 4 of section 40 of the state finance law, as amended by section 25 of part UU of chapter 54 of the laws of 2016, is amended to read as follows:

4. Every appropriation made from a fund or account to a department or agency shall be available for the payment of prior years' liabilities in

such fund or account for fringe benefits, indirect costs, and telecommunications expenses and expenses for other centralized services fund programs without limit. Every appropriation shall also be available for the payment of prior years' liabilities other than those indicated above, but only to the extent of one-half of one percent of the total amount appropriated to a department or agency in such fund or account.

The provisions of this subdivision shall expire March thirty-first, two thousand [eighteen] twenty.

§ 27. Intentionally omitted.

§ 28. Intentionally omitted.

§ 28-a. Intentionally omitted.

§ 29. Subdivision 1 of section 8-b of the state finance law, as added by chapter 169 of the laws of 1994, is amended to read as follows:

1. The comptroller is hereby authorized and directed to assess fringe benefit and central service agency indirect costs on all [non-general] funds, and to [bill] charge such assessments [on] to such funds. Such fringe benefit and indirect costs [billings] assessments shall be based on rates provided to the comptroller by the director of the budget. Copies of such rates shall be provided to the legislative fiscal committees.

§ 30. Notwithstanding any other law, rule, or regulation to the contrary, the state comptroller is hereby authorized and directed to use any balance remaining in the mental health services fund debt service appropriation, after payment by the state comptroller of all obligations required pursuant to any lease, sublease, or other financing arrangement between the dormitory authority of the state of New York as successor to the New York state medical care facilities finance agency, and the facilities development corporation pursuant to chapter 83 of the laws of 1995 and the department of mental hygiene for the purpose of making payments to the dormitory authority of the state of New York for the amount of the earnings for the investment of monies deposited in the mental health services fund that such agency determines will or may have to be rebated to the federal government pursuant to the provisions of the internal revenue code of 1986, as amended, in order to enable such agency to maintain the exemption from federal income taxation on the interest paid to the holders of such agency's mental services facilities improvement revenue bonds. Annually on or before each June 30th, such agency shall certify to the state comptroller its determination of the amounts received in the mental health services fund as a result of the investment of monies deposited therein that will or may have to be rebated to the federal government pursuant to the provisions of the internal revenue code of 1986, as amended.

§ 31. Subdivision 1 of section 47 of section 1 of chapter 174 of the laws of 1968, constituting the New York state urban development corporation act, as amended by section 24 of part XXX of chapter 59 of the laws of 2017, is amended to read as follows:

1. Notwithstanding the provisions of any other law to the contrary, the dormitory authority and the corporation are hereby authorized to issue bonds or notes in one or more series for the purpose of funding project costs for the office of information technology services, department of law, and other state costs associated with such capital projects. The aggregate principal amount of bonds authorized to be issued pursuant to this section shall not exceed [four hundred fifty million five hundred forty thousand dollars] five hundred forty million nine hundred fifty-four thousand dollars, excluding bonds issued to fund one or more debt service reserve funds, to pay costs of issuance of such

bonds, and bonds or notes issued to refund or otherwise repay such bonds or notes previously issued. Such bonds and notes of the dormitory authority and the corporation shall not be a debt of the state, and the state shall not be liable thereon, nor shall they be payable out of any funds other than those appropriated by the state to the dormitory authority and the corporation for principal, interest, and related expenses pursuant to a service contract and such bonds and notes shall contain on the face thereof a statement to such effect. Except for purposes of complying with the internal revenue code, any interest income earned on bond proceeds shall only be used to pay debt service on such bonds.

§ 32. Subdivision 1 of section 16 of part D of chapter 389 of the laws of 1997, relating to the financing of the correctional facilities improvement fund and the youth facility improvement fund, as amended by section 25 of part XXX of chapter 59 of the laws of 2017, is amended to read as follows:

1. Subject to the provisions of chapter 59 of the laws of 2000, but notwithstanding the provisions of section 18 of section 1 of chapter 174 of the laws of 1968, the New York state urban development corporation is hereby authorized to issue bonds, notes and other obligations in an aggregate principal amount not to exceed [seven] eight billion [seven hundred forty-one] eighty-two million [one] eight hundred ninety-nine thousand dollars [$7,741,199,000] $8,082,899,000, and shall include all bonds, notes and other obligations issued pursuant to chapter 56 of the laws of 1983, as amended or supplemented. The proceeds of such bonds, notes or other obligations shall be paid to the state, for deposit in the correctional facilities capital improvement fund to pay for all or any portion of the amount or amounts paid by the state from appropriations or reappropriations made to the department of corrections and community supervision from the correctional facilities capital improvement fund for capital projects. The aggregate amount of bonds, notes or other obligations authorized to be issued pursuant to this section shall exclude bonds, notes or other obligations issued to refund or otherwise repay bonds, notes or other obligations theretofore issued, the proceeds of which were paid to the state for all or a portion of the amounts expended by the state from appropriations or reappropriations made to the department of corrections and community supervision; provided, however, that upon any such refunding or repayment the total aggregate principal amount of outstanding bonds, notes or other obligations may be greater than [seven] eight billion [seven hundred forty-one] eighty-two million [one] eight hundred ninety-nine thousand dollars [$7,741,199,000] $8,082,899,000, only if the present value of the aggregate debt service of the refunding or repayment bonds, notes or other obligations to be issued shall not exceed the present value of the aggregate debt service of the bonds, notes or other obligations so to be refunded or repaid. For the purposes hereof, the present value of the aggregate debt service of the refunding or repayment bonds, notes or other obligations and of the aggregate debt service of the bonds, notes or other obligations so refunded or repaid, shall be calculated by utilizing the effective interest rate of the refunding or repayment bonds, notes or other obligations, which shall be that rate arrived at by doubling the semi-annual interest rate (compounded semi-annually) necessary to discount the debt service payments on the refunding or repayment bonds, notes or other obligations from the payment dates thereof to the date of issue of the refunding or repayment bonds, notes or other obligations and to the price bid including estimated accrued

interest or proceeds received by the corporation including estimated accrued interest from the sale thereof.

§ 33. Paragraph (a) of subdivision 2 of section 47-e of the private housing finance law, as amended by section 26 of part XXX of chapter 59 of the laws of 2017, is amended to read as follows:

(a) Subject to the provisions of chapter fifty-nine of the laws of two thousand, in order to enhance and encourage the promotion of housing programs and thereby achieve the stated purposes and objectives of such housing programs, the agency shall have the power and is hereby authorized from time to time to issue negotiable housing program bonds and notes in such principal amount as shall be necessary to provide sufficient funds for the repayment of amounts disbursed (and not previously reimbursed) pursuant to law or any prior year making capital appropriations or reappropriations for the purposes of the housing program; provided, however, that the agency may issue such bonds and notes in an aggregate principal amount not exceeding $5,841,399,000 five billion [three] eight hundred [eighty-four] forty-one million [one] three hundred ninety-nine thousand dollars, plus a principal amount of bonds issued to fund the debt service reserve fund in accordance with the debt service reserve fund requirement established by the agency and to fund any other reserves that the agency reasonably deems necessary for the security or marketability of such bonds and to provide for the payment of fees and other charges and expenses, including underwriters' discount, trustee and rating agency fees, bond insurance, credit enhancement and liquidity enhancement related to the issuance of such bonds and notes. No reserve fund securing the housing program bonds shall be entitled or eligible to receive state funds apportioned or appropriated to maintain or restore such reserve fund at or to a particular level, except to the extent of any deficiency resulting directly or indirectly from a failure of the state to appropriate or pay the agreed amount under any of the contracts provided for in subdivision four of this section.

§ 34. Subdivision (b) of section 11 of chapter 329 of the laws of 1991, amending the state finance law and other laws relating to the establishment of the dedicated highway and bridge trust fund, as amended by section 27 of part XXX of chapter 59 of the laws of 2017, is amended to read as follows:

(b) Any service contract or contracts for projects authorized pursuant to sections 10-c, 10-f, 10-g and 80-b of the highway law and section 14-k of the transportation law, and entered into pursuant to subdivision (a) of this section, shall provide for state commitments to provide annually to the thruway authority a sum or sums, upon such terms and conditions as shall be deemed appropriate by the director of the budget, to fund, or fund the debt service requirements of any bonds or any obligations of the thruway authority issued to fund or to reimburse the state for funding such projects having a cost not in excess of [$9,699,586,000] $10,251,939,000 cumulatively by the end of fiscal year [2017-18] 2018-19.

§ 35. Subdivision 1 of section 1689-i of the public authorities law, as amended by section 28 of part XXX of chapter 59 of the laws of 2017, is amended to read as follows:

1. The dormitory authority is authorized to issue bonds, at the request of the commissioner of education, to finance eligible library construction projects pursuant to section two hundred seventy-three-a of the education law, in amounts certified by such commissioner not to

exceed a total principal amount of [one] two hundred [eighty-three] forty-seven million dollars.

§ 36. Subdivision (a) of section 27 of part Y of chapter 61 of the laws of 2005, relating to providing for the administration of certain funds and accounts related to the 2005-2006 budget, as amended by section 29 of part XXX of chapter 59 of the laws of 2017, is amended to read as follows:

(a) Subject to the provisions of chapter 59 of the laws of 2000, but notwithstanding any provisions of law to the contrary, the urban development corporation is hereby authorized to issue bonds or notes in one or more series in an aggregate principal amount not to exceed [$173,600,000] $220,100,000 two hundred twenty million one hundred thousand dollars, excluding bonds issued to finance one or more debt service reserve funds, to pay costs of issuance of such bonds, and bonds or notes issued to refund or otherwise repay such bonds or notes previously issued, for the purpose of financing capital projects including IT initiatives for the division of state police, debt service and leases; and to reimburse the state general fund for disbursements made therefor. Such bonds and notes of such authorized issuer shall not be a debt of the state, and the state shall not be liable thereon, nor shall they be payable out of any funds other than those appropriated by the state to such authorized issuer for debt service and related expenses pursuant to any service contract executed pursuant to subdivision (b) of this section and such bonds and notes shall contain on the face thereof a statement to such effect. Except for purposes of complying with the internal revenue code, any interest income earned on bond proceeds shall only be used to pay debt service on such bonds.

§ 37. Section 44 of section 1 of chapter 174 of the laws of 1968, constituting the New York state urban development corporation act, as amended by section 30 of part XXX of chapter 59 of the laws of 2017, is amended to read as follows:

§ 44. Issuance of certain bonds or notes. 1. Notwithstanding the provisions of any other law to the contrary, the dormitory authority and the corporation are hereby authorized to issue bonds or notes in one or more series for the purpose of funding project costs for the regional economic development council initiative, the economic transformation program, state university of New York college for nanoscale and science engineering, projects within the city of Buffalo or surrounding environs, the New York works economic development fund, projects for the retention of professional football in western New York, the empire state economic development fund, the clarkson-trudeau partnership, the New York genome center, the cornell university college of veterinary medicine, the olympic regional development authority, projects at nano Utica, onondaga county revitalization projects, Binghamton university school of pharmacy, New York power electronics manufacturing consortium, regional infrastructure projects, high tech innovation and economic development infrastructure program, high technology manufacturing projects in Chautauqua and Erie county, an industrial scale research and development facility in Clinton county, upstate revitalization initiative projects, downstate revitalization initiative market New York projects, fairground buildings, equipment or facilities used to house and promote agriculture, the state fair, the empire state trail, the moynihan station development project, the Kingsbridge armory project, strategic economic development projects, the cultural, arts and public spaces fund, water infrastructure in the city of Auburn and town of Owasco, a life sciences laboratory public health initiative, not-for-

profit pounds, shelters and humane societies, arts and cultural facilities improvement program, restore New York's communities initiative, heavy equipment, economic development and infrastructure projects, [and] other state costs associated with such projects and Roosevelt Island operating corporation capital projects. The aggregate principal amount of bonds authorized to be issued pursuant to this section shall not exceed [six] seven billion [seven] six hundred [eight] twenty-three million [two] five hundred [fifty-seven] ninety thousand dollars, excluding bonds issued to fund one or more debt service reserve funds, to pay costs of issuance of such bonds, and bonds or notes issued to refund or otherwise repay such bonds or notes previously issued. Such bonds and notes of the dormitory authority and the corporation shall not be a debt of the state, and the state shall not be liable thereon, nor shall they be payable out of any funds other than those appropriated by the state to the dormitory authority and the corporation for principal, interest, and related expenses pursuant to a service contract and such bonds and notes shall contain on the face thereof a statement to such effect. Except for purposes of complying with the internal revenue code, any interest income earned on bond proceeds shall only be used to pay debt service on such bonds.

2. Notwithstanding any other provision of law to the contrary, in order to assist the dormitory authority and the corporation in undertaking the financing for project costs for the regional economic development council initiative, the economic transformation program, state university of New York college for nanoscale and science engineering, projects within the city of Buffalo or surrounding environs, the New York works economic development fund, projects for the retention of professional football in western New York, the empire state economic development fund, the clarkson-trudeau partnership, the New York genome center, the cornell university college of veterinary medicine, the olympic regional development authority, projects at nano Utica, onondaga county revitalization projects, Binghamton university school of pharmacy, New York power electronics manufacturing consortium, regional infrastructure projects, high technology manufacturing projects in Chautauqua and Erie county, an industrial scale research and development facility in Clinton county, upstate revitalization initiative projects, market New York projects, fairground buildings, equipment or facilities used to house and promote agriculture, the state fair, the empire state trail, the moynihan station development project, the Kingsbridge armory project, strategic economic development projects, the cultural, arts and public spaces fund, water infrastructure in the city of Auburn and town of Owasco, a life sciences laboratory public health initiative, not-for-profit pounds, shelters and humane societies, arts and cultural facilities improvement program, restore New York's communities initiative, heavy equipment, economic development and infrastructure projects, and other state costs associated with such projects, the director of the budget is hereby authorized to enter into one or more service contracts with the dormitory authority and the corporation, none of which shall exceed thirty years in duration, upon such terms and conditions as the director of the budget and the dormitory authority and the corporation agree, so as to annually provide to the dormitory authority and the corporation, in the aggregate, a sum not to exceed the principal, interest, and related expenses required for such bonds and notes. Any service contract entered into pursuant to this section shall provide that the obligation of the state to pay the amount therein provided shall not constitute a debt of the state within the meaning of any constitutional

or statutory provision and shall be deemed executory only to the extent of monies available and that no liability shall be incurred by the state beyond the monies available for such purpose, subject to annual appropriation by the legislature. Any such contract or any payments made or to be made thereunder may be assigned and pledged by the dormitory authority and the corporation as security for its bonds and notes, as authorized by this section.

§ 38. Subdivision 3 of section 1285-p of the public authorities law, as amended by section 31 of part XXX of chapter 59 of the laws of 2017, is amended to read as follows:

3. The maximum amount of bonds that may be issued for the purpose of financing environmental infrastructure projects authorized by this section shall be [four] five billion [nine] two hundred [fifty-one] ninety-six million [seven] one hundred sixty thousand dollars, exclusive of bonds issued to fund any debt service reserve funds, pay costs of issuance of such bonds, and bonds or notes issued to refund or otherwise repay bonds or notes previously issued. Such bonds and notes of the corporation shall not be a debt of the state, and the state shall not be liable thereon, nor shall they be payable out of any funds other than those appropriated by the state to the corporation for debt service and related expenses pursuant to any service contracts executed pursuant to subdivision one of this section, and such bonds and notes shall contain on the face thereof a statement to such effect.

§ 39. Intentionally omitted.

§ 40. Subdivision (a) of section 48 of part K of chapter 81 of the laws of 2002, relating to providing for the administration of certain funds and accounts related to the 2002-2003 budget, as amended by section 33 of part XXX of chapter 59 of the laws of 2017, is amended to read as follows:

(a) Subject to the provisions of chapter 59 of the laws of 2000 but notwithstanding the provisions of section 18 of the urban development corporation act, the corporation is hereby authorized to issue bonds or notes in one or more series in an aggregate principal amount not to exceed [$250,000,000] $253,000,000 two-hundred fifty-three million dollars excluding bonds issued to fund one or more debt service reserve funds, to pay costs of issuance of such bonds, and bonds or notes issued to refund or otherwise repay such bonds or notes previously issued, for the purpose of financing capital costs related to homeland security and training facilities for the division of state police, the division of military and naval affairs, and any other state agency, including the reimbursement of any disbursements made from the state capital projects fund, and is hereby authorized to issue bonds or notes in one or more series in an aggregate principal amount not to exceed [$654,800,000] $744,800,000, seven hundred forty-four million eight hundred thousand dollars, excluding bonds issued to fund one or more debt service reserve funds, to pay costs of issuance of such bonds, and bonds or notes issued to refund or otherwise repay such bonds or notes previously issued, for the purpose of financing improvements to State office buildings and other facilities located statewide, including the reimbursement of any disbursements made from the state capital projects fund. Such bonds and notes of the corporation shall not be a debt of the state, and the state shall not be liable thereon, nor shall they be payable out of any funds other than those appropriated by the state to the corporation for debt service and related expenses pursuant to any service contracts executed pursuant to subdivision (b) of this section, and such bonds and notes shall contain on the face thereof a statement to such effect.

§ 41. Subdivision 1 of section 386-b of the public authorities law, as amended by section 34 of part XXX of chapter 59 of the laws of 2017, is amended to read as follows:

1. Notwithstanding any other provision of law to the contrary, the authority, the dormitory authority and the urban development corporation are hereby authorized to issue bonds or notes in one or more series for the purpose of financing peace bridge projects and capital costs of state and local highways, parkways, bridges, the New York state thruway, Indian reservation roads, and facilities, and transportation infrastructure projects including aviation projects, non-MTA mass transit projects, and rail service preservation projects, including work appurtenant and ancillary thereto. The aggregate principal amount of bonds authorized to be issued pursuant to this section shall not exceed four billion [three] five hundred [sixty-four] million dollars [$4,364,000,000] $4,500,000,000, excluding bonds issued to fund one or more debt service reserve funds, to pay costs of issuance of such bonds, and to refund or otherwise repay such bonds or notes previously issued. Such bonds and notes of the authority, the dormitory authority and the urban development corporation shall not be a debt of the state, and the state shall not be liable thereon, nor shall they be payable out of any funds other than those appropriated by the state to the authority, the dormitory authority and the urban development corporation for principal, interest, and related expenses pursuant to a service contract and such bonds and notes shall contain on the face thereof a statement to such effect. Except for purposes of complying with the internal revenue code, any interest income earned on bond proceeds shall only be used to pay debt service on such bonds.

§ 42. Paragraph (c) of subdivision 19 of section 1680 of the public authorities law, as amended by section 35 of part XXX of chapter 59 of the laws of 2017, is amended to read as follows:

(c) Subject to the provisions of chapter fifty-nine of the laws of two thousand, the dormitory authority shall not issue any bonds for state university educational facilities purposes if the principal amount of bonds to be issued when added to the aggregate principal amount of bonds issued by the dormitory authority on and after July first, nineteen hundred eighty-eight for state university educational facilities will exceed [twelve] thirteen billion [three] two hundred [forty-three] seventy-eight million eight hundred sixty-four thousand dollars $13,278,864,000; provided, however, that bonds issued or to be issued shall be excluded from such limitation if: (1) such bonds are issued to refund state university construction bonds and state university construction notes previously issued by the housing finance agency; or (2) such bonds are issued to refund bonds of the authority or other obligations issued for state university educational facilities purposes and the present value of the aggregate debt service on the refunding bonds does not exceed the present value of the aggregate debt service on the bonds refunded thereby; provided, further that upon certification by the director of the budget that the issuance of refunding bonds or other obligations issued between April first, nineteen hundred ninety-two and March thirty-first, nineteen hundred ninety-three will generate long term economic benefits to the state, as assessed on a present value basis, such issuance will be deemed to have met the present value test noted above. For purposes of this subdivision, the present value of the aggregate debt service of the refunding bonds and the aggregate debt service of the bonds refunded, shall be calculated by utilizing the true interest cost of the refunding bonds, which shall be that rate arrived

at by doubling the semi-annual interest rate (compounded semi-annually) necessary to discount the debt service payments on the refunding bonds from the payment dates thereof to the date of issue of the refunding bonds to the purchase price of the refunding bonds, including interest accrued thereon prior to the issuance thereof. The maturity of such bonds, other than bonds issued to refund outstanding bonds, shall not exceed the weighted average economic life, as certified by the state university construction fund, of the facilities in connection with which the bonds are issued, and in any case not later than the earlier of thirty years or the expiration of the term of any lease, sublease or other agreement relating thereto; provided that no note, including renewals thereof, shall mature later than five years after the date of issuance of such note. The legislature reserves the right to amend or repeal such limit, and the state of New York, the dormitory authority, the state university of New York, and the state university construction fund are prohibited from covenanting or making any other agreements with or for the benefit of bondholders which might in any way affect such right.

§ 43. Paragraph (c) of subdivision 14 of section 1680 of the public authorities law, as amended by section 36 of part XXX of chapter 59 of the laws of 2017, is amended to read as follows:

(c) Subject to the provisions of chapter fifty-nine of the laws of two thousand, (i) the dormitory authority shall not deliver a series of bonds for city university community college facilities, except to refund or to be substituted for or in lieu of other bonds in relation to city university community college facilities pursuant to a resolution of the dormitory authority adopted before July first, nineteen hundred eighty-five or any resolution supplemental thereto, if the principal amount of bonds so to be issued when added to all principal amounts of bonds previously issued by the dormitory authority for city university community college facilities, except to refund or to be substituted in lieu of other bonds in relation to city university community college facilities will exceed the sum of four hundred twenty-five million dollars and (ii) the dormitory authority shall not deliver a series of bonds issued for city university facilities, including community college facilities, pursuant to a resolution of the dormitory authority adopted on or after July first, nineteen hundred eighty-five, except to refund or to be substituted for or in lieu of other bonds in relation to city university facilities and except for bonds issued pursuant to a resolution supplemental to a resolution of the dormitory authority adopted prior to July first, nineteen hundred eighty-five, if the principal amount of bonds so to be issued when added to the principal amount of bonds previously issued pursuant to any such resolution, except bonds issued to refund or to be substituted for or in lieu of other bonds in relation to city university facilities, will exceed [seven] <u>eight</u> billion [nine] <u>four</u> hundred [eighty-one] <u>fourteen</u> million [nine] <u>six</u> hundred [sixty-eight] <u>ninety-one</u> thousand dollars <u>$8,414,691,000</u>. The legislature reserves the right to amend or repeal such limit, and the state of New York, the dormitory authority, the city university, and the fund are prohibited from covenanting or making any other agreements with or for the benefit of bondholders which might in any way affect such right.

§ 44. Subdivision 10-a of section 1680 of the public authorities law, as amended by section 37 of part XXX of chapter 59 of the laws of 2017, is amended to read as follows:

10-a. Subject to the provisions of chapter fifty-nine of the laws of two thousand, but notwithstanding any other provision of the law to the

contrary, the maximum amount of bonds and notes to be issued after March thirty-first, two thousand two, on behalf of the state, in relation to any locally sponsored community college, shall be nine hundred [fourteen] fifty-three million [five] two hundred [ninety] twenty-five thousand dollars $953,265,000. Such amount shall be exclusive of bonds and notes issued to fund any reserve fund or funds, costs of issuance and to refund any outstanding bonds and notes, issued on behalf of the state, relating to a locally sponsored community college.

§ 45. Subdivision 1 of section 17 of part D of chapter 389 of the laws of 1997, relating to the financing of the correctional facilities improvement fund and the youth facility improvement fund, as amended by section 38 of part XXX of chapter 59 of the laws of 2017, is amended to read as follows:

1. Subject to the provisions of chapter 59 of the laws of 2000, but notwithstanding the provisions of section 18 of section 1 of chapter 174 of the laws of 1968, the New York state urban development corporation is hereby authorized to issue bonds, notes and other obligations in an aggregate principal amount not to exceed [six] seven hundred [eighty-two] sixty-nine million [nine] six hundred fifteen thousand dollars [($682,915,000)] ($769,615,000), which authorization increases the aggregate principal amount of bonds, notes and other obligations authorized by section 40 of chapter 309 of the laws of 1996, and shall include all bonds, notes and other obligations issued pursuant to chapter 211 of the laws of 1990, as amended or supplemented. The proceeds of such bonds, notes or other obligations shall be paid to the state, for deposit in the youth facilities improvement fund, to pay for all or any portion of the amount or amounts paid by the state from appropriations or reappropriations made to the office of children and family services from the youth facilities improvement fund for capital projects. The aggregate amount of bonds, notes and other obligations authorized to be issued pursuant to this section shall exclude bonds, notes or other obligations issued to refund or otherwise repay bonds, notes or other obligations theretofore issued, the proceeds of which were paid to the state for all or a portion of the amounts expended by the state from appropriations or reappropriations made to the office of children and family services; provided, however, that upon any such refunding or repayment the total aggregate principal amount of outstanding bonds, notes or other obligations may be greater than [six] seven hundred [eighty-two] sixty-nine million [nine] six hundred fifteen thousand dollars [($682,915,000)] ($769,615,000), only if the present value of the aggregate debt service of the refunding or repayment bonds, notes or other obligations to be issued shall not exceed the present value of the aggregate debt service of the bonds, notes or other obligations so to be refunded or repaid. For the purposes hereof, the present value of the aggregate debt service of the refunding or repayment bonds, notes or other obligations and of the aggregate debt service of the bonds, notes or other obligations so refunded or repaid, shall be calculated by utilizing the effective interest rate of the refunding or repayment bonds, notes or other obligations, which shall be that rate arrived at by doubling the semi-annual interest rate (compounded semi-annually) necessary to discount the debt service payments on the refunding or repayment bonds, notes or other obligations from the payment dates thereof to the date of issue of the refunding or repayment bonds, notes or other obligations and to the price bid including estimated accrued interest or proceeds received by the corporation including estimated accrued interest from the sale thereof.

§ 45-a. Subdivision 1 of section 51 of section 1 of chapter 174 of the laws of 1968, constituting the New York state urban development corporation act, as amended by section 42-c of part XXX of chapter 59 of the laws of 2017, is amended to read as follows:

1. Notwithstanding the provisions of any other law to the contrary, the dormitory authority and the urban development corporation are hereby authorized to issue bonds or notes in one or more series for the purpose of funding project costs for the nonprofit infrastructure capital investment program and other state costs associated with such capital projects. The aggregate principal amount of bonds authorized to be issued pursuant to this section shall not exceed one hundred [twenty] forty million dollars, excluding bonds issued to fund one or more debt service reserve funds, to pay costs of issuance of such bonds, and bonds or notes issued to refund or otherwise repay such bonds or notes previously issued. Such bonds and notes of the dormitory authority and the urban development corporation shall not be a debt of the state, and the state shall not be liable thereon, nor shall they be payable out of any funds other than those appropriated by the state to the dormitory authority and the urban development corporation for principal, interest, and related expenses pursuant to a service contract and such bonds and notes shall contain on the face thereof a statement to such effect. Except for purposes of complying with the internal revenue code, any interest income earned on bond proceeds shall only be used to pay debt service on such bonds.

§ 46. Paragraph b of subdivision 2 of section 9-a of section 1 of chapter 392 of the laws of 1973, constituting the New York state medical care facilities finance agency act, as amended by section 39 of part XXX of chapter 59 of the laws of 2017, is amended to read as follows:

b. The agency shall have power and is hereby authorized from time to time to issue negotiable bonds and notes in conformity with applicable provisions of the uniform commercial code in such principal amount as, in the opinion of the agency, shall be necessary, after taking into account other moneys which may be available for the purpose, to provide sufficient funds to the facilities development corporation, or any successor agency, for the financing or refinancing of or for the design, construction, acquisition, reconstruction, rehabilitation or improvement of mental health services facilities pursuant to paragraph a of this subdivision, the payment of interest on mental health services improvement bonds and mental health services improvement notes issued for such purposes, the establishment of reserves to secure such bonds and notes, the cost or premium of bond insurance or the costs of any financial mechanisms which may be used to reduce the debt service that would be payable by the agency on its mental health services facilities improvement bonds and notes and all other expenditures of the agency incident to and necessary or convenient to providing the facilities development corporation, or any successor agency, with funds for the financing or refinancing of or for any such design, construction, acquisition, reconstruction, rehabilitation or improvement and for the refunding of mental hygiene improvement bonds issued pursuant to section 47-b of the private housing finance law; provided, however, that the agency shall not issue mental health services facilities improvement bonds and mental health services facilities improvement notes in an aggregate principal amount exceeding eight billion [three] seven hundred [ninety-two] fifty-eight million [eight] seven hundred [fifteen] eleven thousand dollars, excluding mental health services facilities improvement bonds and mental health services facilities improvement notes issued to refund outstand-

ing mental health services facilities improvement bonds and mental health services facilities improvement notes; provided, however, that upon any such refunding or repayment of mental health services facilities improvement bonds and/or mental health services facilities improvement notes the total aggregate principal amount of outstanding mental health services facilities improvement bonds and mental health facilities improvement notes may be greater than eight billion [three] seven hundred [ninety-two] sixty-eight million [eight] seven hundred [fifteen] eleven thousand dollars $8,768,711,000 only if, except as hereinafter provided with respect to mental health services facilities bonds and mental health services facilities notes issued to refund mental hygiene improvement bonds authorized to be issued pursuant to the provisions of section 47-b of the private housing finance law, the present value of the aggregate debt service of the refunding or repayment bonds to be issued shall not exceed the present value of the aggregate debt service of the bonds to be refunded or repaid. For purposes hereof, the present values of the aggregate debt service of the refunding or repayment bonds, notes or other obligations and of the aggregate debt service of the bonds, notes or other obligations so refunded or repaid, shall be calculated by utilizing the effective interest rate of the refunding or repayment bonds, notes or other obligations, which shall be that rate arrived at by doubling the semi-annual interest rate (compounded semi-annually) necessary to discount the debt service payments on the refunding or repayment bonds, notes or other obligations from the payment dates thereof to the date of issue of the refunding or repayment bonds, notes or other obligations and to the price bid including estimated accrued interest or proceeds received by the authority including estimated accrued interest from the sale thereof. Such bonds, other than bonds issued to refund outstanding bonds, shall be scheduled to mature over a term not to exceed the average useful life, as certified by the facilities development corporation, of the projects for which the bonds are issued, and in any case shall not exceed thirty years and the maximum maturity of notes or any renewals thereof shall not exceed five years from the date of the original issue of such notes. Notwithstanding the provisions of this section, the agency shall have the power and is hereby authorized to issue mental health services facilities improvement bonds and/or mental health services facilities improvement notes to refund outstanding mental hygiene improvement bonds authorized to be issued pursuant to the provisions of section 47-b of the private housing finance law and the amount of bonds issued or outstanding for such purposes shall not be included for purposes of determining the amount of bonds issued pursuant to this section. The director of the budget shall allocate the aggregate principal authorized to be issued by the agency among the office of mental health, office for people with developmental disabilities, and the office of alcoholism and substance abuse services, in consultation with their respective commissioners to finance bondable appropriations previously approved by the legislature.

§ 47. Subdivision 1 of section 1680-r of the public authorities law, as amended by section 41 of part XXX of chapter 59 of the laws of 2017, is amended to read as follows:

1. Notwithstanding the provisions of any other law to the contrary, the dormitory authority and the urban development corporation are hereby authorized to issue bonds or notes in one or more series for the purpose of funding project costs for the capital restructuring financing program for health care and related facilities licensed pursuant to the public health law or the mental hygiene law and other state costs associated

with such capital projects, the health care facility transformation programs, and the essential health care provider program. The aggregate principal amount of bonds authorized to be issued pursuant to this section shall not exceed [two] three billion [seven] one hundred million dollars, excluding bonds issued to fund one or more debt service reserve funds, to pay costs of issuance of such bonds, and bonds or notes issued to refund or otherwise repay such bonds or notes previously issued. Such bonds and notes of the dormitory authority and the urban development corporation shall not be a debt of the state, and the state shall not be liable thereon, nor shall they be payable out of any funds other than those appropriated by the state to the dormitory authority and the urban development corporation for principal, interest, and related expenses pursuant to a service contract and such bonds and notes shall contain on the face thereof a statement to such effect. Except for purposes of complying with the internal revenue code, any interest income earned on bond proceeds shall only be used to pay debt service on such bonds.

§ 48. Intentionally omitted.

§ 49. Subdivision (a) of section 28 of part Y of chapter 61 of the laws of 2005, relating to providing for the administration of certain funds and accounts related to the 2005-2006 budget, as amended by section 42-a of part XXX of chapter 59 of the laws of 2017, is amended to read as follows:

(a) Subject to the provisions of chapter 59 of the laws of 2000, but notwithstanding any provisions of law to the contrary, one or more authorized issuers as defined by section 68-a of the state finance law are hereby authorized to issue bonds or notes in one or more series in an aggregate principal amount not to exceed [$47,000,000] $67,000,000, sixty-seven million dollars excluding bonds issued to finance one or more debt service reserve funds, to pay costs of issuance of such bonds, and bonds or notes issued to refund or otherwise repay such bonds or notes previously issued, for the purpose of financing capital projects for public protection facilities in the Division of Military and Naval Affairs, debt service and leases; and to reimburse the state general fund for disbursements made therefor. Such bonds and notes of such authorized issuer shall not be a debt of the state, and the state shall not be liable thereon, nor shall they be payable out of any funds other than those appropriated by the state to such authorized issuer for debt service and related expenses pursuant to any service contract executed pursuant to subdivision (b) of this section and such bonds and notes shall contain on the face thereof a statement to such effect. Except for purposes of complying with the internal revenue code, any interest income earned on bond proceeds shall only be used to pay debt service on such bonds.

§ 50. Subdivision 1 of section 49 of section 1 of chapter 174 of the laws of 1968, constituting the New York state urban development corporation act, as amended by section 42-b of part XXX of chapter 59 of the laws of 2017, is amended to read as follows:

1. Notwithstanding the provisions of any other law to the contrary, the dormitory authority and the corporation are hereby authorized to issue bonds or notes in one or more series for the purpose of funding project costs for the state and municipal facilities program and other state costs associated with such capital projects. The aggregate principal amount of bonds authorized to be issued pursuant to this section shall not exceed one billion nine hundred [twenty-five] thirty-eight million five hundred thousand dollars, excluding bonds issued to fund one or more debt service reserve funds, to pay costs of issuance of such

bonds, and bonds or notes issued to refund or otherwise repay such bonds or notes previously issued. Such bonds and notes of the dormitory authority and the corporation shall not be a debt of the state, and the state shall not be liable thereon, nor shall they be payable out of any funds other than those appropriated by the state to the dormitory authority and the corporation for principal, interest, and related expenses pursuant to a service contract and such bonds and notes shall contain on the face thereof a statement to such effect. Except for purposes of complying with the internal revenue code, any interest income earned on bond proceeds shall only be used to pay debt service on such bonds.

§ 51. Intentionally omitted.

§ 52. Intentionally omitted.

§ 53. Intentionally omitted.

§ 54. Intentionally omitted.

§ 55. Intentionally omitted.

§ 56. Intentionally omitted.

§ 57. Intentionally omitted.

§ 58. Section 55 of part XXX of chapter 59 of the laws of 2017, relating to providing for the administration of certain funds and accounts related to the 2017-18 budget and authorizing certain payments and transfers, is amended to read as follows:

§ 55. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2017; provided, however, that the provisions of sections one, two, three, four, five, six, seven, eight, thirteen, fourteen, fifteen, sixteen, seventeen, eighteen, nineteen, twenty, [twenty-one,] twenty-two, twenty-two-e and twenty-two-f of this act shall expire March 31, 2018 when upon such date the provisions of such sections shall be deemed repealed; and provided, further, that section twenty-two-c of this act shall expire March 31, 2021.

§ 59. Paragraph (b) of subdivision 3 and clause (B) of subparagraph (iii) of paragraph (j) of subdivision 4 of section 1 of part D of chapter 63 of the laws of 2005, relating to the composition and responsibilities of the New York state higher education capital matching grant board, as amended by section 45 of part UU of chapter 54 of the laws of 2016, are amended to read as follows:

(b) Within amounts appropriated therefor, the board is hereby authorized and directed to award matching capital grants totaling [240] <u>two hundred seventy</u> million dollars. Each college shall be eligible for a grant award amount as determined by the calculations pursuant to subdivision five of this section. In addition, such colleges shall be eligible to compete for additional funds pursuant to paragraph (h) of subdivision four of this section.

(B) The dormitory authority shall not issue any bonds or notes in an amount in excess of [240] <u>two hundred seventy</u> million dollars for the purposes of this section; excluding bonds or notes issued to fund one or more debt service reserve funds, to pay costs of issuance of such bonds, and bonds or notes issued to refund or otherwise repay such bonds or notes previously issued. Except for purposes of complying with the internal revenue code, any interest on bond proceeds shall only be used to pay debt service on such bonds.

§ 60. Subdivision 1 of section 1680-n of the public authorities law, as added by section 46 of part T of chapter 57 of the laws of 2007, is amended to read as follows:

1. Notwithstanding the provisions of any other law to the contrary, the authority and the urban development corporation are hereby authorized to issue bonds or notes in one or more series for the purpose of funding project costs for the acquisition of state buildings and other facilities. The aggregate principal amount of bonds authorized to be issued pursuant to this section shall not exceed one hundred [forty] sixty-five million dollars, excluding bonds issued to fund one or more debt service reserve funds, to pay costs of issuance of such bonds, and bonds or notes issued to refund or otherwise repay such bonds or notes previously issued. Such bonds and notes of the authority and the urban development corporation shall not be a debt of the state, and the state shall not be liable thereon, nor shall they be payable out of any funds other than those appropriated by the state to the authority and the urban development corporation for principal, interest, and related expenses pursuant to a service contract and such bonds and notes shall contain on the face thereof a statement to such effect. Except for purposes of complying with the internal revenue code, any interest income earned on bond proceeds shall only be used to pay debt service on such bonds.

§ 61. Subdivision 1 of section 386-a of the public authorities law, as amended by section 46 of part I of chapter 60 of the laws of 2015, is amended to read as follows:

1. Notwithstanding any other provision of law to the contrary, the authority, the dormitory authority and the urban development corporation are hereby authorized to issue bonds or notes in one or more series for the purpose of assisting the metropolitan transportation authority in the financing of transportation facilities as defined in subdivision seventeen of section twelve hundred sixty-one of this chapter. The aggregate principal amount of bonds authorized to be issued pursuant to this section shall not exceed one billion [five] six hundred [twenty] ninety-four million dollars [($1,520,000,000)] $1,694,000,000, excluding bonds issued to fund one or more debt service reserve funds, to pay costs of issuance of such bonds, and to refund or otherwise repay such bonds or notes previously issued. Such bonds and notes of the authority, the dormitory authority and the urban development corporation shall not be a debt of the state, and the state shall not be liable thereon, nor shall they be payable out of any funds other than those appropriated by the state to the authority, the dormitory authority and the urban development corporation for principal, interest, and related expenses pursuant to a service contract and such bonds and notes shall contain on the face thereof a statement to such effect. Except for purposes of complying with the internal revenue code, any interest income earned on bond proceeds shall only be used to pay debt service on such bonds.

§ 62. Subdivision 1 of section 1680-k of the public authorities law, as added by section 5 of part J-1 of chapter 109 of the laws of 2006, is amended to read as follows:

1. Subject to the provisions of chapter fifty-nine of the laws of two thousand, but notwithstanding any provisions of law to the contrary, the dormitory authority is hereby authorized to issue bonds or notes in one or more series in an aggregate principal amount not to exceed forty million seven hundred fifteen thousand dollars excluding bonds issued to finance one or more debt service reserve funds, to pay costs of issuance of such bonds, and bonds or notes issued to refund or otherwise repay such bonds or notes previously issued, for the purpose of financing the construction of the New York state agriculture and markets food laboratory. Eligible project costs may include, but not be limited to the cost

of design, financing, site investigations, site acquisition and preparation, demolition, construction, rehabilitation, acquisition of machinery and equipment, and infrastructure improvements. Such bonds and notes of such authorized issuers shall not be a debt of the state, and the state shall not be liable thereon, nor shall they be payable out of any funds other than those appropriated by the state to such authorized issuers for debt service and related expenses pursuant to any service contract executed pursuant to subdivision two of this section and such bonds and notes shall contain on the face thereof a statement to such effect. Except for purposes of complying with the internal revenue code, any interest income earned on bond proceeds shall only be used to pay debt service on such bonds.

§ 63. Subdivision 13-d of section 5 of section 1 of chapter 359 of the laws of 1968, constituting the facilities development corporation act, as amended by chapter 166 of the laws of 1991, is amended to read as follows:

13-d. 1. Subject to the terms and conditions of any lease, sublease, loan or other financing agreement with the medical care facilities finance agency in accordance with subdivision 13-c of this section, to make loans to voluntary agencies for the purpose of financing or refinancing the design, construction, acquisition, reconstruction, rehabilitation and improvement of mental hygiene facilities owned or leased by such voluntary agencies provided, however, that with respect to such facilities which are leased by a voluntary agency, the term of repayment of such loan shall not exceed the term of such lease including any option to renew such lease. Notwithstanding any other provisions of law, such loans may be made jointly to one or more voluntary agencies which own and one or more voluntary agencies which will operate any such mental hygiene facility.

2. Subject to the terms and conditions of any lease, sublease, loan or other financing agreement with the medical care facilities finance agency, to make grants to voluntary agencies or provide proceeds of mental health services facilities bonds or notes to the department to make grants to voluntary agencies or to reimburse disbursements made therefor, in each case, for the purpose of financing or refinancing the design, construction, acquisition, reconstruction, rehabilitation and improvement of mental hygiene facilities owned or leased by such voluntary agencies.

§ 64. Paragraph a of subdivision 4 of section 9 of section 1 of chapter 359 of the laws of 1968, constituting the facilities development corporation act, as amended by chapter 90 of the laws of 1989, is amended to read as follows:

4. Agreements. a. Upon certification by the director of the budget of the availability of required appropriation authority, the corporation, or any successor agency, is hereby authorized and empowered to enter into leases, subleases, loans and other financing agreements with the state housing finance agency and/or the state medical care facilities finance agency, and to enter into such amendments thereof as the directors of the corporation, or any successor agency, may deem necessary or desirable, which shall provide for (i) the financing or refinancing of or the design, construction, acquisition, reconstruction, rehabilitation or improvement of one or more mental hygiene facilities or for the refinancing of any such facilities for which bonds have previously been issued and are outstanding, and the purchase or acquisition of the original furnishings, equipment, machinery and apparatus to be used in such facilities upon the completion of work, (ii) the leasing to the

state housing finance agency or the state medical care facilities finance agency of all or any portion of one or more existing mental hygiene facilities and one or more mental hygiene facilities to be designed, constructed, acquired, reconstructed, rehabilitated or improved, or of real property related to the work to be done, including real property originally acquired by the appropriate commissioner or director of the department in the name of the state pursuant to article seventy-one of the mental hygiene law, (iii) the subleasing of such facilities and property by the corporation upon completion of design, construction, acquisition, reconstruction, rehabilitation or improvement, such leases, subleases, loans or other financing agreements to be upon such other terms and conditions as may be agreed upon, including terms and conditions relating to length of term, maintenance and repair of mental hygiene facilities during any such term, and the annual rentals to be paid for the use of such facilities, property, furnishings, equipment, machinery and apparatus, and (iv) the receipt and disposition, including loans or grants to voluntary agencies, of proceeds of mental health service facilities bonds or notes issued pursuant to section nine-a of the New York state medical care facilities finance agency act. For purposes of the design, construction, acquisition, reconstruction, rehabilitation or improvement work required by the terms of any such lease, sublease or agreement, the corporation shall act as agent for the state housing finance agency or the state medical care facilities finance agency. In the event that the corporation enters into an agreement for the financing of any of the aforementioned facilities with the state housing finance agency or the state medical care facilities finance agency, or in the event that the corporation enters into an agreement for the financing or refinancing of any of the aforementioned facilities with one or more voluntary agencies, it shall act on its own behalf and not as agent. The appropriate commissioner or director of the department on behalf of the department shall approve any such lease, sublease, loan or other financing agreement and shall be a party thereto. All such leases, subleases, loans or other financing agreements shall be approved prior to execution by no less than three directors of the corporation.

§ 65. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2018; provided, however, that the provisions of sections one, two, three, four, five, six, seven, eight, twelve, thirteen, fourteen, sixteen, seventeen, eighteen, nineteen, twenty, twenty-one, twenty-two, and twenty-three of this act shall expire March 31, 2019 when upon such date the provisions of such sections shall be deemed repealed.

PART HH

Intentionally Omitted

PART II

Intentionally Omitted

PART JJ

Section 1. Subdivision 3 of section 130.05 of the penal law is amended by adding a new paragraph (j) to read as follows:

(j) under arrest, in detention or otherwise in the actual custody of a police officer, peace officer or other law enforcement official and the actor is a police officer, peace officer or other law enforcement official who either: (i) is responsible for effecting the arrest of such person or maintaining such person in detention or actual custody; or (ii) knows, or reasonably should know, that such person is under such arrest, detention or actual custody.

§ 2. Subdivision 4 of section 130.10 of the penal law, as amended by chapter 205 of the laws of 2011, is amended to read as follows:

4. In any prosecution under this article in which the victim's lack of consent is based solely on his or her incapacity to consent because he or she was less than seventeen years old, mentally disabled, a client or patient and the actor is a health care provider, under arrest, in detention or otherwise in actual custody of law enforcement under the circumstances described in paragraph (j) of subdivision three of section 130.05 of this article, or committed to the care and custody or supervision of the state department of corrections and community supervision or a hospital and the actor is an employee, it shall be a defense that the defendant was married to the victim as defined in subdivision four of section 130.00 of this article.

§ 3. This act shall take effect on the thirtieth day after it shall have become a law.

PART KK

Intentionally Omitted

PART LL

Section 1. Paragraph (b) of subdivision 2 of section 1676 of the public authorities law is amended by adding a new undesignated paragraph to read as follows:

An authorized agency as defined by subdivision ten of section three hundred seventy-one of the social services law, or a local probation department as defined by sections two hundred fifty-five and two hundred fifty-six of the executive law for the provision of detention facilities certified by the office of children and family services or by such office in conjunction with the state commission of correction or for the provision of residential facilities licensed by the office of children and family services including all necessary and usual attendant and related facilities and equipment.

§ 2. Subdivision 1 of section 1680 of the public authorities law is amended by adding a new undesignated paragraph to read as follows:

An authorized agency as defined by subdivision ten of section three hundred seventy-one of the social services law, or a local probation department as defined by sections two hundred fifty-five and two hundred fifty-six of the executive law for the provision of detention facilities certified by the office of children and family services or by such office in conjunction with the state commission of correction or for the provision of residential facilities licensed by the office of children and family services including all necessary and usual attendant and related facilities and equipment.

§ 3. Subdivision 2 of section 1680 of the public authorities law is amended by adding a new paragraph k to read as follows:

k. (1) For purposes of this section, the following provisions shall apply to the powers in connection with the provision of detention facil-

ities certified by the office of children and family services or by such office in conjunction with the state commission of correction or for the provision of residential facilities licensed by the office of children and family services including all necessary and usual attendant and related facilities and equipment.

(2) Notwithstanding any other provision of law, any entity as listed above shall have full power and authority to enter into such agreements with the dormitory authority as are necessary to finance and/or construct detention or residential facilities described above, including without limitation, the provision of fees and amounts necessary to pay debt service on any obligations issued by the dormitory authority for same, and to assign and pledge to the dormitory authority, any and all public funds to be apportioned or otherwise made payable by the United States, any agency thereof, the state, any agency thereof, a political subdivision, as defined in section one hundred of the general municipal law, any social services district in the state or any other governmental entity in an amount sufficient to make all payments required to be made by any such entity as listed above pursuant to any lease, sublease or other agreement entered into between any such entity as listed above and the dormitory authority. All state and local officers are hereby authorized and required to pay all such funds so assigned and pledged to the dormitory authority or, upon the direction of the dormitory authority, to any trustee of any dormitory authority bond or note issued, pursuant to a certificate filed with any such state or local officer by the dormitory authority pursuant to the provisions of this section.

§ 4. This act shall take effect immediately.

PART MM

Section 1. The public service law is amended by adding a new article 1-A to read as follows:

ARTICLE 1-A
THE STATE OFFICE OF THE UTILITY CONSUMER ADVOCATE

Section 28-a. Definitions.
28-b. Establishment of the state office of the utility consumer advocate.
28-c. Powers of the state office of the utility consumer advocate.
28-d. Reports.

§ 28-a. Definitions. When used in this article: (a) "Department" means the department of public service.

(b) "Commission" means the public service commission.

(c) "Residential utility customer" means any person who is sold or offered for sale residential utility service by a utility company.

(d) "Utility company" means any person or entity operating an agency for public service, including, but not limited to, those persons or entities subject to the jurisdiction, supervision and regulations prescribed by or pursuant to the provisions of this chapter.

§ 28-b. Establishment of the state office of the utility consumer advocate. There is established the state office of the utility consumer advocate to represent the interests of residential utility customers. The utility consumer advocate shall be appointed by the governor to a term of six years, upon the advice and consent of the senate. The utility consumer advocate shall possess knowledge and experience in matters affecting residential utility customers and shall be responsible for the direction, control, and operation of the state office of the utility

consumer advocate, including its hiring of staff and retention of experts for analysis and testimony in proceedings. The utility consumer advocate shall not be removed for cause, but may be removed only after notice and opportunity to be heard, and only for permanent disability, malfeasance, a felony, or conduct involving moral turpitude. Exercise of independent judgment in advocating positions on behalf of residential utility customers shall not constitute cause for removal of the utility consumer advocate.

§ 28-c. Powers of the state office of the utility consumer advocate. The state office of the utility consumer advocate shall have the power and duty to: (a) initiate, intervene in, or participate on behalf of residential utility customers in any proceedings before the commission, the federal energy regulatory commission, the federal communications commission, federal, state and local administrative and regulatory agencies, and state and federal courts in any matter or proceeding that may substantially affect the interests of residential utility customers, including, but not limited to, a proposed change of rates, charges, terms and conditions of service, the adoption of rules, regulations, guidelines, orders, standards or final policy decisions where the utility consumer advocate deems such initiation, intervention or participation to be necessary or appropriate;

(b) represent the interests of residential utility customers of the state before federal, state and local administrative and regulatory agencies engaged in the regulation of energy, telecommunications, water, and other utility services, and before state and federal courts in actions and proceedings to review the actions of utilities or orders of utility regulatory agencies. Any action or proceeding brought by the utility consumer advocate before a court or an agency shall be brought in the name of the state office of the utility consumer advocate. The utility consumer advocate may join with a residential utility customer or group of residential utility customers in bringing an action;

(c) (i) in addition to any other authority conferred upon the utility consumer advocate, he or she is authorized, and it shall be his or her duty to represent the interests of residential utility customers as a party, or otherwise participate for the purpose of representing the interests of such customers before any agencies or courts. He or she may initiate proceedings if in his or her judgment doing so may be necessary in connection with any matter involving the actions or regulation of public utility companies whether on appeal or otherwise initiated. The utility consumer advocate may monitor all cases before regulatory agencies in the United States, including the federal communications commission and the federal energy regulatory commission that affect the interests of residential utility customers of the state and may formally participate in those proceedings which in his or her judgment warrants such participation.

(ii) the utility consumer advocate shall exercise his or her independent discretion in determining the interests of residential utility customers that will be advocated in any proceeding, and determining whether to participate in or initiate any proceeding and, in so determining, shall consider the public interest, the resources available, and the substantiality of the effect of the proceeding on the interest of residential utility customers;

(d) request and receive from any state or local authority, agency, department or division of the state or political subdivision such assistance, personnel, information, books, records, other documentation and cooperation necessary to perform its duties; and

(e) enter into cooperative agreements with other government offices to efficiently carry out its work.

§ 28-d. Reports. On July first, two thousand nineteen and annually thereafter, the state office of the utility consumer advocate shall issue a report to the governor and the legislature, and make such report available to the public free of charge on a publicly available website, containing, but not limited to, the following information:

(a) all proceedings that the state office of the utility consumer advocate participated in and the outcome of such proceedings, to the extent of such outcome and if not confidential;

(b) estimated savings to residential utility consumers that resulted from intervention by the state office of the utility consumer advocate; and

(c) policy recommendations and suggested statutory amendments that the state office of the utility consumer advocate deems necessary.

§ 2. This act shall take effect on the first of April next succeeding the date on which it shall have become a law.

PART NN

Section 1. The public service law is amended by adding a new section 24-c to read as follows:

§ 24-c. Utility intervenor reimbursement. 1. As used in this section, the following terms shall have the following meanings:

(a) "Compensation" means payment from the utility intervenor account fund established by section ninety-seven-rrrr of the state finance law, for all or part, as determined by the department, of reasonable advocate's fees, reasonable expert witness fees, and other reasonable costs for preparation and participation in a proceeding.

(b) "Participant" means a group of persons that apply jointly for an award of compensation under this section and who represent the interests of a significant number of residential or small business customers, or a not-for-profit organization in this state authorized pursuant to its articles of incorporation or bylaws to represent the interests of residential or small business utility customers. For purposes of this section, a participant does not include a non-profit organization or other organization whose principal interests are the welfare of a public utility or its investors or employees, or the welfare of one or more businesses or industries which receive utility service ordinarily and primarily for use in connection with the profit-seeking manufacture, sale, or distribution of goods or services.

(c) "Other reasonable costs" means reasonable out-of-pocket expenses directly incurred by a participant that are directly related to the contentions or recommendations made by the participant that resulted in a substantial contribution.

(d) "Party" means any interested party, respondent public utility, or commission staff in a hearing or proceeding.

(e) "Proceeding" means a complaint, or investigation, rulemaking, or other formal proceeding before the commission, or alternative dispute resolution procedures in lieu of formal proceedings as may be sponsored or endorsed by the commission, provided however such proceedings shall be limited to those relating to public utilities that distribute and deliver gas, electricity, or steam within this state and having annual revenues in excess of two hundred million dollars arising under and proceeding pursuant to the following articles of this chapter: (1) the regulation of the price of gas and electricity, pursuant to article four

of this chapter; (2) the regulation of the price of steam, pursuant to article four-A of this chapter; (3) the submetering, remetering or resale of electricity to residential premises, pursuant to section sixty-five and sixty-six of this chapter, and pursuant to regulations regarding the submetering, remetering, or resale of electricity adopted by the commission; and (4) such sections of this chapter as are applicable to a proceeding in which the commission makes a finding on the record that the public interest requires the reimbursement of utility intervenor fees pursuant to this section.

(f) "Significant financial hardship" means that the participant will be unable to afford, without undue hardship, to pay the costs of effective participation, including advocate's fees, expert witness fees, and other reasonable costs of participation.

(g) "Small business" means a business with a gross annual revenue of two hundred fifty thousand dollars or less.

(h) "Substantial contribution" means that, in the judgment of the department, the participant's application may substantially assist the commission in making its decision because the decision may adopt in whole or in part one or more factual contentions, legal contentions, or specific policy or procedural recommendations that will be presented by the participant.

2. A participant may apply for an award of compensation under this section in a proceeding in which such participant has sought active party status as defined by the department. The department shall determine appropriate procedures for accepting and responding to such applications. At the time of application, such participant shall serve on every party to the proceeding notice of intent to apply for an award of compensation.

An application shall include:

(a) A statement of the nature and extent and the factual and legal basis of the participant's planned participation in the proceeding as far as it is possible to describe such participation with reasonable specificity at the time the application is filed.

(b) At minimum, a reasonably detailed description of anticipated advocates and expert witness fees and other costs of preparation and participation that the participant expects to request as compensation.

(c) If participation or intervention will impose a significant financial hardship and the participant seeks payment in advance to an award of compensation in order to initiate, continue or complete participation in the hearing or proceeding, such participant must include evidence of such significant financial hardship in its application.

(d) Any other requirements as required by the department.

3. (a) Within thirty days after the filing of an application the department shall issue a decision that determines whether or not the participant may make a substantial contribution to the final decision in the hearing or proceeding. If the department finds that the participant requesting compensation may make a substantial contribution, the department shall describe this substantial contribution and determine the amount of compensation to be paid pursuant to subdivision four of this section.

(b) Notwithstanding subdivision four of this section, if the department finds that the participant has a significant financial hardship, the department may direct the public utility or utilities subject to the proceeding to pay all or part of the compensation to the department to be provided to the participant prior to the end of the proceeding. In the event that the participant discontinues its participation in the

proceeding without the consent of the department, the department shall be entitled to, in whole or in part, recover any payments made to such participant to be refunded to the public utility or utilities that provided such payment.

(c) The computation of compensation pursuant to paragraph (a) of this subdivision shall take into consideration the market rates paid to persons of comparable training and experience who offer similar services. The compensation awarded may not, in any case, exceed the comparable market rate for services paid by the department or the public utility, whichever is greater, to persons of comparable training and experience who are offering similar services.

(d) Any compensation awarded to a participant and not used by such participant shall be returned to the department for refund to the public utility or utilities that provided such payment.

(e) The department shall require that participants seeking payment maintain an itemized record of all expenditures incurred as a result of such proceeding.

(i) The department may use the itemized record of expenses to verify the claim of financial hardship by a participant seeking payment pursuant to paragraph (c) of subdivision two of this section.

(ii) The department may use the record of expenditures in determining, after the completion of a proceeding, if any unused funds remain.

(iii) The department shall preserve the confidentiality of the participant's records in making any audit or determining the availability of funds after the completion of a proceeding.

(f) In the event that the department finds that two or more participants' applications have substantially similar interests, the department may require such participants to apply jointly in order to receive compensation.

4. Any compensation pursuant to this section shall be paid at the conclusion of the proceeding by the public utility or utilities subject to the proceeding within thirty days. Such compensation shall be remitted to the department which shall then remit such compensation to the participant.

5. The department shall deny any award to any participant who attempts to delay or obstruct the orderly and timely fulfillment of the department's responsibilities.

§ 2. The state finance law is amended by adding a new section 97-rrrr to read as follows:

§ 97-rrrr. Utility intervenor account. 1. There is hereby established in the joint custody of the state comptroller and the commissioner of taxation and finance a fund to be known as the utility intervenor account.

2. Such account shall consist of all utility intervenor reimbursement monies received from utilities pursuant to section twenty-four-c of the public service law.

§ 3. This act shall take effect on the thirtieth day after it shall have become a law.

PART OO

Section 1. Paragraphs (b) and (c) of subdivision 3 of section 722 of the county law, as amended by section 3 of part E of chapter 56 of the laws of 2010, are amended to read as follows:

(b) Any plan of a bar association must receive the approval of the [state administrator] office of indigent legal services before the plan

is placed in operation. In the county of Hamilton, representation pursuant to a plan of a bar association in accordance with subparagraph (i) of paragraph (a) of this subdivision may be by counsel furnished by the Fulton county bar association pursuant to a plan of the Fulton county bar association, following approval of the [state administrator] office of indigent legal services. When considering approval of an office of conflict defender pursuant to this section, the [state administrator] office of indigent legal services shall employ the guidelines it has heretofore established [by the office of indigent legal services] pursuant to paragraph (d) of subdivision three of section eight hundred thirty-two of the executive law.

(c) Any county operating an office of conflict defender, as described in subparagraph (ii) of paragraph (a) of this subdivision, as of March thirty-first, two thousand ten may continue to utilize the services provided by such office provided that the county submits a plan to the state administrator within one hundred eighty days after the promulgation of criteria for the provision of conflict defender services by the office of indigent legal services. The authority to operate such an office pursuant to this paragraph shall expire when the state administrator (or, on or after April first, two thousand nineteen, the office of indigent legal services) approves or disapproves such plan. Upon approval, the county is authorized to operate such office in accordance with paragraphs (a) and (b) of this subdivision.

§ 2. Subdivision 3 of section 722 of the county law is amended by adding a new paragraph (d) to read as follows:

(d) For purposes of this subdivision, any plan of a bar association approved hereunder pursuant to this subdivision, as provided prior to April first, two thousand nineteen, shall remain in effect until it is superseded by a plan approved by the office of indigent legal services or disapproved by such office.

§ 3. Subdivision 1 of section 722-f of the county law, as added by chapter 761 of the laws of 1966 and as designated by section 4 of part J of chapter 62 of the laws of 2003, is amended to read as follows:

1. A public defender appointed pursuant to article eighteen-A of this chapter, a private legal aid bureau or society designated by a county or city pursuant to subdivision two of section seven hundred twenty-two of this [chapter] article, [and] an administrator of a plan of a bar association appointed pursuant to subdivision three of section seven hundred twenty-two of this [chapter] article and an office of conflict defender established pursuant to such subdivision shall file an annual report with the [judicial conference] chief administrator of the courts and the office of indigent legal services. Such report shall be filed at such times and in such detail and form as the [judicial conference] office of indigent legal services may direct.

§ 4. This act shall take effect on April 1, 2019.

PART PP

Section 1. Legislative intent. The legislature hereby finds and declares that it is in the public interest to enact a cost benefit review process when a state agency enters into contracts for personal services. New York State spends over $3.5 billion annually on personal service contracts, over $840 million more than the State spent on these contracts in SFY 2003-04, a 32% increase. Despite an Executive Order that has implemented a post contract review process for some personal service contracts the cost of those contracts continues to escalate

every year well above the inflation rate. In addition the State Finance Law does not require state agencies to compare the cost or quality of personal services to be provided by consultants with the cost or quality of providing the same services by the state employees. Numerous audits by the Office of State Comptroller as well as a KPMG study commissioned by the department of transportation have found that consultants hired under personal service contracts can cost between fifty percent and seventy-five percent more than state employees that do the exact same work including the cost of state employee benefits. The Contract Disclosure Law (Chapter 10 of the laws of 2006) required consultants who provide personal services to file forms for each contract that outline how many consultants they hired, what titles they employed them in and how much they paid them. A review of these forms show that the average consultant makes about fifty percent more than state employees doing comparable work. It is in the public interest for state agencies to compare the cost of doing work by consultants with the cost of doing the same work with state employees as well as document whether or not that such work can be done by state employees. If state government is to be smarter, more efficient, and transparent then a cost benefit analysis process that makes its findings public should be required by law.

§ 2. Section 163 of the state finance law is amended by adding a new subdivision 16 to read as follows:

16. Consultant services. a. Before a state agency enters into a contract for consultant services which is anticipated to cost more than seven hundred fifty thousand dollars in a twelve month period the state agency shall conduct a cost comparison review to determine whether the services to be provided by the consultant can be performed at equal or lower cost by utilizing state employees, unless the contract meets one of the exceptions set forth in paragraph g of this subdivision. As used in this section, the term "consultant services" shall mean any contract entered into by a state agency for analysis, evaluation, research, training, data processing, computer programming, the design, development and implementation of technology, communications or telecommunications systems or the infrastructure pertaining thereto, including hardware and software, engineering including inspection and professional design services, health services, mental health services, accounting, auditing, or similar services and such services that are substantially similar to and in lieu of services provided, in whole or in part, by state employees, but shall not include legal services or services in connection with litigation including expert witnesses and shall not include contracts for construction of public works. For purposes of this subdivision, the costs of performing the services by state employees shall include any salary, pension costs, all other benefit costs, costs that are required for equipment, facilities and all other overhead. The costs of consultant services shall include the total cost of the contract including costs that are required for equipment, facilities and all other overhead and any continuing state costs directly associated with a contractor providing a contracted function including, but not limited to, those costs for inspection, supervision, monitoring of the contractor's work and any pro rata share of existing costs or expenses, including administrative salaries and benefits, rent, equipment costs, utilities and materials. The cost comparison shall be expressed where feasible as an hourly rate, or where such a calculation is not feasible, as a total estimated cost for the anticipated term of the contract.

b. Prior to entering any consultation services contract for the privatization of a state service that is not currently privatized, the state

agency shall develop a cost comparison review in accordance with the provisions of paragraph a of this subdivision.

c. (i) If such cost comparison review identifies a cost savings to the state of ten percent or more, and such consultant services contract will not diminish the quality of such service, the state agency shall develop a business plan, in accordance with the provisions of paragraph d of this subdivision, in order to evaluate the feasibility of entering any such contract and to identify the potential results, effectiveness and efficiency of such contract.

(ii) If such cost comparison review identifies a cost savings of less than ten percent to the state and such consultant services contract will not diminish the quality of such service, the state agency may develop a business plan, in order to evaluate the feasibility of entering any such contract and to identify the potential results, effectiveness and efficiency of such contract, provided there is a significant public policy reason to enter into such consultant services contract.

(iii) If any such proposed consultant services contract would result in the layoff, transfer or reassignment of fifty or more state agency employees, after consulting with the potentially affected bargaining units, if any, the state agency shall notify the state employees of such bargaining unit, after such cost comparison review is completed. Such state agency shall provide an opportunity for said employees to reduce the costs of conducting the operations to be privatized and provide reasonable resources for the purpose of encouraging and assisting such state employees to organize and submit a bid to provide the services that are the subject of the potential consultant services contact.

d. Any business plan developed by a state agency for the purpose of complying with paragraph c of this subdivision shall include: (i) the cost comparison review as described in paragraph b of this subdivision, (ii) a detailed description of the service or activity that is the subject of such business plan, (iii) a description and analysis of the state agency's current performance of such service or activity, (iv) the goals to be achieved through the proposed consultant services contract and the rationale for such goals, (v) a description of available options for achieving such goals, (vi) an analysis of the advantages and disadvantages of each option, including, at a minimum, potential performance improvements and risks attendant to termination of the contract or rescission of such contract, (vii) a description of the current market for the services or activities that are the subject of such business plan, (viii) an analysis of the quality of services as gauged by standardized measures and key performance requirements including compensation, turnover, and staffing ratios, (ix) a description of the specific results based performance standards that shall, at a minimum be met, to ensure adequate performance by any party performing such service or activity, (x) the projected time frame for key events from the beginning of the procurement process through the expiration of a contract, if applicable, (xi) a specific and feasible contingency plan that addresses contractor nonperformance and a description of the tasks involved in and costs required for implementation of such plan, and (xii) a transition plan, if appropriate, for addressing changes in the number of agency personnel, affected business processes, employee transition issues, and communications with affected stakeholders, such as agency clients and members of the public, if applicable. Such transition plan shall contain a reemployment and retraining assistance plan for employees who are not retained by the state or employed by the contractor. If any part of such business plan is based upon evidence that the state agency is not suffi-

ciently staffed to provide the services required by the consultant services contract, the state agency shall also include within such business plan a recommendation for remediation of the understaffing to allow such services to be provided directly by the state agency in the future.

e. Upon the completion of such business plan, the state agency shall submit the business plan to the state comptroller.

f. (i) Not later than sixty days after receipt of any business plan, the state comptroller shall transmit a report detailing its review, evaluation and disposition regarding such business plan to the state agency that submitted such cost comparison review. Such sixty-day period may be extended for an additional thirty days upon a showing of good cause.

(ii) The state comptroller's report shall include the business plan prepared by the state agency, the reasons for approval or disapproval, any recommendations or other information to assist the state agency in determining if additional steps are necessary to move forward with a consultant services contract.

(iii) If the state comptroller does not act on a business plan submitted by a state agency within ninety days of receipt of such business plan, such business plan shall be deemed approved.

g. A cost comparison shall not be required if the contracting agency demonstrates:

(i) the services are incidental to the purchase of real or personal property; or

(ii) the contract is necessary in order to avoid a conflict of interest on the part of the agency or its employees; or

(iii) the services are of such a highly specialized nature that it is not feasible to utilize state employees to perform them or require special equipment that is not feasible for the state to purchase or lease; or

(iv) the services are of such an urgent nature that it is not feasible to utilize state employees; or

(v) the services are anticipated to be short term and are not likely to be extended or repeated after the contract is completed; or

(vi) a quantifiable improvement in services that cannot be reasonably duplicated.

h. Nothing in this section shall be deemed to authorize a state agency to enter into a contract which is otherwise prohibited by law.

i. All documents related to the cost comparison and business plan required by this subdivision and the determinations made pursuant to paragraph g of this subdivision shall be public records subject to disclosure pursuant to article six of the public officers law.

§ 3. On or before December 31, 2020 the state comptroller shall prepare a report, to be delivered to the governor, the temporary president of the senate and the speaker of the assembly. Such report shall include, but need not be limited to, an analysis of the effectiveness of the cost comparison review program and an analysis of the cost savings associated with performing such cost comparison.

§ 4. This act shall take effect on the ninetieth day after it shall have become a law and shall apply to all contracts solicited or entered into by state agencies after the effective date of this act; provided, however, the amendments to section 163 of the state finance law made by section two of this act shall not affect the repeal of such section and shall be deemed repealed therewith.

PART QQ

Section 1. Subdivision 1 of section 10.40 of the criminal procedure law, as amended by chapter 237 of the laws of 2015, is amended to read as follows:

1. The chief administrator of the courts shall have the power to adopt, amend and rescind forms for the efficient and just administration of this chapter. Such forms shall include, without limitation, the forms described in paragraph (z) of subdivision two of section two hundred twelve of the judiciary law. A failure by any party to submit papers in compliance with forms authorized by this section shall not be grounds for that reason alone for denial or granting of any motion.

§ 1-a. Section 10.40 of the criminal procedure law, as added by chapter 47 of the laws of 1984, is amended to read as follows:

§ 10.40 Chief administrator to prescribe forms.

The chief administrator of the courts shall have the power to adopt, amend and rescind forms for the efficient and just administration of this chapter. Such forms shall include, without limitation, the forms described in paragraph (z) of subdivision two of section two hundred twelve of the judiciary law. A failure by any party to submit papers in compliance with forms authorized by this section shall not be grounds for that reason alone for denial or granting of any motion.

§ 2. Subdivision 2 of section 212 of the judiciary law is amended by adding six new paragraphs (u-1), (v-1), (w), (x), (y) and (z) to read as follows:

(u-1) Compile and publish data on misdemeanor offenses in all courts, disaggregated by county, including the following information:

(i) the aggregate number of misdemeanors charged, by indictment or the filing of a misdemeanor complaint or information;

(ii) the offense charged;

(iii) the race, ethnicity, age, and sex of the individual charged;

(iv) whether the individual was issued a summons or appearance ticket, was subject to custodial arrest, and/or was held to arraignment as a result of the alleged misdemeanor;

(v) the zip code or location where the alleged misdemeanor occurred;

(vi) the disposition, including, as the case may be, dismissal, acquittal, adjournment in contemplation of dismissal, plea, conviction, or other disposition;

(vii) in the case of dismissal, the reasons therefor; and

(viii) the sentence imposed, if any, including fines, fees, and surcharges.

(v-1) Compile and publish data on violations in all courts, disaggregated by county, including the following information:

(i) the aggregate number of violations charged by the filing of an information;

(ii) the violation charged;

(iii) the race, ethnicity, age, and sex of the individual charged;

(iv) whether the individual was issued a summons or appearance ticket, was subject to custodial arrest, and/or was held to arraignment as a result of the alleged violation;

(v) the zip code or location where the alleged violation occurred;

(vi) the disposition, including, as the case may be, dismissal, acquittal, conviction, or other disposition;

(vii) in the case of dismissal, the reasons therefor; and

(viii) the sentence imposed, if any, including fines, fees, and surcharges.

(w) The chief administrator shall include the information required by paragraphs (u-1) and (v-1) of this subdivision in the annual report

submitted to the legislature and the governor pursuant to paragraph (j) of subdivision one of this section. The chief administrator shall also make the information required by paragraphs (u-1) and (v-1) of this subdivision available to the public by posting it on the website of the office of court administration and shall update such information on a monthly basis. The information shall be posted in alphanumeric form that can be digitally transmitted or processed and not in portable document format or scanned copies of original documents.

(x) Nothing in paragraphs (u-1) and (v-1) of this subdivision shall be construed as granting authority to the chief administrator, a criminal justice or law enforcement agency, a governmental entity, or any agent or representative of the foregoing, to use, disseminate, or publish any individual's name, date of birth, NYSID, social security number, docket number, or other unique identifier in violation of the criminal procedure law, the general business law, or any other law.

(y) Nothing in paragraphs (u-1) and (v-1) of this subdivision shall be construed as granting authority to the chief administrator, a criminal justice or law enforcement agency, a governmental entity, a party, a judge, a prosecutor, or any agent or representative of the foregoing to introduce, use, disseminate, publish or consider any records in any judicial or administrative proceeding expunged or sealed under applicable provisions of the criminal procedure law, the family court act, or any other law.

(z) In executing the requirements of paragraphs (u-1) and (v-1) of this section, the chief administrator may adopt rules consistent with the requirements of paragraphs (x) and (y) of this subdivision requiring appropriate law enforcement or criminal justice agencies to identify actions and proceedings involving these offenses, and with respect to such actions and proceedings, to report, in such form and manner as the chief administrator shall prescribe, the information specified herein. Further, to facilitate this provision, the chief administrator shall adopt rules to facilitate record sharing, retention and other necessary communication among the criminal courts and law enforcement agencies, subject to applicable provisions of the criminal procedure law, the family court act, and any other law pertaining to the confidentiality, expungement and sealing of records.

§ 3. The executive law is amended by adding a new section 837-t to read as follows:

§ 837-t. Reporting duties of law enforcement departments with respect to arrest-related deaths. 1. The chief of every police department, each county sheriff, and the superintendent of state police shall promptly report to the division any arrest-related death, disaggregated by county. An arrest-related death is a death that occurs during law enforcement custody or an attempt to establish custody including, but not limited to, deaths caused by any use of force. The data shall include the following information:

(a) the number of arrest-related deaths;

(b) the race, ethnicity, age, and sex of the individual;

(c) the zip code or location where the death occurred; and

(d) a brief description of the circumstances surrounding the arrest-related death.

2. The division shall present to the governor and the legislature an annual report containing the information required by subdivision one of this section. The initial report required by this subdivision shall be for the period beginning July first, two thousand eighteen and ending December thirty-first, two thousand eighteen and shall be presented no

later than February first, two thousand nineteen. Thereafter, each annual report shall be presented no later than February first.

3. The division shall make the information required by subdivision one of this section available to the public by posting it on the website of the division and shall update such information on a monthly basis. The information shall be posted in alphanumeric form that can be digitally transmitted or processed and not in portable document format or scanned copies of original documents.

§ 4. This act shall take effect immediately; provided that the amendment to subdivision 1 of section 10.40 of the criminal procedure law, made by section one of this act, shall be subject to the expiration and reversion of such section as provided in section 11 of chapter 237 of the laws of 2015, as amended, when upon such date the provisions of section one-a of this act shall take effect.

PART RR

Section 1. Subdivision 2 of section 420.35 of the criminal procedure law, as amended by chapter 426 of the laws of 2015, is amended and a new subdivision 2-a is added to read as follows:

2. [Under] Except as provided in this subdivision or subdivision two-a of this section, under no circumstances shall the mandatory surcharge, sex offender registration fee, DNA databank fee or the crime victim assistance fee be waived [provided, however, that a court may waive the crime victim assistance fee if such defendant is an eligible youth as defined in subdivision two of section 720.10 of this chapter, and the imposition of such fee would work an unreasonable hardship on the defendant, his or her immediate family, or any other person who is dependent on such defendant for financial support]. A court shall waive any mandatory surcharge, DNA databank fee and crime victim assistance fee when: (i) the defendant is convicted of loitering for the purpose of engaging in prostitution under section 240.37 of the penal law (provided that the defendant was not convicted of loitering for the purpose of patronizing a person for prostitution); (ii) the defendant is convicted of prostitution under section 230.00 of the penal law; (iii) the defendant is convicted of a violation in the event such conviction is in lieu of a plea to or conviction for loitering for the purpose of engaging in prostitution under section 240.37 of the penal law (provided that the defendant was not alleged to be loitering for the purpose of patronizing a person for prostitution) or prostitution under section 230.00 of the penal law; or (iv) the court finds that a defendant is a victim of sex trafficking under section 230.34 of the penal law or a victim of trafficking in persons under the trafficking victims protection act (United States Code, Title 22, Chapter 78).

2-a. A court may waive any mandatory surcharge, additional surcharge, town or village surcharge, the crime victim assistance fee, DNA databank fee, sex offender registration fee and/or supplemental sex offender victim fee when the court finds that the defendant was under the age of twenty-one at the time the offense was committed and:

(a) the imposition of such surcharge or fee would work an unreasonable hardship on the defendant, his or her immediate family, or any other person who is dependent on such defendant for financial support; or

(b) after considering the goal of promoting successful and productive reentry and reintegration as set forth in subdivision six of section 1.05 of the penal law, the imposition of such surcharge or fee would adversely impact the defendant's reintegration into society; or

(c) the interests of justice.

§ 2. Subdivision 3 of section 420.30 of the criminal procedure law, as amended by section 5 of part F of chapter 56 of the laws of 2004, is amended to read as follows:

3. Restrictions. [In] Except as provided for in subdivision two-a of section 420.35 of this article, in no event shall a mandatory surcharge, sex offender registration fee, DNA databank fee or crime victim assistance fee be remitted [provided, however, that a court may waive the crime victim assistance fee if such defendant is an eligible youth as defined in subdivision two of section 720.10 of this chapter, and the imposition of such fee would work an unreasonable hardship on the defendant, his or her immediate family, or any other person who is dependent on such defendant for financial support].

§ 3. Subdivision 10 of section 60.35 of the penal law is REPEALED.

§ 4. Subdivision 3 of section 60.02 of the penal law is REPEALED.

§ 5. This act shall take effect immediately.

PART SS

Section 1. Section 296 of the executive law is amended by adding a new subdivision 15-a to read as follows:

15-a. It shall be an unlawful discriminatory practice, unless specifically required or permitted by statute, for any prospective employer, including any person, agency, bureau, corporation or association, including the state and any political subdivision thereof, to make an inquiry about, whether in any form of application or otherwise, or to act upon adversely to the individual involved based upon, any criminal conviction of such individual unless such employer first makes a conditional offer of employment to such individual. Such conditional offer of employment may only subsequently be withdrawn on the basis of a criminal conviction in accordance with article twenty-three-A of the correction law where such conviction bears a direct relationship, as such term is defined in subdivision three of section seven hundred fifty of the correction law, to the specific position being offered, or the granting of such employment would involve an unreasonable risk to property or to the safety or welfare of specific individuals or the general public.

§ 2. This act shall take effect on the ninetieth day after it shall have become a law.

PART TT

Section 1. Subdivision 23 of section 2 of the correction law, as added by chapter 1 of the laws of 2008, is amended to read as follows:

23. "Segregated confinement" means the [disciplinary] confinement of an inmate in [a special housing unit or in a separate keeplock housing unit. Special housing units and separate keeplock units are housing units that consist of cells grouped so as to provide separation from the general population, and may be used to house inmates confined pursuant to the disciplinary procedures described in regulations] any form of cell confinement for more than seventeen hours a day other than in a facility-wide emergency or for the purpose of providing medical or mental health treatment. Cell confinement that is implemented due to medical or mental health treatment shall be within a clinical area in the correctional facility or in as close proximity to a medical or mental health unit as possible.

§ 2. Section 2 of the correction law is amended by adding two new subdivisions 32 and 33 to read as follows:

32. "Special populations" means any person: (a) twenty-one years of age or younger; (b) fifty-five years of age or older; (c) with a disability as defined in paragraph (a) of subdivision twenty-one of section two hundred ninety-two of the executive law; or (d) who is pregnant, in the first eight weeks of the post-partum recovery period after giving birth, or caring for a child in a correctional institution pursuant to subdivisions two or three of section six hundred eleven of this chapter.

33. "Residential rehabilitation unit" means a separate housing unit used for therapy, treatment, and rehabilitative programming of incarcerated people who have been determined to require more than fifteen days of segregated confinement pursuant to department proceedings. Such units shall be therapeutic and trauma-informed, and aim to address individual treatment and rehabilitation needs and underlying causes of problematic behaviors.

§ 3. Paragraph (a) of subdivision 6 of section 137 of the correction law, as amended by chapter 490 of the laws of 1974, is amended to read as follows:

(a) The inmate shall be supplied with a sufficient quantity of wholesome and nutritious food[, provided, however, that such food need not be the same as the food supplied to inmates who are participating in programs of the facility];

§ 4. Paragraph (d) of subdivision 6 of section 137 of the correction law, as added by chapter 1 of the laws of 2008, is amended to read as follows:

(d) (i) Except as set forth in clause (E) of subparagraph (ii) of this paragraph, the department, in consultation with mental health clinicians, shall divert or remove inmates with serious mental illness, as defined in paragraph (e) of this subdivision, from segregated confinement or confinement in a residential rehabilitation unit, where such confinement could potentially be for a period in excess of thirty days, to a residential mental health treatment unit. Nothing in this paragraph shall be deemed to prevent the disciplinary process from proceeding in accordance with department rules and regulations for disciplinary hearings.

(ii) (A) Upon placement of an inmate into segregated confinement or a residential rehabilitation unit at a level one or level two facility, a suicide prevention screening instrument shall be administered by staff from the department or the office of mental health who has been trained for that purpose. If such a screening instrument reveals that the inmate is at risk of suicide, a mental health clinician shall be consulted and appropriate safety precautions shall be taken. Additionally, within one business day of the placement of such an inmate into segregated confinement at a level one or level two facility, the inmate shall be assessed by a mental health clinician.

(B) Upon placement of an inmate into segregated confinement or a residential rehabilitation unit at a level three or level four facility, a suicide prevention screening instrument shall be administered by staff from the department or the office of mental health who has been trained for that purpose. If such a screening instrument reveals that the inmate is at risk of suicide, a mental health clinician shall be consulted and appropriate safety precautions shall be taken. All inmates placed in segregated confinement or a residential rehabilitation unit at a level three or level four facility shall be assessed by a mental health clini-

cian, within [fourteen] seven days of such placement into segregated confinement.

(C) At the initial assessment, if the mental health clinician finds that an inmate suffers from a serious mental illness, that person shall be diverted or removed from segregated confinement or a residential rehabilitation unit and a recommendation shall be made whether exceptional circumstances, as described in clause (E) of this subparagraph, exist. In a facility with a joint case management committee, such recommendation shall be made by such committee. In a facility without a joint case management committee, the recommendation shall be made jointly by a committee consisting of the facility's highest ranking mental health clinician, the deputy superintendent for security, and the deputy superintendent for program services, or their equivalents. Any such recommendation shall be reviewed by the joint central office review committee. The administrative process described in this clause shall be completed within [fourteen] seven days of the initial assessment, and if the result of such process is that the inmate should be removed from segregated confinement or a residential rehabilitation unit, such removal shall occur as soon as practicable, but in no event more than seventy-two hours from the completion of the administrative process. Pursuant to paragraph (g) of this subdivision, nothing in this section shall permit the placement of an incarcerated person with serious mental illness into segregated confinement at any time, even for the purposes of assessment.

(D) If an inmate with a serious mental illness is not diverted or removed to a residential mental health treatment unit, such inmate shall be diverted to a residential rehabilitation unit and reassessed by a mental health clinician within fourteen days of the initial assessment and at least once every fourteen days thereafter. After each such additional assessment, a recommendation as to whether such inmate should be removed from [segregated confinement] a residential rehabilitation unit shall be made and reviewed according to the process set forth in clause (C) of this subparagraph.

(E) A recommendation or determination whether to remove an inmate from segregated confinement or a residential rehabilitation unit shall take into account the assessing mental health clinicians' opinions as to the inmate's mental condition and treatment needs, and shall also take into account any safety and security concerns that would be posed by the inmate's removal, even if additional restrictions were placed on the inmate's access to treatment, property, services or privileges in a residential mental health treatment unit. A recommendation or determination shall direct the inmate's removal from segregated confinement or a residential rehabilitation unit except in the following exceptional circumstances: (1) when the reviewer finds that removal would pose a substantial risk to the safety of the inmate or other persons, or a substantial threat to the security of the facility, even if additional restrictions were placed on the inmate's access to treatment, property, services or privileges in a residential mental health treatment unit; or (2) when the assessing mental health clinician determines that such placement is in the inmate's best interests based on his or her mental condition and that removing such inmate to a residential mental health treatment unit would be detrimental to his or her mental condition. Any determination not to remove an inmate with serious mental illness from segregated confinement or a residential rehabilitation unit shall be documented in writing and include the reasons for the determination.

(iii) Inmates with serious mental illness who are not diverted or removed from [segregated confinement] a residential rehabilitation unit

shall be offered a heightened level of mental health care, involving a minimum of [two] three hours [each day, five days a week,] daily of out-of-cell therapeutic treatment and programming. This heightened level of care shall not be offered only in the following circumstances:

(A) The heightened level of care shall not apply when an inmate with serious mental illness does not, in the reasonable judgment of a mental health clinician, require the heightened level of care. Such determination shall be documented with a written statement of the basis of such determination and shall be reviewed by the Central New York Psychiatric Center clinical director or his or her designee. Such a determination is subject to change should the inmate's clinical status change. Such determination shall be reviewed and documented by a mental health clinician every thirty days, and in consultation with the Central New York Psychiatric Center clinical director or his or her designee not less than every ninety days.

(B) The heightened level of care shall not apply in exceptional circumstances when providing such care would create an unacceptable risk to the safety and security of inmates or staff. Such determination shall be documented by security personnel together with the basis of such determination and shall be reviewed by the facility superintendent, in consultation with a mental health clinician, not less than every seven days for as long as the inmate remains in [segregated confinement] a residential rehabilitation unit. The facility shall attempt to resolve such exceptional circumstances so that the heightened level of care may be provided. If such exceptional circumstances remain unresolved for thirty days, the matter shall be referred to the joint central office review committee for review.

(iv) [Inmates with serious mental illness who are not diverted or removed from segregated confinement shall not be placed on a restricted diet, unless there has been a written determination that the restricted diet is necessary for reasons of safety and security. If a restricted diet is imposed, it shall be limited to seven days, except in the exceptional circumstances where the joint case management committee determines that limiting the restricted diet to seven days would pose an unacceptable risk to the safety and security of inmates or staff. In such case, the need for a restricted diet shall be reassessed by the joint case management committee every seven days.

(v)]All inmates in segregated confinement in a level one or level two facility who are not assessed with a serious mental illness at the initial assessment shall be offered at least one interview with a mental health clinician within [fourteen] seven days of their initial mental health assessment, [and additional interviews at least every thirty days thereafter,] unless the mental health clinician at the most recent interview recommends an earlier interview or assessment. All inmates in [segregated confinement] a residential rehabilitation unit in a level three or level four facility who are not assessed with a serious mental illness at the initial assessment shall be offered at least one interview with a mental health clinician within thirty days of their initial mental health assessment, and additional interviews at least every ninety days thereafter, unless the mental health clinician at the most recent interview recommends an earlier interview or assessment.

§ 5. Subdivision 6 of section 137 of the correction law is amended by adding eight new paragraphs (g), (h), (i), (j), (k), (l), (m) and (n) to read as follows:

(g) Persons in a special population as defined in subdivision thirty-two of section two of this chapter shall not be placed in segregated

confinement for any length of time, except in keeplock for a period prior to a disciplinary hearing pursuant to paragraph (k) of this subdivision. Individuals in a special population who are in keeplock prior to a disciplinary hearing shall be given seven hours a day out-of-cell time or shall be transferred to a residential rehabilitation unit or residential mental health treatment unit as expeditiously as possible, but in no case longer than forty-eight hours from the time an individual is admitted to keeplock.

(h) No person may be placed in segregated confinement for longer than necessary and no more than fifteen consecutive days or twenty total days within any sixty day period. At these limits, he or she must be released from segregated confinement or diverted to a separate residential rehabilitation unit. If placement of such person in segregated confinement would exceed the twenty-day limit and the department establishes that the person committed an act defined in subparagraph (ii) of paragraph (j) of this subdivision, the department may place the person in segregated confinement until admission to a residential rehabilitation unit can be effectuated. Such admission to a residential rehabilitation unit shall occur as expeditiously as possible and in no case take longer than forty-eight hours from the time such person is placed in segregated confinement.

(i) (i) All segregated confinement and residential rehabilitation units shall create the least restrictive environment necessary for the safety of incarcerated persons, staff, and the security of the facility.

(ii) Persons in segregated confinement shall be offered out-of-cell programming at least four hours per day, including at least one hour for recreation. Persons admitted to residential rehabilitation units shall be offered at least six hours of daily out-of-cell congregate programming, services, treatment, and/or meals, with an additional minimum of one hour for recreation. Recreation in all residential rehabilitation units shall take place in a congregate setting, unless exceptional circumstances mean doing so would create a significant and unreasonable risk to the safety and security of other incarcerated persons, staff, or the facility.

(iii) No limitation on services, treatment, or basic needs such as clothing, food and bedding shall be imposed as a form of punishment. If provision of any such services, treatment or basic needs to an individual would create a significant and unreasonable risk to the safety and security of incarcerated persons, staff, or the facility, such services, treatment or basic needs may be withheld until it reasonably appears that the risk has ended. The department shall not impose restricted diets or any other change in diet as a form of punishment. Persons in a residential rehabilitation unit shall have access to all of their personal property unless an individual determination is made that having a specific item would pose a significant and unreasonable risk to the safety of incarcerated persons or staff or the security of the unit.

(iv) Upon admission to a residential rehabilitation unit, program and mental health staff shall administer assessments and develop an individual rehabilitation plan in consultation with the resident, based upon his or her medical, mental health, and programming needs. Such plan shall identify specific goals and programs, treatment, and services to be offered, with projected time frames for completion and discharge from the residential rehabilitation unit.

(v) An incarcerated person in a residential rehabilitation unit shall have access to programs and work assignments comparable to core programs and work assignments in general population. Such incarcerated persons

shall also have access to additional out-of-cell, trauma-informed therapeutic programming aimed at promoting personal development, addressing underlying causes of problematic behavior resulting in placement in a residential rehabilitation unit, and helping prepare for discharge from the unit and to the community.

(vi) If the department establishes that a person committed an act defined in subparagraph (ii) of paragraph (j) of this subdivision while in segregated confinement or a residential rehabilitation unit and poses a significant and unreasonable risk to the safety and security of other incarcerated persons or staff, the department may restrict such person's participation in programming and out-of-cell activities as necessary for the safety of other incarcerated persons and staff. If such restrictions are imposed, the department must provide at least four hours out-of-cell time daily, including at least two hours of therapeutic programming and two hours of recreation, and must make reasonable efforts to reinstate access to programming as soon as possible. In no case may such restrictions extend beyond fifteen days unless the person commits a new act defined herein justifying restrictions on program access, or if the commissioner and, when appropriate, the commissioner of mental health personally reasonably determine that the person poses an extraordinary and unacceptable risk of imminent harm to the safety or security of incarcerated persons or staff. Any extension of program restrictions beyond fifteen days must be meaningfully reviewed and approved at least every fifteen days by the commissioner and, when appropriate, by the commissioner of mental health. Each review must consider the impact of therapeutic programming provided during the fifteen-day period on the person's risk of imminent harm and the commissioner must articulate in writing, with a copy provided to the incarcerated person, the specific reason why the person currently poses an extraordinary and unacceptable risk of imminent harm to the safety or security of incarcerated persons or staff. In no case may restrictions imposed by the commissioner extend beyond ninety days unless the person commits a new act defined herein justifying restrictions on program access.

(vii) Restraints shall not be used when incarcerated persons are participating in out-of-cell activities within a residential rehabilitation unit unless an individual assessment is made that restraints are required because of a significant and unreasonable risk to the safety and security of other incarcerated persons or staff.

(j) (i) The department may place a person in segregated confinement for up to three consecutive days and no longer than six days in any thirty day period if, pursuant to an evidentiary hearing, it determines that the person violated department rules which permit a penalty of segregated confinement. The department may not place a person in segregated confinement for longer than three consecutive days or six days total in a thirty day period unless the provisions of subparagraph (ii) of this paragraph are met.

(ii) The department may place a person in segregated confinement beyond the limits of subparagraph (i) of this paragraph or in a residential rehabilitation unit only if, pursuant to an evidentiary hearing, it determines by written decision that the person committed one of the following acts and if the commissioner or his or her designee determines in writing based on specific objective criteria the acts were so heinous or destructive that placement of the individual in general population housing creates a significant risk of imminent serious physical injury to staff or other incarcerated persons, and creates an unreasonable risk to the security of the facility:

(A) causing or attempting to cause serious physical injury or death to another person or making an imminent threat of such serious physical injury or death if the person has a history of causing such physical injury or death and the commissioner and, when appropriate, the commissioner of mental health or their designees reasonably determine that there is a strong likelihood that the person will carry out such threat. The commissioner of mental health or his or her designee shall be involved in such determination if the person is or has been on the mental health caseload or appears to require psychiatric attention. The department and the office of mental health shall promulgate rules and regulations pertaining to this clause;

(B) compelling or attempting to compel another person, by force or threat of force, to engage in a sexual act;

(C) extorting another, by force or threat of force, for property or money;

(D) coercing another, by force or threat of force, to violate any rule;

(E) leading, organizing, inciting, or attempting to cause a riot, insurrection, or other similarly serious disturbance that results in the taking of a hostage, major property damage, or physical harm to another person;

(F) procuring deadly weapons or other dangerous contraband that poses a serious threat to the security of the institution; or

(G) escaping, attempting to escape or facilitating an escape from a facility or escaping or attempting to escape while under supervision outside such facility.

For purposes of this section, attempting to cause a serious disturbance or to escape shall only be determined to have occurred if there is a clear finding that the inmate had the intent to cause a serious disturbance or the intent to escape and had completed significant acts in the advancement of the attempt to create a serious disturbance or escape. Evidence of withdrawal or abandonment of a plan to cause a serious disturbance or to escape shall negate a finding of intent.

(iii) No person may be placed in segregated confinement or a residential rehabilitation unit based on the same act or incident that was previously used as the basis for such placement.

(iv) No person may be held in segregated confinement for protective custody. Any unit used for protective custody must, at a minimum, conform to requirements governing residential rehabilitation units.

(k) All hearings to determine if a person may be placed in segregated confinement shall occur prior to placement in segregated confinement unless a security supervisor, with written approval of a facility superintendent or designee, reasonably believes the person fits the specified criteria for segregated confinement in subparagraph (ii) of paragraph (j) of this subdivision. If a hearing does not take place prior to placement, it shall occur as soon as reasonably practicable and at most within five days of such placement unless the charged person seeks a postponement of the hearing. Persons at such hearings shall be permitted to be represented by any attorney or law student, or by any paralegal or incarcerated person unless the department reasonably disapproves of such paralegal or incarcerated person based upon objective written criteria developed by the department.

(l) (i) Any sanction imposed on an incarcerated person requiring segregated confinement shall run while the person is in a residential rehabilitation unit and the person shall be discharged from the unit before or at the time such sanction expires. If a person successfully

completes his or her rehabilitation plan before the sanction expires, the person shall have a right to be discharged from the unit upon such completion.

(ii) If an incarcerated person has not been discharged from a residential rehabilitation unit within one year of initial admission to such a unit or is within sixty days of a fixed or tentatively approved date for release from a correctional facility, he or she shall have a right to be discharged from the unit unless he or she committed an act listed in subparagraph (ii) of paragraph (j) of this subdivision within the prior one hundred eighty days and he or she poses a significant and unreasonable risk to the safety or security of incarcerated persons or staff. In any such case the decision not to discharge such person shall be immediately and automatically subjected to an independent review by the commissioner and the commissioner of mental health or their designees. A person may remain in a residential rehabilitation unit beyond the time limits provided in this section if both commissioners or both of their designees approve this decision. In extraordinary circumstances, a person who has not committed an act listed in subparagraph (ii) of paragraph (j) of this subdivision within the prior one hundred eighty days, may remain in a residential rehabilitation unit beyond the time limits provided in this section if both the commissioner and the commissioner of mental health personally determine that such individual poses an extraordinary and unacceptable risk of imminent harm to the safety or security of incarcerated persons or staff.

(iii) There shall be a meaningful periodic review of the status of each incarcerated person in a residential rehabilitation unit at least every sixty days to assess the person's progress and determine if the person should be discharged from the unit. Following such periodic review, if the person is not discharged from the unit, program and mental health staff shall specify in writing the reasons for the determination and the program, treatment, service, and/or corrective action required before discharge. The incarcerated person shall be given access to the programs, treatment and services specified, and shall have a right to be discharged from the residential rehabilitation unit upon the successful fulfillment of such requirements.

(iv) When an incarcerated person is discharged from a residential rehabilitation unit, any remaining time to serve on any underlying disciplinary sanction shall be dismissed. If an incarcerated person substantially completes his or her rehabilitation plan, he or she shall have any associated loss of good time restored upon discharge from the unit.

(m) All special housing unit, keeplock unit and residential rehabilitation unit staff and their supervisors shall undergo a minimum of thirty-seven hours and thirty minutes of training prior to assignment to such unit, and twenty-one hours of additional training annually thereafter, on substantive content developed in consultation with relevant experts, on topics including, but not limited to, the purpose and goals of the non-punitive therapeutic environment, trauma-informed care, restorative justice, and dispute resolution methods. Prior to presiding over any hearings, all hearing officers shall undergo a minimum of thirty-seven hours and thirty minutes of training, with one additional day of training annually thereafter, on relevant topics, including but not limited to, the physical and psychological effects of segregated confinement, procedural and due process rights of the accused, and restorative justice remedies.

(n) The department shall publish monthly reports on its website, with semi-annual and annual cumulative reports, of the total number of people who are in segregated confinement and the total number of people who are in residential rehabilitation units on the first day of each month. The reports shall provide a breakdown of the number of people in segregated confinement and in residential rehabilitation units by: (i) age; (ii) race; (iii) gender; (iv) mental health treatment level; (v) special health accommodations or needs; (vi) need for and participation in substance abuse programs; (vii) pregnancy status; (viii) continuous length of stay in residential treatment units as well as length of stay in the past sixty days; (ix) number of days in segregated confinement; (x) a list of all incidents resulting in sanctions of segregated confinement by facility and date of occurrence; (xi) the number of incarcerated persons in segregated confinement by facility; and (xii) the number of incarcerated persons in residential rehabilitation units by facility.

§ 6. Section 138 of the correction law is amended by adding a new subdivision 7 to read as follows:

7. De-escalation, intervention, informational reports, and the withdrawal of incentives shall be the preferred methods of responding to misbehavior unless the department determines that non-disciplinary interventions have failed, or that non-disciplinary interventions would not succeed and the misbehavior involved an act listed in subparagraph (ii) of paragraph (j) of subdivision six of section one hundred thirty-seven of this article, in which case, as a last resort, the department shall have the authority to issue misbehavior reports, pursue disciplinary charges, or impose new or additional segregated confinement sanctions.

§ 7. Subdivision 1 of section 401 of the correction law, as amended by chapter 1 of the laws of 2008, is amended to read as follows:

1. The commissioner, in cooperation with the commissioner of mental health, shall establish programs, including but not limited to residential mental health treatment units, in such correctional facilities as he or she may deem appropriate for the treatment of mentally ill inmates confined in state correctional facilities who are in need of psychiatric services but who do not require hospitalization for the treatment of mental illness. Inmates with serious mental illness shall receive therapy and programming in settings that are appropriate to their clinical needs while maintaining the safety and security of the facility.

The conditions and services provided in the residential mental health treatment units shall be at least comparable to those in all residential rehabilitation units, and all residential mental health treatment units shall be in compliance with all provisions of paragraphs (h), (i), (j), and (k) of subdivision six of section one hundred thirty-seven of this chapter. Residential mental health treatment units that are either residential mental health unit models or behavioral health unit models shall also be in compliance with all provisions of paragraph (l) of subdivision six of section one hundred thirty-seven of this chapter.

The residential mental health treatment units shall also provide the additional mental health treatment, services, and programming delineated in this section. The administration and operation of programs established pursuant to this section shall be the joint responsibility of the commissioner of mental health and the commissioner. The professional mental health care personnel, and their administrative and support staff, for such programs shall be employees of the office of mental health. All other personnel shall be employees of the department.

§ 8. Subparagraph (i) of paragraph (a) of subdivision 2 of section 401 of the correction law, as added by chapter 1 of the laws of 2008, is amended to read as follows:

(i) In exceptional circumstances, a mental health clinician, or the highest ranking facility security supervisor in consultation with a mental health clinician who has interviewed the inmate, may determine that an inmate's access to out-of-cell therapeutic programming and/or mental health treatment in a residential mental health treatment unit presents an unacceptable risk to the safety of inmates or staff. Such determination shall be documented in writing and <u>such inmate shall be removed to a residential rehabilitation unit that is not a residential mental health treatment unit where</u> alternative mental health treatment and/or other therapeutic programming, as determined by a mental health clinician, shall be provided.

§ 9. Subdivision 5 of section 401 of the correction law, as added by chapter 1 of the laws of 2008, is amended to read as follows:

5. (a) An inmate in a residential mental health treatment unit shall not be sanctioned with segregated confinement for misconduct on the unit, or removed from the unit and placed in segregated confinement <u>or a residential rehabilitation unit</u>, except in exceptional circumstances where such inmate's conduct poses a significant and unreasonable risk to the safety of inmates or staff, or to the security of the facility <u>and he or she has been found to have committed an act or acts defined in subparagraph (ii) of paragraph (j) of subdivision six of section one hundred thirty-seven of this chapter</u>. Further, in the event that such a sanction is imposed, an inmate shall not be required to begin serving such sanction until the reviews required by paragraph (b) of this subdivision have been completed; provided, however that in extraordinary circumstances where an inmate's conduct poses an immediate unacceptable threat to the safety of inmates or staff, or to the security of the facility an inmate may be immediately moved to [segregated confinement] <u>a residential rehabilitation unit</u>. The determination that an immediate transfer to [segregated confinement] <u>a residential rehabilitation unit</u> is necessary shall be made by the highest ranking facility security supervisor in consultation with a mental health clinician.

(b) The joint case management committee shall review any disciplinary disposition imposing a sanction of segregated confinement at its next scheduled meeting. Such review shall take into account the inmate's mental condition and safety and security concerns. The joint case management committee may only thereafter recommend the removal of the inmate in exceptional circumstances where the inmate <u>commits an act or acts defined in subparagraph (ii) of paragraph (j) of subdivision six of section one hundred thirty-seven of this chapter and</u> poses a significant and unreasonable risk to the safety of inmates or staff or to the security of the facility. In the event that the inmate was immediately moved to segregated confinement, the joint case management committee may recommend that the inmate continue to serve such sanction only in exceptional circumstances where the inmate <u>commits an act or acts defined in subparagraph (ii) of paragraph (j) of subdivision six of section one hundred thirty-seven of this chapter and</u> poses a significant and unreasonable risk to the safety of inmates or staff or to the security of the facility. If a determination is made that the inmate shall not be required to serve all or any part of the segregated confinement sanction, the joint case management committee may instead recommend that a less restrictive sanction should be imposed. The recommendations made by the joint case management committee under this paragraph shall be docu-

mented in writing and referred to the superintendent for review and if the superintendent disagrees, the matter shall be referred to the joint central office review committee for a final determination. The administrative process described in this paragraph shall be completed within fourteen days. If the result of such process is that an inmate who was immediately transferred to [segregated confinement] a residential rehabilitation unit should be removed from [segregated confinement] such unit, such removal shall occur as soon as practicable, and in no event longer than seventy-two hours from the completion of the administrative process.

§ 10. Subdivision 6 of section 401 of the correction law, as amended by chapter 20 of the laws of 2016, is amended to read as follows:

6. The department shall ensure that the curriculum for new correction officers, and other new department staff who will regularly work in programs providing mental health treatment for inmates, shall include at least eight hours of training about the types and symptoms of mental illnesses, the goals of mental health treatment, the prevention of suicide and training in how to effectively and safely manage inmates with mental illness. Such training may be provided by the office of mental health or the justice center for the protection of people with special needs. All department staff who are transferring into a residential mental health treatment unit shall receive a minimum of eight additional hours of such training, and eight hours of annual training as long as they work in such a unit. All security, program services, mental health and medical staff with direct inmate contact shall receive training each year regarding identification of, and care for, inmates with mental illnesses. The department shall provide additional training on these topics on an ongoing basis as it deems appropriate. All staff working in a residential mental health treatment unit shall also receive all training mandated in paragraph (m) of subdivision six of section one hundred thirty-seven of this chapter.

§ 11. Section 401-a of the correction law is amended by adding a new subdivision 4 to read as follows:

4. The justice center shall assess the department's compliance with the provisions of sections two, one hundred thirty-seven, and one hundred thirty-eight of this chapter relating to segregated confinement and residential rehabilitation units and shall issue a public report, no less than annually, with recommendations to the department and legislature, regarding all aspects of segregated confinement and residential rehabilitation units in state correctional facilities including but not limited to policies and practices concerning: (a) placement of persons in segregated confinement and residential rehabilitation units; (b) special populations; (c) length of time spent in such units; (d) hearings and procedures; (e) programs, treatment and conditions of confinement in such units; and (f) assessments and rehabilitation plans, procedures and discharge determinations.

§ 12. Section 45 of the correction law is amended by adding a new subdivision 18 to read as follows:

18. Assess compliance of local correctional facilities with the terms of paragraphs (g), (h), (i), (j), (k), (l), (m) and (n) of subdivision six of section one hundred thirty-seven of this chapter. The commission shall issue a public report regarding all aspects of segregated confinement and residential rehabilitation units at least annually with recommendations to local correctional facilities, the governor, the legislature, including but not limited to policies and practices regarding: (a) placement of persons; (b) special populations; (c) length of time spent

in segregated confinement and residential treatment units; (d) hearings and procedures; (e) conditions, programs, services, care, and treatment; and (f) assessments, rehabilitation plans, and discharge procedures.

§ 13. Section 500-k of the correction law, as amended by chapter 2 of the laws of 2008, is amended to read as follows:

§ 500-k. Treatment of inmates. 1. Subdivisions five and six of section one hundred thirty-seven of this chapter, except paragraphs (d) and (e) of subdivision six of such section, relating to the treatment of inmates in state correctional facilities are applicable to inmates confined in county jails; except that the report required by paragraph (f) of subdivision six of such section shall be made to a person designated to receive such report in the rules and regulations of the state commission of correction, or in any county or city where there is a department of correction, to the head of such department.

2. Notwithstanding any other section of law to the contrary, subdivision thirty-three of section two of this chapter, and subparagraphs (i), (iv) and (v) of paragraph (i) and subparagraph (ii) of paragraph (l) of subdivision six of section one hundred thirty-seven of this chapter shall not apply to local correctional facilities with a total combined capacity of five hundred inmates or fewer.

§ 14. This act shall take effect one year after it shall have become a law.

PART UU

Section 1. Section 221.05 of the penal law, as added by chapter 360 of the laws of 1977, is amended to read as follows:

§ 221.05 Unlawful possession of marihuana.

A person is guilty of unlawful possession of marihuana when he knowingly and unlawfully possesses marihuana.

Unlawful possession of marihuana is a violation punishable only by a fine of not more than one hundred dollars. However, where the defendant has previously been convicted of [an offense] a crime defined in this article, except a crime defined in section 221.10 of this article provided, however, that the record of such conviction does not demonstrate a conviction under subdivision two of such section 221.10, or article 220 of this chapter, committed within the three years immediately preceding such violation, it shall be punishable (a) only by a fine of not more than two hundred dollars, if the defendant was previously convicted of one such offense committed during such period, and (b) by a fine of not more than two hundred fifty dollars or a term of imprisonment not in excess of fifteen days or both, if the defendant was previously convicted of two such offenses committed during such period.

§ 2. Paragraph (k) of subdivision 3 of section 160.50 of the criminal procedure law, as added by chapter 835 of the laws of 1977 and as relettered by chapter 192 of the laws of 1980, is amended to read as follows:

(k) (i) The accusatory instrument alleged a violation of article two hundred twenty or section 240.36 of the penal law, prior to the taking effect of article two hundred twenty-one of the penal law, or a violation of article two hundred twenty-one of the penal law; (ii) the sole controlled substance involved is marijuana; and (iii) the conviction was only for a violation or violations[; and (iv) at least three years have passed since the offense occurred] of section 221.10 of the penal law provided, however, that the record of such conviction does not demonstrate a conviction under subdivision two of such section 221.10, or for a petty offense or offenses. No defendant shall be

required or permitted to waive eligibility for sealing pursuant to this paragraph as part of a plea of guilty, sentence or any agreement related to a conviction for a violation of section 221.05 or section 221.10 of the penal law and any such waiver shall be deemed void and wholly unenforceable.

§ 3. Section 160.50 of the criminal procedure law is amended by adding three new subdivisions 5, 6 and 7 to read as follows:

5. A person convicted of a violation of section 221.10 of the penal law, other than a conviction after trial of, or plea of guilty to, subdivision two of such section 221.10, prior to the effective date of this subdivision may upon motion apply to the court in which such termination occurred, upon not less than twenty days notice to the district attorney, for an order granting to such person the relief set forth in subdivision one of this section, and such order shall be granted unless the district attorney demonstrates that the interests of justice require otherwise.

6. (a) Notwithstanding any other provision of law except as provided in paragraph (d) of subdivision one of this section and paragraph (e) of subdivision four of section eight hundred thirty-seven of the executive law: (i) when the division of criminal justice services conducts a search of its criminal history records, maintained pursuant to subdivision six of section eight hundred thirty-seven of the executive law, and returns a report thereon, all references to a conviction for a violation of section 221.10 of the penal law, other than a conviction after trial of, or plea of guilty to, subdivision two of such section 221.10, shall be excluded from such report; and (ii) the chief administrator of the courts shall develop and promulgate rules as may be necessary to ensure that no written or electronic report of a criminal history record search conducted by the office of court administration contains information relating to a conviction for a violation of section 221.10 of the penal law, other than a conviction after trial of, or plea of guilty to, subdivision two of such section 221.10, unless such search is conducted solely for a bona fide research purpose, provided that such information, if so disseminated, shall be disseminated in accordance with procedures established by the chief administrator of the courts to assure the security and privacy of identification and information data, which shall include the execution of an agreement which protects the confidentiality of the information and reasonably protects against data linkage to individuals.

(b) Nothing contained in this subdivision shall be deemed to permit or require the release, disclosure or other dissemination by the division of criminal justice services or the office of court administration of criminal history record information that has been sealed in accordance with law.

7. A person convicted of a violation of section 221.05 of the penal law shall, on the effective date of this subdivision, have such conviction immediately sealed pursuant to subdivision one of this section if such conviction occurred less than three years prior to such effective date.

§ 4. This act shall take effect on the sixtieth day after it shall have become a law.

PART VV

Section 1. The opening paragraph of subdivision 1 and subdivision 2 of section 216.00 of the criminal procedure law, the opening paragraph of

subdivision 1 as amended by chapter 90 of the laws of 2014 and subdivision 2 as added by section 4 of part AAA of chapter 56 of the laws of 2009, are amended to read as follows:

"Eligible defendant" means any person who stands charged in an indictment or a superior court information with a class B, C, D or E felony offense defined in article one hundred seventy-nine, two hundred twenty or two hundred twenty-one of the penal law, an offense defined in sections 105.10 and 105.13 of the penal law provided that the underlying crime for the conspiracy charge is a class B, C, D or E felony offense defined in article one hundred seventy-nine, two hundred twenty or two hundred twenty-one of the penal law, auto stripping in the second degree as defined in section 165.10 of the penal law, auto stripping in the first degree as defined in section 165.11 of the penal law, identity theft in the second degree as defined in section 190.79 of the penal law, identity theft in the first degree as defined in section 190.80 of the penal law, or any other specified offense as defined in subdivision [four] five of section 410.91 of this chapter, provided, however, a defendant is not an "eligible defendant" if he or she:

2. "Alcohol and substance [abuse] use evaluation" means a written assessment and report by a court-approved entity or licensed health care professional experienced in the treatment of alcohol and substance [abuse] use disorder, or by an addiction and substance abuse counselor credentialed by the office of alcoholism and substance abuse services pursuant to section 19.07 of the mental hygiene law, which shall include:

(a) an evaluation as to whether the defendant has a history of alcohol or substance [abuse or alcohol or substance dependence] use disorder, as such terms are defined in the diagnostic and statistical manual of mental disorders, [fourth] fifth edition, and a co-occurring mental disorder or mental illness and the relationship between such [abuse or dependence] use and mental disorder or mental illness, if any;

(b) a recommendation as to whether the defendant's alcohol or substance [abuse or dependence] use, if any, could be effectively addressed by judicial diversion in accordance with this article;

(c) a recommendation as to the treatment modality, level of care and length of any proposed treatment to effectively address the defendant's alcohol or substance [abuse or dependence] use and any co-occurring mental disorder or illness; and

(d) any other information, factor, circumstance, or recommendation deemed relevant by the assessing entity or specifically requested by the court.

§ 2. The opening paragraph of subdivision 1 of section 216.00 of the criminal procedure law, as added by section 4 of part AAA of chapter 56 of the laws of 2009, is amended to read as follows:

"Eligible defendant" means any person who stands charged in an indictment or a superior court information with a class B, C, D or E felony offense defined in article two hundred twenty or two hundred twenty-one of the penal law, an offense defined in sections 105.10 and 105.13 of the penal law provided that the underlying crime for the conspiracy charge is a class B, C, D or E felony offense defined in article two hundred twenty or two hundred twenty-one of the penal law, auto stripping in the second degree as defined in section 165.10 of the penal law, auto stripping in the first degree as defined in section 165.11 of the penal law, identity theft in the second degree as defined in section 190.79 of the penal law, identity theft in the first degree as defined in section 190.80 of the penal law, or any other specified offense as

defined in subdivision [four] five of section 410.91 of this chapter, provided, however, a defendant is not an "eligible defendant" if he or she:

§ 3. Section 216.05 of the criminal procedure law, as added by section 4 of part AAA of chapter 56 of the laws of 2009, subdivision 5 as amended by chapter 67 of the laws of 2016, subdivision 8 as amended by chapter 315 of the laws of 2016, and paragraph (a) of subdivision 9 as amended by chapter 258 of the laws of 2015, is amended to read as follows:

§ 216.05 Judicial diversion program; court procedures.

1. At any time after the arraignment of an eligible defendant, but prior to the entry of a plea of guilty or the commencement of trial, the court at the request of the eligible defendant, may order an alcohol and substance [abuse] use evaluation. An eligible defendant may decline to participate in such an evaluation at any time. The defendant shall provide a written authorization, in compliance with the requirements of any applicable state or federal laws, rules or regulations authorizing disclosure of the results of the assessment to the defendant's attorney, the prosecutor, the local probation department, the court, authorized court personnel and other individuals specified in such authorization for the sole purpose of determining whether the defendant should be offered judicial diversion for treatment for substance [abuse or dependence] use, alcohol [abuse or dependence] use and any co-occurring mental disorder or mental illness.

2. Upon receipt of the completed alcohol and substance [abuse] use evaluation report, the court shall provide a copy of the report to the eligible defendant and the prosecutor.

3. (a) Upon receipt of the evaluation report either party may request a hearing on the issue of whether the eligible defendant should be offered alcohol or substance [abuse] use treatment pursuant to this article. At such a proceeding, which shall be held as soon as practicable so as to facilitate early intervention in the event that the defendant is found to need alcohol or substance [abuse] use treatment, the court may consider oral and written arguments, may take testimony from witnesses offered by either party, and may consider any relevant evidence including, but not limited to, evidence that:

(i) the defendant had within the preceding ten years (excluding any time during which the offender was incarcerated for any reason between the time of the acts that led to the youthful offender adjudication and the time of commission of the present offense) been adjudicated a youthful offender for: (A) a violent felony offense as defined in section 70.02 of the penal law; or (B) any offense for which a merit time allowance is not available pursuant to subparagraph (ii) of paragraph (d) of subdivision one of section eight hundred three of the correction law; and

(ii) in the case of a felony offense defined in subdivision [four] five of section 410.91 of this chapter, or section 165.09, 165.10, 190.79 or 190.80 of the penal law, any statement of or submitted by the victim, as defined in paragraph (a) of subdivision two of section 380.50 of this chapter.

(b) Upon completion of such a proceeding, the court shall consider and make findings of fact with respect to whether:

(i) the defendant is an eligible defendant as defined in subdivision one of section 216.00 of this article;

(ii) the defendant has a history of alcohol or substance [abuse or dependence] use;

(iii) such alcohol or substance [abuse or dependence] use is a contributing factor to the defendant's criminal behavior;

(iv) the defendant's participation in judicial diversion could effectively address such [abuse or dependence] use; and

(v) institutional confinement of the defendant is or may not be necessary for the protection of the public.

4. When an authorized court determines, pursuant to paragraph (b) of subdivision three of this section, that an eligible defendant should be offered alcohol or substance [abuse] use treatment, or when the parties and the court agree to an eligible defendant's participation in alcohol or substance [abuse] use treatment, an eligible defendant may be allowed to participate in the judicial diversion program offered by this article. Prior to the court's issuing an order granting judicial diversion, the eligible defendant shall be required to enter a plea of guilty to the charge or charges; provided, however, that no such guilty plea shall be required when:

(a) the people and the court consent to the entry of such an order without a plea of guilty; or

(b) based on a finding of exceptional circumstances, the court determines that a plea of guilty shall not be required. For purposes of this subdivision, exceptional circumstances exist when, regardless of the ultimate disposition of the case, the entry of a plea of guilty is likely to result in severe collateral consequences.

5. The defendant shall agree on the record or in writing to abide by the release conditions set by the court, which, shall include: participation in a specified period of alcohol or substance [abuse] use treatment at a specified program or programs identified by the court, which may include periods of detoxification, residential or outpatient treatment, or both, as determined after taking into account the views of the health care professional who conducted the alcohol and substance [abuse] use evaluation and any health care professionals responsible for providing such treatment or monitoring the defendant's progress in such treatment; and may include: (i) periodic court appearances, which may include periodic urinalysis; (ii) a requirement that the defendant refrain from engaging in criminal behaviors; (iii) if the defendant needs treatment for opioid [abuse or dependence] use, that he or she may participate in and receive medically prescribed drug treatments under the care of a health care professional licensed or certified under title eight of the education law, acting within his or her lawful scope of practice, provided that no court shall require the use of any specified type or brand of drug during the course of medically prescribed drug treatments.

6. Upon an eligible defendant's agreement to abide by the conditions set by the court, the court shall issue a securing order providing for bail or release on the defendant's own recognizance and conditioning any release upon the agreed upon conditions. The period of alcohol or substance [abuse] use treatment shall begin as specified by the court and as soon as practicable after the defendant's release, taking into account the availability of treatment, so as to facilitate early intervention with respect to the defendant's [abuse] use or condition and the effectiveness of the treatment program. In the event that a treatment program is not immediately available or becomes unavailable during the course of the defendant's participation in the judicial diversion program, the court may release the defendant pursuant to the securing order.

7. When participating in judicial diversion treatment pursuant to this article, any resident of this state who is covered under a private

health insurance policy or contract issued for delivery in this state pursuant to article thirty-two, forty-three or forty-seven of the insurance law or article forty-four of the public health law, or who is covered by a self-funded plan which provides coverage for the diagnosis and treatment of chemical abuse and chemical dependence however defined in such policy; shall first seek reimbursement for such treatment in accordance with the provisions of such policy or contract.

8. During the period of a defendant's participation in the judicial diversion program, the court shall retain jurisdiction of the defendant, provided, however, that the court may allow such defendant to (i) reside in another jurisdiction, or (ii) participate in alcohol and substance [abuse] use treatment and other programs in the jurisdiction where the defendant resides or in any other jurisdiction, while participating in a judicial diversion program under conditions set by the court and agreed to by the defendant pursuant to subdivisions five and six of this section. The court may require the defendant to appear in court at any time to enable the court to monitor the defendant's progress in alcohol or substance [abuse] use treatment. The court shall provide notice, reasonable under the circumstances, to the people, the treatment provider, the defendant and the defendant's counsel whenever it orders or otherwise requires the appearance of the defendant in court. Failure to appear as required without reasonable cause therefor shall constitute a violation of the conditions of the court's agreement with the defendant.

9. (a) If at any time during the defendant's participation in the judicial diversion program, the court has reasonable grounds to believe that the defendant has violated a release condition or has failed to appear before the court as requested, the court shall direct the defendant to appear or issue a bench warrant to a police officer or an appropriate peace officer directing him or her to take the defendant into custody and bring the defendant before the court without unnecessary delay; provided, however, that under no circumstances shall a defendant who requires treatment for opioid [abuse or dependence] use be deemed to have violated a release condition on the basis of his or her participation in medically prescribed drug treatments under the care of a health care professional licensed or certified under title eight of the education law, acting within his or her lawful scope of practice. The provisions of subdivision one of section 530.60 of this chapter relating to revocation of recognizance or bail shall apply to such proceedings under this subdivision.

(b) In determining whether a defendant violated a condition of his or her release under the judicial diversion program, the court may conduct a summary hearing consistent with due process and sufficient to satisfy the court that the defendant has, in fact, violated the condition.

(c) If the court determines that the defendant has violated a condition of his or her release under the judicial diversion program, the court may modify the conditions thereof, reconsider the order of recognizance or bail pursuant to subdivision two of section 510.30 of this chapter, or terminate the defendant's participation in the judicial diversion program; and when applicable proceed with the defendant's sentencing in accordance with the agreement. Notwithstanding any provision of law to the contrary, the court may impose any sentence authorized for the crime of conviction in accordance with the plea agreement, or any lesser sentence authorized to be imposed on a felony drug offender pursuant to paragraph (b) or (c) of subdivision two of section 70.70 of the penal law taking into account the length of time the defendant spent in residential treatment and how best to continue

treatment while the defendant is serving that sentence. In determining what action to take for a violation of a release condition, the court shall consider all relevant circumstances, including the views of the prosecutor, the defense and the alcohol or substance [abuse] use treatment provider, and the extent to which persons who ultimately successfully complete a drug treatment regimen sometimes relapse by not abstaining from alcohol or substance [abuse] use or by failing to comply fully with all requirements imposed by a treatment program. The court shall also consider using a system of graduated and appropriate responses or sanctions designed to address such inappropriate behaviors, protect public safety and facilitate, where possible, successful completion of the alcohol or substance [abuse] use treatment program.

(d) Nothing in this subdivision shall be construed as preventing a court from terminating a defendant's participation in the judicial diversion program for violating a release condition when such a termination is necessary to preserve public safety. Nor shall anything in this subdivision be construed as precluding the prosecution of a defendant for the commission of a different offense while participating in the judicial diversion program.

(e) A defendant may at any time advise the court that he or she wishes to terminate participation in the judicial diversion program, at which time the court shall proceed with the case and, where applicable, shall impose sentence in accordance with the plea agreement. Notwithstanding any provision of law to the contrary, the court may impose any sentence authorized for the crime of conviction in accordance with the plea agreement, or any lesser sentence authorized to be imposed on a felony drug offender pursuant to paragraph (b) or (c) of subdivision two of section 70.70 of the penal law taking into account the length of time the defendant spent in residential treatment and how best to continue treatment while the defendant is serving that sentence.

10. Upon the court's determination that the defendant has successfully completed the required period of alcohol or substance [abuse] use treatment and has otherwise satisfied the conditions required for successful completion of the judicial diversion program, the court shall comply with the terms and conditions it set for final disposition when it accepted the defendant's agreement to participate in the judicial diversion program. Such disposition may include, but is not limited to: (a) requiring the defendant to undergo a period of interim probation supervision and, upon the defendant's successful completion of the interim probation supervision term, notwithstanding the provision of any other law, permitting the defendant to withdraw his or her guilty plea and dismissing the indictment; or (b) requiring the defendant to undergo a period of interim probation supervision and, upon successful completion of the interim probation supervision term, notwithstanding the provision of any other law, permitting the defendant to withdraw his or her guilty plea, enter a guilty plea to a misdemeanor offense and sentencing the defendant as promised in the plea agreement, which may include a period of probation supervision pursuant to section 65.00 of the penal law; or (c) allowing the defendant to withdraw his or her guilty plea and dismissing the indictment.

11. Nothing in this article shall be construed as restricting or prohibiting courts or district attorneys from using other lawful procedures or models for placing appropriate persons into alcohol or substance [abuse] use treatment.

§ 4. This act shall take effect immediately; provided, that the amendments to the opening paragraph of subdivision 1 of section 216.00 of the

criminal procedure law made by section one of this act shall be subject to the expiration and reversion of such paragraph pursuant to section 12 of chapter 90 of the laws of 2014, as amended, when upon such date the provisions of section two of this act shall take effect.

PART WW

Section 1. The executive law is amended by adding a new section 837-t to read as follows:

§ 837-t. Ethnic and racial profiling. 1. For the purposes of this section:

(a) "Law enforcement agency" means an agency established by the state or a unit of local government engaged in the prevention, detection, or investigation of violations of criminal law.

(b) "Law enforcement officer" means a police officer or peace officer, as defined in subdivisions thirty-three and thirty-four of section 1.20 of the criminal procedure law, employed by a law enforcement agency.

(c) "Racial or ethnic profiling" means the practice of a law enforcement agent or agency, relying, to any degree, on actual or perceived race, color, ethnicity, national origin or religion in selecting which individual or location to subject to routine or spontaneous investigatory activities or in deciding upon the scope and substance of law enforcement activity following the initial investigatory procedure, except when there is trustworthy information, relevant to the locality and timeframe, that links a specific person or location with a particular characteristic described in this paragraph to an identified criminal incident or scheme.

(d) "Routine or spontaneous investigatory activities" means the following activities by a law enforcement agent:

(i) Interviews;

(ii) Traffic stops;

(iii) Pedestrian stops;

(iv) Frisks and other types of body searches;

(v) Consensual or nonconsensual searches of persons, property or possessions (including vehicles) of individuals;

(vi) Data collection and analysis, assessments and investigations; and

(vii) Inspections and interviews.

2. Every law enforcement agency and every law enforcement officer shall be prohibited from engaging in racial or ethnic profiling.

3. Every law enforcement agency shall promulgate and adopt a written policy which prohibits racial or ethnic profiling. In addition, each such agency shall promulgate and adopt procedures for the review and the taking of corrective action with respect to complaints by individuals who allege that they have been the subject of racial or ethnic profiling. A copy of each such complaint received pursuant to this section and written notification of the review and disposition of such complaint shall be promptly provided by such agency to the division.

4. Each law enforcement agency shall, using a form to be determined by the division, record and retain the following information with respect to law enforcement officers employed by such agency:

(a) the number of persons stopped as a result of a motor vehicle stop for traffic violations and the number of persons stopped as a result of a routine or spontaneous law enforcement activity as defined in this section;

(b) the characteristics of race, color, ethnicity, national origin or religion of each such person, provided the identification of such char-

acteristics shall be based on the observation and perception of the officer responsible for reporting the stop and the information shall not be required to be provided by the person stopped;

(c) if a vehicle was stopped, the number of individuals in the stopped motor vehicle;

(d) the nature of the alleged violation that resulted in the stop or the basis for the conduct that resulted in the individual being stopped;

(e) whether a pat down or frisk was conducted and, if so, the result of the pat down or frisk;

(f) whether a search was conducted and, if so, the result of the search;

(g) if a search was conducted, whether the search was of a person, a person's property, and/or a person's vehicle, and whether the search was conducted pursuant to consent and if not, the basis for conducting the search including any alleged criminal behavior that justified the search;

(h) whether an inventory search of such person's impounded vehicle was conducted;

(i) whether a warning or citation was issued;

(j) whether an arrest was made and for what charge or charges;

(k) the approximate duration of the stop; and

(l) the time and location of the stop.

5. Every law enforcement agency shall compile the information set forth in subdivision four of this section for the calendar year into a report to the division. The format of such report shall be determined by the division. The report shall be submitted to the division no later than March first of the following calendar year.

6. The division, in consultation with the attorney general, shall develop and promulgate:

(a) A form in both printed and electronic format, to be used by law enforcement officers to record the information listed in subdivision four of this section; and

(b) A form to be used to report complaints pursuant to subdivision three of this section by individuals who believe they have been subjected to racial or ethnic profiling.

7. Every law enforcement agency shall promptly make available to the attorney general, upon demand and notice, the documents required to be produced and promulgated pursuant to subdivisions three, four and five of this section.

8. Every law enforcement agency shall furnish all data/information collected pursuant to subdivision four of this section to the division. The division shall develop and implement a plan for a computerized data system for public viewing of such data and shall publish an annual report on data collected for the governor, the legislature, and the public on law enforcement stops. Information released shall not reveal the identity of any individual.

9. The attorney general may bring an action on behalf of the people for injunctive relief and/or damages against a law enforcement agency that is engaging in or has engaged in an act or acts of racial profiling in a court having jurisdiction to issue such relief. The court may award costs and reasonable attorney fees to the attorney general who prevails in such an action.

10. In addition to a cause of action brought pursuant to subdivision nine of this section, an individual who has been the subject of an act or acts of racial profiling may bring an action for injunctive relief and/or damages against a law enforcement agency that is engaged in or

has engaged in an act or acts of racial profiling. The court may award costs and reasonable attorney fees to a plaintiff who prevails in such an action.

11. Nothing in this section shall be construed as diminishing or abrogating any right, remedy or cause of action which an individual who has been subject to racial or ethnic profiling may have pursuant to any other provision of law.

§ 2. This act shall take effect immediately; provided that:

1. the provisions of subdivision 4 of section 837-t of the executive law as added by section one of this act shall take effect on the ninetieth day after it shall have become a law; and

2. the provisions of subdivision 6 of section 837-t of the executive law as added by section one of this act shall take effect on the sixtieth day after it shall have become a law.

PART XX

Section 1. Paragraph (d) of subdivision 3 of section 190.25 of the criminal procedure law is amended and a new paragraph (a-1) is added to read as follows:

(a-1) A judge or justice of the superior court;

(d) An interpreter. Upon request of the grand jury or the court, the prosecutor must provide an interpreter to interpret the testimony of any witness who does not speak the English language well enough to be readily understood. Such interpreter must, if he or she has not previously taken the constitutional oath of office, first take an oath before the grand jury that he or she will faithfully interpret the testimony of the witness and that he or she will keep secret all matters before such grand jury within his or her knowledge;

§ 2. Subdivision 4 of section 190.25 of the criminal procedure law is amended by adding six new paragraphs (c), (d), (e), (f), (g) and (h) to read as follows:

(c) In addition to paragraphs (a) and (b) of this subdivision, when, following submission to a grand jury of a criminal charge or charges, the grand jury dismisses all charges presented or directs the district attorney to file in a local criminal court a prosecutor's information charging an offense other than a felony, as provided in subdivision one of section 190.70 of this article, an application may be made to the superior court for disclosure of the following material relating to the proceedings before such grand jury:

(i) the criminal charge or charges submitted;

(ii) the legal instructions provided to the grand jury;

(iii) the testimony of all public servants who testified in an official capacity before the grand jury and of all persons who provided expert testimony; and

(iv) the testimony of all other persons who testified before the grand jury, redacted as necessary to prevent discovery of their names and such other personal data or information that may reveal or help to reveal their identities.

(d) The application specified in paragraph (c) of this subdivision may be made by any person, must be in writing and, except where made by the people, must be upon notice to the people. The court shall direct or provide notice to any other appropriate person or agency. Where more than one application is made hereunder in relation to such a dismissal or direction, the court may consolidate such applications and determine them together. When no application hereunder is made, the superior court

may order disclosure on its own motion as provided in paragraph (e) of this subdivision at any time following notice to the people and an opportunity to be heard and reasonable efforts to notify and provide an opportunity to be heard to any other appropriate person or agency.

(e) Upon an application as provided in paragraph (c) of this subdivision or on the court's own motion, the court, after providing persons given notice an opportunity to be heard, shall determine whether:

(i) a significant number of members of the general public in the county in which the grand jury was drawn and impaneled are likely aware that a criminal investigation had been conducted in connection with the subject matter of the grand jury proceeding; and

(ii) a significant number of members of the general public in such county are likely aware of the identity of the subject against whom the criminal charge specified in paragraph (c) of this subdivision was submitted to a grand jury, or such subject has consented to such disclosure; and

(iii) there is significant public interest in disclosure.

Where the court is satisfied that all three of these factors are present, and except as provided in paragraph (f) of this subdivision, the court shall direct the district attorney to promptly disclose the items specified in paragraph (c) of this subdivision.

(f) Notwithstanding any other provisions of this subdivision, on application of the district attorney or any interested person, or on its own motion, the court shall limit disclosure of the items specified in paragraph (c) of this subdivision, in whole or part, where the court determines there is a reasonable likelihood that such disclosure may lead to discovery of the identity of a witness who is not a public servant or expert witness, imperil the health or safety of a grand juror who participated in the proceeding or a witness who appeared before the grand jury, jeopardize an identified current or future criminal investigation, create a specific threat to public safety, or despite the interests reflected by this subdivision is contrary to the interests of justice.

(g) Where a court determines not to direct disclosure, in whole or in part, pursuant to this subdivision, it shall do so promptly in a written order that shall explain with specificity, to the extent practicable, the basis for its determination.

(h) Nothing in this paragraph or paragraphs (c), (d), (e), (f) or (g) of this subdivision shall be interpreted as limiting or restricting any broader right of access to grand jury materials under any other law, common law or court precedent.

§ 3. This act shall take effect on the thirtieth day after it shall have become a law.

PART YY

Section 1. The executive law is amended by adding a new section 70-b to read as follows:

§ 70-b. Office of special investigation. 1. There shall be established within the department of law an office of special investigation which shall investigate and, if warranted, prosecute any alleged criminal offense or offenses committed by a person who is a police officer as defined in subdivision thirty-four of section 1.20 of the criminal procedure law, or a peace officer as defined in subdivision thirty-three of section 1.20 of the criminal procedure law, concerning the death, or the investigation of the death, of any person where such death resulted

from or potentially resulted from any encounter with such police officer or peace officer, whether or not such person was in custody. The office shall have the powers and duties specified in subdivisions two and eight of section sixty-three of this article for purposes of this section, and shall possess and exercise all the prosecutorial powers necessary to investigate and, if warranted, prosecute such offenses, provided, however, that approval, direction or requirement of the governor as may otherwise be required by such subdivisions shall not be required. The jurisdiction of the office of special investigation shall displace and supersede in all ways the authority and jurisdiction of the county district attorney for the investigation and prosecution of such offenses. In any investigation and prosecution conducted pursuant to this section, the district attorney shall only exercise such powers and perform such duties as designated to him or her by the office of special investigation. The office of special investigation within the department of law shall be headed by the deputy attorney general appointed by the attorney general pursuant to subdivision three of this section.

2. (a) In any investigation and prosecution undertaken pursuant to this section, the office of special investigation shall conduct a full, reasoned, and independent investigation including, but not limited to: (i) gathering and analyzing evidence; (ii) conducting witness interviews; and (iii) reviewing and commissioning any necessary investigative and scientific reports, and reviewing audio and video recordings.

(b) In all matters pursuant to subdivision one of this section, the deputy attorney general, appointed pursuant to subdivision three of this section, may appear in person or by any assistant attorney general he or she may designate before any court or grand jury in the state and exercise all of the powers and perform all of the duties with respect to such actions or proceedings which the district attorney would otherwise be authorized or required to exercise or perform.

3. Notwithstanding any other provision of law, the attorney general shall, without civil service examination, appoint and employ, fix his or her compensation, and at his or her pleasure remove, a deputy attorney general in charge of the office of special investigation. The attorney general may, and without civil service examination, appoint and employ, and at pleasure remove, such assistant deputies, investigators and other persons as he or she deems necessary, determine their duties and fix their compensation.

4. (a) Where an investigation or prosecution of the type described in subdivision one of this section involves acts that appear to have been engaged in by a police officer or peace officer employed by the state of New York, the attorney general shall promptly apply to a superior court in the county in which such acts allegedly occurred for the appointment of an independent counsel to investigate and potentially prosecute such matter. Notwithstanding the provisions of any other law, such court shall thereupon appoint a qualified and experienced attorney at law, capable of investigating and prosecuting such matter, not employed as a district attorney, assistant district attorney or assistant attorney general, and having no personal or professional conflicts of interest, to act as an independent counsel with respect to such matter, at a reasonable and appropriate hourly rate to be set by such court.

(b) The attorney general shall promptly notify the state comptroller, the court and the public when such appointment has been made and accepted by such attorney. Reasonable fees for attorneys and investigation and litigation expenses shall be paid by the state to such private counsel from time to time during the pendency of the investi-

gation and any prosecution and appeal, upon the audit and warrant of the comptroller. Any dispute with respect to the payment of such fees and expenses shall be resolved by the court upon motion or by way of a special proceeding.

(c) In all matters pursuant to subdivision one of this section, the independent counsel appointed pursuant to this subdivision shall possess and exercise the powers and duties of the office of special investigation pursuant to subdivisions one and two of this section, and may appear in person or by any assistant independent counsel he or she may designate before any court or grand jury in the state and exercise all of the powers and perform all of the duties with respect to such actions or proceedings which the district attorney would otherwise be authorized or required to exercise or perform.

5. (a) With respect to any investigation pursuant to this section, the office of special investigation or the independent counsel, as the case may be, shall, as a part of the duties under this section, prepare and publicly release a report on all cases where: (i) the office or independent counsel, as the case may be, declines to present evidence to a grand jury regarding the death of a person as described in subdivision one of this section; or (ii) the grand jury declines to return an indictment on any felony charges.

(b) The report shall include: (i) with respect to subparagraph (i) of paragraph (a) of this subdivision, an explanation as to why such office or independent counsel declined to present evidence to a grand jury; (ii) with respect to subparagraph (ii) of paragraph (a) of this subdivision, a report of the outcome of the grand jury proceedings and, to the greatest extent possible, an explanation of that outcome; and (iii) any recommendations for systemic or other reforms arising from the investigation.

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

§ 2. Subdivision 6 of section 190.25 of the criminal procedure law is amended to read as follows:

6. (a) The legal advisors of the grand jury are the court and the district attorney, and the grand jury may not seek or receive legal advice from any other source. Where necessary or appropriate, the court or the district attorney, or both, must instruct the grand jury concerning the law with respect to its duties or any matter before it, and such instructions must be recorded in the minutes.

(b) Notwithstanding paragraph (a) of this subdivision, or any other law to the contrary, in any proceeding before a grand jury that involves

the submission of a criminal charge or charges against a person or persons for an act or acts that occurred at a time when such person was a police officer or peace officer, and that concern the death of any person that resulted from or potentially resulted from any encounter with such police officer or peace officer, the court, after consultation on the record with the prosecutor, shall instruct the grand jury as to the criminal charge or charges to be submitted and the law applicable to such charges and to the matters before such grand jury. Thereafter, any questions, requests for exhibits, requests for readback of testimony or other requests from the grand jury or a member thereof shall be provided to the court, and addressed by the court after consultation on the record with the prosecutor.

(c) Notwithstanding the provisions of subdivision four of this section, or any other law to the contrary, following final action by the grand jury on the charge or charges submitted pursuant to paragraph (b) of this subdivision, the court shall make such legal instructions and charges submitted to such grand jury available to the public on request, provided that the names of witnesses and any information that would identify such witnesses included in such legal instructions or charges shall be redacted when the court determines, in a written order released to the public, and issued after notice to the people and the requester and an opportunity to be heard and reasonable efforts to notify and provide an opportunity to be heard to any other appropriate person or agency, that there is a reasonable likelihood that public release of such information would endanger any individual.

(d) Nothing in this paragraph or paragraph (b) or (c) of this subdivision shall be interpreted as limiting or restricting any broader right of access to grand jury materials under any other law, common law or court precedent.

§ 3. This act shall take effect on the thirtieth day after it shall have become a law.

PART ZZ

Section 1. Subparagraph (viii) of paragraph a of subdivision 10 of section 54 of the state finance law is amended by adding a new clause 3 to read as follows:

(3) for the state fiscal year commencing April first, two thousand eighteen and in each state fiscal year thereafter, the amount of miscellaneous financial assistance from the local assistance account received by a village in the fiscal year beginning April first, two thousand seventeen.

§ 2. This act shall take effect immediately.

PART AAA

Section 1. The opening paragraph of subdivision 3 of section 5-a of the legislative law, as amended by section 1 of part S of chapter 57 of the laws of 2016, is amended to read as follows:

Any member of the assembly serving in a special capacity in a position set forth in the following schedule shall be paid the allowance set forth in such schedule only for the legislative term commencing January first, two thousand [seventeen] nineteen and terminating December thirty-first, two thousand [eighteen] twenty:

§ 2. Section 13 of chapter 141 of the laws of 1994, amending the legislative law and the state finance law relating to the operation and

administration of the legislature, as amended by section 1 of part CC of chapter 55 of the laws of 2017, is amended to read as follows:

§ 13. This act shall take effect immediately and shall be deemed to have been in full force and effect as of April 1, 1994, provided that, the provisions of section 5-a of the legislative law as amended by sections two and two-a of this act shall take effect on January 1, 1995, and provided further that, the provisions of article 5-A of the legislative law as added by section eight of this act shall expire June 30, [2018] 2019 when upon such date the provisions of such article shall be deemed repealed; and provided further that section twelve of this act shall be deemed to have been in full force and effect on and after April 10, 1994.

§ 3. This act shall take effect immediately, provided, however, if section two of this act shall take effect on or after June 30, 2018 section two of this act shall be deemed to have been in full force and effect on and after June 30, 2018.

PART BBB

Section 1. Paragraph (h) of subdivision 2 of section 1349 of the civil practice law and rules, as added by chapter 655 of the laws of 1990, is amended to read as follows:

(h) All moneys remaining after distributions pursuant to paragraphs (a) through (g) of this subdivision shall be distributed as follows:

(i) [seventy-five] seventy percent of such moneys shall be deposited to a law enforcement purposes subaccount of the general fund of the state where the claiming agent is an agency of the state or the political subdivision or public authority of which the claiming agent is a part, to be used for law enforcement use in the investigation of penal law offenses;

(ii) [the remaining twenty-five] twenty percent of such moneys shall be deposited to a prosecution services subaccount of the general fund of the state where the claiming authority is the attorney general or the political subdivision of which the claiming authority is a part, to be used for the prosecution of penal law offenses;

(iii) the remaining ten percent of such moneys shall be deposited to a law enforcement purposes subaccount of the general fund of the state where the claiming agent is an agency of the state or the political subdivision or public authority of which the claiming agent is a part, to be used for law enforcement assisted diversion purposes.

Where multiple claiming agents participated in the forfeiture action, funds available pursuant to subparagraph (i) of this paragraph shall be disbursed to the appropriate law enforcement purposes subaccounts in accordance with the terms of a written agreement reflecting the participation of each claiming agent entered into by the participating claiming agents.

§ 2. Subdivision 3 of section 97-w of the state finance law, as amended by chapter 398 of the laws of 2004, is amended to read as follows:

3. Moneys of the fund, when allocated, shall be available to the commissioner of the office of alcoholism and substance abuse services and shall be used to provide support for (a) funded agencies approved by the New York state office of alcoholism and substance abuse services, [and] (b) local school-based and community programs which provide chemical dependence prevention and education services, and (c) law enforcement assisted diversion of individuals with substance use disorders.

Consideration shall be given to innovative approaches to providing chemical dependence services.

§ 3. This act shall take effect immediately.

PART CCC

Section 1. Paragraph 4 of subsection (a) and subsection (b) of section 6805 of the insurance law, as added by chapter 181 of the laws of 2012, are amended to read as follows:

(4) A charitable bail organization certificate shall be valid for a term of five years from issuance. At the time of application for every such certificate, [and for every renewal thereof,] an applicant shall pay to the superintendent a sum of [one thousand] five hundred dollars payable each term or fraction of a term, provided, however, that in his or her discretion, the superintendent may waive such fee.

(b) A charitable bail organization shall:

(1) only deposit money as bail in the amount of [two] ten thousand dollars or less for a defendant charged with one or more [misdemeanors] offenses, as defined in subdivision one of section 10.00 of the penal law, provided, however, that such organization shall not execute as surety any bond for any defendant;

(2) only deposit money as bail on behalf of a person who is financially unable to post bail, which may constitute a portion or the whole amount of such bail; and

(3) [only deposit money as bail in one county in this state. Provided, however, that a charitable bail organization whose principal place of business is located within a city of a million or more may deposit money as bail in the five counties comprising such city; and

(4)] not charge a premium or receive compensation for acting as a charitable bail organization.

§ 2. This act shall take effect immediately; provided that the amendments to subsection (b) of section 6805 of the insurance law made by section one of this act shall take effect on the ninetieth day after it shall have become a law.

PART DDD

Section 1. The correction law is amended by adding a new article 24-A to read as follows:

ARTICLE 24-A

MERIT TIME ALLOWANCE CREDITS AND CERTAIN ADMINISTRATIVE PRIVILEGES CREDITS FOR LOCAL CORRECTIONAL FACILITIES

Section 810. Definitions.

811. Merit time allowance credit accrual and application.

812. Forfeiture of merit time allowance credit.

813. Certain administrative privileges credits for ineligible inmates.

814. Record keeping.

§ 810. Definitions. When used in this article, the following terms shall have the following meanings:

1. "credit" means a reduction of twenty-four hours in the amount of time an inmate must serve in a correctional facility on the inmate's sentence upon conviction; and

2. "eligible inmate" means an inmate in the custody of the sheriff of a local correctional facility who is serving one or more definite sentences of one year or less or who is detained pending trial, sentence

or other disposition and who participates in the merit time allowance credit program established under this article, provided that such inmate is not convicted on the instant charges of an A-1 felony offense, other than an A-1 felony offense defined within article two hundred twenty of the penal law, a violent felony offense as defined in section 70.02 of the penal law, manslaughter in the second degree, vehicular manslaughter in the second degree, vehicular manslaughter in the first degree, criminally negligent homicide, any offense defined in article one hundred thirty of the penal law, incest, any offense defined in article two hundred sixty-three of the penal law, or aggravated harassment of an employee by an inmate.

§ 811. Merit time allowance credit accrual and application. 1. Upon successful participation, including active involvement, satisfactory attendance and compliance with program requirements, as reasonably determined by the sheriff, in an educational, vocational, work, or rehabilitative program approved for credit by the sheriff, an eligible inmate shall accrue credits applied to his or her sentence in the same manner as jail time credit pursuant to subdivision three of section 70.30 of the penal law in accordance with the following schedule:

(i) one credit shall accrue for every four days in which the inmate successfully participates in the program if the inmate's highest crime of conviction for the sentence to which the credit will apply is a violation offense;

(ii) one credit shall accrue for every nine days in which the inmate successfully participates in the program if the highest crime of conviction for the sentence to which the credit will apply is a misdemeanor offense; and

(iii) one credit shall accrue for every fifteen days in which the inmate successfully participates in the program if the highest crime of conviction for the sentence to which the credit will apply is a felony offense.

2. Accrued credits shall, in accordance with this section, be applied against an eligible inmate's sentence or, if pre-trial, against the sentence ultimately imposed, and shall diminish the inmate's period of imprisonment according to the schedule set forth in subdivision one of this section, provided, however, that if the inmate is convicted of a crime that renders him or her ineligible to receive merit time allowance credit under this article, any such credits accrued shall be considered administrative privileges credits pursuant to section eight hundred thirteen of this article.

3. If an eligible inmate accrues credits pursuant to paragraph (iii) of subdivision one of this section during a period of pre-trial or pre-sentence detention for a felony offense, and is later convicted of and sentenced to a period of imprisonment in a state correctional facility for such a felony offense, the credits accrued by the inmate shall be applied by the department as additional jail time credit pursuant to subdivision three of section 70.30 of the penal law to the sentence served by the inmate for such felony offense.

4. An inmate who is not eligible to participate in the merit time allowance credit program established by this article may, in the discretion of the sheriff, nonetheless be permitted to participate in an administrative privileges credit program pursuant to section eight hundred thirteen of this article.

5. All participation by an inmate in the merit time allowance credit program and administrative privileges credit program is voluntary. Except in administrative proceedings concerning the inmate's opportunity

to participate in, or continue to participate in, such a voluntary program administered by a correctional facility, evidence of an inmate's failure to successfully participate in or complete a merit time allowance credit program or administrative privileges credit program, pursuant to this article, shall not be admissible against the inmate, provided, however, that the inmate may present information concerning successful participation for the purposes of mitigation, where relevant, in any court or proceeding. Upon admission to a local correctional facility, each inmate shall be notified by the sheriff, in writing, of the existence, criteria and rules governing participation in the merit time allowance credit program.

§ 812. Forfeiture of merit time allowance credit. 1. Any merit time allowance credit accrued pursuant to the program established under this article may, after notice and an opportunity to be heard, be withheld, forfeited or cancelled in whole or in part for bad behavior, violation of institutional rules or failure to participate successfully in the program. The sheriff shall notify the inmate promptly in writing of the reasons for any such determination.

2. An inmate who loses a merit time allowance credit pursuant to subdivision one of this section is eligible for subsequent participation in a merit time allowance credit program at the discretion of the sheriff.

§ 813. Certain administrative privileges credits for ineligible inmates. 1. Any inmate not eligible to receive a merit time allowance credit pursuant to this article may nonetheless accrue administrative privileges credits, in a manner consistent with the accrual schedule set forth in subdivision one of section eight hundred eleven of this article, provided that such privileges credits shall only apply toward obtaining certain administrative privileges, pursuant to a lawful program established and administered by the sheriff, at the sheriff's discretion. Upon admission to a local correctional facility, each inmate shall be notified by the sheriff, in writing, of the existence, criteria and rules governing participation in the administrative privileges credit program. Eligible inmates may also receive such administrative privileges credits.

2. Administrative privileges credits accrued pursuant to this section shall be applied, at the request of the inmate and with consent of the sheriff, toward privileges not generally accorded to the general population of inmates at the local correctional facility. The rules governing participation in the program shall describe in detail the types of privileges to which such credits may be applied and the number of credits required for each type.

§ 814. Record keeping. A contemporaneous record shall be kept by the sheriff of all merit time allowance credits and administrative privileges credits an inmate accrues under this article. In any case where the sheriff has the duty to deliver an inmate to the custody of the department, or a sheriff or similar department in another jurisdiction, whether under an order of sentence and commitment or otherwise, the sheriff shall also deliver to the state correctional facility, sheriff or similar department to which the inmate is delivered, and to the inmate, a certified record of merit time allowance credits accrued by the inmate.

§ 2. Subdivision 3 of section 70.30 of the penal law, as amended by chapter 3 of the laws of 1995, the opening paragraph as amended by chapter 1 of the laws of 1998, is amended to read as follows:

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

(a) If the sentences run concurrently, the credit shall be applied against each such sentence;

(b) If the sentences run consecutively, the credit shall be applied against the aggregate term or aggregate maximum term of the sentences and against the aggregate minimum period of imprisonment.

In any case where a person has been in custody due to a charge that culminated in a dismissal or an acquittal, the amount of time that would have been credited against a sentence for such charge, had one been imposed, shall be credited against any sentence that is based on a charge for which a warrant or commitment was lodged during the pendency of such custody.

§ 3. Subdivision 3 of section 70.30 of the penal law, as amended by chapter 648 of the laws of 1979, the opening paragraph as separately amended by chapter 1 of the laws of 1998, is amended to read as follows:

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

(a) If the sentences run concurrently, the credit shall be applied against each such sentence;

(b) If the sentences run consecutively, the credit shall be applied against the aggregate term or aggregate maximum term of the sentences and against the aggregate minimum period of imprisonment.

In any case where a person has been in custody due to a charge that culminated in a dismissal or an acquittal, the amount of time that would have been credited against a sentence for such charge, had one been imposed, shall be credited against any sentence that is based on a

charge for which a warrant or commitment was lodged during the pendency of such custody.

§ 4. This act shall take effect on the first of November next succeeding the date on which it shall have become a law; provided that the amendments to subdivision 3 of section 70.30 of the penal law made by section two of this act shall be subject to the expiration and reversion of such subdivision pursuant to subdivision d of section 74 of chapter 3 of the laws of 1995, as amended, when upon such date the provisions of section three of this act shall take effect.

PART EEE

Section 1. The mental hygiene law is amended by adding a new section 13.43 to read as follows:

§ 13.43 First responder training.

(a) The commissioner, in consultation with the commissioner of health, the office of fire prevention and control, the municipal police training council, and the superintendent of state police, shall develop a training program and associated training materials, to provide instruction and information to firefighters, police officers and emergency medical services personnel on appropriate recognition and response techniques for handling emergency situations involving individuals with autism spectrum disorder and other developmental disabilities. The training program and associated training materials shall include any other information deemed necessary and appropriate by the commissioner.

(b) Such training shall address appropriate response techniques for dealing with both adults and minors with autism spectrum disorder and other developmental disabilities.

(c) Such training program may be developed as an online program.

§ 2. The public health law is amended by adding a new section 3054 to read as follows:

§ 3054. Emergency situations involving individuals with autism spectrum disorder and other developmental disabilities. In coordination with the commissioner of the office for people with developmental disabilities, the commissioner shall provide the training program relating to handling emergency situations involving individuals with autism spectrum disorder and other developmental disabilities and associated training materials pursuant to section 13.43 of the mental hygiene law to all emergency medical services personnel including, but not limited to, first responders, emergency medical technicians, advanced emergency medical technicians and emergency vehicle operators.

§ 3. Section 156 of the executive law is amended by adding a new subdivision 22 to read as follows:

22. In coordination with the commissioner of the office for people with developmental disabilities, provide the training program relating to handling emergency situations involving individuals with autism spectrum disorder and other developmental disabilities and associated training materials pursuant to section 13.43 of the mental hygiene law to all firefighters, both paid and volunteer. The office shall adopt all necessary rules and regulations relating to such training, including the process by which training hours are allocated to counties as well as a uniform procedure for requesting and providing additional training hours.

§ 4. Section 840 of the executive law is amended by adding a new subdivision 5 to read as follows:

5. The council shall, in addition:

(a) Develop, maintain and disseminate, in consultation with the commissioner of the office for people with developmental disabilities, written policies and procedures consistent with section 13.43 of the mental hygiene law, regarding the handling of emergency situations involving individuals with autism spectrum disorder and other developmental disabilities. Such policies and procedures shall make provisions for the education and training of new and veteran police officers on the handling of emergency situations involving individuals with autism spectrum disorder and other developmental disabilities; and

(b) Recommend to the governor, rules and regulations with respect to the establishment and implementation on an ongoing basis of a training program for all current and new police officers regarding the policies and procedures established pursuant to this subdivision, along with recommendations for periodic retraining of police officers.

§ 5. The executive law is amended by adding a new section 214-f to read as follows:

§ 214-f. Emergency situations involving people with autism spectrum disorder and other developmental disabilities. The superintendent shall, for all members of the state police:

1. Develop, maintain and disseminate, in consultation with the commissioner of the office for people with developmental disabilities, written policies and procedures consistent with section 13.43 of the mental hygiene law, regarding the handling of emergency situations involving individuals with autism spectrum disorder and other developmental disabilities. Such policies and procedures shall make provisions for the education and training of new and veteran police officers on the handling of emergency situations involving individuals with developmental disabilities; and

2. Recommend to the governor, rules and regulations with respect to establishment and implementation on an ongoing basis of a training program for all current and new police officers regarding the policies and procedures established pursuant to this subdivision, along with recommendations for periodic retraining of police officers.

§ 6. This act shall take effect on the one hundred eightieth day after it shall have become a law; provided, however, that the commissioner of the office for people with developmental disabilities may promulgate any rules and regulations necessary for the implementation of this act on or before such effective date.

PART FFF

Section 1. This part enacts into law major components of legislation relating to the Women's Agenda. Each component is wholly contained within a Subpart identified as subparts A through N. The effective date for each particular provision contained within such Subpart is set forth in the last section of such Subpart. Any provision in any section contained within a Subpart, including the effective date of the Subpart, which makes a reference to a section "of this act", when used in connection with that particular component, shall be deemed to mean and refer to the corresponding section of the Subpart in which it is found. Section three of this part sets forth the general effective date of this part.

SUBPART A

Section 1. This act shall be known and may be cited as the "comprehensive contraception coverage act".

§ 2. Paragraph 16 of subsection (l) of section 3221 of the insurance law, as added by chapter 554 of the laws of 2002, is amended to read as follows:

(16) (A) Every group or blanket policy [which provides coverage for prescription drugs shall include coverage for the cost of contraceptive drugs or devices approved by the federal food and drug administration or generic equivalents approved as substitutes by such food and drug administration under the prescription of a health care provider legally authorized to prescribe under title eight of the education law. The coverage required by this section shall be included in policies and certificates only through the addition of a rider.

(A)] that is issued, amended, renewed, effective or delivered on or after January first, two thousand nineteen, shall provide coverage for all of the following services and contraceptive methods:

(1) All FDA-approved contraceptive drugs, devices, and other products. This includes all FDA-approved over-the-counter contraceptive drugs, devices, and products as prescribed or as otherwise authorized under state or federal law. The following applies to this coverage:

(a) where the FDA has approved one or more therapeutic and pharmaceutical equivalent, as defined by the FDA, versions of a contraceptive drug, device, or product, a group or blanket policy is not required to include all such therapeutic and pharmaceutical equivalent versions in its formulary, so long as at least one is included and covered without cost-sharing and in accordance with this paragraph;

(b) if the covered therapeutic and pharmaceutical equivalent versions of a drug, device, or product are not available or are deemed medically inadvisable a group or blanket policy shall provide coverage for an alternate therapeutic and pharmaceutical equivalent version of the contraceptive drug, device, or product without cost-sharing;

(c) this coverage shall include emergency contraception without cost-sharing when provided pursuant to an ordinary prescription, non-patient specific regimen order, or order under section sixty-eight hundred thirty-one of the education law and when lawfully provided other than through a prescription or order; and

(d) this coverage must allow for the dispensing of twelve months worth of a contraceptive at one time;

(2) Voluntary sterilization procedures;

(3) Patient education and counseling on contraception; and

(4) Follow-up services related to the drugs, devices, products, and procedures covered under this paragraph, including, but not limited to, management of side effects, counseling for continued adherence, and device insertion and removal.

(B) A group or blanket policy subject to this paragraph shall not impose a deductible, coinsurance, copayment, or any other cost-sharing requirement on the coverage provided pursuant to this paragraph.

(C) Except as otherwise authorized under this paragraph, a group or blanket policy shall not impose any restrictions or delays on the coverage required under this paragraph.

(D) Benefits for an enrollee under this paragraph shall be the same for an enrollee's covered spouse or domestic partner and covered nonspouse dependents.

(E) Notwithstanding any other provision of this subsection, a religious employer may request a contract without coverage for federal food and drug administration approved contraceptive methods that are contrary to the religious employer's religious tenets. If so requested, such contract shall be provided without coverage for contraceptive methods.

This paragraph shall not be construed to deny an enrollee coverage of, and timely access to, contraceptive methods.

(1) For purposes of this subsection, a "religious employer" is an entity for which each of the following is true:

(a) The inculcation of religious values is the purpose of the entity.

(b) The entity primarily employs persons who share the religious tenets of the entity.

(c) The entity serves primarily persons who share the religious tenets of the entity.

(d) The entity is a nonprofit organization as described in Section 6033(a)(2)(A)i or iii, of the Internal Revenue Code of 1986, as amended.

(2) Every religious employer that invokes the exemption provided under this paragraph shall provide written notice to prospective enrollees prior to enrollment with the plan, listing the contraceptive health care services the employer refuses to cover for religious reasons.

[(B) (i)] (F) (1) Where a group policyholder makes an election not to purchase coverage for contraceptive drugs or devices in accordance with subparagraph [(A)] (E) of this paragraph each certificateholder covered under the policy issued to that group policyholder shall have the right to directly purchase the rider required by this paragraph from the insurer which issued the group policy at the prevailing small group community rate for such rider whether or not the employee is part of a small group.

[(ii)] (2) Where a group policyholder makes an election not to purchase coverage for contraceptive drugs or devices in accordance with subparagraph [(A)] (E) of this paragraph, the insurer that provides such coverage shall provide written notice to certificateholders upon enrollment with the insurer of their right to directly purchase a rider for coverage for the cost of contraceptive drugs or devices. The notice shall also advise the certificateholders of the additional premium for such coverage.

[(C)] (G) Nothing in this paragraph shall be construed as authorizing a group or blanket policy which provides coverage for prescription drugs to exclude coverage for prescription drugs prescribed for reasons other than contraceptive purposes.

[(D) Such coverage may be subject to reasonable annual deductibles and coinsurance as may be deemed appropriate by the superintendent and as are consistent with those established for other drugs or devices covered under the policy.]

§ 3. Subsection (cc) of section 4303 of the insurance law, as added by chapter 554 of the laws of 2002, is amended to read as follows:

(cc) (1) Every contract [which provides coverage for prescription drugs shall include coverage for the cost of contraceptive drugs or devices approved by the federal food and drug administration or generic equivalents approved as substitutes by such food and drug administration under the prescription of a health care provider legally authorized to prescribe under title eight of the education law. The coverage required by this section shall be included in contracts and certificates only through the addition of a rider.

(1)] that is issued, amended, renewed, effective or delivered on or after January first, two thousand nineteen, shall provide coverage for all of the following services and contraceptive methods:

(A) All FDA-approved contraceptive drugs, devices, and other products. This includes all FDA-approved over-the-counter contraceptive drugs, devices, and products as prescribed or as otherwise authorized under state or federal law. The following applies to this coverage:

(i) where the FDA has approved one or more therapeutic and pharmaceutical equivalent, as defined by the FDA, versions of a contraceptive drug, device, or product, a contract is not required to include all such therapeutic and pharmaceutical equivalent versions in its formulary, so long as at least one is included and covered without cost-sharing and in accordance with this subsection;

(ii) if the covered therapeutic and pharmaceutical equivalent versions of a drug, device, or product are not available or are deemed medically inadvisable a contract shall provide coverage for an alternate therapeutic and pharmaceutical equivalent version of the contraceptive drug, device, or product without cost-sharing;

(iii) this coverage shall include emergency contraception without cost-sharing when provided pursuant to an ordinary prescription, non-patient specific regimen order, or order under section sixty-eight hundred thirty-one of the education law and when lawfully provided other than through a prescription or order; and

(iv) this coverage must allow for the dispensing of twelve months worth of a contraceptive at one time;

(B) Voluntary sterilization procedures;

(C) Patient education and counseling on contraception; and

(D) Follow-up services related to the drugs, devices, products, and procedures covered under this subsection, including, but not limited to, management of side effects, counseling for continued adherence, and device insertion and removal.

(2) A contract subject to this subsection shall not impose a deductible, coinsurance, copayment, or any other cost-sharing requirement on the coverage provided pursuant to this subsection.

(3) Except as otherwise authorized under this subsection, a contract shall not impose any restrictions or delays on the coverage required under this subsection.

(4) Benefits for an enrollee under this subsection shall be the same for an enrollee's covered spouse or domestic partner and covered nonspouse dependents.

(5) Notwithstanding any other provision of this subsection, a religious employer may request a contract without coverage for federal food and drug administration approved contraceptive methods that are contrary to the religious employer's religious tenets. If so requested, such contract shall be provided without coverage for contraceptive methods. This paragraph shall not be construed to deny an enrollee coverage of, and timely access to, contraceptive methods.

(A) For purposes of this subsection, a "religious employer" is an entity for which each of the following is true:

(i) The inculcation of religious values is the purpose of the entity.

(ii) The entity primarily employs persons who share the religious tenets of the entity.

(iii) The entity serves primarily persons who share the religious tenets of the entity.

(iv) The entity is a nonprofit organization as described in Section 6033(a)(2)(A)i or iii, of the Internal Revenue Code of 1986, as amended.

(B) Every religious employer that invokes the exemption provided under this paragraph shall provide written notice to prospective enrollees prior to enrollment with the plan, listing the contraceptive health care services the employer refuses to cover for religious reasons.

[(2)](6) (A) Where a group contractholder makes an election not to purchase coverage for contraceptive drugs or devices in accordance with paragraph [one] five of this subsection, each enrollee covered under the

contract issued to that group contractholder shall have the right to directly purchase the rider required by this subsection from the insurer or health maintenance organization which issued the group contract at the prevailing small group community rate for such rider whether or not the employee is part of a small group.

(B) Where a group contractholder makes an election not to purchase coverage for contraceptive drugs or devices in accordance with paragraph [one] five of this subsection, the insurer or health maintenance organization that provides such coverage shall provide written notice to enrollees upon enrollment with the insurer or health maintenance organization of their right to directly purchase a rider for coverage for the cost of contraceptive drugs or devices. The notice shall also advise the enrollees of the additional premium for such coverage.

[(3)] (7) Nothing in this subsection shall be construed as authorizing a contract which provides coverage for prescription drugs to exclude coverage for prescription drugs prescribed for reasons other than contraceptive purposes.

[(4) Such coverage may be subject to reasonable annual deductibles and coinsurance as may be deemed appropriate by the superintendent and as are consistent with those established for other drugs or devices covered under the policy.]

§ 4. Subparagraph (E) of paragraph 17 of subsection (i) of section 3216 of the insurance law is amended by adding a new clause (v) to read as follows:

(v) all FDA-approved contraceptive drugs, devices, and other products, including all over-the-counter contraceptive drugs, devices, and products as prescribed or as otherwise authorized under state or federal law; voluntary sterilization procedures; patient education and counseling on contraception; and follow-up services related to the drugs, devices, products, and procedures covered under this clause, including, but not limited to, management of side effects, counseling for continued adherence, and device insertion and removal. Except as otherwise authorized under this clause, a contract shall not impose any restrictions or delays on the coverage required under this clause. However, where the FDA has approved one or more therapeutic and pharmaceutical equivalent, as defined by the FDA, versions of a contraceptive drug, device, or product, a contract is not required to include all such therapeutic and pharmaceutical equivalent versions in its formulary, so long as at least one is included and covered without cost-sharing and in accordance with this clause. If the covered therapeutic and pharmaceutical equivalent versions of a drug, device, or product are not available or are deemed medically inadvisable a contract shall provide coverage for an alternate therapeutic and pharmaceutical equivalent version of the contraceptive drug, device, or product without cost-sharing. This coverage shall include emergency contraception without cost-sharing when provided pursuant to an ordinary prescription, non-patient specific regimen order, or order under section sixty-eight hundred thirty-one of the education law and when lawfully provided other than through a prescription or order; and this coverage must allow for the dispensing of twelve months worth of a contraceptive at one time.

§ 5. Paragraph (d) of subdivision 3 of section 365-a of the social services law, as amended by chapter 909 of the laws of 1974 and as relettered by chapter 82 of the laws of 1995, is amended to read as follows:

(d) family planning services and twelve months of supplies for eligible persons of childbearing age, including children under twenty-one

years of age who can be considered sexually active, who desire such services and supplies, in accordance with the requirements of federal law and regulations and the regulations of the department. No person shall be compelled or coerced to accept such services or supplies.

§ 6. Subdivision 6 of section 6527 of the education law, as added by chapter 573 of the laws of 1999, paragraph (c) as amended by chapter 464 of the laws of 2015, paragraph (d) as added by chapter 429 of the laws of 2005, paragraph (e) as added by chapter 352 of the laws of 2014, paragraph (f) as added by section 6 of part V of chapter 57 of the laws of 2015 and paragraph (g) as added by chapter 502 of the laws of 2016, is amended to read as follows:

6. A licensed physician may prescribe and order a non-patient specific regimen [to a registered professional nurse], pursuant to regulations promulgated by the commissioner, and consistent with the public health law, [for] to:

(a) a registered professional nurse for:

(i) administering immunizations[.];

[(b)] (ii) the emergency treatment of anaphylaxis[.];

[(c)] (iii) administering purified protein derivative (PPD) tests or other tests to detect or screen for tuberculosis infections[.];

[(d)] (iv) administering tests to determine the presence of the human immunodeficiency virus[.];

[(e)] (v) administering tests to determine the presence of the hepatitis C virus[.];

[(f)] (vi) emergency contraception, to be administered to or dispensed to be self-administered by the patient, under section sixty-eight hundred thirty-two of this title;

(vii) the urgent or emergency treatment of opioid related overdose or suspected opioid related overdose[.]; or

[(g)] (viii) screening of persons at increased risk of syphilis, gonorrhea and chlamydia.

(b) a licensed pharmacist, for dispensing emergency contraception, to be self-administered by the patient, under section sixty-eight hundred thirty-two of this title.

§ 7. Subdivision 3 of section 6807 of the education law, as added by chapter 573 of the laws of 1999, is amended and a new subdivision 4 is added to read as follows:

3. A pharmacist may dispense drugs and devices to a registered professional nurse, and a registered professional nurse may possess and administer, drugs and devices, pursuant to a non-patient specific regimen prescribed or ordered by a licensed physician, licensed midwife or certified nurse practitioner, pursuant to regulations promulgated by the commissioner and the public health law.

4. A pharmacist may dispense a non-patient specific regimen of emergency contraception, to be self-administered by the patient, prescribed or ordered by a licensed physician, certified nurse practitioner, or licensed midwife, under section sixty-eight hundred thirty-two of this article.

§ 8. The education law is amended by adding a new section 6832 to read as follows:

§ 6832. Emergency contraception; non-patient specific prescription or order. 1. As used in this section, the following terms shall have the following meanings, unless the context requires otherwise:

(a) "Emergency contraception" means one or more prescription or nonprescription drugs, used separately or in combination, in a dosage and manner for preventing pregnancy when used after intercourse, found

safe and effective for that use by the United States food and drug administration, and dispensed or administered for that purpose.

(b) "Prescriber" means a licensed physician, certified nurse practitioner or licensed midwife.

2. This section applies to the administering or dispensing of emergency contraception by a registered professional nurse or the dispensing of emergency contraception by a licensed pharmacist pursuant to a prescription or order for a non-patient specific regimen made by a prescriber under section sixty-five hundred twenty-seven, sixty-nine hundred nine or sixty-nine hundred fifty-one of this title. This section does not apply to administering or dispensing emergency contraception when lawfully done without such a prescription or order.

3. The administering or dispensing of emergency contraception by a registered professional nurse or the dispensing of emergency contraception by a licensed pharmacist shall be done in accordance with professional standards of practice and in accordance with written procedures and protocols agreed to by the registered professional nurse or licensed pharmacist and the prescriber or a hospital (licensed under article twenty-eight of the public health law) that provides gynecological or family planning services.

4. (a) When emergency contraception is administered or dispensed, the registered professional nurse or licensed pharmacist shall provide to the patient written material that includes: (i) the clinical considerations and recommendations for use of the drug; (ii) the appropriate method for using the drug; (iii) information on the importance of follow-up health care; (iv) information on the health risks and other dangers of unprotected intercourse; and (v) referral information relating to health care and services relating to sexual abuse and domestic violence.

(b) Such written material shall be developed or approved by the commissioner in consultation with the department of health and the American college of obstetricians and gynecologists.

§ 9. Subdivision 4 of section 6909 of the education law, as added by chapter 573 of the laws of 1999, paragraph (a) as amended by chapter 221 of the laws of 2002, paragraph (c) as amended by chapter 464 of the laws of 2015, paragraph (d) as added by chapter 429 of the laws of 2005, paragraph (e) as added by chapter 352 of the laws of 2014, paragraph (f) as added by section 5 of part V of chapter 57 of the laws of 2015 and paragraph (g) as added by chapter 502 of the laws of 2016, is amended to read as follows:

4. A certified nurse practitioner may prescribe and order a non-patient specific regimen [to a registered professional nurse], pursuant to regulations promulgated by the commissioner, consistent with subdivision three of section [six thousand nine] sixty-nine hundred two of this article, and consistent with the public health law, for:

(a) a registered professional nurse for:

(i) administering immunizations[.];

[(b)] (ii) the emergency treatment of anaphylaxis[.];

[(c)] (iii) administering purified protein derivative (PPD) tests or other tests to detect or screen for tuberculosis infections[.];

[(d)] (iv) administering tests to determine the presence of the human immunodeficiency virus[.];

[(e)] (v) administering tests to determine the presence of the hepatitis C virus[.];

[(f)] (vi) emergency contraception, to be administered to or dispensed to be self-administered by the patient, under section sixty-eight hundred thirty-two of this title;

(vii) the urgent or emergency treatment of opioid related overdose or suspected opioid related overdose[.]; or

[(g)] (viii) screening of persons at increased risk for syphilis, gonorrhea and chlamydia.

(b) a licensed pharmacist, for dispensing emergency contraception, to be self-administered by the patient, under section sixty-eight hundred thirty-two of this title.

§ 10. Subdivision 5 of section 6909 of the education law, as added by chapter 573 of the laws of 1999, is amended to read as follows:

5. A registered professional nurse may execute a non-patient specific regimen prescribed or ordered by a licensed physician, licensed midwife or certified nurse practitioner, pursuant to regulations promulgated by the commissioner.

§ 11. Section 6951 of the education law is amended by adding a new subdivision 4 to read as follows:

4. A licensed midwife may prescribe and order a non-patient specific regimen pursuant to regulations promulgated by the commissioner, consistent with this section and the public health law, to:

(a) a registered professional nurse for emergency contraception, to be administered to or dispensed to be self-administered by the patient, under section sixty-eight hundred thirty-two of this title; or

(b) a licensed pharmacist, for dispensing emergency contraception, to be self-administered by the patient, under section sixty-eight hundred thirty-two of this title.

§ 12. Subdivision 1 of section 207 of the public health law is amended by adding a new paragraph (o) to read as follows:

(o) Emergency contraception, including information about its safety, efficacy, appropriate use and availability.

§ 13. This act shall take effect January 1, 2019; provided that section six of this act shall take effect January 1, 2020; provided, however, that effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized and directed to be made and completed by the commissioner of education and the board of regents on or before such effective date.

SUBPART B

Section 1. The public health law is amended by adding a new article 25-A to read as follows:

ARTICLE 25-A

REPRODUCTIVE HEALTH ACT

Section 2599-aa. Abortion.

§ 2599-aa. Abortion. 1. A health care practitioner licensed, certified, or authorized under title eight of the education law, acting within his or her lawful scope of practice, may perform an abortion when, according to the practitioner's reasonable and good faith professional judgment based on the facts of the patient's case: the patient is within twenty-four weeks from the commencement of pregnancy, or there is an absence of fetal viability, or the abortion is necessary to protect the patient's life or health.

2. This article shall be construed and applied consistent with and subject to applicable laws and applicable and authorized regulations governing health care procedures.

§ 2. Section 4164 of the public health law is REPEALED.

§ 3. Subdivision 8 of section 6811 of the education law is REPEALED.

§ 4. Sections 125.40, 125.45, 125.50, 125.55 and 125.60 of the penal law are REPEALED, and the article heading of article 125 of the penal law is amended to read as follows:

HOMICIDE[, ABORTION] AND RELATED OFFENSES

§ 5. Section 125.00 of the penal law is amended to read as follows:

§ 125.00 Homicide defined.

Homicide means conduct which causes the death of a person [or an unborn child with which a female has been pregnant for more than twenty-four weeks] under circumstances constituting murder, manslaughter in the first degree, manslaughter in the second degree, or criminally negligent homicide[, abortion in the first degree or self-abortion in the first degree].

§ 6. The section heading, opening paragraph and subdivision 1 of section 125.05 of the penal law are amended to read as follows:

Homicide[, abortion] and related offenses; [definitions of terms] definition.

The following [definitions are] definition is applicable to this article:

[1.] "Person," when referring to the victim of a homicide, means a human being who has been born and is alive.

§ 7. Subdivisions 2 and 3 of section 125.05 of the penal law are REPEALED.

§ 8. Subdivision 2 of section 125.15 of the penal law is REPEALED.

§ 9. Subdivision 3 of section 125.20 of the penal law is REPEALED.

§ 10. Paragraph (b) of subdivision 8 of section 700.05 of the criminal procedure law, as amended by chapter 368 of the laws of 2015, is amended to read as follows:

(b) Any of the following felonies: assault in the second degree as defined in section 120.05 of the penal law, assault in the first degree as defined in section 120.10 of the penal law, reckless endangerment in the first degree as defined in section 120.25 of the penal law, promoting a suicide attempt as defined in section 120.30 of the penal law, strangulation in the second degree as defined in section 121.12 of the penal law, strangulation in the first degree as defined in section 121.13 of the penal law, criminally negligent homicide as defined in section 125.10 of the penal law, manslaughter in the second degree as defined in section 125.15 of the penal law, manslaughter in the first degree as defined in section 125.20 of the penal law, murder in the second degree as defined in section 125.25 of the penal law, murder in the first degree as defined in section 125.27 of the penal law, [abortion in the second degree as defined in section 125.40 of the penal law, abortion in the first degree as defined in section 125.45 of the penal law,] rape in the third degree as defined in section 130.25 of the penal law, rape in the second degree as defined in section 130.30 of the penal law, rape in the first degree as defined in section 130.35 of the penal law, criminal sexual act in the third degree as defined in section 130.40 of the penal law, criminal sexual act in the second degree as defined in section 130.45 of the penal law, criminal sexual act in the first degree as defined in section 130.50 of the penal law, sexual abuse in the first degree as defined in section 130.65 of the penal law, unlawful imprisonment in the first degree as defined in section 135.10

of the penal law, kidnapping in the second degree as defined in section 135.20 of the penal law, kidnapping in the first degree as defined in section 135.25 of the penal law, labor trafficking as defined in section 135.35 of the penal law, aggravated labor trafficking as defined in section 135.37 of the penal law, custodial interference in the first degree as defined in section 135.50 of the penal law, coercion in the first degree as defined in section 135.65 of the penal law, criminal trespass in the first degree as defined in section 140.17 of the penal law, burglary in the third degree as defined in section 140.20 of the penal law, burglary in the second degree as defined in section 140.25 of the penal law, burglary in the first degree as defined in section 140.30 of the penal law, criminal mischief in the third degree as defined in section 145.05 of the penal law, criminal mischief in the second degree as defined in section 145.10 of the penal law, criminal mischief in the first degree as defined in section 145.12 of the penal law, criminal tampering in the first degree as defined in section 145.20 of the penal law, arson in the fourth degree as defined in section 150.05 of the penal law, arson in the third degree as defined in section 150.10 of the penal law, arson in the second degree as defined in section 150.15 of the penal law, arson in the first degree as defined in section 150.20 of the penal law, grand larceny in the fourth degree as defined in section 155.30 of the penal law, grand larceny in the third degree as defined in section 155.35 of the penal law, grand larceny in the second degree as defined in section 155.40 of the penal law, grand larceny in the first degree as defined in section 155.42 of the penal law, health care fraud in the fourth degree as defined in section 177.10 of the penal law, health care fraud in the third degree as defined in section 177.15 of the penal law, health care fraud in the second degree as defined in section 177.20 of the penal law, health care fraud in the first degree as defined in section 177.25 of the penal law, robbery in the third degree as defined in section 160.05 of the penal law, robbery in the second degree as defined in section 160.10 of the penal law, robbery in the first degree as defined in section 160.15 of the penal law, unlawful use of secret scientific material as defined in section 165.07 of the penal law, criminal possession of stolen property in the fourth degree as defined in section 165.45 of the penal law, criminal possession of stolen property in the third degree as defined in section 165.50 of the penal law, criminal possession of stolen property in the second degree as defined by section 165.52 of the penal law, criminal possession of stolen property in the first degree as defined by section 165.54 of the penal law, trademark counterfeiting in the second degree as defined in section 165.72 of the penal law, trademark counterfeiting in the first degree as defined in section 165.73 of the penal law, forgery in the second degree as defined in section 170.10 of the penal law, forgery in the first degree as defined in section 170.15 of the penal law, criminal possession of a forged instrument in the second degree as defined in section 170.25 of the penal law, criminal possession of a forged instrument in the first degree as defined in section 170.30 of the penal law, criminal possession of forgery devices as defined in section 170.40 of the penal law, falsifying business records in the first degree as defined in section 175.10 of the penal law, tampering with public records in the first degree as defined in section 175.25 of the penal law, offering a false instrument for filing in the first degree as defined in section 175.35 of the penal law, issuing a false certificate as defined in section 175.40 of the penal law, criminal diversion of prescription medications and prescriptions in the second degree as

defined in section 178.20 of the penal law, criminal diversion of prescription medications and prescriptions in the first degree as defined in section 178.25 of the penal law, residential mortgage fraud in the fourth degree as defined in section 187.10 of the penal law, residential mortgage fraud in the third degree as defined in section 187.15 of the penal law, residential mortgage fraud in the second degree as defined in section 187.20 of the penal law, residential mortgage fraud in the first degree as defined in section 187.25 of the penal law, escape in the second degree as defined in section 205.10 of the penal law, escape in the first degree as defined in section 205.15 of the penal law, absconding from temporary release in the first degree as defined in section 205.17 of the penal law, promoting prison contraband in the first degree as defined in section 205.25 of the penal law, hindering prosecution in the second degree as defined in section 205.60 of the penal law, hindering prosecution in the first degree as defined in section 205.65 of the penal law, sex trafficking as defined in section 230.34 of the penal law, criminal possession of a weapon in the third degree as defined in subdivisions two, three and five of section 265.02 of the penal law, criminal possession of a weapon in the second degree as defined in section 265.03 of the penal law, criminal possession of a weapon in the first degree as defined in section 265.04 of the penal law, manufacture, transport, disposition and defacement of weapons and dangerous instruments and appliances defined as felonies in subdivisions one, two, and three of section 265.10 of the penal law, sections 265.11, 265.12 and 265.13 of the penal law, or prohibited use of weapons as defined in subdivision two of section 265.35 of the penal law, relating to firearms and other dangerous weapons, or failure to disclose the origin of a recording in the first degree as defined in section 275.40 of the penal law;

§ 11. Subdivision 1 of section 673 of the county law, as added by chapter 545 of the laws of 1965, is amended to read as follows:

1. A coroner or medical examiner has jurisdiction and authority to investigate the death of every person dying within his county, or whose body is found within the county, which is or appears to be:

(a) A violent death, whether by criminal violence, suicide or casualty;

(b) A death caused by unlawful act or criminal neglect;

(c) A death occurring in a suspicious, unusual or unexplained manner;

(d) [A death caused by suspected criminal abortion;

(e)] A death while unattended by a physician, so far as can be discovered, or where no physician able to certify the cause of death as provided in the public health law and in form as prescribed by the commissioner of health can be found;

[(f)] <u>(e)</u> A death of a person confined in a public institution other than a hospital, infirmary or nursing home.

§ 12. Section 4 of the judiciary law, as amended by chapter 264 of the laws of 2003, is amended to read as follows:

§ 4. Sittings of courts to be public. The sittings of every court within this state shall be public, and every citizen may freely attend the same, except that in all proceedings and trials in cases for divorce, seduction, [abortion,] rape, assault with intent to commit rape, criminal sexual act, bastardy or filiation, the court may, in its discretion, exclude therefrom all persons who are not directly interested therein, excepting jurors, witnesses, and officers of the court.

§ 13. This act shall take effect immediately.

SUBPART C

Section 1. The public health law is amended by adding a new section 2509 to read as follows:

§ 2509. Maternal mortality review board. 1. (a) There is hereby established in the department the maternal mortality review board for the purpose of reviewing maternal deaths and maternal morbidity. The board shall assess the cause of death and factors leading to death and preventability for each maternal death reviewed and, in the discretion of the board, cases of severe maternal morbidity, and to develop strategies for reducing the risk of maternal mortality, and to assess and review maternal morbidity. Each board shall consult with experts as needed to evaluate the information as to maternal death and severe maternal morbidity. The commissioner may delegate the authority of the state board to conduct maternal mortality reviews.

(b) The commissioner may enter into an agreement with the local government by or under which a local board is established providing:

(i) that the functions of the state board relating to maternal deaths and severe maternal morbidity occurring within the territory of the local government shall be conducted by the local board;

(ii) the local board shall provide to the state board the results of its reviews, relevant information in the possession of the local board, and the recommendations of the local board; and

(iii) the department and the state board shall provide information and assistance to the local board for the performance of its functions.

(c) As used in this section, unless the context requires otherwise:

(i) "Board" shall mean the maternal mortality review board established by this section and a maternal mortality review board established by or under a county department of health or the city of New York. "State board" shall mean the board established within the department and "local board" shall mean a board established by or under a county department of health or the city of New York;

(ii) "Maternal death" means the death of a woman during pregnancy or within a year from the end of the pregnancy; and

(iii) "Severe maternal morbidity" means unexpected outcomes of pregnancy, labor, or delivery that result in significant short- or long-term consequences to a woman's health.

2. Each board:

(a) Shall make recommendations to the commissioner, or in the case of a local board, to the appropriate local health officer, regarding the preventability of each maternal death case by reviewing relevant information for each case in the state or the territory of the local board, as the case may be, and regarding the improvement of women's health and the quality of health care of women and the prevention of maternal mortality and severe maternal morbidity.

(b) Shall keep confidential any individual identifying information as to a patient or health care provider collected under this section that is otherwise confidential or privileged, as provided by law. All records received, meetings conducted, reports and records made and maintained and all books and papers obtained by the board shall be confidential and shall not be open or made available, except by court order, and shall be limited to board members as well as those authorized by the commissioner or, in the case of a local board, the local health officer, provided, however that where the commissioner or local health officer, as the case may be, believes that any such information includes evidence that the death or severe maternal morbidity was the result of a crime committed

against such woman, such commissioner or local health officer may provide information to an appropriate law enforcement agency. Except as provided in this section, the information collected under this section shall be used solely for the purposes of improvement of women's health and the quality of health care of women, and to prevent maternal mortality and morbidity. Access to such information shall be limited to board members as well as those authorized by the commissioner or, in the case of a local board, the local health officer.

(c) Shall develop recommendations to the commissioner and local health officer, as the case may be, for areas of focus, including issues of severe maternal morbidity and racial disparities in maternal outcomes.

(d) May, in addition to the recommendations developed under paragraph (c) of this subdivision, and consistent with all federal and state confidentiality protections, provide recommendations to any individual or entity for appropriate actions to reduce the instances of maternal mortality and morbidity.

(e) Shall issue an annual report (excluding any individual identifying information as to a patient or health care provider) on its findings and recommendations, which shall be a public document.

3. (a) The members of the state board shall be composed of multidisciplinary experts in the field of maternal mortality. The state board shall be composed of at least fifteen members, all of whom shall be appointed by the commissioner. The terms of the state board members shall be three years from the start of their appointment. The commissioner may choose to reappoint board members to additional three year terms.

(b) A majority of the appointed membership of the state board, no less than three, shall constitute a quorum.

(c) When any member of state the board fails to attend three consecutive regular meetings, unless such absence is for good cause, that membership may be deemed vacant for purposes of the appointment of a successor.

(d) Meetings of the state board shall be held at least twice a year but may be held more frequently as deemed necessary, subject to request of the department.

4. Members of each board shall be indemnified pursuant to section seventeen of the public officers law or section fifty-k of the general municipal law, as the case may be.

5. The commissioner, and in the case of a local board, the local health officer, may request and shall receive upon request from any department, division, board, bureau, commission, local health departments or other agency of the state or political subdivision thereof or any public authority, as well as hospitals established pursuant to article twenty-eight of this chapter, birthing facilities, medical examiners, coroners, and any coroner physicians and any other facility providing services associated with maternal mortality, such information, including, but not limited to, death records, medical records, autopsy reports, toxicology reports, hospital discharge records, birth records and any other information that will help the department under this section to properly carry out its functions, powers and duties.

§ 2. The legislature finds and determines that this act relates to a matter of state concern.

§ 3. This act shall take effect immediately.

SUBPART D

Section 1. Section 6523 of the education law, as amended by chapter 364 of the laws of 1991, is amended to read as follows:

§ 6523. State board for medicine. A state board for medicine shall be appointed by the board of regents on recommendation of the commissioner for the purpose of assisting the board of regents and the department on matters of professional licensing in accordance with section sixty-five hundred eight of this title. The board shall be composed of not less than twenty physicians licensed in this state for at least five years, two of whom shall be doctors of osteopathy. At least one of the physician appointees to the state board for medicine shall be an expert on reducing health disparities among demographic subgroups, and one shall be an expert on women's health. The board shall also consist of not less than two physician's assistants licensed to practice in this state. The participation of physician's assistant members shall be limited to matters relating to article one hundred thirty-one-B of this chapter. An executive secretary to the board shall be appointed by the board of regents on recommendation of the commissioner and shall be either a physician licensed in this state or a non-physician, deemed qualified by the commissioner and board of regents.

§ 2. This act shall take effect immediately.

SUBPART E

Section 1. Subdivision 17 of section 265.00 of the penal law is amended by adding a new paragraph (c) to read as follows:

(c) any of the following offenses, where the defendant and the person against whom the offense was committed were members of the same family or household as defined in subdivision one of section 530.11 of the criminal procedure law: assault in the third degree; menacing in the third degree; menacing in the second degree; criminal obstruction of breathing or blood circulation; unlawful imprisonment in the second degree; coercion in the second degree; criminal mischief in the fourth degree; criminal tampering in the third degree; criminal contempt in the second degree; harassment in the first degree; aggravated harassment in the second degree; criminal trespass in the third degree; criminal trespass in the second degree; arson in the fifth degree; stalking in the fourth degree; stalking in the third degree; sexual misconduct; forcible touching; sexual abuse in the third degree; sexual abuse in the second degree; attempt to commit any of the above-listed offenses.

§ 2. The criminal procedure law is amended by adding a new section 370.20 to read as follows:

§ 370.20 Procedure for determining whether certain misdemeanor crimes are serious offenses under the penal law.

1. When a defendant has been charged with assault in the third degree, menacing in the third degree, menacing in the second degree, criminal obstruction of breathing or blood circulation, unlawful imprisonment in the second degree, coercion in the second degree, criminal mischief in the fourth degree, criminal tampering in the third degree, criminal contempt in the second degree, harassment in the first degree, aggravated harassment in the second degree, criminal trespass in the third degree, criminal trespass in the second degree, arson in the fifth degree, stalking in the fourth degree, stalking in the third degree, sexual misconduct, forcible touching, sexual abuse in the third degree, sexual abuse in the second degree, or attempt to commit any of the above-listed offenses, the people may, at arraignment or no later than forty-five days after arraignment, for the purpose of notification to

the division of criminal justice services pursuant to section 380.98 of this part, serve on the defendant and file with the court a notice alleging that the defendant and the person alleged to be the victim of such crime were members of the same family or household as defined in subdivision one of section 530.11 of this chapter.

2. Such notice shall include the name of the person alleged to be the victim of such crime and shall specify the nature of the alleged relationship as set forth in subdivision one of section 530.11 of this chapter. Upon conviction of such offense, the court shall advise the defendant that he or she is entitled to a hearing solely on the allegation contained in the notice and, if necessary, an adjournment of the sentencing proceeding in order to prepare for such hearing, and that if such allegation is sustained, that determination and conviction will be reported to the division of criminal justice services.

3. After having been advised by the court as provided in subdivision two of this section, the defendant may stipulate or admit, orally on the record or in writing, that he or she is related or situated to the victim of such crime in the manner described in subdivision one of this section. In such case, such relationship shall be deemed established for purposes of section 380.98 of this part. If the defendant denies that he or she is related or situated to the victim of the crime as alleged in the notice served by the people, or stands mute with respect to such allegation, then the people shall bear the burden to prove beyond a reasonable doubt that the defendant is related or situated to the victim in the manner alleged in the notice. The court may consider reliable hearsay evidence submitted by either party provided that it is relevant to the determination of the allegation. Facts previously proven at trial or elicited at the time of entry of a plea of guilty shall be deemed established beyond a reasonable doubt and shall not be relitigated. At the conclusion of the hearing, or upon such a stipulation or admission, as applicable, the court shall make a specific written determination with respect to such allegation.

§ 3. The criminal procedure law is amended by adding a new section 380.98 to read as follows:

§ 380.98 Notification to division of criminal justice services of certain misdemeanor convictions.

Upon judgment of conviction of assault in the third degree, menacing in the third degree, menacing in the second degree, criminal obstruction of breathing or blood circulation, unlawful imprisonment in the second degree, coercion in the second degree, criminal mischief in the fourth degree, criminal tampering in the third degree, criminal contempt in the second degree, harassment in the first degree, or aggravated harassment in the second degree, criminal trespass in the third degree, criminal trespass in the second degree, arson in the fifth degree, stalking in the fourth degree, stalking in the third degree, sexual misconduct, forcible touching, sexual abuse in the third degree, sexual abuse in the second degree, or attempt to commit any of the above-listed offenses, when the defendant and victim have been determined, pursuant to section 370.20 of this part, to be members of the same family or household as defined in subdivision one of section 530.11 of this chapter, the clerk of the court shall include notification and a copy of the written determination in a report of such conviction to the division of criminal justice services to enable the division to report such determination to the Federal Bureau of Investigation and assist the bureau in identifying persons prohibited from purchasing and possessing a firearm or other

weapon due to conviction of an offense specified in paragraph (c) of subdivision seventeen of section 265.00 of the penal law.

§ 4. Section 530.14 of the criminal procedure law is REPEALED and a new section 530.14 is added to read as follows:

§ 530.14 Suspension and revocation of a license to carry, possess, repair or dispose of a firearm or firearms pursuant to section 400.00 of the penal law and ineligibility for such a license; order to surrender weapons.

1. Whenever a temporary order of protection is issued pursuant to subdivision one of section 530.12 or subdivision one of section 530.13 of this article the court shall suspend any firearms license possessed by the defendant, order the defendant ineligible for such a license and order the immediate surrender pursuant to subparagraph (f) of paragraph one of subdivision a of section 265.20 and subdivision six of section 400.05 of the penal law, of all pistols, revolvers, rifles, shotguns and any other firearms owned or possessed by the defendant.

2. Whenever an order of protection is issued pursuant to subdivision five of section 530.12 or subdivision four of section 530.13 of this article the court shall revoke, suspend or continue to suspend any firearms license possessed by the defendant, order the defendant ineligible for such a license and order the immediate surrender pursuant to subparagraph (f) of paragraph one of subdivision a of section 265.20 and subdivision six of section 400.05 of the penal law, of all pistols, revolvers, rifles, shotguns and any other firearms owned or possessed by the defendant.

3. Whenever a defendant has been found pursuant to subdivision eleven of section 530.12 or subdivision eight of section 530.13 of this article to have willfully failed to obey an order of protection issued by a court of competent jurisdiction in this state or another state, territorial or tribal jurisdiction, in addition to any other remedies available pursuant to subdivision eleven of section 530.12 or subdivision eight of section 530.13 of this article, the court shall revoke, suspend or continue to suspend any firearms license possessed by the defendant, order the defendant ineligible for such a license and order the immediate surrender pursuant to subparagraph (f) of paragraph one of subdivision a of section 265.20 and subdivision six of section 400.05 of the penal law, of all pistols, revolvers, rifles, shotguns and any other firearms owned or possessed by the defendant.

4. Suspension. Any suspension order issued pursuant to this section shall remain in effect for the duration of the temporary order of protection or order of protection, unless modified or vacated by the court.

5. Surrender. (a) Where an order to surrender one or more pistols, revolvers, rifles, shotguns or other firearms has been issued, the temporary order of protection or order of protection shall specify the place where such weapons shall be surrendered, shall specify a date and time by which the surrender shall be completed and, to the extent possible, shall describe such weapons to be surrendered, and shall direct the authority receiving such surrendered weapons to immediately notify the court of such surrender.

(b) The prompt surrender of one or more pistols, revolvers, rifles, shotguns or other firearms pursuant to a court order issued pursuant to this section shall be considered a voluntary surrender for purposes of subparagraph (f) of paragraph one of subdivision a of section 265.20 of the penal law. The disposition of any such weapons shall be in accord-

ance with the provisions of subdivision six of section 400.05 of the penal law.

(c) The provisions of this section shall not be deemed to limit, restrict or otherwise impair the authority of the court to order and direct the surrender of any or all pistols, revolvers, rifles, shotguns or other firearms owned or possessed by a defendant pursuant to section 530.12 or 530.13 of this article.

6. Notice. (a) Where an order requiring surrender, revocation, suspension or ineligibility has been issued pursuant to this section, any temporary order of protection or order of protection issued shall state that such firearm license has been suspended or revoked or that the defendant is ineligible for such license, as the case may be, and that the defendant is prohibited from possessing any pistol, revolver, rifle, shotgun or other firearm.

(b) The court revoking or suspending the license, ordering the defendant ineligible for such a license, or ordering the surrender of any pistol, revolver, rifle, shotgun or other firearm shall immediately notify the duly constituted police authorities of the locality concerning such action and, in the case of orders of protection and temporary orders of protection issued pursuant to section 530.12 of this article, shall immediately notify the statewide registry of orders of protection.

(c) The court revoking or suspending the license or ordering the defendant ineligible for such a license shall give written notice thereof without unnecessary delay to the division of state police at its office in the city of Albany.

(d) Where an order of revocation, suspension, ineligibility or surrender is modified or vacated, the court shall immediately notify the statewide registry of orders of protection and the duly constituted police authorities of the locality concerning such action and shall give written notice thereof without unnecessary delay to the division of state police at its office in the city of Albany.

7. Hearing. The defendant shall have the right to a hearing before the court regarding any revocation, suspension, ineligibility or surrender order issued pursuant to this section, provided that nothing in this subdivision shall preclude the court from issuing any such order prior to a hearing. Where the court has issued such an order prior to a hearing, it shall commence such hearing within fourteen days of the date such order was issued.

8. Nothing in this section shall delay or otherwise interfere with the issuance of a temporary order of protection or the timely arraignment of a defendant in custody.

§ 5. Section 842-a of the family court act is REPEALED and a new section 842-a is added to read as follows:

§ 842-a. Suspension and revocation of a license to carry, possess, repair or dispose of a firearm or firearms pursuant to section 400.00 of the penal law and ineligibility for such a license; order to surrender weapons. 1. Whenever a temporary order of protection is issued pursuant to section eight hundred twenty-eight of this article, or pursuant to article four, five, six, seven or ten of this act the court shall suspend any firearms license possessed by the respondent, order the respondent ineligible for such a license and order the immediate surrender pursuant to subparagraph (f) of paragraph one of subdivision a of section 265.20 and subdivision six of section 400.05 of the penal law, of all pistols, revolvers, rifles, shotguns and any other firearms owned or possessed by the respondent.

2. Whenever an order of protection is issued pursuant to section eight hundred forty-one of this part, or pursuant to article four, five, six, seven or ten of this act the court shall revoke, suspend or continue to suspend any firearms license possessed by the respondent, order the respondent ineligible for such a license and order the immediate surrender pursuant to subparagraph (f) of paragraph one of subdivision a of section 265.20 and subdivision six of section 400.05 of the penal law, of all pistols, revolvers, rifles, shotguns and any other firearms owned or possessed by the respondent.

3. Whenever a respondent has been found pursuant to section eight hundred forty-six-a of this part to have willfully failed to obey an order of protection or temporary order of protection issued pursuant to this act or the domestic relations law, or by this court or by a court of competent jurisdiction in this state or another state, territorial or tribal jurisdiction, in addition to any other remedies available pursuant to section eight hundred forty-six-a of this part, the court shall revoke, suspend or continue to suspend any firearms license possessed by the respondent, order the respondent ineligible for such a license and order the immediate surrender pursuant to subparagraph (f) of paragraph one of subdivision a of section 265.20 and subdivision six of section 400.05 of the penal law, of all pistols, revolvers, rifles, shotguns and any other firearms owned or possessed by the respondent.

4. Suspension. Any suspension order issued pursuant to this section shall remain in effect for the duration of the temporary order of protection or order of protection, unless modified or vacated by the court.

5. Surrender. (a) Where an order to surrender one or more pistols, revolvers, rifles, shotguns or other firearms has been issued, the temporary order of protection or order of protection shall specify the place where such weapons shall be surrendered, shall specify a date and time by which the surrender shall be completed and, to the extent possible, shall describe such weapons to be surrendered, and shall direct the authority receiving such surrendered weapons to immediately notify the court of such surrender.

(b) The prompt surrender of one or more pistols, revolvers, rifles, shotguns or other firearms pursuant to a court order issued pursuant to this section shall be considered a voluntary surrender for purposes of subparagraph (f) of paragraph one of subdivision a of section 265.20 of the penal law. The disposition of any such weapons shall be in accordance with the provisions of subdivision six of section 400.05 of the penal law.

(c) The provisions of this section shall not be deemed to limit, restrict or otherwise impair the authority of the court to order and direct the surrender of any or all pistols, revolvers, rifles, shotguns or other firearms owned or possessed by a respondent pursuant to this act.

6. Notice. (a) Where an order requiring surrender, revocation, suspension or ineligibility has been issued pursuant to this section, any temporary order of protection or order of protection issued shall state that such firearm license has been suspended or revoked or that the respondent is ineligible for such license, as the case may be, and that the respondent is prohibited from possessing any pistol, revolver, rifle, shotgun or other firearm.

(b) The court revoking or suspending the license, ordering the respondent ineligible for such a license, or ordering the surrender of any pistol, revolver, rifle, shotgun or other firearm shall immediately

notify the statewide registry of orders of protection and the duly constituted police authorities of the locality of such action.

(c) The court revoking or suspending the license or ordering the respondent ineligible for such a license shall give written notice thereof without unnecessary delay to the division of state police at its office in the city of Albany.

(d) Where an order of revocation, suspension, ineligibility or surrender is modified or vacated, the court shall immediately notify the statewide registry of orders of protection and the duly constituted police authorities of the locality concerning such action and shall give written notice thereof without unnecessary delay to the division of state police at its office in the city of Albany.

7. Hearing. The respondent shall have the right to a hearing before the court regarding any revocation, suspension, ineligibility or surrender order issued pursuant to this section, provided that nothing in this subdivision shall preclude the court from issuing any such order prior to a hearing. Where the court has issued such an order prior to a hearing, it shall commence such hearing within fourteen days of the date such order was issued.

8. Nothing in this section shall delay or otherwise interfere with the issuance of a temporary order of protection.

§ 6. Intentionally omitted.

§ 7. Paragraph (c) of subdivision 1 of section 400.00 of the penal law, as amended by chapter 1 of the laws of 2013, is amended to read as follows:

(c) who has not been convicted anywhere of a felony or a serious offense or who is not the subject of an outstanding warrant of arrest issued upon the alleged commission of a felony or serious offense;

§ 8. This act shall take effect on the thirtieth day after it shall have become a law.

SUBPART F

Section 1. Section 135.60 of the penal law, as amended by chapter 426 of the laws of 2008, is amended to read as follows:

§ 135.60 Coercion in the [second] third degree.

A person is guilty of coercion in the [second] third degree when he or she compels or induces a person to engage in conduct which the latter has a legal right to abstain from engaging in, or to abstain from engaging in conduct in which he or she has a legal right to engage, or compels or induces a person to join a group, organization or criminal enterprise which such latter person has a right to abstain from joining, by means of instilling in him or her a fear that, if the demand is not complied with, the actor or another will:

1. Cause physical injury to a person; or

2. Cause damage to property; or

3. Engage in other conduct constituting a crime; or

4. Accuse some person of a crime or cause criminal charges to be instituted against him or her; or

5. Expose a secret or publicize an asserted fact, whether true or false, tending to subject some person to hatred, contempt or ridicule; or

6. Cause a strike, boycott or other collective labor group action injurious to some person's business; except that such a threat shall not be deemed coercive when the act or omission compelled is for the benefit of the group in whose interest the actor purports to act; or

7. Testify or provide information or withhold testimony or information with respect to another's legal claim or defense; or

8. Use or abuse his or her position as a public servant by performing some act within or related to his or her official duties, or by failing or refusing to perform an official duty, in such manner as to affect some person adversely; or

9. Perform any other act which would not in itself materially benefit the actor but which is calculated to harm another person materially with respect to his or her health, safety, business, calling, career, financial condition, reputation or personal relationships.

Coercion in the [second] third degree is a class A misdemeanor.

§ 2. The penal law is amended by adding a new section 135.61 to read as follows:

§ 135.61 Coercion in the second degree.

A person is guilty of coercion in the second degree when he or she commits the crime of coercion in the third degree as defined in section 135.60 of this article and thereby compels or induces a person to engage in sexual intercourse, oral sexual conduct or anal sexual conduct as such terms are defined in section 130 of the penal law.

Coercion in the second degree is a class E felony.

§ 3. Section 135.65 of the penal law, as amended by chapter 426 of the laws of 2008, is amended to read as follows:

§ 135.65 Coercion in the first degree.

A person is guilty of coercion in the first degree when he or she commits the crime of coercion in the [second] third degree, and when:

1. He or she commits such crime by instilling in the victim a fear that he or she will cause physical injury to a person or cause damage to property; or

2. He or she thereby compels or induces the victim to:

(a) Commit or attempt to commit a felony; or

(b) Cause or attempt to cause physical injury to a person; or

(c) Violate his or her duty as a public servant.

Coercion in the first degree is a class D felony.

§ 4. The opening paragraph of subdivision 1 of section 530.11 of the criminal procedure law, as amended by chapter 526 of the laws of 2013, is amended to read as follows:

The family court and the criminal courts shall have concurrent jurisdiction over any proceeding concerning acts which would constitute disorderly conduct, harassment in the first degree, harassment in the second degree, aggravated harassment in the second degree, sexual misconduct, forcible touching, sexual abuse in the third degree, sexual abuse in the second degree as set forth in subdivision one of section 130.60 of the penal law, stalking in the first degree, stalking in the second degree, stalking in the third degree, stalking in the fourth degree, criminal mischief, menacing in the second degree, menacing in the third degree, reckless endangerment, strangulation in the first degree, strangulation in the second degree, criminal obstruction of breathing or blood circulation, assault in the second degree, assault in the third degree, an attempted assault, identity theft in the first degree, identity theft in the second degree, identity theft in the third degree, grand larceny in the fourth degree, grand larceny in the third degree [or], coercion in the second degree or coercion in the third degree as set forth in subdivisions one, two and three of section 135.60 of the penal law between spouses or former spouses, or between parent and child or between members of the same family or household except that if the respondent would not be criminally responsible by reason of age

pursuant to section 30.00 of the penal law, then the family court shall have exclusive jurisdiction over such proceeding. Notwithstanding a complainant's election to proceed in family court, the criminal court shall not be divested of jurisdiction to hear a family offense proceeding pursuant to this section. For purposes of this section, "disorderly conduct" includes disorderly conduct not in a public place. For purposes of this section, "members of the same family or household" with respect to a proceeding in the criminal courts shall mean the following:

§ 5. The opening paragraph of subdivision 1 of section 812 of the family court act, as amended by chapter 526 of the laws of 2013, is amended to read as follows:

The family court and the criminal courts shall have concurrent jurisdiction over any proceeding concerning acts which would constitute disorderly conduct, harassment in the first degree, harassment in the second degree, aggravated harassment in the second degree, sexual misconduct, forcible touching, sexual abuse in the third degree, sexual abuse in the second degree as set forth in subdivision one of section 130.60 of the penal law, stalking in the first degree, stalking in the second degree, stalking in the third degree, stalking in the fourth degree, criminal mischief, menacing in the second degree, menacing in the third degree, reckless endangerment, criminal obstruction of breathing or blood circulation, strangulation in the second degree, strangulation in the first degree, assault in the second degree, assault in the third degree, an attempted assault, identity theft in the first degree, identity theft in the second degree, identity theft in the third degree, grand larceny in the fourth degree, grand larceny in the third degree [or], coercion in the second degree or coercion in the third degree as set forth in subdivisions one, two and three of section 135.60 of the penal law between spouses or former spouses, or between parent and child or between members of the same family or household except that if the respondent would not be criminally responsible by reason of age pursuant to section 30.00 of the penal law, then the family court shall have exclusive jurisdiction over such proceeding. Notwithstanding a complainant's election to proceed in family court, the criminal court shall not be divested of jurisdiction to hear a family offense proceeding pursuant to this section. In any proceeding pursuant to this article, a court shall not deny an order of protection, or dismiss a petition, solely on the basis that the acts or events alleged are not relatively contemporaneous with the date of the petition, the conclusion of the fact-finding or the conclusion of the dispositional hearing. For purposes of this article, "disorderly conduct" includes disorderly conduct not in a public place. For purposes of this article, "members of the same family or household" shall mean the following:

§ 6. Paragraph (a) of subdivision 1 of section 821 of the family court act, as amended by chapter 526 of the laws of 2013, is amended to read as follows:

(a) An allegation that the respondent assaulted or attempted to assault his or her spouse, or former spouse, parent, child or other member of the same family or household or engaged in disorderly conduct, harassment, sexual misconduct, forcible touching, sexual abuse in the third degree, sexual abuse in the second degree as set forth in subdivision one of section 130.60 of the penal law, stalking, criminal mischief, menacing, reckless endangerment, criminal obstruction of breathing or blood circulation, strangulation, identity theft in the first degree, identity theft in the second degree, identity theft in the third degree, grand larceny in the fourth degree, grand larceny in the

third degree [or], coercion in the second degree or coercion in the third degree as set forth in subdivisions one, two and three of section 135.60 of the penal law, toward any such person;

§ 7. Paragraph c of subdivision 5 of section 120.40 of the penal law, as added by chapter 635 of the laws of 1999, is amended to read as follows:

c. assault in the third degree, as defined in section 120.00; menacing in the first degree, as defined in section 120.13; menacing in the second degree, as defined in section 120.14; coercion in the first degree, as defined in section 135.65; coercion in the second degree, as defined in section 135.61; coercion in the third degree, as defined in section 135.60; aggravated harassment in the second degree, as defined in section 240.30; harassment in the first degree, as defined in section 240.25; menacing in the third degree, as defined in section 120.15; criminal mischief in the third degree, as defined in section 145.05; criminal mischief in the second degree, as defined in section 145.10, criminal mischief in the first degree, as defined in section 145.12; criminal tampering in the first degree, as defined in section 145.20; arson in the fourth degree, as defined in section 150.05; arson in the third degree, as defined in section 150.10; criminal contempt in the first degree, as defined in section 215.51; endangering the welfare of a child, as defined in section 260.10; or

§ 8. Subdivision 2 of section 240.75 of the penal law, as added by section 2 of part D of chapter 491 of the laws of 2012, is amended to read as follows:

2. A "specified offense" is an offense defined in section 120.00 (assault in the third degree); section 120.05 (assault in the second degree); section 120.10 (assault in the first degree); section 120.13 (menacing in the first degree); section 120.14 (menacing in the second degree); section 120.15 (menacing in the third degree); section 120.20 (reckless endangerment in the second degree); section 120.25 (reckless endangerment in the first degree); section 120.45 (stalking in the fourth degree); section 120.50 (stalking in the third degree); section 120.55 (stalking in the second degree); section 120.60 (stalking in the first degree); section 121.11 (criminal obstruction of breathing or blood circulation); section 121.12 (strangulation in the second degree); section 121.13 (strangulation in the first degree); subdivision one of section 125.15 (manslaughter in the second degree); subdivision one, two or four of section 125.20 (manslaughter in the first degree); section 125.25 (murder in the second degree); section 130.20 (sexual misconduct); section 130.30 (rape in the second degree); section 130.35 (rape in the first degree); section 130.40 (criminal sexual act in the third degree); section 130.45 (criminal sexual act in the second degree); section 130.50 (criminal sexual act in the first degree); section 130.52 (forcible touching); section 130.53 (persistent sexual abuse); section 130.55 (sexual abuse in the third degree); section 130.60 (sexual abuse in the second degree); section 130.65 (sexual abuse in the first degree); section 130.66 (aggravated sexual abuse in the third degree); section 130.67 (aggravated sexual abuse in the second degree); section 130.70 (aggravated sexual abuse in the first degree); section 130.91 (sexually motivated felony); section 130.95 (predatory sexual assault); section 130.96 (predatory sexual assault against a child); section 135.05 (unlawful imprisonment in the second degree); section 135.10 (unlawful imprisonment in the first degree); section 135.60 (coercion in the [second] third degree); section 135.61 (coercion in the second degree); section 135.65 (coercion in the first degree); section 140.20

(burglary in the third degree); section 140.25 (burglary in the second degree); section 140.30 (burglary in the first degree); section 145.00 (criminal mischief in the fourth degree); section 145.05 (criminal mischief in the third degree); section 145.10 (criminal mischief in the second degree); section 145.12 (criminal mischief in the first degree); section 145.14 (criminal tampering in the third degree); section 215.50 (criminal contempt in the second degree); section 215.51 (criminal contempt in the first degree); section 215.52 (aggravated criminal contempt); section 240.25 (harassment in the first degree); subdivision one, two or four of section 240.30 (aggravated harassment in the second degree); aggravated family offense as defined in this section or any attempt or conspiracy to commit any of the foregoing offenses where the defendant and the person against whom the offense was committed were members of the same family or household as defined in subdivision one of section 530.11 of the criminal procedure law.

§ 9. Subdivision 3 of section 485.05 of the penal law, as amended by chapter 405 of the laws of 2010, is amended to read as follows:

3. A "specified offense" is an offense defined by any of the following provisions of this chapter: section 120.00 (assault in the third degree); section 120.05 (assault in the second degree); section 120.10 (assault in the first degree); section 120.12 (aggravated assault upon a person less than eleven years old); section 120.13 (menacing in the first degree); section 120.14 (menacing in the second degree); section 120.15 (menacing in the third degree); section 120.20 (reckless endangerment in the second degree); section 120.25 (reckless endangerment in the first degree); section 121.12 (strangulation in the second degree); section 121.13 (strangulation in the first degree); subdivision one of section 125.15 (manslaughter in the second degree); subdivision one, two or four of section 125.20 (manslaughter in the first degree); section 125.25 (murder in the second degree); section 120.45 (stalking in the fourth degree); section 120.50 (stalking in the third degree); section 120.55 (stalking in the second degree); section 120.60 (stalking in the first degree); subdivision one of section 130.35 (rape in the first degree); subdivision one of section 130.50 (criminal sexual act in the first degree); subdivision one of section 130.65 (sexual abuse in the first degree); paragraph (a) of subdivision one of section 130.67 (aggravated sexual abuse in the second degree); paragraph (a) of subdivision one of section 130.70 (aggravated sexual abuse in the first degree); section 135.05 (unlawful imprisonment in the second degree); section 135.10 (unlawful imprisonment in the first degree); section 135.20 (kidnapping in the second degree); section 135.25 (kidnapping in the first degree); section 135.60 (coercion in the [second] <u>third</u> degree); <u>section 135.61 (coercion in the second degree);</u> section 135.65 (coercion in the first degree); section 140.10 (criminal trespass in the third degree); section 140.15 (criminal trespass in the second degree); section 140.17 (criminal trespass in the first degree); section 140.20 (burglary in the third degree); section 140.25 (burglary in the second degree); section 140.30 (burglary in the first degree); section 145.00 (criminal mischief in the fourth degree); section 145.05 (criminal mischief in the third degree); section 145.10 (criminal mischief in the second degree); section 145.12 (criminal mischief in the first degree); section 150.05 (arson in the fourth degree); section 150.10 (arson in the third degree); section 150.15 (arson in the second degree); section 150.20 (arson in the first degree); section 155.25 (petit larceny); section 155.30 (grand larceny in the fourth degree); section 155.35 (grand larceny in the third degree); section 155.40 (grand larceny in

the second degree); section 155.42 (grand larceny in the first degree); section 160.05 (robbery in the third degree); section 160.10 (robbery in the second degree); section 160.15 (robbery in the first degree); section 240.25 (harassment in the first degree); subdivision one, two or four of section 240.30 (aggravated harassment in the second degree); or any attempt or conspiracy to commit any of the foregoing offenses.

§ 10. This act shall take effect on the first of November next succeeding the date on which it shall have become a law.

SUBPART G

Section 1. Subdivision 4 of section 2805-i of the public health law is REPEALED.

§ 2. Subdivision 2 of section 2805-i of the public health law, as amended by chapter 504 of the laws of 1994, is amended to read as follows:

2. The sexual offense evidence shall be collected and kept in a locked separate and secure area for not less than [thirty days] the longer of five years or the date the alleged sexual offense victim reaches the age of nineteen, unless: (a) such evidence is not privileged and the police request its surrender before that time, which request shall be complied with; or (b) such evidence is privileged and (i) the alleged sexual offense victim nevertheless gives permission to turn such privileged evidence over to the police before that time, or (ii) the alleged sexual offense victim signs a statement directing the hospital to not collect and keep such privileged evidence, which direction shall be complied with. The sexual offense evidence shall include, but not be limited to, slides, cotton swabs, clothing and other items. Where appropriate such items must be refrigerated and the clothes and swabs must be dried, stored in paper bags and labeled. Each item of evidence shall be marked and logged with a code number corresponding to the patient's medical record. [The] Within thirty days of collection of evidence, the alleged sexual offense victim shall be notified that after [thirty days] the longer of five years or the date the alleged sexual offense victim reaches the age of nineteen, the refrigerated evidence will be discarded in compliance with state and local health codes and the alleged sexual offense victim's clothes will be returned to the alleged sexual offense victim upon request. The hospital shall ensure that diligent efforts are made to contact the alleged sexual offense victim and repeat such notification more than thirty days prior to the evidence being discarded in accordance with this section. Hospitals may enter into contracts with other entities that will ensure appropriate storage of sexual offense evidence pursuant to this subdivision.

§ 2-a. Subdivision 1 of section 2805-i of the public health law, as amended by chapter 504 of the laws of 1994 and paragraph (c) as amended by chapter 39 of the laws of 2012, is amended to read as follows:

1. Every hospital providing treatment to alleged victims of a sexual offense shall be responsible for:

(a) maintaining sexual offense evidence and the chain of custody as provided in subdivision two of this section[.];

(b) contacting a rape crisis or victim assistance organization, if any, providing victim assistance to the geographic area served by that hospital to establish the coordination of non-medical services to sexual offense victims who request such coordination and services[.];

(c) offering and making available appropriate HIV post-exposure treatment therapies; including a seven day starter pack of HIV post-exposure

prophylaxis, in cases where it has been determined, in accordance with guidelines issued by the commissioner, that a significant exposure to HIV has occurred, and informing the victim that payment assistance for such therapies may be available from the office of victim services pursuant to the provisions of article twenty-two of the executive law. With the consent of the victim of a sexual assault, the hospital emergency room department shall provide or arrange for an appointment for medical follow-up related to HIV post-exposure prophylaxis and other care as appropriate; and

(d) ensuring sexual assault survivors are not billed for sexual assault forensic exams and are notified orally and in writing of the option to decline to provide private health insurance information and have the office of victim services reimburse the hospital for the exam pursuant to subdivision thirteen of section six hundred thirty-one of the executive law.

§ 2-b. Subdivision 13 of section 631 of the executive law, as amended by chapter 39 of the laws of 2012, is amended to read as follows:

13. Notwithstanding any other provision of law, rule, or regulation to the contrary, when any New York state accredited hospital, accredited sexual assault examiner program, or licensed health care provider furnishes services to any sexual assault survivor, including but not limited to a health care forensic examination in accordance with the sex offense evidence collection protocol and standards established by the department of health, such hospital, sexual assault examiner program, or licensed healthcare provider shall provide such services to the person without charge and shall bill the office directly. The office, in consultation with the department of health, shall define the specific services to be covered by the sexual assault forensic exam reimbursement fee, which must include at a minimum forensic examiner services, hospital or healthcare facility services related to the exam, and related laboratory tests and necessary pharmaceuticals; including but not limited to HIV post-exposure prophylaxis provided by a hospital emergency room at the time of the forensic rape examination pursuant to paragraph (c) of subdivision one of section twenty-eight hundred five-i of the public health law. Follow-up HIV post-exposure prophylaxis costs shall continue to be reimbursed according to established office procedure. The office, in consultation with the department of health, shall also generate the necessary regulations and forms for the direct reimbursement procedure. The rate for reimbursement shall be the amount of itemized charges not exceeding eight hundred dollars, to be reviewed and adjusted annually by the office in consultation with the department of health. The hospital, sexual assault examiner program, or licensed health care provider must accept this fee as payment in full for these specified services. No additional billing of the survivor for said services is permissible. A sexual assault survivor may voluntarily assign any private insurance benefits to which she or he is entitled for the healthcare forensic examination, in which case the hospital or healthcare provider may not charge the office; provided, however, in the event the sexual assault survivor assigns any private health insurance benefit, such coverage shall not be subject to annual deductibles or coinsurance or balance billing by the hospital, sexual assault examiner program or licensed health care provider. A hospital, sexual assault examiner program or licensed health care provider shall, at the time of the initial visit, request assignment of any private health insurance benefits to which the sexual assault survivor is entitled on a form prescribed by the office; provided, however, such sexual assault survi-

vor shall be advised orally and in writing that he or she may decline to provide such information regarding private health insurance benefits if he or she believes that the provision of such information would substantially interfere with his or her personal privacy or safety and in such event, the sexual assault forensic exam fee shall be paid by the office. Such sexual assault survivor shall also be advised that providing such information may provide additional resources to pay for services to other sexual assault victims. If he or she declines to provide such health insurance information, he or she shall indicate such decision on the form provided by the hospital, sexual assault examiner program or licensed health care provider, which form shall be prescribed by the office.

§ 2-c. Subsection (i) of section 3216 of the insurance law is amended by adding a new paragraph 34 to read as follows:

(34) Health care forensic examinations performed pursuant to section twenty-eight hundred five-i of the public health law covered under the policy shall not be subject to annual deductibles or coinsurance.

§ 2-d. Subsection (l) of section 3221 of the insurance law is amended by adding a new paragraph 20 to read as follows:

(20) Health care forensic examinations performed pursuant to section twenty-eight hundred five-i of the public health law covered under the policy shall not be subject to annual deductibles or coinsurance.

§ 2-e. Section 4303 of the insurance law is amended by adding a new subsection (rr) to read as follows:

(rr) Health care forensic examinations performed pursuant to section twenty-eight hundred five-i of the public health law covered under the contract shall not be subject to annual deductibles or coinsurance.

§ 3. This act shall take effect immediately and shall apply to all policies and contracts issued, renewed, modified, altered or amended on or after the first of January next succeeding such effective date.

SUBPART H

Section 1. Section 292 of the executive law is amended by adding a new subdivision 35 to read as follows:

35. The term "educational institution" shall mean:

(a) any education corporation or association which holds itself out to the public to be non-secretarian and exempt from taxation pursuant to the provisions of article four of the real property tax law; or

(b) any public school, including any school district, board of cooperative education services, public college or public university.

§ 2. Subdivision 4 of section 296 of the executive law, as amended by chapter 106 of the laws of 2003, is amended to read as follows:

4. It shall be an unlawful discriminatory practice for an [education corporation or association which holds itself out to the public to be non-sectarian and exempt from taxation pursuant to the provisions of article four of the real property tax law] educational institution to deny the use of its facilities to any person otherwise qualified, or to permit the harassment of any student or applicant, by reason of his race, color, religion, disability, national origin, sexual orientation, military status, sex, age or marital status, except that any such institution which establishes or maintains a policy of educating persons of one sex exclusively may admit students of only one sex.

§ 3. This act shall take effect immediately.

SUBPART I

SUBPART I

Section 1. The executive law is amended by adding a new section 294-d to read as follows:

§ 294-d. Discrimination and sexual harassment form. The division shall promulgate a form which shall record the following: (a) the number of unlawful discriminatory practices, discrimination and sexual harassment allegations by category, the number of investigations conducted, and the outcomes of such investigations in the previous calendar year; (b) the number of settlement agreements, and the number of such agreements containing nondisclosure provisions that have been executed by the agency or its representatives in the previous calendar year where such settlement agreement resolves any unlawful discriminatory practices, discrimination or sexual harassment claim asserted against or committed by any employee; and (c) a description of all training provided to employees relating to discrimination, including sexual harassment prevention in the workplace in the previous calendar year. Such form shall be posted on the division's website.

§ 2. The executive law is amended by adding a new section 170-c to read as follows:

§ 170-c. Reporting of discrimination and sexual harassment violations by agencies. 1. As used in this section, the following term shall have the following meaning unless otherwise specified:

"Agency" shall mean any state or municipal department, board, bureau, division, commission, committee, public authority, public corporation, council, office or other governmental entity performing a governmental or proprietary function for the state or any one or more municipalities thereof.

2. All agencies shall submit a report to the division of human rights no later than June thirtieth of each year containing information related to the issue of unlawful discriminatory practices as such term is defined in section two hundred ninety-two of this chapter, discrimination, and sexual harassment in the workplace, which shall include the following: (a) the number of unlawful discriminatory practices, discrimination or sexual harassment allegations by category, the number of investigations conducted, and the outcomes of such investigations in the previous calendar year; (b) the number of settlement agreements, and the number of such agreements containing nondisclosure provisions that have been executed by the agency or its representatives in the previous calendar year where such settlement agreement resolves any unlawful discriminatory practices, as such term is defined in section two hundred ninety-two of this chapter, discrimination or sexual harassment claim asserted against or committed by any employee; and (c) a description of all training provided to employees relating to discrimination, including sexual harassment prevention in the workplace in the previous calendar year. Such report shall not contain any individually identifying information of any victim of unlawful discriminatory practices, as such term is defined in section two hundred ninety-two of this chapter, discrimination or sexual harassment. Such report shall be submitted using the form promulgated by the division of human rights pursuant to section two hundred ninety-four-d of this chapter.

§ 3. The tax law is amended by adding a new section 210-E to read as follows:

§ 210-E. Reporting of discrimination and sexual harassment violations. 1. As used in this section, the following terms shall have the following meanings unless otherwise specified:

(a) "Agency" shall mean any state or local government, including but not limited to, a county, city, town, village, fire district or special district or any other governmental entity performing a governmental or proprietary function for the state or any one or more municipalities thereof and is authorized to impose tax under this chapter.

(b) "Owner" shall mean an owner of a business entity, which includes, but is not limited to, a shareholder of a corporation that is not publicly traded, a partner in a partnership or limited liability partnership, a member of a limited liability company, a general partner or limited partner of a limited partnership.

(c) "Manager" shall mean a director or executive officer of a business entity, which includes, but is not limited to, a director of a corporation or a manager of a limited liability company.

(d) "Tax credit" shall mean the amount requested by the taxpayer for refund or otherwise determined to be in excess of that owed with respect to any tax imposed under this chapter.

2. A taxpayer who is entitled to any credit from any agency shall submit a report to such agency no later than June thirtieth of each year, and the agency shall transmit such report to the division of human rights, containing information related to the issue of unlawful discriminatory practices as such term is defined in section two hundred ninety-two of the executive law, discrimination, and sexual harassment in the workplace, which shall include the following: (a) the number of unlawful discriminatory practices, as such term is defined in section two hundred ninety-two of the executive law, discrimination, and sexual harassment allegations by category, the number of investigations conducted, and the outcomes of such investigations in the previous calendar year; (b) the number of settlement agreements, and the number of such agreements containing nondisclosure provisions, that have been executed by the entity or its representatives in the previous calendar year where such settlement agreement resolves any unlawful discriminatory practice, as such term is defined in section two hundred ninety-two of the executive law, discrimination, or sexual harassment claim asserted against or committed by any owner, manager, or employee; and (c) a description of all training provided to an owner, manager, or employees relating to discrimination, including sexual harassment prevention in the workplace. Such report shall not contain any individually identifying information of any victim of unlawful discriminatory practice as such term is defined in section two hundred ninety-two of the executive law, discrimination, or sexual harassment. Such report shall be submitted using the form promulgated by the division of human rights pursuant to section two hundred ninety-four-d of the executive law.

3. If such entity does not submit the report required by subdivision two of this section, such credit shall not be awarded to such entity.

§ 4. The state finance law is amended by adding a new section 148 to read as follows:

§ 148. Reporting of discrimination and sexual harassment violations. 1. As used in this section, the following terms shall have the following meanings unless otherwise specified:

(a) "Agency" shall mean any state or municipal department, board, bureau, division, commission, committee, public authority, public corporation, council, office or other governmental entity performing a governmental or proprietary function for the state or any one or more municipalities thereof.

(b) "Owner" shall mean an owner of a business entity, which includes, but is not limited to, a shareholder of a corporation that is not publicly traded, a partner in a partnership or limited liability partnership, a member of a limited liability company, or a general partner or limited partner of a limited partnership.

(c) "Manager" shall mean a director or executive officer of a business entity, which includes, but is not limited to, a director of a corporation or a manager of a limited liability company.

2. Any contractor to whom any contract shall be let, granted or awarded by any agency, as required by law, shall submit a report to the agency and such agency shall transmit such report to the division of human rights no later than June thirtieth of each year containing information related to the issue of unlawful discriminatory practices, as such term is defined in section two hundred ninety-two of the executive law, discrimination and sexual harassment in the workplace, which shall include the following: (a) the number of unlawful discriminatory practices, as such term is defined in section two hundred ninety-two of the executive law, discrimination and sexual harassment allegations by category, the number of investigations conducted, and the outcomes of such investigations in the previous calendar year; (b) the number of settlement agreements, and the number of such agreements containing nondisclosure provisions, that have been executed by the contractor or its representatives in the previous calendar year where such settlement agreement resolves any unlawful discriminatory practices, as such term is defined in section two hundred ninety-two of the executive law, discrimination, or sexual harassment claim asserted against or committed by any owner, manager, or employee; and (c) a description of all training provided to an owner, manager, or employee relating to unlawful discriminatory practices, as such term is defined in section two hundred ninety-two of the executive law, or discrimination, including sexual harassment prevention in the workplace in the calendar year. Such report shall not contain any individually identifying information of any victim of unlawful discriminatory practices, as such term is defined in section two hundred ninety-two of the executive law, discrimination, or sexual harassment. Such report shall be submitted using the form promulgated by the division of human rights pursuant to section two hundred ninety-four-d of the executive law.

3. If such contractor does not submit the report required by subdivision two of this section, such contract shall not be let, granted, or awarded to such contractor.

§ 5. The executive law is amended by adding a new section 295-a to read as follows:

§ 295-a. Reporting of discrimination and sexual harassment violations. 1. The division shall receive and analyze all reports submitted pursuant to section one hundred seventy-d of this chapter, section two hundred ten-E of the tax law, and section one hundred forty-eight of the state finance law.

2. The division shall prepare an annual report from the information submitted pursuant to section one hundred seventy-d of this chapter, section two hundred ten-E of the tax law, and section one hundred forty-eight of the state finance law, which identifies the aggregate number of unlawful discriminatory practices, discrimination and sexual harassment allegations, by category, the aggregate number of investigations conducted, the aggregate number of settlement agreements, and the aggregate number of such agreements containing nondisclosure provisions, and the aggregate number of agencies providing training on

unlawful discriminatory practices, and discrimination including sexual harassment prevention in the workplace as reported during the preceding calendar year. Such report shall be provided to the governor, the speaker of the assembly, and the temporary president of the senate on or before November first of each year commencing with the November first in the year immediately following the effective date of this section. Such report shall also be posted on the website of the division of human rights.

§ 6. Section 7504 of the civil practice law and rules is amended to read as follows:

§ 7504. [Court appointment] Appointment of arbitrator. 1. If an arbitration agreement provides for the method of appointment of an arbitrator, such arbitrator must be a neutral third-party arbitrator; provided, however, that any portion of an agreement or contract requiring the controversy concerning employment be submitted to an arbitrator or arbitration organization that is not a neutral third-party arbitrator, shall be deemed void. The requirement that the controversy be heard by a neutral third-party arbitrator may not be waived by a party prior to the service on such party of a demand for arbitration.

2. If the arbitration agreement does not provide for a method of appointment of an arbitrator, or if the agreed method fails or for any reason is not followed, or if an arbitrator fails to act and his or her successor has not been appointed, the court, on application of a party, shall appoint [an] a neutral third-party arbitrator. Appointment of any arbitrator shall reasonably ensure the personal objectivity of the arbitrator.

3. (a) Before the appointment of an individual who is requested to serve as an arbitrator, and after making a reasonable inquiry, such individual shall disclose to all parties to the agreement to arbitrate and the arbitration proceeding, and to any other arbitrators, any known facts that a reasonable person would consider likely to affect the impartiality of the arbitrator in the arbitration proceeding, including:

(i) a financial or personal interest in the outcome of the arbitration proceeding; or

(ii) an existing or past relationship with any of the parties to the agreement to arbitrate or the arbitration proceeding, his or her counsel or representatives, a witness, or another arbitrator.

(b) An arbitrator has a continuing obligation to disclose to all parties to the agreement to arbitrate and the arbitration proceeding, and to any other arbitrators any facts that the arbitrator learns after accepting appointment which a reasonable person would consider likely to affect the impartiality of the arbitrator.

(c) If an arbitrator discloses a fact required by paragraphs (a) or (b) of this subdivision and a party timely objects to the appointment or continued service of the arbitrator based upon the fact disclosed, the objection may be a ground for vacating an award made by the arbitrator.

(d) If the arbitrator did not disclose a fact as required by paragraphs (a) or (b) of this subdivision, upon timely objection by a party, the court may vacate an award based on such non-disclosure.

(e) An arbitrator appointed as a neutral arbitrator who does not disclose a known, direct and material interest in the outcome of the arbitration proceeding or a known, existing and substantial relationship with a party is presumed to act with evident partiality in rendering an award.

4. Upon disclosure pursuant to subdivision three of this section, a party shall be deemed to have waived any objection to the arbitrator or

composition of any arbitration panel, by failing to raise same prior to the commencement of the arbitration hearing.

§ 7. Section 7506 of the civil practice law and rules is amended to read as follows:

§ 7506. Hearing. (a) Oath of arbitrator. Before hearing any testimony, an arbitrator shall be sworn to hear and decide the controversy faithfully and fairly by an officer authorized to administer an oath.

(b) Time and place. The arbitrator shall appoint a time and place for the hearing and notify the parties in writing personally or by registered or certified mail not less than eight days before the hearing. The arbitrator may adjourn or postpone the hearing. The court, upon application of any party, may direct the arbitrator to proceed promptly with the hearing and determination of the controversy.

(c) Evidence. The parties are entitled to be heard, to present evidence and to cross-examine witnesses.

(d) Postponements and adjournments. The arbitrator may for good cause postpone or adjourn the hearing upon request of a party or upon the arbitrator's own initiative. Notwithstanding the failure of a party duly notified to appear, the arbitrator may hear and determine the controversy upon the evidence produced. If a party to an arbitration intends to present testimony from a witness at the hearing, absent good cause shown, the identity of such witness must be given to all parties at least seven calendar days prior to the hearing.

[(d)] (e) Representation by attorney. A party has the right to be represented by an attorney and may claim such right at any time as to any part of the arbitration or hearings which have not taken place. This right may not be waived. If a party is represented by an attorney, papers to be served on the party shall be served upon his or her attorney. It shall be discretionary with the arbitrator to permit the attendance of any other persons.

[(e)] (f) Determination by majority. The hearing shall be conducted by all the arbitrators, but a majority may determine any question and render an award.

[(f)] (g) Waiver. Except as provided in subdivision [(d)](e), a requirement of this section may be waived by written consent of the parties and it is waived if the parties continue with the arbitration without objection.

§ 8. Section 7507 of the civil practice law and rules, as amended by chapter 952 of the laws of 1981, is amended to read as follows:

§ 7507. Award; form; time; delivery. (a) Except as provided in section 7508, the award shall be in writing, and shall state the issues in dispute and contain the arbitrator's findings of fact and conclusions of law. Such award shall contain a decision on all issues submitted to the arbitrator, and shall be signed and affirmed by the arbitrator making it within the time fixed by the agreement, or, if the time is not fixed, within such time as the court orders.

(b) The parties may in writing extend the time either before or after its expiration. A party waives the objection that an award was not made within the time required unless he or she notifies the arbitrator in writing of his or her objection prior to the delivery of the award to him or her.

(c) The arbitrator shall deliver a copy of the award to each party in the manner provided in the agreement, or, if no provision is so made, personally or by registered or certified mail, return receipt requested.

§ 9. Subparagraph (iv) of paragraph 1 of subdivision (b) of section 7511 of the civil practice law and rules is amended and a new subparagraph (v) is added to read as follows:

(iv) failure to follow the procedure of this article, unless the party applying to vacate the award continued with the arbitration with notice of the defect and without objection[.]; or

(v) the arbitrator evidenced a manifest disregard of the law in rendering the award.

§ 10. The civil practice law and rules is amended by adding a new section 7515 to read as follows:

§ 7515. Prohibited provisions. Prohibition of effect of certain arbitration clauses or agreements. Mandatory arbitration clauses or agreements covering employee or independent contractor disputes involving a claim of discrimination, including one based on sexual harassment, are contrary to the established public policy of this state. Except when inconsistent with federal law, the state prohibits the formation and enforcement of mandatory arbitration agreements involving a claim of discrimination, including one based on sexual harassment.

§ 11. Enforcement. Any private person and any enforcement agency or official responsible for enforcing the provisions of sections six, seven, eight, nine, or ten of this act may bring suit for injunctive relief against an entity that violates such provisions, and may recover reasonable attorney fees and other costs if an injunction or equivalent relief is awarded. Injunctive relief shall be the only relief available in a suit arising from failure to comply with this act.

§ 12. The executive law is amended by adding a new section 170-d to read as follows:

§ 170-d. Prohibiting state and local agencies from entering into contracts with contractors that require certain mandatory arbitration agreements. 1. Notwithstanding any inconsistent provisions of any general or special law or resolution, no agency shall contract or renew a contract for the supply of goods, services, or construction with any contractor that utilizes an employment or independent contractor contract which requires employees or independent contractors to agree to mandatory arbitration for any disputes involving a claim of unlawful discriminatory practices, as such term is defined in section two hundred ninety-two of the executive law, or discrimination, including sexual harassment.

2. Any contractor supplying goods, services, or construction shall certify that it is in compliance with the requirements of subdivision one of this section. Such certification shall be filed with the agency.

3. Upon receiving information that a contractor who has made the certification required by this section is in violation thereof, the agency shall review such information, notify such contractor, and offer such contractor an opportunity to be heard. If such agency finds that a violation has occurred, it shall take such action as may be appropriate and provided for by law, rule or regulation, or contract, including, but not limited to, imposing sanctions, seeking compliance, recovering damages, declaring the contractor in default, and seeking debarment or suspension of the contractor.

4. For the purposes of this section, "agency" shall mean any state or municipal department, board, bureau, division, commission, committee, public authority, public corporation, council, office or other governmental entity performing a governmental or proprietary function for the state or any one or more municipalities thereof.

§ 13. The labor law is amended by adding a new section 211-b to read as follows:

§ 211-b. Contracts; certain provisions prohibited. A provision in any employment contract both public and private, or contract with any independent contractor, waiving any substantive or procedural right or remedy relating to a claim of discrimination, retaliation, or harassment in employment shall be deemed unconscionable, void and unenforceable, with respect to any such claim arising after the waiver is made. No right or remedy arising under this section, this chapter, common law, any other provision of law or rule of procedure or the constitution shall be prospectively waived. This section shall not render void or unenforceable the remainder of such contract or agreement.

§ 14. The public officers law is amended by adding a new section 17-a to read as follows:

§ 17-a. Reimbursement of funds paid by state agencies and state entities for the payment of awards adjudicated in discrimination claims. 1. Notwithstanding any law to the contrary, any officer or employee entitled to defense and indemnification pursuant to section seventeen of this article, who is adjudicated to have personally committed an unlawful discriminatory practice as such term is defined in section two hundred ninety-two of the executive law, including sexual harassment, shall reimburse any state agency or entity that makes a payment to a plaintiff for an adjudicated award in a discrimination claim resulting in a judgment, for his or her proportionate share of such judgement. Such officer or employee shall personally reimburse such state agency or entity within ninety days of the state agency or entity's payment of such award.

2. If such officer or employee has failed to reimburse such state agency or entity pursuant to subdivision one of this section within ninety days from the date such state agency or entity makes a payment for the financial award, the comptroller shall withhold from such officer or employee's compensation the amounts allowable pursuant to section fifty-two hundred thirty-one of the civil practice law and rules.

3. If such officer or employee is no longer employed by such state agency or entity, such state agency or entity shall have the right to receive reimbursement through the enforcement of a money judgement pursuant to article fifty-two of the civil practice law and rules.

§ 14-a. The public officers law is amended by adding a new section 18-a to read as follows:

§ 18-a. Reimbursement of funds paid by a public entity for the payment of awards adjudicated in discrimination claims. 1. As used in this section:

a. The term "public entity" shall mean (i) a county, city, town, village or any other political subdivision or civil division of the state, (ii) a school district, board of cooperative educational services, or any other governmental entity or combination or association of governmental entities operating a public school, college, community college or university, (iii) a public improvement or special district, (iv) a public authority, commission, agency or public benefit corporation, or (v) any other separate corporate instrumentality or unit of government; but shall not include the state of New York.

b. The term "employee" shall mean any commissioner, member of a public board or commission, trustee, director, officer, employee, volunteer expressly authorized to participate in a publicly sponsored volunteer program, or any other person holding a position by election, appointment or employment in the service of a public entity, whether or not compen-

sated. The term "employee" shall include a former employee, his or her estate or judicially appointed personal representative.

2. Notwithstanding any law to the contrary, any employee entitled to defense and indemnification pursuant to section eighteen of this article or any other state statute, including but not limited to, sections fifty-k, fifty-l, fifty-m, and fifty-n of the general municipal law, who is adjudicated to have personally committed an unlawful discriminatory practice, as such term is defined in section two hundred ninety-two of the executive law, including sexual harassment, shall reimburse any public entity, that makes a payment to a plaintiff for an adjudicated award in a discrimination claim resulting in a judgment, for his or her proportionate share of such judgement. Such employee shall personally reimburse such public entity within ninety days of the public entity's payment of such award.

3. If such employee fails to reimburse such public entity pursuant to subdivision two of this section within ninety days from the date such public entity makes a payment for the financial award, the chief fiscal officer of such public entity shall withhold from such employee's compensation the amounts allowable pursuant to section fifty-two hundred thirty-one of the civil practice law and rules.

4. If such employee is no longer employed by such public entity, such public entity shall have the right to receive reimbursement through the enforcement of a money judgement pursuant to article fifty-two of the civil practice law and rules.

§ 15. The civil practice law and rules is amended by adding a new section 5003-b to read as follows:

§ 5003-b. Confidentiality provisions in settlement of discrimination actions. (a) When an action to recover damages based on allegations of discrimination in violation of laws prohibiting discrimination, including but not limited to article fifteen of the executive law, has been settled, any settling plaintiff may elect to include in any settlement agreement provisions that require all parties to keep the details and provisions of the action and settlement confidential, and such provisions shall be enforceable against all parties.

(b) If a settling plaintiff does not choose to include confidentiality provisions in the settlement agreement, no defendant may require such provisions be included.

§ 16. The general obligations law is amended by adding a new section 5-336 to read as follows:

§ 5-336. Confidentiality provisions related to discrimination. Every contract, covenant, agreement or understanding in connection with employment that prohibits an employee, intern as defined in section two hundred ninety-six-c of the executive law, or covered individual as defined in section two hundred ninety-six-d of the executive law, (hereinafter a "complainant") from conveying to a government entity or disclosing to or discussing with any third-party allegations that the complainant was subjected to unlawful discrimination, unlawful discriminatory practices, or retaliation related to such unlawful discrimination shall be void and unenforceable, provided that if a complainant chooses to include a confidentiality provision in an agreement or settlement resolving a complaint regarding unlawful discrimination, unlawful discriminatory practices, or retaliation in relation thereto, and the complainant asserts that the agreement is a matter of personal privacy or that the disclosure of the agreement or its terms or the details of the underlying complaint would cause the complainant personal harm, then

such provision is enforceable against all parties and against any government entity to which the agreement is disclosed.

§ 17. The executive law is amended by adding a new section 294-b to read as follows:

§ 294-b. Model policy on discrimination, harassment, including sexual harassment, and retaliation. 1. The division shall create a model policy prohibiting discrimination, unlawful discriminatory practices, including sexual harassment, and retaliation. Such policy shall be available to the public and shall be posted on the division's website. Such policy shall:

a. prohibit discrimination, unlawful discriminatory practices, and harassment based on an employee's, intern's or covered individual's class, race, color, sex, national origin, creed, sexual orientation, age, disability, military status, marital status, predisposing genetic characteristics, or domestic violence victim status;

b. prohibit retaliation against a person who files a complaint, acts as a witness, or reports discrimination, unlawful discriminatory practices, or harassment on behalf of another employee, intern or covered individual;

c. mandate that supervisors and management personnel who learn of prohibited discrimination, unlawful discriminatory practices, or harassment report such claims pursuant to the policy of the employer, employment agency, or licensing agency;

d. mandate that training on such policy be conducted at least every two years for each employee or intern;

(i) Such training shall include, but not be limited to, information about how to file a complaint and how to access other available rights and remedies under state and federal laws;

(ii) Separate training shall be provided to supervisory staff that shall include a review of the increased responsibilities of such staff who are in a position of authority;

e. establish a complaint process for accusations against employees, interns or covered individuals that allow any employee, intern or covered individual who feels that he or she was discriminated against or harassed to engage in self-help if so desired, or to file a formal internal or external complaint, whereby each complainant is heard and treated with respect, provided however, that it is not necessary for an employee to engage in self-help before filing a complaint;

f. provide that all claims of harassment and discrimination shall be investigated and such investigation shall remain confidential to the fullest extent possible;

g. establish a time frame for the completion of the investigation, which shall be no later than ninety days, upon which time a confidential report shall be written with findings, conclusions, and recommendations;

h. provide that a final determination must be made as to whether there was a violation of the employer's policies and if discipline is warranted within a time frame established in the policy, but no later than thirty days. Such policy shall afford the accused the right to be provided a general summary of the initial investigation report and the right to respond, either orally or in writing;

i. establish an appeals process in the event that either party chooses to appeal the findings of the final determination; and

j. provide that all written records and reports of complaints or investigations of discrimination, unlawful discriminatory practices, or harassment shall be kept by the employer for seven years.

2. Every employer, employment agency, or licensing agency shall adopt the model policy promulgated pursuant to subdivision one of this section or establish a policy to prevent discrimination that equals or exceeds the minimum standards provided by such model policy promulgated pursuant to subdivision one of this section, provided, however, that if such employer is a state agency where the head of such agency is not appointed by the governor, including but not limited to, the state education department, the department of law, and the department of audit and control, then the head of such agency who is not appointed by the governor shall adopt or establish such policy.

3. Every employer authorized to enter into agreements pursuant to article five-G of the general municipal law may utilize such authorization to effectuate the provisions of this section.

4. For the purposes of this section, the term "intern" shall have the same meaning as set forth in section two hundred ninety-six-c of this article.

5. For the purposes of this section, "covered individual" shall have the same meaning as set forth in section two hundred ninety-six-d of this article.

§ 18. The state finance law is amended by adding a new section 139-d-1 to read as follows:

§ 139-d-1. Statement on discrimination, including sexual harassment, in bids. 1. For the purposes of this section, "agency" shall mean any state department, board, bureau, division, commission, committee, public authority, public corporation, council, office or other governmental entity performing a governmental or proprietary function for the state.

2. (a) Every bid hereafter made to an agency, where competitive bidding is required by statute, rule or regulation, for work or services performed or to be performed or goods sold or to be sold, shall contain the following statement subscribed by the bidder and affirmed by such bidder as true under the penalties of perjury:

"By submission of this bid, each bidder and each person signing on behalf of any bidder certifies, and in the case of a joint bid each party thereto certifies as to its own organization, under penalty of perjury, that the bidder has a policy relating to the prohibition of discrimination, including sexual harassment, and such bidder provides such policy, in writing, to all of its employees."

(b) In addition to the statement required by paragraph (a) of this subdivision, any bidder that maintains a written policy for prohibiting discrimination, including sexual harassment, shall submit to the agency soliciting such bid such current written policy when submitting such statement.

(c) Every bid hereafter made to an agency, where competitive bidding is not required by statute, rule or regulation, for work or services performed or to be performed or goods sold or to be sold, may contain, at the discretion of the agency, the certification required pursuant to paragraphs (a) and (b) of this subdivision.

3. Notwithstanding the foregoing, the statement required by paragraph (a) of subdivision two of this section or the written policy for prohibiting discrimination, including sexual harassment, required pursuant to paragraph (b) of subdivision two of this section, may be submitted electronically in accordance with the provisions of subdivision seven of section one hundred sixty-three of this chapter.

4. A bid shall not be considered for award nor shall any award be made when the bidder has not complied with subdivision two of this section; provided, however, that if the bidder cannot make the foregoing certif-

ication, such bidder shall so state and shall furnish with the bid a signed statement which sets forth in detail the reasons therefor.

5. Any bid hereafter made to an agency by a corporate bidder for work or services performed or to be performed or goods sold or to be sold, where such bid contains the statement or written policy required by subdivision two of this section, shall be deemed to have been authorized by the board of directors of such bidder, and such authorization shall be deemed to include the signing and submission of such bid and the inclusion therein of the statement and written policy for prohibiting discrimination, including sexual harassment, as the act and deed of the corporation.

§ 19. Subdivision 7 of section 163 of the state finance law, as amended by section 10 of part L of chapter 55 of the laws of 2012, is amended to read as follows:

7. Method of procurement. Consistent with the requirements of subdivisions three and four of this section, state agencies shall select among permissible methods of procurement including, but not limited to, an invitation for bid, request for proposals or other means of solicitation pursuant to guidelines issued by the state procurement council. State agencies may accept bids electronically including submission of the statement of non-collusion required by section one hundred thirty-nine-d of this chapter, and the statement and written policy for prohibiting discrimination, including sexual harassment, required by section one hundred thirty-nine-d-one of this chapter, and, starting April first, two thousand twelve, and ending March thirty-first, two thousand fifteen, may, for commodity, service and technology contracts require electronic submission as the sole method for the submission of bids for the solicitation. State agencies shall undertake no more than eighty-five such electronic bid solicitations, none of which shall be reverse auctions, prior to April first, two thousand fifteen. In addition, state agencies may conduct up to twenty reverse auctions through electronic means, prior to April first, two thousand fifteen. Prior to requiring the electronic submission of bids, the agency shall make a determination, which shall be documented in the procurement record, that electronic submission affords a fair and equal opportunity for offerers to submit responsive offers. Within thirty days of the completion of the eighty-fifth electronic bid solicitation, or by April first, two thousand fifteen, whichever is earlier, the commissioner shall prepare a report assessing the use of electronic submissions and make recommendations regarding future use of this procurement method. In addition, within thirty days of the completion of the twentieth reverse auction through electronic means, or by April first, two thousand fifteen, whichever is earlier, the commissioner shall prepare a report assessing the use of reverse auctions through electronic means and make recommendations regarding future use of this procurement method. Such reports shall be published on the website of the office of general services. Except where otherwise provided by law, procurements shall be competitive, and state agencies shall conduct formal competitive procurements to the maximum extent practicable. State agencies shall document the determination of the method of procurement and the basis of award in the procurement record. Where the basis for award is the best value offer, the state agency shall document, in the procurement record and in advance of the initial receipt of offers, the determination of the evaluation criteria, which whenever possible, shall be quantifiable, and the process to be used in the determination of best value and the manner in which the evaluation process and selection shall be conducted.

§ 20. The tax law is amended by adding a new section 210-D to read as follows:

§ 210-D. Statement on discrimination, including sexual harassment, in applications for state credits. 1. For the purposes of this section:

(a) "agency" shall mean any state or local government, including but not limited to a county, city, town, village, fire district or special district or any other governmental entity performing a governmental or proprietary function for the state or any one or more municipalities thereof, and is authorized to impose tax under this chapter;

(b) "applicant" shall mean a taxpayer that is subject to tax under this chapter and is subject to the requirements of this section;

(c) "taxpayer" shall mean any individual, corporation, partnership, limited liability partnership, or company, partner, member, manager, estate, trust, fiduciary or entity, who or which is conducting business in this state; and

(d) "tax credit" shall mean the amount requested by the taxpayer for refund or otherwise determined to be in excess of that owed with respect to any tax imposed under this chapter.

2. (a) Every application hereafter made to an agency shall contain the following statement subscribed by the applicant and affirmed by such applicant as true under the penalties of perjury:

"By submission of this application, each applicant and each person signing on behalf of any business certifies as to its own organization, under penalty of perjury that the business has a policy relating to the prohibition of discrimination, including sexual harassment, and such business provides such policy, in writing, to all of its employees."

(b) In addition to the statement required by paragraph (a) of this subdivision, any business that maintains a written policy for prohibiting discrimination, including sexual harassment, shall submit to the agency to which they are applying for such tax credit a copy of the current written policy when submitting such statement.

3. The statement required by paragraph (a) of subdivision two of this section or the written policy for prohibiting discrimination, including sexual harassment required pursuant to paragraph (b) of subdivision two of this section, may be submitted electronically.

4. An application shall not be considered for a tax credit nor shall any credit be allowed when the applicant has not complied with the provisions of subdivision two of this section; provided, however, that if the applicant cannot make the foregoing certification, the applicant shall furnish with the application a signed statement which sets forth in detail the reasons therefor.

5. Any application hereafter made to an agency by an applicant for a tax credit, shall be deemed to have been authorized by the board of directors of the applicant, and such authorization shall be deemed to include the signing and submission of the application and the inclusion therein of the statement or written policy for prohibiting discrimination, including sexual harassment as the act and deed of the corporation.

§ 21. The executive law is amended by adding a new section 294-a to read as follows:

§ 294-a. Anti-discrimination pamphlet. 1. The division shall promulgate an anti-discrimination pamphlet related to rights and remedies of employees, interns, and covered individuals regarding unlawful discriminatory practices or discrimination, including sexual harassment, in the workplace. Such pamphlet shall include, but not be limited to:

a. Information regarding how to file a complaint pursuant to state and federal anti-discrimination laws;

b. A description of an employee's, intern's, or covered individual's rights under state and federal anti-discrimination laws;

c. A description of the remedies that an employee, intern, or covered individual may be entitled to under state and federal anti-discrimination laws;

d. Contact information for the division, the office of the attorney general, the department of labor and the Equal Employment Opportunity Commission; and

e. A statement explaining that the employee, intern, or covered individual may be entitled to certain rights and remedies under local laws.

2. The anti-discrimination pamphlet shall be made available to the public and shall be posted:

a. On the website of every agency, if such a website exists, provided that for the purposes of this paragraph, "agency" shall mean any state or municipal department, board, bureau, division, commission, committee, public authority, public corporation, council, office or other governmental entity performing a governmental or proprietary function for the state or any one or more municipalities thereof;

b. On the website of every employer, employment agency, or licensing agency, if such a website exists; and

c. In a conspicuous location in all designated employee common spaces and breakrooms.

3. An employer, employment agency, labor organization, or licensing agency shall provide a copy of such anti-discrimination pamphlet under the following circumstances:

a. To an employee, intern, or covered individual whenever such employee, intern, or covered individual commences employment, volunteering, or contracting with such employer;

b. To an employee or intern upon completion of any discrimination and/or sexual harassment prevention training;

c. To an employee, intern, or covered individual whenever such employee, intern, or covered individual files a discrimination complaint pursuant to such employer's policy;

d. To an employee or intern whenever such employee or intern concludes employment with such employer; and

e. To an employee, intern, or covered individual upon such employee's, intern's, or covered individual's request.

4. For the purposes of this section, the term "intern" shall have the same meaning as set forth in section two hundred ninety-six-c of this article.

5. For the purposes of this section, "covered individual" shall have the same meaning as set forth in section two hundred ninety-six-d of this article.

6. The commissioner may promulgate rules and regulations to effectuate the provisions of this section.

§ 22. The executive law is amended by adding a new section 294-c to read as follows:

§ 294-c. Training materials and public accessibility. 1. The division shall create a training video to assist in training employers, employees and interns on issues relating to prohibiting discrimination and unlawful discriminatory practices including sexual harassment in the workplace. Such training video shall include, but not be limited to, the information provided in the anti-discrimination pamphlet promulgated pursuant to section two hundred ninety-four-a of this article and the

model policy on discrimination, harassment, sexual harassment, and retaliation promulgated pursuant to section two hundred ninety-four-b of this chapter.

2. Such training video shall be made available to the public and shall be posted in an electronic, easily viewable format on the division's website. Such training video shall be updated as necessary but no less than every two years.

3. The division shall establish a toll free number to receive complaints that will be staffed twenty-four hours a day.

4. The commissioner may promulgate rules and regulations to effectuate the provisions of this section.

5. For the purpose of this section, the term "intern" shall have the same meaning as set forth in section two hundred ninety-six-c of this article.

§ 23. The executive law is amended by adding a new section 296-d to read as follows:

§ 296-d. Unlawful discriminatory practices relating to covered individuals. 1. As used in this section, "covered individual" means a person who performs work for an employer as a contractor, independent contractor, subcontractor, or volunteer within the context of a formal volunteer program.

2. It shall be an unlawful discriminatory practice for an employer, licensing agency, or employment agency to:

(a) refuse to hire, contract with, or employ or to bar or to discharge from work or volunteer program a covered individual or to discriminate against such covered individual in terms, conditions, or privileges of employment because of the covered individual's age, race, creed, color, national origin, sexual orientation, military status, sex, disability, predisposing genetic characteristics, marital status, or domestic violence victim status;

(b) discriminate against a covered individual in receiving, classifying, disposing or otherwise acting upon applications for any contract, employment or volunteer program, as defined in this article, because of the covered individual's age, race, creed, color, national origin, sexual orientation, military status, sex, disability, predisposing genetic characteristics, marital status, or domestic violence victim status;

(c) print or circulate or cause to be printed or circulated any statement, advertisement or publication, or to use any form of application for contract, employment or volunteer program, or to make any inquiry in connection with prospective contracts, employment or formal volunteering which expresses directly or indirectly, any limitation, specification or discrimination as to age, race, creed, color, national origin, sexual orientation, military status, sex, disability, predisposing genetic characteristics, marital status or domestic violence victim status, or any intent to make any such limitation, specification or discrimination, unless based upon a bona fide occupational qualification;

(d) discharge, expel or otherwise discriminate against any covered individual because he or she has opposed any practices forbidden under this article or because he or she has filed a complaint, testified or assisted in any proceeding under this article; or

(e) compel a covered individual who is pregnant to take a leave of absence, unless they are prevented by such pregnancy from performing the activities involved in the job, contract, occupation or volunteer program in a reasonable manner.

3. It shall be an unlawful discriminatory practice for an employer to:

(a) engage in unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature to a covered individual when:

(1) submission to such conduct is made either explicitly or implicitly a term or condition of their contract, employment or formal volunteering;

(2) submission to or rejection of such conduct by the covered individual is used as the basis for contract, employment or volunteer decisions affecting such covered individual; or

(3) such conduct has the purpose or effect of unreasonably interfering with the covered individual's work performance by creating an intimidating, hostile, or offensive working environment; or

(b) subject a covered individual to unwelcome harassment based on age, sex, race, creed, color, sexual orientation, military status, disability, predisposing genetic characteristics, marital status, domestic violence victim status, or national origin, where such harassment has the purpose or effect of unreasonably interfering with the covered individual's work performance by creating an intimidating, hostile, or offensive working environment.

4. The commissioner may promulgate rules and regulations to effectuate the provisions of this section.

§ 24. Subdivision 4 of section 292 of the executive law, as amended by chapter 97 of the laws of 2014, is amended to read as follows:

4. The term "unlawful discriminatory practice" includes only those practices specified in sections two hundred ninety-six, two hundred ninety-six-a [and], two hundred ninety-six-c and two hundred ninety-six-d of this article.

§ 25. Subdivision 5 of section 292 of the executive law, as amended by chapter 363 of the laws of 2015, is amended to read as follows:

5. The term "employer" [does not include any employer with fewer than four persons in his or her employ except as set forth in section two hundred ninety-six-b of this article, provided, however, that in the case of an action for discrimination based on sex pursuant to subdivision one of section two hundred ninety-six of this article, with respect to sexual harassment only, the term "employer"] shall include all employers within the state.

§ 26. Subdivisions 9 and 10 of section 63 of the executive law, subdivision 9 as amended by chapter 359 of the laws of 1969, are amended to read as follows:

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

10. Prosecute every person charged with the commission of a criminal offense in violation of any of the laws of this state against discrimination because of age, race, sex, creed, color, [or] national origin, sexual orientation, military status, disability, predisposing genetic characteristics, familial status, marital status, or domestic violence victim status, in any case where in his judgment, because of the extent of the offense, such prosecution cannot be effectively carried on by the

district attorney of the county wherein the offense or a portion thereof is alleged to have been committed, or where in his judgment the district attorney has erroneously failed or refused to prosecute. In all such proceedings, the attorney-general may appear in person or by his deputy or assistant before any court or any grand jury and exercise all the powers and perform all the duties in respect of such actions or proceedings which the district attorney would otherwise be authorized or required to exercise or perform.

§ 27. The general municipal law is amended by adding a new section 103-d-1 to read as follows:

§ 103-d-1. Statement on discrimination, including sexual harassment, in bids. 1. (a) Every bid or proposal hereafter made to a political subdivision of the state or any public department, agency or official thereof where competitive bidding is required by statute, rule, regulation or local law, for work or services performed or to be performed or goods sold or to be sold, shall contain the following statement subscribed by the bidder and affirmed by such bidder as true under the penalties of perjury:

"By submission of this bid, each bidder and each person signing on behalf of any bidder certifies, and in the case of a joint bid each party thereto certifies as to its own organization, under penalty of perjury that the bidder has a policy relating to the prohibition of discrimination, including sexual harassment, and such bidder provides such policy, in writing, to all of its employees."

(b) In addition to the statement required by paragraph (a) of this subdivision, any bidder that maintains a written policy for prohibiting discrimination, including sexual harassment, shall submit to the political subdivision soliciting such bid such current written policy when submitting such statement.

(c) Every bid hereafter made to a political subdivision, where competitive bidding is not required by statute, rule or regulation, for work or services performed or to be performed or goods sold or to be sold, may contain, at the discretion of the political subdivision, the certification required pursuant to paragraphs (a) and (b) of this subdivision.

2. Notwithstanding the foregoing, the statement required by paragraph (a) of subdivision one of this section or the written policy for prohibiting discrimination, including sexual harassment, required pursuant to paragraph (b) of subdivision one of this section, may be submitted electronically in accordance with the provisions of subdivision one of section one hundred three of this chapter.

3. A bid shall not be considered for award nor shall any award be made when the bidder has not complied with subdivision one of this section; provided, however, that if in any case the bidder cannot make the foregoing certification, such bidder shall so state and shall furnish with the bid a signed statement which sets forth in detail the reasons therefor.

4. Any bid hereafter made to a political subdivision by a corporate bidder for work or services performed or to be performed or goods sold or to be sold, where such bid contains the statement or written policy required by subdivision one of this section, shall be deemed to have been authorized by the board of directors of such bidder, and such authorization shall be deemed to include the signing and submission of such bid and the inclusion therein of the statement and written policy for prohibiting discrimination, including sexual harassment, as the act and deed of the corporation.

§ 28. Subdivision 1 of section 103 of the general municipal law, as amended by section 1 of chapter 2 of the laws of 2012, is amended to read as follows:

1. Except as otherwise expressly provided by an act of the legislature or by a local law adopted prior to September first, nineteen hundred fifty-three, all contracts for public work involving an expenditure of more than thirty-five thousand dollars and all purchase contracts involving an expenditure of more than twenty thousand dollars, shall be awarded by the appropriate officer, board or agency of a political subdivision or of any district therein including but not limited to a soil conservation district to the lowest responsible bidder furnishing the required security after advertisement for sealed bids in the manner provided by this section, provided, however, that purchase contracts (including contracts for service work, but excluding any purchase contracts necessary for the completion of a public works contract pursuant to article eight of the labor law) may be awarded on the basis of best value, as defined in section one hundred sixty-three of the state finance law, to a responsive and responsible bidder or offerer in the manner provided by this section except that in a political subdivision other than a city with a population of one million inhabitants or more or any district, board or agency with jurisdiction exclusively therein the use of best value for awarding a purchase contract or purchase contracts must be authorized by local law or, in the case of a district corporation, school district or board of cooperative educational services, by rule, regulation or resolution adopted at a public meeting. In any case where a responsible bidder's or responsible offerer's gross price is reducible by an allowance for the value of used machinery, equipment, apparatus or tools to be traded in by a political subdivision, the gross price shall be reduced by the amount of such allowance, for the purpose of determining the best value. In cases where two or more responsible bidders furnishing the required security submit identical bids as to price, such officer, board or agency may award the contract to any of such bidders. Such officer, board or agency may, in his or her or its discretion, reject all bids or offers and readvertise for new bids or offers in the manner provided by this section. In determining whether a purchase is an expenditure within the discretionary threshold amounts established by this subdivision, the officer, board or agency of a political subdivision or of any district therein shall consider the reasonably expected aggregate amount of all purchases of the same commodities, services or technology to be made within the twelve-month period commencing on the date of purchase. Purchases of commodities, services or technology shall not be artificially divided for the purpose of satisfying the discretionary buying thresholds established by this subdivision. A change to or a renewal of a discretionary purchase shall not be permitted if the change or renewal would bring the reasonably expected aggregate amount of all purchases of the same commodities, services or technology from the same provider within the twelve-month period commencing on the date of the first purchase to an amount greater than the discretionary buying threshold amount. For purposes of this section, "sealed bids" and "sealed offers", as that term applies to purchase contracts, (including contracts for service work, but excluding any purchase contracts necessary for the completion of a public works contract pursuant to article eight of the labor law) shall include bids and offers submitted in an electronic format including submission of the statement of non-collusion required by section one hundred three-d of this article, and the statement and written policy

for prohibiting discrimination, including sexual harassment, required by section one hundred three-d-1 of this article, provided that the governing board of the political subdivision or district, by resolution, has authorized the receipt of bids and offers in such format. Submission in electronic format may, for technology contracts only, be required as the sole method for the submission of bids and offers. Bids and offers submitted in an electronic format shall be transmitted by bidders and offerers to the receiving device designated by the political subdivision or district. Any method used to receive electronic bids and offers shall comply with article three of the state technology law, and any rules and regulations promulgated and guidelines developed thereunder and, at a minimum, must (a) document the time and date of receipt of each bid and offer received electronically; (b) authenticate the identity of the sender; (c) ensure the security of the information transmitted; and (d) ensure the confidentiality of the bid or offer until the time and date established for the opening of bids or offers. The timely submission of an electronic bid or offer in compliance with instructions provided for such submission in the advertisement for bids or offers and/or the specifications shall be the responsibility solely of each bidder or offerer or prospective bidder or offerer. No political subdivision or district therein shall incur any liability from delays of or interruptions in the receiving device designated for the submission and receipt of electronic bids and offers.

§ 29. If any provision of this act or the application thereof is held invalid, the remainder of this act and the application thereof to other persons or circumstances shall not be affected by such holding and shall remain in full force and effect.

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

(a) sections one, two, three, four, five, fourteen, fourteen-a, fifteen, sixteen, seventeen, eighteen, nineteen, twenty, twenty-one, twenty-two, twenty-three, twenty-four, twenty-five, twenty-seven, and twenty-eight of this act shall take effect on the ninetieth day after it shall have become a law;

(b) sections six, seven, eight, nine, ten, and eleven shall take effect on the first of January next succeeding the date on which it shall have become a law;

(c) the amendments to subdivision 7 of section 163 of the state finance law made by section nineteen of this act shall not affect the repeal of such section and shall be deemed repealed therewith;

(d) section thirteen of this act shall apply to all employment contracts entered into, renewed, modified or amended on or after such date;

(e) section twenty of this act shall apply to tax credits applied for on or after the ninetieth day after this act shall have become a law;

(f) the amendments to subdivision 1 of section 103 of the general municipal law made by section twenty-eight of this act shall not affect the expiration and reversion of such subdivision pursuant to subdivision (a) of section 41 of part X of chapter 62 of the laws of 2003, as amended, and shall expire therewith; and

(g) effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made and completed on or before such effective date.

SUBPART J

Section 1. Computer science education standards. 1. The commissioner of education shall convene a working group of educators including teachers and school administrators, industry experts, institutions of higher education and employers to review existing nationally recognized computer science frameworks and develop draft model New York state computer science standards for kindergarten through grade 12. The workgroup shall use their educational or technological expertise to ensure that the model standards they recommend to the commissioner of education and Board of Regents prepare students for postsecondary education or employment in the computer science field.

2. On or before December 1, 2020, the working group shall deliver a report to the commissioner of education and the Board of Regents detailing the findings of the working group and recommend draft model kindergarten through grade 12 computer science standards for their approval.

§ 2. This act shall take effect immediately.

SUBPART K

Intentionally Omitted

SUBPART L

Section 1. Title 6 of article 2 of the public health law, as added by chapter 342 of the laws of 2014, is amended by adding a new section 267 to read as follows:

§ 267. Feminine hygiene products in schools. All elementary and secondary public schools and charter schools in the state serving students in any grade from grade six through grade twelve shall provide feminine hygiene products in the restrooms of such school building or buildings. Such products shall be provided at no charge to students.

§ 2. This act shall take effect July 1, 2018.

SUBPART M

Section 1. Subdivision 15 of section 378 of the executive law is renumbered as subdivision 18.

§ 2. Subdivision 16 of section 378 of the executive law is renumbered subdivision 15 and two new subdivisions 16 and 17 are added to read as follows:

16. Standards requiring the installation and maintenance of at least one safe, sanitary, and convenient diaper changing station, deck, table, or similar amenity which shall be available for use by both male and female occupants and which shall comply with section 603.5 (Diaper Changing Tables) of the two thousand nine edition of the publication entitled ICC A117.1, Accessible and Usable Buildings and Facilities, published by the International Code Council, Inc., on each floor level containing a public toilet room in all newly constructed buildings in the state that have one or more areas classified as assembly group A occupancies or mercantile group M occupancies and in all existing buildings in the state that have one or more areas classified as assembly group A occupancies or mercantile group M occupancies and undergo a substantial renovation. The council shall prescribe the type of renovation to be deemed to be a substantial renovation for the purposes of this subdivision. The council may exempt historic buildings from the requirements of this subdivision.

17. Standards requiring that, in each building that has one or more areas classified as assembly group A occupancies or mercantile group M occupancies and in which at least one diaper changing station, deck, table, or similar amenity is installed, a sign shall be posted in a conspicuous place in each public toilet room indicating the location of the nearest diaper changing station, deck, table, or similar amenity that is available for use by the gender using such public toilet room. The requirements of this subdivision shall apply without regard to whether the diaper changing station, deck, table, or similar amenity was installed voluntarily or pursuant to subdivision sixteen of this section or any other applicable law, statute, rule, or regulation. No such sign shall be required in a public toilet room in which any diaper changing station, deck, table, or similar amenity is located.

§ 3. This act shall take effect January 1, 2019; provided, however, that effective immediately, the addition, amendment and/or repeal of any rules or regulations by the secretary of state and/or by the state fire prevention and building code council necessary for the implementation of section two of this act on its effective date are authorized and directed to be made and completed on or before such effective date.

SUBPART N

Section 1. Paragraph 13 of subsection (i) of section 3216 of the insurance law is amended by adding three new subparagraphs (C), (D) and (E) to read as follows:

(C) Every policy delivered or issued for delivery in this state that provides coverage for hospital, surgical or medical care shall provide coverage for:

(i) in vitro fertilization used in the treatment of infertility; and

(ii) standard fertility preservation services when a necessary medical treatment may directly or indirectly cause iatrogenic infertility to a covered person.

(D) (i) For the purposes of subparagraph (C) of this paragraph, "infertility" means a disease or condition characterized by the incapacity to impregnate another person or to conceive, as diagnosed or determined (I) by a physician licensed to practice medicine in this state, or (II) by the failure to establish a clinical pregnancy after twelve months of regular, unprotected sexual intercourse, or after six months of regular, unprotected sexual intercourse in the case of a female thirty-five years of age or older.

(ii) For the purposes of subparagraph (C) of this paragraph, "iatrogenic infertility" means an impairment of fertility by surgery, radiation, chemotherapy or other medical treatment affecting reproductive organs or processes.

(E) No insurer providing coverage under this paragraph shall discriminate based on a covered individual's expected length of life, present or predicted disability, degree of medical dependency, perceived quality of life, or other health conditions, nor based on personal characteristics, including age, sex, sexual orientation, marital status or gender identity.

§ 2. Paragraph 6 of subsection (k) of section 3221 of the insurance law is amended by adding three new subparagraphs (E), (F) and (G) to read as follows:

(E) Every group policy delivered or issued for delivery in this state that provides hospital, surgical or medical coverage shall provide coverage for:

(i) in vitro fertilization used in the treatment of infertility; and

(ii) standard fertility preservation services when a necessary medical treatment may directly or indirectly cause iatrogenic infertility to a covered person.

(F) (i) For the purposes of subparagraph (E) of this paragraph, "infertility" means a disease or condition characterized by the incapacity to impregnate another person or to conceive, as diagnosed or determined (I) by a physician licensed to practice medicine in this state, or (II) by the failure to establish a clinical pregnancy after twelve months of regular, unprotected sexual intercourse, or after six months of regular, unprotected sexual intercourse in the case of a female thirty-five years of age or older.

(ii) For the purposes of subparagraph (E) of this paragraph, "iatrogenic infertility" means an impairment of fertility by surgery, radiation, chemotherapy or other medical treatment affecting reproductive organs or processes.

(G) No insurer providing coverage under this paragraph shall discriminate based on a covered individual's expected length of life, present or predicted disability, degree of medical dependency, perceived quality of life, or other health conditions, nor based on personal characteristics, including age, sex, sexual orientation, marital status or gender identity.

§ 3. Subsection (s) of section 4303 of the insurance law, as amended by section 2 of part F of chapter 82 of the laws of 2002, is amended by adding three new paragraphs 5, 6 and 7 to read as follows:

(5) Every contract issued by a medical expense indemnity corporation, hospital service corporation or health service corporation for delivery in this state that provides hospital, surgical or medical coverage shall provide coverage for:

(A) in vitro fertilization used in the treatment of infertility; and

(B) standard fertility preservation services when a necessary medical treatment may directly or indirectly cause iatrogenic infertility to a covered person.

(6) (A) For the purposes of paragraph five of this subsection, "infertility" means a disease or condition characterized by the incapacity to impregnate another person or to conceive, as diagnosed or determined (i) by a physician licensed to practice medicine in this state, or (ii) by the failure to establish a clinical pregnancy after twelve months of regular, unprotected sexual intercourse, or after six months of regular, unprotected sexual intercourse in the case of a female thirty-five years of age or older.

(B) For the purposes of paragraph five of this subsection, "iatrogenic infertility" means an impairment of fertility by surgery, radiation, chemotherapy or other medical treatment affecting reproductive organs or processes.

(7) No medical expense indemnity corporation, hospital service corporation or health service corporation providing coverage under this subsection shall discriminate based on a covered individual's expected length of life, present or predicted disability, degree of medical dependency, perceived quality of life, or other health conditions, nor based on personal characteristics, including age, sex, sexual orientation, marital status or gender identity.

§ 4. Subparagraph (C) of paragraph 6 of subsection (k) of section 3221 of the insurance law, as amended by section 1 of part K of chapter 82 of the laws of 2002, is amended to read as follows:

(C) Coverage of diagnostic and treatment procedures, including prescription drugs, used in the diagnosis and treatment of infertility as required by subparagraphs (A) and (B) of this paragraph shall be provided in accordance with the provisions of this subparagraph.

(i) [Coverage shall be provided for persons whose ages range from twenty-one through forty-four years, provided that nothing herein shall preclude the provision of coverage to persons whose age is below or above such range.

(ii)] Diagnosis and treatment of infertility shall be prescribed as part of a physician's overall plan of care and consistent with the guidelines for coverage as referenced in this subparagraph.

[(iii)] (ii) Coverage may be subject to co-payments, coinsurance and deductibles as may be deemed appropriate by the superintendent and as are consistent with those established for other benefits within a given policy.

[(iv) Coverage shall be limited to those individuals who have been previously covered under the policy for a period of not less than twelve months, provided that for the purposes of this subparagraph "period of not less than twelve months" shall be determined by calculating such time from either the date the insured was first covered under the existing policy or from the date the insured was first covered by a previously in-force converted policy, whichever is earlier.

(v)] (iii) Coverage shall not be required to include the diagnosis and treatment of infertility in connection with: (I) [in vitro fertilization, gamete intrafallopian tube transfers or zygote intrafallopian tube transfers; (II)] the reversal of elective sterilizations; [(III)] (II) sex change procedures; [(IV)] (III) cloning; or [(V)] (IV) medical or surgical services or procedures that are deemed to be experimental in accordance with clinical guidelines referenced in clause [(vi)] (iv) of this subparagraph.

[(vi)] (iv) The superintendent, in consultation with the commissioner of health, shall promulgate regulations which shall stipulate the guidelines and standards which shall be used in carrying out the provisions of this subparagraph, which shall include:

(I) [The determination of "infertility" in accordance with the standards and guidelines established and adopted by the American College of Obstetricians and Gynecologists and the American Society for Reproductive Medicine;

(II)] The identification of experimental procedures and treatments not covered for the diagnosis and treatment of infertility determined in accordance with the standards and guidelines established and adopted by the American College of Obstetricians and Gynecologists and the American Society for Reproductive Medicine;

[(III)] (II) The identification of the required training, experience and other standards for health care providers for the provision of procedures and treatments for the diagnosis and treatment of infertility determined in accordance with the standards and guidelines established and adopted by the American College of Obstetricians and Gynecologists and the American Society for Reproductive Medicine; and

[(IV)] (III) The determination of appropriate medical candidates by the treating physician in accordance with the standards and guidelines established and adopted by the American College of Obstetricians and Gynecologists and/or the American Society for Reproductive Medicine.

§ 5. Paragraph 3 of subsection (s) of section 4303 of the insurance law, as amended by section 2 of part K of chapter 82 of the laws of 2002, is amended to read as follows:

(3) Coverage of diagnostic and treatment procedures, including prescription drugs used in the diagnosis and treatment of infertility as required by paragraphs one and two of this subsection shall be provided in accordance with this paragraph.

(A) [Coverage shall be provided for persons whose ages range from twenty-one through forty-four years, provided that nothing herein shall preclude the provision of coverage to persons whose age is below or above such range.

(B)] Diagnosis and treatment of infertility shall be prescribed as part of a physician's overall plan of care and consistent with the guidelines for coverage as referenced in this paragraph.

[(C)] (B) Coverage may be subject to co-payments, coinsurance and deductibles as may be deemed appropriate by the superintendent and as are consistent with those established for other benefits within a given policy.

[(D) Coverage shall be limited to those individuals who have been previously covered under the policy for a period of not less than twelve months, provided that for the purposes of this paragraph "period of not less than twelve months" shall be determined by calculating such time from either the date the insured was first covered under the existing policy or from the date the insured was first covered by a previously in-force converted policy, whichever is earlier.

(E)] (C) Coverage shall not be required to include the diagnosis and treatment of infertility in connection with: (i) [in vitro fertilization, gamete intrafallopian tube transfers or zygote intrafallopian tube transfers; (ii)] the reversal of elective sterilizations; [(iii)] (ii) sex change procedures; [(iv)] (iii) cloning; or [(v)] (iv) medical or surgical services or procedures that are deemed to be experimental in accordance with clinical guidelines referenced in subparagraph [(F)] (D) of this paragraph.

[(F)] (D) The superintendent, in consultation with the commissioner of health, shall promulgate regulations which shall stipulate the guidelines and standards which shall be used in carrying out the provisions of this paragraph, which shall include:

(i) [The determination of "infertility" in accordance with the standards and guidelines established and adopted by the American College of Obstetricians and Gynecologists and the American Society for Reproductive Medicine;

(ii)] The identification of experimental procedures and treatments not covered for the diagnosis and treatment of infertility determined in accordance with the standards and guidelines established and adopted by the American College of Obstetricians and Gynecologists and the American Society for Reproductive Medicine;

[(iii)] (ii) The identification of the required training, experience and other standards for health care providers for the provision of procedures and treatments for the diagnosis and treatment of infertility determined in accordance with the standards and guidelines established and adopted by the American College of Obstetricians and Gynecologists and the American Society for Reproductive Medicine; and

[(iv)] (iii) The determination of appropriate medical candidates by the treating physician in accordance with the standards and guidelines established and adopted by the American College of Obstetricians and Gynecologists and/or the American Society for Reproductive Medicine.

§ 6. This act shall take effect on the first of January next succeeding the date on which it shall have become a law and shall apply to all policies issued, renewed, altered or modified on or after such date.

§ 2. Severability clause. If any clause, sentence, paragraph, subdivision, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the intent of the legislature that this act would have been enacted even if such invalid provisions had not been included herein.

§ 3. This act shall take effect immediately provided, however, that the applicable effective date of Subparts A through N of this act shall be as specifically set forth in the last section of such subparts.

PART GGG

Section 1. Section 1-104 of the election law is amended by adding a new subdivision 38 to read as follows:

38. "Computer generated registration list" means a printed or electronic list of voters in alphabetical order for a single election district or poll site, generated from a computer registration file for each election and containing for each voter listed, a facsimile of the signature of the voter. Such a list may be in a single volume or in more than one volume. The list may be utilized in place of registration poll records, to establish a person's eligibility to vote in the polling place on election day.

§ 2. Subdivision 1 of section 4-128 of the election law, as amended by chapter 125 of the laws of 2011, is amended to read as follows:

1. The board of elections of each county shall provide the requisite number of official and facsimile ballots, two cards of instruction to voters in the form prescribed by the state board of elections, at least one copy of the instruction booklet for inspectors, a sufficient number of maps, street finders or other descriptions of all of the polling places and election districts within the political subdivision in which the polling place is located to enable the election inspectors and poll clerks to determine the correct election district and polling place for each street address within the political subdivision in which the polling place is located, distance markers, tally sheets and return blanks, pens, [black ink, or ball point pens with black ink,] pencils [having black lead], or other appropriate marking devices, envelopes for the ballots of voters whose registration poll records are not in the ledger or whose names are not [on] in the computer generated registration list, envelopes for returns, identification buttons, badges or emblems for the inspectors and clerks in the form prescribed by the state board of elections and such other articles of stationery as may be necessary for the proper conduct of elections, except that when a town, city or village holds an election not conducted by the board of elections, the clerk of such town, city or village, shall provide such official and facsimile ballots and the necessary blanks, supplies and stationery for such election.

§ 3. Subdivision c of section 4-132 of the election law, as amended by chapter 164 of the laws of 1985, is amended to read as follows:

c. A booth or device in each election district for the use of voters marking ballots. Such booth or device shall be so constructed as to permit the voter to mark his or her ballot in secrecy and shall be furnished at all times with [a pencil having black lead only] an appropriate marking device.

§ 4. Section 4-134 of the election law, the section heading as amended by chapter 373 of the laws of 1978, subdivisions 1 and 3 as amended by chapter 163 of the laws of 2010, subdivision 2 as amended by chapter 425 of the laws of 1986, and subdivisions 5 and 6 as amended by chapter 635 of the laws of 1990, is amended to read as follows:

§ 4-134. Preparation and delivery of ballots, supplies and equipment for use at elections. 1. The board of elections shall deliver, at its office, to the clerk of each town or city in the county, except the cities of New York, Buffalo and Rochester and to the clerk of each village in the county in which elections are conducted by the board of elections, by the Saturday before the primary, general, village or other election for which they are required: the official and sample ballots; ledgers prepared for delivery in the manner provided in subdivision two of this section and containing the registration poll records of all persons entitled to vote at such election in such town, city or village, or computer generated registration lists containing the names of all persons entitled to vote at such election in such town, city or village; challenge reports prepared as directed by this chapter; sufficient applications for registration by mail; sufficient ledger seals and other supplies and equipment required by this article to be provided by the board of elections for each polling place in such town, city or village. The town, city or village clerk shall call at the office of such board of elections at such time and receive such ballots, supplies and equipment. In the cities of New York, Buffalo and Rochester the board of elections shall cause such ballots, supplies and equipment to be delivered to the board of inspectors of each election district approximately one-half hour before the opening of the polls for voting, and shall take receipts therefor.

2. The board of elections shall provide for each election district a ledger or ledgers containing the registration poll records or [printed] lists with computer generated facsimile signatures, of all persons entitled to vote in such election district at such election. Such ledgers shall be labelled, sealed, locked and transported in locked carrying cases. After leaving the board of elections no such carrying case shall be unlocked except at the time and in the manner provided in this chapter.

3. [Any envelope containing absentee voters' ballots on which the blanks have not been properly filled in shall be stamped to indicate the defect and shall be preserved by the board for at least one year after the receipt thereof.

4.] Each kind of official ballot shall be arranged in a package in the consecutive order of the numbers printed on the stubs thereof beginning with number one. All official and sample ballots for each election district shall be in separate sealed packages, clearly marked on the outside thereof, with the number and kind of ballots contained therein and indorsed with the designation of the election district for which they were prepared. The other supplies provided for each election district also shall be [inclosed] <u>enclosed</u> in a sealed package, or packages, with a label on the outside thereof showing the contents of each package.

[5. Each town, city and village clerk receiving such packages shall cause all] <u>4. All</u> such packages so received and marked for any election district [to] <u>shall</u> be delivered unopened and with the seals thereof unbroken to the inspectors of election of such election districts at least [one-half] <u>one</u> hour before the opening of the polls of such election therein, [and] <u>who</u> shall [take] <u>give</u> a receipt therefor speci-

fying the number and kind of packages delivered. [At the same time each such clerk shall cause to be delivered to such inspectors the equipment described in subdivision two of this section and shall cause a receipt to be taken therefor.

6.] 5. Town, city and village clerks required to provide official and sample ballots, registration records, seals, supplies and equipment, as described in this section, for town, city and village elections not conducted by the board of elections, shall in like manner, deliver them to the inspectors or presiding officers of the election at each polling place at which such meetings and elections are held, respectively, in like sealed packages marked on the outside in like manner, and shall take receipts therefor in like manner.

§ 5. Subdivision 1 of section 5-302 of the election law, as separately amended by chapter 164 and chapter 558 of the laws of 1985, is amended to read as follows:

1. Before placing the registration poll record in the poll ledger or in the computer generated registration list, the board shall enter in the space provided therefor [on the back of such registration poll record] the name of the party designated by the voter on his application form, provided such party continues to be a party as defined in this law. If such party ceases to be a party at any time, either before or after such enrollment is so entered, the enrollment of such voter shall be deemed to be blank and shall be entered as such until such voter files an application for change of enrollment pursuant to the provisions of this chapter. [In the city of New York the board shall also affix a gummed sticker of a different color for each party in a place on such registration poll record immediately adjacent to such entry.] The board shall enter the date of such entry and affix initials thereto in the space provided.

§ 6. Paragraph c of subdivision 3 of section 5-506 of the election law, as amended by chapter 659 of the laws of 1994, is amended to read as follows:

c. The computer generated registration list prepared for each election in each election district shall be [printed by a printer] prepared in a manner which meets or exceeds standards for clarity and speed of [reproduction] production established by the state board of elections, shall be in a form approved by such board, shall include the names of all voters eligible to vote in such election and shall be in alphabetical order, except that, at a primary election, the names of the voters enrolled in each political party may be placed in a separate part of the list or in a separate list, as the board of elections in its discretion, may determine. Such list shall contain, adjacent to each voter's name, or in a space so designated, at least the following: street address, date of birth, party enrollment, year of registration, a computer reproduced facsimile of the voter's signature or an indication that the voter is unable to sign his name, a place for the voter to sign his name at such election and a place for the inspectors to mark the voting machine number, the public counter number [and] if any, or the number of any paper ballots given the voter.

§ 7. Subdivision 2 of section 8-202 of the election law, as amended by chapter 164 of the laws of 2010, is amended to read as follows:

2. The exterior of any ballot scanner, ballot marking device and privacy booth and every part of the polling place shall be in plain view of the election inspectors and watchers. The ballot scanners, ballot marking devices, and privacy booths shall be placed at least four feet from the table used by the inspectors in charge of the poll [books]

ledger or computer generated registration list. The guard-rail shall be at least three feet from the machine and the table used by the inspectors. The election inspectors shall not themselves be, or allow any other person to be, in any position or near any position, that will permit one to see or ascertain how a voter votes, or how he or she has voted nor shall they permit any other person to be less than three feet from the ballot scanner, ballot marking device, or privacy booth while occupied. The election inspectors or clerks attending the ballot scanner, ballot marking device, or privacy booth shall regularly inspect the face of the ballot scanner, ballot marking device, or the interior of the privacy booth to see that the ballot scanner, ballot marking device, or privacy booth has not been damaged or tampered with. During elections the door or other covering of the counter compartment of the machine shall not be unlocked or opened except by a member of the board of elections, a voting machine custodian or any other person upon the specific instructions of the board of elections.

§ 8. Subdivisions 2, 2-a, 3, 4 and 5 of section 8-302 of the election law, subdivision 2-a as added by chapter 179 of the laws of 2005, subdivisions 3 and 4 as amended by chapter 200 of the laws of 1996, the opening paragraph of paragraph (e) of subdivision 3 as amended by chapter 125 of the laws of 2011 and subparagraph (ii) of paragraph (e) of subdivision 3 as amended by chapter 164 of the laws of 2010, are amended to read as follows:

2. The voter shall give [his] the voter's name and [his] the voter's residence address to the inspectors. An inspector shall then loudly and distinctly announce the name and residence of the voter.

2-a. (a) If a voter's name appears in the ledger or computer generated registration list with a notation indicating that the voter's identity was not yet verified as required by the federal Help America Vote Act, the inspector shall require that the voter produce one of the following types of identification before permitting the voter to cast his or her vote on the voting machine:

(i) a driver's license or department of motor vehicles non-driver photo ID card or other current and valid photo identification;

(ii) a copy of a current utility bill, bank statement, government check, paycheck or other government document that shows the name and address of the voter.

(b) If the voter produces an identification document listed in paragraph (a) of this subdivision, the inspector shall indicate so in the ledger or computer generated registration list, the voter will be deemed verified as required by the federal Help America Vote Act and the voter shall be permitted to cast his or her vote on the voting machine.

(c) If the voter does not produce an identification document listed in paragraph (a) of this subdivision, the voter shall only be entitled to vote by affidavit ballot unless a court order provides otherwise.

3. (a) If an applicant is challenged, the board, without delay, shall either enter his name in the second section of the challenge report together with the other entries required to be made in such section opposite the applicant's name or make an entry next to [his] the voter's name [on] in the computer generated registration list or in the place provided [at the end of] in the computer generated registration list.

(b) A person who claims to have moved to a new address within the election district in which he or she is registered to vote shall be permitted to vote in the same manner as other voters unless challenged on other grounds. The inspectors shall enter the names and new addresses of all such persons in either the first section of the challenge report

or in the place provided [at the end of] in the computer generated registration list and shall also enter the new address next to such person's address on such computer generated registration list. When the registration poll records of persons who have voted from new addresses within the same election district are returned to the board of elections, such board shall change the addresses on the face of such registration poll records without completely obliterating the old addresses and shall enter such new addresses and the new addresses for any such persons whose names were [on] in computer generated registration lists into its computer records for such persons.

(c) A person who claims a changed name shall be permitted to vote in the same manner as other voters unless challenged on other grounds. The inspectors shall either enter the names of all such persons in the first section of the challenge report or in the place provided [at the end of] in the computer generated registration list, in the form in which they are registered, followed in parentheses by the name as changed or enter the name as changed next to such voter's name on the computer generated registration list. The voter shall sign first on the registration poll record or [on] in the computer generated registration list, the name under which the voter is registered and, immediately above it, the new name, provided that [on] in such [a computer generated] registration list, the new name may be signed in the place provided [at the end of such list]. When the registration poll record of a person who has voted under a new name is returned to the board of elections, such board shall change [his] the voter's name on the face of each [of his] registration [records] record without completely obliterating the old one, and thereafter such person shall vote only under his or her new name. If a voter has signed a new name [on] in a computer generated registration list, such board shall enter such voter's new name and new signature in such voter's computer record.

(d) If an applicant requests assistance in voting and qualifies therefor, the board shall provide assistance as directed by this chapter, and shall without delay either enter such applicant's name and the other entries required in the third section of the challenge report or make an entry next to such applicant's name [on] in the computer generated registration list or in the place provided [at the end of the computer generated] in such registration list.

(e) Whenever a voter presents himself or herself and offers to cast a ballot, and he or she claims to live in the election district in which he or she seeks to vote but no registration poll record can be found for him or her in the poll ledger or his or her name does not appear [on] in the computer generated registration list or his or her signature does not appear next to his or her name [on] in such [computer generated] registration list or his or her registration poll record or the computer generated registration list does not show him or her to be enrolled in the party in which he or she claims to be enrolled, a poll clerk or election inspector shall consult a map, street finder or other description of all of the polling places and election districts within the political subdivision in which said election district is located and if necessary, contact the board of elections to obtain the relevant information and advise the voter of the correct polling place and election district for the residence address provided by the voter to such poll clerk or election inspector. Thereafter, such voter shall be permitted to vote in said election district only as hereinafter provided:

(i) He or she may present a court order requiring that he or she be permitted to vote. At a primary election, such a court order must specify the party in which the voter is permitted to vote. [He] The voter shall be required to sign [his] their full name on top of the first page of such order, together with [his] the voter's registration serial number, if any, and [his] the voter's name and the other entries required shall then be entered without delay in the fourth section of the challenge report or in the place provided [at the end of] in the computer generated registration list, or, if such person's name appears on [the computer generated] such registration list, the board of elections may provide a place to make such entry next to his or her name on such list. The voter shall then be permitted to vote in the manner otherwise prescribed for voters whose registration poll records are found in the ledger or whose names are found on the computer generated registration list; or

(ii) He or she may swear to and subscribe an affidavit stating that he or she has duly registered to vote, the address in such election district from which he or she registered, that he or she remains a duly qualified voter in such election district, that his or her registration poll record appears to be lost or misplaced or that his or her name and/or his or her signature was omitted from the computer generated registration list or that he or she has moved within the county or city since he or she last registered, the address from which he or she was previously registered and the address at which he or she currently resides, and at a primary election, the party in which he or she is enrolled. The inspectors of election shall offer such an affidavit to each such voter whose residence address is in such election district. Each such affidavit shall be in a form prescribed by the state board of elections, shall be printed on an envelope of the size and quality used for an absentee ballot envelope, and shall contain an acknowledgment that the affiant understands that any false statement made therein is perjury punishable according to law. Such form prescribed by the state board of elections shall request information required to register such voter should the county board determine that such voter is not registered and shall constitute an application to register to vote. The voter's name and the entries required shall then be entered without delay and without further inquiry in the fourth section of the challenge report or in the place provided [at the end of] in the computer generated registration list, with the notation that the voter has executed the affidavit hereinabove prescribed, or, if such person's name appears [on the computer generated] in such registration list, the board of elections may provide a place to make such entry next to his or her name [on] in such list. The voter shall then, without further inquiry, be permitted to vote an affidavit ballot provided for by this chapter. Such ballot shall thereupon be placed in the envelope containing his or her affidavit, and the envelope sealed and returned to the board of elections in the manner provided by this chapter for protested official ballots, including a statement of the number of such ballots.

4. At a primary election, a voter whose registration poll record is in the ledger or computer generated registration list shall be permitted to vote only in the primary of the party in which such record shows [him] the voter to be enrolled unless [he] the voter shall present a court order pursuant to the provisions of subparagraph (i) of paragraph (e) of subdivision three of this section requiring that [he] the voter be permitted to vote in the primary of another party, or unless [he] the voter shall present a certificate of enrollment issued by the board of

elections, not earlier than one month before such primary election, pursuant to the provisions of this chapter which certifies that [he] the voter is enrolled in a party other than the one in which such record shows [him] the voter to be enrolled, or unless he or she shall subscribe an affidavit pursuant to the provisions of subparagraph (ii) of paragraph (e) of subdivision three of this section.

5. Except for voters unable to sign their names, no person shall be permitted to vote without first identifying himself or herself as required by this chapter.

§ 9. Subdivisions 1, 2 and 3 of section 8-304 of the election law, subdivisions 1 and 2 as amended by chapter 425 of the laws of 1986, are amended to read as follows:

1. A person before being allowed to vote shall be required, except as provided in this chapter, to sign his or her name on the back of his or her registration poll record on the first line reserved for his or her signature at the time of election which is not filled with a previous signature, or [on the line of] in the space provided in the computer generated registration list reserved for [his] the voter's signature. The two inspectors in charge shall satisfy themselves by a comparison of this signature with [his] the voter's registration signature and by comparison of [his] the voter's appearance with the descriptive material on the face of the registration poll record that [he] the voter is the person registered. If they are so satisfied they shall enter the other information required for the election on the same line with the voter's latest signature, shall sign their names or initials in the spaces provided therefor, and shall permit the applicant to vote. Any inspector or inspectors not satisfied shall challenge the applicant forthwith.

2. If a person who alleges [his] an inability to sign his or her name presents himself or herself to vote, the board of inspectors shall permit [him] such person to vote, unless challenged on other grounds, provided [he] the voter had been permitted to register without signing [his] the voter's name. The board shall enter the words "Unable to Sign" in the space on [his] the voter's registration poll record reserved for [his] the voter's signature or on the line [of] or space the computer generated registration list reserved for [his] the voter's signature at such election. If [his] the voter's signature appears upon [his] the voter's registration record or [upon] in the computer generated registration list the board shall challenge [him] the voter forthwith, except that if such a person claims that he or she is unable to sign his or her name by reason of a physical disability incurred since [his] the voter's registration, the board, if convinced of the existence of such disability, shall permit him or her to vote, shall enter the words "Unable to Sign" and a brief description of such disability in the space reserved for [his] the voter's signature at such election. At each subsequent election, if such disability still exists, [he] the voter shall be entitled to vote without signing [his] their name and the board of inspectors, without further notation, shall enter the words "Unable to Sign" in the space reserved for [his] the voter's signature at such election.

3. The voter's facsimile signature [made by him upon registration and his signature made at subsequent elections] shall be effectively concealed from the voter by a blotter or [piece of opaque paper] other means until after the voter shall have completed [his] the signature.

§ 10. Subdivision 3 of section 8-306 of the election law, as amended by chapter 154 of the laws of 1991, is amended to read as follows:

3. Any voter who requires assistance to vote by reason of blindness, disability or inability to read or write may be given assistance by a

person of the voter's choice, other than the voter's employer or agent of the employer or officer or agent of the voter's union. A voter entitled to assistance in voting who does not select a particular person may be assisted by two election inspectors not of the same political faith. The inspectors or person assisting a voter shall enter the voting machine or booth with [him] the voter, help [him] the voter in the preparation of [his] the voter's ballot and, if necessary, in the return of the voted ballot to the inspectors for deposit in the ballot box. The inspectors shall enter in the [remarks space on the registration poll card of an assisted voter, or next to the name of] space provided for such voter [on] in the computer generated registration list, the name of each officer or person rendering such assistance.

§ 11. Subdivision 2 of section 8-508 of the election law, as amended by chapter 200 of the laws of 1996, is amended to read as follows:

2. (a) The first section of such report shall be reserved for the inspectors of election to enter the name, address and registration serial number of each person who claims a change in name, or a change of address within the election district, together with the new name or address of each such person. In lieu of preparing section one of the challenge list, the board of elections may provide, next to the name of each voter [on] in the computer generated registration list, a place for the inspectors of election to record the information required to be entered in such section one, or provide [at the end of such computer generated] elsewhere in such registration list, a place for the inspectors of election to enter such information.

(b) The second section of such report shall be reserved for the board of inspectors to enter the name, address and registration serial number of each person who is challenged on the day of election, together with the reason for the challenge. If no voters are challenged, the board of inspectors shall enter the words "No Challenges" across the space reserved for such names. In lieu of preparing section two of the challenge report, the board of elections may provide, next to the name of each voter [on] in the computer generated registration list, a place for the inspectors of election to record the information required to be entered in such section two, or provide [at the end of such computer generated] elsewhere in such registration list, a place for the inspectors of election to enter such information.

(c) The third section of such report shall be reserved for the board of inspectors to enter the name, address and registration serial number of each voter given assistance, together with the reason the voter was allowed assistance, the name of the person giving such assistance and his address if not an inspector. If no voters are given assistance, the board of inspectors shall enter the words "No Assistance" across the space reserved for such names. In lieu of providing section three of the challenge report, the board of elections may provide, next to the name of each voter [on] in the computer generated registration list, a place for the inspectors of election to record the information required to be entered in such section three, or provide [at the end of such computer generated] elsewhere in such registration list, a place for the inspectors of election to enter such information.

(d) The fourth section of such report shall be reserved for the board of inspectors to enter the name, address and registration serial number of each person who was permitted to vote pursuant to a court order, or to vote on a paper ballot which was inserted in an affidavit envelope. If there are no such names, such board shall enter the word "None" across the space provided for such names. In lieu of providing section

four of such report, the board of elections may provide, next to the name of each voter [on] in the computer generated registration list, a place for the inspectors of election to record the information required to be entered in such section four, or provide [at the end of the computer generated] elsewhere in such registration list, a place for the inspectors of election to enter such information.

(e) At the foot of such report [and] or at the end of any such computer generated registration list, if applicable, shall be [printed] a certificate that such report or list contains the names of all persons who were challenged on the day of election, and that each voter so reported as having been challenged took the oaths as required, that such report or list contains the names of all voters to whom such board gave or allowed assistance and lists the nature of the disability which required such assistance to be given and the names and family relationship, if any, to the voter of the persons by whom such assistance was rendered; that each such assisted voter informed such board under oath that he required such assistance and that each person rendering such assistance took the required oath; that such report or list contains the names of all voters who were permitted to vote although their registration poll records were missing; that the entries made by such board are a true and accurate record of its proceedings with respect to the persons named in such report or list.

(f) Upon the return of such report [and] or lists to the board of elections, it shall complete the investigation of voting qualifications of all persons named in the second section thereof or for whom entries were placed [on] in such computer generated registration lists in lieu of the preparation of the second section of the challenge report, and shall forthwith proceed to cancel the registration of any person who, as noted upon such report, or in such list, was challenged at such election and refused either to take a challenge oath or to answer any challenge question.

(g) The state board of elections shall prescribe a form of challenge report for use pursuant to the provisions of this section. Such form may require the insertion of such other information as the state board shall deem appropriate.

§ 12. Section 8-510 of the election law, the section heading as amended by chapter 373 of the laws of 1978, subdivision 1 as amended by chapter 200 of the laws of 1996, and subdivision 3 as amended by chapter 43 of the laws of 1988, is amended to read as follows:

§ 8-510. Challenge report; completion of and [closing of registration poll ledgers] procedure after. 1. Immediately after the close of the polls the board of inspectors of election shall verify the entries which it has made on the challenge report or [at the end of the] in the spaces provided in the computer generated registration list by comparing such entries with the information appearing on the registration poll records of the affected voters or the information appearing [next to the names of such voters on] in the spaces provided in the computer generated registration list. If it has made no entries in section two, three or four of such report it shall write across or note in such section the words "No challenges", "No assistance" or "None", as the case may be, as directed in this chapter.

2. After completing such report the inspectors shall sign [the] a certificate [at the end of] in the spaces provided by the county board of elections for such report.

3. The inspectors shall place such completed report, and each court order, if any, directing that a person be permitted to vote, [inside a]

in the secure container provided by the county board of elections for such ledger of registration records or computer generated registration lists [between the front cover, and the first registration record] and then shall close and seal each ledger of registration records or computer generated registration lists, [affix their signature to the seal,] lock such ledger in the carrying case furnished for that purpose and enclose the keys in a sealed package or seal such list in the envelope provided for that purpose.

§ 13. Clauses (C) and (D) of subparagraph (i) of paragraph (a) of subdivision 2 of section 9-209 of the election law, as amended by chapter 308 of the laws of 2011, are amended to read as follows:

(C) If such person is found to be registered and has not voted in person, an inspector shall compare the signature, if any, on each envelope with the signature, if any, on the registration poll record, the computer generated list of registered voters or the list of special presidential voters, of the person of the same name who registered from the same address. If the signatures are found to correspond, such inspector shall certify thereto by [signing] placing his or her initials in the ["Inspector's Initials" line on the] space provided in the computer generated list of registered voters [or in the "remarks" column as appropriate].

(D) If such person is found to be registered and has not voted in person, and if no challenge is made, or if a challenge made is not sustained, the envelope shall be opened, the ballot or ballots withdrawn without unfolding, and the ballot or ballots deposited in the proper ballot box or boxes, or envelopes, provided however that, in the case of a primary election, the ballot shall be deposited in the box only if the ballot is of the party with which the voter is enrolled according to the entry on the back of his or her registration poll record or [next to his or her name on] in the computer generated registration list; if not, the ballot shall be rejected without inspection or unfolding and shall be returned to the envelope which shall be endorsed "not enrolled." At the time of the deposit of such ballot or ballots in the box or envelopes, the inspectors shall enter the words "absentee vote" or "military vote" in the space reserved for the voter's signature on the aforesaid list or in the "remarks" [column] space as appropriate, and shall enter the year and month of the election on the same line in the spaces provided therefor.

§ 14. Subdivision 4 of section 11-206 of the election law, as amended by chapter 91 of the laws of 1992, is amended to read as follows:

4. The registration poll records of special federal voters shall be filed, in alphabetical order, by election district. At each election at which [the ballots of] special federal voters are [delivered to the inspectors of election in each election district] eligible to vote, the registration poll records of all special federal voters [eligible to vote at such election] shall be delivered to such inspectors of election together with the other registration poll records or the names of such voters shall be included [on] in the computer generated registration list. Such records shall be delivered either in a separate poll ledger or a separate, clearly marked section, of the main poll ledger or [in a separate,] be clearly marked[, section of] in the computer generated registration list as the board of elections shall determine.

§ 15. This act shall take effect on the first of January next succeeding the date on which it shall have become a law.

PART HHH

Section 1. Section 14-116 of the election law, subdivision 1 as redesignated by chapter 9 of the laws of 1978 and subdivision 2 as amended by chapter 260 of the laws of 1981, is amended to read as follows:

§ 14-116. Political contributions by certain organizations. 1. No corporation [or]<u>, limited liability company,</u> joint-stock association <u>or other corporate entity</u> doing business in this state, except a corporation or association organized or maintained for political purposes only, shall directly or indirectly pay or use or offer, consent or agree to pay or use any money or property for or in aid of any political party, committee or organization, or for, or in aid of, any corporation, <u>limited liability company,</u> joint-stock [or]<u>,</u> other association<u>, or other corporate entity</u> organized or maintained for political purposes, or for, or in aid of, any candidate for political office or for nomination for such office, or for any political purpose whatever, or for the reimbursement or indemnification of any person for moneys or property so used. Any officer, director, stock-holder, <u>member, owner,</u> attorney or agent of any corporation [or]<u>, limited liability company,</u> joint-stock association <u>or other corporate entity</u> which violates any of the provisions of this section, who participates in, aids, abets or advises or consents to any such violations, and any person who solicits or knowingly receives any money or property in violation of this section, shall be guilty of a misdemeanor.

2. Notwithstanding the provisions of subdivision one of this section, any corporation or an organization financially supported in whole or in part, by such corporation<u>, any limited liability company or other corporate entity</u> may make expenditures, including contributions, not otherwise prohibited by law, for political purposes, in an amount not to exceed five thousand dollars in the aggregate in any calendar year; provided that no public utility shall use revenues received from the rendition of public service within the state for contributions for political purposes unless such cost is charged to the shareholders of such a public service corporation.

<u>3. Each limited liability company that makes an expenditure for political purposes shall file with the state board of elections, by December thirty-first of the year in which the expenditure is made, on the form prescribed by the state board of elections, the identity of all direct and indirect owners of the membership interests in the limited liability company and the proportion of each direct or indirect member's ownership interest in the limited liability company.</u>

§ 2. Section 14-120 of the election law is amended by adding a new subdivision 3 to read as follows:

<u>3. (a) Notwithstanding any law to the contrary, all contributions made to a campaign or political committee by a limited liability company shall be attributed to each member of the limited liability company in proportion to the member's ownership interest in the limited liability company.</u>

<u>(b) If, by application of paragraph (a) of this subdivision, a campaign contribution is attributed to a limited liability company, the contributions shall be further attributed to each member of the limited liability company in proportion to the member's ownership interest in the limited liability company.</u>

<u>(c) The state board of elections shall enact regulations that prevent the avoidance of the rules set forth in paragraphs (a) and (b) of this subdivision.</u>

§ 3. This act shall take effect on the seventh day after it shall have become a law.

PART III

Section 1. Section 3-400 of the election law is amended by adding a new subdivision 9 to read as follows:

9. Notwithstanding any inconsistent provisions of this article, election inspectors or poll clerks, if any, at polling places for early voting, shall consist of either board of elections employees who shall be appointed by the commissioners of such board or duly qualified individuals, appointed in the manner set forth in this section. Appointments to the offices of election inspector or poll clerk in each polling place for early voting shall be equally divided between the major political parties. The board of elections shall assign staff and provide the resources they require to ensure wait times at early voting sites do not exceed thirty minutes.

§ 2. Section 4-117 of the election law is amended by adding a new subdivision 1-a to read as follows:

1-a. The notice required by subdivision one of this section shall include the dates, hours and locations of early voting for the general and primary election. The board of elections may satisfy the notice requirement of this subdivision by providing in the notice instructions to obtain the required early voting information from a website of the board of elections and providing a phone number to call for such information.

§ 3. Subdivision 2 of section 8-100 of the election law, as amended by chapter 367 of the laws of 2017, is amended to read as follows:

2. Polls shall be open for voting during the following hours: a primary election from twelve o'clock noon until nine o'clock in the evening, except in the city of New York and the counties of Nassau, Suffolk, Westchester, Rockland, Orange, Putnam, Dutchess and Erie, and in such city or county from six o'clock in the morning until nine o'clock in the evening; the general election from six o'clock in the morning until nine o'clock in the evening; a special election called by the governor pursuant to the public officers law, and, except as otherwise provided by law, every other election, from six o'clock in the morning until nine o'clock in the evening; early voting hours shall be as provided in section 8-600 of this article.

§ 4. Subdivision 1 of section 8-102 of the election law is amended by adding a new paragraph (k) to read as follows:

(k) Voting at each polling place for early voting shall be conducted in a manner consistent with the provisions of this article, with the exception of the tabulation and proclamation of election results which shall be completed according to subdivisions eight and nine of section 8-600 of this article.

§ 5. Section 8-104 of the election law is amended by adding a new subdivision 7 to read as follows:

7. This section shall apply on all early voting days as provided for in section 8-600 of this article.

§ 6. Subparagraph (ii) of paragraph (e) of subdivision 3 and subdivision 3-a of section 8-302 of the election law, subparagraph (ii) of paragraph (e) of subdivision 3 as amended by chapter 164 of the laws of 2010 and subdivision 3-a as amended by chapter 511 of the laws of 1985, are amended to read as follows:

(ii) He or she may swear to and subscribe an affidavit stating that he or she has duly registered to vote, the address in such election district from which he or she registered, that he or she remains a duly qualified voter in such election district, that his or her registration

poll record appears to be lost or misplaced or that his or her name and/or his or her signature was omitted from the computer generated registration list or such record indicates the voter already voted when he or she did not do so or that he or she has moved within the county or city since he or she last registered, the address from which he or she was previously registered and the address at which he or she currently resides, and at a primary election, the party in which he or she is enrolled. The inspectors of election shall offer such an affidavit to each such voter whose residence address is in such election district. Each such affidavit shall be in a form prescribed by the state board of elections, shall be printed on an envelope of the size and quality used for an absentee ballot envelope, and shall contain an acknowledgment that the affiant understands that any false statement made therein is perjury punishable according to law. Such form prescribed by the state board of elections shall request information required to register such voter should the county board determine that such voter is not registered and shall constitute an application to register to vote. The voter's name and the entries required shall then be entered without delay and without further inquiry in the fourth section of the challenge report or in the place provided at the end of the computer generated registration list, with the notation that the voter has executed the affidavit hereinabove prescribed, or, if such person's name appears on the computer generated registration list, the board of elections may provide a place to make such entry next to his or her name on such list. The voter shall then, without further inquiry, be permitted to vote an affidavit ballot provided for by this chapter. Such ballot shall thereupon be placed in the envelope containing his or her affidavit, and the envelope sealed and returned to the board of elections in the manner provided by this chapter for protested official ballots, including a statement of the number of such ballots.

3-a. The inspectors shall also give to every person whose address is in such election district for whom no registration poll record can be found and, in a primary election, to every voter whose registration poll record does not show him to be enrolled in the party in which he wishes to be enrolled or who claims to be incorrectly identified as having already voted, a copy of a notice, in a form prescribed by the state board of elections, advising such person of his right to, and of the procedures by which he may, cast an affidavit ballot or seek a court order permitting him to vote, and shall also give every such person who does not cast an affidavit ballot, an application for registration by mail.

§ 7. Paragraph (b) of subdivision 2 of section 8-508 of the election law, as amended by chapter 200 of the laws of 1996, is amended to read as follows:

(b) The second section of such report shall be reserved for the board of inspectors to enter the name, address and registration serial number of each person who is challenged on the day of election or on any day in which there is early voting pursuant to section 8-600 of this article, together with the reason for the challenge. If no voters are challenged, the board of inspectors shall enter the words "No Challenges" across the space reserved for such names. In lieu of preparing section two of the challenge report, the board of elections may provide, next to the name of each voter on the computer generated registration list, a place for the inspectors of election to record the information required to be entered in such section two, or provide at the end of such comput-

er generated registration list, a place for the inspectors of election to enter such information.

§ 8. Article 8 of the election law is amended by adding a new title 6 to read as follows:

TITLE VI

EARLY VOTING

Section 8-600. Early voting.

8-602. State board of elections; powers and duties for early voting.

§ 8-600. Early voting. 1. Beginning the eighth day prior to any general, primary or special election for any public or party office, and ending on and including the second day prior to such general, primary or special election for such public or party office, persons duly registered and eligible to vote at such election shall be permitted to vote as provided in this title. The board of elections of each county and the city of New York shall establish procedures, subject to approval of the state board of elections, to ensure that persons who vote during the early voting period shall not be permitted to vote subsequently in the same election.

2. (a) The board of elections of each county or the city of New York shall designate polling places for early voting in each county, which may include the offices of the board of elections, for persons to vote early pursuant to this section. There shall be so designated at least one early voting polling place for every full increment of fifty thousand registered voters in each county; provided, however, the number of early voting polling places in a county shall not be required to be greater than seven, and a county with fewer than fifty thousand voters shall have at least one early voting polling place.

(b) The board of elections of each county or the city of New York may establish additional polling places for early voting in excess of the minimum number required by this subdivision for the convenience of eligible voters wishing to vote during the early voting period.

(c) Notwithstanding the minimum number of early voting poll sites otherwise required by this subdivision, for any primary or special election, upon majority vote of the board of elections, the number of early voting sites may be reduced if the board of elections reasonably determines a lesser number of sites is sufficient to meet the needs of early voters.

(d) Polling places for early voting shall be located to ensure, to the extent practicable, that eligible voters have adequate equitable access, taking into consideration population density, travel time to the polling place, proximity to other locations or commonly used transportation routes and such other factors the board of elections of the county or the city of New York deems appropriate. The provisions of section 4-104 of this chapter, except subdivisions four and five of such section, shall apply to the designation of polling places for early voting except to the extent such provisions are inconsistent with this section.

3. Any person permitted to vote early may do so at any polling place for early voting established pursuant to subdivision two of this section in the county where such voter is registered to vote. Provided, however, (a) if it is impractical to provide each polling place for early voting all appropriate ballots for each election to be voted on in the county, or (b) if permitting such persons to vote early at any polling place established for early voting would make it impractical to ensure that such voter has not previously voted early during such election, the board of elections may designate each polling place for early voting

only for those voters registered to vote in a portion of the county to be served by such polling place for early voting, provided that all voters in each county shall have one or more polling places at which they are eligible to vote throughout the early voting period on a substantially equal basis.

4. (a) Polls shall be open for early voting for at least eight hours between seven o'clock in the morning and eight o'clock in the evening each week day during the early voting period.

(b) At least one polling place for early voting shall remain open until eight o'clock in the evening on at least two week days in each calendar week during the early voting period. If polling places for early voting are limited to voters from certain areas pursuant to subdivision three of this section, polling places that remain open until eight o'clock shall be designated such that any person entitled to vote early may vote until eight o'clock in the evening on at least two week days during the early voting period.

(c) Polls shall be open for early voting for at least five hours between nine o'clock in the morning and six o'clock in the evening on each Saturday, Sunday and legal holiday during the early voting period.

(d) Nothing in this section shall be construed to prohibit any board of elections from establishing a greater number of hours for voting during the early voting period beyond the number of hours required in this subdivision.

(e) Early voting polling places and their hours of operation for early voting at a general election shall be designated by May first of each year pursuant to subdivision one of section 4-104 of this chapter. Notwithstanding the provisions of subdivision one of section 4-104 of this chapter requiring poll site designation by May first, early voting polling places and their hours of operation for early voting for a primary or special election shall be made not later than forty-five days before such primary or special election.

5. Each board of elections shall create a communication plan to inform eligible voters of the opportunity to vote early. Such plan may utilize any and all media outlets, including social media, and shall publicize: the location and dates and hours of operation of all polling places for early voting; an indication of whether each polling place is accessible to voters with physical disabilities; a clear and unambiguous notice to voters that if they cast a ballot during the early voting period they will not be allowed to vote election day; and if polling places for early voting are limited to voters from certain areas pursuant to subdivision three of this section, the location of the polling places for early voting serving the voters of each particular city, town or other political subdivision.

6. The form of paper ballots used in early voting shall comply with the provisions of article seven of this chapter that are applicable to voting by paper ballot on election day and such ballot shall be cast in the same manner as provided for in section 8-312 of this article, provided, however, that ballots cast during the early voting period shall be secured in the manner of voted ballots cast on election day and such ballots shall not be canvassed or examined until after the close of the polls on election day, and no unofficial tabulations of election results shall be printed or viewed in any manner until after the close of polls on election day.

7. Voters casting ballots pursuant to this title shall be subject to challenge as provided in sections 8-500, 8-502 and 8-504 of this article.

8. Notwithstanding any other provisions of this chapter, at the end of each day of early voting, any early voting ballots that have not been scanned because a ballot scanner was not available or because the ballot has been abandoned by the voter at the ballot scanner shall be cast in a manner consistent with section 9-110 of this chapter, except that such ballots which cannot then be cast on a ballot scanner shall be held inviolate and unexamined and shall be duly secured until after the close of polls on election day when such ballots shall be examined and canvassed in a manner consistent with subdivision two of section 9-110 of this chapter.

9. The board of elections shall secure all ballots and scanners used for early voting from the beginning of the early voting period through the close of the polls on election day; provided, however, the state board of elections may by regulation duly adopted by a majority of such board establish a procedure whereby ballot scanners used for early voting may also be used on election day if the portable memory devices used during early voting containing the early voting election information and vote tabulations are properly secured apart from the scanners, and the results therefrom shall be duly canvassed after the close of polls on election day.

10. After the close of polls on election day, inspectors or board of elections employees appointed to canvass ballots cast during early voting shall follow all relevant provisions of article nine of this chapter that are not inconsistent with this section, for canvassing, processing, recording, and announcing results of voting at polling places for early voting, and securing ballots, scanners, and other election materials. Such canvass may occur at the offices of the board of elections, at the early voting polling place or such other location designated by the board of elections.

11. Notwithstanding the requirements of this title requiring the canvass of ballots cast during early voting after the close of polls on election day, such canvass may begin one hour before the scheduled close of polls on election day provided the board of elections adopts procedures to prevent the public release of election results prior to the close of polls on election day and such procedures shall be consistent with the regulations of the state board of elections and shall be filed with the state board of elections at least thirty days before they shall be effective.

§ 8-602. State board of elections; powers and duties for early voting. Any rule or regulation necessary for the implementation of the provisions of this title shall be promulgated by the state board of elections provided that such rules and regulations shall include provisions to ensure that ballots cast early, by any method allowed under law, are counted and canvassed as if cast on election day. The state board of elections shall promulgate any other rules and regulations necessary to ensure an efficient and fair early voting process that respects the privacy of the voter. Provided, further, that such rules and regulations shall require that the voting history record for each voter be continually updated to reflect each instance of early voting by such voter.

§ 9. The opening paragraph of section 9-209 of the election law, as amended by chapter 163 of the laws of 2010, is amended to read as follows:

Before completing the canvass of votes cast in any primary, general, special, or other election at which voters are required to sign their registration poll records before voting, the board of elections shall

proceed in the manner hereinafter prescribed to cast and canvass any absentee, military, special presidential, special federal or other special ballots and any ballots voted by voters who moved within the county or city after registering, voters who are in inactive status, voters whose registration was incorrectly transferred to another address even though they did not move, voters whose registration poll records were missing on the day of such election, voters who have not had their identity previously verified and voters whose registration poll records did not show them to be enrolled in the party in which they claimed to be enrolled and voters incorrectly identified as having already voted. Each such ballot shall be retained in the original envelope containing the voter's affidavit and signature, in which it is delivered to the board of elections until such time as it is to be cast and canvassed.

§ 10. This act shall take effect on the first of January next succeeding the date on which it shall have become a law and shall apply to any election held 120 days or more after it shall have taken effect.

§ 2. Severability clause. If any clause, sentence, paragraph, subdivision, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the intent of the legislature that this act would have been enacted even if such invalid provisions had not been included herein.

§ 3. This act shall take effect immediately provided, however, that the applicable effective date of Parts A through III of this act shall be as specifically set forth in the last section of such Parts.