

6248--B

I N S E N A T E

(PREFILED)

January 6, 2016

Introduced by Sens. ORTT, ADDABBO -- read twice and ordered printed, and when printed to be committed to the Committee on Alcoholism and Drug Abuse -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- 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 chap-
2 ter 558 of the laws of 1999, is amended to read as follows:
3 S 22.09 Emergency services for persons intoxicated, impaired, or inca-
4 pacitated by alcohol [and/or substances].
5 (a) As used in this article:
6 1. "Intoxicated or impaired person" means a person whose mental or
7 physical functioning is substantially impaired as a result of the pres-
8 ence of alcohol [and/or substances] in his or her body.
9 2. "Incapacitated" means that a person, as a result of the use of
10 alcohol [and/or substances], is unconscious or has his or her judgment
11 otherwise so impaired that he or she is incapable of realizing and
12 making a rational decision with respect to his or her need for treat-
13 ment.
14 3. "Likelihood to result in harm" or "likely to result in harm" means
15 (i) a substantial risk of physical harm to the person as manifested by
16 threats of or attempts at suicide or serious bodily harm or other
17 conduct demonstrating that the person is dangerous to himself or
18 herself, or (ii) a substantial risk of physical harm to other persons as
19 manifested by homicidal or other violent behavior by which others are
20 placed in reasonable fear of serious physical harm.
21 4. "Hospital" means a general hospital as defined in article twenty-
22 eight of the public health law.

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

LBD13217-05-6

1 (b) An intoxicated or impaired person may come voluntarily for emer-
2 gency treatment to a chemical dependence program or treatment facility
3 authorized by the commissioner to give such emergency treatment. A
4 person who appears to be intoxicated or impaired and who consents to the
5 proffered help may be assisted by any peace officer acting pursuant to
6 his or her special duties, police officer, or by a designee of the
7 director of community services to return to his or her home, to a chemi-
8 cal dependence program or treatment facility, or to any other facility
9 authorized by the commissioner to give emergency treatment. In such
10 cases, the peace officer, police officer, or designee of the director of
11 community services shall accompany the intoxicated or impaired person in
12 a manner which is reasonably designed to assure his or her safety, as
13 set forth in regulations promulgated in accordance with subdivision (f)
14 of this section.

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

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

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

53 1. Every reasonable effort must be made to obtain the person's consent
54 to give prompt notification of a person's retention in a facility or
55 program pursuant to this section to his or her closest relative or
56 friend, and, if requested by such person, to his or her attorney and

personal physician, in accordance with federal confidentiality regulations.

2. A person may not be retained pursuant to this section beyond a 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.

1 2. CONSISTENT WITH SUBDIVISION (B) OF SECTION 22.07 OF THIS ARTICLE, A
2 PERSON WHO APPEARS TO BE INCAPACITATED BY SUBSTANCES TO THE DEGREE THAT
3 THERE IS A LIKELIHOOD TO RESULT IN HARM TO THE PERSON OR TO OTHERS SHALL
4 BE TAKEN BY A PEACE OFFICER ACTING PURSUANT TO HIS OR HER SPECIAL
5 DUTIES, OR A POLICE OFFICER WHO IS A MEMBER OF THE STATE POLICE OR OF AN
6 AUTHORIZED POLICE DEPARTMENT OR FORCE OR OF A SHERIFF'S DEPARTMENT OR BY
7 THE DIRECTOR OF COMMUNITY SERVICES OR A PERSON DULY DESIGNATED BY HIM OR
8 HER, OR PURSUANT TO PETITION TO THE DIRECTOR OF COMMUNITY SERVICES
9 PURSUANT TO SUBDIVISION (D) OF THIS SECTION, TO A TREATMENT FACILITY FOR
10 PURPOSES OF RECEIVING EMERGENCY SERVICES. EVERY REASONABLE EFFORT SHALL
11 BE MADE TO PROTECT THE HEALTH AND SAFETY OF SUCH PERSON, INCLUDING BUT
12 NOT LIMITED TO THE REQUIREMENT THAT THE PEACE OFFICER, POLICE OFFICER,
13 OR DIRECTOR OF COMMUNITY SERVICES OR HIS OR HER DESIGNEE SHALL ACCOMPANY
14 THE APPARENTLY INCAPACITATED PERSON IN A MANNER WHICH IS REASONABLY
15 DESIGNED TO ASSURE HIS OR HER SAFETY, AS SET FORTH IN REGULATIONS
16 PROMULGATED IN ACCORDANCE WITH SUBDIVISION (F) OF THIS SECTION.

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

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

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

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

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

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

2. THE NEED FOR IMMEDIATE INVOLUNTARY EMERGENCY SERVICES SHALL BE CONFIRMED PRIOR TO ADMISSION BY A PHYSICIAN AFFILIATED WITH THE FACILITY. EXCLUDING SUNDAYS AND HOLIDAYS, IF THE PHYSICIAN RECOMMENDS SUCH PATIENT BE RETAINED FOR EMERGENCY SERVICES BEYOND SEVENTY-TWO HOURS AND THE PATIENT DOES NOT AGREE TO REMAIN IN SUCH FACILITY AS A VOLUNTARY PATIENT, THE CERTIFICATE OF SUCH PHYSICIAN ATTESTING THAT THE PATIENT IS IN NEED OF EXTENDED INVOLUNTARY EMERGENCY SERVICES SHALL BE FILED WITH THE FACILITY. FROM THE TIME OF SUCH PATIENT'S ADMISSION UNDER THIS SUBDIVISION THE RETENTION OF SUCH PATIENT FOR EMERGENCY SERVICES BEYOND SEVENTY-TWO HOURS SHALL BE SUBJECT TO THE PROVISIONS FOR NOTICE, HEARING, REVIEW, AND JUDICIAL APPROVAL 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 FACILITY PURSUANT TO THIS SUBDIVISION.

(D) PETITION TO LOCAL DIRECTOR OF COMMUNITY SERVICES FOR VOLUNTARY OR INVOLUNTARY EMERGENCY SERVICES. 1. A PETITION FOR EMERGENCY SERVICES MAY BE SOUGHT FOR AN ADULT OR FOR A MINOR BY PETITION TO A LOCAL GOVERNMENTAL UNIT'S DIRECTOR OF COMMUNITY SERVICES IN ACCORDANCE WITH THIS SUBDIVISION. ANY ONE OF THE FOLLOWING PERSONS MAY PETITION THE DIRECTOR OF COMMUNITY SERVICES:

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

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

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

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

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

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

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

(E) EACH PERSON ADMITTED TO A TREATMENT FACILITY FOR EMERGENCY SERVICES PURSUANT TO THIS SECTION SHALL BE PROVIDED WITH WRITTEN NOTICE REGARDING PATIENT RIGHTS PURSUANT TO SECTION 22.03 OF THIS ARTICLE, ACCESS TO HIS OR HER PERSONAL ATTORNEY UPON REQUEST, AND NOTICE AS TO

1 THE AVAILABILITY OF THE MENTAL HYGIENE LEGAL SERVICE FOR LEGAL COUNSEL
2 AND SHALL BE PROVIDED ACCESS TO THE SERVICE UPON REQUEST.

3 (F) THE COMMISSIONER SHALL PROMULGATE REGULATIONS ESTABLISHING PROCE-
4 DURES FOR TAKING INTOXICATED OR IMPAIRED PERSONS AND PERSONS APPARENTLY
5 INCAPACITATED BY ALCOHOL AND/OR SUBSTANCES TO THEIR RESIDENCE OR TO
6 APPROPRIATE PUBLIC OR PRIVATE TREATMENT FACILITIES FOR EMERGENCY
7 SERVICES AND MINIMIZING THE ROLE OF THE POLICE IN OBTAINING TREATMENT OF
8 SUCH PERSONS.

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

11 S 22.13 COURT AUTHORIZATION TO RETAIN AN INVOLUNTARY PATIENT.

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

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

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

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

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

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

55 (iii) At the time of admission, any minor so admitted shall be
56 informed by the director of the facility or the director's designee,

orally and in writing, of the minor's right to be discharged in accordance with the provisions of this [section] SUBDIVISION within twenty-four hours of his or her making a request therefor.

(iv) Emergency contacts.

(A) At the time of admission, the provider of services shall use its best efforts to obtain from the minor's consenting parent or guardian a telephone number or numbers where he or she may be reached by the facility at any time during the day or night. In addition, such provider of services shall also use its best efforts to obtain from the parent or guardian a name, address and appropriate telephone number or numbers of an adult designated by such parent or guardian as an emergency contact person in the event the facility is unable to reach such parent or guardian.

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

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

(v) Notice of admission and discharge procedures.

(A) A copy of the facility's admission and discharge procedures shall be provided to the minor and to the minor's consenting parent or guardian at the time of admission by the director of the facility or such person's designee. Such information shall also be mailed to the designated emergency contact person by regular mail.

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

(vi) Each minor admitted for inpatient or residential chemical dependence treatment pursuant to this subdivision shall be provided with written notice regarding the availability of the mental hygiene legal service for legal counsel, and shall be provided access to the service upon request.

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

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

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

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

3. Discharge procedures. All minors admitted pursuant to this subdivision shall be discharged in accordance with the following:

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

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

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

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

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

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

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

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

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

30 S 5. This act shall take effect immediately.