

**A RESOLUTION TO BE SUBMITTED  
BY LEGISLATORS GRANT, MAZUR, HOGUES,  
MARINELLI, LOUGHRAN & McCracken**

**RE: Expressing Support for the Governor's Proposed Justice Center for the Protection of People with Special Needs (Senate Bill S.7400)**

WHEREAS, last year (2011), there were 10,000 allegations of abuse or neglect committed against New Yorkers with special needs and disabilities in state operated, certified or licensed facilities and programs; and

WHEREAS, New York State has never had a consistent and comprehensive standard for tracking and investigating complaints or punishing workers guilty of the abuse or neglect; and

WHEREAS, Governor Cuomo submitted Program Bill 35 to the State Senate, which has been sponsored as Senate Bill S.7400, and would create the Justice Center for Protection of People with Special Needs; and

WHEREAS, the Justice Center would have a Special Prosecutor and Inspector General who will investigate reports of abuse and neglect and will prosecute allegations that rise to the level of criminal offenses; and

WHEREAS, the Justice Center will have a 24/7 hotline run by trained professionals, a comprehensive statewide database that will track all reports of abuse and neglect and a statewide register of workers who have committed serious acts of abuse and are prohibited from ever working again with people with disabilities or special needs; and

WHEREAS, this legislation would establish the strongest standards and practices in the nation for protecting people with special needs and disabilities; and

WHEREAS, more than one million New Yorkers and their families would benefit from the reforms that will be implemented by the proposed Justice Center; and

WHEREAS, agencies that are operated, certified or licensed by five of the state's health and human services agencies - the Department of Health (DOH), the Office of Mental Health (OMH), the Office for People with Developmental Disabilities (OPWDD), the Office of Children and Family Services (OCFS) and the Office of Alcoholism and Substance Abuse Services (OASAS) - as well as the State Education Department (SED), will be covered by the Justice Center; and

WHEREAS, the Justice Center will also absorb all of the functions and responsibilities of the Commission on Quality of Care and Advocacy for Persons with Disabilities, with the exception of the Federal Protection and Advocacy and Client Assistance Programs that will be designated to a qualified non-profit agency; and

**WHEREAS, the Justice Center's law enforcement branch will have concurrent authority with district attorneys to prosecute abuse and neglect crimes committed against persons with special needs and disabilities; and**

**WHEREAS, the proposed legislation will also increase criminal penalties for endangering the welfare of people with disabilities and special needs and will strengthen a prosecutor's ability to prove a case of abuse or neglect; and**

**WHEREAS, the Justice Center will also provide for the consolidation of background check procedures that include reviewing the criminal history of any individual applying for a position – paid or volunteer – with an agency operated, licensed or certified by the aforementioned human services state agencies; and**

**WHEREAS, the Justice Center will give voice to the one million New Yorkers who are not able to speak up for or protect themselves; and**

**WHEREAS, Senate Bill S.7400 was approved by the State Senate on May 16, 2012 and delivered to the State Assembly that day, bringing the proposed Justice Center another step closer to establishment.**

**NOW, THEREFORE, BE IT**

**RESOLVED, that the Erie County Legislature convey its full support for the establishment of the Justice Center for the Protection of People with Special Needs by encouraging passage of the Governor's Program Bill which was introduced as Senate Bill S.7400; and be it further**

**RESOLVED, that certified copies of this resolution be conveyed to the Governor, Speaker of the Assembly, Majority Leader of the State Senate and all others deemed necessary and proper.**

**FISCAL IMPACT:       None for resolution.**



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**S07400 Summary:**

BILL NO S07400

SAME AS No same as

SPONSOR MCDONALD

COSPNSR ALESI, GOLDEN, AVELLA, CARLUCCI, GRISANTI, O'MARA, OPPENHEIMER, VALESKY

MLTSPNSR

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Amd Various Laws, generally

Enacts the "protection of people with special needs act; enacts various provisions for the protection of persons in state operated and licensed facilities from abuse, neglect and mistreatment; establishes the justice center for the protection of people with special needs.

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**S07400 Text:**

STATE OF NEW YORK

7400

IN SENATE

May 8, 2012

Introduced by Sens. McDONALD, ALESI, GOLDEN -- (at request of the Governor) -- read twice and ordered printed, and when printed to be committed to the Committee on Mental Health and Developmental Disabilities

AN ACT to amend the executive law, the criminal procedure law, the correction law and the public health law, in relation to establishing the justice center for the protection of people with special needs; to repeal article 45 of the mental hygiene law, relating to the state commission on quality of care and advocacy for persons with disabilities; and establishing the justice center medical review board (Part A); to amend the social services law, in relation to the protection of vulnerable persons (Part B); to amend the county law and the mental hygiene law, in relation to reports of abuse or neglect of individuals in certain facilities and programs and repealing certain provisions of the mental hygiene law relating thereto; and to amend the mental hygiene law, in relation to reports of abuse and mistreatment of vulnerable persons in residential care and repealing certain provisions of such law relating thereto (Part C); to amend the social services law, in relation to the definition of abused and maltreated child; in relation to mandatory reporting; in relation to the state-wide central register of child abuse and maltreatment and access to such register; in relation to making technical corrections relating thereto; and repealing section 412-a, and other provisions of such law relating thereto (Part D); to amend the education law and the vehicle and traffic law, in relation to the protection of pupils in residential care from abuse, neglect and maltreatment (Part E); to amend the mental hygiene law, the executive law and the social services law, in

relation to review of criminal history information concerning certain prospective providers, employees, and individuals credentialed by the office of alcoholism and substance abuse services (Part F); to amend the penal law, in relation to certain crimes of abuse, neglect or endangering the welfare of certain incompetent, physically disabled, or vulnerable persons (Part G); and to repeal chapter 606 of the laws of 2011, amending the mental hygiene law relating to creating an abuse prevention notification system; and to repeal chapter 6 of the laws of 2012, amending chapter 606 of the laws of 2011, amending the mental hygiene law relating to an abuse prevention notification system (Part H)

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

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THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. This act shall be known and may be cited as the "protection  
2 of people with special needs act".

3 S 2. This act enacts into law major components of legislation which  
4 are necessary for the protection of persons who are vulnerable because  
5 of their reliance on professional caregivers to help them overcome phys-  
6 ical, cognitive and other challenges. Each component is wholly  
7 contained within a Part identified as Parts A through H. The effective  
8 date for each particular provision contained within each Part is set  
9 forth in the last section of such Part. Any provision in any section  
10 contained within a Part, including the effective date of the Part, which  
11 makes reference to a section "of this act", when used in connection with  
12 that particular component, shall be deemed to mean and refer to the  
13 corresponding section of the Part in which it is found. Section four of  
14 this act sets forth the general effective date of this act.

15

#### PART A

16 Section 1. Legislative findings and purpose. There is a recognized  
17 need to strengthen and standardize the safety net for vulnerable  
18 persons, adults and children alike, who are receiving care from New  
19 York's human service agencies and programs. There are over 270,000 chil-  
20 dren and adults with disabilities or other life circumstances that make  
21 them vulnerable in residential facilities under the auspices of six  
22 state agencies that operate, license or certify such programs. In addi-  
23 tion, a significant number of persons rely on day programs operated,  
24 licensed or certified by the state. Although all of these programs  
25 share a common obligation to protect such persons, and keep them safe  
26 from abuse and neglect, there are fundamental differences in how the  
27 state agencies meet their obligations, as well as major gaps in over-  
28 sight that may expose vulnerable persons to harm.

29 This legislation creates a set of uniform safeguards, to be imple-  
30 mented by a justice center whose primary focus will be on the protection  
31 of vulnerable persons. To bolster the ability of the state to respond  
32 more effectively to abuse and neglect of vulnerable persons, without  
33 creating additional burdens on local law enforcement, the justice center  
34 will have concurrent authority with district attorneys to prosecute  
35 abuse and neglect crimes committed against such persons.

36 The justice center also will develop a register that will contain the  
37 names of individuals found responsible for egregious or repeated acts of  
38 abuse or neglect. Before being placed on the register, such individuals  
39 will have a right to challenge that finding, but once on the register  
40 they will be barred from future employment in the care of vulnerable  
41 persons. Employees found responsible for less serious acts shall be  
42 subjected to progressive discipline, including retraining and other  
43 actions necessary to facilitate their safe return to the workplace.

44 To ensure that individuals who work with vulnerable persons are aware  
45 of their obligations to assist such persons to lead safe, vital and  
46 productive lives, the legislation requires the justice center to develop  
47 a code of conduct for workers who have regular contact with vulnerable  
48 persons. This code of conduct will serve as a guide to such workers by  
49 containing the basic ethical standards to which all direct support work-  
50 ers should subscribe and be held accountable.

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1 The justice center will also operate a statewide hotline to which  
 2 certain mandated reporters will be required to report allegations of  
 3 abuse and neglect against vulnerable persons being served in certain  
 4 residential and non-residential facilities and programs. It will ensure  
 5 that allegations of abuse and neglect are promptly reported, that they  
 6 are fully and effectively investigated, that those individuals who are  
 7 responsible are held accountable and that providers implement corrective  
 8 action plans to prevent future incidents.

9 Accordingly, the purpose of this legislation is to create a durable  
 10 set of consistent safeguards for all vulnerable persons that will  
 11 protect them against abuse, neglect and other conduct that may jeopard-  
 12 ize their health, safety and welfare, and to provide fair treatment to  
 13 the employees upon whom they depend.

14 S 2. Article 45 of the mental hygiene law is REPEALED.

15 S 3. The executive law is amended by adding a new article 20 to read  
 16 as follows:

## ARTICLE 20

## PROTECTION OF PEOPLE WITH SPECIAL NEEDS

## SECTION 550. DEFINITIONS.

20 551. THE JUSTICE CENTER FOR THE PROTECTION OF PEOPLE WITH  
 21 SPECIAL NEEDS.

22 552. ORGANIZATION OF THE JUSTICE CENTER.

23 553. POWERS AND DUTIES OF THE JUSTICE CENTER.

24 554. CODES OF CONDUCT.

25 555. JUSTICE CENTER MEDICAL REVIEW BOARD; ORGANIZATION.

26 556. FUNCTIONS, POWERS AND DUTIES OF THE BOARD.

27 557. REPORTS TO THE JUSTICE CENTER.

28 558. ACCESS TO RECORDS AND FACILITIES.

29 559. NEW YORK STATE INTERAGENCY COORDINATING COUNCIL FOR  
 30 SERVICES TO PERSONS WHO ARE DEAF, DEAF-BLIND, OR HARD OF  
 31 HEARING.

32 560. ANNUAL REPORT.

33 S 550. DEFINITIONS. AS USED IN THIS ARTICLE, THE FOLLOWING TERMS SHALL  
 34 HAVE THE FOLLOWING MEANINGS:

35 1. "EXECUTIVE DIRECTOR" SHALL MEAN THE EXECUTIVE DIRECTOR OF THE  
 36 JUSTICE CENTER FOR THE PROTECTION OF PEOPLE WITH SPECIAL NEEDS.

37 2. "MENTAL HYGIENE FACILITY" SHALL MEAN A FACILITY AS DEFINED IN  
 38 SUBDIVISION SIX OF SECTION 1.03 OF THE MENTAL HYGIENE LAW AND FACILITIES  
 39 FOR THE OPERATION OF WHICH AN OPERATING CERTIFICATE IS REQUIRED PURSUANT  
 40 TO ARTICLE SIXTEEN OR THIRTY-ONE OF THE MENTAL HYGIENE LAW AND INCLUDING  
 41 FAMILY CARE HOMES. "MENTAL HYGIENE FACILITY" ALSO MEANS A SECURE TREAT-  
 42 MENT FACILITY AS DEFINED BY ARTICLE TEN OF THE MENTAL HYGIENE LAW.

43 3. "ABUSE OR NEGLECT" SHALL HAVE THE SAME MEANING AS DEFINED IN  
 44 SUBDIVISION ONE OF SECTION FOUR HUNDRED EIGHTY-EIGHT OF THE SOCIAL  
 45 SERVICES LAW.

46 4. "STATE OVERSIGHT AGENCY" SHALL MEAN THE STATE AGENCY THAT OPERATES,  
 47 LICENSES OR CERTIFIES AN APPLICABLE FACILITY OR PROVIDER AGENCY;  
 48 PROVIDED HOWEVER THAT SUCH TERM SHALL ONLY INCLUDE THE FOLLOWING ENTI-  
 49 TIES: THE OFFICE OF MENTAL HEALTH, THE OFFICE FOR PEOPLE WITH DEVELOP-  
 50 MENTAL DISABILITIES, THE OFFICE OF ALCOHOLISM AND SUBSTANCE ABUSE  
 51 SERVICES, THE OFFICE OF CHILDREN AND FAMILY SERVICES, THE DEPARTMENT OF  
 52 HEALTH AND THE STATE EDUCATION DEPARTMENT. "STATE OVERSIGHT AGENCY" DOES  
 53 NOT INCLUDE AGENCIES THAT ARE CERTIFICATION AGENCIES PURSUANT TO FEDERAL  
 54 LAW OR REGULATION.

55 5. "VULNERABLE PERSON" SHALL MEAN A PERSON WHO, DUE TO PHYSICAL OR  
 56 COGNITIVE DISABILITIES, OR THE NEED FOR SPECIALIZED SERVICES OR PLACE-  
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1 MENT, IS RECEIVING SERVICES FROM A FACILITY OR PROVIDER AGENCY AS  
 2 DEFINED IN SUBDIVISION FOUR OF SECTION FOUR HUNDRED EIGHTY-EIGHT OF THE  
 3 SOCIAL SERVICES LAW.

4 S 551. THE JUSTICE CENTER FOR THE PROTECTION OF PEOPLE WITH SPECIAL  
 5 NEEDS. 1. THERE IS HEREBY CREATED WITHIN THE EXECUTIVE DEPARTMENT A  
 6 JUSTICE CENTER FOR THE PROTECTION OF PEOPLE WITH SPECIAL NEEDS ("JUSTICE  
 7 CENTER" OR "CENTER"). SUCH JUSTICE CENTER SHALL BE HEADED BY AN EXECU-  
 8 TIVE DIRECTOR, WHO SHALL BE APPOINTED BY THE GOVERNOR, BY AND WITH THE  
 9 ADVICE AND CONSENT OF THE SENATE. THE EXECUTIVE DIRECTOR MAY APPOINT  
 10 STAFF AND PERFORM SUCH OTHER FUNCTIONS FOR THE EFFICIENT OPERATION OF  
 11 THE JUSTICE CENTER WITHIN THE AMOUNTS MADE AVAILABLE THEREFOR BY APPRO-  
 12 PRIATION.

13 2. THE EXECUTIVE DIRECTOR SHALL RECOMMEND POLICIES AND PROCEDURES TO  
 14 THE STATE OVERSIGHT AGENCY FOR THE PROTECTION OF VULNERABLE PERSONS,  
 15 INCLUDING BUT NOT LIMITED TO POLICIES AND PROCEDURES: (A) FOR THE  
 16 PROTECTION OF VULNERABLE PERSONS WHO RESIDE IN OR RECEIVE SERVICES FROM  
 17 FACILITIES OR PROVIDER AGENCIES AS SET FORTH IN SUBDIVISION FOUR OF  
 18 SECTION FOUR HUNDRED EIGHTY-EIGHT OF THE SOCIAL SERVICES LAW; (B) RELAT-  
 19 ING TO ASSURING, ON BEHALF OF THE STATE, THAT VULNERABLE PERSONS ARE  
 20 AFFORDED CARE THAT IS OF A UNIFORMLY HIGH STANDARD; (C) RELATING TO  
 21 ASSURING, ON BEHALF OF THE STATE, THAT VULNERABLE PERSONS ARE AFFORDED  
 22 THE OPPORTUNITY TO EXERCISE ALL OF THE RIGHTS AND RESPONSIBILITIES  
 23 ACCORDED TO RESIDENTS OF THE STATE; AND (D) TO HARMONIZE AND IMPROVE THE  
 24 PROCEDURES FOR AND QUALITY OF INVESTIGATIONS OF ABUSE OR NEGLECT AND  
 25 SIGNIFICANT INCIDENTS RELATED TO VULNERABLE PERSONS WITHIN THE DIFFERENT  
 26 SYSTEMS OF CARE IN THE STATE.

27 3. THE EXECUTIVE DIRECTOR MAY PROMULGATE, ADOPT, AMEND OR RESCIND  
 28 RULES AND REGULATIONS NECESSARY TO CARRY OUT THE PROVISIONS OF THIS  
 29 ARTICLE; PROVIDED, HOWEVER, THAT SUCH RULES AND REGULATIONS SHALL BE  
 30 STRICTLY LIMITED IN THEIR APPLICATION TO THE MEANS AND METHODS OF  
 31 COMPLIANCE WITH THE PROVISIONS OF THIS ARTICLE.

32 S 552. ORGANIZATION OF THE JUSTICE CENTER. 1. THE JUSTICE CENTER  
 33 SHALL HOUSE THE VULNERABLE PERSONS' CENTRAL REGISTER CREATED IN SECTION  
 34 FOUR HUNDRED NINETY-TWO OF THE SOCIAL SERVICES LAW AND SHALL PERFORM ALL  
 35 OF THE NECESSARY FUNCTIONS RELATED TO THE RECEIPT AND ACCEPTANCE OF  
 36 REPORTS OF ALLEGATIONS OF ABUSE OR NEGLECT OF VULNERABLE PERSONS, THE  
 37 INVESTIGATION OF SUCH ACCEPTED REPORTS AND THE REVIEW OF SUBSTANTIATED  
 38 FINDINGS OF ABUSE OR NEGLECT, INCLUDING CONDUCTING ANY DISCIPLINARY  
 39 PROCEEDINGS RESULTING FROM SUCH SUBSTANTIATED FINDINGS (FOR STATE ENTI-  
 40 TIES BOUND BY COLLECTIVE BARGAINING, THE DISCIPLINARY PROCESS ESTAB-  
 41 LISHED THROUGH COLLECTIVE BARGAINING SHALL GOVERN).

42 2. (A) THE JUSTICE CENTER ALSO SHALL EMPLOY A SPECIAL PROSECUTOR AND  
 43 INSPECTOR GENERAL FOR THE PROTECTION OF PEOPLE WITH SPECIAL NEEDS  
 44 ("SPECIAL PROSECUTOR"), WHO SHALL BE APPOINTED BY THE GOVERNOR. PURSUANT  
 45 TO THE PROVISIONS OF THIS SECTION, SUCH SPECIAL PROSECUTOR SHALL HAVE  
 46 THE DUTY AND POWER: (I) TO INVESTIGATE AND PROSECUTE OFFENSES INVOLVING  
 47 ABUSE OR NEGLECT COMMITTED AGAINST VULNERABLE PERSONS; AND (II) TO COOP-  
 48 ERATE WITH AND ASSIST DISTRICT ATTORNEYS AND OTHER LOCAL LAW ENFORCEMENT  
 49 OFFICIALS IN THEIR EFFORTS AGAINST THE ABUSE OR NEGLECT OF VULNERABLE  
 50 PERSONS. THE SPECIAL PROSECUTOR MAY REQUEST AND SHALL RECEIVE, FROM ANY  
 51 AGENCY, DEPARTMENT, DIVISION, BOARD, BUREAU OR COMMISSION OF THE STATE,  
 52 OR ANY POLITICAL SUBDIVISION THEREOF, COOPERATION AND ASSISTANCE IN THE  
 53 PERFORMANCE OF HIS OR HER DUTIES, AND MAY PROVIDE TECHNICAL AND OTHER  
 54 ASSISTANCE TO ANY DISTRICT ATTORNEY OR LAW ENFORCEMENT OFFICIAL REQUEST-  
 55 ING ASSISTANCE IN THE INVESTIGATION OR PROSECUTION OF ABUSE OR NEGLECT  
 56 OF VULNERABLE PERSONS.

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1 (B) THE SPECIAL PROSECUTOR IS EMPOWERED TO APPLY FOR SEARCH WARRANTS  
 2 PURSUANT TO ARTICLE SIX HUNDRED NINETY OF THE CRIMINAL PROCEDURE LAW,  
 3 AND, EXCEPT IN EXIGENT CIRCUMSTANCES, SHALL GIVE PRIOR NOTICE OF THE  
 4 APPLICATION TO THE DISTRICT ATTORNEY OF THE COUNTY IN WHICH SUCH A  
 5 WARRANT IS TO BE EXECUTED, AND IN SUCH EXIGENT CIRCUMSTANCES SHALL GIVE  
 6 SUCH NOTICE AS SOON THEREAFTER AS IS PRACTICABLE; PROVIDED, HOWEVER THAT  
 7 THE FAILURE TO GIVE NOTICE OF A SEARCH WARRANT APPLICATION TO A DISTRICT  
 8 ATTORNEY SHALL NOT BE A GROUND TO SUPPRESS THE EVIDENCE SEIZED IN  
 9 EXECUTING THE WARRANT. HE OR SHE MAY DESIGNATE AN ASSISTANT TO EXERCISE  
 10 ANY OF SUCH POWERS.

11 (C) THE SPECIAL PROSECUTOR OR ONE OF HIS OR HER ASSISTANTS, MAY ATTEND  
 12 IN PERSON ANY TERM OF THE COUNTY COURT OR SUPREME COURT HAVING APPROPRI-  
 13 ATE JURISDICTION, INCLUDING AN EXTRAORDINARY SPECIAL OR TRIAL TERM OF  
 14 THE SUPREME COURT WHEN ONE IS APPOINTED PURSUANT TO SECTION ONE HUNDRED  
 15 FORTY-NINE OF THE JUDICIARY LAW, OR APPEAR BEFORE THE GRAND JURY THERE-  
 16 OF, FOR THE PURPOSE OF MANAGING AND CONDUCTING IN SUCH COURT OR BEFORE  
 17 SUCH JURY A CRIMINAL ACTION OR PROCEEDING CONCERNED WITH AN OFFENSE  
 18 WHERE ANY CONDUCT CONSTITUTING OR REQUISITE TO THE COMPLETION OF OR IN  
 19 ANY OTHER MANNER RELATED TO SUCH OFFENSE INVOLVED THE ABUSE OR NEGLECT  
 20 OF A VULNERABLE PERSON, AS THOSE TERMS ARE DEFINED IN THIS ARTICLE. IN  
 21 SUCH CASE, SUCH SPECIAL PROSECUTOR OR HIS OR HER ASSISTANT SO ATTENDING  
 22 MAY EXERCISE ALL THE POWERS AND PERFORM ALL THE DUTIES IN RESPECT OF  
 23 SUCH ACTIONS OR PROCEEDINGS WHICH THE DISTRICT ATTORNEY WOULD OTHERWISE  
 24 BE AUTHORIZED OR REQUIRED TO EXERCISE OR PERFORM.

25 S 553. POWERS AND DUTIES OF THE JUSTICE CENTER. THE JUSTICE CENTER  
 26 SHALL HAVE THE FOLLOWING POWERS AND DUTIES:

27 1. TO CREATE AND ESTABLISH THE STATEWIDE VULNERABLE PERSONS' CENTRAL  
 28 REGISTER, AS SET FORTH IN SECTION FOUR HUNDRED NINETY-TWO OF THE SOCIAL  
 29 SERVICES LAW, WHICH SHALL INCLUDE, BUT NOT BE LIMITED TO:  
 30 (A) ESTABLISHING PROCEDURES FOR THE TIMELY RESPONSE TO, AND EFFECTIVE  
 31 INVESTIGATION OF, ALLEGATIONS OF ABUSE OR NEGLECT THAT ARE ACCEPTED BY  
 32 THE STATEWIDE VULNERABLE PERSONS' CENTRAL REGISTER;  
 33 (B) ESTABLISHING PROCEDURES FOR THE NOTIFICATION OF APPROPRIATE  
 34 PERSONS AND ENTITIES WITH RESPECT TO REPORTS AND FINDINGS OF ABUSE OR  
 35 NEGLECT OF VULNERABLE PERSONS AND SIGNIFICANT INCIDENTS, AS APPLICABLE;  
 36 (C) REPRESENTING THE STATE IN ALL HEARINGS AND OTHER PROCEEDINGS  
 37 RELATING TO DISCIPLINE OF EMPLOYEES CHARGED WITH HAVING COMMITTED ABUSE  
 38 OR NEGLECT;  
 39 (D) CONSISTENT WITH APPROPRIATE COLLECTIVE BARGAINING AGREEMENTS,  
 40 CONDUCTING ALL HEARINGS AND OTHER PROCEEDINGS RELATING TO DISCIPLINE OF  
 41 EMPLOYEES FOUND TO HAVE COMMITTED ABUSE OR NEGLECT (FOR STATE ENTITIES  
 42 BOUND BY COLLECTIVE BARGAINING, THE DISCIPLINARY PROCESS ESTABLISHED  
 43 THROUGH COLLECTIVE BARGAINING SHALL GOVERN);  
 44 (E) IDENTIFYING A PROCESS FOR TIMELY RESPONSES TO ALLEGATIONS OF  
 45 REPORTABLE INCIDENTS IN DUALY LICENSED OR CO-LOCATED FACILITIES AND  
 46 PROVIDER AGENCIES; AND  
 47 (F) WHERE APPLICABLE, ESTABLISHING UNIFORM PROCEDURES FOR CHARACTER  
 48 AND COMPETENCE REVIEWS OF PROVIDER AGENCIES INITIALLY, AND UPON RENEWAL  
 49 OF LICENSES AND OPERATING CERTIFICATES REQUIRING A REVIEW OF PERFORMANCE  
 50 RECORDS REGARDING INCIDENT MANAGEMENT, THE ROLE OF THE BOARD OF DIRECTORS  
 51 IN MAINTAINING OVERSIGHT OVER AGENCY PERFORMANCE IN THIS AREA, AND  
 52 THE MANAGEMENT OF INCIDENTS AFFECTING RESIDENT SAFETY, INCLUDING CASES  
 53 OF SYSTEMIC PROBLEMS.  
 54 2. TO MAINTAIN A CENTRAL REPOSITORY FOR DATA RELATING TO THE INVESTI-  
 55 GATION OF ALL REPORTS OF ALLEGED ABUSE OR NEGLECT AND SIGNIFICANT INCI-  
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1 DENTS, AS DEFINED IN SUBDIVISIONS ONE AND TWELVE OF SECTION FOUR HUNDRED  
 2 EIGHTY-EIGHT OF THE SOCIAL SERVICES LAW;  
 3 3. TO ESTABLISH PROCEDURES FOR REVIEW OF INSTANCES OF ABUSE, NEGLECT  
 4 AND SIGNIFICANT INCIDENTS, AS DEFINED IN SUBDIVISIONS ONE AND TWELVE OF  
 5 SECTION FOUR HUNDRED EIGHTY-EIGHT OF THE SOCIAL SERVICES LAW, TO IDENTIFY  
 6 PREVENTIVE AND CORRECTIVE ACTIONS AND TO DEVELOP AND IMPLEMENT SUCH  
 7 ACTIONS AND PLANS OF IMPROVEMENT SUBJECT TO THE REQUIREMENTS OF ANY  
 8 FEDERAL OVERSIGHT ENTITY;  
 9 4. TO DEVELOP STANDARDS AND TRAINING CURRICULA FOR INVESTIGATORS WHO  
 10 WILL BE ASSIGNED TO INVESTIGATE REPORTED ALLEGATIONS OF ABUSE OR NEGLECT  
 11 AND SIGNIFICANT INCIDENTS INVOLVING VULNERABLE PERSONS, AND TO PROVIDE  
 12 TRAINING TO SUCH INVESTIGATORS;  
 13 5. TO REVIEW AND EVALUATE THE CRIMINAL HISTORY INFORMATION FOR ANY  
 14 PERSON APPLYING TO BE AN EMPLOYEE, VOLUNTEER OR CONSULTANT FOR WHOM A  
 15 CRIMINAL BACKGROUND CHECK IS REQUIRED AS A CONDITION OF EMPLOYMENT AT  
 16 ANY FACILITIES OR PROVIDER AGENCIES AS DEFINED IN SUBDIVISION FOUR OF  
 17 SECTION FOUR HUNDRED EIGHTY-EIGHT OF THE SOCIAL SERVICES LAW, WHICH ARE  
 18 OPERATED, LICENSED OR CERTIFIED BY THE OFFICE OF MENTAL HEALTH, THE  
 19 OFFICE FOR PEOPLE WITH DEVELOPMENTAL DISABILITIES, THE OFFICE OF ALCO-  
 20 HOLISM AND SUBSTANCE ABUSE SERVICES AND THE OFFICE OF CHILDREN AND FAMI-  
 21 LY SERVICES. SUCH REVIEW AND EVALUATION SHALL INCLUDE BUT NOT BE LIMIT-  
 22 ED TO A REQUIREMENT THAT THE APPLICANT SIGN A SWORN STATEMENT WHETHER,  
 23 TO THE BEST OF HIS OR HER KNOWLEDGE, HE OR SHE HAS EVER BEEN CONVICTED  
 24 OF A CRIME IN THIS STATE OR ANY OTHER JURISDICTION;  
 25 6. TO CONDUCT PERIODIC ORIENTATION, TRAINING AND INFORMATIONAL  
 26 PROGRAMS UPON APPOINTMENT OR REAPPOINTMENT, AND AS OTHERWISE NEEDED, TO  
 27 ASSIST THE MEMBERS OF THE BOARDS OF VISITORS OF MENTAL HYGIENE FACILI-  
 28 TIES TO FULFILL THEIR RESPONSIBILITIES PURSUANT TO LAW;  
 29 7. (A) TO VISIT, INSPECT AND APPRAISE THE MANAGEMENT OF FACILITIES OR  
 30 PROVIDER AGENCIES AS DEFINED IN SUBDIVISION FOUR OF SECTION FOUR HUNDRED  
 31 EIGHTY-EIGHT OF THE SOCIAL SERVICES LAW PROVIDING SERVICES TO VULNERABLE  
 32 PERSONS WITH SPECIFIC ATTENTION TO THE SAFETY, SECURITY AND QUALITY OF  
 33 CARE PROVIDED TO PATIENTS AND RESIDENTS;  
 34 (B) TO PROVIDE STAFF AND OTHER NECESSARY ASSISTANCE UPON REQUEST TO  
 35 BOARDS OF VISITORS OF DEPARTMENT OF MENTAL HYGIENE FACILITIES IN  
 36 PERFORMING THEIR DUTIES PURSUANT TO LAW;  
 37 (C) TO RECEIVE AND REVIEW PERIODIC AND ANNUAL REPORTS OF THE BOARDS OF  
 38 VISITORS OF EACH DEPARTMENT OF MENTAL HYGIENE FACILITY;  
 39 (D) TO PLACE SUCH MEMBERS OF ITS STAFF AS IT DEEMS APPROPRIATE AS  
 40 MONITORS IN ANY MENTAL HYGIENE FACILITY WHICH, IN THE JUDGMENT OF THE  
 41 EXECUTIVE DIRECTOR, PRESENTS AN IMMINENT DANGER TO THE HEALTH OR SAFETY



42 OF THE PATIENTS, RESIDENTS OR EMPLOYEES OF SUCH FACILITY;  
 43 8. TO ACCEPT, AS AGENT OF THE STATE, ANY GRANT, INCLUDING FEDERAL  
 44 GRANTS, OR ANY GIFT FOR ANY OF THE PURPOSES OF THIS ARTICLE. ANY MONEYS  
 45 SO RECEIVED MAY BE EXPENDED BY THE JUSTICE CENTER TO EFFECTUATE ANY  
 46 PURPOSE OF THIS ARTICLE, SUBJECT TO THE SAME LIMITATIONS AS TO APPROVAL  
 47 OF EXPENDITURES AND AUDIT AS ARE PRESCRIBED FOR STATE MONEYS APPROPRI-  
 48 ATED FOR THE PURPOSES OF THIS ARTICLE;  
 49 9. TO ENTER INTO CONTRACTS WITH ANY PERSON, FIRM, CORPORATION, MUNICI-  
 50 PALITY OR GOVERNMENTAL AGENCY FOR THE PERFORMANCE OF FUNCTIONS AUTHOR-  
 51 IZED BY LAW;  
 52 10. TO ADMINISTER AN ADULT HOME AND RESIDENCE FOR ADULTS RESIDENT  
 53 ADVOCACY PROGRAM TO ASSIST RESIDENTS, WHO HAVE AT ANY TIME RECEIVED OR  
 54 ARE RECEIVING SERVICES FROM A MENTAL HYGIENE PROVIDER, OF ADULT HOMES  
 55 AND RESIDENCES FOR ADULTS, AS DEFINED IN SECTION TWO OF THE SOCIAL  
 56 SERVICES LAW, WHERE AT LEAST TWENTY-FIVE PERCENT OR TWENTY-FIVE RESI-  
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1 DENTS, WHICHEVER IS LESS, HAVE AT ANY TIME RECEIVED OR ARE RECEIVING  
 2 SERVICES FROM A MENTAL HYGIENE PROVIDER WHICH IS LICENSED, OPERATED OR  
 3 FUNDED BY THE OFFICE OF MENTAL HEALTH OR OFFICE FOR PEOPLE WITH DEVELOP-  
 4 MENTAL DISABILITIES, IN UNDERSTANDING THEIR LEGAL RIGHTS, AND TO PROMOTE  
 5 AND PROTECT THE RIGHTS OF SUCH RESIDENTS.  
 6 11. TO ADVISE AND ASSIST VULNERABLE PERSONS, FAMILY MEMBERS, ADVO-  
 7 CATES, SERVICE PROVIDERS AND COMMUNITY ORGANIZATIONS IN THE FORMATION OF  
 8 STRATEGIES TO IDENTIFY AND MEET THE NEEDS OF VULNERABLE PERSONS FOR  
 9 SERVICES, SUPPORTS AND ADVOCACY;  
 10 12. TO ADVISE AND ASSIST THE GOVERNOR AND PUBLIC AND PRIVATE ENTITIES  
 11 IN THE DEVELOPMENT AND IMPLEMENTATION OF STATE POLICIES WHICH MEET THE  
 12 NEEDS OF VULNERABLE PERSONS IN A MANNER THAT IS RESPECTFUL OF THE RIGHTS  
 13 AND CHOICES OF VULNERABLE PERSONS;  
 14 13. TO SERVE AS A CLEARINGHOUSE FOR INFORMATION RELATING TO SERVICES,  
 15 SUPPORTS AND ADVOCACY FOR VULNERABLE PERSONS AND PROVIDE A STATEWIDE  
 16 SYSTEM OF INFORMATION AND REFERRAL TO LINK PERSONS SEEKING INFORMATION  
 17 AND ASSISTANCE WITH PUBLIC AND PRIVATE SECTOR SERVICES, SUPPORTS AND  
 18 ADVOCACY WHICH MAY BE APPROPRIATE TO MEET THEIR NEEDS;  
 19 14. TO ADVISE AND ASSIST THE GOVERNOR, STATE AGENCIES, VULNERABLE  
 20 PERSONS AND PUBLIC AND PRIVATE SECTOR ENTITIES IN THE DESIGN AND IMPE-  
 21 MENTATION OF INITIATIVES TO INCREASE ACCESS TO TECHNOLOGY RELATED  
 22 ASSISTANCE FOR VULNERABLE PERSONS;  
 23 15. TO ADMINISTER SUCH PROTECTION AND ADVOCACY AND CLIENT ASSISTANCE  
 24 PROGRAMS AS MAY BE ESTABLISHED BY FEDERAL LAW, PURSUANT TO SUCH AUTHORI-  
 25 ZATION OR DESIGNATION AS MAY BE REQUIRED;  
 26 16. TO ADMINISTER THE SURROGATE DECISION-MAKING COMMITTEE PROGRAM, AS  
 27 AUTHORIZED PURSUANT TO ARTICLE EIGHT OF THE MENTAL HYGIENE LAW;  
 28 17. TO STIMULATE COMMUNITY INTEREST IN THE PROBLEMS EXPERIENCED BY  
 29 VULNERABLE PERSONS AND PROMOTE PUBLIC AWARENESS OF RESOURCES AVAILABLE  
 30 TO SUCH PERSONS;  
 31 18. TO ADVISE AND ASSIST POLITICAL SUBDIVISIONS OF THE STATE IN THE  
 32 DEVELOPMENT OF LOCAL PROGRAMS FOR VULNERABLE PERSONS;  
 33 19. TO ADVISE AND ASSIST EDUCATIONAL INSTITUTIONS IN THE STATE IN THE  
 34 DEVELOPMENT OF COURSES OF STUDY FOR PERSONS ENGAGED IN PUBLIC AND  
 35 PRIVATE PROGRAMS FOR VULNERABLE PERSONS;  
 36 20. TO CONDUCT OR CAUSE TO BE CONDUCTED SUCH STUDIES OF THE NEEDS OF  
 37 VULNERABLE PERSONS AS MAY BE APPROPRIATE;  
 38 21. TO DO ALL OTHER THINGS NECESSARY OR CONVENIENT TO CARRY OUT ITS  
 39 FUNCTIONS, POWERS AND DUTIES SET FORTH IN THIS ARTICLE;  
 40 22. TO RECEIVE AND REVIEW REPORTS REQUIRED PURSUANT TO SECTION 16.19  
 41 OF THE MENTAL HYGIENE LAW AND TAKE ANY ACTION AS REQUIRED BY LAW. THE  
 42 JUSTICE CENTER ALSO SHALL ASSIST THE COMMISSIONER OF THE OFFICE FOR  
 43 PEOPLE WITH DEVELOPMENTAL DISABILITIES IN DEVELOPING AND PREPARING  
 44 RECOMMENDATIONS REQUIRED BY PARAGRAPH THREE OF SUBDIVISION (D) OF  
 45 SECTION 16.19 OF THE MENTAL HYGIENE LAW FOR SUBMISSION TO THE GOVERNOR,  
 46 TEMPORARY PRESIDENT OF THE SENATE AND SPEAKER OF THE ASSEMBLY;  
 47 23. TO PREPARE AND DISSEMINATE AN EDUCATIONAL PAMPHLET, AND SERVE AS  
 48 AN INFORMATION CLEARINGHOUSE, ON THE RIGHTS OF PARENTS AND LEGAL REPRE-  
 49 SENTATIVES AND ADVOCATES TO ACCESS RECORDS AND REPORTS RELATING TO  
 50 PATIENT CARE AND TREATMENT AND ALL OTHER RELEVANT DOCUMENTS FROM  
 51 PROGRAMS AND FACILITIES THAT ARE LICENSED, CERTIFIED OR OPERATED BY THE  
 52 OFFICES OF MENTAL HEALTH, PEOPLE WITH DEVELOPMENTAL DISABILITIES OR  
 53 ALCOHOLISM AND SUBSTANCE ABUSE SERVICES. SUCH PAMPHLET SHALL INCLUDE A  
 54 DISCUSSION OF HOW TO APPEAL A DECISION DENYING A REQUESTED RECORD OR  
 55 REPORT;

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1 24. TO CONSULT WITH THE COMMISSIONER OF EDUCATION REGARDING THE  
 2 PROMULGATION OF RULES AND REGULATIONS REQUIRING THAT EVERY SCHOOL BUS  
 3 DRIVER AND SCHOOL BUS ATTENDANT SERVING STUDENTS WITH DISABILITIES  
 4 RECEIVE TRAINING AND INSTRUCTION RELATING TO THE UNDERSTANDING OF AND  
 5 ATTENTION TO THE SPECIAL NEEDS OF SUCH STUDENTS PURSUANT TO SUBDIVISION  
 6 ONE OF SECTION THIRTY-SIX HUNDRED FIFTY OF THE EDUCATION LAW AND SUBDI-  
 7 VISION FOUR OF SECTION TWELVE HUNDRED TWENTY-NINE-D OF THE VEHICLE AND  
 8 TRAFFIC LAW; AND

9 25. TO MONITOR AND MAKE RECOMMENDATIONS REGARDING THE QUALITY OF CARE  
 10 PROVIDED TO INMATES WITH SERIOUS MENTAL ILLNESS, INCLUDING THOSE WHO ARE  
 11 IN A RESIDENTIAL MENTAL HEALTH TREATMENT UNIT OR SEGREGATED CONFINEMENT  
 12 IN FACILITIES OPERATED BY THE DEPARTMENT OF CORRECTIONS AND COMMUNITY  
 13 SUPERVISION, AND OVERSEE COMPLIANCE WITH PARAGRAPHS (D) AND (E) OF  
 14 SUBDIVISION SIX OF SECTION ONE HUNDRED THIRTY-SEVEN, AND SECTION FOUR  
 15 HUNDRED ONE OF THE CORRECTION LAW. SUCH RESPONSIBILITIES SHALL BE  
 16 CARRIED OUT IN ACCORDANCE WITH SECTION FOUR HUNDRED ONE-A OF THE  
 17 CORRECTION LAW.

18 S 554. CODES OF CONDUCT. 1. THE JUSTICE CENTER SHALL ADOPT AND AMEND,  
 19 AS APPROPRIATE, CODES OF CONDUCT FOR ALL EMPLOYEES WHO HAVE OR WILL HAVE  
 20 REGULAR AND DIRECT CONTACT WITH VULNERABLE PERSONS WHO RESIDE IN OR  
 21 RECEIVE SERVICES FROM FACILITIES OR PROVIDER AGENCIES AS SET FORTH IN  
 22 SUBDIVISION FOUR OF SECTION FOUR HUNDRED EIGHTY-EIGHT OF THE SOCIAL  
 23 SERVICES LAW. SUCH CODES SHALL GOVERN THE CONDUCT OF SUCH EMPLOYEES WITH  
 24 RESPECT TO THE SAFETY, DIGNITY AND WELFARE OF VULNERABLE PERSONS TO WHOM  
 25 THEY PROVIDE CARE. THE JUSTICE CENTER SHALL ESTABLISH A PROCESS BY WHICH  
 26 ALL SUCH EMPLOYEES ARE PROVIDED WITH A COPY OF SUCH CODES OF CONDUCT AND  
 27 ARE REQUIRED, AT THE TIME OF THEIR INITIAL EMPLOYMENT, AND AT LEAST  
 28 ANNUALLY THEREAFTER, TO ACKNOWLEDGE THAT THEY HAVE READ AND UNDERSTAND  
 29 SUCH CODES OF CONDUCT. SUCH PROCESS SHALL ALSO PROVIDE FOR THE ENFORCE-  
 30 MENT OF SUCH CODES CONSISTENT WITH APPROPRIATE COLLECTIVE BARGAINING  
 31 AGREEMENTS.

32 2. MINIMUM REQUIREMENTS FOR CODES OF CONDUCT. SUCH CODES OF CONDUCT  
 33 SHALL INCLUDE, AT A MINIMUM: A. PROVISIONS REGARDING THE RESPONSIBIL-  
 34 ITY OF SUCH EMPLOYEES TO SUPPORT THE EMOTIONAL, PHYSICAL AND PERSONAL  
 35 WELL-BEING OF THE VULNERABLE PERSONS THEY SERVE, INCLUDING THEIR  
 36 PROTECTION FROM ABUSE AND NEGLECT.

37 B. PROVISIONS REGARDING THE RESPONSIBILITY OF SUCH EMPLOYEES TO  
 38 ASSIST THE VULNERABLE PERSONS THEY SUPPORT TO DIRECT THE COURSE OF THEIR  
 39 OWN LIVES, HONORING, WHERE APPROPRIATE, THEIR RIGHT TO ASSUME RISK IN A  
 40 SAFE MANNER AND RECOGNIZING THEIR POTENTIAL FOR LIFELONG LEARNING AND  
 41 GROWTH.

42 C. PROVISIONS REGARDING THE RESPONSIBILITY OF SUCH EMPLOYEES TO  
 43 PARTICIPATE IN AVAILABLE, APPROPRIATE TRAINING TO MAINTAIN THEIR COMPE-  
 44 TENCY AND SKILL-LEVEL, AND TO MODEL AND SHAPE THE BEHAVIOR OF THEIR  
 45 CO-WORKERS, AND TO SEEK GUIDANCE AND ADVICE TO RESOLVE ISSUES AS NEEDED  
 46 WHEN MAKING DECISIONS RELATING TO THE PERSONS THEY SERVE.

47 D. PROVISIONS REGARDING THE RESPONSIBILITY OF SUCH EMPLOYEES TO  
 48 PROMOTE AND PRACTICE JUSTICE, FAIRNESS AND EQUITY FOR THE VULNERABLE  
 49 PERSONS THEY SUPPORT, UPHOLD AND RESPECT THEIR HUMAN AND CIVIL RIGHTS  
 50 AND RESPECT THEIR HUMAN DIGNITY AND UNIQUENESS.

51 E. PROVISIONS REGARDING THE RESPONSIBILITY OF SUCH EMPLOYEES TO  
 52 ASSIST, WHERE APPROPRIATE, THE VULNERABLE PERSONS THEY SUPPORT IN DEVEL-  
 53 OPING AND MAINTAINING RELATIONSHIPS WITH FAMILIES, FRIENDS AND THE  
 54 COMMUNITY-AT-LARGE.

55 F. PROVISIONS REGARDING THE RESPONSIBILITY OF SUCH EMPLOYEES TO ADVO-  
 56 CATE WITH AND/OR ON BEHALF OF THE VULNERABLE PERSONS THEY SUPPORT FOR  
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1 THEIR NEEDS, INTEREST, JUSTICE, INCLUSION AND FULL COMMUNITY PARTIC-  
 2 IPATION.

3 S 555. JUSTICE CENTER MEDICAL REVIEW BOARD; ORGANIZATION. (A) THERE  
 4 SHALL BE WITHIN THE JUSTICE CENTER A JUSTICE CENTER MEDICAL REVIEW  
 5 BOARD. THE BOARD SHALL BE COMPOSED OF UP TO FIFTEEN MEMBERS, INCLUDING  
 6 SPECIALISTS IN FORENSIC PATHOLOGY, PSYCHIATRY, INTERNAL MEDICINE AND  
 7 ADDICTION MEDICINE TO BE APPOINTED BY THE GOVERNOR. THE GOVERNOR SHALL  
 8 DESIGNATE ONE OF THE MEMBERS TO SERVE AS CHAIR OF THE BOARD. MEMBERS  
 9 SHALL BE APPOINTED FOR TERMS OF THREE YEARS, PROVIDED, HOWEVER, THAT  
 10 ONE-THIRD OF THE MEMBERS FIRST APPOINTED SHALL BE APPOINTED FOR A ONE  
 11 YEAR TERM AND ONE-THIRD FOR TWO YEAR TERMS. VACANCIES SHALL BE FILLED IN  
 12 THE SAME MANNER AS ORIGINAL APPOINTMENTS FOR THE REMAINDER OF ANY UNEX-

13 PIRED TERM. MEMBERS SHALL CONTINUE IN OFFICE AFTER THE EXPIRATION OF  
 14 THEIR TERMS UNTIL THEIR SUCCESSORS HAVE BEEN APPOINTED AND QUALIFIED.  
 15 THE GOVERNOR MAY REMOVE ANY MEMBER OF THE BOARD WHENEVER IN HIS OR HER  
 16 JUDGMENT THE PUBLIC INTEREST MAY REQUIRE SUCH REMOVAL. IN CASE OF SUCH  
 17 REMOVAL, THE GOVERNOR SHALL FILE WITH THE DEPARTMENT OF STATE A STATE-  
 18 MENT INDICATING THE CAUSE FOR SUCH REMOVAL. NOTWITHSTANDING ANY  
 19 PROVISION OF LAW TO THE CONTRARY, THE CHAIR OF THE BOARD MAY APPOINT  
 20 COMMITTEES OF FIVE OR MORE MEMBERS OF THE BOARD AND DELEGATE IN WRITING  
 21 TO ANY SUCH COMMITTEE THE AUTHORITY TO PERFORM THE FUNCTIONS, POWERS AND  
 22 DUTIES OF THE BOARD PURSUANT TO SECTION FIVE HUNDRED FIFTY-SIX OF THIS  
 23 ARTICLE.

24 (B) THE MEMBERS OF THE BOARD SHALL RECEIVE NO COMPENSATION FOR THEIR  
 25 SERVICES BUT SHALL BE REIMBURSED FOR THEIR ACTUAL AND NECESSARY EXPENSES  
 26 INCURRED IN THE PERFORMANCE OF THEIR DUTIES.

27 (C) THE BOARD SHALL HAVE AN EXECUTIVE SECRETARY AND SUCH OFFICERS AND  
 28 EMPLOYEES AS THE EXECUTIVE DIRECTOR SHALL ASSIGN UPON REQUEST OF THE  
 29 CHAIR OF THE BOARD, TO ASSIST IT IN THE PERFORMANCE OF ITS DUTIES.

30 (D) ALL RECORDS OF THE PROCEEDINGS, THE DELIBERATIONS OF THE JUSTICE  
 31 CENTER MEDICAL REVIEW BOARD AND ANY TESTIMONY GIVEN BEFORE THE BOARD  
 32 SHALL NOT BE SUBJECT TO DISCLOSURE UNDER ARTICLE THIRTY-ONE OF THE CIVIL  
 33 PRACTICE LAW AND RULES.

34 (E) THE BOARD OR ANY COMMITTEE APPOINTED BY THE CHAIR OF THE BOARD  
 35 SHALL MEET AT THE REQUEST OF ITS CHAIR OR THE EXECUTIVE DIRECTOR OF THE  
 36 JUSTICE CENTER. ANY MEMBER OF THE BOARD WHO FAILS TO ATTEND THREE  
 37 CONSECUTIVE MEETINGS OF THE BOARD OR THE COMMITTEE TO WHICH SUCH MEMBER  
 38 IS ASSIGNED BY THE CHAIR OF THE BOARD, UNLESS EXCUSED BY THE CHAIR OF  
 39 THE BOARD, SHALL BE CONSIDERED TO HAVE VACATED HIS OR HER OFFICE UNLESS  
 40 OTHERWISE ORDERED BY THE GOVERNOR. THE TERM OF ANY SUCH PERSON APPOINTED  
 41 BY THE GOVERNOR TO FILL SUCH VACANCY SHALL BE GOVERNED BY THE PROVISIONS  
 42 OF THIS SECTION.

43 S 556. FUNCTIONS, POWERS AND DUTIES OF THE BOARD. THE JUSTICE CENTER  
 44 MEDICAL REVIEW BOARD SHALL HAVE THE FOLLOWING FUNCTIONS, POWERS AND  
 45 DUTIES:

46 (A) MAKE A PRELIMINARY DETERMINATION WHETHER THE DEATH OF A PATIENT OR  
 47 RESIDENT IN A RESIDENTIAL FACILITY WITHIN THE MEANING OF SUBDIVISION  
 48 FOUR OF SECTION FOUR HUNDRED EIGHTY-EIGHT OF THE SOCIAL SERVICES LAW,  
 49 WHICH HAS BEEN BROUGHT TO ITS ATTENTION IS UNUSUAL OR WHETHER SUCH DEATH  
 50 REASONABLY APPEARS TO HAVE RESULTED FROM OTHER THAN NATURAL CAUSES AND  
 51 WARRANTS INVESTIGATION;

52 (B) INVESTIGATE THE CAUSES OF AND CIRCUMSTANCES SURROUNDING SUCH  
 53 UNUSUAL DEATH OR DEATHS FROM OTHER THAN NATURAL CAUSES OF PATIENTS OR  
 54 RESIDENTS IN SUCH FACILITIES;

55 (C) VISIT AND INSPECT ANY FACILITY IN WHICH SUCH A DEATH HAS OCCURRED;  
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1 (D) CAUSE THE BODY OF THE DECEASED TO UNDERGO SUCH EXAMINATIONS  
 2 INCLUDING AN AUTOPSY AS IN THE OPINION OF THE BOARD ARE NECESSARY TO  
 3 DETERMINE THE CAUSE OF DEATH, IRRESPECTIVE OF WHETHER SUCH EXAMINATION  
 4 OR AUTOPSY SHALL HAVE BEEN PREVIOUSLY PERFORMED;

5 (E) UPON REVIEW OF THE CAUSE OF AND CIRCUMSTANCES SURROUNDING THE  
 6 DEATH OF ANY PATIENT OR RESIDENT, SUBMIT ITS REPORT THEREON TO THE EXEC-  
 7 UTIVE DIRECTOR AND, WHERE APPROPRIATE, MAKE RECOMMENDATIONS TO PREVENT  
 8 THE RECURRENCE OF SAME TO THE APPROPRIATE COMMISSIONER OF THE DEPARTMENT  
 9 OF MENTAL HYGIENE OR THE COMMISSIONER OF CHILDREN AND FAMILY SERVICES  
 10 AND TO THE DIRECTOR OF THE FACILITY; AND

11 (F) ADVISE THE EXECUTIVE DIRECTOR ON MEDICAL ISSUES RELEVANT TO THE  
 12 FUNCTIONS, POWERS, AND DUTIES OF THE JUSTICE CENTER INCLUDING ALLEGA-  
 13 TIONS OF ABUSE OR NEGLECT OF A PATIENT OR RESIDENT REFERRED TO IT.

14 S 557. REPORTS TO THE JUSTICE CENTER. EVERY DIRECTOR OR OTHER PERSON  
 15 IN CHARGE OF A RESIDENTIAL FACILITY WITHIN THE MEANING OF SUBDIVISION  
 16 FOUR OF SECTION FOUR HUNDRED EIGHTY-EIGHT OF THE SOCIAL SERVICES LAW,  
 17 SHALL REPORT IMMEDIATELY TO THE EXECUTIVE DIRECTOR AND THE JUSTICE  
 18 CENTER MEDICAL REVIEW BOARD THE DEATH OF A PATIENT OR RESIDENT OF ANY  
 19 SUCH FACILITY IN SUCH MANNER AND SUCH FORM AS THE JUSTICE CENTER SHALL  
 20 PRESCRIBE, TOGETHER WITH AN AUTOPSY REPORT, IF ANY.

21 S 558. ACCESS TO RECORDS AND FACILITIES. (A) THE JUSTICE CENTER MUST  
 22 BE GRANTED ACCESS AT ANY AND ALL TIMES TO ANY FACILITY OR PROVIDER AGEN-  
 23 CY AS DEFINED IN SUBDIVISION FOUR OF SECTION FOUR HUNDRED EIGHTY-EIGHT  
 24 OF THE SOCIAL SERVICES LAW, AND, CONSISTENT WITH FEDERAL LAW, TO ALL  
 25 BOOKS, RECORDS, AND DATA PERTAINING TO ANY SUCH FACILITY OR PROVIDER  
 26 AGENCY DEEMED NECESSARY FOR CARRYING OUT THE JUSTICE CENTER'S FUNCTIONS,  
 27 POWERS AND DUTIES. THE JUSTICE CENTER OR ANY EMPLOYEE OF THE JUSTICE

28 CENTER MAY REQUIRE FROM THE OFFICERS OR EMPLOYEES OF SUCH FACILITY OR  
 29 PROVIDER AGENCY OR FROM THE COMMISSIONERS OF THE STATE OVERSIGHT AGEN-  
 30 CIES AS DEFINED IN SUBDIVISION FOUR-A OF SUCH SECTION FOUR HUNDRED  
 31 EIGHTY-EIGHT, ANY INFORMATION DEEMED NECESSARY FOR THE PURPOSE OF CARRY-  
 32 ING OUT THE JUSTICE CENTER'S FUNCTIONS, POWERS AND DUTIES, INCLUDING  
 33 OTHERWISE CONFIDENTIAL INFORMATION. THE EXECUTIVE DIRECTOR OR ANY  
 34 EMPLOYEE OF THE JUSTICE CENTER MAY REQUIRE FROM ANY HOSPITAL, AS DEFINED  
 35 UNDER ARTICLE TWENTY-EIGHT OF THE PUBLIC HEALTH LAW, ANY INFORMATION,  
 36 REPORT OR RECORD NECESSARY FOR THE PURPOSE OF CARRYING OUT THE FUNC-  
 37 TIONS, POWERS AND DUTIES OF THE JUSTICE CENTER RELATED TO THE INVESTI-  
 38 GATION OF DEATHS AND COMPLAINTS OF ABUSE OR NEGLECT CONCERNING VULNER-  
 39 ABLE PERSONS WHO HAVE BEEN TREATED AT SUCH HOSPITALS, AND FROM ANY ADULT  
 40 CARE FACILITY AS DEFINED IN PARAGRAPH TWENTY-ONE OF SECTION TWO OF THE  
 41 SOCIAL SERVICES LAW, SUCH INFORMATION, REPORT OR RECORD, INCLUDING  
 42 ACCESS TO SUCH FACILITY NECESSARY FOR THE PURPOSE OF CARRYING OUT THE  
 43 FUNCTIONS, POWERS AND DUTIES OF THE JUSTICE CENTER RELATED TO THE INVES-  
 44 TIGATION OF DEATHS CONCERNING PATIENTS OF MENTAL HYGIENE FACILITIES WHO  
 45 RESIDED AT SUCH RESIDENTIAL CARE FACILITIES AT THE TIME OF THEIR DEATH  
 46 OR WERE FORMER RESIDENTS OF SUCH RESIDENTIAL CARE FACILITIES AND THE  
 47 JUSTICE CENTER DETERMINES THAT SUCH INFORMATION, REPORT OR RECORD IS  
 48 NECESSARY FOR THE COMPLETION OF ITS INVESTIGATION. THE RESULTS OF INVES-  
 49 TIGATIONS INVOLVING SUCH RESIDENTS OF ADULT CARE FACILITIES SHALL BE  
 50 PROVIDED PROMPTLY TO THE COMMISSIONER OF THE DEPARTMENT OF HEALTH AND  
 51 SHALL BE TREATED AS A RECORD OR PERSONAL INFORMATION WITHIN THE MEANING  
 52 OF SECTION NINETY-SIX OF THE PUBLIC OFFICERS LAW AND SHALL NOT BE  
 53 DISCLOSED EXCEPT IN ACCORDANCE WITH SUCH SECTION NINETY-SIX. INFORMA-  
 54 TION, BOOKS, RECORDS OR DATA WHICH ARE CONFIDENTIAL AS PROVIDED BY LAW  
 55 SHALL BE KEPT CONFIDENTIAL BY THE JUSTICE CENTER AND BY NON-PROFIT  
 56 ORGANIZATIONS RECEIVING CONTRACTS PURSUANT TO SECTION FIVE HUNDRED  
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1 FIFTY-THREE OF THIS ARTICLE AND ANY LIMITATIONS ON THE RELEASE THEREOF  
 2 IMPOSED BY LAW UPON THE PARTY FURNISHING THE INFORMATION, BOOKS, RECORDS  
 3 OR DATA SHALL APPLY TO THE JUSTICE CENTER AND SUCH NON-PROFIT ORGANIZA-  
 4 TIONS RECEIVING CONTRACTS PURSUANT TO SUCH SUBDIVISION EXCEPT AS MAY  
 5 OTHERWISE BE PROVIDED BY ARTICLE ELEVEN OF THE SOCIAL SERVICES LAW.

6 (B) PURSUANT TO THE AUTHORIZATION OF THE JUSTICE CENTER TO ADMINISTER  
 7 THE PROTECTION AND ADVOCACY SYSTEM AS PROVIDED FOR BY FEDERAL LAW, ANY  
 8 AGENCY OR PERSON WITHIN OR UNDER CONTRACT WHICH PROVIDES PROTECTION AND  
 9 ADVOCACY SERVICES MUST BE GRANTED ACCESS AT ANY AND ALL TIMES TO ANY  
 10 FACILITY, OR PART THEREOF, SERVING A VULNERABLE PERSON OPERATED, CERTI-  
 11 FIED OR LICENSED BY ANY OFFICE OR AGENCY OF THE STATE, AND TO ALL BOOKS,  
 12 RECORDS, AND DATA PERTAINING TO ANY SUCH FACILITY UPON RECEIPT OF A  
 13 COMPLAINT BY OR ON BEHALF OF A PERSON WITH A DISABILITY. INFORMATION,  
 14 BOOKS, RECORDS OR DATA WHICH ARE CONFIDENTIAL AS PROVIDED BY LAW SHALL  
 15 BE KEPT CONFIDENTIAL BY THE PERSON OR AGENCY WITHIN THE PROTECTION AND  
 16 ADVOCACY SYSTEM AND ANY LIMITATIONS ON THE RELEASE THEREOF IMPOSED BY  
 17 LAW UPON THE PARTY FURNISHING THE INFORMATION, BOOKS, RECORDS OR DATA  
 18 SHALL APPLY TO THE PERSON OR AGENCY WITHIN THE PROTECTION AND ADVOCACY  
 19 SYSTEM.

20 (C) IN THE EXERCISE OF ITS FUNCTIONS, POWERS AND DUTIES, THE EXECUTIVE  
 21 DIRECTOR AND ANY EMPLOYEE DESIGNATED BY HIM OR HER IS AUTHORIZED TO  
 22 ISSUE AND ENFORCE A SUBPOENA AND A SUBPOENA DUCES TECUM, CONDUCT HEAR-  
 23 INGS, ADMINISTER OATHS AND EXAMINE PERSONS UNDER OATH, IN ACCORDANCE  
 24 WITH AND PURSUANT TO CIVIL PRACTICE LAW AND RULES.

25 (D) IN ANY CASE WHERE A PERSON IN CHARGE OR CONTROL OF SUCH FACILITY  
 26 OR AN OFFICER OR EMPLOYEE THEREOF SHALL FAIL TO COMPLY WITH THE  
 27 PROVISIONS OF SUBDIVISION (A) OF THIS SECTION, THE JUSTICE CENTER MAY  
 28 APPLY TO THE SUPREME COURT FOR AN ORDER DIRECTED TO SUCH PERSON REQUIR-  
 29 ING COMPLIANCE THEREWITH. UPON SUCH APPLICATION THE COURT MAY ISSUE SUCH  
 30 ORDER AS MAY BE JUST AND A FAILURE TO COMPLY WITH THE ORDER OF THE COURT  
 31 SHALL BE A CONTEMPT OF COURT AND PUNISHABLE AS SUCH.

32 S 559. NEW YORK STATE INTERAGENCY COORDINATING COUNCIL FOR SERVICES TO  
 33 PERSONS WHO ARE DEAF, DEAF-BLIND, OR HARD OF HEARING. 1. SUBJECT TO AN  
 34 APPROPRIATION, THE JUSTICE CENTER SHALL HAVE THE CENTRAL RESPONSIBILITY  
 35 FOR ADMINISTERING THE PROVISIONS OF THIS SECTION AND OTHERWISE COORDI-  
 36 NATING THE ACTIVITIES OF THE STATE INTERAGENCY COORDINATING COUNCIL FOR  
 37 SERVICES TO PERSONS WHO ARE DEAF, DEAF-BLIND, OR HARD OF HEARING WITH  
 38 RESPECT TO SERVING RESIDENTS OF THE STATE WHO ARE DEAF, DEAF-BLIND, OR  
 39 HARD OF HEARING, IN CONSULTATION WITH THE OFFICE OF CHILDREN AND FAMILY  
 40 SERVICES, THE OFFICE FOR THE AGING, THE PUBLIC SERVICE COMMISSION, THE  
 41 DEPARTMENT OF HEALTH, THE DEPARTMENT OF LABOR, THE DEPARTMENT OF EDUCA-

42 TION, AND OTHER STATE AGENCIES AS APPROPRIATE. THE COUNCIL SHALL MEET A  
43 MINIMUM OF THREE TIMES A YEAR.

44 2. THE FOLLOWING DEFINITIONS DESCRIBE THE FUNCTIONAL CHARACTERISTICS  
45 OF PERSONS WHO ARE DEAF, DEAF-BLIND, OR HARD OF HEARING, AS USED IN THIS  
46 SECTION.

47 (A) DEAF. DESCRIBES PERSONS WHO HAVE A PROFOUND HEARING LOSS AND WHO  
48 PRIMARILY RELY ON VISUAL COMMUNICATION, SUCH AS SIGN LANGUAGE, WRITING,  
49 LIP READING, AND GESTURES, WHICH MAY BE USED EXCLUSIVELY OR IN COMBINA-  
50 TION. SUCH PERSONS GENERALLY USE A FORM OF AMERICAN SIGN LANGUAGE AS  
51 THEIR PRIMARY MODE OF COMMUNICATION. IN ADDITION, THERE IS A GROUP OF  
52 PROFOUNDLY DEAF INDIVIDUALS WHO COMMUNICATE ORALLY AND MAY USE SIGN  
53 LANGUAGE TO SUPPORT THEIR UNDERSTANDING OF THE SPOKEN LANGUAGE. HEARING  
54 AIDS AND OTHER ASSISTIVE TECHNOLOGY MAY ALSO BE USED TO AID IN COMMUNI-  
55 CATION.

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1 (B) DEAF-BLIND. AN INDIVIDUAL WITH A CONCOMITANT HEARING AND VISUAL  
2 IMPAIRMENT, THE COMBINATION OF WHICH CAUSES SUCH SEVERE COMMUNICATION  
3 AND OTHER DEVELOPMENTAL AND EDUCATIONAL PROBLEMS THAT THE INDIVIDUAL  
4 CANNOT BE ACCOMMODATED IN PROGRAMS FOR INDIVIDUALS WHO ARE SOLELY DEAF  
5 OR BLIND.

6 (C) HARD OF HEARING. A HARD OF HEARING PERSON IS SOMEONE WITH A MEAS-  
7 URABLE HEARING LOSS AND WHO SELF-IDENTIFIES AS BEING HARD OF HEARING,  
8 ALTHOUGH AUDIOLOGICALLY HE OR SHE MAY HAVE A PROFOUND HEARING LOSS.  
9 ADDITIONALLY, THIS PERSON TYPICALLY USES HIS OR HER RESIDUAL HEARING,  
10 SPEECH AND SPEECH READING SKILLS, AND HEARING AIDS TO COMMUNICATE; HE OR  
11 SHE MAY RELY ON ASSISTIVE LISTENING DEVICES TO AUGMENT HIS OR HER ABILI-  
12 TY TO HEAR AND SPEAK.

13 3. SUBJECT TO AN APPROPRIATION, THE JUSTICE CENTER SHALL HAVE THE  
14 FOLLOWING POWERS AND DUTIES:

15 (A) TO COORDINATE THE ACTIVITIES OF THE STATE INTERAGENCY COORDINATING  
16 COUNCIL AND TO PROMOTE, IN COOPERATION WITH THE APPROPRIATE STATE AGEN-  
17 CIES, THE IMPLEMENTATION OF A COMPREHENSIVE STATEWIDE PROGRAM OF COORDI-  
18 NATED SERVICES FOR PERSONS WHO ARE DEAF, DEAF-BLIND, OR HARD OF HEARING  
19 THAT INCLUDES EDUCATIONAL, MEDICAL, HOUSING, TRANSPORTATION, TECHNOLOGY  
20 SUPPORTS, PERSONAL CARE, FAMILY SUPPORTS, DAY PROGRAM SERVICES, AND  
21 OTHER ESSENTIAL SERVICES THAT MAXIMIZE EXISTING RESOURCES AND ADMINIS-  
22 TRATIVE MECHANISMS TO ADDRESS ISSUES AND LEGAL OBLIGATIONS.

23 (B) TO MAINTAIN DATA ON THE INCIDENCE OF DEAFNESS, DEAF-BLINDNESS, AND  
24 OTHER HEARING LOSS.

25 (C) TO SERVE AS A CLEARINGHOUSE FOR INFORMATION ON SERVICES AVAILABLE  
26 TO PERSONS WHO ARE DEAF, DEAF-BLIND, OR HARD OF HEARING, INCLUDING, BUT  
27 NOT LIMITED TO, RESOURCES THAT SUPPORT THE DEVELOPMENT AND IMPLEMENTA-  
28 TION OF COMMUNITY-BASED SERVICES AND REHABILITATION.

29 (D) TO DISSEMINATE GENERAL INFORMATION ON DEAFNESS AND THE UNIQUE  
30 COMMUNICATION NEEDS OF PERSONS WHO ARE DEAF, DEAF-BLIND, AND HARD OF  
31 HEARING, AND TO INFORM THE DEAF, DEAF-BLIND, AND HARD OF HEARING COMMU-  
32 NITIES ABOUT AVAILABLE SERVICES AND HOW SUCH SERVICES CAN BE ACCESSED.

33 (E) TO RECEIVE COMPLAINTS IN MATTERS AFFECTING THE DEAF, DEAF-BLIND,  
34 OR HARD OF HEARING COMMUNITIES AND TO REFER SUCH COMPLAINTS TO THE  
35 APPROPRIATE REGULATORY AGENCIES WHERE IT DEEMS NECESSARY OR APPROPRIATE.

36 (F) TO CONDUCT AN ONGOING EVALUATION OF THE NEEDS OF THE DEAF,  
37 DEAF-BLIND, AND HARD OF HEARING COMMUNITIES, INCLUDING TECHNOLOGY NEEDS.

38 (G) TO REPORT TO THE GOVERNOR AND THE LEGISLATURE, ON OR BEFORE NOVEM-  
39 BER FIRST OF EACH YEAR, ON MATTERS WHICH SHALL INCLUDE, BUT NOT BE  
40 LIMITED TO:

41 (I) THE STATUS OF CURRENT EFFORTS TO ACHIEVE THE PURPOSES OF THIS  
42 SECTION, WHICH WILL BE UPDATED IN SUBSEQUENT REPORTS; AND

43 (II) RECOMMENDATIONS FOR STANDARDS, POLICIES, PROCEDURES, AND STRATE-  
44 GIES NECESSARY TO ASSURE COMMUNICATION ACCESSIBILITY AND COMMUNITY-BASED  
45 SERVICES, INCLUDING NEEDED STATUTORY REVISIONS.

46 4. (A) SUBJECT TO AN APPROPRIATION, THE STATE INTERAGENCY COORDINATING  
47 COUNCIL FOR SERVICES TO PERSONS WHO ARE DEAF, DEAF-BLIND, OR HARD OF  
48 HEARING IS HEREBY ESTABLISHED AND SHALL CONSIST OF THE FOLLOWING PERSONS  
49 TO BE APPOINTED BY THE GOVERNOR:

50 (I) SEVEN AGENCY HEADS OR THEIR DESIGNEES, ACTING IN AN EX-OFFICIO  
51 CAPACITY: THE EXECUTIVE DIRECTOR OF THE JUSTICE CENTER, WHO SHALL SERVE  
52 AS THE CHAIR OF THE STATE INTERAGENCY COORDINATING COUNCIL, THE COMMIS-  
53 SIONER OF THE OFFICE OF CHILDREN AND FAMILY SERVICES, THE DIRECTOR OF  
54 THE OFFICE FOR AGING, THE CHAIR OF THE PUBLIC SERVICE COMMISSION, THE  
55 COMMISSIONER OF HEALTH, THE COMMISSIONER OF LABOR, AND THE COMMISSIONER  
56 OF EDUCATION;

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13

1 (II) SIX PERSONS WHO ARE RESIDENTS OF NEW YORK STATE AND WHO SHALL BE  
 2 PERSONS WHO ARE DEAF, DEAF-BLIND, OR HARD OF HEARING, ONE OF WHOM SHALL  
 3 BE APPOINTED ON THE NOMINATION OF THE TEMPORARY PRESIDENT OF THE SENATE,  
 4 ONE OF WHOM SHALL BE APPOINTED ON THE NOMINATION OF THE SPEAKER OF THE  
 5 ASSEMBLY, ONE OF WHOM SHALL BE APPOINTED ON THE NOMINATION OF THE MINOR-  
 6 ITY LEADER OF THE SENATE, AND ONE OF WHOM SHALL BE APPOINTED ON THE  
 7 NOMINATION OF THE MINORITY LEADER OF THE ASSEMBLY; AND

8 (III) TWO PERSONS WHO ARE RESIDENTS OF NEW YORK STATE AND WHO ARE  
 9 REPRESENTATIVES OF THE PUBLIC AND HAVE A DEMONSTRATED EXPERTISE AND  
 10 INTEREST IN THE NEEDS OF PERSONS WHO ARE DEAF, DEAF-BLIND, OR HARD OF  
 11 HEARING.

12 (B) OF THE EIGHT PERSONS APPOINTED PURSUANT TO SUBPARAGRAPHS (II) AND  
 13 (III) OF PARAGRAPH (A) OF THIS SUBDIVISION, TWO SHALL SERVE FOR A TERM  
 14 OF ONE YEAR, TWO SHALL SERVE FOR A TERM OF TWO YEARS, AND TWO SHALL  
 15 SERVE FOR A TERM OF THREE YEARS, AS DETERMINED BY THE GOVERNOR. SUBSE-  
 16 QUENT APPOINTMENTS UPON THE EXPIRATION OF TERM SHALL BE FOR A TERM OF  
 17 THREE YEARS AND SHALL BE FILLED IN THE SAME MANNER AS THE ORIGINAL  
 18 APPOINTMENT.

19 (C) THE EIGHT MEMBERS OF THE STATE INTERAGENCY COORDINATING COUNCIL  
 20 DESCRIBED IN SUBPARAGRAPHS (II) AND (III) OF PARAGRAPH (A) OF THIS  
 21 SUBDIVISION SHALL RECEIVE NO COMPENSATION FOR THEIR SERVICES, BUT SHALL  
 22 BE ALLOWED THEIR ACTUAL AND NECESSARY EXPENSES INCURRED IN THE PERFORM-  
 23 ANCE OF THEIR DUTIES PURSUANT TO THIS SECTION, SUBJECT TO THE APPROVAL  
 24 OF THE JUSTICE CENTER.

25 5. SUBJECT TO AN APPROPRIATION, THE STATE INTERAGENCY COORDINATING  
 26 COUNCIL IS CHARGED WITH RECOMMENDING LONG RANGE STRATEGIC OBJECTIVES,  
 27 GOALS, AND PRIORITIES FOR PROMOTING THE AVAILABILITY OF A COMPREHENSIVE  
 28 STATEWIDE PROGRAM OF COORDINATED SERVICES FOR PERSONS WHO ARE DEAF,  
 29 DEAF-BLIND, OR HARD OF HEARING THAT IS CONSISTENT WITH SUBDIVISION ONE  
 30 OF THIS SECTION. IT SHALL ALSO PROVIDE ADVICE ON THE PLANNING, COORDI-  
 31 NATION, AND DEVELOPMENT OF NEEDED SERVICES AND TECHNOLOGY, INCLUDING THE  
 32 MANNER IN WHICH SUCH SERVICES SHALL BE FUNDED OR OTHERWISE SUPPORTED.

33 S 560. ANNUAL REPORT. THE JUSTICE CENTER SHALL MAKE AN ANNUAL REPORT  
 34 TO THE GOVERNOR AND LEGISLATURE CONCERNING ITS WORK DURING THE PRECEDING  
 35 YEAR. SUCH REPORT SHALL INCLUDE, BUT NOT BE LIMITED TO, DATA REGARDING  
 36 THE NUMBER OF REPORTS RECEIVED BY THE VULNERABLE PERSONS' CENTRAL REGIS-  
 37 TER, RESULTS OF INVESTIGATIONS BY TYPES OF FACILITIES AND PROGRAMS,  
 38 TYPES OF CORRECTIVE ACTIONS TAKEN, RESULTS OF ITS REVIEW OF PATTERNS AND  
 39 TRENDS IN THE REPORTING OF AND RESPONSE TO INCIDENTS OF ABUSE AND  
 40 NEGLECT, AND OTHER SERIOUS INCIDENTS AND ITS RECOMMENDATIONS FOR APPRO-  
 41 PRIATE PREVENTIVE AND CORRECTIVE ACTIONS, AND EFFORTS UNDERTAKEN BY SUCH  
 42 JUSTICE CENTER TO PROVIDE TRAINING PURSUANT TO SUBDIVISION FOUR OF  
 43 SECTION FIVE HUNDRED FIFTY-THREE OF THIS ARTICLE.

44 S 4. Subdivision 32 of section 1.20 of the criminal procedure law, as  
 45 amended by chapter 250 of the laws of 1974, is amended to read as  
 46 follows:

47 32. "District attorney" means a district attorney, an assistant  
 48 district attorney or a special district attorney, and, where appropri-  
 49 ate, the attorney general, an assistant attorney general, a deputy  
 50 attorney general [or], a special deputy attorney general, OR THE SPECIAL  
 51 PROSECUTOR AND INSPECTOR GENERAL FOR THE PROTECTION OF PEOPLE WITH  
 52 SPECIAL NEEDS OR HIS OR HER ASSISTANTS WHEN ACTING PURSUANT TO THEIR  
 53 DUTIES IN MATTERS ARISING UNDER ARTICLE TWENTY OF THE EXECUTIVE LAW.

54 S 5. Subdivision 6 of section 401 of the correction law, as added by  
 55 chapter 1 of the laws of 2008, is amended to read as follows:  
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1 6. The department shall ensure that the curriculum for new correction  
 2 officers, and other new department staff who will regularly work in  
 3 programs providing mental health treatment for inmates, shall include at  
 4 least eight hours of training about the types and symptoms of mental  
 5 illnesses, the goals of mental health treatment, the prevention of  
 6 suicide and training in how to effectively and safely manage inmates  
 7 with mental illness. Such training may be provided by the office of  
 8 mental health or the [New York state commission on quality of care and  
 9 advocacy for persons with disabilities] JUSTICE CENTER FOR THE  
 10 PROTECTION OF PEOPLE WITH SPECIAL NEEDS. All department staff who are  
 11 transferring into a residential mental health treatment unit shall  
 12 receive a minimum of eight additional hours of such training, and eight  
 13 hours of annual training as long as they work in such a unit. The

14 department shall provide additional training on these topics on an ongoing  
15 basis as it deems appropriate.

16 S 6. Section 401-a of the correction law, as added by chapter 1 of the  
17 laws of 2008, is amended to read as follows:

18 S 401-a. Oversight responsibilities of the [New York state commission  
19 on quality of care and advocacy for persons with disabilities] JUSTICE  
20 CENTER FOR THE PROTECTION OF PEOPLE WITH SPECIAL NEEDS. 1. The [New York  
21 state commission on quality of care and advocacy for persons with disa-  
22 bilities ("commission")] JUSTICE CENTER FOR THE PROTECTION OF PEOPLE  
23 WITH SPECIAL NEEDS shall be responsible for monitoring the quality of  
24 mental health care provided to inmates pursuant to article forty-five of  
25 the mental hygiene law. The [commission] JUSTICE CENTER shall have  
26 direct and immediate access to all areas where state prisoners are  
27 housed, and to clinical and department records relating to inmates'  
28 clinical conditions. The [commission] JUSTICE CENTER shall maintain the  
29 confidentiality of all patient-specific information.

30 2. The [commission] JUSTICE CENTER shall monitor the quality of care  
31 in residential mental health treatment programs and shall ensure compli-  
32 ance with paragraphs (d) and (e) of subdivision six of section one  
33 hundred thirty-seven of this chapter and section four hundred one of  
34 this article. The [commission] JUSTICE CENTER may recommend to the  
35 department and the office of mental health that inmates in segregated  
36 confinement pursuant to subdivision six of section one hundred thirty-  
37 seven of this chapter be evaluated for placement in a residential mental  
38 health treatment unit. It may also recommend ways to further the goal  
39 of diverting and removing inmates with serious mental illness from  
40 segregated confinement to residential mental health treatment units. The  
41 [commission] JUSTICE CENTER shall include in its annual report to the  
42 governor and the legislature pursuant to [subdivision (g) of] section  
43 [45.07] FIVE HUNDRED SIXTY of the [mental hygiene] EXECUTIVE law, a  
44 description of the state's progress in complying with this article,  
45 which shall be publicly available.

46 3. The [commission] JUSTICE CENTER shall appoint an advisory committee  
47 on psychiatric correctional care ("committee"), which shall be composed  
48 of independent mental health experts and mental health advocates, and  
49 may include family members of former inmates with serious mental  
50 illness. Such committee shall advise the [commission] JUSTICE CENTER on  
51 its oversight responsibilities pursuant to this section [and article  
52 forty-five of the mental hygiene law]. The committee may also make  
53 recommendations to the [commission] JUSTICE CENTER regarding improve-  
54 ments to prison-based mental health care. Nothing in this subdivision  
55 shall be deemed to authorize members of the committee to have access to  
56 a correctional or mental hygiene facility or any part of such a facili-  
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1 ty. Provided, however, newly appointed members of the advisory committee  
2 shall be provided with a tour of a segregated confinement unit and a  
3 residential mental health treatment unit, as selected by the commission-  
4 er. Any such tour shall be arranged on a date and at a time selected by  
5 the commissioner and upon such terms and conditions as are within the  
6 sole discretion of the commissioner.

7 S 7. Paragraph (c) of subdivision 6 of section 2994-m of the public  
8 health law, as added by chapter 8 of the laws of 2010, is amended to  
9 read as follows:

10 (c) Nothing in this subdivision shall prohibit the [state commission  
11 on quality of care and advocacy for persons with disabilities] JUSTICE  
12 CENTER FOR THE PROTECTION OF PEOPLE WITH SPECIAL NEEDS or any agency or  
13 person within or under contract with the [commission] JUSTICE CENTER  
14 which provides protection and advocacy services from requiring any  
15 information, report or record from a hospital in accordance with the  
16 provisions of section [45.09] FIVE HUNDRED FIFTY-EIGHT of the [mental  
17 hygiene] EXECUTIVE law.

18 S 8. Transfer of employees. Notwithstanding any other provision of  
19 law, rule, or regulation to the contrary, upon the transfer of any func-  
20 tions from the state commission on quality of care and advocacy for  
21 persons with disabilities, the office of mental health, the office for  
22 people with developmental disabilities, the office of alcoholism and  
23 substance abuse services, the office of children and family services and  
24 the department of health and to the justice center for the protection of  
25 people with special needs pursuant to this act, employees performing  
26 those functions shall be transferred to such justice center. Employees  
27 transferred pursuant to this section shall be transferred without

28 further examination or qualification and shall retain their respective  
29 civil service classifications, status and collective bargaining unit  
30 designations and collective bargaining agreements.

31 S 9. Transfer of records. All books, papers, and property of the state  
32 commission on quality of care and advocacy for persons with disabilities  
33 shall be deemed to be in the possession of the executive director of the  
34 justice center for the protection of people with special needs, and  
35 shall continue to be maintained by such justice center.

36 S 10. Continuity of authority. For the purpose of succession of all  
37 functions, powers, duties and obligations transferred and assigned to,  
38 devolved upon and assumed by it pursuant to this act, the justice center  
39 for the protection of people with special needs shall be deemed and held  
40 to constitute the continuation of the state commission on quality of  
41 care and advocacy for persons with disabilities.

42 S 11. Completion of unfinished business. Any business or other matter  
43 undertaken or commenced by the state commission on quality of care and  
44 advocacy for persons with disabilities, the office of mental health, the  
45 office for people with developmental disabilities, the office of alco-  
46 holism and substance abuse services, the office of children and family  
47 services, the department of health and the state education department  
48 pertaining to or connected with the functions, powers, obligations and  
49 duties hereby transferred and assigned to the justice center for the  
50 protection of people with special needs and pending on the effective  
51 date of this act, may be conducted and completed by such justice center  
52 in the same manner and under the same terms and conditions and with the  
53 same effect as if conducted and completed by the state commission on  
54 quality of care and advocacy for persons with disabilities.

55 S 12. Continuation of rules and regulations. All rules, regulations,  
56 acts, orders, determinations, and decisions of the state commission on  
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1 quality of care and advocacy for persons with disabilities pertaining to  
2 the functions and powers transferred and assigned pursuant to this act,  
3 in force at the time of such transfer and assumption, shall continue in  
4 full force and effect as rules, regulations, acts, orders, determi-  
5 nations and decisions of the justice center for the protection of people  
6 with special needs until duly modified or abrogated by the executive  
7 director of such justice center.

8 S 13. Terms occurring in laws, contracts and other documents. Whenever  
9 the state commission on quality of care and advocacy for persons with  
10 disabilities, or the chairman thereof, is referred to or designated in  
11 any law, contract or document pertaining to the functions, powers, obli-  
12 gations and duties hereby transferred to and assigned to the justice  
13 center for the protection of people with special needs, such reference  
14 or designation shall be deemed to refer to such justice center, or the  
15 executive director thereof, as applicable.

16 S 14. Existing rights and remedies preserved. No existing right or  
17 remedy of any character shall be lost, impaired or affected by any  
18 provisions of this act.

19 S 15. Pending actions and proceedings. No action or proceeding pending  
20 at the time when this act shall take effect, brought by or against the  
21 state commission on quality of care and advocacy for persons with disa-  
22 bilities, or the chairman thereof, shall be affected by any provision of  
23 this act, but the same may be prosecuted or defended in the name of the  
24 executive director of the justice center for the protection of people  
25 with special needs. In all such actions and proceedings, the executive  
26 director of such justice center, upon application to the court, shall be  
27 substituted as a party.

28 S 16. Transfer of appropriations heretofore made. All appropriations  
29 or reappropriations heretofore made to the state commission on quality  
30 of care and advocacy for persons with disabilities to the extent of  
31 remaining unexpended or unencumbered balance thereof, whether allocated  
32 or unallocated and whether obligated or unobligated, are hereby trans-  
33 ferred to and made available for use and expenditure by the justice  
34 center for the protection of people with special needs subject to the  
35 approval of the director of the budget for the same purposes for which  
36 originally appropriated or reappropriated and shall be payable on vouch-  
37 ers certified or approved by the executive director of such justice  
38 center on audit and warrant of the comptroller. In addition to such  
39 authority otherwise granted pursuant to law to interchange, transfer and  
40 suballocate amounts appropriated for the office for people with develop-  
41 mental disabilities, the office of alcoholism and substance abuse



42 services, the department of health and the office of children and family  
 43 services, such amounts appropriated for state operations for such agen-  
 44 cies may also be interchanged, transferred and suballocated for the  
 45 purpose of planning, developing and/or implementing the alignment of the  
 46 operations within and between such agencies sufficient to fulfill the  
 47 purposes of this act for the state fiscal year beginning April 1, 2012.

48 S 17. Transfer of assets and liabilities. All assets and liabilities  
 49 of the state commission on quality of care and advocacy for persons with  
 50 disabilities are hereby transferred to and assumed by the justice center  
 51 for the protection of people with special needs.

52 S 18. This act shall take effect upon the confirmation by the senate  
 53 of the appointment by the governor of the executive director of the  
 54 justice center for the protection of people with special needs, proof of  
 55 such confirmation to be promptly transmitted by the governor to the  
 56 legislative bill drafting commission, provided that should confirmation  
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1 not take place on or before April 1, 2013, then this part shall take  
 2 effect on April 1, 2013.

3

#### PART B

4 Section 1. Article 11 of the social services law is renumbered article  
 5 12 and sections 484, 485 and 486 are renumbered sections 550, 551 and  
 6 552 and a new article 11 is added to read as follows:

#### ARTICLE 11

#### PROTECTION OF PEOPLE WITH SPECIAL NEEDS

- 9 SECTION 488. DEFINITIONS.  
 10 489. APPLICABILITY.  
 11 490. INCIDENT MANAGEMENT PROGRAMS.  
 12 491. DUTY TO REPORT INCIDENTS.  
 13 492. VULNERABLE PERSONS' CENTRAL REGISTER.  
 14 493. ABUSE AND NEGLECT FINDINGS; CONSEQUENCES.  
 15 494. AMENDMENTS TO AND APPEALS OF SUBSTANTIATED REPORTS OF  
 16 ABUSE OR NEGLECT.  
 17 495. REGISTER OF SUBSTANTIATED CATEGORY ONE CASES OF ABUSE OR  
 18 NEGLECT.  
 19 496. CONFIDENTIALITY.  
 20 497. IMMUNITY FROM LIABILITY.

21 S 488. DEFINITIONS. AS USED IN THIS ARTICLE, THE FOLLOWING TERMS SHALL  
 22 HAVE THE FOLLOWING MEANINGS:

23 1. "ABUSE OR NEGLECT" SHALL INCLUDE THE CONDUCT DESCRIBED IN PARAGRAPH  
 24 (A) OF SUBDIVISION FOUR OF SECTION FOUR HUNDRED NINETY-THREE OF THIS  
 25 ARTICLE, AS WELL AS:

26 (A) "PHYSICAL ABUSE," WHICH SHALL MEAN PHYSICAL CONTACT THAT IS NOT  
 27 ACCIDENTAL, IS COMMITTED BY AN AGENT OF A FACILITY OR PROVIDER AGENCY  
 28 AND THAT RESULTS IN OR HAS THE REASONABLY FORESEEABLE POTENTIAL TO  
 29 RESULT IN PHYSICAL INJURY OR SERIOUS OR PROTRACTED IMPAIRMENT OF THE  
 30 PHYSICAL, MENTAL OR EMOTIONAL CONDITION OF A SERVICE RECIPIENT. PHYSICAL  
 31 ABUSE SHALL INCLUDE, BUT SHALL NOT BE LIMITED TO, SLAPPING, HITTING,  
 32 KICKING, BITING, CHOKING, SMOTHERING, SHOVING, DRAGGING, THROWING,  
 33 PUNCHING, SHAKING, BURNING, CUTTING OR THE USE OF CORPORAL PUNISHMENT.  
 34 PHYSICAL ABUSE SHALL NOT INCLUDE REASONABLE EMERGENCY INTERVENTIONS  
 35 NECESSARY TO PROTECT THE SAFETY OF ANY PERSON.

36 (B) "SEXUAL ABUSE," WHICH SHALL MEAN ANY CONDUCT BY AN AGENT OF A  
 37 FACILITY OR PROVIDER AGENCY THAT SUBJECTS A PERSON RECEIVING SERVICES TO  
 38 ANY OFFENSE DEFINED IN ARTICLE ONE HUNDRED THIRTY OR SECTION 255.25,  
 39 255.26 OR 255.27 OF THE PENAL LAW; OR ANY CONDUCT OR COMMUNICATION BY  
 40 SUCH AN AGENT THAT ALLOWS, PERMITS, USES OR ENCOURAGES A SERVICE RECIPI-  
 41 ENT TO ENGAGE IN ANY ACT DESCRIBED IN ARTICLES TWO HUNDRED THIRTY OR TWO  
 42 HUNDRED SIXTY-THREE OF THE PENAL LAW. FOR PURPOSES OF THIS PARAGRAPH  
 43 ONLY, A PERSON WITH A DEVELOPMENTAL DISABILITY WHO IS OR WAS RECEIVING  
 44 SERVICES AND IS ALSO AN EMPLOYEE OR VOLUNTEER OF A SERVICE PROVIDER  
 45 SHALL NOT BE CONSIDERED AN AGENT OF A FACILITY OR PROVIDER AGENCY IF HE  
 46 OR SHE HAS SEXUAL CONTACT WITH ANOTHER SERVICE RECIPIENT WHO IS A  
 47 CONSENTING ADULT WHO HAS CONSENTED TO SUCH CONTACT.

48 (C) "PSYCHOLOGICAL ABUSE," WHICH SHALL MEAN VERBAL OR NON-VERBAL  
 49 CONDUCT BY AN AGENT OF A FACILITY OR PROVIDER AGENCY THAT RESULTS IN OR  
 50 HAS THE REASONABLY FORESEEABLE POTENTIAL TO RESULT IN A SUBSTANTIAL  
 51 DIMINUTION OF A SERVICE RECIPIENT'S EMOTIONAL, SOCIAL OR BEHAVIORAL  
 52 DEVELOPMENT OR CONDITION, WHICH IS DETERMINED BY A PHYSICIAN, PSYCHOL-  
 53 OGIST, PSYCHIATRIC NURSE PRACTITIONER, LICENSED CLINICAL OR MASTER

54 SOCIAL WORKER OR LICENSED MENTAL HEALTH COUNSELOR. SUCH CONDUCT MAY  
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1 INCLUDE BUT SHALL NOT BE LIMITED TO INTIMIDATION, THREATS, THE DISPLAY  
2 OF A WEAPON OR OTHER OBJECT THAT COULD REASONABLY BE PERCEIVED BY A  
3 SERVICE RECIPIENT AS A MEANS FOR INFLECTION OF PAIN OR INJURY, IN A  
4 MANNER THAT CONSTITUTES A THREAT OF PHYSICAL PAIN OR INJURY, TAUNTS,  
5 DEROGATORY COMMENTS OR RIDICULE.

6 (D) "INAPPROPRIATE USE OF RESTRAINTS," WHICH SHALL MEAN THE USE OF A  
7 RESTRAINT WHEN THE TECHNIQUE THAT IS USED, THE AMOUNT OF FORCE THAT IS  
8 USED OR THE SITUATION IN WHICH THE RESTRAINT IS USED IS INCONSISTENT  
9 WITH A SERVICE RECIPIENT'S INDIVIDUAL TREATMENT PLAN, GENERALLY ACCEPTED  
10 TREATMENT PRACTICES AND/OR APPLICABLE FEDERAL OR STATE LAWS, REGULATIONS  
11 OR POLICIES, EXCEPT WHEN THE RESTRAINT IS USED AS A REASONABLE EMERGENCY  
12 INTERVENTION TO PREVENT IMMINENT RISK OF HARM TO A PERSON RECEIVING  
13 SERVICES OR TO ANY OTHER PERSON. FOR PURPOSES OF THIS SUBDIVISION, A  
14 "RESTRAINT" SHALL INCLUDE THE USE OF ANY MANUAL, PHARMACOLOGICAL OR  
15 MECHANICAL MEASURE OR DEVICE TO IMMOBILIZE OR LIMIT THE ABILITY OF A  
16 PERSON RECEIVING SERVICES TO FREELY MOVE HIS OR HER ARMS, LEGS OR BODY.

17 (E) "USE OF AVERSIVE CONDITIONING," WHICH SHALL MEAN THE APPLICATION  
18 OF A PHYSICAL STIMULUS THAT IS INTENDED TO INDUCE PAIN OR DISCOMFORT IN  
19 ORDER TO MODIFY OR CHANGE THE BEHAVIOR OF A PERSON RECEIVING SERVICES IN  
20 THE ABSENCE OF A PERSON-SPECIFIC AUTHORIZATION BY THE OPERATING, LICENS-  
21 ING OR CERTIFYING STATE AGENCY PURSUANT TO GOVERNING STATE AGENCY REGU-  
22 LATIONS. AVERSIVE CONDITIONING MAY INCLUDE BUT IS NOT LIMITED TO, THE  
23 USE OF PHYSICAL STIMULI SUCH AS NOXIOUS ODORS, NOXIOUS TASTES, BLIND-  
24 FOLDS, THE WITHHOLDING OF MEALS AND THE PROVISION OF SUBSTITUTE FOODS IN  
25 AN UNPALATABLE FORM.

26 (F) "OBSTRUCTION OF REPORTS OF ABUSE OR NEGLECT," WHICH SHALL MEAN  
27 CONDUCT BY AN AGENT OF A FACILITY OR PROVIDER AGENCY THAT IMPEDES THE  
28 DISCOVERY, REPORTING OR INVESTIGATION OF THE TREATMENT OF A SERVICE  
29 RECIPIENT BY FALSIFYING RECORDS RELATED TO THE SAFETY, TREATMENT OR  
30 SUPERVISION OF A SERVICE RECIPIENT WHO MAY HAVE BEEN ABUSED OR  
31 NEGLECTED, ACTIVELY PERSUADING A MANDATED REPORTER FROM MAKING A REPORT  
32 OF ABUSE OR NEGLECT TO THE STATEWIDE VULNERABLE PERSONS' CENTRAL REGIS-  
33 TER WITH THE INTENT TO SUPPRESS THE REPORTING OF THE INVESTIGATION OF AN  
34 INCIDENT OF ABUSE OR NEGLECT, INTENTIONALLY MAKING A FALSE STATEMENT OR  
35 INTENTIONALLY WITHHOLDING MATERIAL INFORMATION DURING AN INVESTIGATION  
36 INTO A REPORT OF ABUSE OR NEGLECT; INTENTIONAL FAILURE OF A SUPERVISOR  
37 OR MANAGER TO ACT UPON A REPORT OF ABUSE OR NEGLECT IN ACCORDANCE WITH  
38 GOVERNING STATE AGENCY REGULATIONS, POLICIES OR PROCEDURES; OR, FOR A  
39 MANDATED REPORTER WHO IS AN AGENT OF A FACILITY OR PROVIDER AGENCY,  
40 FAILING TO REPORT ABUSE OR NEGLECT UPON DISCOVERY.

41 (G) "UNLAWFUL USE OR ADMINISTRATION OF A CONTROLLED SUBSTANCE," WHICH  
42 SHALL MEAN ANY ADMINISTRATION TO A SERVICE RECIPIENT OF: A CONTROLLED  
43 SUBSTANCE AS DEFINED BY ARTICLE THIRTY-THREE OF THE PUBLIC HEALTH LAW,  
44 WITHOUT A PRESCRIPTION; OR OTHER MEDICATION NOT APPROVED FOR ANY USE BY  
45 THE FEDERAL FOOD AND DRUG ADMINISTRATION. IT ALSO SHALL INCLUDE AN AGENT  
46 USING OR DISTRIBUTING AN UNLAWFUL CONTROLLED SUBSTANCE AS DEFINED BY  
47 ARTICLE THIRTY-THREE OF THE PUBLIC HEALTH LAW, AT THE WORKPLACE OR WHILE  
48 ON DUTY.

49 (H) "NEGLECT," WHICH SHALL MEAN ANY INACTION OR LACK OF ATTENTION BY  
50 AN AGENT OF A FACILITY OR PROVIDER AGENCY THAT RESULTS IN OR HAS THE  
51 REASONABLY FORESEEABLE POTENTIAL TO RESULT IN PHYSICAL INJURY OR SERIOUS  
52 OR PROTRACTED IMPAIRMENT OF THE PHYSICAL, MENTAL OR EMOTIONAL CONDITION  
53 OF A SERVICE RECIPIENT. NEGLECT SHALL INCLUDE, BUT IS NOT LIMITED TO:

54 (I) FAILURE TO PROVIDE PROPER SUPERVISION, INCLUDING A LACK OF PROPER  
55 SUPERVISION THAT RESULTS IN CONDUCT BETWEEN PERSONS RECEIVING SERVICES  
56 THAT WOULD CONSTITUTE ABUSE IF COMMITTED BY AN AGENT OR AGENTS OF A  
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1 FACILITY OR PROVIDER AGENCY; (II) FAILURE TO PROVIDE ADEQUATE FOOD,  
2 CLOTHING, SHELTER, MEDICAL, DENTAL, OPTOMETRIC OR SURGICAL CARE,  
3 CONSISTENT WITH THE RULES OR REGULATIONS PROMULGATED BY THE STATE AGENCY  
4 OPERATING, CERTIFYING OR SUPERVISING THE FACILITY OR PROVIDER AGENCY,  
5 PROVIDED THAT THE FACILITY OR PROVIDER AGENCY HAS REASONABLE ACCESS TO  
6 THE PROVISION OF SUCH SERVICES AND THAT NECESSARY CONSENTS TO ANY SUCH  
7 MEDICAL, DENTAL, OPTOMETRIC OR SURGICAL TREATMENT HAVE BEEN SOUGHT AND  
8 OBTAINED FROM THE APPROPRIATE INDIVIDUALS; OR (III) FAILURE TO PROVIDE  
9 ACCESS TO EDUCATIONAL INSTRUCTION, BY AN AGENT WITH A DUTY TO ENSURE  
10 THAT AN INDIVIDUAL RECEIVES ACCESS TO SUCH INSTRUCTION IN ACCORDANCE  
11 WITH THE PROVISIONS OF PART ONE OF ARTICLE SIXTY-FIVE OF THE EDUCATION

12 LAW.

13 2. "AGENT OF A FACILITY OR PROVIDER AGENCY" SHALL MEAN A PERSON  
14 AUTHORIZED TO ACT FOR A PROVIDER OF SERVICES IN A FACILITY OR PROVIDER  
15 AGENCY, INCLUDING BUT NOT LIMITED TO AN EMPLOYEE, MANAGER, ADMINISTRA-  
16 TOR, CONSULTANT, INTERN OR VOLUNTEER, OR A CONTRACTOR WHO HAS REGULAR  
17 AND SUBSTANTIAL CONTACT WITH SERVICE RECIPIENTS.

18 3. "EXECUTIVE DIRECTOR" SHALL MEAN THE EXECUTIVE DIRECTOR OF THE  
19 JUSTICE CENTER FOR THE PROTECTION OF PEOPLE WITH SPECIAL NEEDS.

20 4. "FACILITY" OR "PROVIDER AGENCY" SHALL MEAN:

21 (A) A FACILITY OR PROGRAM IN WHICH SERVICES ARE PROVIDED AND WHICH IS  
22 OPERATED, LICENSED OR CERTIFIED BY THE OFFICE OF MENTAL HEALTH, THE  
23 OFFICE FOR PEOPLE WITH DEVELOPMENTAL DISABILITIES OR THE OFFICE OF ALCO-  
24 HOLISM AND SUBSTANCE ABUSE SERVICES, INCLUDING BUT NOT LIMITED TO  
25 PSYCHIATRIC CENTERS, INPATIENT PSYCHIATRIC UNITS OF A GENERAL HOSPITAL,  
26 DEVELOPMENTAL CENTERS, INTERMEDIATE CARE FACILITIES, COMMUNITY RESI-  
27 DENCES, GROUP HOMES AND FAMILY CARE HOMES, PROVIDED, HOWEVER, THAT SUCH  
28 TERM SHALL NOT INCLUDE A SECURE TREATMENT FACILITY AS DEFINED IN SECTION  
29 10.03 OF THE MENTAL HYGIENE LAW, OR SERVICES PROVIDED IN PROGRAMS OR  
30 FACILITIES THAT ARE OPERATED BY THE OFFICE OF MENTAL HEALTH AND LOCATED  
31 IN STATE CORRECTIONAL FACILITIES UNDER THE JURISDICTION OF THE DEPART-  
32 MENT OF CORRECTIONS AND COMMUNITY SUPERVISION.

33 (B) ANY PROGRAM OR FACILITY THAT IS OPERATED BY THE OFFICE OF CHILDREN  
34 AND FAMILY SERVICES FOR JUVENILE DELINQUENTS OR JUVENILE OFFENDERS  
35 PLACED IN THE CUSTODY OF THE COMMISSIONER OF SUCH OFFICE AND ANY RESI-  
36 DENTIAL PROGRAMS OR FACILITIES LICENSED OR CERTIFIED BY THE OFFICE OF  
37 CHILDREN AND FAMILY SERVICES, EXCLUDING FOSTER FAMILY HOMES AND RESIDEN-  
38 TIAL PROGRAMS FOR VICTIMS OF DOMESTIC VIOLENCE;

39 (C) ADULT CARE FACILITIES, WHICH SHALL MEAN: (I) AN ADULT HOME OR  
40 ENRICHED HOUSING PROGRAM LICENSED PURSUANT TO ARTICLE SEVEN OF THIS  
41 CHAPTER; (II) AN ADULT HOME OR ENRICHED HOUSING PROGRAM AUTHORIZED TO  
42 OPERATE AN ASSISTED LIVING PROGRAM PURSUANT TO SECTION FOUR HUNDRED  
43 SIXTY-ONE-L OF THIS CHAPTER; (III) SUCH AN ADULT HOME OR ENRICHED HOUS-  
44 ING PROGRAM WITH ASSISTED LIVING RESIDENCE LICENSURE PURSUANT TO ARTICLE  
45 FORTY-SIX-B OF THE PUBLIC HEALTH LAW; OR (IV) OVERNIGHT SUMMER DAY AND  
46 TRAVELING SUMMER DAY CAMPS FOR CHILDREN WITH DEVELOPMENTAL DISABILITIES  
47 AS DEFINED IN REGULATIONS PROMULGATED BY THE COMMISSIONER OF HEALTH; OR

48 (D) THE NEW YORK STATE SCHOOL FOR THE BLIND AND THE NEW YORK STATE  
49 SCHOOL FOR THE DEAF, WHICH OPERATE PURSUANT TO ARTICLES EIGHTY-SEVEN AND  
50 EIGHTY-EIGHT OF THE EDUCATION LAW; AN INSTITUTION FOR THE INSTRUCTION OF  
51 THE DEAF AND THE BLIND WHICH HAS A RESIDENTIAL COMPONENT AND IS SUBJECT  
52 TO THE VISITATION OF THE COMMISSIONER OF EDUCATION PURSUANT TO ARTICLE  
53 EIGHTY-FIVE OF THE EDUCATION LAW WITH RESPECT TO ITS DAY AND RESIDENTIAL  
54 COMPONENTS; SPECIAL ACT SCHOOL DISTRICTS SERVING STUDENTS WITH DISABILI-  
55 TIES; OR IN-STATE PRIVATE SCHOOLS WHICH HAVE BEEN APPROVED BY THE  
56 COMMISSIONER OF EDUCATION FOR SPECIAL EDUCATION SERVICES OR PROGRAMS,  
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1 AND WHICH HAVE A RESIDENTIAL PROGRAM, INCLUDING A SCHOOL APPROVED ON A  
2 CHILD-SPECIFIC BASIS FOR EMERGENCY INTERIM PLACEMENTS PURSUANT TO  
3 GOVERNING STATE REGULATIONS, WITH RESPECT TO ITS DAY AND RESIDENTIAL  
4 COMPONENTS.

5 4-A. "STATE OVERSIGHT AGENCY" SHALL MEAN THE STATE AGENCY THAT OPER-  
6 ATES, LICENSES OR CERTIFIES AN APPLICABLE FACILITY OR PROVIDER AGENCY;  
7 PROVIDED HOWEVER THAT SUCH TERM SHALL ONLY INCLUDE THE FOLLOWING ENTI-  
8 TIES: THE OFFICE OF MENTAL HEALTH, THE OFFICE FOR PEOPLE WITH DEVELOP-  
9 MENTAL DISABILITIES, THE OFFICE OF ALCOHOLISM AND SUBSTANCE ABUSE  
10 SERVICES, THE OFFICE OF CHILDREN AND FAMILY SERVICES, THE DEPARTMENT OF  
11 HEALTH AND THE STATE EDUCATION DEPARTMENT. "STATE OVERSIGHT AGENCY" DOES  
12 NOT INCLUDE AGENCIES THAT ARE CERTIFICATION AGENCIES PURSUANT TO FEDERAL  
13 LAW OR REGULATION.

14 5. "MANDATED REPORTER" SHALL MEAN AN AGENT OF A FACILITY OR PROVIDER  
15 AGENCY AND ANY: PHYSICIAN; REGISTERED PHYSICIAN ASSISTANT; SURGEON;  
16 MEDICAL EXAMINER; CORONER; DENTIST; DENTAL HYGIENIST; OSTEOPATH; OPTOME-  
17 TRIST; CHIROPRACTOR; PODIATRIST; RESIDENT; INTERN; PSYCHOLOGIST; REGIS-  
18 TERED NURSE; LICENSED PRACTICAL NURSE; NURSE PRACTITIONER; SOCIAL WORK-  
19 ER; EMERGENCY MEDICAL TECHNICIAN; LICENSED CREATIVE ARTS THERAPIST;  
20 LICENSED MARRIAGE AND FAMILY THERAPIST; LICENSED MENTAL HEALTH COUNSE-  
21 LOR; LICENSED PSYCHOANALYST; HOSPITAL PERSONNEL ENGAGED IN THE ADMSI-  
22 SION, EXAMINATION, CARE OR TREATMENT OF PERSONS; CHRISTIAN SCIENCE PRAC-  
23 TITIONER; SCHOOL OFFICIAL, WHICH INCLUDES BUT IS NOT LIMITED TO SCHOOL  
24 TEACHER, SCHOOL GUIDANCE COUNSELOR, SCHOOL PSYCHOLOGIST, SCHOOL SOCIAL  
25 WORKER, SCHOOL NURSE, SCHOOL ADMINISTRATOR OR OTHER SCHOOL PERSONNEL

26 REQUIRED TO HOLD A TEACHING OR ADMINISTRATIVE LICENSE OR CERTIFICATE;  
 27 SOCIAL SERVICES WORKER; ANY OTHER CHILD CARE OR FOSTER CARE WORKER;  
 28 MENTAL HEALTH PROFESSIONAL; PERSON CREDENTIALLED BY THE OFFICE OF ALCO-  
 29 HOLISM AND SUBSTANCE ABUSE SERVICES; PEACE OFFICER; POLICE OFFICER;  
 30 DISTRICT ATTORNEY OR ASSISTANT DISTRICT ATTORNEY; INVESTIGATOR EMPLOYED  
 31 IN THE OFFICE OF A DISTRICT ATTORNEY; OR OTHER LAW ENFORCEMENT OFFICIAL.

32 6. "PHYSICAL INJURY" AND "IMPAIRMENT OF PHYSICAL CONDITION" SHALL MEAN  
 33 ANY CONFIRMED HARM, HURT OR DAMAGE RESULTING IN A SIGNIFICANT WORSENING  
 34 OR DIMINUTION OF AN INDIVIDUAL'S PHYSICAL CONDITION.

35 7. "DELEGATE INVESTIGATORY ENTITY" SHALL MEAN A FACILITY OR PROVIDER  
 36 AGENCY, OR ANY OTHER ENTITY AUTHORIZED BY THE REGULATIONS OF A STATE  
 37 OVERSIGHT AGENCY OR THE JUSTICE CENTER FOR PERSONS WITH DISABILITIES OR  
 38 SPECIAL NEEDS TO CONDUCT AN INVESTIGATION OF AN ALLEGATION OF ABUSE OR  
 39 NEGLECT OR A SIGNIFICANT INCIDENT.

40 8. "JUSTICE CENTER" SHALL MEAN THE JUSTICE CENTER FOR THE PROTECTION  
 41 OF PEOPLE WITH SPECIAL NEEDS.

42 9. "PERSON RECEIVING SERVICES," OR "SERVICE RECIPIENT" SHALL MEAN AN  
 43 INDIVIDUAL WHO RESIDES OR IS AN INPATIENT IN A RESIDENTIAL FACILITY OR  
 44 WHO RECEIVES SERVICES FROM A FACILITY OR PROVIDER AGENCY AS DEFINED IN  
 45 SUBDIVISION FOUR OF THIS SECTION.

46 10. "PERSONAL REPRESENTATIVE" SHALL MEAN A PERSON AUTHORIZED UNDER  
 47 STATE, TRIBAL, MILITARY OR OTHER APPLICABLE LAW TO ACT ON BEHALF OF A  
 48 VULNERABLE PERSON IN MAKING HEALTH CARE DECISIONS OR, FOR PROGRAMS THAT  
 49 SERVE CHILDREN UNDER THE JURISDICTION OF THE STATE EDUCATION DEPARTMENT  
 50 OR THE OFFICE OF CHILDREN AND FAMILY SERVICES, THE SERVICE RECIPIENT'S  
 51 PARENT, GUARDIAN OR OTHER PERSON LEGALLY RESPONSIBLE FOR SUCH PERSON.

52 11. "REPORTABLE INCIDENT" SHALL MEAN AN ALLEGATION OF ABUSE, NEGLECT,  
 53 OR A SIGNIFICANT INCIDENT, AS THESE TERMS ARE DEFINED IN THIS SECTION OR  
 54 ANY OTHER CONDUCT OR OCCURRENCE THAT THE STATE OVERSIGHT AGENCY IDENTI-  
 55 FIES AS WARRANTING MONITORING.

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1 12. "SIGNIFICANT INCIDENT" SHALL MEAN AN INCIDENT, OTHER THAN AN INCI-  
 2 DENT OF ABUSE OR NEGLECT, THAT BECAUSE OF ITS SEVERITY OR THE SENSITIV-  
 3 ITY OF THE SITUATION MAY RESULT IN OR HAS THE REASONABLY FORESEEABLE  
 4 POTENTIAL TO RESULT IN HARM TO THE HEALTH, SAFETY OR WELFARE OF A PERSON  
 5 RECEIVING SERVICES AND SHALL INCLUDE BUT SHALL NOT BE LIMITED TO:

6 (A) CONDUCT BETWEEN PERSONS RECEIVING SERVICES THAT WOULD CONSTITUTE  
 7 ABUSE IF COMMITTED BY AN AGENT OR AGENTS OF A FACILITY OR PROVIDER AGEN-  
 8 CY; OR

9 (B) CONDUCT ON THE PART OF AN AGENT OF A FACILITY OR PROVIDER AGENCY,  
 10 WHICH IS INCONSISTENT WITH A SERVICE RECIPIENT'S INDIVIDUAL TREATMENT  
 11 PLAN, GENERALLY ACCEPTED TREATMENT PRACTICES AND/OR APPLICABLE FEDERAL  
 12 OR STATE LAWS, REGULATIONS OR POLICIES AND WHICH IMPAIRS OR CREATES A  
 13 REASONABLY FORESEEABLE POTENTIAL TO IMPAIR THE HEALTH, SAFETY OR WELFARE  
 14 OF A PERSON RECEIVING SERVICES, INCLUDING BUT NOT LIMITED TO:

15 (I) UNAUTHORIZED SECLUSION, WHICH SHALL MEAN THE PLACEMENT OF A PERSON  
 16 RECEIVING SERVICES IN A ROOM OR AREA FROM WHICH HE OR SHE CANNOT, OR  
 17 PERCEIVES THAT HE OR SHE CANNOT, LEAVE AT WILL;

18 (II) UNAUTHORIZED USE OF TIME-OUT, WHICH SHALL MEAN THE USE OF A  
 19 PROCEDURE IN WHICH A PERSON RECEIVING SERVICES IS REMOVED FROM REGULAR  
 20 PROGRAMMING AND ISOLATED IN A ROOM OR AREA FOR THE CONVENIENCE OF AGENTS  
 21 OF A FACILITY, OR AS A SUBSTITUTE FOR PROGRAMMING;

22 (III) EXCEPT AS PROVIDED FOR IN PARAGRAPH (G) OF SUBDIVISION ONE OF  
 23 THIS SECTION, THE ADMINISTRATION OF A PRESCRIBED OR OVER-THE-COUNTER  
 24 MEDICATION, WHICH IS INCONSISTENT WITH A PRESCRIPTION OR ORDER ISSUED  
 25 FOR A SERVICE RECIPIENT BY A LICENSED, QUALIFIED HEALTH CARE PRACTITION-  
 26 ER, AND WHICH HAS AN ADVERSE EFFECT ON A SERVICE RECIPIENT. FOR  
 27 PURPOSES OF THIS PARAGRAPH, "ADVERSE EFFECT" SHALL MEAN THE UNANTIC-  
 28 IPATED AND UNDESIRABLE SIDE EFFECT FROM THE ADMINISTRATION OF A PARTIC-  
 29 ULAR MEDICATION WHICH UNFAVORABLY AFFECTS THE WELL-BEING OF A SERVICE  
 30 RECIPIENT; OR

31 (C) ANY OTHER CONDUCT IDENTIFIED IN REGULATIONS OF THE STATE OVERSIGHT  
 32 AGENCY, PURSUANT TO GUIDELINES OR STANDARDS ESTABLISHED BY THE EXECUTIVE  
 33 DIRECTOR.

34 13. "SUBJECT OF THE REPORT" SHALL MEAN AN AGENT OF A FACILITY OR  
 35 PROVIDER AGENCY, AS DEFINED IN SUBDIVISION FOUR OF THIS SECTION, WHO IS  
 36 REPORTED TO THE VULNERABLE PERSONS' CENTRAL REGISTER FOR THE ALLEGED  
 37 ABUSE OR NEGLECT OF A VULNERABLE PERSON.

38 14. "OTHER PERSONS NAMED IN THE REPORT" SHALL MEAN AND BE LIMITED TO  
 39 THE FOLLOWING PERSONS WHO ARE NAMED IN A REPORT OF ABUSE OR NEGLECT  
 40 OTHER THAN THE SUBJECT OF THE REPORT: THE SERVICE RECIPIENT WHOSE CARE

41 AND TREATMENT IS THE CONCERN OF A REPORT TO THE VULNERABLE PERSONS'  
42 CENTRAL REGISTER, AND THE PERSONAL REPRESENTATIVE, IF ANY, AS DEFINED IN  
43 SUBDIVISION TEN OF THIS SECTION.

44 15. "VULNERABLE PERSONS' CENTRAL REGISTER" SHALL MEAN THE STATEWIDE  
45 CENTRAL REGISTER OF ABUSE AND NEGLECT OF VULNERABLE PERSONS, WHICH SHALL  
46 OPERATE IN ACCORDANCE WITH SECTION FOUR HUNDRED NINETY-TWO OF THIS ARTI-  
47 CLE.

48 16. "VULNERABLE PERSON" SHALL MEAN A PERSON WHO, DUE TO PHYSICAL OR  
49 COGNITIVE DISABILITIES, OR THE NEED FOR SPECIALIZED SERVICES OR PLACE-  
50 MENT, IS RECEIVING SERVICES FROM A FACILITY OR PROVIDER AGENCY.

51 S 489. APPLICABILITY. THE PROVISIONS OF THIS ARTICLE SHALL APPLY TO  
52 FACILITIES AND PROVIDER AGENCIES PROVIDED, HOWEVER, NOTHING IN THIS  
53 ARTICLE SHALL BE DEEMED TO RELIEVE ANY FACILITY OR PROVIDER AGENCY OR  
54 AGENT THEREOF COVERED BY THIS ARTICLE OF ITS OR THEIR OBLIGATIONS TO  
55 COMPLY WITH THE REQUIREMENTS OF FEDERAL LAWS OR REGULATIONS TO WHICH  
56 THAT FACILITY, PROVIDER AGENCY OR AGENT THEREOF IS SUBJECT, INCLUDING  
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1 ANY REQUIREMENTS THAT ARE A CONDITION OF FEDERAL FINANCIAL PARTICIPATION  
2 IN MEDICAL ASSISTANCE PAYMENTS. TO THE EXTENT THAT FEDERAL REQUIREMENTS  
3 CONFLICT WITH ANY OF THE PROVISIONS IN THIS ARTICLE, THE FEDERAL  
4 REQUIREMENTS SHALL SUPERSEDE THE CONFLICTING PROVISIONS IN THIS ARTICLE  
5 WITH RESPECT TO ANY SUCH FACILITY OR PROVIDER AGENCY.

6 S 490. INCIDENT MANAGEMENT PROGRAMS. 1. EACH STATE OVERSIGHT AGENCY,  
7 AS DEFINED IN THIS ARTICLE, SHALL PROMULGATE REGULATIONS APPROVED BY THE  
8 JUSTICE CENTER, THAT CONTAIN PROCEDURES AND REQUIREMENTS CONSISTENT WITH  
9 GUIDELINES AND STANDARDS DEVELOPED BY THE JUSTICE CENTER, ADDRESSING THE  
10 FOLLOWING ISSUES RELATING TO AN INCIDENT MANAGEMENT PROGRAM:

11 (A) ALL REPORTABLE INCIDENTS ARE IDENTIFIED AND REPORTED IN A TIMELY  
12 MANNER IN ACCORDANCE WITH THIS ARTICLE;

13 (B) ALL REPORTABLE INCIDENTS ARE INVESTIGATED IN A TIMELY MANNER;

14 (C) INDIVIDUAL INCIDENTS OF ABUSE OR NEGLECT AND SIGNIFICANT INCI-  
15 DENTS, AND INCIDENT PATTERNS AND TRENDS, ARE REVIEWED TO IDENTIFY AND  
16 IMPLEMENT PREVENTIVE AND CORRECTIVE ACTIONS, WHICH MAY INCLUDE, BUT  
17 SHALL NOT BE LIMITED TO, STAFF RETRAINING OR ANY APPROPRIATE DISCIPLI-  
18 NARY ACTION ALLOWED BY LAW OR CONTRACT, AS WELL AS OPPORTUNITIES FOR  
19 IMPROVEMENT;

20 (D) PATTERNS AND TRENDS IN THE REPORTING AND RESPONSE TO ALLEGATIONS  
21 OF ABUSE AND NEGLECT AND OTHER REPORTABLE INCIDENTS ARE REVIEWED AND  
22 PLANS OF IMPROVEMENT ARE TIMELY DEVELOPED BASED ON SUCH REVIEWS;

23 (E) INFORMATION REGARDING INDIVIDUAL REPORTABLE INCIDENTS, INCIDENT  
24 PATTERNS AND TRENDS, AND PATTERNS AND TRENDS IN THE REPORTING AND  
25 RESPONSE TO ALLEGATIONS OF ABUSE AND NEGLECT AND OTHER REPORTABLE INCI-  
26 DENTS IS SHARED, CONSISTENT WITH APPLICABLE LAW, WITH THE JUSTICE  
27 CENTER, IN THE FORM AND MANNER REQUIRED BY THE JUSTICE CENTER AND, FOR  
28 FACILITIES OR PROVIDER AGENCIES THAT ARE NOT STATE OPERATED, WITH THE  
29 APPLICABLE STATE OVERSIGHT AGENCY WHICH SHALL PROVIDE SUCH INFORMATION  
30 TO THE JUSTICE CENTER; AND

31 (F) INCIDENT REVIEW COMMITTEES ARE ESTABLISHED; PROVIDED, HOWEVER,  
32 THAT THE REGULATIONS MAY AUTHORIZE AN EXEMPTION FROM THIS REQUIREMENT,  
33 WHEN APPROPRIATE, BASED ON THE SIZE OF THE FACILITY OR PROVIDER AGENCY  
34 OR OTHER RELEVANT FACTORS. SUCH COMMITTEES SHALL BE COMPOSED OF MEMBERS  
35 OF THE GOVERNING BODY OF THE FACILITY OR PROVIDER AGENCY AND OTHER  
36 PERSONS IDENTIFIED BY THE DIRECTOR OF THE FACILITY OR PROVIDER AGENCY,  
37 INCLUDING SOME MEMBERS OF THE FOLLOWING: DIRECT SUPPORT STAFF, LICENSED  
38 HEALTH CARE PRACTITIONERS, SERVICE RECIPIENTS AND REPRESENTATIVES OF  
39 FAMILY, CONSUMER AND OTHER ADVOCACY ORGANIZATIONS, BUT NOT THE DIRECTOR  
40 OF THE FACILITY OR PROVIDER AGENCY. SUCH COMMITTEE SHALL MEET REGULARLY  
41 TO: (I) REVIEW THE TIMELINESS, THOROUGHNESS AND APPROPRIATENESS OF THE  
42 FACILITY OR PROVIDER AGENCY'S RESPONSES TO REPORTABLE INCIDENTS; (II)  
43 RECOMMEND ADDITIONAL OPPORTUNITIES FOR IMPROVEMENT TO THE DIRECTOR OF  
44 THE FACILITY OR PROVIDER AGENCY, IF APPROPRIATE; (III) REVIEW INCIDENT  
45 TRENDS AND PATTERNS CONCERNING REPORTABLE INCIDENTS; AND (IV) MAKE  
46 RECOMMENDATIONS TO THE DIRECTOR OF THE FACILITY OR PROVIDER AGENCY TO  
47 ASSIST IN REDUCING REPORTABLE INCIDENTS. MEMBERS OF THE COMMITTEE SHALL  
48 BE TRAINED IN CONFIDENTIALITY LAWS AND REGULATIONS, AND SHALL COMPLY  
49 WITH SECTION SEVENTY-FOUR OF THE PUBLIC OFFICERS LAW.

50 2. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, EXCEPT AS MAY BE  
51 PROVIDED BY SECTION 33.25 OF THE MENTAL HYGIENE LAW, RECORDS, REPORTS OR  
52 OTHER INFORMATION MAINTAINED BY THE JUSTICE CENTER, STATE OVERSIGHT  
53 AGENCIES, DELEGATE INVESTIGATORY ENTITIES AND FACILITIES AND PROVIDER  
54 AGENCIES REGARDING THE DELIBERATIONS OF AN INCIDENT REVIEW COMMITTEE

55 SHALL BE CONFIDENTIAL AND SHALL NOT BE DISCLOSED TO ANY PARTY UNLESS  
 56 OTHERWISE REQUIRED BY LAW AND, PROVIDED, FURTHER, THAT NOTHING IN THIS  
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1 ARTICLE SHALL BE DEEMED TO DIMINISH OR OTHERWISE DEROGATE THE LEGAL  
 2 PRIVILEGE AFFORDED TO PROCEEDINGS, RECORDS, REPORTS OR OTHER INFORMATION  
 3 RELATING TO A QUALITY ASSURANCE FUNCTION, INCLUDING THE INVESTIGATION OF  
 4 AN INCIDENT REPORTED PURSUANT TO SECTION 29.29 OF THE MENTAL HYGIENE  
 5 LAW, AS PROVIDED IN SECTION SIXTY-FIVE HUNDRED TWENTY-SEVEN OF THE  
 6 EDUCATION LAW. FOR PURPOSES OF THIS SECTION, A QUALITY ASSURANCE FUNC-  
 7 TION IS A PROCESS FOR SYSTEMATICALLY MONITORING AND EVALUATING VARIOUS  
 8 ASPECTS OF A PROGRAM, SERVICE OR FACILITY TO ENSURE THAT STANDARDS OF  
 9 CARE ARE BEING MET.

10 3. NO MEMBER OF AN INCIDENT REVIEW COMMITTEE PERFORMING A QUALITY  
 11 ASSURANCE FUNCTION SHALL BE PERMITTED OR REQUIRED TO TESTIFY IN A JUDI-  
 12 CIAL OR ADMINISTRATIVE PROCEEDING WITH RESPECT TO QUALITY ASSURANCE  
 13 RECORDS OR ANY FINDING, RECOMMENDATION, EVALUATION, OPINION OR ACTION  
 14 TAKEN, EXCEPT THAT THIS PROVISION IS NOT INTENDED TO RELIEVE ANY STATE  
 15 OVERSIGHT AGENCY, DELEGATE INVESTIGATORY ENTITY, FACILITY OR PROVIDER  
 16 AGENCY, OR AN AGENT THEREOF, FROM LIABILITY ARISING FROM TREATMENT OF A  
 17 SERVICE RECIPIENT.

18 4. THERE SHALL BE NO MONETARY LIABILITY ON THE PART OF, AND NO CAUSE  
 19 OF ACTION FOR DAMAGES SHALL ARISE AGAINST, ANY PERSON ON ACCOUNT OF  
 20 PARTICIPATING IN GOOD FAITH AND WITH REASONABLE CARE IN THE COMMUNI-  
 21 CATION OF INFORMATION IN THE POSSESSION OF SUCH PERSON TO AN INCIDENT  
 22 MANAGEMENT COMMITTEE, OR ON ACCOUNT OF ANY RECOMMENDATION OR EVALUATION  
 23 REGARDING THE CONDUCT OR PRACTICES OF ANY AGENT OF A FACILITY OR PROVID-  
 24 ER AGENCY.

25 5. WITH RESPECT TO THE IMPLEMENTATION OF INCIDENT MANAGEMENT PLANS IN  
 26 RESIDENTIAL SCHOOLS OR FACILITIES LOCATED OUTSIDE OF NEW YORK STATE, THE  
 27 LOCAL SOCIAL SERVICES DISTRICT OR LOCAL EDUCATION AGENCY CONTRACTING OR  
 28 PLACING AN INDIVIDUAL WITH SUCH FACILITY OR SCHOOL OR THE STATE AGENCY  
 29 FUNDING SUCH INDIVIDUAL'S PLACEMENT SHALL REQUIRE THAT: (A) THE PLACING  
 30 ENTITY OR FUNDING AGENCY BE NOTIFIED IMMEDIATELY OF ANY ALLEGATION OF  
 31 ABUSE OR NEGLECT, OR OTHER SIGNIFICANT INCIDENT INVOLVING AN INDIVIDUAL  
 32 FROM NEW YORK STATE; (B) AN INVESTIGATION BE CONDUCTED BY THE  
 33 OUT-OF-STATE FACILITY OR SCHOOL OR OTHER ENTITY AUTHORIZED TO CONDUCT  
 34 SUCH INVESTIGATION, OR BY THE PLACING ENTITY OR FUNDING AGENCY, WHERE  
 35 PRACTICABLE; AND (C) THE FINDINGS OF SUCH INVESTIGATION BY THE  
 36 OUT-OF-STATE FACILITY OR ENTITY BE FORWARDED TO THE PLACING ENTITY OR  
 37 FUNDING AGENCY IN NEW YORK STATE WITHIN NINETY DAYS. SUCH ENTITIES OR  
 38 AGENCIES SHALL FORWARD SUCH REPORTS TO THE JUSTICE CENTER, AND ITS EXEC-  
 39 UTIVE DIRECTOR, IN HIS OR HER DISCRETION MAY TERMINATE FUNDING FOR SUCH  
 40 FOR ANY FAILURE TO COMPLY WITH THIS SECTION.

41 6. ALL FACILITIES OR PROVIDER AGENCIES NOT OTHERWISE SUBJECT TO ARTI-  
 42 CLE SIX OF THE PUBLIC OFFICERS LAW SHALL MAKE AVAILABLE FOR PUBLIC  
 43 INSPECTION AND COPYING RECORDS RELATING TO ABUSE AND NEGLECT OF VULNER-  
 44 ABLE PERSONS AS WOULD BE AVAILABLE FROM A STATE AGENCY, AS DEFINED IN  
 45 ARTICLE SIX OF THE PUBLIC OFFICERS LAW UPON WRITTEN REQUEST FOR SUCH  
 46 RECORDS, PROVIDED THAT SUCH ENTITIES MAY DENY ACCESS TO RECORDS OR  
 47 PORTIONS THEREOF THAT SUCH ENTITY DETERMINES WOULD BE EXEMPT FROM  
 48 DISCLOSURE BY A STATE AGENCY PURSUANT TO SUCH ARTICLE. THE REQUESTING  
 49 PARTY MAY APPEAL A DENIAL OF ACCESS TO SUCH RECORDS TO THE EXECUTIVE  
 50 DIRECTOR OF THE JUSTICE CENTER. A REQUESTING PARTY DENIED ACCESS TO A  
 51 RECORD IN SUCH APPEAL DETERMINATION, MAY BRING A PROCEEDING FOR REVIEW  
 52 OF SUCH DENIAL PURSUANT TO ARTICLE SEVENTY-EIGHT OF THE CIVIL PRACTICE  
 53 LAW AND RULES. THE EXECUTIVE DIRECTOR OF THE JUSTICE CENTER SHALL  
 54 PROMULGATE REGULATIONS, CONSISTENT WITH THE PROVISIONS OF ARTICLE SIX OF  
 55 THE PUBLIC OFFICERS LAW PROVIDING FOR THE PROMPT RESPONSE TO SUCH  
 56 REQUESTS.

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1 S 491. DUTY TO REPORT INCIDENTS. 1. (A) MANDATED REPORTERS SHALL  
 2 REPORT ALLEGATIONS OF ABUSE OR NEGLECT TO THE VULNERABLE PERSONS'  
 3 CENTRAL REGISTER AS ESTABLISHED BY SECTION FOUR HUNDRED NINETY-TWO OF  
 4 THIS ARTICLE AND IN ACCORDANCE WITH THE REQUIREMENTS SET FORTH THEREIN.  
 5 (B) ALLEGATIONS OF ABUSE OR NEGLECT SHALL BE REPORTED IMMEDIATELY TO  
 6 THE VULNERABLE PERSONS' CENTRAL REGISTER UPON DISCOVERY. FOR PURPOSES  
 7 OF THIS ARTICLE, "DISCOVERY" OCCURS WHEN THE MANDATED REPORTER WITNESSES  
 8 AN INCIDENT OF SUSPECTED ABUSE OR NEGLECT OR WHEN ANOTHER PERSON,  
 9 INCLUDING THE VULNERABLE PERSON, COMES BEFORE THE MANDATED REPORTER IN  
 10 THE MANDATED REPORTER'S PROFESSIONAL OR OFFICIAL CAPACITY AND PROVIDES

11 THE MANDATED REPORTER WITH REASONABLE CAUSE TO SUSPECT THAT THE VULNER-  
 12 ABLE PERSON HAS BEEN ABUSED OR NEGLECTED; PROVIDED, HOWEVER, SUCH  
 13 MANDATED REPORTERS SHALL NOT BE REQUIRED TO REPORT TO THE VULNERABLE  
 14 PERSONS' CENTRAL REGISTER ANY INCIDENT THAT THE MANDATED REPORTER ACTU-  
 15 ALLY KNOWS HAS ALREADY BEEN REPORTED TO SUCH REGISTER. WHENEVER A  
 16 MANDATED REPORTER WHO IS AN AGENT OF A FACILITY OR PROVIDER AGENCY IS  
 17 REQUIRED TO REPORT TO THE VULNERABLE PERSONS' CENTRAL REGISTER, SUCH  
 18 MANDATED REPORTER SHALL MAKE THE REPORT AS REQUIRED AND SHALL THEN ALSO  
 19 REPORT SUCH INCIDENT TO THE ADMINISTRATOR OR A DESIGNATED PERSON IN HIS  
 20 OR HER FACILITY OR PROVIDER AGENCY IN ACCORDANCE WITH AGENCY REGU-  
 21 LATIONS, POLICIES AND PROCEDURES. THE ADMINISTRATOR OR DESIGNATED PERSON  
 22 SHALL BE RESPONSIBLE FOR ALL SUBSEQUENT ADMINISTRATION NECESSITATED BY  
 23 THE REPORT. A REPORT TO THE REGISTER SHALL INCLUDE THE NAME, TITLE AND  
 24 CONTACT INFORMATION OF EVERY PERSON KNOWN TO THE MANDATED REPORTER TO  
 25 HAVE THE SAME INFORMATION AS THE MANDATED REPORTER CONCERNING THE  
 26 ALLEGED ABUSE OR NEGLECT. NOTHING IN THIS ARTICLE SHALL BE CONSTRUED TO  
 27 REQUIRE MORE THAN ONE REPORT TO THE VULNERABLE PERSONS' CENTRAL REGISTER  
 28 CONCERNING A PARTICULAR INCIDENT OR ALLEGATION OF ABUSE OR NEGLECT.

29 (C) NOTWITHSTANDING THE PRIVILEGES SET FORTH IN ARTICLE FORTY-FIVE OF  
 30 THE CIVIL PRACTICE LAW AND RULES, AND ANY OTHER PROVISION OF LAW TO THE  
 31 CONTRARY, MANDATED REPORTERS WHO MAKE A REPORT WHICH INITIATES AN INVE-  
 32 STIGATION OF AN ALLEGATION OF ABUSE OR NEGLECT OF A VULNERABLE PERSON ARE  
 33 REQUIRED TO COMPLY WITH ALL REQUESTS FOR RECORDS MADE BY THE JUSTICE  
 34 CENTER FOR PERSONS WITH DISABILITIES OR SPECIAL NEEDS OR A DELEGATE  
 35 INVESTIGATORY ENTITY RELATING TO SUCH REPORT, INCLUDING RECORDS RELATING  
 36 TO DIAGNOSIS, PROGNOSIS OR TREATMENT, AND CLINICAL RECORDS, OF ANY  
 37 PATIENT OR CLIENT THAT ARE ESSENTIAL FOR A FULL INVESTIGATION OF ALLEGA-  
 38 TIONS OF ABUSE OR NEGLECT PURSUANT TO THIS ARTICLE; PROVIDED, HOWEVER,  
 39 THAT DISCLOSURE OF SUBSTANCE ABUSE TREATMENT AND EDUCATIONAL RECORDS  
 40 SHALL BE MADE PURSUANT TO THE STANDARDS AND PROCEDURES FOR DISCLOSURE OF  
 41 SUCH RECORDS DELINEATED IN FEDERAL LAW. WRITTEN REPORTS FROM PERSONS OR  
 42 OFFICIALS REQUIRED BY THIS TITLE TO REPORT SHALL BE ADMISSIBLE IN  
 43 EVIDENCE IN ANY PROCEEDINGS RELATING TO ABUSE OR NEGLECT.

44 2. (A) AGENTS OF A FACILITY OR PROVIDER AGENCY SHALL PROMPTLY REPORT  
 45 ANY SIGNIFICANT INCIDENT TO THE DIRECTOR OF THE FACILITY OR PROVIDER  
 46 AGENCY AND THE APPLICABLE STATE OVERSIGHT AGENCY IN ACCORDANCE WITH THE  
 47 REGULATIONS OF SUCH STATE OVERSIGHT AGENCY; PROVIDED, HOWEVER, ANY  
 48 PERSON WHO HAS REASONABLE CAUSE TO SUSPECT THAT A PERSON RECEIVING  
 49 SERVICES HAS BEEN SUBJECT TO A SIGNIFICANT INCIDENT ALSO MAY MAKE SUCH A  
 50 REPORT. THE APPLICABLE STATE OVERSIGHT AGENCY SHALL NOTIFY THE JUSTICE  
 51 CENTER OF ANY SUCH INCIDENT, IN THE FORM AND MANNER PROVIDED BY THE  
 52 RULES, REGULATIONS, GUIDELINES OR STANDARDS ESTABLISHED BY THE JUSTICE  
 53 CENTER.

54 (B) IN ACCORDANCE WITH REGULATIONS OF THE APPLICABLE STATE OVERSIGHT  
 55 AGENCY, REPORTS OF SIGNIFICANT INCIDENTS SHALL BE INVESTIGATED, EITHER  
 56 BY THE STATE OVERSIGHT AGENCY, THE JUSTICE CENTER OR BY A DELEGATE  
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1 INVESTIGATORY ENTITY, AND THE RESULTS OF THE INVESTIGATION SHALL BE  
 2 REVIEWED AND THE INCIDENT RESOLVED PURSUANT TO THE PROCEDURES ESTAB-  
 3 LISHED AS PART OF THE INCIDENT MANAGEMENT PROGRAM DESCRIBED IN SECTION  
 4 FOUR HUNDRED NINETY OF THIS ARTICLE.

5 3. ANY PERSON OR OFFICIAL REQUIRED TO REPORT CASES OF SUSPECTED ABUSE  
 6 OR NEGLECT OR A SIGNIFICANT INCIDENT PURSUANT TO THIS SECTION MAY TAKE  
 7 OR CAUSE TO BE TAKEN COLOR PHOTOGRAPHS OF VISIBLE TRAUMA AND THE FACE OF  
 8 THE VULNERABLE PERSON NAMED IN THE REPORT AND UPON THE CONSENT OF A  
 9 PERSON AUTHORIZED TO CONSENT TO MEDICAL CARE FOR THE VULNERABLE PERSON,  
 10 SHALL, IF MEDICALLY INDICATED, CAUSE TO BE PERFORMED A RADIOLOGICAL  
 11 EXAMINATION OF THE VULNERABLE PERSON. ANY PHOTOGRAPHS OR RADIOLOGICAL  
 12 EXAMINATIONS TAKEN SHALL BE PROVIDED TO THE JUSTICE CENTER FOR USE ONLY  
 13 FOR THE PURPOSES OF AN INVESTIGATION OF ABUSE, NEGLECT OR A SIGNIFICANT  
 14 INCIDENT.

15 4. (A) ANY PERSON OR OFFICIAL REQUIRED BY THIS ARTICLE TO REPORT A  
 16 CASE OF SUSPECTED ABUSE OR NEGLECT TO THE VULNERABLE PERSONS' CENTRAL  
 17 REGISTER WHO WILLFULLY FAILS TO DO SO SHALL BE GUILTY OF A CLASS A  
 18 MISDEMEANOR.

19 (B) ANY PERSON OR OFFICIAL REQUIRED BY THIS ARTICLE TO REPORT A CASE  
 20 OF SUSPECTED ABUSE OR NEGLECT TO THE VULNERABLE PERSONS' CENTRAL REGIS-  
 21 TER WHO KNOWINGLY AND WILLFULLY FAILS TO DO SO SHALL BE CIVILLY LIABLE  
 22 FOR THE DAMAGES PROXIMATELY CAUSED BY SUCH FAILURE.

23 5. A MEDICAL OR OTHER PUBLIC OR PRIVATE INSTITUTION, STATE AGENCY,  
 24 SCHOOL, FACILITY OR PROVIDER AGENCY SHALL NOT TAKE ANY RETALIATORY

25 PERSONNEL ACTION, AS SUCH TERM IS DEFINED IN PARAGRAPH (E) OF SUBDIVI-  
 26 SION ONE OF SECTION SEVEN HUNDRED FORTY OF THE LABOR LAW, AGAINST AN  
 27 EMPLOYEE OR AGENT BECAUSE SUCH EMPLOYEE OR AGENT BELIEVES THAT HE OR SHE  
 28 HAS REASONABLE CAUSE TO SUSPECT THAT A VULNERABLE PERSON HAS BEEN  
 29 NEGLECTED OR HAS BEEN SUBJECTED TO A SIGNIFICANT INCIDENT AND THAT  
 30 EMPLOYEE OR AGENT THEREFORE MAKES A REPORT IN ACCORDANCE WITH THIS  
 31 SECTION. A COURT OF COMPETENT JURISDICTION MAY GRANT INJUNCTIVE RELIEF  
 32 TO ANY PERSON DETERMINED TO HAVE BEEN SUBJECTED TO SUCH RETALIATION.

33 S 492. VULNERABLE PERSONS' CENTRAL REGISTER. 1. THERE SHALL BE ESTAB-  
 34 LISHED IN THE JUSTICE CENTER A STATEWIDE VULNERABLE PERSONS' CENTRAL  
 35 REGISTER. THE REGISTER SHALL: (A) RECEIVE REPORTS OF ALLEGATIONS OF  
 36 ABUSE OR NEGLECT OF PERSONS RECEIVING SERVICES IN FACILITIES OR PROVIDER  
 37 AGENCIES SUBJECT TO THE REQUIREMENTS OF THIS ARTICLE; (B) AS WARRANTED,  
 38 REFER REPORTS ALLEGING CRIMES TO APPROPRIATE LAW ENFORCEMENT AUTHORI-  
 39 TIES; (C) NOTIFY APPROPRIATE PERSONS AND OFFICIALS OF RECEIVED AND  
 40 ACCEPTED REPORTS; AND (D) MAINTAIN AN ELECTRONIC DATABASE OF EACH REPORT  
 41 AND THE FINDING ASSOCIATED WITH EACH REPORT. IN ACCORDANCE WITH THIS  
 42 SECTION, THE EXECUTIVE DIRECTOR SHALL ESTABLISH STANDARDS AND PROCEDURES  
 43 FOR THE OPERATION OF THE VULNERABLE PERSONS' CENTRAL REGISTER.

44 2. (A) THE VULNERABLE PERSONS' CENTRAL REGISTER SHALL BE STAFFED BY  
 45 PERSONS WITH AT LEAST A BACCALAUREATE OR EQUIVALENT COLLEGE DEGREE IN A  
 46 RELEVANT FIELD OF STUDY OR AT LEAST TWO YEARS OF EXPERIENCE IN THE  
 47 DIRECT PROVISION OF SERVICES, ADULT OR CHILD PROTECTIVE SERVICES, OR ANY  
 48 OTHER QUALIFICATIONS IDENTIFIED BY THE EXECUTIVE DIRECTOR. DIRECT  
 49 SERVICE PROVISION SHALL INCLUDE THE CARE, INVESTIGATION, ASSESSMENT,  
 50 TREATMENT, OR CASE PLANNING FOR PERSONS IN FACILITIES OR PROGRAMS  
 51 COVERED BY THIS ARTICLE OR EQUIVALENT FACILITIES OR PROGRAMS. VULNER-  
 52 ABLE PERSONS' CENTRAL REGISTER STAFF ALSO SHALL HAVE ACCESS TO APPROPRI-  
 53 ATE LAW ENFORCEMENT OFFICERS OR OTHERS WITH LAW ENFORCEMENT EXPERIENCE  
 54 WHO SHALL ASSIST IN SCREENING REPORTS THAT APPEAR TO ALLEGE CRIMINAL  
 55 OFFENSES AND HELP REFER REPORTS, AS WARRANTED, TO APPROPRIATE LAW  
 56 ENFORCEMENT AUTHORITIES.

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26

1 (B) THE VULNERABLE PERSONS' CENTRAL REGISTER SHALL RECEIVE REPORTS OF  
 2 ALLEGATIONS OF ABUSE OR NEGLECT TWENTY-FOUR HOURS PER DAY, SEVEN DAYS A  
 3 WEEK. MANDATED REPORTERS SHALL MAKE SUCH REPORTS IN ACCORDANCE WITH  
 4 SECTION FOUR HUNDRED NINETY-ONE OF THIS ARTICLE; PROVIDED, HOWEVER, ANY  
 5 PERSON WHO HAS REASONABLE CAUSE TO SUSPECT THAT A PERSON RECEIVING  
 6 SERVICES IS ABUSED OR NEGLECTED MAY MAKE SUCH A REPORT. IN NO EVENT  
 7 SHALL A REPORT BY A MANDATED REPORTER TO THE VULNERABLE PERSONS' CENTRAL  
 8 REGISTER ELIMINATE THE OBLIGATION OF A MANDATED REPORTER TO REPORT INCI-  
 9 DENTS IN ACCORDANCE WITH THE APPLICABLE LAWS, REGULATIONS AND POLICY OF  
 10 THE APPLICABLE STATE OVERSIGHT AGENCY.

11 (C) REPORTS OF ALLEGATIONS OF ABUSE OR NEGLECT SHALL BE SUBMITTED, BY  
 12 A STATEWIDE, TOLL-FREE TELEPHONE NUMBER (A "HOTLINE") OR BY ELECTRONIC  
 13 TRANSMISSION, IN A MANNER AND ON FORMS PRESCRIBED BY THE EXECUTIVE  
 14 DIRECTOR. THE INFORMATION REQUIRED ON THE REPORTING FORM SHALL INCLUDE  
 15 BUT IS NOT LIMITED TO: THE NAME AND CONTACT INFORMATION OF THE PERSON OR  
 16 PERSONS MAKING THE REPORT, IF AVAILABLE, AND, IF THE REPORT IS MADE BY  
 17 AN AGENT OF A FACILITY OR PROVIDER AGENCY, ANY OTHER STAFF WHO HAVE THE  
 18 SAME INFORMATION; THE NAME AND ADDRESS OF THE FACILITY OR PROVIDER AGEN-  
 19 CY; THE DATE, TIME, SPECIFIC LOCATION AND DESCRIPTION OF THE INCIDENT;  
 20 THE NAME AND CONTACT INFORMATION OF THE SUBJECT OF THE REPORT OF ABUSE  
 21 OR NEGLECT, IF KNOWN; THE NAME OF THE VULNERABLE PERSON ALLEGED TO HAVE  
 22 BEEN ABUSED OR NEGLECTED; THE NAMES OF PERSONAL REPRESENTATIVES FOR THE  
 23 VULNERABLE PERSON WHO IS ALLEGED TO HAVE BEEN ABUSED OR NEGLECTED, IF  
 24 KNOWN; AND ANY OTHER INFORMATION OR DOCUMENTATION THAT THE EXECUTIVE  
 25 DIRECTOR BELIEVES MAY BE HELPFUL. THE INABILITY OF A PERSON MAKING A  
 26 REPORT TO IDENTIFY A SUBJECT SHALL, IN NO CIRCUMSTANCE, CONSTITUTE CAUSE  
 27 TO REJECT SUCH ALLEGATION FOR INVESTIGATION OR TO FAIL TO REFER SUCH  
 28 ALLEGATION FOR CORRECTIVE ACTION.

29 3. (A) WHEN ANY ALLEGATION THAT COULD REASONABLY CONSTITUTE ABUSE OR  
 30 NEGLECT IS RECEIVED BY THE REGISTER, THE REGISTER SHALL ACCEPT AND IMME-  
 31 DIATELY TRANSMIT NOTICE OF THE REPORT ORALLY OR ELECTRONICALLY TO THE  
 32 APPROPRIATE STATE OVERSIGHT AGENCY AND, AS APPROPRIATE, TO THE DIRECTOR  
 33 OR OPERATOR OF THAT FACILITY OR PROVIDER AGENCY.

34 (B) WHENEVER A TELEPHONE CALL OR ELECTRONIC TRANSMISSION TO THE  
 35 VULNERABLE PERSONS' CENTRAL REGISTER ALLEGES AN ACT OR CIRCUMSTANCES  
 36 THAT MAY CONSTITUTE A CRIMINAL OFFENSE OR AN IMMEDIATE THREAT TO A  
 37 VULNERABLE PERSON'S HEALTH, SAFETY OR WELFARE, THE REGISTER SHALL  
 38 CONVEY, BY THE MOST EXPEDIENT MEANS AVAILABLE, THE INFORMATION CONTAINED



39 IN SUCH CALL OR TRANSMISSION TO THE APPROPRIATE LAW ENFORCEMENT AGENCY,  
40 DISTRICT ATTORNEY OR OTHER PUBLIC OFFICIAL EMPOWERED TO PROVIDE NECES-  
41 SARY AID OR ASSISTANCE, AND STATE OVERSIGHT AGENCY.

42 (C) THE JUSTICE CENTER IS RESPONSIBLE FOR COMMENCING AN INVESTIGATION  
43 OF ALL ALLEGATIONS OF ABUSE OR NEGLECT THAT ARE ACCEPTED BY THE VULNER-  
44 ABLE PERSONS' CENTRAL REGISTER. WITH RESPECT TO SUCH AN INVESTIGATION,  
45 THE JUSTICE CENTER SHALL:

46 (I) UPON ACCEPTANCE OF A REPORT OF ABUSE OR NEGLECT BY THE VULNERABLE  
47 PERSONS' CENTRAL REGISTER, PROMPTLY COMMENCE AN APPROPRIATE INVESTI-  
48 GATION;

49 (II) TAKE ALL APPROPRIATE MEASURES TO PROTECT THE LIFE AND HEALTH OF  
50 THE PERSON WHO IS THE ALLEGED VICTIM OF ABUSE OR NEGLECT, WHICH MAY  
51 INCLUDE WORKING WITH THE STATE OVERSIGHT AGENCY TO TAKE IMMEDIATE STEPS  
52 TO REMOVE THE VULNERABLE PERSON FROM HIS OR HER CURRENT FACILITY OR  
53 PROGRAM, IF THE JUSTICE CENTER HAS REASONABLE CAUSE TO BELIEVE THAT THE  
54 CIRCUMSTANCES OR CONDITION OF THE VULNERABLE PERSON ARE SUCH THAT  
55 CONTINUING IN HIS OR HER PLACE OF RESIDENCE PRESENTS AN IMMINENT DANGER  
56 TO HIS OR HER LIFE OR HEALTH;  
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1 (III) DETERMINE WHETHER THE SUBJECT OF THE REPORT IS CURRENTLY THE  
2 SUBJECT OF AN OPEN OR SUBSTANTIATED REPORT IN THE VULNERABLE PERSONS'  
3 CENTRAL REGISTER;

4 (IV) CONTACT THE STATEWIDE CENTRAL REGISTER OF CHILD ABUSE AND  
5 MALTREATMENT TO DETERMINE WHETHER THE SUBJECT OF THE REPORT HAS BEEN OR  
6 IS CURRENTLY THE SUBJECT OF AN INDICATED CHILD ABUSE AND MALTREATMENT  
7 REPORT ON FILE WITH THE STATEWIDE CENTRAL REGISTER OF CHILD ABUSE AND  
8 MALTREATMENT;

9 (V) IF IT IS DISCOVERED THAT THE SUBJECT OF A REPORT HAS ONE OR MORE  
10 SUBSTANTIATED REPORTS OF ABUSE OR NEGLECT OR INDICATED REPORTS OF CHILD  
11 ABUSE OR MALTREATMENT IN THE STATEWIDE CENTRAL REGISTER OF CHILD ABUSE  
12 AND MALTREATMENT AND AN INVESTIGATION WAS OR INVESTIGATIONS WERE  
13 CONDUCTED BY A DIFFERENT STATE AGENCY, OR A LOCAL CHILD PROTECTIVE  
14 SERVICE, CONTACT ALL KNOWN AGENCIES OR SERVICES WHO INVESTIGATED SUCH  
15 PREVIOUS REPORT OR REPORTS TO OBTAIN INFORMATION ON SUCH REPORTS IN  
16 ACCORDANCE WITH SECTION FOUR HUNDRED NINETY-SIX OF THIS ARTICLE;

17 (VI) NOTIFY THE PERSONAL REPRESENTATIVE OF THE PERSON ALLEGED TO HAVE  
18 BEEN ABUSED OR NEGLECTED, AND, IF WARRANTED, NOTIFY THE SUBJECT OR  
19 SUBJECTS OF THE REPORT AND ANY OTHER PERSONS NAMED IN THE REPORT IN  
20 WRITING OF THE EXISTENCE OF THE REPORT; PROVIDED, HOWEVER, THAT SUCH  
21 NOTIFICATION MAY BE LIMITED IN ACCORDANCE WITH SUBDIVISION (C) OF  
22 SECTION 33.16 OF THE MENTAL HYGIENE LAW;

23 (VII) IF A REPORT OF ABUSE OR NEGLECT TO THE VULNERABLE PERSONS'  
24 CENTRAL REGISTER INVOLVES THE DEATH OF A PERSON, THE JUSTICE CENTER  
25 SHALL GIVE TELEPHONE NOTICE AND IMMEDIATELY SEND A COPY OF THE REPORT TO  
26 THE APPROPRIATE DISTRICT ATTORNEY AND TO THE MEDICAL EXAMINER OR CORON-  
27 ER. THE MEDICAL EXAMINER OR CORONER SHALL CONDUCT A PROMPT INVESTIGATION  
28 AND SHALL FORWARD A PRELIMINARY WRITTEN REPORT OF HIS OR HER FINDINGS  
29 WITHIN SIXTY DAYS OF THE DATE OF DEATH, ABSENT EXTRAORDINARY CIRCUM-  
30 STANCES, AND HIS OR HER FINAL WRITTEN REPORT PROMPTLY, ABSENT EXTRAOR-  
31 DINARY CIRCUMSTANCES, TO THE APPROPRIATE DISTRICT ATTORNEY, THE APPRO-  
32 PRIATE LAW ENFORCEMENT OFFICIAL, THE STATE AGENCY RESPONSIBLE FOR  
33 OVERSEEING THE INVESTIGATION, THE JUSTICE CENTER MEDICAL REVIEW BOARD  
34 AND, IF THE DEATH OCCURRED IN A HOSPITAL, THE HOSPITAL;

35 (VIII) SUBMIT ABUSE AND NEGLECT FINDINGS TO THE VULNERABLE PERSONS'  
36 CENTRAL REGISTER IN ACCORDANCE WITH SECTION FOUR HUNDRED NINETY-THREE OF  
37 THIS ARTICLE;

38 (IX) NOTIFY THE APPLICABLE STATE OVERSIGHT AGENCY AND THE DIRECTOR OR  
39 OPERATOR, WHERE APPROPRIATE, TO DEVELOP A PLAN OF PREVENTION OR REMEDI-  
40 ATION THAT THE FACILITY OR PROGRAM MUST IMPLEMENT IN RESPONSE TO THE  
41 REPORT'S FINDINGS WHICH MUST BE APPROVED AND MONITORED OF ITS IMPLEMEN-  
42 TATION BY THE JUSTICE CENTER OR THE STATE OVERSIGHT AGENCY, AS APPROPRI-  
43 ATE; AND

44 (X) REFER SUSPECTED CASES OF FALSELY REPORTING ABUSE OR NEGLECT IN  
45 VIOLATION OF SUBDIVISION FOUR OF SECTION 240.50 OF THE PENAL LAW TO THE  
46 APPROPRIATE LAW ENFORCEMENT AGENCY OR DISTRICT ATTORNEY FOR INVESTI-  
47 GATION AND PROSECUTION.

48 (D) WHENEVER A TELEPHONE CALL OR ELECTRONIC TRANSMISSION TO THE  
49 VULNERABLE PERSONS' CENTRAL REGISTER CANNOT BE ACCEPTED AS A REPORT, BUT  
50 THE INFORMATION PROVIDED ALLEGES A SIGNIFICANT INCIDENT OR OTHER POTEN-  
51 TIAL WRONGDOING AT A FACILITY OR PROVIDER AGENCY, THE REGISTER SHALL  
52 FORWARD THE REPORT TO THE APPLICABLE STATE OVERSIGHT AGENCY FOR INVESTI-

53 GATION AND PROTECTIVE ACTIONS, AS NEEDED, PURSUANT TO SECTION FOUR  
54 HUNDRED NINETY-ONE OF THIS ARTICLE.

55 4. THE JUSTICE CENTER SHALL MAINTAIN AND KEEP UP-TO-DATE ABUSE AND  
56 NEGLECT RECORDS OF ALL CASES REPORTED, TOGETHER WITH ANY ADDITIONAL  
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1 INFORMATION OBTAINED DURING AN INVESTIGATION OF SUCH A REPORT AND A  
2 RECORD OF THE FINAL DISPOSITION OF THE REPORT.

3 5. THE VULNERABLE PERSONS' CENTRAL REGISTER SHALL MAINTAIN AN ELEC-  
4 TRONIC DATABASE OF ALL ACCEPTED REPORTS OF ABUSE AND NEGLECT AND SIGNIF-  
5 ICANT INCIDENTS. STATE OVERSIGHT AGENCIES SHALL HAVE ACCESS TO INFORMA-  
6 TION IN THE DATABASE, LIMITED TO CASES INVOLVING FACILITIES OR PROVIDER  
7 AGENCIES UNDER THEIR JURISDICTION.

8 (A) A UNIQUE IDENTIFIER SHALL BE ASSIGNED TO EACH REPORT BY THE  
9 VULNERABLE PERSONS' CENTRAL REGISTER.

10 (B) THE REGISTER SHALL INCLUDE THE FOLLOWING INFORMATION FOR EACH  
11 REPORT: A RECORD OF THE FINAL DISPOSITION OF THE REPORT; THE NAMES AND  
12 IDENTIFYING DATA; DATES AND CIRCUMSTANCES OF ANY PERSON REQUESTING OR  
13 RECEIVING INFORMATION FROM THE REGISTER; WHETHER THE PERSON MAKING THE  
14 REPORT AUTHORIZED THE DISCLOSURE OF HIS OR HER NAME AND PERSONALLY IDEN-  
15 TIFIABLE INFORMATION; AND ANY OTHER INFORMATION THAT THE EXECUTIVE  
16 DIRECTOR, IN CONSULTATION WITH THE COMMISSIONERS OF THE STATE OVERSIGHT  
17 AGENCIES COVERED BY THIS ARTICLE, IDENTIFIES AS FURTHERING THE PURPOSES  
18 OF THIS ARTICLE AND COMPLYING WITH STATE AND FEDERAL REGULATIONS REGARD-  
19 ING THE SECURITY AND CONFIDENTIALITY OF INDIVIDUALLY IDENTIFYING HEALTH  
20 INFORMATION.

21 6. THE JUSTICE CENTER SHALL REVIEW SUCH ELECTRONIC DATABASE TO IDENTI-  
22 FY INCIDENT PATTERNS AND TRENDS, AND IMPLEMENT PREVENTIVE AND CORRECTIVE  
23 ACTIONS, AND TO IDENTIFY PATTERNS AND TRENDS IN THE REPORTING AND  
24 RESPONSE TO ALLEGATIONS OF ABUSE AND NEGLECT AND OTHER REPORTABLE INCI-  
25 DENTS AND DEVELOP PLANS OF IMPROVEMENT BASED ON SUCH REVIEWS.

26 7. (A) GENERAL INFORMATION ABOUT THE EXISTENCE AND PURPOSES OF THE  
27 VULNERABLE PERSONS' CENTRAL REGISTER AND HOW TO MAKE A REPORT TO THE  
28 REGISTER SHALL BE MADE AVAILABLE ON THE WEBSITE OF THE JUSTICE CENTER,  
29 WITH LINKS TO SUCH INFORMATION PROVIDED ON THE WEBSITES OF EACH OF THE  
30 STATE OVERSIGHT AGENCIES COVERED BY THIS ARTICLE.

31 (B) THE JUSTICE CENTER, IN COLLABORATION WITH THE STATE OVERSIGHT  
32 AGENCIES COVERED BY THIS ARTICLE, SHALL DEVELOP AND WIDELY DISTRIBUTE  
33 WRITTEN INFORMATION EXPLAINING THE REPORTING REQUIREMENTS AND PROCESSES  
34 CONSISTENT WITH THIS ARTICLE. IN ADDITION, UPON A VULNERABLE PERSON'S  
35 COMMENCEMENT OF THE RECEIPT OF SERVICES BY A FACILITY OR A PROVIDER  
36 AGENCY, PERSONAL REPRESENTATIVES SHALL BE PROVIDED WITH SUCH INFORMA-  
37 TION, AND SUCH INFORMATION SHALL BE MADE AVAILABLE UPON REQUEST TO ANY  
38 PERSON.

39 (C) THE JUSTICE CENTER, IN COLLABORATION WITH THE STATE AGENCIES OPER-  
40 ATING, LICENSING OR CERTIFYING FACILITIES OR THE PROVIDER AGENCIES  
41 COVERED BY THIS ARTICLE, SHALL PROVIDE MANDATED REPORTERS WITH WRITTEN  
42 INFORMATION EXPLAINING THE REPORTING REQUIREMENTS IN ACCORDANCE WITH  
43 THIS ARTICLE.

44 (D) THE JUSTICE CENTER SHALL DEVELOP AND IMPLEMENT PROGRAMS TO PUBLIC-  
45 LY RECOGNIZE AND VALUE THE CONTRIBUTIONS OF REPORTERS OF ABUSE OR  
46 NEGLECT, OR SIGNIFICANT INCIDENTS, WHOSE ACTIONS PROMPT CORRECTIONS AND  
47 IMPROVEMENTS IN THE SERVICE SYSTEM; PROVIDED, HOWEVER, THAT THE NAME AND  
48 OTHER PERSONALLY IDENTIFIABLE INFORMATION OF SUCH REPORTER SHALL NOT BE  
49 SHARED UNLESS SUCH PERSON AUTHORIZES DISCLOSURE.

50 8. IN A CASE WHERE A SUBJECT OF A REPORT OF ALLEGED ABUSE OR NEGLECT  
51 RESIGNS FROM HIS OR HER POSITION OR IS TERMINATED WHILE UNDER INVESTI-  
52 GATION, THE STATE OPERATING AGENCY OR THE APPLICABLE FACILITY OR PROVID-  
53 ER AGENCY SHALL PROMPTLY REPORT SUCH RESIGNATION OR TERMINATION TO THE  
54 JUSTICE CENTER. THE INVESTIGATION OF THE REPORT SHALL CONTINUE DESPITE  
55 THE RESIGNATION OR TERMINATION OF SUCH SUBJECT.

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1 S 493. ABUSE AND NEGLECT FINDINGS; CONSEQUENCES. 1. WITHIN SIXTY DAYS  
2 OF THE VULNERABLE PERSONS' CENTRAL REGISTER ACCEPTING A REPORT OF AN  
3 ALLEGATION OF ABUSE OR NEGLECT, THE JUSTICE CENTER SHALL CAUSE THE FIND-  
4 INGS OF THE INVESTIGATION TO BE ENTERED INTO THE VULNERABLE PERSONS'  
5 CENTRAL REGISTER. THE JUSTICE CENTER MAY TAKE ADDITIONAL TIME TO ENTER  
6 SUCH FINDINGS INTO THE VULNERABLE PERSONS' CENTRAL REGISTER; PROVIDED,  
7 HOWEVER, THAT THE REASONS FOR ANY DELAY MUST BE DOCUMENTED AND SUCH  
8 FINDINGS SUBMITTED AS SOON THEREAFTER AS PRACTICABLY POSSIBLE.

9 2. FOR SUBSTANTIATED REPORTS OF ABUSE OR NEGLECT IN FACILITIES OR

10 PROVIDER AGENCIES IN RECEIPT OF MEDICAL ASSISTANCE, SUCH INFORMATION  
 11 SHALL ALSO BE FORWARDED BY THE JUSTICE CENTER TO THE OFFICE OF THE MEDI-  
 12 CAID INSPECTOR GENERAL.

13 3. (A) A FINDING SHALL BE BASED ON A PREPONDERANCE OF THE EVIDENCE AND  
 14 SHALL INDICATE WHETHER: (I) THE ALLEGED ABUSE OR NEGLIGENCE IS SUBSTANTI-  
 15 ATED BECAUSE IT IS DETERMINED THAT THE INCIDENT OCCURRED AND THE SUBJECT  
 16 OF THE REPORT WAS RESPONSIBLE OR, IF NO SUBJECT CAN BE IDENTIFIED AND AN  
 17 INCIDENT OCCURRED, THAT, THE FACILITY OR PROVIDER AGENCY WAS RESPONSIB-  
 18 BLE; (II) THE ALLEGED ABUSE OR NEGLIGENCE IS DISCONFIRMED BECAUSE IT IS  
 19 DETERMINED NOT TO HAVE OCCURRED OR THE SUBJECT OF THE REPORT WAS NOT  
 20 RESPONSIBLE; OR (III) THE REPORT IS INCONCLUSIVE BECAUSE IT CANNOT BE  
 21 DETERMINED THAT THE INCIDENT OCCURRED OR THAT THE SUBJECT OF THE REPORT  
 22 WAS RESPONSIBLE. A REPORT SHALL NOT BE DETERMINED TO BE INCONCLUSIVE  
 23 SOLELY BECAUSE THE SUBJECT OF A REPORT RESIGNS DURING AN INVESTIGATION.  
 24 THE JUSTICE CENTER SHALL CONSIDER A RESIGNATION OF A SUBJECT OF A REPORT  
 25 DURING AN INVESTIGATION AS A NEGATIVE INFERENCE REGARDING THE ACTIONS OR  
 26 LACK OF ACTION BY SUCH SUBJECT.

27 (B) IN CONJUNCTION WITH THE POSSIBLE FINDINGS IDENTIFIED IN PARAGRAPH  
 28 (A) OF THIS SUBDIVISION, A CONCURRENT FINDING MAY BE MADE THAT A SYSTEM-  
 29 IC PROBLEM CAUSED OR CONTRIBUTED TO THE OCCURRENCE OF THE INCIDENT.

30 (C) THE JUSTICE CENTER SHALL NOTIFY THE SUBJECT OF THE REPORT, THE  
 31 FACILITY OR PROVIDER AGENCY WHERE THE ABUSE OR NEGLIGENCE WAS ALLEGED TO  
 32 HAVE OCCURRED, THE APPLICABLE STATE OVERSIGHT AGENCY AND OTHER PERSONS  
 33 NAMED IN THE REPORT OF THE FINDINGS OF THE INVESTIGATION AND, AS APPLI-  
 34 CABLE, THE LOCAL SOCIAL SERVICES COMMISSIONER OR SCHOOL DISTRICT THAT  
 35 PLACED THE INDIVIDUAL IN THE FACILITY OR PROVIDER AGENCY, THE OFFICE OF  
 36 CHILDREN AND FAMILY SERVICES AND ANY ATTORNEY FOR THE INDIVIDUAL WHOSE  
 37 APPOINTMENT HAS BEEN CONTINUED BY A FAMILY COURT JUDGE DURING THE TERM  
 38 OF AN INDIVIDUAL'S PLACEMENT, IN ACCORDANCE WITH APPLICABLE STATE AND  
 39 FEDERAL LAWS AND REGULATIONS GOVERNING THE USE AND DISCLOSURE OF  
 40 RECORDS. IF THE REPORT IS SUBSTANTIATED, THE JUSTICE CENTER SHALL ALSO  
 41 NOTIFY THE SUBJECT OF THE REPORT OF HIS OR HER RIGHTS TO REQUEST THAT  
 42 THE REPORT BE AMENDED IN ACCORDANCE WITH SECTION FOUR HUNDRED  
 43 NINETY-FOUR OF THIS ARTICLE.

44 (D) A REPORT THAT IS FOUND TO BE DISCONFIRMED OR INCONCLUSIVE SHALL BE  
 45 SEALED IMMEDIATELY.

46 4. SUBSTANTIATED REPORTS OF ABUSE OR NEGLIGENCE SHALL BE CATEGORIZED INTO  
 47 ONE OR MORE OF THE FOLLOWING THREE CATEGORIES, AS APPLICABLE:

48 (A) CATEGORY ONE CONDUCT IS SERIOUS PHYSICAL ABUSE, SEXUAL ABUSE OR  
 49 OTHER SERIOUS CONDUCT BY AGENTS OF A FACILITY OR PROVIDER AGENCY, WHICH  
 50 INCLUDES:

51 (I) INTENTIONAL CONDUCT THAT CAUSES PHYSICAL INJURY AS DEFINED IN  
 52 SUBDIVISION NINE OF SECTION 10.00 OF THE PENAL LAW, OR THAT CAUSES DEATH  
 53 OR SERIOUS DISFIGUREMENT, IMPAIRMENT OF HEALTH OR LOSS OR IMPAIRMENT OF  
 54 THE FUNCTION OF ANY BODILY ORGAN OR PART OR CREATES A REASONABLY FORE-  
 55 SEABLE RISK OF SUCH PHYSICAL INJURY;

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1 (II) FAILURE TO PERFORM A DUTY THAT RESULTS IN PHYSICAL INJURY THAT  
 2 CREATES A RISK OF DEATH OR THAT CAUSES DEATH OR SERIOUS DISFIGUREMENT,  
 3 IMPAIRMENT OF HEALTH OR LOSS OR IMPAIRMENT OF THE FUNCTION OF ANY BODILY  
 4 ORGAN OR PART, A SUBSTANTIAL DIMINUTION OF A SERVICE RECIPIENT'S PSYCHO-  
 5 LOGICAL OR INTELLECTUAL FUNCTIONING, AS DETERMINED BY A PHYSICIAN,  
 6 PSYCHOLOGIST, PSYCHIATRIC NURSE PRACTITIONER, LICENSED CLINICAL OR  
 7 MASTER SOCIAL WORKER OR LICENSED MENTAL HEALTH COUNSELOR, OR CREATES A  
 8 REASONABLY FORESEEABLE RISK OF EITHER;

9 (III) THREATS, TAUNTS, DEROGATORY COMMENTS OR RIDICULE THAT RESULTS IN  
 10 OR HAS THE POTENTIAL TO RESULT IN A SUBSTANTIAL DIMINUTION OF A SERVICE  
 11 RECIPIENT'S PSYCHOLOGICAL OR INTELLECTUAL FUNCTIONING, AS DETERMINED BY  
 12 A PHYSICIAN, PSYCHOLOGIST, PSYCHIATRIC NURSE PRACTITIONER, LICENSED  
 13 CLINICAL OR MASTER SOCIAL WORKER OR LICENSED MENTAL HEALTH COUNSELOR;

14 (IV) ENCOURAGING OTHERS TO ENGAGE IN CRUEL OR DEGRADING TREATMENT OF A  
 15 SERVICE RECIPIENT THAT RESULTS IN OR HAS THE POTENTIAL TO RESULT IN A  
 16 SUBSTANTIAL DIMINUTION OF A SERVICE RECIPIENT'S PSYCHOLOGICAL OR INTEL-  
 17 LECTUAL FUNCTIONING, AS DETERMINED BY A PHYSICIAN, PSYCHOLOGIST, PSYCHI-  
 18 ATRIC NURSE PRACTITIONER, LICENSED CLINICAL OR MASTER SOCIAL WORKER OR  
 19 LICENSED MENTAL HEALTH COUNSELOR;

20 (V) ENGAGING IN ANY CONDUCT INTENDED TO PROMOTE OR PRODUCE SEXUAL  
 21 CONTACT BETWEEN PERSONS RECEIVING SERVICES AND AGENTS OF A FACILITY OR  
 22 PROVIDER AGENCY OR BETWEEN PERSONS RECEIVING SERVICES WHEN ONE PERSON IS  
 23 NOT CAPABLE OF CONSENT. SEXUAL CONTACT SHALL INCLUDE BUT NOT BE LIMITED  
 24 TO SEXUAL INTERCOURSE, DEVIATE SEXUAL INTERCOURSE, AGGRAVATED SEXUAL

25 CONTACT OR SEXUAL TOUCHING;  
 26 (VI) ANY CONDUCT ENCOURAGING, FACILITATING OR PERMITTING ANOTHER TO  
 27 ENGAGE IN SEXUAL CONDUCT WITH A SERVICE RECIPIENT;  
 28 (VII) ANY CONDUCT ENCOURAGING OR PERMITTING ANOTHER TO PROMOTE A SEXU-  
 29 AL PERFORMANCE BY A SERVICE RECIPIENT OR PERMITTING OR USING A SERVICE  
 30 RECIPIENT IN ANY PROSTITUTION-RELATED OFFENSE;  
 31 (VIII) USING OR DISTRIBUTING AN UNLAWFUL CONTROLLED SUBSTANCE, AS  
 32 DEFINED BY ARTICLE THIRTY-THREE OF THE PUBLIC HEALTH LAW, AT THE WORK  
 33 PLACE OR WHILE ON DUTY;  
 34 (IX) ADMINISTERING AN UNLAWFUL CONTROLLED SUBSTANCE, AS DEFINED BY  
 35 ARTICLE THIRTY-THREE OF THE PUBLIC HEALTH LAW TO A SERVICE RECIPIENT;  
 36 (X) INTENTIONALLY FALSIFYING RECORDS RELATED TO THE SAFETY, TREATMENT  
 37 OR SUPERVISION OF A SERVICE RECIPIENT, INCLUDING BUT NOT LIMITED TO  
 38 MEDICAL RECORDS, FIRE SAFETY INSPECTIONS AND DRILLS AND SUPERVISION  
 39 CHECKS;  
 40 (XI) FAILING TO REPORT ANY OF THE CONDUCT IN SUBPARAGRAPHS (I) THROUGH  
 41 (IX) OF THIS PARAGRAPH UPON DISCOVERY;  
 42 (XII) FOR SUPERVISORS, FAILING TO ACT UPON A REPORT OF CONDUCT IN  
 43 SUBPARAGRAPHS (I) THROUGH (X) OF THIS PARAGRAPH AS DIRECTED BY REGU-  
 44 LATION, PROCEDURE OR POLICY;  
 45 (XIII) INTENTIONALLY MAKING A MATERIALLY FALSE STATEMENT OR INTEN-  
 46 TIONALLY WITHHOLDING MATERIAL INFORMATION DURING AN INVESTIGATION INTO A  
 47 REPORT OF CONDUCT DESCRIBED IN SUBPARAGRAPHS (I) THROUGH (X) OF THIS  
 48 PARAGRAPH OR OTHERWISE OBSTRUCTING AN INVESTIGATION; AND  
 49 (XIV) INTIMIDATING A MANDATED REPORTER WITH THE INTENTION OF PREVENT-  
 50 ING HIM OR HER FROM REPORTING CONDUCT DESCRIBED IN SUBPARAGRAPHS (I)  
 51 THROUGH (X) OF THIS PARAGRAPH OR RETALIATING AGAINST ANY AGENT MAKING  
 52 SUCH A REPORT IN GOOD FAITH.  
 53 (B) CATEGORY TWO CONDUCT IS ABUSE OR NEGLECT BY AGENTS OF A FACILITY  
 54 OR PROVIDER AGENCY THAT DOES NOT MEET THE CONDUCT DESCRIBED IN CATEGORY  
 55 ONE. CONDUCT IN THIS CATEGORY THAT OCCURS MORE THAN ONCE WITHIN A  
 56 THREE-YEAR PERIOD SHALL ELEVATE A FINDING FROM CATEGORY TWO TO CATEGORY  
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1 ONE. REPORTS THAT RESULT IN A CATEGORY TWO FINDING NOT ELEVATED TO A  
 2 CATEGORY ONE FINDING SHALL BE SEALED AFTER FIVE YEARS.

3 (C) CATEGORY THREE SHALL BE CONDITIONS AT A FACILITY OR PROVIDER AGEN-  
 4 CY THAT EXPOSE SERVICE RECIPIENTS TO HARM OR RISK OF HARM WHERE STAFF  
 5 CULPABILITY IS MITIGATED BY SYSTEMIC PROBLEMS SUCH AS INADEQUATE MANAGE-  
 6 MENT, STAFFING, TRAINING OR SUPERVISION. CATEGORY THREE ALSO SHALL  
 7 INCLUDE INSTANCES IN WHICH IT HAS BEEN SUBSTANTIATED THAT A SERVICE  
 8 RECIPIENT HAS BEEN ABUSED OR NEGLECTED, BUT THE PERPETRATOR OF SUCH  
 9 ABUSE OR NEGLECT CANNOT BE IDENTIFIED.

10 5. (A) CATEGORY ONE FINDINGS SHALL RESULT IN PERMANENT PLACEMENT OF  
 11 THE SUBJECT OF THE REPORT ON THE VULNERABLE PERSONS' CENTRAL REGISTER IN  
 12 ACCORDANCE WITH SECTION FOUR HUNDRED NINETY-FIVE OF THIS ARTICLE.

13 (B) WHEN AN EMPLOYEE HAS A SECOND SUBSTANTIATED CATEGORY TWO FINDING  
 14 OCCURRING WITHIN A THREE-YEAR PERIOD, AN EMPLOYEE WITH A CATEGORY TWO  
 15 FINDING SHALL BE SUBJECT TO PROGRESSIVE DISCIPLINE. (FOR STATE ENTITIES  
 16 BOUND BY COLLECTIVE BARGAINING, SUCH DISCIPLINE ESTABLISHED BY COLLEC-  
 17 TIVE BARGAINING SHALL GOVERN.) IN CONJUNCTION WITH DISCIPLINARY ACTION,  
 18 THE EMPLOYER SHALL DEVELOP A PLAN FOR TRAINING AND ANY OTHER ACTIONS TO  
 19 REDUCE THE RISK OF RECURRENCE OF SUCH CONDUCT. SUCH PLAN MUST BE  
 20 APPROVED BY AND ITS IMPLEMENTATION MONITORED BY THE JUSTICE CENTER OR  
 21 THE STATE OVERSIGHT AGENCY, AS APPROPRIATE.

22 (C) WITH RESPECT TO A CATEGORY THREE FINDING, THE JUSTICE CENTER SHALL  
 23 REQUIRE THE FACILITY OR PROVIDER AGENCY TO DEVELOP AND IMPLEMENT A PLAN  
 24 OF PREVENTION AND REMEDIATION OF THE DEFICIENT CONDITIONS. SUCH PLAN  
 25 MUST BE APPROVED BY AND ITS IMPLEMENTATION MONITORED BY THE JUSTICE  
 26 CENTER OR THE STATE OVERSIGHT AGENCY, AS APPROPRIATE. IN REVIEWING THE  
 27 CONTINUED QUALIFICATIONS OF A FACILITY OR PROVIDER AGENCY FOR AN OPERAT-  
 28 ING CERTIFICATE, THE STATE OVERSIGHT AGENCY SHALL EVALUATE SUCH FACILITY  
 29 OR PROVIDER AGENCY'S COMPLIANCE WITH ANY PLANS OF PREVENTION AND REMEDI-  
 30 ATION RESULTING FROM CATEGORY THREE REPORTS AND TAKE APPROPRIATE  
 31 ENFORCEMENT ACTION, WHICH MAY INCLUDE, BUT NOT BE LIMITED TO, CLOSING  
 32 INTAKE TO THE FACILITY OR PROVIDER AGENCY OR TERMINATING OPERATING  
 33 CERTIFICATES FOR PROLONGED OR REPEATED FAILURE TO CORRECT IDENTIFIED  
 34 PROBLEMS IN ACCORDANCE WITH APPLICABLE STATE LAW OR REGULATION.

35 S 494. AMENDMENTS TO AND APPEALS OF SUBSTANTIATED REPORTS OF ABUSE OR  
 36 NEGLECT. 1. (A) AT ANY TIME SUBSEQUENT TO THE COMPLETION OF AN INVESTI-  
 37 GATION OF AN ALLEGATION OF ABUSE OR NEGLECT, BUT IN NO EVENT LATER THAN  
 38 THIRTY DAYS AFTER THE SUBJECT OF THE REPORT IS NOTIFIED THAT THE REPORT

39 IS SUBSTANTIATED, THE SUBJECT MAY REQUEST THAT THE VULNERABLE PERSONS'  
 40 CENTRAL REGISTER AMEND THE FINDINGS OF THE REPORT. IF THE REGISTER DOES  
 41 NOT AMEND THE FINDINGS OF THE REPORT IN ACCORDANCE WITH SUCH REQUEST,  
 42 THE SUBJECT SHALL HAVE THE RIGHT TO BE HEARD TO DETERMINE WHETHER THE  
 43 FINDINGS OF THE REPORT SHOULD BE AMENDED ON THE GROUNDS THAT THEY ARE  
 44 INACCURATE OR INCONSISTENT WITH THE PROVISIONS IN THIS ARTICLE.

45 (B) IF IT IS DETERMINED THAT THE JUSTICE CENTER FAILED TO PROVE BY A  
 46 PREPONDERANCE OF THE EVIDENCE THE FINDING THAT THE SUBJECT COMMITTED THE  
 47 ACT OR ACTS OF ABUSE OR NEGLECT, THE JUSTICE CENTER SHALL AMEND THE  
 48 RECORD TO REFLECT THAT SUCH A FINDING WAS MADE, AND SHALL PROMPTLY NOTI-  
 49 FY THE SUBJECT OF THE REPORT AND ANY OTHER PERSONS OR ENTITIES PREVIOUS-  
 50 LY NOTIFIED OF THE EXISTENCE OF THE REPORT OF THE AMENDED FINDING. SUCH  
 51 REPORT SHALL BE SEALED IN ACCORDANCE WITH THE STANDARDS SET FORTH IN  
 52 SUBDIVISION FOUR OF SECTION FOUR HUNDRED NINETY-SIX OF THIS ARTICLE.

53 2. THE JUSTICE CENTER IS AUTHORIZED TO MAKE ANY APPROPRIATE ORDER  
 54 RESPECTING THE AMENDMENT OF THE FINDINGS OF A REPORT TO MAKE IT ACCURATE  
 55 OR CONSISTENT WITH THE REQUIREMENTS OF THIS ARTICLE.

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32

1 S 495. REGISTER OF SUBSTANTIATED CATEGORY ONE CASES OF ABUSE OR  
 2 NEGLECT. 1. THE JUSTICE CENTER SHALL DEVELOP AND MAINTAIN A REGISTER OF  
 3 SUBJECTS OF REPORTS WHO HAVE BEEN FOUND TO HAVE A SUBSTANTIATED CATEGORY  
 4 ONE CASE OF ABUSE OR NEGLECT, IN ACCORDANCE WITH PARAGRAPH (A) OF SUBDI-  
 5 VISION FOUR OF SECTION FOUR HUNDRED NINETY-THREE OF THIS ARTICLE, AND  
 6 WHO HAVE: (A) NOT REQUESTED AN AMENDMENT OF THE FINDINGS OF THE REPORT  
 7 IN THE TIME SPECIFIED IN SUBDIVISION ONE OF SECTION FOUR HUNDRED NINE-  
 8 TY-FOUR OF THIS ARTICLE; OR (B) BEEN HEARD PURSUANT TO SUCH SUBDIVISION  
 9 AND ALL THE FINDINGS OF THE REPORT WERE NOT AMENDED TO BE DISCONFIRMED  
 10 OR INCONCLUSIVE.

11 2. ALL FACILITY AND PROVIDER AGENCIES AS DEFINED IN SUBDIVISION FOUR  
 12 OF SECTION FOUR HUNDRED EIGHTY-EIGHT OF THIS ARTICLE, OTHER PROVIDERS OF  
 13 SERVICES TO VULNERABLE PERSONS IN PROGRAMS LICENSED, CERTIFIED OR FUNDED  
 14 BY ANY STATE OVERSIGHT AGENCY AND OTHER PROVIDER AND LICENSING AGENCIES  
 15 AS DEFINED IN SUBDIVISION THREE OR FOUR OF SECTION FOUR HUNDRED TWENTY-  
 16 FOUR-A OF THIS CHAPTER SHALL CHECK THE REGISTER OF SUBSTANTIATED Catego-  
 17 ry ONE CASES OF ABUSE OR NEGLECT BEFORE DETERMINING WHETHER TO HIRE OR  
 18 OTHERWISE ALLOW ANY PERSON AS AN EMPLOYEE, ADMINISTRATOR, CONSULTANT,  
 19 INTERN, VOLUNTEER OR CONTRACTOR WHO WILL HAVE THE POTENTIAL FOR REGULAR  
 20 AND SUBSTANTIAL CONTACT WITH A SERVICE RECIPIENT OR BEFORE APPROVING AN  
 21 APPLICANT FOR A LICENSE, CERTIFICATE, PERMIT OR OTHER APPROVAL TO  
 22 PROVIDE CARE TO A SERVICE RECIPIENT. (FOR STATE ENTITIES BOUND BY  
 23 COLLECTIVE BARGAINING, SUCH ACTION ESTABLISHED BY COLLECTIVE BARGAINING  
 24 SHALL GOVERN.)

25 3. IF A PERSON IS LISTED ON THE REGISTER OF SUBSTANTIATED CATEGORY ONE  
 26 CASES OF ABUSE OR NEGLECT, A FACILITY OR PROVIDER AGENCY, AS DEFINED IN  
 27 SUBDIVISION FOUR OF SECTION FOUR HUNDRED EIGHTY-EIGHT OF THIS ARTICLE,  
 28 AND ALL OTHER PROVIDERS OF SERVICES TO VULNERABLE PERSONS IN PROGRAMS  
 29 LICENSED OR CERTIFIED BY ANY STATE OVERSIGHT AGENCY SHALL NOT HIRE SUCH  
 30 A PERSON TO HAVE REGULAR AND SUBSTANTIAL CONTACT WITH A SERVICE RECIPI-  
 31 ENT IN ANY SUCH FACILITY OR PROGRAM. OTHER PROVIDERS OR LICENSING AGEN-  
 32 CIES AS DEFINED IN SUBDIVISION THREE OR FOUR OF SECTION FOUR HUNDRED  
 33 TWENTY-FOUR-A OF THIS CHAPTER SHALL DETERMINE WHETHER TO HIRE OR ALLOW  
 34 SUCH A PERSON TO HAVE REGULAR OR SUBSTANTIAL CONTACT WITH A SERVICE  
 35 RECIPIENT IN ACCORDANCE WITH THE PROVISIONS OF SUBDIVISION FIVE OF  
 36 SECTION FOUR HUNDRED TWENTY-FOUR-A OF THIS CHAPTER.

37 4. AN AGENT OF A FACILITY OR PROVIDER AGENCY SHALL BE SUBJECT TO IMME-  
 38 DIATE TERMINATION IF HE OR SHE IS CONVICTED OF ANY OFFENSE AS DEFINED IN  
 39 SUBDIVISION ONE OF SECTION 10.00 OF THE PENAL LAW THAT RELATES DIRECTLY  
 40 TO THE ABUSE OR NEGLECT OF A VULNERABLE PERSON, OR IS PLACED ON THE  
 41 REGISTER OF SUBSTANTIATED CATEGORY ONE CASES OF ABUSE OR NEGLECT. (FOR  
 42 STATE ENTITIES BOUND BY COLLECTIVE BARGAINING, SUCH ACTION ESTABLISHED  
 43 BY COLLECTIVE BARGAINING SHALL GOVERN.)

44 5. PLACEMENT ON THE REGISTER SHALL BE PERMANENT, UNLESS THE OFFICE IS  
 45 OFFICIALLY NOTIFIED OF THE INDIVIDUAL'S DEATH.

46 6. NOTHING IN THIS ARTICLE SHALL DIMINISH THE RIGHTS OR REMEDIES  
 47 OTHERWISE AVAILABLE UNDER LAW, REGULATION OR APPROPRIATE COLLECTIVE  
 48 BARGAINING AGREEMENTS OF ANY FACILITY OR PROVIDER AGENCY WITH RESPECT TO  
 49 THE TERMINATION OR DISCIPLINE OF EMPLOYEES.

50 S 496. CONFIDENTIALITY. 1. REPORTS MADE PURSUANT TO THIS ARTICLE AS  
 51 WELL AS ANY OTHER INFORMATION OBTAINED, REPORTS WRITTEN OR PHOTOGRAPHS  
 52 TAKEN CONCERNING SUCH REPORTS IN THE POSSESSION OF THE JUSTICE CENTER, A  
 53 STATE OVERSIGHT AGENCY, A DELEGATE INVESTIGATORY ENTITY, FACILITY OR

54 PROVIDER AGENCY COVERED BY THIS ARTICLE SHALL BE CONFIDENTIAL AND SHALL  
 55 NOT BE DISCLOSED TO ANY OTHER PARTY UNLESS AUTHORIZED PURSUANT TO BOTH  
 56 THIS SECTION AND ANY OTHER APPLICABLE STATE OR FEDERAL LAW. IN THE  
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1 EVENT THAT OTHER APPLICABLE STATE OR FEDERAL LAW PROVISIONS ARE MORE  
 2 RESTRICTIVE THAN THE PROVISIONS OF THIS SECTION, THE PROVISIONS OF SUCH  
 3 OTHER STATE OR FEDERAL LAW SHALL APPLY. IN ACCORDANCE WITH THIS SECTION,  
 4 SUCH INFORMATION SHALL BE MADE AVAILABLE ONLY TO:

5 (A) A PERSON WHO IS THE SUBJECT OF THE REPORT, AS DEFINED IN SUBDIVI-  
 6 SION THIRTEEN OF SECTION FOUR HUNDRED EIGHTY-EIGHT OF THIS ARTICLE;

7 (B) OTHER PERSONS NAMED IN THE REPORT, AS DEFINED IN SUBDIVISION FOUR-  
 8 TEEN OF SECTION FOUR HUNDRED EIGHTY-EIGHT OF THIS ARTICLE;

9 (C) THE JUSTICE CENTER;

10 (D) THE APPLICABLE STATE OPERATING AGENCY, THE APPLICABLE STATE OVER-  
 11 SIGHT AGENCY, THE DIRECTOR OR OPERATOR OF THE APPLICABLE FACILITY OR  
 12 PROVIDER AGENCY AND, AS APPROPRIATE, THE LOCAL SOCIAL SERVICES COMMIS-  
 13 SIONER, THE COMMISSIONER OF THE OFFICE OF CHILDREN AND FAMILY SERVICES,  
 14 OR THE SCHOOL DISTRICT PLACING THE SERVICE RECIPIENT, OR AN AGENCY  
 15 PROVIDING ADULT PROTECTIVE SERVICES TO THE SERVICE RECIPIENT;

16 (E) A PHYSICIAN WHO HAS BEFORE HIM OR HER A SERVICE RECIPIENT WHOM HE  
 17 OR SHE REASONABLY SUSPECTS MAY BE ABUSED OR NEGLECTED;

18 (F) A COURT, UPON A FINDING THAT THE INFORMATION IN THE RECORD IS  
 19 NECESSARY FOR THE DETERMINATION OF AN ISSUE BEFORE THE COURT;

20 (G) A GRAND JURY, UPON A FINDING THAT THE INFORMATION IN THE RECORD IS  
 21 NECESSARY FOR THE DETERMINATION OF CHARGES BEFORE THE GRAND JURY;

22 (H) ANY APPROPRIATE STATE LEGISLATIVE COMMITTEE RESPONSIBLE FOR LEGIS-  
 23 LATION AFFECTING VULNERABLE PERSONS, PROVIDED, HOWEVER, THAT NO INFORMA-  
 24 TION IDENTIFYING OR TENDING TO IDENTIFY THE SUBJECTS OF THE REPORT OR  
 25 OTHER PERSONS NAMED IN THE REPORT SHALL BE MADE AVAILABLE;

26 (I) ANY PERSON ENGAGED IN A BONA FIDE RESEARCH PURPOSE; PROVIDED,  
 27 HOWEVER, THAT NO INFORMATION IDENTIFYING OR TENDING TO IDENTIFY THE  
 28 SUBJECTS OF THE REPORT OR OTHER PERSONS NAMED IN THE REPORT SHALL BE  
 29 MADE AVAILABLE TO THE RESEARCHER UNLESS IT IS ABSOLUTELY ESSENTIAL TO  
 30 THE RESEARCH PURPOSE AND THE JUSTICE CENTER, AFTER CONSULTATION WITH THE  
 31 COMMISSIONER OF THE APPLICABLE STATE OVERSIGHT AGENCY, GIVES PRIOR  
 32 APPROVAL;

33 (J) A FACILITY OR PROVIDER AGENCY AS DEFINED IN SUBDIVISION FOUR OF  
 34 SECTION FOUR HUNDRED EIGHTY-EIGHT OF THE ARTICLE, ALL OTHER PROVIDERS OF  
 35 SERVICES TO VULNERABLE PERSONS IN PROGRAMS LICENSED OR CERTIFIED BY ANY  
 36 STATE OVERSIGHT AGENCY, ANY OTHER PROVIDER AGENCY AS DEFINED IN SUBDIVI-  
 37 SION THREE OF SECTION FOUR HUNDRED TWENTY-FOUR-A OF THIS CHAPTER OR A  
 38 LICENSING AGENCY AS DEFINED IN SUBDIVISION FOUR OF SECTION FOUR HUNDRED  
 39 TWENTY-FOUR-A OF THIS CHAPTER, IN ACCORDANCE WITH THE PROVISIONS OF  
 40 SUBDIVISION TWO OF SECTION FOUR HUNDRED NINETY-FIVE OF THIS ARTICLE;

41 (K) A PROBATION SERVICE REGARDING A PERSON ABOUT WHOM IT IS CONDUCTING  
 42 AN INVESTIGATION PURSUANT TO ARTICLE THREE HUNDRED NINETY OF THE CRIMI-  
 43 NAL PROCEDURE LAW, OR A PROBATION SERVICE OR THE DEPARTMENT OF  
 44 CORRECTIONS AND COMMUNITY SUPERVISION REGARDING A PERSON TO WHOM THE  
 45 SERVICE OR DEPARTMENT IS PROVIDING SUPERVISION PURSUANT TO ARTICLE SIXTY  
 46 OF THE PENAL LAW OR ARTICLE EIGHT OF THE CORRECTION LAW, WHERE THE  
 47 SERVICE OR DEPARTMENT REQUESTS THE INFORMATION UPON A CERTIFICATION THAT  
 48 SUCH INFORMATION IS NECESSARY TO CONDUCT ITS INVESTIGATION, THAT THERE  
 49 IS REASONABLE CAUSE TO BELIEVE THAT THE SUBJECT OF AN INVESTIGATION IS  
 50 THE SUBJECT OF A SUBSTANTIATED REPORT AND THAT THERE IS REASONABLE CAUSE  
 51 TO BELIEVE THAT SUCH RECORDS ARE NECESSARY TO THE INVESTIGATION BY THE  
 52 PROBATION SERVICE OR THE DEPARTMENT, PROVIDED, HOWEVER, THAT ONLY  
 53 SUBSTANTIATED REPORTS SHALL BE FURNISHED PURSUANT TO THIS SUBDIVISION;

54 (L) A DISTRICT ATTORNEY, AN ASSISTANT DISTRICT ATTORNEY OR INVESTI-  
 55 GATOR EMPLOYED BY THE OFFICE OF A DISTRICT ATTORNEY, A SWORN OFFICER OF  
 56 THE DIVISION OF STATE POLICE, OF THE REGIONAL STATE PARK POLICE, OF A  
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1 CITY POLICE DEPARTMENT, OR OF A COUNTY, TOWN OR VILLAGE POLICE DEPART-  
 2 MENT OR COUNTY SHERIFF'S OFFICE OR DEPARTMENT UPON WRITTEN VERIFICATION  
 3 THAT SUCH INFORMATION IS NECESSARY TO CONDUCT A CRIMINAL INVESTIGATION  
 4 OR CRIMINAL PROSECUTION OF A PERSON, AND THAT THERE IS REASONABLE CAUSE  
 5 TO BELIEVE THAT SUCH PERSON IS THE SUBJECT OF A REPORT; PROVIDED, HOWEV-  
 6 ER, THAT ONLY SUBSTANTIATED REPORTS SHALL BE FURNISHED PURSUANT TO THIS  
 7 SUBDIVISION;

8 (M) THE NEW YORK CITY DEPARTMENT OF INVESTIGATION; PROVIDED, HOWEVER,  
 9 THAT NO INFORMATION IDENTIFYING THE SUBJECTS OF THE REPORT OR OTHER

10 PERSONS NAMED IN THE REPORT SHALL BE MADE AVAILABLE TO THE DEPARTMENT OF  
 11 INVESTIGATION UNLESS SUCH INFORMATION IS ESSENTIAL TO AN INVESTIGATION  
 12 WITHIN THE LEGAL AUTHORITY OF THE DEPARTMENT OF INVESTIGATION AND THE  
 13 JUSTICE CENTER OR THE APPLICABLE STATE OVERSIGHT AGENCY GIVES PRIOR  
 14 APPROVAL;

15 (N) A PROVIDER OR COORDINATOR OF SERVICES TO WHICH A FACILITY OR  
 16 PROVIDER AGENCY, OPERATING STATE AGENCY, OR SOCIAL SERVICES DISTRICT HAS  
 17 REFERRED A SERVICE RECIPIENT OR A SERVICE RECIPIENT'S FAMILY OR TO WHOM  
 18 THE SERVICE RECIPIENT OR THE RECIPIENT'S FAMILY HAVE REFERRED THEMSELVES  
 19 AT THE REQUEST OF SUCH AGENCY OR SOCIAL SERVICES DISTRICT, WHEN SAID  
 20 SERVICE RECIPIENT IS REPORTED TO THE VULNERABLE PERSONS' CENTRAL REGIS-  
 21 TER AS THE VULNERABLE PERSON AND WHEN THE RECORDS, REPORTS OR OTHER  
 22 INFORMATION ARE NECESSARY TO ENABLE THE PROVIDER OR COORDINATOR TO  
 23 ESTABLISH AND IMPLEMENT A PLAN OF SERVICE FOR THE SERVICE RECIPIENT OR  
 24 THE SERVICE RECIPIENT'S FAMILY, OR TO MONITOR THE PROVISION AND COORDI-  
 25 NATION OF SERVICES AND THE CIRCUMSTANCES OF THE SERVICE RECIPIENT AND  
 26 THE SERVICE RECIPIENT'S FAMILY, OR TO DIRECTLY PROVIDE SERVICES IN  
 27 ACCORDANCE WITH REQUIREMENTS ESTABLISHED BY THE APPLICABLE STATE OVER-  
 28 SIGHT AGENCY TO THE EXTENT THAT THE SHARING OF SUCH INFORMATION IS NOT  
 29 OTHERWISE PROHIBITED BY FEDERAL LAW; PROVIDED, HOWEVER, A PROVIDER OR  
 30 COORDINATOR OF SERVICES GIVEN ACCESS TO INFORMATION CONCERNING A SERVICE  
 31 RECIPIENT PURSUANT TO THIS PARAGRAPH SHALL BE AUTHORIZED TO REDISCLOSE  
 32 SUCH INFORMATION TO OTHER PERSONS OR AGENCIES WHICH ALSO PROVIDE  
 33 SERVICES TO THE SERVICE RECIPIENT OR THE SERVICE RECIPIENT'S FAMILY ONLY  
 34 IF AN AGREEMENT HAS BEEN OR WILL BE REACHED BETWEEN THE PROVIDER OR  
 35 COORDINATOR OF SERVICE AND SUCH FACILITY OR PROVIDER AGENCY, OPERATING  
 36 STATE AGENCY OR LOCAL DISTRICT. AN AGREEMENT ENTERED INTO PURSUANT TO  
 37 THIS PARAGRAPH SHALL INCLUDE THE SPECIFIC AGENCIES AND CATEGORIES OF  
 38 INDIVIDUALS TO WHOM REDISCLOSURE BY THE PROVIDER OR COORDINATOR OF  
 39 SERVICES IS AUTHORIZED. PERSONS OR AGENCIES GIVEN ACCESS TO INFORMATION  
 40 PURSUANT TO THIS PARAGRAPH MAY EXCHANGE SUCH INFORMATION IN ORDER TO  
 41 FACILITATE THE PROVISION OR COORDINATION OF SERVICES TO THE SERVICE  
 42 RECIPIENT OR THE SERVICE RECIPIENT'S FAMILY;

43 (O) A DISINTERESTED PERSON MAKING AN INVESTIGATION PURSUANT TO SECTION  
 44 ONE HUNDRED SIXTEEN OF THE DOMESTIC RELATIONS LAW, PROVIDED THAT SUCH  
 45 DISINTERESTED PERSON SHALL ONLY MAKE THIS INFORMATION AVAILABLE TO THE  
 46 JUDGE BEFORE WHOM THE ADOPTION PROCEEDING IS PENDING;

47 (P) A CRIMINAL JUSTICE AGENCY CONDUCTING AN INVESTIGATION OF A MISSING  
 48 CHILD OR VULNERABLE ADULT WHERE THERE IS REASON TO SUSPECT INFORMATION  
 49 IN A SUBSTANTIATED REPORT UNDER THIS ARTICLE IS NEEDED TO FURTHER SUCH  
 50 INVESTIGATION;

51 (Q) THE DIRECTOR OR OPERATOR OF THE FACILITY OR PROVIDER AGENCY AND,  
 52 AS APPROPRIATE, THE LOCAL SOCIAL SERVICES COMMISSIONER, COMMISSIONER OF  
 53 THE OFFICE OF CHILDREN AND FAMILY SERVICES, OR SCHOOL DISTRICT PLACING A  
 54 CHILD IN THAT PROGRAM, THE APPLICABLE EXECUTIVE AGENCY, AND, FOR ANY  
 55 REPORT INVOLVING ABUSE OR NEGLECT OF A CHILD, ANY ATTORNEY APPOINTED TO  
 56 REPRESENT THE CHILD WHOSE APPOINTMENT HAS BEEN CONTINUED BY A FAMILY  
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1 COURT JUDGE DURING THE TERM OF THE PLACEMENT AND SUBJECT TO THE LIMITA-  
 2 TIONS CONTAINED IN SECTION FOUR HUNDRED NINETY-FIVE OF THIS ARTICLE;

3 (R) FOR ANY REPORT ALLEGING ABUSE OR NEGLECT OF A CHILD, A CHILD  
 4 PROTECTIVE SERVICE OF ANOTHER STATE WHEN SUCH SERVICE CERTIFIES THAT THE  
 5 RECORDS AND REPORTS ARE NECESSARY IN ORDER TO CONDUCT A CHILD ABUSE OR  
 6 MALTREATMENT INVESTIGATION WITHIN ITS JURISDICTION OF THE SUBJECT OF THE  
 7 REPORT AND SHALL ONLY BE USED FOR PURPOSES OF CONDUCTING SUCH INVESTI-  
 8 GATION AND WILL NOT BE REDISCLOSED TO ANY OTHER PERSON OR AGENCY;

9 (S) AN ATTORNEY FOR A CHILD, APPOINTED PURSUANT TO SECTION ONE THOU-  
 10 SAND SIXTEEN OF THE FAMILY COURT ACT, AT ANY TIME SUCH APPOINTMENT IS IN  
 11 EFFECT, IN RELATION TO ANY REPORT IN WHICH THE RESPONDENT IN THE  
 12 PROCEEDING IN WHICH THE ATTORNEY FOR THE CHILD IS APPOINTED IS THE  
 13 SUBJECT OR ANOTHER PERSON NAMED IN THE REPORT, PURSUANT TO SECTIONS ONE  
 14 THOUSAND THIRTY-NINE-A AND ONE THOUSAND FIFTY-TWO-A OF THE FAMILY COURT  
 15 ACT;

16 (T) OFFICERS AND EMPLOYEES OF THE STATE COMPTROLLER, FOR PURPOSES OF A  
 17 DULY AUTHORIZED PERFORMANCE AUDIT, PROVIDED THAT SUCH COMPTROLLER SHALL  
 18 HAVE CERTIFIED TO THE KEEPER OF SUCH RECORDS THAT HE OR SHE HAS INSTI-  
 19 TUTED PROCEDURES DEVELOPED IN CONSULTATION WITH THE JUSTICE CENTER TO  
 20 LIMIT ACCESS TO SERVICE RECIPIENT-IDENTIFIABLE INFORMATION TO PERSONS  
 21 REQUIRING SUCH INFORMATION FOR PURPOSES OF THE AUDIT AND THAT APPROPRI-  
 22 ATE CONTROLS AND PROHIBITIONS ARE IMPOSED ON THE DISSEMINATION OF  
 23 SERVICE RECIPIENT-IDENTIFIABLE INFORMATION CONTAINED IN THE CONDUCT OF

24 THE AUDIT.

25 (I) INFORMATION PERTAINING TO THE SUBSTANCE OR CONTENT OF ANY PSYCHO-  
26 LOGICAL, PSYCHIATRIC, THERAPEUTIC, CLINICAL OR MEDICAL REPORTS, EVALU-  
27 ATIONS OR LIKE MATERIALS OR INFORMATION PERTAINING TO SUCH VULNERABLE  
28 PERSON OR SUCH PERSON'S FAMILY SHALL NOT BE MADE AVAILABLE TO SUCH OFFI-  
29 CERS AND EMPLOYEES UNLESS DISCLOSURE OF SUCH INFORMATION IS ABSOLUTELY  
30 ESSENTIAL TO THE SPECIFIC AUDIT ACTIVITY AND THE JUSTICE CENTER GIVES  
31 PRIOR WRITTEN APPROVAL.

32 (II) ANY FAILURE TO MAINTAIN THE CONFIDENTIALITY OF SERVICE RECI-  
33 PIENT-IDENTIFIABLE INFORMATION SHALL SUBJECT SUCH COMPTROLLER OR OFFICER  
34 TO DENIAL OF ANY FURTHER ACCESS TO RECORDS UNTIL SUCH TIME AS THE AUDIT  
35 AGENCY HAS REVIEWED ITS PROCEDURES CONCERNING CONTROLS AND PROHIBITIONS  
36 IMPOSED ON THE DISSEMINATION OF SUCH INFORMATION AND HAS TAKEN ALL  
37 REASONABLE AND APPROPRIATE STEPS TO ELIMINATE SUCH LAPSES IN MAINTAINING  
38 CONFIDENTIALITY TO THE SATISFACTION OF THE JUSTICE CENTER. SUCH JUSTICE  
39 CENTER SHALL ESTABLISH THE GROUNDS FOR DENIAL OF ACCESS TO RECORDS  
40 CONTAINED UNDER THIS SECTION AND SHALL RECOMMEND AS NECESSARY A PLAN OF  
41 REMEDIATION TO THE AUDIT AGENCY. EXCEPT AS PROVIDED IN THIS SECTION,  
42 NOTHING IN THIS SUBPARAGRAPH SHALL BE CONSTRUED AS LIMITING THE POWERS  
43 OF SUCH COMPTROLLER OR OFFICER TO ACCESS RECORDS WHICH HE OR SHE IS  
44 OTHERWISE AUTHORIZED TO AUDIT OR OBTAIN UNDER ANY OTHER APPLICABLE  
45 PROVISION OF LAW. ANY PERSON GIVEN ACCESS TO INFORMATION PURSUANT TO  
46 THIS SUBPARAGRAPH WHO RELEASES DATA OR INFORMATION TO PERSONS OR AGEN-  
47 CIES NOT AUTHORIZED TO RECEIVE SUCH INFORMATION SHALL BE GUILTY OF A  
48 CLASS A MISDEMEANOR;

49 (U) AN ENTITY WITH APPROPRIATE LEGAL AUTHORITY IN ANOTHER STATE TO  
50 LICENSE, CERTIFY OR OTHERWISE APPROVE PROSPECTIVE FOSTER AND ADOPTIVE  
51 PARENTS WHERE DISCLOSURE OF INFORMATION REGARDING THE PROSPECTIVE FOSTER  
52 OR ADOPTIVE PARENTS AND OTHER PERSONS OVER THE AGE OF EIGHTEEN RESIDING  
53 IN THE HOME OF SUCH PROSPECTIVE PARENTS IS REQUIRED BY PARAGRAPH TWENTY  
54 OF SUBDIVISION (A) OF SECTION SIX HUNDRED SEVENTY-ONE OF TITLE FORTY-TWO  
55 OF THE UNITED STATES CODE;

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36

1 (V) A SOCIAL SERVICES OFFICIAL WHO IS INVESTIGATING WHETHER AN ADULT  
2 IS IN NEED OF PROTECTIVE SERVICES IN ACCORDANCE WITH THE PROVISIONS OF  
3 SECTION FOUR HUNDRED SEVENTY-THREE OF THIS CHAPTER OR A CHILD IS IN NEED  
4 OF CHILD PROTECTIVE SERVICES PURSUANT TO THE PROVISIONS OF TITLE SIX OF  
5 ARTICLE SIX OF THIS CHAPTER, WHEN SUCH OFFICIAL HAS REASONABLE CAUSE TO  
6 BELIEVE THAT SUCH REPORTS AND INFORMATION ARE NEEDED TO FURTHER THE  
7 PRESENT INVESTIGATION; AND

8 (W) FOR REPORTS ALLEGING ABUSE OR NEGLECT OF CHILDREN, MEMBERS OF A  
9 CITIZEN REVIEW PANEL AS ESTABLISHED PURSUANT TO SECTION THREE HUNDRED  
10 SEVENTY-ONE-B OF THIS CHAPTER; PROVIDED, HOWEVER, SUCH MEMBERS SHALL NOT  
11 DISCLOSE TO ANY PERSON OR GOVERNMENTAL OFFICIAL ANY IDENTIFYING INFORMA-  
12 TION WHICH THE PANEL HAS BEEN PROVIDED AND SHALL NOT MAKE PUBLIC OTHER  
13 INFORMATION UNLESS OTHERWISE AUTHORIZED BY STATUTE.

14 2. (A) THE EXECUTIVE DIRECTOR, IN CONSULTATION WITH THE APPLICABLE  
15 STATE OVERSIGHT AGENCY MAY DISCLOSE INFORMATION REGARDING THE ABUSE OR  
16 NEGLECT OF A VULNERABLE PERSON AS SET FORTH IN THIS SECTION, AND THE  
17 INVESTIGATION THEREOF AND ANY SERVICES RELATED THERETO, IF OTHERWISE  
18 PERMITTED BY APPLICABLE FEDERAL LAW AND IF HE OR SHE DETERMINES THAT  
19 SUCH DISCLOSURE SHALL NOT BE CONTRARY TO THE BEST INTERESTS OF THE  
20 VULNERABLE PERSON AND ANY ONE OF THE FOLLOWING FACTORS ARE PRESENT:

21 (I) THE SUBJECT OF THE REPORT HAS BEEN CHARGED IN AN ACCUSATORY  
22 INSTRUMENT WITH COMMITTING A CRIME RELATED TO A REPORT MAINTAINED IN THE  
23 VULNERABLE PERSONS' CENTRAL REGISTER; OR

24 (II) THE INVESTIGATION OF THE ABUSE OR NEGLECT OF THE VULNERABLE  
25 PERSON OR THE PROVISION OF SERVICES BY THE FACILITY OR PROVIDER AGENCY  
26 HAS BEEN PUBLICLY DISCLOSED IN A REPORT REQUIRED TO BE DISCLOSED IN THE  
27 COURSE OF THEIR OFFICIAL DUTIES, BY A LAW ENFORCEMENT AGENCY OR OFFI-  
28 CIAL, A DISTRICT ATTORNEY, ANY OTHER STATE OR LOCAL INVESTIGATIVE AGENCY  
29 OR OFFICIAL, OR BY JUDGE OF THE UNIFIED COURT SYSTEM; OR

30 (III) THERE HAS BEEN A PRIOR KNOWING, VOLUNTARY, PUBLIC DISCLOSURE BY  
31 AN INDIVIDUAL CONCERNING A REPORT OF ABUSE OR NEGLECT IN WHICH SUCH  
32 INDIVIDUAL IS NAMED AS THE SUBJECT OF THE REPORT AS DEFINED BY SUBDIVI-  
33 SION THIRTEEN OF SECTION FOUR HUNDRED EIGHTY-EIGHT OF THIS ARTICLE; OR

34 (IV) THE VULNERABLE PERSON NAMED IN THE REPORT HAS DIED OR THE REPORT  
35 INVOLVES THE NEAR FATALITY OF A VULNERABLE PERSON. FOR THE PURPOSES OF  
36 THIS SECTION, "NEAR FATALITY" MEANS AN ACT THAT RESULTS IN THE VULNER-  
37 ABLE PERSON BEING PLACED, AS CERTIFIED BY A PHYSICIAN, IN SERIOUS OR  
38 CRITICAL CONDITION.



39 (B) FOR THE PURPOSES OF THIS SECTION, ONLY THE FOLLOWING INFORMATION  
40 MAY BE DISCLOSED:

41 (I) THE NAME OF THE ABUSED OR NEGLECTED VULNERABLE PERSON;

42 (II) THE DETERMINATION BY THE JUSTICE CENTER AND THE FINDINGS UPON  
43 WHICH SUCH DETERMINATION WAS BASED;

44 (III) IDENTIFICATION OF SERVICES PROVIDED OR ACTIONS, IF ANY, TAKEN  
45 REGARDING THE VULNERABLE PERSON NAMED IN THE REPORT AND HIS OR HER FAMI-  
46 LY AS A RESULT OF ANY SUCH REPORT OR REPORTS;

47 (IV) WHETHER ANY REPORT OF ABUSE OR NEGLECT REGARDING SUCH VULNERABLE  
48 PERSON HAS BEEN "SUBSTANTIATED" AS MAINTAINED BY THE VULNERABLE PERSONS'  
49 CENTRAL REGISTER;

50 (V) ANY ACTIONS TAKEN BY THE STATE OVERSIGHT AGENCY OR THE FACILITY OR  
51 PROVIDER AGENCY IN RESPONSE TO REPORTS OF ABUSE OR NEGLECT OF THE  
52 VULNERABLE PERSON TO THE VULNERABLE PERSONS' CENTRAL REGISTER, INCLUDING  
53 BUT NOT LIMITED TO ACTIONS TAKEN AFTER EACH AND EVERY REPORT OF ABUSE OR  
54 NEGLECT OF SUCH PERSON AND THE DATES OF SUCH REPORTS; AND

55 (VI) ANY EXTRAORDINARY OR PERTINENT INFORMATION CONCERNING THE CIRCUM-  
56 STANCES OF THE ABUSE OR NEGLECT OF THE VULNERABLE PERSON AND THE INVES-  
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1 TIGATION THEREOF, WHERE THE EXECUTIVE DIRECTOR, IN CONSULTATION WITH THE  
2 COMMISSIONER OF THE APPLICABLE STATE OVERSIGHT AGENCY DETERMINES SUCH  
3 DISCLOSURE IS CONSISTENT WITH THE PUBLIC INTEREST.

4 (C) INFORMATION MAY BE DISCLOSED PURSUANT TO THIS SECTION AS FOLLOWS:

5 (I) INFORMATION RELEASED PRIOR TO THE COMPLETION OF THE INVESTIGATION  
6 OF A REPORT SHALL BE LIMITED TO A STATEMENT THAT A REPORT IS "UNDER  
7 INVESTIGATION";

8 (II) WHEN THERE HAS BEEN A PRIOR DISCLOSURE PURSUANT TO PARAGRAPH (A)  
9 OF THIS SUBDIVISION, INFORMATION RELEASED IN A CASE IN WHICH THE INVE-  
10 TIGATION OF THE REPORT HAS BEEN COMPLETED BUT NOT SUBSTANTIATED, INFOR-  
11 MATION SHALL BE LIMITED TO THE STATEMENT THAT "THE INVESTIGATION HAS  
12 BEEN COMPLETED AND THE REPORT HAS BEEN DISCONFIRMED OR INCONCLUSIVE";

13 (III) IF THE REPORT HAS BEEN "SUBSTANTIATED" THEN INFORMATION MAY BE  
14 RELEASED PURSUANT TO PARAGRAPH (A) OF THIS SUBDIVISION.

15 (D) ANY DISCLOSURE OF INFORMATION PURSUANT TO THIS SECTION SHALL BE  
16 CONSISTENT WITH THE PROVISIONS OF PARAGRAPH (B) OF THIS SUBDIVISION.  
17 SUCH DISCLOSURE SHALL NOT IDENTIFY OR PROVIDE AN IDENTIFYING DESCRIPTION  
18 OF THE SOURCE OF THE REPORT, AND SHALL NOT IDENTIFY THE NAME OF THE  
19 ABUSED OR NEGLECTED VULNERABLE PERSON'S SIBLINGS OR CHILDREN, THE PARENT  
20 OR OTHER PERSON LEGALLY RESPONSIBLE FOR SUCH PERSON OR ANY OTHER MEMBERS  
21 OF SUCH PERSON'S HOUSEHOLD.

22 (E) IN DETERMINING, PURSUANT TO PARAGRAPH (A) OF THIS SUBDIVISION,  
23 WHETHER DISCLOSURE WILL BE CONTRARY TO THE BEST INTERESTS OF THE VULNER-  
24 ABLE PERSON, THE EXECUTIVE DIRECTOR SHALL CONSIDER THE INTEREST IN  
25 PRIVACY OF THE VULNERABLE PERSON AND SUCH PERSON'S SIBLINGS OR CHILDREN,  
26 THE PARENT OR OTHER PERSON LEGALLY RESPONSIBLE FOR SUCH PERSON OR ANY  
27 OTHER MEMBERS OF SUCH PERSON'S HOUSEHOLD.

28 (F) EXCEPT AS IT APPLIES DIRECTLY TO THE CAUSE OF THE ABUSE OR NEGLECT  
29 OF THE VULNERABLE PERSON, NOTHING IN THIS SECTION SHALL BE DEEMED TO  
30 AUTHORIZE THE RELEASE OR DISCLOSURE OF THE SUBSTANCE OR CONTENT OF ANY  
31 PSYCHOLOGICAL, PSYCHIATRIC, THERAPEUTIC, CLINICAL OR MEDICAL REPORTS,  
32 EVALUATIONS OR LIKE MATERIALS OR INFORMATION PERTAINING TO SUCH PERSON  
33 OR SUCH PERSON'S FAMILY. ANY SUCH INFORMATION THAT APPLIES DIRECTLY TO  
34 THE CAUSE OF THE ABUSE OR NEGLECT OF THE VULNERABLE PERSON MAY BE  
35 DISCLOSED ONLY IF DISCLOSURE IS NOT OTHERWISE RESTRICTED BY APPLICABLE  
36 FEDERAL OR STATE LAWS.

37 3. A PERSON GIVEN ACCESS TO THE NAMES OR OTHER INFORMATION IDENTIFYING  
38 THE SUBJECT OF THE REPORT OR OTHER PERSONS NAMED IN THE REPORT SHALL NOT  
39 DIVULGE OR MAKE PUBLIC SUCH IDENTIFYING INFORMATION UNLESS HE OR SHE IS  
40 A DISTRICT ATTORNEY OR OTHER LAW ENFORCEMENT OFFICIAL AND THE PURPOSE IS  
41 TO INITIATE COURT ACTION OR THE DISCLOSURE IS NECESSARY IN CONNECTION  
42 WITH THE INVESTIGATION OR PROSECUTION OF THE SUBJECT OF THE REPORT FOR A  
43 CRIME ALLEGED TO HAVE BEEN COMMITTED BY THE SUBJECT AGAINST ANOTHER  
44 PERSON NAMED IN THE REPORT. NOTHING IN THIS SECTION SHALL BE CONSTRUED  
45 TO PERMIT ANY RELEASE, DISCLOSURE OR IDENTIFICATION OF THE NAMES OR  
46 IDENTIFYING DESCRIPTIONS OF PERSONS WHO HAVE REPORTED SUSPECTED ABUSE OR  
47 NEGLECT TO THE VULNERABLE PERSONS' CENTRAL REGISTER OR THE STATE OVER-  
48 SIGHT AGENCY, FACILITY OR PROVIDER AGENCY OR OTHER ENTITY WHERE SUCH  
49 PERSONS ARE EMPLOYED OR WITH WHICH THEY ARE ASSOCIATED WITHOUT SUCH  
50 PERSONS' WRITTEN PERMISSION EXCEPT TO PERSONS, OFFICIALS, AND AGENCIES  
51 ENUMERATED IN PARAGRAPHS (F), (G), (L), (M) AND (V) OF SUBDIVISION ONE  
52 OF THIS SECTION. TO THE EXTENT THAT PERSONS OR AGENCIES ARE GIVEN

53 ACCESS TO INFORMATION PURSUANT TO PARAGRAPHS (C), (D), (E), (K), (L),  
 54 (M), (N) AND (P) OF SUBDIVISION ONE OF THIS SECTION, SUCH PERSONS OR  
 55 AGENCIES MAY GIVE AND RECEIVE SUCH INFORMATION TO EACH OTHER IN ORDER TO  
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1 FACILITATE AN INVESTIGATION CONDUCTED, OR THE PROVISION OF SERVICES, BY  
 2 SUCH PERSONS OR AGENCIES.

3 4. UNLESS AN INVESTIGATION OF A REPORT CONDUCTED PURSUANT TO THIS  
 4 ARTICLE DETERMINES THAT THERE IS A PREPONDERANCE OF THE EVIDENCE OF THE  
 5 ALLEGED ABUSE OR NEGLECT, ALL INFORMATION IDENTIFYING THE SUBJECT OF THE  
 6 REPORT AND OTHER PERSONS NAMED IN THE REPORT SHALL BE SEALED FORTHWITH  
 7 BY THE VULNERABLE PERSONS' CENTRAL REGISTER. SUCH REPORTS MAY ONLY BE  
 8 UNSEALED AND MADE AVAILABLE, CONSISTENT WITH ANY OTHER APPLICABLE STATE  
 9 OR FEDERAL LAW, TO:

10 (A) THE STATE AGENCY OPERATING, LICENSING OR CERTIFYING A FACILITY OR  
 11 PROGRAM FOR THE PURPOSE OF MONITORING OR LICENSING SUCH FACILITY OR  
 12 PROGRAM;

13 (B) ANY STATE AGENCY OPERATING, LICENSING, OR CERTIFYING A FACILITY OR  
 14 PROVIDER AGENCY WHEN INVESTIGATING A REPORT OF SUSPECTED ABUSE OR  
 15 MALTREATMENT INVOLVING THE SUBJECT OF A PREVIOUSLY SEALED REPORT  
 16 ACCEPTED BY THE VULNERABLE PERSONS' CENTRAL REGISTER;

17 (C) THE SUBJECT OF THE REPORT;

18 (D) A COURT OF RELEVANT JURISDICTION OR A LAW ENFORCEMENT OFFICIAL  
 19 WHEN SUCH COURT OR OFFICIAL VERIFIES THAT THE REPORT IS NECESSARY TO  
 20 CONDUCT AN ACTIVE INVESTIGATION OR PROSECUTION OF A VIOLATION OF SUBDI-  
 21 VISION FOUR OF SECTION 240.50 OF THE PENAL LAW; OR

22 (E) THE JUSTICE CENTER MEDICAL REVIEW BOARD, FOR THE PURPOSES OF  
 23 PREPARING A FATALITY REPORT PURSUANT TO SECTION FIVE HUNDRED FIFTY-SIX  
 24 OF THE EXECUTIVE LAW.

25 WHEN A REPORT IS UNSEALED, PERSONS GIVEN ACCESS TO IT SHALL NOT REDIS-  
 26 CLOSE SUCH REPORTS EXCEPT AS NECESSARY TO CONDUCT SUCH APPROPRIATE  
 27 INVESTIGATION OR PROSECUTION AND SHALL REQUEST THAT THE COURT REDACT ANY  
 28 COPIES OF SUCH REPORTS PRODUCED IN ANY COURT PROCEEDING TO REMOVE THE  
 29 NAMES OF THOSE PERSONS IRRELEVANT TO THE PROCEEDING SUCH AS THE SOURCE  
 30 OF THE REPORT, THE NAME OF THE SUBJECT, OR AND OTHER PERSONS NAMED IN  
 31 THE REPORTS; OR THAT THE COURT ISSUE AN ORDER PROTECTING THE NAMES OF  
 32 THE SUBJECTS AND OTHER PERSONS NAMED IN THE REPORTS FROM PUBLIC DISCLO-  
 33 SURE.

34 S 497. IMMUNITY FROM LIABILITY. ANY PERSON PARTICIPATING IN GOOD FAITH  
 35 IN MAKING A REPORT, TAKING PHOTOGRAPHS, CONDUCTING OR OVERSEEING AN  
 36 INVESTIGATION, OPERATING THE VULNERABLE PERSONS' CENTRAL REGISTER OR  
 37 DISCLOSING INFORMATION IN COMPLIANCE WITH THIS ARTICLE SHALL HAVE IMMUN-  
 38 NITY FROM ANY LIABILITY, CIVIL OR CRIMINAL, THAT MIGHT OTHERWISE RESULT  
 39 BY REASON OF SUCH ACTIONS. FOR THE PURPOSE OF ANY PROCEEDING, CIVIL OR  
 40 CRIMINAL, THE GOOD FAITH OF ANY SUCH PERSON REQUIRED TO PERFORM ANY OF  
 41 SUCH FUNCTIONS IN ACCORDANCE WITH THIS ARTICLE SHALL BE PRESUMED,  
 42 PROVIDED SUCH PERSON, WAS ACTING IN DISCHARGE OF HIS OR HER DUTIES AND  
 43 WITHIN THE SCOPE OF HIS OR HER EMPLOYMENT OR RESPONSIBILITIES, AND THAT  
 44 SUCH LIABILITY DID NOT RESULT FROM THE WILLFUL MISCONDUCT OR GROSS  
 45 NEGLIGENCE OF SUCH PERSON.

46 S 2. This act shall take effect April 1, 2013; provided, however, that  
 47 effective immediately, the addition, amendment or repeal of any rule or  
 48 regulation necessary for the implementation of this act on its effective  
 49 date is authorized to be made on or before such date.

50

PART C

51 Section 1. Subdivisions 6 and 7 of section 677 of the county law,  
 52 subdivision 6 as amended by chapter 491 of the laws of 1987, subdivision  
 53 7 as added by chapter 477 of the laws of 1979 and paragraph (a) of  
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1 subdivision 7 as amended by chapter 330 of the laws of 1993, are amended  
 2 to read as follows:

3 6. The coroner, coroner's physician or medical examiner shall promptly  
 4 provide the chairman of the correction medical review board and the  
 5 commissioner of correctional services with copies of any autopsy report,  
 6 toxicological report or any report of any examination or inquiry  
 7 prepared with respect to any death occurring to an inmate of a correc-  
 8 tional facility as defined by subdivision three of section forty of the  
 9 correction law within his county; AND SHALL PROMPTLY PROVIDE THE EXECU-  
 10 TIVE DIRECTOR OF THE JUSTICE CENTER FOR THE PROTECTION OF PEOPLE WITH

11 SPECIAL NEEDS WITH COPIES OF ANY AUTOPSY REPORT, TOXICOLOGY REPORT OR  
 12 ANY REPORT OF ANY EXAMINATION OR INQUIRY PREPARED WITH RESPECT TO THE  
 13 DEATH OF ANY SERVICE RECIPIENT OCCURRING WHILE HE OR SHE WAS A RESIDENT  
 14 IN ANY FACILITY OPERATED, LICENSED OR CERTIFIED BY ANY AGENCY WITHIN THE  
 15 DEPARTMENT OF MENTAL HYGIENE, THE OFFICE OF CHILDREN AND FAMILY  
 16 SERVICES, THE DEPARTMENT OF HEALTH OR THE STATE EDUCATION DEPARTMENT.  
 17 If the toxicological report is prepared pursuant to any agreement or  
 18 contract with any person, partnership, corporation or governmental agen-  
 19 cy with the coroner or medical examiner, such report shall be promptly  
 20 provided to the chairman of the correction medical review board [and  
 21 to], the commissioner of correctional services OR THE EXECUTIVE DIRECTOR  
 22 OF THE JUSTICE CENTER FOR PEOPLE WITH SPECIAL NEEDS, AS APPROPRIATE, by  
 23 such person, partnership, corporation or governmental agency.

24 7. (a) Upon the written request of the commissioner of mental health,  
 25 the commissioner of [mental retardation and] THE OFFICE FOR PERSONS WITH  
 26 developmental disabilities, the director of the mental hygiene legal  
 27 service, [the chairman of the commission on quality of care for the  
 28 mentally disabled] THE EXECUTIVE DIRECTOR OF THE JUSTICE CENTER FOR THE  
 29 PROTECTION OF PEOPLE WITH SPECIAL NEEDS or the director of a mental  
 30 hygiene facility, as defined in SUBDIVISION TWO OF section [45.01] FIVE  
 31 HUNDRED FIFTY of the [mental hygiene] EXECUTIVE law, at which the  
 32 deceased was a patient or resident, the coroner, coroner's physician or  
 33 medical examiner shall provide such person with a copy of all reports  
 34 and records, including, but not limited to, autopsy reports and toxico-  
 35 logical reports related to the deceased prepared by a person, part-  
 36 nership, corporation or governmental agency pursuant to any agreement or  
 37 contract with the coroner or medical examiner with respect to the death  
 38 of a patient or resident receiving services [for a mental disability] at  
 39 such a mental hygiene facility.

40 (b) Upon the written request of the commissioner of mental health, or  
 41 commissioner of [mental retardation and] developmental disabilities, or  
 42 a director of a departmental facility as defined in section 1.03 of the  
 43 mental hygiene law, or the [chairman of the commission on quality of  
 44 care for the mentally disabled] EXECUTIVE DIRECTOR OF THE JUSTICE CENTER  
 45 FOR THE PROTECTION OF PEOPLE WITH SPECIAL NEEDS, the coroner, coroner's  
 46 physician or medical examiner shall transmit to the commissioner, or  
 47 such director, [or chairman,] or any member of the [mental hygiene]  
 48 JUSTICE CENTER medical review board [designated by the chairman of such  
 49 commission], original autopsy slides, tissue materials and specimens  
 50 taken from the body of a deceased patient or resident as defined in  
 51 paragraph (a) of this section. Such original materials may be used and  
 52 tested by such office of the department of mental hygiene, or such  
 53 director, and [mental hygiene] JUSTICE CENTER medical review board  
 54 pursuant to its authority under section [45.17] FIVE HUNDRED FIFTY-SIX  
 55 of the [mental hygiene] EXECUTIVE law. Such slides, materials and spec-  
 56 imens may be retained for a reasonable time, and shall be returned to  
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1 the office of the coroner or medical examiner in good condition allowing  
 2 for reasonable use for study and testing purposes.

3 S 2. Subdivisions (a) and (d) of section 7.09 of the mental hygiene  
 4 law, subdivision (a) as added by chapter 978 of the laws of 1977 and  
 5 subdivision (d) as added by chapter 477 of the laws of 1979, are amended  
 6 to read as follows:

7 (a) The commissioner shall exercise all powers vested in the office.  
 8 He may delegate any function, power, or duty assigned to him or to the  
 9 office of mental health to a director of a facility operated by such  
 10 office or to any other officer or employee of such office, unless other-  
 11 wise provided by law. He may enter into agreements with the EXECUTIVE  
 12 DIRECTOR OF THE JUSTICE CENTER FOR THE PROTECTION OF PEOPLE WITH SPECIAL  
 13 NEEDS OR THE other commissioners of the department in order to ensure  
 14 that programs and services are provided for all of the mentally disa-  
 15 bled.

16 (d) The commissioner and directors of office facilities may request  
 17 and upon such request the coroner, coroner's physician or medical exam-  
 18 iner shall provide to such persons access to original autopsy slides,  
 19 tissue materials and specimens derived from any autopsy or inquiry with  
 20 respect to the death of a patient or resident in a mental hygiene facil-  
 21 ity, as defined in [section 45.01 of this chapter] SUBDIVISION TWO OF  
 22 SECTION FIVE HUNDRED FIFTY OF THE EXECUTIVE LAW. Such original materials  
 23 shall be preserved intact, except for unavoidable changes due to neces-  
 24 sary scientific testing, and shall be returned to the coroner, coroner's

25 physician or medical examiner.

26 S 3. Subdivision (b) of section 7.21 of the mental hygiene law, as  
27 amended by chapter 558 of the laws of 2011, is amended to read as  
28 follows:

29 (b) Such director shall have the responsibility of seeing that there  
30 is humane treatment of the patients at his OR HER facility and shall  
31 investigate, OR CAUSE TO BE INVESTIGATED, every case of alleged patient  
32 abuse or [mistreatment] NEGLECT. IN ACCORDANCE WITH ARTICLE ELEVEN OF  
33 THE SOCIAL SERVICES LAW, THE DIRECTOR SHALL REQUIRE THAT ALLEGATIONS OF  
34 ABUSE OR NEGLECT ARE REPORTED TO THE VULNERABLE PERSONS' CENTRAL REGIS-  
35 TER, WHICH SHALL SCREEN AND IMMEDIATELY FORWARD REPORTS THAT APPEAR TO  
36 ALLEGE CRIMES TO THE APPROPRIATE LAW ENFORCEMENT AGENCY. [The director  
37 shall notify immediately, and in any event within three working days,  
38 the board of visitors of the facility and the mental hygiene legal  
39 service located in the same judicial department as the hospital, school,  
40 or institution of every complaint of patient abuse or mistreatment and  
41 shall inform the board and the mental hygiene legal service of the  
42 results of his investigation. If it appears that a crime may have been  
43 committed, the director shall give notice thereof to the district attor-  
44 ney or other appropriate law enforcement official as soon as possible,  
45 and in any event within three working days unless it appears that the  
46 crime includes an employee, intern, volunteer, consultant, contractor,  
47 or visitor and the alleged conduct caused physical injury or the patient  
48 was subject to unauthorized sexual contact, or if it appears the crime  
49 is endangering the welfare of an incompetent or physically disabled  
50 person pursuant to section 260.25 of the penal law, or if the crime was  
51 any felony under state or federal law, then the district attorney or  
52 other appropriate law enforcement official must be contacted immediate-  
53 ly, and in any event no later than twenty-four hours.]

54 S 4. Subdivisions (a) and (c) of section 13.09 of the mental hygiene  
55 law, subdivision (a) as added by chapter 978 of the laws of 1977 and  
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1 subdivision (c) as added by chapter 477 of the laws of 1979, are amended  
2 to read as follows:

3 (a) The commissioner shall exercise all powers vested in the office.  
4 He OR SHE may delegate any function, power, or duty assigned to him OR  
5 HER or to the office to any officer or employee of the office, unless  
6 otherwise provided by law. He OR SHE may enter into agreements with  
7 other commissioners of the department in order to ensure that programs  
8 and services are provided for all of the mentally disabled.

9 (c) The commissioner and directors of office facilities may request  
10 and upon such request the coroner, coroner's physician or medical exam-  
11 iner shall provide to such persons access to original autopsy slides,  
12 tissue materials and specimens derived from any autopsy or inquiry with  
13 respect to the death of a patient or resident in a mental hygiene facil-  
14 ity, as defined in [section 45.01 of this chapter] SUBDIVISION TWO OF  
15 SECTION FIVE HUNDRED FIFTY OF THE EXECUTIVE LAW. Such original materials  
16 shall be preserved intact, except for unavoidable changes due to neces-  
17 sary scientific testing and shall be returned to the coroner, coroner's  
18 physician or medical examiner.

19 S 5. Subdivision (b) of section 13.21 of the mental hygiene law, as  
20 amended by section 3 of part J of chapter 56 of the laws of 2012, is  
21 amended to read as follows:

22 (b) Such directors shall have the responsibility of seeing that there  
23 is humane treatment of individuals with developmental disabilities  
24 receiving services in settings operated, licensed, certified, funded or  
25 approved by this office AND SHALL INVESTIGATE, OR CAUSE TO BE INVESTI-  
26 GATED, EVERY CASE OF ALLEGED PATIENT ABUSE OR NEGLECT. IN ACCORDANCE  
27 WITH ARTICLE ELEVEN OF THE SOCIAL SERVICES LAW, THE DIRECTOR SHALL  
28 REQUIRE THAT ALLEGATIONS OF ABUSE OR NEGLECT ARE REPORTED TO THE VULNER-  
29 ABLE PERSONS' CENTRAL REGISTER, WHICH SHALL SCREEN AND IMMEDIATELY  
30 FORWARD REPORTS THAT APPEAR TO ALLEGE CRIMES TO THE APPROPRIATE LAW  
31 ENFORCEMENT AGENCY. [A director of a state operations office shall noti-  
32 fy immediately, and in any event within three working days, the board of  
33 visitors of the facility and the mental hygiene legal service located in  
34 the same judicial department as the state operations office of every  
35 complaint of patient abuse or mistreatment and shall inform the board  
36 and the mental hygiene legal service of the results of his or her inves-  
37 tigation. If it appears that a crime may have been committed, such state  
38 operations director shall give notice thereof to the district attorney  
39 or other appropriate law enforcement official as soon as possible, and

40 in any event within three working days unless it appears that the crime  
 41 includes an employee, intern, volunteer, consultant, contractor, or  
 42 visitor and the alleged conduct caused physical injury or the patient  
 43 was subject to unauthorized sexual contact, or if it appears the crime  
 44 is endangering the welfare of an incompetent or physically disabled  
 45 person pursuant to section 260.25 of the penal law, or if the crime was  
 46 any felony under state or federal law, then the district attorney or  
 47 other appropriate law enforcement official must be contacted immediate-  
 48 ly, and in any event no later than twenty-four hours.]

49 S 6. Subdivision 2 of section 13.34 of the mental hygiene law is  
 50 REPEALED and subdivisions 3, 4, 5 and 6 are renumbered subdivisions 2,  
 51 3, 4 and 5.

52 S 7. Subdivisions 1 and 2 of section 13.34 of the mental hygiene law,  
 53 subdivision 1 as amended by section 16 of part J of chapter 56 of the  
 54 laws of 2012, subdivision 2 as amended by chapter 542 of the laws of  
 55 2011 and such subdivision as renumbered by section six of this act, are  
 56 amended to read as follows:

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42

1 1. There shall be at each developmental center facility listed in  
 2 section 13.17 of this article, an ombudsman who shall be an employee of  
 3 the [commission on quality of care and advocacy for persons with disa-  
 4 bilities] JUSTICE CENTER FOR THE PROTECTION OF PEOPLE WITH SPECIAL NEEDS  
 5 under article [forty-five] TWENTY of [this chapter] THE EXECUTIVE LAW  
 6 and who shall be responsible for receiving and responding to any  
 7 complaints regarding [individual clients] INDIVIDUALS RECEIVING SERVICES  
 8 residing in such facility. The ombudsman shall have the following powers  
 9 and duties:

10 i. to advise and consult with INDIVIDUALS RECEIVING SERVICES, parents,  
 11 guardians, correspondents and other interested persons with respect to  
 12 any complaints, or issues related to [the conditions of clients' resi-  
 13 dents] INDIVIDUALS RECEIVING SERVICES;

14 ii. to review and attempt to remedy specific complaints with responsi-  
 15 ble and appropriate staff;

16 iii. where it appears that care has not been rendered as required by  
 17 applicable standards to refer the complaint to the appropriate agency or  
 18 body for its attention;

19 iv. to receive and keep confidential any complaint, information or  
 20 inquiry from any source. The records of the ombudsman shall be confiden-  
 21 tial, and shall not be available to the public;

22 v. to advise and consult with the board of visitors served by the  
 23 ombudsman with respect to any complaints or issues relating to condi-  
 24 tions of client's residence, treatment and care and to regularly attend  
 25 the meetings of such board; and

26 vi. to meet with the commissioner, or a representative of the commis-  
 27 sioner, on a quarterly basis regarding systemic issues in the ombuds-  
 28 man's jurisdiction.

29 2. The ombudsman shall be afforded initial training and orientation by  
 30 the [commission on quality of care and advocacy for persons with disa-  
 31 bilities] JUSTICE CENTER FOR THE PROTECTION OF PEOPLE WITH SPECIAL  
 32 NEEDS.

33 S 8. Subdivision (b) of section 16.13 of the mental hygiene law is  
 34 REPEALED and a new subdivision (b) is added to read as follows:

35 (B) MAKING REPORTS OF CASES OF ABUSE OR NEGLECT IN ACCORDANCE WITH  
 36 ARTICLE ELEVEN OF THE SOCIAL SERVICES LAW TO THE VULNERABLE PERSONS'  
 37 CENTRAL REGISTER, WHICH SHALL SCREEN AND IMMEDIATELY FORWARD ALLEGATIONS  
 38 THAT APPEAR TO ALLEGE CRIMES TO THE APPROPRIATE LAW ENFORCEMENT AGENCY.  
 39 SIMILARLY, MAKING REPORTS OF SIGNIFICANT INCIDENTS, AS DEFINED IN SUBDI-  
 40 VISION TWELVE OF SECTION FOUR HUNDRED EIGHTY-EIGHT OF THE SOCIAL  
 41 SERVICES LAW, WHICH SHALL BE ADDRESSED PURSUANT TO THE STANDARDS SET  
 42 FORTH IN SECTION FOUR HUNDRED NINETY-ONE OF THE SOCIAL SERVICES LAW AND  
 43 REGULATIONS OF THE OFFICE.

44 S 9. Section 16.29 of the mental hygiene law, as amended by chapter 24  
 45 of the laws of 2007, subdivision (b) as amended by chapter 37 of the  
 46 laws of 2011, is amended to read as follows:

47 S 16.29 [Child abuse and maltreatment in residential care] ABUSE,  
 48 NEGLECT, AND SIGNIFICANT INCIDENTS INVOLVING VULNERABLE  
 49 PERSONS.

50 (a) The commissioner, IN CONSULTATION WITH THE EXECUTIVE DIRECTOR OF  
 51 THE JUSTICE CENTER FOR THE PROTECTION OF PEOPLE WITH SPECIAL NEEDS,  
 52 shall promulgate regulations establishing standards for the protection  
 53 of [children in residential] SERVICE RECIPIENTS IN THE care OF FACILI-

54 TIES AND PROVIDER AGENCIES OPERATED, LICENSED OR CERTIFIED BY THE OFFICE  
55 from abuse [and maltreatment], NEGLECT, AND SIGNIFICANT INCIDENTS PURSU-  
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1 ANT TO ARTICLE ELEVEN OF THE SOCIAL SERVICES LAW, including procedures  
2 for:

3 (1) [reviewing and evaluating the backgrounds of and information  
4 supplied by any person applying to be an employee, a volunteer or  
5 consultant,] consistent with appropriate collective bargaining agree-  
6 ments and applicable provisions of the civil service law[. Such review  
7 and evaluation shall include but not be limited to the following  
8 requirements: that the applicant set forth his or her employment histo-  
9 ry, provide personal and employment references and relevant experiential  
10 and educational information and, sign a sworn statement whether, to the  
11 best of his or her knowledge, he or she has ever been convicted of a  
12 crime in this state or any other jurisdiction], ASSISTING THE JUSTICE  
13 CENTER FOR THE PROTECTION OF PEOPLE WITH SPECIAL NEEDS WITH ITS REVIEW  
14 AND EVALUATION OF CRIMINAL BACKGROUND CHECKS OF PROSPECTIVE EMPLOYEES,  
15 AS SET FORTH IN SUBDIVISION FIVE OF SECTION FIVE HUNDRED FIFTY-THREE OF  
16 THE EXECUTIVE LAW;

17 (2) establishing minimal experiential and educational qualifications  
18 for employees that are consistent with appropriate collective bargaining  
19 agreements and applicable provisions of the civil service law;

20 (3) assuring adequate and appropriate supervision of employees, volun-  
21 teers and consultants;

22 (4) demonstrating that appropriate action is taken to assure the safe-  
23 ty of [the child] A SERVICE RECIPIENT who is [reported] ALLEGED TO HAVE  
24 BEEN ABUSED OR NEGLECTED IN A REPORT to the [state] VULNERABLE PERSONS'  
25 central register, IN ACCORDANCE WITH SECTION FOUR HUNDRED NINETY-TWO OF  
26 THE SOCIAL SERVICES LAW, as well as other [children] PERSONS in care,  
27 immediately upon notification that a report of [child] AN ALLEGATION OF  
28 abuse or [maltreatment] NEGLECT has been made [with respect to a child  
29 in a residential facility];

30 (4-A) CONSISTENT WITH APPLICABLE COLLECTIVE BARGAINING AGREEMENTS,  
31 ASSURING THAT AN INDIVIDUAL WHO HAS COMMITTED A CATEGORY ONE OFFENSE, AS  
32 DEFINED IN PARAGRAPH (A) OF SUBDIVISION FIVE OF SECTION FOUR HUNDRED  
33 NINETY-THREE OF THE SOCIAL SERVICES LAW, THAT IS INCLUDED ON THE VULNER-  
34 ABLE PERSONS' CENTRAL REGISTER IS NOT HIRED OR OTHERWISE USED IN ANY  
35 POSITION IN WHICH SUCH INDIVIDUAL WOULD HAVE REGULAR AND SUBSTANTIAL  
36 CONTACT WITH A SERVICE RECIPIENT IN ANY PROGRAM OPERATED, LICENSED OR  
37 CERTIFIED BY THE OFFICE;

38 (5) removing a [child] SERVICE RECIPIENT when it is determined that  
39 there is a risk to such [child] PERSON if he or she continues to remain  
40 in a [residential] facility; and

41 (6) taking appropriate preventive and remedial action, including legal  
42 action, consistent with appropriate collective bargaining agreements and  
43 applicable provisions of the civil service law. [Such] THE COMMISSIONER  
44 SHALL ADOPT standards [shall also establish as a priority] AS ESTAB-  
45 LISHED BY THE JUSTICE CENTER FOR THE PROTECTION OF PEOPLE WITH SPECIAL  
46 NEEDS, that:

47 (i) administrators, employees, volunteers and consultants receive  
48 training in at least the following: [child] abuse prevention and iden-  
49 tification, safety and security procedures, the principles of child  
50 development, the characteristics of [children] PERSONS in care and tech-  
51 niques of group [and child] management including crisis intervention,  
52 the laws, regulations and procedures governing the protection of [chil-  
53 dren] VULNERABLE PERSONS from abuse [and maltreatment], NEGLECT, AND  
54 SIGNIFICANT INCIDENTS, and other appropriate topics provided, however,  
55 that the office may exempt administrators and consultants from such  
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1 requirements upon demonstration of substantially equivalent knowledge or  
2 experience; and

3 (ii) [children] SERVICE RECIPIENTS receive instruction consistent with  
4 their age, needs and circumstances as well as the needs and circum-  
5 stances within the facility or program, in techniques and procedures  
6 which will enable [such children] THEM to ADVOCATE AND protect them-  
7 selves from abuse [and maltreatment], NEGLECT, AND SIGNIFICANT  
8 INCIDENTS.

9 The commissioner, IN CONSULTATION WITH THE EXECUTIVE DIRECTOR OF THE  
10 JUSTICE CENTER FOR THE PROTECTION OF PEOPLE WITH SPECIAL NEEDS, shall  
11 take all reasonable and necessary actions to assure that employees,

12 volunteers and consultants in [residential care] facilities OPERATED OR  
 13 OVERSEEN BY THE OFFICE are kept apprised on a current basis of all poli-  
 14 cies and procedures of the office relating to the protection of [chil-  
 15 dren from abuse and maltreatment] VULNERABLE PERSONS, and shall monitor  
 16 and supervise the provision of training to such administrators, employ-  
 17 ees, volunteers, children and consultants. Standards developed pursuant  
 18 to this subdivision shall, to the extent possible, be consistent with  
 19 those promulgated by other state agencies for such purposes.

20 (b) The commissioner shall provide necessary assistance to the [state  
 21 commission on quality of care and advocacy for persons with disabili-  
 22 ties] JUSTICE CENTER FOR THE PROTECTION OF PEOPLE WITH SPECIAL NEEDS in  
 23 the conduct of investigations pursuant to [section 45.07 of this chap-  
 24 ter] ARTICLE ELEVEN OF THE EXECUTIVE LAW, shall consider its recommenda-  
 25 tions for appropriate preventive and remedial action including legal  
 26 actions, and shall provide or direct a residential facility licensed or  
 27 operated by the office for people with developmental disabilities to  
 28 provide written reports thereon to the [commission] JUSTICE CENTER as to  
 29 the implementation of plans of prevention and remediation approved by  
 30 such office.

31 (c) The commissioner shall provide for the development and implementa-  
 32 tion of a plan of prevention and remediation with respect to [an indi-  
 33 cated] A SUBSTANTIATED report of [child] abuse or [maltreatment]  
 34 NEGLECT. Such action shall include:

35 (i) within ten days of receipt of [an indicated] A SUBSTANTIATED  
 36 report of [child] abuse or [maltreatment] NEGLECT, development and  
 37 implementation of a plan of prevention and remediation to be taken [with  
 38 respect to a custodian or the residential facility in order] to assure  
 39 the continued health [and], safety AND WELFARE of [children] SERVICE  
 40 RECIPIENTS and to provide for the prevention of future acts of abuse [or  
 41 maltreatment], NEGLECT, OR SIGNIFICANT INCIDENTS; and

42 (ii) development and implementation of a plan of prevention and reme-  
 43 diation, in the event an investigation of a report of alleged [child]  
 44 abuse or [maltreatment determines that some credible evidence of abuse  
 45 or maltreatment exists] NEGLECT IS SUBSTANTIATED and such abuse or  
 46 [maltreatment] NEGLECT may be attributed in whole or in part to noncom-  
 47 pliance by the facility with the provisions of this chapter or regu-  
 48 lations of the office applicable to the operation of such [residential]  
 49 facility. Any plan of prevention and remediation required to be devel-  
 50 oped pursuant to this subdivision by a facility supervised by the office  
 51 shall be submitted to and approved by such office in accordance with  
 52 time limits established by regulations of such office. Implementation  
 53 of the plan shall be monitored by such office. In reviewing the contin-  
 54 ued qualifications of a residential facility or program for an operating  
 55 certificate, the office shall evaluate such facility's compliance with  
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1 plans of prevention and remediation developed and implemented pursuant  
 2 to this subdivision.

3 S 10. Section 31.30 of the mental hygiene law, as added by chapter 24  
 4 of the laws of 2007, is amended to read as follows:

5 S 31.30 [Child abuse and maltreatment in residential care] ABUSE,  
 6 NEGLECT, AND SIGNIFICANT INCIDENTS INVOLVING VULNERABLE  
 7 PERSONS.

8 (a) The commissioner IN CONSULTATION WITH THE EXECUTIVE DIRECTOR OF  
 9 THE JUSTICE CENTER FOR THE PROTECTION OF PEOPLE WITH SPECIAL NEEDS,  
 10 shall promulgate regulations establishing standards for the protection  
 11 of [children in residential] SERVICE RECIPIENTS IN THE care [and  
 12 maltreatment] OF FACILITIES AND PROVIDER AGENCIES OPERATED, LICENSED OR  
 13 CERTIFIED BY THE OFFICE FROM ABUSE, NEGLECT, AND SIGNIFICANT INCIDENTS  
 14 PURSUANT TO ARTICLE ELEVEN OF THE SOCIAL SERVICES LAW, including proce-  
 15 dures for:

16 1. [reviewing and evaluating the backgrounds of and information  
 17 supplied by any person applying to be an employee, a volunteer or  
 18 consultant,] consistent with appropriate collective bargaining agree-  
 19 ments and applicable provisions of the civil service law[. Such review  
 20 and evaluation shall include, but not be limited to, the following  
 21 requirements: that the applicant set forth his or her employment histo-  
 22 ry, provide personal and employment references and relevant experiential  
 23 and educational information and, sign a sworn statement whether, to the  
 24 best of his or her knowledge, he or she has ever been convicted of a  
 25 crime in this state or any other jurisdiction], ASSISTING THE JUSTICE  
 26 CENTER FOR THE PROTECTION OF PEOPLE WITH SPECIAL NEEDS WITH ITS REVIEW

27 AND EVALUATION OF CRIMINAL BACKGROUND CHECKS OF PROSPECTIVE EMPLOYEES,  
 28 AS SET FORTH IN SUBDIVISION FIVE OF SECTION FIVE HUNDRED FIFTY-THREE OF  
 29 THE EXECUTIVE LAW;

30 2. establishing minimal experiential and educational qualifications  
 31 for employees that are consistent with appropriate collective bargaining  
 32 agreements and applicable provisions of the civil service law;

33 3. assuring adequate and appropriate supervision of employees, volun-  
 34 teers and consultants;

35 4. demonstrating that appropriate action is taken to assure the safety  
 36 of the [child] SERVICE RECIPIENT who is [reported] ALLEGED TO HAVE BEEN  
 37 ABUSED OR NEGLECTED IN A REPORT to the [state] VULNERABLE PERSONS'  
 38 central register, IN ACCORDANCE WITH SECTION FOUR HUNDRED NINETY-TWO OF  
 39 THE SOCIAL SERVICES LAW, as well as other [children] PERSONS in care,  
 40 immediately upon notification that a report of [child] AN ALLEGATION OF  
 41 abuse or [maltreatment] NEGLECT has been made [with respect to a child's  
 42 custodian in a residential facility];

43 4-A. CONSISTENT WITH APPLICABLE COLLECTIVE BARGAINING AGREEMENTS  
 44 ASSURING THAT AN INDIVIDUAL WHO HAS COMMITTED A CATEGORY ONE OFFENSE, AS  
 45 DEFINED IN PARAGRAPH (A) OF SUBDIVISION FIVE OF SECTION FOUR HUNDRED  
 46 NINETY-THREE OF THE SOCIAL SERVICES LAW, THAT IS INCLUDED ON THE VULNER-  
 47 ABLE PERSONS' CENTRAL REGISTER IS NOT HIRED OR OTHERWISE USED IN ANY  
 48 POSITION IN WHICH SUCH INDIVIDUAL WOULD HAVE REGULAR AND SUBSTANTIAL  
 49 CONTACT WITH A SERVICE RECIPIENT IN A PROGRAM COVERED BY THIS ARTICLE;

50 5. removing a [child] SERVICE RECIPIENT when it is determined that  
 51 there is risk to such [child] PERSON if he or she continues to remain in  
 52 a [residential] facility; and

53 6. taking appropriate preventive and remedial actions, including legal  
 54 action, consistent with appropriate collective bargaining agreements and  
 55 applicable provisions of the civil service law. [Such] THE COMMISSIONER  
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1 SHALL ADOPT standards [shall also establish] AS ESTABLISHED BY THE  
 2 JUSTICE CENTER FOR THE PROTECTION OF PEOPLE WITH SPECIAL NEEDS, that:

3 (i) administrators, employees, volunteers and consultants receive  
 4 training in at least the following: [child] abuse prevention and iden-  
 5 tification, safety and security procedures, the principles of child  
 6 development, the characteristics of [children] PERSONS in care and tech-  
 7 niques of group [and child] management including crisis intervention,  
 8 the laws, rules and regulations and procedures governing the protection  
 9 of [children] VULNERABLE PERSONS from abuse [and maltreatment], NEGLECT,  
 10 AND SIGNIFICANT INCIDENTS and other appropriate topics; provided, howev-  
 11 er, that [either] THE office may exempt administrators and consultants  
 12 from such requirements upon demonstration of substantially equivalent  
 13 knowledge or experience; and

14 (ii) [children] SERVICE RECIPIENTS receive instruction consistent with  
 15 their age, needs and circumstances as well as the needs and circum-  
 16 stances within the facility or program, in techniques and procedures  
 17 that will enable [such children] THEM to ADVOCATE AND protect themselves  
 18 from abuse [and maltreatment], NEGLECT, AND SIGNIFICANT INCIDENTS.

19 The commissioner, IN CONSULTATION WITH THE EXECUTIVE DIRECTOR OF THE  
 20 JUSTICE CENTER FOR THE PROTECTION OF PEOPLE WITH SPECIAL NEEDS, shall  
 21 take all reasonable and necessary actions to assure that employees,  
 22 volunteers or consultants in [residential care] facilities OPERATED OR  
 23 OVERSEEN BY THE OFFICE are kept apprised on a current basis of all poli-  
 24 cies and procedures [of the office] relating to the protection of [chil-  
 25 dren from abuse and maltreatment,] VULNERABLE PERSONS and shall monitor  
 26 and supervise the provision of training to such administrators, employ-  
 27 ees, volunteers, children and consultants. Standards developed pursuant  
 28 to this subdivision shall, to the extent possible, be consistent with  
 29 those promulgated by other state agencies for such purposes.

30 (b) The commissioner shall provide necessary assistance to the [state  
 31 commission on quality of care and advocacy for persons with disabili-  
 32 ties] JUSTICE CENTER FOR THE PROTECTION OF PEOPLE WITH SPECIAL NEEDS in  
 33 the conduct of investigations pursuant to [section 45.07 of this chap-  
 34 ter] ARTICLE ELEVEN OF THE EXECUTIVE LAW, shall consider its recommenda-  
 35 tions for appropriate preventive and remedial action including legal  
 36 actions, and shall provide or direct a residential facility licensed or  
 37 operated by the office of mental health to provide written reports ther-  
 38 eon to such [commission] JUSTICE CENTER as to the implementation of  
 39 plans of prevention and remediation.

40 (c) The commissioner shall provide for the development and implementa-  
 41 tion of a plan of prevention and remediation with respect to [an indi-



42 cated) A SUBSTANTIATED report of [child] abuse or [maltreatment]  
43 NEGLECT. Such action shall include:

44 1. within ten days of receipt of [an indicated] A SUBSTANTIATED report  
45 of [child] abuse or [maltreatment] NEGLECT, development and implementa-  
46 tion of a plan of prevention and remediation to be taken [with respect  
47 to a custodian or residential facility in order] to assure the continued  
48 health, SAFETY, and [safety] WELFARE of [children] SERVICE RECIPIENTS  
49 and to provide for the prevention of future acts of abuse [or maltreat-  
50 ment] NEGLECT, AND SIGNIFICANT INCIDENTS; and

51 2. development and implementation of a plan of prevention and remedi-  
52 ation, in the event an investigation of a report of alleged [child]  
53 abuse or [maltreatment] NEGLECT determines that a report of [child]  
54 abuse or [maltreatment] NEGLECT is [indicated] SUBSTANTIATED and such  
55 abuse or [maltreatment] NEGLECT may be attributed in whole or in part to  
56 noncompliance by the facility with provisions of this chapter or regu-  
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1 lations of the respective [offices] OFFICE applicable to the operation  
2 of such [residential] facility. Any plan of prevention and remediation  
3 required to be developed pursuant to this subdivision by a facility  
4 supervised by [either] THE office shall be submitted to and approved by  
5 such office in accordance with time limits established by rules and  
6 regulations of such office. Implementation of the plan shall be moni-  
7 tored by such office. In reviewing the continued qualification of a  
8 residential facility or program for an operating certificate, the office  
9 having supervisory responsibilities shall evaluate such facility's  
10 compliance with plans of prevention and remediation developed pursuant  
11 to this subdivision.

12 S 11. Subdivision (c) of section 33.02 of the mental hygiene law, as  
13 amended by chapter 168 of the laws of 2010, is amended to read as  
14 follows:

15 (c) The commissioners and the facility director shall ensure that a  
16 notice of the rights included in regulations promulgated pursuant to  
17 this section is posted in each ward or living area of every hospital  
18 operated or licensed by the office of mental health and every develop-  
19 mental center operated by the office for people with developmental disa-  
20 bilities, and that such notice is provided to every individual resident  
21 of any other residential facility or program operated or licensed by the  
22 respective offices upon admission to such facility or program, upon  
23 limitation on any right, or at the individual's request. The notice  
24 shall include the address and telephone numbers of the office of the  
25 facility director or such person's designee responsible for receiving  
26 questions or complaints, the board of visitors if applicable, the mental  
27 hygiene legal service, THE VULNERABLE PERSONS' CENTRAL REGISTER and the  
28 [commission on quality of care and advocacy for persons with disabili-  
29 ties] JUSTICE CENTER FOR THE PROTECTION OF PEOPLE WITH SPECIAL NEEDS.

30 S 12. Section 33.06 of the mental hygiene law, as amended by chapter  
31 37 of the laws of 2011, is amended to read as follows:

32 S 33.06 Reports of abuse [or mistreatment], NEGLECT, AND SIGNIFICANT  
33 INCIDENTS.

34 The EXECUTIVE DIRECTOR OF THE JUSTICE CENTER FOR THE PROTECTION OF  
35 PEOPLE WITH SPECIAL NEEDS, IN CONSULTATION WITH THE commissioner of the  
36 office of mental health, THE COMMISSIONER OF THE OFFICE OF ALCOHOLISM  
37 AND SUBSTANCE ABUSE SERVICES and the commissioner of the office for  
38 people with developmental disabilities shall establish procedures or  
39 mechanisms PURSUANT TO ARTICLE ELEVEN OF THE SOCIAL SERVICES LAW to  
40 receive allegations or complaints of abuse or [mistreatment] NEGLECT of,  
41 AND SIGNIFICANT INCIDENTS INVOLVING, individuals served by agencies and  
42 providers licensed or operated by the offices, including receipt of  
43 anonymous allegations or complaints. [Such mechanisms shall include the  
44 operation of a toll-free number. Allegations or complaints received  
45 shall be evaluated and, if necessary, referred for appropriate correct-  
46 tive action, consistent with laws, regulations and procedures estab-  
47 lished for the investigation, resolution and response to incident  
48 reports to ensure the care and safety of all patients. The inability of  
49 the person reporting the abuse to identify the alleged perpetrator  
50 shall, in no circumstance, constitute the sole cause to reject such  
51 allegation for investigation or fail to refer such allegation for  
52 corrective action. When an allegation of abuse or maltreatment of a  
53 child is made, the allegation shall be referred to the statewide central  
54 register of child abuse and maltreatment, established pursuant to  
55 section four hundred twenty-two of the social services law.]

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48

1 S 13. Subdivision (a) of section 33.25 of the mental hygiene law, as  
 2 added by chapter 24 of the laws of 2007, is amended to read as follows:  
 3 (a) Records and documents pertaining to allegations and investigations  
 4 into patient abuse [or mistreatment], NEGLECT, AND SIGNIFICANT INCIDENTS  
 5 at a facility, as defined in subdivision six of section 1.03 of this  
 6 chapter, including but not limited to all complaints and reports made  
 7 pursuant to [subdivision (c) of section 45.07 and section 45.17 of this  
 8 title] ARTICLE ELEVEN OF THE SOCIAL SERVICES LAW, shall be released to a  
 9 qualified person, as defined in paragraph six of subdivision (a) of  
 10 section 33.16 of this article, upon a written request by such qualified  
 11 person. Such records and documents shall be made available by the appro-  
 12 priate office within twenty-one days of the conclusion of its investi-  
 13 gation, provided that the names and other personally identifying infor-  
 14 mation of other patients and employees shall not be included unless such  
 15 patients and employees authorize disclosure.  
 16 S 14. This act shall take effect April 1, 2013.

17

## PART D

18 Section 1. Paragraph (a) of subdivision 5 of section 20 of the social  
 19 services law, as amended by chapter 485 of the laws of 2006, is amended  
 20 to read as follows:

21 (a) In the case of the death of a child whose care and custody or  
 22 custody and guardianship has been transferred to an authorized agency,  
 23 OTHER THAN A VULNERABLE PERSON AS DEFINED IN ARTICLE ELEVEN OF THIS  
 24 CHAPTER, or the death of a child for whom any local department of social  
 25 services has an open child protective services or preventive services  
 26 case, or in the case of a report made to the STATEWIDE central register  
 27 OF CHILD ABUSE AND MALTREATMENT involving the death of a child, the  
 28 office of children and family services shall (i) investigate or provide  
 29 for an investigation of the cause of and circumstances surrounding such  
 30 death, (ii) review such investigation, and (iii) prepare and issue a  
 31 report on such death, except where a report is issued by an approved  
 32 local or regional fatality review team in accordance with section four  
 33 hundred twenty-two-b of this chapter.

34 S 2. Paragraph (b) of subdivision 5 of section 412 of the social  
 35 services law is REPEALED.

36 S 2-a. Subdivisions 1, 2 and 4 of section 412 of the social services  
 37 law, as amended by chapter 323 of the laws of 2008, are amended to read  
 38 as follows:

39 1. An "abused child" means[:

40 (a)] a child under eighteen years of age [not in "residential care,"  
 41 as defined in subdivision four of section four hundred twelve-a of this  
 42 title,] and who is defined as an abused child by the family court act[;  
 43 or

44 (b) a child under the age of eighteen years who is defined as an  
 45 abused child in residential care pursuant to subdivision one of section  
 46 four hundred twelve-a of this title];

47 2. A "maltreated child" includes[:

48 (a)] a child under eighteen years of age [not in "residential care" as  
 49 defined in subdivision four of section four hundred twelve-a of this  
 50 title]:

51 [(i)] (A) defined as a neglected child by the family court act, or

52 [(ii)] (B) who has had serious physical injury inflicted upon him or  
 53 her by other than accidental means; [or

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49

1 (b) a child who is a neglected child in residential care as defined in  
 2 subdivision two of section four hundred twelve-a of this title;]

3 4. "Subject of the report" means[: (a)] any parent of, guardian of, or  
 4 other person eighteen years of age or older legally responsible for, as  
 5 defined in subdivision (g) of section one thousand twelve of the family  
 6 court act, a child reported to the statewide central register of child  
 7 abuse and maltreatment who is allegedly responsible for causing injury,  
 8 abuse or maltreatment to such child or who allegedly allows such injury,  
 9 abuse or maltreatment to be inflicted on such child; or a director or an  
 10 operator of, or employee or volunteer in, a home operated or supervised  
 11 by an authorized agency, the office of children and family services, [or  
 12 an office of the department of mental hygiene] or in a family day-care  
 13 home, a day-care center, a group family day care home, a school-age

14 child care program or a day-services program who is allegedly responsi-  
 15 ble for causing injury, abuse or maltreatment to a child who is reported  
 16 to the statewide central register of child abuse or maltreatment or who  
 17 allegedly allows such injury, abuse or maltreatment to be inflicted on  
 18 such child; [or

19 (b) a subject of a report of an abused or neglected child in residen-  
 20 tial care as defined in subdivision eight of section four hundred  
 21 twelve-a of this title;]

22 S 2-b. Section 412-a of the social services law is REPEALED.

23 S 3. Paragraphs (a) and (c) of subdivision 1 of section 413 of the  
 24 social services law, paragraph (a) as amended by chapter 91 of the laws  
 25 of 2011 and paragraph (c) as amended by chapter 366 of the laws of 2008,  
 26 are amended to read as follows:

27 (a) The following persons and officials are required to report or  
 28 cause a report to be made in accordance with this title when they have  
 29 reasonable cause to suspect that a child coming before them in their  
 30 professional or official capacity is an abused or maltreated child, or  
 31 when they have reasonable cause to suspect that a child is an abused or  
 32 maltreated child where the parent, guardian, custodian or other person  
 33 legally responsible for such child comes before them in their profes-  
 34 sional or official capacity and states from personal knowledge facts,  
 35 conditions or circumstances which, if correct, would render the child an  
 36 abused or maltreated child: any physician; registered physician assist-  
 37 ant; surgeon; medical examiner; coroner; dentist; dental hygienist;  
 38 osteopath; optometrist; chiropractor; podiatrist; resident; intern;  
 39 psychologist; registered nurse; social worker; emergency medical techni-  
 40 cian; licensed creative arts therapist; licensed marriage and family  
 41 therapist; licensed mental health counselor; licensed psychoanalyst;  
 42 hospital personnel engaged in the admission, examination, care or treat-  
 43 ment of persons; a Christian Science practitioner; school official,  
 44 which includes but is not limited to school teacher, school guidance  
 45 counselor, school psychologist, school social worker, school nurse,  
 46 school administrator or other school personnel required to hold a teach-  
 47 ing or administrative license or certificate; social services worker;  
 48 director of a children's overnight camp, summer day camp or traveling  
 49 summer day camp, as such camps are defined in section thirteen hundred  
 50 ninety-two of the public health law; day care center worker; school-age  
 51 child care worker; provider of family or group family day care; [employ-  
 52 ee or volunteer in a residential care] AGENT OF A facility OR PROVIDER  
 53 AGENCY, AS defined in [subdivision four of] section four hundred  
 54 [twelve-a] EIGHTY-EIGHT of [this title] ARTICLE ELEVEN OF THIS CHAPTER  
 55 or any other child care or foster care worker; mental health profes-  
 56 sional; substance abuse counselor; alcoholism counselor; all persons  
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1 credentialed by the office of alcoholism and substance abuse services;  
 2 peace officer; police officer; district attorney or assistant district  
 3 attorney; investigator employed in the office of a district attorney; or  
 4 other law enforcement official.

5 (c) A medical or other public or private institution, school, facility  
 6 or agency shall not take any retaliatory personnel action, as such term  
 7 is defined in paragraph (e) of subdivision one of section seven hundred  
 8 forty of the labor law, against an employee because such employee  
 9 believes that he or she has reasonable cause to suspect that a child is  
 10 an abused or maltreated child and that employee therefore makes a report  
 11 in accordance with this title. No school, school official, child care  
 12 provider, foster care provider, residential care facility provider,  
 13 hospital, medical institution provider or mental health facility provid-  
 14 er shall impose any conditions, including prior approval or prior  
 15 notification, upon a member of their staff specifically required to  
 16 report under this title. At the time of the making of a report, or at  
 17 any time thereafter, such person or official may exercise the right to  
 18 request, pursuant to paragraph (A) of subdivision four of section four  
 19 hundred twenty-two of this title, the findings of an investigation made  
 20 pursuant to this title [or section 45.07 of the mental hygiene law].

21 S 3-a. Section 415 of the social services law, as amended by chapter  
 22 323 of the laws of 2008, is amended to read as follows:

23 S 415. Reporting procedure. Reports of suspected child abuse or  
 24 maltreatment made pursuant to this title shall be made immediately by  
 25 telephone or by telephone facsimile machine on a form supplied by the  
 26 commissioner of the office of children and family services. Oral reports  
 27 shall be followed by a report in writing within forty-eight hours after

28 such oral report. Oral reports shall be made to the statewide central  
 29 register of child abuse and maltreatment unless the appropriate local  
 30 plan for the provision of child protective services provides that oral  
 31 reports should be made to the local child protective service. In those  
 32 localities in which oral reports are made initially to the local child  
 33 protective service, the child protective service shall immediately make  
 34 an oral or electronic report to the statewide central register. Written  
 35 reports shall be made to the appropriate local child protective service  
 36 except that written reports involving children [in residential care, as  
 37 defined in subdivision four of section four hundred twelve-a of this  
 38 title, or] being cared for in a home operated or supervised by an  
 39 authorized agency[,] OR THE office of children and family services[, or  
 40 an office of the department of mental hygiene,] shall be made to the  
 41 statewide central register of child abuse and maltreatment which shall  
 42 transmit the reports to the agency responsible for investigating the  
 43 report, in accordance with [paragraph (a) or (c) of subdivision eleven  
 44 of section four hundred twenty-two or] section four hundred  
 45 twenty-four-b of this title[, as applicable]. Written reports shall be  
 46 made in a manner prescribed and on forms supplied by the commissioner of  
 47 the office of children and family services and shall include the follow-  
 48 ing information: the names and addresses of the child and his or her  
 49 parents or other person responsible for his or her care, if known, and,  
 50 as the case may be, the name and address of the [residential care facil-  
 51 ity or] program in which the child [resides or] is receiving care; the  
 52 child's age, sex and race; the nature and extent of the child's inju-  
 53 ries, abuse or maltreatment, including any evidence of prior injuries,  
 54 abuse or maltreatment to the child or, as the case may be, his or her  
 55 siblings; the name of the person or persons alleged to be responsible  
 56 for causing the injury, abuse or maltreatment, if known; family composi-  
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1 tion, where appropriate; the source of the report; the person making the  
 2 report and where he or she can be reached; the actions taken by the  
 3 reporting source, including the taking of photographs and x-rays,  
 4 removal or keeping of the child or notifying the medical examiner or  
 5 coroner; and any other information which the commissioner of the office  
 6 of children and family services may, by regulation, require, or the  
 7 person making the report believes might be helpful, in the furtherance  
 8 of the purposes of this title. Notwithstanding the privileges set forth  
 9 in article forty-five of the civil practice law and rules, and any other  
 10 provision of law to the contrary, mandated reporters who make a report  
 11 which initiates an investigation of an allegation of child abuse or  
 12 maltreatment are required to comply with all requests for records made  
 13 by a child protective service relating to such report, including records  
 14 relating to diagnosis, prognosis or treatment, and clinical records, of  
 15 any patient or client that are essential for a full investigation of  
 16 allegations of child abuse or maltreatment pursuant to this title;  
 17 provided, however, that disclosure of substance abuse treatment records  
 18 shall be made pursuant to the standards and procedures for disclosure of  
 19 such records delineated in federal law. Written reports from persons or  
 20 officials required by this title to report shall be admissible in  
 21 evidence in any proceedings relating to child abuse or maltreatment.

22 S 4. Section 418 of the social services law, as amended by chapter 485  
 23 of the laws of 2006, is amended to read as follows:

24 S 418. Mandatory reporting to and post-mortem investigation of deaths  
 25 by medical examiner or coroner. Any person or official required to  
 26 report cases of suspected child abuse or maltreatment, including workers  
 27 of the local child protective service[, as well as an employee of or  
 28 official of a state agency responsible for the investigation of a report  
 29 of abuse or maltreatment of a child in residential care,] who has  
 30 reasonable cause to suspect that a child died as a result of child abuse  
 31 or maltreatment shall report that fact to the appropriate medical exam-  
 32 iner or coroner. The medical examiner or coroner shall accept the  
 33 report for investigation and shall issue a preliminary written report of  
 34 his or her finding within sixty days of the date of death, absent  
 35 extraordinary circumstances, and his or her final written report prompt-  
 36 ly, absent extraordinary circumstances, to the police, the appropriate  
 37 district attorney, the local child protective service, the office of  
 38 children and family services, and, if the institution making the report  
 39 is a hospital, the hospital. The office of children and family services  
 40 shall promptly provide a copy of the preliminary and final reports to  
 41 the statewide central register of child abuse and maltreatment.

42 S 5. The section heading, the opening paragraph and subdivision 1 of  
 43 section 421 of the social services law, the section heading and the  
 44 opening paragraph as amended by chapter 718 of the laws of 1986 and  
 45 subdivision 1 as amended by chapter 504 of the laws of 1988, are amended  
 46 to read as follows:

47 Responsibility of the [department] OFFICE. The [department] OFFICE  
 48 shall: 1. in conjunction with local departments, both jointly and indi-  
 49 vidually, within the appropriation available, conduct a continuing  
 50 publicity and education program for local department staff, persons and  
 51 officials required to report including district attorneys, assistant  
 52 district attorneys, police officers, peace officers, investigators  
 53 employed in the office of a district attorney, and any other appropriate  
 54 persons to encourage the fullest degree of reporting of suspected child  
 55 abuse or maltreatment. Such program shall be developed and implemented  
 56 in coordination with those established pursuant to section 31.06 of the  
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1 mental hygiene law, section twenty-eight hundred five-n of the public  
 2 health law, section thirty-two hundred nine-a of the education law  
 3 [and], sections two hundred fourteen-a and eight hundred forty of the  
 4 executive law AND ARTICLE ELEVEN OF THIS CHAPTER. The program shall  
 5 include but not be limited to responsibilities, obligations and powers  
 6 under this title and chapter as well as the diagnosis of child abuse and  
 7 maltreatment, the procedures of the child protective service, the family  
 8 court and other duly authorized agencies and the prevention, treatment  
 9 and remediation of abuse and maltreatment of children in residential  
 10 care.

11 S 6. Subparagraph (r) of paragraph (A) of subdivision 4 of section  
 12 422 of the social services law is REPEALED, and the opening paragraph,  
 13 subparagraphs (j), (z) and (aa) and the first undesignated paragraph of  
 14 paragraph (A) of subdivision 4 of section 422 of the social services  
 15 law, the opening paragraph, subparagraph (j) and the first undesignated  
 16 paragraph of paragraph (A) of subdivision 4 as amended by chapter 12 of  
 17 the laws of 1996, subparagraph (z) as amended and subparagraph (aa) as  
 18 added by chapter 440 of the laws of 2011, are amended to read as  
 19 follows:

20 Reports made pursuant to this title as well as any other information  
 21 obtained, reports written or photographs taken concerning such reports  
 22 in the possession of the [department,] OFFICE OR local departments[, or  
 23 the commission on quality of care for the mentally disabled,] shall be  
 24 confidential and shall only be made available to:

25 (j) [the state commission on quality of care for the mentally disabled  
 26 in connection with an investigation being conducted by the commission  
 27 pursuant to article forty-five of the mental hygiene law] THE JUSTICE  
 28 CENTER FOR THE PROTECTION OF PEOPLE WITH SPECIAL NEEDS OR A DELEGATE  
 29 INVESTIGATORY ENTITY IN CONNECTION WITH AN INVESTIGATION BEING CONDUCTED  
 30 UNDER ARTICLE ELEVEN OF THIS CHAPTER;

31 (z) an entity with appropriate legal authority in another state to  
 32 license, certify or otherwise approve prospective foster and adoptive  
 33 parents where disclosure of information regarding the prospective foster  
 34 or adoptive parents and other persons over the age of eighteen residing  
 35 in the home of such prospective parents is required by paragraph twenty  
 36 of subdivision (a) of section six hundred seventy-one of title forty-two  
 37 of the United States code; and

38 (aa) a social services official who is investigating whether an adult  
 39 is in need of protective services in accordance with the provisions of  
 40 section four hundred seventy-three of this chapter, when such official  
 41 has reasonable cause to believe such adult may be in need of protective  
 42 services due to the conduct of an individual or individuals who had  
 43 access to such adult when such adult was a child and that such reports  
 44 and information are needed to further the present investigation.

45 After a child, other than a child in residential care, who is reported  
 46 to the central register of abuse or maltreatment reaches the age of  
 47 eighteen years, access to a child's record under subparagraphs (a) and  
 48 (b) of this paragraph shall be permitted only if a sibling or off-spring  
 49 of such child is before such person and is a suspected victim of child  
 50 abuse or maltreatment. In addition, a person or official required to  
 51 make a report of suspected child abuse or maltreatment pursuant to  
 52 section four hundred thirteen of this chapter shall receive, upon  
 53 request, the findings of an investigation made pursuant to this title  
 54 [or section 45.07 of the mental hygiene law]. However, no information  
 55 may be released unless the person or official's identity is confirmed by

56 the [department] OFFICE. If the request for such information is made  
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1 prior to the completion of an investigation of a report, the released  
2 information shall be limited to whether the report is "indicated",  
3 "unfounded" or "under investigation", whichever the case may be. If the  
4 request for such information is made after the completion of an investi-  
5 gation of a report, the released information shall be limited to whether  
6 the report is "indicated" or "unfounded", whichever the case may be. A  
7 person given access to the names or other information identifying the  
8 subjects of the report, or other persons named in the report, except the  
9 subject of the report or other persons named in the report, shall not  
10 divulge or make public such identifying information unless he or she is  
11 a district attorney or other law enforcement official and the purpose is  
12 to initiate court action or the disclosure is necessary in connection  
13 with the investigation or prosecution of the subject of the report for a  
14 crime alleged to have been committed by the subject against another  
15 person named in the report. Nothing in this section shall be construed  
16 to permit any release, disclosure or identification of the names or  
17 identifying descriptions of persons who have reported suspected child  
18 abuse or maltreatment to the statewide central register or the agency,  
19 institution, organization, program or other entity where such persons  
20 are employed or the agency, institution, organization or program with  
21 which they are associated without such persons' written permission  
22 except to persons, officials, and agencies enumerated in subparagraphs  
23 (e), (f), (h), (j), (l), (m) and (v) of this paragraph.

24 S 7. The opening paragraph, subparagraph (iii) of paragraph (a) and  
25 paragraph (b) of subdivision 5 and subdivision 6 of section 422 of the  
26 social services law, the opening paragraph, subparagraph (iii) of para-  
27 graph (a) and paragraph (b) of subdivision 5 as amended by chapter 555  
28 of the laws of 2000 and subdivision 6 as amended by chapter 323 of the  
29 laws of 2008, are amended to read as follows:

30 Unless an investigation of a report conducted pursuant to this title  
31 [or subdivision (c) of section 45.07 of the mental hygiene law] deter-  
32 mines that there is some credible evidence of the alleged abuse or  
33 maltreatment, all information identifying the subjects of the report and  
34 other persons named in the report shall be legally sealed forthwith by  
35 the central register and any local child protective services or the  
36 state agency which investigated the report. Such unfounded reports may  
37 only be unsealed and made available:

38 (iii) to a local child protective service, the office of children and  
39 family services, OR all members of a local or regional multidisciplinary  
40 investigative team[, the commission on quality of care for the mentally  
41 disabled, or the department of mental hygiene,] OR THE JUSTICE CENTER  
42 FOR THE PROTECTION OF PEOPLE WITH SPECIAL NEEDS when investigating a  
43 subsequent report of suspected abuse, NEGLECT or maltreatment involving  
44 a subject of the unfounded report, a child named in the unfounded  
45 report, or a child's sibling named in the unfounded report PURSUANT TO  
46 THIS ARTICLE OR ARTICLE ELEVEN OF THIS CHAPTER;

47 (b) Persons given access to unfounded reports pursuant to subparagraph  
48 (v) of paragraph (a) of this subdivision shall not redisclose such  
49 reports except as necessary to conduct such appropriate investigation or  
50 prosecution and shall request of the court that any copies of such  
51 reports produced in any court proceeding be redacted to remove the names  
52 of the subjects and other persons named in the reports or that the court  
53 issue an order protecting the names of the subjects and other persons  
54 named in the reports from public disclosure. The local child protective  
55 service or state agency shall not indicate the subsequent report solely  
56 based upon the existence of the prior unfounded report or reports.  
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1 Notwithstanding section four hundred fifteen of this title, section one  
2 thousand forty-six of the family court act, or, except as set forth  
3 herein, any other provision of law to the contrary, an unfounded report  
4 shall not be admissible in any judicial or administrative proceeding or  
5 action; provided, however, an unfounded report may be introduced into  
6 evidence: (i) by the subject of the report where such subject is a  
7 respondent in a proceeding under article ten of the family court act or  
8 is a plaintiff or petitioner in a civil action or proceeding alleging  
9 the false reporting of child abuse or maltreatment; or (ii) in a crimi-  
10 nal court for the purpose of prosecuting a violation of subdivision  
11 [three] FOUR of section [240.55] 240.50 of the penal law. Legally sealed

12 unfounded reports shall be expunged ten years after the receipt of the  
 13 report. [Whenever the office of children and family services determines  
 14 that there is some credible evidence of abuse or maltreatment as a  
 15 result of an investigation of a report conducted pursuant to subdivision  
 16 (c) of section 45.07 of the mental hygiene law, the office of children  
 17 and family services shall notify the commission on quality of care for  
 18 the mentally disabled.]

19 6. In all other cases, the record of the report to the statewide  
 20 central register shall be expunged ten years after the eighteenth birth-  
 21 day of the youngest child named in the report. In the case of a child in  
 22 residential care [as defined in subdivision four of section four hundred  
 23 twelve-a of this title,] the record of the report to the statewide  
 24 central register shall be expunged ten years after the reported child's  
 25 eighteenth birthday. In any case and at any time, the commissioner of  
 26 the office of children and family services may amend any record upon  
 27 good cause shown and notice to the subjects of the report and other  
 28 persons named in the report.

29 S 8. Subdivisions 3, 4, 5 and 6 of section 424-a of the social  
 30 services law, subdivision 3 as amended by chapter 578 of the laws of  
 31 1997, subdivision 4 as amended by chapter 465 of the laws of 1992,  
 32 subdivision 5 as added by chapter 677 of the laws of 1985, paragraph (a)  
 33 of subdivision 5 as amended by chapter 634 of the laws of 1988 and  
 34 subdivision 6 as amended by chapter 587 of the laws of 1997, are amended  
 35 and a new subdivision 7 is added to read as follows:

36 3. For purposes of this [chapter] SECTION, the term "provider" or  
 37 "provider agency" shall mean an authorized agency, the [division for  
 38 youth] OFFICE OF CHILDREN AND FAMILY SERVICES, juvenile detention facil-  
 39 ities subject to the certification of such [division] OFFICE, programs  
 40 established pursuant to article nineteen-H of the executive law, non-re-  
 41 sidential or residential programs or facilities licensed or operated by  
 42 the office of mental health or the office [of mental retardation and]  
 43 FOR PERSONS WITH developmental disabilities except family care homes,  
 44 licensed child day care centers, including head start programs which are  
 45 funded pursuant to title V of the federal economic opportunity act of  
 46 nineteen hundred sixty-four, as amended, early intervention service  
 47 established pursuant to section twenty-five hundred forty of the public  
 48 health law, preschool services established pursuant to section forty-  
 49 four hundred ten of the education law, school-age child care programs,  
 50 special act school districts as enumerated in chapter five hundred  
 51 sixty-six of the laws of nineteen hundred sixty-seven, as amended,  
 52 programs and facilities licensed by the office of alcoholism and  
 53 substance abuse services [and], residential schools which are operated,  
 54 supervised or approved by the education department, AND ANY OTHER FACIL-  
 55 ITY OR PROVIDER AGENCY, AS DEFINED IN SUBDIVISION FOUR OF SECTION FOUR  
 56 HUNDRED EIGHTY-EIGHT OF THIS CHAPTER, IN REGARD TO THE EMPLOYMENT OF  
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1 STAFF, OR USE OF PROVIDERS OF GOODS AND SERVICES AND STAFF OF SUCH  
 2 PROVIDERS, CONSULTANTS, INTERNS AND VOLUNTEERS.

3 4. For purposes of this [chapter] SECTION, the term "licensing agency"  
 4 shall mean an authorized agency which has received an application to  
 5 become an adoptive parent or an authorized agency which has received an  
 6 application for a certificate or license to receive, board or keep any  
 7 child pursuant to the provisions of section three hundred seventy-six or  
 8 three hundred seventy-seven of this article or an authorized agency  
 9 which has received an application from a relative within the second  
 10 degree or third degree of CONSANGUINITY OF the parent of a child or a  
 11 relative within the second degree or third degree of CONSANGUINITY OF  
 12 the step-parent of a child or children, or the child's legal guardian  
 13 for approval to receive, board or keep such child or a state or local  
 14 governmental agency which receives an application to provide child day  
 15 care services in a child day care center, school-age child care program,  
 16 family day care home or group family day care home pursuant to the  
 17 provisions of section three hundred ninety of this article, or the  
 18 department of health AND MENTAL HYGIENE of the city of New York, when  
 19 such department receives an application for a certificate of approval to  
 20 provide [family] CHILD day care SERVICES IN A CHILD DAY CARE CENTER  
 21 pursuant to the provisions of the health code of the city of New York,  
 22 or the office of mental health or the office [of mental retardation and]  
 23 FOR PEOPLE WITH developmental disabilities when such office receives an  
 24 application for an operating certificate pursuant to the provisions of  
 25 the mental hygiene law to operate a family care home which will serve

26 children, or a state or local governmental official who receives an  
 27 application for a permit to operate a camp which is subject to the  
 28 provisions of article thirteen-A[,] OR thirteen-B [or thirteen-C] of the  
 29 public health law or the [division for youth] OFFICE OF CHILDREN AND  
 30 FAMILY SERVICES which has received an application for a certificate to  
 31 receive, board or keep any child at a foster family home pursuant to  
 32 articles nineteen-G and nineteen-H of the executive law OR ANY OTHER  
 33 FACILITY OR PROVIDER AGENCY, AS DEFINED IN SUBDIVISION FOUR OF SECTION  
 34 FOUR HUNDRED EIGHTY-EIGHT OF THIS CHAPTER, IN REGARD TO ANY LICENSING OR  
 35 CERTIFICATION FUNCTION CARRIED OUT BY SUCH FACILITY OR AGENCY.

36 5. (a) The [department] OFFICE OF CHILDREN AND FAMILY SERVICES, after  
 37 consultation with the [division for youth, the department of mental  
 38 hygiene, the commission on quality of care for the mentally disabled]  
 39 JUSTICE CENTER FOR THE PROTECTION OF PEOPLE WITH SPECIAL NEEDS, THE  
 40 OFFICE OF MENTAL HEALTH, THE OFFICE FOR PEOPLE WITH DEVELOPMENTAL DISA-  
 41 BILITIES, THE OFFICE OF ALCOHOLISM AND SUBSTANCE ABUSE SERVICES, THE  
 42 DEPARTMENT OF HEALTH, and the state education department shall develop  
 43 [guidelines] GUIDELINES to be utilized by a provider agency, as defined  
 44 by subdivision three of this section, and a licensing agency, as defined  
 45 by subdivision four of this section, in evaluating persons about whom  
 46 inquiries are made to the [department] OFFICE pursuant to this section  
 47 who are the subjects of indicated reports of child abuse and maltreat-  
 48 ment, as defined by subdivision four of section four hundred twelve of  
 49 this chapter.

50 (b) The guidelines developed pursuant to subdivision one of this  
 51 section shall not [supercede] SUPERSEDE similar guidelines developed by  
 52 local governmental agencies prior to January first, nineteen hundred  
 53 eighty-six.

54 6. A child care resource and referral program as defined in subdivi-  
 55 sion two of section four hundred ten-p of this article may inquire of  
 56 the [department] OFFICE OF CHILDREN AND FAMILY SERVICES and the [depart-  
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1 ment] OFFICE shall, upon receipt of such inquiry and subject to the  
 2 provisions of paragraph (e) of subdivision one of this section, inform  
 3 such program and the subject of such inquiry whether any person who has  
 4 requested and agreed to be included in a list of substitute child day  
 5 care caregivers for employment by registered or licensed day care  
 6 providers maintained by such program in accordance with regulations  
 7 promulgated by the [department] OFFICE, is the subject of an indicated  
 8 child abuse and maltreatment report on file with the statewide central  
 9 register of child abuse and maltreatment. Inquiries made to the [depart-  
 10 ment] OFFICE by such programs pursuant to this subdivision shall be made  
 11 no more often than once in any six month period and no less often than  
 12 once in any twelve month period. Notwithstanding any provision of law to  
 13 the contrary, a child care resource and referral program may redisclose  
 14 such information only if the purpose of such redisclosure is to respond  
 15 to a request for such information by a registered or licensed provider  
 16 and only if after an individual included in the list of substitute child  
 17 day care caregivers for employment by registered or licensed day care  
 18 providers has consented to be referred for employment to such inquiring  
 19 agency. Upon such referral, the provisions related to notice and fair  
 20 hearing rights of this section shall otherwise apply. Inquiries made  
 21 pursuant to this subdivision shall be in lieu of the inquiry require-  
 22 ments set forth in paragraph (b) of subdivision one of this section.

23 7. ANY FACILITY, PROVIDER AGENCY, OR PROGRAM THAT IS REQUIRED TO  
 24 CONDUCT AN INQUIRY PURSUANT TO SECTION FOUR HUNDRED NINETY-FIVE OF THIS  
 25 CHAPTER SHALL FIRST CONDUCT THE INQUIRY REQUIRED UNDER SUCH SECTION. IF  
 26 THE RESULT OF THE INQUIRY UNDER SECTION FOUR HUNDRED NINETY-FIVE OF THIS  
 27 CHAPTER IS THAT THE PERSON ABOUT WHOM THE INQUIRY IS MADE IS ON THE  
 28 REGISTER OF SUBSTANTIATED CATEGORY ONE CASES OF ABUSE OR NEGLECT AND THE  
 29 FACILITY OR PROVIDER AGENCY IS REQUIRED TO DENY THE APPLICATION IN  
 30 ACCORDANCE WITH ARTICLE ELEVEN OF THIS CHAPTER, THE FACILITY OR PROVIDER  
 31 AGENCY SHALL NOT BE REQUIRED TO MAKE AN INQUIRY OF THE OFFICE UNDER THIS  
 32 SECTION.

33 S 8-a. Paragraph (b) and subparagraph (iv) of paragraph (e) of subdivi-  
 34 sion 1 and paragraph (a) of subdivision 2 of section 424-a of the  
 35 social services law, paragraph (b) of subdivision 1 as amended by chap-  
 36 ter 677 of the laws of 1985, subparagraph (iv) of paragraph (e) of  
 37 subdivision 1 as amended by chapter 323 of the laws of 2008, and para-  
 38 graph (a) of subdivision 2 as amended by chapter 441 of the laws of  
 39 1993, are amended to read as follows:



40 (b) (i) [A] SUBJECT TO THE PROVISIONS OF SUBDIVISION SEVEN OF THIS  
41 SECTION, A provider agency shall inquire of the [department] OFFICE and  
42 the [department] OFFICE shall, subject to the provisions of paragraph  
43 (e) of this subdivision, inform such agency and the subject of the  
44 inquiry whether any person who is actively being considered for employ-  
45 ment and who will have the potential for regular and substantial contact  
46 with [children] INDIVIDUALS who are cared for by the agency, is the  
47 subject of an indicated child abuse and maltreatment report on file with  
48 the statewide central register of child abuse and maltreatment prior to  
49 permitting such person to have unsupervised contact with [children] SUCH  
50 INDIVIDUALS. Such agency may inquire of the [department] OFFICE and the  
51 [department] OFFICE shall inform such agency and the subject of the  
52 inquiry whether any person who is currently employed and who has the  
53 potential for regular and substantial contact with [children] INDIVID-  
54 UALS who are cared for by such agency is the subject of an indicated  
55 child abuse and maltreatment report on file with the statewide central  
56 register of child abuse and maltreatment. A provider agency shall also  
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1 inquire of the [department] OFFICE and the [department] OFFICE shall  
2 inform such agency and the subject of the inquiry whether any person who  
3 is employed by an individual, corporation, partnership or association  
4 which provides goods or services to such agency who has the potential  
5 for regular and substantial contact with [children] INDIVIDUALS who are  
6 cared for by the agency, is the subject of an indicated child abuse and  
7 maltreatment report on file with the statewide central register of child  
8 abuse and maltreatment prior to permitting such person to have unsuper-  
9 vised contact with [children] SUCH INDIVIDUALS. Inquiries made to the  
10 [department] OFFICE pursuant to this subparagraph by a provider agency  
11 on current employees shall be made no more often than once in any six  
12 month period.

13 (ii) A provider agency may inquire of the [department] OFFICE and the  
14 [department] OFFICE shall, upon receipt of such inquiry and subject to  
15 the provisions of paragraph (e) of this subdivision, inform such agency  
16 and the subject of the inquiry whether any person who is to be hired as  
17 a consultant by such agency who has the potential for regular and  
18 substantial contact with [children] INDIVIDUALS who are cared for by the  
19 agency is the subject of an indicated child abuse and maltreatment  
20 report on file with the statewide central register of child abuse and  
21 maltreatment.

22 (iii) A provider agency may inquire of the [department] OFFICE and the  
23 [department] OFFICE shall, upon receipt of such inquiry and subject to  
24 the provisions of paragraph (e) of this subdivision, inform such agency  
25 and the subject of the inquiry whether any person who has volunteered  
26 his or her services to such agency and who will have the potential for  
27 regular and substantial contact with [children] INDIVIDUALS who are  
28 cared for by the agency, is the subject of an indicated child abuse and  
29 maltreatment report on file with the statewide central register of child  
30 abuse and maltreatment.

31 (iv) The [department] OFFICE shall promulgate regulations which effec-  
32 tuate the provisions of this paragraph.

33 (iv) If it is determined after a review by the office [of children and  
34 family services] of all records, reports and information in its  
35 possession concerning the subject of the report that there is a [fair]  
36 preponderance of the evidence to find that the subject committed the act  
37 or acts of CHILD abuse or [neglect] MALTREATMENT giving rise to the  
38 indicated report, the office [of children and family services] shall  
39 also determine whether such act or acts are relevant and reasonably  
40 related to issues concerning the employment of the subject by a provider  
41 agency or the subject being allowed to have regular and substantial  
42 contact with [children] INDIVIDUALS cared for by a provider agency or  
43 the approval or disapproval of an application which has been submitted  
44 by the subject to a licensing agency, based on guidelines developed  
45 pursuant to subdivision five of this section. If it is determined that  
46 such act or acts are not relevant and related to such issues, the office  
47 [of children and family services] shall be precluded from informing the  
48 provider or licensing agency which made the inquiry to the office [of  
49 children and family services] pursuant to this section that the person  
50 about whom the inquiry is made is the subject of an indicated report of  
51 child abuse or maltreatment.

52 (a) Upon notification by the [department] OFFICE or by a child care  
53 resource and referral program in accordance with subdivision six of this

54 section that any person who has applied to a licensing agency for a  
 55 license, certificate or permit or who seeks to become an employee of a  
 56 provider agency, or to accept a child for adoptive placement or who will  
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1 be hired as a consultant or used as a volunteer by a provider agency, or  
 2 that any other person about whom an inquiry is made to the [department]  
 3 OFFICE pursuant to the provisions of this section is the subject of an  
 4 indicated report, the licensing or provider agency shall determine on  
 5 the basis of information it has available whether to approve such appli-  
 6 cation or retain the employee or hire the consultant or use the volun-  
 7 teer or permit an employee of another person, corporation, partnership  
 8 or association to have access to the [children] INDIVIDUALS cared for by  
 9 the provider agency, provided, however, that if such application is  
 10 approved, or such employee is retained or consultant hired or volunteer  
 11 used or person permitted to have access to the children cared for by  
 12 such agency the licensing or provider agency shall maintain a written  
 13 record, as part of the application file or employment record, of the  
 14 specific reasons why such person was determined to be appropriate to  
 15 receive a foster care or adoption placement or to provide day care  
 16 services, to be the director of a camp subject to the provisions of  
 17 article thirteen-A[,] OR thirteen-B [or thirteen-C] of the public health  
 18 law, to be employed, to be retained as an employee, to be hired as a  
 19 consultant, used as a volunteer or to have access to the [children]  
 20 INDIVIDUALS cared for by the agency.

21 S 9. Section 424-b of the social services law, as amended by chapter  
 22 323 of the laws of 2008, is amended to read as follows:

23 S 424-b. Children in the care of certain public and private agencies.  
 24 Notwithstanding any inconsistent provisions of law, when a report of  
 25 child abuse or maltreatment involves a child being cared for in a home  
 26 operated or supervised by an authorized agency[,] OR the office of chil-  
 27 dren and family services, [or an office of the department of mental  
 28 hygiene,] such report shall be accepted and maintained by the office of  
 29 children and family services and shall be referred for the purposes of  
 30 conducting an investigation to the appropriate staff within the office  
 31 of children and family services [or the appropriate office of the  
 32 department of mental hygiene,] where the child is in the care of such  
 33 agency; and where the child is in a home operated or supervised by an  
 34 authorized agency, to the social services district wherein such home is  
 35 located. The [agency] OFFICE or social services district receiving such  
 36 referral shall undertake an appropriate investigation of the report, in  
 37 accordance with the terms and conditions set forth in [subdivisions one  
 38 through eight of section four hundred twenty-four-c of] this title. Any  
 39 person who is alleged to have abused or maltreated a child in a report  
 40 accepted and referred pursuant to this section shall be accorded the  
 41 procedural rights set forth in section four hundred twenty-two and in  
 42 subdivision six of section four hundred twenty-four of this title. Noth-  
 43 ing in this section shall impose any duty or responsibility on any child  
 44 protective service pursuant to section four hundred twenty-two, four  
 45 hundred twenty-four or any other provision of this article.

46 S 10. Subdivision 1 of section 425 of the social services law, as  
 47 amended by chapter 634 of the laws of 1988, is amended to read as  
 48 follows:

49 1. To effectuate the purposes of this title, the commissioner may  
 50 request and shall receive from departments, boards, bureaus, or other  
 51 agencies of the state, or any of its political subdivisions, or any duly  
 52 authorized agency, or any other agency providing services under the  
 53 local child protective services plan such assistance and data as will  
 54 enable the department and local child protective services to fulfill  
 55 their responsibilities properly. [In relation to an investigation of a  
 56 report of abuse or maltreatment involving a child in residential care,  
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1 such data may include, but need not be limited to, the case records of  
 2 the child who allegedly was abused or maltreated and any other child who  
 3 allegedly witnessed the abuse or maltreatment and, consistent with  
 4 appropriate collective bargaining agreements and applicable provisions  
 5 of the civil service law, those portions of the employment record of the  
 6 subject of the report considered by the subject's employer to be rele-  
 7 vant and reasonably related to the allegations being investigated by the  
 8 department.] Nothing contained in this subdivision shall limit the  
 9 department's authority under sections three hundred seventy-two, four

10 hundred sixty-c and four hundred sixty-e of this chapter to access the  
11 records of authorized agencies.

12 S 11. Section 426 of the social services law, as amended by chapter  
13 676 of the laws of 1985, is amended to read as follows:

14 S 426. Annual reports. The commissioner shall prepare for inclusion in  
15 the annual report required by subdivision (d) of section seventeen of  
16 this chapter to be filed with the governor and the legislature prior to  
17 December fifteenth of each year, a report on the operations of the state  
18 central register of child abuse and maltreatment and the various local  
19 child protective services. The report shall include a full statistical  
20 analysis of the reports made to the central register together with a  
21 report on the implementation of this title, his OR HER evaluation of  
22 services offered under this chapter and his OR HER recommendations for  
23 additional legislation to fulfill the purposes of this title. Such  
24 report shall indicate the number of child abuse and maltreatment reports  
25 and cases received by the statewide central register of child abuse and  
26 maltreatment by each district in the preceding year, the number of such  
27 cases determined to have been indicated and the number of such cases  
28 determined to be unfounded by each district in the preceding year, the  
29 number of such cases which have not been indicated or unfounded within  
30 the time period required by subdivision seven of section four hundred  
31 twenty-four of this [chapter] ARTICLE by each district in the preceding  
32 year and the number of workers assigned to the child protective service  
33 in each district in the preceding year. [The report shall also contain  
34 data on the protection of children in residential care from abuse and  
35 maltreatment, including reports received, results of investigations by  
36 types of facilities and programs, types of corrective action taken, as  
37 well as efforts undertaken by the department, the division for youth  
38 and the state education department to provide training pursuant to stan-  
39 dards established by section four hundred sixty-two of this chapter,  
40 section five hundred one of the executive law and sections forty-four  
41 hundred three, forty-three hundred fourteen, forty-three hundred fifty-  
42 eight and forty-two hundred twelve of the education law.]

43 S 12. Section 460 of the social services law, as added by chapter 669  
44 of the laws of 1977, is amended to read as follows:

45 S 460. Declaration of policy and statement of purpose. Residential  
46 care programs for adults and children of the highest quality, efficient-  
47 ly produced and properly utilized at a reasonable cost, are a matter of  
48 vital concern to the people of this state. In order to more effectively  
49 protect and assure the life, health, safety and comfort of adults and  
50 children who must be cared for away from their own homes, the department  
51 of social services acting directly or through social services districts,  
52 and with the cooperation of other state agencies, shall have the compre-  
53 hensive responsibility for the development and administration of  
54 programs, standards and methods of operation, and all other matters of  
55 state policy, with respect to residential care programs for children and  
56 adults and all facilities and agencies, whether public or private, which  
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1 are subject to the provisions of this article. FOR THE PURPOSES OF THIS  
2 ARTICLE, WITH RESPECT TO RESIDENTIAL CARE PROGRAMS FOR CHILDREN, THE  
3 TERM "DEPARTMENT" SHALL MEAN THE OFFICE OF CHILDREN AND FAMILY SERVICES  
4 AND WITH RESPECT TO RESIDENTIAL CARE PROGRAMS FOR ADULTS, THE TERM SHALL  
5 MEAN THE OFFICE OF CHILDREN AND FAMILY SERVICES IN RELATION TO FAMILY  
6 TYPE HOMES FOR ADULTS AND RESIDENTIAL PROGRAMS FOR VICTIMS OF DOMESTIC  
7 VIOLENCE, THE OFFICE OF TEMPORARY AND DISABILITY ASSISTANCE IN RELATION  
8 TO SHELTERS FOR ADULTS AND SHELTERS FOR FAMILIES; AND THE DEPARTMENT OF  
9 HEALTH IN RELATION TO ALL OTHER RESIDENTIAL CARE PROGRAMS FOR ADULTS.

10 S 13. Subdivision 2-a of section 460-c of the social services law, as  
11 amended by chapter 32 of the laws of 1992 and paragraphs (a) and (b) as  
12 amended by chapter 323 of the laws of 2008, is amended to read as  
13 follows:

14 2-a. Special procedures relating to abuse and neglect of [children in  
15 residential care] VULNERABLE PERSONS. (a) If the report of an investi-  
16 gation of [child] abuse or [maltreatment] NEGLECT is [indicated]  
17 SUBSTANTIATED IN ACCORDANCE WITH ARTICLE ELEVEN OF THIS CHAPTER, the  
18 director or operator of a residential facility or program[, including a  
19 program described in paragraph (j) of subdivision four of section four  
20 hundred twelve-a of this chapter,] shall submit to the [office of chil-  
21 dren and family services] DEPARTMENT, within ten business days of  
22 receipt of notice of the [indicated] SUBSTANTIATED report, a written  
23 plan of prevention and remediation to be taken with respect to the

24 subject of [the indicated] SUCH report to [assure] PROTECT the continued  
 25 health [and], safety AND WELFARE of [children] THE SERVICE RECIPIENTS  
 26 and provide for the prevention of future acts of abuse or [maltreatment]  
 27 NEGLECT. The [office of children and family services] DEPARTMENT shall  
 28 approve or disapprove such plan and specify necessary revisions within  
 29 ten days of its receipt and shall monitor its implementation pursuant to  
 30 the provisions of this chapter.

31 (b) In the event an investigation of a report of alleged [child] abuse  
 32 or [maltreatment] NEGLECT determines that [some credible] A PREPONDER-  
 33 ANCE OF evidence of abuse or [maltreatment] NEGLECT exists and such  
 34 abuse or [maltreatment] NEGLECT may be attributed in whole or in part to  
 35 noncompliance by the facility or program[, including a program described  
 36 in paragraph (j) of subdivision four of section four hundred twelve-a of  
 37 this chapter,] with provisions of this chapter or regulations of the  
 38 [office of children and family services] DEPARTMENT applicable to the  
 39 operation of such residential facility or program, the director or oper-  
 40 ator of such facility or program shall, in consultation with officials  
 41 of the department responsible for the approval of operating certificates  
 42 and for monitoring the provision of protective services to [children]  
 43 SERVICE RECIPIENTS, develop a plan of prevention and remediation which  
 44 shall be submitted to and approved by the [office of children and family  
 45 services] DEPARTMENT in accordance with time limits established by regu-  
 46 lations of the [office of children and family services] DEPARTMENT.  
 47 Implementation of such plan shall be jointly monitored by officials of  
 48 the [office of children and family services] DEPARTMENT responsible for  
 49 the approval of operating certificates and for monitoring the provision  
 50 of protective services to [children] SERVICE RECIPIENTS. In reviewing  
 51 the continuing qualification of a residential [child care] facility or  
 52 program for an operating certificate, the [office of children and family  
 53 services] DEPARTMENT shall evaluate such facility's or program's compli-  
 54 ance with plans of prevention and remediation developed and implemented  
 55 pursuant to this section.

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1 (c) Development and implementation of plans pursuant to this section  
 2 shall, to the extent possible, be coordinated with remediation plans  
 3 required by local social services districts.

4 S 14. Section 461-m of the social services law, as amended by chapter  
 5 462 of the laws of 1996, is amended to read as follows:

6 S 461-m. Death and felony crime reporting. The operator of an adult  
 7 home or residence for adults shall have an affirmative duty to report  
 8 any death, or attempted suicide of a resident to the department within  
 9 twenty-four hours of its occurrence, and shall also have an affirmative  
 10 duty to report to an appropriate law enforcement authority if it is  
 11 believed that a felony crime may have been committed against a resident  
 12 of such facility as soon as possible, or in any event within forty-eight  
 13 hours. In addition, the operator shall send any reports involving a  
 14 resident who had at any time received services from a mental hygiene  
 15 service provider to the [state commission on quality of care for the  
 16 mentally disabled] JUSTICE CENTER FOR THE PROTECTION OF PEOPLE WITH  
 17 SPECIAL NEEDS.

18 S 15. Section 461-o of the social services law, as added by chapter  
 19 462 of the laws of 1996, is amended to read as follows:

20 S 461-o. Complaint investigation procedures. The department shall  
 21 establish procedures governing the receipt and investigation of  
 22 complaints regarding the care afforded to residents of adult care facil-  
 23 ities CONSISTENT WITH ARTICLE ELEVEN OF THIS CHAPTER, AS APPLICABLE.  
 24 Such procedures shall assure the confidentiality of the complainant.  
 25 Such procedures shall include but not be limited to the procedures for  
 26 reporting complaints, either in writing or orally to the department, and  
 27 the time frames governing the investigation of any such complaints  
 28 submitted to the department. Provided however, if any complaint alleges  
 29 the abuse or neglect of a resident or involves an incident that exposes  
 30 a resident to cruel or unsafe care or otherwise represents a serious  
 31 resident care issue, the department shall ensure that an investigation  
 32 of any such complaint is initiated immediately and in no event commenced  
 33 less than seventy-two hours from the time such complaint is received by  
 34 the department. Upon the conclusion of the investigation by the depart-  
 35 ment the operator and the complainant shall be notified in writing of  
 36 the results of such investigation OR, AS APPLICABLE, PURSUANT TO ARTICLE  
 37 ELEVEN OF THIS CHAPTER.

38 S 16. Section 462 of the social services law, as added by chapter 669

39 of the laws of 1977, subdivision 1 as amended by chapter 677 of the laws  
 40 of 1985, paragraphs (b) and (c) of subdivision 1 as amended by chapter  
 41 32 of the laws of 1992, paragraph (f) of subdivision 1 as added by chap-  
 42 ter 472 of the laws of 2004, paragraph (a) of subdivision 2 as amended  
 43 by chapter 800 of the laws of 1985 and paragraph (b) of subdivision 2 as  
 44 amended by chapter 558 of the laws of 1999, is amended to read as  
 45 follows:

46 S 462. Responsibility for standards. 1. (a) The [department of social  
 47 services] OFFICE OF CHILDREN AND FAMILY SERVICES shall promulgate regu-  
 48 lations concerning standards of care and treatment and fiscal, adminis-  
 49 trative, nutritional, architectural and safety standards, consistent  
 50 with the provisions of section three hundred ninety-eight-a of this  
 51 chapter, which shall apply to all facilities exercising care or custody  
 52 of children or providing care or shelter to unmarried mothers.

53 (b) With respect to facilities exercising care or custody of children,  
 54 no license or operating certificate shall be provided or renewed unless  
 55 it can be demonstrated that such facilities comply with regulations for  
 56 the prevention and remediation of abuse OR NEGLECT and [maltreatment of]  
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1 FOR SIGNIFICANT INCIDENTS INVOLVING children in such facilities, includ-  
 2 ing procedures for:

3 (i) consistent with appropriate collective bargaining agreements and  
 4 applicable provisions of the civil service law, [the review and evalu-  
 5 ation of the backgrounds of and the information supplied by any person  
 6 applying to be an employee, a volunteer or consultant, which shall  
 7 include but not be limited to the following requirements: that the  
 8 applicant set forth his or her employment history, provide personal and  
 9 employment references, relevant experiential and educational information  
 10 and sign a sworn statement indicating whether the applicant to the best  
 11 of his or her knowledge, has ever been convicted of a crime in this  
 12 state or any other jurisdiction] ASSISTING THE JUSTICE CENTER FOR THE  
 13 PROTECTION OF PEOPLE WITH SPECIAL NEEDS WITH ITS REVIEW AND EVALUATION  
 14 OF CRIMINAL BACKGROUND CHECKS OF PROSPECTIVE EMPLOYEES, AS SET FORTH IN  
 15 SUBDIVISION FIVE OF SECTION FIVE HUNDRED FIFTY-THREE OF THE EXECUTIVE  
 16 LAW;

17 (ii) establishing, for employees, relevant minimal experiential and  
 18 educational qualifications consistent with appropriate collective  
 19 bargaining agreements and applicable provisions of the civil service  
 20 law;

21 (iii) assuring adequate and appropriate supervision of employees,  
 22 volunteers and consultants;

23 (iv) demonstrating by a residential facility or program that appropri-  
 24 ate action is taken to assure the safety of the child who is reported  
 25 PURSUANT TO ARTICLE ELEVEN OF THIS CHAPTER to the [state] VULNERABLE  
 26 PERSONS' central register [of child abuse and maltreatment] as well as  
 27 other children in care, immediately upon notification that a report of  
 28 [child] abuse or [maltreatment] NEGLECT has been made with respect to a  
 29 child in such facility or program;

30 (v) CONSISTENT WITH APPLICABLE COLLECTIVE BARGAINING AGREEMENTS,  
 31 ASSURING THAT AN INDIVIDUAL WHO HAS COMMITTED A CATEGORY ONE OFFENSE, AS  
 32 DEFINED IN PARAGRAPH (A) OF SUBDIVISION FIVE OF SECTION FOUR HUNDRED  
 33 NINETY-THREE OF THIS CHAPTER, THAT IS INCLUDED ON THE VULNERABLE  
 34 PERSONS' CENTRAL REGISTER IS NOT HIRED OR OTHERWISE USED IN ANY POSITION  
 35 IN WHICH SUCH INDIVIDUAL WOULD HAVE REGULAR AND SUBSTANTIAL CONTACT WITH  
 36 A SERVICE RECIPIENT IN ANY PROGRAM OPERATED, LICENSED OR CERTIFIED BY  
 37 THE OFFICE;

38 (VI) removing a child, consistent as applicable with any court order  
 39 placing the child, when it is determined that there is risk to such  
 40 child if he or she continues to remain within a facility or program;

41 [(vi)] (VII) appropriate preventive and remedial action to be taken  
 42 including legal actions, consistent with appropriate collective bargain-  
 43 ing agreements and applicable provisions of the civil service law.

44 (c) With respect to facilities exercising care or custody of children  
 45 such standards shall establish as a priority that:

46 (i) subject to the amounts appropriated therefor, administrators,  
 47 employees, volunteers and consultants receive training in at least the  
 48 following: child abuse prevention and identification, safety and securi-  
 49 ty procedures, the principles of child development, the characteristics  
 50 of children in care and techniques of group and child management includ-  
 51 ing crisis intervention, the laws, regulations and procedures governing  
 52 the protection of children from abuse and [maltreatment] NEGLECT, and

53 other appropriate topics, provided however, that the [department] OFFICE  
 54 may exempt administrators and consultants of such facilities or programs  
 55 from such requirements upon demonstration of substantially equivalent  
 56 knowledge or experience; and  
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1 (ii) subject to the amounts appropriated therefor, children receive  
 2 instruction, consistent with their age, needs and circumstances as well  
 3 as the needs and circumstances within the facility or program, in tech-  
 4 niques and procedures which will enable such children to ADVOCATE FOR  
 5 AND protect themselves from abuse and [maltreatment] NEGLECT; and

6 (iii) the [department] OFFICE, IN CONSULTATION WITH THE EXECUTIVE  
 7 DIRECTOR OF THE JUSTICE CENTER FOR PERSONS WITH SPECIAL NEEDS shall take  
 8 all reasonable and necessary actions to assure that employees, volun-  
 9 teers and consultants in residential care facilities and programs are  
 10 kept apprised on a current basis of all [department] OFFICE policies and  
 11 procedures relating to the protection of children from abuse and  
 12 [maltreatment] NEGLECT AND SIGNIFICANT INCIDENTS, and shall monitor and  
 13 supervise the provision of training to such administrators, employees,  
 14 volunteers, children and consultants.

15 (d) Such regulations shall be developed in consultation with other  
 16 state departments and agencies responsible for human services programs  
 17 including, but not limited to, the department of education, the depart-  
 18 ment of health, [the department of mental hygiene, the division for  
 19 youth and the board of social welfare,] THE OFFICE OF MENTAL HEALTH, THE  
 20 OFFICE FOR PEOPLE WITH DEVELOPMENTAL DISABILITIES, THE OFFICE OF ALCO-  
 21 HOLISM AND SUBSTANCE ABUSE SERVICES AND THE JUSTICE CENTER FOR THE  
 22 PROTECTION OF PEOPLE WITH SPECIAL NEEDS and shall, to the extent possi-  
 23 ble, be consistent with those promulgated by other state agencies for  
 24 such purposes.

25 (e) This subdivision shall not apply to facilities operated by or  
 26 certified or licensed to operate by another state agency.

27 (f) No residential institution for children as defined in subdivision  
 28 forty-four of section sixteen hundred seventy-six of the public authori-  
 29 ties law shall enter into a lease, sub-lease or other agreement with the  
 30 dormitory authority pursuant to subdivision forty of section sixteen  
 31 hundred eighty of the public authorities law unless and until:

32 (i) the office of children and family services, the director of the  
 33 division of the budget and any other state agency which licenses such  
 34 residential institutions for children first determines that the project  
 35 is necessary to address health and safety needs of children at the  
 36 institution, approve the project cost upon determination that such costs  
 37 are reasonable, necessary and cost effective based upon the application  
 38 of cost per square foot guidelines and any other standards applicable to  
 39 the type of program or to the clinically-required needs of a specialized  
 40 group of children to be served by the project; and

41 (ii) the office of children and family services or such other state  
 42 agency which licenses such residential institution for children approves  
 43 the plans and specifications of the residential facilities to be  
 44 replaced, reconstructed, rehabilitated, improved, renovated, or other-  
 45 wise provided for, furnished or equipped.

46 2. (a) The [division for youth] OFFICE shall establish regulations  
 47 governing secure and non-secure detention facilities subject to article  
 48 nineteen-G of the executive law and residential facilities operated as  
 49 approved runaway programs or transitional independent living support  
 50 programs pursuant to article nineteen-H of the executive law.

51 (b) The appropriate offices of the state department of mental hygiene  
 52 shall establish regulations governing all child care facilities subject  
 53 to articles [twenty-three,] thirty-one and thirty-two of the mental  
 54 hygiene law.

55 (c) The department of mental hygiene and the [division for youth]  
 56 OFFICE shall propose any additional standards as are deemed necessary to  
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1 adequately ensure the care of children in facilities subject to the  
 2 inspection and supervision of the department, which care for a signif-  
 3 icant number of mentally disabled children, juvenile delinquents or  
 4 persons in need of supervision. The final form of any such additional  
 5 standards shall be subject to the approval of the department of mental  
 6 hygiene for such standards related to the care of mentally disabled  
 7 children, or the [division for youth] OFFICE for such standards related  
 8 to the care of juvenile delinquents and persons in need of supervision.

9 S 17. This act shall take effect April 1, 2013; provided, however,  
 10 that the amendments to section 426 of the social services law made by  
 11 section eleven of this act shall only remain in effect until section 6  
 12 of chapter 377 of the laws of 2011, takes effect; provided further, that  
 13 effective immediately, the addition, amendment or repeal of any rule or  
 14 regulation necessary for the implementation of this act on its effective  
 15 date are authorized to be made and completed on or before such effective  
 16 date.

17

## PART E

18 Section 1. Subdivision 5 of section 1125 of the education law, as  
 19 added by chapter 180 of the laws of 2000, is amended to read as follows:

20 5. "Educational setting" shall mean the building and grounds of a  
 21 public school district, the vehicles provided by the school district for  
 22 the transportation of students to and from school buildings, field  
 23 trips, co-curricular and extra-curricular activities both on and off  
 24 school district grounds, all co-curricular and extra-curricular activity  
 25 sites, and any other location where direct contact between an employee  
 26 or volunteer and a child has allegedly occurred. SUCH TERM SHALL NOT  
 27 INCLUDE A SPECIAL ACT SCHOOL DISTRICT AS DEFINED IN SECTION FOUR THOU-  
 28 SAND ONE OF THIS CHAPTER WHICH SHALL BE SUBJECT TO ARTICLE ELEVEN OF THE  
 29 SOCIAL SERVICES LAW.

30 S 1-a. Subdivisions (a), (b) and (c) of section 4212 of the education  
 31 law, as amended by chapter 32 of the laws of 1992, are amended to read  
 32 as follows:

33 (a) Promulgate regulations, PURSUANT TO THIS SECTION AND ARTICLE ELEV-  
 34 EN OF THE SOCIAL SERVICES LAW, concerning standards for the protection  
 35 of children in residential care from abuse and [maltreatment] NEGLECT  
 36 including procedures for:

37 (i) consistent with appropriate collective bargaining agreements and  
 38 applicable provisions of the civil service law, the review and evalu-  
 39 ation of the backgrounds of and the information supplied by any person  
 40 applying to be an employee, a volunteer or consultant, which shall  
 41 include but not be limited to the following requirements: that the  
 42 applicant set forth his or her employment history, provide personal and  
 43 employment references, and relevant experiential and educational infor-  
 44 mation, and sign a sworn statement indicating whether the applicant, to  
 45 the best of his or her knowledge, has ever been convicted of a crime in  
 46 this state or any other jurisdiction;

47 (ii) establishing, for employees, relevant minimal experiential and  
 48 educational qualifications, consistent with appropriate collective  
 49 bargaining agreements and applicable provisions of the civil service  
 50 law;

51 (iii) assuring adequate and appropriate supervision of employees,  
 52 volunteers and consultants;

53 (iv) demonstrating by a residential facility or program that appropri-  
 54 ate action is taken to assure the safety of the child who is reported to  
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1 the [state] VULNERABLE PERSONS' central register IN ACCORDANCE WITH  
 2 SECTION FOUR HUNDRED NINETY-TWO OF THE SOCIAL SERVICES LAW as well as  
 3 other children in care, immediately upon notification that a report of  
 4 [child] abuse or [maltreatment] NEGLECT has been made with respect to a  
 5 child in such residential facility or program;

6 (v) removing a child when it is determined that there is risk to such  
 7 child if he or she continues to remain within a residential facility or  
 8 program; and

9 (vi) appropriate preventive and remedial action to be taken including  
 10 legal actions, consistent with appropriate collective bargaining agree-  
 11 ments and applicable provisions of the civil service law.

12 (VII) CONSISTENT WITH APPLICABLE COLLECTIVE BARGAINING AGREEMENTS,  
 13 ASSURING THAT AN INDIVIDUAL WHO HAS COMMITTED A CATEGORY ONE OFFENSE, AS  
 14 DEFINED IN PARAGRAPH (A) OF SUBDIVISION FOUR OF SECTION FOUR HUNDRED  
 15 NINETY-THREE OF THE SOCIAL SERVICES LAW, THAT IS INCLUDED ON THE VULNER-  
 16 ABLE PERSONS' CENTRAL REGISTER IS NOT HIRED OR OTHERWISE USED IN ANY  
 17 POSITION IN WHICH SUCH INDIVIDUAL WOULD HAVE REGULAR AND SUBSTANTIAL  
 18 CONTACT WITH A SERVICE RECIPIENT IN ANY PROGRAM DESCRIBED IN PARAGRAPH  
 19 (D) OF SUBDIVISION FOUR OF SECTION FOUR HUNDRED EIGHTY-EIGHT OF THE  
 20 SOCIAL SERVICES LAW.

21 Such standards shall also establish as a priority requirements that:

22 (A) subject to the amounts appropriated therefor, administrators,

23 employees, volunteers and consultants receive training in at least the  
 24 following: child abuse prevention and identification, safety and securi-  
 25 ty procedures, the principles of child development, the characteristics  
 26 of children in care and techniques of group and child management includ-  
 27 ing crisis intervention, the laws, regulations and procedures governing  
 28 the protection of children from abuse, NEGLECT and maltreatment, and  
 29 other appropriate topics, provided, however, that the department may  
 30 exempt administrators and consultants from such requirements upon demon-  
 31 stration of substantially equivalent knowledge or experience; and

32 (B) subject to the amounts appropriated therefor, children receive  
 33 instruction, consistent with their age, needs and circumstances as well  
 34 as the needs and circumstances within the program, in techniques and  
 35 procedures which will enable such children to protect themselves from  
 36 abuse, NEGLECT and maltreatment.

37 The department shall take all reasonable and necessary actions to  
 38 assure that employees, volunteers and consultants in residential facili-  
 39 ties and programs are kept apprised on a current basis of all department  
 40 policies and procedures relating to the protection of children from  
 41 abuse, NEGLECT and maltreatment, and shall monitor and supervise the  
 42 provision of training to such employees, volunteers and consultants.  
 43 Regulations and standards developed pursuant to this subdivision shall,  
 44 to the extent possible, be consistent with those promulgated by other  
 45 state agencies for such purposes.

46 (b) [Cooperate with the state department of social services to protect  
 47 the health and safety of pupils at the school pursuant to title six of  
 48 article six of the social services law. Such cooperation shall include:  
 49 the making of reports of alleged child abuse or maltreatment; providing  
 50 necessary assistance to the state department of social services in the  
 51 department's investigation thereof and considering the recommendations  
 52 of the state department of social services for preventive and remedial  
 53 action including legal action and provide or direct the residential  
 54 facility to provide such written reports thereon to the department of  
 55 social services as to the implementation of plans of prevention and  
 56 remediation approved by the department of education; and

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66

1 (c) Provide for the development and implementation of a plan of  
 2 prevention and remediation with respect to [an indicated] A SUBSTANTI-  
 3 ATED report of [child] abuse or [maltreatment] NEGLECT. Such action  
 4 shall include: (i) within ten days of receipt of [an indicated] A  
 5 SUBSTANTIATED report of [child] abuse or [maltreatment] NEGLECT, devel-  
 6 opment and implementation of a plan of prevention and remediation to be  
 7 taken with respect to a custodian or the residential facility in order  
 8 to assure the continued health and safety of children and to provide for  
 9 the prevention of future acts of abuse or [maltreatment] NEGLECT; and  
 10 (ii) development and implementation of a plan of prevention and remedi-  
 11 ation, in the event an investigation of a report of alleged child abuse  
 12 or [maltreatment] NEGLECT determines that some credible evidence of  
 13 abuse or [maltreatment] NEGLECT exists and such abuse or [maltreatment]  
 14 NEGLECT may be attributed in whole or in part to noncompliance by the  
 15 residential facility or program with provisions of this chapter or regu-  
 16 lations of the department applicable to the operation of a residential  
 17 facility or program. Any plan of prevention and remediation required to  
 18 be developed [pursuant to paragraph (ii) of this subdivision] by a  
 19 facility supervised by the department shall be submitted to and approved  
 20 by the department in accordance with time limits established by regu-  
 21 lations of the department. Implementation of the plan shall be monitored  
 22 by the department. In reviewing the continued qualifications of a resi-  
 23 dential facility or program for an operating certificate, the department  
 24 shall evaluate such facility's compliance with plans of prevention and  
 25 remediation developed and implemented pursuant to this subdivision.

26 S 2. Section 4314 of the education law, as added by chapter 677 of the  
 27 laws of 1985, subdivisions (a), (b) and (c) as amended by chapter 32 of  
 28 the laws of 1992, is amended to read as follows:

29 S 4314. Protection of pupils. The department shall:

30 (a) Promulgate regulations, IN ACCORDANCE WITH THIS SECTION AND ARTI-  
 31 CLE ELEVEN OF THE SOCIAL SERVICES LAW, concerning standards for the  
 32 protection of children in residential care from abuse and [maltreatment]  
 33 NEGLECT, including procedures for:

34 (i) consistent with appropriate collective agreements and applicable  
 35 provisions of the civil service law, the review and evaluation of the  
 36 backgrounds of and the information supplied by any person applying to be



37 an employee, a volunteer or consultant, which shall include but not be  
 38 limited to the following requirements: that the applicant set forth his  
 39 or her employment history, provide personal and employment references,  
 40 and relevant experiential and educational information, and sign a sworn  
 41 statement indicating whether the applicant, to the best of his or her  
 42 knowledge, has ever been convicted of a crime in this state or any other  
 43 jurisdiction;

44 (ii) establishing for employees, relevant minimal experiential and  
 45 educational qualifications consistent with appropriate collective  
 46 bargaining agreements and applicable provisions of the civil service  
 47 law;

48 (iii) assuring adequate and appropriate supervision of employees,  
 49 volunteers and consultants;

50 (iv) demonstrating by a residential facility or program that appropri-  
 51 ate action is taken to assure the safety of the child who is [reported]  
 52 ALLEGED TO HAVE BEEN ABUSED OR NEGLECTED IN A REPORT to the [state]  
 53 VULNERABLE PERSONS' central register IN ACCORDANCE WITH SECTION FOUR  
 54 HUNDRED NINETY-TWO OF THE SOCIAL SERVICES LAW as well as other children  
 55 in care, immediately upon notification that a report of [child] AN ALLE-  
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1 GATION OF abuse or [maltreatment] NEGLECT has been made [with respect to  
 2 a child in such residential facility or program];

3 (v) removing a child when it is determined that there is risk to such  
 4 child if he or she continues to remain within a residential facility or  
 5 program; and

6 (vi) appropriate preventive and remedial action to be taken including  
 7 legal actions, consistent with appropriate collective bargaining agree-  
 8 ments and applicable provisions of the civil service law.

9 Such standards shall also establish as a priority requirements that:

10 (1) subject to the amounts appropriated therefor, administrators,  
 11 employees, volunteers and consultants receive training in at least the  
 12 following: child abuse prevention and identification, safety and secu-  
 13 rity procedures, the principles of child development, the character-  
 14 istics of children in care and techniques of group and child management  
 15 including crisis intervention, the laws, regulations and procedures  
 16 governing the protection of children from abuse, NEGLECT and maltreat-  
 17 ment, and other appropriate topics, provided however, that the depart-  
 18 ment may exempt administrators and consultants from such requirements  
 19 upon demonstration of substantially equivalent knowledge or experience;  
 20 and

21 (2) subject to the amounts appropriated therefor, children receive  
 22 instruction, consistent with their age, needs and circumstances as well  
 23 as the needs and circumstances within the facility or program, in tech-  
 24 niques and procedures which will enable such children to protect them-  
 25 selves from abuse, NEGLECT and maltreatment.

26 The department, IN CONSULTATION WITH THE EXECUTIVE DIRECTOR OF THE  
 27 JUSTICE CENTER FOR THE PROTECTION OF PEOPLE WITH SPECIAL NEEDS, shall  
 28 take all reasonable and necessary actions to assure that employees,  
 29 volunteers and consultants in residential facilities are kept apprised  
 30 on a current basis of all department policies and procedures relating to  
 31 the protection of children from abuse, NEGLECT and maltreatment and  
 32 shall monitor and supervise the provision of training to such employees,  
 33 volunteers and consultants. Regulations and standards developed pursuant  
 34 to this section shall, to the extent possible, be consistent with those  
 35 promulgated by other state agencies for such purposes;

36 (b) [Cooperate with the state department of social services to protect  
 37 the health and safety of pupils at the school pursuant to title six of  
 38 article six of the social services law. Such cooperation shall include:  
 39 the making of reports of alleged child abuse or maltreatment; providing  
 40 necessary assistance to the state department of social services in the  
 41 department's investigation thereof and considering the recommendations  
 42 of the state department of social services for preventive and remedial  
 43 action including legal action and provide or direct the residential  
 44 facility to provide such written reports thereon to the department of  
 45 social services as to the implementation of plans of prevention and  
 46 remediation approved by the department; and

47 (c) Provide for the development and implementation of a plan of  
 48 prevention and remediation with respect to [an indicated] A SUBSTANTI-  
 49 ATED report of child abuse or [maltreatment] NEGLECT. Such action shall  
 50 include: (i) within ten days of receipt of [an indicated] A SUBSTANTI-  
 51 ATED report of child abuse or [maltreatment] NEGLECT, development and

52 implementation of a plan of prevention and remediation to be taken with  
 53 respect to a custodian or the residential facility in order to assure  
 54 the continued health and safety of children and to provide for the  
 55 prevention of future acts of abuse or [maltreatment] NEGLECT; and (ii)  
 56 development and implementation of a plan of prevention and remediation,  
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1 in the event an investigation of a report of alleged [child] abuse or  
 2 [maltreatment] NEGLECT determines that some credible evidence of abuse  
 3 or [maltreatment] NEGLECT exists and such abuse or [maltreatment]  
 4 NEGLECT may be attributed in whole or in part to noncompliance by the  
 5 residential facility or program with provisions of this chapter or regu-  
 6 lations of the department applicable to the operation of such residen-  
 7 tial facility or program. Any plan of prevention and remediation  
 8 required to be developed pursuant to [paragraph (ii) of] this subdivi-  
 9 sion by a facility supervised by the department shall be submitted to  
 10 and approved by the department in accordance with time limits estab-  
 11 lished by regulations of the department. Implementation of the plan  
 12 shall be monitored by the department. In reviewing the continued quali-  
 13 fications of a residential facility or program for an operating certifi-  
 14 cate, the department shall evaluate such facility's compliance with  
 15 plans of prevention and remediation developed and implemented pursuant  
 16 to this subdivision.

17 S 3. Section 4358 of the education law, as added by chapter 677 of the  
 18 laws of 1985, subdivisions (a), (b) and (c) as amended by chapter 32 of  
 19 the laws of 1992, is amended to read as follows:

20 S 4358. Protection of pupils. The department shall:

21 (a) Promulgate regulations concerning standards for the protection of  
 22 children in residential care from abuse [and maltreatment] AND NEGLECT  
 23 IN ACCORDANCE WITH THIS SECTION AND ARTICLE ELEVEN OF THE SOCIAL  
 24 SERVICES LAW, including procedures for:

25 (i) consistent with appropriate collective bargaining agreements and  
 26 applicable provisions of the civil service law, the review and evalu-  
 27 ation of the backgrounds of and the information supplied by any person  
 28 applying to be an employee, a volunteer or consultant, which shall  
 29 include but not be limited to the following requirements: that the  
 30 applicant set forth his or her employment history, provide personal and  
 31 employment references and relevant experiential and educational informa-  
 32 tion, and sign a sworn statement indicating whether the applicant, to  
 33 the best of his or her knowledge, has ever been convicted of a crime in  
 34 this state or any other jurisdiction;

35 (ii) establishing, for employees, relevant minimal experiential and  
 36 educational qualifications, consistent with appropriate collective  
 37 bargaining agreements and applicable provisions of the civil service  
 38 law;

39 (iii) assuring adequate and appropriate supervision of employees,  
 40 volunteers and consultants;

41 (iv) demonstrating by a residential facility or program that appropri-  
 42 ate action is taken to assure the safety of the child who is [reported]  
 43 ALLEGED TO HAVE BEEN ABUSED OR NEGLECTED IN A REPORT to the [state]  
 44 VULNERABLE PERSONS' central register IN ACCORDANCE WITH SECTION FOUR  
 45 HUNDRED NINETY-TWO OF THE SOCIAL SERVICES LAW as well as other children  
 46 in care, immediately upon notification that a report of [child] AN ALLE-  
 47 GATION OF abuse [or maltreatment] OR NEGLECT has been made [with respect  
 48 to a child in such facility or program];

49 (v) removing a child when it is determined that there is risk to such  
 50 child if he or she continues to remain within a facility or program; and

51 (vi) appropriate preventive and remedial action to be taken including  
 52 legal actions, consistent with appropriate collective bargaining agree-  
 53 ments and applicable provisions of the civil service law.

54 Such standards shall also establish as a priority requirements that:

55 (A) subject to the amounts appropriated therefor, administrators,  
 56 employees, volunteers and consultants receive training in at least the  
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1 following: child abuse prevention and identification, safety and securi-  
 2 ty procedures, the principles of child development, the characteristics  
 3 of children in care and techniques of group and child management includ-  
 4 ing crisis intervention, the laws, regulations and procedures governing  
 5 the protection of children from abuse, NEGLECT and maltreatment, and  
 6 other appropriate topics, provided however, that the department may  
 7 exempt administrators and consultants from such requirements upon demon-

8 stration of substantially equivalent knowledge or experience; and

9 (B) subject to the amounts appropriated therefor, children receive  
10 instruction, consistent with their age, needs and circumstances as well  
11 as the needs and circumstances of the facility, in techniques and proce-  
12 dures which will enable such children to protect themselves from abuse,  
13 NEGLECT and maltreatment.

14 The department shall take all reasonable and necessary actions to  
15 assure that employees, volunteers and consultants in residential facili-  
16 ties and programs are kept apprised on a current basis of all department  
17 policies and procedures relating to the protection of children from  
18 abuse, NEGLECT and maltreatment and shall monitor and supervise the  
19 provision of training to such administrators, employees, volunteers,  
20 children and consultants. Regulations and standards developed pursuant  
21 to this section shall, to the extent possible, be consistent with those  
22 promulgated by other state agencies for such purposes;

23 (b) [Cooperate with the state department of social services to protect  
24 the health and safety of pupils at the school pursuant to title six of  
25 article six of the social services law. Such cooperation shall include:  
26 the making of reports of alleged child abuse or maltreatment; providing  
27 necessary assistance to the state department of social services in the  
28 department's investigation thereof and considering the recommendations  
29 of the state department of social services for preventive and remedial  
30 action including legal action and provide or direct the residential  
31 facility to provide such written reports to the department of social  
32 services as to the implementation of plans of prevention and remediation  
33 approved by the department; and

34 (c) Provide for the development and implementation of a plan of  
35 prevention and remediation with respect to [an indicated] A SUBSTANTI-  
36 ATED report of child abuse [or maltreatment] OR NEGLECT. Such action  
37 shall include: (i) within ten days of receipt of [an indicated] A  
38 SUBSTANTIATED report of child abuse [or maltreatment] OR NEGLECT, devel-  
39 opment and implementation of a plan of prevention and remediation to be  
40 taken with respect to a custodian or the residential facility in order  
41 to assure the continued health and safety of children and to provide for  
42 the prevention of future acts of abuse or [maltreatment] NEGLECT; and  
43 (ii) development and implementation of a plan of prevention and remedi-  
44 ation, in the event an investigation of a report of alleged [child]  
45 abuse [or maltreatment] OR NEGLECT determines that some credible  
46 evidence of abuse [or maltreatment] OR NEGLECT exists and such abuse [or  
47 maltreatment] OR NEGLECT may be attributed in whole or in part to  
48 noncompliance by the residential facility or program with provisions of  
49 this chapter or regulations of the department applicable to the opera-  
50 tion of such residential facility or program. Any plan of prevention and  
51 remediation required to be developed pursuant to [paragraph (ii) of]  
52 this subdivision by a facility supervised by the department shall be  
53 submitted to and approved by the department in accordance with time  
54 limits established by regulations of the department. Implementation of  
55 the plan shall be monitored by the department. In reviewing the contin-  
56 ued qualifications of a residential facility or program for an operating  
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1 certificate, the department shall evaluate such facility's compliance  
2 with plans of prevention and remediation developed and implemented  
3 pursuant to this subdivision.

4 S 4. Subdivisions 11, 12, 13, 14, 15, 16, 17, 18, 19 and 19-a of  
5 section 4403 of the education law, subdivisions 11, 12 and 13 as amended  
6 by chapter 32 of the laws of 1992, subdivisions 14, 15 and 16 as added  
7 by chapter 53 of the laws of 1986, subdivision 17 as amended by chapter  
8 53 of the laws of 1987, subdivision 18 as added by chapter 428 of the  
9 laws of 1992, subdivision 19 as added by chapter 600 of the laws of 1994  
10 and subdivision 19-a as amended by chapter 378 of the laws of 2007, are  
11 amended to read as follows:

12 11. To promulgate regulations concerning standards for the protection  
13 of children in residential care from abuse and [maltreatment] NEGLECT IN  
14 ACCORDANCE WITH THIS SECTION AND ARTICLE ELEVEN OF THE SOCIAL SERVICES  
15 LAW, including procedures for:

16 (a) consistent with appropriate collective bargaining agreements and  
17 applicable provisions of the civil service law, the review and evalu-  
18 ation of the backgrounds of and the information supplied by any person  
19 applying to be an employee, a volunteer or consultant, which shall  
20 include but not be limited to the following requirements: that the  
21 applicant set forth his or her employment history, provide personal and

22 employment references, and relevant experiential and educational quali-  
 23 fications and, sign a sworn statement indicating whether the applicant,  
 24 to the best of his or her knowledge has ever been convicted of a crime  
 25 in this state or any other jurisdiction;

26 (b) establishing, for employees, relevant minimal experiential and  
 27 educational qualifications, consistent with appropriate collective  
 28 bargaining agreements and applicable provisions of the civil service  
 29 law;

30 (c) assuring adequate and appropriate supervision of employees, volun-  
 31 teers and consultants;

32 (d) demonstrating by a residential facility or program that appropri-  
 33 ate action is taken to assure the safety of the child who is [reported]  
 34 ALLEGED TO HAVE BEEN ABUSED OR NEGLECTED IN A REPORT to the [state]  
 35 VULNERABLE PERSONS' central register IN ACCORDANCE WITH SECTION FOUR  
 36 HUNDRED NINETY-TWO OF THE SOCIAL SERVICES LAW as well as other children  
 37 in care, immediately upon notification that a report of [child] AN ALLE-  
 38 GATION OF abuse [or maltreatment] OR NEGLECT has been made with respect  
 39 to a child in such residential facility or program;

40 (e) removing a child when it is determined that there is risk to such  
 41 child if he or she continues to remain within a residential facility or  
 42 program; and

43 (f) appropriate preventive and remedial action to be taken including  
 44 legal actions, consistent with appropriate collective bargaining agree-  
 45 ments and applicable provisions of the civil service law.

46 Such standards shall also establish as a priority requirements that:

47 (A) subject to amounts appropriated therefor, administrators, employ-  
 48 ees, volunteers and consultants receive training in at least the follow-  
 49 ing: child abuse prevention and identification, safety and security  
 50 procedures, the principles of child development, the characteristics of  
 51 children in care, and techniques of group and child management including  
 52 crisis intervention, the laws, regulations and procedures governing the  
 53 protection of children from abuse, NEGLECT and maltreatment, and other  
 54 appropriate topics, provided however, that the department may exempt  
 55 administrators and consultants from such requirements upon demonstration  
 56 of substantially equivalent knowledge or experience; and

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1 (B) subject to the amounts appropriated therefor, children receive  
 2 instruction, consistent with their age, needs and circumstances as well  
 3 as the needs and circumstances within the program, in techniques and  
 4 procedures which will enable such children to ADVOCATE FOR AND protect  
 5 themselves from abuse [and maltreatment] AND NEGLECT.

6 The department shall take all reasonable and necessary actions to  
 7 assure that employees, volunteers and consultants in residential facili-  
 8 ties and programs are kept apprised on a current basis of all department  
 9 policies and procedures relating to the protection of children from  
 10 abuse, NEGLECT and maltreatment and shall monitor and supervise the  
 11 provision of training to such administrators, employees, volunteers,  
 12 children and consultants. Regulations and standards developed pursuant  
 13 to this subdivision shall, to the extent possible, be consistent with  
 14 those promulgated by other state agencies for such purposes.

15 12. [To cooperate with the state department of social services and  
 16 other departments, divisions and agencies of the state when a report is  
 17 received pursuant to title six of article six of the social services law  
 18 to protect the health and safety of children in residential placement.  
 19 Such cooperation shall include: the making of reports of alleged child  
 20 abuse or maltreatment; providing necessary assistance to the state  
 21 department of social services in the department's investigation thereof  
 22 and considering the recommendations of the state department of social  
 23 services for preventive and remedial action, including legal action and  
 24 providing written reports thereon to the department of social services  
 25 as to the implementation of plans of prevention and remediation approved  
 26 by the department.

27 13.) To provide for the development and implementation of a plan of  
 28 prevention and remediation with respect to [an indicated] A SUBSTANTI-  
 29 ATED report of [child] abuse or [maltreatment] NEGLECT. Such action  
 30 shall include: (a) within ten days of receipt of [an indicated] A  
 31 SUBSTANTIATED report of [child] abuse or [maltreatment] NEGLECT, devel-  
 32 opment and implementation of a plan of prevention and remediation to be  
 33 taken with respect to a custodian or the residential facility in order  
 34 to assure the continued health and safety of children and to provide for  
 35 the prevention of future acts of abuse or [maltreatment] NEGLECT; and

36 (b) development and implementation of a plan of prevention and remedi-  
 37 ation, in the event an investigation of a report of alleged [child]  
 38 abuse or [maltreatment] NEGLECT determines that some credible evidence  
 39 of abuse or [maltreatment] NEGLECT exists and such abuse or [maltreat-  
 40 ment] NEGLECT may be attributed in whole or in part to noncompliance by  
 41 the residential facility or program with provisions of this chapter or  
 42 regulations of the department applicable to the operation of such resi-  
 43 dential facility or program. Any plan of prevention and remediation  
 44 required to be developed pursuant to [paragraph (b) of] this subdivision  
 45 by a facility supervised by the department shall be submitted to and  
 46 approved by the department in accordance with time limits established by  
 47 regulations of the department. Implementation of the plan shall be moni-  
 48 tored by the department. In reviewing the continued qualifications of a  
 49 residential facility or program for an operating certificate, the  
 50 department shall evaluate such facility's compliance with plans of  
 51 prevention and remediation developed and implemented pursuant to this  
 52 subdivision.

53 [14] 13. To provide technical assistance to school districts for  
 54 appropriate evaluation and assessment.

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1 [15] 14. To provide technical assistance to school districts to  
 2 assist in the adaptation of curriculum for the instruction of children  
 3 with handicapping conditions.

4 [16] 15. To provide technical assistance to school districts to  
 5 assist in developing criteria for placement in special education and  
 6 criteria for reviewing the ability of a pupil to participate in regular  
 7 education.

8 [17] 16. Commencing with the nineteen hundred eighty-seven--eighty-  
 9 eight school year, to provide for instruction during the months of July  
 10 and August of students with handicapping conditions who have received  
 11 state appointments pursuant to article eighty-five, eighty-seven or  
 12 eighty-eight of this chapter and whose handicapping conditions, in the  
 13 judgment of the commissioner, are severe enough to exhibit the need for  
 14 a structured learning environment of twelve months duration to maintain  
 15 developmental levels, by making such appointments for twelve months;  
 16 provided that the initial term of appointment of a student with a handi-  
 17 capping condition who is the minimum age eligible for such a state  
 18 appointment shall not commence during the months of July or August.

19 [18] 17. To approve the provision of early intervention services, as  
 20 defined in section twenty-five hundred forty-one of the public health  
 21 law, by agencies which are approved providers of special services or  
 22 programs pursuant to section forty-four hundred ten of this article  
 23 based on such agency's compliance with the coordinated standards and  
 24 procedures for early intervention services established pursuant to title  
 25 II-A of article twenty-five of the public health law and, where applica-  
 26 ble, teacher certification requirements.

27 [19] 18. To establish guidelines for determining when a child is at  
 28 risk of a future placement in a residential school, and for the  
 29 provision by committees on special education of information to parents  
 30 and other persons in parental relationship concerning the availability  
 31 of community support services to meet the needs of the family. The  
 32 guidelines shall be developed by the department after consultation with  
 33 the office of mental health, the office of mental retardation and devel-  
 34 opmental disabilities, the office of alcoholism and substance abuse  
 35 services, the department of health, the department of social services  
 36 and the division for youth.

37 [19-a] 19. To adopt regulations prescribing the state complaint  
 38 procedures pursuant to sections 300.151 through 300.153 of title thir-  
 39 ty-four of the code of federal regulations, where an individual or  
 40 organization files a written complaint alleging that a public agency has  
 41 violated part B of the individuals with disabilities education act. Such  
 42 regulations shall include, but not be limited to, remedies for denial of  
 43 appropriate services, including, as appropriate, the awarding of mone-  
 44 tary reimbursement, compensatory services or other corrective action  
 45 appropriate to the needs of the child.

46 S 5. Subdivision 2 of section 3650 of the education law, as added by  
 47 chapter 18 of the laws of 2007, is amended to read as follows:

48 2. The commissioner, in consultation with the [state commission on  
 49 quality care and advocacy for persons with disabilities] JUSTICE CENTER  
 50 FOR THE PROTECTION OF PEOPLE WITH SPECIAL NEEDS, shall promulgate rules  
 51 and regulations requiring every school bus driver operating a school bus

52 which has or will have one or more students with a disability as passen-  
 53 gers to receive training and instruction relating to the understanding  
 54 of, and attention to, the special needs of such students. Such training  
 55 and instruction may be included with the training and instruction  
 56 required pursuant to paragraph a of subdivision one of this section and  
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1 shall be provided at least once per year or more frequently as deter-  
 2 mined by the commissioner in consultation with the state comprehensive  
 3 school bus driver safety training council. For the purposes of this  
 4 subdivision, the term "student with a disability" shall have the same  
 5 meaning as such term is defined in subdivision one of section forty-four  
 6 hundred one of this chapter. Any person employed as a school bus driver  
 7 on January first, two thousand nine who is subject to the provisions of  
 8 this subdivision shall comply with the requirements of this subdivision  
 9 by July first, two thousand nine. Any school bus driver hired after  
 10 January first, two thousand nine who is subject to the requirements of  
 11 this subdivision shall complete such training and instruction prior to  
 12 assuming his or her duties.

13 S 6. Subdivision 4 of section 1229-d of the vehicle and traffic law,  
 14 as added by chapter 181 of the laws of 2007, is amended to read as  
 15 follows:

16 (4) The commissioner of education, in consultation with the [state  
 17 commission on quality care and advocacy for persons with disabilities]  
 18 JUSTICE CENTER FOR THE PROTECTION OF PEOPLE WITH SPECIAL NEEDS, shall  
 19 promulgate rules and regulations requiring that every school bus attend-  
 20 ant serving a student or students with a disability receive training and  
 21 instruction relating to the understanding of and attention to the  
 22 special needs of such students. Such training and instruction may be  
 23 included with the training and instruction required pursuant to subdivi-  
 24 sion three of this section and shall be provided at least once per year  
 25 or more frequently as determined by the commissioner of education in  
 26 consultation with the state comprehensive school bus driver safety  
 27 training council. For the purposes of this subdivision, the term  
 28 "student with a disability" shall have the same meaning as such term is  
 29 defined in subdivision one of section forty-four hundred one of the  
 30 education law. Any person employed as a school bus attendant serving a  
 31 student or students with a disability on January first, two thousand  
 32 nine shall comply with the requirements of this subdivision by July  
 33 first, two thousand nine. Any person hired after January first, two  
 34 thousand nine shall complete such training, instruction and testing  
 35 prior to assuming his or her duties as a school bus attendant serving a  
 36 student or students with a disability.

37 S 7. This act shall take effect April 1, 2013; provided, however, that  
 38 the amendments to subdivision 18 of section 4403 of the education law  
 39 made by section four of this act shall not affect the repeal of such  
 40 subdivision and shall be deemed repealed therewith; provided further  
 41 that the amendments to subdivision 19-a of section 4403 of the education  
 42 law made by section four of this act shall not affect the expiration of  
 43 such subdivision and shall be deemed to expire therewith.

44 PART F

45 Section 1. Subdivision (a) of section 16.33 of the mental hygiene law,  
 46 as amended by chapter 575 of the laws of 2004, is amended to read as  
 47 follows:

48 (a) Every provider of services who contracts with or is approved or  
 49 otherwise authorized by the office to provide services, except (1) a  
 50 department facility, (2) a hospital as defined in article twenty-eight  
 51 of the public health law, or (3) a licensed professional under title  
 52 eight of the education law who does not have employees or volunteers who  
 53 will have regular and substantial unsupervised or unrestricted physical  
 54 contact with the clients of such provider, and every applicant to be  
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1 such a provider of services except (i) a department facility, (ii) a  
 2 hospital as defined in article twenty-eight of the public health law, or  
 3 (iii) a licensed professional under title eight of the education law and  
 4 who does not have employees or volunteers who will have regular and  
 5 substantial unsupervised or unrestricted physical contact with the  
 6 clients of such provider, shall request that the [office] JUSTICE CENTER  
 7 FOR THE PROTECTION OF PEOPLE WITH SPECIAL NEEDS check, and upon such

8 request [the office] SUCH JUSTICE CENTER shall request and shall be  
 9 authorized to receive from the division of criminal justice services  
 10 criminal history information, as such phrase is defined in paragraph (c)  
 11 of subdivision one of section eight hundred forty-five-b of the execu-  
 12 tive law, concerning each (A) prospective operator, employee or volun-  
 13 teer of such provider who will have regular and substantial unsupervised  
 14 or unrestricted physical contact with the clients of such provider, or  
 15 (B) other person over the age of eighteen who is to reside in a family  
 16 care home, except any person receiving family care services, who will  
 17 have regular and substantial unsupervised or unrestricted physical  
 18 contact with the clients of such provider. For purposes of this section,  
 19 "operator" shall include any natural person with an ownership interest  
 20 in the provider of services.

21 S 2. The mental hygiene law is amended by adding a new section 19.20  
 22 to read as follows:

23 S 19.20 REVIEW OF CRIMINAL HISTORY INFORMATION CONCERNING CERTAIN  
 24 PROSPECTIVE PROVIDERS, EMPLOYEES, AND INDIVIDUALS CREDEN-  
 25 TIALED BY THE OFFICE.

26 (A) EVERY PROVIDER OF SERVICES WHO CONTRACTS WITH OR IS APPROVED OR  
 27 OTHERWISE AUTHORIZED BY THE OFFICE TO PROVIDE SERVICES, EXCEPT (1) A  
 28 DEPARTMENT FACILITY, (2) A HOSPITAL AS DEFINED IN ARTICLE TWENTY-EIGHT  
 29 OF THE PUBLIC HEALTH LAW, OR (3) A LICENSED PROFESSIONAL UNDER TITLE  
 30 EIGHT OF THE EDUCATION LAW WHO DOES NOT HAVE EMPLOYEES OR VOLUNTEERS WHO  
 31 WILL HAVE REGULAR AND SUBSTANTIAL UNSUPERVISED OR UNRESTRICTED PHYSICAL  
 32 CONTACT WITH THE CLIENTS OF SUCH PROVIDER, AND EVERY APPLICANT TO BE  
 33 SUCH A PROVIDER OF SERVICES EXCEPT (I) A DEPARTMENT FACILITY, (II) A  
 34 HOSPITAL AS DEFINED IN ARTICLE TWENTY-EIGHT OF THE PUBLIC HEALTH LAW, OR  
 35 (III) A LICENSED PROFESSIONAL UNDER TITLE EIGHT OF THE EDUCATION LAW WHO  
 36 DOES NOT HAVE EMPLOYEES OR VOLUNTEERS WHO WILL HAVE REGULAR AND SUBSTAN-  
 37 TIAL UNSUPERVISED OR UNRESTRICTED PHYSICAL CONTACT WITH THE CLIENTS OF  
 38 SUCH PROVIDER, SHALL REQUEST THAT THE JUSTICE CENTER FOR THE PROTECTION  
 39 OF PEOPLE WITH SPECIAL NEEDS CHECK, AND UPON SUCH REQUEST SUCH JUSTICE  
 40 CENTER SHALL REQUEST AND SHALL BE AUTHORIZED TO RECEIVE FROM THE DIVI-  
 41 SION OF CRIMINAL JUSTICE SERVICES CRIMINAL HISTORY INFORMATION, AS SUCH  
 42 PHRASE IS DEFINED IN PARAGRAPH (C) OF SUBDIVISION ONE OF SECTION EIGHT  
 43 HUNDRED FORTY-FIVE-B OF THE EXECUTIVE LAW, CONCERNING EACH PROSPECTIVE  
 44 OPERATOR, EMPLOYEE OR VOLUNTEER OF SUCH PROVIDER WHO WILL HAVE REGULAR  
 45 AND SUBSTANTIAL UNSUPERVISED OR UNRESTRICTED PHYSICAL CONTACT WITH THE  
 46 CLIENTS OF SUCH PROVIDER. FOR PURPOSES OF THIS SECTION, "OPERATOR" SHALL  
 47 INCLUDE ANY NATURAL PERSON WITH AN OWNERSHIP INTEREST IN THE PROVIDER OF  
 48 SERVICES.

49 (B) THE JUSTICE CENTER FOR THE PROTECTION OF PEOPLE WITH SPECIAL NEEDS  
 50 SHALL BE AUTHORIZED TO REQUEST AND RECEIVE FROM THE DIVISION OF CRIMINAL  
 51 JUSTICE SERVICES CRIMINAL HISTORY INFORMATION, AS SUCH PHRASE IS DEFINED  
 52 IN PARAGRAPH (C) OF SUBDIVISION ONE OF SECTION EIGHT HUNDRED  
 53 FORTY-FIVE-B OF THE EXECUTIVE LAW, FOR EVERY INDIVIDUAL CREDENTIALLED, OR  
 54 SEEKING TO BE CREDENTIALLED, BY THE OFFICE OF ALCOHOLISM AND SUBSTANCE  
 55 ABUSE SERVICES TO PROVIDE SUBSTANCE USE DISORDER SERVICES.

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1 (C) ACCESS TO AND USE OF SUCH INFORMATION SHALL BE GOVERNED BY THE  
 2 PROVISIONS OF SECTION EIGHT HUNDRED FORTY-FIVE-B OF THE EXECUTIVE LAW.

3 S 3. Subdivision (a) of section 31.35 of the mental hygiene law, as  
 4 amended by chapter 575 of the laws of 2004, is amended to read as  
 5 follows:

6 (a) Every provider of services who contracts with or is approved or  
 7 otherwise authorized by the office to provide services, except (1) a  
 8 department facility, (2) a hospital as defined in article twenty-eight  
 9 of the public health law, or (3) a licensed professional under title  
 10 eight of the education law who does not have employees or volunteers who  
 11 will have regular and substantial unsupervised or unrestricted physical  
 12 contact with the clients of such provider, and every applicant to be  
 13 such a provider of services except (i) a department facility, (ii) a  
 14 hospital as defined in article twenty-eight of the public health law, or  
 15 (iii) a licensed professional under title eight of the education law who  
 16 does not have employees or volunteers who will have regular and substan-  
 17 tial unsupervised or unrestricted physical contact with the clients of  
 18 such provider, shall request that the [office] JUSTICE CENTER FOR THE  
 19 PROTECTION OF PEOPLE WITH SPECIAL NEEDS check, and upon such request  
 20 [the office] SUCH JUSTICE CENTER shall request and shall be authorized  
 21 to receive from the division of criminal justice services criminal  
 22 history information, as such phrase is defined in paragraph (c) of

23 subdivision one of section eight hundred forty-five-b of the executive  
 24 law, concerning each prospective operator, employee or volunteer of such  
 25 provider who will have regular and substantial unsupervised or unre-  
 26 stricted physical contact with the clients of such provider. For  
 27 purposes of this section, "operator" shall include any natural person  
 28 with an ownership interest in the provider of services.

29 S 4. Subdivision 1 of section 378-a of the social services law, as  
 30 amended by chapter 7 of the laws of 1999, is amended to read as follows:

31 1. [Subject to rules and regulations of the division of criminal  
 32 justice services, an] EVERY authorized agency WHICH OPERATES A RESIDEN-  
 33 TIAL PROGRAM FOR CHILDREN AND THE OFFICE OF CHILDREN AND FAMILY SERVICES  
 34 shall [have access to conviction records maintained by state law  
 35 enforcement agencies pertaining to persons who have applied for and are  
 36 under active consideration for employment by such authorized agency in  
 37 positions where such persons will be engaged directly in the care and  
 38 supervision of children] REQUEST THAT THE JUSTICE CENTER FOR THE  
 39 PROTECTION OF PEOPLE WITH SPECIAL NEEDS CHECK, AND UPON SUCH REQUEST,  
 40 SUCH JUSTICE CENTER SHALL REQUEST AND SHALL BE AUTHORIZED TO RECEIVE  
 41 FROM THE DIVISION OF CRIMINAL JUSTICE SERVICES CRIMINAL HISTORY INFORMA-  
 42 TION, AS SUCH PHRASE IS DEFINED IN PARAGRAPH (C) OF SUBDIVISION ONE OF  
 43 SECTION EIGHT HUNDRED FORTY-FIVE-B OF THE EXECUTIVE LAW CONCERNING EACH  
 44 PROSPECTIVE OPERATOR, EMPLOYEE OR VOLUNTEER OF SUCH RESIDENTIAL PROGRAM  
 45 WHO WILL HAVE REGULAR AND SUBSTANTIAL UNSUPERVISED OR UNRESTRICTED PHYS-  
 46 ICAL CONTACT WITH CHILDREN IN SUCH PROGRAM. FOR THE PURPOSES OF THIS  
 47 SECTION, "OPERATOR" SHALL INCLUDE ANY NATURAL PERSON WITH AN OWNERSHIP  
 48 INTEREST IN THE AUTHORIZED AGENCY. ACCESS TO AND THE USE OF SUCH INFOR-  
 49 MATION SHALL BE GOVERNED BY THE PROVISIONS OF SECTION EIGHT HUNDRED  
 50 FORTY-FIVE-B OF THE EXECUTIVE LAW.

51 S 5. Subdivision 2 and paragraph (a) of subdivision 5 of section 845-b  
 52 of the executive law, subdivision 2 as amended by chapter 769 of the  
 53 laws of 2005 and paragraph (a) of subdivision 5 as amended by chapter  
 54 331 of the laws of 2006, are amended to read as follows:

55 2. Where a provider is authorized or required to request a check of  
 56 criminal history information by an authorized agency pursuant to section  
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1 16.33 [or], 31.35, 19.07 OR 19.20 of the mental hygiene law [or], arti-  
 2 cle twenty-eight-E of the public health law OR SUBDIVISION ONE OF  
 3 SECTION THREE HUNDRED SEVENTY-EIGHT-A OF THE SOCIAL SERVICES LAW, such  
 4 provider shall proceed pursuant to the provisions of this section and in  
 5 a manner consistent with the provisions of article twenty-three-A of the  
 6 correction law, subdivisions fifteen and sixteen of section two hundred  
 7 ninety-six of this chapter and all other applicable laws.

8 (a) Where the criminal history information concerning a subject indi-  
 9 vidual reveals a felony conviction at any time for a sex offense, a  
 10 felony conviction within the past ten years involving violence, or a  
 11 conviction [for endangering the welfare of an incompetent or physically  
 12 disabled person] pursuant to section 260.00, 260.10, 260.24, 260.25,  
 13 260.32 OR 260.34 of the penal law, and in the case of criminal history  
 14 information obtained pursuant to section twenty-eight hundred ninety-  
 15 nine-a of the public health law, where the criminal history information  
 16 concerning a subject individual reveals a conviction at any time of any  
 17 class A felony; a conviction within the past ten years of any class B or  
 18 C felony, any class D or E felony defined in article one hundred twenty,  
 19 one hundred thirty, one hundred fifty-five, one hundred sixty, one  
 20 hundred seventy-eight or two hundred twenty of the penal law; or any  
 21 crime defined in [sections] SECTION 260.32 or 260.34 of the penal law;  
 22 or any comparable offense in any other jurisdiction, the authorized  
 23 agency shall deny or disapprove the application for or renewal of the  
 24 operating certificate, contract, approval, employment of the subject  
 25 individual or other authorization to provide services, or direct the  
 26 provider to deny employment, as applicable, unless the authorized agency  
 27 determines, in its discretion, that approval of the application or  
 28 renewal or employment will not in any way jeopardize the health, safety  
 29 or welfare of the beneficiaries of such services.

30 S 6. This act shall take effect on April 1, 2013; provided, however,  
 31 that effective immediately, the addition, amendment or repeal of any  
 32 rule or regulation necessary for the implementation of this act on its  
 33 effective date are authorized to be made and completed on or before such  
 34 date.



36 Section 1. The opening paragraph and subdivision 4 of section 240.50  
 37 of the penal law, the opening paragraph as amended by chapter 276 of the  
 38 laws of 1973 and subdivision 4 as amended by chapter 400 of the laws of  
 39 2008, are amended to read as follows:

40 A person is guilty of falsely reporting an incident in the third  
 41 degree when, knowing the information reported, conveyed or circulated to  
 42 be false or baseless, he OR SHE:

43 4. Reports, by word or action, an alleged occurrence or condition of  
 44 child abuse or maltreatment OR ABUSE OR NEGLECT OF A VULNERABLE PERSON  
 45 which did not in fact occur or exist to:

46 (a) the statewide central register of child abuse and maltreatment, as  
 47 defined in title six of article six of the social services law OR THE  
 48 VULNERABLE PERSONS' CENTRAL REGISTER AS DEFINED IN ARTICLE ELEVEN OF  
 49 SUCH LAW, or

50 (b) any person required to report cases of suspected child abuse or  
 51 maltreatment pursuant to subdivision one of section four hundred thir-  
 52 teen of the social services law OR TO REPORT CASES OF SUSPECTED ABUSE OR  
 53 NEGLECT OF A VULNERABLE PERSON PURSUANT TO SECTION FOUR HUNDRED NINETY-  
 54 ONE OF SUCH LAW, knowing that the person is required to report such  
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1 cases, and with the intent that such an alleged occurrence be reported  
 2 to the statewide central register OR VULNERABLE PERSONS' CENTRAL REGIS-  
 3 TER.

4 S 2. Paragraph (h) of subdivision 3 of section 130.05 of the penal  
 5 law, as amended by chapter 264 of the laws of 2003, is amended and a new  
 6 paragraph (i) is added to read as follows:

7 (h) a client or patient and the actor is a health care provider or  
 8 mental health care provider charged with rape in the third degree as  
 9 defined in section 130.25, criminal sexual act in the third degree as  
 10 defined in section 130.40, aggravated sexual abuse in the fourth degree  
 11 as defined in section 130.65-a, or sexual abuse in the third degree as  
 12 defined in section 130.55, and the act of sexual conduct occurs during a  
 13 treatment session, consultation, interview, or examination[.]; OR

14 (I) A RESIDENT OR INPATIENT OF A RESIDENTIAL FACILITY OPERATED,  
 15 LICENSED OR CERTIFIED BY (I) THE OFFICE OF MENTAL HEALTH; (II) THE  
 16 OFFICE FOR PEOPLE WITH DEVELOPMENTAL DISABILITIES; OR (III) THE OFFICE  
 17 OF ALCOHOLISM AND SUBSTANCE ABUSE SERVICES, AND THE ACTOR IS AN EMPLOYEE  
 18 OF THE FACILITY. FOR PURPOSES OF THIS PARAGRAPH, "EMPLOYEE" MEANS EITHER  
 19 AN EMPLOYEE OF THE AGENCY OPERATING THE RESIDENTIAL FACILITY, WHO  
 20 PROVIDES DIRECT CARE SERVICES, CASE MANAGEMENT SERVICES, MEDICAL OR  
 21 OTHER CLINICAL SERVICES, HABILITATIVE SERVICES OR DIRECT SUPERVISION OF  
 22 THE RESIDENTS IN THE FACILITY IN WHICH THE RESIDENT RESIDES; OR OFFICERS  
 23 OR OTHER EMPLOYEES, CONSULTANTS, CONTRACTORS OR VOLUNTEERS OF THE RESI-  
 24 DENTIAL FACILITY, WHO KNOW OR REASONABLY SHOULD KNOW THAT THE PERSON IS  
 25 A RESIDENT OF SUCH FACILITY; PROVIDED, HOWEVER, "EMPLOYEE" SHALL NOT  
 26 INCLUDE A PERSON WITH A DEVELOPMENTAL DISABILITY WHO IS OR WAS RECEIVING  
 27 SERVICES AND IS ALSO AN EMPLOYEE OF A SERVICE PROVIDER AND WHO HAS SEXU-  
 28 AL CONTACT WITH ANOTHER SERVICE RECIPIENT WHO IS A CONSENTING ADULT WHO  
 29 HAS CONSENTED TO SUCH CONTACT.

30 S 3. The penal law is amended by adding a new section 260.24 to read  
 31 as follows:

32 S 260.24 ENDANGERING THE WELFARE OF AN INCOMPETENT OR PHYSICALLY DISA-  
 33 BLED PERSON IN THE SECOND DEGREE.

34 A PERSON IS GUILTY OF ENDANGERING THE WELFARE OF AN INCOMPETENT OR  
 35 PHYSICALLY DISABLED PERSON IN THE SECOND DEGREE WHEN HE OR SHE RECKLESS-  
 36 LY ENGAGES IN CONDUCT WHICH IS LIKELY TO BE INJURIOUS TO THE PHYSICAL,  
 37 MENTAL OR MORAL WELFARE OF A PERSON WHO IS UNABLE TO CARE FOR HIMSELF OR  
 38 HERSELF BECAUSE OF PHYSICAL DISABILITY, MENTAL DISEASE OR DEFECT.

39 ENDANGERING THE WELFARE OF AN INCOMPETENT OR PHYSICALLY DISABLED  
 40 PERSON IN THE SECOND DEGREE IS A CLASS A MISDEMEANOR.

41 S 4. Section 260.25 of the penal law, as amended by chapter 381 of the  
 42 laws of 1998, is amended to read as follows:

43 S 260.25 Endangering the welfare of an incompetent or physically disa-  
 44 bled person IN THE FIRST DEGREE.

45 A person is guilty of endangering the welfare of an incompetent or  
 46 physically disabled person IN THE FIRST DEGREE when he knowingly acts in  
 47 a manner likely to be injurious to the physical, mental or moral welfare  
 48 of a person who is unable to care for himself or herself because of  
 49 physical disability, mental disease or defect.

50 Endangering the welfare of an incompetent or physically disabled

51 person IN THE FIRST DEGREE is a class [A misdemeanor] E FELONY.

52 S 5. The closing paragraph of section 260.32 of the penal law, as  
53 amended by chapter 14 of the laws of 2010, is amended to read as  
54 follows:

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1 Endangering the welfare of a vulnerable elderly person, or an incompe-  
2 tent or physically disabled person in the second degree is a class [E] D  
3 felony.

4 S 6. The closing paragraph of section 260.34 of the penal law, as  
5 amended by chapter 14 of the laws of 2010, is amended to read as  
6 follows:

7 Endangering the welfare of a vulnerable elderly person, or an incompe-  
8 tent or physically disabled person in the first degree is a class [D] C  
9 felony.

10 S 7. This act shall take effect on the thirtieth day after it shall  
11 have become a law.

12

#### PART H

13 Section 1. Chapter 606 of the laws of 2011, amending the mental  
14 hygiene law relating to creating an abuse prevention notification  
15 system, is REPEALED.

16 S 2. Chapter 6 of the laws of 2012, amending chapter 606 of the laws  
17 of 2011, amending the mental hygiene law relating to creating an abuse  
18 prevention notification system, is REPEALED.

19 S 3. This act shall take effect April 1, 2013.

20 S 3. Severability clause. If any clause, sentence, paragraph, subdivi-  
21 sion, section or part of this act shall be adjudged by any court of  
22 competent jurisdiction to be invalid, such judgment shall not affect,  
23 impair, or invalidate the remainder thereof, but shall be confined in  
24 its operation to the clause, sentence, paragraph, subdivision, section  
25 or part thereof directly involved in the controversy in which such judg-  
26 ment shall have been rendered. It is hereby declared to be the intent of  
27 the legislature that this act would have been enacted even if such  
28 invalid provisions had not been included herein.

29 S 4. This act shall take effect immediately provided, however, that  
30 the applicable effective date of Parts A through H of this act shall be  
31 as specifically set forth in the last section of such Parts.

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