

# STATE OF NEW YORK

5430

2017-2018 Regular Sessions

## IN SENATE

March 28, 2017

Introduced by Sen. GALLIVAN -- (at request of the Office of Mental Health) -- read twice and ordered printed, and when printed to be committed to the Committee on Crime Victims, Crime and 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-

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

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

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

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

55 (v) "Secure facility" shall mean a facility operated or licensed by  
56 the office of mental health that has been approved and designated by the

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

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