

STATE OF NEW YORK

5485--A

Cal. No. 647

2023-2024 Regular Sessions

IN SENATE

March 6, 2023

Introduced by Sen. FERNANDEZ -- read twice and ordered printed, and when printed to be committed to the Committee on Judiciary -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading

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 Assembly, 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

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

LBD00243-02-3

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

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

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

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

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

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

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

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

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

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

1 1. Except as provided in titles III or V of this article, no substance
2 in schedules II, III, IV, or V may be prescribed for or dispensed or
3 administered to [~~an addict~~] a person with substance use disorder or
4 habitual user.

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

8 DISPENSING TO [~~ADDICTS~~] PERSONS WITH SUBSTANCE USE
9 DISORDER AND HABITUAL USERS

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

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

16 § 9. Section 3351 of the public health law, as added by chapter 878 of
17 the laws of 1972, subdivision 5 as amended by chapter 558 of the laws of
18 1999, is amended to read as follows:

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

22 (a) during emergency medical treatment unrelated to use of controlled
23 substances;

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

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

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

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

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

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

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

1 § 3372. Practitioner patient reporting. It shall be the duty of every
2 attending practitioner and every consulting practitioner to report
3 promptly to the commissioner, or his duly designated agent, the name
4 and, if possible, the address of, and such other data as may be required
5 by the commissioner with respect to, any person under treatment if he
6 finds that such person is [~~an addict~~] a person with substance use disorder
7 or a habitual user of any narcotic drug. Such report shall be kept
8 confidential and may be utilized only for statistical, epidemiological
9 or research purposes, except that those reports which originate in the
10 course of a criminal proceeding other than under section 81.25 of the
11 mental hygiene law shall be subject only to the confidentiality require-
12 ments of section thirty-three hundred seventy-one of this article.

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

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

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

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

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

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

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

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

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

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

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

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

51 § 13. This act shall take effect immediately.