

# STATE OF NEW YORK

9491

## IN ASSEMBLY

January 7, 2026

Introduced by M. of A. SIMONE -- 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 cases terminated due to mental disease or defect and to establishing reporting obligations regarding such cases

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

1 Section 1. Subdivision 2 of section 730.40 of the criminal procedure  
2 law, as amended by a chapter of the laws of 2025, amending the criminal  
3 procedure law relating to cases terminated due to mental disease or  
4 defect, as proposed in legislative bills numbers S. 1744-A and A.  
5 2440-A, is amended to read as follows:

6 2. (a)~~(1)~~ When a local criminal court has issued a final order of  
7 observation, it must:

8 [~~(A)~~] (1) order the appropriate institution [~~in which the defendant is~~  
9 ~~confined to make a single point of access referral for the defendant~~  
10 ~~with the appropriate agency closest to the defendant's last known county~~  
11 ~~of residence prior to discharge]~~ designated by the commissioner to  
12 provide for discharge planning pursuant to subdivisions (f) and (g) of  
13 section 29.15 of the mental hygiene law, if applicable, which shall  
14 include referrals to the single point of access or other outpatient  
15 providers, provided such referrals are clinically indicated. Nothing in  
16 this subparagraph shall be construed to require a referral to services  
17 for which the defendant is not eligible or where otherwise prohibited by  
18 law, including where patient consent is required and has not been  
19 provided; and

20 [~~(B)~~] (2) dismiss the accusatory instrument filed in such court  
21 against the defendant and such dismissal constitutes a bar to any  
22 further prosecution of the charge or charges contained in such accusato-  
23 ry instrument.

24 [~~(2)~~ ~~Each appropriate institution shall maintain records compiling all~~  
25 ~~discharge planning and single point of access referrals completed pursu-~~  
26 ~~ant to subparagraph one of this paragraph and submit de-identified bian-~~

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

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~~1 annual reports on such records to the commissioner and chief administra-  
2 tive judge of the courts.]~~

3 (b) When the defendant is in the custody of the commissioner pursuant  
4 to a final order of observation, the commissioner or such commissioner's  
5 designee, which may include the director of an appropriate institution,  
6 immediately upon the discharge of the defendant, must certify to such  
7 court that the commissioner or such commissioner's designee has complied  
8 with the notice provisions set forth in paragraph (a) of subdivision six  
9 of section 730.60 of this article and the referral provisions set forth  
10 in paragraph (a) of this subdivision. When the defendant is in the  
11 custody of the commissioner at the expiration of the period prescribed  
12 in a temporary order of observation, the proceedings in the local crimi-  
13 nal court that issued such order shall terminate for all purposes and  
14 the commissioner must promptly certify to such court and to the appro-  
15 priate district attorney that the defendant was in the commissioner's  
16 custody on such expiration date. Upon receipt of such certification, the  
17 court must dismiss the felony complaint filed against the defendant.

18 § 2. The mental hygiene law is amended by adding a new section 7.49 to  
19 read as follows:

20 § 7.49 Reporting obligations.

21 The office shall post annually on or before January first on its  
22 website:

23 (a) the number of defendants committed to the custody of the commis-  
24 sioner by a final order of observation issued pursuant to section 730.40  
25 of the criminal procedure law;

26 (b) the originating counties for such orders;

27 (c) the institutions to which the office designated such defendants  
28 for observation;

29 (d) for defendants observed at a hospital operated by the office, the  
30 rate of inpatient admission, the average length of stay, the number of  
31 defendants who were referred to additional services, the number of  
32 defendants who were not referred to additional services, and whether  
33 discharge planning was conducted; and

34 (e) for defendants observed at a hospital not operated by the office,  
35 the number of defendants admitted to the inpatient psychiatric unit and  
36 the number of defendants evaluated and discharged without inpatient  
37 admission.

38 § 3. This act shall take effect on the same date and in the same  
39 manner as a chapter of the laws of 2025, amending the criminal procedure  
40 law relating to cases terminated due to mental disease or defect, as  
41 proposed in legislative bills numbers S. 1744-A and A. 2440-A, takes  
42 effect; provided, however, section two of this act shall take effect  
43 January 1, 2027.