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:

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

§ 7.18 Secure treatment facilities in the office.

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

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

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

2. Admission to such facility will require voluntary and informed consent of persons living with such serious mental illness to reside at said facility and to abide by all facility rules including, but not limited to, a voluntary agreement not to leave the facility without wearing a global positioning system device and accompanied by staff, 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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consent shall be memorialized in an agreement entered into by the presiding judge in the criminal matter involving such felony level crime, the person living with such serious mental illness alleged to have committed such felony level crime who shall be represented by counsel, and the county prosecutor, and shall further require such person living with a serious mental illness to voluntarily and knowingly request the imposition of bail in a nominal amount, pursuant to subdivision five of section 510.10 of the criminal procedure law. To ensure that consent is informed and voluntary, such presiding judge shall appoint counsel if such person with a serious mental illness is not otherwise represented by counsel. Such agreement shall also include an agreement by the prosecuting agency that where such person successfully completes the period of treatment outlined in said agreement such person will not be subject to incarceration for the alleged crimes which were the subject of, or which were agreed to in the agreement or which may be thereafter substituted at the time of sentencing for any alleged crimes related to the alleged incidents which were the subject of said agreement.

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

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

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

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

§ 2. This act shall take effect immediately.