STATE OF NEW YORK

4880--B

2023-2024 Regular Sessions

IN SENATE

February 16, 2023

Introduced by Sen. FERNANDEZ -- read twice and ordered printed, and when printed to be committed to the Committee on Health -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- recommitted to the Committee on Health 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 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:

Section 1. The public health law is amended by adding a new section 3309-c to read as follows:

§ 3309-c. Drug checking services program. 1. The department, in conjunction with the office of addiction services and supports, shall establish a program to provide, or authorize a local government to provide, or both, drug checking services to assist individuals in determining whether a drug or controlled substance contains contaminants, toxic substances, or hazardous compounds.

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

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

(b) test any drug or substance that an individual presents for checking to ascertain the composition and likely identity of such drug or substance;

(c) advise the individual who presented a drug or substance for checking of the results of the testing;

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

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

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

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

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

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

(a) arrest, charges, or prosecution pursuant to this article or any violation or misdemeanor, including for attempting, aiding and abetting, or conspiracy to commit a violation or misdemeanor pursuant to article two hundred twenty of the penal law; or

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

5. The department, the office of addiction services and supports, and local governments authorized by the department shall not collect, maintain, use, or disclose any personal information relating to an individual from whom the department or local government receives any drug or substance for checking or disposal.

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

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