

# STATE OF NEW YORK

533

2021-2022 Regular Sessions

## IN ASSEMBLY

(Prefiled)

January 6, 2021

Introduced by M. of A. L. ROSENTHAL, COOK, SIMON, LAVINE, DICKENS, TAYLOR, SEAWRIGHT, GOTTFRIED, J. RIVERA, WEPRIN, QUART, WALKER, PERRY, CARROLL, RICHARDSON, CRUZ, COLTON -- read once and referred to the Committee on Correction

AN ACT to amend the correction law, in relation to the establishment of a program for the use of medication assisted treatment for inmates; and to amend the mental hygiene law, in relation to the implementation of substance use disorder treatment and transition services in jails

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

1 Section 1. The correction law is amended by adding a new section 626  
2 to read as follows:

3 § 626. Medication assisted treatment in correctional facilities. 1.  
4 For purposes of this section "medication assisted treatment" means  
5 treatment of chemical dependence or abuse and concomitant conditions  
6 with medications requiring a prescription or order from an authorized  
7 prescribing professional.

8 2. (a) The commissioner, in conjunction with the office of alcoholism  
9 and substance abuse services, shall establish a program to be adminis-  
10 tered at correctional facilities within the department in the state, for  
11 the purpose of employing medication assisted treatment for inmates in  
12 such facilities who are undergoing treatment for a substance use disor-  
13 der. Such program shall include all forms of medication assisted treat-  
14 ments approved for the treatment of a substance use disorder by the  
15 Federal Food and Drug Administration for the duration of an inmate's  
16 incarceration and shall provide an individualized treatment plan for  
17 each participant. After a medical screening, inmates who are determined  
18 to suffer from a substance use disorder, for which FDA approved  
19 addiction medications exist shall be offered placement in the medication  
20 assisted treatment program. Placement in such program shall not be

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

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1 mandatory. Each participating inmate shall work with an authorized  
2 specialist to determine an individualized treatment plan, including an  
3 appropriate level of counseling. Decisions regarding type, dosage, or  
4 duration of any medication regimen shall be made by a qualified health  
5 care professional licensed or certified under title eight of the educa-  
6 tion law who is authorized to administer such medication in conjunction  
7 with the inmate.

8 (b) i. Such program shall also include conditions for a reentry strat-  
9 egy for inmates who have participated in medication assisted treatment.  
10 Such strategy shall include, but not be limited to, providing each  
11 participating inmate with information on available treatment facilities  
12 in their area, information on available housing and employment  
13 resources, and any other information that will assist the inmate in  
14 continued recovery once released. Such program shall also assist the  
15 inmate in Medicaid enrollment, prior to release.

16 ii. Such program shall provide participating inmates preparing for  
17 release from prison with a one-week supply of any necessary medication,  
18 where permissible under federal laws and regulations to continue their  
19 medication assisted treatment in an effort to prevent relapse.

20 (c) Reentry planning and community supervision should include a colla-  
21 borative relationship between clinical and parole staff including shar-  
22 ing of accurate information regarding the inmate's participation in  
23 medication assisted treatment to ensure that their medication is not  
24 deemed illicit or illegal. Additionally, procedures shall be developed  
25 to assist any reentrant who communicates a relapse with their parole  
26 officer or who fails a drug test, to receive substance use disorder  
27 support in lieu of arrest and/or incarceration.

28 3. The commissioner shall submit within one year of the effective date  
29 of this section and annually thereafter, a report to the governor, the  
30 temporary president of the senate and the speaker of the assembly on the  
31 effectiveness of the program established pursuant to this section. Such  
32 reports shall include an analysis of the impact of such program on the  
33 participating inmates, including factors such as institutional adjust-  
34 ment, behavior infractions, reentry rates, HIV and hepatitis C treat-  
35 ment, and program participation, among related relevant factors. The  
36 reports shall also include the impact on institutional safety and  
37 performance and any recommendations for additional legislative enact-  
38 ments that may be needed or required to improve or enhance the program  
39 as determined to be appropriate by the commissioner.

40 4. Participation in the medication assisted treatment program shall  
41 not be withheld from a qualified inmate. An inmate may enter into such  
42 program at any time during his or her incarceration. An inmate using  
43 medication assisted treatment prior to such inmate's incarceration shall  
44 be eligible to, upon request by such inmate, continue such treatment in  
45 the medication assisted treatment program for any period of time during  
46 the duration of such inmate's incarceration. No person shall be denied  
47 participation in the program on the basis of a positive drug screening  
48 upon entering custody or upon intake into the program; nor shall any  
49 person receive a disciplinary infraction for such positive drug screen-  
50 ing. No person shall be removed from, or denied participation in the  
51 program on the basis of having received any disciplinary infraction: (a)  
52 before entry into the program; or (b) during participation in the  
53 program.

54 § 2. Section 45 of the correction law is amended by adding a new  
55 subdivision 18 to read as follows:

1 18. Establish standards and guidelines for a program of medication  
2 assisted treatment for inmates in county jails and/or county correction-  
3 al facilities equivalent to the program established in state correction-  
4 al facilities pursuant to section six hundred twenty-six of this chapter  
5 and submit an annual report consistent with the requirements of subdivi-  
6 sion three of such section.

7 § 3. The mental hygiene law is amended by adding a new section  
8 19.18-c to read as follows:

9 § 19.18-c Corrections-based substance use disorder treatment and transi-  
10 tion services.

11 1. The commissioner, in consultation with local governmental units,  
12 county sheriffs, the New York city department of corrections and other  
13 stakeholders, shall implement a jail-based substance use disorder treat-  
14 ment and transition services program that supports the initiation, oper-  
15 ation and enhancement of substance use disorder treatment and transition  
16 services for persons with substance use disorder who are incarcerated in  
17 jails.

18 2. The services to be provided by such program shall be in accordance  
19 with plans developed by participating local governmental units, in  
20 collaboration with county sheriffs, taking into account local needs and  
21 available resources. These plans must be approved by the commissioner  
22 and shall include, but not be limited to, the following:

23 (a) Alcohol, benzodiazepine, heroin and opioid withdrawal management;

24 (b) At least one formulation of every form of medication assisted  
25 treatments approved for the treatment of a substance use disorder by the  
26 Federal Food and Drug Administration necessary to ensure that each indi-  
27 vidual participating in the program receives the particular form found  
28 to be the most effective at treating and meeting their individual needs.  
29 The commissioner may allow jails a limited exemption to providing opioid  
30 full agonist treatment medications where the commissioner determines  
31 that no providers that have received the required accreditation are  
32 located within a reasonable distance of the facility. Jails that do not  
33 have the resources available to meet standards set forth herein may  
34 apply to the commissioner for a limited exception allowing such jail to  
35 enter into an agreement with a community- or jail-based program offering  
36 substance use disorder treatment and transition services to provide such  
37 services to individuals in such jails. Any such determination shall be  
38 reviewed on a regular basis;

39 (c) Group and individual counseling and clinical support;

40 (d) Peer support;

41 (e) Discharge planning; and

42 (f) Re-entry and transitional supports.

43 3. (a) After a medical screening, incarcerated individuals who are  
44 determined to suffer from a substance use disorder for which medication  
45 assisted treatment exists shall be offered placement in the medication  
46 assisted treatment program. Placement in such program shall not be  
47 mandatory.

48 (b) Each participating incarcerated individual shall work with an  
49 authorized specialist to develop an individualized treatment plan,  
50 including an appropriate level of counseling and planning for continuity  
51 of care upon return to the community.

52 (c) Decisions regarding type, dosage, or duration of any medication  
53 regimen shall be made by a qualified health care professional licensed  
54 or certified under title eight of the education law who is authorized to  
55 administer such medication in conjunction with the incarcerated individ-  
56 ual.

1 (d) Participation in the medication assisted treatment program shall  
2 not be unreasonably withheld from a qualified incarcerated individual.  
3 An incarcerated individual using medication assisted treatment prior to  
4 such individual's incarceration shall be eligible to, upon request by  
5 such individual, continue such treatment in the medication assisted  
6 treatment program for any period of time during the duration of such  
7 individual's incarceration.

8 (e) No person shall be denied participation in the program on the  
9 basis of a positive drug screening upon entering custody or upon intake  
10 into the program; nor shall any person receive a disciplinary infraction  
11 for such positive drug screening. No person shall be removed from, or  
12 denied participation in the program on the basis of having received any  
13 disciplinary infraction: (1) before entry into the program; or (2)  
14 during participation in the program.

15 4. Within amounts appropriated therefor, funding shall be made avail-  
16 able pursuant to criteria established by the office of alcoholism and  
17 substance abuse services in consultation with local governmental units,  
18 which shall take into consideration the local needs and resources as  
19 identified by local governmental units, the average daily jail popu-  
20 lation, the average number of persons incarcerated in the jail that  
21 require substance use disorder services and such other factors as may be  
22 deemed necessary.

23 5. Any jail-based substance use disorder treatment and transition  
24 services program that is already in operation at the time this act shall  
25 have become law and meets or exceeds the standards set forth in this  
26 section shall be deemed to have met the requirements of subdivisions one  
27 and two of this section. Such programs shall certify annually in writing  
28 to the commissioner that they have met or exceeded the standards set  
29 forth herein.

30 § 4. This act shall take effect on the one hundred twentieth day after  
31 it shall have become a law. Effective immediately, the addition, amend-  
32 ment and/or repeal of any rule or regulation necessary for the implemen-  
33 tation of this act on its effective date are authorized to be made on or  
34 before such date.