

2016 Legislative Review

By Susan Bryant and Jacob Drum*

Criminal Procedure Law

- **Chapter 63 (A6503-A) – Expands county-level geographical jurisdiction for organized retail theft crimes. Effective: November 1, 2016.**

This chapter adds a new paragraph (n) to CPL 20.40(4) that expands the county-level geographical jurisdiction for “organized retail theft” crimes “where the defendant knows that such crime is part of a coordinated plan, scheme or venture ... committed by two or more persons” to grant jurisdiction in any county in which the defendant committed at least one such crime, provided that the county of prosecution is contiguous to another county in which at least one of such other crimes was committed. The law authorizes joinder of multiple organized retail theft crimes committed by the same defendant in one indictment if authorized and appropriate under CPL 200.20, but notwithstanding CPL 200.40, “no more than one defendant may be charged in the same indictment or prosecuted as part of the same trial under this paragraph.” The five counties of New York City are deemed contiguous with one another. “Organized retail theft crime” is defined as “the crime of larceny, including by trick, fraud, embezzlement, stealing or false pretenses, of retail merchandise in quantities that would not normally be purchased for personal use or consumption, for the purposes of reselling, trading, or otherwise reentering such retail merchandise in commerce.”

- **Chapter 459 (A9522) – Trial court can now grant poor person status at sentencing. Effective: November 28, 2016.**

This chapter creates a new CPL 380.55 that gives trial courts the discretion to grant poor person status for the assignment of appellate counsel at the time of sentencing where the defendant is represented by assigned counsel at trial and the assigned counsel represents that the defendant continues to be eligible for assigned counsel and that granting the application will expedite the appeal. If granted, the court must file a written order and provide a copy of the order to the appellate court. If denied by the trial court, the defendant retains the option to make a de novo application for poor person relief to the appropriate appellate court.

- **Chapter 492 (S7209-A) – Establishing off-hours arraignment plans. Effective: February 26, 2017.**

This bill amends Judiciary Law 212(1) to add a new paragraph (w) that authorizes the chief administrative judge to adopt a plan for the establishment of “off-hours

arraignment parts in select local criminal courts of a county to be held on a rotating basis” for arraignments, arrest warrant returns, and other preliminary proceedings “where the use of such parts will facilitate the availability of public defenders or assigned counsel for defendants in need of legal representation at such proceedings.” The chief administrative judge must consult with the Office of Indigent Legal Services, the local magistrates association, the criminal defense bar including institutional providers, local government officials, and the district attorney, and the Administrative Board of the Courts must approve the plan. To the extent practicable, each plan shall provide for the periodic assignment of all of the judges and justices of all the local criminal courts in the county to the designated off-hours arraignment parts. The law also amends CPL 100.55, 120.90, 140.20, 170.10, and 180.10 to add provisions governing the operation of off-hours arraignment parts and amends Uniform Justice Court Act 106(2) to give judges and justices temporarily assigned under Judiciary Law 212(1)(w) the power to preside over such off-hours arraignment part.

Public Defense

- **Chapter 337 (A7292-C) – Annual public defense expenditure requirements for localities. Effective: September 29, 2016.**

Part B of this chapter amends County Law 722-f(2) to provide that counties and New York City must file annual public defense expenditure reports with the Office of Indigent Legal Services. Localities previously submitted their annual funding reports to the State Comptroller.

Penal Law

A. Expansion of Second-Degree Assault

- **Chapter 267 (S2251-A) – Elevates assault of a utility worker to the class D felony of second-degree assault. Effective: November 1, 2016.**

This law amends Penal Law 120.05(3) to make it a second-degree assault (a class D felony) to, with the intent to prevent an employee of an entity governed by the Public Service Law in the course of performing an essential service from performing a lawful duty, cause physical injury to such employee.

- **Chapter 268 (S2991-A) – Makes assault of a process server a class D felony. Effective: November 1, 2016.**

This law adds a new subdivision 14 to Penal Law 120.05 to provide that a person is guilty of second-degree assault when, with intent to prevent or obstruct a process server from performing a lawful duty pursuant to CPLR article 3 or intentionally, as retaliation against a process server for the performance of process server duties under CPLR article 3, the person causes physical injury to such process server. Prohibited behavior includes “releasing or

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failing to control an animal evincing the actor's intent that the animal prevent or obstruct" the process server's lawful duties or to retaliate against the process server. The term "process server" is defined in General Business Law 89-t.

- **Chapter 281 (S8104-A) – Makes the assault of a station cleaner or terminal cleaner a class D felony. Effective: November 1, 2016.**

This chapter amends Penal Law 120.05(11) to include in second-degree assault the intentional infliction of physical injury on a station or terminal cleaner employed by a public or private transit agency, authority, or company whose operation is authorized by the state or any of its political subdivisions while the employee is performing an assigned duty, "including the cleaning of a train or bus station or terminal"

B. Weapons

- **Chapter 211 (S7478) – Extends expiration date of authorization to hunt big game in the county of Albany with rifles. Effective: July 21, 2016.**

This chapter extends the authority to hunt big game in certain areas of Albany County, previously set to expire on October 1, 2016 (see L 2014, ch 141), to October 1, 2018.

- **Chapter 269 (S3199-B) – Includes the possession of a machete within the class A misdemeanor of fourth-degree criminal possession of a weapon. Effective: August 19, 2016.**

This chapter adds machetes to the list of items in Penal Law 265.01(2) that, when possessed with intent to use unlawfully against another, constitute the class A misdemeanor of fourth-degree criminal possession of a weapon.

C. New Crimes

- **Chapter 32 (S5949-A) – Establishes protocols for combative sports and mixed martial arts events. Effective: September 1, 2016.**

This chapter adds to the General Business Law (GBL) a new article 41 governing combative sports. GBL 1019 makes it a class A misdemeanor to knowingly advance or profit from a prohibited combative sport (as defined in GBL 1001 & 1002), and a class E felony if the person has been convicted of the same crime in the previous five years. The section also creates unclassified misdemeanors related to conducting, participating in, or promoting a combative sport without first procuring an appropriate license. Section 1019 also institutes a number of civil penalties.

- **Chapter 49 (A47-A) – Facilitating female genital mutilation. Effective: September 6, 2016.**

This chapter adds a new Penal Law 260.22 to create a new class A misdemeanor, facilitating female genital mutilation. A person is guilty of the crime:

when, knowing that a person intends to engage in the circumcising, excising or infibulating of the whole or any part of the labia majora or labia minora or clitoris of a person under eighteen years of age, and except as provided in [Penal Law 130.85(2)], he or she intentionally aids the commission or attempted commission of such conduct.

- **Chapter 472 (A10713) – Relates to automated ticket purchasing software. Effective: February 26, 2017.**

This chapter creates a class A misdemeanor in Arts and Cultural Affairs Law 25.24 for people who use software to bypass security measures in order to purchase tickets in high volume for resale. The law also makes it unlawful for ticket resellers to resell or offer to resell tickets that they know were obtained using ticket purchasing software if "not obtained for their own use or the use of their invitees, employees, or agents." The law also imposes or increases civil penalties for using such software, selling, or reselling tickets purchased by such software, and provides that a person who is subject to a civil penalty and has been assessed a penalty in the previous three years (formerly five years) shall be guilty of a violation.

Alcohol and Controlled Substances – Definitions, Treatment, Diversion

- **Chapter 67 (S6874-A) – Prohibits courts from conditioning release of an eligible defendant into a judicial diversion program upon treatment using any specified type or brand of drug. Effective: June 22, 2016 and applies to every defendant applying for participation in or participating in a judicial diversion program, pursuant to CPL article 216, on or after such date.**

This chapter amends CPL 216.05(5) to prohibit a court from conditioning a defendant's participation in a judicial diversion program upon the use of a specific type or brand of medically prescribed drug treatment.

- **Chapters 69, 70, and 71 (S8137, S8138, S8139) – Treatment and recovery services related to addiction to heroin and other opioids. Effective: June 22, 2016.**

This package of bills sets out the State's current initiatives for dealing with addiction to heroin and other opioids. Included in the packages are amendments to various laws, such as:

- Mental Hygiene Law: extends the time a person can be held for emergency services at designated treatment facilities from 48 to 72 hours (22.09), wrap-around services (including legal services) demonstration program (19.18-a);

- Insurance Law: new provisions governing insurance coverage for substance abuse disorder treatment, including inpatient treatment; and
- Public Health Law: hospital substance use disorder policies and procedures (2803-u); limitations on Schedule II, III, and IV opioid prescriptions (3331).

More information about heroin and prescription drug addiction and treatment is available at: <https://combat.heroin.ny.gov/>.

- **Chapter 244 (A9891-A) – Removes controlled substance designation from ioflupane. Effective: August 18, 2016.**

This chapter removes (123I) ioflupane, a drug used in the differentiation between Parkinson’s syndrome symptoms and essential tremors, from the list of Schedule II substances in the Controlled Substances Act (Public Health Law 3306).

- **Chapter 315 (S6322-A) – Relates to authorizing alcohol and substance abuse treatment in another jurisdiction for defendants in judicial diversion programs. Effective: September 9, 2016.**

This chapter amends CPL 216.05(8) to give courts the discretion to allow defendants to participate in an alcohol and substance abuse program in the jurisdiction in which they reside or in any other jurisdiction, regardless of where their charges arose.

- **Chapter 493 (S7301) – Requires persons providing substance abuse treatment or counseling to complete training in medication assisted treatment. Effective: January 1, 2017.**

This chapter adds a new Mental Hygiene Law 19.31 that requires credentialed alcoholism and substance abuse counselors and qualified health care professionals who provide treatment or counseling services at substance use disorder facilities, a school, or pursuant to the Drug Addiction Treatment Act (DATA) of 2000 to complete training in medication-assisted treatment as part of their continuing education requirements. *Note:* Chapter 493 was amended by L 2017, ch 2 to remove qualified health care professionals from the training requirement and to eliminate the training requirement for services provided at a school or pursuant to the DATA.

Sex Offenses

- **Chapter 456 (A9239) – DCJS to notify local police of sex offenders’ change of address, relationship to higher learning institution. Effective: January 27, 2017.**

This law amends Correction Law 168-j to require the Division of Criminal Justice Services (DCJS) to notify local law enforcement within 48 hours of a sex offender’s

change of address. DCJS will also notify within the same time period if there is a change in the offender’s status as a student, employee, or resident of an institution of higher learning. Chapter 456 was amended by L 2017, ch 17 to change the time period from 48 hours to “two business days,” as the Sex Offender Registry is not staffed on nights, weekends, or holidays.

Criminal History and Employment

- **Chapter 88 (S7298) – FBI background checks will not be provided to DOH-regulated facilities. Effective: June 30, 2016.**

This chapter amends Public Health Law 2899-a(7) to ensure that only those criminal background checks received from DCJS, and not those received from the FBI, are made available to Department of Health (DOH)-regulated nursing homes, adult care facilities, certified home health agencies, and long term care providers for the determination of employment eligibility.

- **Chapter 209 (S7410-A) – Authorizes the Office for People with Developmental Disabilities Commissioner to have access to certain criminal history information. Effective: October 19, 2016.**

This bill amends Mental Hygiene Law 13.09 to allow the Office for People with Developmental Disabilities (OPWDD) to have access to criminal history information from DCJS in the same manner as the Office of Mental Health (OMH). The Commissioners of OPWDD and DCJS will agree on terms and conditions relating to this access. Criminal history reports must be destroyed within 14 days of receipt. The information will be used “for purposes of making decisions regarding care and treatment, health and safety, [and] privileges and discharge planning for individuals admitted to or retained in a school ... operated by [OPWDD].”

- **Chapter 429 (S5542-B) – Incoming EMTs to be checked against the sex offender registry. Effective: March 14, 2017.**

This law adds a new Executive Law 837-s that provides that the chief officers of ambulance companies must notify candidates for emergency medical technician (EMT) and related positions that their personal records will be checked against the state sex offender registry. If the applicant wishes to proceed, the chief officer must contact DCJS. If a prospective EMT is on the registry, the chief officer must decide whether the person is eligible to be elected or appointed to the ambulance company; the decision must be consistent with Correction Law article 23-a.

Evidence Testing

- **Chapter 500 (S8117) – Processing of and maintenance of sexual offense evidence kits. Effective: February 26, 2017, except the amendments to Executive Law 838-a(1)(c), (d), effective November 28, 2016.**

This law creates a new Executive Law 838-a that requires sexual offense evidence kits to be submitted to a forensic lab within 10 days of their receipt by law enforcement and further requires that the lab “develop Combined DNA Index System (CODIS) eligible profiles of any potential perpetrators from the evidence tested” and communicate the results to the submitting agency and local prosecutor within 90 days of receipt of the kit. For evidence collected prior to the effective date of this section that has not been tested, law enforcement must submit such evidence to forensic labs within 180 days of the effective date and such labs must process such evidence within 120 days of receipt. Labs must report the following to DCJS in writing on a quarterly basis: (1) the number of kits it received; (2) the number of kits processed for the purpose of developing CODIS profiles; and (3) the number of kits not processed for testing. Law enforcement agencies must report the following to DCJS in the same fashion: (1) the total number of kits it received; (2) the number of kits it submitted to forensic labs; (3) the number of kits in its possession that have not been processed; and (4) the length of time between the receipt of any kit and its submission to the forensic lab. Finally, DCJS is directed to educate law enforcement agencies and forensic laboratories about the provisions of this law.

Chapter 6 of the Laws of 2017 made a number of amendments to L 2016, ch 500, including: (1) expansion of the law’s application to require that all police agencies and prosecutorial agencies submit kits within their custody or control to forensic labs within the relevant time periods; (2) requiring labs to “assess case specific information for ... CODIS[] eligibility and, if eligible, analyze the kits and attempt to develop CODIS eligible profiles of any potential perpetrators”; and (3) requiring that police and prosecutorial agencies that have one or more kits in its custody or control to, within 90 days after the effective date, inventory the kits and report the number of kits to DCJS and the lab where the kits will be submitted and directs DCJS to report the inventories to legislative leaders by March 1, 2017.

Prisons and Parole

- **Chapter 17 (S6695) – Relates to the restraint of pregnant female prisoners during childbirth. Effective: February 20, 2016.**

This chapter amends the Correction Law 611 prohibition on shackling pregnant inmates during transport, labor, and delivery, except in extraordinary circumstances, to limit the authorized restraints to “wrist restraints in

front of the body.” The law further requires the prison superintendent or county sheriff to preapprove the use of restraints except where an emergency requiring restraint occurs during transport. Under such circumstances, corrections personnel must determine that 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.” Finally, the law requires that entities make annual reports to the Legislature and the Commission on Corrections that describe the use of restraints under these provisions, including the reasons and methods used and the duration of restraint.

- **Chapter 130 (A9696) – Requires DOCCS to maintain victim impact statements. Effective: October 19, 2016.**

This chapter amends Executive Law 259-i to provide that:

Any statement by a victim or the victim’s representative made to the [parole] board shall be maintained by [DOCCS] in the file provided to the board when interviewing the inmate in consideration of release. A victim or victim’s representative who has submitted a written request to [DOCCS] for the transcript of such interview shall be provided such transcript as soon as it becomes available.

The law also requires that the Board of Parole consider “any current or prior statement” made to the Board by the crime victim or the victim’s representative.

- **Chapter 173 (S6088-A) – Authorizing the Washington and Essex county correctional facilities to also be used as pre-arraignment detention facilities. Effective: July 21, 2016.**

This chapter adds a new Correction Law 500-a(2)(o) and (2)(p) that authorize Washington and Essex counties to use their local jails as holding cells for persons under arrest pending arraignment. The chapter further adds Correction Law 500-c(21) and (22) to provide that the requirements of section 500-c apply equally if the sheriff of either county “is holding a person under arrest for arraignment prior to commitment, as if such person had been judicially committed to the custody of the sheriff”

- **Chapter 189 (S6849) – Authorizing the Fulton county correctional facility to also be used as a pre-arraignment detention facility. Effective: July 21, 2016.**

This legislation adds Correction Law 500-a(2-o) and Correction Law 500-c(21) to permit the use of the Fulton County correctional facility as a pre-arraignment detention facility for individuals awaiting arraignment in any court in that county.

- **Chapter 210 (S7469-A) – Authorizing the Orleans county jail to also be used as a pre-arraignment detention facility. Effective: July 21, 2016.**

This legislation adds Correction Law 500-a(o) and Correction Law 500-c(21) to permit the use of the Orleans County Jail as a pre-arraignment detention facility for individuals awaiting arraignment in any court in that county.

Note: As a result of the legislation above, there are three subdivisions designated Correction Law 500-a(o) and three designated Correction Law 500-c(21).

- **Chapter 323 (S7853-A) – Prohibits charging a fee to obtain a death certificate for an inmate who has died under custody. Effective: December 8, 2016.**

This chapter amends Public Health Law 4174 and 4179 to provide that no fee shall be charged for obtaining a death certificate “to be used for administrative purposes for an inmate who has died under custody”

- **Chapter 447 (A7500A) – Provides for the notification of the next of kin of the death of an inmate. Effective: March 28, 2017.**

This law amends Correction Law 47(1)(e) to require the state Commission of Correction to be responsive to inquiries by next of kin and representatives of inmates who die in state correctional facilities regarding the circumstances surrounding the death of that inmate. It also adds a new Correction Law 624 to require DOCCS to be responsive to inquiries from the next of kin or designated representative regarding the circumstances surrounding the inmate’s death, as well as the medical procedures used and the cause of death, including preliminary and final determinations after an autopsy. “Next of kin” or representatives will be determined from the inmate’s emergency contact information. Finally, the bill amends Correction Law 16 to require DOCCS to provide the next of kin with an original preliminary or final death certificate for the deceased inmate.

- **Chapter 473 (S992) – Relates to translation services for inmates appearing before the parole board. Effective: March 8, 2017.**

This chapter amends Executive Law 259-e to provide that DOCCS will make a determination as to which inmates need an English language or deaf language interpreter and must inform the parole board of that need within a reasonable time prior to an inmate’s scheduled parole board appearance. It further adds Executive Law 259-i(8), which requires qualified, certified interpreters to be appointed for inmates who need them in parole proceedings, including interviews, parole release hearings, and preliminary and revocation hearings.

The Approval Memo indicates that “it is not yet possible for DOCCS to comply with the bill’s requirements due

to the lack of nationally-certified or State-credentialed interpreters currently working in New York.” An agreement was reached for a chapter amendment that “will ensure a qualified interpreter is available for any inmate that requires such services while providing DOCCS with sufficient flexibility given existing resources concerns.” The amendment (L 2017, ch 9) deletes the requirement that the interpreter be certified by a recognized national or state credentialing authority and provides that the interpreter be appointed from the Office of General Services statewide administrative services contract.

Courts

- **Chapter 205 (S7328) – Authorizes two towns in Chemung County to create a single justice court. Effective: July 21, 2016.**

This chapter amends Uniform Justice Court Act 106-a(1) to allow the towns of Erin and Chemung in Chemung County to establish a single town court, despite the fact that the two towns do not form a contiguous geographic area.

- **Chapter 259 (A9918-A) – Relates to village justices; changes the title of acting justice to associate justice. Effective: August 19, 2016.**

This law changes the title of “acting justice” (defined as a local magistrate who serves in a village court when requested by the elected justice or when the justice is absent or unable to serve) to “associate justice.”

- **Chapter 282 (S7402) – Authorizes the town justice of the town of Allen, in the county Allegany, to be a nonresident of such town. Effective: August 23, 2016.**

This chapter provides that the person performing the function of Town Justice in the Town of Allen, NY, need not be a resident of that town, but must be a resident in an adjoining town within Allegany County.

- **Chapter 284 (A9273) – Expanding access to records for creating jury pools for United States District Courts. Effective: August 24, 2016.**

For the sole purpose of identifying prospective federal jurors and subject to the same restrictions and requirements of confidentiality applicable to New York State courts, this law amends Labor Law 537(3)(b), Tax Law 697(e)(3), and Social Services Law 20(6) to allow any United States District Court clerk or jury commission in New York State to access: (1) lists of persons receiving unemployment insurance benefits; (2) mailing lists of New York State tax filers; and (3) the names and addresses of persons applying for or receiving aid to dependent children, Medicaid, or home relief.

Vehicle and Traffic Law

- **Chapter 97 (S7938) – Relates to the operation of vehicles when approaching a parked, stopped or standing authorized emergency or hazard vehicle or volunteer first responder. Effective: January 17, 2017.**

This bill expands the “Move-Over Law” by amending Vehicle and Traffic Law (VTL) 502 and 1144-a to require drivers to exercise due care when approaching vehicles engaged in emergency roadside operations, including a mandate to shift one lane over on multilane highways, when the emergency vehicle displays revolving blue or green lights and provided that the driver can do so while complying with other traffic laws.

- **Chapter 239 (A1597-A) – Makes certain convictions for operating under the influence predicates for other operating under the influence convictions. Effective: November 1, 2016.**

This legislation amends Navigation Law 49-a to add a new subdivision 5-a that requires judges to consider any prior automobile DWI convictions (VTL 1192[2], [2-a], [3], [4], or [4-a]) within the preceding 10 years when sentencing a defendant for a Boating While Intoxicated violation of 49-a(2)(b), (c), (d), or (e) pursuant to 49-a(2)(f)(2) or (2)(f)(3). When sentencing a defendant for a violation of 49-a(2)(a)(2), the court shall consider any prior conviction for violating any subdivision of VTL 1192 within the preceding five years. And when sentencing a defendant for a violation of 49-a(2)(a)(3), the court must consider any prior conviction for violating any subdivision of VTL 1192 within the preceding 10 years.

- **Chapter 251 (A297) – Prohibits any person from interfering with an official traffic-control signal. Effective: November 1, 2016.**

This law amends VTL 1115 to make it a violation to “alter” a traffic-control signal, including by use of a traffic-control signal preemption device, which is defined as “any device designed to change or attempt to change the signal indications of a traffic-control signal.” Such devices can be used to change a red traffic light to a green one. “The presence in a vehicle of a traffic-control signal preemption device connected to a power source and in an operable condition” creates a rebuttable presumption of its use by the vehicle operator.

Mental Health Facilities

- **Chapter 20 (S6380-A) – Relates to training for staff in residential mental health treatment units programs inside correctional facilities. Effective: December 11, 2015.**

This chapter amends Correction Law 401(6) to require that DOCCS ensure that new correctional officers and other new DOCCS employees who will regularly work in

mental health treatment programs will receive at least eight hours of training about the types and symptoms of mental illness upon their hiring and annually thereafter. Further, all security, program services, mental health, and medical staff with direct inmate contact must receive annual training on identifying and caring for inmates with mental illnesses.

- **Chapter 375 (S6916-C) – Requires the commissioner of mental health to develop detailed definitions of types of injuries that may result from certain attacks by persons in state forensic psychiatric centers. Effective: September 29, 2016.**

This chapter adds a new Mental Hygiene Law 7.09(k) that requires the Commissioner of OMH to develop definitions for at least four categories of injuries that a staff member or confined person may experience as a result of an assault by or altercation between a confined person and a staff member or other person in a state forensic psychiatric center as defined in MHL 7.17. And OMH must provide the Legislature with quarterly reports on the number of injuries by type.

Freedom of Information Law

- **Chapter 487 (S6865-A) – Limits the amount of time to appeal certain judgments regarding freedom of information violations. Effective: May 27, 2017.**

This act amends Public Officers Law 89 and CPLR 5521 to require an appeal from a FOIL decision to be filed in accordance with CPLR 5513 and provides that such appeals will be given preference, and further provides that the appeal will be deemed abandoned if the agency fails to serve and file a record and brief within 60 days of the notice of appeal, unless by consent of all parties or court order upon a finding of good cause.

Forfeiture

- **Chapter 57 (A9005-C) – Extend for one year the law establishing the existing formula for distributing DA forfeiture monies. Effective: March 31, 2016.**

Part B of this chapter extended the provisions of L 2009, ch 503, part H of the laws of 2009, relating to the disposition of monies recovered by county district attorneys before the filing of an accusatory instrument, by one year to March 31, 2017.

Human Trafficking

- **Chapter 7 (S6386-A) – Authorizes service animals or therapy dogs to accompany victims of domestic violence at residential programs whenever such accompaniment is reasonable under the circumstances. Effective: March 11, 2016.**

This chapter amendment to Social Services Law 459-b provides authorization for service dogs to accompany

domestic violence victims to domestic violence shelters, so long as the animal does not impose an undue burden on the facility. Should such an undue burden exist, the shelter must make reasonable efforts to place the service animal at an off-site animal care facility.

- **Chapter 311 (S4732-A) – Requires certain establishments to display a poster with information regarding the national human trafficking resource center hotline. Effective: November 8, 2016.**

This law adds a new Social Services Law 483-ff that directs the Commissioner of Temporary and Disability Assistance (OTDA) to make available an electronic version of the National Human Trafficking Resources Center (NHTRC) hotline poster or similar poster that is available for printing in English and all other languages that the NHTRC poster is available in. The OTDA Commissioner must consult with other relevant state agencies and organizations to encourage the posting of these posters in locations that are likely to be frequented by victims of human trafficking, such as rest stops, bus stations, truck stops, airports, adult or sexually-oriented businesses, hospitals, and urgent care facilities.

- **Chapter 408 (A8650-B) – Relates to the identification and assessment of human trafficking victims. Effective: November 4, 2017.**

This act adds a new Public Health Law 2805-y that requires health care facilities to establish and implement written policies and procedures for identifying, reporting, and treating persons suspected of being human trafficking victims.

- **Chapter 413 (A9317) – Relates to meetings of the interagency task force on human trafficking; adds additional members to the board. Effective: November 4, 2016.**

This amendment to Social Services Law 483-ee adds seven seats to the Interagency Task Force on Human Trafficking: two appointed by the Senate; two appointed by the Assembly; two recommended by the largest non-profit in the state that provides services for victims of human trafficking; and one appointed on recommendation of the president of the New York State Bar Association. It further provides that the Task Force shall meet at least three times per year and that all members shall be provided reasonable advance notice of the date, time, and location of each meeting. The law also authorizes and describes the composition of subcommittees to consider specific issues, including cooperation between different levels of government, juvenile human trafficking, human trafficking training, data storage and sharing, and services for domestic victims as distinguished from those for foreign-born victims. Finally, the legislation requires the

Task Force to report at least annually to the Governor and the leadership of the Assembly and Senate.

Family Court

- **Chapter 13 (S6384-A) – Relates to the statewide central register of child abuse and maltreatment. Effective: January 19, 2016.**

This chapter amends the definition of “criminal justice agency” in Social Services Law 422(4)(A)(1) for purposes of the Statewide Central Register of Child Abuse and Maltreatment to include “a district attorney, an assistant district attorney or an investigator employed in the office of a district attorney; a sworn officer of the division of state police, of the regional state park police, of a county department of parks, of a city police department, or of a county, town or village police department or county sheriff’s office or department; or an Indian police officer” It also is said to provide clarification for when such agencies are provided with records under the statute.

- **Chapter 14 (S6389-A) – Relates to participation by children in permanency hearings. Effective: December 22, 2015 (Section 1), June 19, 2016 (Section 2).**

Section one of this law amends Family Court Act 1089(b)(1)(iii) to require that the local social services district give children aged 10 or older 14 days’ notice of their permanency hearings. The attorney for the child may consult with the child about participation in the permanency hearing prior to the service of the hearing notice.

Section two establishes a new Family Court Act 1090-a that governs participation of children in their permanency hearings. The permanency hearing itself must include an “age appropriate” consultation with the child. Children ten and older have the right to participate in the hearing and can only waive that right after consultation with an attorney. For children younger than 10, the court has the discretion to decide the manner and extent of the child’s participation based on the best interests of the child. The statute lays out further guidance and procedures for the participation of children in permanency hearings depending upon their age.

- **Chapter 37 (A9518) – Relates to the substitution of the term intellectual disability for the term mental retardation in family court proceedings. Effective: May 25, 2016.**

This act substitutes the term “intellectual disability” for the now-outdated “mental retardation” in Domestic Relations Law, Family Court Act, Executive Law, and Social Services Law provisions that relate to family court proceedings.

- **Chapter 48 (A9686) – Extends expiration of provisions of judiciary law authorizing referees to deter-**

mine applications for orders of protection while family court is in session. Effective: June 1, 2016.

This chapter is a two-year extension of provisions concerning the authority of referees in family court to adjudicate ex parte petitions for orders of protection (original chapter law: L 2010, ch 363) and the Judicial Hearing Officer pilot program in family court (original chapter law: L 2002, ch 219).

- **Chapter 54 (S6406-C) – Statutory amendments to comply with the Federal Preventing Sex Trafficking and Strengthening Families Act. Effective: April 4, 2016, except the amendment to SSL 378-a, which takes effect on December 30, 2016.**

Part M of this chapter amends Family Court Act 1089(d)(2)(vii)(G), 355.5(7)(b) and 756-a(d)(ii) to add language regarding transition from foster care to successful adulthood. The law further amends Social Services Law 458-c(1) and (2) to add references to successor guardians and adds a new Social Services Law 383-a that provides foster care providers with immunity from liability for application of the reasonable and prudent parent standard set forth in 42 USC 675. Finally, this chapter amends Social Services Law 378-a(2) to provide that the Office of Children and Family Services (OCFS) shall not release the content of the FBI nationwide criminal history record check to an authorized agency, but shall review the results and inform the authorized agency whether, based on the check, an application of a prospective foster parent or prospective adoptive parent must be denied, held in abeyance pending subsequent notification, or that OCFS has no objection.

- **Chapter 105 (A6961-A) – Relates to posting the child**

abuse hotline telephone number in public and charter schools. Effective: January 17, 2017.

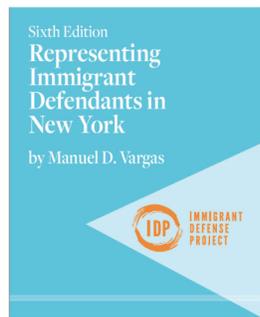
This chapter adds a new Education Law 409-1 that requires all public and charter schools to post, in English and Spanish, the toll-free OCFS child abuse hotline number and directions for accessing the OCFS website.

- **Chapter 242 (A9759) – Relates to contact by siblings in child protective, permanency and termination of parental rights proceedings. Effective: November 16, 2016; applies to petitions filed on or after that date.**

This legislation imposes a presumption in Family Court Act 1027-a that, where siblings are not placed together, OCFS must facilitate “appropriate and regular” contact with minor siblings unless it is not in the child’s or the siblings’ best interest. It further amends the Family Court Act to provide children with standing to seek an order for visitation or contact with siblings, and for siblings to seek orders for visitation or contact with youth in OCFS care pursuant to FCA article 10. The definition of “siblings” includes “half-siblings and those who would be deemed siblings or half-siblings but for the termination of parental rights or death of a parent.”

- **Chapter 365 (S5189) – Relates to providing additional enforcement mechanisms for collection of spousal or child support. Effective September 29, 2016 and applies to “all actions whenever commenced as well as all judgments or orders previously entered.”**

This chapter removes the requirement in Domestic Relations Law 245 to exhaust other enforcement remedies before seeking a contempt order against a person who fails to pay child or spousal support or a combination of the two pursuant to a court order in a matrimonial proceeding. ⚖️



“[A]ccurate legal advice for noncitizens accused of crimes has never been more important.”

- *Padilla v. Kentucky*, 130 S. Ct. 1473, 1476 (2010)

Representing Immigrant Defendants in New York, by Manuel D. Vargas, provides information and strategies about how to avoid adverse immigration consequences in either criminal or immigration proceedings. The sixth edition has been updated through June 2017. It is available for \$75 for public defenders, nonprofits, and assigned counsel and \$100 for all others. Updated versions of some of the appendices that were included in prior editions, including the New York Quick Reference Chart, are available through the [Immigration Defense Project](#), who can be contacted at (212) 725-6422.