STATE OF NEW YORK

3422

2023-2024 Regular Sessions

IN SENATE

January 31, 2023

Introduced by Sen. MYRIE -- read twice and ordered printed, and when printed to be committed 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 Assembly, do enact as follows:

Section 1. Subdivision 3-c of section 500.10 of the criminal procedure law is REPEALED.

§ 2. Paragraph (f) of subdivision 3-a of section 500.10 of the criminal procedure law, as added by section 1 of part UU of chapter 56 of the laws of 2020, is amended to read as follows:

(f) that the principal be referred to a pretrial services agency for placement in mandatory programming, including**:**

(i) counseling[~~,~~]**;**

(ii) treatment[~~, and~~]**;**

(iii) intimate partner violence intervention programs**; and**

(iv) mental health treatment. **The court may expeditiously employ available resources for mental health screening including but not limited to a mobile crisis response provider or similar entity in the courthouse. With regard to mental health treatment:**

(1) Where applicable, the court may direct the principal be removed to a hospital **or a crisis stabilization center** pursuant to **subdivisions (a) and (b) of** section 9.43 of the mental hygiene law**. For purposes of this subparagraph, where the court proceeds pursuant to subdivision (a) of section 9.43 of the mental hygiene law, the court is not required to and**

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

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shall not make a determination with respect to whether the crime has been committed or whether there is sufficient cause to believe the principal is guilty thereof.

(2) If it appears to the court on the basis of evidence presented to it that the person has or may have a mental illness which is likely to result in serious harm to himself or herself or others, the court may either (A) permit the person to present himself or herself to any hospital specified in subdivision (a) of section 9.39 of the mental hygiene law or any comprehensive psychiatric emergency program specified in subdivision (a) of section 9.40 of the mental hygiene law, for the person to make an application for admission to the hospital as a voluntary patient pursuant to section 9.13 of the mental hygiene law; or (B) issue a civil order directing their removal to any hospital specified in subdivision (a) of section 9.39 of the mental hygiene law or any comprehensive psychiatric emergency program specified in subdivision (a) of section 9.40 of the mental hygiene law, that is willing to receive such person for a determination, by the director of such hospital or program, whether such person should be retained therein pursuant to section 9.39 or section 9.40 of the mental hygiene law, as appropriate.

(3) If the court orders removal to a hospital for immediate psychiatric assessment, the principal may be taken by an entity, including but not limited to, an ambulance service, as defined in subdivision two of section three thousand one of the public health law, any peace officer, when acting pursuant to 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, to any hospital specified in subdivision (a) of section 9.39 of the mental hygiene law or any comprehensive psychiatric emergency program specified in subdivision (a) of section 9.40 of the mental hygiene law.

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

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

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

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

(8) Conditions of release may not be revoked solely based on noncompliance with treatment or clinically appropriate discharge plan or aftercare plan;

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

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

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

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

(k) any clinical record or clinical information produced as a part of the assessment, service or treatment plans required pursuant to subparagraph (iv) of paragraph (f) of this subdivision, or any clinical record or clinical information used or produced in a proceeding conducted under subparagraph (iv) of paragraph (f) of this subdivision, shall be considered confidential and shall not be considered part of the public record, and access to such records shall be limited in accordance with applicable federal and state privacy laws. Such information shall not be used as part of the criminal proceeding and shall be expunged upon resolution of the case.

§ 4. This act shall take effect immediately.