

# STATE OF NEW YORK

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3103--C

2023-2024 Regular Sessions

## IN SENATE

January 27, 2023

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Introduced by Sens. BRISPORT, CLEARE, COONEY, SALAZAR -- read twice and ordered printed, and when printed to be committed to the Committee on Crime Victims, Crime and Correction -- 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 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- recommitted to the Committee on Crime Victims, Crime and Correction in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the correction law, in relation to requiring mental health services for incarcerated individuals with mental health issues related to the trauma of incarceration

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

1 Section 1. Short title. This act shall be known and may be cited as  
2 "Shawanna's law (W76337)".  
3 § 2. Section 71-a of the correction law, as amended by chapter 322 of  
4 the laws of 2021, is amended to read as follows:  
5 § 71-a. Transitional accountability plan. 1. Upon admission of an  
6 incarcerated individual committed to the custody of the department under  
7 an indeterminate or determinate sentence of imprisonment, the department  
8 shall develop a transitional accountability plan. Such plan shall be a  
9 comprehensive, dynamic and individualized case management plan based on  
10 the programming and treatment needs of the incarcerated individual. The  
11 purpose of such plan shall be to promote the rehabilitation of the  
12 incarcerated individual and their successful and productive reentry and  
13 reintegration into society upon release. To that end, such plan shall be  
14 used to prioritize programming and treatment services for the incarcerated  
15 individual during incarceration and any period of community supervision.  
16 The commissioner may consult with the office of mental health,

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

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1 the office of [~~alcoholism and substance abuse~~] addiction services and  
2 supports, the board of parole, the department of health, and other  
3 appropriate agencies in the development of transitional case management  
4 plans.

5 2. Mental health reentry services shall be included in an incarcerated  
6 individual's transitional accountability plan. Such mental health  
7 reentry services shall begin the first week upon admission of an incar-  
8 cerated individual to a correctional facility and such services shall be  
9 provided by licensed therapists, psychiatrists, psychologists, social  
10 workers, or nurses in permanent competitive positions in the classified  
11 service of the state who specialize in trauma and utilize culturally  
12 sensitive techniques. Mental health reentry services shall include, but  
13 not be limited to: (i) behavioral health screening and assessment; (ii)  
14 clinical intervention for any mental health issues related to the trauma  
15 of incarceration; (iii) mental health and trauma screenings within sixty  
16 days of being committed to the custody of the department. Where an  
17 incarcerated individual would benefit from trauma oriented therapy, the  
18 mental health reentry services shall include trauma oriented therapy.  
19 If an incarcerated individual is at a facility which cannot provide  
20 proper mental health reentry services to the incarcerated individual,  
21 the incarcerated individual shall be transferred within seven days to a  
22 facility with the capacity to provide the incarcerated individual with  
23 his or her proper mental health reentry services.

24 3. The department shall invest, develop and adopt policies and proce-  
25 dures to create training for all prison personnel for basic competencies  
26 in mental health trauma as a result of incarceration.

27 4. The department shall submit a report including, but not limited to,  
28 the number of incarcerated individuals screened for mental health and  
29 trauma and the number of incarcerated individuals receiving therapy or  
30 clinical intervention with information on the types of therapy or clin-  
31 ical intervention such incarcerated individuals are receiving to the  
32 governor, the temporary president of the senate, and the speaker of the  
33 assembly no later than December thirty-first of each year.

34 § 3. Section 78 of the correction law, as added by section 81-b of  
35 part WWW of chapter 59 of the laws of 2017, is amended to read as  
36 follows:

37 § 78. Discharge plans. (a) The department, in consultation with the  
38 office of children and family services, shall provide discharge plans  
39 for juvenile offenders and adolescent offenders who are released to  
40 parole or post-release supervision, which are tailored to address their  
41 individual needs. Such plans shall include services designed to promote  
42 public safety and the successful and productive reentry of such adoles-  
43 cents into society.

44 (b) The department shall provide discharge plans for all incarcerated  
45 individuals which are tailored to address the incarcerated individual's  
46 individual needs upon reentry and reintegration into society upon  
47 release. Such discharge plans shall include, but not be limited to:

48 (i) Completed Medicaid enrollment, if eligible;  
49 (ii) Medications sufficient to allow the incarcerated individual to  
50 transition to a post-release location; and  
51 (iii) Written coordination between the department and health care  
52 providers including, but not limited to, the transfer of patient records  
53 to a health care provider for the service of the releasee.

54 (c) An incarcerated individual who receives clinical intervention for  
55 trauma related to incarceration under section seventy-one-a of this

1 article shall receive the following upon reentry and reintegration into  
2 society upon release:

3 (i) Mental health services;

4 (ii) Therapeutic programs including nontraditional therapies like  
5 yoga, meditation, and physical therapy;

6 (iii) Family counseling;

7 (iv) Alcohol and substance abuse disorder treatment services;

8 (v) HIV/AIDS services;

9 (vi) Education and vocational training;

10 (vii) Housing information;

11 (viii) Job placement information; and

12 (ix) Money management assistance.

13 § 4. The department of corrections and community supervision shall  
14 submit a report on the state of mental health care services in the  
15 corrections system, including local jails, which shall include, but not  
16 be limited to, an assessment of the degree to which the federal  
17 substance abuse and mental health services administration's guidance for  
18 trauma-informed approach to mental health has been implemented to the  
19 governor, the temporary president of the senate, and the speaker of the  
20 assembly no later than December 31, 2025.

21 § 5. This act shall take effect on the ninetieth day after it shall  
22 have become a law. Effective immediately, the addition, amendment  
23 and/or repeal of any rule or regulation necessary for the implementation  
24 of this act on its effective date are authorized to be made and  
25 completed on or before such effective date.