

STATE OF NEW YORK

2820

2023-2024 Regular Sessions

IN ASSEMBLY

January 27, 2023

Introduced by M. of A. DAVILA, BURGOS, ZINERMAN, GONZALEZ-ROJAS, DICKENS, CLARK, JOYNER, ANDERSON, REYES, TAYLOR, GALLAGHER, DINOWITZ, AUBRY, CRUZ, SAYEGH -- 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 individuals 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 individual from a correctional facility, the department
5 shall provide a comprehensive discharge plan for such individual. Such
6 plan shall include planning for such individual's mental health needs,
7 medical care, housing, employment and any substance use disorder
8 services. Such discharge plan shall be prepared in consultation with
9 non-profit providers and in conjunction with such incarcerated individ-
10 ual to ensure the comprehensive discharge plan is appropriate and well-
11 coordinated. No later than seven days prior to release or discharge,
12 such discharge plan shall be provided to the incarcerated individual for
13 whom it was prepared and to the non-profit providers that assisted in
14 its preparation. The discharge plan and all coordinated services are
15 voluntary unless otherwise required by law. Any personal identifying
16 information shared with providers to coordinate the discharge planning
17 and relevant services shall be shared only with the informed and volun-
18 tary written consent of the incarcerated individual for whom the
19 discharge plan is prepared.

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

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

LBD02436-01-3

1 (c) For those incarcerated individuals 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 indi-
6 vidual's release or discharge.

7 (d) The plan required by paragraph (a) of this subdivision shall
8 further include an assessment of such incarcerated individual's access
9 to housing and any preparation necessary for such individual's success-
10 ful transition to adequate and stable housing. If the department deter-
11 mines that an incarcerated individual does not have access to adequate
12 and stable housing, the department shall, upon release of such individ-
13 ual, obtain for such individual a placement in adequate and stable hous-
14 ing that is not a shelter. Such adequate and stable housing may include,
15 but not be limited to, permanent, transitional, supportive or voluntary
16 residential treatment or medical care. Upon the release or discharge of
17 an incarcerated individual from a correctional facility, the department
18 shall arrange for the transportation of such individual or provide means
19 for the transportation of such individual 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 individ-
26 ual into the general society, including housing services, medical and
27 mental health services, HIV/AIDS services, educational, vocational and
28 employment services, and alcohol or substance use disorder treatment
29 services.

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

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

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

1 all necessary and relevant discharge planning undertaken for such indi-
2 vidual only if and when such local social services district is providing
3 and/or assisting in the coordination of services provided to such previ-
4 ously incarcerated individual and the information is necessary and rele-
5 vant to facilitate such assistance, provided that the confidentiality
6 protections of the social services law apply to such report; (B) contin-
7 ue assisting the individual to obtain housing that is not temporary
8 housing in a shelter and does not violate the terms of such individual's
9 parole; and (C) once every thirty days following release until such
10 individual is no longer subject to parole, provide a report, that is
11 subject to the confidentiality provisions of the social services law, to
12 such reentry providers providing services to such individual and the
13 local social services district, if and when such local social services
14 district is providing and/or assisting in the coordination of services
15 provided to such previously incarcerated individual and the information
16 is necessary and relevant to facilitate such assistance describing all
17 necessary and relevant continuing assistance provided by the department
18 to such individual in attempting to obtain housing that is not temporary
19 housing in a shelter described in this paragraph and that does not
20 violate the terms of such individual's parole.

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

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

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

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

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