

# STATE OF NEW YORK

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7569

2017-2018 Regular Sessions

## IN ASSEMBLY

May 2, 2017

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Introduced by M. of A. WEPRIN -- (at request of the Office of Mental Health) -- read once and referred to the Committee on Correction

AN ACT to amend the correction law, in relation to local correctional facility inmates held in secure facilities operated by the office of mental health

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

1 Section 1. Subdivision 1 of section 508 of the correction law, as  
2 amended by chapter 33 of the laws of 2009, is amended to read as  
3 follows:

4 1. A sheriff, in his or her discretion, may by written order permit  
5 inmates confined in a local correctional facility to receive medical  
6 diagnosis and treatment in outside hospitals, upon the determination  
7 that such outside treatment and diagnosis is necessary by reason of  
8 inadequate facilities within the local correctional facility. Such  
9 inmates shall remain under the jurisdiction and in the custody of said  
10 sheriff while in a hospital, other than a secure facility, as such term  
11 is defined in paragraph b of subdivision two of this section, and said  
12 sheriff shall enforce proper measures in each case to safely maintain  
13 such jurisdiction and custody.

14 § 2. Paragraph a of subdivision 2 of section 508 of the correction  
15 law, as amended by chapter 283 of the laws of 2002, such subdivision as  
16 renumbered by chapter 33 of the laws of 2009, is amended to read as  
17 follows:

18 a. If a physician to a jail or in case of a vacancy a physician acting  
19 as such and the warden or jailer certify in writing that a prisoner  
20 confined in a jail, either in a civil cause or upon a criminal charge,  
21 is in such a state of mental health that he or she is in need of invol-  
22 untary care and treatment and in their opinion should be removed to a  
23 psychiatric hospital for treatment, the warden or jailer shall imme-  
24 diately notify the director who shall have the responsibility for

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

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1 providing treatment for such prisoner. If such director after examina-  
2 tion of the prisoner by an examining physician designated by him or her  
3 shall determine that such prisoner is in need of involuntary care and  
4 treatment, the director shall file an application for the involuntary  
5 hospitalization of such prisoner pursuant to article nine of the mental  
6 hygiene law in a hospital or secure facility, as defined in paragraph b  
7 of this subdivision, operated by the [~~department~~] office of mental  
8 [~~hygiene~~] health or in the case of a prisoner confined in a jail in a  
9 city or county which maintains or operates a general hospital containing  
10 a psychiatric prison ward approved by the [~~department~~] office of mental  
11 [~~hygiene~~] health to such prison ward for care and treatment or to any  
12 other psychiatric hospital if such prison ward is filled to capacity.  
13 Such application shall be supported by the certificate of two physicians  
14 in accordance with the requirements of section 9.27 of the mental  
15 hygiene law and thereupon such prisoner shall be admitted forthwith to  
16 the hospital or secure facility in which such application is filed, and  
17 the procedures of the mental hygiene law governing the hospitalization  
18 of such prisoner. The jailer or warden having custody of the prisoner  
19 shall deliver the prisoner to the hospital or secure facility with which  
20 the director has filed the application. If such jailer or warden shall  
21 certify that such prisoner has a mental illness which is likely to  
22 result in serious harm to himself or others and for which care in a  
23 psychiatric hospital is appropriate such jailer or warden shall effect  
24 the admission of such prisoner to a hospital or secure facility forth-  
25 with in accordance with the provisions of section 9.37 or 9.39 of the  
26 mental hygiene law and the hospital shall admit such prisoner. Upon  
27 admission of the prisoner, pursuant to section 9.37 or 9.39 of the  
28 mental hygiene law, the jailer or warden shall notify the director, the  
29 prisoner's attorney, and his or her family, where information about the  
30 family is available. While the prisoner is in the hospital, other than a  
31 secure facility, he or she shall remain in the custody under sufficient  
32 guard of the jailer or warden in charge of the jail from which he or she  
33 came. When the prisoner is in a secure facility, the jailer or warden  
34 may transfer custody of the inmate to the commissioner of mental health,  
35 pursuant to an agreement between such jailer or warden and such commis-  
36 sioner. A prisoner admitted to a psychiatric hospital pursuant to  
37 section 9.27, 9.37 or 9.39 of the mental hygiene law may be retained at  
38 the hospital or secure facility pursuant to the provisions of the mental  
39 hygiene law until he or she has improved sufficiently in his or her  
40 mental illness so that hospitalization is no longer necessary or until  
41 ordered by the court to be returned to the jail whichever comes first  
42 and in either event, the prisoner shall thereupon be returned to jail.  
43 The cost of the care and treatment of such prisoners in the hospital or  
44 secure facility shall be defrayed in accordance with the provisions of  
45 the mental hygiene law in such cases provided.

46 From the time of admission of a prisoner to a hospital under this  
47 section the retention of such prisoner for care and treatment shall be  
48 subject to the provisions for notice, hearing, review and judicial  
49 approval of continued retention or transfer and continued retention  
50 provided by article nine of the mental hygiene law for the admission and  
51 retention of involuntary patients.

52 § 3. Paragraph b of subdivision 2 of section 508 of the correction law  
53 is amended by adding a new subparagraph (v) to read as follows:

54 (v) "Secure facility" shall mean a facility operated or licensed by  
55 the office of mental health that has been approved and designated by the  
56 commissioner of mental health to receive and retain prisoners pursuant

1 to this section, based upon a determination by such commissioner that  
2 the physical and internal security of the facility are sufficient to  
3 protect the safety and security of staff and persons served by the  
4 facility.

5 § 4. This act shall take effect on the one hundred twentieth day after  
6 it shall have become a law.