STATE OF NEW YORK

10100

IN ASSEMBLY

May 3, 2024

Introduced by M. of A. BUTTENSCHON -- read once and referred to the Committee on Mental Health

AN ACT to amend the mental hygiene law and the criminal procedure law, in relation to requiring individuals to be given a mental health evaluation form

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

Section 1. The mental hygiene law is amended by adding a new section 7.49 to read as follows:

§ 7.49 Mental health evaluations pursuant to arrest.

1. The office of mental health shall develop a mental health evaluation form for the purpose of evaluating whether an individual who has been arrested has proper mental capacity to make decisions regarding the investigation or prosecution of such individual. The office of mental health shall create parameters that shall designate whether an individual who has completed such form has passed or failed such evaluation. The office of mental health shall create an instruction manual for the application of such parameters by police officers.

2. The office of mental health shall distribute the mental health evaluation form and the instruction manual required to be created under subdivision one of this section to all police departments in the state.

3. The office of mental health shall complete the requirements under subdivisions one and two of this section no later than six months after the effective date of this section.

§ 2. Section 120.90 of the criminal procedure law is amended by adding a new subdivision 9 to read as follows:

9. Upon arresting a defendant for any offense pursuant to a warrant of arrest, a police officer shall direct such defendant to complete the mental health evaluation form created pursuant to section 7.49 of the mental hygiene law. If such defendant is deemed to fail such mental health evaluation, under parameters set by the office of mental health, such defendant's next of kin, or individual as designated by such person, shall act as such defendant's representative for all decision-making regarding the investigation or prosecution of such defendant.

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

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§ 3. Section 140.20 of the criminal procedure law is amended by adding a new subdivision 9 to read as follows:

9. Upon arresting a person for any offense without a warrant, a police officer shall direct such person to complete the mental health evaluation form created pursuant to section 7.49 of the mental hygiene law. If such person is deemed to fail such mental health evaluation, under parameters set by the office of mental health, such person's next of kin, or individual as designated by such person, shall act as such person's representative for all decision-making regarding the investigation or prosecution of such person.

§ 4. This act shall take effect immediately; provided, however, that sections two and three of this act shall take effect one year after it shall have become a law.