



**Division of Criminal
Justice Services**

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Governor

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Executive Deputy Commissioner

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Deputy Commissioner and Director

STATE DIRECTOR’S MEMORANDUM #2019-2

TO: All Probation Directors and Commissioners

**FROM: Robert M. Maccarone, Deputy Commissioner and *RMM*
Director, Office of Probation and Correctional Alternatives**

**RE: Raise the Age—Probation Regulations
Title 9 NYCRR--Parts 348, 350, 351, 352, 356, and 359**

DATE: March 28, 2019

The NYS Division of Criminal Justice Services (DCJS) is pleased to announce, effective March 27, 2019, the adoption of new and amended probation regulations for the implementation of the Raise the Age Law in New York State. Title 9 NYCRR Part 348, “Case Record Management”, Part 350 “Investigations and Reports, Part 351 “Probation Supervision”, Part 352 “Graduated Responses”, Part 356 “Probation Services for Article 3 Juvenile Delinquency”, and Part 359 “Role of Probation in Youth Part of the Superior Court” are attached for your reference. These documents will also be posted to the [OPCA General Rules and Regulations](#) page of the DCJS public website.

On April 10, 2017, New York State enacted Part WWW of Chapter 59 of the Laws of 2017, referred to as the Raise the Age (RTA) Law. Effective October 1, 2018 for 16-year old youth, and October 1, 2019 for 17-year old youth, the Law provides an important opportunity for probation practitioners to address the needs of justice system involved youth and reduce future re-offending and recidivism.

DCJS-OPCA began the process of evaluating and revising existing rules in September of 2017, when it convened the initial meeting of the Probation Rule Revision Workgroup in Albany. Workgroup members included representatives from DCJS’ OPCA, Office of Justice Research and Performance (OJRP), and Office of Legal Services (OLS). The workgroup included probation professionals from throughout New York State representing small, medium, and large size jurisdictions, as well as rural, urban and suburban localities. The NYS Council of Probation Administrators (NYSCOPA) and NYS Probation Officers’ Association (NYSPOA) were also represented on the Workgroup. I want to again acknowledge the members of the Workgroup for their expertise, diligence and commitment to advancing probation practice and ensuring the effective implementation of Raise the Age in New York State.

Recognizing the importance of collaboration and transparency, the proposed draft revisions were informally shared with probation directors/commissioners for review on multiple occasions in early 2018. Throughout the process, feedback from these groups was incorporated into the version that was ultimately published in the August 8, 2018 edition of the New York State Register. A 60-day period of public comment followed during which DCJS received several messages of support, as well as other comments. DCJS carefully reviewed all comments and made several changes to the regulations. For additional information, please see the [Assessment of Public Comment](#) included in Notice of Adoption.

Probation Regulations Parts 348, 350, and 351 include sections on Client Engagement, as well as references to probation's role in the newly established Youth Part of Superior Court, pre-depositional supervision, updated language reflecting the evolution of state agency names and forms, and other statutory changes impacting probation practice. Part 352 is retitled to reflect the opportunity probation officers have to affect behavior change with probationers through the use of incentives and graduated responses with flexibility retained for probation departments to develop and refine their own policies and grids for response to non-compliant behavior. Importantly, Part 352 preserves uniformity in responding to probation absconders, new offense violations, and warrant protocols.

Part 356 is expanded to define and provide guidance for pre-dispositional services when provided by Probation departments. Juvenile Delinquency adjustment service and the timeframes for the development of the initial case plan were modified and contacts were aligned with Part 351--the Probation Supervision Rule and evidence-based practices. Additionally, this rule adds the requirement for mental health screening when a youth consents to JD adjustment services. DCJS will soon be implementing state-wide access to the Massachusetts Youth Screening Instrument (MAYSI-2) through Caseload Explorer (CE) Assessments. The requirement for probation departments to conduct this screening will become effective with the implementation of the CE Assessment Program Module. Additionally, counties participating in the *eConnect* project with Columbia University (Albany, Cayuga, Clinton, Livingston, Montgomery, Niagara, Oswego, Saratoga, St. Lawrence, and Tioga) will be allowed to use the GAIN-SS screening instrument as will counties that are already using GAIN-SS or the MAYSI-2.

Part 359 was developed to provide guidance on the new role that Probation performs in the Youth Part of the Superior Court through the offer of *Voluntary Assessment and Case Planning*. This rule also addresses probation's role in providing pre-disposition services in the Youth Part.

During the coming weeks, OPCA will be sending out an announcement regarding a webinar series for probation professionals which will provide an overview of the new and amended Probation Regulations. I encourage every probation department to participate.

Should you have any questions in the meantime, please contact Teresa Scanu-Hansen, Community Correction Representative 3, at (518) 485-5166 or via email at Teresa.ScanuHansen@dcjs.ny.gov.