

STATE OF NEW YORK

4697

2021-2022 Regular Sessions

IN ASSEMBLY

February 5, 2021

Introduced by M. of A. BRONSON, MEEKS, CLARK, LUNSFORD -- read once and referred to the Committee on Mental Health

AN ACT to amend the public health law, in relation to establishing a New York state mental health response council, regional mental health response councils and mental health response units; to amend the county law, in relation to incorporation of recommendations by the New York state mental health response council for public safety answering points; and to amend the mental hygiene law, in relation to powers of certain peace officers and police officers handling mental health emergencies

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

1 Section 1. Short title. This act shall be known and may be cited as
2 "Daniel's law".

3 § 2. The public health law is amended by adding a new section 3033 to
4 read as follows:

5 § 3033. Statewide mental health response council. 1. For the purposes
6 of this section, the following terms shall have the following meanings:

7 (a) The "state council" means the New York state mental health
8 response council created pursuant to this section.

9 (b) "Regional council" shall mean a regional mental health response
10 council created pursuant to section three thousand thirty-four of this
11 article.

12 (c) "Regional state commissioner" means a member of the state council
13 appointed pursuant to paragraph (b) of subdivision two of this section.

14 (d) "Mental health response unit" shall mean mental health response
15 units established pursuant to section three thousand thirty-five of this
16 article.

17 2. There is hereby created in the department the New York state mental
18 health response council. The state council shall consist of three non-

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

LBD09400-01-1

1 voting ex officio members and thirty-three voting members pursuant to
2 the provisions of this subdivision.

3 (a) The commissioner, the commissioner of mental health, and the
4 commissioner of the office of addiction services and supports shall each
5 serve as ex officio members of the state council, and shall not vote in
6 council determinations.

7 (b) (i) Eighteen members to the state council shall be appointed by
8 the commissioner; each shall be representative of one geographic area of
9 the state, corresponding to the eighteen regions eligible for a regional
10 council. Such members shall be known as the "regional state commis-
11 ioners". Each regional state commissioner shall serve on the state council
12 for two years after initial appointment, and shall represent their
13 geographic region in assisting the state council in determining when and
14 how to establish a regional council in their region.

15 (ii) Once a regional council is established pursuant to section three
16 thousand thirty-four of this article, the regional state commissioner
17 for such region shall also serve as a member of the initial regional
18 council for such region until the end of their state council term. Ther-
19 eafter, in any region with an established regional council, the commis-
20 sioner shall appoint a representative from each regional council, from
21 nominations received from the appropriate regional council, to act as
22 regional state commissioner for such region. Where no regional council
23 has been established, the commissioner shall appoint each regional state
24 commissioner pursuant to the procedures for initial appointment.

25 (iii) The commissioner shall ensure, to the maximum extent possible,
26 that the regional council appointments reflect the diversity of race,
27 age, language, national origin, ethnicity, and disability present in
28 each region's jurisdiction.

29 (c) Fifteen members of the state council shall be appointed by the
30 state legislature, as follows:

31 (i) Four members shall be appointed by the speaker of the assembly;

32 (ii) Four members shall be appointed by the temporary president of the
33 senate;

34 (iii) One member shall be appointed by the minority leader of the
35 assembly;

36 (iv) Two members shall be appointed by the chairperson of the assembly
37 committee on mental health;

38 (v) Two members shall be appointed by the chairperson of the senate
39 committee on mental health;

40 (vi) One member shall be appointed by the ranking minority member of
41 the assembly committee on mental health;

42 (vii) One member shall be appointed by the ranking minority member of
43 the senate committee on mental health.

44 3. Every individual appointed to the state council shall have demon-
45 strated knowledge of, and skills in, culturally competent provision of
46 mental health or substance abuse services and treatment. Specifically,
47 each member nominated to the state council shall be:

48 (a) A licensed mental health or drug addiction clinician;

49 (b) A licensed mental health or drug addiction counselor;

50 (c) A licensed physician, nurse, or mental health provider with expe-
51 rience or skills in the culturally-competent provision of care;

52 (d) A mental health or addiction counselor certified as a peer;

53 (e) A representative of a not-for-profit disability rights organiza-
54 tion; or

55 (f) A community health worker certified as a peer.

1 4. The members of the state council shall elect a chairperson from
2 among the members of the state council by a majority vote of those state
3 council members present, who shall serve for a term of one year and
4 until a successor is elected.

5 5. The term of office of members of the state council shall be four
6 years, except that of those members first appointed, at least one-half
7 but not more than two-thirds shall be for terms not to exceed two years.
8 Vacancies shall be filled by appointment for the remainder of an unex-
9 pired term. The state council members shall continue in office until the
10 expiration of their terms and until their successors are appointed. No
11 state council member shall be appointed to the state council for more
12 than four consecutive terms.

13 6. The state council shall operate to fulfill the following purposes
14 pursuant to the public policy of New York state; and the council shall
15 ensure that all policies, training, procedures, expenditures, contracts,
16 and certification rules or determinations made or used by the council
17 further, but not be limited to, the following purposes:

18 (a) to ensure a public health-based response to anyone in New York
19 experiencing a mental health or substance abuse crisis;

20 (b) to deescalate any situation involving individuals experiencing
21 crisis due to mental health conditions and/or substance use, and to
22 avoid the use of nonconsensual treatment, transport, or force wherever
23 possible;

24 (c) to ensure the most appropriate treatment and/or transport of indi-
25 viduals experiencing crisis due to mental health conditions and/or
26 substance use;

27 (d) to maximize voluntary assessment, referral, and/or transport of
28 individuals experiencing a crisis due to mental health conditions and/or
29 substance use;

30 (e) to minimize the number of individuals experiencing a crisis due to
31 mental health conditions and/or substance use who are arrested,
32 detained, or brought into contact with the criminal justice system;

33 (f) to minimize the number of individuals who experience physical harm
34 and/or trauma as a result of mental health conditions and/or substance
35 use; and

36 (g) to respond to all individuals experiencing a crisis due to mental
37 health or substance use with culturally competent care and training.

38 7. The state council shall have the power, by an affirmative vote of a
39 majority of those state council members present, and subject to approval
40 by the commissioner, to enact, and from time to time, amend and repeal,
41 rules and regulations establishing minimum standards for mental health
42 response units, including with respect to the dispatch of and request
43 for such units: (a) the treatment and transportation of individuals by
44 mental health response units; (b) the provision of emergency mental
45 health and substance abuse care by such units; (c) public education
46 about mental health and substance abuse crisis, care, and response; (d)
47 the development of a state education curriculum that would satisfy the
48 educational requirements, standards and training, and examination
49 requirements for certification and recertification of certified emergen-
50 cy mental health responders and mental health response units; (e) the
51 development of trainings and protocols for any statewide mental health
52 and/or substance abuse emergency dispatch system; and (f) public educa-
53 tion about such services and policies. Culturally competent training
54 shall be made available by video or computer to the maximum extent
55 possible. The state council shall have the same powers granted to

1 regional councils by this section in any region of the state in which a
2 regional council has not been established.

3 8. In furtherance of the purposes set forth in subdivision six of this
4 section, the state council shall provide to the trustees of the state
5 university of New York information and recommendations to assist such
6 trustees' study of the feasibility of offering credit and noncredit
7 courses which would satisfy the educational requirements for certifi-
8 cation and recertification of mental health responders at community
9 colleges and state university of New York agricultural and technical
10 colleges. These recommendations shall include strategies to recruit
11 members of underserved communities, and recruitment efforts shall
12 include outreach to communities that bring diversity, representation,
13 and inclusion of applicants based on race, geographic location, ethnici-
14 ty, gender (including gender identity and gender expression), sexual
15 orientation, disability, and socioeconomic status.

16 9. (a) Within one year of developing the certification program pursu-
17 ant to subdivision eight of this section, and annually thereafter no
18 later than December thirty-first of each following year, the commis-
19 sioner shall report to the speaker of the assembly and the temporary presi-
20 dent of senate on the impact of such program on:

21 (i) the quality and results of mental health response and transporta-
22 tion;

23 (ii) the number of certification requests, grants, and denials by the
24 regional councils;

25 (iii) the effectiveness of the program in training and retaining emer-
26 gency mental health responders; and

27 (iv) the feasibility of replacing the state's certification program
28 with a national certification program.

29 (b) The commissioner shall establish a comprehensive list of reporting
30 metrics to be included in the annual report of the program's impact,
31 which shall include, at a minimum:

32 (i) The volume of requests for assistance to the state council and to
33 each regional council;

34 (ii) The average length of time taken to respond to each request for
35 assistance, and the aggregate rates of call abandonment;

36 (iii) The number of mental health response units dispatched by the
37 state council and each regional council;

38 (iv) The number of individuals contacted by mental health response
39 units;

40 (v) The number of such individuals transported for care by mental
41 health response units;

42 (vi) The number of such individuals transferred by mental health
43 response unit responders to the custody of police or peace officers;

44 (vii) The number of requests made by any mental health response unit
45 to law enforcement to transport or take custody of a person under subdi-
46 visions five and six of section three thousand thirty-five of this arti-
47 cle; and

48 (viii) The age, gender, race, ethnicity, and national origin of indi-
49 viduals contacted, transported, or transferred by each mental health
50 response unit.

51 10. Upon appeal from the appropriate regional council, the state coun-
52 cil shall have the power, by an affirmative vote of a majority of those
53 state council members present, to amend, modify or reverse determi-
54 nations of any regional council (including certification grants or
55 denials) made pursuant to section three thousand thirty-four of this
56 article, only upon a written finding that any determinations of the

1 regional council conflict with the purposes set forth in subdivision six
2 of this section. All determinations of the state council respecting any
3 determination, revocation, suspension (except temporary suspension),
4 limitation or annulment of a mental health response certificate issued
5 pursuant to subdivision eight of this section shall be subject to review
6 as provided in article seventy-eight of the civil practice law and
7 rules. Application for such review shall be made within sixty days
8 after the appealable regional council decision, and be made in person or
9 by registered or certified mail.

10 11. Upon appeal from the applicant, the department, or any party
11 directly impacted by a determination of a regional council, the state
12 council shall have the power to amend, modify or reverse determinations
13 of the regional councils made pursuant to section three hundred thirty-
14 four this article by an affirmative vote of a majority of those state
15 council members present. Application for such review shall be made with-
16 in sixty days after the appealable regional council decision, and shall
17 be made in person or by registered or certified mail.

18 12. The state council shall meet as frequently as its business may
19 require, but no less frequently than four times per year. At least two
20 of such meetings shall be held in a manner and at a time designed to
21 maximize participation of working members of the public. Meetings of the
22 regional councils shall be governed by the provisions of article seven
23 of the public officers law, and shall be open to and accessible by the
24 public, including by video conference or computer to the maximum extent
25 possible.

26 13. The presence of a majority of the voting members of the state
27 council shall constitute a quorum. The members of the state council
28 shall receive no compensation for their services as members, but each
29 shall be allowed the necessary and actual expenses incurred in the
30 performance of their duties under this section, including a reasonable
31 reimbursement rate for travel, lodging, and meals while attending meet-
32 ings of the state council.

33 14. The commissioner, upon request of the state council, shall desig-
34 nate an officer or employee of the department to act as secretary of the
35 state council, and shall assign from time to time such other employees
36 as the state council may require.

37 15. In any civil action brought in any court against any state council
38 member, officer or employee of the state council for any act done, fail-
39 ure to act, or statement or opinion made while discharging their duties
40 as a member, officer or employee of the state council, no state council
41 member, officer or employee of this council shall be liable for damages
42 in any such action if he or she shall have acted in good faith and
43 pursuant to the purposes of the state council as set forth in this
44 section.

45 16. The state council shall, after consultation with the department
46 and the regional councils, forward to the commissioner not later than
47 December first each year an estimate of the amounts needed to provide
48 adequate funding for mental health response services and training
49 including regional mental health services councils, mental health
50 response units, statewide or regional dispatch services, the state coun-
51 cil, and any certification and training programs necessary to carry out
52 the purposes of this section. Such estimate shall be transmitted without
53 change by the commissioner to the governor, the division of the budget,
54 the temporary president of the senate, the speaker of the assembly, and
55 the fiscal and health committees of each house of the legislature.

1 § 3. The public health law is amended by adding a new section 3034 to
2 read as follows:

3 § 3034. Regional mental health response councils. 1. For the purposes
4 of this section, the following terms shall have the following meanings:

5 (a) The "state council" means the New York state mental health
6 response council created pursuant to section three thousand thirty-three
7 of this article.

8 (b) "Regional council" shall mean a regional mental health response
9 council created pursuant to this section.

10 (c) "Regional state commissioner" means a member of the state council
11 appointed pursuant to paragraph (b) of subdivision two of section three
12 thousand thirty-three of this article.

13 (d) "Mental health response unit" shall mean mental health response
14 units established pursuant to section three thousand thirty-five of this
15 article.

16 2. The commissioner, with the approval of the state council, shall
17 designate regional mental health services councils on or before January
18 first, two thousand twenty-two, but in no event shall the number of
19 regional councils exceed eighteen. Such regional councils shall be
20 established on the basis of application for designation as regional
21 councils submitted by local organizations, the members of which shall be
22 knowledgeable in various aspects of emergency mental health treatment
23 and services. Such application shall describe the geographic area to be
24 served and contain a list of nominees for appointment to membership on
25 such regional councils and a statement as to the proposed method of
26 operation in such detail as the commissioner, with the approval of the
27 state council, shall prescribe. When a regional mental health council is
28 established for a region, the regional state commissioner representing
29 such region at the state council shall serve on the regional council
30 until the expiration of their state commissioner term; thereafter, the
31 commissioner shall appoint a person nominated by the regional council to
32 serve as regional state commissioner for such region.

33 3. The regional councils shall develop policies, procedures, and tria-
34 ge, treatment, and transportation protocols which are consistent with
35 the standards of the state council and which address specific local
36 conditions.

37 4. Each regional council shall be comprised of at least thirteen but
38 not more than twenty-one members to be initially appointed by the
39 regional state commissioner for the appropriate region, with the
40 approval of the state council, from nominations submitted by local
41 organizations and individuals applying to the regional council.

42 (a) The appropriate regional state commissioner shall ensure, to the
43 maximum extent possible, that the regional council appointments reflect
44 the diversity of race, age, language, national origin, ethnicity, and
45 disability present in such region.

46 (b) Each individual appointed to the regional council shall have
47 demonstrated knowledge of, and skills in, culturally competent provision
48 of mental health or substance abuse services and treatment. Specif-
49 ically, each person appointed to a regional council shall be:

- 50 (i) A licensed mental health or drug addiction clinician;
51 (ii) A licensed mental health or drug addiction counselor;
52 (iii) A licensed physician, nurse, or mental health provider with
53 experience or skills in the culturally-competent provision of care;
54 (iv) A mental health or addiction counselor certified as a peer;
55 (v) A representative of a not-for-profit disability rights organiza-
56 tion; or

1 (vi) A community health worker certified as a peer.

2 (c) The regional state commissioner shall not approve nominees to
3 their regional council unless one-third of the regional councilors have
4 demonstrated certification, training, or employment in culturally-compe-
5 tent responses to mental health or substance abuse crises.

6 (d) The regional state commissioner shall not approve nominees to the
7 regional council unless one-third of the regional councilors for such
8 regional council have demonstrated life experience with, or certifi-
9 cation or training as a peer of person or persons with life experience
10 with, mental health crisis, drug addiction, or disability.

11 (e) The county EMS coordinator, established pursuant to section two
12 hundred twenty-three-b of the county law, of any county within the
13 region shall serve as an ex officio member of such region's regional
14 council, provided, however, that nothing in this subdivision shall
15 prevent a county EMS coordinator from being nominated to and serving as
16 a voting member of a regional council.

17 (f) The county director of community services, or the county commis-
18 sioner of mental health, of any county within a region shall serve as an
19 ex officio member of such region's regional council, provided, however,
20 that nothing in this subdivision shall prevent a county EMS coordinator
21 from being nominated to and serving as a voting member of a regional
22 council.

23 (g) Members of each regional council shall be residents living within
24 the geographic area to be served by such regional council. The presence
25 of a majority of voting members of a regional council shall constitute a
26 quorum.

27 5. Each regional council shall develop procedures to ensure coordi-
28 nation and communication between EMS services, the regional medical
29 services council, state police, sheriff's departments, local police
30 departments, ambulance and dispatch services, and such regional council
31 to ensure rapid and coordinated public health responses to mental health
32 emergencies, and shall designate a procedure for emergency notification
33 by EMS personnel, peace officers as defined by section 2.10 of the crim-
34 inal procedure law, or police officers as defined by section 1.20 of the
35 criminal procedure law, that a person is in need of a mental health
36 response unit within its region.

37 6. Each regional council shall have the power to:

38 (a) have a seal and alter such seal at pleasure;

39 (b) acquire, lease, hold, and dispose of real and personal property or
40 any interest therein for its purposes;

41 (c) make and alter by-laws for its organization and internal manage-
42 ment, and rules and regulations governing the exercise of its powers and
43 the fulfillment of its purposes under this section; such rules and regu-
44 lations shall be filed with the secretary of state and the state coun-
45 cil;

46 (d) enter into contracts for employment of such officers and employees
47 as it may require for the performance of its duties, and to fix and
48 determine their qualifications, duties, and compensation, and to retain
49 and employ such personnel as may be required for its purposes, and to
50 hire private consultants on a contract basis or otherwise, for the
51 rendering of professional or technical services and advice;

52 (e) enter into contracts, leases, and subleases and to execute all
53 instruments necessary or convenient for the conduct of its business,
54 including contracts with the commissioner or any state agency or municip-
55 al entity, and enter into contracts with hospitals and physicians for
56 the purposes of carrying out its powers under this section;

1 (f) undertake or cause to be undertaken plans, surveys, analyses and
2 studies necessary, convenient or desirable for the effectuation of its
3 purposes and powers, and to prepare recommendations and reports in
4 regard thereto;

5 (g) fix and collect reasonable fees, rents, and other charges for the
6 use of its equipment and the provision of its services;

7 (h) contract for and to accept any gifts or grants, subsidies, or
8 loans of funds or property, or financial or other aid in any form from
9 the federal or state government or any agency or instrumentality there-
10 of; or from any other source, public or private, and to comply, subject
11 to the provisions of this section, with the terms and conditions there-
12 of, provided, however, that the regional councils may contract for
13 payment of debt evidenced by bonds or notes or other evidence of indebt-
14 edness, either directly or through a lease purchase agreement;

15 (i) recommend to the department training course sponsors within its
16 region, and to develop, promulgate and implement annually a mental
17 health response training plan which addresses the needs of its region;

18 (j) enter into contracts or memoranda of agreement with other regional
19 councils to provide services in a joint or cooperative manner, and to
20 enter into contracts or memoranda of agreement with an emergency medical
21 services program agency to carry out one or more of its responsibilities
22 under this section, provided such services are certified by and carried
23 out pursuant to the standards and training set forth by the state coun-
24 cil;

25 (k) procure insurance against any loss or liability in connection with
26 the use, management, maintenance, and operation of its equipment and
27 facilities, in such amounts and from such insurers as it reasonably
28 deems necessary; and

29 (l) do all things necessary, convenient and desirable to carry out its
30 purposes and for the exercise of the powers granted in this section.

31 7. Each regional council shall have the responsibility to coordinate
32 mental health services programs within its region, including but not
33 limited to, the certification of mental health response units, estab-
34 lishment of mental health responder courses and the issuance of uniform
35 mental health responder insignia and certificates. Such training courses
36 shall be made available by video or computer to the maximum extent
37 possible.

38 8. Each regional council shall have the responsibility to make deter-
39 minations of public need for the establishment of additional emergency
40 mental health services. The regional council shall make such determi-
41 nation by an affirmative vote of a majority of all of those regional
42 council members consisting of voting members.

43 9. The term of office of members of the regional council shall be four
44 years, except that of those members first appointed, at least one-half
45 but not more than two-thirds shall be for terms not to exceed two years.

46 10. Each regional council shall meet as frequently as its business may
47 require, but no less frequently than four times per year. At least two
48 of such meetings shall be held in a manner and at a time designed to
49 maximize participation of working members of the public. Meetings of the
50 regional councils shall be governed by the provisions of article seven
51 of the public officers law, and shall be open to and accessible by the
52 public including by video conference or computer to the greatest extent
53 possible.

54 11. The commissioner, upon request of a regional council, may desig-
55 nate an officer or employee of the department to act as secretary of

1 such regional council, and may assign from time to time such other
2 employees as such regional council may require.

3 12. In any civil action brought in any court against any member, offi-
4 cer or employee of the regional council for any act done, failure to
5 act, or statement or opinion made while discharging their duties as a
6 member, officer or employee of such regional council, no member, officer
7 or employee of such regional council shall be liable for damages in any
8 such action if he or she shall have acted in good faith and pursuant to
9 the purposes of such regional council, as set forth in this section.

10 13. The department shall provide each regional council with the funds
11 necessary to enable such regional council to carry out its responsibil-
12 ities as mandated under this section within amounts appropriated there-
13 for. Such funds shall be provided upon approval by the department of an
14 application submitted by the regional council. Such application shall
15 contain such information and be in such form as the commissioner shall
16 require pursuant to rules and regulations which they shall promulgate
17 after consultation with the state council in order to affect the
18 purposes and provisions of this subdivision.

19 § 4. The public health law is amended by adding a new section 3035 to
20 read as follows:

21 § 3035. Mental health response units. 1. For the purposes of this
22 section, the following terms shall have the following meanings:

23 (a) The "state council" means the New York state mental health
24 response council created pursuant to section three thousand thirty-three
25 of this article.

26 (b) "Regional council" shall mean a regional mental health response
27 council created pursuant to section three thousand thirty-four of this
28 article.

29 (c) "Regional state commissioner" means a member of the state council
30 appointed pursuant to paragraph (b) of subdivision two of section three
31 thousand thirty-three of this article.

32 (d) "Mental health response unit" shall mean mental health response
33 units established pursuant to this section.

34 (e) "E911 system" means an enhanced emergency telephone service which
35 automatically connects a person dialing the digits 9-1-1 to an estab-
36 lished public service answering point and which shall include, but not
37 be limited to, selective routing, automatic number identification and
38 automatic location identification.

39 2. Pursuant to the powers and duties of the state and regional coun-
40 cils, a mental health response unit shall have the power and authority
41 to respond to people in distress due to mental health conditions or
42 substance use. Any paid or volunteer member of a mental health response
43 unit shall be certified under the standards set forth by the state coun-
44 cil or their regional council.

45 3. A mental health response unit may respond to any person in distress
46 due to mental health conditions or substance abuse, and shall immediat-
47 ely respond to any person in distress under any of the following circum-
48 stances:

49 (a) A notification or request from the E911 system for a mental health
50 response;

51 (b) A notification or request from the state police, authorized police
52 force, or sheriff's department for a mental health response;

53 (c) A request from the chief health officer of any city or county, or
54 any county director of social services or their designee;

55 (d) A notification or request from any alternative dispatch system
56 designed for non-criminal emergency response.

1 4. Pursuant to the guidelines and standards promulgated by the state
2 council, and pursuant to a regional council's local guidance, if any,
3 any certified member of a mental health response unit may offer to
4 transport any person in distress due to mental health or substance use
5 to ensure that such person gets appropriate, trauma-informed medical
6 care.

7 5. Pursuant to the guidelines and standards promulgated by the state
8 council, and pursuant to a regional council's local guidance, if any,
9 any certified member of a mental health response unit may transport any
10 person in distress due to mental health or substance use to the best
11 location for appropriate, trauma-informed care, if such person consents
12 to such transport and/or treatment. For purposes of this subdivision,
13 "appropriate, trauma-informed care" may include any mental health,
14 medical, or substance abuse facility, a private residence, or other
15 locations as deemed proper by a certified mental health responder.

16 6. Any certified mental health responder may request that a peace
17 officer as defined by section 2.10 of the criminal procedure law, or
18 police officer as defined by section 1.20 of the criminal procedure law,
19 transport a person in distress due to mental health conditions or
20 substance abuse, when such responder has exhausted alternative methods
21 for obtaining consent from such person, such person refuses treatment or
22 transport from such responder; and:

23 (a) such person poses a substantial risk of physical harm to other
24 persons as manifested by homicidal or other violent behavior by which
25 others are placed in reasonable fear of serious physical harm; or

26 (b) such mental health responder makes an assessment, in light of the
27 totality of the circumstances, that a mental health response unit
28 responder is at risk of physical violence due to the person's actions.

29 7. Any certified mental health responder shall request that a peace
30 officer as defined by section 2.10 of the criminal procedure law, or
31 police officer as defined by section 1.20 of the criminal procedure law,
32 transport a person in distress due to mental health conditions or
33 substance abuse pursuant to section 9.41 of the mental hygiene law, when
34 such responder has exhausted alternative methods for obtaining consent
35 from such person, such person refuses treatment or transport from such
36 responder, and such certified mental health responder believes that such
37 person poses an imminent risk of serious physical harm to any other
38 person or persons.

39 § 5. Paragraph (a) of subdivision 4 of section 328 of the county law,
40 as added by section 1 of part G of chapter 81 of the laws of 2002, is
41 amended to read as follows:

42 (a) The board shall promulgate minimum standards for the operation of
43 public safety answering points, which shall include, but not be limited
44 to, minimum staffing requirements, minimum educational qualifications
45 for 911 call-takers and dispatchers, and minimum training requirements
46 for 911 call-takers and dispatchers, but which shall not include those
47 standards required by paragraph (b) of this subdivision. In promulgating
48 such standards, the board shall examine national models of best prac-
49 tice[~~Such standards~~], and shall incorporate the recommendations made
50 by the New York state mental health response council pursuant to section
51 three thousand thirty-three of the public health law for the dispatch,
52 response, and transport of individuals experiencing distress due to
53 mental health issues or substance use. Standards incorporating the guid-
54 ance of such state council shall be promulgated no later than [October
55 first, two thousand three] January first, two thousand twenty-two.

1 § 6. Section 9.41 of the mental hygiene law, as amended by chapter 723
2 of the laws of 1989, is amended to read as follows:

3 § 9.41 Emergency admissions for immediate observation, care, and treat-
4 ment; powers of certain peace officers and police officers.

5 1. Any peace officer, when acting pursuant to [~~his or her~~] **their**
6 special duties, or police officer who is a member of the state police or
7 of an authorized police department or force or of a sheriff's department
8 may take into custody any person who appears to be mentally ill [~~and~~] **or**
9 **under the influence of controlled substances in the following circum-**
10 **stances:**

11 (a) The person is conducting [~~himself or herself~~] **themselves** in a
12 manner which is likely to result in [~~serious harm to the person or~~
13 ~~others~~] **an imminent risk of serious physical harm to other persons as**
14 **manifested by homicidal or other violent behavior by which others are**
15 **placed in reasonable fear of serious physical harm.** Such officer may
16 direct the removal of such person or remove [~~him or her~~] **them** to any
17 hospital specified in subdivision (a) of section 9.39 **of this article** or
18 any comprehensive psychiatric emergency program specified in subdivision
19 (a) of section 9.40 **of this article**, or, pending [~~his or her~~] **their**
20 examination or admission to any such hospital or **comprehensive psychiat-**
21 **ric emergency** program, temporarily detain any such person in another
22 safe and comfortable place, in which event, such officer shall imme-
23 diately notify:

24 (i) **the appropriate regional mental health response council estab-**
25 **lished pursuant to section three thousand thirty-four of the public**
26 **health law, pursuant to the emergency procedures under section three**
27 **hundred twenty-eight of the county law, if any, and** the director of
28 community services or, if there be none, the health officer of the city
29 or county of such action[~~]~~];

30 (ii) **the state police, department, or force of which the officer is a**
31 **member has been requested or directed to respond by a certified mental**
32 **health response unit as set forth in section three thousand thirty-five**
33 **of the public health law;**

34 (iii) **a certified mental health response unit as set forth in section**
35 **three thousand thirty-five of the public health law is present on the**
36 **scene with the officer and is incapacitated or otherwise unable to**
37 **communicate a request that the officer take custody of the individual;**
38 **or**

39 (b) **The person is conducting themselves in a manner which is likely to**
40 **result in imminent serious physical harm to themselves as manifested by**
41 **threats of or attempts at suicide or serious bodily harm, and either:**

42 (i) **no regional council established pursuant to section three thousand**
43 **thirty-four of the public health law has been established in the region**
44 **where the person is; or**

45 (ii) **the regional council established pursuant to section three thou-**
46 **sand thirty-four of the public health law has notified the state council**
47 **established pursuant to section three thousand thirty-three of the**
48 **public health law, requesting a mental health response unit but such**
49 **mental health response unit has not arrived to the place where the**
50 **person is located, and taking the person is necessary to prevent such**
51 **person from experiencing serious physical injury or death.**

52 2. Such officer may direct the removal of such person or remove such
53 person to any hospital specified in subdivision (a) of section 9.39 **of**
54 **this article or, pending their examination or admission to any such**
55 **hospital, temporarily detain any such person in another safe and**
56 **comfortable place, in which event, such officer shall immediately noti-**

fy: the regional council established pursuant to section three thousand thirty-four of the public health law pursuant to the emergency procedures set forth in section three hundred twenty-eight of the county law, if any, and the director of community services or, if there be none, the health officer of the city or county of such action.

§ 7. Section 9.41 of the mental hygiene law, as amended by chapter 843 of the laws of 1980, is amended to read as follows:

§ 9.41 Emergency admissions for immediate observation, care, and treatment; powers of certain peace officers and police officers.

1. Any peace officer, when acting pursuant to [his] their special duties, or police officer who is a member of the state police or of an authorized police department or force or of a sheriff's department may take into custody any person who appears to be mentally ill [and] or under the influence of controlled substances in the following circumstances:

(a) The person is conducting [himself] themselves in a manner which is likely to result in [serious harm to himself or others. "Likelihood to result in serious harm" shall mean (1) substantial risk of physical harm to himself as manifested by threats of or attempts at suicide or serious bodily harm or other conduct demonstrating that he is dangerous to himself, or (2) a substantial risk] an imminent risk of serious physical harm to other persons as manifested by homicidal or other violent behavior by which others are placed in reasonable fear of serious physical harm. Such officer may direct the removal of such person or remove [him] them to any hospital specified in subdivision (a) of section 9.39 of this article or, comprehensive psychiatric emergency program specified in subdivision (a) of section 9.40 of this article, or pending [his] their examination or admission to any such hospital or comprehensive psychiatric emergency program, temporarily detain any such person in another safe and comfortable place, in which event, such officer shall immediately notify:

(i) the appropriate regional mental health response council established pursuant to section three thousand thirty-four of the public health law, pursuant to the emergency procedures under section three hundred twenty-eight of the county law, if any, and the director of community services or, if there be none, the health officer of the city or county of such action[-];

(ii) the state police, department, or force of which the officer is a member has been requested or directed to respond by a certified mental health response unit as set forth in section three thousand thirty-five of the public health law;

(iii) a certified mental health response unit as set forth in section three thousand thirty-five of the public health law is present on the scene with the officer and is incapacitated or otherwise unable to communicate a request that the officer take custody of the individual; or

(b) The person is conducting themselves in a manner which is likely to result in imminent serious physical harm to themselves as manifested by threats of or attempts at suicide or serious bodily harm, and either:

(i) no regional council established pursuant to section three thousand thirty-four of the public health law has been established in the region where the person is; or

(ii) the regional council established pursuant to section three thousand thirty-four of the public health law has notified the state council established pursuant to section three thousand thirty-three of the public health law, requesting a mental health response unit but such

1 mental health response unit has not arrived to the place where the
2 person is located, and taking the person is necessary to prevent such
3 person from experiencing serious physical injury or death.

4 2. Such officer may direct the removal of such person or remove such
5 person to any hospital specified in subdivision (a) of section 9.39 of
6 this article or, pending their examination or admission to any such
7 hospital, temporarily detain any such person in another safe and
8 comfortable place, in which event, such officer shall immediately noti-
9 fy: the regional council established pursuant to section three thousand
10 thirty-four of the public health law pursuant to the emergency proce-
11 dures set forth in section three hundred twenty-eight of the county law,
12 if any, and the director of community services or, if there be none, the
13 health officer of the city or county of such action.

14 § 8. This act shall take effect on the sixtieth day after it shall
15 have become a law, provided that the amendments to section 9.41 of the
16 mental hygiene law made by section six of this act shall be subject to
17 the expiration and reversion of such section pursuant to section 21 of
18 chapter 723 of the laws of 1989, as amended, when upon such date the
19 provisions of section seven of this act shall take effect. Effective
20 immediately, the addition, amendment and/or repeal of any rule or regu-
21 lation necessary for the implementation of this act on its effective
22 date are authorized to be made and completed on or before such effective
23 date.