

# STATE OF NEW YORK

7487

2023-2024 Regular Sessions

## IN ASSEMBLY

May 25, 2023

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

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. In providing drug checking services, the department, in conjunction  
10 with the office of addiction services and supports, or an authorized  
11 local government shall:

12 (a) provide information and harm reduction advice to help individuals  
13 make informed decisions about drug use;

14 (b) test any drug or substance that an individual presents for check-  
15 ing to ascertain the composition and likely identity of such drug or  
16 substance;

17 (c) advise the individual who presented a drug or substance for check-  
18 ing of the results of the testing;

19 (d) return the drug or substance to the individual who presented such  
20 drug or substance for checking;

21 (e) dispose of or arrange for the disposal of, any sample of a drug or  
22 substance used in testing and any drug or substance surrendered by any  
23 individual for disposal; and

24 (f) if necessary, arrange for a sample of a drug or substance to be  
25 tested by a department approved laboratory.

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

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1 3. The department, in conjunction with the office of addiction  
2 services and supports, shall acquire the necessary equipment to provide  
3 drug checking services, including but not limited to, chemical screening  
4 devices such as infrared spectrophotometers, mass spectrometers, nuclear  
5 magnetic resonance spectrometers, raman spectrophotometers, or ion  
6 mobility spectrometers.

7 4. Employees, contractors, and volunteers of the department or the  
8 office of addiction services and supports, directors, managers, employ-  
9 ees, contractors, and volunteers of an organization providing drug  
10 checking services, owners of properties where drug checking services  
11 occur, local governments authorized by the department, and individuals  
12 presenting drugs or substances for checking, acting in the course and  
13 scope of employment or engaged in good faith in the provision of drug  
14 checking services, in accordance with established protocols, shall not  
15 be subject to:

16 (a) arrest, charges, or prosecution pursuant to this article, includ-  
17 ing for attempting, aiding and abetting, or conspiracy to commit a  
18 violation pursuant to article two hundred twenty of the penal law; or

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

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

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

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