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

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I N A S S E M B L Y

May 1, 2014

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

AN ACT to amend the mental hygiene law, in relation to community opioid rehabilitation program services act; and to amend the state finance law, in relation to establishing the opioid dependency services fund

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

Section 1. This act shall be known as the "community opioid rehabilitation program services act".

S 2. Legislative findings. The legislature finds that New York state is experiencing a shocking increase in opioid use in both its street and prescription forms. Heroin, in particular, is emerging as a public health concern in every community, but its rise is especially alarming in the state's smaller urban, suburban and rural areas. The increased incidence of heroin use largely involves young people who have turned to the drug, because of its relatively low cost and high accessibility, in light of recent efforts to curb accessibility to prescription opioids. Horrifying stories of opioid addiction, drug availability and use in our schools, as well as family tragedy in which a promising young life has ended with overdose, are becoming far too commonplace. Rising arrest rates of low-level dealers and addicts, often taking place in public areas like suburban mall parking lots, are further indication that the resurrection of this drug more commonly associated with street culture has permeated all sectors of society.

In addition, the legislature finds that the extent of the problem is widely recognized by professionals from all points on the front line as an emerging and significant public health issue.

The legislature further finds that significant savings will come to the taxpayers of New York through the elimination of prison beds throughout the state as the prison population declines, due in no small measure to reforms of drug laws enacted in the nineteen seventies. While there were more than 24,000 drug offenders in the state's prison population at the end of 1996, that number had diminished to less than 6,700 at the end of 2013. In its plan to consolidate with the closure of four

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

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facilities during the 2014-15 state fiscal year, the department of corrections and community supervision estimates an annual savings to the state's taxpayers of approximately $30 million.

Finally, the legislature finds that the savings from the closure of prison facilities which, by the department of corrections and community supervision's own estimate, is due largely to the diminishing sector of the prison population incarcerated for drug-related offenses, should be directed to community programs designed to address the growing public health epidemic of heroin and opiate addiction.

S 3. Section 1.03 of the mental hygiene law is amended by adding a new subdivision 59 to read as follows:

59. "COMMUNITY OPIOID REHABILITATION PROGRAM SERVICES" SHALL MEAN PROGRAMS AND SERVICES PROVIDED FOR THE CARE, TREATMENT AND REHABILITATION OF THOSE PERSONS WHO ARE DEPENDENT ON OPIOID SUBSTANCES, INCLUDING BUT NOT LIMITED TO:

(A) EMERGENCY AND CRISIS SERVICES PROVIDED IN A PROGRAM LICENSED, CERTIFIED, OPERATED, OR FUNDED BY THE OFFICE;

(B) CASE MANAGEMENT AND INTENSIVE CASE MANAGEMENT SERVICES;

(C) OUTPATIENT SERVICES WHICH PROVIDE AN ADEQUATE LEVEL OF TREATMENT AND REHABILITATION AS DETERMINED BY A LICENSED TREATMENT PROFESSIONAL PROVIDED IN A PROGRAM LICENSED, CERTIFIED, OPERATED OR FUNDED BY THE OFFICE;

(D) RESIDENTIAL SERVICES, OTHER THAN INPATIENT SERVICES, PROVIDED IN PROGRAMS LICENSED, CERTIFIED, OPERATED OR FUNDED BY THE OFFICE, WHICH MAY INCLUDE, BUT ARE NOT LIMITED TO, COMMUNITY RESIDENCES, RESIDENTIAL CARE CENTERS FOR ADULTS, FAMILY CARE HOMES, CRISIS RESIDENCE OR SUPPORTED HOUSING;

(E) OTHER SUPPORT SERVICES, INCLUDING, BUT NOT LIMITED TO, PSYCHIATRIC REHABILITATION, CLIENT ADVOCACY, SUPPORTED EMPLOYMENT, CONSUMER SELF-HELP, FAMILY SUPPORT, PEER SUPPORT AND VOCATIONAL TRAINING AS APPROVED BY THE OFFICE;

(F) ANY OTHER SERVICES THAT MEET THE NEEDS OF THOSE PERSONS WHO ARE DEPENDENT ON OPIOID SUBSTANCES.

(G) PREVENTIVE PROGRAMS AND PREVENTION SERVICES DESIGNED TO EDUCATE THE GENERAL PUBLIC ON THE DANGERS OF GENERAL OPIOID AND HEROIN ABUSE AND ADDICTION INCLUDING, BUT NOT LIMITED TO THE RISKS TO HEALTH AND QUALITY OF LIFE; THE TOLL OPIOID ADDICTION TAKES ON FAMILY MEMBERS; THE FINANCIAL COSTS ASSOCIATED WITH OPIOID ADDICTION; AND RECOGNIZING THE SIGNS OF OPIOID DEPENDENCY.

S 4. Section 19.09 of the mental hygiene law is amended by adding a new subdivision (i) to read as follows:

(I) THE COMMISSIONER OF MENTAL HEALTH SHALL, IN COOPERATION WITH THE COMMISSIONER OF HEALTH AND THE COMMISSIONER OF THE OFFICE OF ALCOHOLISM AND SUBSTANCE ABUSE SERVICES, PROMOTE, ESTABLISH, DEVELOP, COORDINATE, EVALUATE, AND CONDUCT PROGRAMS AND SERVICES OF PREVENTION, DIAGNOSIS, EXAMINATION, CARE, TREATMENT, AND REHABILITATION FOR THE BENEFIT OF PERSONS WHO ARE DEPENDENT ON OPIOID SUBSTANCES AND THEIR FAMILIES. SUCH PROGRAMS SHALL INCLUDE BUT NOT BE LIMITED TO INPATIENT, OUTPATIENT, PARTIAL HOSPITALIZATION, DAY CARE, EMERGENCY, REHABILITATIVE, COMMUNITY OPIOID REHABILITATION PROGRAMMATIC SERVICES, PURSUANT TO SECTION 41.59 OF THIS CHAPTER AND OTHER APPROPRIATE TREATMENTS AND SERVICES. HE OR SHE SHALL TAKE ALL ACTIONS THAT ARE NECESSARY, DESIRABLE, OR PROPER TO IMPLEMENT THE PURPOSES OF THIS CHAPTER AND TO CARRY OUT THE PURPOSES AND OBJECTIVES OF THE DEPARTMENT WITHIN THE AMOUNTS MADE AVAILABLE THEREFOR BY APPROPRIATION, GRANT, GIFT, DEVISE, BEQUEST, OR ALLOCATION FROM THE

OPIOID DEPENDENCY SERVICES FUND ESTABLISHED UNDER SECTION NINETY-SEVEN-PPPP OF THE STATE FINANCE LAW.

S 5. Subdivision (a) of section 41.13 of the mental hygiene law is amended by adding a new paragraph 17 to read as follows:

17. THE OFFICE OF MENTAL HEALTH AND THE OFFICE OF ALCOHOLISM AND SUBSTANCE ABUSE SERVICES SHALL ALSO BE RESPONSIBLE FOR SUCH PROGRAM DEVELOPMENT RELATING TO COMMUNITY OPIOID REHABILITATION PROGRAMMATIC SERVICES IN AREAS WHERE THE RESPONSIBLE LOCAL GOVERNMENT UNIT DOES NOT RECEIVE A GRANT OF STATE AID SPECIFICALLY FOR THE PURPOSE OF FUNDING COMMUNITY OPIOID REHABILITATION PROGRAMMATIC SERVICES PURSUANT TO THIS CHAPTER.

S 6. The mental hygiene law is amended by adding a new section 41.59 to read as follows:

S 41.59 COMMUNITY OPIOID REHABILITATION PROGRAM.

(A) COMMUNITY OPIOID REHABILITATION PROGRAM FUNDS SHALL BE ANNUALLY ALLOCATED BY THE COMMISSIONER BASED UPON THE FOLLOWING CRITERIA:

1. THE EFFICIENCY AND EFFECTIVENESS OF THE USE OF FUNDING WITHIN THE LOCAL GOVERNMENTAL UNIT FOR THE DELIVERY OF SERVICES TO PERSONS WHO ARE DEPENDENT ON OPIOID SUBSTANCES IN ORDER TO ASSURE THAT RESOURCES ARE MADE AVAILABLE TO FUND OPIOID REHABILITATION SERVICES TO PERSONS DISCHARGED INTO THE COMMUNITY; AND

2. OTHER RELEVANT FACTORS THAT REQUIRE THE MAINTENANCE OF EXISTING OPIOID DEPENDENCY SERVICES AND THE DEVELOPMENT OF NEW OPIOID DEPENDENCY SERVICES.

(B) AMOUNTS PROVIDED PURSUANT TO THIS SECTION SHALL ONLY BE USED TO FUND OPIOID REHABILITATION SERVICES, MENTAL HEALTH WORKFORCE RELATED ACTIVITIES, INCLUDING RECRUITMENT AND RETENTION INITIATIVES AND TRAINING PROGRAMS, AND OTHER GENERAL PROGRAMMATIC ACTIVITIES TO HELP ENSURE A STABLE MENTAL HEALTH SYSTEM. SUCH GRANTS AND OTHER FUNDS SHALL NOT BE USED FOR CAPITAL COSTS ASSOCIATED WITH THE DEVELOPMENT OF COMMUNITY CORRECTIONS REINVESTMENT SERVICES.

(C) PRIOR TO ENTERING INTO CONTRACTS FOR THE PROVISION OF SERVICES FUNDED PURSUANT TO THIS SECTION, THE OFFICE OF MENTAL HEALTH AND ANY LOCAL GOVERNMENTAL UNIT RECEIVING SUCH FUNDS SHALL CONSIDER THE FOLLOWING:

1. THE SERVICE NEEDS OF PERSONS WITH OPIOID SUBSTANCE DEPENDENCY IN THE GEOGRAPHICAL AREA IN WHICH THE OPIOID REHABILITATION PROGRAM OPERATES;

2. THE CAPACITY OF THE PROGRAM TO MEET IDENTIFIED SERVICE NEEDS AND SPECIFIED PERFORMANCE STANDARDS RELATED TO ACCESS, ADMISSION, REFERRAL, AND SERVICE COORDINATION AND DELIVERY;

3. THE EXTENT TO WHICH OPIOID REHABILITATION SERVICES AUTHORIZED BY THE CONTRACT ARE CONSISTENT AND INTEGRATED WITH THE PLAN PREPARED AND APPROVED PURSUANT TO THIS ARTICLE; AND

4. THE RELIABILITY AND CAPABILITY OF THE PROVIDER, INCLUDING ITS EXPERTISE, PRIOR EXPERIENCE, FINANCIAL RESPONSIBILITY, RECORD OF ADHERENCE TO LAW, RECORD OF PROVIDING QUALITY CARE AND SERVICES, AND ABILITY TO DELIVER APPROPRIATE SERVICES IN A COST-EFFECTIVE AND EFFICIENT MANNER TO PERSONS WITH OPIOID SUBSTANCE DEPENDENCY. THE COMMISSIONER IS AUTHORIZED TO PROMULGATE REGULATIONS TO ESTABLISH MINIMUM CONTRACTUAL OBLIGATIONS IN ACCORDANCE WITH THE PROVISIONS OF THIS SUBDIVISION.

(D) THE COMMISSIONER IS AUTHORIZED AND EMPOWERED TO MAKE INSPECTIONS AND EXAMINE RECORDS OF A LOCAL GOVERNMENTAL UNIT RECEIVING STATE AID UNDER THIS SECTION. SUCH EXAMINATION SHALL INCLUDE ALL MEDICAL, SERVICE AND FINANCIAL RECORDS, RECEIPTS, DISBURSEMENTS, CONTRACTS, LOANS AND OTHER MONEYS RELATING TO THE FINANCIAL OPERATION OF THE PROVIDER.

(E) FOR PURPOSES OF THIS SECTION, THE TERM "STATE OPERATIONS GENERAL FUND" SHALL MEAN THE OFFICE OF MENTAL HEALTH STATE OPERATIONS GENERAL FUND APPROPRIATIONS BEFORE ANY OFFSET FROM THE SPECIAL REVENUE FUNDS, OTHER MISCELLANEOUS SPECIAL REVENUE FUND OR MENTAL HYGIENE PATIENT INCOME ACCOUNT.

S 7. The state finance law is amended by adding a new section 97-pppp to read as follows:

S 97-PPPP. OPIOID DEPENDENCY SERVICES FUND. 1. THERE IS HEREBY ESTABLISHED IN THE JOINT CUSTODY OF THE COMPTROLLER AND THE COMMISSIONER OF TAXATION AND FINANCE A DEBT SERVICE FUND TO BE KNOWN AS THE "OPIOID DEPENDENCY SERVICES FUND".

2. THE OPIOID DEPENDENCY SERVICES FUND SHALL CONSIST OF THE ANNUAL SAVINGS FROM THE DOWNSIZING OF FACILITIES UNDER THE DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION, AS DETERMINED IN THE ANNUAL BUDGET AND SHALL INCLUDE THE AMOUNT OF ACTUAL STATE OPERATIONS GENERAL FUND APPROPRIATION REDUCTIONS, INCLUDING PERSONAL SERVICE SAVINGS AND OTHER THAN PERSONAL SERVICE SAVINGS DIRECTLY ATTRIBUTED TO CORRECTIONAL FACILITY CLOSURES. THE METHODOLOGIES USED TO CALCULATE THE CLOSURE SAVINGS SHALL BE DEVELOPED BY THE COMMISSIONER OF TAXATION AND FINANCE AND THE DIRECTOR OF THE BUDGET. THE ANNUAL APPROPRIATION TO THE OPIOID DEPENDENCY SERVICES FUND SHALL AT NO TIME BE LESS THAN THIRTY MILLION DOLLARS. IN THE EVENT THAT TWENTY PERCENT OF THE ANNUAL SAVINGS FROM DOWNSIZING IS LESS THAN THIRTY MILLION DOLLARS, APPROPRIATION FROM THE STATE OPERATIONS GENERAL FUND SHALL MAKE UP THE SHORTFALL.

3. MONEYS IN THE OPIOID DEPENDENCY SERVICES FUND SHALL BE KEPT SEPARATE AND SHALL NOT BE COMMINGLED WITH ANY OTHER MONEYS IN THE CUSTODY OF THE COMPTROLLER. ALL DEPOSITS OF SUCH MONEYS SHALL BE SECURED BY OBLIGATIONS OF THE UNITED STATES OR OF THE STATE OF MARKET VALUE EQUAL AT ALL TIMES TO THE AMOUNT OF THE DEPOSIT AND ALL BANKS AND TRUST COMPANIES ARE AUTHORIZED TO GIVE SUCH SECURITIES FOR SUCH DEPOSITS.

4. ANY MONEYS IN THE OPIOID DEPENDENCY SERVICES FUND MAY BE INVESTED BY THE COMPTROLLER IN OBLIGATIONS OF THE UNITED STATES OR THE STATE OR OBLIGATIONS THE PRINCIPAL AND INTEREST OF WHICH ARE GUARANTEED BY THE UNITED STATES OR THE STATE.

S 8. This act shall take effect immediately.