

# 2015 Legislative Review

By Susan Bryant\*

## Criminal Procedure Law & Penal Law

### A. New and Amended Crimes

- [Chapter 242](#) (S2957-A) – Creates a new crime of human corpse concealment. Effective: November 22, 2015.

Entitled “Amanda Lynn’s Law,” this chapter creates a new class E felony, concealment of a human corpse (Penal Law 195.02), which is violated when a person, having a reasonable expectation that a human corpse or a part thereof will be produced for or used as physical evidence in an official proceeding or an autopsy or examination by law enforcement as part of a criminal investigation, alone or in concert with another, conceals, alters, or destroys such corpse or part thereof with the intent to prevent its production, use, or discovery.

- [Chapter 250](#) (A4969-B) – Expands the crime of forcible touching. Effective: November 1, 2015.

This law expands the crime of forcible touching (Penal Law 130.52) to include when a person intentionally, and for no legitimate purpose:

2. Subjects another person to sexual contact for the purpose of gratifying the actor’s sexual desire and with intent to degrade or abuse such other person while such other person is a passenger on a bus, train, or subway car operated by any transit agency, authority or company, public or private, whose operation is authorized by New York state or any of its political subdivisions.

- [Chapter 373](#) (A2761-B) – Expands the crime of public lewdness. Effective: November 1, 2015.

This chapter law expands the crime of public lewdness (Penal Law 245.00) to include when a person “intentionally exposes the private or intimate parts of his or her body in a lewd manner or commits any other lewd act: ... (b) ... (ii) while trespassing, as defined in section 140.05 of this part, in a dwelling as defined in [Penal Law 140.00(3)], under circumstances in which he or she is observed by a lawful occupant.”

- [Chapter 423](#) (A1034-A) – Adds new subdivisions to second-degree assault that apply to assaults on persons providing direct patient care who are not nurses. Effective: November 1, 2016.

This law adds two subdivisions (3-c and 11-c) to Penal Law 120.05 that apply when a person causes physical injury to a non-nurse employee providing direct patient care whose principal employment responsibility is to

carry out direct patient care in specified hospital and other medical facilities where the person does so: with intent to prevent the employee from performing a lawful duty or with intent to cause physical injury and the injury is caused while the employee is performing a lawful duty.

- [Chapter 472](#) (S3343) – Amends second-degree assault to include public health sanitarians and NYC public health sanitarians. Effective: November 1, 2016.

This chapter amends subdivision 11 of Penal Law 120.05 to add public health sanitarians and New York City public sanitarians to the list of protected individuals.

- [Chapter 477](#) (S3913-A) – Amends second-degree assault to include secure treatment facility employees. Effective: November 1, 2016.

This law amends Penal Law 120.05 to add a new subdivision 13 to provide that a person is guilty of second-degree assault when, “[b]eing confined to a secure treatment facility, as such term is defined in [Mental Hygiene Law 10.03(o)], and with intent to cause physical injury to an employee of such secure treatment facility performing his or her duties, he or she causes such injury to such person.”

- [Chapter 487](#) (S4839) – Amends second-degree assault to include emergency medical service paramedics and technicians. Effective: February 18, 2016.

This chapter amends subdivision 11 of Penal Law 120.05 to add emergency medical service paramedics and technicians to the list of protected individuals.

### B. Controlled Substances

- [Chapter 370](#) (A627-A) – Adds three synthetic drugs to Schedule I of the schedules of controlled substances. Effective: October 26, 2015.

This chapter law amends schedule I of Public Health Law 3306 to add three synthetic drugs to the list of hallucinogenic substances: (1) 2-(4-iodo-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl)ethanamine, also known as 25I-NBOMe, 2C-I-NBOMe; 25I, and Cimbi-5; (2) 2-(4-chloro-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl) ethanamine, also known as 25 CNBOMe, 2C-C-NBOMe, 25C, and Cimbi-82; and (3) 2-(4-bromo-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl)ethanamine, also known as 25 BNBOMe, 2C-B-NBOMe, and Cimbi-36.

- [Chapters 416](#) (A7060) and [417](#) (A8258) – Expedited access to medical marijuana. Effective: November 11, 2015.

These chapter laws establish a temporary emergency medical marijuana access program that would be effective until the state’s medical marijuana program is fully implemented.

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### C. Sunset Extensions

- **Chapter 55 (Part B) (A3005-B) – Extension of sentencing and other laws scheduled to sunset on September 1, 2015. Effective: April 13, 2015.**

A number of determinate sentencing statutes have two versions, one with a sunset date and the other that would take effect after the sunset date. The sunset date for those sections has been extended from September 1, 2015 to September 1, 2017. Other laws scheduled to sunset on September 1, 2015 have also been extended for two years, including the mandatory and presumptive arrest provisions in CPL 140.10(4); provisions regarding the maximum length of criminal court orders of protection; provisions regarding the ignition interlock device program in the Vehicle and Traffic Law; and provisions regarding testimony by certain child witnesses by closed-circuit television.

### D. Diversion & Treatment

- **Chapter 258 (A6255-B) – Medically prescribed treatment for opioid addiction during judicial diversion. Effective: September 25, 2015.**

This law amends the judicial diversion statute (CPL 216.05) to specify that defendants who need treatment for opioid abuse or dependence “may participate in and receive medically prescribed drug treatments under the care of a health care professional licensed or certified under [Education Law title 8], acting within his or her lawful scope of practice” and may not be deemed to have violated a release condition for participating in such drug treatments. More information about medication-assisted treatment is available from the Legal Action Center at <http://lac.org/resources/substance-use-resources/medication-assisted-treatment-resources>.

- **Chapter 371 (A1327-A) – Expedited determination of health insurance coverage for court-ordered mental health and/or substance use disorder services. Effective: April 1, 2016 (applies to policies issued, renewed, or modified on or after such date).**

The law amends sections of the Insurance Law and Public Health Law to give individuals with health insurance coverage the ability to seek expedited utilization review and, if necessary, an expedited external appeal to determine if their insurance plan will cover proposed court-ordered mental health and/or substance use disorder services.

### E. Criminal History Unsealing and Consequences of Conviction

- **Chapter 56 (Part EE, Subpart G) (S2006-B) – Teaching certificate revocation for certain convictions. Effective: July 1, 2015.**

This law amends Education Law 305(7-a) to provide that the Education Commissioner must revoke and annul the teaching certificate of a teacher convicted of a violent felony offense (as defined in Penal Law 70.02[1]) “committed against a child when such child was the intended victim of such offense.”

- **Chapter 449 (A7319) – Unsealing of criminal records in district, city, and NYC criminal courts. Effective: November 20, 2015.**

This chapter law amends CPL 160.50(1)(d) to allow a district court, city court, or New York City criminal court to unseal a criminal record it previously sealed, upon an ex parte motion of a law enforcement agency and a finding that justice requires that the records be made available to the agency. The law makes a similar amendment to CPL 160.55(1)(d). Previously, all law enforcement applications had to be made to the superior court.

### F. Sex Trafficking and Prostitution

- **Chapter 80 (S5966) – Licensing and registration of nail salons and related businesses. Relevant provisions effective: July 16, 2015.**

This law amends General Business Law (GBL) 410(1) to provide that a license or registration to practice nail specialty or other related practices governed by GBL article 27 may be suspended or revoked or a fine may be imposed for conviction of compelling prostitution (Penal Law 230.33) or sex trafficking (230.34). The law also amends GBL 412 to create a new misdemeanor offense (punishable by imprisonment of up to six months or by a fine of up to \$2,500 or both) for operating an appearance enhancement business without license or when such license is suspended or revoked or operating in violation of an order of the Secretary of State directing cessation of unlicensed activity.

- **Chapter 368 (S7) – “Trafficking Victims Protection and Justice Act.” Effective: January 19, 2016.**

The Act amends and adds many new sections of law, including:

- Amendments to CPL 700.05, Correction Law 168-a and 168-d, Mental Hygiene Law 10.03, VTL 509-cc, and a host of Penal Law sections, including 60.13, 70.02, 70.80, 135.35, 240.37, 440.10, and 460.10, and many Penal Law article 230 sections;
- New crimes: aggravated labor trafficking, a class C felony (Penal Law 135.37); patronizing a person for prostitution in a school zone, a class E felony (Penal Law 230.08); and aggravated patronizing a minor for prostitution, third degree (class E felony), second degree (class D felony), and first degree (class B felony) (Penal Law 230.11-.13); and

- New provisions: affirmative defense to prostitution (Penal Law 230.01); and suspension and revocation of a class E (for-hire) driver's license where the holder is convicted of a specified Penal Law article 230 offense and the holder "used a for hire motor vehicle to commit such crime" (VTL 510-d).

➤ **Chapter 426 (A2469-A) – Surcharge and fee waivers for sex trafficking victims. Effective: November 20, 2015; applies to convictions on or after November 20 and convictions for which sentence has not been imposed prior to November 20.**

The chapter law amends CPL 420.35(2) to require a court to waive the DNA databank fee of sex trafficking victims. It also amends that subdivision to require a court to waive the mandatory surcharge, DNA databank fee, and crime victim assistance fee where the defendant is convicted of: (1) Penal Law 240.37 (loitering for the purpose of engaging in prostitution), provided the person was not convicted of loitering for patronizing a person for prostitution; (2) Penal Law 230.00 (prostitution); or (3) a violation where the conviction is in lieu of a plea to or conviction for 240.37 (provided there was no allegation of loitering for patronizing) or 230.00.

### G. Domestic Violence and Sexual Assault

➤ **Chapter 76 (S5965) – College campus sexual assault, dating violence, domestic violence, and stalking prevention and response. Effective: October 5, 2015 (with exceptions set forth in § 7 of the chapter law).**

This law creates Education Law article 129-b that requires colleges and universities that maintain a campus in New York State to amend their codes of conduct or other policies to implement the new law, which applies to all incidents of sexual assault, domestic violence, dating violence, and stalking, regardless of whether they occur on campus, off campus, or while studying abroad. Of particular note is that the law creates a definition of affirmative consent to sexual activity set forth in Education Law 6441. This definition is somewhat different from the definition adopted by all SUNY schools in 2014. It remains to be seen how the law, including the procedures for code of conduct violation proceedings, will impact criminal prosecutions of college students for such incidents.

➤ **Chapter 240 (A1797-A) – Expiration of orders of protection for sexual assault convictions. Effective: October 22, 2015.**

The law amends CPL 530.12 and 530.13 to require that, in sexual assault cases where the sentence is or includes probation (as provided in Penal Law 65.00[3]) and the court issues an order of protection, the duration of the order may not exceed six years from the date of sentencing

for misdemeanors and 10 years from the sentencing date for felonies.

➤ **Chapter 432 (A4347) – Translation of domestic incident reports. Effective: February 18, 2016.**

The chapter law amends Executive Law 214-b and 840 and CPL 140.10(5) to require law enforcement officials throughout the state to provide a translation of domestic incident reports when such reports are made in a language other than English and notification to victims of their rights, in their native language, if identified as other than English.

➤ **Chapter 537 (S1316) – College and university sexual assault victim notification. Effective: December 11, 2015.**

This chapter law amends provisions of the Education Law to require colleges and universities to notify victims of sexual offenses that occurred at or on the grounds of such institution of their options regarding reporting of such offenses in accordance with the federal Campus Sexual Assault Victims' Bill of Rights under 20 USC 1092(f).

➤ **Chapter 584 (A6626) – Service animals and therapy dogs in residential domestic violence programs. Effective: originally December 28, 2015, but amended by L 2016, ch 7 to December 28, 2016.**

The law amends Social Services Law 459-b to provide that if a victim of domestic violence has a therapy dog or service animal, as defined in Agriculture and Markets Law 108 and 123-b, respectively, that animal or therapy dog must be allowed to accompany the individual at the residential program for victims of domestic violence.

This chapter law was amended by [L 2016, ch 7](#), to clarify that the animal must be allowed to accompany the individual so long as the accompaniment would not create an undue burden, as defined in Executive Law 296. If it would create an undue burden, the program must make reasonable efforts to facilitate placement of the animal at an off-site animal care facility or, if such reasonable efforts fail, provide referral to one or more off-site facilities. Chapter 7 also adds language noting that this law does not limit any rights or obligations under other federal or state laws.

### H. Evidence

➤ **Chapter 57 (Part I) (A3007-B) – Informed consent for HIV related tests, possession of condoms excluded from evidence; clarification of syringe/needle exception. Effective: April 13, 2015.**

This law makes several changes, including:

- Adding CPL 60.47 (Possession of condoms; receipt into evidence) to provide that in prosecutions for

Penal Law 230.00 (prostitution) or 240.37 (loitering for the purpose of engaging in a prostitution offense), “[e]vidence that a person was in possession of one or more condoms may not be admitted at any trial, hearing, or other proceeding ... for the purpose of establishing probable cause for an arrest or proving any person’s commission or attempted commission of such offense”;

- Amending Penal Law 220.03 (seventh-degree criminal possession of a controlled substance) and 220.45 (criminally possessing a hypodermic instrument) to make clear that the exception for possession of a syringe/needle pursuant to PHL 3381 “includes the state’s syringe exchange and pharmacy and medical provider-based expanded syringe access programs”; and
- Repealing Public Health Law (PHL) 2781(2-a), which provided that informed consent requirements shall not apply to HIV related tests done in correctional facilities.

## I. Juvenile Justice

- **Chapter 195 (S4906) – Interstate Compact for Juveniles extended. Effective: August 13, 2015.**

The law extends New York’s participation in the Interstate Compact for Juveniles until September 1, 2020. The Compact governs the interstate management, monitoring, and supervision of children adjudicated juvenile delinquents and provides for the return of non-delinquent juveniles who have run away from home to another state.

### Probation, Parole & Corrections

- **Chapter 5 (A858) – Transitional services for individuals released from state prison. Effective: April 16, 2015.**

This law amends Correction Law 76 (added by L 2014, ch 506) to provide that, “[w]here appropriate, [DOCCS] shall provide assistance to an inmate in contacting a program or service provider prior to such inmate’s release to the community.”

- **Chapter 55 (Part A) (A3005-B) – Medical parole for terminally ill inmates. Effective: April 13, 2015.**

The chapter law amends Executive Law 259-r by transferring from the Parole Board to the Commissioner of the Department of Corrections and Community Supervision (DOCCS) the responsibility to make decisions regarding the medical parole of terminally ill inmates, but making decisions granting medical parole subject to review by the Chair of the Parole Board.

- **Chapter 270 (A7814) – Prison release date. Effective: October 25, 2015.**

This chapter law amends Correction Law 74 to give the Commissioner of the Department of Corrections and

Community Supervision the discretion to advance the release date of an inmate who is scheduled to be released on a Friday to a Thursday where the person will be serving a period of community supervision and “the commissioner determines that public safety will be enhanced by a next day reporting requirement.”

- **Chapter 321 (S5023-A) – Livingston County jail as holding facility. Effective: September 25, 2015.**

The law amends Correction Law 500-a and 500-c to allow the Livingston County correctional facility to be used for the detention of persons who have been arrested and are being held for arraignment in any court in Livingston County.

- **Chapter 431 (A3838-B) – High school equivalency education in state prisons. Effective: November 20, 2018.**

This chapter law requires that the Department of Corrections and Community Supervision (DOCCS) provide to all inmates who are determined to be capable of successfully completing the coursework necessary for the high school equivalency test, other than those serving a sentence of life imprisonment without parole, the opportunity to complete that coursework at least two months before the individual is paroled, conditionally released, released on post-release supervision, or presumptively released. DOCCS must also give written notice of the availability of the test. DOCCS must also present a plan for implementing the equivalency test to the Assembly and Senate on or before April 1, 2019.

- **Chapter 442 (A6527) – Schenectady County jail as a holding facility. Effective: November 20, 2015.**

The law amends Correction Law 500-a and 500-c to allow the Schenectady County correctional facility to be used for the detention of persons who have been arrested and are being held for arraignment in any court in Schenectady County.

- **Chapter 490 (S4903) – Performance of autopsies and access to autopsy reports performed after the death of an incarcerated person. Effective: November 20, 2015.**

This chapter law clarifies that a county’s coroner, coroner’s physician, or medical examiner must perform an autopsy regarding any death in that county of an inmate of a correctional facility, whether or not the death occurred in such facility, and that the autopsy report must be provided to the Chairman of the Correction Medical Review Board and the DOCCS Commissioner. The county official must provide an autopsy report to the Executive Director of the Justice Center for the Protection of People with Special Needs where the deceased was receiving services while residing at a facility operated, licensed, or certified by the Department of Mental Hygiene, the Office

of Children and Family Services, the Department of Health, or the State Education Department.

➤ **Chapter 518 (A836) – Training for staff in residential mental health units. Effective: December 11, 2015.**

The law amends Correction Law 401(6) to require that all security, program services, mental health, and medical staff who have direct contact with individuals residing in correctional facility residential mental health treatment units receive a minimum of eight hours of mental health training annually.

This chapter law was amended by [L 2016, ch 20](#), to provide that security, program services, mental health, and medical staff with direct inmate contact must receive annual training on the identification of, and care for, inmates with mental illnesses, but not a minimum of eight hours annually. New correctional officers and other new department staff who will regularly work in programs providing mental health treatment for inmates must receive a minimum of eight hours of training about the types and symptoms of mental illnesses, the goals of treatment, the prevention of suicide, and training in how to effectively and safely manage inmates with mental illness. And department staff in residential mental health treatment units must receive 8 hours of mental health training annually as long as they work in such a unit.

➤ **Chapter 545 (S4780-A) – Parole violation proceedings involving an individual who may be incapacitated. Effective: June 8, 2016.**

This chapter law, enacted in response to the Court of Appeals decision in [Matter of Lopez v Evans](#) (25 NY3d 199 [2015]), amends Executive Law 259-i(3)(a)(i), (3)(f), and (3)(f)(v) and CPL 730.10(2) to address situations in which a person alleged to have violated parole appears to be incapacitated, as defined in CPL 730.10(1).

Where such person, his or her counsel, or an employee of the Department of Corrections and Community Supervision claims or it reasonably appears to the hearing officer that the person is incapacitated and a judicial determination of incapacity has not been made, the hearing officer must temporarily stay the parole revocation proceeding and refer the matter to the superior court for a determination of fitness to proceed. The court must appoint counsel to any unrepresented individual eligible for appointed counsel under Executive Law 259-i(3)(f)(v). The court must make a determination within 30 days of the referral. If the individual is found fit to proceed, the matter is referred back to the hearing officer for further proceedings.

Where the individual is found to be incapacitated:

- and no felony charges are pending against the individual, the court must issue a final order of observation committing the person to the custody of the Commissioner of Mental Health or the Commissioner of Developmental Disabilities for care

and treatment consistent with CPL 730.40(1) and the hearing officer must dismiss the violation charges

- and felony criminal charges are pending before a fitness determination is made, the court must issue an order of observation and the hearing officer must adopt the capacity finding and terminate the revocation process.

➤ **Chapter 570 (A6430-A) – Ban on shackling of pregnant inmates during transport. Effective: originally December 22, 2015, but amended by L 2016, ch 17 to February 20, 2016.**

This chapter amends Correction Law 611(1)(a) to specifically prohibit the use of restraints of any kind during transport of a woman inmate while she is pregnant and about to give birth, known to be pregnant, or in the eight weeks after delivery, except in extraordinary circumstances after consultation with the chief medical officer. In such circumstances, restraints are limited to handcuffs in front of the body. The law applies to both state and local correctional facilities.

On March 21, 2016, chapter 570 was amended by [L 2016, ch 17](#) as follows:

- for the category of a “woman known to be pregnant,” correctional personnel or personnel providing medical services to the institution or local correctional facility must know of the pregnancy;
- the term “chief medical officer” is changed to “medical professional responsible for the institution”;
- handcuff restraints are allowed where the correctional personnel directly responsible for transporting such a woman determines that there is an emergency that necessitates the use of restraints because the woman “poses an immediate risk of serious injury to herself or medical or correctional personnel or others and cannot reasonably be restrained by other means”; and
- DOCCS and State Commission of Correction are required to post on their websites annual reports about use of restraints.

### Vehicle and Traffic Law

➤ **Chapter 440 (A6222) – Ignition interlock conditions upon declaration of delinquency. Effective: November 20, 2015.**

The law amends Penal Law 65.15(2) to add the following regarding ignition interlock conditions after a declaration of probation or conditional discharge delinquency:

Any order for the installation and maintenance of a functioning ignition interlock device imposed pursuant to [PL 60.21] shall remain in effect throughout the delinquency and the court may extend the period of such installation and maintenance by the period of the delinquency; provided,

however, that the defendant shall get credit for any period where the device was installed and maintained during the delinquency.

➤ **Chapter 578 (S5046-A) – Bars collection of fines and fees when a VTL violation is dismissed. Effective: April 20, 2016.**

The chapter law adds Vehicle and Traffic Law (VTL) 1804 to prohibit municipalities from imposing a fine, penalty, forfeiture, or any other fee or surcharge against a person charged with a VTL violation unless the person is convicted or found liable for that violation. The Governor’s approval memo notes that, by its terms, “the bill would also prohibit the imposition of fines and surcharges in the relatively common situation where a violation is plea-bargained down to a lesser charge. The Legislature has agreed to a chapter amendment that would address this concern.” That chapter amendment has not yet been enacted.

### Courts

➤ **Chapter 237 (A8083) – Electronic filing in criminal cases in superior court and appellate divisions, family court; e-filing under the CPLR. Effective: August 31, 2015.**

This chapter law makes a number of amendments and additions regarding e-filing in criminal, family court, and civil proceedings.

#### Criminal Cases:

- Amends CPL 10.40 to give the chief administrative judge, with the approval of the administrative board of the courts, the authority to promulgate rules authorizing e-filing in supreme and county court for filing an accusatory instrument to commence a criminal action or proceeding (pursuant to CPL articles 195 and 200) and the filing and service of papers in pending criminal actions and proceedings. Parties must consent to the filing and service of papers in pending actions, except that the chief administrative judge may eliminate the consent requirement in up to six counties provided consent is given by the District Attorney, the criminal defense bar (defined as all provider offices and/or organizations in the county that represented 25% or more of the persons represented by public defense providers pursuant to County Law 722 as shown in the most recent annual reports filed pursuant to County Law 722-f), and the county clerk.

The chief administrative judge may not eliminate consent until persons and organizations who regularly appear in such proceedings are given reasonable notice and an opportunity to submit comments regarding the matter, the judge gives due consider-

ation to such comments, and upon consultation with the e-filing advisory committee. When consent is eliminated, the court must give counsel the opportunity to opt out in specified limited circumstances and must give unrepresented parties information about their options for e-filing. E-filed documents and papers shall not be available for public inspection online, except in limited circumstances, and the e-filing law does not affect or change existing laws on sealing and confidentiality of court records or access to court records by the parties. The chapter law does not affect or change existing laws on service of process, including existing personal service requirements in the CPL.

- Adds a new CPL 460.90 to allow each judicial department of the appellate division the authority to promulgate rules allowing e-filing for the taking and perfection of appeals. Such rules may not require e-filing by unrepresented parties and attorneys under certain limited circumstances. Such rules may not be promulgated until the judicial department consults with the chief administrative judge and gives an opportunity for review and comment by all those who are or would be affected by the rules.

#### Family Court Cases:

- Amends Family Court Act 214 to authorize the chief administrative judge, with the approval of the administrative board of the courts, to promulgate rules allowing e-filing in family court for the origination of proceedings in such court and the filing and service of papers in pending proceedings. Similar to the provisions related to criminal cases discussed above, the chief administrative judge may eliminate the consent requirement in not more than six counties for the filing of a petition starting an abuse or neglect proceeding pursuant to FCA article 10 by a child protective agency, the filing of a juvenile delinquency petition, and the filing and service of papers in such article 10 and juvenile delinquency proceedings where the proceedings were originated by e-filing. The persons and organizations who must consent include the family court bar providing representation to parents (as represented by the head of each legal services organization, the head of each public defender organization, and the president of the local bar association as applicable) and those who regularly appear in such family court proceedings must have an opportunity to submit comments on those rules. The provisions regarding access to e-filed documents and papers and service of process are similar to those applicable to criminal cases.
- Adds FCA 1122 to permit each judicial department of the appellate division to promulgate e-filing rules

for the taking and perfection of appeals.

The law also adds a new article 21-A to the CPLR regarding the filing of papers in trial and appellate courts by fax transmission and electronic means.

- **Chapter 272 (A7939-A) – Court access for persons who are deaf or hard of hearing. Effective: September 25, 2015.**

The law expands Judiciary Law 390 (“Equal access to court proceedings for deaf or hard of hearing person”) to make it applicable to persons who are hard of hearing and to add jurors and prospective jurors to the list of covered persons. It gives the courts authority to, at the request of a person (party, witness, juror, or prospective juror) who is deaf or hard of hearing or on its own motion, and in lieu of appointing an interpreter, “provide an assistive listening device, a stenographer who can furnish communication access real-time translation or any other appropriate auxiliary aid or service.”

More information about the range of court interpretation services is available on the Court System’s website at <http://www.nycourts.gov/courtinterpreter/index.shtml>. Information about how individuals with disabilities who need accommodations to assure access to the courts can make such a request, and a list of local Americans with Disabilities Act liaisons, may be found at <http://www.nycourts.gov/accessibility/index.shtml>.

- **Chapter 312 (S4817-B) – Residence of the Lewis Town Court justice. Effective: September 25, 2015.**

The law amends Town Law 23 and Public Officers Law 3 to authorize the town justice of the town of Lewis in Lewis County to be a resident of the town of Lewis or an adjoining town.

### Family Court

- **Chapter 29 (A7193-A) – Drivers’ license suspension to enforce child support orders. Effective: June 30, 2015.**

This law extends the sunset date of the law allowing for the enforcement of child support through the suspension of driving privileges from June 30, 2015 to August 31, 2017.

- **Chapter 56 (Part L) (S2006-B) – Compliance with the federal Preventing Sex Trafficking and Strengthening Families Act. Effective: April 13, 2015 (with exceptions as set forth in Part L, § 35).**

This law amends various provisions of the Social Services Law, Family Court Act, Surrogate’s Court Procedure Act, Public Health Law, and Executive Law to comply with the 2014 federal Preventing Sex Trafficking and Strengthening Families Act, which seeks to provide opportunities for youth in foster care.

- **Chapter 142 (S1514) – Foster home licensing. Effective: August 13, 2015 (deemed in effect as of June 27, 2015).**

This is a chapter amendment to L 2014, ch 539, which directed social services districts and voluntary agencies, before authorizing a foster parent, to determine whether the applicant previously had a foster care license that was revoked or not renewed and whether a child was ever removed from the applicant’s care. This chapter amendment makes changes to Social Services Law 376 and 377 to specifically provide that, in accordance with state regulations, DSS must review the information available from the Statewide Automated Child Welfare Information System and clarifies that reviews would be limited to whether a child was removed for health and safety reasons.

- **Chapter 145 (S1518) – Protocol for release of reports by DSS on death of certain children. Effective: August 13, 2015 (deemed in full force and effect on December 29, 2014).**

This is a chapter amendment to L 2014, ch 544, which amended Social Services Law 20(5) to allow a local social services department referenced in a report by the Office of Children and Family Services about the death of a child to provide written comments for inclusion in the report. The chapter amendment clarifies that DSS comments must adhere to current confidentiality requirements and be relevant and factually accurate. It also shortens the time period for DSS to submit comments.

- **Chapter 269 (A7645) – Temporary and permanent spousal maintenance and support. Effective: January 23, 2016 (for matrimonial and Family Court actions for spousal support commenced on or after that date); October 25, 2015 (for temporary maintenance in matrimonial actions commenced on or after that date).**

The law amends Domestic Relations Law 236 and Family Court Act 412 regarding the duration and calculation of the amount of maintenance and spousal support, including the consideration of child support payments.

- **Chapter 347 (S5685-B) – Uniform Interstate Family Support Act. Effective: December 24, 2015.**

The law repeals the existing Family Court Act article 5-b (Uniform Interstate Family Support Act [UIFSA]) and replaces it with a new article 5-b that includes the 2008 amendments to UIFSA and amends Social Services Law 111-i. Information about the national adoption of the 2008 amendments is available on the Uniform Law Commission’s website ([Interstate Family Support Act Amendments \[2008\]](http://www.uniformlaw.org/interstate-family-support-act-amendments-2008)), and the U.S. Department of Health and Human Services, Office of Child Support Enforcement website ([IM-15-01](http://www.acf.hhs.gov/ocse/im-15-01)).

➤ **Chapter 367 (S6) – Pilot program for filing of petitions for temporary orders of protection. Effective: April 1, 2016.**

This law amends Family Court Act 153-c to allow the Chief Administrator of the Courts to promulgate rules to:

establish and implement a pilot program for the filing of petitions for temporary orders of protection by electronic means and for the issuance of such orders ex parte by audio-visual means in order to accommodate litigants for whom attendance at court to file for, and obtain, emergency relief would constitute an undue hardship or to accommodate litigants, for whom traveling to and appearing in the courthouse to obtain emergency relief, creates a risk of harm to such litigant.

➤ **Chapter 387 (A7637) – Spousal maintenance and child support calculations. Effective: January 24, 2016.**

This law amends Family Court Act 413 and Domestic Relations Law 240 to clarify the treatment of spousal maintenance in the calculation of child support.

➤ **Chapter 436 (A5803) – Law enforcement access to the central register of child abuse and maltreatment. Effective: January 19, 2016.**

This law amends Social Services Law 422 to give law enforcement agencies access to records of the state child abuse register and local social services districts when such an agency is investigating a missing child where there is reason to suspect that the child's parent, guardian, or a legally responsible adult is the subject of a child abuse report or the child or the child's sibling is named in a child abuse report and that information is needed to further the investigation. The provisions of this chapter law that authorized OCFS or a local district to deny access to such records and established a process for prompt administrative review of the denial were repealed by a chapter amendment signed into law on March 21, 2016 ([L 2016, ch 13](#)).

➤ **Chapter 492 (S5054) – Severe abuse findings against non-parent caregivers. Effective: February 18, 2016.**

This law amends Family Court Act (FCA) 1051 to specifically allow family court judges to make a finding of severe or repeated abuse against a non-parent respondent in an FCA article 10 child abuse proceeding. As noted in the accompanying sponsor's memo, "several court decisions have held that enhanced findings of severe or repeated child abuse may only be made in an original child abuse proceeding under Article 10 of the Family Court Act against parents ...." For example, in 2015, the Third Department reversed a severe abuse finding against the respondent, the boyfriend of the child's custodian, noting that "[a]lthough Family Court and petitioner artic-

ulated policy reasons that may support extending severe abuse to a nonparent who is legally responsible for a child's care, such an extension is for the Legislature." [Matter of Tiarra D.](#), 124 AD3d 973 (3rd Dept 1/8/2015).

The law also amends Executive Law 221-a to require that temporary and final orders of protection issued in FCA article 10 proceedings, and warrants pertaining to such orders of protection, be entered into the statewide automated registry of orders of protection.

➤ **Chapter 499 (S5286) – Adjudication and violation procedures in juvenile delinquency and PINS cases. Effective: February 18, 2016.**

This law amends various provisions of Family Court Act articles 3 and 7 regarding violations of court orders and acceptance of an admission in article 7 proceedings.

➤ **Chapter 567 (A6715-A) – Treatment of non-respondent parents in child abuse and neglect proceedings. Effective: June 18, 2016.**

This law purports to clarify what treatment a non-respondent parent should expect in a Family Court Act (FCA) article 10 (abuse or neglect) case. Recommended by the Family Court Advisory and Rules Committee, it adds definitions of "parent," "relative," and "suitable person" to FCA 1012 and recognizes parents' superior rights to the care and custody of their children. According to the sponsor's memo, FCA 1017 includes a requirement that "certain additional individuals should be identified, located and notified in writing of the pendency of child protective proceedings ...." It also adds provisions authorizing the assignment of counsel for non-respondent parents at pre-petition hearings and requiring that, upon the filing of a petition, non-respondent parents receive a notice advising them of the right to counsel.

The law authorizes the family court to temporarily release a child to a non-respondent parent, relative, or other suitable person for up to one year, which can be extended for another year on a good cause showing. Before releasing a child, the family court still must review "the orders of protection and sex offender registries, as well as child protective petitions and Family Court warrants regarding" such person. When the court temporarily releases a child to a non-respondent parent, relative, or other suitable person, that person must "submit[] to the jurisdiction of the court with respect to the child" and may be directed to "cooperate in making the child available for court-ordered visitation" and appointments. Finally, the bill establishes a procedure for cases in which an article 6 action is brought in response to allegations of abuse or neglect.

➤ **Chapter 573 (A7679) – Right of children to participate in permanency hearings. Effective: December 22, 2015.**

The law amends Family Court Act 1089(b)(1) to add a subparagraph (iii) that requires that children 10 years of age and older receive notice of permanency hearings and have the right to be present at such hearings; this right can be waived after consultation with the attorney for the child. It also provides that, “[u]pon an application by the attorney for the child, the court shall grant an adjournment whenever necessary to protect the child’s right to meaningfully participate in the hearing.” On March 21, 2016, the Governor signed [L 2016, ch 14](#) to amend chapter 573 in several ways:

(1) Family Court Act 1089(b)(1)(iii) now provides that the attorney for the child must receive notice of permanency hearings;

(2) A new 1089(b)(1-a) was added to require that the local social services district serve such a child age 10 or older with notice of the permanency hearing no later than 14 days prior by regular mail and to provide that the attorney for the child may consult with the child about the child’s participation in the permanency hearing before notice is served on the child;

(3) A new FCA 1090-a (effective June 19, 2016) was added to govern participation of children in their permanency hearings, with different rules for children under age 10, between 10 and 13, and 14 and older.

The Office of Children and Family Services (OCFS) released the Bill of Rights for Children and Youth in Foster Care earlier this year, which provides that children in foster care have the right “[t]o have a voice in determining [their] permanency goal, including, depending on [the child’s] age or ability, to participate in Service Plan Review meetings and court Permanency Hearings, to give input into the development and review of [their] service plan.” More information about the Bill of Rights is available in the OCFS Administrative Directive [15-OCFS-ADM-18](#).

## Law Enforcement (Police, Prosecution)

➤ **Chapter 121 (A7256) – Authority of St. Regis Police. Effective: August 13, 2015 (expires September 1, 2017).**

This law amends Indian Law 114(2) to authorize the State Police Superintendent to give the St. Regis Police concurrent jurisdiction in an area in Franklin County known as the Bombay Triangle, which is outside the boundaries of the St. Regis Indian reservation.

➤ **Chapter 139 (S69) – Residence of Wyoming County assistant district attorneys. Effective: August 13, 2015.**

This law amends Public Officers Law 3 to allow Wyoming County assistant district attorneys, other than a first assistant or chief assistant district attorney, to reside in an adjoining county.

➤ **Chapter 384 (A7207) – Law enforcement training on animal cruelty and protection laws. Effective: October 26, 2015.**

This chapter law amends Executive Law 837 and 840 and Agriculture and Markets Law 16 to require that the Department of Agriculture and Markets assist with development of law enforcement training and policies on enforcement of animal cruelty and protection laws.

➤ **Chapter 565 (A4310-A) – Annual reporting of crimes on New York City transit. Effective: December 21, 2015.**

This chapter law amends New York City Administrative Code 14-150 to add a new subdivision d that requires the New York City Police Department to annually report to the New York City Council the total number of criminal complaints and arrests for specified crimes that occur on subways and buses operated by the New York City Transit Authority or the Staten Island Rapid Transit Operating Authority.

## Miscellaneous

➤ **Chapter 115 (A5652) – Licensing of private investigators, bail enforcement agents, and watch, guard, or patrol agencies. Effective: August 13, 2016.**

The law separates the licensing of private investigators (General Business Law [GBL] 70) and the licensing of bail enforcement agents and watch, guard, or patrol agencies (new GBL 70-a), and increases the punishment for a violation of GBL 70 from a class B to a class A misdemeanor. The law also amends GBL 85 to provide that violations of GBL article 7 may be prosecuted by the attorney general, deputy attorney general, or a district attorney.

➤ **Chapter 231 (S1757-A) – Prohibits the sale of powdered or crystalline alcohol products. Effective: September 13, 2015.**

This law amends the definition of the terms alcoholic beverage and beverage in Alcoholic Beverage and Control Law (ABC) 3(1) to include powder or crystal and amends ABC 100 by adding a new subdivision 1-a: “No person shall sell, offer for sale, or otherwise provide for the consumption of any powdered or crystalline alcoholic product.”

➤ **Chapter 394 (S1744-A) – Notification to victims of name change petition. Effective: November 25, 2015.**

This law amends CPL 380.50(6) to require that prosecutors, within 60 days of the imposition of a sentence for a violent felony offense or other specified offense, provide a victim with a form prepared and distributed by the Division of Criminal Justice Services, in consultation with the Office of Victim Services, on which the individual may indicate a demand to be informed if the defendant files a petition for a name change. ♪