

# STATE OF NEW YORK

198

2021-2022 Regular Sessions

## IN SENATE

(Prefiled)

January 6, 2021

Introduced by Sens. KAPLAN, BROOKS, FELDER, GAUGHRAN, GOUNARDES, HARCKHAM, KAMINSKY, 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:

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

4. On application of: (a) the prosecution; (b) defense counsel; (c) a family member of the principal; (d) any person eighteen years of age or older with whom the principal resides; (e) the director of a hospital in which the principal is hospitalized; (f) the director of any public or charitable organization, agency or home providing mental health services to the principal or in whose institution the principal resides; (g) a qualified psychiatrist who is either supervising the treatment of or treating the principal for a mental illness; (h) a psychologist, licensed pursuant to article one hundred fifty-three of the education law, or a social worker, licensed pursuant to article one hundred fifty-four of the education law, who is treating the principal for a mental illness; (i) the director of community services, or his or her designee, or the social services official, as defined in the social services law, of the city or county in which the principal is present or reasonably believed to be present; or (j) a parole officer or probation officer assigned to supervise the principal; a principal charged with a crime not subject to bail shall be referred to the county in which the crime was committed for a mental health and/or substance abuse evalu-

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

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1 ation and if, after such evaluation, it is determined that the principal  
2 requires treatment for such mental health diagnosis or substance abuse,  
3 the court may order that compliance with such treatment shall be a  
4 condition of release pending trial.

5 § 2. The criminal procedure law is amended by adding a new section  
6 520.50 to read as follows:

7 § 520.50 Bail surcharge; mental health and substance abuse.

8 Every cash bail or bail bond authorized pursuant to subdivision one of  
9 section 520.10 of this article and imposed by the court pursuant to this  
10 part shall be subject to a surcharge in the amount of one percent. All  
11 monies collected from such surcharge shall be deposited in the pretrial  
12 mental health and substance abuse services bail fund established pursu-  
13 ant to section ninety-nine-ii of the state finance law to be used to  
14 reimburse counties for pretrial mental health and substance abuse evalu-  
15 ations and services required by subdivision four of section 550.10 of  
16 this part.

17 § 3. Subparagraph (viii) of paragraph (b) of subdivision 1 of section  
18 150.20 of the criminal procedure law, as added by section 1-a of part  
19 JJJ of chapter 59 of the laws of 2019, is amended and two new subpara-  
20 graphs (ix) and (x) are added to read as follows:

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

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

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

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

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

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

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

41 (F) a psychologist, licensed pursuant to article one hundred fifty-  
42 three of the education law, or a social worker, licensed pursuant to  
43 article one hundred fifty-four of the education law, who is treating the  
44 person for a mental illness; or

45 (G) the director of community services, or his or her designee, or the  
46 social services official, as defined in the social services law, of the  
47 city or county in which the person is present or reasonably believed to  
48 be present; or

49 (H) a parole officer or probation officer assigned to supervise the  
50 person;

51 (x) based on the observed behavior of the person in the present  
52 contact with the officer and facts regarding the person's condition that  
53 indicate a sign of distress to such a degree that the person would face  
54 harm without immediate medical or mental health care, that bringing the  
55 person before the court would be in such person's interest in addressing  
56 that need; provided, however, that before making the arrest, the officer

1 shall make all reasonable efforts to assist the person in securing  
2 appropriate services.

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

5 § 99-ii. Pretrial mental health and substance abuse services bail  
6 fund. 1. There is hereby established in the joint custody of the commis-  
7 sioner of taxation and finance and the state comptroller a special fund  
8 to be known as the "pretrial mental health and substance abuse services  
9 bail fund".

10 2. Such fund shall consist of all revenues received by the department  
11 of taxation and finance pursuant to the provisions of section 520.50 of  
12 the criminal procedure law, and all other moneys appropriated, credited,  
13 or transferred thereto from any other fund or source pursuant to law.  
14 Nothing contained herein shall prevent the state from receiving grants,  
15 gifts, or bequests for the fund and depositing them into the fund  
16 according to law.

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

21 4. Monies shall be payable from the fund on the audit and warrant of  
22 the comptroller on vouchers approved and certified by the commissioner  
23 of taxation and finance.

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