

4377

2013-2014 Regular Sessions

I N S E N A T E

March 25, 2013

Introduced by Sen. YOUNG -- read twice and ordered printed, and when printed to be committed to the Committee on Mental Health and Developmental Disabilities

AN ACT to amend the mental hygiene law, in relation to involuntary and emergency admissions of the mentally ill

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

1 Section 1. Section 9.01 of the mental hygiene law, as amended by chap-
2 ter 723 of the laws of 1989, the seventh undesignated paragraph as
3 amended by chapter 595 of the laws of 2000, is amended to read as
4 follows:
5 S 9.01 Definitions.
6 As used in this article:
7 "in need of care and treatment" means that a person has a mental
8 illness for which in-patient care and treatment in a hospital is appro-
9 priate.
10 "in need of involuntary care and treatment" means that a person has a
11 mental illness for which care and treatment as a patient in a hospital
12 is essential to such person's welfare and [whose] WHICH SO IMPAIRS THE
13 PERSON'S judgment [is so impaired] that he OR SHE is unable to under-
14 stand the need for such care and treatment.
15 ["likelihood to result in serious harm" or] "likely to result in seri-
16 ous PHYSICAL harm" means [(a)] POSING a substantial risk of : (A) SERI-
17 OUS physical harm to the person as manifested by threats of or attempts
18 at suicide or serious bodily harm, CONDUCT DEMONSTRATING THAT THE PERSON
19 IS UNABLE TO MEET HIS OR HER NEEDS FOR NOURISHMENT, MEDICAL CARE, SHEL-
20 TER OR SELF-PROTECTION WITHOUT THE ASSISTANCE OF OTHERS, or other
21 conduct demonstrating that the person is dangerous to himself or
22 herself[,]; or (b) [a substantial risk of physical harm to other persons
23 as manifested by homicidal or other violent behavior by which others are

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

LBD09408-01-3

placed in reasonable fear of] serious physical harm TO OTHERS AS MANIFESTED BY VIOLENT OR IMPRUDENT BEHAVIOR OR THREATS.

"LIKELY TO RESULT IN SERIOUS PSYCHIATRIC HARM" MEANS SIGNIFICANTLY IMPAIRING THE PERSON'S ABILITY TO MAKE AN INFORMED DECISION REGARDING MENTAL HEALTH TREATMENT AND POSING A SUBSTANTIAL RISK OF SEVERE DETERIORATION OF THE PERSON'S CAPACITY FOR JUDGMENT, REASON OR SELF-MANAGEMENT.

"need for retention" means [that] THE NEED OF a person who has been admitted to a hospital pursuant to this article [is in need] FOR A FURTHER PERIOD of involuntary care and treatment in a hospital [for a further period]. IN DETERMINING THE NEED FOR RETENTION, A PHYSICIAN SHALL CONSIDER THE PERSON'S CURRENT CONDITION AND PREPAREDNESS, WITH APPROPRIATE AND AVAILABLE SUPPORT, TO ADHERE TO ESSENTIAL OUTPATIENT TREATMENT AND REFRAIN FROM ABUSING SUBSTANCES WHICH IMPERIL HIS OR HER MENTAL HEALTH.

"record" of a patient shall consist of admission, transfer or retention papers and orders, and accompanying data required by this article and by the regulations of the commissioner.

"director of community services" means the director of community services for the mentally disabled appointed pursuant to article forty-one of this chapter.

"qualified psychiatrist" means a physician licensed to practice medicine in New York state who: (a) is a diplomate of the American board of psychiatry and neurology or is eligible to be certified by that board; or (b) is certified by the American osteopathic board of neurology and psychiatry or is eligible to be certified by that board.

S 2. Subdivisions (a) and (c) of section 9.37 of the mental hygiene law, subdivision (a) as amended by chapter 723 of the laws of 1989 and subdivision (c) as amended by chapter 230 of the laws of 2004, are amended to read as follows:

(a) The director of a hospital, upon application by a director of community services or an examining physician duly designated by him or her, may receive and care for in such hospital as a patient any person who, in the opinion of the director of community services or the director's designee, has a mental illness for which immediate inpatient care and treatment in a hospital is appropriate and which is likely to result in serious PHYSICAL harm [to himself or herself] or [others] SERIOUS PSYCHIATRIC HARM.

The need for immediate hospitalization shall be confirmed by a staff physician of the hospital prior to admission. Within seventy-two hours, excluding Sunday and holidays, after such admission, if such patient is to be retained for care and treatment beyond such time and he or she does not agree to remain in such hospital as a voluntary patient, the certificate of another examining physician who is a member of the psychiatric staff of the hospital that the patient is in need of involuntary care and treatment shall be filed with the hospital. From the time of his or her admission under this section the retention of such patient for care and treatment shall be subject to the provisions for notice, hearing, review, and judicial approval of continued retention or transfer and continued retention provided by this article for the admission and retention of involuntary patients, provided that, for the purposes of such provisions, the date of admission of the patient shall be deemed to be the date when the patient was first received in the hospital under this section.

(c) Notwithstanding the provisions of subdivision (b) of this section, in counties with a population of less than two hundred thousand, a

1 director of community services who is a licensed psychologist pursuant
2 to article one hundred fifty-three of the education law or a licensed
3 clinical social worker pursuant to article one hundred fifty-four of the
4 education law but who is not a physician may apply for the admission of
5 a patient pursuant to this section without a medical examination by a
6 designated physician, if a hospital approved by the commissioner pursu-
7 ant to section 9.39 of this article is not located within thirty miles
8 of the patient, and the director of community services has made a
9 reasonable effort to locate a designated examining physician but such a
10 designee is not immediately available and the director of community
11 services, after personal observation of the person, reasonably believes
12 that he OR SHE may have a mental illness which is likely to result in
13 serious PHYSICAL harm [to himself] or [others] SERIOUS PSYCHIATRIC HARM
14 and inpatient care and treatment of such person in a hospital may be
15 appropriate. In the event of an application pursuant to this subdivi-
16 sion, a physician of the receiving hospital shall examine the patient
17 and shall not admit the patient unless he or she determines that the
18 patient has a mental illness for which immediate inpatient care and
19 treatment in a hospital is appropriate and which is likely to result in
20 serious harm to himself or others. If the patient is admitted, the need
21 for hospitalization shall be confirmed by another staff physician within
22 twenty-four hours. An application pursuant to this subdivision shall be
23 in writing and shall be filed with the director of such hospital at the
24 time of the patient's reception, together with a statement in a form
25 prescribed by the commissioner giving such information as he may deem
26 appropriate, including a statement of the efforts made by the director
27 of community services to locate a designated examining physician prior
28 to making an application pursuant to this subdivision.

29 S 3. Subdivision (a) of section 9.37 of the mental hygiene law, such
30 section as renumbered by chapter 978 of the laws of 1977, is amended to
31 read as follows:

32 (a) The director of a hospital, upon application by a director of
33 community services or an examining physician duly designated by him OR
34 HER, may receive and care for in such hospital as a patient any person
35 who, in the opinion of the director of community services or his OR HER
36 designee, has a mental illness for which immediate inpatient care and
37 treatment in a hospital is appropriate and which is likely to result in
38 serious PHYSICAL harm [to himself or others; "likelihood of serious
39 harm" shall mean:

40 1. substantial risk of physical harm to himself as manifested by
41 threats of or attempts at suicide or serious bodily harm or other
42 conduct demonstrating that he is dangerous to himself, or

43 2. a substantial risk of physical harm to other persons as manifested
44 by homicidal or other violent behavior by which others are placed in
45 reasonable fear] or serious [physical] PSYCHIATRIC harm.

46 The need for immediate hospitalization shall be confirmed by a staff
47 physician of the hospital prior to admission. Within seventy-two hours,
48 excluding Sunday and holidays, after such admission, if such patient is
49 to be retained for care and treatment beyond such time and he OR SHE
50 does not agree to remain in such hospital as a voluntary patient, the
51 certificate of another examining physician who is a member of the
52 psychiatric staff of the hospital that the patient is in need of invol-
53 untary care and treatment shall be filed with the hospital. From the
54 time of his OR HER admission under this section the retention of such
55 patient for care and treatment shall be subject to the provisions for
56 notice, hearing, review, and judicial approval of continued retention or

1 transfer and continued retention provided by this article for the admis-
2 sion and retention of involuntary patients, provided that, for the
3 purposes of such provisions, the date of admission of the patient shall
4 be deemed to be the date when the patient was first received in the
5 hospital under this section.

6 S 4. Subdivision (a) of section 9.39 of the mental hygiene law, as
7 amended by chapter 789 of the laws of 1985, is amended to read as
8 follows:

9 (a) The director of any hospital maintaining adequate staff and facil-
10 ities for the observation, examination, care, and treatment of persons
11 alleged to be mentally ill and approved by the commissioner to receive
12 and retain patients pursuant to this section may receive and retain
13 therein as a patient for a period of fifteen days any person alleged to
14 have a mental illness for which immediate observation, care, and treat-
15 ment in a hospital is appropriate and which is likely to result in seri-
16 ous PHYSICAL harm [to himself or others. "Likelihood to result in seri-
17 ous harm" as used in this article shall mean:

18 1. substantial risk of physical harm to himself as manifested by
19 threats of or attempts at suicide or serious bodily harm or other
20 conduct demonstrating that he is dangerous to himself, or

21 2. a substantial risk of physical harm to other persons as manifested
22 by homicidal or other violent behavior by which others are placed in
23 reasonable fear of] OR serious [physical] PSYCHIATRIC harm.

24 The director shall cause to be entered upon the hospital records the
25 name of the person or persons, if any, who have brought such person to
26 the hospital and the details of the circumstances leading to the hospi-
27 talization of such person.

28 The director shall admit such person pursuant to the provisions of
29 this section only if a staff physician of the hospital upon examination
30 of such person finds that such person qualifies under the requirements
31 of this section. Such person shall not be retained for a period of more
32 than forty-eight hours unless within such period such finding is
33 confirmed after examination by another physician who shall be a member
34 of the psychiatric staff of the hospital. Such person shall be served,
35 at the time of admission, with written notice of his OR HER status and
36 rights as a patient under this section. Such notice shall contain the
37 patient's name. At the same time, such notice shall also be given to the
38 mental hygiene legal service and personally or by mail to such person or
39 persons, not to exceed three in number, as may be designated in writing
40 to receive such notice by the person alleged to be mentally ill. If at
41 any time after admission, the patient, any relative, friend, or the
42 mental hygiene legal service gives notice to the director in writing of
43 request for court hearing on the question of need for immediate observa-
44 tion, care, and treatment, a hearing shall be held as herein provided as
45 soon as practicable but in any event not more than five days after such
46 request is received, except that the commencement of such hearing may be
47 adjourned at the request of the patient. It shall be the duty of the
48 director upon receiving notice of such request for hearing to forward
49 forthwith a copy of such notice with a record of the patient to the
50 supreme court or county court in the county where such hospital is
51 located. A copy of such notice and record shall also be given the mental
52 hygiene legal service. The court which receives such notice shall fix
53 the date of such hearing and cause the patient or other person request-
54 ing the hearing, the director, the mental hygiene legal service and such
55 other persons as the court may determine to be advised of such date.
56 Upon such date, or upon such other date to which the proceeding may be

1 adjourned, the court shall hear testimony and examine the person alleged
2 to be mentally ill, if it be deemed advisable in or out of court, and
3 shall render a decision in writing that there is reasonable cause to
4 believe that the patient has a mental illness for which immediate inpa-
5 tient care and treatment in a hospital is appropriate and which is like-
6 ly to result in serious PHYSICAL harm [to himself or others] OR SERIOUS
7 PSYCHIATRIC HARM. If it be determined that there is such reasonable
8 cause, the court shall forthwith issue an order authorizing the
9 retention of such patient for any such purpose or purposes in the hospi-
10 tal for a period not to exceed fifteen days from the date of admission.
11 Any such order entered by the court shall not be deemed to be an adjudi-
12 cation that the patient is mentally ill, but only a determination that
13 there is reasonable cause to retain the patient for the purposes of this
14 section.

15 S 5. Subdivisions (a) and (b) of section 9.40 of the mental hygiene
16 law, as added by chapter 723 of the laws of 1989, are amended to read as
17 follows:

18 (a) The director of any comprehensive psychiatric emergency program
19 may receive and retain therein for a period not to exceed seventy-two
20 hours, any person alleged to have a mental illness for which immediate
21 observation, care and treatment in such program is appropriate and which
22 is likely to result in serious PHYSICAL harm [to the person] or [others]
23 SERIOUS PSYCHIATRIC HARM. The director shall cause to be entered upon
24 the program records the name of the person or persons, if any, who have
25 brought the person alleged to have a mental illness to the program and
26 the details of the circumstances leading the person or persons to bring
27 the person alleged to have a mental illness to the program.

28 (b) The director shall cause examination of such persons to be initi-
29 ated by a staff physician of the program as soon as practicable and in
30 any event within six hours after the person is received into the
31 program's emergency room. Such person may be retained for observation,
32 care and treatment and further examination for up to twenty-four hours
33 if, at the conclusion of such examination, such physician determines
34 that such person may have a mental illness for which immediate observa-
35 tion, care and treatment in a comprehensive psychiatric emergency
36 program is appropriate, and which is likely to result in serious PHYS-
37 ICAL harm [to the person] or [others] SERIOUS PSYCHIATRIC HARM.

38 S 6. Section 9.41 of the mental hygiene law, as amended by chapter 723
39 of the laws of 1989, is amended to read as follows:

40 S 9.41 Emergency admissions for immediate observation, care, and treat-
41 ment; powers of certain peace officers and police officers.

42 Any peace officer, when acting pursuant to his or her special duties,
43 or police officer who is a member of the state police or of an author-
44 ized police department or force or of a sheriff's department may take
45 into custody any person who appears to be mentally ill and is conducting
46 himself or herself in a manner which is likely to result in serious
47 PHYSICAL harm [to the person or others]. Such officer may direct the
48 removal of such person or remove him or her to any hospital specified in
49 subdivision (a) of section 9.39 or any comprehensive psychiatric emer-
50 gency program specified in subdivision (a) of section 9.40, or, pending
51 his or her examination or admission to any such hospital or program,
52 temporarily detain any such person in another safe and comfortable
53 place, in which event, such officer shall immediately notify the direc-
54 tor of community services or, if there be none, the health officer of
55 the city or county of such action.

1 S 7. Section 9.41 of the mental hygiene law, as amended by chapter 843
2 of the laws of 1980, is amended to read as follows:

3 S 9.41 Emergency admissions for immediate observation, care, and treat-
4 ment; powers of certain peace officers and police officers.

5 Any peace officer, when acting pursuant to his OR HER special duties,
6 or police officer who is a member of the state police or of an author-
7 ized police department or force or of a sheriff's department may take
8 into custody any person who appears to be mentally ill and is conducting
9 himself OR HERSELF in a manner which is likely to result in serious
10 [harm to himself or others. "Likelihood to result in serious harm"
11 shall mean (1) substantial risk of physical harm to himself as mani-
12 fested by threats of or attempts at suicide or serious bodily harm or
13 other conduct demonstrating that he is dangerous to himself, or (2) a
14 substantial risk of physical harm to other persons as manifested by
15 homicidal or other violent behavior by which others are placed in
16 reasonable fear of serious] physical harm. Such officer may direct the
17 removal of such person or remove him OR HER to any hospital specified in
18 subdivision (a) of section 9.39 or, pending his OR HER examination or
19 admission to any such hospital, temporarily detain any such person in
20 another safe and comfortable place, in which event, such officer shall
21 immediately notify the director of community services or, if there be
22 none, the health officer of the city or county of such action.

23 S 8. Section 9.43 of the mental hygiene law, as amended by chapter 723
24 of the laws of 1989, is amended to read as follows:

25 S 9.43 Emergency admissions for immediate observation, care, and treat-
26 ment; powers of courts.

27 (a) Whenever any court of inferior or general jurisdiction is informed
28 by verified statement that a person is apparently mentally ill and is
29 conducting himself or herself in a manner which in a person who is not
30 mentally ill would be deemed disorderly conduct or which is likely to
31 result in serious PHYSICAL harm [to himself or herself], such court
32 shall issue a warrant directing that such person be brought before it.
33 If, when said person is brought before the court, it appears to the
34 court, on the basis of evidence presented to it, that such person has or
35 may have a mental illness which is likely to result in serious PHYSICAL
36 harm [to himself or herself or others], the court shall issue a civil
37 order directing his or her removal to any hospital specified in subdivi-
38 sion (a) of section 9.39 or any comprehensive psychiatric emergency
39 program specified in subdivision (a) of section 9.40, willing to receive
40 such person for a determination by the director of such hospital or
41 program whether such person should be retained therein pursuant to such
42 section.

43 (b) Whenever a person before a court in a criminal action appears to
44 have a mental illness which is likely to result in serious PHYSICAL harm
45 [to himself or herself or others] and the court determines either that
46 the crime has not been committed or that there is not sufficient cause
47 to believe that such person is guilty thereof, the court may issue a
48 civil order as above provided, and in such cases the criminal action
49 shall terminate.

50 S 9. Section 9.43 of the mental hygiene law, as renumbered by chapter
51 978 of the laws of 1977, is amended to read as follows:

52 S 9.43 Emergency admissions for immediate observation, care, and treat-
53 ment; powers of courts.

54 (a) Whenever any court of inferior or general jurisdiction is informed
55 by verified statement that a person is apparently mentally ill and is
56 conducting himself OR HERSELF in a manner which in a person who is not

1 mentally ill would be deemed disorderly conduct or which is likely to
2 result in serious PHYSICAL harm [to himself or others as defined in
3 section 31.39], such court shall issue a warrant directing that such
4 person be brought before it. If, when said person is brought before the
5 court, it appears to the court, on the basis of evidence presented to
6 it, that such person has or may have a mental illness which is likely to
7 result in serious PHYSICAL harm [to himself or others], the court shall
8 issue a civil order directing his OR HER removal to any hospital speci-
9 fied in subdivision (a) of section [31.39] 9.39 OF THIS ARTICLE willing
10 to receive such person for a determination by the director of such
11 hospital whether such person should be retained therein pursuant to such
12 section.

13 (b) Whenever a person before a court in a criminal action appears to
14 have a mental illness which is likely to result in serious PHYSICAL harm
15 [to himself or others] and the court determines either that the crime
16 has not been committed or that there is not sufficient cause to believe
17 that such person is guilty thereof, the court may issue a civil order as
18 above provided, and in such cases the criminal action shall terminate.

19 S 10. Section 9.45 of the mental hygiene law, as amended by chapter
20 723 of the laws of 1989, the opening paragraph as amended by chapter 192
21 of the laws of 2005, is amended to read as follows:

22 S 9.45 Emergency admissions for immediate observation, care, and treat-
23 ment; powers of directors of community services.

24 The director of community services or the director's designee shall
25 have the power to direct the removal of any person, within his or her
26 jurisdiction, to a hospital approved by the commissioner pursuant to
27 subdivision (a) of section 9.39 of this article, or to a comprehensive
28 psychiatric emergency program pursuant to subdivision (a) of section
29 9.40 of this article, if the parent, adult sibling, spouse or child of
30 the person, the committee or legal guardian of the person, a licensed
31 psychologist, registered professional nurse or certified social worker
32 currently responsible for providing treatment services to the person, a
33 supportive or intensive case manager currently assigned to the person by
34 a case management program which program is approved by the office of
35 mental health for the purpose of reporting under this section, a
36 licensed physician, health officer, peace officer or police officer
37 reports to him or her that such person has a mental illness for which
38 immediate care and treatment in a hospital is appropriate and which is
39 likely to result in serious PHYSICAL harm [to himself] or [herself or
40 others] SERIOUS PSYCHIATRIC HARM. It shall be the duty of peace offi-
41 cers, when acting pursuant to their special duties, or police officers,
42 who are members of an authorized police department or force or of a
43 sheriff's department to assist representatives of such director to take
44 into custody and transport any such person. Upon the request of a direc-
45 tor of community services or the director's designee an ambulance
46 service, as defined in subdivision two of section three thousand one of
47 the public health law, is authorized to transport any such person. Such
48 person may then be retained in a hospital pursuant to the provisions of
49 section 9.39 of this article or in a comprehensive psychiatric emergency
50 program pursuant to the provisions of section 9.40 of this article.

51 S 11. Section 9.45 of the mental hygiene law, as amended by chapter
52 343 of the laws of 1985, is amended to read as follows:

53 S 9.45 Emergency admissions for immediate observation, care, and treat-
54 ment; powers of directors of community services.

55 The director of community services or his OR HER designee shall have
56 the power to direct the removal of any person, within his OR HER juris-

1 diction, to a hospital approved by the commissioner pursuant to subdivi-
2 sion (a) of section 9.39 of this article if the parent, spouse, or child
3 of the person, a licensed physician, health officer, peace officer or
4 police officer reports to him OR HER that such person has a mental
5 illness for which immediate care and treatment in a hospital is appro-
6 priate and which is likely to result in serious PHYSICAL harm [to
7 himself] or [others, as defined in section 9.39 of this article] SERIOUS
8 PSYCHIATRIC HARM. It shall be the duty of peace officers, when acting
9 pursuant to their special duties, or police officers, who are members of
10 an authorized police department or force or of a sheriff's department to
11 assist representatives of such director to take into custody and trans-
12 port any such person. Upon the request of a director of community
13 services or his OR HER designee an ambulance service, as defined in
14 subdivision two of section three thousand one of the public health law,
15 is authorized to transport any such person. Such person may then be
16 retained pursuant to the provisions of section 9.39 of this article.

17 S 12. Section 9.55 of the mental hygiene law, as amended by chapter
18 598 of the laws of 1994, is amended to read as follows:

19 S 9.55 Emergency admissions for immediate observation, care and treat-
20 ment; powers of qualified psychiatrists.

21 A qualified psychiatrist shall have the power to direct the removal of
22 any person, whose treatment for a mental illness he or she is either
23 supervising or providing in a facility licensed or operated by the
24 office of mental health which does not have an inpatient psychiatric
25 service, to a hospital approved by the commissioner pursuant to subdivi-
26 sion (a) of section 9.39 of this article or to a comprehensive psychiat-
27 ric emergency program, if he or she determines upon examination of such
28 person that such person appears to have a mental illness for which imme-
29 diate observation, care and treatment in a hospital is appropriate and
30 which is likely to result in serious PHYSICAL harm [to himself or
31 herself] or [others] SERIOUS PSYCHIATRIC HARM. Upon the request of such
32 qualified psychiatrist, peace officers, when acting pursuant to their
33 special duties, or police officers, who are members of an authorized
34 police department or force or of a sheriff's department shall take into
35 custody and transport any such person. Upon the request of a qualified
36 psychiatrist an ambulance service, as defined by subdivision two of
37 section three thousand one of the public health law, is authorized to
38 transport any such person. Such person may then be admitted to a hospi-
39 tal in accordance with the provisions of section 9.39 of this article or
40 to a comprehensive psychiatric emergency program in accordance with the
41 provisions of section 9.40 of this article.

42 S 13. Section 9.55 of the mental hygiene law, as amended by chapter
43 847 of the laws of 1987, is amended to read as follows:

44 S 9.55 Emergency admissions for immediate observation, care and treat-
45 ment; powers of qualified psychiatrists.

46 A qualified psychiatrist shall have the power to direct the removal of
47 any person, whose treatment for a mental illness he OR SHE is either
48 supervising or providing in a facility licensed or operated by the
49 office of mental health which does not have an inpatient psychiatric
50 service, to a hospital approved by the commissioner pursuant to subdivi-
51 sion (a) of section 9.39 of this article, if he determines upon examina-
52 tion of such person that such person appears to have a mental illness
53 for which immediate observation, care and treatment in a hospital is
54 appropriate and which is likely to result in serious PHYSICAL harm [to
55 himself] or [others, as defined in section 9.39 of this article] SERIOUS
56 PSYCHIATRIC HARM. Upon the request of such qualified psychiatrist, peace

officers, when acting pursuant to their special duties, or police officers, who are members of an authorized police department or force or of a sheriff's department shall take into custody and transport any such person. Upon the request of a qualified psychiatrist an ambulance service, as defined by subdivision two of section three thousand one of the public health law, is authorized to transport any such person. Such person may then be admitted in accordance with the provisions of section 9.39 of this article.

S 14. Section 9.57 of the mental hygiene law, as amended by chapter 598 of the laws of 1994, is amended to read as follows:

S 9.57 Emergency admissions for immediate observation, care and treatment; powers of emergency room physicians.

A physician who has examined a person in an emergency room or provided emergency medical services at a general hospital, as defined in article twenty-eight of the public health law, which does not have an inpatient psychiatric service, or a physician who has examined a person in a comprehensive psychiatric emergency program shall be authorized to request that the director of the program or hospital, or the director's designee, direct the removal of such person to a hospital approved by the commissioner pursuant to subdivision (a) of section 9.39 of this article or to a comprehensive psychiatric emergency program, if the physician determines upon examination of such person that such person appears to have a mental illness for which immediate care and treatment in a hospital is appropriate and which is likely to result in serious PHYSICAL harm [to himself] or [others] SERIOUS PSYCHIATRIC HARM. Upon the request of the physician, the director of the program or hospital or the director's designee, is authorized to direct peace officers, when acting pursuant to their special duties, or police officers, who are members of an authorized police department or force or of a sheriff's department to take into custody and transport any such person. Upon the request of an emergency room physician or the director of the program or hospital, or the director's designee, an ambulance service, as defined by subdivision two of section three thousand one of the public health law, is authorized to take into custody and transport any such person. Such person may then be admitted to a hospital in accordance with the provisions of section 9.39 of this article or to a comprehensive psychiatric emergency program in accordance with the provisions of section 9.40 of this article.

S 15. Section 9.57 of the mental hygiene law, as amended by chapter 847 of the laws of 1987, is amended to read as follows:

S 9.57 Emergency admissions for immediate observation, care and treatment; powers of emergency room physicians.

A physician who has examined a person in an emergency room or provided emergency medical services at a general hospital, as defined in article twenty-eight of the public health law, which does not have an inpatient psychiatric service, shall be authorized to request that the director of the hospital, or his OR HER designee, direct the removal of such person to a hospital approved by the commissioner pursuant to subdivision (a) of section 9.39 of this article, if the physician determines upon examination of such person that such person appears to have a mental illness for which immediate care and treatment in a hospital is appropriate and which is likely to result in serious PHYSICAL harm [to himself] or [others, as defined in section 9.39 of this article] SERIOUS PSYCHIATRIC HARM. Upon the request of the physician, the director of the hospital or his OR HER designee, is authorized to direct peace officers, when acting pursuant to their special duties, or police officers, who are members of

1 an authorized police department or force or of a sheriff's department to
2 take into custody and transport any such person. Upon the request of an
3 emergency room physician or the director of the hospital, or his OR HER
4 designee, an ambulance service, as defined by subdivision two of section
5 three thousand one of the public health law, is authorized to take into
6 custody and transport any such person. Such person may then be admitted
7 in accordance with the provisions of section 9.39 of this article.

8 S 16. Subdivision (a) of section 9.58 of the mental hygiene law, as
9 added by chapter 678 of the laws of 1994, is amended to read as follows:

10 (a) A physician or qualified mental health professional who is a
11 member of an approved mobile crisis outreach team shall have the power
12 to remove, or pursuant to subdivision (b) of this section, to direct the
13 removal of any person to a hospital approved by the commissioner pursu-
14 ant to subdivision (a) of section 9.39 or section 31.27 of this chapter
15 for the purpose of evaluation for admission if such person appears to be
16 mentally ill and is conducting himself or herself in a manner which is
17 likely to result in serious PHYSICAL harm [to the person] or [others]
18 SERIOUS PSYCHIATRIC HARM.

19 S 17. This act shall take effect on the thirtieth day after it shall
20 have become a law; provided, however, that:

21 (a) the amendments to subdivision (a) of section 9.37 of the mental
22 hygiene law made by section two of this act shall not affect the expira-
23 tion of such subdivision and shall expire therewith, when upon such date
24 section three of this act shall take effect;

25 (b) the amendments to section 9.40 of the mental hygiene law made by
26 section five of this act shall not affect the repeal of such section and
27 shall be deemed repealed therewith;

28 (c) the amendments to section 9.41 of the mental hygiene law made by
29 section six of this act shall not affect the expiration of such section
30 and shall expire therewith, when upon such date section seven of this
31 act shall take effect;

32 (d) the amendments to section 9.43 of the mental hygiene law made by
33 section eight of this act shall not affect the expiration of such
34 section and shall expire therewith, when upon such date section nine of
35 this act shall take effect;

36 (e) the amendments to section 9.45 of the mental hygiene law made by
37 section ten of this act shall not affect the expiration of such section
38 and shall expire therewith, when upon such date, section eleven of this
39 act shall take effect;

40 (f) the amendments to section 9.55 of the mental hygiene law made by
41 section twelve of this act shall not affect the expiration of such
42 section and shall expire therewith, when upon such date section thirteen
43 of this act shall take effect; and

44 (g) the amendments to section 9.57 of the mental hygiene law made by
45 section fourteen of this act shall not affect the expiration of such
46 section and shall expire therewith, when upon such date section fifteen
47 of this act shall take effect.