S T A T E O F N E W Y O R K

5871

2011-2012 Regular Sessions

I N S E N A T E

August 17, 2011

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

AN ACT to amend the mental hygiene law, in relation to requiring the service providers to provide notice to local law enforcement agencies of the presence of violent mentally disabled residents in community residences and supportive living facilities

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. The mental hygiene law is amended by adding a new section 31.37 to read as follows:

S 31.37 COMMUNITY RESIDENCES AND SUPPORTIVE LIVING FACILITIES; NOTICE OF VIOLENT RESIDENTS.

(A) FOR THE PURPOSES OF THIS SECTION, THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS:

1. "COMMUNITY RESIDENCE" SHALL HAVE THE SAME MEANING AS PROVIDED IN SUBDIVISION TWENTY-EIGHT OF SECTION 1.03 OF THIS CHAPTER, AND SHALL ALSO MEAN ANY RESIDENTIAL BUILDING THAT CONTAINS FIFTEEN OR MORE RESIDENTIAL UNITS, IN WHICH SUCH BUILDING A PROVIDER OF COMMUNITY SERVICES OR A NOT-FOR-PROFIT COMMUNITY SERVICE ORGANIZATION HAS PLACED PERSONS WHO SUFFER FROM A MENTAL ILLNESS OR DEVELOPMENTAL DISABILITY. PROVIDED, FURTHER, THAT SUCH RESIDENTIAL BUILDING SHALL BE CONSIDERED A COMMUNITY RESIDENCE ONLY IF MORE THAN TWENTY PERCENT OF THE RENTAL UNITS OF THE RESIDENTIAL BUILDING ARE LEASED TO PERSONS WHO SUFFER FROM A MENTAL ILLNESS OR A DEVELOPMENTAL DISABILITY WITH THE ASSISTANCE OF A PROVIDER OF COMMUNITY SERVICES OR A NOT-FOR-PROFIT COMMUNITY SERVICE ORGANIZATION, AND/OR ARE LEASED TO PROVIDERS OF COMMUNITY SERVICES OR NOT-FOR-PROFIT COMMUNITY SERVICE ORGANIZATIONS THAT LEASE RESIDENTIAL UNITS ON BEHALF OF PERSONS WHO SUFFER FROM A MENTAL ILLNESS OR A DEVELOPMENTAL DISABILITY.

2. "MENTAL HEALTH CARE PROFESSIONAL" MEANS A PHYSICIAN LICENSED PURSUANT TO ARTICLE ONE HUNDRED THIRTY-ONE OF THE EDUCATION LAW WHO IS

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

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CERTIFIED TO PRACTICE PSYCHIATRY, OR A PSYCHOLOGIST LICENSED PURSUANT TO ARTICLE ONE HUNDRED FIFTY-THREE OF THE EDUCATION LAW, AND SUCH PROFESSIONAL SHALL PROVIDE NOTICE OF EACH PERSON WHO HAS BEEN CERTIFIED AS A VIOLENT RESIDENT TO EACH PROVIDER OF COMMUNITY SERVICES OR NOT-FOR-PROFIT COMMUNITY SERVICE ORGANIZATION PROVIDING SERVICES TO SUCH PERSON.

3. "PROVIDER OF COMMUNITY SERVICES OR A NOT-FOR-PROFIT COMMUNITY SERVICE ORGANIZATION" MEANS ANY PERSON OR ENTITY PROVIDING CLINICAL, SOCIAL, REHABILITATIVE OR OTHER SERVICES, PROGRAMS AND RELATED ADMINISTRATIVE ACTIVITIES DESIGNED TO ENHANCE THE COMMUNITY LIVING SKILLS AND PREVENT UNNECESSARY HOSPITALIZATION OF MENTALLY ILL OR DEVELOPMENTALLY DISABLED PERSONS.

4. "SUPPORTIVE LIVING FACILITY" MEANS A COMMUNITY RESIDENCE, AS DEFINED IN SUBDIVISION ONE OF THIS SECTION, PROVIDING PRACTICE IN INDEPENDENT LIVING UNDER SUPERVISION, BUT NOT PROVIDING STAFF ON-SITE ON A TWENTY-FOUR HOUR PER DAY BASIS.

5. "VIOLENT RESIDENT" MEANS A RESIDENT OF A COMMUNITY RESIDENCE OR SUPPORTIVE LIVING FACILITY, WHO SUFFERS FROM A MENTAL ILLNESS OR A DEVELOPMENTAL DISABILITY, AND WHO HAS BEEN CERTIFIED BY A MENTAL HEALTH CARE PROFESSIONAL AS LIKELY TO CAUSE PHYSICAL HARM TO OTHER PERSONS, OR AS LIKELY TO CAUSE SUCH HARM TO OTHER PERSONS IF HE OR SHE CEASES TO UNDERGO NECESSARY TREATMENTS OR THERAPIES.

(B) UPON ADMITTANCE OF A VIOLENT RESIDENT TO A COMMUNITY RESIDENCE OR SUPPORTIVE LIVING FACILITY, THE PROVIDER OF COMMUNITY SERVICES OR NOT-FOR-PROFIT COMMUNITY SERVICE ORGANIZATION THAT PLACED SUCH RESIDENT SHALL PROVIDE WRITTEN NOTICE OF SUCH PLACEMENT OF A VIOLENT RESIDENT TO THE LOCAL LAW ENFORCEMENT AGENCIES HAVING JURISDICTION.

(C) ON OR BEFORE NOVEMBER FIRST EACH YEAR, EACH PROVIDER OF COMMUNITY SERVICES AND NOT-FOR-PROFIT COMMUNITY SERVICE ORGANIZATION WHICH HAS PLACED A VIOLENT RESIDENT IN A COMMUNITY RESIDENCE OR SUPPORTIVE LIVING FACILITY SHALL PROVIDE WRITTEN NOTICE OF ALL SUCH RESIDENTS TO THE LOCAL LAW ENFORCEMENT AGENCIES HAVING JURISDICTION OVER SUCH RESIDENCES AND FACILITIES.

(D) THE OFFICES OF MENTAL HEALTH AND THE OFFICE FOR PEOPLE WITH DEVELOPMENTAL DISABILITIES SHALL JOINTLY PROMULGATE AND ENFORCE SUCH RULES AND REGULATIONS AS SHALL BE NECESSARY TO IMPLEMENT THE PROVISIONS OF THIS SECTION.

S 2. This act shall take effect on the one hundred eightieth day after it shall have become a law; provided that, effective immediately, any rules and regulations necessary to implement the provisions of this act on its effective date are authorized and directed to be completed on or before such date.