

# STATE OF NEW YORK

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8022

2021-2022 Regular Sessions

## IN ASSEMBLY

June 4, 2021

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Introduced by M. of A. DAVILA -- read once and referred to the Committee on Correction

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:

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

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

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

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

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

7 (d) The plan required by paragraph (a) of this subdivision shall  
8 further include an assessment of such incarcerated person's access to  
9 housing and any preparation necessary for such person's successful tran-  
10 sition to adequate and stable housing. If the department determines that  
11 an incarcerated person does not have access to adequate and stable hous-  
12 ing, the department shall, upon release of such person, obtain for such  
13 person a placement in adequate and stable housing that is not a shelter.  
14 Such adequate and stable housing may include, but not be limited to,  
15 permanent, transitional, supportive or voluntary residential treatment  
16 or medical care. Upon the release or discharge of an incarcerated person  
17 from a correctional facility, the department shall arrange for the  
18 transportation of such person or provide means for the transportation of  
19 such person to housing.

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

23 2. (a) As used in this subdivision, the term "reentry providers" shall  
24 mean providers of programs or services designed to promote the success-  
25 ful and productive reentry and reintegration of an incarcerated person  
26 into the general society, including housing services, medical and mental  
27 health services, HIV/AIDS services, educational, vocational and employ-  
28 ment services, and alcohol or substance use disorder treatment services.

29 (b) Prior to referring an incarcerated person to treatment or medical  
30 care upon release, the department shall coordinate with the appropriate  
31 reentry providers in the local jurisdiction where such person is sched-  
32 uled to be released. Unless otherwise required by law, all referrals to  
33 treatment or medical care upon release shall be made only with the  
34 incarcerated person's informed and voluntary written consent. In accord-  
35 ance with applicable privacy laws, and only with such person's informed  
36 and voluntary written consent, such coordination shall include notifica-  
37 tion to such reentry providers of the incarcerated person's planned  
38 treatment or medical care placement, when documented to be necessary for  
39 such providers to continue to coordinate and/or provide care and  
40 services.

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

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

1 when such local social services district is providing and/or assisting  
2 in the coordination of services provided to such previously incarcerated  
3 person and the information is necessary and relevant to facilitate such  
4 assistance, provided that the confidentiality protections of the social  
5 services law apply to such report; (B) continue assisting the person to  
6 obtain housing that is not temporary housing in a shelter and does not  
7 violate the terms of such person's parole; and (C) once every thirty  
8 days following release until such person is no longer subject to parole,  
9 provide a report, that is subject to the confidentiality provisions of  
10 the social services law, to such reentry providers providing services to  
11 such person and the local social services district, if and when such  
12 local social services district is providing and/or assisting in the  
13 coordination of services provided to such previously incarcerated person  
14 and the information is necessary and relevant to facilitate such assist-  
15 ance describing all necessary and relevant continuing assistance  
16 provided by the department to such person in attempting to obtain hous-  
17 ing that is not temporary housing in a shelter described in this para-  
18 graph and that does not violate the terms of such person's parole.

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

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

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

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

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