

# STATE OF NEW YORK

2161

2019-2020 Regular Sessions

## IN SENATE

January 23, 2019

Introduced by Sen. BAILEY -- 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 the establishment of a program for the use of medication assisted treatment for inmates; and to amend the mental hygiene law, in relation to the implementation of substance use disorder treatment and transition services in jails

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

1 Section 1. The correction law is amended by adding a new section 626  
2 to read as follows:

3 § 626. Medication assisted treatment in correctional facilities. 1.  
4 For purposes of this section "medication assisted treatment" means  
5 treatment of chemical dependence or abuse and concomitant conditions  
6 with medications requiring a prescription or order from an authorized  
7 prescribing professional.

8 2. (a) The commissioner, in conjunction with the office of alcoholism  
9 and substance abuse services, shall establish a program to be adminis-  
10 tered at correctional facilities within the department in the state, for  
11 the purpose of employing medication assisted treatment for inmates in  
12 such facilities who are undergoing treatment for a substance use disor-  
13 der. Such program shall include all forms of medication assisted treat-  
14 ments approved for the treatment of a substance use disorder by the  
15 Federal Food and Drug Administration for the duration of an inmate's  
16 incarceration and shall provide an individualized treatment plan for  
17 each participant. After a medical screening, inmates who are determined  
18 to suffer from a substance use disorder, for which FDA approved  
19 addiction medications exist shall be offered placement in the medication  
20 assisted treatment program. Placement in such program shall not be  
21 mandatory. Each participating inmate shall work with an authorized  
22 specialist to determine an individualized treatment plan, including an  
23 appropriate level of counseling. Decisions regarding type, dosage, or  
24 duration of any medication regimen shall be made by a qualified health  
25 care professional licensed or certified under title eight of the educa-

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

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1 tion law who is authorized to administer such medication in conjunction  
2 with the inmate.

3 (b) i. Such program shall also include conditions for a reentry strat-  
4 egy for inmates who have participated in medication assisted treatment.  
5 Such strategy shall include, but not be limited to, providing each  
6 participating inmate with information on available treatment facilities  
7 in their area, information on available housing and employment  
8 resources, and any other information that will assist the inmate in  
9 continued recovery once released. Such program shall also assist the  
10 inmate in Medicaid enrollment, prior to release.

11 ii. Such program shall provide participating inmates preparing for  
12 release from prison with a one-week supply of any necessary medication,  
13 where permissible under federal laws and regulations to continue their  
14 medication assisted treatment in an effort to prevent relapse.

15 (c) Reentry planning and community supervision should include a colla-  
16 borative relationship between clinical and parole staff including shar-  
17 ing of accurate information regarding the inmate's participation in  
18 medication assisted treatment to ensure that their medication is not  
19 deemed illicit or illegal. Additionally, procedures shall be developed  
20 to assist any reentrant who communicates a relapse with their parole  
21 officer or who fails a drug test, to receive substance use disorder  
22 support in lieu of arrest and/or incarceration.

23 3. The commissioner shall submit within one year of the effective date  
24 of this section and annually thereafter, a report to the governor, the  
25 temporary president of the senate and the speaker of the assembly on the  
26 effectiveness of the program established pursuant to this section. Such  
27 reports shall include an analysis of the impact of such program on the  
28 participating inmates, including factors such as institutional adjust-  
29 ment, behavior infractions, reentry rates, HIV and hepatitis C treat-  
30 ment, and program participation, among related relevant factors. The  
31 reports shall also include the impact on institutional safety and  
32 performance and any recommendations for additional legislative enact-  
33 ments that may be needed or required to improve or enhance the program  
34 as determined to be appropriate by the commissioner.

35 4. Participation in the medication assisted treatment program shall  
36 not be withheld from a qualified inmate. An inmate may enter into such  
37 program at any time during his or her incarceration. An inmate using  
38 medication assisted treatment prior to such inmate's incarceration shall  
39 be eligible to, upon request by such inmate, continue such treatment in  
40 the medication assisted treatment program for any period of time during  
41 the duration of such inmate's incarceration. No person shall be denied  
42 participation in the program on the basis of a positive drug screening  
43 upon entering custody or upon intake into the program; nor shall any  
44 person receive a disciplinary infraction for such positive drug screen-  
45 ing. No person shall be removed from, or denied participation in the  
46 program on the basis of having received any disciplinary infraction: (a)  
47 before entry into the program; or (b) during participation in the  
48 program.

49 § 2. Section 45 of the correction law is amended by adding a new  
50 subdivision 18 to read as follows:

51 18. Establish standards and guidelines for a program of medication  
52 assisted treatment for inmates in county jails and/or county correction-  
53 al facilities equivalent to the program established in state correction-  
54 al facilities pursuant to section six hundred twenty-six of this chapter  
55 and submit an annual report consistent with the requirements of subdivi-  
56 sion three of such section.

1 § 3. The mental hygiene law is amended by adding a new section  
2 19.18-c to read as follows:

3 § 19.18-c Corrections-based substance use disorder treatment and transi-  
4 tion services.

5 1. The commissioner, in consultation with local governmental units,  
6 county sheriffs, the New York city department of corrections and other  
7 stakeholders, shall implement a jail-based substance use disorder treat-  
8 ment and transition services program that supports the initiation, oper-  
9 ation and enhancement of substance use disorder treatment and transition  
10 services for persons with substance use disorder who are incarcerated in  
11 jails.

12 2. The services to be provided by such program shall be in accordance  
13 with plans developed by participating local governmental units, in  
14 collaboration with county sheriffs and approved by the commissioner and  
15 shall include, but not be limited to, the following:

16 (a) Alcohol, benzodiazepine, heroin and opioid withdrawal management;

17 (b) All forms of medication assisted treatments approved for the  
18 treatment of a substance use disorder by the Federal Food and Drug  
19 Administration. Decisions regarding type, dosage, or duration of any  
20 medication regimen shall be made by a qualified health care professional  
21 licensed or certified under title eight of the education law who is  
22 authorized to administer such medication in conjunction with the inmate;

23 (c) Group and individual counseling and clinical support;

24 (d) Peer support;

25 (e) Discharge planning; and

26 (f) Re-entry and transitional supports.

27 3. (a) After a medical screening, inmates who are determined to suffer  
28 from a substance use disorder for which medication assisted treatment  
29 exists shall be offered placement in the medication assisted treatment  
30 program. Placement in such program shall not be mandatory.

31 (b) Participation in the medication assisted treatment program shall  
32 not be unreasonably withheld from a qualified inmate. An inmate using  
33 medication assisted treatment prior to such inmate's incarceration shall  
34 be eligible to, upon request by such inmate, continue such treatment in  
35 the medication assisted treatment program for any period of time during  
36 the duration of such inmate's incarceration.

37 (c) No person shall be denied participation in the program on the  
38 basis of a positive drug screening upon entering custody or upon intake  
39 into the program; nor shall any person receive a disciplinary infraction  
40 for such positive drug screening. No person shall be removed from, or  
41 denied participation in the program on the basis of having received any  
42 disciplinary infraction: (1) before entry into the program; or (2)  
43 during participation in the program.

44 4. Within amounts appropriated therefor, funding shall be made avail-  
45 able pursuant to criteria established by the office of alcoholism and  
46 substance abuse services in consultation with local governmental units,  
47 which shall take into consideration the local needs and resources as  
48 identified by local governmental units, the average daily jail popu-  
49 lation, the average number of persons incarcerated in the jail that  
50 require substance use disorder services and such other factors as may be  
51 deemed necessary.

52 § 4. This act shall take effect on the one hundred twentieth day  
53 after it shall have become a law. Effective immediately, the addition,  
54 amendment and/or repeal of any rule or regulation necessary for the  
55 implementation of this act on its effective date are authorized to be  
56 made on or before such date.