STATE OF NEW YORK

1588

2017-2018 Regular Sessions

IN ASSEMBLY

January 12, 2017

Introduced by M. of A. CUSICK -- read once and referred to the Committee on Alcoholism and Drug Abuse

AN ACT to amend the mental hygiene law, in relation to the amount of time persons who are incapacitated by alcohol and/or substances, to the degree that there is a likelihood it will result in harm to the person or others, may be retained without giving consent

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Paragraph 5 of subdivision (b) of section 22.09 of the mental hygiene law, as amended by section 1 of part D of chapter 69 of the laws of 2016, is amended to read as follows:

5. A person who comes voluntarily or is brought with his or her objection to a treatment facility shall be examined as soon as possible but not more than twelve hours after arriving at such treatment facility by an examining physician. If such examining physician determines that such person is incapacitated by alcohol and/or substances to the degree that there is a likelihood to result in harm to the person or others, he or she [~~may~~] **shall** be retained to receive emergency services and shall be regularly reevaluated to confirm continued incapacity by alcohol and/or substances to the degree that there is a likelihood to result in harm to the person or others. If the examining physician determines at any time that such person is not incapacitated by alcohol and/or substances to the degree that there is a likelihood to result in harm to the person or others, he or she [~~must~~] **may** be released. Notwithstanding any other law, in no event may such person be retained against his or her objection [~~beyond whichever is the shorter of the following: (i) the time that he or she is no longer incapacitated by alcohol and/or substances to the degree that there is a likelihood to result in harm to the person or others or (ii)~~] **for** a period longer than seventy-two hours.

§ 2. This act shall take effect immediately.

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

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