

STATE OF NEW YORK

9046

IN ASSEMBLY

February 5, 2024

Introduced by M. of A. K. BROWN, BENDETT -- read once and referred to the Committee on Governmental Operations

AN ACT to amend the judiciary law, the mental hygiene law, the public health law, the county law, the general city law, the education law, the penal law, the railroad law, the social services law, the emergency housing rent control law, the emergency tenant protection act of nineteen seventy-four and the general construction law, in relation to replacing certain appearances of the words addict, addicts, and addiction with the words person with a substance use disorder, person with a mental health disorder, person with co-occurring disorder, person in recovery, 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 or her in a state insti-
8 tution when such person is alleged to be [~~mentally ill, mentally defec-~~
9 ~~tive or a narcotic addict~~] a person with a substance use disorder, a
10 person with a mental health disorder, a person with co-occurring disor-
11 der, or a person in recovery, or when it orders a hearing for the
12 commitment of the guardianship and custody of a child to an authorized
13 agency by reason of the mental illness or developmental disability of a
14 parent, or when it orders a hearing to determine whether consent to the
15 adoption of a child shall be required of a parent who is alleged to be
16 mentally ill or developmentally disabled, or when it orders a hearing to
17 determine the best interests of a child when the parent of the child
18 revokes a consent to the adoption of such child and such revocation is
19 opposed or in any adoption or custody proceeding if it determines that
20 assignment of counsel in such cases is mandated by the constitution of
21 this state or of the United States, the court may assign counsel to

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

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1 represent such person if it is satisfied that he or she is financially
2 unable to obtain counsel. Upon an appeal taken from an order entered in
3 any such proceeding, the appellate court may assign counsel to represent
4 such person upon the appeal if it is satisfied that he or she is finan-
5 cially unable to obtain counsel.

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

9 4. In any proceeding described in paragraph a of subdivision one of
10 this section, when a person is alleged to be [~~mentally ill, mentally~~
11 ~~defective or a narcotic addict~~] a person with a substance use disorder,
12 a person with a mental health disorder, a person with co-occurring
13 disorder, or a person in recovery, the court which ordered the hearing
14 may appoint no more than two psychiatrists, certified psychologists or
15 physicians to examine and testify at the hearing upon the condition of
16 such person. A psychiatrist, psychologist or physician so appointed
17 shall, upon completion of their services, receive reimbursement for
18 expenses reasonably incurred and reasonable compensation for such
19 services, to be fixed by the court. Such compensation shall not exceed
20 three thousand dollars, except that in extraordinary circumstances the
21 court may provide for compensation in 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 a substance use disorder, a person with a
28 mental health disorder, a person with co-occurring disorder, or a person
29 in recovery, as defined in section thirty-three hundred two of the
30 public health law, by individual physicians, groups of physicians and
31 public or private medical facilities certified pursuant to article twen-
32 ty-eight or thirty-three of the public health law as part of a chemical
33 dependence program which has been issued an operating certificate by the
34 commissioner pursuant to subdivision (b) of section 32.09 of this article,
35 provided, however, that such administration must be done in accord-
36 ance with all applicable federal and state laws and regulations. Indi-
37 vidual physicians or groups of physicians who have obtained
38 authorization from the federal government to administer buprenorphine to
39 [~~addicts~~] people with a substance use disorder, people with a mental
40 health disorder, people with co-occurring disorder, or people in recov-
41 ery may do so without obtaining an operating certificate from the
42 commissioner.

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

46 5. the applicant will establish procedures to effectively implement a
47 detoxification program to further relieve [~~addicts~~] people with a
48 substance use disorder, people with a mental health disorder, people
49 with co-occurring disorder, or people in recovery from dependence upon
50 methadone or such other controlled substances prescribed for treatment
51 in subject maintenance programs.

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

55 1. [~~"Addict"~~] "Person with a substance use disorder, person with a
56 mental health disorder, person with co-occurring disorder, or person in

1 recovery" means a person who habitually uses a controlled substance for
2 a non-legitimate or unlawful use, and who by reason of such use is
3 dependent thereon.

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

6 1. Except as provided in titles III or V of this article, no substance
7 in schedules II, III, IV, or V may be prescribed for or dispensed or
8 administered to [~~an addict~~] a person with a substance use disorder, a
9 person with a mental health disorder, a person with co-occurring disor-
10 der, or a person in recovery or habitual user.

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

14 DISPENSING TO [~~ADDICTS~~] PERSONS WITH A SUBSTANCE USE
15 DISORDER, PERSONS WITH A MENTAL HEALTH DISORDER, PERSONS WITH
16 CO-OCCURRING DISORDER, PERSONS IN RECOVERY AND HABITUAL USERS

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

19 § 3350. Dispensing prohibition. Controlled substances may not be
20 prescribed for, or administered or dispensed to [~~addicts~~] persons with a
21 substance use disorder, persons with a mental health disorder, persons
22 with co-occurring disorder, or persons in recovery, or habitual users
23 of controlled substances, except as provided by this title or title III
24 of this article.

25 § 9. Section 3351 of the public health law, as added by chapter 878 of
26 the laws of 1972, subdivision 5 as amended by chapter 558 of the laws of
27 1999, is amended to read as follows:

28 § 3351. Dispensing for medical use. 1. Controlled substances may be
29 prescribed for, or administered or dispensed to [~~an addict~~] a person
30 with a substance use disorder, a person with a mental health disorder, a
31 person with co-occurring disorder, a person in recovery, or habitual
32 user:

33 (a) during emergency medical treatment unrelated to use of controlled
34 substances;

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

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

40 2. Controlled substances may be ordered for use by [~~an addict~~] a
41 person with a substance use disorder, a person with a mental health
42 disorder, a person with co-occurring disorder, a person in recovery, or
43 habitual user by a practitioner and administered by a practitioner or
44 registered nurse to relieve acute withdrawal symptoms.

45 3. Methadone, or such other controlled substance designated by the
46 commissioner as appropriate for such use, may be ordered for use of [~~an~~
47 ~~addict~~] a person with a substance use disorder, a person with a mental
48 health disorder, a person with co-occurring disorder, or a person in
49 recovery, by a practitioner and dispensed or administered by a practi-
50 tioner or his or her designated agent as interim treatment for [~~an~~
51 ~~addict~~] a person with a substance use disorder, a person with a mental
52 health disorder, a person with co-occurring disorder, or a person in
53 recovery on a waiting list for admission to an authorized maintenance
54 program.

1 4. Methadone, or such other controlled substance designated by the
2 commissioner as appropriate for such use, may be administered to [~~an~~
3 ~~addict~~] a person with a substance use disorder, a person with a mental
4 health disorder, a person with co-occurring disorder, or a person in
5 recovery by a practitioner or by his or her designated agent acting
6 under the direction and supervision of a practitioner, as part of a
7 regime designed and intended to withdraw a patient from addiction to
8 controlled substances.

9 5. Methadone, or such other controlled substance designated by the
10 commissioner as appropriate for such use, may be administered to [~~an~~
11 ~~addict~~] a person with a substance use disorder, a person with a mental
12 health disorder, a person with co-occurring disorder, or a person in
13 recovery by a practitioner or by his or her designated agent acting
14 under the direction and supervision of a practitioner, as part of a
15 substance [~~abuse~~] use or chemical dependence program approved pursuant
16 to article [~~twenty-three-or~~] thirty-two of the mental hygiene law.

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

19 § 3372. Practitioner patient reporting. It shall be the duty of every
20 attending practitioner and every consulting practitioner to report
21 promptly to the commissioner, or his or her duly designated agent, the
22 name and, if possible, the address of, and such other data as may be
23 required by the commissioner with respect to, any person under treatment
24 if he or she finds that such person is [~~an addict~~] a person with a
25 substance use disorder, a person with a mental health disorder, a person
26 with co-occurring disorder, a person in recovery, or a habitual user of
27 any narcotic drug. Such report shall be kept confidential and may be
28 utilized only for statistical, epidemiological or research purposes,
29 except that those reports which originate in the course of a criminal
30 proceeding other than under section 81.25 of the mental hygiene law
31 shall be subject only to the confidentiality requirements of section
32 thirty-three hundred seventy-one of this article.

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

36 2. To establish in-patient and out-patient treatment facilities for
37 persons [~~addicted to the use of drugs and drug abusers~~] with a substance
38 use disorder, persons with a mental health disorder, persons with co-oc-
39 curring disorder, and persons in recovery. Such facilities shall
40 include, but shall not be limited to:

41 a. detoxification centers and clinics for the out-patient treatment of
42 [~~drug abusers and addicts~~] persons with a substance use disorder,
43 persons with a mental health disorder, persons with co-occurring disor-
44 der, and persons in recovery;

45 b. a treatment center where [~~drug abusers and addicts~~] persons with a
46 substance use disorder, persons with a mental health disorder, persons
47 with co-occurring disorder, and persons in recovery may obtain profes-
48 sional counseling from physicians, psychologists, psychiatrists and
49 where possible, [~~former drug abusers and addicts~~] other persons with a
50 substance use disorder, persons with a mental health disorder, persons
51 with co-occurring disorder, and persons in recovery;

52 c. half-way houses to provide continuing treatment for [~~drug abusers~~
53 ~~and addicts~~] persons with a substance use disorder, persons with a
54 mental health disorder, persons with co-occurring disorder, and persons
55 in recovery.

1 3. To create a referral program whereby [~~drug abusers, addicts~~
2 persons with a substance use disorder, persons with a mental health
3 disorder, persons with co-occurring disorder, and persons in recovery
4 and persons and agencies concerned with their treatment will make use of
5 the aforementioned treatment facilities;

6 § 12. Subdivisions 2, 3, 6 and 10 of section 121 of the general city
7 law, as added by chapter 820 of the laws of 1971, are amended to read as
8 follows:

9 2. To establish in-patient and out-patient treatment facilities for
10 persons [~~addicted to the use of drugs and drug abusers~~] with a substance
11 use disorder, persons with a mental health disorder, persons with co-oc-
12 curring disorder, and persons in recovery. Such facilities shall
13 include, but shall not be limited to:

14 a. detoxification centers and clinics for the out-patient treatment of
15 [~~drug abusers and addicts~~] persons with a substance use disorder,
16 persons with a mental health disorder, persons with co-occurring disor-
17 der, and persons in recovery;

18 b. a treatment center where [~~addicts~~] persons with a substance use
19 disorder, persons with a mental health disorder, persons with co-occur-
20 ring disorder, and persons in recovery may obtain professional coun-
21 seling from physicians, psychologists, psychiatrists and where possible,
22 [~~former drug abusers and addicts~~] other persons with a substance use
23 disorder, persons with a mental health disorder, persons with co-occur-
24 ring disorder, and persons in recovery;

25 c. half-way houses to provide continuing treatment for [~~drug abusers~~
26 ~~and addicts~~] persons with a substance use disorder, persons with a
27 mental health disorder, persons with co-occurring disorder, and persons
28 in recovery.

29 3. To create a referral program whereby [~~drug abusers, addicts~~
30 persons with a substance use disorder, persons with a mental health
31 disorder, persons with co-occurring disorder, and persons in recovery
32 and persons and agencies concerned with their treatment will make use of
33 the aforementioned treatment facilities;

34 6. To encourage and foster, if possible, the use of [~~former drug abus-~~
35 ~~ers and persons formerly addicted to drugs~~] persons with a substance use
36 disorder, persons with a mental health disorder, persons with co-occur-
37 ring disorder, and persons in recovery who are no longer using drugs as
38 staff personnel;

39 10. To utilize [~~former drug abusers and ex-addicts~~] persons with a
40 substance use disorder, persons with a mental health disorder, persons
41 with co-occurring disorder, and persons in recovery who are no longer
42 using drugs in educational counseling and make periodic evaluations of
43 their effectiveness;

44 § 13. Section 3028-a of the education law, as amended by chapter 19 of
45 the laws of 1987, is amended to read as follows:

46 § 3028-a. Students under twenty-one years of age suspected of [~~alcohol~~
47 ~~abuse or narcotic addiction~~] being a person with a substance use
48 disorder, a person with a mental health disorder, a person with co-oc-
49 curring disorder, or a person in recovery. Any teacher, school adminis-
50 trator, school guidance counselor, school psychologist, school drug
51 counselor, school nurse, supervisor of attendance, attendance teacher or
52 attendance officer having reasonable cause to suspect that a secondary
53 or elementary student under twenty-one years of age is a [~~substance or~~
54 ~~alcohol abuser or substance dependent~~] person with a substance use
55 disorder, a person with a mental health disorder, a person with co-oc-
56 curring disorder, or a person in recovery, who report such information

1 to the appropriate secondary or elementary school officials pursuant to
2 the school's drug policy or if the school has no drug policy to the
3 school's principal or the parents or legal guardians of such student
4 under twenty-one years of age shall have immunity from any civil liability
5 that might otherwise be incurred or imposed as a result of the
6 making of such a report.

7 § 14. The fifth undesignated paragraph of section 19.01 of the mental
8 hygiene law, as added by chapter 223 of the laws of 1992, is amended to
9 read as follows:

10 Substantial benefits can be gained through alcoholism and substance
11 [~~abuse~~] use treatment for both [~~addicted individuals~~] persons with a
12 substance use disorder, persons with a mental health disorder, persons
13 with co-occurring disorder, and persons in recovery and their families.
14 Positive treatment outcomes that may be generated through a complete
15 continuum of care offer a cost effective and comprehensive approach to
16 rehabilitating such individuals. The primary goals of the rehabilitation
17 and recovery process are to restore social, family, lifestyle, vocational
18 and economic supports by stabilizing an individual's physical and
19 psychological functioning. The legislature recognizes the importance of
20 varying treatment approaches and levels of care designed to meet each
21 client's needs. Relapse prevention and aftercare are two primary components
22 of treatment that serve to promote and maintain recovery.

23 § 15. Paragraph (c) of subdivision 1 of section 2897 of the public
24 health law, as amended by chapter 550 of the laws of 1978, is amended to
25 read as follows:

26 (c) he or she is or has been [~~an alcohol abuser or is or has been~~
27 ~~addicted~~] a person with a substance use disorder, a person with a
28 mental health disorder, a person with co-occurring disorder, or a person
29 in recovery related to the use of morphine, cocaine or other drugs
30 having similar effect[~~, or has become mentally ill~~];

31 § 16. Paragraph (h) of subdivision 1 of section 3450 of the public
32 health law, as amended by chapter 534 of the laws of 1983, is amended to
33 read as follows:

34 (h) is [~~addicted~~] a person with a substance use disorder, a person
35 with a mental health disorder, a person with co-occurring disorder, or a
36 person in recovery related to the use of morphine, opium, cocaine or
37 other drugs having a similar effect;

38 § 17. Paragraph (e) of subdivision 1 of section 400.00 of the penal
39 law, as separately amended by chapters 371 and 669 of the laws of 2022,
40 is amended to read as follows:

41 (e) who is not an unlawful user of or [~~addicted~~] a person with a
42 substance use disorder, a person with a mental health disorder, a
43 person with co-occurring disorder, or a person in recovery related to
44 any controlled substance as defined in section 21 U.S.C. 802;

45 § 18. Section 63 of the railroad law is amended to read as follows:

46 § 63. Persons employed as drivers, conductors, motormen or gripmen.
47 Any railroad corporation may employ any inhabitant of the state, of the
48 age of twenty-one years, [~~not-addicted~~] who is not a person with a
49 substance use disorder, a person with a mental health disorder, a person
50 with co-occurring disorder, or a person in recovery related to the use
51 of intoxicating liquors, as a car driver, conductor, motorman or grip-
52 man, or in any other capacity, if fit and competent therefor. All appli-
53 cants for positions as motormen or gripmen on any street surface rail-
54 road in this state shall be subjected to a thorough examination by the
55 officers of the corporation as to their habits, physical ability and
56 intelligence. If this examination is satisfactory, the applicant shall

1 be placed in the shop or power house where he or she can be made famil-
2 iar with the power and machinery he or she is about to control. He or
3 she shall then be placed on a car with an instructor, and when the
4 latter is satisfied as to the applicant's capability for the position of
5 motorman or gripman, he or she shall so certify to the officers of the
6 company, and, if appointed, the applicant shall first serve on the lines
7 of least travel. Any violation of the provisions of this section shall
8 be a misdemeanor.

9 § 19. Paragraph (c) of subdivision 1 of section 303 of the social
10 services law, as amended by chapter 198 of the laws of 1975, is amended
11 to read as follows:

12 (c) Replacement of lost or mismanaged cash by a person who by reason
13 of advanced age, illness, infirmity, mental weakness, physical handicap,
14 intemperance, [~~addiction to drugs~~] being a person with a substance use
15 disorder, a person with a mental health disorder, a person with co-oc-
16 curring disorder, or a person in recovery, or other cause, has suffered
17 substantial impairment of his or her ability to care for his or her
18 property;

19 § 20. Paragraph (a) of subdivision 2 of section 5 of chapter 274 of
20 the laws of 1946, constituting the emergency housing rent control law,
21 as amended by section 16 of part Q of chapter 39 of the laws of 2019, is
22 amended to read as follows:

23 (a) the landlord seeks in good faith to recover possession of a hous-
24 ing accommodation because of immediate and compelling necessity for his
25 or her own personal use and occupancy as his or her primary residence or
26 for the use and occupancy of his or her immediate family as their prima-
27 ry residence; provided, however, this subdivision shall permit recovery
28 of only one housing accommodation and shall not apply where a member of
29 the household lawfully occupying the housing accommodation is sixty-two
30 years of age or older, has been a tenant in a housing accommodation in
31 that building for fifteen years or more, or has an impairment which
32 results from anatomical, physiological or psychological conditions,
33 other than [~~addiction~~] being a person with substance use disorder, a
34 person with a mental health disorder, a person with co-occurring disor-
35 der, or a person in recovery related to alcohol, gambling, or any
36 controlled substance, which are demonstrable by medically acceptable
37 clinical and laboratory diagnostic techniques, and which are expected to
38 be permanent and which prevent the tenant from engaging in any substan-
39 tial gainful employment; provided, however, that a tenant required to
40 surrender a housing accommodation under this paragraph shall have a
41 cause of action in any court of competent jurisdiction for damages,
42 declaratory, and injunctive relief against a landlord or purchaser of
43 the premises who makes a fraudulent statement regarding a proposed use
44 of the housing accommodation. In any action or proceeding brought pursu-
45 ant to this paragraph a prevailing tenant shall be entitled to recovery
46 of actual damages, and reasonable attorneys' fees; or

47 § 21. Subdivision a of section 10 of section 4 of chapter 576 of the
48 laws of 1974, constituting the emergency tenant protection act of nine-
49 teen seventy-four, as amended by section 15 of part Q of chapter 39 of
50 the laws of 2019, is amended to read as follows:

51 a. For cities having a population of less than one million and towns
52 and villages, the state division of housing and community renewal shall
53 be empowered to implement this act by appropriate regulations. Such
54 regulations may encompass such speculative or manipulative practices or
55 renting or leasing practices as the state division of housing and commu-
56 nity renewal determines constitute or are likely to cause circumvention

1 of this act. Such regulations shall prohibit practices which are likely
2 to prevent any person from asserting any right or remedy granted by this
3 act, including but not limited to retaliatory termination of periodic
4 tenancies and shall require owners to grant a new one or two year vacan-
5 cy or renewal lease at the option of the tenant, except where a mortgage
6 or mortgage commitment existing as of the local effective date of this
7 act provides that the owner shall not grant a one-year lease; and shall
8 prescribe standards with respect to the terms and conditions of new and
9 renewal leases, additional rent and such related matters as security
10 deposits, advance rental payments, the use of escalator clauses in leas-
11 es and provision for increase in rentals for garages and other ancillary
12 facilities, so as to ensure that the level of rent adjustments author-
13 ized under this law will not be subverted and made ineffective. Any
14 provision of the regulations permitting an owner to refuse to renew a
15 lease on grounds that the owner seeks to recover possession of a housing
16 accommodation for his or her own use and occupancy or for the use and
17 occupancy of his or her immediate family shall permit recovery of only
18 one housing accommodation, shall require that an owner demonstrate imme-
19 diate and compelling need and that the housing accommodation will be the
20 proposed occupants' primary residence and shall not apply where a member
21 of the housing accommodation is sixty-two years of age or older, has
22 been a tenant in a housing accommodation in that building for fifteen
23 years or more, or has an impairment which results from anatomical, phys-
24 iological or psychological conditions, other than [~~addiction~~] being a
25 person with a substance use disorder, a person with a mental health
26 disorder, a person with co-occurring disorder, or a person in recovery
27 related to alcohol, gambling, or any controlled substance, which are
28 demonstrable by medically acceptable clinical and laboratory diagnostic
29 techniques, and which are expected to be permanent and which prevent the
30 tenant from engaging in any substantial gainful employment; provided,
31 however, that a tenant required to surrender a housing accommodation
32 under this subdivision shall have a cause of action in any court of
33 competent jurisdiction for damages, declaratory, and injunctive relief
34 against a landlord or purchaser of the premises who makes a fraudulent
35 statement regarding a proposed use of the housing accommodation. In any
36 action or proceeding brought pursuant to this subdivision a prevailing
37 tenant shall be entitled to recovery of actual damages, and reasonable
38 attorneys' fees.

39 § 22. Section 28 of the general construction law, as added by chapter
40 351 of the laws of 2021, is amended to read as follows:

41 § 28. Mental disability, mental illness, developmental disability,
42 addictive disorder and addiction disorder. The terms mental disability,
43 mental illness, developmental disability, addictive disorder and
44 addiction disorder shall have the same meaning as they are defined
45 pursuant to section 1.03 of the mental hygiene law. Hereafter, in any
46 law, rule, regulation, ordinance or resolution, person-first terms,
47 including but not limited to "a person with a substance use disorder",
48 "a person with a mental health disorder", "a person with co-occurring
49 disorder", or "a person in recovery", shall be used in substitution
50 therefor and with the same force and effect.

51 § 23. This act shall take effect immediately.