

STATE OF NEW YORK

1699

2023-2024 Regular Sessions

IN ASSEMBLY

January 17, 2023

Introduced by M. of A. SIMON -- Multi-Sponsored by -- M. of A. CRUZ,
GONZALEZ-ROJAS, LUPARDO, OTIS, L. ROSENTHAL -- read once and referred
to the Committee on Codes

AN ACT to amend the criminal procedure law, in relation to releasing
individuals charged with a crime under non-monetary bail conditions in
order to receive mental health screening or be admitted to a hospital
as a result of a mental illness which is likely to result in harm to
such individual or others; and to repeal subdivision 3-c of section
500.10 of the criminal procedure law relating to the release for
mental health assessment and evaluation and involuntary commitment
pending release

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

1 Section 1. Subdivision 3-c of section 500.10 of the criminal procedure
2 law is REPEALED.
3 § 2. Paragraph (f) of subdivision 3-a of section 500.10 of the crimi-
4 nal procedure law, as added by section 1 of part UU of chapter 56 of the
5 laws of 2020, is amended to read as follows:
6 (f) that the principal be referred to a pretrial services agency for
7 placement in mandatory programming, including:
8 (i) counseling~~[r]~~;
9 (ii) treatment~~[r-and]~~;
10 (iii) intimate partner violence intervention programs; and
11 (iv) mental health treatment. The court may expeditiously employ
12 available resources for mental health screening including but not limit-
13 ed to a mobile crisis response provider or similar entity in the court-
14 house. With regard to mental health treatment:
15 (1) Where applicable, the court may direct the principal be removed to
16 a hospital or a crisis stabilization center pursuant to subdivisions (a)
17 and (b) of section 9.43 of the mental hygiene law. For purposes of this
18 subparagraph, where the court proceeds pursuant to subdivision (a) of

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

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1 section 9.43 of the mental hygiene law, the court is not required to and
2 shall not make a determination with respect to whether the crime has
3 been committed or whether there is sufficient cause to believe the prin-
4 cipal is guilty thereof.

5 (2) If it appears to the court on the basis of evidence presented to
6 it that the person has or may have a mental illness which is likely to
7 result in serious harm to himself or herself or others, the court may
8 either (A) permit the person to present himself or herself to any hospi-
9 tal specified in subdivision (a) of section 9.39 of the mental hygiene
10 law or any comprehensive psychiatric emergency program specified in
11 subdivision (a) of section 9.40 of the mental hygiene law, for the
12 person to make an application for admission to the hospital as a volun-
13 tary patient pursuant to section 9.13 of the mental hygiene law; or (B)
14 issue a civil order directing their removal to any hospital specified in
15 subdivision (a) of section 9.39 of the mental hygiene law or any compre-
16 hensive psychiatric emergency program specified in subdivision (a) of
17 section 9.40 of the mental hygiene law, that is willing to receive such
18 person for a determination, by the director of such hospital or program,
19 whether such person should be retained therein pursuant to section 9.39
20 or section 9.40 of the mental hygiene law, as appropriate.

21 (3) If the court orders removal to a hospital for immediate psychiat-
22 ric assessment, the principal may be taken by an entity, including but
23 not limited to, an ambulance service, as defined in subdivision two of
24 section three thousand one of the public health law, any peace officer,
25 when acting pursuant to their special duties, or police officer who is a
26 member of the state police or of an authorized police department or
27 force, or of a sheriff's department, to any hospital specified in subdivi-
28 vision (a) of section 9.39 of the mental hygiene law or any comprehen-
29 sive psychiatric emergency program specified in subdivision (a) of
30 section 9.40 of the mental hygiene law.

31 (4) Discharge and aftercare planning, including supportive housing
32 referrals, shall be provided consistent with federal and state law,
33 including but not limited to subdivision (g) of section 29.15 of the
34 mental hygiene law and to the extent that it has the ability to, the
35 hospital will take appropriate steps so that community placement
36 services are provided consistent with federal and state law. Discharge
37 planning shall begin at admission and continue throughout the course of
38 the principal's hospitalization until the principal is discharged.

39 (5) If the principal has met the discharge criteria they shall be
40 discharged and offered a clinically appropriate discharge plan in
41 accordance with, but not limited to subdivision (g) of section 29.15 of
42 the mental hygiene law.

43 (6) If the principal is a child, then any order for voluntary or
44 involuntary assessment shall be done in accordance with section two
45 hundred fifty-one of the family court act.

46 (7) The court can, as a condition of release, adjourn to a treatment
47 court for the possibility of evaluation.

48 (8) Conditions of release may not be revoked solely based on noncom-
49 pliance with treatment or clinically appropriate discharge plan or
50 aftercare plan;

51 § 3. Paragraphs (i) and (j) of subdivision 3-a of section 500.10 of
52 the criminal procedure law, as added by section 1 of part UU of chapter
53 56 of the laws of 2020, are amended and a new paragraph (k) is added to
54 read as follows:

55 (i) that the principal obey conditions set by the court addressed to
56 the safety of a victim of a family offense as defined in section 530.11

1 of this title including conditions that may be requested by or on behalf
2 of the victim; ~~and~~

3 (j) that, when it is shown pursuant to paragraph (a) of subdivision
4 four of section 510.40 of this title that no other realistic non-mone-
5 tary condition or set of non-monetary conditions will suffice to reason-
6 ably assure the principal's return to court, the principal's location be
7 monitored with an approved electronic monitoring device, in accordance
8 with such subdivision four of section 510.40 of this title~~[-]~~; and

9 (k) any clinical record or clinical information produced as a part of
10 the assessment, service or treatment plans required pursuant to subpara-
11 graph (iv) of paragraph (f) of this subdivision, or any clinical record
12 or clinical information used or produced in a proceeding conducted under
13 subparagraph (iv) of paragraph (f) of this subdivision, shall be consid-
14 ered confidential and shall not be considered part of the public record,
15 and access to such records shall be limited in accordance with applica-
16 ble federal and state privacy laws. Such information shall not be used
17 as part of the criminal proceeding and shall be expunged upon resolution
18 of the case.

19 § 4. This act shall take effect immediately.