

# STATE OF NEW YORK

896--B

2023-2024 Regular Sessions

## IN ASSEMBLY

January 11, 2023

Introduced by M. of A. GALLAGHER, L. ROSENTHAL, DICKENS, SIMON, STIRPE, K. BROWN -- read once and referred to the Committee on Alcoholism and Drug Abuse -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- recommitted to the Committee on Alcoholism and Drug Abuse in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the judiciary law, the mental hygiene law, the public health law, the county law, and the general city law, in relation to replacing the words addict and addicts with the words person with substance use disorder or variation thereof

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

1 Section 1. Paragraph a of subdivision 1 of section 35 of the judiciary  
2 law, as amended by chapter 479 of the laws of 2022, is amended to read  
3 as follows:  
4 a. When a court orders a hearing in a proceeding upon a writ of habeas  
5 corpus to inquire into the cause of detention of a person in custody in  
6 a state institution, or when it orders a hearing in a civil proceeding  
7 to commit or transfer a person to or retain him in a state institution  
8 when such person is alleged to be mentally ill, mentally defective or a  
9 [~~narcotic addict~~] person with substance use disorder, or when it orders  
10 a hearing for the commitment of the guardianship and custody of a child  
11 to an authorized agency by reason of the mental illness or developmental  
12 disability of a parent, or when it orders a hearing to determine whether  
13 consent to the adoption of a child shall be required of a parent who is  
14 alleged to be mentally ill or developmentally disabled, or when it  
15 orders a hearing to determine the best interests of a child when the  
16 parent of the child revokes a consent to the adoption of such child and  
17 such revocation is opposed or in any adoption or custody proceeding if  
18 it determines that assignment of counsel in such cases is mandated by

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

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1 the constitution of this state or of the United States, the court may  
2 assign counsel to represent such person if it is satisfied that he is  
3 financially unable to obtain counsel. Upon an appeal taken from an order  
4 entered in any such proceeding, the appellate court may assign counsel  
5 to represent such person upon the appeal if it is satisfied that he is  
6 financially unable to obtain counsel.

7 § 2. Subdivision 4 of section 35 of the judiciary law, as amended by  
8 section 3 of part GG of chapter 56 of the laws of 2023, is amended to  
9 read as follows:

10 4. In any proceeding described in paragraph a of subdivision one of  
11 this section, when a person is alleged to be mentally ill, mentally  
12 defective or a ~~[narcotic-addict]~~ person with substance use disorder, the  
13 court which ordered the hearing may appoint no more than two psychia-  
14 trists, certified psychologists or physicians to examine and testify at  
15 the hearing upon the condition of such person. A psychiatrist, psychol-  
16 ogist or physician so appointed shall, upon completion of their  
17 services, receive reimbursement for expenses reasonably incurred and  
18 reasonable compensation for such services, to be fixed by the court.  
19 Such compensation shall not exceed three thousand dollars, except that  
20 in extraordinary circumstances the court may provide for compensation in  
21 excess of the foregoing limits.

22 § 3. Paragraph (i) of subdivision (b) of section 32.05 of the mental  
23 hygiene law, as amended by section 3 of part Z of chapter 57 of the laws  
24 of 2019, is amended to read as follows:

25 (i) Methadone, or such other controlled substance designated by the  
26 commissioner of health as appropriate for such use, may be administered  
27 to ~~[an-addict]~~ a person with substance use disorder, as defined in  
28 section thirty-three hundred two of the public health law, by individual  
29 physicians, groups of physicians and public or private medical facili-  
30 ties certified pursuant to article twenty-eight or thirty-three of the  
31 public health law as part of a chemical dependence program which has  
32 been issued an operating certificate by the commissioner pursuant to  
33 subdivision (b) of section 32.09 of this article, provided, however,  
34 that such administration must be done in accordance with all applicable  
35 federal and state laws and regulations. Individual physicians or groups  
36 of physicians who have obtained authorization from the federal govern-  
37 ment to administer buprenorphine to ~~[addicts]~~ people with substance use  
38 disorder may do so without obtaining an operating certificate from the  
39 commissioner.

40 § 4. Paragraph 5 of subdivision (b) of section 32.09 of the mental  
41 hygiene law, as added by chapter 558 of the laws of 1999, is amended to  
42 read as follows:

43 5. the applicant will establish procedures to effectively implement a  
44 detoxification program to further relieve ~~[addicts]~~ people with  
45 substance use disorder from dependence upon methadone or such other  
46 controlled substances prescribed for treatment in subject maintenance  
47 programs.

48 § 5. Subdivision 1 of section 3302 of the public health law, as  
49 amended by chapter 92 of the laws of 2021, is amended to read as  
50 follows:

51 1. ~~["Addict"]~~ "Person with substance use disorder" means a person who  
52 habitually uses a controlled substance for a non-legitimate or unlawful  
53 use, and who by reason of such use is dependent thereon.

54 § 6. Subdivision 1 of section 3331 of the public health law, as added  
55 by chapter 878 of the laws of 1972, is amended to read as follows:

1 1. Except as provided in titles III or V of this article, no substance  
2 in schedules II, III, IV, or V may be prescribed for or dispensed or  
3 administered to [~~an addict~~] a person with substance use disorder or  
4 habitual user.

5 § 7. The title heading of title V of article 33 of the public health  
6 law, as added by chapter 878 of the laws of 1972, is amended to read as  
7 follows:

8 DISPENSING TO [~~ADDICTS~~] PERSONS WITH SUBSTANCE USE  
9 DISORDER AND HABITUAL USERS

10 § 8. Section 3350 of the public health law, as added by chapter 878 of  
11 the laws of 1972, is amended to read as follows:

12 § 3350. Dispensing prohibition. Controlled substances may not be  
13 prescribed for, or administered or dispensed to [~~addicts~~] persons with  
14 substance use disorder or habitual users of controlled substances,  
15 except as provided by this title or title III.

16 § 9. Section 3351 of the public health law, as added by chapter 878 of  
17 the laws of 1972, subdivision 5 as amended by chapter 558 of the laws of  
18 1999, is amended to read as follows:

19 § 3351. Dispensing for medical use. 1. Controlled substances may be  
20 prescribed for, or administered or dispensed to [~~an addict~~] a person  
21 with substance use disorder or habitual user:

22 (a) during emergency medical treatment unrelated to use of controlled  
23 substances;

24 (b) who is a bona fide patient suffering from an incurable and fatal  
25 disease such as cancer or advanced tuberculosis;

26 (c) who is aged, infirm, or suffering from serious injury or illness  
27 and the withdrawal from controlled substances would endanger the life or  
28 impede or inhibit the recovery of such person.

29 2. Controlled substances may be ordered for use by [~~an addict~~] a  
30 person with substance use disorder or habitual user by a practitioner  
31 and administered by a practitioner or registered nurse to relieve acute  
32 withdrawal symptoms.

33 3. Methadone, or such other controlled substance designated by the  
34 commissioner as appropriate for such use, may be ordered for use of [~~an~~  
35 ~~addict~~] a person with substance use disorder by a practitioner and  
36 dispensed or administered by a practitioner or his designated agent as  
37 interim treatment for [~~an addict~~] a person with substance use disorder  
38 on a waiting list for admission to an authorized maintenance program.

39 4. Methadone, or such other controlled substance designated by the  
40 commissioner as appropriate for such use, may be administered to [~~an~~  
41 ~~addict~~] a person with substance use disorder by a practitioner or by his  
42 designated agent acting under the direction and supervision of a practi-  
43 tioner, as part of a regime designed and intended to withdraw a patient  
44 from addiction to controlled substances.

45 5. Methadone, or such other controlled substance designated by the  
46 commissioner as appropriate for such use, may be administered to [~~an~~  
47 ~~addict~~] a person with substance use disorder by a practitioner or by his  
48 designated agent acting under the direction and supervision of a practi-  
49 tioner, as part of a substance [~~abuse~~] use or chemical dependence  
50 program approved pursuant to article [~~twenty-three or~~] thirty-two of the  
51 mental hygiene law.

52 § 10. Section 3372 of the public health law, as amended by chapter 195  
53 of the laws of 1973, is amended to read as follows:

§ 3372. Practitioner patient reporting. It shall be the duty of every attending practitioner and every consulting practitioner to report promptly to the commissioner, or his duly designated agent, the name and, if possible, the address of, and such other data as may be required by the commissioner with respect to, any person under treatment if he finds that such person is ~~[an addict]~~ a person with substance use disorder or a habitual user of any narcotic drug. Such report shall be kept confidential and may be utilized only for statistical, epidemiological or research purposes, except that those reports which originate in the course of a criminal proceeding other than under section 81.25 of the mental hygiene law shall be subject only to the confidentiality requirements of section thirty-three hundred seventy-one of this article.

§ 11. Subdivisions 2 and 3 of section 396-h of the county law, as added by chapter 818 of the laws of 1971, are amended to read as follows:

2. To establish in-patient and out-patient treatment facilities for persons ~~[addicted to the use of drugs and drug abusers]~~ with substance use disorders. Such facilities shall include, but shall not be limited to:

a. detoxification centers and clinics for the out-patient treatment of ~~[drug abusers and addicts]~~ persons with substance use disorders;

b. a treatment center where ~~[drug abusers and addicts]~~ persons with substance use disorders may obtain professional counseling from physicians, psychologists, psychiatrists and where possible, ~~[former drug abusers and addicts]~~ other persons with substance use disorders;

c. half-way houses to provide continuing treatment for ~~[drug abusers and addicts]~~ persons with substance use disorders.

3. To create a referral program whereby ~~[drug abusers, addicts]~~ persons with substance use disorders and persons and agencies concerned with their treatment will make use of the aforementioned treatment facilities;

§ 12. Subdivisions 2 and 3 of section 121 of the general city law, as added by chapter 820 of the laws of 1971, are amended to read as follows:

2. To establish in-patient and out-patient treatment facilities for persons ~~[addicted to the use of drugs and drug abusers]~~ with substance use disorders. Such facilities shall include, but shall not be limited to:

a. detoxification centers and clinics for the out-patient treatment of ~~[drug abusers and addicts]~~ persons with substance use disorders;

b. a treatment center where ~~[addicts]~~ persons with substance use disorders may obtain professional counseling from physicians, psychologists, psychiatrists and where possible, ~~[former drug abusers and addicts]~~ other persons with substance use disorders;

c. half-way houses to provide continuing treatment for ~~[drug abusers and addicts]~~ persons with substance use disorders.

3. To create a referral program whereby ~~[drug abusers, addicts]~~ persons with substance use disorders and persons and agencies concerned with their treatment will make use of the aforementioned treatment facilities;

§ 13. This act shall take effect immediately.