

# STATE OF NEW YORK

4880--C

Cal. No. 918

2023-2024 Regular Sessions

## IN SENATE

February 16, 2023

Introduced by Sens. FERNANDEZ, CLEARE, JACKSON, MAY, RIVERA, SALAZAR -- read twice and ordered printed, and when printed to be committed to the Committee on Health -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- recommitted to the Committee on Health in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- reported favorably from said committee and committed to the Committee on Finance -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading

AN ACT to amend the public health law, in relation to establishing a drug checking services program

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

1 Section 1. The public health law is amended by adding a new section  
2 3309-c to read as follows:

3 § 3309-c. Drug checking services program. 1. The department, in  
4 conjunction with the office of addiction services and supports, shall  
5 establish a program to provide, or authorize a local government to  
6 provide, or both, drug checking services to assist individuals in deter-  
7 mining whether a drug or controlled substance contains contaminants,  
8 toxic substances, or hazardous compounds.

9 2. The commissioner shall promulgate rules and regulations, in  
10 conjunction with the office of addiction services and supports, or an  
11 authorized local government, to provide drug checking services which  
12 shall include but no be limited to:

13 (a) providing information and harm reduction advice to help individ-  
14 uals make informed decisions about drug use;

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

LBD09638-10-4

1 (b) testing any drug or substance that an individual presents for  
2 checking to ascertain the composition and likely identity of such drug  
3 or substance;

4 (c) advising the individual who presented a drug or substance for  
5 checking of the results of the testing;

6 (d) disposing of or arranging for the disposal of, any sample of a  
7 drug or substance used in testing and any drug or substance surrendered  
8 by any individual for disposal; and

9 (e) if necessary, arranging for a sample of a drug or substance to be  
10 tested by a department approved laboratory.

11 3. The department, in conjunction with the office of addiction  
12 services and supports, shall acquire the necessary equipment to provide  
13 drug checking services, including but not limited to, chemical screening  
14 devices such as infrared spectrophotometers, mass spectrometers, nuclear  
15 magnetic resonance spectrometers, raman spectrophotometers, or ion  
16 mobility spectrometers.

17 4. Employees, contractors, and volunteers of the department or the  
18 office of addiction services and supports, directors, managers, employ-  
19 ees, contractors, and volunteers of an organization providing drug  
20 checking services, owners of properties where drug checking services  
21 occur, local governments authorized by the department, and individuals  
22 presenting drugs or substances for checking, acting in the course and  
23 scope of employment or engaged in good faith in the provision of drug  
24 checking services, in accordance with established protocols, shall not  
25 be subject to:

26 (a) arrest, charges, or prosecution pursuant to this article or any  
27 violation or misdemeanor, including for attempting, aiding and abetting,  
28 or conspiracy to commit a violation or misdemeanor pursuant to article  
29 two hundred twenty of the penal law; or

30 (b) a civil or administrative penalty or liability of any kind, or  
31 disciplinary action by a professional licensing board, for conduct  
32 relating to the provision of drug checking services unless such conduct  
33 was performed in a negligent manner or in bad faith.

34 5. The department, the office of addiction services and supports, and  
35 local governments authorized by the department shall not collect, main-  
36 tain, use, or disclose any personal information relating to an individ-  
37 ual from whom the department or local government receives any drug or  
38 substance for checking or disposal.

39 6. The result of any test carried out by the department, the office of  
40 addiction services and supports, or an authorized local government in  
41 relation to any drug or substance presented for checking shall not be  
42 admissible as evidence in any criminal or civil proceedings against the  
43 individual from whom the drug or substance was received, unless submit-  
44 ted by such individual.

45 § 2. This act shall take effect on the ninetieth day after it shall  
46 have become a law. Effective immediately, the addition, amendment,  
47 and/or repeal of any rule or regulation necessary for the implementation  
48 of this act on its effective date are authorized to be made and  
49 completed on or before such effective date.