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

S. 7909 A. 10162

S E N A T E - A S S E M B L Y

June 17, 2014

IN SENATE -- Introduced by Sens. FELDER, MARTINS -- (at request of the Governor) -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

IN ASSEMBLY -- Introduced by COMMITTEE ON RULES -- (at request of M. of A. Lupardo) -- (at request of the Governor) -- read once and referred to the Committee on Codes

AN ACT to amend the family court act, in relation to assessment services for youth alleged to be suffering from substance use disorder

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

Section 1. Subdivision (i) of section 712 of the family court act, as added by section 1 of part E of chapter 57 of the laws of 2005, is amended, and four new subdivisions (j), (k), (l) and (m) are added to read as follows:

(i) "Diversion services". Services provided to children and families pursuant to section seven hundred thirty-five of this article for the purpose of avoiding the need to file a petition or direct the detention of the child. Diversion services shall include: efforts to adjust cases pursuant to this article before a petition is filed, or by order of the court, after the petition is filed but before fact-finding is commenced; and preventive services provided in accordance with section four hundred nine-a of the social services law to avert the placement of the child into foster care, including crisis intervention and respite services. DIVERSION SERVICES MAY ALSO INCLUDE, IN CASES WHERE ANY PERSON IS SEEKING TO FILE A PETITION THAT ALLEGES THAT THE CHILD HAS A SUBSTANCE USE DISORDER OR IS IN NEED OF IMMEDIATE DETOXIFICATION OR SUBSTANCE USE DISORDER SERVICES, AN ASSESSMENT FOR SUBSTANCE USE DISORDER; PROVIDED, HOWEVER, THAT NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, THE DESIGNATED LEAD AGENCY SHALL NOT BE REQUIRED TO PAY FOR ALL OR ANY PORTION OF THE COSTS OF SUCH ASSESSMENT OR SUBSTANCE USE DISORDER OR DETOXIFICATION SERVICES, EXCEPT IN CASES WHERE MEDICAL ASSISTANCE FOR NEEDY PERSONS MAY BE USED TO PAY FOR ALL OR ANY PORTION OF THE COSTS OF SUCH ASSESSMENT OR SERVICES.

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

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(J) "SUBSTANCE USE DISORDER". THE MISUSE OF, DEPENDENCE ON, OR ADDICTION TO ALCOHOL AND/OR LEGAL OR ILLEGAL DRUGS LEADING TO EFFECTS THAT ARE DETRIMENTAL TO THE PERSON'S PHYSICAL AND MENTAL HEALTH OR THE WELFARE OF OTHERS.

(K) "ASSESSMENT FOR SUBSTANCE USE DISORDER". ASSESSMENT BY A PROVIDER THAT HAS BEEN CERTIFIED BY THE OFFICE OF ALCOHOLISM AND SUBSTANCE ABUSE SERVICES OF A PERSON LESS THAN EIGHTEEN YEARS OF AGE WHERE IT IS ALLEGED THAT THE YOUTH IS SUFFERING FROM A SUBSTANCE USE DISORDER WHICH COULD MAKE A YOUTH A DANGER TO HIMSELF OR HERSELF OR OTHERS.

(L) "A SUBSTANCE USE DISORDER WHICH COULD MAKE A YOUTH A DANGER TO HIMSELF OR HERSELF OR OTHERS". A SUBSTANCE USE DISORDER THAT IS ACCOMPANIED BY THE DEPENDENCE ON, OR THE REPEATED USE OR ABUSE OF, DRUGS OR ALCOHOL TO THE POINT OF INTOXICATION SUCH THAT THE PERSON IS IN NEED OF IMMEDIATE DETOXIFICATION OR OTHER SUBSTANCE USE DISORDER SERVICES.

(M) "SUBSTANCE USE DISORDER SERVICES". SUBSTANCE USE DISORDER SERVICES SHALL HAVE THE SAME MEANING AS PROVIDED FOR IN SECTION 1.03 OF THE MENTAL HYGIENE LAW.

S 2. Subdivision (b) of section 735 of the family court act, as added by section 7 of part E of chapter 57 of the laws of 2005, is amended to read as follows:

(b) The designated lead agency shall:

(i) confer with any person seeking to file a petition, the youth who may be a potential respondent, his or her family, and other interested persons, concerning the provision of diversion services before any petition may be filed; and

(ii) diligently attempt to prevent the filing of a petition under this article or, after the petition is filed, to prevent the placement of the youth into foster care; and

(iii) assess whether the youth would benefit from residential respite services; and

(iv) determine whether alternatives to detention are appropriate to avoid remand of the youth to detention; AND

(V) DETERMINE WHETHER AN ASSESSMENT OF THE YOUTH FOR SUBSTANCE USE DISORDER BY AN OFFICE OF ALCOHOLISM AND SUBSTANCE ABUSE SERVICES CERTIFIED PROVIDER IS NECESSARY WHEN A PERSON SEEKING TO FILE A PETITION ALLEGES IN SUCH PETITION THAT THE YOUTH IS SUFFERING FROM A SUBSTANCE USE DISORDER WHICH COULD MAKE THE YOUTH A DANGER TO HIMSELF OR HERSELF OR OTHERS. PROVIDED, HOWEVER, THAT NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, THE DESIGNATED LEAD AGENCY SHALL NOT BE REQUIRED TO PAY FOR ALL OR ANY PORTION OF THE COSTS OF SUCH ASSESSMENT OR FOR ANY SUBSTANCE USE DISORDER OR DETOXIFICATION SERVICES, EXCEPT IN CASES WHERE MEDICAL ASSISTANCE FOR NEEDY PERSONS MAY BE USED TO PAY FOR ALL OR ANY PORTION OF THE COSTS OF SUCH ASSESSMENT OR SERVICES. THE OFFICE OF ALCOHOLISM AND SUBSTANCE ABUSE SERVICES SHALL MAKE A LIST OF ITS CERTIFIED PROVIDERS AVAILABLE TO THE DESIGNATED LEAD AGENCY.

S 3. This act shall take effect on the one hundred eightieth day after it shall have become a law; and effective immediately, all rules and regulations necessary for the implementation of this act on its effective date may be promulgated prior to such effective date.