STATE OF NEW YORK

6513

2025-2026 Regular Sessions

IN ASSEMBLY

March 5, 2025

Introduced by M. of A. LEMONDES -- read once and referred to the Committee on Alcoholism and Drug Abuse

AN ACT to amend the mental hygiene law, in relation to the establishment and operations of a dedicated opioid rehabilitation facility and the personal needs allowance for residents of a dedicated opioid rehabilitation facility; to amend the criminal procedure law, in relation to the diversion of certain defendants to a mandatory opioid rehabilitation facility; and to amend the correction law, in relation to the establishment of a dedicated opioid rehabilitation facility and the provision of corrections officers to such facilities

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

Section 1. This act shall be known and may be cited as "the Jessica Nicole Gentile law".

§ 2. Legislative intent. (a) Opioid addiction is a chronic disease that can cause major health, social and economic problems. Opioids are a class of drugs that act in the nervous system to produce feelings of pleasure and pain relief. Some opioids are legally prescribed by health care providers to manage severe and chronic pain. Commonly prescribed opioids include oxycodone, fentanyl, buprenorphine, methadone, oxymorphone, hydrocodone, codeine, and morphine. Other opioids, such as heroin, are illegal drugs of abuse.

Opioid addiction is characterized by a powerful, compulsive urge to use opioid drugs, even if or when they are no longer required medically. Opioids have a high potential for causing addiction in some people, even when the medications are prescribed appropriately and taken as directed. Many prescription opioids are misused or diverted to others. Individuals who become addicted may prioritize getting and using these drugs over other activities in their lives, often negatively impacting their professional and personal relationships. It is unknown why some people are more likely to become addicted than others.

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

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Opioids change the chemistry of the brain and lead to drug tolerance, which means that over time the dose needs to be increased to achieve the same effect. Taking opioids over a long period of time produces dependence, such that when people stop taking the drug, they have physical and psychological symptoms of withdrawal (such as muscle cramping, diarrhea and anxiety). Dependence is not the same thing as addiction; although everyone who takes opioids for an extended period will become dependent, only a small percentage also experience the compulsive, continuing need for the drug that characterizes addiction.

Opioid addiction can cause life-threatening health problems, including the risk of overdose. Overdose occurs when high doses of opioids cause breathing to slow or stop, leading to unconsciousness and death if the overdose is not treated immediately. Both legal and illegal opioids carry a risk of overdose if a person takes too much of the drug, or if opioids are combined with other drugs (particularly tranquilizers called benzodiazepines).

In many cases, addiction requires a gateway drug. Gateway drugs are substances that, when consumed, give way to harder, more dangerous drugs. These milder substances, such as nicotine or alcohol, are believed to open the door to the use of drugs such as meth, heroin and cocaine, which can lead to addiction. Opioid abuse does not always entail prior use of a gateway drug as opioids themselves are gateway drugs.

Opioid abuse, along with the resulting overdose deaths, has risen to the point of being one of the worst drug epidemics in the history of the United States. According to the Centers for Disease Control and Prevention (CDC) more than 750,000 people have died since 1999 from a drug overdose. Two out of three drug overdose deaths in 2018 involved an opioid. The CDC reports that opioids were involved in more than 47,600 overdose deaths in 2017 alone.

Rarely do people abusing or addicted to opioids seek treatment for their addiction problems until they run into problems with the law. According to research, opioid abusers do not believe that quitting is even an option, as the addiction is so powerful, they cannot even comprehend being free of it. For the most part, there are no volunteers in current opioid recovery programs, just forced participants ordered into the programs by the court. This makes the legal system, in particular the drug courts, an important part of this societal mental health crisis.

(b) New York state leads the nation in the expansion and implementation of drug courts into daily court operations.

Drug courts use a collaborative approach to treatment involving defense attorneys, prosecutors, treatment and education providers, and law enforcement officials. Article 216 of the criminal procedure law authorizes a criminal drug court to divert eligible felony offenders into substance abuse treatment programs in lieu of incarceration in a correctional facility. Non-violent offenders voluntarily enter the program in which rules are clearly defined and a contract between the offender, attorneys, the district attorney and the court is signed.

There are 141 drug courts in operation statewide. Defendants facing certain felony or misdemeanor charges where drug addiction is a component of their offense may be eligible to participate in a criminal drug treatment court program. Those who successfully complete their drug treatment court program may have their charges dismissed or reduced or may receive a reduction in their sentence.

Young adult drug treatment courts are operational in several of the criminal courts. These courts target defendants in the 16- to 21-year-old population.

In 2017, New York state opened the first opioid court in the nation. The Buffalo Opioid Intervention Court provides immediate intervention, treatment and medication for defendants who screen positive for opioids and who staff feel are at risk of overdose or addiction. The University of Buffalo School of Family Medicine (UBFM), a grant partner, contributes key staff positions. Those staff members provide daily case management for program participants and link those participants to medication assisted treatment (MAT) within 48 hours of arraignment when indicated.

In the Bronx, which has one of the highest number of opioid-related overdoses and deaths in the state, the Bronx Opioid Avoidance and Recovery Court is a collaboration between the court, prosecutors, and the defense bar. Defendants charged with misdemeanor drug possession are diverted to existing treatment services. Because only misdemeanor offenders are eligible, charges are generally dismissed upon completion of the recommended intervention.

Results from these diversion treatment programs have been positive. A 2003 study of six drug courts conducted by the Center for Court Innovation demonstrated that the rates at which drug court graduates re-offend were significantly reduced as compared to rates at which incarcerated individuals re-offended. Notwithstanding the foregoing, an additional treatment option is required.

Unfortunately, a percentage of defendants passing through drug courts and their treatment options have a difficult time remaining free of drugs after completing treatment, particularly those individuals who abuse or are addicted to opioids. As the American Medical Association has declared substance abuse a disease, it can be assumed some people are sicker than others. After completing treatment in a rehabilitation program and returning into society, usually in the same town where their drug contacts were, these individuals have a difficult time remaining drug-free.

The current model of drug court will tolerate relapse after relapse, to a certain point. When judges get weary of these chronically addicted defendants, they place them directly into the criminal system of the court to serve prison time. There is no middle ground between "drug court" rehabilitation referral and "criminal court system" incarceration. Once in the criminal court system, each opioid abuser or addict will cost the state approximately $65,000 to $80,000 a year (the average cost of maintaining a prisoner). The recidivism rate for those sentenced to prison is approximately 45%.

The cost of maintaining long-term or even lifelong incarcerated individuals in prison and the destruction of many lives could be reduced by adding an option to the system between drug court and the criminal system: a mandatory state-run opioid rehabilitation center, where people could voluntarily sign away their right to leave for one year or longer in exchange for not being put into the prison system. In other words, a lock-up treatment center.

This approach stands in contrast to current rehabilitation referral measures which entail outpatient treatment or residential treatment for limited periods of time. For some individuals, rehabilitation options are determined by their insurance plan, not their actual needs.

A state-run residential rehabilitation center would provide drug court judges with another alternative to criminal court. It would provide ongoing treatment over an extended period of time; participants would

not be released until health care providers believed they could successfully refrain from drug use. Drug court judges would have another alternative to criminal court. They would no longer have to tolerate relapse after relapse. Participants would benefit from an environment where recovery would be easier for them.

(c) The legislature finds and declares that it is in the best interest of the people of the state of New York to reduce the burden on the drug courts, the cost to the state and the amount of time needed by the judicial system to handle drug cases by referring opioid-abusing or opioid-addicted criminal defendants to a facility under the supervision of the Office of Addiction Services and Supports, while at the same time providing desperately needed treatment to such individuals. As opposed to incarceration, a mental health response is more likely to reduce recidivism, saving both lives and taxpayer money.

§ 3. The mental hygiene law is amended by adding a new article 23 to read as follows:

ARTICLE 23

DEDICATED OPIOID REHABILITATION TREATMENT FACILITY

Section 23.01 Definitions.
23.02 Establishment of a dedicated opioid rehabilitation facility.
23.03 Dedicated opioid rehabilitation facility.
23.04 Admission to a dedicated opioid rehabilitation treatment facility.
23.05 Referral to a dedicated opioid rehabilitation facility by an opioid court.
23.06 Sentencing agreement.
23.07 Minors.
23.08 Discharge from a dedicated opioid rehabilitation facility.
23.09 Treatment following discharge from a dedicated opioid rehabilitation facility.
23.10 Court appearances.
23.11 Records.
23.12 Limitations.
23.13 Study.

§ 23.01 Definitions.

As used in this article:

1. "commissioner" means the commissioner of the office of addiction services and supports;

2. "correctional institution" includes state, county and federal institutions or facilities of corrections and juvenile facilities;

3. "court" or "drug court" means a state drug court, a young adult drug treatment court, the Buffalo Opioid Intervention Court and the Bronx Opioid Avoidance and Recovery Court;

4. "dedicated opioid rehabilitation facility" or "facility" means a dedicated opioid rehabilitation facility established pursuant to section 23.02 of this article;

5. "defendant" means an individual referred to a dedicated opioid rehabilitation facility pursuant to an agreement entered into in drug court;

6. "eligible defendant" means a defendant who qualifies as an eligible defendant as defined in section 216.00 of the criminal procedure law;

7. "licensed health care provider" means an individual licensed pursuant to title eight of the education law;

8. "minor" means a defendant at least sixteen years of age, but under eighteen years of age, but does not include a person who is the parent of a child or has married or who is emancipated; and

9. "office" means the office of addiction services and supports.

§ 23.02 Establishment of a dedicated opioid rehabilitation facility.

1. The commissioner of addiction services and supports, in consultation with the commissioner of health, the commissioner of corrections and community supervision, the chief administrator of the courts and the commissioner of the office of general services, shall establish a dedicated opioid rehabilitation facility for the purpose of providing long-term residential treatment of opioid abusing or addicted defendants referred to such facility from a drug court.

2. Such facility shall be operated and supervised by the office of addiction services and supports, with support from the department of corrections and community supervision.

3. Such facility shall be a secured (locked) facility established for the purpose of providing long-term residential treatment of opioid abuse and opioid addiction as an alternative to incarceration.

4. In selecting the location of the facility, preference shall be given to a site near the Buffalo Opioid Intervention Court or the Bronx Opioid Avoidance and Recovery Court and to facilities previously utilized as part of the corrections system or the mental health system. Consideration shall be given to the mental health resources available in the area of the site.

§ 23.03 Dedicated opioid rehabilitation facility.

1. A dedicated opioid rehabilitation treatment facility shall be a secure (locked) facility.

2. Staff at the facility shall include, but not be limited to:

(a) qualified and licensed health care providers, counselors and support staff as determined by the office;

(b) administrative, maintenance, custodial and other staff as determined by the office; and

(c) corrections officers, in a number as agreed upon by the office and the department of corrections and community supervision sufficient to maintain order and remove the temptation of defendants residing at the facility to flee.

3. Living quarters for defendants referred to the facility shall be arranged in dormitories housing between four and six defendants.

(a) Dormitory facilities for men and women admitted to the facility shall be maintained separately.

(b) Dormitory facilities for minors shall be maintained separately from dormitory facilities for adults.

§ 23.04 Admission to a dedicated opioid rehabilitation treatment facility.

1. Admission to a dedicated opioid rehabilitation treatment facility shall be allowed only upon referral by a drug court to the facility pursuant to the provisions of a sentencing agreement as provided in section 23.06 of this article.

2. Admission shall be made solely for the purpose of long-term, secured residential treatment of opioid abuse and addiction.

3. A defendant who has been charged with a class A or class B felony or of a violent felony offense as described in section 70.02 of the penal law shall not be a candidate for admission to a dedicated opioid rehabilitation facility.

4. A defendant shall not be a candidate for admission to the facility if, in the discretion of the sentencing court, such person is deemed to be a danger to themself or to other people, or to be a high flight risk.

5. A minor who meets the criteria for admission as described in this section may be admitted to the facility, subject to the provisions of section 23.07 of this article.

6. A dedicated opioid rehabilitation facility shall have the right to refuse admission to a defendant whom the facility does not deem a suitable candidate for successful completion of the programs offered by the facility.

§ 23.05 Referral to a dedicated opioid rehabilitation facility by an opioid court.

1. A judge of a drug court, in such judge's discretion, and in accordance with the provisions of section 216.05 of the criminal procedure law and of this article, may order a defendant to enter treatment at a dedicated opioid rehabilitation facility. Any such order shall be dependent upon approval by the court of a sentencing agreement as provided in section 23.06 of this article.

2. Notwithstanding the provisions of subdivision one of this section, a judge shall not be required to approve a sentencing agreement for referral to a dedicated opioid rehabilitation facility, if, in the judge's discretion, the judge determines that such defendant is not a suitable candidate for admission to such facility because:

(a) the defendant is deemed to be a danger to themself or to other people;

(b) the defendant is deemed to be a high flight risk;

(c) the defendant suffers from substantial mental illness which is not related to the defendant's opioid abuse or addiction, excluding mental illness such as depression which may be related to the opioid use;

(d) the defendant's past history indicates that the defendant would not successfully complete the facility program;

(e) of the nature and severity of the crime which with the defendant is charged; or

(f) of such other reason as the judge, in the judge's sole discretion may determine.

3. (a) Prior relapse in an alternate drug court treatment program or a private or public treatment program shall not be a prerequisite to admission to a dedicated opioid rehabilitation facility.

(b) A defendant who has relapsed two or more times in an alternate drug court treatment program shall be referred for admission to a dedicated opioid rehabilitation facility or ordered to be incarcerated.

4. (a) An opioid addicted or opioid abusing defendant who has been sentenced to incarceration in a correctional facility by a drug court shall be eligible to petition the sentencing court for reconsideration of sentencing and consideration for an order of the court directing admission of the defendant to a dedicated opioid rehabilitation facility in accordance with the provisions of this article, provided that:

(i) at least one year remains on such defendant's sentence of incarceration; or

(ii) if less than one year remains on such defendant's sentence of incarceration, such defendant agrees to remain at the dedicated opioid rehabilitation facility for a period of not less than one year.

(b) The granting of a petition described in this subdivision shall be in the sole discretion of the court.

5. Nothing in this article shall prohibit a sentencing judge from sentencing a defendant to incarceration in lieu of admission to a dedicated opioid rehabilitation facility.

§ 23.06 Sentencing agreement.

1. Prior to the issuance of an order directing entry into treatment at a dedicated opioid rehabilitation facility as provided in section 23.05 of this article, the defendant, the defendant's attorney and the district attorney, or the district attorney's designee, shall enter into a written sentencing agreement as provided in this section and in section 216.05 of the criminal procedure law. Such agreement shall be incorporated into the record and shall be approved by the court prior to the issuance of an order; provided, however, that the court is not required to approve any agreement which the sentencing judge finds deficient or inappropriate given the circumstances of the case. A copy of such agreement shall be provided to the defendant, to the defendant's attorney and to the dedicated opioid rehabilitation facility the defendant is ordered to attend.

2. In the case of a defendant who is a minor, such defendant's parent or guardian shall also be required to consent to the agreement on behalf of the minor unless the court determines that parental or guardian involvement would have a detrimental effect on the course of treatment of the minor or is not in the best interests of the minor. In the case of a minor who is in the care and custody of the state, consent to the agreement shall be obtained from the appropriate representative of the department of social services or agency with which the minor was placed.

3. In addition to any requirements specified in section 216.05 of the criminal procedure law, a sentencing agreement recommending diversion to an opioid rehabilitation facility shall include the following provisions:

(a) the defendant's agreement to reside at the facility for a period of not less than one year nor more than two years, with the length of time being determined by the rehabilitation progress the defendant makes;

(b) the defendant's agreement to be physically incarcerated at the facility in lieu of being incarcerated at a correctional facility;

(c) a statement by the defendant that the defendant understands that the determination of the defendant's readiness to leave the facility shall be made by staff at the facility; and

(d) a statement by the defendant that the defendant understands and agrees that if the defendant does not comply with the treatment program at the facility, any time spent at the facility shall not be credited toward the defendant's sentence.

§ 23.07 Minors.

1. In treating a minor at a dedicated opioid rehabilitation treatment facility, the important role of the parents or guardians shall be recognized. Steps shall be taken to involve the parents or guardians in the course of treatment, unless in the judgment of a licensed health care provider treating the minor, parental or guardian involvement would have a detrimental effect on the course of treatment of the minor or is not in the best interests of the minor.

2. Treatment of a minor may be provided to the minor by a licensed health care provider operating through the facility, or a person operating under such health care provider's supervision, without the consent or involvement of the minor's parent or guardian. In the case of the treatment of a minor who is in the care and custody of the state, treatment of a minor may be provided to the minor by a licensed health care

provider operating through the facility, or a person operating under such health care provider's supervision, without the consent or involvement of the department of social services or agency with which the minor was placed.

§ 23.08 Discharge from a dedicated opioid rehabilitation facility.

1. A defendant shall be discharged from a dedicated opioid rehabilitation facility upon the occurrence of the first of:

(a) a determination by the facility health care providers or by a licensed health care provider designated by the sentencing drug court, or by the opioid court if the defendant's case has been transferred to an opioid court, that the defendant has made sufficient progress in rehabilitation to leave the facility program, provided that such determination shall not be made until the defendant has completed at least one year of successful treatment at the facility;

(b) the expiration of two years at the facility, regardless of whether the defendant has successfully completed the facility rehabilitation program;

(c) the defendant's refusal to cooperate with the facility rehabilitation program requirements or to continue in the facility rehabilitation program;

(d) the defendant's medical or psychological inability to continue in the facility rehabilitation program due to a medical or psychological condition or event clinically unrelated to the defendant's opioid addiction; or

(e) at the request of the facility to the court for removal of the defendant from the facility.

2. A defendant who is discharged from the facility pursuant to paragraph (a) of subdivision one of this section shall be referred by the facility, upon approval by the sentencing court, to a halfway house and support program pursuant to section 23.09 of this article.

3. A defendant who is discharged from the facility pursuant to paragraph (b) of subdivision one of this section shall be re-sentenced by the sentencing court, or by the nearest opioid court if such defendant's case has been transferred to the opioid court, to serve the remaining balance of such defendant's sentence at an alternative rehabilitation program or at a correctional institution, in the court's discretion. The facility health care provider or providers who treated the defendant during the facility rehabilitation program shall provide the sentencing court with a written report or reports detailing the defendant's progress or lack of progress in the program. If, in the opinion of the facility health care providers, the defendant has evidenced a desire to overcome the defendant's addiction or abuse issues, and made substantive progress toward doing so, the defendant shall receive credit toward time served for the defendant's time at the dedicated opioid rehabilitation facility. If, in the opinion of the facility health care providers, the defendant has not evidenced a desire to overcome the defendant's addiction or abuse issues, or not made substantive progress toward doing so, the defendant shall not receive credit toward time served for the defendant's time at the dedicated opioid rehabilitation facility.

4. A defendant who is discharged from the facility pursuant to paragraph (c) of subdivision one of this section shall be re-sentenced by the sentencing court, or by the nearest opioid court if such defendant's case has been transferred to the opioid court, to serve the remaining balance of such defendant's sentence at a correctional institution. The facility health care provider or providers who treated the defendant during the facility rehabilitation program shall provide the court with

a written report or reports detailing the defendant's progress or lack of progress in the program. If, in the opinion of the facility health care providers, the defendant has not evidenced a desire to overcome the defendant's addiction or abuse issues, or made substantive progress toward doing so, the defendant shall not receive credit toward time served for the defendant's time at the dedicated opioid rehabilitation facility. Such defendant shall not be eligible for diversion to any other rehabilitation program in lieu of incarceration for a period of at least one year; provided, however, that nothing in this subdivision shall prevent a defendant from participating in a rehabilitation program while at the correctional institution.

5. (a) A defendant who is discharged from a dedicated opioid rehabilitation facility pursuant to paragraph (d) of subdivision one of this section shall be eligible to return to the opioid rehabilitation facility upon completion of any necessary medical or psychological treatment, if the defendant is medically and psychologically capable of return to the facility and continued participation in the facility's rehabilitation program. Such return to the facility, or alternative sentencing, shall be in the discretion of the court, or the nearest opioid court if such defendant's case has been transferred to the opioid court.

(b) The facility health care provider or providers who treated the defendant during the facility rehabilitation program shall provide the court with a written report or reports detailing the defendant's progress or lack of progress in the program prior to the onset of the defendant's inability to continue in the facility rehabilitation program.

(i) If, in the opinion of the facility health care providers, the defendant has evidenced a desire to overcome the defendant's addiction or abuse issues, or has made substantive progress toward doing so, the defendant shall be allowed to return to the dedicated opioid rehabilitation facility.

(ii) If, in the opinion of the facility health care providers, the defendant has not evidenced a desire to overcome the defendant's addiction or abuse issues or has not made substantive progress toward doing so, the defendant shall not be allowed to return to the facility and shall not receive credit toward time served for the defendant's time at the dedicated opioid rehabilitation facility.

(c) If during the period of the defendant's treatment for the medical or psychological condition that gave rise to the inability to continue in the facility rehabilitation program, the provisions of paragraph (a) or (b) of subdivision one of this section apply, the provisions of subdivisions two or three of this section, as applicable, shall be controlling.

6. A defendant who is discharged from the facility pursuant to paragraph (e) of subdivision one of this section shall not be eligible to return to the facility.

§ 23.09 Treatment following discharge from a dedicated opioid rehabilitation facility.

1. A defendant who is discharged from a dedicated opioid rehabilitation facility pursuant to paragraph (a) of subdivision one of section 23.08 of this article shall be required by the court to reside at a halfway house to reintegrate the defendant into society for a minimum period of two months up to a maximum period of two years.

2. A defendant who is discharged from a dedicated opioid rehabilitation facility pursuant to paragraph (b) of subdivision one of section 23.08 of this article and subsequently sentenced to serve the remaining

balance of or a portion of such defendant's sentence at an alternative rehabilitation program shall be required by the court to reside at a halfway house to reintegrate the defendant into society for a minimum period of two months up to a maximum period of two years following successful completion of the alternative rehabilitation program.

3. In the discretion of the counselors at the halfway house, a defendant may be required to attend one year of relapse prevention counseling subsequent to leaving the halfway house.

4. (a) In the discretion of the sentencing court, or the nearest opioid court if such defendant's case has been transferred to the opioid court, a defendant who has been in compliance with the programs at the dedicated opioid rehabilitation facility program and the halfway house and with all alternative rehabilitation and support programs shall be eligible for probation or other disposition of the defendant's case in accordance with the provisions of subdivision ten of section 216.05 of the criminal procedure law. Time served in the dedicated opioid rehabilitation facility program, the halfway house and other alternative rehabilitation and support programs shall be credited toward the time remaining on the defendant's sentence.

(b) If a defendant relapses into opioid addiction or abuse while on probation, the court may revoke the sentence of probation in accordance with article four hundred ten of the criminal procedure law. In such case, the defendant will lose credit for time served in the dedicated opioid rehabilitation facility program, the halfway house and with all alternative rehabilitation and support programs.

(c) Notwithstanding the provisions of paragraph (b) of this subdivision, a defendant who has been discharged from the halfway house and is on probation may voluntarily seek additional treatment through the court, including a return to the mandatory rehabilitation program or an alternative rehabilitation or support program, or seek additional treatment at a private or public facility, without loss of credit for time served in the dedicated opioid rehabilitation facility program, the halfway house and with all alternative rehabilitation and support programs.

§ 23.10 Court appearances.

1. While residing at a dedicated opioid rehabilitation facility, a defendant shall attend requisite appearances before the sentencing court, provided such court is located within thirty miles of the facility. Transportation to the court shall be provided by the department of corrections. With the permission of the`sentencing court, and in accordance with guidelines promulgated by the chief administrator of the court, the defendant may make an appearance at such hearing by electronic means in lieu of in-person attendance.

2. If the sentencing drug court is located more than thirty miles from the dedicated opioid rehabilitation facility, the sentencing court shall transfer the defendant's case to the nearest opioid court, in accordance with guidelines promulgated by the chief administrator of the court.

§ 23.11 Records.

1. After the admission of any defendant, the director of a dedicated opioid rehabilitation facility shall, within five days excluding Sunday and holidays, forward to the office such information from the record in such time and manner as the commissioner shall require by regulation. Such information from the record in the office shall be accessible only in the manner set forth in sections 33.13 and 33.16 of this chapter.

2. All records of identity, diagnosis, prognosis, or treatment in connection with a person's receipt of chemical dependence services shall

be confidential and shall be released only in accordance with applicable provisions of the public health law, any other state law, federal law and duly executed court orders.

§ 23.12 Limitations.

1. A defendant shall not be eligible for referral to a dedicated opioid rehabilitation facility more than two times, regardless of whether the defendant completes the program offered by the facility. Notwithstanding the foregoing, if a defendant is unable to complete the course of treatment at a dedicated opioid rehabilitation facility due to a medical or psychological condition or event clinically unrelated to the defendant's opioid addiction, in the discretion of the sentencing court, or the opioid court if the defendant's case has been transferred to the opioid court, the defendant shall be eligible to return to the dedicated opioid rehabilitation facility upon completion of any necessary medical or psychological treatment, in accordance with subdivision five of section 23.08 of this article.

2. Referral to a dedicated opioid rehabilitation facility shall only be made in the case of a defendant whose primary addiction is to opioids. A defendant who is not addicted to opioids does not qualify for referral to a dedicated opioid rehabilitation facility, regardless of any other addictions or abuse issues the defendant has.

§ 23.13 Study.

Five years after the dedicated opioid rehabilitation facility commences operations, the commissioner shall provide the governor, the temporary president of the senate, the speaker of the assembly and the minority leaders of the senate and the assembly with a report evaluating whether the facility programs have resulted in a reduction of opioid use in the general population, the effect of treatment in helping reduce recidivism and whether there has been a cost savings to the state through treatment through the facility in lieu of incarceration, together with such other matters as the commissioner deems relevant.

§ 4. The opening paragraph of subdivision (b) of section 33.08 of the mental hygiene law, as added by chapter 709 of the laws of 1986, is amended to read as follows:

Any inpatient of a hospital operated by the office of mental health, a dedicated opioid rehabilitation facility or a state operated alcoholism facility shall be entitled to receive a monthly state payment for personal needs for each full calendar month commencing on or after the effective date of this section, in which the patient is in such hospital or alcoholism facility, if such patient also:

§ 5. Subdivision (f) of section 19.17 of the mental hygiene law, as amended by section 1 of part K of chapter 58 of the laws of 2009, is amended to read as follows:

(f) There shall be in the office the facilities named below for the care, treatment and rehabilitation of the mentally disabled and for clinical research and teaching in the science and skills required for the care, treatment and rehabilitation of such mentally disabled.

R.E. Blaisdell Addiction Treatment Center
Bronx Addiction Treatment Center
C.K. Post Addiction Treatment Center
Creedmoor Addiction Treatment Center
Dick Van Dyke Addiction Treatment Center
Kingsboro Addiction Treatment Center
McPike Addiction Treatment Center
Richard C. Ward Addiction Treatment Center
J.L. Norris Addiction Treatment Center

South Beach Addiction Treatment Center
St. Lawrence Addiction Treatment Center
Stutzman Addiction Treatment Center
A dedicated opioid rehabilitation facility established pursuant to article twenty-three of this title

§ 6. Subdivisions 4, 5, 6, 7 and 8 of section 216.05 of the criminal procedure law, as amended by chapter 435 of the laws of 2021, are amended to read as follows:

4. When an authorized court determines, pursuant to paragraph (b) of subdivision three of this section, that an eligible defendant should be offered alcohol or substance use treatment, or when the parties and the court agree to an eligible defendant's participation in alcohol or substance use treatment, an eligible defendant may be allowed to participate in the judicial diversion program offered by this article. Prior to the court's issuing an order granting judicial diversion, the eligible defendant shall be required to enter a plea of guilty to the charge or charges; provided, however, that no such guilty plea shall be required when:

(a) the people and the court consent to the entry of such an order without a plea of guilty; or

(b) based on a finding of exceptional circumstances, the court determines that a plea of guilty shall not be required. For purposes of this subdivision, exceptional circumstances exist when, regardless of the ultimate disposition of the case, the entry of a plea of guilty is likely to result in severe collateral consequences**; or**

(c) the defendant is ordered to enter a dedicated opioid rehabilitation program pursuant to article twenty-three of the mental hygiene law.

5. The defendant shall agree on the record or in writing to abide by the release conditions set by the court, which, shall include: participation in a specified period of alcohol or substance use treatment at a specified program or programs identified by the court, which may include periods of detoxification, residential or outpatient treatment, or both, as determined after taking into account the views of the health care professional who conducted the alcohol and substance use evaluation and any health care professionals responsible for providing such treatment or monitoring the defendant's progress in such treatment; and may include: (i) periodic court appearances, which may include periodic urinalysis; (ii) a requirement that the defendant refrain from engaging in criminal behaviors; (iii) if the defendant needs treatment for opioid use, that [~~he or she~~] **the defendant** may participate in and receive medically prescribed drug treatments under the care of a health care professional licensed or certified under title eight of the education law, acting within [~~his or her~~] **the healthcare professional's** lawful scope of practice, provided that no court shall require the use of any specified type or brand of drug during the course of medically prescribed drug treatments**; and (iv) if a defendant in a case brought in an opioid court needs treatment for opioid abuse or dependence, that the defendant may be referred to a dedicated opioid rehabilitation facility in accordance with the provisions of article twenty-three of the mental hygiene law**.

6. **(a)** Upon an eligible defendant's agreement to abide by the conditions set by the court, the court shall issue a securing order providing for bail or release on the defendant's own recognizance and conditioning any release upon the agreed upon conditions. The period of alcohol or substance use treatment shall begin as specified by the court and as

soon as practicable after the defendant's release, taking into account the availability of treatment, so as to facilitate early intervention with respect to the defendant's substance use or condition and the effectiveness of the treatment program. In the event that a treatment program is not immediately available or becomes unavailable during the course of the defendant's participation in the judicial diversion program, the court may release the defendant pursuant to the securing order.

(b) Upon the agreement of an eligible defendant in a case brought in an opioid court to abide by the conditions set by the court, the court shall issue an order directing the commitment of such defendant to a dedicated opioid rehabilitation facility in accordance with the provisions of article twenty-three of the mental hygiene law.

7. **(a)** When participating in judicial diversion treatment pursuant to this article, any resident of this state who is covered under a private health insurance policy or contract issued for delivery in this state pursuant to article thirty-two, forty-three or forty-seven of the insurance law or article forty-four of the public health law, or who is covered by a self-funded plan which provides coverage for the diagnosis and treatment of chemical abuse and chemical dependence however defined in such policy; shall first seek reimbursement for such treatment in accordance with the provisions of such policy or contract.

(b) In the case of a defendant ordered to enter a dedicated opioid rehabilitation facility in accordance with the provisions of article twenty-three of the mental hygiene law, who is covered under a private health insurance policy or contract issued for delivery in this state pursuant to article thirty-two, forty-three or forty-seven of the insurance law or article forty-four of the public health law, or who is covered by a self-funded plan which provides coverage for the diagnosis and treatment of chemical abuse and chemical dependence however defined in such policy, such defendant shall first seek reimbursement for such treatment in accordance with the provisions of such policy or contract at the time of admission to the dedicated opioid rehabilitation center and again upon discharge from such facility and resumption of treatment through any alternative in-patient or outpatient program.

8. During the period of a defendant's participation in the judicial diversion program, the court shall retain jurisdiction of the defendant, provided, however, that**, unless the defendant has been ordered to enter a dedicated opioid rehabilitation facility in accordance with the provisions of article twenty-three of the mental hygiene law,** the court may allow such defendant to (i) reside in another jurisdiction, or (ii) participate in alcohol and substance use treatment and other programs in the jurisdiction where the defendant resides or in any other jurisdiction, while participating in a judicial diversion program under conditions set by the court and agreed to by the defendant pursuant to subdivisions five and six of this section. The court may require the defendant to appear in court at any time to enable the court to monitor the defendant's progress in alcohol or substance use treatment. The court shall provide notice, reasonable under the circumstances, to the people, the treatment provider, the defendant and the defendant's counsel whenever it orders or otherwise requires the appearance of the defendant in court. Failure to appear as required without reasonable cause therefor shall constitute a violation of the conditions of the court's agreement with the defendant.

§ 7. Section 5 of the correction law is amended by adding a new subdivision 7 to read as follows:

7. The commissioner shall consult with the commissioner of addiction services and supports with respect to establishing a dedicated opioid rehabilitation facility for the purpose of providing long-term residential treatment of defendants referred to such facility from the Buffalo Opioid Intervention Court and the Bronx Opioid Avoidance and Recovery Court, as provided in article twenty-three of the mental hygiene law, and shall enter into agreements with the commissioner of addiction services and supports for the provision of security services at such facility or facilities.

§ 8. This act shall take effect January 1, 2026. Effective immediately, the addition, amendment, and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made and completed on or before such effective date.