

STATE OF NEW YORK

7242

IN SENATE

January 13, 2020

Introduced by Sens. KAPLAN, BROOKS, GAUGHRAN, GOUNARDES, KAMINSKY, MARTINEZ, SAVINO, SKOUFIS, THOMAS -- read twice and ordered printed, and when printed to be committed to the Committee on Codes

AN ACT to amend the criminal procedure law, in relation to pretrial mental health and substance abuse evaluations and treatment for certain defendants; and to amend the state finance law, in relation to establishing the pretrial mental health and substance abuse services bail fund

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

1 Section 1. Section 550.10 of the criminal procedure law is amended by
2 adding a new subdivision 4 to read as follows:

3 4. On application of: (a) the prosecution; (b) defense counsel; (c) a
4 family member of the principal; (d) any person eighteen years of age or
5 older with whom the principal resides; (e) the director of a hospital in
6 which the principal is hospitalized; (f) the director of any public or
7 charitable organization, agency or home providing mental health services
8 to the principal or in whose institution the principal resides; (g) a
9 qualified psychiatrist who is either supervising the treatment of or
10 treating the principal for a mental illness; (h) a psychologist,
11 licensed pursuant to article one hundred fifty-three of the education
12 law, or a social worker, licensed pursuant to article one hundred
13 fifty-four of the education law, who is treating the principal for a
14 mental illness; (i) the director of community services, or his or her
15 designee, or the social services official, as defined in the social
16 services law, of the city or county in which the principal is present or
17 reasonably believed to be present; or (j) a parole officer or probation
18 officer assigned to supervise the principal; a principal charged with a
19 crime not subject to bail shall be referred to the county in which the
20 crime was committed for a mental health and/or substance abuse evalu-
21 ation and if, after such evaluation, it is determined that the principal
22 requires treatment for such mental health diagnosis or substance abuse,
23 the court may order that compliance with such treatment shall be a
24 condition of release pending trial.

25 § 2. The criminal procedure law is amended by adding a new section
26 520.50 to read as follows:

27 § 520.50 Bail surcharge; mental health and substance abuse.

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

LBD14742-04-0

1 Every cash bail or bail bond authorized pursuant to subdivision one of
2 section 520.10 of this article and imposed by the court pursuant to this
3 part shall be subject to a surcharge in the amount of one percent. All
4 monies collected from such surcharge shall be deposited in the pretrial
5 mental health and substance abuse services bail fund established pursu-
6 ant to section ninety-nine-hh of the state finance law to be used to
7 reimburse counties for pretrial mental health and substance abuse evalu-
8 ations and services required by subdivision four of section 550.10 of
9 this part.

10 § 3. Subparagraph (viii) of paragraph (b) of subdivision 1 of section
11 150.20 of the criminal procedure law, as amended by section 1-a of part
12 JJJ of chapter 59 of the laws of 2019, is amended and two new subpara-
13 graphs (ix) and (x) are added to read as follows:

14 (viii) it reasonably appears to the officer, based on the observed
15 behavior of the individual in the present contact with the officer and
16 facts regarding the person's condition that indicates a sign of distress
17 to such a degree that the person would face harm without immediate
18 medical or mental health care, that bringing the person before the court
19 would be in such person's interest in addressing that need; provided,
20 however, that before making the arrest, the officer shall make all
21 reasonable efforts to assist the person in securing appropriate
22 services[+];

23 (ix) it has been reported to the officer by:

24 (A) any person eighteen years of age or older with whom the person
25 resides; or

26 (B) the parent, spouse, sibling eighteen years of age or older, or
27 child eighteen years of age or older of the person; or

28 (C) the director of a hospital in which the person is hospitalized; or

29 (D) the director of any public or charitable organization, agency or
30 home providing mental health services to the person or in whose institu-
31 tion the person resides; or

32 (E) a qualified psychiatrist who is either supervising the treatment
33 of or treating the person for a mental illness; or

34 (F) a psychologist, licensed pursuant to article one hundred fifty-
35 three of the education law, or a social worker, licensed pursuant to
36 article one hundred fifty-four of the education law, who is treating the
37 person for a mental illness; or

38 (G) the director of community services, or his or her designee, or the
39 social services official, as defined in the social services law, of the
40 city or county in which the person is present or reasonably believed to
41 be present; or

42 (H) a parole officer or probation officer assigned to supervise the
43 person;

44 (x) based on the observed behavior of the person in the present
45 contact with the officer and facts regarding the person's condition that
46 indicate a sign of distress to such a degree that the person would face
47 harm without immediate medical or mental health care, that bringing the
48 person before the court would be in such person's interest in addressing
49 that need; provided, however, that before making the arrest, the officer
50 shall make all reasonable efforts to assist the person in securing
51 appropriate services.

52 § 4. The state finance law is amended by adding a new section 99-hh to
53 read as follows:

54 § 99-hh. Pretrial mental health and substance abuse services bail
55 fund. 1. There is hereby established in the joint custody of the commis-
56 sioner of taxation and finance and the state comptroller a special fund

1 to be known as the "pretrial mental health and substance abuse services
2 bail fund".

3 2. Such fund shall consist of all revenues received by the department
4 of taxation and finance pursuant to the provisions of section 520.50 of
5 the criminal procedure law, and all other moneys appropriated, credited,
6 or transferred thereto from any other fund or source pursuant to law.
7 Nothing contained herein shall prevent the state from receiving grants,
8 gifts, or bequests for the fund and depositing them into the fund
9 according to law.

10 3. Monies of the fund shall be expended only for reimbursement to
11 counties for expenses incurred by such counties for pretrial mental
12 health and/or substance abuse evaluations and treatment required pursu-
13 ant to subdivision four of section 550.10 of the criminal procedure law.

14 4. Monies shall be payable from the fund on the audit and warrant of
15 the comptroller on vouchers approved and certified by the commissioner
16 of taxation and finance.

17 § 5. This act shall take effect on the sixtieth day after it shall
18 have become a law.