

# STATE OF NEW YORK

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## IN SENATE

March 8, 2022

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

AN ACT to amend the mental hygiene law, in relation to in-patient mental health treatment

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

1 Section 1. Short Title. This act shall be known as the "New York  
2 State Mental Health Reform Act".

3 § 2. Legislative findings. With the intent of restoring dignity and  
4 transparency to our state's treatment and care of mentally ill patients,  
5 the state engaged in reforming procedures and policies in implementing  
6 preferred outpatient treatment through a structured outpatient treatment  
7 process commonly referred to as Kendra's Law. The law was to ensure  
8 those individuals requiring mental health treatment were afforded a  
9 dignified process in treatment while allowing the patient's liberty to  
10 be free to pursue their daily lives without stigma or negative connota-  
11 tions attached to mental health.

12 Unfortunately, the practical application of the state's mental hygiene  
13 laws has allowed thousands of people who require more stringent mental  
14 health protocols for treatment to go without appropriate oversight to  
15 ensure their treatment is pursued thus, resulting in severe behavioral  
16 transgression to include a large degree of homelessness, criminal behav-  
17 ior, toxic drug use and alcoholism. The severity of abhorrent outcomes  
18 as the result of a failure to give medical professionals, as well as  
19 judicial direction in determining certain behavioral dysfunction(s) that  
20 display a need for in-patient care, has severely impacted patient's  
21 health, welfare, and their ability to regularly function in society. All  
22 too often, we are seeing unsuspecting citizens killed or maimed as the  
23 result of violent behavior by patients who have either disregarded or  
24 rejected available or mandated mental health services due to their dete-  
25 riorating mental state, which compounds the deleterious outcome for the  
26 patient as well as society. Although outpatient commitment is the  
27 preferred mode of treatment for patients seeking mental health services,  
28 the occasion arises where judicial intervention to seek immediate,

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

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1 mandated treatment through court ordered in-patient treatment, in order  
2 to facilitate an expedited pathway for seeking medical or psychiatric  
3 help is necessary to prevent on-going negative behavioral episodes that  
4 places the patient or the public at risk of physical injury or death.

5 § 3. The second, third and fourth undesignated paragraphs of section  
6 9.01 of the mental hygiene law, as amended by chapter 723 of the laws of  
7 1989, are amended to read as follows:

8 "in need of involuntary care and treatment" means that a person has a  
9 mental illness for which care and treatment as a patient in a hospital  
10 is essential to such person's welfare and [~~whose~~] which so impairs the  
11 person's judgment [~~is so impaired that he~~] that the person is unable to  
12 understand the need for such care and treatment. Care and treatment in a  
13 hospital shall be considered essential to a person's welfare if, in the  
14 absence of such care and treatment, the person's mental illness is like-  
15 ly to result in serious harm.

16 [~~"likelihood to result in serious harm" or~~] "likely to result in seri-  
17 ous harm" means presenting a substantial risk of: (a) [~~a-substantial~~  
18 ~~risk-of~~] physical harm to the person as manifested by threats of or  
19 attempts at suicide or serious bodily harm or substantial interference  
20 with the person's ability to meet the person's needs for food, clothing,  
21 shelter or medical care, or other conduct demonstrating that the person  
22 is dangerous to himself or herself, or (b) [~~a-substantial risk of phys-~~  
23 ~~ical harm to other persons as manifested by~~] homicidal or other violent  
24 behavior by which others are placed in reasonable fear of serious phys-  
25 ical harm.

26 "need for retention" means [~~that~~] the need of a person who has been  
27 admitted to a hospital pursuant to this article [~~is in need~~] for a  
28 further period of involuntary care and treatment in a hospital [~~for a~~  
29 ~~further period~~]. Evaluation of need for retention shall include consid-  
30 eration of the person's preparedness, with appropriate and available  
31 support, to adhere to essential outpatient treatment.

32 § 4. This act shall take effect on the sixtieth day after it shall  
33 have become a law.