

STATE OF NEW YORK

8896

IN ASSEMBLY

January 19, 2022

Introduced by M. of A. GALLAGHER, SIMON -- read once and referred to the Committee on Alcoholism and Drug Abuse

AN ACT to amend the judiciary law, the mental hygiene law, the public health law, the county law, and the general city law, in relation to replacing the words addict and addicts with the words person with substance abuse disorder or variation thereof

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

1 Section 1. Paragraph a of subdivision 1 of section 35 of the judiciary
2 law, as amended by chapter 817 of the laws of 1986, is amended to read
3 as follows:

4 a. When a court orders a hearing in a proceeding upon a writ of habeas
5 corpus to inquire into the cause of detention of a person in custody in
6 a state institution, or when it orders a hearing in a civil proceeding
7 to commit or transfer a person to or retain him in a state institution
8 when such person is alleged to be mentally ill, mentally defective or a
9 [~~narcotic addict~~] person with substance abuse disorder, or when it
10 orders a hearing for the commitment of the guardianship and custody of a
11 child to an authorized agency by reason of the mental illness or mental
12 retardation of a parent, or when it orders a hearing to determine wheth-
13 er consent to the adoption of a child shall be required of a parent who
14 is alleged to be mentally ill or mentally retarded, or when it orders a
15 hearing to determine the best interests of a child when the parent of
16 the child revokes a consent to the adoption of such child and such revo-
17 cation is opposed or in any adoption or custody proceeding if it deter-
18 mines that assignment of counsel in such cases is mandated by the
19 constitution of this state or of the United States, the court may assign
20 counsel to represent such person if it is satisfied that he is finan-
21 cially unable to obtain counsel. Upon an appeal taken from an order
22 entered in any such proceeding, the appellate court may assign counsel
23 to represent such person upon the appeal if it is satisfied that he is
24 financially unable to obtain counsel.

25 § 2. Subdivision 4 of section 35 of the judiciary law, as amended by
26 chapter 706 of the laws of 1975 and as renumbered by chapter 315 of the
27 laws of 1985, is amended to read as follows:

28 4. In any proceeding described in paragraph (a) of subdivision one of
29 this section, when a person is alleged to be mentally ill, mentally

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

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1 defective or a [~~narcotic addict~~] person with substance abuse disorder,
2 the court which ordered the hearing may appoint no more than two psychi-
3 atrists, certified psychologists or physicians to examine and testify at
4 the hearing upon the condition of such person. A psychiatrist, psychol-
5 ogist or physician so appointed shall, upon completion of his services,
6 receive reimbursement for expenses reasonably incurred and reasonable
7 compensation for such services, to be fixed by the court. Such compen-
8 sation shall not exceed two hundred dollars if one psychiatrist,
9 psychologist or physician is appointed, or an aggregate sum of three
10 hundred dollars if two psychiatrists, psychologists or physicians are
11 appointed, except that in extraordinary circumstances the court may
12 provide for compensation in excess of the foregoing limits.

13 § 3. Paragraph (i) of subdivision (b) of section 32.05 of the mental
14 hygiene law, as amended by section 3 of part Z of chapter 57 of the laws
15 of 2019, is amended to read as follows:

16 (i) Methadone, or such other controlled substance designated by the
17 commissioner of health as appropriate for such use, may be administered
18 to [~~an addict~~] a person with substance abuse disorder, as defined in
19 section thirty-three hundred two of the public health law, by individual
20 physicians, groups of physicians and public or private medical facili-
21 ties certified pursuant to article twenty-eight or thirty-three of the
22 public health law as part of a chemical dependence program which has
23 been issued an operating certificate by the commissioner pursuant to
24 subdivision (b) of section 32.09 of this article, provided, however,
25 that such administration must be done in accordance with all applicable
26 federal and state laws and regulations. Individual physicians or groups
27 of physicians who have obtained authorization from the federal govern-
28 ment to administer buprenorphine to [~~addicts~~] people with substance
29 abuse disorder may do so without obtaining an operating certificate from
30 the commissioner.

31 § 4. Paragraph 5 of subdivision (b) of section 32.09 of the mental
32 hygiene law, as added by chapter 558 of the laws of 1999, is amended to
33 read as follows:

34 5. the applicant will establish procedures to effectively implement a
35 detoxification program to further relieve [~~addicts~~] people with
36 substance abuse disorder from dependence upon methadone or such other
37 controlled substances prescribed for treatment in subject maintenance
38 programs.

39 § 5. Subdivision 1 of section 3302 of the public health law, as
40 amended by chapter 92 of the laws of 2021, is amended to read as
41 follows:

42 1. [~~"Addict"~~] "Person with substance abuse disorder" means a person who
43 habitually uses a [~~controlled substance for a non-legitimate or unlawful~~
44 ~~use~~] psychoactive or addictive substance, and who by reason of such use
45 is dependent thereon, in spite of predictable negative consequences that
46 might result.

47 (a) For the purposes of this subdivision, the term "psychoactive or
48 addictive substance" shall include, without limitation, the meanings of
49 the terms "narcotic drug", "drug", and "controlled substance" as those
50 terms are defined in this section.

51 (b) For the purposes of this subdivision, the term "substance abuse
52 disorder" shall mean the habitual use of a psychoactive or addictive
53 substance, causing dependence thereon, in spite of predictable negative
54 consequences that might result.

55 § 6. Subdivision 1 of section 3331 of the public health law, as added
56 by chapter 878 of the laws of 1972, is amended to read as follows:

1 1. Except as provided in titles III or V of this article, no substance
2 in schedules II, III, IV, or V may be prescribed for or dispensed or
3 administered to [~~an addict~~] a person with substance abuse disorder or
4 habitual user.

5 § 7. The title heading of title V of article 33 of the public health
6 law, as added by chapter 878 of the laws of 1972, is amended to read as
7 follows:

8 DISPENSING TO [~~ADDICTS~~] PERSONS WITH SUBSTANCE ABUSE
9 DISORDER AND HABITUAL USERS

10 § 8. Section 3350 of the public health law, as added by chapter 878 of
11 the laws of 1972, is amended to read as follows:

12 § 3350. Dispensing prohibition. Controlled substances may not be
13 prescribed for, or administered or dispensed to [~~addicts~~] persons with
14 substance abuse disorder or habitual users of controlled substances,
15 except as provided by this title or title III.

16 § 9. Section 3351 of the public health law, as added by chapter 878 of
17 the laws of 1972, subdivision 5 as amended by chapter 558 of the laws of
18 1999, is amended to read as follows:

19 § 3351. Dispensing for medical use. 1. Controlled substances may be
20 prescribed for, or administered or dispensed to [~~an addict~~] a person
21 with substance abuse disorder or habitual user:

22 (a) during emergency medical treatment unrelated to abuse of
23 controlled substances;

24 (b) who is a bona fide patient suffering from an incurable and fatal
25 disease such as cancer or advanced tuberculosis;

26 (c) who is aged, infirm, or suffering from serious injury or illness
27 and the withdrawal from controlled substances would endanger the life or
28 impede or inhibit the recovery of such person.

29 2. Controlled substances may be ordered for use by [~~an addict~~] a
30 person with substance abuse disorder or habitual user by a practitioner
31 and administered by a practitioner or registered nurse to relieve acute
32 withdrawal symptoms.

33 3. Methadone, or such other controlled substance designated by the
34 commissioner as appropriate for such use, may be ordered for use of [~~an~~
35 ~~addict~~] a person with substance abuse disorder by a practitioner and
36 dispensed or administered by a practitioner or his designated agent as
37 interim treatment for [~~an addict~~] a person with substance abuse disorder
38 on a waiting list for admission to an authorized maintenance program.

39 4. Methadone, or such other controlled substance designated by the
40 commissioner as appropriate for such use, may be administered to [~~an~~
41 ~~addict~~] a person with substance abuse disorder by a practitioner or by
42 his designated agent acting under the direction and supervision of a
43 practitioner, as part of a regime designed and intended to withdraw a
44 patient from addiction to controlled substances.

45 5. Methadone, or such other controlled substance designated by the
46 commissioner as appropriate for such use, may be administered to [~~an~~
47 ~~addict~~] a person with substance abuse disorder by a practitioner or by
48 his designated agent acting under the direction and supervision of a
49 practitioner, as part of a substance abuse or chemical dependence
50 program approved pursuant to article twenty-three or thirty-two of the
51 mental hygiene law.

52 § 10. Section 3372 of the public health law, as amended by chapter 195
53 of the laws of 1973, is amended to read as follows:

1 § 3372. Practitioner patient reporting. It shall be the duty of every
2 attending practitioner and every consulting practitioner to report
3 promptly to the commissioner, or his duly designated agent, the name
4 and, if possible, the address of, and such other data as may be required
5 by the commissioner with respect to, any person under treatment if he
6 finds that such person is [~~an addict~~] a person with substance abuse
7 disorder or a habitual user of any narcotic drug. Such report shall be
8 kept confidential and may be utilized only for statistical, epidemiolog-
9 ical or research purposes, except that those reports which originate in
10 the course of a criminal proceeding other than under section 81.25 of
11 the mental hygiene law shall be subject only to the confidentiality
12 requirements of section thirty-three hundred seventy-one of this arti-
13 cle.

14 § 11. Subdivisions 2 and 3 of section 396-h of the county law, as
15 added by chapter 818 of the laws of 1971, are amended to read as
16 follows:

17 2. To establish in-patient and out-patient treatment facilities for
18 persons [~~addicted to the use of drugs and drug abusers~~] with substance
19 abuse disorders. Such facilities shall include, but shall not be limited
20 to:

21 a. detoxification centers and clinics for the out-patient treatment of
22 [~~drug abusers and addicts~~] persons with substance abuse disorders;

23 b. a treatment center where [~~drug abusers and addicts~~] persons with
24 substance abuse disorders may obtain professional counseling from physi-
25 cians, psychologists, psychiatrists and where possible, [~~former drug~~
26 ~~abusers and addicts~~] other persons with substance abuse disorders;

27 c. half-way houses to provide continuing treatment for [~~drug abusers~~
28 ~~and addicts~~] persons with substance abuse disorders.

29 3. To create a referral program whereby [~~drug abusers, addicts~~]
30 persons with substance abuse disorders and persons and agencies
31 concerned with their treatment will make use of the aforementioned
32 treatment facilities;

33 § 12. Subdivisions 2 and 3 of section 121 of the general city law, as
34 added by chapter 820 of the laws of 1971, are amended to read as
35 follows:

36 2. To establish in-patient and out-patient treatment facilities for
37 persons [~~addicted to the use of drugs and drug abusers~~] with substance
38 abuse disorders. Such facilities shall include, but shall not be limited
39 to:

40 a. detoxification centers and clinics for the out-patient treatment of
41 [~~drug abusers and addicts~~] persons with substance abuse disorders;

42 b. a treatment center where [~~addicts~~] persons with substance abuse
43 disorders may obtain professional counseling from physicians, psychol-
44 ogists, psychiatrists and where possible, [~~former drug abusers and~~
45 ~~addicts~~] other persons with substance abuse disorders;

46 c. half-way houses to provide continuing treatment for [~~drug abusers~~
47 ~~and addicts~~] persons with substance abuse disorders.

48 3. To create a referral program whereby [~~drug abusers, addicts~~]
49 persons with substance abuse disorders and persons and agencies
50 concerned with their treatment will make use of the aforementioned
51 treatment facilities;

52 § 13. This act shall take effect immediately.