

STATE OF NEW YORK

2187

2021-2022 Regular Sessions

IN SENATE

January 20, 2021

Introduced by Sen. SEPULVEDA -- read twice and ordered printed, and when printed to be committed to the Committee on Mental Health

AN ACT to amend the mental hygiene law, in relation to establishing residential treatment facilities

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

1 Section 1. Section 7.18 of the mental hygiene law, as added by chapter
2 7 of the laws of 2007, is amended to read as follows:

3 § 7.18 Secure treatment facilities in the office.

4 (a) 1. There shall be in the office secure treatment facilities, as
5 defined in subdivision (o) of section 10.03 of this title, as designated
6 by the commissioner for the care and treatment of dangerous sex offen-
7 ders requiring confinement, as described in article ten of this title.

8 [~~(b)~~] 2. Such secure treatment facilities may be created on the former
9 grounds of hospitals operated by the office, but shall be considered
10 separate and distinct facilities and shall not be considered or defined
11 as hospitals.

12 (b) 1. There shall be in the office residential treatment facilities
13 as an alternative to incarceration designated by the commissioner and
14 licensed by the office of mental health for the care and treatment of
15 persons with serious mental illness, as defined in subdivision fifty-two
16 of section 1.03 of this chapter who are also accused of at least one
17 felony level crime. Such facilities may be operated by a public or
18 private non-profit organization as set forth in subdivision (d) of
19 section 7.17 of this article.

20 2. Admission to such facility will require voluntary and informed
21 consent of persons living with such serious mental illness to reside at
22 said facility and to abide by all facility rules including, but not
23 limited to, a voluntary agreement not to leave the facility without
24 wearing a global positioning system device and accompanied by staff,
25 unless otherwise authorized by the facility director. Such informed

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

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1 consent shall be memorialized in an agreement entered into by the
2 presiding judge in the criminal matter involving such felony level
3 crime, the person living with such serious mental illness alleged to
4 have committed such felony level crime who shall be represented by coun-
5 sel, and the county prosecutor, and shall further require such person
6 living with a serious mental illness to voluntarily and knowingly
7 request the imposition of bail in a nominal amount, pursuant to subdivi-
8 sion five of section 510.10 of the criminal procedure law. To ensure
9 that consent is informed and voluntary, such presiding judge shall
10 appoint counsel if such person with a serious mental illness is not
11 otherwise represented by counsel. Such agreement shall also include an
12 agreement by the prosecuting agency that where such person successfully
13 completes the period of treatment outlined in said agreement such person
14 will not be subject to incarceration for the alleged crimes which were
15 the subject of, or which were agreed to in the agreement or which may be
16 thereafter substituted at the time of sentencing for any alleged crimes
17 related to the alleged incidents which were the subject of said agree-
18 ment.

19 3. Programs operated pursuant to this section shall provide the
20 following as needed: medication management; effective psychiatric and
21 therapeutic treatment in a safe, violence-free environment designed to
22 stabilize the underlying serious mental illness; treatment of any co-oc-
23 curring substance use disorder; and basic care and life skills training
24 related to nutrition, exercise, hygiene and mental and physical health
25 care maintenance.

26 4. Pursuant to subdivision (b) of section 7.15 of this article, the
27 commissioner shall work cooperatively with the commissioner of the
28 office of addiction services and supports to provide for the treatment
29 of co-occurring substance use disorders of residents in semi-secure
30 facilities licensed pursuant to this section.

31 5. On or within thirty days of the effective date of the chapter of
32 the laws of two thousand twenty-one that amended this section, the
33 commissioner shall take reasonably necessary actions to fully implement
34 this section, including but not limited to, promulgating rules, regu-
35 lations or guidelines regarding licensure by the office of mental health
36 of residential alternative to incarceration facilities as set forth in
37 paragraph one of this subdivision. If rules, regulations or guidelines
38 are necessary for licensure, such licensure rules, regulations or guide-
39 lines shall be determined on or within nine months of the effective date
40 of the chapter of the laws of two thousand twenty-one that amended this
41 section.

42 6. On or within ninety days of the effective date of the chapter of
43 the laws of two thousand twenty-one that amended this section, the
44 commissioner shall seek federal financial participation in the Federal
45 Medical Assistance Percentage program with regard to the administration
46 and implementation of any program as provided for in paragraph three of
47 this subdivision.

48 § 2. This act shall take effect immediately.