STATE OF NEW YORK

4814

2021-2022 Regular Sessions

IN SENATE

February 12, 2021

Introduced by Sen. BROUK -- read twice and ordered printed, and when printed to be committed to the Committee on Mental Health

AN ACT to amend the public health law, in relation to establishing a New York state mental health response council, regional mental health response councils and mental health response units; to amend the county law, in relation to incorporation of recommendations by the New York state mental health response council for public safety answering points; and to amend the mental hygiene law, in relation to powers of certain peace officers and police officers handling mental health emergencies

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 "Daniel's law".

§ 2. The public health law is amended by adding a new section 3033 to read as follows:

§ 3033. Statewide mental health response council. 1. For the purposes of this section, the following terms shall have the following meanings:

(a) The "state council" means the New York state mental health response council created pursuant to this section.

(b) "Regional council" shall mean a regional mental health response council created pursuant to section three thousand thirty-four of this article.

(c) "Regional state commissioner" means a member of the state council appointed pursuant to paragraph (b) of subdivision two of this section.

(d) "Mental health response unit" shall mean mental health response units established pursuant to section three thousand thirty-five of this article.

2. There is hereby created in the department the New York state mental health response council. The state council shall consist of three non-

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

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voting ex officio members and thirty-three voting members pursuant to the provisions of this subdivision.

(a) The commissioner, the commissioner of mental health, and the commissioner of the office of addiction services and supports shall each serve as ex officio members of the state council, and shall not vote in council determinations.

(b) (i) Eighteen members to the state council shall be appointed by the commissioner; each shall be representative of one geographic area of the state, corresponding to the eighteen regions eligible for a regional council. Such members shall be known as the "regional state commissioners". Each regional state commissioner shall serve on the state council for two years after initial appointment, and shall represent their geographic region in assisting the state council in determining when and how to establish a regional council in their region.

(ii) Once a regional council is established pursuant to section three thousand thirty-four of this article, the regional state commissioner for such region shall also serve as a member of the initial regional council for such region until the end of their state council term. Thereafter, in any region with an established regional council, the commissioner shall appoint a representative from each regional council, from nominations received from the appropriate regional council, to act as regional state commissioner for such region. Where no regional council has been established, the commissioner shall appoint each regional state commissioner pursuant to the procedures for initial appointment.

(iii) The commissioner shall ensure, to the maximum extent possible, that the regional council appointments reflect the diversity of race, age, language, national origin, ethnicity, and disability present in each region's jurisdiction.

(c) Fifteen members of the state council shall be appointed by the state legislature, as follows:

(i) Four members shall be appointed by the speaker of the assembly;

(ii) Four members shall be appointed by the temporary president of the senate;

(iii) One member shall be appointed by the minority leader of the assembly;

(iv) Two members shall be appointed by the chairperson of the assembly committee on mental health;

(v) Two members shall be appointed by the chairperson of the senate committee on mental health;

(vi) One member shall be appointed by the ranking minority member of the assembly committee on mental health;

(vii) One member shall be appointed by the ranking minority member of the senate committee on mental health.

3. Every individual appointed to the state council shall have demonstrated knowledge of, and skills in, culturally competent provision of mental health or substance abuse services and treatment. Specifically, each member nominated to the state council shall be:

(a) A licensed mental health or drug addiction clinician;

(b) A licensed mental health or drug addiction counselor;

(c) A licensed physician, nurse, or mental health provider with experience or skills in the culturally-competent provision of care;

(d) A mental health or addiction counselor certified as a peer;

(e) A representative of a not-for-profit disability rights organization; or

(f) A community health worker certified as a peer.

4. The members of the state council shall elect a chairperson from among the members of the state council by a majority vote of those state council members present, who shall serve for a term of one year and until a successor is elected.

5. The term of office of members of the state council shall be four years, except that of those members first appointed, at least one-half but not more than two-thirds shall be for terms not to exceed two years. Vacancies shall be filled by appointment for the remainder of an unexpired term. The state council members shall continue in office until the expiration of their terms and until their successors are appointed. No state council member shall be appointed to the state council for more than four consecutive terms.

6. The state council shall operate to fulfill the following purposes pursuant to the public policy of New York state; and the council shall ensure that all policies, training, procedures, expenditures, contracts, and certification rules or determinations made or used by the council further, but not be limited to, the following purposes:

(a) to ensure a public health-based response to anyone in New York experiencing a mental health or substance abuse crisis;

(b) to deescalate any situation involving individuals experiencing crisis due to mental health conditions and/or substance use, and to avoid the use of nonconsensual treatment, transport, or force wherever possible;

(c) to ensure the most appropriate treatment and/or transport of individuals experiencing crisis due to mental health conditions and/or substance use;

(d) to maximize voluntary assessment, referral, and/or transport of individuals experiencing a crisis due to mental health conditions and/or substance use;

(e) to minimize the number of individuals experiencing a crisis due to mental health conditions and/or substance use who are arrested, detained, or brought into contact with the criminal justice system;

(f) to minimize the number of individuals who experience physical harm and/or trauma as a result of mental health conditions and/or substance use; and

(g) to respond to all individuals experiencing a crisis due to mental health or substance use with culturally competent care and training.

7. The state council shall have the power, by an affirmative vote of a majority of those state council members present, and subject to approval by the commissioner, to enact, and from time to time, amend and repeal, rules and regulations establishing minimum standards for mental health response units, including with respect to the dispatch of and request for such units: (a) the treatment and transportation of individuals by mental health response units; (b) the provision of emergency mental health and substance abuse care by such units; (c) public education about mental health and substance abuse crisis, care, and response; (d) the development of a state education curriculum that would satisfy the educational requirements, standards and training, and examination requirements for certification and recertification of certified emergency mental health responders and mental health response units; (e) the development of trainings and protocols for any statewide mental health and/or substance abuse emergency dispatch system; and (f) public education about such services and policies. Culturally competent training shall be made available by video or computer to the maximum extent possible. The state council shall have the same powers granted to

regional councils by this section in any region of the state in which a regional council has not been established.

8. In furtherance of the purposes set forth in subdivision six of this section, the state council shall provide to the trustees of the state university of New York information and recommendations to assist such trustees' study of the feasibility of offering credit and noncredit courses which would satisfy the educational requirements for certification and recertification of mental health responders at community colleges and state university of New York agricultural and technical colleges. These recommendations shall include strategies to recruit members of underserved communities, and recruitment efforts shall include outreach to communities that bring diversity, representation, and inclusion of applicants based on race, geographic location, ethnicity, gender (including gender identity and gender expression), sexual orientation, disability, and socioeconomic status.

9. (a) Within one year of developing the certification program pursuant to subdivision eight of this section, and annually thereafter no later than December thirty-first of each following year, the commissioner shall report to the speaker of the assembly and the temporary president of senate on the impact of such program on:

(i) the quality and results of mental health response and transportation;

(ii) the number of certification requests, grants, and denials by the regional councils;

(iii) the effectiveness of the program in training and retaining emergency mental health responders; and

(iv) the feasibility of replacing the state's certification program with a national certification program.

(b) The commissioner shall establish a comprehensive list of reporting metrics to be included in the annual report of the program's impact, which shall include, at a minimum:

(i) The volume of requests for assistance to the state council and to each regional council;

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

(iii) The number of mental health response units dispatched by the state council and each regional council;

(iv) The number of individuals contacted by mental health response units;

(v) The number of such individuals transported for care by mental health response units;

(vi) The number of such individuals transferred by mental health response unit responders to the custody of police or peace officers;

(vii) The number of requests made by any mental health response unit to law enforcement to transport or take custody of a person under subdivisions five and six of section three thousand thirty-five of this article; and

(viii) The age, gender, race, ethnicity, and national origin of individuals contacted, transported, or transferred by each mental health response unit.

10. Upon appeal from the appropriate regional council, the state council shall have the power, by an affirmative vote of a majority of those state council members present, to amend, modify or reverse determinations of any regional council (including certification grants or denials) made pursuant to section three thousand thirty-four of this article, only upon a written finding that any determinations of the

regional council conflict with the purposes set forth in subdivision six of this section. All determinations of the state council respecting any determination, revocation, suspension (except temporary suspension), limitation or annulment of a mental health response certificate issued pursuant to subdivision eight of this section shall be subject to review as provided in article seventy-eight of the civil practice law and rules. Application for such review shall be made within sixty days after the appealable regional council decision, and be made in person or by registered or certified mail.

11. Upon appeal from the applicant, the department, or any party directly impacted by a determination of a regional council, the state council shall have the power to amend, modify or reverse determinations of the regional councils made pursuant to section three hundred thirty-four this article by an affirmative vote of a majority of those state council members present. Application for such review shall be made within sixty days after the appealable regional council decision, and shall be made in person or by registered or certified mail.

12. The state council shall meet as frequently as its business may require, but no less frequently than four times per year. At least two of such meetings shall be held in a manner and at a time designed to maximize participation of working members of the public. Meetings of the regional councils shall be governed by the provisions of article seven of the public officers law, and shall be open to and accessible by the public, including by video conference or computer to the maximum extent possible.

13. The presence of a majority of the voting members of the state council shall constitute a quorum. The members of the state council shall receive no compensation for their services as members, but each shall be allowed the necessary and actual expenses incurred in the performance of their duties under this section, including a reasonable reimbursement rate for travel, lodging, and meals while attending meetings of the state council.

14. The commissioner, upon request of the state council, shall designate an officer or employee of the department to act as secretary of the state council, and shall assign from time to time such other employees as the state council may require.

15. In any civil action brought in any court against any state council member, officer or employee of the state council for any act done, failure to act, or statement or opinion made while discharging their duties as a member, officer or employee of the state council, no state council member, officer or employee of this council shall be liable for damages in any such action if he or she shall have acted in good faith and pursuant to the purposes of the state council as set forth in this section.

16. The state council shall, after consultation with the department and the regional councils, forward to the commissioner not later than December first each year an estimate of the amounts needed to provide adequate funding for mental health response services and training including regional mental health services councils, mental health response units, statewide or regional dispatch services, the state council, and any certification and training programs necessary to carry out the purposes of this section. Such estimate shall be transmitted without change by the commissioner to the governor, the division of the budget, the temporary president of the senate, the speaker of the assembly, and the fiscal and health committees of each house of the legislature.

§ 3. The public health law is amended by adding a new section 3034 to read as follows:

§ 3034. Regional mental health response councils. 1. For the purposes of this section, the following terms shall have the following meanings:

(a) The "state council" means the New York state mental health response council created pursuant to section three thousand thirty-three of this article.

(b) "Regional council" shall mean a regional mental health response council created pursuant to this section.

(c) "Regional state commissioner" means a member of the state council appointed pursuant to paragraph (b) of subdivision two of section three thousand thirty-three of this article.

(d) "Mental health response unit" shall mean mental health response units established pursuant to section three thousand thirty-five of this article.

2. The commissioner, with the approval of the state council, shall designate regional mental health services councils on or before January first, two thousand twenty-two, but in no event shall the number of regional councils exceed eighteen. Such regional councils shall be established on the basis of application for designation as regional councils submitted by local organizations, the members of which shall be knowledgeable in various aspects of emergency mental health treatment and services. Such application shall describe the geographic area to be served and contain a list of nominees for appointment to membership on such regional councils and a statement as to the proposed method of operation in such detail as the commissioner, with the approval of the state council, shall prescribe. When a regional mental health council is established for a region, the regional state commissioner representing such region at the state council shall serve on the regional council until the expiration of their state commissioner term; thereafter, the commissioner shall appoint a person nominated by the regional council to serve as regional state commissioner for such region.

3. The regional councils shall develop policies, procedures, and triage, treatment, and transportation protocols which are consistent with the standards of the state council and which address specific local conditions.

4. Each regional council shall be comprised of at least thirteen but not more than twenty-one members to be initially appointed by the regional state commissioner for the appropriate region, with the approval of the state council, from nominations submitted by local organizations and individuals applying to the regional council.

(a) The appropriate regional state commissioner shall ensure, to the maximum extent possible, that the regional council appointments reflect the diversity of race, age, language, national origin, ethnicity, and disability present in such region.

(b) Each individual appointed to the regional council shall have demonstrated knowledge of, and skills in, culturally competent provision of mental health or substance abuse services and treatment. Specifically, each person appointed to a regional council shall be:

(i) A licensed mental health or drug addiction clinician;

(ii) A licensed mental health or drug addiction counselor;

(iii) A licensed physician, nurse, or mental health provider with experience or skills in the culturally-competent provision of care;

(iv) A mental health or addiction counselor certified as a peer;

(v) A representative of a not-for-profit disability rights organization; or

(vi) A community health worker certified as a peer.

(c) The regional state commissioner shall not approve nominees to their regional council unless one-third of the regional councilors have demonstrated certification, training, or employment in culturally-competent responses to mental health or substance abuse crises.

(d) The regional state commissioner shall not approve nominees to the regional council unless one-third of the regional councilors for such regional council have demonstrated life experience with, or certification or training as a peer of person or persons with life experience with, mental health crisis, drug addiction, or disability.

(e) The county EMS coordinator, established pursuant to section two hundred twenty-three-b of the county law, of any county within the region shall serve as an ex officio member of such region's regional council, provided, however, that nothing in this subdivision shall prevent a county EMS coordinator from being nominated to and serving as a voting member of a regional council.

(f) The county director of community services, or the county commissioner of mental health, of any county within a region shall serve as an ex officio member of such region's regional council, provided, however, that nothing in this subdivision shall prevent a county EMS coordinator from being nominated to and serving as a voting member of a regional council.

(g) Members of each regional council shall be residents living within the geographic area to be served by such regional council. The presence of a majority of voting members of a regional council shall constitute a quorum.

5. Each regional council shall develop procedures to ensure coordination and communication between EMS services, the regional medical services council, state police, sheriff's departments, local police departments, ambulance and dispatch services, and such regional council to ensure rapid and coordinated public health responses to mental health emergencies, and shall designate a procedure for emergency notification by EMS personnel, peace officers as defined by section 2.10 of the criminal procedure law, or police officers as defined by section 1.20 of the criminal procedure law, that a person is in need of a mental health response unit within its region.

6. Each regional council shall have the power to:

(a) have a seal and alter such seal at pleasure;

(b) acquire, lease, hold, and dispose of real and personal property or any interest therein for its purposes;

(c) make and alter by-laws for its organization and internal management, and rules and regulations governing the exercise of its powers and the fulfillment of its purposes under this section; such rules and regulations shall be filed with the secretary of state and the state council;

(d) enter into contracts for employment of such officers and employees as it may require for the performance of its duties, and to fix and determine their qualifications, duties, and compensation, and to retain and employ such personnel as may be required for its purposes, and to hire private consultants on a contract basis or otherwise, for the rendering of professional or technical services and advice;

(e) enter into contracts, leases, and subleases and to execute all instruments necessary or convenient for the conduct of its business, including contracts with the commissioner or any state agency or municipal entity, and enter into contracts with hospitals and physicians for the purposes of carrying out its powers under this section;

(f) undertake or cause to be undertaken plans, surveys, analyses and studies necessary, convenient or desirable for the effectuation of its purposes and powers, and to prepare recommendations and reports in regard thereto;

(g) fix and collect reasonable fees, rents, and other charges for the use of its equipment and the provision of its services;

(h) contract for and to accept any gifts or grants, subsidies, or loans of funds or property, or financial or other aid in any form from the federal or state government or any agency or instrumentality thereof; or from any other source, public or private, and to comply, subject to the provisions of this section, with the terms and conditions thereof, provided, however, that the regional councils may contract for payment of debt evidenced by bonds or notes or other evidence of indebtedness, either directly or through a lease purchase agreement;

(i) recommend to the department training course sponsors within its region, and to develop, promulgate and implement annually a mental health response training plan which addresses the needs of its region;

(j) enter into contracts or memoranda of agreement with other regional councils to provide services in a joint or cooperative manner, and to enter into contracts or memoranda of agreement with an emergency medical services program agency to carry out one or more of its responsibilities under this section, provided such services are certified by and carried out pursuant to the standards and training set forth by the state council;

(k) procure insurance against any loss or liability in connection with the use, management, maintenance, and operation of its equipment and facilities, in such amounts and from such insurers as it reasonably deems necessary; and

(l) do all things necessary, convenient and desirable to carry out its purposes and for the exercise of the powers granted in this section.

7. Each regional council shall have the responsibility to coordinate mental health services programs within its region, including but not limited to, the certification of mental health response units, establishment of mental health responder courses and the issuance of uniform mental health responder insignia and certificates. Such training courses shall be made available by video or computer to the maximum extent possible.

8. Each regional council shall have the responsibility to make determinations of public need for the establishment of additional emergency mental health services. The regional council shall make such determination by an affirmative vote of a majority of all of those regional council members consisting of voting members.

9. The term of office of members of the regional council shall be four years, except that of those members first appointed, at least one-half but not more than two-thirds shall be for terms not to exceed two years.

10. Each regional council shall meet as frequently as its business may require, but no less frequently than four times per year. At least two of such meetings shall be held in a manner and at a time designed to maximize participation of working members of the public. Meetings of the regional councils shall be governed by the provisions of article seven of the public officers law, and shall be open to and accessible by the public including by video conference or computer to the greatest extent possible.

11. The commissioner, upon request of a regional council, may designate an officer or employee of the department to act as secretary of

such regional council, and may assign from time to time such other employees as such regional council may require.

12. In any civil action brought in any court against any member, officer or employee of the regional council for any act done, failure to act, or statement or opinion made while discharging their duties as a member, officer or employee of such regional council, no member, officer or employee of such regional council shall be liable for damages in any such action if he or she shall have acted in good faith and pursuant to the purposes of such regional council, as set forth in this section.

13. The department shall provide each regional council with the funds necessary to enable such regional council to carry out its responsibilities as mandated under this section within amounts appropriated therefor. Such funds shall be provided upon approval by the department of an application submitted by the regional council. Such application shall contain such information and be in such form as the commissioner shall require pursuant to rules and regulations which they shall promulgate after consultation with the state council in order to affect the purposes and provisions of this subdivision.

§ 4. The public health law is amended by adding a new section 3035 to read as follows:

§ 3035. Mental health response units. 1. For the purposes of this section, the following terms shall have the following meanings:

(a) The "state council" means the New York state mental health response council created pursuant to section three thousand thirty-three of this article.

(b) "Regional council" shall mean a regional mental health response council created pursuant to section three thousand thirty-four of this article.

(c) "Regional state commissioner" means a member of the state council appointed pursuant to paragraph (b) of subdivision two of section three thousand thirty-three of this article.

(d) "Mental health response unit" shall mean mental health response units established pursuant to this section.

(e) "E911 system" means an enhanced emergency telephone service which automatically connects a person dialing the digits 9-1-1 to an established public service answering point and which shall include, but not be limited to, selective routing, automatic number identification and automatic location identification.

2. Pursuant to the powers and duties of the state and regional councils, a mental health response unit shall have the power and authority to respond to people in distress due to mental health conditions or substance use. Any paid or volunteer member of a mental health response unit shall be certified under the standards set forth by the state council or their regional council.

3. A mental health response unit may respond to any person in distress due to mental health conditions or substance abuse, and shall immediately respond to any person in distress under any of the following circumstances:

(a) A notification or request from the E911 system for a mental health response;

(b) A notification or request from the state police, authorized police force, or sheriff's department for a mental health response;

(c) A request from the chief health officer of any city or county, or any county director of social services or their designee;

(d) A notification or request from any alternative dispatch system designed for non-criminal emergency response.

4. Pursuant to the guidelines and standards promulgated by the state council, and pursuant to a regional council's local guidance, if any, any certified member of a mental health response unit may offer to transport any person in distress due to mental health or substance use to ensure that such person gets appropriate, trauma-informed medical care.

5. Pursuant to the guidelines and standards promulgated by the state council, and pursuant to a regional council's local guidance, if any, any certified member of a mental health response unit may transport any person in distress due to mental health or substance use to the best location for appropriate, trauma-informed care, if such person consents to such transport and/or treatment. For purposes of this subdivision, "appropriate, trauma-informed care" may include any mental health, medical, or substance abuse facility, a private residence, or other locations as deemed proper by a certified mental health responder.

6. Any certified mental health responder may request that a peace officer as defined by section 2.10 of the criminal procedure law, or police officer as defined by section 1.20 of the criminal procedure law, transport a person in distress due to mental health conditions or substance abuse, when such responder has exhausted alternative methods for obtaining consent from such person, such person refuses treatment or transport from such responder; and:

(a) such person poses a substantial risk of physical harm to other persons as manifested by homicidal or other violent behavior by which others are placed in reasonable fear of serious physical harm; or

(b) such mental health responder makes an assessment, in light of the totality of the circumstances, that a mental health response unit responder is at risk of physical violence due to the person's actions.

7. Any certified mental health responder shall request that a peace officer as defined by section 2.10 of the criminal procedure law, or police officer as defined by section 1.20 of the criminal procedure law, transport a person in distress due to mental health conditions or substance abuse pursuant to section 9.41 of the mental hygiene law, when such responder has exhausted alternative methods for obtaining consent from such person, such person refuses treatment or transport from such responder, and such certified mental health responder believes that such person poses an imminent risk of serious physical harm to any other person or persons.

§ 5. Paragraph (a) of subdivision 4 of section 328 of the county law, as added by section 1 of part G of chapter 81 of the laws of 2002, is amended to read as follows:

(a) The board shall promulgate minimum standards for the operation of public safety answering points, which shall include, but not be limited to, minimum staffing requirements, minimum educational qualifications for 911 call-takers and dispatchers, and minimum training requirements for 911 call-takers and dispatchers, but which shall not include those standards required by paragraph (b) of this subdivision. In promulgating such standards, the board shall examine national models of best practice[~~. Such standards~~], and shall incorporate the recommendations made by the New York state mental health response council pursuant to section three thousand thirty-three of the public health law for the dispatch, response, and transport of individuals experiencing distress due to mental health issues or substance use. Standards incorporating the guidance of such state council shall be promulgated no later than [~~October first, two thousand three~~] January first, two thousand twenty-two.

§ 6. Section 9.41 of the mental hygiene law, as amended by chapter 723 of the laws of 1989, is amended to read as follows:

§ 9.41 Emergency admissions for immediate observation, care, and treatment; powers of certain peace officers and police officers.

1. Any peace officer, when acting pursuant to [~~his or her~~] their special duties, or police officer who is a member of the state police or of an authorized police department or force or of a sheriff's department may take into custody any person who appears to be mentally ill [~~and~~] or under the influence of controlled substances in the following circumstances:

(a) The person is conducting [~~himself or herself~~] themselves in a manner which is likely to result in [~~serious harm to the person or others~~] an imminent risk of serious physical harm to other persons as manifested by homicidal or other violent behavior by which others are placed in reasonable fear of serious physical harm. Such officer may direct the removal of such person or remove [~~him or her~~] them to any hospital specified in subdivision (a) of section 9.39 of this article or any comprehensive psychiatric emergency program specified in subdivision (a) of section 9.40 of this article, or, pending [~~his or her~~] their examination or admission to any such hospital or comprehensive psychiatric emergency program, temporarily detain any such person in another safe and comfortable place, in which event, such officer shall immediately notify:

(i) the appropriate regional mental health response council established pursuant to section three thousand thirty-four of the public health law, pursuant to the emergency procedures under section three hundred twenty-eight of the county law, if any, and the director of community services or, if there be none, the health officer of the city or county of such action[~~.~~];

(ii) the state police, department, or force of which the officer is a member has been requested or directed to respond by a certified mental health response unit as set forth in section three thousand thirty-five of the public health law;

(iii) a certified mental health response unit as set forth in section three thousand thirty-five of the public health law is present on the scene with the officer and is incapacitated or otherwise unable to communicate a request that the officer take custody of the individual; or

(b) The person is conducting themselves in a manner which is likely to result in imminent serious physical harm to themselves as manifested by threats of or attempts at suicide or serious bodily harm, and either:

(i) no regional council established pursuant to section three thousand thirty-four of the public health law has been established in the region where the person is; or

(ii) the regional council established pursuant to section three thousand thirty-four of the public health law has notified the state council established pursuant to section three thousand thirty-three of the public health law, requesting a mental health response unit but such mental health response unit has not arrived to the place where the person is located, and taking the person is necessary to prevent such person from experiencing serious physical injury or death.

2. Such officer may direct the removal of such person or remove such person to any hospital specified in subdivision (a) of section 9.39 of this article or, pending their examination or admission to any such hospital, temporarily detain any such person in another safe and comfortable place, in which event, such officer shall immediately noti-

fy: the regional council established pursuant to section three thousand thirty-four of the public health law pursuant to the emergency procedures set forth in section three hundred twenty-eight of the county law, if any, and the director of community services or, if there be none, the health officer of the city or county of such action.

§ 7. Section 9.41 of the mental hygiene law, as amended by chapter 843 of the laws of 1980, is amended to read as follows:

§ 9.41 Emergency admissions for immediate observation, care, and treatment; powers of certain peace officers and police officers.

1. Any peace officer, when acting pursuant to [~~his~~] their special duties, or police officer who is a member of the state police or of an authorized police department or force or of a sheriff's department may take into custody any person who appears to be mentally ill [~~and~~] or under the influence of controlled substances in the following circumstances:

(a) The person is conducting [~~himself~~] themselves in a manner which is likely to result in [~~serious harm to himself or others. "Likelihood to result in serious harm" shall mean (1) substantial risk of physical harm to himself as manifested by threats of or attempts at suicide or serious bodily harm or other conduct demonstrating that he is dangerous to himself, or (2) a substantial risk~~] an imminent risk of serious physical harm to other persons as manifested by homicidal or other violent behavior by which others are placed in reasonable fear of serious physical harm. Such officer may direct the removal of such person or remove [~~him~~] them to any hospital specified in subdivision (a) of section 9.39 of this article or, comprehensive psychiatric emergency program specified in subdivision (a) of section 9.40 of this article, or pending [~~his~~] their examination or admission to any such hospital or comprehensive psychiatric emergency program, temporarily detain any such person in another safe and comfortable place, in which event, such officer shall immediately notify:

(i) the appropriate regional mental health response council established pursuant to section three thousand thirty-four of the public health law, pursuant to the emergency procedures under section three hundred twenty-eight of the county law, if any, and the director of community services or, if there be none, the health officer of the city or county of such action[~~.~~];

(ii) the state police, department, or force of which the officer is a member has been requested or directed to respond by a certified mental health response unit as set forth in section three thousand thirty-five of the public health law;

(iii) a certified mental health response unit as set forth in section three thousand thirty-five of the public health law is present on the scene with the officer and is incapacitated or otherwise unable to communicate a request that the officer take custody of the individual; or

(b) The person is conducting themselves in a manner which is likely to result in imminent serious physical harm to themselves as manifested by threats of or attempts at suicide or serious bodily harm, and either:

(i) no regional council established pursuant to section three thousand thirty-four of the public health law has been established in the region where the person is; or

(ii) the regional council established pursuant to section three thousand thirty-four of the public health law has notified the state council established pursuant to section three thousand thirty-three of the public health law, requesting a mental health response unit but such

mental health response unit has not arrived to the place where the person is located, and taking the person is necessary to prevent such person from experiencing serious physical injury or death.

2. Such officer may direct the removal of such person or remove such person to any hospital specified in subdivision (a) of section 9.39 of this article or, pending their examination or admission to any such hospital, temporarily detain any such person in another safe and comfortable place, in which event, such officer shall immediately notify: the regional council established pursuant to section three thousand thirty-four of the public health law pursuant to the emergency procedures set forth in section three hundred twenty-eight of the county law, if any, and the director of community services or, if there be none, the health officer of the city or county of such action.

§ 8. This act shall take effect on the sixtieth day after it shall have become a law, provided that the amendments to section 9.41 of the mental hygiene law made by section six of this act shall be subject to the expiration and reversion of such section pursuant to section 21 of chapter 723 of the laws of 1989, as amended, when upon such date the provisions of section seven of this act shall take effect. 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.