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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

51 PART WWW

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