

1 the business permission to apply to participate in the START-UP NY
2 program if the commissioner determines that the business has demon-
3 strated that it will create net new jobs in the tax-free NY area and
4 that it or any related person has not eliminated any jobs in the state
5 in connection with this expansion.

6 § 4. This act shall take effect immediately.

7

PART VVV

8 Section 1. Section 60.45 of the criminal procedure law is amended by
9 adding a new subdivision 3 to read as follows:

10 3. (a) Where a person is subject to custodial interrogation by a
11 public servant at a detention facility, the entire custodial interro-
12 gation, including the giving of any required advice of the rights of the
13 individual being questioned, and the waiver of any rights by the indi-
14 vidual, shall be recorded by an appropriate video recording device if
15 the interrogation involves a class A-1 felony, except one defined in
16 article two hundred twenty of the penal law; felony offenses defined in
17 section 130.95 and 130.96 of the penal law; or a felony offense defined
18 in article one hundred twenty-five or one hundred thirty of such law
19 that is defined as a class B violent felony offense in section 70.02 of
20 the penal law. For purposes of this paragraph, the term "detention
21 facility" shall mean a police station, correctional facility, holding
22 facility for prisoners, prosecutor's office or other facility where
23 persons are held in detention in connection with criminal charges that
24 have been or may be filed against them.

25 (b) No confession, admission or other statement shall be subject to a
26 motion to suppress pursuant to subdivision three of section 710.20 of
27 this chapter based solely upon the failure to video record such interro-
28 gation in a detention facility as defined in paragraph (a) of this
29 subdivision. However, where the people offer into evidence a confession,
30 admission or other statement made by a person in custody with respect to
31 his or her participation or lack of participation in an offense speci-
32 fied in paragraph (a) of this subdivision, that has not been video
33 recorded, the court shall consider the failure to record as a factor,
34 but not as the sole factor, in accordance with paragraph (c) of this
35 subdivision in determining whether such confession, admission or other
36 statement shall be admissible.

37 (c) Notwithstanding the requirement of paragraph (a) of this subdivi-
38 sion, upon a showing of good cause by the prosecutor, the custodial
39 interrogation need not be recorded. Good cause shall include, but not be
40 limited to:

41 (i) If electronic recording equipment malfunctions.

42 (ii) If electronic recording equipment is not available because it was
43 otherwise being used.

44 (iii) If statements are made in response to questions that are
45 routinely asked during arrest processing.

46 (iv) If the statement is spontaneously made by the suspect and not in
47 response to police questioning.

48 (v) If the statement is made during an interrogation that is conducted
49 when the interviewer is unaware that a qualifying offense has occurred.

50 (vi) If the statement is made at a location other than the "interview
51 room" because the suspect cannot be brought to such room, e.g., the
52 suspect is in a hospital or the suspect is out of state and that state
53 is not governed by a law requiring the recordation of an interrogation.

1 (vii) If the statement is made after a suspect has refused to partic-
2 ipate in the interrogation if it is recorded, and appropriate effort to
3 document such refusal is made.

4 (viii) If such statement is not recorded as a result of an inadvertent
5 error or oversight, not the result of any intentional conduct by law
6 enforcement personnel.

7 (ix) If it is law enforcement's reasonable belief that such recording
8 would jeopardize the safety of any person or reveal the identity of a
9 confidential informant.

10 (x) If such statement is made at a location not equipped with a video
11 recording device and the reason for using that location is not to
12 subvert the intent of the law. For purposes of this section, the term
13 "location" shall include those locations specified in paragraph (b) of
14 subdivision four of section 305.2 of the family court act.

15 (d) In the event the court finds that the people have not shown good
16 cause for the non-recording of the confession, admission, or other
17 statement, but determines that a non-recorded confession, admission or
18 other statement is nevertheless admissible because it was voluntarily
19 made then, upon request of the defendant, the court must instruct the
20 jury that the people's failure to record the defendant's confession,
21 admission or other statement as required by this section may be weighed
22 as a factor, but not as the sole factor, in determining whether such
23 confession, admission or other statement was voluntarily made, or was
24 made at all.

25 (e) Video recording as required by this section shall be conducted in
26 accordance with standards established by rule of the division of crimi-
27 nal justice services.

28 § 2. Subdivision 3 of section 344.2 of the family court act is renum-
29 bered subdivision 4 and a new subdivision 3 is added to read as follows:

30 3. Where a respondent is subject to custodial interrogation by a
31 public servant at a facility specified in subdivision four of section
32 305.2 of this article, the entire custodial interrogation, including the
33 giving of any required advice of the rights of the individual being
34 questioned, and the waiver of any rights by the individual, shall be
35 recorded and governed in accordance with the provisions of paragraphs
36 (a), (b), (c), (d) and (e) of subdivision three of section 60.45 of the
37 criminal procedure law.

38 § 3. Section 60.25 of the criminal procedure law, subparagraph (ii) of
39 paragraph (a) of subdivision 1 as amended by chapter 479 of the laws of
40 1977, is amended to read as follows:

41 § 60.25 Rules of evidence; identification by means of previous recogni-
42 tion, in absence of present identification.

43 1. In any criminal proceeding in which the defendant's commission of
44 an offense is in issue, testimony as provided in subdivision two may be
45 given by a witness when:

46 (a) Such witness testifies that:

47 (i) He or she observed the person claimed by the people to be the
48 defendant either at the time and place of the commission of the offense
49 or upon some other occasion relevant to the case; and

50 (ii) On a subsequent occasion he or she observed, under circumstances
51 consistent with such rights as an accused person may derive under the
52 constitution of this state or of the United States, a person or, where
53 the observation is made pursuant to a blind or blinded procedure as
54 defined in paragraph (c) of this subdivision, a pictorial, photographic,
55 electronic, filmed or video recorded reproduction of a person whom he or

1 she recognized as the same person whom he or she had observed on the
2 first or incriminating occasion; and

3 (iii) He or she is unable at the proceeding to state, on the basis of
4 present recollection, whether or not the defendant is the person in
5 question; and

6 (b) It is established that the defendant is in fact the person whom
7 the witness observed and recognized or whose pictorial, photographic,
8 electronic, filmed or video recorded reproduction the witness observed
9 and recognized on the second occasion. Such fact may be established by
10 testimony of another person or persons to whom the witness promptly
11 declared his or her recognition on such occasion and by such pictorial,
12 photographic, electronic, filmed or video recorded reproduction.

13 (c) For purposes of this section, a "blind or blinded procedure" is
14 one in which the witness identifies a person in an array of pictorial,
15 photographic, electronic, filmed or video recorded reproductions under
16 circumstances where, at the time the identification is made, the public
17 servant administering such procedure: (i) does not know which person in
18 the array is the suspect, or (ii) does not know where the suspect is in
19 the array viewed by the witness. The failure of a public servant to
20 follow such a procedure shall be assessed solely for purposes of this
21 article and shall result in the preclusion of testimony regarding the
22 identification procedure as evidence in chief, but shall not constitute
23 a legal basis to suppress evidence made pursuant to subdivision six of
24 section 710.20 of this chapter. This article neither limits nor expands
25 subdivision six of section 710.20 of this chapter.

26 2. Under circumstances prescribed in subdivision one of this section,
27 such witness may testify at the criminal proceeding that the person whom
28 he or she observed and recognized or whose pictorial, photographic,
29 electronic, filmed or video recorded reproduction he or she observed and
30 recognized on the second occasion is the same person whom he or she
31 observed on the first or incriminating occasion. Such testimony,
32 together with the evidence that the defendant is in fact the person whom
33 the witness observed and recognized or whose pictorial, photographic,
34 electronic, filmed or video recorded reproduction he or she observed and
35 recognized on the second occasion, constitutes evidence in chief.

36 § 4. Section 60.30 of the criminal procedure law, as amended by chap-
37 ter 479 of the laws of 1977, is amended to read as follows:

38 § 60.30 Rules of evidence; identification by means of previous recogni-
39 tion, in addition to present identification.

40 In any criminal proceeding in which the defendant's commission of an
41 offense is in issue, a witness who testifies that (a) he or she observed
42 the person claimed by the people to be the defendant either at the time
43 and place of the commission of the offense or upon some other occasion
44 relevant to the case, and (b) on the basis of present recollection, the
45 defendant is the person in question and (c) on a subsequent occasion he
46 or she observed the defendant, or where the observation is made pursuant
47 to a blind or blinded procedure, as defined in paragraph (c) of subdivi-
48 sion one of section 60.25 of this article, a pictorial, photographic,
49 electronic, filmed or video recorded reproduction of the defendant,
50 under circumstances consistent with such rights as an accused person may
51 derive under the constitution of this state or of the United States, and
52 then also recognized him or her or the pictorial, photographic, elec-
53 tronic, filmed or video recorded reproduction of him or her as the same
54 person whom he or she had observed on the first or incriminating occa-
55 sion, may, in addition to making an identification of the defendant at
56 the criminal proceeding on the basis of present recollection as the

1 person whom he or she observed on the first or incriminating occasion,
2 also describe his or her previous recognition of the defendant and
3 testify that the person whom he or she observed or whose pictorial,
4 photographic, electronic, filmed or video recorded reproduction he or
5 she observed on such second occasion is the same person whom he or she
6 had observed on the first or incriminating occasion. Such testimony and
7 such pictorial, photographic, electronic, filmed or video recorded
8 reproduction constitutes evidence in chief.

9 § 5. Subdivision 6 of section 710.20 of the criminal procedure law, as
10 amended by chapter 8 of the laws of 1976 and as renumbered by chapter
11 481 of the laws of 1983, is amended to read as follows:

12 6. Consists of potential testimony regarding an observation of the
13 defendant either at the time or place of the commission of the offense
14 or upon some other occasion relevant to the case, which potential testi-
15 mony would not be admissible upon the prospective trial of such charge
16 owing to an improperly made previous identification of the defendant or
17 of a pictorial, photographic, electronic, filmed or video recorded
18 reproduction of the defendant by the prospective witness. A claim that
19 the previous identification of the defendant or of a pictorial, photo-
20 graphic, electronic, filmed or video recorded reproduction of the
21 defendant by a prospective witness did not comply with paragraph (c) of
22 subdivision one of section 60.25 of this chapter or with the protocol
23 promulgated in accordance with subdivision twenty-one of section eight
24 hundred thirty-seven of the executive law shall not constitute a legal
25 basis to suppress evidence pursuant to this subdivision. A claim that a
26 public servant failed to comply with paragraph (c) of subdivision one of
27 section 60.25 of this chapter or of subdivision twenty-one of section
28 eight hundred thirty-seven of the executive law shall neither expand nor
29 limit the rights an accused person may derive under the constitution of
30 this state or of the United States.

31 § 6. Subdivision 1 of section 710.30 of the criminal procedure law, as
32 separately amended by chapters 8 and 194 of the laws of 1976, is amended
33 to read as follows:

34 1. Whenever the people intend to offer at a trial (a) evidence of a
35 statement made by a defendant to a public servant, which statement if
36 involuntarily made would render the evidence thereof suppressible upon
37 motion pursuant to subdivision three of section 710.20, or (b) testimony
38 regarding an observation of the defendant either at the time or place of
39 the commission of the offense or upon some other occasion relevant to
40 the case, to be given by a witness who has previously identified him or
41 her or a pictorial, photographic, electronic, filmed or video recorded
42 reproduction of him or her as such, they must serve upon the defendant a
43 notice of such intention, specifying the evidence intended to be
44 offered.

45 § 7. Section 343.3 of the family court act, as added by chapter 920 of
46 the laws of 1982, is amended to read as follows:

47 § 343.3. Rules of evidence; identification by means of previous recog-
48 nition in absence of present identification. 1. In any juvenile delin-
49 quency proceeding in which the respondent's commission of a crime is in
50 issue, testimony as provided in subdivision two may be given by a
51 witness when:

52 (a) such witness testifies that:

53 (i) he or she observed the person claimed by the presentment agency to
54 be the respondent either at the time and place of the commission of the
55 crime or upon some other occasion relevant to the case; and

1 (ii) on a subsequent occasion he or she observed, under circumstances
2 consistent with such rights as an accused person may derive under the
3 constitution of this state or of the United States, a person, or, where
4 the observation is made pursuant to a blind or blinded procedure as
5 defined herein, a pictorial, photographic, electronic, filmed or video
6 recorded reproduction of a person whom he or she recognized as the same
7 person whom he or she had observed on the first incriminating occasion;
8 and

9 (iii) he or she is unable at the proceeding to state, on the basis of
10 present recollection, whether or not the respondent is the person in
11 question; and

12 (b) it is established that the respondent is in fact the person whom
13 the witness observed and recognized or whose pictorial, photographic,
14 electronic, filmed or video recorded reproduction the witness observed
15 and recognized on the second occasion. Such fact may be established by
16 testimony of another person or persons to whom the witness promptly
17 declared his or her recognition on such occasion and by such pictorial,
18 photographic, electronic, filmed or video recorded reproduction.

19 (c) For purposes of this section, a "blind or blinded procedure" is
20 one in which the witness identifies a person in an array of pictorial,
21 photographic, electronic, filmed or video recorded reproductions under
22 circumstances where, at the time the identification is made, the public
23 servant administering such procedure: (i) does not know which person in
24 the array is the suspect, or (ii) does not know where the suspect is in
25 the array viewed by the witness. The failure of a public servant to
26 follow such a procedure shall be assessed solely for purposes of this
27 article and shall result in the preclusion of testimony regarding the
28 identification procedure as evidence in chief, but shall not constitute
29 a legal basis to suppress evidence made pursuant to subdivision six of
30 section 710.20 of the criminal procedure law. This article neither
31 limits not expands subdivision six of section 710.20 of the criminal
32 procedure law.

33 2. Under circumstances prescribed in subdivision one, such witness may
34 testify at the proceeding that the person whom he or she observed and
35 recognized or whose pictorial, photographic, electronic, filmed or video
36 recorded reproduction he or she observed and recognized on the second
37 occasion is the same person whom he or she observed on the first or
38 incriminating occasion. Such testimony, together with the evidence that
39 the respondent is in fact the person whom the witness observed and
40 recognized or whose pictorial, photographic, electronic, filmed or video
41 recorded reproduction he or she observed and recognized on the second
42 occasion, constitutes evidence in chief.

43 § 8. Section 343.4 of the family court act, as added by chapter 920 of
44 the laws of 1982, is amended to read as follows:

45 § 343.4. Rules of evidence; identification by means of previous recog-
46 nition, in addition to present identification. In any juvenile delin-
47 quency proceeding in which the respondent's commission of a crime is in
48 issue, a witness who testifies that: (a) he or she observed the person
49 claimed by the presentment agency to be the respondent either at the
50 time and place of the commission of the crime or upon some other occa-
51 sion relevant to the case, and (b) on the basis of present recollection,
52 the respondent is the person in question, and (c) on a subsequent occa-
53 sion he or she observed the respondent, or, where the observation is
54 made pursuant to a blind or blinded procedure, a pictorial, photograph-
55 ic, electronic, filmed or video recorded reproduction of the respondent
56 under circumstances consistent with such rights as an accused person may

1 derive under the constitution of this state or of the United States, and
2 then also recognized him or her or the pictorial, photographic, elec-
3 tronic, filmed or video recorded reproduction of him or her as the same
4 person whom he or she had observed on the first or incriminating occa-
5 sion, may, in addition to making an identification of the respondent at
6 the delinquency proceeding on the basis of present recollection as the
7 person whom he or she observed on the first or incriminating occasion,
8 also describe his or her previous recognition of the respondent and
9 testify that the person whom he or she observed or whose pictorial,
10 photographic, electronic, filmed or video recorded reproduction he or
11 she observed on such second occasion is the same person whom he or she
12 had observed on the first or incriminating occasion. Such testimony and
13 such pictorial, photographic, electronic, filmed or video recorded
14 reproduction constitutes evidence in chief. For purposes of this
15 section, a "blind or blinded procedure" shall be as defined in paragraph
16 (c) of subdivision one of section 343.3 of this part.

17 § 9. Section 837 of the executive law is amended by adding a new
18 subdivision 21 to read as follows:

19 21. Promulgate a standardized and detailed written protocol that is
20 grounded in evidence-based principles for the administration of photo-
21 graphic array and live lineup identification procedures for police agen-
22 cies and standardized forms for use by such agencies in the reporting
23 and recording of such identification procedure. The protocol shall
24 address the following topics:

25 (a) the selection of photographic array and live lineup filler photo-
26 graphs or participants;

27 (b) instructions given to a witness before conducting a photographic
28 array or live lineup identification procedure;

29 (c) the documentation and preservation of results of a photographic
30 array or live lineup identification procedure;

31 (d) procedures for eliciting and documenting the witness's confidence
32 in his or her identification following a photographic array or live
33 lineup identification procedure, in the event that an identification is
34 made; and

35 (e) procedures for administering a photographic array or live lineup
36 identification procedure in a manner designed to prevent opportunities
37 to influence the witness.

38 § 10. Subdivision 4 of section 840 of the executive law is amended by
39 adding a new paragraph (c) to read as follows:

40 (c) Disseminate the written policies and procedures promulgated in
41 accordance with subdivision twenty-one of section eight hundred thirty-
42 seven of this article to all police departments in this state and imple-
43 ment a training program for all current and new police officers regard-
44 ing the policies and procedures established pursuant to such
45 subdivision.

46 § 11. Section 722-e of the county law, as added by chapter 878 of the
47 laws of 1965, is amended to read as follows:

48 § 722-e. Expenses. All expenses for providing counsel and services
49 other than counsel hereunder shall be a county charge or in the case of
50 a county wholly located within a city a city charge to be paid out of an
51 appropriation for such purposes. Provided, however, that any such addi-
52 tional expenses incurred for the provision of counsel and services as a
53 result of the implementation of a plan established pursuant to subdivi-
54 sion four of section eight hundred thirty-two of the executive law,
55 including any interim steps taken to implement such plan, shall be reim-
56 bursed by the state to the county or city providing such services. Such

1 plans shall be submitted by the office of indigent legal services to the
 2 director of the division of budget for review and approval. However, the
 3 director's approval shall be limited solely to the plan's projected
 4 fiscal impact of the required appropriation for the implementation of
 5 such plan, and his or her approval shall not be unreasonably withheld.
 6 The state shall appropriate funds sufficient to provide for the
 7 reimbursement required by this section.

8 § 12. Section 832 of the executive law is amended by adding a new
 9 subdivision 4 to read as follows:

10 4. Additional duties and responsibilities. The office shall, in
 11 consultation with the indigent legal services board established pursuant
 12 to section eight hundred thirty-three of this article, have the follow-
 13 ing duties and responsibilities, and any plan developed pursuant to this
 14 subdivision shall be submitted by the office to the director of the
 15 division of budget for review and approval, provided, however that the
 16 director's approval shall be limited solely to the plan's projected
 17 fiscal impact of the required appropriation for the implementation of
 18 such plan and his or her approval shall not be unreasonably withheld:

19 (a) Counsel at arraignment. Develop and implement a written plan to
 20 ensure that each criminal defendant who is eligible for publicly funded
 21 legal representation is represented by counsel in person at his or her
 22 arraignment; provided, however, that a timely arraignment with counsel
 23 shall not be delayed pending a determination of a defendant's eligibil-
 24 ity.

25 (i) For the purposes of the plan developed pursuant to this subdivi-
 26 sion, the term "arraignment" shall mean the first appearance by a person
 27 charged with a crime before a judge or magistrate, with the exception of
 28 an appearance where no prosecutor appears and no action occurs other
 29 than the adjournment of the criminal process and the unconditional
 30 release of the person charged (in which event "arraignment" shall mean
 31 the person's next appearance before a judge or magistrate).

32 (ii) The written plan developed pursuant to this subdivision shall be
 33 completed by December first, two thousand seventeen and shall include
 34 interim steps for each county and the city of New York for achieving
 35 compliance with the plan.

36 (iii) Each county and the city of New York shall, in consultation with
 37 the office, undertake good faith efforts to implement the plan and such
 38 plan shall be fully implemented and adhered to in each county and the
 39 city of New York by April first, two thousand twenty-three. Pursuant to
 40 section seven hundred twenty-two-e of the county law, the state shall
 41 reimburse each county and the city of New York for any costs incurred as
 42 a result of implementing such plan.

43 (iv) The office shall, on an ongoing basis, monitor and periodically
 44 report on the implementation of, and compliance with, the plan in each
 45 county and the city of New York.

46 (b) Caseload relief. Develop and implement a written plan that estab-
 47 lishes numerical caseload/workload standards for each provider of
 48 constitutionally mandated publicly funded representation in criminal
 49 cases for people who are unable to afford counsel.

50 (i) Such standards shall apply to all providers whether public defen-
 51 der, legal aid society, assigned counsel program or conflict defender in
 52 each county and the city of New York.

53 (ii) The written plan developed pursuant to this subdivision shall be
 54 completed by December first, two thousand seventeen and shall include
 55 interim steps for each county and the city of New York for achieving
 56 compliance with the plan. Such plan shall include the number of attor-

1 neys, investigators and other non-attorney staff and the amount of
2 in-kind resources necessary for each provider of mandated representation
3 to implement such plan.

4 (iii) Each county and the city of New York shall, in consultation
5 with the office, undertake good faith efforts to implement the
6 caseload/workload standards and such standards shall be fully imple-
7 mented and adhered to in each county and the city of New York by April
8 first, two thousand twenty-three. Pursuant to section seven hundred
9 twenty-two-e of the county law, the state shall reimburse each county
10 and the city of New York for any costs incurred as a result of imple-
11 menting such plan.

12 (iv) The office shall, on an ongoing basis, monitor and periodically
13 report on the implementation of, and compliance with, the plan in each
14 county and the city of New York.

15 (c) Initiatives to improve the quality of indigent defense. (i) Devel-
16 op and implement a written plan to improve the quality of constitu-
17 tionally mandated publicly funded representation in criminal cases for
18 people who are unable to afford counsel and ensure that attorneys
19 providing such representation: (A) receive effective supervision and
20 training; (B) have access to and appropriately utilize investigators,
21 interpreters and expert witnesses on behalf of clients; (C) communicate
22 effectively with their clients; (D) have the necessary qualifications
23 and experience; and (E) in the case of assigned counsel attorneys, are
24 assigned to cases in accordance with article eighteen-b of the county
25 law and in a manner that accounts for the attorney's level of experience
26 and caseload/workload.

27 (ii) The office shall, on an ongoing basis, monitor and periodically
28 report on the implementation of, and compliance with, the plan in each
29 county and the city of New York.

30 (iii) The written plan developed pursuant to this subdivision shall be
31 completed by December first, two thousand seventeen and shall include
32 interim steps for each county and the city of New York for achieving
33 compliance with the plan.

34 (iv) Each county and the city of New York shall, in consultation with
35 the office, undertake good faith efforts to implement the initiatives to
36 improve the quality of indigent defense and such initiatives shall be
37 fully implemented and adhered to in each county and the city of New York
38 by April first, two thousand twenty-three. Pursuant to section seven
39 hundred twenty-two-e of the county law, the state shall reimburse each
40 county and the city of New York for any costs incurred as a result of
41 implementing such plan.

42 (d) Appropriation of funds. In no event shall a county and a city of
43 New York be obligated to undertake any steps to implement the written
44 plans under paragraphs (a), (b) and (c) of this subdivision until funds
45 have been appropriated by the state for such purpose.

46 § 13. This act shall take effect immediately; provided, however, that
47 sections one and two of this act shall take effect April 1, 2018 and
48 shall apply to confessions, admissions or statements made on or after
49 such effective date; provided, further sections three through ten of
50 this act shall take effect July 1, 2017.

51 PART WWW

52 Section 1. Section 1.20 of the criminal procedure law is amended by
53 adding a new subdivision 44 to read as follows:

1 44. "Adolescent offender" means a person charged with a felony commit-
2 ted on or after October first, two thousand eighteen when he or she was
3 sixteen years of age or on or after October first, two thousand nine-
4 teen, when he or she was seventeen years of age.

5 § 1-a. The criminal procedure law is amended by adding a new article
6 722 to read as follows:

7 ARTICLE 722

8 PROCEEDINGS AGAINST JUVENILE OFFENDERS AND ADOLESCENT

9 OFFENDERS; ESTABLISHMENT OF YOUTH

10 PART AND RELATED PROCEDURES

11 Section 722.00 Probation case plans.

12 722.10 Youth part of the superior court established.

13 722.20 Proceedings upon felony complaint; juvenile offender.

14 722.21 Proceedings upon felony complaint; adolescent offender.

15 722.22 Motion to remove juvenile offender to family court.

16 722.23 Removal of adolescent offenders to family court.

17 722.24 Applicability of chapter to actions and matters involving
18 juvenile offenders or adolescent offenders.

19 § 722.00 Probation case plans.

20 1. All juvenile offenders and adolescent offenders shall be notified
21 of the availability of services through the local probation department.
22 Such services shall include the ability of the probation department to
23 conduct a risk and needs assessment, utilizing a validated risk assess-
24 ment tool, in order to help determine suitable and individualized
25 programming and referrals. Participation in such risk and needs assess-
26 ment shall be voluntary and the adolescent offender or juvenile offender
27 may be accompanied by counsel during any such assessment. Based upon
28 the assessment findings, the probation department shall refer the
29 adolescent offender or juvenile offender to available and appropriate
30 services.

31 2. Nothing shall preclude the probation department and the adolescent
32 offender or juvenile offender from entering into a voluntary service
33 plan which may include alcohol, substance use and mental health treat-
34 ment and services. To the extent practicable, such services shall
35 continue through the pendency of the action and shall further continue
36 where such action is removed in accordance with this article.

37 3. When preparing a pre-sentence investigation report of any such
38 adolescent offender or juvenile offender, the probation department shall
39 incorporate a summary of any assessment findings, referrals and progress
40 with respect to mitigating risk and addressing any identified needs.

41 4. The probation service shall not transmit or otherwise communicate
42 to the district attorney or the youth part any statement made by the
43 juvenile or adolescent offender to a probation officer. However, the
44 probation service may make a recommendation regarding the completion of
45 his or her case plan to the youth part and provide such information as
46 it shall deem relevant.

47 5. No statement made to the probation service may be admitted into
48 evidence at a fact-finding hearing at any time prior to a conviction.

49 § 722.10 Youth part of the superior court established.

50 1. The chief administrator of the courts is hereby directed to estab-
51 lish, in a superior court in each county of the state, a part of the
52 court to be known as the youth part of the superior court for the county
53 in which such court presides. Judges presiding in the youth part shall
54 be family court judges, as described in article six, section one of the
55 constitution. To aid in their work, such judges shall receive training
56 in specialized areas, including, but not limited to, juvenile justice,

1 adolescent development, custody and care of youths and effective treat-
2 ment methods for reducing unlawful conduct by youths, and shall be
3 authorized to make appropriate determinations within the power of such
4 superior court with respect to the cases of youths assigned to such
5 part. The youth part shall have exclusive jurisdiction in all
6 proceedings in relation to juvenile offenders and adolescent offenders,
7 except as provided in this article or article seven hundred twenty-five
8 of this chapter.

9 2. The chief administrator of the courts shall also direct the presid-
10 ing justice of the appellate division, in each judicial department of
11 the state, to designate judges authorized by law to exercise criminal
12 jurisdiction to serve as accessible magistrates, for the purpose of
13 acting in place of the youth part for certain first appearance
14 proceedings involving youths, as provided by law. When designating such
15 magistrates, the presiding justice shall ensure that all areas of a
16 county are within a reasonable distance of a designated magistrate. A
17 judge authorized to preside as such a magistrate shall have received
18 training in specialized areas, including, but not limited to, juvenile
19 justice, adolescent development, custody and care of youths and effec-
20 tive treatment methods for reducing unlawful conduct by youths.
21 § 722.20 Proceedings upon felony complaint; juvenile offender.

22 1. When a juvenile offender is arraigned before a youth part, the
23 provisions of this section shall apply. If the youth part is not in
24 session, the defendant shall be brought before the most accessible
25 magistrate designated by the appellate division of the supreme court to
26 act as a youth part for the purpose of making a determination whether
27 such juvenile shall be detained. If the defendant is ordered to be
28 detained, he or she shall be brought before the next session of the
29 youth part. If the defendant is not detained, he or she shall be ordered
30 to appear at the next session of the youth part.

31 2. If the defendant waives a hearing upon the felony complaint, the
32 court must order that the defendant be held for the action of the grand
33 jury with respect to the charge or charges contained in the felony
34 complaint.

35 3. If there be a hearing, then at the conclusion of the hearing, the
36 youth part court must dispose of the felony complaint as follows:

37 (a) If there is reasonable cause to believe that the defendant commit-
38 ted a crime for which a person under the age of sixteen is criminally
39 responsible, the court must order that the defendant be held for the
40 action of a grand jury; or

41 (b) If there is not reasonable cause to believe that the defendant
42 committed a crime for which a person under the age of sixteen is crimi-
43 nally responsible but there is reasonable cause to believe that the
44 defendant is a "juvenile delinquent" as defined in subdivision one of
45 section 301.2 of the family court act, the court must specify the act or
46 acts it found reasonable cause to believe the defendant did and direct
47 that the action be removed to the family court in accordance with the
48 provisions of article seven hundred twenty-five of this title; or

49 (c) If there is not reasonable cause to believe that the defendant
50 committed any criminal act, the court must dismiss the felony complaint
51 and discharge the defendant from custody if he is in custody, or if he
52 is at liberty on bail, it must exonerate the bail.

53 4. Notwithstanding the provisions of subdivisions two and three of
54 this section, the court shall, at the request of the district attorney,
55 order removal of an action against a juvenile offender to the family
56 court pursuant to the provisions of article seven hundred twenty-five of

1 this title if, upon consideration of the criteria specified in subdivi-
2 sion two of section 722.22 of this article, it is determined that to do
3 so would be in the interests of justice. Where, however, the felony
4 complaint charges the juvenile offender with murder in the second degree
5 as defined in section 125.25 of the penal law, rape in the first degree
6 as defined in subdivision one of section 130.35 of the penal law, crimi-
7 nal sexual act in the first degree as defined in subdivision one of
8 section 130.50 of the penal law, or an armed felony as defined in para-
9 graph (a) of subdivision forty-one of section 1.20 of this chapter, a
10 determination that such action be removed to the family court shall, in
11 addition, be based upon a finding of one or more of the following
12 factors: (i) mitigating circumstances that bear directly upon the manner
13 in which the crime was committed; or (ii) where the defendant was not
14 the sole participant in the crime, the defendant's participation was
15 relatively minor although not so minor as to constitute a defense to the
16 prosecution; or (iii) possible deficiencies in proof of the crime.

17 5. Notwithstanding the provisions of subdivision two, three, or four
18 of this section, if a currently undetermined felony complaint against a
19 juvenile offender is pending, and the defendant has not waived a hearing
20 pursuant to subdivision two of this section and a hearing pursuant to
21 subdivision three of this section has not commenced, the defendant may
22 move to remove the action to family court pursuant to 722.22 of this
23 article. The procedural rules of subdivisions one and two of section
24 210.45 of this chapter are applicable to a motion pursuant to this
25 subdivision. Upon such motion, the court shall proceed and determine the
26 motion as provided in section 722.22 of this article; provided, however,
27 that the exception provisions of paragraph (b) of subdivision one of
28 section 722.22 of this article shall not apply when there is not reason-
29 able cause to believe that the juvenile offender committed one or more
30 of the crimes enumerated therein, and in such event the provisions of
31 paragraph (a) thereof shall apply.

32 6. (a) If the court orders removal of the action to family court, it
33 shall state on the record the factor or factors upon which its determi-
34 nation is based, and the court shall give its reasons for removal in
35 detail and not in conclusory terms.

36 (b) The district attorney shall state upon the record the reasons for
37 his consent to removal of the action to the family court where such
38 consent is required. The reasons shall be stated in detail and not in
39 conclusory terms.

40 (c) For the purpose of making a determination pursuant to subdivision
41 four or five of this section, the court may make such inquiry as it
42 deems necessary. Any evidence which is not legally privileged may be
43 introduced. If the defendant testifies, his testimony may not be intro-
44 duced against him in any future proceeding, except to impeach his testi-
45 mony at such future proceeding as inconsistent prior testimony.

46 (d) Where a motion for removal by the defendant pursuant to subdivi-
47 sion five of this section has been denied, no further motion pursuant to
48 this section or section 722.22 of this article may be made by the juve-
49 nile offender with respect to the same offense or offenses.

50 (e) Except as provided by paragraph (f) of this subdivision, this
51 section shall not be construed to limit the powers of the grand jury.

52 (f) Where a motion by the defendant pursuant to subdivision five of
53 this section has been granted, there shall be no further proceedings
54 against the juvenile offender in any local or superior criminal court
55 including the youth part of the superior court for the offense or
56 offenses which were the subject of the removal order.

1 § 722.21 Proceedings upon felony complaint; adolescent offender.

2 1. When an adolescent offender is arraigned before a youth part, the
3 provisions of this section shall apply. If the youth part is not in
4 session, the defendant shall be brought before the most accessible
5 magistrate designated by the appellate division of the supreme court to
6 act as a youth part for the purpose of making a determination whether
7 such adolescent offender shall be detained. If the defendant is ordered
8 to be detained, he or she shall be brought before the next session of
9 the youth part. If the defendant is not detained, he or she shall be
10 ordered to appear at the next session of the youth part.

11 2. If the defendant waives a hearing upon the felony complaint, the
12 court must order that the defendant be held for the action of the grand
13 jury with respect to the charge or charges contained in the felony
14 complaint.

15 3. If there be a hearing, then at the conclusion of the hearing, the
16 youth part court must dispose of the felony complaint as follows:

17 (a) If there is reasonable cause to believe that the defendant commit-
18 ted a felony, the court must order that the defendant be held for the
19 action of a grand jury; or

20 (b) If there is not reasonable cause to believe that the defendant
21 committed a felony but there is reasonable cause to believe that the
22 defendant is a "juvenile delinquent" as defined in subdivision one of
23 section 301.2 of the family court act, the court must specify the act or
24 acts it found reasonable cause to believe the defendant did and direct
25 that the action be transferred to the family court in accordance with
26 the provisions of article seven hundred twenty-five of this title,
27 provided, however, notwithstanding any other provision of law, section
28 308.1 of the family court act shall apply to actions transferred pursu-
29 ant to this subdivision and such actions shall not be considered
30 removals subject to subdivision thirteen of such section 308.1; or

31 (c) If there is not reasonable cause to believe that the defendant
32 committed any criminal act, the court must dismiss the felony complaint
33 and discharge the defendant from custody if he is in custody, or if he
34 is at liberty on bail, it must exonerate the bail.

35 4. Notwithstanding the provisions of subdivisions two and three of
36 this section, where the defendant is charged with a felony, other than a
37 class A felony defined outside article two hundred twenty of the penal
38 law, a violent felony defined in section 70.02 of the penal law or a
39 felony listed in paragraph one or two of subdivision forty-two of
40 section 1.20 of this chapter, except as provided in paragraph (c) of
41 subdivision two of section 722.23 of this article, the court shall, upon
42 notice from the district attorney that he or she will not file a motion
43 to prevent removal pursuant to section 722.23 of this article, order
44 transfer of an action against an adolescent offender to the family court
45 pursuant to the provisions of article seven hundred twenty-five of this
46 title, provided, however, notwithstanding any other provision of law,
47 section 308.1 of the family court act shall apply to actions transferred
48 pursuant to this subdivision and such actions shall not be considered
49 removals subject to subdivision thirteen of such section 308.1.

50 5. Notwithstanding subdivisions two and three of this section, at the
51 request of the district attorney, the court shall order removal of an
52 action against an adolescent offender charged with an offense listed in
53 paragraph (a) of subdivision two of section 722.23 of this article, to
54 the family court pursuant to the provisions of article seven hundred
55 twenty-five of this title and upon consideration of the criteria speci-
56 fied in subdivision two of section 722.22 of this article, it is deter-

1 mined that to do so would be in the interests of justice. Where, howev-
2 er, the felony complaint charges the adolescent offender with murder in
3 the second degree as defined in section 125.25 of the penal law, rape in
4 the first degree as defined in subdivision one of section 130.35 of the
5 penal law, criminal sexual act in the first degree as defined in subdivi-
6 vision one of section 130.50 of the penal law, or an armed felony as
7 defined in paragraph (a) of subdivision forty-one of section 1.20 of
8 this chapter, a determination that such action be removed to the family
9 court shall, in addition, be based upon a finding of one or more of the
10 following factors: (i) mitigating circumstances that bear directly upon
11 the manner in which the crime was committed; or (ii) where the defendant
12 was not the sole participant in the crime, the defendant's participation
13 was relatively minor although not so minor as to constitute a defense to
14 the prosecution; or (iii) possible deficiencies in proof of the crime.

15 6. (a) If the court orders removal of the action to family court
16 pursuant to subdivision five of this section, it shall state on the
17 record the factor or factors upon which its determination is based, and
18 the court shall give its reasons for removal in detail and not in
19 conclusory terms.

20 (b) The district attorney shall state upon the record the reasons for
21 his consent to removal of the action to the family court where such
22 consent is required. The reasons shall be stated in detail and not in
23 conclusory terms.

24 (c) For the purpose of making a determination pursuant to subdivision
25 five the court may make such inquiry as it deems necessary. Any evidence
26 which is not legally privileged may be introduced. If the defendant
27 testifies, his testimony may not be introduced against him in any future
28 proceeding, except to impeach his testimony at such future proceeding as
29 inconsistent prior testimony.

30 (d) Except as provided by paragraph (e), this section shall not be
31 construed to limit the powers of the grand jury.

32 (e) Where an action against a defendant has been removed to the family
33 court pursuant to this section, there shall be no further proceedings
34 against the adolescent offender in any local or superior criminal court
35 including the youth part of the superior court for the offense or
36 offenses which were the subject of the removal order.

37 § 722.22 Motion to remove juvenile offender to family court.

38 1. After a motion by a juvenile offender, pursuant to subdivision five
39 of section 722.20 of this article, or after arraignment of a juvenile
40 offender upon an indictment, the court may, on motion of any party or on
41 its own motion:

42 (a) except as otherwise provided by paragraph (b) of this subdivision,
43 order removal of the action to the family court pursuant to the
44 provisions of article seven hundred twenty-five of this title, if, after
45 consideration of the factors set forth in subdivision two of this
46 section, the court determines that to do so would be in the interests of
47 justice; or

48 (b) with the consent of the district attorney, order removal of an
49 action involving an indictment charging a juvenile offender with murder
50 in the second degree as defined in section 125.25 of the penal law; rape
51 in the first degree, as defined in subdivision one of section 130.35 of
52 the penal law; criminal sexual act in the first degree, as defined in
53 subdivision one of section 130.50 of the penal law; or an armed felony
54 as defined in paragraph (a) of subdivision forty-one of section 1.20 of
55 this chapter, to the family court pursuant to the provisions of article
56 seven hundred twenty-five of this title if the court finds one or more

1 of the following factors: (i) mitigating circumstances that bear direct-
2 ly upon the manner in which the crime was committed; (ii) where the
3 defendant was not the sole participant in the crime, the defendant's
4 participation was relatively minor although not so minor as to consti-
5 tute a defense to the prosecution; or (iii) possible deficiencies in the
6 proof of the crime, and, after consideration of the factors set forth in
7 subdivision two of this section, the court determined that removal of
8 the action to the family court would be in the interests of justice.

9 2. In making its determination pursuant to subdivision one of this
10 section the court shall, to the extent applicable, examine individually
11 and collectively, the following:

12 (a) the seriousness and circumstances of the offense;

13 (b) the extent of harm caused by the offense;

14 (c) the evidence of guilt, whether admissible or inadmissible at
15 trial;

16 (d) the history, character and condition of the defendant;

17 (e) the purpose and effect of imposing upon the defendant a sentence
18 authorized for the offense;

19 (f) the impact of a removal of the case to the family court on the
20 safety or welfare of the community;

21 (g) the impact of a removal of the case to the family court upon the
22 confidence of the public in the criminal justice system;

23 (h) where the court deems it appropriate, the attitude of the
24 complainant or victim with respect to the motion; and

25 (i) any other relevant fact indicating that a judgment of conviction
26 in the criminal court would serve no useful purpose.

27 3. The procedure for bringing on a motion pursuant to subdivision one
28 of this section, shall accord with the procedure prescribed in subdivi-
29 sions one and two of section 210.45 of this chapter. After all papers of
30 both parties have been filed and after all documentary evidence, if any,
31 has been submitted, the court must consider the same for the purpose of
32 determining whether the motion is determinable on the motion papers
33 submitted and, if not, may make such inquiry as it deems necessary for
34 the purpose of making a determination.

35 4. For the purpose of making a determination pursuant to this section,
36 any evidence which is not legally privileged may be introduced. If the
37 defendant testifies, his testimony may not be introduced against him in
38 any future proceeding, except to impeach his testimony at such future
39 proceeding as inconsistent prior testimony.

40 5. a. If the court orders removal of the action to family court, it
41 shall state on the record the factor or factors upon which its determi-
42 nation is based, and, the court shall give its reasons for removal in
43 detail and not in conclusory terms.

44 b. The district attorney shall state upon the record the reasons for
45 his consent to removal of the action to the family court. The reasons
46 shall be stated in detail and not in conclusory terms.

47 § 722.23 Removal of adolescent offenders to family court.

48 1. (a) Following the arraignment of a defendant charged with a crime
49 committed when he or she was sixteen, or commencing October first, two
50 thousand nineteen, seventeen years of age, other than any class A felony
51 except for those defined in article two hundred twenty of the penal law,
52 a violent felony defined in section 70.02 of the penal law or a felony
53 listed in paragraph one or two of subdivision forty-two of section 1.20
54 of this chapter, or an offense set forth in the vehicle and traffic law,
55 the court shall order the removal of the action to the family court in
56 accordance with the applicable provisions of article seven hundred twen-

1 ty-five of this title unless, within thirty calendar days of such
2 arraignment, the district attorney makes a motion to prevent removal of
3 the action pursuant to this subdivision. If the defendant fails to
4 report to the probation department as directed, the thirty day time
5 period shall be tolled until such time as he or she reports to the
6 probation department.

7 (b) A motion to prevent removal of an action in youth part shall be
8 made in writing and upon prompt notice to the defendant. The motion
9 shall contain allegations of sworn fact based upon personal knowledge of
10 the affiant, and shall indicate if the district attorney is requesting a
11 hearing. The motion shall be noticed to be heard promptly.

12 (c) The defendant shall be given an opportunity to reply. The defend-
13 ant shall be granted any reasonable request for a delay. Either party
14 may request a hearing on the facts alleged in the motion to prevent
15 removal of the action. The hearing shall be held expeditiously.

16 (d) The court shall deny the motion to prevent removal of the action
17 in youth part unless the court makes a determination upon such motion by
18 the district attorney that extraordinary circumstances exist that should
19 prevent the transfer of the action to family court.

20 (e) The court shall make a determination in writing or on the record
21 within five days of the conclusion of the hearing or submission by the
22 defense, whichever is later. Such determination shall include findings
23 of fact and to the extent practicable conclusions of law.

24 (f) For the purposes of this section, there shall be a presumption
25 against custody and case planning services shall be made available to
26 the defendant.

27 (g) Notwithstanding any other provision of law, section 308.1 of the
28 family court act shall apply to all actions transferred pursuant to this
29 section provided, however, such cases shall not be considered removals
30 subject to subdivision thirteen of such section 308.1.

31 (h) Nothing in this subdivision shall preclude, and a court may order,
32 the removal of an action to family court where all parties agree or
33 pursuant to this chapter.

34 2. (a) Upon the arraignment of a defendant charged with a crime
35 committed when he or she was sixteen or, commencing October first, two
36 thousand nineteen, seventeen years of age on a class A felony, other
37 than those defined in article 220 of the penal law, or a violent felony
38 defined in section 70.02 of the penal law, the court shall schedule an
39 appearance no later than six calendar days from such arraignment for the
40 purpose of reviewing the accusatory instrument pursuant to this subdivi-
41 sion. The court shall notify the district attorney and defendant
42 regarding the purpose of such appearance.

43 (b) Upon such appearance, the court shall review the accusatory
44 instrument and any other relevant facts for the purpose of making a
45 determination pursuant to paragraph (c) of this subdivision. Both
46 parties may be heard and submit information relevant to the determi-
47 nation.

48 (c) The court shall order the action to proceed in accordance with
49 subdivision one of this section unless, after reviewing the papers and
50 hearing from the parties, the court determines in writing that the
51 district attorney proved by a preponderance of the evidence one or more
52 of the following as set forth in the accusatory instrument:

53 (i) the defendant caused significant physical injury to a person other
54 than a participant in the offense; or

55 (ii) the defendant displayed a firearm, shotgun, rifle or deadly weap-
56 on as defined in the penal law in furtherance of such offense; or

1 (iii) the defendant unlawfully engaged in sexual intercourse, oral
2 sexual conduct, anal sexual conduct or sexual contact as defined in
3 section 130.00 of the penal law.

4 (d) Where the court makes a determination that the action shall not
5 proceed in accordance with subdivision one of this section, such deter-
6 mination shall be made in writing or on the record and shall include
7 findings of fact and to the extent practicable conclusions of law.

8 (e) Nothing in this subdivision shall preclude, and the court may
9 order, the removal of an action to family court where all parties agree
10 or pursuant to this chapter.

11 3. Notwithstanding the provisions of any other law, if at any time one
12 or more charges in the accusatory instrument are reduced, such that the
13 elements of the highest remaining charge would be removable pursuant to
14 subdivisions one or two of this section, then the court, sua sponte or
15 in response to a motion pursuant to subdivisions one or two of this
16 section by the defendant, shall promptly notify the parties and direct
17 that the matter proceed in accordance with subdivision one of this
18 section, provided, however, that in such instance, the district attorney
19 must file any motion to prevent removal within thirty days of effecting
20 or receiving notice of such reduction.

21 4. A defendant may waive review of the accusatory instrument by the
22 court and the opportunity for removal in accordance with this section,
23 provided that such waiver is made by the defendant knowingly, voluntar-
24 ily and in open court, in the presence of and with the approval of his
25 or her counsel and the court. An earlier waiver shall not constitute a
26 waiver of review and the opportunity for removal under this section.

27 § 722.24 Applicability of chapter to actions and matters involving juve-
28 venile offenders or adolescent offenders.

29 Except where inconsistent with this article, all provisions of this
30 chapter shall apply to all criminal actions and proceedings, and all
31 appeals and post-judgment motions relating or attached thereto, involv-
32 ing a juvenile offender or adolescent offender.

33 § 2. The opening paragraph and subdivisions 2 and 3 of section 725.05
34 of the criminal procedure law, as added by chapter 481 of the laws of
35 1978, are amended to read as follows:

36 When a [court] youth part directs that an action or charge is to be
37 removed to the family court the [court] youth part must issue an order
38 of removal in accordance with this section. Such order must be as
39 follows:

40 2. Where the direction is authorized pursuant to paragraph (b) of
41 subdivision three of [section 180.75] sections 722.20 or 722.21 of this
42 [chapter] title, it must specify the act or acts it found reasonable
43 cause to believe the defendant did.

44 3. Where the direction is authorized pursuant to subdivision four of
45 [section 180.75] section 722.20 or section 722.21 of this [chapter]
46 title, it must specify the act or acts it found reasonable cause to
47 allege.

48 § 3. Section 725.20 of the criminal procedure law, as added by chapter
49 481 of the laws of 1978, subdivisions 1 and 2 as amended by chapter 411
50 of the laws of 1979, is amended to read as follows:

51 § 725.20 Record of certain actions removed.

52 1. The provisions of this section shall apply in any case where an
53 order of removal to the family court is entered pursuant to a direction
54 authorized by [subdivision four of section 180.75 or section 210.43,]
55 article 722 of this title, or subparagraph (iii) of paragraph [(h)] (g)

1 of subdivision five of section 220.10 of this chapter, or section 330.25
2 of this chapter.

3 2. When such an action is removed the court that directed the removal
4 must cause the following additional records to be filed with the clerk
5 of the county court or in the city of New York with the clerk of the
6 supreme court of the county wherein the action was pending and with the
7 division of criminal justice services:

8 (a) A certified copy of the order of removal;

9 (b) [Where the direction is one authorized by subdivision four of
10 section 180.75 of this chapter, a copy of the statement of the district
11 attorney made pursuant to paragraph (b) of subdivision six of section
12 180.75 of this chapter;

13 (c) Where the direction is authorized by section 180.75, a copy of
14 the portion of the minutes containing the statement by the court pursu-
15 ant to paragraph (a) of subdivision six of such section 180.75;

16 (d) [Where the direction is one authorized by subparagraph (iii) of
17 paragraph [(h)] (g) of subdivision five of section 220.10 or section
18 330.25 of this chapter, a copy of the minutes of the plea of guilty,
19 including the minutes of the memorandum submitted by the district attor-
20 ney and the court;

21 [(e) Where the direction is one authorized by subdivision one of
22 section 210.43 of this chapter, a copy of that portion of the minutes
23 containing the statement by the court pursuant to paragraph (a) of
24 subdivision five of section 210.43;

25 (f) Where the direction is one authorized by paragraph (b) of subdi-
26 vision one of section 210.43 of this chapter, a copy of that portion of
27 the minutes containing the statement of the district attorney made
28 pursuant to paragraph (b) of subdivision five of section 210.43;] and

29 [(g)] (c) In addition to the records specified in this subdivision,
30 such further statement or submission of additional information pertain-
31 ing to the proceeding in criminal court in accordance with standards
32 established by the commissioner of the division of criminal justice
33 services, subject to the provisions of subdivision three of this
34 section.

35 3. It shall be the duty of said clerk to maintain a separate file for
36 copies of orders and minutes filed pursuant to this section. Upon
37 receipt of such orders and minutes the clerk must promptly delete such
38 portions as would identify the defendant, but the clerk shall neverthe-
39 less maintain a separate confidential system to enable correlation of
40 the documents so filed with identification of the defendant. After
41 making such deletions the orders and minutes shall be placed within the
42 file and must be available for public inspection. Information permit-
43 ting correlation of any such record with the identity of any defendant
44 shall not be divulged to any person except upon order of a justice of
45 the supreme court based upon a finding that the public interest or the
46 interests of justice warrant disclosure in a particular cause for a
47 particular case or for a particular purpose or use.

48 § 4. The article heading of article 100 of the criminal procedure law
49 is amended to read as follows:

50 COMMENCEMENT OF ACTION IN LOCAL
51 CRIMINAL COURT OR YOUTH PART OF A SUPERIOR COURT-- [LOCAL
52 CRIMINAL COURT] ACCUSATORY INSTRUMENTS

53 § 5. The first undesignated paragraph of section 100.05 of the crimi-
54 nal procedure law is amended to read as follows:

55 A criminal action is commenced by the filing of an accusatory instru-
56 ment with a criminal court, or, in the case of a juvenile offender or

1 adolescent offender, other than an adolescent offender charged with only
2 a violation or traffic infraction, the youth part of the superior court,
3 and if more than one such instrument is filed in the course of the same
4 criminal action, such action commences when the first of such instru-
5 ments is filed. The only way in which a criminal action can be
6 commenced in a superior court, other than a criminal action against a
7 juvenile offender or adolescent offender is by the filing therewith by a
8 grand jury of an indictment against a defendant who has never been held
9 by a local criminal court for the action of such grand jury with respect
10 to any charge contained in such indictment. Otherwise, a criminal
11 action can be commenced only in a local criminal court, by the filing
12 therewith of a local criminal court accusatory instrument, namely:

13 § 6. The section heading and subdivision 5 of section 100.10 of the
14 criminal procedure law are amended to read as follows:

15 Local criminal court and youth part of the superior court accusatory
16 instruments; definitions thereof.

17 5. A "felony complaint" is a verified written accusation by a person,
18 filed with a local criminal court, or youth part of the superior court,
19 charging one or more other persons with the commission of one or more
20 felonies. It serves as a basis for the commencement of a criminal
21 action, but not as a basis for prosecution thereof.

22 § 7. The section heading of section 100.40 of the criminal procedure
23 law is amended to read as follows:

24 Local criminal court and youth part of the superior court accusatory
25 instruments; sufficiency on face.

26 § 8. The criminal procedure law is amended by adding a new section
27 100.60 to read as follows:

28 § 100.60 Youth part of the superior court accusatory instruments; in
29 what courts filed.

30 Any youth part of the superior court accusatory instrument may be
31 filed with the youth part of the superior court of a particular county
32 when an offense charged therein was allegedly committed in such county
33 or that part thereof over which such court has jurisdiction.

34 § 9. The article heading of article 110 of the criminal procedure law
35 is amended to read as follows:

36 REQUIRING DEFENDANT'S APPEARANCE
37 IN LOCAL CRIMINAL COURT OR YOUTH PART OF SUPERIOR COURT
38 FOR ARRAIGNMENT

39 § 10. Section 110.10 of the criminal procedure law is amended to read
40 as follows:

41 § 110.10 Methods of requiring defendant's appearance in local criminal
42 court or youth part of the superior court for arraignment;
43 in general.

44 1. After a criminal action has been commenced in a local criminal
45 court or youth part of the superior court by the filing of an accusatory
46 instrument therewith, a defendant who has not been arraigned in the
47 action and has not come under the control of the court may under certain
48 circumstances be compelled or required to appear for arraignment upon
49 such accusatory instrument by:

50 (a) The issuance and execution of a warrant of arrest, as provided in
51 article one hundred twenty; or

52 (b) The issuance and service upon him of a summons, as provided in
53 article one hundred thirty; or

54 (c) Procedures provided in articles five hundred sixty, five hundred
55 seventy, five hundred eighty, five hundred ninety and six hundred for

1 securing attendance of defendants in criminal actions who are not at
2 liberty within the state.

3 2. Although no criminal action against a person has been commenced in
4 any court, he may under certain circumstances be compelled or required
5 to appear in a local criminal court or youth part of a superior court
6 for arraignment upon an accusatory instrument to be filed therewith at
7 or before the time of his appearance by:

8 (a) An arrest made without a warrant, as provided in article one
9 hundred forty; or

10 (b) The issuance and service upon him of an appearance ticket, as
11 provided in article one hundred fifty.

12 § 11. Section 110.20 of the criminal procedure law, as amended by
13 chapter 843 of the laws of 1980, is amended to read as follows:

14 § 110.20 Local criminal court or youth part of the superior court accu-
15 satory instruments; notice thereof to district attorney.

16 When a criminal action in which a crime is charged is commenced in a
17 local criminal court, or youth part of the superior court other than the
18 criminal court of the city of New York, a copy of the accusatory instru-
19 ment shall be promptly transmitted to the appropriate district attorney
20 upon or prior to the arraignment of the defendant on the accusatory
21 instrument. If a police officer or a peace officer is the complainant
22 or the filer of a simplified information, or has arrested the defendant
23 or brought him before the local criminal court or youth part of the
24 superior court on behalf of an arresting person pursuant to subdivision
25 one of section 140.20, such officer or his agency shall transmit the
26 copy of the accusatory instrument to the appropriate district attorney.
27 In all other cases, the clerk of the court in which the defendant is
28 arraigned shall so transmit it.

29 § 12. The opening paragraph of subdivision 1 of section 120.20 of the
30 criminal procedure law, as amended by chapter 506 of the laws of 2000,
31 is amended to read as follows:

32 When a criminal action has been commenced in a local criminal court or
33 youth part of the superior court by the filing therewith of an accusato-
34 ry instrument, other than a simplified traffic information, against a
35 defendant who has not been arraigned upon such accusatory instrument and
36 has not come under the control of the court with respect thereto:

37 § 13. Section 120.30 of the criminal procedure law is amended to read
38 as follows:

39 § 120.30 Warrant of arrest; by what courts issuable and in what courts
40 returnable.

41 1. A warrant of arrest may be issued only by the local criminal court
42 or youth part of the superior court with which the underlying accusatory
43 instrument has been filed, and it may be made returnable in such issuing
44 court only.

45 2. The particular local criminal court or courts or youth part of the
46 superior court with which any particular local criminal court or youth
47 part of the superior court accusatory instrument may be filed for the
48 purpose of obtaining a warrant of arrest are determined, generally, by
49 the provisions of section 100.55 or 100.60 of this title. If, however, a
50 particular accusatory instrument may pursuant to said section 100.55 be
51 filed with a particular town court and such town court is not available
52 at the time such instrument is sought to be filed and a warrant
53 obtained, such accusatory instrument may be filed with the town court of
54 any adjoining town of the same county. If such instrument may be filed
55 pursuant to said section 100.55 with a particular village court and such
56 village court is not available at the time, it may be filed with the

1 town court of the town embracing such village, or if such town court is
2 not available either, with the town court of any adjoining town of the
3 same county.

4 § 14. Section 120.55 of the criminal procedure law, as amended by
5 section 71 of subpart B of part C of chapter 62 of the laws of 2011, is
6 amended to read as follows:

7 § 120.55 Warrant of arrest; defendant under parole or probation super-
8 vision.

9 If the defendant named within a warrant of arrest issued by a local
10 criminal court or youth part of the superior court pursuant to the
11 provisions of this article, or by a superior court issued pursuant to
12 subdivision three of section 210.10 of this chapter, is under the super-
13 vision of the state department of corrections and community supervision
14 or a local or state probation department, then a warrant for his or her
15 arrest may be executed by a parole officer or probation officer, when
16 authorized by his or her probation director, within his or her geograph-
17 ical area of employment. The execution of the warrant by a parole offi-
18 cer or probation officer shall be upon the same conditions and conducted
19 in the same manner as provided for execution of a warrant by a police
20 officer.

21 § 15. Subdivision 1 of section 120.70 of the criminal procedure law is
22 amended to read as follows:

23 1. A warrant of arrest issued by a district court, by the New York
24 City criminal court, the youth part of a superior court or by a superior
25 court judge sitting as a local criminal court may be executed anywhere
26 in the state.

27 § 16. Subdivisions 1, 6 and 7 of section 120.90 of the criminal proce-
28 dure law, subdivision 1 as amended by chapter 492 of the laws of 2016,
29 subdivisions 6 and 7 as amended by chapter 424 of the laws of 1998, are
30 amended and a new subdivision 5-a is added to read as follows:

31 1. Upon arresting a defendant for any offense pursuant to a warrant of
32 arrest in the county in which the warrant is returnable or in any
33 adjoining county, or upon so arresting him or her for a felony in any
34 other county, a police officer, if he or she be one to whom the warrant
35 is addressed, must without unnecessary delay bring the defendant before
36 the local criminal court or youth part of the superior court in which
37 such warrant is returnable, provided that, where a local criminal court
38 or youth part of the superior court in the county in which the warrant
39 is returnable hereunder is operating an off-hours arraignment part
40 designated in accordance with paragraph (w) of subdivision one of
41 section two hundred twelve of the judiciary law at the time of defend-
42 ant's return, such police officer may bring the defendant before such
43 local criminal court or youth part of the superior court.

44 5-a. Whenever a police officer is required, pursuant to this section,
45 to bring an arrested defendant before a youth part of a superior court
46 in which a warrant of arrest is returnable, and if such court is not in
47 session, such officer must bring such defendant before the most accessi-
48 ble magistrate designated by the appellate division of the supreme court
49 in the applicable department to act as a youth part.

50 6. Before bringing a defendant arrested pursuant to a warrant before
51 the local criminal court or youth part of a superior court in which such
52 warrant is returnable, a police officer must without unnecessary delay
53 perform all fingerprinting and other preliminary police duties required
54 in the particular case. In any case in which the defendant is not
55 brought by a police officer before such court but, following his arrest
56 in another county for an offense specified in subdivision one of section

1 160.10, is released by a local criminal court of such other county on
2 his own recognizance or on bail for his appearance on a specified date
3 before the local criminal court before which the warrant is returnable,
4 the latter court must, upon arraignment of the defendant before it,
5 direct that he be fingerprinted by the appropriate officer or agency,
6 and that he appear at an appropriate designated time and place for such
7 purpose.

8 7. Upon arresting a juvenile offender or adolescent offender, the
9 police officer shall immediately notify the parent or other person
10 legally responsible for his care or the person with whom he is domi-
11 ciled, that the juvenile offender or adolescent offender has been
12 arrested, and the location of the facility where he is being detained.

13 § 17. Subdivision 1 of section 130.10 of the criminal procedure law,
14 as amended by chapter 446 of the laws of 1993, is amended to read as
15 follows:

16 1. A summons is a process issued by a local criminal court directing a
17 defendant designated in an information, a prosecutor's information, a
18 felony complaint or a misdemeanor complaint filed with such court, or a
19 youth part of a superior court directing a defendant designated in a
20 felony complaint, or by a superior court directing a defendant desig-
21 nated in an indictment filed with such court, to appear before it at a
22 designated future time in connection with such accusatory instrument.
23 The sole function of a summons is to achieve a defendant's court appear-
24 ance in a criminal action for the purpose of arraignment upon the accu-
25 satory instrument by which such action was commenced.

26 § 18. Section 130.30 of the criminal procedure law, as amended by
27 chapter 506 of the laws of 2000, is amended to read as follows:

28 § 130.30 Summons; when issuable.

29 A local criminal court or youth part of the superior court may issue a
30 summons in any case in which, pursuant to section 120.20, it is author-
31 ized to issue a warrant of arrest based upon an information, a
32 prosecutor's information, a felony complaint or a misdemeanor complaint.
33 If such information, prosecutor's information, felony complaint or
34 misdemeanor complaint is not sufficient on its face as prescribed in
35 section 100.40, and if the court is satisfied that on the basis of the
36 available facts or evidence it would be impossible to draw and file an
37 authorized accusatory instrument that is sufficient on its face, the
38 court must dismiss the accusatory instrument. A superior court may issue
39 a summons in any case in which, pursuant to section 210.10, it is
40 authorized to issue a warrant of arrest based upon an indictment.

41 § 19. Section 140.20 of the criminal procedure law is amended by
42 adding a new subdivision 8 to read as follows:

43 8. If the arrest is for a juvenile offender or adolescent offender
44 other than an arrest for a violation or a traffic infraction, such
45 offender shall be brought before the youth part of the superior court.
46 If the youth part is not in session, such offender shall be brought
47 before the most accessible magistrate designated by the appellate divi-
48 sion of the supreme court in the applicable department to act as a youth
49 part.

50 § 20. Subdivision 6 of section 140.20 of the criminal procedure law,
51 as added by chapter 411 of the laws of 1979, is amended to read as
52 follows:

53 6. Upon arresting a juvenile offender or a person sixteen or commencing
54 October first, two thousand nineteen, seventeen years of age without
55 a warrant, the police officer shall immediately notify the parent or
56 other person legally responsible for his or her care or the person with

1 whom he or she is domiciled, that [the juvenile] such offender or person
2 has been arrested, and the location of the facility where he or she is
3 being detained. If the officer determines that it is necessary to ques-
4 tion a juvenile offender or such person, the officer must take him or
5 her to a facility designated by the chief administrator of the courts as
6 a suitable place for the questioning of children or, upon the consent of
7 a parent or other person legally responsible for the care of the juve-
8 nile or such person, to his or her residence and there question him or
9 her for a reasonable period of time. A juvenile or such person shall not
10 be questioned pursuant to this section unless he or she and a person
11 required to be notified pursuant to this subdivision, if present, have
12 been advised:

13 (a) of the juvenile offender's or such person's right to remain
14 silent;

15 (b) that the statements made by him or her may be used in a court of
16 law;

17 (c) of his or her right to have an attorney present at such question-
18 ing; and

19 (d) of his or her right to have an attorney provided for him or her
20 without charge if he or she is unable to afford counsel.

21 In determining the suitability of questioning and determining the
22 reasonable period of time for questioning such a juvenile offender or
23 person, his or her age, the presence or absence of his or her parents or
24 other persons legally responsible for his or her care and notification
25 pursuant to this subdivision shall be included among relevant consider-
26 ations.

27 § 21. Subdivision 2 of section 140.27 of the criminal procedure law,
28 as amended by chapter 843 of the laws of 1980, is amended to read as
29 follows:

30 2. Upon arresting a person without a warrant, a peace officer, except
31 as otherwise provided in subdivision three or three-a, must without
32 unnecessary delay bring him or cause him to be brought before a local
33 criminal court, as provided in section 100.55 and subdivision one of
34 section 140.20, and must without unnecessary delay file or cause to be
35 filed therewith an appropriate accusatory instrument. If the offense
36 which is the subject of the arrest is one of those specified in subdivi-
37 sion one of section 160.10, the arrested person must be fingerprinted
38 and photographed as therein provided. In order to execute the required
39 post-arrest functions, such arresting peace officer may perform such
40 functions himself or he may enlist the aid of a police officer for the
41 performance thereof in the manner provided in subdivision one of section
42 140.20.

43 § 22. Section 140.27 of the criminal procedure law is amended by
44 adding a new subdivision 3-a to read as follows:

45 3-a. If the arrest is for a juvenile offender or adolescent offender
46 other than an arrest for violations or traffic infractions, such offen-
47 der shall be brought before the youth part of the superior court. If the
48 youth part is not in session, such offender shall be brought before the
49 most accessible magistrate designated by the appellate division of the
50 supreme court in the applicable department to act as a youth part.

51 § 23. Subdivision 5 of section 140.27 of the criminal procedure law,
52 as added by chapter 411 of the laws of 1979, is amended to read as
53 follows:

54 5. Upon arresting a juvenile offender or a person sixteen or commenc-
55 ing October first, two thousand nineteen, seventeen years of age without
56 a warrant, the peace officer shall immediately notify the parent or

1 other person legally responsible for his or her care or the person with
2 whom he or she is domiciled, that [the juvenile] such offender or person
3 has been arrested, and the location of the facility where he or she is
4 being detained. If the officer determines that it is necessary to ques-
5 tion a juvenile offender or such person, the officer must take him or
6 her to a facility designated by the chief administrator of the courts as
7 a suitable place for the questioning of children or, upon the consent of
8 a parent or other person legally responsible for the care of a juvenile
9 offender or such person, to his or her residence and there question him
10 or her for a reasonable period of time. A juvenile offender or such
11 person shall not be questioned pursuant to this section unless the juve-
12 nile offender or such person and a person required to be notified pursu-
13 ant to this subdivision, if present, have been advised:

- 14 (a) of his or her right to remain silent;
15 (b) that the statements made by the juvenile offender or such person
16 may be used in a court of law;
17 (c) of his or her right to have an attorney present at such question-
18 ing; and
19 (d) of his or her right to have an attorney provided for him or her
20 without charge if he or she is unable to afford counsel.

21 In determining the suitability of questioning and determining the
22 reasonable period of time for questioning such a juvenile offender or
23 such person, his or her age, the presence or absence of his or her
24 parents or other persons legally responsible for his or her care and
25 notification pursuant to this subdivision shall be included among rele-
26 vant considerations.

27 § 24. Subdivision 5 of section 140.40 of the criminal procedure law,
28 as added by chapter 411 of the laws of 1979, is amended to read as
29 follows:

30 5. If a police officer takes an arrested juvenile offender or a
31 person sixteen or commencing October first, two thousand nineteen,
32 seventeen years of age into custody, the police officer shall immediate-
33 ly notify the parent or other person legally responsible for his or her
34 care or the person with whom he or she is domiciled, that [the juvenile]
35 such offender or person has been arrested, and the location of the
36 facility where he or she is being detained. If the officer determines
37 that it is necessary to question a juvenile offender or such person the
38 officer must take him or her to a facility designated by the chief
39 administrator of the courts as a suitable place for the questioning of
40 children or, upon the consent of a parent or other person legally
41 responsible for the care of the juvenile offender or such person, to his
42 or her residence and there question him or her for a reasonable period
43 of time. A juvenile offender or such person shall not be questioned
44 pursuant to this section unless he or she and a person required to be
45 notified pursuant to this subdivision, if present, have been advised:

- 46 (a) of his or her right to remain silent;
47 (b) that the statements made by the juvenile offender or such person
48 may be used in a court of law;
49 (c) of his or her right to have an attorney present at such question-
50 ing; and
51 (d) of his or her right to have an attorney provided for him or her
52 without charge if he or she is unable to afford counsel.

53 In determining the suitability of questioning and determining the
54 reasonable period of time for questioning such a juvenile offender or
55 such person, his or her age, the presence or absence of his or her
56 parents or other persons legally responsible for his or her care and

1 notification pursuant to this subdivision shall be included among rele-
2 vant considerations.

3 § 25. Subdivisions 2, 3, 4, 5 and 6 of section 180.75 of the criminal
4 procedure law are REPEALED.

5 § 26. Subdivision 1 of section 180.75 of the criminal procedure law,
6 as added by chapter 481 of the laws of 1978, is amended to read as
7 follows:

8 1. When a juvenile offender or adolescent offender is arraigned before
9 [a local criminal court] the youth part of a superior court or the most
10 accessible magistrate designated by the appellate division of the
11 supreme court in the applicable department to act as a youth part, the
12 provisions of [this section] article seven hundred twenty-two of this
13 chapter shall apply in lieu of the provisions of sections 180.30, 180.50
14 and 180.70 of this article.

15 § 27. The opening paragraph of section 180.80 of the criminal proce-
16 dure law, as amended by chapter 556 of the laws of 1982, is amended to
17 read as follows:

18 Upon application of a defendant against whom a felony complaint has
19 been filed with a local criminal court or the youth part of a superior
20 court, and who, since the time of his arrest or subsequent thereto, has
21 been held in custody pending disposition of such felony complaint, and
22 who has been confined in such custody for a period of more than one
23 hundred twenty hours or, in the event that a Saturday, Sunday or legal
24 holiday occurs during such custody, one hundred forty-four hours, with-
25 out either a disposition of the felony complaint or commencement of a
26 hearing thereon, the [local criminal] court must release him on his own
27 recognizance unless:

28 § 27-a. Section 190.80 of the criminal procedure law, the opening
29 paragraph as amended by chapter 411 of the laws of 1979, is amended to
30 read as follows:

31 § 190.80 Grand jury; release of defendant upon failure of timely grand
32 jury action.

33 Upon application of a defendant who on the basis of a felony complaint
34 has been held by a local criminal court for the action of a grand jury,
35 and who, at the time of such order or subsequent thereto, has been
36 committed to the custody of the sheriff pending such grand jury action,
37 and who has been confined in such custody for a period of more than
38 forty-five days, or, in the case of a juvenile offender or adolescent
39 offender, thirty days, without the occurrence of any grand jury action
40 or disposition pursuant to subdivision one, two or three of section
41 190.60, the superior court by which such grand jury was or is to be
42 impaneled must release him on his own recognizance unless:

43 (a) The lack of a grand jury disposition during such period of
44 confinement was due to the defendant's request, action or condition, or
45 occurred with his consent; or

46 (b) The people have shown good cause why such order of release should
47 not be issued. Such good cause must consist of some compelling fact or
48 circumstance which precluded grand jury action within the prescribed
49 period or rendered the same against the interest of justice.

50 § 28. Subdivision (b) of section 190.71 of the criminal procedure law,
51 as added by chapter 481 of the laws of 1978, is amended to read as
52 follows:

53 (b) A grand jury may vote to file a request to remove a charge to the
54 family court if it finds that a person [thirteen, fourteen or fifteen]
55 sixteen, or commencing October first, two thousand nineteen, seventeen
56 years of age or younger did an act which, if done by a person over the

1 age of sixteen, or commencing October first, two thousand nineteen,
2 seventeen, would constitute a crime provided (1) such act is one for
3 which it may not indict; (2) it does not indict such person for a crime;
4 and (3) the evidence before it is legally sufficient to establish that
5 such person did such act and competent and admissible evidence before it
6 provides reasonable cause to believe that such person did such act.

7 § 29. Subdivision 6 of section 200.20 of the criminal procedure law,
8 as added by chapter 136 of the laws of 1980, is amended to read as
9 follows:

10 6. Where an indictment charges at least one offense against a defend-
11 ant who was under the age of [sixteen] seventeen, or commencing October
12 first, two thousand nineteen, eighteen at the time of the commission of
13 the crime and who did not lack criminal responsibility for such crime by
14 reason of infancy, the indictment may, in addition, charge in separate
15 counts one or more other offenses for which such person would not have
16 been criminally responsible by reason of infancy, if:

17 (a) the offense for which the defendant is criminally responsible and
18 the one or more other offenses for which he or she would not have been
19 criminally responsible by reason of infancy are based upon the same act
20 or upon the same criminal transaction, as that term is defined in subdi-
21 vision two of section 40.10 of this chapter; or

22 (b) the offenses are of such nature that either proof of the first
23 offense would be material and admissible as evidence in chief upon a
24 trial of the second, or proof of the second would be material and admis-
25 sible as evidence in chief upon a trial of the first.

26 § 29-a. Subdivision 7 of section 210.30 of the criminal procedure law,
27 as added by chapter 136 of the laws of 1980, is amended to read as
28 follows:

29 7. Notwithstanding any other provision of law, where the indictment is
30 filed against a juvenile offender or adolescent offender, the court
31 shall dismiss the indictment or count thereof where the evidence before
32 the grand jury was not legally sufficient to establish the offense
33 charged or any lesser included offense for which the defendant is crimi-
34 nally responsible. Upon such dismissal, unless the court shall authorize
35 the people to resubmit the charge to a subsequent grand jury, and upon a
36 finding that there was sufficient evidence to believe defendant is a
37 juvenile delinquent as defined in subdivision (a) of section seven
38 hundred twelve of the family court act and upon specifying the act or
39 acts it found sufficient evidence to believe defendant committed, the
40 court may direct that such matter be removed to family court in accord-
41 ance with the provisions of article seven hundred twenty-five of this
42 chapter.

43 § 30. Section 210.43 of the criminal procedure law is REPEALED.

44 § 31. Intentionally omitted.

45 § 31-a. Paragraph (a) of subdivision 1 of section 255.10 of the crimi-
46 nal procedure law, as amended by chapter 209 of the laws of 1990, is
47 amended to read as follows:

48 (a) dismissing or reducing an indictment pursuant to article 210 or
49 removing an action to the family court pursuant to [section 210.43]
50 article 722; or

51 § 31-b. Subdivisions 1 and 2 of section 330.25 of the criminal proce-
52 dure law, subdivision 1 as added by chapter 481 of the laws of 1978 and
53 subdivision 2 as amended by chapter 920 of the laws of 1982, are amended
54 to read as follows:

55 1. Where a defendant is a juvenile offender or an adolescent offender
56 who does not stand convicted of murder in the second degree, upon motion

1 and with the consent of the district attorney, the action may be removed
2 to the family court in the interests of justice pursuant to article
3 seven hundred twenty-five of this chapter notwithstanding the verdict.

4 2. If the district attorney consents to the motion for removal pursu-
5 ant to this section, he shall file a subscribed memorandum with the
6 court setting forth (1) a recommendation that the interests of justice
7 would best be served by removal of the action to the family court; and
8 (2) if the conviction is of an offense set forth in paragraph (b) of
9 subdivision one of section [210.43] 722.22 of this chapter, specific
10 factors, one or more of which reasonably support the recommendation,
11 showing, (i) mitigating circumstances that bear directly upon the manner
12 in which the crime was committed, or (ii) where the defendant was not
13 the sole participant in the crime, that the defendant's participation
14 was relatively minor although not so minor as to constitute a defense to
15 prosecution, or (iii) where the juvenile offender has no previous adju-
16 dications of having committed a designated felony act, as defined in
17 subdivision eight of section 301.2 of the family court act, regardless
18 of the age of the offender at the time of commission of the act, that
19 the criminal act was not part of a pattern of criminal behavior and, in
20 view of the history of the offender, is not likely to be repeated.

21 § 32. Subdivision 2 of section 410.40 of the criminal procedure law,
22 as amended by chapter 652 of the laws of 2008, is amended to read as
23 follows:

24 2. Warrant. (a) Where the probation officer has requested that a
25 probation warrant be issued, the court shall, within seventy-two hours
26 of its receipt of the request, issue or deny the warrant or take any
27 other lawful action including issuance of a notice to appear pursuant to
28 subdivision one of this section. If at any time during the period of a
29 sentence of probation or of conditional discharge the court has reason-
30 able grounds to believe that the defendant has violated a condition of
31 the sentence, the court may issue a warrant to a police officer or to an
32 appropriate peace officer directing him or her to take the defendant
33 into custody and bring the defendant before the court without unneces-
34 sary delay; provided, however, if the court in which the warrant is
35 returnable is a superior court, and such court is not available, and the
36 warrant is addressed to a police officer or appropriate probation offi-
37 cer certified as a peace officer, such executing officer may unless
38 otherwise specified under paragraph (b) of this subdivision, bring the
39 defendant to the local correctional facility of the county in which such
40 court sits, to be detained there until not later than the commencement
41 of the next session of such court occurring on the next business day; or
42 if the court in which the warrant is returnable is a local criminal
43 court, and such court is not available, and the warrant is addressed to
44 a police officer or appropriate probation officer certified as a peace
45 officer, such executing officer must without unnecessary delay bring the
46 defendant before an alternate local criminal court, as provided in
47 subdivision five of section 120.90 of this chapter. A court which issues
48 such a warrant may attach thereto a summary of the basis for the
49 warrant. In any case where a defendant arrested upon the warrant is
50 brought before a local criminal court other than the court in which the
51 warrant is returnable, such local criminal court shall consider such
52 summary before issuing a securing order with respect to the defendant.

53 (b) If the court in which the warrant is returnable is a superior
54 court, and such court is not available, and the warrant is addressed to
55 a police officer or appropriate probation officer certified as a peace
56 officer, such executing officer shall, where a defendant is sixteen

1 years of age or younger who allegedly commits an offense or a violation
2 of his or her probation or conditional discharge imposed for an offense
3 on or after October first, two thousand eighteen, or where a defendant
4 is seventeen years of age or younger who allegedly commits an offense or
5 a violation of his or her probation or conditional discharge imposed for
6 an offense on or after October first, two thousand nineteen, bring the
7 defendant without unnecessary delay before the youth part, provided,
8 however that if the youth part is not in session, the defendant shall be
9 brought before the most accessible magistrate designated by the appel-
10 late division.

11 § 33. Intentionally omitted.

12 § 34. Intentionally omitted.

13 § 35. The criminal procedure law is amended by adding a new section
14 410.90-a to read as follows:

15 § 410.90-a Superior court; youth part.

16 Notwithstanding any other provisions of this article, all proceedings
17 relating to a juvenile offender or adolescent offender shall be heard in
18 the youth part of the superior court having jurisdiction and any intra-
19 state transfers under this article shall be between courts designated as
20 a youth part pursuant to article seven hundred twenty-two of this chap-
21 ter.

22 § 36. Section 510.15 of the criminal procedure law, as amended by
23 chapter 411 of the laws of 1979, subdivision 1 as designated and subdi-
24 vision 2 as added by chapter 359 of the laws of 1980, is amended to read
25 as follows:

26 § 510.15 Commitment of principal under [sixteen] seventeen or eighteen.

27 1. When a principal who is under the age of sixteen is committed to
28 the custody of the sheriff the court must direct that the principal be
29 taken to and lodged in a place certified by the [state division for
30 youth] office of children and family services as a juvenile detention
31 facility for the reception of children. When a principal who (a)
32 commencing October first, two thousand eighteen, is sixteen years of
33 age; or (b) commencing October first, two thousand nineteen, is sixteen
34 or seventeen years of age, is committed to the custody of the sheriff,
35 the court must direct that the principal be taken to and lodged in a
36 place certified by the office of children and family services in
37 conjunction with the state commission of correction as a specialized
38 secure juvenile detention facility for older youth. Where such a direc-
39 tion is made the sheriff shall deliver the principal in accordance ther-
40 ewith and such person shall although lodged and cared for in a juvenile
41 detention facility continue to be deemed to be in the custody of the
42 sheriff. No principal under the age [of sixteen] specified to whom the
43 provisions of this section may apply shall be detained in any prison,
44 jail, lockup, or other place used for adults convicted of a crime or
45 under arrest and charged with the commission of a crime without the
46 approval of the [state division for youth] office of children and family
47 services which shall consult with the commission of correction if the
48 principal is sixteen years of age or older in the case of each principal
49 and the statement of its reasons therefor. The sheriff shall not be
50 liable for any acts done to or by such principal resulting from negli-
51 gence in the detention of and care for such principal, when the princi-
52 pal is not in the actual custody of the sheriff.

53 2. Except upon consent of the defendant or for good cause shown, in
54 any case in which a new securing order is issued for a principal previ-
55 ously committed to the custody of the sheriff pursuant to this section,
56 such order shall further direct the sheriff to deliver the principal

1 from a juvenile detention facility to the person or place specified in
2 the order.

3 § 36-a. The correction law is amended by adding a new section 500-p to
4 read as follows:

5 § 500-p. Prohibition on the custody of youth in Rikers Island facili-
6 ties. Notwithstanding any other provision of law, no youth under the
7 age of eighteen shall be placed or held in Rikers Island correctional
8 facility or any facility located on Rikers Island located in the city of
9 New York on or after April first, two thousand eighteen, to the extent
10 practicable, but in no event after October first, two thousand eighteen
11 and such youth shall be taken to and lodged in places certified by the
12 office of children and family services in conjunction with the commis-
13 sion of correction and operated by the New York city administration for
14 children's services in conjunction with the New York city department of
15 corrections as a specialized juvenile detention facility for that
16 purpose.

17 § 37. Intentionally omitted.

18 § 38. Section 30.00 of the penal law, as amended by chapter 481 of the
19 laws of 1978, subdivision 2 as amended by chapter 7 of the laws of 2007,
20 is amended to read as follows:

21 § 30.00 Infancy.

22 1. Except as provided in [subdivision] subdivisions two and three of
23 this section, a person less than [sixteen] seventeen, or commencing
24 October first, two thousand nineteen, a person less than eighteen years
25 old is not criminally responsible for conduct.

26 2. A person thirteen, fourteen or, fifteen years of age is criminally
27 responsible for acts constituting murder in the second degree as defined
28 in subdivisions one and two of section 125.25 and in subdivision three
29 of such section provided that the underlying crime for the murder charge
30 is one for which such person is criminally responsible or for such
31 conduct as a sexually motivated felony, where authorized pursuant to
32 section 130.91 of [the penal law] this chapter; and a person fourteen
33 or, fifteen years of age is criminally responsible for acts constituting
34 the crimes defined in section 135.25 (kidnapping in the first degree);
35 150.20 (arson in the first degree); subdivisions one and two of section
36 120.10 (assault in the first degree); 125.20 (manslaughter in the first
37 degree); subdivisions one and two of section 130.35 (rape in the first
38 degree); subdivisions one and two of section 130.50 (criminal sexual act
39 in the first degree); 130.70 (aggravated sexual abuse in the first
40 degree); 140.30 (burglary in the first degree); subdivision one of
41 section 140.25 (burglary in the second degree); 150.15 (arson in the
42 second degree); 160.15 (robbery in the first degree); subdivision two of
43 section 160.10 (robbery in the second degree) of this chapter; or
44 section 265.03 of this chapter, where such machine gun or such firearm
45 is possessed on school grounds, as that phrase is defined in subdivision
46 fourteen of section 220.00 of this chapter; or defined in this chapter
47 as an attempt to commit murder in the second degree or kidnapping in the
48 first degree, or for such conduct as a sexually motivated felony, where
49 authorized pursuant to section 130.91 of [the penal law] this chapter.

50 3. A person sixteen or commencing October first, two thousand nine-
51 teen, seventeen years of age is criminally responsible for acts consti-
52 tuting:

53 (a) a felony, as defined in subdivision five of section 10.00 of this
54 chapter;

55 (b) a traffic infraction, as defined in subdivision two of section
56 10.00 of this chapter;

1 (c) a violation, as defined in subdivision three of section 10.00 of
2 this chapter;

3 (d) a misdemeanor as defined in subdivision four of section 10.00 of
4 this chapter, but only when the charge for such misdemeanor is:

5 (i) accompanied by a felony charge that is shown to have been commit-
6 ted as a part of the same criminal transaction, as defined in subdivi-
7 sion two of section 40.10 of the criminal procedure law;

8 (ii) results from reduction or dismissal in satisfaction of a charge
9 for a felony offense, in accordance with a plea of guilty pursuant to
10 subdivision four of section 220.10 of the criminal procedure law; or

11 (iii) a misdemeanor defined in the vehicle and traffic law.

12 4. In any prosecution for an offense, lack of criminal responsibility
13 by reason of infancy, as defined in this section, is a defense.

14 § 39. Intentionally omitted.

15 § 40. Intentionally omitted.

16 § 40-a. Subdivision 5 of section 70.00 of the penal law, as amended by
17 chapter 482 of the laws of 2009, is amended to read as follows:

18 5. Life imprisonment without parole. Notwithstanding any other
19 provision of law, a defendant sentenced to life imprisonment without
20 parole shall not be or become eligible for parole or conditional
21 release. For purposes of commitment and custody, other than parole and
22 conditional release, such sentence shall be deemed to be an indetermi-
23 nate sentence. A defendant may be sentenced to life imprisonment without
24 parole upon conviction for the crime of murder in the first degree as
25 defined in section 125.27 of this chapter and in accordance with the
26 procedures provided by law for imposing a sentence for such crime. A
27 defendant who was eighteen years of age or older at the time of the
28 commission of the crime must be sentenced to life imprisonment without
29 parole upon conviction for the crime of terrorism as defined in section
30 490.25 of this chapter, where the specified offense the defendant
31 committed is a class A-I felony; the crime of criminal possession of a
32 chemical weapon or biological weapon in the first degree as defined in
33 section 490.45 of this chapter; or the crime of criminal use of a chemi-
34 cal weapon or biological weapon in the first degree as defined in
35 section 490.55 of this chapter; provided, however, that nothing in this
36 subdivision shall preclude or prevent a sentence of death when the
37 defendant is also convicted of the crime of murder in the first degree
38 as defined in section 125.27 of this chapter. A defendant who was
39 seventeen years of age or younger at the time of the commission of the
40 crime may be sentenced, in accordance with law, to the applicable inde-
41 terminate sentence with a maximum term of life imprisonment. A defendant
42 must be sentenced to life imprisonment without parole upon conviction
43 for the crime of murder in the second degree as defined in subdivision
44 five of section 125.25 of this chapter or for the crime of aggravated
45 murder as defined in subdivision one of section 125.26 of this chapter.
46 A defendant may be sentenced to life imprisonment without parole upon
47 conviction for the crime of aggravated murder as defined in subdivision
48 two of section 125.26 of this chapter.

49 § 41. The penal law is amended by adding a new section 60.10-a to read
50 as follows:

51 § 60.10-a Authorized disposition; adolescent offender.

52 When an adolescent offender is convicted of an offense, the court
53 shall sentence the defendant to any sentence authorized to be imposed on
54 a person who committed such offense at age eighteen or older. When a
55 sentence is imposed, the court shall consider the age of the defendant
56 in exercising its discretion at sentencing.

1 § 42. Intentionally omitted.

2 § 43. Subdivision 2 of section 70.20 of the penal law, as amended by
3 chapter 437 of the laws of 2013, is amended to read as follows:

4 2. [(a)] Definite sentence. Except as provided in subdivision four of
5 this section, when a definite sentence of imprisonment is imposed, the
6 court shall commit the defendant to the county or regional correctional
7 institution for the term of his sentence and until released in accord-
8 ance with the law.

9 [(b) The court in committing a defendant who is not yet eighteen years
10 of age to the local correctional facility shall inquire as to whether
11 the parents or legal guardian of the defendant, if present, will grant
12 to the minor the capacity to consent to routine medical, dental and
13 mental health services and treatment.

14 (c) Nothing in this subdivision shall preclude a parent or legal guar-
15 dian of an inmate who is not yet eighteen years of age from making a
16 motion on notice to the local correction facility pursuant to article
17 twenty-two of the civil practice law and rules and section one hundred
18 forty of the correction law, objecting to routine medical, dental or
19 mental health services and treatment being provided to such inmate under
20 the provisions of paragraph (b) of this subdivision.]

21 § 44. Paragraph (a) of subdivision 4 of section 70.20 of the penal
22 law, as amended by section 124 of subpart B of part C of chapter 62 of
23 the laws of 2011, is amended and two new paragraphs (a-1) and (a-2) are
24 added to read as follows:

25 (a) Notwithstanding any other provision of law to the contrary, a
26 juvenile offender, adolescent offender, or a juvenile offender or
27 adolescent offender who is adjudicated a youthful offender [and], who is
28 given an indeterminate, determinate or a definite sentence, and who is
29 under the age of twenty-one at the time of sentencing, shall be commit-
30 ted to the custody of the commissioner of the office of children and
31 family services who shall arrange for the confinement of such offender
32 in secure facilities of the office; provided, however if an adolescent
33 offender who committed a crime on or after the youth's sixteenth birth-
34 day receives a definite sentence not exceeding one year, the judge may
35 order that the adolescent offender serve such sentence in a specialized
36 secure juvenile detention facility for older youth certified by the
37 office of children and family services in conjunction with the state
38 commission of correction and operated pursuant to section two hundred
39 eighteen-a of the county law. The release or transfer of such juvenile
40 offenders or adolescent offenders from the office of children and family
41 services shall be governed by section five hundred eight of the execu-
42 tive law.

43 (a-1) Notwithstanding paragraph (a) of this subdivision, an adolescent
44 offender, or an adolescent offender who is adjudicated a youthful offen-
45 der, who is given an indeterminate or determinate sentence shall be
46 committed to the department of corrections and community supervision and
47 if such person is under eighteen years of age at sentencing, he or she
48 shall be placed in an adolescent offender facility pursuant to section
49 seventy-seven of the correction law, operated by such department.

50 (a-2) Notwithstanding any other provision of law to the contrary, a
51 person sixteen years of age who commits a vehicle and traffic law
52 offense that does not constitute an adolescent offender offense on or
53 after October first, two thousand eighteen and a person seventeen years
54 of age who commits such an offense on or after October first, two thou-
55 sand nineteen who is sentenced to a term of imprisonment who is under
56 the age of twenty-one at the time he or she is sentenced shall be

1 committed to a specialized secure detention facility for older youth
2 certified by the office of children and family services in conjunction
3 with the state commission of correction.

4 § 44-a. Intentionally omitted.

5 § 44-b. Intentionally omitted.

6 § 45. Intentionally omitted.

7 § 46. Intentionally omitted.

8 § 47. Intentionally omitted.

9 § 48. The criminal procedure law is amended by adding a new section
10 160.59 to read as follows:

11 § 160.59 Sealing of certain convictions.

12 1. Definitions: As used in this section, the following terms shall
13 have the following meanings:

14 (a) "Eligible offense" shall mean any crime defined in the laws of
15 this state other than a sex offense defined in article one hundred thir-
16 ty of the penal law, an offense defined in article two hundred sixty-
17 three of the penal law, a felony offense defined in article one hundred
18 twenty-five of the penal law, a violent felony offense defined in
19 section 70.02 of the penal law, a class A felony offense defined in the
20 penal law, a felony offense defined in article one hundred five of the
21 penal law where the underlying offense is not an eligible offense, an
22 attempt to commit an offense that is not an eligible offense if the
23 attempt is a felony, or an offense for which registration as a sex
24 offender is required pursuant to article six-C of the correction law.
25 For the purposes of this section, where the defendant is convicted of
26 more than one eligible offense, committed as part of the same criminal
27 transaction as defined in subdivision two of section 40.10 of this chap-
28 ter, those offenses shall be considered one eligible offense.

29 (b) "Sentencing judge" shall mean the judge who pronounced sentence
30 upon the conviction under consideration, or if that judge is no longer
31 sitting in a court in the jurisdiction in which the conviction was
32 obtained, any other judge who is sitting in the criminal court where the
33 judgment of conviction was entered.

34 1-a. The chief administrator of the courts shall, pursuant to section
35 10.40 of this chapter, prescribe a form application which may be used by
36 a defendant to apply for sealing pursuant to this section. Such form
37 application shall include all the essential elements required by this
38 section to be included in an application for sealing. Nothing in this
39 subdivision shall be read to require a defendant to use such form appli-
40 cation to apply for sealing.

41 2. (a) A defendant who has been convicted of up to two eligible
42 offenses but not more than one felony offense may apply to the court in
43 which he or she was convicted of the most serious offense to have such
44 conviction sealed. If all offenses are offenses with the same classi-
45 fication, the application shall be made to the court in which the
46 defendant was last convicted.

47 (b) An application shall contain (i) a copy of a certificate of dispo-
48 sition or other similar documentation for any offense for which the
49 defendant has been convicted, or an explanation of why such certificate
50 or other documentation is not available; (ii) a sworn statement of the
51 defendant as to whether he or she has filed, or then intends to file,
52 any application for sealing of any other eligible offense; (iii) a copy
53 of any other such application that has been filed; (iv) a sworn state-
54 ment as to the conviction or convictions for which relief is being
55 sought; and (v) a sworn statement of the reason or reasons why the court

1 should, in its discretion, grant such sealing, along with any supporting
2 documentation.

3 (c) A copy of any application for such sealing shall be served upon
4 the district attorney of the county in which the conviction, or, if more
5 than one, the convictions, was or were obtained. The district attorney
6 shall notify the court within forty-five days if he or she objects to
7 the application for sealing.

8 (d) When such application is filed with the court, it shall be
9 assigned to the sentencing judge unless more than one application is
10 filed in which case the application shall be assigned to the county
11 court or the supreme court of the county in which the criminal court is
12 located, who shall request and receive from the division of criminal
13 justice services a fingerprint based criminal history record of the
14 defendant, including any sealed or suppressed records. The division of
15 criminal justice services also shall include a criminal history report,
16 if any, from the federal bureau of investigation regarding any criminal
17 history information that occurred in other jurisdictions. The division
18 is hereby authorized to receive such information from the federal bureau
19 of investigation for this purpose, and to make such information avail-
20 able to the court, which may make this information available to the
21 district attorney and the defendant.

22 3. The sentencing judge, or county or supreme court shall summarily
23 deny the defendant's application when:

24 (a) the defendant is required to register as a sex offender pursuant
25 to article six-C of the correction law; or

26 (b) the defendant has previously obtained sealing of the maximum
27 number of convictions allowable under section 160.58 of the criminal
28 procedure law; or

29 (c) the defendant has previously obtained sealing of the maximum
30 number of convictions allowable under subdivision four of this section;
31 or

32 (d) the time period specified in subdivision five of this section has
33 not yet been satisfied; or

34 (e) the defendant has an undisposed arrest or charge pending; or

35 (f) the defendant was convicted of any crime after the date of the
36 entry of judgement of the last conviction for which sealing is sought;
37 or

38 (g) the defendant has failed to provide the court with the required
39 sworn statement of the reasons why the court should grant the relief
40 requested; or

41 (h) the defendant has been convicted of two or more felonies or more
42 than two crimes.

43 4. Provided that the application is not summarily denied for the
44 reasons set forth in subdivision three of this section, a defendant who
45 stands convicted of up to two eligible offenses, may obtain sealing of
46 no more than two eligible offenses but not more than one felony offense.

47 5. Any eligible offense may be sealed only after at least ten years
48 have passed since the imposition of the sentence on the defendant's
49 latest conviction or, if the defendant was sentenced to a period of
50 incarceration, including a period of incarceration imposed in conjunc-
51 tion with a sentence of probation, the defendant's latest release from
52 incarceration. In calculating the ten year period under this subdivi-
53 sion, any period of time the defendant spent incarcerated after the
54 conviction for which the application for sealing is sought, shall be
55 excluded and such ten year period shall be extended by a period or peri-
56 ods equal to the time served under such incarceration.

1 6. Upon determining that the application is not subject to mandatory
2 denial pursuant to subdivision three of this section and that the appli-
3 cation is opposed by the district attorney, the sentencing judge or
4 county or supreme court shall conduct a hearing on the application in
5 order to consider any evidence offered by either party that would aid
6 the sentencing judge in his or her decision whether to seal the records
7 of the defendant's convictions. No hearing is required if the district
8 attorney does not oppose the application.

9 7. In considering any such application, the sentencing judge or county
10 or supreme court shall consider any relevant factors, including but not
11 limited to:

12 (a) the amount of time that has elapsed since the defendant's last
13 conviction;

14 (b) the circumstances and seriousness of the offense for which the
15 defendant is seeking relief, including whether the arrest charge was not
16 an eligible offense;

17 (c) the circumstances and seriousness of any other offenses for which
18 the defendant stands convicted;

19 (d) the character of the defendant, including any measures that the
20 defendant has taken toward rehabilitation, such as participating in
21 treatment programs, work, or schooling, and participating in community
22 service or other volunteer programs;

23 (e) any statements made by the victim of the offense for which the
24 defendant is seeking relief;

25 (f) the impact of sealing the defendant's record upon his or her reha-
26 bilitation and upon his or her successful and productive reentry and
27 reintegration into society; and

28 (g) the impact of sealing the defendant's record on public safety and
29 upon the public's confidence in and respect for the law.

30 8. When a sentencing judge or county or supreme court orders sealing
31 pursuant to this section, all official records and papers relating to
32 the arrests, prosecutions, and convictions, including all duplicates and
33 copies thereof, on file with the division of criminal justice services
34 or any court shall be sealed and not made available to any person or
35 public or private agency except as provided for in subdivision nine of
36 this section; provided, however, the division shall retain any finger-
37 prints, palmprints and photographs, or digital images of the same. The
38 clerk of such court shall immediately notify the commissioner of the
39 division of criminal justice services regarding the records that shall
40 be sealed pursuant to this section. The clerk also shall notify any
41 court in which the defendant has stated, pursuant to paragraph (b) of
42 subdivision two of this section, that he or she has filed or intends to
43 file an application for sealing of any other eligible offense.

44 9. Records sealed pursuant to this section shall be made available to:

45 (a) the defendant or the defendant's designated agent;

46 (b) qualified agencies, as defined in subdivision nine of section
47 eight hundred thirty-five of the executive law, and federal and state
48 law enforcement agencies, when acting within the scope of their law
49 enforcement duties; or

50 (c) any state or local officer or agency with responsibility for the
51 issuance of licenses to possess guns, when the person has made applica-
52 tion for such a license; or

53 (d) any prospective employer of a police officer or peace officer as
54 those terms are defined in subdivisions thirty-three and thirty-four of
55 section 1.20 of this chapter, in relation to an application for employ-
56 ment as a police officer or peace officer; provided, however, that every

1 person who is an applicant for the position of police officer or peace
2 officer shall be furnished with a copy of all records obtained under
3 this paragraph and afforded an opportunity to make an explanation there-
4 to; or

5 (e) the criminal justice information services division of the federal
6 bureau of investigation, for the purposes of responding to queries to
7 the national instant criminal background check system regarding attempts
8 to purchase or otherwise take possession of firearms, as defined in 18
9 USC 921 (a) (3).

10 10. A conviction which is sealed pursuant to this section is included
11 within the definition of a conviction for the purposes of any criminal
12 proceeding in which the fact of a prior conviction would enhance a
13 penalty or is an element of the offense charged.

14 11. No defendant shall be required or permitted to waive eligibility
15 for sealing pursuant to this section as part of a plea of guilty,
16 sentence or any agreement related to a conviction for an eligible
17 offense and any such waiver shall be deemed void and wholly enforceable.

18 § 48-a. Subdivision 16 of section 296 of the executive law, as sepa-
19 rately amended by section 3 of part N and section 14 of part AAA of
20 chapter 56 of the laws of 2009, is amended to read as follows:

21 16. It shall be an unlawful discriminatory practice, unless specif-
22 ically required or permitted by statute, for any person, agency, bureau,
23 corporation or association, including the state and any political subdi-
24 vision thereof, to make any inquiry about, whether in any form of appli-
25 cation or otherwise, or to act upon adversely to the individual
26 involved, any arrest or criminal accusation of such individual not then
27 pending against that individual which was followed by a termination of
28 that criminal action or proceeding in favor of such individual, as
29 defined in subdivision two of section 160.50 of the criminal procedure
30 law, or by a youthful offender adjudication, as defined in subdivision
31 one of section 720.35 of the criminal procedure law, or by a conviction
32 for a violation sealed pursuant to section 160.55 of the criminal proce-
33 dure law or by a conviction which is sealed pursuant to section 160.59
34 or 160.58 of the criminal procedure law, in connection with the licens-
35 ing, employment or providing of credit or insurance to such individual;
36 provided, further, that no person shall be required to divulge informa-
37 tion pertaining to any arrest or criminal accusation of such individual
38 not then pending against that individual which was followed by a termi-
39 nation of that criminal action or proceeding in favor of such individ-
40 ual, as defined in subdivision two of section 160.50 of the criminal
41 procedure law, or by a youthful offender adjudication, as defined in
42 subdivision one of section 720.35 of the criminal procedure law, or by a
43 conviction for a violation sealed pursuant to section 160.55 of the
44 criminal procedure law, or by a conviction which is sealed pursuant to
45 section 160.58 or 160.59 of the criminal procedure law. The provisions
46 of this subdivision shall not apply to the licensing activities of
47 governmental bodies in relation to the regulation of guns, firearms and
48 other deadly weapons or in relation to an application for employment as
49 a police officer or peace officer as those terms are defined in subdivi-
50 sions thirty-three and thirty-four of section 1.20 of the criminal
51 procedure law; provided further that the provisions of this subdivision
52 shall not apply to an application for employment or membership in any
53 law enforcement agency with respect to any arrest or criminal accusation
54 which was followed by a youthful offender adjudication, as defined in
55 subdivision one of section 720.35 of the criminal procedure law, or by a
56 conviction for a violation sealed pursuant to section 160.55 of the



1 criminal procedure law, or by a conviction which is sealed pursuant to
2 section 160.58 or 160.59 of the criminal procedure law.

3 § 49. Intentionally omitted.

4 § 50. Intentionally omitted.

5 § 51. Intentionally omitted.

6 § 52. Intentionally omitted.

7 § 53. Intentionally omitted.

8 § 54. Intentionally omitted.

9 § 55. Intentionally omitted.

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

12 1. "Juvenile delinquent" means a person over seven and less than
13 sixteen years of age, or commencing on October first, two thousand eigh-
14 teen a person over seven and less than seventeen years of age, and
15 commencing October first, two thousand nineteen a person over seven and
16 less than eighteen years of age, who, having committed an act that would
17 constitute a crime, or a violation, where such violation is alleged to
18 have occurred in the same transaction or occurrence of the alleged crim-
19 inal act, if committed by an adult, (a) is not criminally responsible
20 for such conduct by reason of infancy, or (b) is the defendant in an
21 action ordered removed from a criminal court to the family court pursu-
22 ant to article seven hundred twenty-five of the criminal procedure law.

23 § 56-a. Section 302.1 of the family court act is amended by adding a
24 new subdivision 3 to read as follows:

25 3. Whenever a crime and a violation arise out of the same transaction
26 or occurrence, a charge alleging both offenses shall be made returnable
27 before the court having jurisdiction over the crime. Nothing herein
28 provided shall be construed to prevent a court, having jurisdiction over
29 a violation relating to a criminal act from lawfully entering an order
30 in accordance with 345.1 of this article where such order is not based
31 upon the count or counts of the petition alleging such criminal act.

32 § 56-b. Section 352.2 of the family court act is amended by adding a
33 new subdivision 4 to read as follows:

34 4. Where a youth receives a juvenile delinquency adjudication for
35 conduct committed when the youth was age sixteen or older that would
36 constitute a violation, the court shall have the power to enter an order
37 of disposition in accordance with paragraphs (a) and (b) of subdivision
38 one of this section.

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

43 8. "Designated felony act" means an act which, if done by an adult,
44 would be a crime: (i) defined in sections 125.27 (murder in the first
45 degree); 125.25 (murder in the second degree); 135.25 (kidnapping in the
46 first degree); or 150.20 (arson in the first degree) of the penal law
47 committed by a person thirteen, fourteen [or], fifteen, or sixteen, or
48 commencing October first, two thousand nineteen, seventeen years of age;
49 or such conduct committed as a sexually motivated felony, where author-
50 ized pursuant to section 130.91 of the penal law; (ii) defined in
51 sections 120.10 (assault in the first degree); 125.20 (manslaughter in
52 the first degree); 130.35 (rape in the first degree); 130.50 (criminal
53 sexual act in the first degree); 130.70 (aggravated sexual abuse in the
54 first degree); 135.20 (kidnapping in the second degree) but only where
55 the abduction involved the use or threat of use of deadly physical
56 force; 150.15 (arson in the second degree) or 160.15 (robbery in the

1 first degree) of the penal law committed by a person thirteen, fourteen
2 [or], fifteen, or sixteen, or, commencing October first, two thousand
3 nineteen, seventeen years of age; or such conduct committed as a sexual-
4 ly motivated felony, where authorized pursuant to section 130.91 of the
5 penal law; (iii) defined in the penal law as an attempt to commit murder
6 in the first or second degree or kidnapping in the first degree commit-
7 ted by a person thirteen, fourteen [or], fifteen, or sixteen, or
8 commencing October first, two thousand nineteen, seventeen years of age;
9 or such conduct committed as a sexually motivated felony, where author-
10 ized pursuant to section 130.91 of the penal law; (iv) defined in
11 section 140.30 (burglary in the first degree); subdivision one of
12 section 140.25 (burglary in the second degree); subdivision two of
13 section 160.10 (robbery in the second degree) of the penal law; or
14 section 265.03 of the penal law, where such machine gun or such firearm
15 is possessed on school grounds, as that phrase is defined in subdivision
16 fourteen of section 220.00 of the penal law committed by a person four-
17 teen or fifteen years of age; or such conduct committed as a sexually
18 motivated felony, where authorized pursuant to section 130.91 of the
19 penal law; (v) defined in section 120.05 (assault in the second degree)
20 or 160.10 (robbery in the second degree) of the penal law committed by a
21 person fourteen [or], fifteen, or sixteen or, commencing October first,
22 two thousand nineteen, seventeen years of age but only where there has
23 been a prior finding by a court that such person has previously commit-
24 ted an act which, if committed by an adult, would be the crime of
25 assault in the second degree, robbery in the second degree or any desig-
26 nated felony act specified in paragraph (i), (ii), or (iii) of this
27 subdivision regardless of the age of such person at the time of the
28 commission of the prior act; [or] (vi) other than a misdemeanor commit-
29 ted by a person at least seven but less than [sixteen] seventeen years
30 of age, and commencing October first, two thousand nineteen, a person at
31 least seven but less than eighteen years of age, but only where there
32 has been two prior findings by the court that such person has committed
33 a prior felony.

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

37 § 58. Intentionally omitted.

38 § 59. Section 304.1 of the family court act, as added by chapter 920
39 of the laws of 1982, subdivision 2 as amended by chapter 419 of the laws
40 of 1987, is amended to read as follows:

41 § 304.1. Detention. 1. A facility certified by the [state division for
42 youth] office of children and family services as a juvenile detention
43 facility must be operated in conformity with the regulations of the
44 [state division for youth and shall be subject to the visitation and
45 inspection of the state board of social welfare] office of children and
46 family services.

47 2. No child to whom the provisions of this article may apply shall be
48 detained in any prison, jail, lockup, or other place used for adults
49 convicted of crime or under arrest and charged with crime without the
50 approval of the [state division for youth] office of children and family
51 services in the case of each child and the statement of its reasons
52 therefor. The [state division for youth] office of children and family
53 services shall promulgate and publish the rules which it shall apply in
54 determining whether approval should be granted pursuant to this subdivi-
55 sion.

1 3. The detention of a child under ten years of age in a secure
2 detention facility shall not be directed under any of the provisions of
3 this article.

4 4. A detention facility which receives a child under subdivision four
5 of section 305.2 of this part shall immediately notify the child's
6 parent or other person legally responsible for his or her care or, if
7 such legally responsible person is unavailable the person with whom the
8 child resides, that he or she has been placed in detention.

9 § 60. Intentionally omitted.

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

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

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

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

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

27 (b) forthwith and with all reasonable speed take the child directly,
28 and without his first being taken to the police station house, to the
29 family court located in the county in which the act occasioning the
30 taking into custody allegedly was committed, or, when the family court
31 is not in session, to the most accessible magistrate, if any, designated
32 by the appellate division of the supreme court in the applicable depart-
33 ment to conduct a hearing under section 307.4 of this part, unless the
34 officer determines that it is necessary to question the child, in which
35 case he or she may take the child to a facility designated by the chief
36 administrator of the courts as a suitable place for the questioning of
37 children or, upon the consent of a parent or other person legally
38 responsible for the care of the child, to the child's residence and
39 there question him or her for a reasonable period of time; or

40 § 64. Intentionally omitted.

41 § 65. Subdivision 4 of section 307.3 of the family court act, as added
42 by chapter 920 of the laws of 1982, is amended to read as follows:

43 4. If the agency for any reason does not release a child under this
44 section, such child shall be brought before the appropriate family
45 court, or when such family court is not in session, to the most accessi-
46 ble magistrate, if any, designated by the appellate division of the
47 supreme court in the applicable department; provided, however, that if
48 such family court is not in session and if a magistrate is not avail-
49 able, such youth shall be brought before such family court within seven-
50 ty-two hours or the next day the court is in session, whichever is soon-
51 er. Such agency shall thereupon file an application for an order
52 pursuant to section 307.4 of this part and shall forthwith serve a copy
53 of the application upon the appropriate presentment agency. Nothing in
54 this subdivision shall preclude the adjustment of suitable cases pursu-
55 ant to section 308.1.

56 § 66. Intentionally omitted.

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

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

7 § 68. Intentionally omitted.

8 § 69. Paragraphs (a) and (b) of subdivision 5 of section 322.2 of the
9 family court act, paragraph (a) as amended by chapter 37 of the laws of
10 2016 and paragraph (b) as added by chapter 920 of the laws of 1982, are
11 amended to read as follows:

12 (a) If the court finds that there is probable cause to believe that
13 the respondent committed a felony, it shall order the respondent commit-
14 ted to the custody of the commissioner of mental health or the commis-
15 sioner of the office for people with developmental disabilities for an
16 initial period not to exceed one year from the date of such order. Such
17 period may be extended annually upon further application to the court by
18 the commissioner having custody or his or her designee. Such application
19 must be made not more than sixty days prior to the expiration of such
20 period on forms that have been prescribed by the chief administrator of
21 the courts. At that time, the commissioner must give written notice of
22 the application to the respondent, the counsel representing the respond-
23 ent and the mental hygiene legal service if the respondent is at a resi-
24 dential facility. Upon receipt of such application, the court must
25 conduct a hearing to determine the issue of capacity. If, at the conclu-
26 sion of a hearing conducted pursuant to this subdivision, the court
27 finds that the respondent is no longer incapacitated, he or she shall be
28 returned to the family court for further proceedings pursuant to this
29 article. If the court is satisfied that the respondent continues to be
30 incapacitated, the court shall authorize continued custody of the
31 respondent by the commissioner for a period not to exceed one year. Such
32 extensions shall not continue beyond a reasonable period of time neces-
33 sary to determine whether the respondent will attain the capacity to
34 proceed to a fact finding hearing in the foreseeable future but in no
35 event shall continue beyond the respondent's eighteenth birthday or, if
36 the respondent was at least sixteen years of age when the act was
37 committed, beyond the respondent's twenty-first birthday.

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

44 § 70. Subdivisions 1 and 5 of section 325.1 of the family court act,
45 subdivision 1 as amended by chapter 398 of the laws of 1983, subdivision
46 5 as added by chapter 920 of the laws of 1982, are amended to read as
47 follows:

48 1. At the initial appearance, if the respondent denies a charge
49 contained in the petition and the court determines that [he] the
50 respondent shall be detained for more than three days pending a fact-
51 finding hearing, the court shall schedule a probable-cause hearing to
52 determine the issues specified in section 325.3 of this part.

53 5. Where the petition consists of an order of removal pursuant to
54 article seven hundred twenty-five of the criminal procedure law, unless
55 the removal was pursuant to subdivision three of section 725.05 of such
56 law and the respondent was not afforded a probable cause hearing pursu-

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

10 § 70-a. Section 350.3 of the family court act is amended by adding a
11 new subdivision 4 to read as follows:

12 4. The victim has the right to make a statement with regard to any
13 matter relevant to the question of disposition. If the victim chooses to
14 make a statement, such individual shall notify the court at least ten
15 days prior to the date of the dispositional hearing. The court shall
16 notify the respondent no less than seven days prior to the dispositional
17 hearing of the victim's intent to make a statement. The victim shall not
18 be made aware of the final disposition of the case.

19 § 70-b. Section 350.4 of the family court act is amended by adding a
20 new subdivision 5-a to read as follows:

21 5-a. The victim shall be allowed to make an oral or written statement.

22 § 70-c. Subdivision 4 of section 351.1 of the family court act, as
23 amended by chapter 317 of the laws of 2004, is amended to read as
24 follows:

25 4. [When it appears that such information would be relevant to the
26 findings of the court or the order of disposition, each] Each investi-
27 gation report prepared pursuant to this section shall [contain a] afford
28 the victim the right to make a statement. Such victim impact statement
29 [which] shall include an analysis of the victim's version of the
30 offense, the extent of injury or economic loss and the actual out-of-
31 pocket loss or damage to the victim, including the amount of unreim-
32 bursed medical expenses, if any, and the views of the victim relating to
33 disposition including the amount of restitution sought by the victim,
34 subject to availability of such information. In the case [of a homicide
35 or] where the victim is unable to assist in the preparation of the
36 victim impact statement, the information may be acquired from the
37 victim's family. Nothing contained in this section shall be interpreted
38 to require that a victim or his or her family supply information for the
39 preparation of an investigation report or that the dispositional hearing
40 should be delayed in order to obtain such information.

41 § 71. Intentionally omitted.

42 § 72. The opening paragraph of subparagraph (iii) of paragraph (a) and
43 paragraph (d) of subdivision 4 of section 353.5 of the family court act,
44 as amended by section 6 of subpart A of part G of chapter 57 of the laws
45 of 2012, are amended to read as follows:

46 after the period set under subparagraph (ii) of this paragraph, the
47 respondent shall be placed in a residential facility for a period of
48 twelve months; provided, however, that if the respondent has been placed
49 from a family court in a social services district operating an approved
50 juvenile justice services close to home initiative pursuant to section
51 four hundred four of the social services law for an act committed when
52 the respondent was under sixteen years of age, once the time frames in
53 subparagraph (ii) of this paragraph are met:

54 (d) Upon the expiration of the initial period of placement, or any
55 extension thereof, the placement may be extended in accordance with
56 section 355.3 on a petition of any party or the office of children and

1 family services, or, if applicable, a social services district operating
2 an approved juvenile justice services close to home initiative pursuant
3 to section four hundred four of the social services law, after a dispo-
4 sitional hearing, for an additional period not to exceed twelve months,
5 but no initial placement or extension of placement under this section
6 may continue beyond the respondent's twenty-first birthday, or, for an
7 act that was committed when the respondent was sixteen years of age or
8 older, the respondent's twenty-third birthday.

9 § 73. Paragraph (d) of subdivision 4 of section 353.5 of the family
10 court act, as amended by chapter 398 of the laws of 1983, is amended to
11 read as follows:

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

21 § 74. Intentionally omitted.

22 § 75. Subdivision 6 of section 355.3 of the family court act, as
23 amended by chapter 663 of the laws of 1985, is amended to read as
24 follows:

25 6. Successive extensions of placement under this section may be grant-
26 ed, but no placement may be made or continued beyond the respondent's
27 eighteenth birthday without the child's consent for acts committed
28 before the respondent's sixteenth birthday and in no event past the
29 child's twenty-first birthday except as provided for in subdivision four
30 of section 353.5 of this part.

31 § 76. Paragraph (b) of subdivision 3 of section 355.5 of the family
32 court act, as amended by chapter 145 of the laws of 2000, is amended to
33 read as follows:

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

40 § 77. Subdivision 6 of section 375.2 of the family court act, as added
41 by chapter 926 of the laws of 1982 and as renumbered by chapter 398 of
42 the laws of 1983, is amended to read as follows:

43 6. Such a motion cannot be filed until the respondent's sixteenth
44 birthday, or, commencing October first, two thousand eighteen, the
45 respondent's seventeenth birthday, or commencing October first, two
46 thousand nineteen, the respondent's eighteenth birthday.

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

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

54 6. "Person in need of supervision" means a person [less than eighteen
55 years of age who is habitually truant or who is incorrigible, ungoverna-
56 ble or habitually disobedient and beyond the lawful control of a parent

1 or other person legally responsible for such child's care, or other
2 lawful authority] as defined in section seven hundred twelve of the
3 family court act.

4 § 78-a. Subdivision 2 of section 40 of the correction law, as added by
5 chapter 865 of the laws of 1975, is amended to read as follows:

6 2. "Local correctional facility" means any county jail, county peni-
7 tentiary, county lockup, city jail, police station jail, town or village
8 jail or lockup, court detention pen [or], hospital prison ward or
9 specialized secure juvenile detention facility for older youth.

10 § 79. Subdivisions 3 and 4 of section 502 of the executive law, subdi-
11 vision 3 as amended by section 1 of subpart B of part Q of chapter 58 of
12 the laws of 2011 and subdivision 4 as added by chapter 465 of the laws
13 of 1992, are amended to read as follows:

14 3. "Detention" means the temporary care and maintenance of youth held
15 away from their homes pursuant to article three or seven of the family
16 court act, or held pending a hearing for alleged violation of the condi-
17 tions of release from an office of children and family services facility
18 or authorized agency, or held pending a hearing for alleged violation of
19 the condition of parole as a juvenile offender, youthful offender or
20 adolescent offender or held pending return to a jurisdiction other than
21 the one in which the youth is held, or held pursuant to a securing order
22 of a criminal court if the youth named therein as principal is charged
23 as a juvenile offender, youthful offender or adolescent offender or held
24 pending a hearing on an extension of placement or held pending transfer
25 to a facility upon commitment or placement by a court. Only alleged or
26 convicted juvenile offenders, youthful offenders or adolescent offenders
27 who have not attained their eighteenth or, commencing October first, two
28 thousand eighteen, their twenty-first birthday shall be subject to
29 detention in a detention facility. Commencing October first, two thou-
30 sand eighteen, a youth who on or after such date committed an offense
31 when the youth was sixteen years of age; or commencing October first,
32 two thousand nineteen, a youth who committed an offense on or after such
33 date when the youth was seventeen years of age held pursuant to a secur-
34 ing order of a criminal court if the youth is charged as an adolescent
35 offender or held pending a hearing for alleged violation of the condi-
36 tion of parole as an adolescent offender, must be held in a specialized
37 secure juvenile detention facility for older youth certified by the
38 state office of children and family services in conjunction with the
39 state commission of correction.

40 4. For purposes of this article, the term "youth" shall [be synonymous
41 with the term "child" and means] mean a person not less than seven years
42 of age and not more than twenty or commencing October first, two thou-
43 sand nineteen, not more than twenty-two years of age.

44 § 79-a. Section 503 of the executive law is amended by adding a new
45 subdivision 9 to read as follows:

46 9. Notwithstanding any other provision of law, the office of children
47 and family services in consultation with the state commission of
48 correction shall jointly regulate, certify, inspect and supervise
49 specialized secure detention facilities for adolescent offenders.

50 § 79-b. Paragraph (b) of subdivision 4 of section 507-a of the execu-
51 tive law, as amended by chapter 465 of the laws of 1992, is amended to
52 read as follows:

53 (b) The [division] office of children and family services shall admit
54 a child placed with the [division] office to a facility of the [divi-
55 sion] office within fifteen days of the date of the order of placement
56 with the [division] office and shall admit a juvenile offender, youthful

1 offender or adolescent offender committed to the [division] office to a
2 facility of the [division] office within ten days of the date of the
3 order of commitment to the [division] office, except as provided in
4 section five hundred seven-b of this article.

5 § 80. Paragraph (a) of subdivision 2 and subdivision 5 of section
6 507-a of the executive law, as amended by chapter 465 of the laws of
7 1992, are amended to read as follows:

8 (a) Consistent with other provisions of law, only those youth who have
9 reached the age of seven but who have not reached the age of twenty-one
10 may be placed in[, committed to or remain in] the [division's] custody
11 of the office of children and family services. Except as provided for in
12 paragraph (a-1) of this subdivision, no youth who has reached the age of
13 twenty-one may remain in custody of the office of children and family
14 services.

15 (a-1) (i) A youth who is committed to the office of children and fami-
16 ly services as a juvenile offender or a juvenile offender adjudicated as
17 a youthful offender may remain in the custody of the office during the
18 period of his or her sentence beyond the age of twenty-one in accordance
19 with the provisions of subdivision five of section five hundred eight of
20 this title but in no event may such a youth remain in the custody of the
21 office beyond his or her twenty-third birthday; and (ii) a youth found
22 to have committed a designated class A felony act who is restrictively
23 placed with the office under subdivision four of section 353.5 of the
24 family court act for committing an act on or after the youth's sixteenth
25 birthday may remain in the custody of the office of children and family
26 services up to the age of twenty-three in accordance with his or her
27 placement order.

28 (a-2) Whenever it shall appear to the satisfaction of the [division]
29 office of children and family services that any youth placed therewith
30 is not of proper age to be so placed or is not properly placed, or is
31 mentally or physically incapable of being materially benefited by the
32 program of the [division] office, the [division] office shall cause the
33 return of such youth to the county from which placement was made.

34 5. Consistent with other provisions of law, in the discretion of the
35 [director, youth] commissioner of the office of children and family
36 services, youth placed within the office under the family court act who
37 attain the age of eighteen while in [division] custody of the office and
38 who are not required to remain in the placement with the office as a
39 result of a dispositional order of the family court may reside in a
40 non-secure facility until the age of twenty-one, provided that such
41 youth attend a full-time vocational or educational program and are like-
42 ly to benefit from such program.

43 § 81. Intentionally omitted.

44 § 81-a. The correction law is amended by adding a new section 77 to
45 read as follows:

46 § 77. Adolescent offender facilities. 1. (a) The state shall estab-
47 lish one or more facilities with enhanced security features and special-
48 ly trained staff to serve the adolescent offenders sentenced to a deter-
49 minate or indeterminate sentence for committing offenses on or after
50 their sixteenth birthday who are determined to need an enhanced level of
51 secure care which shall be managed by the department with the office of
52 children and family services assistance, and services or programs.

53 (b) A council comprised of the commissioner, and the office of chil-
54 dren and family services, the commissioner of the state commission of
55 correction, and the commissioner of the division of criminal justice
56 services shall be established to assess the operation of the facility.

1 The governor shall designate the chair of the council. The council shall
2 have the power to perform all acts necessary to carry out its duties
3 including making unannounced visits and inspections of the facility at
4 any time. Notwithstanding any other provision of state law to the
5 contrary, the council may request and the department shall submit to the
6 council, to the extent permitted by federal law, all information in the
7 form and manner and at such times as the council may require that is
8 appropriate to the purposes and operation of the council. The council
9 shall be subject to the same laws as apply to the department regarding
10 the protection and confidentiality of the information made available to
11 the council and shall prevent access thereto by, or the distribution
12 thereof to, persons not authorized by law.

13 (c) Appropriate staff working in such facilities shall receive
14 specialized training to address working with the types of youth placed
15 in the facility, which shall include but not be limited to, training on
16 tactical responses and de-escalation techniques. All staff of the facil-
17 ity shall be subject to random drug tests.

18 2. The office of children and family services shall assign an assist-
19 ant commissioner to assist the department, on a permanent basis, with
20 programs or services provided within such facilities.

21 3. The department, the state commission of correction and the office
22 of children and family services shall jointly establish a placement
23 classification protocol to be used to determine the appropriate level of
24 care for each adolescent offender in such facility. The protocol shall
25 include, but not necessarily be limited to, consideration of the nature
26 of the youth's offense and the youth's history and service needs.

27 4. Any new facilities developed by the department in consultation
28 with the office of children and family services to serve the youth
29 committed as adolescent offenders as a result of raising the age of
30 juvenile jurisdiction shall, to the extent practicable, consist of smal-
31 ler, more home-like facilities located near the youths' homes and fami-
32 lies that provide gender-responsive programming, services and treatment
33 in small, closely supervised groups that offer extensive and on-going
34 individual attention and encourage supportive peer relationships.

35 5. Adolescent offenders committed or transferred to the facility, as
36 defined in this section for committing a crime on or after their
37 sixteenth birthday who still have time left on their sentences of impri-
38 sonment shall be transferred to a non-adolescent offender facility in
39 the department for confinement pursuant to this chapter after completing
40 two years in an adolescent offender facility unless they are within four
41 months of completing the imprisonment portion of their sentence and the
42 department determines, in its discretion, on a case-by-case basis that
43 the youth should be permitted to remain in such facility for the addi-
44 tional short period of time necessary to enable them to complete their
45 sentence. In making such a determination, the factors the department may
46 consider include, but are not limited to, the age of the youth, the
47 amount of time remaining on the youth's sentence of imprisonment, the
48 level of the youth's participation in the program, the youth's educa-
49 tional and vocational progress, the opportunities available to the youth
50 through the department, and the length of any applicable post-release
51 supervision sentence. Nothing in this subdivision shall authorize a
52 youth to remain in such facility beyond his or her twenty-third birth-
53 day.

54 § 81-b. The correction law is amended by adding a new section 78 to
55 read as follows:

1 § 78. Discharge plans. The department, in consultation with the office
2 of children and family services, shall provide discharge plans for juve-
3 nile offenders and adolescent offenders who are released to parole or
4 post-release supervision, which are tailored to address their individual
5 needs. Such plans shall include services designed to promote public
6 safety and the successful and productive reentry of such adolescents
7 into society.

8 § 82. Subdivisions 2, 3, 7, 8 and 9 of section 508 of the executive
9 law, subdivision 2 as amended by chapter 572 of the laws of 1985, subdivi-
10 sion 3 as added by chapter 481 of the laws of 1978 and renumbered by
11 chapter 465 of the laws of 1992, subdivision 7 as amended by section 97
12 of subpart B of part C of chapter 62 of the laws of 2011, subdivision 8
13 as added by chapter 560 of the laws of 1984 and subdivision 9 as amended
14 by chapter 37 of the laws of 2016, are amended to read as follows:

15 2. Juvenile offenders shall be confined in such facilities until the
16 age of twenty-one in accordance with their sentences, and shall not be
17 released, discharged or permitted home visits except pursuant to the
18 provisions of this section.

19 3. The [division] office of children and family services shall report
20 in writing to the sentencing court and district attorney, not less than
21 once every six months during the period of confinement, on the status,
22 adjustment, programs and progress of the offender.

23 The office of children and family services may transfer an offender
24 not less than eighteen [nor more than twenty-one] years of age to the
25 department of corrections and community supervision if the commissioner
26 of the office certifies to the commissioner of corrections and community
27 supervision that there is no substantial likelihood that the youth will
28 benefit from the programs offered by office facilities.

29 7. While in the custody of the office of children and family services,
30 an offender shall be subject to the rules and regulations of the office,
31 except that his or her parole, temporary release and discharge shall be
32 governed by the laws applicable to inmates of state correctional facili-
33 ties and his or her transfer to state hospitals in the office of mental
34 health shall be governed by section five hundred nine of this chapter;
35 provided, however, that an otherwise eligible offender may receive the
36 six-month limited credit time allowance for successful participation in
37 one or more programs developed by the office of children and family
38 services that are comparable to the programs set forth in section eight
39 hundred three-b of the correction law, taking into consideration the age
40 of offenders. The commissioner of the office of children and family
41 services shall, however, establish and operate temporary release
42 programs at office of children and family services facilities for eligi-
43 ble juvenile offenders and contract with the department of corrections
44 and community supervision for the provision of parole supervision
45 services for temporary releasees. The rules and regulations for these
46 programs shall not be inconsistent with the laws for temporary release
47 applicable to inmates of state correctional facilities. For the purposes
48 of temporary release programs for juvenile offenders only, when referred
49 to or defined in article twenty-six of the correction law, "institution"
50 shall mean any facility designated by the commissioner of the office of
51 children and family services, "department" shall mean the office of
52 children and family services, "inmate" shall mean a juvenile offender
53 residing in an office of children and family services facility, and
54 "commissioner" shall mean the [director] commissioner of the office of
55 children and family services. Time spent in office of children and fami-
56 ly services facilities and in juvenile detention facilities shall be

1 credited towards the sentence imposed in the same manner and to the same
2 extent applicable to inmates of state correctional facilities.

3 8. Whenever a juvenile offender or a juvenile offender adjudicated a
4 youthful offender shall be delivered to the director of [a division for
5 youth] an office of children and family services facility pursuant to a
6 commitment to the [director of the division for youth] office of chil-
7 dren and family services, the officer so delivering such person shall
8 deliver to such facility director a certified copy of the sentence
9 received by such officer from the clerk of the court by which such
10 person shall have been sentenced, a copy of the report of the probation
11 officer's investigation and report, any other pre-sentence memoranda
12 filed with the court, a copy of the person's fingerprint records, a
13 detailed summary of available medical records, psychiatric records, and
14 reports relating to assaults, or other violent acts, attempts at suicide
15 or escape by the person while in the custody of a local detention facil-
16 ity.

17 9. Notwithstanding any provision of law, including section five
18 hundred one-c of this article, the office of children and family
19 services shall make records pertaining to a person convicted of a sex
20 offense as defined in subdivision (p) of section 10.03 of the mental
21 hygiene law available upon request to the commissioner of mental health
22 or the commissioner of the office for people with developmental disabil-
23 ities, as appropriate; a case review panel; and the attorney general; in
24 accordance with the provisions of article ten of the mental hygiene law.

25 § 82-a. Subdivision 2 of section 529 of the executive law, as amended
26 by chapter 430 of the laws of 1991, is amended to read as follows:

27 2. Expenditures made by the [division for youth] office of children
28 and family services for care, maintenance and supervision furnished
29 youth, including alleged and adjudicated juvenile delinquents and
30 persons in need of supervision, placed or referred, pursuant to titles
31 two or three of this article, and juvenile offenders, youthful offenders
32 and adolescent offenders committed pursuant to [section 70.05 of] the
33 penal law, in the [division's] office's programs and facilities, shall
34 be subject to reimbursement to the state by the social services district
35 from which the youth was placed or by the social services district in
36 which the juvenile offender resided at the time of commitment, in
37 accordance with this section and the regulations of the [division]
38 office, as follows: fifty percent of the amount expended for care, main-
39 tenance and supervision of local charges including juvenile offenders.

40 § 82-b. Subdivision A of section 218-a of the county law is amended by
41 adding a new paragraph 6 to read as follows:

42 6. Notwithstanding any other provision of law, commencing October
43 first, two thousand eighteen, a county must provide for adequate
44 detention of alleged or convicted adolescent offenders in a specialized
45 secure detention facility for older youth who are alleged or convicted
46 of committing an offense when they were sixteen years of age and
47 commencing October first, two thousand nineteen, a county must provide
48 for adequate detention of alleged or convicted adolescent offenders in a
49 specialized secure detention facility for older youth who are alleged or
50 convicted of committing an offense when they were sixteen or seventeen
51 years of age. Such facility shall be certified and regulated by the
52 office of children and family services in conjunction with the state
53 commission of correction. Such facility shall: (i) have enhanced securi-
54 ty features and specially trained staff; and (ii) be jointly adminis-
55 tered by the agency of county government designated in accordance with
56 subdivision A of this section and the applicable county sheriff, which

1 both shall have the power to perform all acts necessary to carry out
2 their duties. The county sheriff shall be subject to the same laws that
3 apply to the designated county agency regarding the protection and
4 confidentiality of the information about the youth in such facility and
5 shall prevent access thereto by, or the distribution thereof to, persons
6 not authorized by law.

7 § 83. Intentionally omitted.

8 § 84. Intentionally omitted.

9 § 85. Intentionally omitted.

10 § 86. Intentionally omitted.

11 § 87. Intentionally omitted.

12 § 88. Intentionally omitted.

13 § 89. Intentionally omitted.

14 § 90. Intentionally omitted.

15 § 91. Intentionally omitted.

16 § 92. Intentionally omitted.

17 § 93. Intentionally omitted.

18 § 94. Intentionally omitted.

19 § 95. Intentionally omitted.

20 § 96. Intentionally omitted.

21 § 97. Intentionally omitted.

22 § 98. Intentionally omitted.

23 § 98-a. Intentionally omitted.

24 § 98-b. Intentionally omitted.

25 § 98-c. Intentionally omitted.

26 § 99. Subdivision 1, the opening paragraph of subdivision 2 and
27 subparagraphs (i) and (iii) of paragraph (a) of subdivision 3 of section
28 529-b of the executive law, as added by section 3 of subpart B of part Q
29 of chapter 58 of the laws of 2011, are amended to read as follows:

30 1. (a) Notwithstanding any provision of law to the contrary, eligible
31 expenditures by an eligible municipality for services to divert youth at
32 risk of, alleged to be, or adjudicated as juvenile delinquents or
33 persons alleged or adjudicated to be in need of supervision, or youth
34 alleged to be or convicted as juvenile offenders, youthful offenders or
35 adolescent offenders from placement in detention or in residential care
36 shall be subject to state reimbursement under the supervision and treat-
37 ment services for juveniles program for up to sixty-two percent of the
38 municipality's expenditures, subject to available appropriations and
39 exclusive of any federal funds made available for such purposes, not to
40 exceed the municipality's distribution under the supervision and treat-
41 ment services for juveniles program.

42 (b) The state funds appropriated for the supervision and treatment
43 services for juveniles program shall be distributed to eligible munici-
44 palities by the office of children and family services based on a plan
45 developed by the office which may consider historical information
46 regarding the number of youth seen at probation intake for an alleged
47 act of delinquency, the number of youth remanded to detention, the
48 number of juvenile delinquents placed with the office, the number of
49 juvenile delinquents and persons in need of supervision placed in resi-
50 dential care with the municipality, the municipality's reduction in the
51 use of detention and residential placements, and other factors as deter-
52 mined by the office. Such plan developed by the office shall be subject
53 to the approval of the director of the budget. The office is authorized,
54 in its discretion, to make advance distributions to a municipality in
55 anticipation of state reimbursement.

1 As used in this section, the term "municipality" shall mean a county,
2 or a city having a population of one million or more, and "supervision
3 and treatment services for juveniles" shall mean community-based
4 services or programs designed to safely maintain youth in the community
5 pending a family court disposition or conviction in criminal court and
6 services or programs provided to youth adjudicated as juvenile delin-
7 quents or persons in need of supervision, or youth alleged to be juve-
8 nile offenders, youthful offenders or adolescent offenders to prevent
9 residential placement of such youth or a return to placement where such
10 youth have been released to the community from residential placement.
11 Supervision and treatment services for juveniles may include but are not
12 limited to services or programs that:

13 (i) an analysis that identifies the neighborhoods or communities from
14 which the greatest number of juvenile delinquents and persons in need of
15 supervision are remanded to detention or residentially placed;

16 (iii) a description of how the services and programs proposed for
17 funding will reduce the number of youth from the municipality who are
18 detained and residentially or otherwise placed; how such services and
19 programs are family-focused; and whether such services and programs are
20 capable of being replicated across multiple sites;

21 § 100. The opening paragraph and paragraph (a) of subdivision 2 and
22 subdivisions 5 and 6 of section 530 of the executive law, the opening
23 paragraph of subdivision 2 as amended by section 4 of subpart B of part
24 Q of chapter 58 of the laws of 2011, paragraph (a) of subdivision 2 as
25 amended by section 1 of part M of chapter 57 of the laws of 2012, subdi-
26 vision 5 as amended by chapter 920 of the laws of 1982, subparagraphs 1,
27 2 and 4 of paragraph (a) and paragraph (b) of subdivision 5 as amended
28 by section 5 of subpart B of part Q of chapter 58 of the laws of 2011,
29 and subdivision 6 as amended by chapter 880 of the laws of 1976, are
30 amended and a new subdivision 8 is added to read as follows:

31 Expenditures made by municipalities in providing care, maintenance and
32 supervision to youth in detention facilities designated pursuant to
33 sections seven hundred twenty and section 305.2 of the family court act
34 and certified by [the division for youth] office of children and family
35 services, shall be subject to reimbursement by the state, as follows:

36 (a) Notwithstanding any provision of law to the contrary, eligible
37 expenditures by a municipality during a particular program year for the
38 care, maintenance and supervision in foster care programs certified by
39 the office of children and family services, certified or approved family
40 boarding homes, and non-secure detention facilities certified by the
41 office for those youth alleged to be persons in need of supervision or
42 adjudicated persons in need of supervision held pending transfer to a
43 facility upon placement; and in secure and non-secure detention facili-
44 ties certified by the office in accordance with section five hundred
45 three of this article for those youth alleged to be juvenile delin-
46 quents; adjudicated juvenile delinquents held pending transfer to a
47 facility upon placement, and juvenile delinquents held at the request of
48 the office of children and family services pending extension of place-
49 ment hearings or release revocation hearings or while awaiting disposi-
50 tion of such hearings; and youth alleged to be or convicted as juvenile
51 offenders, youthful offenders and adolescent offenders shall be subject
52 to state reimbursement for up to fifty percent of the municipality's
53 expenditures, exclusive of any federal funds made available for such
54 purposes, not to exceed the municipality's distribution from funds that
55 have been appropriated specifically therefor for that program year.
56 Municipalities shall implement the use of detention risk assessment

1 instruments in a manner prescribed by the office so as to inform
2 detention decisions. Notwithstanding any other provision of state law
3 to the contrary, data necessary for completion of a detention risk
4 assessment instrument may be shared among law enforcement, probation,
5 courts, detention administrators, detention providers, and the attorney
6 for the child upon retention or appointment; solely for the purpose of
7 accurate completion of such risk assessment instrument, and a copy of
8 the completed detention risk assessment instrument shall be made avail-
9 able to the applicable detention provider, the attorney for the child
10 and the court.

11 5. (a) Except as provided in paragraph (b) of this subdivision, care,
12 maintenance and supervision for the purpose of this section shall mean
13 and include only:

14 (1) temporary care, maintenance and supervision provided to alleged
15 juvenile delinquents and persons in need of supervision in detention
16 facilities certified pursuant to sections seven hundred twenty and 305.2
17 of the family court act by the office of children and family services,
18 pending adjudication of alleged delinquency or alleged need of super-
19 vision by the family court, or pending transfer to institutions to which
20 committed or placed by such court or while awaiting disposition by such
21 court after adjudication or held pursuant to a securing order of a crim-
22 inal court if the person named therein as principal is under [sixteen]
23 seventeen years of age; or[,]

24 (1-a) commencing on October first, two thousand nineteen, temporary
25 care, maintenance, and supervision provided to alleged juvenile delin-
26 quents in detention facilities certified by the office of children and
27 family services, pending adjudication of alleged delinquency by the
28 family court, or pending transfer to institutions to which committed or
29 placed by such court or while awaiting disposition by such court after
30 adjudication or held pursuant to a securing order of a criminal court if
31 the person named therein as principal is under twenty-one; or

32 (2) temporary care, maintenance and supervision provided juvenile
33 delinquents in approved detention facilities at the request of the
34 office of children and family services pending release revocation hear-
35 ings or while awaiting disposition after such hearings; or

36 (3) temporary care, maintenance and supervision in approved detention
37 facilities for youth held pursuant to the family court act or the inter-
38 state compact on juveniles, pending return to their place of residence
39 or domicile[.]; or

40 (4) temporary care, maintenance and supervision provided youth
41 detained in foster care facilities or certified or approved family
42 boarding homes pursuant to article seven of the family court act.

43 (b) Payments made for reserved accommodations, whether or not in full
44 time use, approved and certified by the office of children and family
45 services and certified pursuant to sections seven hundred twenty and
46 305.2 of the family court act, in order to assure that adequate accommo-
47 dations will be available for the immediate reception and proper care
48 therein of youth for which detention costs are reimbursable pursuant to
49 paragraph (a) of this subdivision, shall be reimbursed as expenditures
50 for care, maintenance and supervision under the provisions of this
51 section, provided the office shall have given its prior approval for
52 reserving such accommodations.

53 6. The [director of the division for youth] office of children and
54 family services may adopt, amend, or rescind all rules and regulations,
55 subject to the approval of the director of the budget and certification

1 to the chairmen of the senate finance and assembly ways and means
2 committees, necessary to carry out the provisions of this section.

3 8. Notwithstanding any law to the contrary, on or after January first,
4 two thousand twenty, the state shall not reimburse for the cost of the
5 detention of any person in need of supervision under article seven of
6 the family court act.

7 § 100-a. Section 153-k of the social services law is amended by adding
8 a new subdivision 12 to read as follows:

9 12. Notwithstanding any law to the contrary, on or after January
10 first, two thousand twenty, the state shall not reimburse for the cost
11 of any placement of persons in need of supervision under article seven
12 of the family court act.

13 § 100-b. Intentionally omitted.

14 § 101. The executive law is amended by adding a new section 259-p to
15 read as follows:

16 § 259-p. Interstate detention. (1) Notwithstanding any other provision
17 of law, a defendant subject to section two hundred fifty-nine-mm of this
18 article, may be detained as authorized by the interstate compact for
19 adult offender supervision.

20 (2) A defendant shall be detained at a local correctional facility,
21 except as otherwise provided in subdivision three of this section.

22 (3) (a) A defendant sixteen years of age or younger, who allegedly
23 commits a criminal act or violation of his or her supervision on or
24 after October first, two thousand eighteen or (b) a defendant seventeen
25 years of age or younger who allegedly commits a criminal act or
26 violation of his or her supervision on or after October first, two thou-
27 sand nineteen, shall be detained in a juvenile detention facility.

28 § 102. Subdivision 4 of section 246 of the executive law, as amended
29 by section 10 of part D of chapter 56 of the laws of 2010, is amended to
30 read as follows:

31 4. An approved plan and compliance with standards relating to the
32 administration of probation services promulgated by the commissioner of
33 the division of criminal justice services shall be a prerequisite to
34 eligibility for state aid.

35 The commissioner of the division of criminal justice services may take
36 into consideration granting additional state aid from an appropriation
37 made for state aid for county probation services for counties or the
38 city of New York when a county or the city of New York demonstrates that
39 additional probation services were dedicated to intensive supervision
40 programs[,] and intensive programs for sex offenders [or programs
41 defined as juvenile risk intervention services]. The commissioner shall
42 grant additional state aid from an appropriation dedicated to juvenile
43 risk intervention services coordination by probation departments which
44 shall include, but not be limited to, probation services performed under
45 article three of the family court act. The administration of such addi-
46 tional grants shall be made according to rules and regulations promul-
47 gated by the commissioner of the division of criminal justice services.
48 Each county and the city of New York shall certify the total amount
49 collected pursuant to section two hundred fifty-seven-c of this chapter.
50 The commissioner of the division of criminal justice services shall
51 thereupon certify to the comptroller for payment by the state out of
52 funds appropriated for that purpose, the amount to which the county or
53 the city of New York shall be entitled under this section. The commis-
54 sioner shall, subject to an appropriation made available for such
55 purpose, establish and provide funding to probation departments for a
56 continuum of evidence-based intervention services for youth alleged or

1 adjudicated juvenile delinquents pursuant to article three of the family
2 court act or for eligible youth before or sentenced under the youth part
3 in accordance with the criminal procedure law. Such additional state
4 aid shall be made in an amount necessary to pay one hundred percent of
5 the expenditures for evidence-based practices and juvenile risk and
6 evidence-based intervention services provided to youth sixteen years of
7 age or older when such services would not otherwise have been provided
8 absent the provisions of a chapter of the laws of two thousand seventeen
9 that increased the age of juvenile jurisdiction.

10 § 103. The second undesignated paragraph of subdivision 4 of section
11 246 of the executive law, as added by chapter 479 of the laws of 1970,
12 is amended to read as follows:

13 [The director shall thereupon certify to the comptroller for payment
14 by the state out of funds appropriated for that purpose, the amount to
15 which the county or the city of New York shall be entitled under this
16 section.]

17 The commissioner of the division of criminal justice services may take
18 into consideration granting additional state aid from an appropriation
19 made for state aid for county probation services for counties or the
20 city of New York when a county or the city of New York demonstrates that
21 additional probation services were dedicated to intensive supervision
22 programs and intensive programs for sex offenders. The commissioner
23 shall grant additional state aid from an appropriation dedicated to
24 juvenile risk intervention services coordination by probation depart-
25 ments which shall include, but not be limited to, probation services
26 performed under article three of the family court act. The adminis-
27 tration of such additional grants shall be made according to rules and
28 regulations promulgated by the commissioner of the division of criminal
29 justice services. Each county and the city of New York shall certify the
30 total amount collected pursuant to section two hundred fifty-seven-c of
31 this chapter. The commissioner of the division of criminal justice
32 services shall thereupon certify to the comptroller for payment by the
33 state out of funds appropriated for that purpose, the amount to which
34 the county or the city of New York shall be entitled under this section.
35 The commissioner shall, subject to an appropriation made available for
36 such purpose, establish and provide funding to probation departments for
37 a continuum of evidence-based intervention services for youth alleged or
38 adjudicated juvenile delinquents pursuant to article three of the family
39 court act or for eligible youth before or sentenced under the youth part
40 in accordance with the criminal procedure law.

41 § 104. The state finance law is amended by adding a new section 54-m
42 to read as follows:

43 § 54-m. Local share requirements associated with increasing the age of
44 juvenile jurisdiction above fifteen years of age. Notwithstanding any
45 other provision of law to the contrary, counties and the city of New
46 York shall not be required to contribute a local share of eligible
47 expenditures that would not have been incurred absent the provisions of
48 a chapter of the laws of two thousand seventeen that added this section
49 unless the most recent budget adopted by a county that is subject to the
50 provisions of section three-c of the general municipal law exceeded the
51 tax levy limit prescribed in such section or the local government is not
52 subject to the provisions of section three-c of the general municipal
53 law; provided, however, that the state budget director shall be author-
54 ized to waive any local share of expenditures associated with a chapter
55 of the laws of two thousand seventeen that increased the age of juvenile
56 jurisdiction above fifteen years of age, upon a showing of financial

1 hardship by a county or the city of New York upon application in the
2 form and manner prescribed by the division of the budget. In evaluating
3 an application for a financial hardship waiver, the budget director
4 shall consider the incremental cost to the locality related to increas-
5 ing the age of juvenile jurisdiction, changes in state or federal aid
6 payments, and other extraordinary costs, including the occurrence of a
7 disaster as defined in paragraph a of subdivision two of section twenty
8 of the executive law, repair and maintenance of infrastructure, annual
9 growth in tax receipts, including personal income, business and other
10 taxes, prepayment of debt service and other expenses, or such other
11 factors that the director may determine.

12 § 104-a. Notwithstanding any other provision of law to the contrary,
13 in accordance with the waiver provisions set forth in section 54-m of
14 the state finance law, state funding shall be available for one hundred
15 percent of a county's costs associated with transport of youth by the
16 applicable county sheriff that would not otherwise have occurred absent
17 the provisions of the chapter of the laws of two thousand seventeen that
18 added this section.

19 § 104-b. Notwithstanding any other provision of law; state reimburse-
20 ment relating to the detention and placement of persons in need of
21 supervision shall not be available for costs on or after January 1,
22 2020.

23 § 104-c. 1. There shall be a "raise the age implementation task
24 force," members of which will be assigned by the governor. Such task
25 force will be responsible for reporting to the governor, the speaker of
26 the assembly and the temporary president of the senate one year after
27 the effective date of the chapter of the laws of 2017 that added this
28 section. The task force shall have the following duties:

29 (A) monitoring the overall effectiveness of the law by reviewing the
30 state's progress in implementing the major components;

31 (B) evaluating the effectiveness of the local adoption and adherence
32 to the provisions of the law; and

33 (C) reviewing the sealing provisions including but not limited to an
34 analysis of the number of applicants, the number of individuals granted
35 sealing, and the overall effectiveness of the law's sealing require-
36 ments.

37 2. The task force members shall receive no remuneration for their
38 services as members.

39 3. The task force may create such committees as it deems necessary.

40 4. The task force shall provide an initial report on their findings on
41 or before August 1, 2019 with respect to the first phase of implementa-
42 tion and an additional report one year after with respect to the second
43 phase of implementation.

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

54 § 106. This act shall take effect immediately; provided that:

55 a. sections forty-eight and forty-eight-a of this act shall take
56 effect on the one hundred eightieth day after this act shall have become

1 a law and shall be deemed to apply to offenses committed prior to, on,
2 or after such effective date;

3 b. sections one through thirty, thirty-one-a, thirty-one-b, thirty-
4 two, thirty-five, thirty-six, thirty-eight, forty-a, forty-one, forty-
5 three, forty-four, fifty-six, fifty-six-a, fifty-six-b, fifty-seven,
6 fifty-nine, sixty-one through sixty-three, sixty-five, sixty-seven,
7 sixty-nine, seventy, seventy-two, seventy-five through seventy-eight,
8 seventy-nine, seventy-nine-b, eighty, eighty-one-b, eighty-two-a, nine-
9 ty-nine, one hundred, one hundred-a and one hundred one of this act
10 shall take effect October 1, 2018; provided however, that when the
11 applicability of such provisions are based on the conviction of a crime
12 or an act committed by a person who was seventeen years of age at the
13 time of such offense such provisions shall take effect October 1, 2019;

14 c. sections one hundred two and one hundred four shall take effect
15 April 1, 2018;

16 d. the amendments to subdivision 4 of section 353.5 of the family
17 court act made by section seventy-two of this act shall be subject to
18 the expiration and reversion of such subdivision pursuant to section 11
19 of subpart A of part G of chapter 57 of the laws of 2012, as amended,
20 when upon such date the provisions of section seventy-three of this act
21 shall take effect;

22 e. the amendments to the second undesignated paragraph of subdivision
23 4 of section 246 of the executive law made by section one hundred two of
24 this act shall be subject to the expiration and reversion of such undes-
25 ignated paragraph as provided in subdivision (aa) of section 427 of
26 chapter 55 of the laws of 1992, as amended, when upon such date section
27 one hundred three of this act shall take effect; provided, however if
28 such date of reversion is prior to April 1, 2018, section one hundred
29 three of this act shall take effect on April 1, 2018; and

30 f. the amendments to section 153-k of the social services law made by
31 section one hundred-a of this act shall not effect the repeal of such
32 section and shall be deemed to repeal therewith.

33

PART XXX

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

- 38 1. Proprietary vocational school supervision account (20452).
- 39 2. Local government records management account (20501).
- 40 3. Child health plus program account (20810).
- 41 4. EPIC premium account (20818).
- 42 5. Education - New (20901).
- 43 6. VLT - Sound basic education fund (20904).
- 44 7. Sewage treatment program management and administration fund
45 (21000).
- 46 8. Hazardous bulk storage account (21061).
- 47 9. Federal grants indirect cost recovery account (21065).
- 48 10. Low level radioactive waste account (21066).
- 49 11. Recreation account (21067).
- 50 12. Public safety recovery account (21077).
- 51 13. Environmental regulatory account (21081).
- 52 14. Natural resource account (21082).
- 53 15. Mined land reclamation program account (21084).
- 54 16. Great lakes restoration initiative account (21087).