

By Susan Bryant and Lucy McCarthy\*

## Penal Law

- **Chapter 17** (S6346) – Clarifies probation revocation laws. Effective: February 9, 2014 (same as the effective date of [L 2013, ch 556](#)).

In 2013, Penal Law 65.00 was amended to authorize graduated probation sentences for most felonies and class A misdemeanors, as well as unclassified misdemeanors. (L 2013, ch 556). The Legislature passed this chapter amendment to address the Governor's concerns that chapter 556 did not make clear that the court must afford the defendant due process before extending a term of probation and that if a term is extended, the defendant must receive credit for time under supervision or while incarcerated for an alleged probation violation (amending Penal Law 65.00[4], Criminal Procedure Law [CPL] 410.70(1), (5)).

- **Chapter 31** (S7902) – Creates the new crime of criminal sale of a controlled substance by a practitioner or pharmacist. Effective: June 23, 2014.

As part of a package of legislation intended to address use and abuse of heroin and prescription painkillers (see also chapters 36 and 37 below), this bill amends Penal Law 220.65 to make it a class C felony for a practitioner or pharmacist, as defined in Public Health Law (PHL) 3302, "acting other than in good faith, while purporting to act within the scope of the power, authority and privileges of his or her license ... [to] knowingly and unlawfully sell[] a controlled substance."

- **Chapter 36** (S7907) – Creates the new crime of fraud and deceit related to controlled substances. Effective: June 23, 2014.

Adds Penal Law 178.26 (Fraud and deceit related to controlled substances), a class A misdemeanor, that provides:

1. No person shall willfully:
  - (a) obtain or attempt to obtain a controlled substance, a prescription for a controlled substance or an official New York State prescription form, (i) by fraud, deceit, misrepresentation or subterfuge; or (ii) by the concealment of a material fact; or (iii) by the use of a false name or the giving of a false address;
  - (b) make a false statement in any prescription, order, application, report or record required by [PHL article 33];

\* *Susan C. Bryant* is a Backup Center Staff Attorney and co-editor of the REPORT. *Lucy McCarthy* is the Backup Center Family Court Staff Attorney.

- (c) falsely assume the title of, or represent himself or herself to be a licensed manufacturer, distributor, pharmacy, pharmacist, practitioner, researcher, approved institutional dispenser, owner or employee of a registered outsourcing facility or other authorized person, for the purpose of obtaining a controlled substance as these terms are defined in [PHL article 33];
- (d) make or utter any false or forged prescription or false or forged written order;
- (e) affix any false or forged label to a package or receptacle containing controlled substances; or
- (f) imprint on or affix to any controlled substance a false or forged code number or symbol.

Subdivisions 2 and 3 make "[p]ossession of a false or forged prescription for a controlled substance by any person other than a pharmacist in the lawful pursuance of his or her profession" and "[p]ossession of a blank official New York state prescription form by any person to whom it was not lawfully issued" presumptive evidence of the person's intent to use such prescription or form for purposes of illegally obtaining a controlled substance.

Subdivision 4 provides that "[a]ny person who, in the course or treatment, is supplied with a controlled substance or a prescription therefore by one practitioner and who with the intent to deceive, intentionally withholds or intentionally fails to disclose the fact, is supplied during such treatment with a controlled substance or prescription therefore by another practitioner shall be guilty of a violation of [Penal Law article 178]." Subdivision 5 makes the provisions of PHL 3396 applicable to this section.

- **Chapter 37** (S7908) – Adds Penal Law 220.65 to list of criminal acts and designated offenses in enterprise corruption and eavesdropping laws. Effective: June 23, 2014.

Amends Penal Law 460.10(1)(a) to add the newly revised Penal Law 220.65 (criminal sale of a prescription for a controlled substance or a controlled substance by a practitioner or pharmacist) to the list of criminal acts in Penal Law article 460 (Enterprise corruption). Also amends CPL 700.05(8)(c) to add Penal Law 220.65 to the list of designated offenses for eavesdropping and video surveillance warrants.

## **Chapter 55** (A8555-D)

- **Part H, Subpart A – Public Trust Act. Effective: April 30, 2014 (applies to acts committed on or after that date).**

- Creates a new Penal Law article 496 (Corrupting the Government), consisting of first-through fourth-degree corrupting the government (class B-E felonies), public corruption, and sentencing, and adds Penal Law 200.56 to create the class E felony of Corrupt use of position or authority.

- Amends CPL 30.10(3)(b) to specifically identify an offense defined in the new Penal Law article 496 as an “offense involving misconduct in public office by a public servant,” and expands the provision to include persons acting in concert with a public servant.
- Amends Penal Law 110.05 to provide that attempted third-degree bribery (Penal Law 200.00) is a class D felony; attempted second-degree bribery (200.03) is a class C felony; and attempted first-degree bribery (200.04[2]) is a class B felony.
- Amends CPL 700.05(8) to make any felony defined in Penal Law article 496 a “designated offense” and expands 700.05(8)(f) to include corrupt use of position or authority as defined in Penal Law article 200.
- Amends CPL 200.50(4) to provide that in any prosecution under Penal Law 496.06 (Public corruption), “the designated offense shall be the specified offense, as defined in subdivision two of such section, followed by the phrase ‘as a public corruption crime.’”
- Amends Penal Law 460.10(1)(a) to add felonies defined in article 496 to the list of criminal acts for enterprise corruption purposes.
- Amends Penal Law 200.03 (second-degree bribery) and 200.11 (second-degree bribe receiving) to reduce the value from \$10,000 to \$5,000.
- Amends Penal Law 200.04 (first-degree bribery) and 200.12 (first-degree bribe receiving) to include when a person confers, or offers or agrees to confer any benefit valued in excess of \$100,000 upon a public servant upon an agreement or understanding that it will influence the public servant’s vote, opinion, judgment, action, decision or exercise of discretion.
- Amends Penal Law 80.00(1) and 80.10(1) to provide that a fine for an article 496 offense shall not exceed three times the amount of the defendant’s gain.
- Adds consequences for misdemeanor and felony convictions for specified fraud and corruption offenses, including lobbying (amends Legislative Law 1-c[a]), holding civil office (amends Public Officers Law 3), cancellation/termination of contracts and disqualification from contracting with the state (amends State Finance Law 139-a and 139-b), and eligibility for certain tax credits.
- Amends financial disclosure laws.

➤ **Part EE: Using crossbows for hunting. Effective: April 1, 2014.**

- Amends Penal Law 265.20(a)(4) (exemptions from certain weapons offenses) to include the crossbow.
- Amends various provisions of the Environmental Conservation Law to authorize crossbow hunting with some limitations and adds provisions regarding

the revocation of a hunting license or bowhunting or muzzle-loading privilege in certain circumstances.

➤ **Chapter 90 (A6357) – Medical use of marijuana. Effective: July 5, 2014.**

The bill authorizes the medical use of marijuana in New York for specified serious conditions, pursuant to the provisions of the new PHL article 33, title 5-a.

The bill also amends sections of the CPL and Penal Law, including:

- Amends Penal Law 221.00 to provide that any act lawful under PHL article 33, title 5-a, is not a violation of article 221.
- Adds a new Penal Law article 179 creating the crimes of first-degree criminal diversion (class E felony), second-degree criminal diversion (class B misdemeanor), and criminal retention of medical marijuana (class A misdemeanor).
- Amends CPL 216.00(1) to provide that an eligible defendant includes a person charged with a class B, C, D or E felony offense defined in Penal Law article 179.
- Amends CPL 410.91(5) to include first-degree criminal diversion of medical marijuana (Penal Law 179.10) in the list of specified offenses for parole supervision sentences.

The bill also establishes an excise tax on medical marijuana under Tax Law article 20-b and a medical marijuana trust fund under State Finance Law 89-h. Information about the medical marijuana program is available on the Department of Health’s website at [http://www.health.ny.gov/regulations/medical\\_marijuana/regulations.htm](http://www.health.ny.gov/regulations/medical_marijuana/regulations.htm).

➤ **Chapter 98 (A8236-C) – Prohibits directing a laser at an aircraft. Effective: November 1, 2014.**

Adds two degrees of directing a laser at an aircraft, Penal Law 240.76 (second degree – class A misdemeanor) and 240.77 (first degree – class E felony). Second-degree directing a laser at an aircraft is committed “when, with intent to disrupt safe air travel, he or she directs the beam of a laser:

1. onto a specific aircraft intending to thereby disrupt or interfere with such aircraft in the special aircraft jurisdiction of the United States; or
2. in the immediate vicinity of an aircraft in the special aircraft jurisdiction of the United States, and: (a) the calculated or measured beam irradiance on the aircraft, or in the immediate vicinity of the aircraft, exceeds limits set by the FAA for the FAA-specified laser flight zone (normal, sensitive, critical, or laser-free) where the aircraft was located; and (b) a pilot in the illuminated aircraft files a laser incident report with the FAA.

Subdivision 3 defines the terms “laser” and “FAA” and subdivision 4 provides that “[t]his section does not prohibit directing a laser beam at an aircraft, or in the immediate vicinity of an aircraft, by” specified individuals or for specific emergencies.

The first-degree offense is violated when a person commits the second-degree offense and “thereby causes a significant change of course or other serious disruption to the safe travel of an aircraft that threatens the physical safety of the aircraft’s passengers or crew.”

➤ **Chapter 184 (A7720) – Expands fourth-degree stalking to include following using a GPS or other device. Effective: October 21, 2014.**

Amends Penal Law 120.45 (fourth-degree stalking) to provide that, for purposes of subdivision 2, “‘following’ shall include the unauthorized tracking of such person’s movements or location through the use of a global positioning system or other device.”

➤ **Chapter 186 (A8196) – Creates the new crime of first-degree public lewdness. Effective: November 1, 2014.**

Adds Penal Law 245.03, a class A misdemeanor, to provide that a person is guilty of first-degree public lewdness when:

1. Being nineteen years of age or older and intending to be observed by a person less than sixteen years of age in a place described in [Penal Law 245.00(a) or (b)], he or she intentionally exposes the private or intimate parts of his or her body in a lewd manner for the purpose of alarming or seriously annoying such person, and he or she is thereby observed by such person in such place; or
2. He or she commits the crime of public lewdness, as defined in [Penal Law 245.00], and within the preceding year has been convicted of an offense defined in such section 245.00 or this section.

➤ **Chapter 188 (A10128) – Amendments to second-degree aggravated harassment. Effective: July 23, 2014.**

Amends Penal Law 240.30 (second-degree aggravated harassment), a portion of which was declared unconstitutional earlier in 2014. See *People v Golb*, 23 NY3d 455 (2014). Subdivision 1 of the bill removes the intent to “annoy, threaten or alarm another person” language and adds a new threat requirement; the subdivision now requires that, “with the intent to harass another person,” the actor communicates or causes to be communicated “a threat to cause physical harm to, or unlawful harm to the property of” that person or a member of the person’s family or household and “knows or reasonably should know that such communication will cause such person to reasonably fear harm to such person’s physical safety or property,” or

the physical safety or property of a family or household member.

➤ **Chapter 192 (S612) – Time excluded for calculating ten-year period for persistent sexual abuse. Effective: November 1, 2014.**

Amends Penal Law 130.53 (persistent sexual abuse) to provide that, for purposes of calculating the “previous ten year period” for the required two or more convictions, the period “exclud[es] any time during which such person was incarcerated for any reason.”

➤ **Chapter 193 (S1982-C) – Expansion of second-degree unlawful surveillance. Effective: November 1, 2014.**

Amends Penal Law 250.45 (second-degree unlawful surveillance) to add a new subdivision 5 that provides a person is guilty of this offense when:

5. For his or her own, or another individual’s amusement, entertainment, profit, sexual arousal or gratification, or for the purpose of degrading or abusing a person, the actor intentionally uses or installs or permits the utilization or installation of an imaging device to surreptitiously view, broadcast, or record such person in an identifiable manner: (a) engaging in sexual conduct, as defined in subdivision ten of section 130.00 of this part; (b) in the same image with the sexual or intimate part of any other person; and (c) at a place and time when such person has a reasonable expectation of privacy, without such person’s knowledge or consent.

The new provision is intended to authorize prosecution if there is evidence a person used a device to view, broadcast, or record another person engaged in sexual conduct without their consent, regardless of whether images of that other person’s sexual parts were captured. Previously, charges could only be brought if the accuser’s sexual parts were shown in the picture. Conforming amendments were also made to Penal Law 250.55 and 250.60 (first- and second-degree dissemination of an unlawful surveillance image).

➤ **Chapter 196 (S122-B) – Assault of a school crossing guard. Effective: November 1, 2014.**

Amends Penal Law 120.05(3) and (11) (second-degree assault) to add “a school crossing guard appointed pursuant to [General Municipal Law 208-a]” to the list of professionals in those subdivisions, elevating the assault of such a school crossing guard to a class D felony either where the individual acted: (3) “[w]ith intent to prevent” the guard “from performing a lawful duty” and caused physical injury to that guard; or (11) “[w]ith intent to cause physical injury” to the guard, caused physical injury to such guard while the guard “[wa]s performing an assigned duty.”

➤ **Chapter 197 (S3965-A) – Assault of a NYC Housing Authority employee. Effective: September 3, 2014.**

Amends Penal Law 120.05 (second-degree assault) to add new subdivisions (3-b) and (11-b), which provide:

3-b. With intent to prevent an employee of the New York city housing authority from performing his or her lawful duties while located on housing project grounds, real property, or a building owned, managed, or operated by such authority he or she causes physical injury to such employee;

11-b. With intent to cause physical injury to an employee of the New York city housing authority performing his or her lawful duties while located on housing project grounds, real property, or a building owned, managed, or operated by such authority he or she causes physical injury to such employee.

Section 2 of the bill states: “The provisions of subdivisions 3-b or 11-b of [Penal Law 120.05] shall not supersede other provisions of the penal law applicable to assaults on police, peace, or special officers employed by the New York city housing authority or other public employers, performing their duties on housing project grounds, real property, or buildings owned, managed or operated by such authority.”

➤ **Chapter 477 (S7888) – Fireworks, dangerous fireworks, and sparkling devices. Effective: December 21, 2014.**

Replaces subdivisions (1), (2), and (3) of Penal Law 270.00 (unlawfully dealing with fireworks and dangerous fireworks) with three new subdivisions that redefine the terms “fireworks” and “dangerous fireworks,” describe what constitutes an offense, and provide a list of exceptions. Also amends Penal Law 405.00(5) to provide, among other things, that “no city or county shall be bound to include ‘sparkling device’ in the definitions of ‘fireworks’ and ‘dangerous fireworks’ in [Penal Law 270.00], if such city or county shall so authorize the exemption of ‘sparkling device’ by law.” New York City is excluded from the sparkling device exception. The bill adds Executive Law 156-h (Registration and fees for manufacturers, distributors, wholesalers, and retailers or sparkling devices) and General Business Law 392-j (Sales of sparkling devices). According to the Sponsor’s Memorandum, “[t]his bill is intended to modernize the statute dealing with illegal fireworks, provide additional definitions of what constitutes fireworks and dangerous fireworks and take certain novelty devices, which are not recognized as fireworks by the federal government out of the definition of fireworks.”

## Criminal Procedure Law

➤ **Chapter 347 (S7188) – Grand jury testimony of vulnerable elderly person. Effective: September 4, 2014.**

Amends CPL 190.25(3)(h) to allow “a social worker or informal caregiver, as provided in [Elder Law 206(2)]” to be present during the grand jury testimony of a “vulnerable elderly person as provided in [Penal Law 260.31(3)]” when the proceeding concerns a crime as defined in Penal Law article 121, 130, or 260, or section 120.10, 125.10, 125.15, 125.20, 125.25, 125.26, 125.27, 255.25, 255.26, or 255.27, with district attorney consent.

➤ **Chapter 385 (S6803) – Waiver of surcharge and crime victim assistance fee. Effective: September 23, 2014 (applies to convictions on or after that date and pending charges for which sentence had not yet been imposed).**

Amends CPL 420.35(2) to require that a court “waive any mandatory surcharge and crime victim assistance fee when the court finds that a defendant is a victim of sex trafficking under [Penal Law 230.34] or a victim of trafficking in persons under the trafficking victims protection act (United States Code, Title 22, Chapter 78).”

In March 2015, the Senate and Assembly passed other human trafficking prevention bills. The Trafficking Victims Protection and Justice Act ([S0007/A0506](#)) is expected to be signed by Governor Cuomo in the near future.

➤ **Chapter 402 (A8749-A) – Prostitution charges against certain 16- and 17-year-olds. Effective: October 16, 2014.**

The bill clarifies and adds to the 2013 law ([L 2013, ch 555](#)) that allows courts to convert prostitution and loitering for the purposes of prostitution cases to persons in need of supervision (PINS) proceedings where the defendant was 16 or 17 at the time of the alleged offense. Chapter 402 provides:

- After arraignment on an accusatory instrument charging a violation of Penal Law 230.00 or 240.37(2), provided the defendant is not charged with loitering for the purpose of patronizing a prostitute, where the defendant was 16 or 17 at the time of the alleged offense, the local criminal court may dismiss the charge in the interest of justice “on the ground that a defendant participated in services provided to him or her.” (CPL 170.30[4]).
- The court may: (1) conditionally convert prostitution or loitering charges and retain the case as a PINS proceeding “and shall make such proceeding fully subject to the provisions and grant any relief available under” Family Court Act article 7; and/or (2) order the provision of any specialized service in Social Services Law article 6, title eight-A (Safe

Harbour for Exploited Children Act) “as may be reasonably available.” The process for converted cases is detailed in CPL 170.80(3) and includes a provision authorizing the court to restore the accusatory instrument before the person’s 18th birthday if the prosecution presents competent proof that the person, without just cause, has not substantially complied with the conditions of the conversion.

- In such cases, the court must apply the provisions of CPL 720.15(1) and (2), which require or authorize the sealing of the accusatory instrument and the arraignment and all proceedings be conducted in private, regardless of whether the person had, prior to the start of trial or a plea of guilty, been convicted of a crime or found a youthful offender, or subsequent to such a conviction for prostitution or loitering for prostitution is convicted of a crime or found a youthful offender. (CPL 720.15[4])
- A prior conviction or youthful offender adjudication does not prevent a person from being adjudicated a youthful offender as required by CPL 170.80 and an adjudication under 170.80 may not be considered in determining whether a person is an eligible youth, or in determining whether to find the person is a youthful offender in a subsequent proceeding. (CPL 720.25)
- The court must deem a person for whom a youthful offender adjudication was substituted in such prostitution cases a “sexually exploited child,” as defined in Social Services Law 447-a(1) and must not consider the person an adult for purposes related to the charges in the youthful offender proceeding or a proceeding under CPL 170.80. (CPL 720.35)
- In these cases, the court must impose a sentence authorized for a violation, as defined in Penal Law 10.00(3). (Penal Law 60.02)

### Vehicle and Traffic Law

- **Chapter 55, Part B (A8555-D) – License sanctions and fines for texting and cell phone violations. Effective: November 1, 2014.**
  - First texting or cell phone offense (VTL 1225-c or 1225-d) while the driver has a probationary license, class DJ or MJ learner’s permit, or class DJ or MJ license: 120 day suspension. (VTL 510(2)(b) amended and two new subparagraphs, (xvi) and (xvii), added).
  - Second or subsequent texting or cell phone offense committed within 6 months following restoration or issuance of a probationary license or within 6 months following restoration of a class DJ or MJ learner’s permit or license: minimum 1 year revocation; re-licensure requires approval of the DMV Commissioner. (VTL 510[2][a][x], [xi] amended and

new subparagraphs, [xii] and [xiii], added; VTL 510[6][n]).

- Increases maximum fines for violations of VTL 1225-c or 1225-d (texting or cell phone use): first offense: \$50 to \$200 (was \$150); second violation within 18 months: \$50 to \$250 (was \$200); third or subsequent violation within 18 months: \$50 to \$450 (was \$400).

- **Chapter 191 (A8021) – Penalties for multiple DWI convictions. Effective November 1, 2014 (applies to violations on or after that date).**

Also known as Vince’s Law, the bill provides that an individual convicted of a violation of VTL 1192(2), (2-a), (3), (4), or (4-a) who has been convicted in the previous 15 years of three or more specified offenses [VTL 1192(2), (2-a), (3), (4), or (4-a), first- or second-degree vehicular assault, aggravated vehicular assault, first- or second-degree vehicular manslaughter, and/or aggravated vehicular homicide] will be guilty of a class D felony and subject to a fine of between \$2,000 and \$10,000 and/or a Penal Law prison sentence. (VTL 1193[1][c][ii-a]).

### Corrections and Parole

#### Chapter 55 (A8555-D)

- **Part M – Housing of inmates under 18 in county jails. Effective: March 31, 2014.**

Amends Correction Law 500-b(4) to provide that no persons under age 18 may be placed or kept or allowed to be at any time with any persons 18 or older in any room, dorm, cell, or tier unless they are “separately grouped to prevent access to persons” under 18 by prisoners 18 or older. Previously the law required the separation of those under 19 from those 19 and older.

- **Part S: Restrictions on closure of correctional facilities; review of security and safety at correctional facilities. Effective: March 31, 2014.**

- Prevents the State from closing correctional facilities after the closures scheduled for July 2014 until July 26, 2016 “unless there are material or unanticipated changes in the state’s fiscal circumstances, financial plan, or revenue.”
- Requires the Department of Corrections and Community Supervision (DOCCS) Commissioner to conduct a review of security staffing at each facility and develop a three-year plan to enhance safety in facilities, which may include increases in security. The Commissioner, in creating the plan, must solicit feedback from the public employee unions representing security staff. During the 2014-2015 state fiscal year, DOCCS must deploy the first 275 of these additional security staff.
- By September 30, 2014, DOCCS must develop clear and detailed definitions of at least four categories of

degrees of injuries that may result from assaults in correctional facilities. Starting on January 10, 2015, and within 10 days of the start of each quarter, DOCCS must make public the number of assaults occurring within the prior quarter by inmates on staff and inmates on other inmates using those categories.

➤ **[Chapter 139](#) (S4343-A) – Composition of Citizen’s Policy and Complaint Review Council. Effective: July 22, 2014.**

Amends Correction Law 42(a)(1) to expand the qualifications for two categories of members on the Commission of Correction’s Citizen’s Policy and Complaint Review Council to: (1) allow a veteran of any foreign war, conflict or military occupation to serve (previously was limited to the Vietnam War); and (2) allow the seat currently required to be filled by a former resident of a Division for Youth secure facility to be filled by either a former resident or a health care professional licensed in New York State.

➤ **[Chapter 155](#) (S6954) – Extend sunset date for local correctional facilities to house non-New York inmates. Effective: July 22, 2014.**

The bill extends from September 1, 2014 to September 1, 2017, the expiration of provisions authorizing local correction facilities to enter into agreements for boarding-in inmates from other states.

➤ **[Chapter 198](#) (S1885-C) – Criminal history searches for volunteer firefighter applicants. Effective: December 2, 2014.**

Amends Executive Law 837-o, Town Law 176-b, Village Law 10-1006, and Not-for-Profit Law 1402 to provide that a volunteer firefighter applicant must submit to a background check to search for convictions that require registration under the Sex Offender Registration Act (Correction Law article 6-c). If the applicant has such a conviction, the fire companies must determine whether the person is eligible to be appointed based on the criteria in Correction Law 752 and 753.

➤ **[Chapter 286](#) (S1413) – Information about prison visitation rules. Effective: November 9, 2014.**

Adds a new Correction Law 138-a (notification of visitation policies) that requires the DOCCS Commissioner to establish and maintain on the DOCCS public website information about the “specific visitation rules, regulations, policies and procedures for each correctional facility.” The information must include, but is not limited to, visiting days and hours, length and number of allowable visits, maximum number of people per visit, dress code, guidelines for those with medical and other special needs, infant care, and items restricted or prohibited. The

Commissioner must also designate a phone number(s) that people may call for information about those visiting rules, regulations, policies and procedures. This information is currently available at <http://www.doccs.ny.gov/Visitation/index.html>.

➤ **[Chapter 346](#) (S7138) – Pre-arraignment detention at Jefferson County Jail. Effective: September 4, 2014.**

Amends Correction Law 500-a and 500-c to allow the Jefferson County Correctional Facility to be used for detention of persons under arrest being held for arraignment in any court located in the county.

➤ **[Chapter 462](#) (S6231-A) – Sex offender registry. Effective: March 21, 2015.**

Amends Correction Law 168-q(1) to require that the Division of Criminal Justice include in the Sex Offender Registry “all of the sex offender’s crimes of conviction that require him or her to register pursuant to this article,” not just the most recent sex offense committed.

➤ **[Chapter 506](#) (S1353) – Reentry information provided to released inmates. Effective: April 16, 2015.**

Adds Correction Law 76 (Notice of transitional services for inmates released from correctional facilities) to require that, prior to release of an inmate, DOCCS provide the inmate with information on transitional services available in the county or city where the inmate is scheduled to be released, including referrals to programs designed to promote successful and productive reentry and reintegration, “including medical and mental health services, HIV/AIDS services, educational, vocational and employment services, alcohol or substance abuse treatment and housing services.” The information must be updated at least annually and the Commissioner must consult with and is entitled to get assistance from the Commissioners of Education, Labor, Health, Mental Health, and the Office of Temporary and Disability Assistance to implement the law.

➤ **[Chapter 548](#) (S7818) – Mental health discharge plans for inmates. Effective: February 27, 2015.**

Amends Correction Law 404 to add a new subdivision 4 that requires DOCCS to provide inmates who have received mental health treatment pursuant to Correction Law article 16 within three years of his or her anticipated release date from a state correctional facility with mental health discharge planning and, when necessary, an appointment with a community mental health professional who can prescribe medications following discharge and sufficient mental health medications and prescriptions to bridge the period between discharge and the time that professional may assume care of the patient. Inmates who have refused mental health treatment may also be given mental health discharge planning and any necessary

appointment. Also amends Mental Hygiene Law 9.27(b)(4) to give regional directors of community supervision standing to initiate petitions for involuntary commitment of persons who are under supervision following incarceration.

### Judiciary Law

➤ **Chapter 44 (A10139) – Adding new Family Court judges. Effective: June 26, 2014.**

Amends the Family Court Act and Election Law to authorize nine new Family Court judgeships in New York City and 11 judgeships in Albany, Broome, Chautauqua, Franklin, Nassau, Oneida, Oswego, Schenectady, Suffolk, Ulster, and Westchester counties, with terms commencing on January 1, 2015. The bill also authorizes five Family Court judgeships, one each in Delaware, Dutchess, Erie, Monroe, and Warren counties, with terms commencing on January 1, 2016.

➤ **Chapter 274 (A9443) – Additional judge for the Town of Wallkill. Effective: August 11, 2014.**

Amends Town Law 20(1) to authorize the Wallkill Town Board (Orange County) to add a third judge to its town court. According to the Sponsor's Memorandum, the Town Board requested the bill to address the backlog of cases in its court.

➤ **Chapter 452 (A9375-A) – City Courts operating at night. Effective: February 19, 2015.**

Adds a new section 2105 of the Uniform City Court Act that provides: "A city which hosts a city court governed by this act is authorized to keep its court facilities open in the evening where court administrators determine that the court should schedule night sessions." The law applies to city courts outside of New York City.

➤ **Chapter 455 (A10022) – Public election of Kingston and Watertown City Court judges Effective: November 21, 2014.**

Amends Uniform City Court Act 2104 to authorize the public election of full-time city court judges in Kingston and Watertown. These City Court judgeships were converted from part-time to full-time in 2013 (L 2013, ch 548), but the law still authorized the mayor of each city to appoint the judges, unlike the overwhelming majority of cities in the state.

### Family Court

➤ **Chap 205 (S4751-B) – Clarifies that coaches paid by school districts are mandated reporters. Effective: August 6, 2014; provided, however, that sections one and two take effect on July 1, 2015.**

Amends Social Services Law (SSL) 413(1)(a) to add full- or part-time compensated school employees required to

hold a temporary coaching license or professional coaching certificate to the list of individuals who have a duty to report suspected child abuse. Also amends SSL 488(5-a) to add such coaches to the definition of "human services professional." Adds Education Law 3036 (Coursework for reporting child abuse and maltreatment for those with coaching licenses or coaching certificates) directing the Education Commissioner to promulgate regulations requiring that people who currently have a temporary coaching license or professional coaching certificate and those applying for such license or certificate complete two hours of coursework or training on the identification and reporting of child abuse and maltreatment.

➤ **Chap 256 (A7025) – Punishment for falsely reporting child abuse. Effective: August 11, 2014.**

Amends SSL 422(5)(a)(v) to authorize an unfounded report to the central register to be unsealed and given to a district attorney's office or police department when the report is needed to conduct an active investigation or prosecution of a violation of Penal Law 240.50(4) (third-degree falsely reporting an incident involving child abuse or maltreatment or abuse or neglect of a vulnerable person). The law had incorrectly referred to Penal Law 240.55(3) (second-degree falsely reporting an incident involving a fire, explosion, or the release of a hazardous substance).

➤ **Chap 279 (A9732) – Health care consent for destitute children in foster care. Effective: August 11, 2014.**

Amends SSL 383-b to add destitute children to the categories of children for whom local commissioners of social services or health may provide consent for medical, dental, health, and hospital services.

➤ **Chap 325 (A9225-B) – Continued operation of Rockland and Erie Counties' Societies for the Prevention of Cruelty of Children. Effective: August 11, 2014.**

Amends sections 13 and 14 of L 2009, ch 329 to allow for the operation of the Societies for the Prevention of Cruelty to Children (SPCC) in Rockland and Erie counties for another five years. According to the Sponsor's Memorandum, "the Rockland SPCC assists local police with preventing underage alcohol and tobacco sales, and the Erie County SPCC provides the county with needed child protective services outside of normal business hours." However, the Governor's approval memo states that the five-year extension is not necessary and that the Legislature has agreed to amend this legislation to limit the extension to three years, "during which time I expect the two counties to absorb the functions of the SPCCs." Earlier this year, the Legislature passed a bill reducing the extension to three years ([S1519](#)), but it has not yet been sent to the Governor for signature.

- **Chap 357 (A1987-A) – Requires OCFS to send certain information to local investigating agencies. Effective: September 23, 2014.**

Amends SSL 422(2)(a) to require the Office of Children and Family Services (OCFS) to send to local child protective agencies all previous reports to the central registry that refer to the subject or the child(ren) named in a new report, including previous reports of child abuse or maltreatment alleged to have occurred in other counties and districts in New York. Prior to the enactment of this bill, child protective workers would have to request from other child protective agencies copies of the full reports made in those counties after receiving a new report for investigation. The Sponsor's Memorandum indicates that this bill was one of a series of measures "introduced at the request of the Erie County Executive upon the recommendation of the county's Commissioner of Social Services to improve" child protective services.

- **Chapter 373 (A9464) – Applications to modify child support orders in Family Court. Effective: December 22, 2014.**

Amends FCA 451 to provide that a support modification proceeding "shall be commenced by the filing of a petition which shall allege facts sufficient to meet one or more of the grounds enumerated in [now] subdivision three of this section." According to the Sponsor's Memorandum, many Family Courts read this section to require that a petitioner file both a support modification petition and an affidavit to preserve the possibility of a hearing. Requiring the filing of two documents was found to be unnecessary because the uniform [Family Court Form 4-11b](#) and [Family Court Form 4-11](#) contain virtually the same information. Also, "it [wa]s unduly restrictive as an impediment to effective access to the Family Court by unwary litigants, many of whom are unrepresented." This measure was part of the simplification efforts recommended in the [November 2011 Report of the Chief Judge's Task Force to Expand Access to Civil Legal Services](#).

- **Chapter 495 (A8918) – Changes in eligibility levels for childcare assistance. Effective: January 1, 2015.**

Amends SSL 34-a to add a new subdivision 9 to require county social services districts to inform OCFS at least 60 days before the effective date of a reduction in the financial eligibility level for a childcare subsidy or an increase in the co-payment required of parents. Previously, the law required only 10 days' notice and parents struggled to adjust child care arrangements on such short notice.

### Peace Officers

- **Chapter 262 (A8331). Effective: August 11, 2014.**

Amends CPL 2.15(3) and (7) to update the references to federal immigration and customs agencies to reflect the

new titles of those agencies, Immigration and Customs Enforcement and United States Customs and Border Protection.

- **Chapter 459 (S285-A). Effective: November 21, 2014.**

Adds United States Mint Police to the list of peace officers in CPL 2.15.

- **Chapter 484 (A1500-A). Effective: November 1, 2015.**

Amends CPL 2.10(52) to provide peace officer status to security hospital treatment assistants, as so designated by the Office of Mental Health (OMH) Commissioner, while they are "performing duties in or arising out of the course of their employment." Previously, peace officer status was limited to times when assistants were transporting persons convicted of a crime to court, to other facilities within OMH's jurisdiction, or to any state or local correctional facility.

- **Chapter 516 (S5950-A) – Confidentiality of probation officer personnel records. Effective: December 17, 2014.**

Amends Civil Rights Law 50-a(1) to provide that "personnel records under the control of a probation department for individuals defined as peace officers pursuant to [CPL 2.10(24)] shall be considered confidential and not subject to inspection or review without the express written consent of such ... peace officer within the ... probation department except as may be mandated by lawful court order."

### Miscellaneous

- **Chapter 42 (S6477-B) – Prescribing, dispensing, and distributing opioid antagonists. Effective: June 24, 2014.**

Amends PHL 3309 (opioid overdose prevention) to allow the Commissioner of the Department of Health to establish standards for opioid antagonist (Naloxone) "prescribing, dispensing, distribution, possession and administration" that is patient-specific and non-patient-specific. Naloxone or Narcan is able to prevent opioid and heroin overdose deaths. More information about opioid overdose prevention is available from the Department of Health at [http://www.health.ny.gov/diseases/aids/general/opioid\\_overdose\\_prevention/](http://www.health.ny.gov/diseases/aids/general/opioid_overdose_prevention/).

- **Chapter 185 (A8185-B) – Penalties for theft of companion animals. Effective: July 23, 2014.**

Amends Agriculture and Markets Law (AML) 366 to expand the section to apply to theft of any companion animal, as defined in AML 350(5), and increase the fine for the offense from \$250 to \$1,000; the maximum possible jail term remains at six months.

## 2014 Legislative Review *(continued)*

➤ **Chapter 225 (S6588-A) – Residency of assistant district attorneys. Effective: August 7, 2014.**

Amends Public Officers Law 2 to provide that assistant district attorneys employed by Essex County, other than the first assistant or chief assistant district attorney, may reside in Essex or any adjoining county within the State.

➤ **Chapter 394 (S7232-A) – Protocols and procedures for Justice Center investigations. Effective: September 23, 2014.**

Amends Executive Law 553 to require that the State Justice Center for the Protection of People with Special Needs develop investigation protocols and procedures regarding interviewing vulnerable persons, including determining whether interviews are clinically contraindicated, ensuring that interviews are conducted safely and in a timely fashion, informing vulnerable persons and/or their personal representatives of the protocols and that the interview is voluntary, and “if applicable as determined

by the Justice Center,” informing the person that any search of the individual’s person or property shall be done voluntarily.

➤ **Chapter 486 (A2089-B) – Reporting crimes on college and university campuses. Effective: December 17, 2014.**

Amends Education Law 355, 6206, 6306, and 6434 to require all college and university campuses to adopt and implement a plan that includes a requirement that the institution notify the appropriate law enforcement agency as soon as practicable, but in no case more than 24 hours, after a report of a violent felony or that a student who resides in housing owned or operated by such institution is missing, provided that the reporting takes into consideration applicable federal law, including, but not limited to, the federal Campus Sexual Assault Victims’ Bill of Rights under 20 USC 1092(F) which gives the victim of a sexual offense the right to decide whether or not to report the offense to local law enforcement agencies. ⚡

## CONFERENCES & SEMINARS

**Sponsor:** New York State Bar Association  
**Theme:** 15th Annual DWI on Trial—Big Apple XV  
**Date:** May 14, 2015  
**Place:** New York City  
**Contact:** NYSBA: tel (800) 582-2452; website <http://www.nysba.org/CLE/>

**Sponsors:** New York State Defenders Association and Clinton County Assigned Counsel Program

**Theme:** Handling Child Welfare Proceedings—From Removal to Reunification or TPR  
**Date:** May 29, 2015  
**Place:** Plattsburgh, NY  
**Contact:** NYSDA: tel (518) 465-3524; fax (518) 465-3249; email [dgeary@nysda.org](mailto:dgeary@nysda.org); website [www.nysda.org](http://www.nysda.org)

**Sponsor:** National Legal Aid & Defenders Association  
**Theme:** National Defender Leadership Institute Nuts and Bolts of Leadership and Management  
**Dates:** June 4-6, 2015  
**Place:** Columbia, SC  
**Contact:** NLADA: tel (202) 452-0620; website [www.nlada100years.org/events-and-trainings](http://www.nlada100years.org/events-and-trainings)

**Sponsor:** New York State Bar Association  
**Theme:** Focus on Family Court: Holistic & Effective Family Representation  
**Date:** June 5, 2015  
**Place:** Albany, NY  
**Contact:** NYSBA: tel (800) 582-2452 (reference event code CEQMR15); website <http://www.nysba.org/Family2015/>

**Sponsor:** National Association of Criminal Defense Lawyers  
**Theme:** 58th Annual Meeting & Seminar: High Altitude Trial Skills from the Masters of Advocacy  
**Dates:** July 23-26, 2015  
**Place:** Denver, CO  
**Contact:** NACDL: tel (202) 872-8600 x 632 (Viviana Sejas); fax (202) 872-8690; email [vsejas@nacdl.org](mailto:vsejas@nacdl.org); website [www.nacdl.org/meetings](http://www.nacdl.org/meetings)

**Sponsor:** New York State Defenders Association  
**Theme:** 48th Annual Meeting & Conference  
**Dates:** July 26-28, 2015  
**Place:** Saratoga Springs, NY  
**Contact:** NYSDA: tel (518) 465-3524; fax (518) 465-3249; email [dgeary@nysda.org](mailto:dgeary@nysda.org); website [www.nysda.org](http://www.nysda.org) ⚡