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

10025

I N A S S E M B L Y

June 9, 2014

Introduced by COMMITTEE ON RULES -- (at request of M. of A. Gunther) -- read once and referred to the Committee on Alcoholism and Drug Abuse

AN ACT to amend the mental hygiene law, in relation to establishing protocols for assisted outpatient treatment for substance abusers

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 article 23 to read as follows:

ARTICLE 23

ASSISTED OUTPATIENT TREATMENT FOR SUBSTANCE ABUSERS

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S 23.01 CRITERIA FOR ASSISTED OUTPATIENT TREATMENT FOR SUBSTANCE ABUSERS.

(A) A PERSON MEETS THE CRITERIA FOR ASSISTED OUTPATIENT TREATMENT FOR SUBSTANCE ABUSE IF THERE IS A GOOD FAITH REASON TO BELIEVE THE PERSON IS SUBSTANCE ABUSE IMPAIRED AND, BECAUSE OF SUCH IMPAIRMENT SUCH PERSON HAS

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

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LOST THE POWER OF SELF-CONTROL WITH RESPECT TO SUBSTANCE USE, AND EITHER:

(1) HAS INFLICTED, OR THREATENED OR ATTEMPTED TO INFLICT, OR UNLESS PLACED IN TREATMENT IS LIKELY TO INFLICT, PHYSICAL HARM ON HIMSELF OR HERSELF OR ANOTHER; OR

(2) IS IN NEED OF SUBSTANCE ABUSE SERVICES AND, BY REASON OF SUBSTANCE ABUSE IMPAIRMENT, HIS OR HER JUDGMENT HAS BEEN SO IMPAIRED THAT THE PERSON IS INCAPABLE OF APPRECIATING HIS OR HER NEED FOR SUCH SERVICES AND OF MAKING A RATIONAL DECISION IN REGARD THERETO; HOWEVER, MERE REFUSAL TO RECEIVE SUCH SERVICES DOES NOT CONSTITUTE EVIDENCE OF LACK OF JUDGMENT WITH RESPECT TO HIS OR HER NEED FOR SUCH SERVICES; AND

(B) A PERSON MEETS THE CRITERIA FOR ASSISTED OUTPATIENT TREATMENT FOR SUBSTANCE ABUSE IF A COURT OF COMPETENT JURISDICTION FINDS BY CLEAR AND CONVINCING EVIDENCE THAT THE SUBJECT OF THE PETITION MEETS ALL OF THE FOLLOWING CRITERIA:

(1) IS EIGHTEEN YEARS OF AGE OR OLDER;

(2) HAS A HISTORY OF LACK OF COMPLIANCE WITH TREATMENT FOR SUBSTANCE ABUSE THAT HAS:

(A) PRIOR TO THE FILING OF THE PETITION, AT LEAST TWICE WITHIN THE LAST THIRTY-SIX MONTHS BEEN A SIGNIFICANT FACTOR IN NECESSITATING HOSPITALIZATION IN A HOSPITAL, OR RECEIPT OF SERVICES FOR SUBSTANCE ABUSE IN A CORRECTIONAL FACILITY, NOT INCLUDING ANY CURRENT PERIOD, OR PERIOD ENDING WITHIN THE LAST SIX MONTHS, DURING WHICH THE PERSON WAS OR IS HOSPITALIZED OR INCARCERATED; OR

(B) PRIOR TO FILING OF THE PETITION, RESULTED IN ONE OR MORE ACTS OF SERIOUS VIOLENT BEHAVIOR TOWARD SELF OR OTHERS OR THREATS OF, OR ATTEMPTS AT, SERIOUS PHYSICAL HARM TO SELF OR OTHERS WITHIN THE LAST FORTY-EIGHT MONTHS, NOT INCLUDING ANY CURRENT PERIOD, OR PERIOD ENDING WITHIN THE LAST SIX MONTHS, IN WHICH THE PERSON WAS OR IS HOSPITALIZED OR INCARCERATED;

(3) IS IN NEED OF SUBSTANCE ABUSE SERVICES AND, BY REASON OF SUBSTANCE ABUSE IMPAIRMENT, HIS OR HER JUDGMENT HAS BEEN SO IMPAIRED THAT THE PERSON IS INCAPABLE OF APPRECIATING HIS OR HER NEED FOR SUCH SERVICES AND OF MAKING A RATIONAL DECISION IN REGARD THERETO; HOWEVER, MERE REFUSAL TO RECEIVE SUCH SERVICES DOES NOT CONSTITUTE EVIDENCE OF LACK OF JUDGMENT WITH RESPECT TO HIS OR HER NEED FOR SUCH SERVICES;

(4) IS, AS A RESULT OF HIS OR HER SUBSTANCE ABUSE, UNLIKELY TO VOLUNTARILY PARTICIPATE IN THE OUTPATIENT TREATMENT THAT WOULD ENABLE HIM OR HER TO LIVE SAFELY IN THE COMMUNITY; AND

(5) IS LIKELY TO BENEFIT FROM ASSISTED OUTPATIENT TREATMENT.

(C) A COURT MAY NOT GRANT SUCH PETITION UNLESS IT FINDS THAT ASSISTED OUTPATIENT TREATMENT IS THE LEAST RESTRICTIVE ALTERNATIVE AVAILABLE FOR THE PERSON.

(D) FOR THE PURPOSES OF THIS ARTICLE, THE TERM "SUBSTANCE ABUSE" SHALL MEAN PERSONS WHO ARE UNDER THE INFLUENCE OF A CONTROLLED SUBSTANCE AS DEFINED IN SUBDIVISIONS (B) AND (C) OF SCHEDULE I OF SECTION THIRTY-THREE HUNDRED SIX OF THE PUBLIC HEALTH LAW.

S 23.03 RESPONSIBILITIES OF SERVICE PROVIDERS.

IT IS THE RESPONSIBILITY OF THE SERVICE PROVIDER TO:

(A) ENSURE THAT A PERSON WHO IS ADMITTED TO A SERVICE PROVIDER MEETS THE ADMISSION CRITERIA SPECIFIED BY SECTION 23.01 OF THIS ARTICLE;

(B) ASCERTAIN WHETHER THE MEDICAL AND BEHAVIORAL CONDITIONS OF THE PERSON AS PRESENTED ARE WITHIN THE SAFE MANAGEMENT CAPABILITIES OF THE SERVICE PROVIDERS; AND

(C) PROVIDE FOR THE ADMISSION OF THE PERSON TO THE SERVICE COMPONENT THAT REPRESENTS THE LEAST RESTRICTIVE AVAILABLE SETTING THAT IS RESPONSIVE TO THE PERSON'S TREATMENT NEEDS.

S 23.05 PETITION TO THE COURT.

(A) A PETITION FOR AN ORDER AUTHORIZING ASSISTED OUTPATIENT TREATMENT FOR SUBSTANCE ABUSERS MAY BE FILED IN THE SUPREME OR COUNTY COURT IN THE COUNTY IN WHICH THE SUBJECT OF THE PETITION IS PRESENT OR REASONABLY BELIEVED TO BE PRESENT. A PETITION TO OBTAIN AN ORDER AUTHORIZING ASSISTED OUTPATIENT TREATMENT MAY BE INITIATED ONLY BY THE FOLLOWING PERSONS:

(1) ANY PERSON EIGHTEEN YEARS OF AGE OR OLDER WITH WHOM THE SUBJECT OF THE PETITION RESIDES; OR

(2) THE PARENT, SPOUSE, SIBLING EIGHTEEN YEARS OF AGE OR OLDER, OR CHILD EIGHTEEN YEARS OR OLDER OF THE SUBJECT OF THE PETITION; OR

(3) THE DIRECTOR OF A HOSPITAL IN WHICH THE SUBJECT OF THE PETITION IS HOSPITALIZED; OR

(4) THE DIRECTOR OF ANY PUBLIC OR CHARITABLE ORGANIZATION, AGENCY OR HOME PROVIDING SUBSTANCE ABUSE SERVICES TO THE SUBJECT OF THE PETITION IN WHOSE INSTITUTION THE SUBJECT OF THE PETITION RESIDES; OR

(5) THE DIRECTOR OF COMMUNITY SERVICES, OR SOCIAL SERVICES OFFICIAL OF THE CITY OR COUNTY WHERE THE PERSON IS PRESENT OR IS REASONABLY BELIEVED TO BE PRESENT; OR

(6) A PAROLE OFFICER OR PROBATION OFFICER ASSIGNED TO SUPERVISE THE PERSON.

(B) THE PETITION MUST ALLEGE THAT THE SUBJECT OF THE PETITION MEETS THE CRITERIA FOR ASSISTED OUTPATIENT TREATMENT FOR SUBSTANCE ABUSERS CRITERIA AS DEFINED IN SECTION 23.01 OF THIS ARTICLE AND MUST BE SUPPORTED BY A SWORN STATEMENT OF ANY PERSON IDENTIFIED IN SUBDIVISION (A) OF THIS SECTION.

S 23.07 SERVICE.

THE PETITIONER SHALL CAUSE WRITTEN NOTICE OF THE PETITION TO BE GIVEN TO THE SUBJECT OF THE PETITION AND A COPY THEREOF TO BE GIVEN PERSONALLY OR BY MAIL TO THE HEALTH CARE AGENT IF ANY SUCH AGENT IS KNOWN TO THE PETITIONER, THE APPROPRIATE PROGRAM COORDINATOR, AND THE APPROPRIATE DIRECTOR OF COMMUNITY SERVICES, IF SUCH DIRECTOR IS NOT THE PETITIONER.

S 23.09 RIGHT TO COUNSEL.

THE SUBJECT OF THE PETITION SHALL HAVE THE RIGHT TO BE REPRESENTED BY A PUBLIC DEFENDER OR ASSIGNED COUNSEL, OR PRIVATELY FINANCED COUNSEL, AT ALL STAGES OF A PROCEEDING COMMENCED UNDER THIS SECTION.

S 23.11 HEARING.

(A) UPON RECEIPT OF THE PETITION, THE COURT SHALL FIX THE DATE FOR A HEARING. SUCH DATE SHALL BE NO LATER THAN THREE DAYS FROM THE DATE SUCH PETITION IS RECEIVED BY THE COURT, EXCLUDING SATURDAYS, SUNDAYS AND HOLIDAYS. ADJOURNMENTS SHALL BE PERMITTED ONLY FOR GOOD CAUSE SHOWN. IN GRANTING ADJOURNMENTS, THE COURT SHALL CONSIDER THE NEED FOR FURTHER EXAMINATION BY A PHYSICIAN OR THE POTENTIAL NEED TO PROVIDE ASSISTED OUTPATIENT TREATMENT EXPEDITIOUSLY. THE COURT SHALL CAUSE THE SUBJECT OF THE PETITION, ANY OTHER PERSON RECEIVING NOTICE PURSUANT TO SECTION 23.07 OF THIS ARTICLE, THE PETITIONER, THE PHYSICIAN WHOSE AFFIRMATION OR AFFIDAVIT ACCOMPANIED THE PETITION, AND SUCH OTHER PERSONS AS THE COURT MAY DETERMINE TO BE ADVISED OF SUCH DATE. UPON SUCH DATE, OR UPON SUCH OTHER DATE TO WHICH THE PROCEEDING MAY BE ADJOURNED, THE COURT SHALL HEAR TESTIMONY AND, IF IT BE DEEMED ADVISABLE AND THE SUBJECT OF THE PETITION IS AVAILABLE, EXAMINE THE SUBJECT OF THE PETITION IN OR OUT OF COURT. IF THE SUBJECT OF THE PETITION DOES NOT APPEAR AT THE HEARING, AND APPROPRIATE ATTEMPTS TO ELICIT THE ATTENDANCE OF THE SUBJECT HAVE

FAILED, THE COURT MAY CONDUCT THE HEARING IN THE SUBJECT'S ABSENCE. IN SUCH CASE, THE COURT SHALL SET FORTH THE FACTUAL BASIS FOR CONDUCTING THE HEARING WITHOUT THE PRESENCE OF THE SUBJECT OF THE PETITION.

(B) THE COURT SHALL NOT ORDER ASSISTED OUTPATIENT TREATMENT UNLESS AN EXAMINING PHYSICIAN, WHO RECOMMENDS ASSISTED OUTPATIENT TREATMENT AND HAS PERSONALLY EXAMINED THE SUBJECT OF THE PETITION NO MORE THAN SIX MONTHS BEFORE THE FILING OF THE PETITION, TESTIFIES IN PERSON AT THE HEARING. SUCH PHYSICIAN SHALL STATE THE FACTS AND CLINICAL DETERMINATIONS WHICH SUPPORT THE ALLEGATION THAT THE SUBJECT OF THE PETITION MEETS EACH OF THE CRITERIA FOR ASSISTED OUTPATIENT TREATMENT.

(C) THE SUBJECT OF THE PETITION SHALL BE AFFORDED AN OPPORTUNITY TO PRESENT EVIDENCE, TO CALL WITNESSES ON HIS OR HER BEHALF, AND TO CROSS-EXAMINE ADVERSE WITNESSES.

S 23.13 WRITTEN TREATMENT PLAN.

(A) THE COURT SHALL NOT ORDER ASSISTED OUTPATIENT TREATMENT UNLESS A PHYSICIAN APPOINTED BY THE APPROPRIATE DIRECTOR, IN CONSULTATION WITH SUCH DIRECTOR, DEVELOPS AND PROVIDES TO THE COURT A PROPOSED WRITTEN TREATMENT PLAN. THE WRITTEN TREATMENT PLAN SHALL INCLUDE CASE MANAGEMENT SERVICES OR ASSERTIVE COMMUNITY TREATMENT TEAM SERVICES TO PROVIDE CARE COORDINATION. THE WRITTEN TREATMENT PLAN ALSO SHALL INCLUDE ALL CATEGORIES OF SERVICES WHICH SUCH PHYSICIAN RECOMMENDS THAT THE SUBJECT OF THE PETITION RECEIVE. ALL SERVICE PROVIDERS SHALL BE NOTIFIED REGARDING THEIR INCLUSION IN THE WRITTEN TREATMENT PLAN. IF THE WRITTEN TREATMENT PLAN INCLUDES MEDICATION, IT SHALL STATE WHETHER SUCH MEDICATION SHOULD BE SELF-ADMINISTERED OR ADMINISTERED BY AUTHORIZED PERSONNEL, AND SHALL SPECIFY TYPE AND DOSAGE RANGE OF MEDICATION MOST LIKELY TO PROVIDE MAXIMUM BENEFIT FOR THE SUBJECT. IF A DIRECTOR IS THE PETITIONER, THE WRITTEN TREATMENT PLAN SHALL BE PROVIDED TO THE COURT NO LATER THAN THE DATE OF THE HEARING ON THE PETITION. IF A PERSON OTHER THAN A DIRECTOR IS THE PETITIONER, SUCH PLAN SHALL BE PROVIDED TO THE COURT NO LATER THAN THE DATE SET BY THE COURT PURSUANT TO SUBDIVISION (C) OF SECTION 23.15 OF THIS ARTICLE.

THE PHYSICIAN APPOINTED TO DEVELOP THE WRITTEN TREATMENT PLAN SHALL PROVIDE THE FOLLOWING PERSONS WITH AN OPPORTUNITY TO ACTIVELY PARTICIPATE IN THE DEVELOPMENT OF SUCH PLAN: THE SUBJECT OF THE PETITION; THE TREATING PHYSICIAN, IF ANY; AND UPON THE REQUEST OF THE SUBJECT OF THE PETITION, AN INDIVIDUAL SIGNIFICANT TO THE SUBJECT INCLUDING ANY RELATIVE, CLOSE FRIEND OR INDIVIDUAL OTHERWISE CONCERNED WITH THE WELFARE OF THE SUBJECT. IF THE SUBJECT OF THE PETITION HAS EXECUTED A HEALTH CARE PROXY, THE APPOINTED PHYSICIAN SHALL CONSIDER ANY DIRECTIONS INCLUDED IN SUCH PROXY IN DEVELOPING THE WRITTEN TREATMENT PLAN.

(B) THE COURT SHALL NOT ORDER ASSISTED OUTPATIENT TREATMENT UNLESS A PHYSICIAN APPEARING ON BEHALF OF A DIRECTOR TESTIFIES TO EXPLAIN THE WRITTEN PROPOSED TREATMENT PLAN. SUCH PHYSICIAN SHALL STATE THE CATEGORIES OF ASSISTED OUTPATIENT TREATMENT RECOMMENDED, THE RATIONALE FOR EACH SUCH CATEGORY, FACTS WHICH ESTABLISH THAT SUCH TREATMENT IS THE LEAST RESTRICTIVE ALTERNATIVE, AND, IF THE RECOMMENDED ASSISTED OUTPATIENT TREATMENT PLAN INCLUDES MEDICATION, SUCH PHYSICIAN SHALL STATE THE TYPES OR CLASSES OF MEDICATION RECOMMENDED, THE BENEFICIAL AND DETRIMENTAL PHYSICAL AND MENTAL EFFECTS OF SUCH MEDICATION, AND WHETHER SUCH MEDICATION SHOULD BE SELF-ADMINISTERED OR ADMINISTERED BY AN AUTHORIZED PROFESSIONAL. IF THE SUBJECT OF THE PETITION HAS EXECUTED A HEALTH CARE PROXY, SUCH PHYSICIAN SHALL STATE THE CONSIDERATION GIVEN TO ANY DIRECTIONS INCLUDED IN SUCH PROXY IN DEVELOPING THE WRITTEN TREATMENT PLAN. IF A DIRECTOR IS THE PETITIONER, TESTIMONY PURSUANT TO THIS PARAGRAPH SHALL BE GIVEN AT THE HEARING ON THE PETITION. IF A PERSON OTHER

THAN A DIRECTOR IS THE PETITIONER, SUCH TESTIMONY SHALL BE GIVEN ON THE DATE SET BY THE COURT PURSUANT TO SUBDIVISION (C) OF SECTION 23.15 OF THIS ARTICLE.

S 23.15 DISPOSITION.

(A) IF AFTER HEARING ALL RELEVANT EVIDENCE, THE COURT DOES NOT FIND BY CLEAR AND CONVINCING EVIDENCE THAT THE SUBJECT OF THE PETITION MEETS THE CRITERIA FOR ASSISTED OUTPATIENT TREATMENT, THE COURT SHALL DISMISS THE PETITION.

(B) IF AFTER HEARING ALL RELEVANT EVIDENCE, THE COURT FINDS BY CLEAR AND CONVINCING EVIDENCE THAT THE SUBJECT OF THE PETITION MEETS THE CRITERIA FOR ASSISTED OUTPATIENT TREATMENT, AND THERE IS NO APPROPRIATE AND FEASIBLE LESS RESTRICTIVE ALTERNATIVE, THE COURT MAY ORDER THE SUBJECT TO RECEIVE ASSISTED OUTPATIENT TREATMENT FOR AN INITIAL PERIOD NOT TO EXCEED SIX MONTHS. IN FASHIONING THE ORDER, THE COURT SHALL SPECIFICALLY MAKE FINDINGS BY CLEAR AND CONVINCING EVIDENCE THAT THE PROPOSED TREATMENT IS THE LEAST RESTRICTIVE TREATMENT APPROPRIATE AND FEASIBLE FOR THE SUBJECT. THE ORDER SHALL STATE AN ASSISTED OUTPATIENT TREATMENT PLAN, WHICH SHALL INCLUDE ALL CATEGORIES OF ASSISTED OUTPATIENT TREATMENT WHICH THE ASSISTED OUTPATIENT IS TO RECEIVE, BUT SHALL NOT INCLUDE ANY SUCH CATEGORY THAT HAS NOT BEEN RECOMMENDED IN BOTH THE PROPOSED WRITTEN TREATMENT PLAN AND THE TESTIMONY PROVIDED TO THE COURT PURSUANT TO SECTION 23.13 OF THIS ARTICLE.

(C) IF AFTER HEARING ALL RELEVANT EVIDENCE PRESENTED BY A PETITIONER WHO IS NOT A DIRECTOR, THE COURT FINDS BY CLEAR AND CONVINCING EVIDENCE THAT THE SUBJECT OF THE PETITION MEETS THE CRITERIA FOR ASSISTED OUTPATIENT TREATMENT, AND THE COURT HAS YET TO BE PROVIDED WITH A WRITTEN PROPOSED TREATMENT PLAN AND TESTIMONY PURSUANT TO SECTION 23.13 OF THIS ARTICLE, THE COURT SHALL ORDER THE APPROPRIATE DIRECTOR TO PROVIDE THE COURT WITH SUCH PLAN AND TESTIMONY NO LATER THAN THE THIRD DAY, EXCLUDING SATURDAYS, SUNDAYS AND HOLIDAYS, IMMEDIATELY FOLLOWING THE DATE OF SUCH ORDER. UPON RECEIVING SUCH PLAN AND TESTIMONY, THE COURT MAY ORDER ASSISTED OUTPATIENT TREATMENT AS PROVIDED FOR IN SUBDIVISION (B) OF THIS SECTION.

(D) IF THE PETITIONER IS THE DIRECTOR OF A HOSPITAL THAT OPERATES AN ASSISTED OUTPATIENT TREATMENT PROGRAM, THE COURT ORDER SHALL DIRECT THE HOSPITAL DIRECTOR TO PROVIDE OR ARRANGE FOR ALL CATEGORIES OF ASSISTED OUTPATIENT TREATMENT FOR THE ASSISTED OUTPATIENT THROUGHOUT THE PERIOD OF THE ORDER. IN ALL OTHER INSTANCES, THE ORDER SHALL REQUIRE THE APPROPRIATE DIRECTOR, AS THAT TERM IS DEFINED IN THIS SECTION, TO PROVIDE OR ARRANGE FOR ALL CATEGORIES OF ASSISTED OUTPATIENT TREATMENT FOR THE ASSISTED OUTPATIENT THROUGHOUT THE PERIOD OF THE ORDER.

(E) THE DIRECTOR SHALL CAUSE A COPY OF ANY COURT ORDER ISSUED PURSUANT TO THIS SECTION TO BE SERVED PERSONALLY, OR BY MAIL, FACSIMILE OR ELECTRONIC MEANS, UPON THE ASSISTED OUTPATIENT, OR ANYONE ACTING ON THE ASSISTED OUTPATIENT'S BEHALF, THE ORIGINAL PETITIONER, IDENTIFIED SERVICE PROVIDERS, AND ALL OTHERS ENTITLED TO NOTICE UNDER SECTION 23.07 OF THIS ARTICLE.

S 23.17 PETITION FOR ADDITIONAL PERIODS OF TREATMENT.

(A) PRIOR TO THE EXPIRATION OF AN ORDER PURSUANT TO THIS SECTION, THE APPROPRIATE DIRECTOR SHALL REVIEW WHETHER THE ASSISTED OUTPATIENT CONTINUES TO MEET THE CRITERIA FOR ASSISTED OUTPATIENT TREATMENT. IF, AS DOCUMENTED IN THE PETITION, THE DIRECTOR DETERMINES THAT SUCH CRITERIA CONTINUE TO BE MET OR HAS MADE APPROPRIATE ATTEMPTS TO, BUT HAS NOT BEEN SUCCESSFUL IN ELICITING, THE COOPERATION OF THE SUBJECT TO SUBMIT TO AN EXAMINATION, WITHIN THIRTY DAYS PRIOR TO THE EXPIRATION OF AN ORDER OF ASSISTED OUTPATIENT TREATMENT, SUCH DIRECTOR MAY PETITION THE COURT TO

ORDER CONTINUED ASSISTED OUTPATIENT TREATMENT PURSUANT TO PARAGRAPH TWO OF THIS SUBDIVISION. UPON DETERMINING WHETHER SUCH CRITERIA CONTINUE TO BE MET, SUCH DIRECTOR SHALL NOTIFY THE PROGRAM COORDINATOR IN WRITING AS TO WHETHER A PETITION FOR CONTINUED ASSISTED OUTPATIENT TREATMENT IS WARRANTED AND WHETHER SUCH A PETITION WAS OR WILL BE FILED.

(B) WITHIN THIRTY DAYS PRIOR TO THE EXPIRATION OF AN ORDER OF ASSISTED OUTPATIENT TREATMENT, THE APPROPRIATE DIRECTOR OR THE CURRENT PETITIONER, IF THE CURRENT PETITION WAS FILED PURSUANT TO SECTION 23.05 OF THIS ARTICLE, AND THE CURRENT PETITIONER RETAINS HIS OR HER ORIGINAL STATUS PURSUANT TO THE APPLICABLE SUBPARAGRAPH, MAY PETITION THE COURT TO ORDER CONTINUED ASSISTED OUTPATIENT TREATMENT FOR A PERIOD NOT TO EXCEED ONE YEAR FROM THE EXPIRATION DATE OF THE CURRENT ORDER. IF THE COURT'S DISPOSITION OF SUCH PETITION DOES NOT OCCUR PRIOR TO THE EXPIRATION DATE OF THE CURRENT ORDER, THE CURRENT ORDER SHALL REMAIN IN EFFECT UNTIL SUCH DISPOSITION.

THE NOTICE PROVISIONS SET FORTH IN SECTION 23.15 OF THIS ARTICLE SHALL BE APPLICABLE. ANY COURT ORDER REQUIRING PERIODIC BLOOD TESTS OR URINALYSIS FOR THE PRESENCE OF ALCOHOL OR ILLEGAL DRUGS SHALL BE SUBJECT TO REVIEW AFTER SIX MONTHS BY THE PHYSICIAN WHO DEVELOPED THE WRITTEN TREATMENT PLAN OR ANOTHER PHYSICIAN DESIGNATED BY THE DIRECTOR, AND SUCH PHYSICIAN SHALL BE AUTHORIZED TO TERMINATE SUCH BLOOD TESTS OR URINALYSIS WITHOUT FURTHER ACTION BY THE COURT.

S 23.19 PETITION FOR AN ORDER TO STAY, VACATE OR MODIFY.

(A) IN ADDITION TO ANY OTHER RIGHT OR REMEDY AVAILABLE BY LAW WITH RESPECT TO THE ORDER FOR ASSISTED OUTPATIENT TREATMENT, THE ASSISTED OUTPATIENT, OR ANYONE ACTING ON THE ASSISTED OUTPATIENT'S BEHALF MAY PETITION THE COURT ON NOTICE TO THE DIRECTOR, THE ORIGINAL PETITIONER, AND ALL OTHERS ENTITLED TO NOTICE UNDER SECTION 23.07 OF THIS ARTICLE TO STAY, VACATE OR MODIFY THE ORDER.

(B) THE APPROPRIATE DIRECTOR SHALL PETITION THE COURT FOR APPROVAL BEFORE INSTITUTING A PROPOSED MATERIAL CHANGE IN THE ASSISTED OUTPATIENT TREATMENT PLAN, UNLESS SUCH CHANGE IS AUTHORIZED BY THE ORDER OF THE COURT. SUCH PETITION SHALL BE FILED ON NOTICE TO ALL PARTIES ENTITLED TO NOTICE UNDER SECTION 23.07 OF THIS ARTICLE. NOT LATER THAN FIVE DAYS AFTER RECEIVING SUCH PETITION, EXCLUDING SATURDAYS, SUNDAYS AND HOLIDAYS, THE COURT SHALL HOLD A HEARING ON THE PETITION; PROVIDED THAT IF THE ASSISTED OUTPATIENT INFORMS THE COURT THAT HE OR SHE AGREES TO THE PROPOSED MATERIAL CHANGE, THE COURT MAY APPROVE SUCH CHANGE WITHOUT A HEARING. NON-MATERIAL CHANGES MAY BE INSTITUTED BY THE DIRECTOR WITHOUT COURT APPROVAL. FOR THE PURPOSES OF THIS PARAGRAPH, A MATERIAL CHANGE IS AN ADDITION OR DELETION OF A CATEGORY OF SERVICES TO OR FROM A CURRENT ASSISTED OUTPATIENT TREATMENT PLAN, OR ANY DEVIATION WITHOUT THE ASSISTED OUTPATIENT'S CONSENT FROM THE TERMS OF A CURRENT ORDER RELATING TO THE ADMINISTRATION OF PSYCHOTROPIC DRUGS.

S 23.21 APPEALS.

REVIEW OF AN ORDER ISSUED PURSUANT TO THIS SECTION SHALL BE HAD IN LIKE MANNER AS SPECIFIED IN SECTION 9.35 OF ARTICLE NINE OF THIS CHAPTER.

S 23.23 FAILURE TO COMPLY WITH ASSISTED OUTPATIENT TREATMENT.

WHERE THE SUBJECT FAILS TO COMPLY WITH THE ASSISTED OUTPATIENT PLAN SET FORTH IN ACCORDANCE WITH SECTION 23.15 OF THIS ARTICLE, THE SUBJECT SHALL BE BROUGHT TO A FACILITY OR TREATMENT PROGRAM FOR EMERGENCY SERVICES PURSUANT TO SECTION 22.09 OF THIS CHAPTER.

S 23.25 EFFECT OF DETERMINATION THAT A PERSON IS IN NEED OF ASSISTED OUTPATIENT TREATMENT.

THE DETERMINATION BY A COURT THAT A PERSON IS IN NEED OF ASSISTED OUTPATIENT TREATMENT SHALL NOT BE CONSTRUED AS OR DEEMED TO BE A DETERMINATION THAT SUCH PERSON IS INCAPACITATED PURSUANT TO ARTICLE EIGHTY-ONE OF THIS CHAPTER.

S 23.27 FALSE PETITION.

A PERSON MAKING A FALSE STATEMENT OR PROVIDING FALSE INFORMATION OR FALSE TESTIMONY IN A PETITION OR HEARING UNDER THIS SECTION SHALL BE SUBJECT TO CRIMINAL PROSECUTION PURSUANT TO ARTICLE ONE HUNDRED SEVENTY-FIVE OR ARTICLE TWO HUNDRED TEN OF THE PENAL LAW.

S 23.29 EXCEPTION.

NOTHING IN THIS SECTION SHALL BE CONSTRUED TO AFFECT THE ABILITY OF THE DIRECTOR OF A HOSPITAL TO RECEIVE, ADMIT, OR RETAIN PATIENTS WHO OTHERWISE MEET THE PROVISIONS OF THIS ARTICLE REGARDING RECEIPT, RETENTION OR ADMISSION.

S 23.31 EDUCATION AND TRAINING.

(A) THE OFFICE OF ALCOHOLISM AND SUBSTANCE ABUSE SERVICES, IN CONSULTATION WITH THE OFFICE OF COURT ADMINISTRATION, SHALL PREPARE EDUCATIONAL AND TRAINING MATERIALS ON THE USE OF THIS SECTION, WHICH SHALL BE MADE AVAILABLE TO LOCAL GOVERNMENTAL UNITS, PROVIDERS OF SERVICES, JUDGES, COURT PERSONNEL, LAW ENFORCEMENT OFFICIALS AND THE GENERAL PUBLIC.

(B) THE OFFICE OF ALCOHOLISM AND SUBSTANCE ABUSE SERVICES, IN CONSULTATION WITH THE OFFICE OF COURT ADMINISTRATION, SHALL ESTABLISH A SUBSTANCE ABUSE TRAINING PROGRAM FOR SUPREME AND COUNTY COURT JUDGES AND COURT PERSONNEL. SUCH TRAINING SHALL FOCUS ON THE USE OF THIS SECTION AND GENERALLY ADDRESS ISSUES RELATING TO HEROIN AND OPIOID ADDICTION.

S 2. This act shall take effect on the one hundred twentieth day after it shall have become a law; provided, however, that 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 and directed to be made and completed on or before such effective date.