

STATE OF NEW YORK

4880

2023-2024 Regular Sessions

IN SENATE

February 16, 2023

Introduced by Sen. FERNANDEZ -- read twice and ordered printed, and when printed to be committed to the Committee on Health

AN ACT to amend the public health law, in relation to establishing a drug checking services program

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

1 Section 1. The public health law is amended by adding a new section
2 3309-c to read as follows:

3 § 3309-c. Drug checking services program. 1. The department, in
4 conjunction with the office of addiction services and supports, shall
5 establish a program to provide, or authorize a local government to
6 provide, or both, drug checking services to assist individuals in deter-
7 mining whether a drug or controlled substance contains contaminants,
8 toxic substances, or hazardous compounds.

9 2. In providing drug checking services, the department, in conjunction
10 with the office of addiction services and supports, or an authorized
11 local government shall:

12 (a) provide information and harm reduction advice to help individuals
13 make informed decisions about drug use;

14 (b) test any drug or substance that an individual presents for check-
15 ing to ascertain the composition and likely identity of such drug or
16 substance;

17 (c) advise the individual who presented a drug or substance for check-
18 ing of the results of the testing;

19 (d) return the drug or substance to the individual who presented such
20 drug or substance for checking;

21 (e) dispose of or arrange for the disposal of, any sample of a drug or
22 substance used in testing and any drug or substance surrendered by any
23 individual for disposal; and

24 (f) if necessary, arrange for a sample of a drug or substance to be
25 tested by a department approved laboratory.

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

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1 3. The department, in conjunction with the office of addiction
2 services and supports, shall acquire the necessary equipment to provide
3 drug checking services, including but not limited to, chemical screening
4 devices such as infrared spectrophotometers, mass spectrometers, nuclear
5 magnetic resonance spectrometers, raman spectrophotometers, or ion
6 mobility spectrometers.

7 4. Employees, contractors, and volunteers of the department or the
8 office of addiction services and supports, local governments authorized
9 by the department, and individuals presenting drugs or substances for
10 checking, acting in the course and scope of employment or engaged in
11 good faith in the provision of drug checking services, in accordance
12 with established protocols, shall not be subject to:

13 (a) arrest, charges, or prosecution pursuant to this article, includ-
14 ing for attempting, aiding and abetting, or conspiracy to commit a
15 violation pursuant to article two hundred twenty of the penal law; or

16 (b) a civil or administrative penalty or liability of any kind, or
17 disciplinary action by a professional licensing board, for conduct
18 relating to the provision of drug checking services unless such conduct
19 was performed in a negligent manner or in bad faith.

20 5. The department, the office of addiction services and supports, and
21 local governments authorized by the department shall not collect, main-
22 tain, use, or disclose any personal information relating to an individ-
23 ual from whom the department or local government receives any drug or
24 substance for checking or disposal.

25 6. The result of any test carried out by the department, the office of
26 addiction services and supports, or an authorized local government in
27 relation to any drug or substance presented for checking shall not be
28 admissible as evidence in any criminal or civil proceedings against the
29 individual from whom the drug or substance was received, unless submit-
30 ted by such individual.

31 § 2. This act shall take effect on the ninetieth day after it shall
32 have become a law. Effective immediately, the addition, amendment,
33 and/or repeal of any rule or regulation necessary for the implementation
34 of this act on its effective date are authorized to be made and
35 completed on or before such effective date.