

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

9501--A

I N A S S E M B L Y

March 10, 2016

Introduced by M. of A. STECK -- read once and referred to the Committee on Mental Health -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the mental hygiene law, in relation to emergency intervention for persons impaired by substances

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

- 1 Section 1. Section 22.09 of the mental hygiene law, as added by chapter 558 of the laws of 1999, is amended to read as follows:
2 S 22.09 Emergency services for persons intoxicated, impaired, or incapacitated by alcohol [and/or substances].
3 (a) As used in this article:
4 1. "Intoxicated or impaired person" means a person whose mental or physical functioning is substantially impaired as a result of the presence of alcohol [and/or substances] in his or her body.
5 2. "Incapacitated" means that a person, as a result of the use of alcohol [and/or substances], is unconscious or has his or her judgment otherwise so impaired that he or she is incapable of realizing and making a rational decision with respect to his or her need for treatment.
6 3. "Likelihood to result in harm" or "likely to result in harm" means (i) a substantial risk of physical harm to the person as manifested by threats of or attempts at suicide or serious bodily harm or other conduct demonstrating that the person is dangerous to himself or herself, or (ii) a substantial risk of physical harm to other persons as manifested by homicidal or other violent behavior by which others are placed in reasonable fear of serious physical harm.
7 4. "Hospital" means a general hospital as defined in article twenty-eight of the public health law.
8 (b) An intoxicated or impaired person may come voluntarily for emergency treatment to a chemical dependence program or treatment facility authorized by the commissioner to give such emergency treatment. A person who appears to be intoxicated or impaired and who consents to the proffered help may be assisted by any peace officer acting pursuant to

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

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1 his or her special duties, police officer, or by a designee of the
2 director of community services to return to his or her home, to a chemi-
3 cal dependence program or treatment facility, or to any other facility
4 authorized by the commissioner to give emergency treatment. In such
5 cases, the peace officer, police officer, or designee of the director of
6 community services shall accompany the intoxicated or impaired person in
7 a manner which is reasonably designed to assure his or her safety, as
8 set forth in regulations promulgated in accordance with subdivision (f)
9 of this section.

10 (c) A person who appears to be incapacitated by alcohol [and/or
11 substances] to the degree that there is a likelihood to result in harm
12 to the person or to others may be taken by a peace officer acting pursu-
13 ant to his or her special duties, or a police officer who is a member of
14 the state police or of an authorized police department or force or of a
15 sheriff's department or by the director of community services or a
16 person duly designated by him or her to a general hospital or to any
17 other place authorized by the commissioner in regulations promulgated in
18 accordance with subdivision (f) of this section to give emergency treat-
19 ment, for immediate observation, care, and emergency treatment. Every
20 reasonable effort shall be made to protect the health and safety of such
21 person, including but not limited to the requirement that the peace
22 officer, police officer, or director of community services or his or her
23 designee shall accompany the apparently incapacitated person in a manner
24 which is reasonably designed to assure his or her safety, as set forth
25 in regulations promulgated in accordance with subdivision (f) of this
26 section.

27 (d) A person who comes voluntarily or is brought without his or her
28 objection to any such facility or program in accordance with subdivision
29 (c) of this section shall be given emergency care and treatment at such
30 place if found suitable therefor by authorized personnel, or referred to
31 another suitable facility or treatment program for care and treatment,
32 or sent to his or her home.

33 (e) A person who is brought with his or her objection to any facility
34 or treatment program in accordance with subdivision (c) of this section
35 shall be examined as soon as possible by an examining physician. If such
36 examining physician determines that such person is incapacitated by
37 alcohol [and/or substances] to the degree that there is a likelihood to
38 result in harm to the person or others, he or she may be retained for
39 emergency treatment. If the examining physician determines that such
40 person is not incapacitated by alcohol [and/or substances] to the degree
41 that there is a likelihood to result in harm to the person or others, he
42 or she must be released. Notwithstanding any other law, in no event may
43 such person be retained against his or her objection beyond whichever is
44 the shorter of the following: (i) the time that he or she is no longer
45 incapacitated by alcohol [and/or substances] to the degree that there is
46 a likelihood to result in harm to the person or others or (ii) a period
47 longer than forty-eight hours.

48 1. Every reasonable effort must be made to obtain the person's consent
49 to give prompt notification of a person's retention in a facility or
50 program pursuant to this section to his or her closest relative or
51 friend, and, if requested by such person, to his or her attorney and
52 personal physician, in accordance with federal confidentiality regu-
53 lations.

54 2. A person may not be retained pursuant to this section beyond a
55 period of forty-eight hours without his or her consent. Persons suitable

therefor may be voluntarily admitted to a chemical dependence program or facility pursuant to this article.

(f) The commissioner shall promulgate regulations, after consulting with representatives of appropriate law enforcement and chemical dependence providers of services, establishing procedures for taking intoxicated or impaired persons and persons apparently incapacitated by alcohol [and/or substances] to their residences or to appropriate public or private facilities for emergency treatment and for minimizing the role of the police in obtaining treatment of such persons.

S 2. The mental hygiene law is amended by adding a new section 22.10 to read as follows:

S 22.10 EMERGENCY SERVICES FOR PERSONS IMPAIRED OR INCAPACITATED BY SUBSTANCES.

(A) DEFINITIONS. AS USED IN THIS ARTICLE:

1. "IMPAIRED PERSON" MEANS A PERSON WHOSE MENTAL OR PHYSICAL FUNCTIONING IS SUBSTANTIALLY IMPAIRED AS A RESULT OF THE PRESENCE OF SUBSTANCES IN HIS OR HER BODY.

2. "INCAPACITATED" MEANS THAT A PERSON, AS A RESULT OF THE USE OF SUBSTANCES, IS UNCONSCIOUS OR HAS HIS OR HER JUDGMENT OTHERWISE SO IMPAIRED THAT HE OR SHE IS INCAPABLE OF REALIZING AND MAKING A RATIONAL DECISION WITH RESPECT TO HIS OR HER NEED FOR TREATMENT.

3. "LIKELIHOOD TO RESULT IN HARM" OR "LIKELY TO RESULT IN HARM" MEANS (I) A SUBSTANTIAL RISK OF PHYSICAL HARM TO THE PERSON AS MANIFESTED BY THREATS OF OR ATTEMPTS AT SUICIDE OR SERIOUS BODILY HARM OR OTHER CONDUCT DEMONSTRATING THAT THE PERSON IS DANGEROUS TO HIMSELF OR HERSELF, OR (II) A SUBSTANTIAL RISK OF PHYSICAL HARM TO OTHER PERSONS AS MANIFESTED BY HOMICIDAL OR OTHER VIOLENT BEHAVIOR BY WHICH OTHERS ARE PLACED IN REASONABLE FEAR OF SERIOUS PHYSICAL HARM.

4. "EMERGENCY SERVICES" MEANS IMMEDIATE VOLUNTARY OR INVOLUNTARY PHYSICAL EXAMINATION, ASSESSMENT, CARE AND TREATMENT OF AN IMPAIRED PERSON WHO HAS BECOME INCAPACITATED IN ORDER TO ACHIEVE STABILIZATION AND/OR SUBSEQUENT ADMISSION TO EXTENDED VOLUNTARY OR INVOLUNTARY TREATMENT.

5. "TREATMENT FACILITY" MEANS A HOSPITAL AS DEFINED IN ARTICLE TWENTY-EIGHT OF THE PUBLIC HEALTH LAW, OR A CHEMICAL DEPENDENCE PROGRAM FACILITY CERTIFIED OR APPROVED BY THE COMMISSIONER.

6. "SUBSTANCE" SHALL HAVE THE SAME MEANING AS SET FORTH IN SUBDIVISION THIRTY-NINE OF SECTION 1.03 OF THIS CHAPTER.

(B) VOLUNTARY EMERGENCY SERVICES. 1. AN IMPAIRED PERSON MAY COME VOLUNTARILY FOR EMERGENCY SERVICES TO A CHEMICAL DEPENDENCE PROGRAM OR TREATMENT FACILITY AUTHORIZED BY THE COMMISSIONER TO PROVIDE SUCH EMERGENCY SERVICES. A PERSON WHO APPEARS TO BE IMPAIRED AND WHO CONSENTS TO THE PROFFERED HELP SHALL BE ASSISTED BY ANY PEACE OFFICER ACTING PURSUANT TO HIS OR HER SPECIAL DUTIES, POLICE OFFICER, OR BY A DESIGNEE OF THE DIRECTOR OF COMMUNITY SERVICES TO RETURN TO HIS OR HER HOME, TO A CHEMICAL DEPENDENCE PROGRAM OR TREATMENT FACILITY, OR TO ANY OTHER FACILITY AUTHORIZED BY THE COMMISSIONER TO PROVIDE EMERGENCY SERVICES. IN SUCH CASES, THE PEACE OFFICER, POLICE OFFICER, OR DESIGNEE OF THE DIRECTOR OF COMMUNITY SERVICES SHALL ACCOMPANY THE IMPAIRED PERSON IN A MANNER WHICH IS REASONABLY DESIGNED TO ASSURE HIS OR HER SAFETY, AS SET FORTH IN REGULATIONS PROMULGATED IN ACCORDANCE WITH SUBDIVISION (F) OF THIS SECTION.

2. CONSISTENT WITH SUBDIVISION (B) OF SECTION 22.07 OF THIS ARTICLE, A PERSON WHO APPEARS TO BE INCAPACITATED BY SUBSTANCES TO THE DEGREE THAT THERE IS A LIKELIHOOD TO RESULT IN HARM TO THE PERSON OR TO OTHERS SHALL BE TAKEN BY A PEACE OFFICER ACTING PURSUANT TO HIS OR HER SPECIAL DUTIES, OR A POLICE OFFICER WHO IS A MEMBER OF THE STATE POLICE OR OF AN

1 AUTHORIZED POLICE DEPARTMENT OR FORCE OR OF A SHERIFF'S DEPARTMENT OR BY
2 THE DIRECTOR OF COMMUNITY SERVICES OR A PERSON DULY DESIGNATED BY HIM OR
3 HER, OR PURSUANT TO PETITION TO THE DIRECTOR OF COMMUNITY SERVICES
4 PURSUANT TO SUBDIVISION (D) OF THIS SECTION, TO A TREATMENT FACILITY FOR
5 PURPOSES OF RECEIVING EMERGENCY SERVICES. EVERY REASONABLE EFFORT SHALL
6 BE MADE TO PROTECT THE HEALTH AND SAFETY OF SUCH PERSON, INCLUDING BUT
7 NOT LIMITED TO THE REQUIREMENT THAT THE PEACE OFFICER, POLICE OFFICER,
8 OR DIRECTOR OF COMMUNITY SERVICES OR HIS OR HER DESIGNEE SHALL ACCOMPANY
9 THE APPARENTLY INCAPACITATED PERSON IN A MANNER WHICH IS REASONABLY
10 DESIGNED TO ASSURE HIS OR HER SAFETY, AS SET FORTH IN REGULATIONS
11 PROMULGATED IN ACCORDANCE WITH SUBDIVISION (F) OF THIS SECTION.

12 3. A PERSON WHO COMES VOLUNTARILY OR IS BROUGHT WITHOUT HIS OR HER
13 OBJECTION TO ANY SUCH TREATMENT FACILITY IN ACCORDANCE WITH PARAGRAPH
14 TWO OF THIS SUBDIVISION SHALL BE PROVIDED EMERGENCY SERVICES AT SUCH
15 PLACE IF FOUND SUITABLE BY AUTHORIZED PERSONNEL, OR REFERRED TO ANOTHER
16 SUITABLE FACILITY OR TREATMENT PROGRAM FOR EMERGENCY SERVICES, OR SENT
17 TO HIS OR HER HOME.

18 4. A PERSON WHO IS BROUGHT WITH HIS OR HER OBJECTION TO ANY TREATMENT
19 FACILITY IN ACCORDANCE WITH PARAGRAPH TWO OF THIS SUBDIVISION SHALL BE
20 EXAMINED AS SOON AS POSSIBLE BY AN EXAMINING PHYSICIAN. IF SUCH EXAMIN-
21 ING PHYSICIAN DETERMINES THAT SUCH PERSON IS INCAPACITATED BY SUBSTANCES
22 TO THE DEGREE THAT THERE IS A LIKELIHOOD TO RESULT IN HARM TO THE PERSON
23 OR OTHERS, HE OR SHE MAY BE RETAINED FOR EMERGENCY TREATMENT TO ACHIEVE
24 STABILIZATION. IF THE EXAMINING PHYSICIAN DETERMINES THAT SUCH PERSON IS
25 NOT INCAPACITATED BY SUBSTANCES TO THE DEGREE THAT THERE IS A LIKELIHOOD
26 TO RESULT IN HARM TO THE PERSON OR OTHERS, HE OR SHE MUST BE RELEASED.
27 EXCEPT AS PROVIDED IN SUBDIVISION (C) OF THIS SECTION, IN NO EVENT MAY
28 SUCH PERSON BE RETAINED AGAINST HIS OR HER OBJECTION BEYOND WHICHEVER IS
29 THE SHORTER OF THE FOLLOWING:

30 (I) THE TIME THAT HE OR SHE IS NO LONGER INCAPACITATED BY SUBSTANCES
31 TO THE DEGREE THAT THERE IS A LIKELIHOOD TO RESULT IN HARM TO THE PERSON
32 OR OTHERS OR;

33 (II) A PERIOD LONGER THAN SEVENTY-TWO HOURS.

34 5. EVERY REASONABLE EFFORT MUST BE MADE TO OBTAIN THE PERSON'S CONSENT
35 TO GIVE PROMPT NOTIFICATION OF A PERSON'S RETENTION IN A FACILITY OR
36 PROGRAM PURSUANT TO THIS SUBDIVISION TO HIS OR HER CLOSEST RELATIVE OR
37 FRIEND, AND, IF REQUESTED BY SUCH PERSON, TO HIS OR HER ATTORNEY AND
38 PERSONAL PHYSICIAN, IN ACCORDANCE WITH FEDERAL CONFIDENTIALITY REGU-
39 LATIONS.

40 (C) INVOLUNTARY EMERGENCY SERVICES ON CERTIFICATE OF A DIRECTOR OF
41 COMMUNITY SERVICES OR DESIGNEE. 1. THE DIRECTOR OF A TREATMENT FACILITY
42 DESIGNATED BY THE COMMISSIONER TO PROVIDE EMERGENCY SERVICES SHALL UPON
43 THE CERTIFICATE OF A LOCAL DIRECTOR OF COMMUNITY SERVICES OR A PHYSICIAN
44 DULY DESIGNATED BY THE DIRECTOR OF COMMUNITY SERVICES, RECEIVE AND CARE
45 FOR IN SUCH FACILITY AS A PATIENT ANY PERSON WHO, IN THE OPINION OF THE
46 DIRECTOR OF COMMUNITY SERVICES OR HIS OR HER DESIGNEE SOUGHT BY PETITION
47 PURSUANT TO SUBDIVISION (D) OF THIS SECTION, IS INCAPACITATED SUCH THAT
48 SUCH PERSON'S USE OR ABUSE OF CHEMICAL SUBSTANCES IS LIKELY TO RESULT IN
49 HARM TO HIMSELF, HERSELF OR OTHERS AND FOR WHOM IMMEDIATE INVOLUNTARY
50 EMERGENCY SERVICES IS APPROPRIATE.

51 2. THE NEED FOR IMMEDIATE INVOLUNTARY EMERGENCY SERVICES SHALL BE
52 CONFIRMED PRIOR TO ADMISSION BY A PHYSICIAN AFFILIATED WITH THE FACILI-
53 TY. EXCLUDING SUNDAYS AND HOLIDAYS, IF THE PHYSICIAN RECOMMENDS SUCH
54 PATIENT BE RETAINED FOR EMERGENCY SERVICES BEYOND SEVENTY-TWO HOURS AND
55 THE PATIENT DOES NOT AGREE TO REMAIN IN SUCH FACILITY AS A VOLUNTARY
56 PATIENT, THE CERTIFICATE OF SUCH PHYSICIAN ATTESTING THAT THE PATIENT IS

1 IN NEED OF EXTENDED INVOLUNTARY EMERGENCY SERVICES SHALL BE FILED WITH
2 THE FACILITY. FROM THE TIME OF SUCH PATIENT'S ADMISSION UNDER THIS
3 SUBDIVISION THE RETENTION OF SUCH PATIENT FOR EMERGENCY SERVICES BEYOND
4 SEVENTY-TWO HOURS SHALL BE SUBJECT TO THE PROVISIONS FOR NOTICE, HEAR-
5 ING, REVIEW, AND JUDICIAL APPROVAL PROVIDED BY THIS ARTICLE FOR THE
6 ADMISSION AND RETENTION OF INVOLUNTARY PATIENTS, PROVIDED THAT, FOR THE
7 PURPOSES OF SUCH PROVISIONS, THE DATE OF ADMISSION OF THE PATIENT SHALL
8 BE DEEMED TO BE THE DATE WHEN THE PATIENT WAS FIRST RECEIVED IN THE
9 FACILITY PURSUANT TO THIS SUBDIVISION.

10 (D) PETITION TO LOCAL DIRECTOR OF COMMUNITY SERVICES FOR VOLUNTARY OR
11 INVOLUNTARY EMERGENCY SERVICES. 1. A PETITION FOR EMERGENCY SERVICES MAY
12 BE SOUGHT FOR AN ADULT OR FOR A MINOR BY PETITION TO A LOCAL GOVERN-
13 MENTAL UNIT'S DIRECTOR OF COMMUNITY SERVICES IN ACCORDANCE WITH THIS
14 SUBDIVISION. ANY ONE OF THE FOLLOWING PERSONS MAY PETITION THE DIRECTOR
15 OF COMMUNITY SERVICES:

16 (I) IN THE CASE OF AN ADULT, A PHYSICIAN, THE PERSON'S SPOUSE OR GUAR-
17 DIAN, ANY RELATIVE OF THE PERSON, OR ANY OTHER ADULT WHO HAS PERSONAL
18 KNOWLEDGE OF A PERSON'S SUBSTANCE ABUSE IMPAIRMENT; OR

19 (II) IN THE CASE OF A MINOR, THE MINOR'S PARENT, LEGAL GUARDIAN, OR
20 LEGAL CUSTODIAN.

21 2. PETITION FOR ADMISSION OF A PATIENT TO A TREATMENT FACILITY FOR
22 EMERGENCY SERVICES PURSUANT TO THIS SECTION SHALL BE BASED UPON A
23 PERSONAL EXAMINATION BY A DIRECTOR OF COMMUNITY SERVICES OR HIS OR HER
24 DESIGNEE. IT SHALL BE IN WRITING AND SHALL BE FILED WITH THE DIRECTOR OF
25 A FACILITY AT THE TIME OF THE PATIENT'S RECEPTION, TOGETHER WITH A
26 STATEMENT IN A FORM PRESCRIBED BY THE COMMISSIONER GIVING SUCH INFORMA-
27 TION AS HE OR SHE MAY DEEM APPROPRIATE. A PETITION FOR ADMISSION FOR
28 EMERGENCY SERVICES MUST ESTABLISH THE REASON THE PETITIONER BELIEVES
29 THAT THERE IS A LIKELIHOOD TO RESULT IN HARM TO THE PERSON OR OTHERS
30 UNLESS HE OR SHE IS ADMITTED FOR IMMEDIATE EMERGENCY SERVICES. A PETI-
31 TION MUST INCLUDE:

32 (I) THE NAME OF THE PERSON TO BE ADMITTED, THE NAME AND SIGNATURE OF
33 THE PETITIONER, THE RELATIONSHIP BETWEEN THE PERSON TO BE ADMITTED AND
34 THE APPLICANT; AND

35 (II) THE REASON THE PETITIONER BELIEVES THAT BECAUSE OF SUCH IMPAIR-
36 MENT THE PERSON HAS LOST THE POWER OF SELF-CONTROL WITH RESPECT TO
37 SUBSTANCE ABUSE; AND

38 (III) THE REASON THE PETITIONER BELIEVES THAT THE PERSON'S REFUSAL TO
39 VOLUNTARILY RECEIVE EMERGENCY SERVICES IS BASED ON JUDGEMENT SO IMPAIRED
40 BY REASON OF SUBSTANCE ABUSE THAT HE OR SHE IS INCAPABLE OF APPRECIATING
41 HIS OR HER NEED FOR SUCH SERVICES AND OF MAKING A RATIONAL DECISION
42 REGARDING HIS OR HER NEED FOR SERVICES.

43 3. UPON RECEIPT OF SUCH PETITION, THE DIRECTOR OF COMMUNITY SERVICES
44 OR A PERSON DULY DESIGNATED BY HIM OR HER SHALL REVIEW SUCH PETITION AND
45 MAY TAKE ACTIONS PURSUANT TO SUBDIVISIONS (B) OR (C) OF THIS SECTION.

46 (E) EACH PERSON ADMITTED TO A TREATMENT FACILITY FOR EMERGENCY
47 SERVICES PURSUANT TO THIS SECTION SHALL BE PROVIDED WITH WRITTEN NOTICE
48 REGARDING PATIENT RIGHTS PURSUANT TO SECTION 22.03 OF THIS ARTICLE,
49 ACCESS TO HIS OR HER PERSONAL ATTORNEY UPON REQUEST, AND NOTICE AS TO
50 THE AVAILABILITY OF THE MENTAL HYGIENE LEGAL SERVICE FOR LEGAL COUNSEL
51 AND SHALL BE PROVIDED ACCESS TO THE SERVICE UPON REQUEST.

52 (F) THE COMMISSIONER SHALL PROMULGATE REGULATIONS ESTABLISHING PROCE-
53 DURES FOR TAKING INTOXICATED OR IMPAIRED PERSONS AND PERSONS APPARENTLY
54 INCAPACITATED BY ALCOHOL AND/OR SUBSTANCES TO THEIR RESIDENCE OR TO
55 APPROPRIATE PUBLIC OR PRIVATE TREATMENT FACILITIES FOR EMERGENCY

1 SERVICES AND MINIMIZING THE ROLE OF THE POLICE IN OBTAINING TREATMENT OF
2 SUCH PERSONS.

3 S 3. The mental hygiene law is amended by adding a new section 22.13
4 to read as follows:

5 S 22.13 COURT AUTHORIZATION TO RETAIN AN INVOLUNTARY PATIENT.

6 (A) IF THE DIRECTOR OF A FACILITY SHALL DETERMINE THAT A PATIENT
7 ADMITTED PURSUANT TO SUBDIVISION (C) OF SECTION 22.10 OF THIS ARTICLE,
8 FOR WHOM THERE IS NO PRIOR COURT ORDER AUTHORIZING RETENTION FOR A SPEC-
9 IFIED PERIOD, IS IN NEED OF RETENTION BEYOND SEVENTY-TWO HOURS AND IF
10 SUCH PATIENT DOES NOT AGREE TO REMAIN IN SUCH FACILITY AS A VOLUNTARY
11 PATIENT, THE DIRECTOR SHALL APPLY TO THE SUPREME COURT OR THE COUNTY
12 COURT IN THE COUNTY WHERE THE FACILITY IS LOCATED FOR AN ORDER AUTHORIZ-
13 ING CONTINUED RETENTION. THE FACILITY IS AUTHORIZED TO RETAIN THE
14 PATIENT FOR SEVENTY-TWO HOURS OR DURING THE PERIOD IN WHICH THE APPLICA-
15 TION MAY BE PENDING, SUCH PERIOD NOT TO EXCEED NINETY DAYS. THE DIRECTOR
16 SHALL CAUSE WRITTEN NOTICE OF SUCH APPLICATION TO BE GIVEN TO THE
17 PATIENT AND A COPY THEREOF SHALL BE GIVEN PERSONALLY OR BY MAIL TO ANY
18 PERSONS REQUIRED BY THIS ARTICLE TO BE SERVED WITH NOTICE OF SUCH
19 PATIENT'S INITIAL ADMISSION AND TO THE MENTAL HYGIENE LEGAL SERVICE.
20 SUCH NOTICE SHALL STATE THAT A HEARING MAY BE REQUESTED BY THE PATIENT
21 OR THE SERVICE AND THAT FAILURE TO MAKE SUCH A REQUEST WITHIN FIVE DAYS,
22 EXCLUDING SUNDAY AND HOLIDAYS, FROM THE DATE THAT THE NOTICE WAS GIVEN
23 TO THE PATIENT WILL PERMIT THE ENTRY WITHOUT A HEARING OF AN ORDER
24 AUTHORIZING RETENTION FOR A PERIOD NOT TO EXCEED NINETY DAYS FROM THE
25 DATE OF THE ORDER, PROVIDED THE COURT IS SATISFIED THAT THE PATIENT
26 REQUIRES CONTINUED RETENTION.

27 (B) UPON THE DEMAND OF THE PATIENT OR OF ANYONE ON HIS OR HER BEHALF
28 OR UPON REQUEST OF THE MENTAL HYGIENE LEGAL SERVICE, THE COURT SHALL, OR
29 MAY ON ITS OWN MOTION, FIX A DATE FOR THE HEARING OF THE APPLICATION
30 PURSUANT TO COURT PROCEDURE IN THE JURISDICTION OF THE FACILITY.

31 (C) EXCEPT AS PROVIDED IN SUBDIVISION (A) OF THIS SECTION A PERSON MAY
32 NOT BE RETAINED BEYOND A PERIOD OF NINETY DAYS WITHOUT HIS OR HER
33 CONSENT. PERSONS SUITABLE THEREFOR MAY BE VOLUNTARILY ADMITTED TO A
34 CHEMICAL DEPENDENCE PROGRAM OR FACILITY PURSUANT TO THIS ARTICLE.

35 S 4. Subdivision (d) of section 22.11 of the mental hygiene law, as
36 added by chapter 558 of the laws of 1999, is amended to read as follows:

37 (d) Inpatient or residential treatment. 1. [Admission] VOLUNTARY
38 ADMISSION procedures. (i) A copy of the patient's rights established
39 under this section and under section 22.03 of this article shall be
40 given and explained to the minor and to the minor's consenting parent or
41 guardian at the time of admission by the director of the facility or
42 such person's designee.

43 (ii) The minor shall be required to sign a form indicating that the
44 treatment is being voluntarily sought, and that he or she has been
45 advised of his or her ability to access the mental hygiene legal service
46 and of his or her rights under this section and section 22.03 of this
47 article. The signed form shall be included in the minor's medical
48 record.

49 (iii) At the time of admission, any minor so admitted shall be
50 informed by the director of the facility or the director's designee,
51 orally and in writing, of the minor's right to be discharged in accord-
52 ance with the provisions of this [section] SUBDIVISION within twenty-
53 four hours of his or her making a request therefor.

54 (iv) Emergency contacts.

55 (A) At the time of admission, the provider of services shall use its
56 best efforts to obtain from the minor's consenting parent or guardian a

1 telephone number or numbers where he or she may be reached by the facil-
2 ity at any time during the day or night. In addition, such provider of
3 services shall also use its best efforts to obtain from the parent or
4 guardian a name, address and appropriate telephone number or numbers of
5 an adult designated by such parent or guardian as an emergency contact
6 person in the event the facility is unable to reach such parent or guar-
7 dian.

8 (B) If the minor is admitted in accordance with subdivision (c) of
9 this section, the provider of services shall use its best efforts to
10 obtain from the minor the name, address, and telephone number of an
11 adult who may serve as an emergency contact, and the facility shall
12 verify the existence and availability of such contact upon notice to and
13 with the prior written consent of the minor.

14 (C) Failure to obtain emergency contacts, after reasonable effort, in
15 accordance with this section shall not preclude admission of the minor
16 to treatment.

17 (v) Notice of admission and discharge procedures.

18 (A) A copy of the facility's admission and discharge procedures shall
19 be provided to the minor and to the minor's consenting parent or guardi-
20 an at the time of admission by the director of the facility or such
21 person's designee. Such information shall also be mailed to the desig-
22 nated emergency contact person by regular mail.

23 (B) If the minor is admitted in accordance with subdivision (c) of
24 this section, a copy of the facility's admission and discharge proce-
25 dures shall be provided to the minor. Such information shall also be
26 mailed to the designated emergency contact person by regular mail.

27 (vi) Each minor admitted for inpatient or residential chemical depend-
28 ence treatment pursuant to this subdivision shall be provided with writ-
29 ten notice regarding the availability of the mental hygiene legal
30 service for legal counsel, and shall be provided access to the service
31 upon request.

32 2. INVOLUNTARY ADMISSION PROCEDURES. (I) MINORS ADMITTED PURSUANT TO
33 SECTION 22.10 OF THIS ARTICLE SHALL BE PROVIDED WITH WRITTEN NOTICE
34 REGARDING THE AVAILABILITY OF THE MENTAL HYGIENE LEGAL SERVICE FOR LEGAL
35 COUNSEL, AND SHALL BE PROVIDED ACCESS TO THE SERVICE UPON REQUEST.

36 (II) NO MINOR RECEIVING INVOLUNTARY INPATIENT EMERGENCY SERVICES
37 PURSUANT TO SUBDIVISION (C) OF SECTION 22.10 OF THIS ARTICLE MAY BE
38 DISCHARGED FROM THE PROGRAM PRIOR TO SEVENTY-TWO HOURS BASED SOLELY ON
39 HIS OR HER REQUEST.

40 (III) A COPY OF THE PATIENT'S RIGHTS ESTABLISHED UNDER THIS SECTION
41 AND UNDER SECTION 22.03 OF THIS ARTICLE SHALL BE GIVEN AND EXPLAINED TO
42 THE MINOR AND TO THE MINOR'S CONSENTING PARENT OR GUARDIAN AT THE TIME
43 OF ADMISSION BY THE DIRECTOR OF THE FACILITY OR SUCH PERSON'S DESIGNEE.

44 (IV) THE MINOR SHALL BE REQUIRED TO SIGN A FORM INDICATING THAT HE OR
45 SHE HAS BEEN ADVISED OF HIS OR HER ABILITY TO ACCESS THE MENTAL HYGIENE
46 LEGAL SERVICE AND OF HIS OR HER RIGHTS UNDER THIS SECTION AND SECTION
47 22.03 OF THIS ARTICLE. THE SIGNED FORM SHALL BE INCLUDED IN THE MINOR'S
48 MEDICAL RECORD.

49 3. Discharge procedures. All minors admitted pursuant to this subdivi-
50 sion shall be discharged in accordance with the following:

51 (i) [Any minor admitted to an inpatient or residential chemical
52 dependence treatment facility has the right to be discharged within
53 twenty-four hours of his or her request in accordance with the
54 provisions of this subdivision.

55 (ii)] If discharge is requested prior to completion of a minor's
56 treatment plan, such minor must request discharge in writing.

1 (A) Upon receipt of any form of written request for discharge, the
2 director of the facility in which the minor is admitted shall immediate-
3 ly notify the minor's parent or guardian. If the facility is unable to
4 contact such parent or guardian within a reasonable time, or if the
5 minor has been admitted pursuant to subdivision (c) of this section, the
6 facility shall notify the designated emergency contact person.

7 (B) The minor shall not be discharged from such facility until it is
8 determined:

9 (1) that the safety and well being of such minor will not be threat-
10 ened [or the expiration of twenty-four hours, whichever is sooner]; [or]

11 (2) THAT THE MINOR'S PARENT OR GUARDIAN CONSENTS TO THE RELEASE OF
12 SUCH MINOR; AND

13 (3) that the parent, guardian, or designated emergency contact person
14 has made appropriate and timely departure arrangements with the facili-
15 ty. [However, unless otherwise directed by the minor's parent or guardi-
16 an or designated emergency contact person pursuant to this item, such
17 minor shall be discharged within twenty-four hours after submission of
18 the request.

19 (iii)] (II) Writing materials for use in requesting a discharge shall
20 be made available at all times to all minors admitted under this
21 section.

22 (III) The staff of the facility shall assist such minors in preparing
23 or submitting requests for discharge.

24 S 5. This act shall take effect immediately.