

STATE OF NEW YORK

4244

2025-2026 Regular Sessions

IN ASSEMBLY

January 31, 2025

Introduced by M. of A. K. BROWN -- read once and referred to the Committee on Codes

AN ACT to amend the criminal procedure law and the mental hygiene law, in relation to allowing for principals to be remanded into custody for drug treatment where there is a risk of continued substance abuse

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

1 Section 1. Section 510.10 of the criminal procedure law is amended by
2 adding three new subdivisions 5-a, 5-b and 5-c to read as follows:

3 5-a. Notwithstanding the provisions of subdivisions three and four of
4 this section, the court may, in its discretion, commit the principal to
5 the custody of the sheriff for a period of no more than fifteen days, if
6 such principal has a substantial risk of continued substance abuse and
7 there is a likelihood of serious harm to such principal and there exists
8 no alternative less restrictive means available to confine or supervise
9 such principal in order to prevent the principal's substantial risk of
10 continued substance abuse upon release from custody. Alternative and
11 less restrictive means of confinement and supervision shall mean avail-
12 able immediate commitment of such principal in a state licensed
13 substance abuse treatment center, drug rehabilitation center or mental
14 health facility. In making its determination, the court may consider the
15 following factors, including but not limited to:

16 (a) knowledge of the principal's failed attempts to complete drug
17 court;

18 (b) admission by the principal that they are addicted to a controlled
19 substance;

20 (c) requests by the principal's immediate family members to hold the
21 principal in custody to prevent the likelihood of serious harm;

22 (d) a record of the principal's arrests for similar offenses related
23 to substance abuse;

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

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1 (e) the arresting officer's testimony of the principal's intoxication
2 or of witnessing the principal's use of a controlled substance; and
3 (f) the principal's possession of a controlled substance or possession
4 of paraphernalia related thereto.

5 5-b. Upon the commitment of such principal to the custody of the sher-
6 iff, or an available, less restrictive means of confinement and super-
7 vision, the court shall order a duly licensed professional to monitor
8 such principal as needed to evaluate the principal's need for treatment
9 and/or medications, and to complete an evaluation for addiction to a
10 controlled substance. Treatment, including but not limited to medica-
11 tions, shall be provided to the principal without unnecessary delay, as
12 recommended by such licensed professional. The principal's complete
13 evaluation, including recommendations for the continued custody of such
14 principal, immediate release from custody, and any other proposals for
15 the care and treatment of such principal shall be provided to the court
16 without unnecessary delay and within no more than seventy-two hours from
17 the completion of such principal's evaluation. The principal, such
18 principal's counsel and the district attorney's office shall be provided
19 a copy of the principal's evaluation upon request to the court.

20 5-c. The principal shall be afforded the opportunity for a hearing to
21 request the principal's immediate release from the custody of the sher-
22 iff or confinement in a treatment facility or mental health facility,
23 prior to their arraignment. If within seventy-two hours of the court's
24 receipt of the principal's request for such hearing, the principal is
25 not brought before a local criminal court, the principal shall be imme-
26 diately released from the sheriff's custody or confinement in a treat-
27 ment facility or mental health facility and served an appearance ticket.
28 The principal shall be entitled to introduce their controlled substance
29 evaluation including any recommendations made by a licensed physician
30 that such principal should not be held in custody of the sheriff or
31 confined at a treatment or mental health facility and that the principal
32 is not in substantial risk for substance abuse, or there is not a like-
33 lihood of serious harm to the principal upon their release from custody.
34 The court shall consider the principal's complete evaluation including
35 treatment recommendations, record of arrests, convictions and any record
36 of participation in any drug court and shall decide whether to imme-
37 diately release such principal from the custody of the sheriff or
38 confinement in a treatment facility or mental health facility, or to
39 remand the principal to the custody of the sheriff or confinement in a
40 treatment facility or mental health facility for the remainder of the
41 principal's fifteen day period of custody or confinement.

42 § 2. Subdivision 1 of section 530.20 of the criminal procedure law is
43 amended by adding three new paragraphs (c), (e) and (f) to read as
44 follows:

45 (c) Notwithstanding the provisions of paragraphs (a) and (b) of this
46 subdivision, the court may, in its discretion, commit the principal to
47 the custody of the sheriff for a period of no more than fifteen days, if
48 such principal has a substantial risk of continued substance abuse and
49 there is a likelihood of serious harm to such principal and there exists
50 no alternative less restrictive means available to confine or supervise
51 such principal in order to prevent the principal's substantial risk of
52 continued substance abuse upon release from custody. Alternative and
53 less restrictive means of confinement and supervision shall mean avail-
54 able immediate commitment of such principal in a state licensed
55 substance abuse treatment center, drug rehabilitation center or mental

1 health facility. In making its determination, the court may consider the
2 following factors, including but not limited to:

3 (i) knowledge of the principal's failed attempts to complete drug
4 court;

5 (ii) admission by the principal that they are addicted to a controlled
6 substance;

7 (iii) requests by the principal's immediate family members to hold the
8 principal in custody to prevent the likelihood of serious harm;

9 (iv) a record of the principal's arrests for similar offenses related
10 to substance abuse;

11 (v) the arresting officer's testimony of witnessing the principal's
12 use of a controlled substance; and

13 (vi) the principal's possession of a controlled substance or
14 possession of paraphernalia related thereto.

15 (e) Upon the commitment of such principal to the custody of the sher-
16 iff, or an available, less restrictive means of confinement and super-
17 vision, the court shall order a duly licensed professional to monitor
18 such principal as needed to evaluate the principal's need for treatment
19 and/or medications, and to complete an evaluation for addiction to a
20 controlled substance. Treatment, including but not limited to medica-
21 tions, shall be provided to the principal without unnecessary delay, as
22 recommended by such licensed professional. The principal's complete
23 evaluation, including recommendations for the continued custody of such
24 principal, immediate release from custody, and any other proposals for
25 the care and treatment of such principal shall be provided to the court
26 without unnecessary delay and within no more than seventy-two hours from
27 the completion of such principal's evaluation. The principal, such
28 principal's counsel and the district attorney's office shall be provided
29 a copy of the principal's evaluation upon request to the court.

30 (f) The principal shall be afforded the opportunity for a hearing to
31 request the principal's immediate release from the custody of the sher-
32 iff or confinement in a treatment facility or mental health facility,
33 prior to their arraignment. If within seventy-two hours of the court's
34 receipt of the principal's request for such hearing, the principal is
35 not brought before a local criminal court, the principal shall be imme-
36 diately released from the sheriff's custody or confinement in a treat-
37 ment facility or mental health facility and served an appearance ticket.
38 The principal shall be entitled to introduce their controlled substance
39 evaluation including any recommendations made by a licensed physician
40 that such principal should not be held in custody of the sheriff or
41 confined at a treatment or mental health facility and that the principal
42 is not in substantial risk for substance abuse, or there is not a like-
43 lihood of serious harm to the principal upon their release from custody.
44 The court shall consider the principal's complete evaluation including
45 treatment recommendations, record of arrests, convictions and any record
46 of participation in any drug court and shall decide whether to imme-
47 diately release such principal from the custody of the sheriff or
48 confinement in a treatment facility or mental health facility, or to
49 remand the principal to the custody of the sheriff or confinement in a
50 treatment facility or mental health facility for the remainder of the
51 principal's fifteen day period of custody or confinement.

52 § 3. Section 530.40 of the criminal procedure law is amended by adding
53 three new subdivisions 5-a, 5-b and 5-c to read as follows:

54 5-a. Notwithstanding the provisions of subdivisions three and four of
55 this section, the court may, in its discretion, commit the principal to
56 the custody of the sheriff for a period of no more than fifteen days, if

1 such principal has a substantial risk of continued substance abuse and
2 there is a likelihood of serious harm to such principal and there exists
3 no alternative less restrictive means available to confine or supervise
4 such principal in order to prevent the principal's substantial risk of
5 continued substance abuse upon release from custody. Alternative and
6 less restrictive means of confinement and supervision shall mean avail-
7 able immediate commitment of such principal in a state licensed
8 substance abuse treatment center, drug rehabilitation center or mental
9 health facility. In making its determination, the court may consider the
10 following factors, including but not limited to:

11 (a) knowledge of the principal's failed attempts to complete drug
12 court;

13 (b) admission by the principal that they are addicted to a controlled
14 substance;

15 (c) requests by the principal's immediate family members to hold the
16 principal in custody to prevent the likelihood of serious harm;

17 (d) a record of the principal's arrests for similar offenses related
18 to substance abuse;

19 (e) the arresting officer's testimony of the principal's intoxication
20 or of witnessing the principal's use of a controlled substance; and

21 (f) the principal's possession of a controlled substance or possession
22 of paraphernalia related thereto.

23 5-b. Upon the commitment of such principal to the custody of the sher-
24 iff, or an available, less restrictive means of confinement and super-
25 vision, the court shall order a duly licensed professional to monitor
26 such principal as needed to evaluate the principal's need for treatment
27 and/or medications, and to complete an evaluation for addiction to a
28 controlled substance. Treatment, including but not limited to medica-
29 tions, shall be provided to the principal without unnecessary delay, as
30 recommended by such licensed professional. The principal's complete
31 evaluation, including recommendations for the continued custody of such
32 principal, immediate release from custody, and any other proposals for
33 the care and treatment of such principal shall be provided to the court
34 without unnecessary delay and within no more than seventy-two hours from
35 the completion of such principal's evaluation. The principal, such
36 principal's counsel and the district attorney's office shall be provided
37 a copy of the principal's evaluation upon request to the court.

38 5-c. The principal shall be afforded the opportunity for a hearing to
39 request the principal's immediate release from the custody of the sher-
40 iff or confinement in a treatment facility or mental health facility,
41 prior to their arraignment. If within seventy-two hours of the court's
42 receipt of the principal's request for such hearing, the principal is
43 not brought before a local criminal court, the principal shall be imme-
44 diately released from the sheriff's custody or confinement in a treat-
45 ment facility or mental health facility and served an appearance ticket.
46 The principal shall be entitled to introduce their controlled substance
47 evaluation including any recommendations made by a licensed physician
48 that such principal should not be held in custody of the sheriff or
49 confined at a treatment or mental health facility and that the principal
50 is not in substantial risk for substance abuse, or there is not a like-
51 lihood of serious harm to the principal upon their release from custody.
52 The court shall consider the principal's complete evaluation including
53 treatment recommendations, record of arrests, convictions and any record
54 of participation in any drug court and shall decide whether to imme-
55 diately release such principal from the custody of the sheriff or
56 confinement in a treatment facility or mental health facility, or to

1 remand the principal to the custody of the sheriff or confinement in a
2 treatment facility or mental health facility for the remainder of the
3 principal's fifteen day period of custody or confinement.

4 § 4. The fourth undesignated paragraph of section 9.01 of the mental
5 hygiene law, as amended by chapter 723 of the laws of 1989, is amended
6 to read as follows:

7 "likelihood to result in serious harm" or "likely to result in serious
8 harm" means (a) a substantial risk of physical harm to the person as
9 manifested by threats of or attempts at suicide or serious bodily harm,
10 a drug overdose requiring the use of an opioid antagonist, or other
11 conduct demonstrating that the person is dangerous to [~~himself or~~
12 ~~herself~~] themselves, or (b) a substantial risk of physical harm to other
13 persons as manifested by homicidal or other violent behavior by which
14 others are placed in reasonable fear of serious physical harm.

15 § 5. Paragraph 1 of subdivision (a) of section 9.37 of the mental
16 hygiene law, such section as renumbered by chapter 978 of the laws of
17 1977, is amended to read as follows:

18 1. substantial risk of physical harm to [~~himself~~] themselves as mani-
19 fested by threats of or attempts at suicide or serious bodily harm, a
20 drug overdose requiring the use of an opioid antagonist, or other
21 conduct demonstrating that [~~he is~~] they are dangerous to [~~himself~~] them-
22 self, or

23 § 6. Paragraph 1 of subdivision (a) of section 9.39 of the mental
24 hygiene law, as amended by chapter 789 of the laws of 1985, is amended
25 to read as follows:

26 1. substantial risk of physical harm to [~~himself~~] themselves as mani-
27 fested by threats of or attempts at suicide or serious bodily harm, a
28 drug overdose requiring the use of an opioid antagonist, or other
29 conduct demonstrating that [~~he is~~] they are dangerous to [~~himself~~] them-
30 self, or

31 § 7. Section 9.41 of the mental hygiene law, as amended by chapter 843
32 of the laws of 1980, is amended to read as follows:

33 § 9.41 Emergency admissions for immediate observation, care, and treat-
34 ment; powers of certain peace officers and police officers.

35 Any peace officer, when acting pursuant to [~~his~~] their special duties,
36 or police officer who is a member of the state police or of an author-
37 ized police department or force or of a sheriff's department may take
38 into custody any person who appears to be mentally ill and is conducting
39 [~~himself~~] themselves in a manner which is likely to result in serious harm
40 to [~~himself~~] themselves or others. "Likelihood to result in serious harm"
41 shall mean (1) substantial risk of physical harm to [~~himself~~] themselves
42 as manifested by threats of or attempts at suicide or serious bodily
43 harm, a drug overdose requiring the use of an opioid antagonist, or
44 other conduct demonstrating that [~~he is~~] they are dangerous to [~~himself~~]
45 themselves, or (2) a substantial risk of physical harm to other persons as
46 manifested by homicidal or other violent behavior by which others are
47 placed in reasonable fear of serious physical harm. Such officer may
48 direct the removal of such person or remove [~~him~~] them to any hospital
49 specified in subdivision (a) of section 9.39 of this article or, pending
50 [~~his~~] their examination or admission to any such hospital, temporarily
51 detain any such person in another safe and comfortable place, in which
52 event, such officer shall immediately notify the director of community
53 services or, if there be none, the health officer of the city or county
54 of such action.

1 § 8. Paragraph 3 of subdivision (a) of section 22.09 of the mental
2 hygiene law, as amended by section 1 of part D of chapter 69 of the laws
3 of 2016, is amended to read as follows:

4 3. "Likelihood to result in harm" or "likely to result in harm" means
5 (i) a substantial risk of physical harm to the person as manifested by
6 threats of or attempts at suicide or serious bodily harm, a drug over-
7 dose requiring the use of an opioid antagonist, or other conduct demon-
8 strating that the person is dangerous to [~~himself or herself~~] themselves,
9 or (ii) a substantial risk of physical harm to other persons as mani-
10 fested by homicidal or other violent behavior by which others are placed
11 in reasonable fear of serious physical harm.

12 § 9. This act shall take effect on the thirtieth day after it shall
13 have become a law; provided, however, that section five of this act
14 shall take effect on the same date as the reversion of paragraph 1 of
15 subdivision (a) of section 9.37 of the mental hygiene law as provided in
16 section 21 of chapter 723 of the laws of 1989, as amended; and provided
17 further, however, that section seven of this act shall take effect on
18 the same date as the reversion of section 9.41 of the mental hygiene law
19 as provided in section 21 of chapter 723 of the laws of 1989, as
20 amended.