

STATE OF NEW YORK

6194--A

2021-2022 Regular Sessions

IN SENATE

April 14, 2021

Introduced by Sens. BROUK, HARCKHAM, BENJAMIN, BROOKS, HELMING -- read twice and ordered printed, and when printed to be committed to the Committee on Local Government -- committee discharged and said bill committed to the Committee on Mental Health and Developmental Disabilities -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the county law, the tax law and the state finance law, in relation to a 9-8-8 suicide prevention and mental health crisis hotline system

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

Section 1. Short title. This act shall be known and may be cited as the "9-8-8 Suicide Prevention and Mental Health Crisis Act".

§ 2. The county law is amended by adding a new article 6-B to read as follows:

ARTICLE 6-B

9-8-8 SUICIDE PREVENTION AND MENTAL HEALTH CRISIS ACT

Section 340. Definitions.

341. 9-8-8 suicide prevention and mental health crisis hotline system.

§ 340. Definitions. When used in this article, the following words and phrases shall have the following meanings unless the specific context clearly indicates otherwise:

1. "9-8-8" shall mean the three digit phone number designated by the federal communications commission for the purpose of connecting individuals experiencing a mental health crisis with suicide prevention and mental health crisis counselors, and crisis receiving and stabilization services and other mental health crises services through the national suicide prevention lifeline.

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

LBD10757-09-1

2. "9-8-8 crisis hotline center" shall mean a state-identified and funded center participating in the National Suicide Prevention Lifeline Network to respond to statewide or regional 9-8-8 calls.

3. "National suicide prevention lifeline" or "NSPL" shall mean the national network of local crisis centers that provide free and confidential emotional support to people in suicidal crisis or emotional distress twenty-four hours a day, seven days a week via a toll-free hotline number, which receives calls made through the 9-8-8 system. The toll-free number is maintained by the Assistant Secretary for Mental Health and Substance Use under the United States Substance Abuse and Mental Health Services Administration.

4. "Peers" shall mean individuals employed on the basis of their personal experience of mental illness, addiction, or both, and recovery therefrom, and who meet the certification requirements set forth by the New York state peer specialist certification board.

5. "Family advocates" shall mean individuals who support person-centered planning, offer culturally responsive trauma-informed care and support families and youth with mental health or co-occurring disorders and have experience working with multiple agencies and providers, including, but not limited to, mental health, physical health, substance abuse, juvenile justice, developmental disabilities, and other state and local systems of care.

6. "Veterans crisis line" or "VCL" shall mean the veterans crisis line maintained by the secretary of veterans affairs pursuant to section 1720F(h) of Title 38 of the United States Code.

7. "Substance Abuse and Mental Health Services Administration" or "SAMHSA" shall mean the agency within the United States Department of Health and Human Services.

8. "Federal Communications Commission" or "FCC" shall mean the independent U.S. government agency designated to regulate interstate and international communications by radio, television, wire, satellite, and cable in all fifty states, the district of columbia and U.S. territories.

§ 341. 9-8-8 suicide prevention and mental health crisis hotline system. 1. (a) The commissioners of the office of mental health and the office of addiction services and supports, in consultation with the department of public service shall, on or before July sixteenth, two thousand twenty-two, designate a crisis hotline center or centers that shall provide suicide prevention and crisis intervention services to individuals accessing the 9-8-8 suicide prevention and mental health crisis hotline from anywhere within the state twenty-four hours a day, seven days a week. A designated 9-8-8 crisis hotline center shall meet the following requirements:

(i) have an active agreement with the administrator of the National Suicide Prevention Lifeline for participation within the network;

(ii) adhere to NSPL policies, requirements and best practices guidelines for operation and clinical assessment standards;

(iii) utilize technology including chat and text that is interoperable between and across crisis and emergency systems used throughout the state, including but not limited to, 911, emergency medical services, and other nonbehavioral health crisis services, and with the administrator of the National Suicide Prevention Lifeline; and

(iv) coordinate with 9-8-8 crisis hotline centers and 911 operators for the appropriate deployment of additional services and when appropriate emergency medical services and/or law enforcement.

(b) (i) The commissioners of the office of mental health and the office of addiction services and supports, in consultation with the department of public service shall have joint oversight of suicide prevention and crisis service activities and essential coordination with a designated 9-8-8 hotline center, and shall work in concert with NSPL and VCL networks for the purposes of ensuring consistency of public messaging about 9-8-8 services.

(ii) The office of mental health, in consultation with statewide mental health organizations, behavioral health crisis stabilization centers, statewide conference of mental hygiene directors and county, town and village first responders, shall establish training guidelines for 9-8-8 crisis hotline center staff, 911 operators, and first responders, to assess callers for suicidal risk, provide crisis counseling and crisis intervention, offer referrals to mental health and/or substance use services, and on providing linguistically and culturally competent care.

(c) A designated 9-8-8 crisis hotline center shall meet the requirements set forth by the NSPL for serving high risk and specialized populations including but not limited to: Black, African American, Hispanic, Latino, Asian, Pacific Islander, Native American, Alaskan Native; Lesbian, gay, bisexual, transgender, nonbinary, queer, and questioning individuals; individuals with intellectual and developmental disabilities; individuals experiencing homelessness or housing instability; immigrants and refugees; children and youth; older adults; and religious communities as identified by the federal Substance Abuse and Mental Health Services Administration, including training requirements and policies for transferring such callers to an appropriate specialized center or subnetworks within or outside the NSPL network and for providing linguistically and culturally competent care.

(d) A designated 9-8-8 crisis hotline center may provide follow-up services as needed to individuals accessing the 9-8-8 suicide prevention and mental health crisis hotline consistent with guidance and policies established by the NSPL.

2. The commissioners of the office of mental health and the office of addiction services and supports shall establish a comprehensive list of reporting metrics to be included in the annual report of the 9-8-8 suicide prevention and mental health crisis hotline's usage, services and impact which shall include, at a minimum:

(a) The volume of requests for assistance that the 9-8-8 suicide prevention and mental health crisis hotline received;

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

(c) The types of requests for assistance that the 9-8-8 suicide prevention and mental health crisis hotline received;

(d) The volume of requests that were diverted out of state;

(e) The volume of requests that were completed without an in-person response; and

(f) The age, gender, race, ethnicity, national origin, and high risk category of the individual, if reasonably ascertainable, of individuals who contacted 9-8-8.

§ 3. Subdivision 5 of section 186-f of the tax law, as added by section 3 of part B of chapter 56 of the laws of 2009, paragraph (b) as amended by section 1 of part Q of chapter 55 of the laws of 2014, is amended to read as follows:

5. Deposits of surcharge monies collected and received. Notwithstanding any provision of law to the contrary, all surcharge monies collected

1 and received by the commissioner under this section must be deposited
2 daily to the credit of the comptroller with those responsible banks,
3 banking houses or trust companies the comptroller may designate. Those
4 deposits must be kept separate and apart from all other monies in the
5 possession of the comptroller. The comptroller must require adequate
6 security from all such depositories. Of the total revenue collected or
7 received under this section, the comptroller must retain in the comp-
8 troller's hands an amount determined by the commissioner to be necessary
9 for refunds under this section, out of which the comptroller will pay
10 any refunds to which taxpayers are entitled under the provisions of this
11 section. The comptroller, after reserving the amount to pay refunds,
12 must, on or before the tenth day of each month, pay all surcharge monies
13 collected and received under this section and remaining to the comp-
14 troller's credit [~~as follows:~~

15 ~~(a) forty one and seven tenths of the revenues collected and received~~
16 ~~under this section into the state general fund, and~~

17 ~~(b)] after deducting [the amount paid under paragraph (a) of this~~
18 ~~subdivision and]~~ the amount retained by wireless communications suppli-
19 ers pursuant to paragraph (d) of subdivision two of this section, the
20 balance of the revenues collected under this section into the statewide
21 public safety communications account of the miscellaneous special reven-
22 ue fund, created pursuant to section ninety-seven-qq of the state
23 finance law.

24 § 4. Paragraphs (e) and (g) of subdivision 6 of section 186-f of the
25 tax law, paragraph (e) as added by section 39 of part B of chapter 56 of
26 the laws of 2010, and paragraph (g) as added by section 2 of part Q of
27 chapter 55 of the laws of 2014 are amended and a new paragraph (h) is
28 added to read as follows:

29 (e) services and expenses that support the operations and mission of
30 the division of homeland security and emergency services as appropriated
31 by the legislature[~~+~~];

32 (g) The sum of ten million dollars annually shall be used for the
33 provision of grants to counties for costs related to the operations of
34 public safety dispatch centers, to be distributed pursuant to a plan
35 developed by the commissioner of homeland security and emergency
36 services and approved by the director of the budget. Such plan may
37 consider such factors as population density and emergency call
38 volume[~~+~~]; and

39 (h) Up to eighty million annually shall be deposited into the suicide
40 and mental health crisis hotline fund, as created by section ninety-sev-
41 en-bbbb of the state finance law.

42 § 5. The state finance law is amended by adding a new section 97-bbbb
43 to read as follows:

44 § 97-bbbb. Suicide and mental health crisis hotline fund. 1. There is
45 hereby established in the joint custody of the state comptroller and the
46 commissioner of taxation and finance a fund to be known as the suicide
47 and mental health crisis hotline fund.

48 2. The suicide and mental health crisis hotline fund shall consist of
49 all monies deposited pursuant to section one hundred eighty-six-f of the
50 tax law, all monies transferred to such account pursuant to law, and all
51 monies deposited pursuant to any other law to be paid into or credited
52 to the account, including all monies received by the account or donated
53 to it for the creation and maintenance of a telecommunication system to
54 ensure (a) the efficient and effective routing of calls made to the
55 9-8-8 national suicide prevention and mental health crisis hotline to an
56 appropriate crisis center; and (b) proper staffing and training of

1 personnel for the provision of acute mental health crisis outreach and
2 stabilization services by directly responding to the 9-8-8 national
3 suicide prevention and mental health crisis hotline.

4 3. The state comptroller and the commissioner of taxation and finance
5 shall jointly submit an annual report of fund deposits and expenditures
6 into the suicide and mental health crisis hotline fund, on or by Decem-
7 ber thirty-first, two thousand twenty-three and annually thereafter, to
8 the governor, the temporary president of the senate, the speaker of the
9 assembly, the minority leader of the senate, the minority leader of the
10 assembly and the chair of the federal communications commission.

11 4. Monies in the fund:

12 (a) shall not revert at the end of any fiscal year and remain avail-
13 able for the purposes of the fund in subsequent fiscal years;

14 (b) are not subject to transfer to any other fund or to transfer,
15 assessment, or reassessment for any other use or purpose outside of
16 those specified in this section; and

17 (c) are continuously dedicated for the purposes of the fund.

18 § 6. The tax law is amended by adding a new section 186-h to read as
19 follows:

20 § 186-h. 9-8-8 surcharge. 1. Definitions. As used in this section,
21 where not otherwise specifically defined and unless a different meaning
22 is clearly required:

23 (a) "place of primary use" has the same meaning as that term is
24 defined in paragraph twenty-six of subdivision (b) of section eleven
25 hundred one of this chapter.

26 (b) "communications customer" means a person who contracts for or is
27 the end user of wireless communications service, local exchange access
28 service or VOIP service.

29 (c) "wireless communications device" means any equipment used to
30 access a wireless communications service.

31 (d) "wireless communications service" means all commercial mobile
32 services, as that term is defined in section 332 (d) of title 47 of the
33 United States Code, as amended from time to time including, but not
34 limited to, all broadband personal communication services, wireless
35 radio telephone services, geographic area specialized and enhanced
36 specialized mobile radio services, and incumbent wide area specialized
37 mobile radio licensees, which offer real-time, two-way voice or data
38 service that is interconnected with the public switched telephone
39 network or otherwise provides access to emergency communications
40 services.

41 (e) "wireless communications service supplier" means a home service
42 provider as defined in subparagraph (ii) of paragraph twenty-seven of
43 subdivision (b) of section eleven hundred one of this chapter, provided
44 that the home service provider provides wireless communications service
45 and has one or more wireless communications customers in New York state.

46 (f) "prepaid wireless communications seller" means a person making a
47 retail sale of prepaid wireless communications service.

48 (g) "prepaid wireless communications service" means a prepaid mobile
49 calling service as defined in paragraph twenty-two of subdivision (b) of
50 section eleven hundred one of this chapter.

51 (h) "service supplier" means (1) a telephone corporation which
52 provides local exchange access to a service address in this state, or
53 (2) a provider of "voice over internet protocol service" or "VOIP
54 service" that provides such service to a service address in this state.

55 (i) "voice over internet protocol service" or "VOIP service" shall
56 mean any service that (1) enables real-time, two-way voice communi-

1 cations; (2) requires a broadband connection from the user's location;
2 (3) requires internet protocol compatible customer premises equipment
3 (CPE); and (4) permits users generally to receive calls that originate
4 on the public switched telephone network and to terminate calls to the
5 public switched telephone network.

6 2. 9-8-8 surcharge. (a)(1) Effective for bills issued on and after
7 April first, two thousand twenty-two, a surcharge at a rate established
8 by the commissioner, in consultation with the commissioners of the
9 office of mental health and the office of addiction services and
10 supports, shall be imposed on (i) each wireless communications device
11 with wireless communications service during any part of each month
12 provided to a wireless communications customer with a place of primary
13 use in this state; and (ii) on local exchange access service and VOIP
14 service provided to a customer with a service address in this state
15 during any part of each month. The surcharge must be reflected and made
16 payable on bills rendered to a communications customer for service.

17 (2) Effective for retail transactions occurring on and after April
18 first, two thousand twenty-two, a surcharge is imposed on the retail
19 sale of each prepaid wireless communications service, whether or not any
20 tangible personal property is sold therewith, at the rate established by
21 the commissioner, in consultation with the commissioners of the office
22 of mental health and the office of addiction services and supports. A
23 sale of a prepaid wireless communications service occurs in this state
24 if the sale takes place at a seller's business location in the state. If
25 the sale does not take place at the seller's place of business, it shall
26 be conclusively determined to take place at the purchaser's shipping
27 address or, if there is no item shipped, at the purchaser's billing
28 address, or, if the seller does not have that address, at such address
29 as approved by the commissioner that reasonably reflects the customer's
30 location at the time of sale of the prepaid wireless communications
31 service.

32 (b) In the case of VOIP service, the surcharge shall be based on the
33 number of simultaneous outbound calls the customer has purchased the
34 right to place, regardless of actual usage or the number of customer's
35 phone numbers.

36 (c) The surcharge must be reported and paid to the commissioner on a
37 quarterly basis on or before the twentieth day of the month following
38 each quarterly period ending on the last day of February, May, August
39 and November, respectively. The payments must be accompanied by a return
40 in the form and containing the information the commissioner may
41 prescribe.

42 (d)(1) The surcharge must be added as a separate line item to bills
43 furnished by a wireless communications service supplier or service
44 supplier to its customers, or must be added as a separate line item to a
45 sales slip, invoice, receipt, or other statement of the price, if any,
46 that is furnished by a prepaid wireless communications seller to a
47 purchaser, and must be identified as the "9-8-8 surcharge".

48 (2) Notwithstanding subparagraph one of this paragraph, a wireless
49 communications service supplier, service supplier or a prepaid wireless
50 communications seller may elect to combine the 9-8-8 surcharge and the
51 911 surcharges imposed under sections one hundred eighty-six-f and one
52 hundred eighty-six-g of this article or section three hundred one of the
53 county law into a single line item added to bills furnished by a wire-
54 less communications service supplier or service provider to its custom-
55 ers, or a combined surcharge added to a sales slip, invoice, receipt, or
56 other statement of the price, if any, that is furnished by a prepaid

1 wireless communications seller to a purchaser. Such combined surcharges
2 shall be identified as the "9-1-1/9-8-8 surcharge." If the surcharges
3 are combined, the wireless communications seller shall report and remit
4 the respective 911 and 9-8-8 surcharges separately on a return in the
5 form and containing the information the commissioner may prescribe.

6 (e) Each wireless communications service supplier, service supplier
7 and prepaid wireless communications seller is entitled to retain, as an
8 administrative fee, an amount equal to three percent of fifty-eight and
9 three-tenths percent of the total collections of the surcharges imposed
10 by this section, provided that the supplier or seller files any required
11 return and remits the surcharge due to the commissioner on or before its
12 due date.

13 3. Exemption. Lifeline consumers shall be exempt from the surcharges
14 imposed by this section.

15 4. Applicable provisions. (a) Except as otherwise provided in this
16 section, the surcharge imposed under this section shall be administered
17 and collected by the commissioner in a like manner as the taxes imposed
18 by article twenty-eight of this chapter. All the provisions of article
19 twenty-eight of this chapter, including the provisions relating to defi-
20 nitions, exemptions, returns, personal liability for the tax, collection
21 of tax from the customer, payment of tax, and the administration of the
22 taxes imposed by such article, shall apply to the surcharges imposed
23 under the authority of this section so far as those provisions can be
24 made applicable to the surcharges imposed by this section, with such
25 modifications as may be necessary in order to adapt the language of
26 those provisions to the surcharges imposed by this section. Those
27 provisions shall apply with the same force and effect as if the language
28 of those provisions had been set forth in full in this section, except
29 to the extent that any of those provisions is either inconsistent with
30 the provisions of this section or is not relevant to the surcharge
31 imposed by this section. For purposes of this section, any reference in
32 this chapter to a tax or the taxes imposed by article twenty-eight of
33 this chapter shall be deemed also to refer to the surcharges imposed by
34 this section unless a different meaning is clearly required.

35 (b) Notwithstanding the provisions of paragraph (a) of this subdivi-
36 sion:

37 (1) the exemptions provided for in section eleven hundred sixteen of
38 this chapter, other than the exemptions in paragraphs one, two and three
39 of subdivision (a) of that section, shall not apply to the surcharges
40 imposed by this section.

41 (2) the credit provided in subdivision (f) of section eleven hundred
42 thirty-seven of this chapter shall not apply to this section.

43 6. Deposits of surcharge monies collected and received. Notwithstand-
44 ing any provision of law to the contrary, all surcharge monies collected
45 and received by the commissioner under this section shall be deposited
46 daily to the credit of the suicide and mental health crisis hotline fund
47 established by section ninety-seven-bbbb of the state finance law.

48 § 7. This act shall take effect immediately.