

STATE OF NEW YORK

6164--A

2019-2020 Regular Sessions

IN SENATE

May 21, 2019

Introduced by Sen. CARLUCCI -- (at request of the Office of Mental Health) -- read twice and ordered printed, and when printed to be committed to the Committee on Mental Health and Developmental Disabilities -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the mental hygiene law, in relation to patient requests for transfer to a foreign nation pursuant to an international treaty

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

1 Section 1. The mental hygiene law is amended by adding a new section
2 67.08 to read as follows:

3 § 67.08 Patient transfer to foreign nation.

4 (a) The commissioner, or his or her designee, shall have the sole and
5 absolute authority to approve or disapprove a patient application for
6 transfer to a foreign nation pursuant to the Council of Europe Conven-
7 tion on the Transfer of Sentenced Persons (COE) or other applicable
8 international treaty, where:

9 (1) Such applicant has been committed to and placed in the custody of
10 the department upon a verdict of not responsible by reason of mental
11 disease or defect pursuant to section 330.20 of the criminal procedure
12 law;

13 (2) Such applicant has indicated a willingness and desire for transfer
14 to a foreign nation in writing on a form prescribed by the commissioner
15 or, the commissioner at the request of a patient's legal guardian or
16 attorney can indicate a desire for transfer if the patient is unable to
17 indicate their willingness and desire on their own; and

18 (3) The transfer nation is either a "treaty nation" under the COE or
19 any other nation with which the United States has a prisoner transfer
20 treaty that permits the transfer of persons committed to psychiatric
21 institutions after a verdict of not responsible by reason of mental
22 disease or defect.

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

LBD09190-02-9

1 **(b) If a request for transfer is approved by the commissioner, or his**
2 **or her designee, facility staff shall assist in the preparation and**
3 **submission of all materials and forms necessary to effectuate the**
4 **person's request for transfer to the United States department of justice**
5 **for purposes of finalization of the transfer process, including a**
6 **verification proceeding before a United States district court judge,**
7 **United States magistrate or other appointed United States official to**
8 **assure and document the applicant's voluntary request for transfer.**

9 **(c) The commissioner shall promulgate rules and regulations setting**
10 **forth the procedures to notify patients and where applicable, their**
11 **legal guardian or attorney, of their rights under this section and the**
12 **procedure by which a patient may apply to be considered for transfer to**
13 **a foreign nation. Nothing herein shall be construed to confer upon a**
14 **patient a right to be transferred to a foreign nation.**

15 § 2. This act shall take effect immediately.