

STATE OF NEW YORK

896--A

2023-2024 Regular Sessions

IN ASSEMBLY

January 11, 2023

Introduced by M. of A. GALLAGHER, L. ROSENTHAL, DICKENS, SIMON, STIRPE
-- read once and referred to the Committee on Alcoholism and Drug
Abuse -- committee discharged, bill amended, ordered reprinted as
amended and recommitted to said committee

AN ACT to amend the judiciary law, the mental hygiene law, the public
health law, the county law, and the general city law, in relation to
replacing the words addict and addicts with the words person with
substance use disorder or variation thereof

The People of the State of New York, represented in Senate and Assem-
bly, do enact as follows:

1 Section 1. Paragraph a of subdivision 1 of section 35 of the judiciary
2 law, as amended by chapter 479 of the laws of 2022, is amended to read
3 as follows:
4 a. When a court orders a hearing in a proceeding upon a writ of habeas
5 corpus to inquire into the cause of detention of a person in custody in
6 a state institution, or when it orders a hearing in a civil proceeding
7 to commit or transfer a person to or retain him in a state institution
8 when such person is alleged to be mentally ill, mentally defective or a
9 ~~[narcotic addict]~~ person with substance use disorder, or when it orders
10 a hearing for the commitment of the guardianship and custody of a child
11 to an authorized agency by reason of the mental illness or developmental
12 disability of a parent, or when it orders a hearing to determine whether
13 consent to the adoption of a child shall be required of a parent who is
14 alleged to be mentally ill or developmentally disabled, or when it
15 orders a hearing to determine the best interests of a child when the
16 parent of the child revokes a consent to the adoption of such child and
17 such revocation is opposed or in any adoption or custody proceeding if
18 it determines that assignment of counsel in such cases is mandated by
19 the constitution of this state or of the United States, the court may
20 assign counsel to represent such person if it is satisfied that he is
21 financially unable to obtain counsel. Upon an appeal taken from an order

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

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1 entered in any such proceeding, the appellate court may assign counsel
2 to represent such person upon the appeal if it is satisfied that he is
3 financially unable to obtain counsel.

4 § 2. Subdivision 4 of section 35 of the judiciary law, as amended by
5 chapter 706 of the laws of 1975 and as renumbered by chapter 315 of the
6 laws of 1985, is amended to read as follows:

7 4. In any proceeding described in paragraph (a) of subdivision one of
8 this section, when a person is alleged to be mentally ill, mentally
9 defective or a ~~[narcotic addict]~~ person with substance use disorder, the
10 court which ordered the hearing may appoint no more than two psychia-
11 trists, certified psychologists or physicians to examine and testify at
12 the hearing upon the condition of such person. A psychiatrist, psychol-
13 ogist or physician so appointed shall, upon completion of his services,
14 receive reimbursement for expenses reasonably incurred and reasonable
15 compensation for such services, to be fixed by the court. Such compen-
16 sation shall not exceed two hundred dollars if one psychiatrist,
17 psychologist or physician is appointed, or an aggregate sum of three
18 hundred dollars if two psychiatrists, psychologists or physicians are
19 appointed, except that in extraordinary circumstances the court may
20 provide for compensation in excess of the foregoing limits.

21 § 3. Paragraph (i) of subdivision (b) of section 32.05 of the mental
22 hygiene law, as amended by section 3 of part Z of chapter 57 of the laws
23 of 2019, is amended to read as follows:

24 (i) Methadone, or such other controlled substance designated by the
25 commissioner of health as appropriate for such use, may be administered
26 to ~~[an addict]~~ a person with substance use disorder, as defined in
27 section thirty-three hundred two of the public health law, by individual
28 physicians, groups of physicians and public or private medical facili-
29 ties certified pursuant to article twenty-eight or thirty-three of the
30 public health law as part of a chemical dependence program which has
31 been issued an operating certificate by the commissioner pursuant to
32 subdivision (b) of section 32.09 of this article, provided, however,
33 that such administration must be done in accordance with all applicable
34 federal and state laws and regulations. Individual physicians or groups
35 of physicians who have obtained authorization from the federal govern-
36 ment to administer buprenorphine to ~~[addicts]~~ people with substance use
37 disorder may do so without obtaining an operating certificate from the
38 commissioner.

39 § 4. Paragraph 5 of subdivision (b) of section 32.09 of the mental
40 hygiene law, as added by chapter 558 of the laws of 1999, is amended to
41 read as follows:

42 5. the applicant will establish procedures to effectively implement a
43 detoxification program to further relieve ~~[addicts]~~ people with
44 substance use disorder from dependence upon methadone or such other
45 controlled substances prescribed for treatment in subject maintenance
46 programs.

47 § 5. Subdivision 1 of section 3302 of the public health law, as
48 amended by chapter 92 of the laws of 2021, is amended to read as
49 follows:

50 1. ~~["Addict"]~~ "Person with substance use disorder" means a person who
51 habitually uses a controlled substance for a non-legitimate or unlawful
52 use, and who by reason of such use is dependent thereon.

53 § 6. Subdivision 1 of section 3331 of the public health law, as added
54 by chapter 878 of the laws of 1972, is amended to read as follows:

55 1. Except as provided in titles III or V of this article, no substance
56 in schedules II, III, IV, or V may be prescribed for or dispensed or

1 administered to [~~an addict~~] a person with substance use disorder or
2 habitual user.

3 § 7. The title heading of title V of article 33 of the public health
4 law, as added by chapter 878 of the laws of 1972, is amended to read as
5 follows:

6 DISPENSING TO [~~ADDICTS~~] PERSONS WITH SUBSTANCE USE
7 DISORDER AND HABITUAL USERS

8 § 8. Section 3350 of the public health law, as added by chapter 878 of
9 the laws of 1972, is amended to read as follows:

10 § 3350. Dispensing prohibition. Controlled substances may not be
11 prescribed for, or administered or dispensed to [~~addicts~~] persons with
12 substance use disorder or habitual users of controlled substances,
13 except as provided by this title or title III.

14 § 9. Section 3351 of the public health law, as added by chapter 878 of
15 the laws of 1972, subdivision 5 as amended by chapter 558 of the laws of
16 1999, is amended to read as follows:

17 § 3351. Dispensing for medical use. 1. Controlled substances may be
18 prescribed for, or administered or dispensed to [~~an addict~~] a person
19 with substance use disorder or habitual user:

20 (a) during emergency medical treatment unrelated to use of controlled
21 substances;

22 (b) who is a bona fide patient suffering from an incurable and fatal
23 disease such as cancer or advanced tuberculosis;

24 (c) who is aged, infirm, or suffering from serious injury or illness
25 and the withdrawal from controlled substances would endanger the life or
26 impede or inhibit the recovery of such person.

27 2. Controlled substances may be ordered for use by [~~an addict~~] a
28 person with substance use disorder or habitual user by a practitioner
29 and administered by a practitioner or registered nurse to relieve acute
30 withdrawal symptoms.

31 3. Methadone, or such other controlled substance designated by the
32 commissioner as appropriate for such use, may be ordered for use of [~~an~~
33 ~~addict~~] a person with substance use disorder by a practitioner and
34 dispensed or administered by a practitioner or his designated agent as
35 interim treatment for [~~an addict~~] a person with substance use disorder
36 on a waiting list for admission to an authorized maintenance program.

37 4. Methadone, or such other controlled substance designated by the
38 commissioner as appropriate for such use, may be administered to [~~an~~
39 ~~addict~~] a person with substance use disorder by a practitioner or by his
40 designated agent acting under the direction and supervision of a practi-
41 tioner, as part of a regime designed and intended to withdraw a patient
42 from addiction to controlled substances.

43 5. Methadone, or such other controlled substance designated by the
44 commissioner as appropriate for such use, may be administered to [~~an~~
45 ~~addict~~] a person with substance use disorder by a practitioner or by his
46 designated agent acting under the direction and supervision of a practi-
47 tioner, as part of a substance [~~abuse~~] use or chemical dependence
48 program approved pursuant to article [~~twenty-three or~~] thirty-two of the
49 mental hygiene law.

50 § 10. Section 3372 of the public health law, as amended by chapter 195
51 of the laws of 1973, is amended to read as follows:

52 § 3372. Practitioner patient reporting. It shall be the duty of every
53 attending practitioner and every consulting practitioner to report
54 promptly to the commissioner, or his duly designated agent, the name

1 and, if possible, the address of, and such other data as may be required
2 by the commissioner with respect to, any person under treatment if he
3 finds that such person is [~~an addict~~] a person with substance use disorder
4 der or a habitual user of any narcotic drug. Such report shall be kept
5 confidential and may be utilized only for statistical, epidemiological
6 or research purposes, except that those reports which originate in the
7 course of a criminal proceeding other than under section 81.25 of the
8 mental hygiene law shall be subject only to the confidentiality require-
9 ments of section thirty-three hundred seventy-one of this article.

10 § 11. Subdivisions 2 and 3 of section 396-h of the county law, as
11 added by chapter 818 of the laws of 1971, are amended to read as
12 follows:

13 2. To establish in-patient and out-patient treatment facilities for
14 persons [~~addicted to the use of drugs and drug abusers~~] with substance
15 use disorders. Such facilities shall include, but shall not be limited
16 to:

17 a. detoxification centers and clinics for the out-patient treatment of
18 [~~drug abusers and addicts~~] persons with substance use disorders;

19 b. a treatment center where [~~drug abusers and addicts~~] persons with
20 substance use disorders may obtain professional counseling from physi-
21 cians, psychologists, psychiatrists and where possible, [~~former drug~~
22 ~~abusers and addicts~~] other persons with substance use disorders;

23 c. half-way houses to provide continuing treatment for [~~drug abusers~~
24 ~~and addicts~~] persons with substance use disorders.

25 3. To create a referral program whereby [~~drug abusers, addicts~~]
26 persons with substance use disorders and persons and agencies concerned
27 with their treatment will make use of the aforementioned treatment
28 facilities;

29 § 12. Subdivisions 2 and 3 of section 121 of the general city law, as
30 added by chapter 820 of the laws of 1971, are amended to read as
31 follows:

32 2. To establish in-patient and out-patient treatment facilities for
33 persons [~~addicted to the use of drugs and drug abusers~~] with substance
34 use disorders. Such facilities shall include, but shall not be limited
35 to:

36 a. detoxification centers and clinics for the out-patient treatment of
37 [~~drug abusers and addicts~~] persons with substance use disorders;

38 b. a treatment center where [~~addicts~~] persons with substance use
39 disorders may obtain professional counseling from physicians, psychol-
40 ogists, psychiatrists and where possible, [~~former drug abusers and~~
41 ~~addicts~~] other persons with substance use disorders;

42 c. half-way houses to provide continuing treatment for [~~drug abusers~~
43 ~~and addicts~~] persons with substance use disorders.

44 3. To create a referral program whereby [~~drug abusers, addicts~~]
45 persons with substance use disorders and persons and agencies concerned
46 with their treatment will make use of the aforementioned treatment
47 facilities;

48 § 13. This act shall take effect immediately.