STATE OF NEW YORK

7229

2021-2022 Regular Sessions

IN SENATE

June 7, 2021

Introduced by Sen. BAILEY -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the correction law, in relation to the role of the department of corrections and community supervision in planning and facilitating the discharge or release of incarcerated persons to the community

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

Section 1. The correction law is amended by adding a new section 77 to read as follows:

§ 77. Discharge plans. 1. (a) Prior to the release or discharge of an incarcerated person from a correctional facility, the department shall provide a comprehensive discharge plan for such person. Such plan shall include planning for such person's mental health needs, medical care, housing, employment and any substance use disorder services. Such discharge plan shall be prepared in consultation with non-profit providers and in conjunction with such incarcerated person to ensure the comprehensive discharge plan is appropriate and well-coordinated. No later than seven days prior to release or discharge, such discharge plan shall be provided to the incarcerated person for whom it was prepared and to the non-profit providers that assisted in its preparation. The discharge plan and all coordinated services are voluntary unless otherwise required by law. Any personal identifying information shared with providers to coordinate the discharge planning and relevant services shall be shared only with the informed and voluntary written consent of the incarcerated person for whom the discharge plan is prepared.

(b) The department shall begin preparing the plan required by paragraph (a) of this subdivision no later than forty-five days prior to an incarcerated person's release or discharge from a correctional facility and shall complete the plan no later than seven days prior to such person's release or discharge.

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

LBD11766-04-1

(c) For those incarcerated persons who are to be released or discharged from a correctional facility less than forty-five days after the effective date of this section, the department shall begin preparing the plan required by paragraph (a) of this subdivision immediately and make best efforts to complete such plan prior to such incarcerated person's release or discharge.

(d) The plan required by paragraph (a) of this subdivision shall further include an assessment of such incarcerated person's access to housing and any preparation necessary for such person's successful transition to adequate and stable housing. If the department determines that an incarcerated person does not have access to adequate and stable housing, the department shall, upon release of such person, obtain for such person a placement in adequate and stable housing that is not a shelter. Such adequate and stable housing may include, but not be limited to, permanent, transitional, supportive or voluntary residential treatment or medical care. Upon the release or discharge of an incarcerated person from a correctional facility, the department shall arrange for the transportation of such person or provide means for the transportation of such person to housing.

(e) The plan required by paragraph (a) of this subdivision shall further include an offer of transitional or long-term employment upon release or discharge.

2. (a) As used in this subdivision, the term "reentry providers" shall mean providers of programs or services designed to promote the successful and productive reentry and reintegration of an incarcerated person into the general society, including housing services, medical and mental health services, HIV/AIDS services, educational, vocational and employment services, and alcohol or substance use disorder treatment services.

(b) Prior to referring an incarcerated person to treatment or medical care upon release, the department shall coordinate with the appropriate reentry providers in the local jurisdiction where such person is scheduled to be released. Unless otherwise required by law, all referrals to treatment or medical care upon release shall be made only with the incarcerated person's informed and voluntary written consent. In accordance with applicable privacy laws, and only with such person's informed and voluntary written consent, such coordination shall include notification to such reentry providers of the incarcerated person's planned treatment or medical care placement, when documented to be necessary for such providers to continue to coordinate and/or provide care and services.

(c) (i) If an incarcerated person declines a housing placement, prior to referring to and placing in a shelter an incarcerated person who is scheduled to be released, the department shall coordinate with the appropriate reentry providers in the local jurisdiction where such person is scheduled to be released. Such coordination shall include notification to such reentry providers of the incarcerated person's planned referral to and placement in such shelter.

(ii) In such instances in which the incarcerated person declines a housing placement and the department's discharge planning results in release of the person to temporary housing in a shelter, including but not limited to a shelter regulated by the office of temporary and disability assistance, the department shall: (A) at the time of such person's release, provide a report to the incarcerated person for whom it was prepared and to the local social services district to which such person is scheduled to be released, describing in detail all necessary and relevant discharge planning undertaken for such person only if and

when such local social services district is providing and/or assisting in the coordination of services provided to such previously incarcerated person and the information is necessary and relevant to facilitate such assistance, provided that the confidentiality protections of the social services law apply to such report; (B) continue assisting the person to obtain housing that is not temporary housing in a shelter and does not violate the terms of such person's parole; and (C) once every thirty days following release until such person is no longer subject to parole, provide a report, that is subject to the confidentiality provisions of the social services law, to such reentry providers providing services to such person and the local social services district, if and when such local social services district is providing and/or assisting in the coordination of services provided to such previously incarcerated person and the information is necessary and relevant to facilitate such assistance describing all necessary and relevant continuing assistance provided by the department to such person in attempting to obtain housing that is not temporary housing in a shelter described in this paragraph and that does not violate the terms of such person's parole.

3. Upon the release or discharge of an incarcerated person from a correctional facility, the department shall connect such person to appropriate reentry providers. All reentry providers with which the department connects a person pursuant to this subdivision and all reentry providers with which the department coordinates on behalf of a person pursuant to subdivision two of this section shall be provided with the comprehensive discharge plan prepared by the department for such person pursuant to subdivision one of this section. Such reentry providers shall share such plan and related documents and records with another person or entity only with the informed, voluntary written consent of the person who is the subject of such plan, document or report.

4. Notwithstanding any provision of this section, nothing in this section shall delay the release or discharge of an incarcerated person while awaiting or awaiting the completion of any plan, notice, connection, referral, coordination, offer, placement, service, report, or other thing described in this section, and the department shall not condition release or discharge of an incarcerated person on such person's enrollment or participation in any treatment facility unless such specific enrollment or participation has otherwise been lawfully required as a condition of release or discharge by the board of parole.

§ 2. Section 78 of the correction law, as added by section 81-b of part WWW of chapter 59 of the laws of 2017, is amended to read as follows:

§ 78. Discharge plans for juvenile offenders and adolescent offenders. The department, in consultation with the office of children and family services, shall provide discharge plans for juvenile offenders and adolescent offenders who are released to parole or post-release supervision, which are tailored to address their individual needs. Such plans shall include services designed to promote public safety and the successful and productive reentry of such adolescents into society.

§ 3. This act shall take effect on the thirtieth day after it shall have become a law. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made and completed on or before such effective date.