

STATE OF NEW YORK

S. 7511--A

A. 9511--A

SENATE - ASSEMBLY

January 18, 2018

IN SENATE -- A BUDGET BILL, submitted by the Governor pursuant to article seven of the Constitution -- read twice and ordered printed, and when printed to be committed to the Committee on Finance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

IN ASSEMBLY -- 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

AN ACT 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 (Part A); 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 (Part B); to amend the public health law, in relation to establishing a maternal mortality review board (Part C); to amend the education law, in relation to appointees to the state board for medicine (Part 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 (Part E); to amend the penal law, in relation to establishing the new crimes of sexual extortion in the first, second and third degrees; to amend the family court act and the criminal procedure law, in relation to adding unlawful publication of sexual images and sexual extortion as crimes over which family courts and criminal courts have concurrent jurisdiction in certain circumstances; to amend the penal law, in relation to establishing the new crime of unlawful publication of sexual images; and to amend the

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

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correction law, in relation to the definition of the term "sex offense" (Part F); to amend the public health law, in relation to extending the time of storage of forensic rape kits by hospitals; and repealing certain provisions of such law relating thereto (Part G); to amend the executive law, in relation to expanding the scope of unlawful discriminatory practices to include public educational institutions (Part H); to amend the state finance law, in relation to requiring contractors that do business with the state to annually report the number of sexual harassment violations (Subpart A); to amend the general business law, in relation to discrimination based upon sexual harassment (Subpart B); to amend the executive law and the public officers law, in relation to individual liability for sexual harassment (Subpart C); to amend the executive law and the general municipal law, in relation to the entering of confidential settlements (Subpart D); to amend the public officers law and the executive law, in relation to sexual harassment violations and establishing a unit to receive and investigate such claims (Subpart E); and to amend the executive law, the legislative law, the judiciary law, the general municipal law and the public authorities law, in relation to uniform standards for sexual harassment polices for all branches of state and local governments (Subpart F) (Part I); relating to the creation of computer science education standards (Part J); to amend the education law, in relation to the creation of the "Be Aware, Be Informed" awareness, prevention and education program (Part K); to amend the public health law, in relation to providing feminine hygiene products in public schools (Part L); and 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 (Part M)

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

1 Section 1. This act enacts into law major components of legislation
2 relating to the Women's Agenda. Each component is wholly contained with-
3 in a Part identified as Parts A through M. The effective date for each
4 particular provision contained within such Part is set forth in the last
5 section of such Part. Any provision in any section contained within a
6 Part, including the effective date of the Part, which makes a reference
7 to a section "of this act", when used in connection with that particular
8 component, shall be deemed to mean and refer to the corresponding
9 section of the Part in which it is found. Section three of this act sets
10 forth the general effective date of this act.

11

PART A

12 Section 1. Paragraph 16 of subsection (1) of section 3221 of the
13 insurance law, as added by chapter 554 of the laws of 2002, is amended
14 to read as follows:

15 (16) (A) Every group or blanket policy [which provides coverage for
16 prescription drugs shall include coverage for the cost of contraceptive
17 drugs or devices approved by the federal food and drug administration or
18 generic equivalents approved as substitutes by such food and drug admin-
19 istration under the prescription of a health care provider legally
20 authorized to prescribe under title eight of the education law. The

1 coverage required by this section shall be included in policies and
2 certificates only through the addition of a rider.

3 (A) that is issued, amended, renewed, effective or delivered on or
4 after January first, two thousand nineteen, shall provide coverage for
5 all of the following services and contraceptive methods:

6 (1) All FDA-approved contraceptive drugs, devices, and other products.
7 This includes all FDA-approved over-the-counter contraceptive drugs,
8 devices, and products as prescribed or as otherwise authorized under
9 state or federal law. The following applies to this coverage:

10 (a) where the FDA has approved one or more therapeutic and pharmaceu-
11 tical equivalent, as defined by the FDA, versions of a contraceptive
12 drug, device, or product, a group or blanket policy is not required to
13 include all such therapeutic and pharmaceutical equivalent versions in
14 its formulary, so long as at least one is included and covered without
15 cost-sharing and in accordance with this paragraph;

16 (b) if the covered therapeutic and pharmaceutical equivalent versions
17 of a drug, device, or product are not available or are deemed medically
18 inadvisable a group or blanket policy shall provide coverage for an
19 alternate therapeutic and pharmaceutical equivalent version of the
20 contraceptive drug, device, or product without cost-sharing;

21 (c) this coverage shall include emergency contraception without cost-
22 sharing when provided pursuant to an ordinary prescription, non-patient
23 specific regimen order, or order under section sixty-eight hundred thir-
24 ty-one of the education law and when lawfully provided other than
25 through a prescription or order; and

26 (d) this coverage must allow for the dispensing of twelve months worth
27 of a contraceptive at one time;

28 (2) Voluntary sterilization procedures;

29 (3) Patient education and counseling on contraception; and

30 (4) Follow-up services related to the drugs, devices, products, and
31 procedures covered under this paragraph, including, but not limited to,
32 management of side effects, counseling for continued adherence, and
33 device insertion and removal.

34 (B) A group or blanket policy subject to this paragraph shall not
35 impose a deductible, coinsurance, copayment, or any other cost-sharing
36 requirement on the coverage provided pursuant to this paragraph.

37 (C) Except as otherwise authorized under this paragraph, a group or
38 blanket policy shall not impose any restrictions or delays on the cover-
39 age required under this paragraph.

40 (D) Benefits for an enrollee under this paragraph shall be the same
41 for an enrollee's covered spouse or domestic partner and covered
42 nonspouse dependents.

43 (E) Notwithstanding any other provision of this subsection, a reli-
44 gious employer may request a contract without coverage for federal food
45 and drug administration approved contraceptive methods that are contrary
46 to the religious employer's religious tenets. If so requested, such
47 contract shall be provided without coverage for contraceptive methods.
48 This paragraph shall not be construed to deny an enrollee coverage of,
49 and timely access to, contraceptive methods.

50 (1) For purposes of this subsection, a "religious employer" is an
51 entity for which each of the following is true:

52 (a) The inculcation of religious values is the purpose of the entity.

53 (b) The entity primarily employs persons who share the religious
54 tenets of the entity.

55 (c) The entity serves primarily persons who share the religious tenets
56 of the entity.

1 (d) The entity is a nonprofit organization as described in Section
2 6033(a)(2)(A)i or iii, of the Internal Revenue Code of 1986, as amended.

3 (2) Every religious employer that invokes the exemption provided under
4 this paragraph shall provide written notice to prospective enrollees
5 prior to enrollment with the plan, listing the contraceptive health care
6 services the employer refuses to cover for religious reasons.

7 [(B) (i)] (F) (1) Where a group policyholder makes an election not to
8 purchase coverage for contraceptive drugs or devices in accordance with
9 subparagraph [(A)] (E) of this paragraph each certificateholder covered
10 under the policy issued to that group policyholder shall have the right
11 to directly purchase the rider required by this paragraph from the
12 insurer which issued the group policy at the prevailing small group
13 community rate for such rider whether or not the employee is part of a
14 small group.

15 [(ii)] (2) Where a group policyholder makes an election not to
16 purchase coverage for contraceptive drugs or devices in accordance with
17 subparagraph [(A)] (E) of this paragraph, the insurer that provides such
18 coverage shall provide written notice to certificateholders upon enroll-
19 ment with the insurer of their right to directly purchase a rider for
20 coverage for the cost of contraceptive drugs or devices. The notice
21 shall also advise the certificateholders of the additional premium for
22 such coverage.

23 [(C)] (G) Nothing in this paragraph shall be construed as authorizing
24 a group or blanket policy which provides coverage for prescription drugs
25 to exclude coverage for prescription drugs prescribed for reasons other
26 than contraceptive purposes.

27 [(D) Such coverage may be subject to reasonable annual deductibles and
28 coinsurance as may be deemed appropriate by the superintendent and as
29 are consistent with those established for other drugs or devices covered
30 under the policy.]

31 § 2. Subsection (cc) of section 4303 of the insurance law, as added by
32 chapter 554 of the laws of 2002, is amended to read as follows:

33 (cc) (1) Every contract [which provides coverage for prescription
34 drugs shall include coverage for the cost of contraceptive drugs or
35 devices approved by the federal food and drug administration or generic
36 equivalents approved as substitutes by such food and drug administration
37 under the prescription of a health care provider legally authorized to
38 prescribe under title eight of the education law. The coverage required
39 by this section shall be included in contracts and certificates only
40 through the addition of a rider.

41 (1)] that is issued, amended, renewed, effective or delivered on or
42 after January first, two thousand nineteen, shall provide coverage for
43 all of the following services and contraceptive methods:

44 (A) All FDA-approved contraceptive drugs, devices, and other products.
45 This includes all FDA-approved over-the-counter contraceptive drugs,
46 devices, and products as prescribed or as otherwise authorized under
47 state or federal law. The following applies to this coverage:

48 (i) where the FDA has approved one or more therapeutic and pharmaceu-
49 tical equivalent, as defined by the FDA, versions of a contraceptive
50 drug, device, or product, a contract is not required to include all such
51 therapeutic and pharmaceutical equivalent versions in its formulary, so
52 long as at least one is included and covered without cost-sharing and in
53 accordance with this subsection;

54 (ii) if the covered therapeutic and pharmaceutical equivalent versions
55 of a drug, device, or product are not available or are deemed medically
56 inadvisable a contract shall provide coverage for an alternate therapeu-

1 tic and pharmaceutical equivalent version of the contraceptive drug,
2 device, or product without cost-sharing;

3 (iii) this coverage shall include emergency contraception without
4 cost-sharing when provided pursuant to an ordinary prescription, non-pa-
5 tient specific regimen order, or order under section sixty-eight hundred
6 thirty-one of the education law and when lawfully provided other than
7 through a prescription or order; and

8 (iv) this coverage must allow for the dispensing of twelve months
9 worth of a contraceptive at one time;

10 (B) Voluntary sterilization procedures;

11 (C) Patient education and counseling on contraception; and

12 (D) Follow-up services related to the drugs, devices, products, and
13 procedures covered under this subsection, including, but not limited to,
14 management of side effects, counseling for continued adherence, and
15 device insertion and removal.

16 (2) A contract subject to this subsection shall not impose a deduct-
17 ible, coinsurance, copayment, or any other cost-sharing requirement on
18 the coverage provided pursuant to this subsection.

19 (3) Except as otherwise authorized under this subsection, a contract
20 shall not impose any restrictions or delays on the coverage required
21 under this subsection.

22 (4) Benefits for an enrollee under this subsection shall be the same
23 for an enrollee's covered spouse or domestic partner and covered
24 nonspouse dependents.

25 (5) Notwithstanding any other provision of this subsection, a reli-
26 gious employer may request a contract without coverage for federal food
27 and drug administration approved contraceptive methods that are contrary
28 to the religious employer's religious tenets. If so requested, such
29 contract shall be provided without coverage for contraceptive methods.
30 This paragraph shall not be construed to deny an enrollee coverage of,
31 and timely access to, contraceptive methods.

32 (A) For purposes of this subsection, a "religious employer" is an
33 entity for which each of the following is true:

34 (i) The inculcation of religious values is the purpose of the entity.

35 (ii) The entity primarily employs persons who share the religious
36 tenets of the entity.

37 (iii) The entity serves primarily persons who share the religious
38 tenets of the entity.

39 (iv) The entity is a nonprofit organization as described in Section
40 6033(a)(2)(A)i or iii, of the Internal Revenue Code of 1986, as amended.

41 (B) Every religious employer that invokes the exemption provided under
42 this paragraph shall provide written notice to prospective enrollees
43 prior to enrollment with the plan, listing the contraceptive health care
44 services the employer refuses to cover for religious reasons.

45 [(2)](6) (A) Where a group contractholder makes an election not to
46 purchase coverage for contraceptive drugs or devices in accordance with
47 paragraph [one] five of this subsection, each enrollee covered under the
48 contract issued to that group contractholder shall have the right to
49 directly purchase the rider required by this subsection from the insurer
50 or health maintenance organization which issued the group contract at
51 the prevailing small group community rate for such rider whether or not
52 the employee is part of a small group.

53 (B) Where a group contractholder makes an election not to purchase
54 coverage for contraceptive drugs or devices in accordance with paragraph
55 [one] five of this subsection, the insurer or health maintenance organ-
56 ization that provides such coverage shall provide written notice to

1 enrollees upon enrollment with the insurer or health maintenance organ-
2 ization of their right to directly purchase a rider for coverage for the
3 cost of contraceptive drugs or devices. The notice shall also advise the
4 enrollees of the additional premium for such coverage.

5 [(3)](7) Nothing in this subsection shall be construed as authorizing
6 a contract which provides coverage for prescription drugs to exclude
7 coverage for prescription drugs prescribed for reasons other than
8 contraceptive purposes.

9 [(4) Such coverage may be subject to reasonable annual deductibles and
10 coinsurance as may be deemed appropriate by the superintendent and as
11 are consistent with those established for other drugs or devices covered
12 under the policy.]

13 § 3. Subparagraph (E) of paragraph 17 of subsection (i) of section
14 3216 of the insurance law is amended by adding a new clause (v) to read
15 as follows:

16 (v) all FDA-approved contraceptive drugs, devices, and other products,
17 including all over-the-counter contraceptive drugs, devices, and
18 products as prescribed or as otherwise authorized under state or federal
19 law; voluntary sterilization procedures; patient education and coun-
20 seling on contraception; and follow-up services related to the drugs,
21 devices, products, and procedures covered under this clause, including,
22 but not limited to, management of side effects, counseling for continued
23 adherence, and device insertion and removal. Except as otherwise author-
24 ized under this clause, a contract shall not impose any restrictions or
25 delays on the coverage required under this clause. However, where the
26 FDA has approved one or more therapeutic and pharmaceutical equivalent,
27 as defined by the FDA, versions of a contraceptive drug, device, or
28 product, a contract is not required to include all such therapeutic and
29 pharmaceutical equivalent versions in its formulary, so long as at least
30 one is included and covered without cost-sharing and in accordance with
31 this clause. If the covered therapeutic and pharmaceutical equivalent
32 versions of a drug, device, or product are not available or are deemed
33 medically inadvisable a contract shall provide coverage for an alternate
34 therapeutic and pharmaceutical equivalent version of the contraceptive
35 drug, device, or product without cost-sharing. This coverage shall
36 include emergency contraception without cost-sharing when provided
37 pursuant to an ordinary prescription, non-patient specific regimen
38 order, or order under section sixty-eight hundred thirty-one of the
39 education law and when lawfully provided other than through a
40 prescription or order; and this coverage must allow for the dispensing
41 of twelve months worth of a contraceptive at one time.

42 § 4. Paragraph (d) of subdivision 3 of section 365-a of the social
43 services law, as amended by chapter 909 of the laws of 1974 and as
44 relettered by chapter 82 of the laws of 1995, is amended to read as
45 follows:

46 (d) family planning services and supplies for eligible persons of
47 childbearing age, including children under twenty-one years of age who
48 can be considered sexually active, who desire such services and
49 supplies, in accordance with the requirements of federal law and regu-
50 lations and the regulations of the department. Coverage of prescription
51 contraceptives, excluding emergency contraception, shall include the
52 dispensing of a twelve-month supply at one time. Notwithstanding any
53 inconsistent provision of law, the provision of a twelve-month supply of
54 contraceptives under the Medicaid program shall not apply to emergency
55 contraception. A prescription for contraceptives, with the exception of
56 a prescription for emergency contraception, may be filled twelve times

1 within one year from the date the prescriber initiated the prescription.
2 No person shall be compelled or coerced to accept such services or
3 supplies.

4 § 5. Subdivision 6 of section 6527 of the education law, as added by
5 chapter 573 of the laws of 1999, paragraph (c) as amended by chapter 464
6 of the laws of 2015, paragraph (d) as added by chapter 429 of the laws
7 of 2005, paragraph (e) as added by chapter 352 of the laws of 2014,
8 paragraph (f) as added by section 6 of part V of chapter 57 of the laws
9 of 2015 and paragraph (g) as added by chapter 502 of the laws of 2016,
10 is amended to read as follows:

11 6. A licensed physician may prescribe and order a non-patient specific
12 regimen [to a registered professional nurse], pursuant to regulations
13 promulgated by the commissioner, and consistent with the public health
14 law, [for] to:

15 (a) a registered professional nurse for:

16 (i) administering immunizations[.];

17 [(b)] (ii) the emergency treatment of anaphylaxis[.];

18 [(c)] (iii) administering purified protein derivative (PPD) tests or
19 other tests to detect or screen for tuberculosis infections[.];

20 [(d)] (iv) administering tests to determine the presence of the human
21 immunodeficiency virus[.];

22 [(e)] (v) administering tests to determine the presence of the hepati-
23 tis C virus[.];

24 [(f)] (vi) emergency contraception, to be administered to or dispensed
25 to be self-administered by the patient, under section sixty-eight
26 hundred thirty-two of this title;

27 (vii) the urgent or emergency treatment of opioid related overdose or
28 suspected opioid related overdose[.]; or

29 [(g)] (viii) screening of persons at increased risk of syphilis,
30 gonorrhea and chlamydia.

31 (b) a licensed pharmacist, for dispensing emergency contraception, to
32 be self-administered by the patient, under section sixty-eight hundred
33 thirty-two of this title.

34 § 6. Subdivision 3 of section 6807 of the education law, as added by
35 chapter 573 of the laws of 1999, is amended and a new subdivision 4 is
36 added to read as follows:

37 3. A pharmacist may dispense drugs and devices to a registered profes-
38 sional nurse, and a registered professional nurse may possess and admin-
39 ister, drugs and devices, pursuant to a non-patient specific regimen
40 prescribed or ordered by a licensed physician, licensed midwife or
41 certified nurse practitioner, pursuant to regulations promulgated by the
42 commissioner and the public health law.

43 4. A pharmacist may dispense a non-patient specific regimen of emer-
44 gency contraception, to be self-administered by the patient, prescribed
45 or ordered by a licensed physician, certified nurse practitioner, or
46 licensed midwife, under section sixty-eight hundred thirty-two of this
47 article.

48 § 7. The education law is amended by adding a new section 6832 to read
49 as follows:

50 § 6832. Emergency contraception; non-patient specific prescription or
51 order. 1. As used in this section, the following terms shall have the
52 following meanings, unless the context requires otherwise:

53 (a) "Emergency contraception" means one or more prescription or
54 nonprescription drugs, used separately or in combination, in a dosage
55 and manner for preventing pregnancy when used after intercourse, found

1 safe and effective for that use by the United States food and drug
2 administration, and dispensed or administered for that purpose.

3 (b) "Prescriber" means a licensed physician, certified nurse practi-
4 tioner or licensed midwife.

5 2. This section applies to the administering or dispensing of emergen-
6 cy contraception by a registered professional nurse or the dispensing of
7 emergency contraception by a licensed pharmacist pursuant to a
8 prescription or order for a non-patient specific regimen made by a pres-
9 criber under section sixty-five hundred twenty-seven, sixty-nine hundred
10 nine or sixty-nine hundred fifty-one of this title. This section does
11 not apply to administering or dispensing emergency contraception when
12 lawfully done without such a prescription or order.

13 3. The administering or dispensing of emergency contraception by a
14 registered professional nurse or the dispensing of emergency contracep-
15 tion by a licensed pharmacist shall be done in accordance with profes-
16 sional standards of practice and in accordance with written procedures
17 and protocols agreed to by the registered professional nurse or licensed
18 pharmacist and the prescriber or a hospital (licensed under article
19 twenty-eight of the public health law) that provides gynecological or
20 family planning services.

21 4. (a) When emergency contraception is administered or dispensed, the
22 registered professional nurse or licensed pharmacist shall provide to
23 the patient written material that includes: (i) the clinical consider-
24 ations and recommendations for use of the drug; (ii) the appropriate
25 method for using the drug; (iii) information on the importance of
26 follow-up health care; (iv) information on the health risks and other
27 dangers of unprotected intercourse; and (v) referral information relat-
28 ing to health care and services relating to sexual abuse and domestic
29 violence.

30 (b) Such written material shall be developed or approved by the
31 commissioner in consultation with the department of health and the Amer-
32 ican college of obstetricians and gynecologists.

33 § 8. Subdivision 4 of section 6909 of the education law, as added by
34 chapter 573 of the laws of 1999, paragraph (a) as amended by chapter 221
35 of the laws of 2002, paragraph (c) as amended by chapter 464 of the laws
36 of 2015, paragraph (d) as added by chapter 429 of the laws of 2005,
37 paragraph (e) as added by chapter 352 of the laws of 2014, paragraph (f)
38 as added by section 5 of part V of chapter 57 of the laws of 2015 and
39 paragraph (g) as added by chapter 502 of the laws of 2016, is amended to
40 read as follows:

41 4. A certified nurse practitioner may prescribe and order a non-pa-
42 tient specific regimen [to a registered professional nurse], pursuant to
43 regulations promulgated by the commissioner, consistent with subdivision
44 three of section [six thousand nine] sixty-nine hundred two of this
45 article, and consistent with the public health law, for:

46 (a) a registered professional nurse for:

47 (i) administering immunizations[.];

48 [(b)] (ii) the emergency treatment of anaphylaxis[.];

49 [(c)] (iii) administering purified protein derivative (PPD) tests or
50 other tests to detect or screen for tuberculosis infections[.];

51 [(d)] (iv) administering tests to determine the presence of the human
52 immunodeficiency virus[.];

53 [(e)] (v) administering tests to determine the presence of the hepati-
54 tis C virus[.];



1 [(f)] (vi) emergency contraception, to be administered to or dispensed
2 to be self-administered by the patient, under section sixty-eight
3 hundred thirty-two of this title;

4 (vii) the urgent or emergency treatment of opioid related overdose or
5 suspected opioid related overdose[.]; or

6 [(g)] (viii) screening of persons at increased risk for syphilis,
7 gonorrhea and chlamydia.

8 (b) a licensed pharmacist, for dispensing emergency contraception, to
9 be self-administered by the patient, under section sixty-eight hundred
10 thirty-two of this title.

11 § 9. Subdivision 5 of section 6909 of the education law, as added by
12 chapter 573 of the laws of 1999, is amended to read as follows:

13 5. A registered professional nurse may execute a non-patient specific
14 regimen prescribed or ordered by a licensed physician, licensed midwife
15 or certified nurse practitioner, pursuant to regulations promulgated by
16 the commissioner.

17 § 10. Section 6951 of the education law is amended by adding a new
18 subdivision 4 to read as follows:

19 4. A licensed midwife may prescribe and order a non-patient specific
20 regimen pursuant to regulations promulgated by the commissioner,
21 consistent with this section and the public health law, to:

22 (a) a registered professional nurse for emergency contraception, to be
23 administered to or dispensed to be self-administered by the patient,
24 under section sixty-eight hundred thirty-two of this title; or

25 (b) a licensed pharmacist, for dispensing emergency contraception, to
26 be self-administered by the patient, under section sixty-eight hundred
27 thirty-two of this title.

28 § 11. Subdivision 1 of section 207 of the public health law is amended
29 by adding a new paragraph (o) to read as follows:

30 (o) Emergency contraception, including information about its safety,
31 efficacy, appropriate use and availability.

32 § 12. This act shall take effect January 1, 2019; provided that
33 section five of this act shall take effect January 1, 2020; provided,
34 however, that effective immediately, the addition, amendment and/or
35 repeal of any rule or regulation necessary for the implementation of
36 this act on its effective date are authorized and directed to be made
37 and completed by the commissioner of education and the board of regents
38 on or before such effective date.

39

PART B

40 Section 1. Section 4164 of the public health law is REPEALED.

41 § 2. Subdivision 8 of section 6811 of the education law is REPEALED.

42 § 3. Sections 125.40, 125.45, 125.50, 125.55 and 125.60 of the penal
43 law are REPEALED, and the article heading of article 125 of the penal
44 law is amended to read as follows:

45 HOMICIDE[, ABORTION] AND RELATED OFFENSES

46 § 4. Section 125.00 of the penal law is amended to read as follows:

47 § 125.00 Homicide defined.

48 Homicide means conduct which causes the death of a person [or an
49 unborn child with which a female has been pregnant for more than twen-
50 ty-four weeks] under circumstances constituting murder, manslaughter in
51 the first degree, manslaughter in the second degree, or criminally
52 negligent homicide[, abortion in the first degree or self-abortion in
53 the first degree].

1 § 5. The section heading, opening paragraph and subdivision 1 of
2 section 125.05 of the penal law are amended to read as follows:

3 Homicide[, abortion] and related offenses; [definitions of terms]
4 definition.

5 The following [definitions are] definition is applicable to this arti-
6 cle:

7 [1.] "Person," when referring to the victim of a homicide, means a
8 human being who has been born and is alive.

9 § 6. Subdivisions 2 and 3 of section 125.05 of the penal law are
10 REPEALED.

11 § 7. Subdivision 2 of section 125.15 of the penal law is REPEALED.

12 § 8. Subdivision 3 of section 125.20 of the penal law is REPEALED.

13 § 9. Paragraph (b) of subdivision 8 of section 700.05 of the criminal
14 procedure law, as amended by chapter 368 of the laws of 2015, is amended
15 to read as follows:

16 (b) Any of the following felonies: assault in the second degree as
17 defined in section 120.05 of the penal law, assault in the first degree
18 as defined in section 120.10 of the penal law, reckless endangerment in
19 the first degree as defined in section 120.25 of the penal law, promot-
20 ing a suicide attempt as defined in section 120.30 of the penal law,
21 strangulation in the second degree as defined in section 121.12 of the
22 penal law, strangulation in the first degree as defined in section
23 121.13 of the penal law, criminally negligent homicide as defined in
24 section 125.10 of the penal law, manslaughter in the second degree as
25 defined in section 125.15 of the penal law, manslaughter in the first
26 degree as defined in section 125.20 of the penal law, murder in the
27 second degree as defined in section 125.25 of the penal law, murder in
28 the first degree as defined in section 125.27 of the penal law,
29 [abortion in the second degree as defined in section 125.40 of the penal
30 law, abortion in the first degree as defined in section 125.45 of the
31 penal law,] rape in the third degree as defined in section 130.25 of the
32 penal law, rape in the second degree as defined in section 130.30 of the
33 penal law, rape in the first degree as defined in section 130.35 of the
34 penal law, criminal sexual act in the third degree as defined in section
35 130.40 of the penal law, criminal sexual act in the second degree as
36 defined in section 130.45 of the penal law, criminal sexual act in the
37 first degree as defined in section 130.50 of the penal law, sexual abuse
38 in the first degree as defined in section 130.65 of the penal law,
39 unlawful imprisonment in the first degree as defined in section 135.10
40 of the penal law, kidnapping in the second degree as defined in section
41 135.20 of the penal law, kidnapping in the first degree as defined in
42 section 135.25 of the penal law, labor trafficking as defined in section
43 135.35 of the penal law, aggravated labor trafficking as defined in
44 section 135.37 of the penal law, custodial interference in the first
45 degree as defined in section 135.50 of the penal law, coercion in the
46 first degree as defined in section 135.65 of the penal law, criminal
47 trespass in the first degree as defined in section 140.17 of the penal
48 law, burglary in the third degree as defined in section 140.20 of the
49 penal law, burglary in the second degree as defined in section 140.25 of
50 the penal law, burglary in the first degree as defined in section 140.30
51 of the penal law, criminal mischief in the third degree as defined in
52 section 145.05 of the penal law, criminal mischief in the second degree
53 as defined in section 145.10 of the penal law, criminal mischief in the
54 first degree as defined in section 145.12 of the penal law, criminal
55 tampering in the first degree as defined in section 145.20 of the penal
56 law, arson in the fourth degree as defined in section 150.05 of the

1 penal law, arson in the third degree as defined in section 150.10 of the
2 penal law, arson in the second degree as defined in section 150.15 of
3 the penal law, arson in the first degree as defined in section 150.20 of
4 the penal law, grand larceny in the fourth degree as defined in section
5 155.30 of the penal law, grand larceny in the third degree as defined in
6 section 155.35 of the penal law, grand larceny in the second degree as
7 defined in section 155.40 of the penal law, grand larceny in the first
8 degree as defined in section 155.42 of the penal law, health care fraud
9 in the fourth degree as defined in section 177.10 of the penal law,
10 health care fraud in the third degree as defined in section 177.15 of
11 the penal law, health care fraud in the second degree as defined in
12 section 177.20 of the penal law, health care fraud in the first degree
13 as defined in section 177.25 of the penal law, robbery in the third
14 degree as defined in section 160.05 of the penal law, robbery in the
15 second degree as defined in section 160.10 of the penal law, robbery in
16 the first degree as defined in section 160.15 of the penal law, unlawful
17 use of secret scientific material as defined in section 165.07 of the
18 penal law, criminal possession of stolen property in the fourth degree
19 as defined in section 165.45 of the penal law, criminal possession of
20 stolen property in the third degree as defined in section 165.50 of the
21 penal law, criminal possession of stolen property in the second degree
22 as defined by section 165.52 of the penal law, criminal possession of
23 stolen property in the first degree as defined by section 165.54 of the
24 penal law, trademark counterfeiting in the second degree as defined in
25 section 165.72 of the penal law, trademark counterfeiting in the first
26 degree as defined in section 165.73 of the penal law, forgery in the
27 second degree as defined in section 170.10 of the penal law, forgery in
28 the first degree as defined in section 170.15 of the penal law, criminal
29 possession of a forged instrument in the second degree as defined in
30 section 170.25 of the penal law, criminal possession of a forged instru-
31 ment in the first degree as defined in section 170.30 of the penal law,
32 criminal possession of forgery devices as defined in section 170.40 of
33 the penal law, falsifying business records in the first degree as
34 defined in section 175.10 of the penal law, tampering with public
35 records in the first degree as defined in section 175.25 of the penal
36 law, offering a false instrument for filing in the first degree as
37 defined in section 175.35 of the penal law, issuing a false certificate
38 as defined in section 175.40 of the penal law, criminal diversion of
39 prescription medications and prescriptions in the second degree as
40 defined in section 178.20 of the penal law, criminal diversion of
41 prescription medications and prescriptions in the first degree as
42 defined in section 178.25 of the penal law, residential mortgage fraud
43 in the fourth degree as defined in section 187.10 of the penal law,
44 residential mortgage fraud in the third degree as defined in section
45 187.15 of the penal law, residential mortgage fraud in the second degree
46 as defined in section 187.20 of the penal law, residential mortgage
47 fraud in the first degree as defined in section 187.25 of the penal law,
48 escape in the second degree as defined in section 205.10 of the penal
49 law, escape in the first degree as defined in section 205.15 of the
50 penal law, absconding from temporary release in the first degree as
51 defined in section 205.17 of the penal law, promoting prison contraband
52 in the first degree as defined in section 205.25 of the penal law,
53 hindering prosecution in the second degree as defined in section 205.60
54 of the penal law, hindering prosecution in the first degree as defined
55 in section 205.65 of the penal law, sex trafficking as defined in
56 section 230.34 of the penal law, criminal possession of a weapon in the



1 third degree as defined in subdivisions two, three and five of section
2 265.02 of the penal law, criminal possession of a weapon in the second
3 degree as defined in section 265.03 of the penal law, criminal
4 possession of a weapon in the first degree as defined in section 265.04
5 of the penal law, manufacture, transport, disposition and defacement of
6 weapons and dangerous instruments and appliances defined as felonies in
7 subdivisions one, two, and three of section 265.10 of the penal law,
8 sections 265.11, 265.12 and 265.13 of the penal law, or prohibited use
9 of weapons as defined in subdivision two of section 265.35 of the penal
10 law, relating to firearms and other dangerous weapons, or failure to
11 disclose the origin of a recording in the first degree as defined in
12 section 275.40 of the penal law;

13 § 10. Subdivision 1 of section 673 of the county law, as added by
14 chapter 545 of the laws of 1965, is amended to read as follows:

15 1. A coroner or medical examiner has jurisdiction and authority to
16 investigate the death of every person dying within his county, or whose
17 body is found within the county, which is or appears to be:

18 (a) A violent death, whether by criminal violence, suicide or casual-
19 ty;

20 (b) A death caused by unlawful act or criminal neglect;

21 (c) A death occurring in a suspicious, unusual or unexplained manner;

22 (d) [A death caused by suspected criminal abortion;

23 (e)] A death while unattended by a physician, so far as can be discov-
24 ered, or where no physician able to certify the cause of death as
25 provided in the public health law and in form as prescribed by the
26 commissioner of health can be found;

27 [(f)] (e) A death of a person confined in a public institution other
28 than a hospital, infirmary or nursing home.

29 § 11. Section 4 of the judiciary law, as amended by chapter 264 of the
30 laws of 2003, is amended to read as follows:

31 § 4. Sittings of courts to be public. The sittings of every court
32 within this state shall be public, and every citizen may freely attend
33 the same, except that in all proceedings and trials in cases for
34 divorce, seduction, [abortion,] rape, assault with intent to commit
35 rape, criminal sexual act, bastardy or filiation, the court may, in its
36 discretion, exclude therefrom all persons who are not directly inter-
37 ested therein, excepting jurors, witnesses, and officers of the court.

38 § 12. This act shall take effect immediately.

39

PART C

40 Section 1. The public health law is amended by adding a new section
41 2509 to read as follows:

42 § 2509. Maternal mortality review board. 1. There is hereby estab-
43 lished in the department the maternal mortality review board for the
44 purpose of reviewing maternal deaths, defined as cessation of respira-
45 tion and circulation for a woman within a year from the end of pregnan-
46 cy, to assess the cause of death and factors leading to death and
47 preventability for each maternal death reviewed and to develop strate-
48 gies for reducing the risk of maternal mortality, and to assess and
49 review maternal morbidity. The members of the board shall be composed of
50 multidisciplinary experts in the field of maternal mortality. The board
51 shall be composed of at least fifteen members, all of whom shall be
52 appointed by the commissioner. The commissioner may delegate the author-
53 ity to conduct maternal mortality reviews.

54 2. The board shall:



1 (a) Make recommendations to the commissioner regarding the preventa-
2 bility of each maternal death case by reviewing relevant information for
3 each case in the state and consulting with experts as needed to evaluate
4 the information for each death. Such information shall not be subject to
5 article six of the public officers law.

6 (b) Keep confidential any information collected under this section and
7 this information shall be used solely for the purposes of improvement of
8 the quality of medical care of women to prevent maternal mortality.
9 Access to such information shall be limited to board members as well as
10 those authorized by the department. Such information shall not be admis-
11 sible as evidence in any action of any kind in any court or before any
12 other tribunal, board, agency or person.

13 (c) Develop recommendations to the commissioner for areas of focus,
14 including issues of severe maternal morbidity and racial disparities in
15 maternal outcomes.

16 3. The terms of the board members shall be three years from the start
17 of their appointment. The commissioner may choose to reappoint board
18 members to additional three year terms.

19 4. A majority of the appointed membership of the board, no less than
20 three, shall constitute a quorum.

21 5. When any member of the board fails to attend three consecutive
22 regular meetings, unless such absence is for good cause, that membership
23 may be deemed vacant for purposes of the appointment of a successor.

24 6. Meetings of the board shall be held at least twice a year but may
25 be held more frequently as deemed necessary, subject to request of the
26 department.

27 7. Members of the board shall be indemnified pursuant to section
28 seventeen of the public officers law.

29 8. The commissioner may request and shall receive upon request from
30 any department, division, board, bureau, commission, local health
31 departments or other agency of the state or political subdivision there-
32 of or any public authority, as well as hospitals established pursuant to
33 article twenty-eight of this chapter, birthing facilities, medical exam-
34 iners, coroners, and any coroner physicians and any other facility
35 providing services associated with maternal mortality, such information,
36 including, but not limited to, death records, medical records, autopsy
37 reports, toxicology reports, hospital discharge records, birth records
38 and any other information that will help the department under this
39 section to properly carry out its functions, powers and duties.

40 § 2. This act shall take effect immediately.

41

PART D

42 Section 1. Section 6523 of the education law, as amended by chapter
43 364 of the laws of 1991, is amended to read as follows:

44 § 6523. State board for medicine. A state board for medicine shall be
45 appointed by the board of regents on recommendation of the commissioner
46 for the purpose of assisting the board of regents and the department on
47 matters of professional licensing in accordance with section sixty-five
48 hundred eight of this title. The board shall be composed of not less
49 than twenty physicians licensed in this state for at least five years,
50 two of whom shall be doctors of osteopathy. At least one of the physi-
51 cian appointees to the state board for medicine shall be an expert on
52 reducing health disparities among demographic subgroups, and one shall
53 be an expert on women's health. The board shall also consist of not less
54 than two physician's assistants licensed to practice in this state. The



1 participation of physician's assistant members shall be limited to
2 matters relating to article one hundred thirty-one-B of this chapter. An
3 executive secretary to the board shall be appointed by the board of
4 regents on recommendation of the commissioner and shall be either a
5 physician licensed in this state or a non-physician, deemed qualified by
6 the commissioner and board of regents.
7 § 2. This act shall take effect immediately.

8

PART E

9 Section 1. Subdivision 17 of section 265.00 of the penal law is
10 amended by adding a new paragraph (c) to read as follows:

11 (c) any of the following offenses, where the defendant and the person
12 against whom the offense was committed were members of the same family
13 or household as defined in subdivision one of section 530.11 of the
14 criminal procedure law: assault in the third degree; menacing in the
15 third degree; menacing in the second degree; reckless endangerment in
16 the second degree; criminal obstruction of breathing or blood circu-
17 lation; unlawful imprisonment in the second degree; coercion in the
18 second degree; criminal mischief in the fourth degree; criminal tamper-
19 ing in the third degree; criminal contempt in the second degree; harass-
20 ment in the first degree; aggravated harassment in the second degree;
21 criminal trespass in the third degree; criminal trespass in the second
22 degree; reckless endangerment of property; arson in the fifth degree;
23 endangering the welfare of an incompetent or physically disabled person
24 in the second degree; unlawful publication of sexual images; attempt to
25 commit any of the above-listed offenses.

26 § 2. The criminal procedure law is amended by adding a new section
27 370.20 to read as follows:

28 § 370.20 Procedure for determining whether certain misdemeanor crimes
29 are serious offenses under the penal law.

30 1. When a defendant has been charged with assault in the third degree,
31 menacing in the third degree, menacing in the second degree, reckless
32 endangerment in the second degree, criminal obstruction of breathing or
33 blood circulation, unlawful imprisonment in the second degree, coercion
34 in the second degree, criminal mischief in the fourth degree, criminal
35 tampering in the third degree, criminal contempt in the second degree,
36 harassment in the first degree, aggravated harassment in the second
37 degree, criminal trespass in the third degree, criminal trespass in the
38 second degree, reckless endangerment of property, arson in the fifth
39 degree, endangering the welfare of an incompetent or physically disa-
40 bled person in the second degree, unlawful publication of sexual
41 images, or attempt to commit any of the above-listed offenses, the
42 people may, at arraignment or no later than forty-five days after
43 arraignment, for the purpose of notification to the division of criminal
44 justice services pursuant to section 380.98 of this part, serve on the
45 defendant and file with the court a notice alleging that the defendant
46 and the person alleged to be the victim of such crime were members of
47 the same family or household as defined in subdivision one of section
48 530.11 of this chapter.

49 2. Such notice shall include the name of the person alleged to be the
50 victim of such crime and shall specify the nature of the alleged
51 relationship as set forth in subdivision one of section 530.11 of this
52 chapter. Upon conviction of such offense, the court shall advise the
53 defendant that he or she is entitled to a hearing solely on the allega-
54 tion contained in the notice and, if necessary, an adjournment of the



1 sentencing proceeding in order to prepare for such hearing, and that if
2 such allegation is sustained, that determination and conviction will be
3 reported to the division of criminal justice services.

4 3. After having been advised by the court as provided in subdivision
5 two of this section, the defendant may stipulate or admit, orally on the
6 record or in writing, that he or she is related or situated to the
7 victim of such crime in the manner described in subdivision one of this
8 section. In such case, such relationship shall be deemed established for
9 purposes of section 380.98 of this part. If the defendant denies that he
10 or she is related or situated to the victim of the crime as alleged in
11 the notice served by the people, or stands mute with respect to such
12 allegation, then the people shall bear the burden to prove beyond a
13 reasonable doubt that the defendant is related or situated to the victim
14 in the manner alleged in the notice. The court may consider reliable
15 hearsay evidence submitted by either party provided that it is relevant
16 to the determination of the allegation. Facts previously proven at trial
17 or elicited at the time of entry of a plea of guilty shall be deemed
18 established beyond a reasonable doubt and shall not be relitigated. At
19 the conclusion of the hearing, or upon such a stipulation or admission,
20 as applicable, the court shall make a specific written determination
21 with respect to such allegation.

22 § 3. The criminal procedure law is amended by adding a new section
23 380.98 to read as follows:

24 § 380.98 Notification to division of criminal justice services of
25 certain misdemeanor convictions.

26 Upon judgment of conviction of assault in the third degree, menacing
27 in the third degree, menacing in the second degree, reckless endanger-
28 ment in the second degree, criminal obstruction of breathing or blood
29 circulation, unlawful imprisonment in the second degree, coercion in the
30 second degree, criminal mischief in the fourth degree, criminal tamper-
31 ing in the third degree, criminal contempt in the second degree, harass-
32 ment in the first degree, or aggravated harassment in the second degree,
33 criminal trespass in the third degree, criminal trespass in the second
34 degree, reckless endangerment of property, arson in the fifth degree,
35 endangering the welfare of an incompetent or physically disabled person
36 in the second degree, unlawful publication of sexual images, or attempt
37 to commit any of the above-listed offenses, when the defendant and
38 victim have been determined, pursuant to section 370.20 of this part, to
39 be members of the same family or household as defined in subdivision one
40 of section 530.11 of this chapter, the clerk of the court shall include
41 notification and a copy of the written determination in a report of such
42 conviction to the division of criminal justice services to enable the
43 division to report such determination to the Federal Bureau of Investi-
44 gation and assist the bureau in identifying persons prohibited from
45 purchasing and possessing a firearm or other weapon due to conviction
46 of an offense specified in paragraph c of subdivision seventeen of
47 section 265.00 of the penal law.

48 § 4. Section 530.14 of the criminal procedure law is REPEALED and a
49 new section 530.14 is added to read as follows:

50 § 530.14 Suspension and revocation of a license to carry, possess,
51 repair or dispose of a firearm or firearms pursuant to
52 section 400.00 of the penal law and ineligibility for such a
53 license; order to surrender weapons.

54 1. Whenever a temporary order of protection is issued pursuant to
55 subdivision one of section 530.12 or subdivision one of section 530.13
56 of this article the court shall suspend any firearms license possessed

1 by the defendant, order the defendant ineligible for such a license and
2 order the immediate surrender pursuant to subparagraph (f) of paragraph
3 one of subdivision a of section 265.20 and subdivision six of section
4 400.05 of the penal law, of all pistols, revolvers, rifles, shotguns and
5 any other firearms owned or possessed by the defendant.

6 2. Whenever an order of protection is issued pursuant to subdivision
7 five of section 530.12 or subdivision four of section 530.13 of this
8 article the court shall revoke, suspend or continue to suspend any
9 firearms license possessed by the defendant, order the defendant ineli-
10 gible for such a license and order the immediate surrender pursuant to
11 subparagraph (f) of paragraph one of subdivision a of section 265.20 and
12 subdivision six of section 400.05 of the penal law, of all pistols,
13 revolvers, rifles, shotguns and any other firearms owned or possessed by
14 the defendant.

15 3. Whenever a defendant has been found pursuant to subdivision eleven
16 of section 530.12 or subdivision eight of section 530.13 of this article
17 to have willfully failed to obey an order of protection issued by a
18 court of competent jurisdiction in this state or another state, territo-
19 rial or tribal jurisdiction, in addition to any other remedies available
20 pursuant to subdivision eleven of section 530.12 or subdivision eight of
21 section 530.13 of this article, the court shall revoke, suspend or
22 continue to suspend any firearms license possessed by the defendant,
23 order the defendant ineligible for such a license and order the immedi-
24 ate surrender pursuant to subparagraph (f) of paragraph one of subdivi-
25 sion a of section 265.20 and subdivision six of section 400.05 of the
26 penal law, of all pistols, revolvers, rifles, shotguns and any other
27 firearms owned or possessed by the defendant.

28 4. Suspension. Any suspension order issued pursuant to this section
29 shall remain in effect for the duration of the temporary order of
30 protection or order of protection, unless modified or vacated by the
31 court.

32 5. Surrender. (a) Where an order to surrender one or more pistols,
33 revolvers, rifles, shotguns or other firearms has been issued, the
34 temporary order of protection or order of protection shall specify the
35 place where such weapons shall be surrendered, shall specify a date and
36 time by which the surrender shall be completed and, to the extent possi-
37 ble, shall describe such weapons to be surrendered, and shall direct the
38 authority receiving such surrendered weapons to immediately notify the
39 court of such surrender.

40 (b) The prompt surrender of one or more pistols, revolvers, rifles,
41 shotguns or other firearms pursuant to a court order issued pursuant to
42 this section shall be considered a voluntary surrender for purposes of
43 subparagraph (f) of paragraph one of subdivision a of section 265.20 of
44 the penal law. The disposition of any such weapons shall be in accord-
45 ance with the provisions of subdivision six of section 400.05 of the
46 penal law.

47 (c) The provisions of this section shall not be deemed to limit,
48 restrict or otherwise impair the authority of the court to order and
49 direct the surrender of any or all pistols, revolvers, rifles, shotguns
50 or other firearms owned or possessed by a defendant pursuant to section
51 530.12 or 530.13 of this article.

52 6. Notice. (a) Where an order requiring surrender, revocation,
53 suspension or ineligibility has been issued pursuant to this section,
54 any temporary order of protection or order of protection issued shall
55 state that such firearm license has been suspended or revoked or that
56 the defendant is ineligible for such license, as the case may be, and

1 that the defendant is prohibited from possessing any pistol, revolver,
2 rifle, shotgun or other firearm.

3 (b) The court revoking or suspending the license, ordering the defend-
4 ant ineligible for such a license, or ordering the surrender of any
5 pistol, revolver, rifle, shotgun or other firearm shall immediately
6 notify the duly constituted police authorities of the locality concern-
7 ing such action and, in the case of orders of protection and temporary
8 orders of protection issued pursuant to section 530.12 of this article,
9 shall immediately notify the statewide registry of orders of protection.

10 (c) The court revoking or suspending the license or ordering the
11 defendant ineligible for such a license shall give written notice there-
12 of without unnecessary delay to the division of state police at its
13 office in the city of Albany.

14 (d) Where an order of revocation, suspension, ineligibility or surren-
15 der is modified or vacated, the court shall immediately notify the
16 statewide registry of orders of protection and the duly constituted
17 police authorities of the locality concerning such action and shall give
18 written notice thereof without unnecessary delay to the division of
19 state police at its office in the city of Albany.

20 7. Hearing. The defendant shall have the right to a hearing before
21 the court regarding any revocation, suspension, ineligibility or surren-
22 der order issued pursuant to this section, provided that nothing in this
23 subdivision shall preclude the court from issuing any such order prior
24 to a hearing. Where the court has issued such an order prior to a hear-
25 ing, it shall commence such hearing within fourteen days of the date
26 such order was issued.

27 8. Nothing in this section shall delay or otherwise interfere with the
28 issuance of a temporary order of protection or the timely arraignment of
29 a defendant in custody.

30 § 5. Section 842-a of the family court act is REPEALED and a new
31 section 842-a is added to read as follows:

32 § 842-a. Suspension and revocation of a license to carry, possess,
33 repair or dispose of a firearm or firearms pursuant to section 400.00 of
34 the penal law and ineligibility for such a license; order to surrender
35 weapons. 1. Whenever a temporary order of protection is issued pursuant
36 to section eight hundred twenty-eight of this article, or pursuant to
37 article four, five, six, seven or ten of this act the court shall
38 suspend any firearms license possessed by the respondent, order the
39 respondent ineligible for such a license and order the immediate surren-
40 der pursuant to subparagraph (f) of paragraph one of subdivision a of
41 section 265.20 and subdivision six of section 400.05 of the penal law,
42 of all pistols, revolvers, rifles, shotguns and any other firearms
43 owned or possessed by the respondent.

44 2. Whenever an order of protection is issued pursuant to section eight
45 hundred forty-one of this part, or pursuant to article four, five, six,
46 seven or ten of this act the court shall revoke, suspend or continue to
47 suspend any firearms license possessed by the respondent, order the
48 respondent ineligible for such a license and order the immediate surren-
49 der pursuant to subparagraph (f) of paragraph one of subdivision a of
50 section 265.20 and subdivision six of section 400.05 of the penal law,
51 of all pistols, revolvers, rifles, shotguns and any other firearms owned
52 or possessed by the respondent.

53 3. Whenever a respondent has been found pursuant to section eight
54 hundred forty-six-a of this part to have willfully failed to obey an
55 order of protection or temporary order of protection issued pursuant to
56 this act or the domestic relations law, or by this court or by a court

1 of competent jurisdiction in this state or another state, territorial
2 or tribal jurisdiction, in addition to any other remedies available
3 pursuant to section eight hundred forty-six-a of this part, the court
4 shall revoke, suspend or continue to suspend any firearms license
5 possessed by the respondent, order the respondent ineligible for such a
6 license and order the immediate surrender pursuant to subparagraph (f)
7 of paragraph one of subdivision a of section 265.20 and subdivision six
8 of section 400.05 of the penal law, of all pistols, revolvers, rifles,
9 shotguns and any other firearms owned or possessed by the respondent.

10 4. Suspension. Any suspension order issued pursuant to this section
11 shall remain in effect for the duration of the temporary order of
12 protection or order of protection, unless modified or vacated by the
13 court.

14 5. Surrender. (a) Where an order to surrender one or more pistols,
15 revolvers, rifles, shotguns or other firearms has been issued, the
16 temporary order of protection or order of protection shall specify the
17 place where such weapons shall be surrendered, shall specify a date and
18 time by which the surrender shall be completed and, to the extent
19 possible, shall describe such weapons to be surrendered, and shall
20 direct the authority receiving such surrendered weapons to immediately
21 notify the court of such surrender.

22 (b) The prompt surrender of one or more pistols, revolvers, rifles,
23 shotguns or other firearms pursuant to a court order issued pursuant to
24 this section shall be considered a voluntary surrender for purposes of
25 subparagraph (f) of paragraph one of subdivision a of section 265.20 of
26 the penal law. The disposition of any such weapons shall be in accord-
27 ance with the provisions of subdivision six of section 400.05 of the
28 penal law.

29 (c) The provisions of this section shall not be deemed to limit,
30 restrict or otherwise impair the authority of the court to order and
31 direct the surrender of any or all pistols, revolvers, rifles, shotguns
32 or other firearms owned or possessed by a respondent pursuant to this
33 act.

34 6. Notice. (a) Where an order requiring surrender, revocation, suspen-
35 sion or ineligibility has been issued pursuant to this section, any
36 temporary order of protection or order of protection issued shall state
37 that such firearm license has been suspended or revoked or that the
38 respondent is ineligible for such license, as the case may be, and that
39 the respondent is prohibited from possessing any pistol, revolver,
40 rifle, shotgun or other firearm.

41 (b) The court revoking or suspending the license, ordering the
42 respondent ineligible for such a license, or ordering the surrender of
43 any pistol, revolver, rifle, shotgun or other firearm shall immediately
44 notify the statewide registry of orders of protection and the duly
45 constituted police authorities of the locality of such action.

46 (c) The court revoking or suspending the license or ordering the
47 respondent ineligible for such a license shall give written notice ther-
48 eof without unnecessary delay to the division of state police at its
49 office in the city of Albany.

50 (d) Where an order of revocation, suspension, ineligibility or surren-
51 der is modified or vacated, the court shall immediately notify the
52 statewide registry of orders of protection and the duly constituted
53 police authorities of the locality concerning such action and shall give
54 written notice thereof without unnecessary delay to the division of
55 state police at its office in the city of Albany.

1 7. Hearing. The respondent shall have the right to a hearing before
2 the court regarding any revocation, suspension, ineligibility or surren-
3 der order issued pursuant to this section, provided that nothing in
4 this subdivision shall preclude the court from issuing any such order
5 prior to a hearing. Where the court has issued such an order prior to a
6 hearing, it shall commence such hearing within fourteen days of the
7 date such order was issued.

8 8. Nothing in this section shall delay or otherwise interfere with the
9 issuance of a temporary order of protection.

10 § 6. Subdivision 4 of section 265.01 of the penal law, as amended by
11 chapter 1 of the laws of 2013, is amended to read as follows:

12 (4) He or she possesses a rifle, shotgun, antique firearm, black
13 powder rifle, black powder shotgun, or any muzzle-loading firearm, and
14 has been convicted of a felony or serious offense or is the subject of
15 an outstanding warrant of arrest issued upon the alleged commission of a
16 felony or serious offense; or

17 § 7. Paragraph (c) of subdivision 1 of section 400.00 of the penal
18 law, as amended by chapter 1 of the laws of 2013, is amended to read as
19 follows:

20 (c) who has not been convicted anywhere of a felony or a serious
21 offense or who is not the subject of an outstanding warrant of arrest
22 issued upon the alleged commission of a felony or serious offense;

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

25 PART F

26 Section 1. The penal law is amended by adding three new sections
27 250.62, 250.63 and 250.64 to read as follows:

28 § 250.62 Sexual extortion in the third degree.

29 A person is guilty of sexual extortion in the third degree when he or
30 she, with the intent to satisfy, in whole or substantial part his or her
31 own sexual gratification, compels or induces another person to expose
32 his or her sexual or intimate parts or engage in sexual conduct by
33 instilling a fear in him or her that, if the demand is not complied
34 with, the actor will perform an act intended to harm another person with
35 respect to his or her health, safety, business, career, financial condi-
36 tion, reputation or personal relationships.

37 Sexual extortion in the third degree is a class E felony.

38 § 250.63 Sexual extortion in the second degree.

39 A person is guilty of sexual extortion in the second degree when he or
40 she with intent to satisfy, in whole or substantial part his or her own
41 sexual gratification, compels or induces another person less than seven-
42 teen years old to expose his or her sexual or intimate parts or engage
43 in sexual conduct by instilling a fear in him or her that, if the demand
44 is not complied with, the actor will perform an act intended to harm
45 another person with respect to his other health, safety, business,
46 career, financial condition, reputation or personal relationships.

47 Sexual extortion in the second degree is a class D felony.

48 § 250.64 Sexual extortion in the first degree.

49 A person is guilty of sexual extortion in the first degree when he or
50 she, with the intent to satisfy, in whole or substantial part his or her
51 own sexual gratification, compels or induces another person less than
52 fifteen years old to expose his or her sexual or intimate parts or
53 engage in sexual conduct by instilling a fear in him or her that, if the
54 demand is not complied with, the actor will perform an act intended to

1 harm another person with respect to his or her health, safety, business,
2 career, financial condition, reputation or personal relationships.

3 Sexual extortion in the first degree is a class C felony.

4 § 2. The opening paragraph of subdivision 1 of section 812 of the
5 family court act, as amended by chapter 526 of the laws of 2013, is
6 amended to read as follows:

7 The family court and the criminal courts shall have concurrent juris-
8 diction over any proceeding concerning acts which would constitute
9 disorderly conduct, harassment in the first degree, harassment in the
10 second degree, aggravated harassment in the second degree, sexual
11 misconduct, forcible touching, sexual abuse in the third degree, sexual
12 abuse in the second degree as set forth in subdivision one of section
13 130.60 of the penal law, stalking in the first degree, stalking in the
14 second degree, stalking in the third degree, stalking in the fourth
15 degree, criminal mischief, menacing in the second degree, menacing in
16 the third degree, reckless endangerment, criminal obstruction of breath-
17 ing or blood circulation, strangulation in the second degree, strangula-
18 tion in the first degree, assault in the second degree, assault in the
19 third degree, an attempted assault, identity theft in the first degree,
20 identity theft in the second degree, identity theft in the third degree,
21 grand larceny in the fourth degree, grand larceny in the third degree or
22 coercion in the second degree as set forth in subdivisions one, two and
23 three of section 135.60 of the penal law, unlawful publication of sexual
24 images as set forth in section 250.61 of the penal law, sexual extortion
25 in the third degree as set forth in section 250.62 of the penal law,
26 sexual extortion in the second degree as set forth in section 250.63 of
27 the penal law, or sexual extortion in the first degree as set forth is
28 section 250.64 of the penal law between spouses or former spouses, or
29 between parent and child or between members of the same family or house-
30 hold except that if the respondent would not be criminally responsible
31 by reason of age pursuant to section 30.00 of the penal law, then the
32 family court shall have exclusive jurisdiction over such proceeding.
33 Notwithstanding a complainant's election to proceed in family court, the
34 criminal court shall not be divested of jurisdiction to hear a family
35 offense proceeding pursuant to this section. In any proceeding pursuant
36 to this article, a court shall not deny an order of protection, or
37 dismiss a petition, solely on the basis that the acts or events alleged
38 are not relatively contemporaneous with the date of the petition, the
39 conclusion of the fact-finding or the conclusion of the dispositional
40 hearing. For purposes of this article, "disorderly conduct" includes
41 disorderly conduct not in a public place. For purposes of this article,
42 "members of the same family or household" shall mean the following:

43 § 3. Paragraph (a) of subdivision 1 of section 821 of the family court
44 act, as amended by chapter 526 of the laws of 2013, is amended to read
45 as follows:

46 (a) An allegation that the respondent assaulted or attempted to
47 assault his or her spouse, or former spouse, parent, child or other
48 member of the same family or household or engaged in disorderly conduct,
49 harassment, sexual misconduct, forcible touching, sexual abuse in the
50 third degree, sexual abuse in the second degree as set forth in subdivi-
51 sion one of section 130.60 of the penal law, stalking, criminal
52 mischief, menacing, reckless endangerment, criminal obstruction of
53 breathing or blood circulation, strangulation, identity theft in the
54 first degree, identity theft in the second degree, identity theft in the
55 third degree, grand larceny in the fourth degree, grand larceny in the
56 third degree or coercion in the second degree as set forth in subdivi-

1 sions one, two and three of section 135.60 of the penal law, unlawful
2 publication of sexual images as set forth in section 250.61 of the penal
3 law, sexual extortion in the third degree as set forth in section 250.62
4 of the penal law, sexual extortion in the second degree as set forth in
5 section 250.63 of the penal law, or sexual extortion in the first degree
6 as set forth in section 250.64 of the penal law toward any such person;

7 § 4. The opening paragraph of subdivision 1 of section 530.11 of the
8 criminal procedure law, as amended by chapter 526 of the laws of 2013,
9 is amended to read as follows:

10 The family court and the criminal courts shall have concurrent juris-
11 diction over any proceeding concerning acts which would constitute
12 disorderly conduct, harassment in the first degree, harassment in the
13 second degree, aggravated harassment in the second degree, sexual
14 misconduct, forcible touching, sexual abuse in the third degree, sexual
15 abuse in the second degree as set forth in subdivision one of section
16 130.60 of the penal law, stalking in the first degree, stalking in the
17 second degree, stalking in the third degree, stalking in the fourth
18 degree, criminal mischief, menacing in the second degree, menacing in
19 the third degree, reckless endangerment, strangulation in the first
20 degree, strangulation in the second degree, criminal obstruction of
21 breathing or blood circulation, assault in the second degree, assault in
22 the third degree, an attempted assault, identity theft in the first
23 degree, identity theft in the second degree, identity theft in the third
24 degree, grand larceny in the fourth degree, grand larceny in the third
25 degree or coercion in the second degree as set forth in subdivisions
26 one, two and three of section 135.60 of the penal law, unlawful publica-
27 tion of sexual images as set forth in section 250.61 of the penal law,
28 sexual extortion in the third degree as as set forth in section 250.62
29 of the penal law, sexual extortion in the second degree as set forth in
30 section 250.63 of the penal law, or sexual extortion in the first degree
31 as set forth in section 250.64 of the penal law between spouses or
32 former spouses, or between parent and child or between members of the
33 same family or household except that if the respondent would not be
34 criminally responsible by reason of age pursuant to section 30.00 of the
35 penal law, then the family court shall have exclusive jurisdiction over
36 such proceeding. Notwithstanding a complainant's election to proceed in
37 family court, the criminal court shall not be divested of jurisdiction
38 to hear a family offense proceeding pursuant to this section. For
39 purposes of this section, "disorderly conduct" includes disorderly
40 conduct not in a public place. For purposes of this section, "members of
41 the same family or household" with respect to a proceeding in the crimi-
42 nal courts shall mean the following:

43 § 5. The penal law is amended by adding a new section 250.61 to read
44 as follows:

45 § 250.61 Unlawful publication of sexual images.

46 A person is guilty of unlawful publication of sexual images when he or
47 she, with the intent to harm or cause serious emotional distress to
48 another: (a) publishes, broadcasts, or in any other way disseminates
49 images of the sexual or other intimate parts of a person personally
50 known to them; or (b) compels another to engage in conduct by means of
51 instilling fear that if the demand to engage in such conduct is not
52 complied with, he or she will publish, broadcast, or in any other way
53 disseminate images of the sexual or other intimate parts of another
54 person personally known to them, and the depicted person suffers serious
55 emotional distress as a result of the publication, broadcast or dissem-

1 ination, or the compulsion thereof, and the publication or broadcast was
2 done without consent of the person.

3 Unlawful publication of a sexual image is a class A misdemeanor.

4 § 6. Subparagraph (i) of paragraph (a) of subdivision 2 of section
5 168-a of the correction law, as amended by chapter 368 of the laws of
6 2015, is amended to read as follows:

7 2. "Sex offense" means: (a) (i) a conviction of or a conviction for an
8 attempt to commit any of the provisions of sections 120.70, 130.20,
9 130.25, 130.30, 130.40, 130.45, 130.60, 230.34, 250.50, 250.61, 250.62,
10 250.63, 250.64, 255.25, 255.26 and 255.27 or article two hundred sixty-
11 three of the penal law, or section 135.05, 135.10, 135.20 or 135.25 of
12 such law relating to kidnapping offenses, provided the victim of such
13 kidnapping or related offense is less than seventeen years old and the
14 offender is not the parent of the victim, or section 230.04, where the
15 person patronized is in fact less than seventeen years of age, 230.05,
16 230.06, 230.11, 230.12, 230.13, subdivision two of section 230.30,
17 section 230.32, 230.33, or 230.34 of the penal law, or section 230.25 of
18 the penal law where the person prostituted is in fact less than seven-
19 teen years old, or

20 § 7. This act shall take effect immediately, provided however that
21 sections two, three, and four of this act shall take effect on the first
22 of November next succeeding the date on which it shall have become a
23 law.

24

PART G

25 Section 1. Subdivision 4 of section 2805-i of the public health law is
26 REPEALED.

27 § 2. Subdivision 2 of section 2805-i of the public health law, as
28 amended by chapter 504 of the laws of 1994, is amended to read as
29 follows:

30 2. The sexual offense evidence shall be collected and kept in a locked
31 separate and secure area for not less than [thirty days] the longer of
32 five years or the date the alleged sexual offense victim reaches the age
33 of nineteen, unless: (a) such evidence is not privileged and the police
34 request its surrender before that time, which request shall be complied
35 with; or (b) such evidence is privileged and (i) the alleged sexual
36 offense victim nevertheless gives permission to turn such privileged
37 evidence over to the police before that time, or (ii) the alleged sexual
38 offense victim signs a statement directing the hospital to not collect
39 and keep such privileged evidence, which direction shall be complied
40 with. The sexual offense evidence shall include, but not be limited to,
41 slides, cotton swabs, clothing and other items. Where appropriate such
42 items must be refrigerated and the clothes and swabs must be dried,
43 stored in paper bags and labeled. Each item of evidence shall be marked
44 and logged with a code number corresponding to the patient's medical
45 record. [The] Within thirty days of collection of evidence, the alleged
46 sexual offense victim shall be notified that after [thirty days] the
47 longer of five years or the date the alleged sexual offense victim
48 reaches the age of nineteen, the refrigerated evidence will be discarded
49 in compliance with state and local health codes and the alleged sexual
50 offense victim's clothes will be returned to the alleged sexual offense
51 victim upon request. The hospital shall ensure that diligent efforts are
52 made to contact the alleged sexual offense victim and repeat such
53 notification more than thirty days prior to the evidence being discarded
54 in accordance with this section. Hospitals may enter into contracts with



1 other entities that will ensure appropriate storage of sexual offense
2 evidence pursuant to this subdivision.

3 § 3. This act shall take effect immediately.

4 PART H

5 Section 1. Section 292 of the executive law is amended by adding a new
6 subdivision 35 to read as follows:

7 35. The term "educational institution" shall mean:

8 (a) any education corporation or association which holds itself out to
9 the public to be non-secretarian and exempt from taxation pursuant to
10 the provisions of article four of the real property tax law; or

11 (b) any public school, including any school district, board of cooper-
12 ative education services, public college or public university.

13 § 2. Subdivision 4 of section 296 of the executive law, as amended by
14 chapter 106 of the laws of 2003, is amended to read as follows:

15 4. It shall be an unlawful discriminatory practice for an [education
16 corporation or association which holds itself out to the public to be
17 non-sectarian and exempt from taxation pursuant to the provisions of
18 article four of the real property tax law] educational institution to
19 deny the use of its facilities to any person otherwise qualified, or to
20 permit the harassment of any student or applicant, by reason of his
21 race, color, religion, disability, national origin, sexual orientation,
22 military status, sex, age or marital status, except that any such insti-
23 tution which establishes or maintains a policy of educating persons of
24 one sex exclusively may admit students of only one sex.

25 § 3. This act shall take effect immediately.

26 PART I

27 Section 1. This Part enacts into law major components of legislation
28 which are necessary to combat sexual harassment in the workplace. Each
29 component is wholly contained within a Subpart identified as Subparts A
30 through F. The effective date for each particular provision contained
31 within such Subpart is set forth in the last section of such Subpart.
32 Any provision in any section contained within a Subpart, including the
33 effective date of the Subpart, which makes a reference to a section "of
34 this act," when used in connection with that particular component, shall
35 be deemed to mean and refer to the corresponding section of the Subpart
36 in which it is found. Section three of this Part sets forth the general
37 effective date of the Part.

38 SUBPART A

39 Section 1. The state finance law is amended by adding a new section
40 148 to read as follows:

41 § 148. Reporting of sexual harassment violations by state contractors.

42 1. Definitions. As used in this section, the following terms shall have
43 the following meanings unless otherwise specified:

44 a. "State agency" means (1) (a) any state department, or (b) any divi-
45 sion, board, commission or bureau of any state department, or (c) the
46 state university of New York and the city university of New York,
47 including all their constituent units except community colleges and the
48 independent institutions operating statutory or contract colleges on
49 behalf of the state, or (d) a board or commission, a majority of whose

1 members are appointed by the governor; and (2) a "state authority", as
2 defined in subdivision one of section two of the public authorities law.

3 b. "Owner" means an owner of a business entity, which includes but is
4 not limited to a shareholder of a corporation that is not publicly trad-
5 ed, a partner in a partnership or limited liability partnership, a
6 member of a limited liability company, a general partner or limited
7 partner of a limited partnership.

8 c. "Manager" means a director or executive officer of a business enti-
9 ty, which includes but is not limited to a director of a corporation and
10 a manager of a limited liability company.

11 d. "Sexual harassment violation" means a claim of sexual harassment
12 that has been determined to be substantiated in accordance with applica-
13 ble law or the internal policies of the contractor.

14 e. "Sexual harassment" means unwelcome sexual advances, requests for
15 sexual favors, or other verbal or physical conduct of a sexual nature if
16 such conduct is made either explicitly or implicitly a term or condition
17 of employment, or submission to or rejection of such conduct is used as
18 the basis for employment decisions affecting an individual's employment,
19 or such conduct has the purpose or effect of unreasonably interfering
20 with an individual's work performance or creating an intimidating,
21 hostile or offensive work environment, even if the complaining individ-
22 ual is not the intended target of the sexual harassment.

23 f. "Contract" means the same as "procurement contract" as defined in
24 subdivision g of section one hundred thirty-nine-k of the state finance
25 law.

26 2. A clause shall be inserted in all contracts hereafter made or
27 awarded by the state, or by any state agency, requiring a contractor to
28 whom any contract shall be let, granted or awarded, as required by law,
29 to certify to the office of general services not later than June thirti-
30 eth of each year during the term of the contract information relating to
31 the issue of sexual harassment, which shall include, among other things,
32 the following: (i) the number of sexual harassment violations and/or
33 determinations asserted against or committed by any owner, manager, or
34 employee of the contractor in the previous calendar year; (ii) the
35 number of settlement agreements containing nondisclosure provisions that
36 have been executed by the contractor in the previous calendar year where
37 such settlement agreement resolves any sexual harassment claim asserted
38 against or committed by any owner, manager, or employee of the contrac-
39 tor; and (iii) a description of training provided to employees relating
40 to sexual harassment prevention in the workplace. The above-referenced
41 clause shall also require the contractor to submit such certification
42 using a form of certification provided by the office of general
43 services.

44 3. The office of general services shall prepare an annual report which
45 identifies the aggregate number of sexual harassment violations, the
46 aggregate number of settlement agreements containing nondisclosure
47 provisions, and the aggregate number of businesses providing sexual
48 harassment training in the workplace reported to the office of general
49 services during the preceding year. The report shall be provided to the
50 governor, the speaker of the assembly and the temporary president of the
51 senate on or before November first of each year commencing with the
52 November first in the year immediately following the effective date of
53 the legislation.

54 § 2. This act shall take effect on the one hundred eightieth day after
55 it shall have become a law.

1

SUBPART B

2 Section 1. The general business law is amended by adding a new section
3 398-f to read as follows:

4 § 398-f. Certain contract clauses; prohibited. 1. Definitions. As
5 used in this section:

6 a. The term "employer" shall have the same meaning as provided in
7 subdivision five of section two hundred ninety-two of the executive law.

8 b. The term "sexual harassment" shall include unwelcome sexual
9 advances, requests for sexual favors, and other verbal or physical
10 conduct of a sexual nature when: (i) submission to such conduct is made
11 either explicitly or implicitly a term or condition of an individual's
12 employment; (ii) submission to or rejection of such conduct by an indi-
13 vidual is used as the basis for employment decisions affecting such
14 individual; or (iii) such conduct has the purpose or effect of interfer-
15 ing with an individual's work performance or creating an intimidating,
16 hostile, or offensive working environment.

17 2. Prohibition. On or after the effective date of this section, no
18 employer shall force an employee or prospective employee to enter into a
19 written contract if such contract would restrict or limit such employ-
20 ee's ability to bring or adjudicate claims relating to unlawful discri-
21 minatory practices based on sexual harassment in any forum.

22 3. Where there is a conflict between any collective bargaining agree-
23 ment and this section, such agreement shall be controlling.

24 § 2. This act shall take effect on the first of January next succeed-
25 ing the date on which it shall have become a law.

26

SUBPART C

27 Section 1. The executive law is amended by adding a new section 656 to
28 read as follows:

29 § 656. Individual liability for sexual harassment. a. For the
30 purposes of this section, "sexual harassment" shall include unwelcome
31 sexual advances, requests for sexual favors, or other verbal or physical
32 conduct of a sexual nature when: (i) submission to such conduct is made
33 either explicitly or implicitly a term or condition of an individual's
34 employment; (ii) submission to or rejection of such conduct by an indi-
35 vidual is used as the basis for employment decisions affecting such
36 individual; or (iii) such conduct has the purpose or effect of interfer-
37 ing with an individual's work performance or creating an intimidating,
38 hostile, or offensive working environment.

39 b. The office of employee relations shall review any proposed agreed
40 judgment, stipulation, decree, agreement to settle, assurance of discon-
41 tinuance or other agreement to resolve any internal complaint, complaint
42 to the U.S. equal employment opportunity commission or New York divi-
43 sion of human rights, or other complaint that has not been filed in
44 state or federal court, if the act or omission from which such complaint
45 arose involved sexual harassment. The office of employee relations
46 shall not approve such agreement to the extent such agreement includes a
47 proposal for the state to indemnify and save harmless an employee for
48 the employee's individual liability with respect to the complaint.

49 § 2. Section 17 of the public officers law is amended by adding a new
50 subdivision 12 to read as follows:

51 12. (a) For the purposes of this section, "sexual harassment" shall
52 include unwelcome sexual advances, requests for sexual favors, or other
53 verbal or physical conduct of a sexual nature when: (i) submission to

1 such conduct is made either explicitly or implicitly a term or condition
2 of an individual's employment; (ii) submission to or rejection of such
3 conduct by an individual is used as the basis for employment decisions
4 affecting such individual; or (iii) such conduct has the purpose or
5 effect of interfering with an individual's work performance or creating
6 an intimidating, hostile, or offensive working environment.

7 (b) Notwithstanding any provision of this article or law, the state
8 shall not indemnify and save harmless an employee in the amount of any
9 judgment obtained against such employee in any state or federal court,
10 or in the amount of any settlement of a claim, and shall not pay such
11 judgment or settlement if the act or omission from which such judgment
12 or settlement arose involved sexual harassment.

13 § 3. Paragraph (d) of subdivision 4 of section 18 of the public offi-
14 cers law is relettered paragraph (e) and a new paragraph (d) is added to
15 read as follows:

16 (d) (i) For the purposes of this section, "sexual harassment" shall
17 include unwelcome sexual advances, requests for sexual favors, or other
18 verbal or physical conduct of a sexual nature when: (A) submission to
19 such conduct is made either explicitly or implicitly a term or condition
20 of an individual's employment; (B) submission to or rejection of such
21 conduct by an individual is used as the basis for employment decisions
22 affecting such individual; or (C) such conduct has the purpose or effect
23 of interfering with an individual's work performance or creating an
24 intimidating, hostile, or offensive working environment.

25 (ii) No public entity shall indemnify or save harmless an employee
26 with respect to the amount of any judgment obtained against such employ-
27 ee in any state or federal court, or in the amount of any settlement of
28 a claim, or pay such judgment or settlement if the act or omission from
29 which such judgment or settlement arose involved sexual harassment.

30 § 4. This act shall take effect immediately.

31 SUBPART D

32 Section 1. Section 63 of the executive law is amended by adding a new
33 subdivision 17 to read as follows:

34 17. (a) For the purposes of this section, sexual harassment includes
35 unwelcome sexual advances, requests for sexual favors, and other verbal
36 or physical conduct of a sexual nature when: (1) submission to such
37 conduct is made either explicitly or implicitly a term or condition of
38 an individual's employment; (2) submission to or rejection of such
39 conduct by an individual is used as the basis for employment decisions
40 affecting such individual; or (3) such conduct has the purpose or effect
41 of interfering with an individual's work performance or creating an
42 intimidating, hostile, or offensive working environment.

43 (b) Notwithstanding any other law to the contrary, for any claim or
44 cause of action, whether filed or unfiled, actual or potential, and
45 whether arising under common law, equity, or any provision of law, the
46 factual foundation for which involves sexual harassment, in resolving,
47 by agreed judgment, stipulation, decree, agreement to settle, assurance
48 of discontinuance or otherwise, a state agency or a state official or
49 employee acting in their official capacity shall not have the authority
50 to include or agree to include in such resolution any term or condition
51 that would prevent the disclosure of any or all factual information
52 related to the action unless the condition of confidentiality is the
53 complainant's preference. Any such condition must be provided to the
54 complainant, who shall have twenty-one days to consider the condition.

1 If after twenty-one days, such condition is the complainant's prefer-
2 ence, such preference shall be memorialized in an agreement signed by
3 the complainant.

4 § 2. The general municipal law is amended by adding a new section 70-b
5 to read as follows:

6 § 70-b. Confidential settlements. a. For the purposes of this section,
7 sexual harassment includes unwelcome sexual advances, requests for sexu-
8 al favors, and other verbal or physical conduct of a sexual nature when:
9 (i) submission to such conduct is made either explicitly or implicitly a
10 term or condition of an individual's employment; (ii) submission to or
11 rejection of such conduct by an individual is used as the basis for
12 employment decisions affecting such individual; or (iii) such conduct
13 has the purpose or effect of interfering with an individual's work
14 performance or creating an intimidating, hostile, or offensive working
15 environment.

16 b. Notwithstanding any other law to the contrary, for any claim or
17 cause of action, whether filed or unfiled, actual or potential, and
18 whether arising under common law, equity, or any provision of law, the
19 factual foundation for which involves sexual harassment, in resolving,
20 by agreed judgment, stipulation, decree, agreement to settle, assurance
21 of discontinuance or otherwise, a municipal corporation, official or
22 employee acting in their official capacity shall not have the authority
23 to include or agree to include in such resolution any term or condition
24 that would prevent the disclosure of any or all factual information
25 related to the action unless the condition of confidentiality is the
26 complainant's preference. Any such condition must be provided to the
27 complainant, who shall have twenty-one days to consider the condition.
28 If after twenty-one days, such condition is the complainant's prefer-
29 ence, such preference shall be memorialized in an agreement signed by
30 the complainant.

31 § 3. This act shall take effect immediately.

32 SUBPART E

33 Section 1. Subdivision 3 of section 74 of the public officers law is
34 amended by adding a new paragraph j to read as follows:

35 j. No officer or employee of a state agency, member of the legislature
36 or legislative employee shall commit an act of sexual harassment while
37 serving in his or her official capacity. For the purposes of this
38 section, "sexual harassment" shall include unwelcome sexual advances,
39 requests for sexual favors, and other verbal or physical conduct of a
40 sexual nature when submission to such conduct is made either explicitly
41 or implicitly a term or condition of an individual's employment,
42 submission to or rejection of such conduct by an individual is used as
43 the basis for employment decisions affecting such individual or such
44 conduct has the purpose or effect of interfering with an individual's
45 work performance or creating an intimidating, hostile, or offensive
46 working environment.

47 § 2. Subdivision 4 of section 74 of the public officers law, as
48 amended by chapter 14 of the laws of 2007, is amended to read as
49 follows:

50 4. a. Violations. In addition to any penalty contained in any other
51 provision of law any such officer, member or employee who shall knowing-
52 ly and intentionally violate any of the provisions of this section may
53 be fined, suspended or removed from office or employment in the manner
54 provided by law. Any such individual who knowingly and intentionally

1 violates the provisions of paragraph b, c, d or i of subdivision three
2 of this section shall be subject to a civil penalty in an amount not to
3 exceed ten thousand dollars and the value of any gift, compensation or
4 benefit received as a result of such violation. Any such individual who
5 knowingly and intentionally violates the provisions of paragraph a, e or
6 g of subdivision three of this section shall be subject to a civil
7 penalty in an amount not to exceed the value of any gift, compensation
8 or benefit received as a result of such violation.

9 b. Sexual harassment violations. In addition to any penalty contained
10 in any other provision of law any such officer, member or employee who
11 shall violate the provisions of paragraph j of subdivision three of this
12 section shall be subject to a civil penalty of up to ten thousand
13 dollars, and may be subject to proceedings for suspension or removal
14 from office or employment by the attorney general or in the manner
15 otherwise provided by law or collective bargaining agreement.

16 § 3. Subdivision 9 of section 94 of the executive law is amended by
17 adding a new paragraph (o) to read as follows:

18 (o) Establish a unit to receive and investigate complaints of sexual
19 harassment that constitute violations of paragraph j of subdivision
20 three of section seventy-four of the public officers law. Such unit
21 shall maintain a phone number to receive complaints, and post such
22 number and instructions for filing a complaint of sexual harassment on
23 the commission's publicly accessible website.

24 § 4. Subdivision 13 of section 94 of the executive law is amended by
25 adding a new paragraph (d) to read as follows:

26 (d) For an alleged or possible violation of paragraph j of subdivision
27 three of section seventy-four of the public officers law, filing a
28 complaint shall not constitute an election of remedies. An individual
29 shall not be required to exhaust other available administrative remedies
30 to file a complaint. Neither the filing of a complaint of the conclusion
31 of any investigation by the commission shall restrict a complainant's
32 right to bring a separate action administratively or in a court of law.
33 Notice to any complainant shall be provided upon the closure of any
34 investigation. However, the individual shall notify the commission of
35 any separate administrative action or action in the court of law relat-
36 ing to the same complaint. The commission may stay the matter before it
37 pending the determination/conclusion of the separate action.

38 § 5. This act shall take effect immediately.

39 SUBPART F

40 Section 1. The executive law is amended by adding a new section 655 to
41 read as follows:

42 § 655. Sexual harassment prevention policy. a. Notwithstanding any
43 other provision of law to the contrary, the office of employee relations
44 shall develop a sexual harassment prevention policy, applicable to each
45 agency, office or department, which shall include investigation proce-
46 dures and a standard complaint form. The sexual harassment prevention
47 policy shall include, but not be limited to, the following elements:

48 (i) Definitions. For the purposes of this section, the following terms
49 shall have the following meanings:

50 (A) "sexual harassment" shall include unwelcome sexual advances,
51 requests for sexual favors, and other verbal or physical conduct of a
52 sexual nature when: (1) submission to such conduct is made either
53 explicitly or implicitly a term or condition of an individual's employ-
54 ment; (2) submission to or rejection of such conduct by an individual is

1 used as the basis for employment decisions affecting such individual; or
2 (3) such conduct has the purpose or effect of interfering with an indi-
3 vidual's work performance or creating an intimidating, hostile, or
4 offensive working environment.

5 (B) "employee" shall include any agency, office or department employ-
6 ee, contractor, or employee of any contractor or other individual in the
7 workplace of any agency, office or department.

8 (ii) Instructions to file a complaint. (A) Complaints may be filed by
9 an employee to any supervisor, managerial employee, personnel adminis-
10 trator, or affirmative action administrator. Any supervisory or manage-
11 rial employee who observes or otherwise becomes aware of conduct of a
12 sexually harassing nature, must report such conduct as set forth in the
13 complaint procedure so that it can be investigated. If the office of
14 employment relations otherwise becomes aware of conduct of a sexually
15 harassing nature, it shall ensure an investigation is opened immediate-
16 ly.

17 (B) A standard complaint form. A standard complaint form shall be
18 available to every employee on the agency, office, or department's
19 intranet. If an employee makes an oral complaint, the person receiving
20 such complaint shall encourage the employee to fill out a standard
21 complaint form. If the employee does not fill out the complaint form,
22 the person shall fill out such form based on the oral reporting.

23 (iii) Investigation procedure. (A) The office of employee relations
24 shall designate an individual to investigate complaints of sexual
25 harassment for each agency, office, and department. Upon receipt of a
26 complaint of sexual harassment, a supervisor, managerial employee,
27 personnel administrator, or affirmative action administrator shall imme-
28 diately report such complaint to the designated individual, who shall
29 open an investigation. The designated individual shall ensure that he or
30 she does not have a conflict of interest in the allegations in the
31 complaint, and if there is any suspected conflict of interest, the indi-
32 vidual shall immediately notify the office of employee relations, which
33 shall designate a new individual to conduct the investigation.

34 (B) An investigation into a complaint of sexual harassment shall take
35 no more than ninety days from the filing of the complaint. If additional
36 time is needed to complete an investigation due to its complexity, a
37 request for an extension may be submitted to the office of employee
38 relations.

39 (C) Any complaint of sexual harassment will be kept confidential,
40 including the identity of the complainant, witnesses and the identity of
41 the alleged harasser to the extent practicable during the course of the
42 investigations.

43 (D) Any appropriate remedial steps may be taken to prevent intim-
44 idation, retaliation, or coercion of the complainant by the alleged
45 harasser. Such steps may include, but not be limited to, preventing the
46 alleged harasser from contacting the complainant or from discussing the
47 substance of the complaint with the complainant, or removing the alleged
48 harasser from the workplace.

49 (E) Such procedures shall also include, at a minimum:

50 (1) the development of a preliminary investigation plan, which shall
51 include at a minimum:

52 (I) an examination of: the circumstances surrounding the allegations;
53 the employment history of the parties; the place, date, location, time,
54 and duration of the incident in question; and prior relevant incidents
55 or allegations, whether reported or unreported;

1 (II) identification of the complainant, alleged harasser, and any
2 relevant witnesses;

3 (III) identification and communication of any legal hold request on
4 any relevant documents, emails or phone records to legal counsel; and

5 (IV) a determination of any necessary site visits;

6 (2) an interview of the complainant, where necessary;

7 (3) an interview of the alleged harasser, where necessary, which shall
8 conform to the requirements of any applicable collective bargaining
9 agreement or law; and

10 (4) any other relevant information relating to the allegations.

11 (iv) Completion of the investigation. (A) After the completion of an
12 investigation, the individual who conducted the investigation shall
13 draft a report, using a standard format developed by the office of
14 employee relations. Such report shall contain, at minimum, a summary of
15 relevant documents; a list of all individuals interviewed and a summary
16 of their statements; a timeline of events; a summary of prior relevant
17 incidents; and an analysis of the allegations and evidence.

18 (B) The report shall be submitted to the counsel at the agency,
19 office, or department for review and recommendation. No more than thirty
20 days after the completion of such investigation, a legal determination
21 shall be issued. If there is a determination that the complaint or a
22 component of such complaint is substantiated, appropriate administrative
23 action shall be taken, which shall conform to any applicable collective
24 bargaining agreement or law.

25 b. Such policy shall also include, but not be limited to the follow-
26 ing:

27 (i) Contain a statement that sexual harassment is unlawful pursuant to
28 state and federal civil rights laws, and shall be prohibited conduct in
29 all state agencies, offices, and departments;

30 (ii) Contain a statement that retaliation against a complainant,
31 witness or any other individual participating in the investigation proc-
32 ess is unlawful and will not be tolerated;

33 (iii) Contain a statement that employees also have the right to file a
34 complaint with the U.S. Equal Employment Opportunity Commission, and the
35 New York division of human rights;

36 (iv) Contain a statement that employees of state entities also have a
37 right to file a complaint with the joint commission on public ethics,
38 which shall include the contact information for employees to use to file
39 such a complaint;

40 (v) Copies of the sexual harassment policy, as well as directions for
41 filing a complaint, shall be distributed to all employees of state agen-
42 cies, offices, departments, including the executive department upon
43 commencing employment and annually thereafter; and

44 (vi) Provisions for appropriate annual interactive training for all
45 employees of state agencies, offices, and departments, including the
46 executive department.

47 c. Nothing in this section shall grant any additional legal rights to
48 any employee and nothing herein abrogates compliance with any law, rule,
49 or regulation that grants rights to an employee. Where there is a
50 conflict between any collective bargaining agreement and this section,
51 such agreement shall be controlling.

52 § 2. Article 5 of the legislative law is amended by adding a new
53 section 81 to read as follows:

54 § 81. Sexual harassment prevention policy. 1. Notwithstanding any
55 other provision of law to the contrary, the legislative ethics commis-
56 sion shall develop a sexual harassment prevention policy, applicable to

1 the legislature and all legislative employees, which shall include
2 investigation procedures and a standard complaint form. The sexual
3 harassment prevention policy shall include, but not be limited to, the
4 following elements:

5 (a) Definitions. The following terms shall have the following mean-
6 ings:

7 (i) "sexual harassment" shall include unwelcome sexual advances,
8 requests for sexual favors, and other verbal or physical conduct of a
9 sexual nature when: (A) submission to such conduct is made either
10 explicitly or implicitly a term or condition of an individual's employ-
11 ment; (B) submission to or rejection of such conduct by an individual is
12 used as the basis for employment decisions affecting such individual; or
13 (C) such conduct has the purpose or effect of interfering with an indi-
14 vidual's work performance or creating an intimidating, hostile, or
15 offensive working environment.

16 (ii) "employee" shall include any legislative employee, contractor, or
17 employee of any contractor or other individual in the workplace of the
18 legislature.

19 (b) Instructions to file a complaint. (i) Complaints may be filed by
20 an employee to any supervisor, managerial employee, personnel adminis-
21 trator, or affirmative action administrator. Any supervisory or manage-
22 rial employee who observes or otherwise becomes aware of conduct of a
23 sexually harassing nature, must report such conduct as set forth in the
24 complaint procedure so that it can be investigated. If the legislative
25 ethics commission otherwise becomes aware of conduct of a sexually
26 harassing nature, it shall ensure an investigation is opened immediate-
27 ly.

28 (ii) A standard complaint form. A standard complaint form shall be
29 available to every employee of the legislature. If an employee makes an
30 oral complaint, the person receiving such complaint shall encourage the
31 employee to fill out a standard complaint form. If the employee does not
32 fill out the complaint form, the person shall fill out such form based
33 on the oral reporting.

34 (c) Investigation procedure. (i) The legislative ethics commission
35 shall designate an individual to investigate complaints of sexual
36 harassment. Upon receipt of a complaint of sexual harassment, a super-
37 visor, managerial employee, personnel administrator, or affirmative
38 action administrator shall immediately report such complaint to the
39 designated individual, who shall open an investigation. The designated
40 individual shall ensure that he or she does not have a conflict of
41 interest in the allegations in the complaint, and if there is any
42 conflict of interest, the individual shall immediately notify the legis-
43 lative ethics commission, which shall designate a new individual to
44 conduct the investigation.

45 (ii) An investigation into a complaint of sexual harassment shall take
46 no more than ninety days from the filing of the complaint. If additional
47 time is needed to complete an investigation due to its complexity, a
48 request for an extension may be submitted to the legislative ethics
49 commission.

50 (iii) Any complaint of sexual harassment will be kept confidential,
51 including the identity of complainant, witnesses and the identity of the
52 alleged harasser to the extent practicable during the course of the
53 investigations.

54 (iv) Any appropriate remedial steps may be taken to prevent intim-
55 idation, retaliation, or coercion of the complainant by the alleged
56 harasser. Such steps may include, but not be limited to, preventing the

1 alleged harasser from contacting the complainant or from discussing the
2 substance of the complaint with the complainant.

3 (v) Such procedures shall also include, at a minimum:

4 (A) the development of a preliminary investigation plan, which shall
5 include at a minimum:

6 (1) an examination of: the circumstances surrounding the allegations;
7 the employment history of the parties; the place, date, location, time,
8 and duration of the incident in question; and prior relevant incidents
9 or allegations, whether reported or unreported;

10 (2) identification of the complainant, alleged harasser, and any rele-
11 vant witnesses;

12 (3) identification and communication of any legal hold request on any
13 relevant documents, emails or phone records to legal counsel; and

14 (4) a determination of any necessary site visits;

15 (B) an interview of the complainant, where necessary;

16 (C) an interview of the alleged harasser, where necessary, which shall
17 conform to the requirements of any applicable collective bargaining
18 agreement or law; and

19 (D) any other relevant information relating to the allegations.

20 (d) Completion of the investigation. (i) After the completion of an
21 investigation, the individual who conducted the investigation shall
22 draft a report, using a standard format developed by the legislative
23 ethics commission. Such report shall contain, at a minimum, a summary of
24 relevant documents; a list of all individuals interviewed and a summary
25 of their statements; a timeline of events; a summary of prior relevant
26 incidents; and an analysis of the allegations and evidence.

27 (ii) The report shall be submitted to an individual designated by the
28 legislative ethics commission to review the report and make a legal
29 recommendation. No more than thirty days after the completion of such
30 investigation, a legal determination shall be issued. If there is a
31 determination that the complaint or a component of such complaint is
32 substantiated, appropriate administrative action shall be taken, which
33 shall conform to any applicable collective bargaining agreement or law.

34 2. Such policy shall also include, but not be limited to the follow-
35 ing:

36 (a) Contain a statement that sexual harassment is unlawful pursuant to
37 state and federal civil rights laws, and shall be prohibited conduct in
38 the legislature;

39 (b) Contain a statement that retaliation against a complainant,
40 witness or any other individual participating in the investigation proc-
41 ess is unlawful and will not be tolerated;

42 (c) Contain a statement that employees also have the right to file a
43 complaint with the U.S. Equal Employment Opportunity Commission, and the
44 New York division of human rights;

45 (d) Contain a statement that employees of state entities also have a
46 right to file a complaint with the joint commission on public ethics,
47 which shall include the contact information for employees to use to file
48 such a complaint;

49 (e) Copies of the sexual harassment policy, as well as directions for
50 filing a complaint, shall be distributed to all employees of the legis-
51 lature upon commencing employment and annually thereafter; and

52 (f) Provisions for appropriate annual interactive training for all
53 employees of the legislature.

54 3. Nothing in this section shall grant any additional legal rights to
55 any employee and nothing in this section abrogates compliance with any
56 law, rule, or regulation that grants rights to an employee. Where there

1 is a conflict between any collective bargaining agreement and this
2 section, such agreement shall be controlling.

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

5 § 219-d. Sexual harassment prevention policy. 1. Notwithstanding any
6 other provision of law to the contrary, the office of court adminis-
7 tration shall develop a sexual harassment prevention policy, applicable
8 to the judiciary and all judiciary employees, which shall include inves-
9 tigation procedures and a standard complaint form. The sexual harassment
10 prevention policy shall include, but not be limited to, the following
11 elements:

12 (a) Definitions. For the purposes of this section, the following terms
13 shall have the following meanings:

14 (i) "sexual harassment" shall include unwelcome sexual advances,
15 requests for sexual favors, and other verbal or physical conduct of a
16 sexual nature when: (A) submission to such conduct is made either
17 explicitly or implicitly a term or condition of an individual's employ-
18 ment; (B) submission to or rejection of such conduct by an individual is
19 used as the basis for employment decisions affecting such individual; or
20 (C) such conduct has the purpose or effect of interfering with an indi-
21 vidual's work performance or creating an intimidating, hostile, or
22 offensive working environment.

23 (ii) "employee" shall include any employee, contractor, or employee of
24 any contractor or other individual in the work place of the judiciary.

25 (b) Instructions to file a complaint. (i) Complaints may be filed by
26 an employee to any supervisor, managerial employee, personnel adminis-
27 trator, or affirmative action administrator. Any supervisory or manage-
28 rial employee who observes or otherwise becomes aware of conduct of a
29 sexually harassing nature, must report such conduct as set forth in the
30 complaint procedure so that it can be investigated. If the office of
31 court administration otherwise becomes aware of conduct of a sexually
32 harassing nature, it shall ensure an investigation is opened immediate-
33 ly.

34 (ii) A standard complaint form. A standard complaint form shall be
35 available to every employee in the judiciary. If an employee makes an
36 oral complaint, the person receiving such complaint shall encourage the
37 employee to fill out a standard complaint form. If the employee does not
38 fill out the complaint form, the person shall fill out such form based
39 on the oral reporting.

40 (c) Investigation procedure. (i) The office of court administration
41 shall designate an individual to investigate complaints of sexual
42 harassment. Upon receipt of a complaint of sexual harassment, a supervi-
43 sor, managerial employee, personnel administrator, or affirmative action
44 administrator shall immediately report such complaint to the designated
45 individual, who shall open an investigation. The designated individual
46 shall ensure that he or she does not have a conflict of interest in the
47 allegations in the complaint, and if there is any conflict of interest,
48 the individual shall immediately notify the office of court adminis-
49 tration, which shall designate a new individual to conduct the investi-
50 gation.

51 (ii) An investigation into a complaint of sexual harassment shall take
52 no more than ninety days from the filing of the complaint. If additional
53 time is needed to complete an investigation due to its complexity, a
54 request for an extension may be submitted to the office of court admin-
55 istration.

1 (iii) Any complaint of sexual harassment will be kept confidential,
2 including the identity of the complainant, witnesses and the identity of
3 the alleged harasser to the extent practicable during the course of the
4 investigations.

5 (iv) Any appropriate remedial steps may be taken to prevent intimid-
6 ation, retaliation, or coercion of the complainant by the alleged
7 harasser. Such steps may include, but not be limited to, preventing the
8 alleged harasser from contacting the complainant or from discussing the
9 substance of the complaint with the complainant.

10 (v) Such procedures shall also include, at a minimum:

11 (A) the development of a preliminary investigation plan, which shall
12 include at a minimum:

13 (1) an examination of: the circumstances surrounding the allegations;
14 the employment history of the parties; the place, date, location, time,
15 and duration of the incident in question; and prior relevant incidents
16 or allegations, whether reported or unreported;

17 (2) identification of the complainant, alleged harasser, and any rele-
18 vant witnesses;

19 (3) identification and communication of any legal hold request on any
20 relevant documents, emails or phone records to legal counsel; and

21 (4) a determination of any necessary site visits;

22 (B) an interview of the complainant, where necessary;

23 (C) an interview of the alleged harasser, where necessary, which shall
24 conform to the requirements of any applicable collective bargaining
25 agreement or law; and

26 (D) any other relevant information relating to the allegations.

27 (d) Completion of the investigation. (i) After the completion of an
28 investigation, the individual who conducted the investigation shall
29 draft a report, using a standard format developed by the office of court
30 administration. Such report shall contain, at a minimum, a summary of
31 relevant documents; a list of all individuals interviewed and a summary
32 of their statements; a timeline of events; a summary of prior relevant
33 incidents; and an analysis of the allegations and evidence.

34 (ii) The report shall be submitted to an individual designated by the
35 legislative ethics commission to review the report and make a legal
36 recommendation. No more than thirty days after the completion of such
37 investigation, a legal determination shall be issued. If there is a
38 determination that the complaint or a component of such complaint is
39 substantiated, appropriate administrative action shall be taken, which
40 shall conform to any applicable collective bargaining agreement or law.

41 2. Such policy shall also include, but not be limited to the follow-
42 ing:

43 (a) Contain a statement that sexual harassment is unlawful pursuant to
44 state and federal civil rights laws, and shall be prohibited conduct in
45 the judiciary;

46 (b) Contain a statement that retaliation against a complainant,
47 witness or any other individual participating in the investigation proc-
48 ess is unlawful and will not be tolerated;

49 (c) Contain a statement that employees also have the right to file a
50 complaint with the U.S. Equal Employment Opportunity Commission, and the
51 New York division of human rights;

52 (d) Contain a statement that employees of state entities also have a
53 right to file a complaint with the joint commission on public ethics,
54 which shall include the contact information for employees to use to file
55 such a complaint;

1 (e) Copies of the sexual harassment policy, as well as directions for
2 filing a complaint, shall be distributed to all employees of the legis-
3 lature upon commencing employment and annually thereafter; and

4 (f) Provisions for appropriate annual interactive training for all
5 employees of the judiciary.

6 3. Nothing in this section shall grant any additional legal rights to
7 any employee and nothing in this section abrogates compliance with any
8 law, rule, or regulation that grants rights to an employee. Where there
9 is a conflict between any collective bargaining agreement and this
10 section, such agreement shall be controlling.

11 § 4. The general municipal law is amended by adding a new section 686
12 to read as follows:

13 § 686. Sexual harassment prevention policy. 1. Notwithstanding any
14 other provision of law to the contrary, every county, city, town,
15 village, school district and other political subdivision shall require
16 its legal counsel to develop a sexual harassment prevention policy,
17 applicable to all employees of such political subdivision, which shall
18 include investigation procedures and a standard complaint form. The
19 sexual harassment prevention policy shall include, but not be limited
20 to, the following elements:

21 (a) Definitions. For the purposes of this section, the following terms
22 shall have the following meanings:

23 (i) "sexual harassment" shall include unwelcome sexual advances,
24 requests for sexual favors, and other verbal or physical conduct of a
25 sexual nature when: (A) submission to such conduct is made either
26 explicitly or implicitly a term or condition of an individual's employ-
27 ment; (B) submission to or rejecting of such conduct by an individual is
28 used as the basis for employment decisions affecting such individual; or
29 (C) such conduct has the purpose or effect of interfering with an indi-
30 vidual's work performance or creating an intimidating, hostile, or
31 offensive working environment.

32 (ii) "employee" shall include any employee or contractor of the poli-
33 tical subdivision or any employee, contractor, or employee of any
34 contractor or other individual in the workplace of the political subdi-
35 vision.

36 (b) Instructions to file a complaint. (i) Complaints may be filed by
37 an employee with any supervisor, managerial employee, personnel adminis-
38 trator, or affirmative action administrator. Any supervisory or manage-
39 rial employee who observes or otherwise becomes aware of conduct of a
40 sexually harassing nature, must report such conduct as set forth in the
41 complaint procedure so that it can be investigated. If the legal counsel
42 of the political subdivision becomes aware of conduct of a sexually
43 harassing nature, it shall ensure an investigation is opened immediate-
44 ly.

45 (ii) A standard complaint form. A standard complaint form shall be
46 available to every employee in the political subdivision. If an employee
47 makes an oral complaint, the person receiving such complaint shall
48 encourage the employee to fill out a standard complaint form. If the
49 employee does not fill out the complaint form, the person shall fill out
50 such form based on the oral reporting.

51 (c) Investigation procedure. (i) The legal counsel shall designate an
52 individual or office to investigate complaints of sexual harassment.
53 Upon receipt of a complaint of sexual harassment, a supervisor, manage-
54 rial employee, personnel administrator, or affirmative action adminis-
55 trator shall immediately report such complaint to the designated indi-
56 vidual, who shall open an investigation. The designated individual shall

1 ensure that he or she does not have a conflict of interest in the alle-
2 gations in the complaint, and if there is any conflict of interest, the
3 individual shall immediately notify the legal counsel, which shall
4 designate a new individual to conduct the investigation.

5 (ii) An investigation into a complaint of sexual harassment shall take
6 no more than ninety days from the filing of the complaint. If additional
7 time is needed to complete an investigation due to its complexity, a
8 request for an extension may be submitted to the legal counsel.

9 (iii) Any complaint of sexual harassment will be kept confidential,
10 including the identity of complainant, witnesses and the identity of the
11 alleged harasser to the extent practicable during the course of the
12 investigations.

13 (iv) Any appropriate remedial steps may be taken to prevent intim-
14 idation, retaliation, or coercion of the complainant by the alleged
15 harasser. Such steps may include, but not be limited to, preventing the
16 alleged harasser from contacting the complainant or from discussing the
17 substance of the complaint with the complainant.

18 (v) Such procedures shall also include, at a minimum:

19 (1) the development of a preliminary investigation plan, which shall
20 include at a minimum:

21 (I) an examination of: the circumstances surrounding the allegations;
22 the employment history of the parties; the place, date, location, time,
23 and duration of the incident in question; and prior relevant incidents
24 or allegations, whether reported or unreported;

25 (II) identification of the complainant, alleged harasser, and any
26 relevant witnesses;

27 (III) identification and communication of any legal hold request on
28 any relevant documents, emails or phone records to legal counsel; and

29 (IV) a determination of any necessary site visits;

30 (2) an interview of the complainant, where necessary;

31 (3) an interview of the alleged harasser, where necessary, which shall
32 conform to the requirements of any applicable collective bargaining
33 agreement or law; and

34 (4) any other relevant information relating to the allegations.

35 (d) Completion of the investigation. (i) After the completion of an
36 investigation, the individual who conducted the investigation shall
37 draft a report, using a standard format developed by the legal counsel.
38 Such report shall contain, at minimum, a summary of relevant documents;
39 a list of all individuals interviewed and a summary of their statements;
40 a timeline of events; a summary of prior relevant incidents; and an
41 analysis of the allegations and evidence.

42 (ii) The report shall be submitted to an individual designated by the
43 legal counsel to review the report and make a legal recommendation. No
44 more than thirty days after the completion of such investigation, a
45 legal determination shall be issued. If there is a determination that
46 the complaint or a component of such complaint is substantiated, appro-
47 prate administrative action shall be taken, which shall conform to any
48 applicable collective bargaining agreement or law.

49 2. Such policy shall also include, but not be limited to the follow-
50 ing:

51 (a) Contain a statement that sexual harassment is unlawful pursuant to
52 state and federal civil rights laws, and shall be prohibited conduct;

53 (b) Contain a statement that retaliation against a complainant,
54 witness or any other individual participating in the investigation proc-
55 ess is unlawful and will not be tolerated;

1 (c) Contain a statement that employees also have the right to file a
2 complaint with the U.S. Equal Employment Opportunity Commission, and
3 the New York division of human rights;

4 (d) Copies of the sexual harassment policy, as well as directions for
5 filing a complaint, shall be distributed to all employees of the poli-
6 tical subdivision upon commencing employment and annually thereafter;
7 and

8 (e) Provisions for appropriate annual interactive training for all
9 employees of the political subdivision.

10 3. Nothing in this section shall grant any additional legal rights to
11 any employee and nothing in this section abrogates compliance with any
12 law, rule, or regulation that grants rights to an employee. Where there
13 is a conflict between any collective bargaining agreement and this
14 section, such agreement shall be controlling.

15 § 5. The public authorities law is amended by adding a new section
16 2854 to read as follows:

17 § 2854. Sexual harassment prevention policy. 1. Notwithstanding any
18 other provision of law to the contrary, every state and local authority
19 shall require its legal counsel to develop a sexual harassment
20 prevention policy, applicable to all employees of such authority, which
21 shall include investigation procedures and a standard complaint form.
22 The sexual harassment prevention policy shall include, but not be limit-
23 ed to, the following elements:

24 (a) Definitions. For the purposes of this section, the following terms
25 shall have the following meanings:

26 (i) "sexual harassment" shall include unwelcome sexual advances,
27 requests for sexual favors, and other verbal or physical conduct of a
28 sexual nature when: (A) submission to such conduct is made either
29 explicitly or implicitly a term or condition of an individual's employ-
30 ment; (B) submission to or rejection of such conduct by an individual is
31 used as the basis for employment decisions affecting such individual; or
32 (C) such conduct has the purpose or effect of interfering with an indi-
33 vidual's work performance or creating an intimidating, hostile, or
34 offensive working environment.

35 (ii) "employee" shall include any employee or contractor of the
36 authority, or any employee, contractor, or employee of any contractor or
37 other individual in the workplace of the authority.

38 (b) Instructions to file a complaint. (i) Complaints may be filed by
39 an employee with any supervisor, managerial employee, personnel adminis-
40 trator, or affirmative action administrator. Any supervisory or manage-
41 rial employee who observes or otherwise becomes aware of conduct of a
42 sexually harassing nature, must report such conduct as set forth in the
43 complaint procedure so that it can be investigated. If the legal counsel
44 becomes aware of conduct of a sexually harassing nature, it shall ensure
45 an investigation is opened immediately.

46 (ii) A standard complaint form. A standard complaint form shall be
47 available to every employee of the authority. If an employee makes an
48 oral complaint, the person receiving such complaint shall encourage the
49 employee to fill out a standard complaint form. If the employee does not
50 fill out the complaint form, the person shall fill out such form based
51 on the oral reporting.

52 (c) Investigation procedure. (i) The legal counsel shall designate an
53 individual to investigate complaints of sexual harassment for the
54 authority. Upon receipt of a complaint of sexual harassment, a supervi-
55 sor, managerial employee, personnel administrator, or affirmative action
56 administrator shall immediately report such complaint to the designated

1 individual, who shall open an investigation. The designated individual
2 shall ensure that he or she does not have a conflict of interest in the
3 allegation in the complaint, and if there is any conflict of interest,
4 the individual shall immediately notify the legal counsel, which shall
5 designate a new individual to conduct the investigation.

6 (ii) An investigation into a complaint of sexual harassment shall take
7 no more than ninety days from the filing of the complaint. If additional
8 time is needed to complete an investigation due to its complexity, a
9 request for an extension may be submitted to the authority.

10 (iii) Any complaint of sexual harassment will be kept confidential,
11 including the identity of the complainant, witnesses and the identity of
12 the alleged harasser to the extent practicable during the course of the
13 investigations.

14 (iv) Any appropriate remedial steps may be taken to prevent intim-
15 idation, retaliation, or coercion of the complainant by the alleged
16 harasser. Such steps may include, but not be limited to, preventing the
17 alleged harasser from contacting the complainant or from discussing the
18 substance of the complaint with the complainant.

19 (v) Such procedures shall also include, at a minimum:

20 (A) the development of a preliminary investigation plan, which shall
21 include at a minimum:

22 (1) an examination of: the circumstances surrounding the allegations;
23 the employment history of the parties; the place, date, location, time,
24 and duration of the incident in question; and prior relevant incidents
25 or allegations, whether reported or unreported;

26 (2) identification of the complainant, alleged harasser, and any rele-
27 vant witnesses;

28 (3) identification and communication of any legal hold request on any
29 relevant documents, emails or phone records to legal counsel; and

30 (4) a determination of any necessary site visits;

31 (B) an interview of the complainant, where necessary;

32 (C) an interview of the alleged harasser, where necessary, which shall
33 conform to the requirements of any applicable collective bargaining
34 agreement or law;

35 (D) any other relevant information relating to the allegations.

36 (d) Completion of the investigation. (i) After the completion of an
37 investigation, the individual who conducted the investigation shall
38 draft a report, using a standard format developed by the legal counsel.
39 Such report shall contain, at minimum, a summary of relevant documents;
40 a list of all individuals interviewed and a summary of their statements;
41 a timeline of events; a summary of prior relevant incidents; and an
42 analysis of the allegations and evidence.

43 (ii) The report shall be submitted to an individual designated to
44 review the report and make a legal recommendation. No more than thirty
45 days after the completion of such investigation, a legal determination
46 shall be issued. If there is a determination that the complaint or a
47 component of such complaint is substantiated, appropriate administrative
48 action shall be taken, which shall conform to any applicable collective
49 bargaining agreement or law.

50 2. Such policy shall also include, but not be limited to the follow-
51 ing:

52 (a) Contain a statement that sexual harassment is unlawful pursuant to
53 state and federal civil rights laws, and shall be prohibited conduct;

54 (b) Contain a statement that retaliation against a complainant,
55 witness or any other individual participating in the investigation proc-
56 ess is unlawful and will not be tolerated;

1 (c) Contain a statement that employees also have the right to file a
2 complaint with the U.S. Equal Employment Opportunity Commission, and
3 the New York division of human rights;

4 (d) Contain a statement that employees of state entities also have a
5 right to file a complaint with the joint commission on public ethics,
6 which shall include the contact information for employees to use to file
7 such a complaint;

8 (e) Copies of the sexual harassment policy, as well as directions for
9 filing a complaint, shall be distributed to all employees of the author-
10 ity upon commencing employment and annually thereafter; and

11 (f) Provisions for appropriate annual interactive training for all
12 employees of the authority.

13 3. Nothing in this section shall grant any additional legal rights to
14 any employee and nothing in this section abrogates compliance with any
15 law, rule, or regulation that grants rights to an employee. Where there
16 is a conflict between any collective bargaining agreement and this
17 section, such agreement shall be controlling.

18 § 6. This act shall take effect one year after it shall have become a
19 law. Effective immediately, the addition, amendment and/or repeal of any
20 rule or regulation necessary for the implementation of this act on its
21 effective date are authorized to be made and completed on or before such
22 effective date.

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

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

35

PART J

36 Section 1. Computer science education standards. 1. The governor
37 shall convene a working group of educators, industry experts, insti-
38 tutions of higher education and employers to review, develop or adapt
39 existing frameworks for model kindergarten through grade 12 computer
40 science standards. In conducting such reviews, the governor shall seek
41 the recommendations of teachers, school administrators, teacher educa-
42 tors and others with educational or technological expertise on improve-
43 ments to the standards in order to ensure that students are prepared, in
44 appropriate progression, for postsecondary education or employment.

45 2. On or before March 1, 2019, the working group shall deliver a
46 report detailing the findings of the working group and model kindergar-
47 ten through grade 12 computer science standards to the commissioner of
48 education.

49 § 2. This act shall take effect immediately.

50

PART K

51 Section 1. Section 305 of the education law is amended by adding a new
52 subdivision 58 to read as follows:



1 58. The commissioner shall establish and develop a "Be Aware, Be
2 Informed" awareness, prevention and education program within the depart-
3 ment. Such program shall be defined by the commissioner in regulations
4 after consultation with the department of health and be designed to
5 educate students about healthy relationships. Such program shall
6 include, but not be limited to:

7 (a) age-appropriate model curriculum, exemplar lesson plans, and best
8 practice instructional resources for the Be Aware, Be Informed program.
9 Such model curriculum, lesson plans and instructional resources shall be
10 inclusive and respectful of all pupils regardless of race, ethnicity,
11 gender, disability, sexual orientation, or gender identity and include
12 but not be limited to:

13 (1) Model provisions developed by the commissioner after consultation
14 with experts in the field, including the New York state coalition
15 against domestic violence, or its successor, and the National Sexuality
16 Education Standards;

17 (2) For students in grades kindergarten through fourth grade:

18 (i) identification and examination of ideas about healthy relation-
19 ships and behaviors learned from home, family and the media;

20 (ii) self-esteem and self-worth;

21 (iii) friendship and empathy; and

22 (iv) age-appropriate medically accurate sexual health.

23 (3) For students in fifth grade through twelfth grade: (i) a defi-
24 nition of teen dating violence; (ii) recognition of warning signs estab-
25 lished by a dating partner; (iii) characteristics of a healthy relation-
26 ship; (iv) links between bullying and teen dating violence; (v) safe use
27 of technology; (vi) a discussion of local community resources for those
28 in a teen dating violence relationship; (viii) an overview of the
29 school's policies and procedures on teen dating violence; (ix) an age-
30 appropriate definition of affirmative consent consistent with that used
31 in section sixty-four hundred forty-one of this chapter; and (x) age
32 appropriate, medically accurate sexual health. Provided that for the
33 purposes of Be Aware, Be Informed "age appropriate" shall mean topics,
34 messages, and teaching methods suitable to particular age and develop-
35 mental levels, based on cognitive, emotional, social and experience
36 level of most students at that age level, and "medically accurate" shall
37 mean information supported by peer reviewed, evidence-based research
38 recognized as accurate by leading professional organizations and agen-
39 cies with relevant experience such as the American Medical Association
40 and the Centers for Disease Control and Prevention.

41 (b) public availability of all materials for the Be Aware, Be Informed
42 program on a dedicated webpage on the department's internet website, and
43 provided at no cost to every school district, board of cooperative
44 educational services, charter school and nonpublic school upon request.

45 § 2. This act shall take effect immediately.

46 PART L

47 Section 1. Title 6 of article 2 of the public health law, as added by
48 chapter 342 of the laws of 2014, is amended by adding a new section 267
49 to read as follows:

50 § 267. Feminine hygiene products in schools. All elementary and
51 secondary public schools in the state serving students in any grade from
52 grade six through grade twelve shall provide feminine hygiene products
53 in the restrooms of such school building or buildings. Such products
54 shall be provided at no charge to students.

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

2

PART M

3 Section 1. Subdivision 15 of section 378 of the executive law is
4 renumbered as subdivision 18.

5 § 2. Subdivision 16 of section 378 of the executive law is renumbered
6 subdivision 15 and two new subdivisions 16 and 17 are added to read as
7 follows:

8 16. Standards requiring the installation and maintenance of at least
9 one safe, sanitary, and convenient diaper changing station, deck, table,
10 or similar amenity which shall be available for use by both male and
11 female occupants and which shall comply with section 603.5 (Diaper
12 Changing Tables) of the two thousand nine edition of the publication
13 entitled ICC A117.1, Accessible and Usable Buildings and Facilities,
14 published by the International Code Council, Inc., on each floor level
15 containing a public toilet room in all newly constructed buildings in
16 the state that have one or more areas classified as assembly group A
17 occupancies or mercantile group M occupancies and in all existing build-
18 ings in the state that have one or more areas classified as assembly
19 group A occupancies or mercantile group M occupancies and undergo a
20 substantial renovation. The council shall prescribe the type of reno-
21 vation to be deemed to be a substantial renovation for the purposes of
22 this subdivision. The council may exempt historic buildings from the
23 requirements of this subdivision.

24 17. Standards requiring that, in each building that has one or more
25 areas classified as assembly group A occupancies or mercantile group M
26 occupancies and in which at least one diaper changing station, deck,
27 table, or similar amenity is installed, a sign shall be posted in a
28 conspicuous place in each public toilet room indicating the location of
29 the nearest diaper changing station, deck, table, or similar amenity
30 that is available for use by the gender using such public toilet room.
31 The requirements of this subdivision shall apply without regard to
32 whether the diaper changing station, deck, table, or similar amenity was
33 installed voluntarily or pursuant to subdivision sixteen of this section
34 or any other applicable law, statute, rule, or regulation. No such sign
35 shall be required in a public toilet room in which any diaper changing
36 station, deck, table, or similar amenity is located.

37 § 3. This act shall take effect January 1, 2019; provided, however,
38 that effective immediately, the addition, amendment and/or repeal of any
39 rules or regulations by the secretary of state and/or by the state fire
40 prevention and building code council necessary for the implementation of
41 section two of this act on its effective date are authorized and
42 directed to be made and completed on or before such effective date.

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

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