

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.

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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.