STATE OF NEW YORK

5233

2023-2024 Regular Sessions

IN SENATE

February 27, 2023

Introduced by Sens. THOMAS, FELDER, GOUNARDES, HARCKHAM, SKOUFIS -- read twice and ordered printed, and when printed to be committed to the Committee on Codes

AN ACT to amend the criminal procedure law, in relation to pretrial mental health and substance abuse evaluations and treatment for certain defendants; and to amend the state finance law, in relation to establishing the pretrial mental health and substance abuse services bail fund

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

Section 1. Section 550.10 of the criminal procedure law is amended by adding a new subdivision 4 to read as follows:

4. On application of: (a) the prosecution; (b) defense counsel; (c) a family member of the principal; (d) any person eighteen years of age or older with whom the principal resides; (e) the director of a hospital in which the principal is hospitalized; (f) the director of any public or charitable organization, agency or home providing mental health services to the principal or in whose institution the principal resides; (g) a qualified psychiatrist who is either supervising the treatment of or treating the principal for a mental illness; (h) a psychologist, licensed pursuant to article one hundred fifty-three of the education law, or a social worker, licensed pursuant to article one hundred fifty-four of the education law, who is treating the principal for a mental illness; (i) the director of community services, or his or her designee, or the social services official, as defined in the social services law, of the city or county in which the principal is present or reasonably believed to be present; or (j) a parole officer or probation officer assigned to supervise the principal; a principal charged with a crime not subject to bail shall be referred to the county in which the crime was committed for a mental health and/or substance abuse evaluation and if, after such evaluation, it is determined that the principal

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

LBD02849-02-3

requires treatment for such mental health diagnosis or substance abuse, the court may order that compliance with such treatment shall be a condition of release pending trial. Police shall make reasonable efforts to contact the individuals referenced in paragraphs (c), (d), (e), (f), (g), (h), (i) and (j) of this subdivision in situations when police have reason to believe that a principal is suffering from mental health or substance abuse issues as covered by this subdivision.

§ 2. The criminal procedure law is amended by adding a new section 520.50 to read as follows:

§ 520.50 Bail surcharge; mental health and substance abuse.

Every cash bail or bail bond authorized pursuant to subdivision one of section 520.10 of this article and imposed by the court pursuant to this part shall be subject to a surcharge in the amount of one percent. All monies collected from such surcharge shall be deposited in the pretrial mental health and substance abuse services bail fund established pursuant to section ninety-nine-qq of the state finance law to be used to reimburse counties for pretrial mental health and substance abuse evaluations and services required by subdivision four of section 550.10 of this part.

§ 3. Subparagraphs (viii), (x) and (xi) of paragraph (b) of subdivision 1 of section 150.20 of the criminal procedure law, subparagraph (viii) as amended and subparagraphs (x) and (xi) as added by section 1 of subpart B of part UU of chapter 56 of the laws of 2022, are amended and a new subparagraph (xii) is added to read as follows:

(viii) it reasonably appears to the officer, based on the observed behavior of the individual in the present contact with the officer and facts regarding the person's condition that indicates a sign of distress to such a degree that the person would face harm without immediate medical or mental health care, that bringing the person before the court would be in such person's interest in addressing that need; provided, however, that before making the arrest, the officer shall make all reasonable efforts to assist the person in securing appropriate services; and shall also make all reasonable efforts to contact the individuals referenced in subparagraph (xii) of this paragraph to inform such individuals of the situation;

(x) the person is eighteen years of age or older and charged with a hate crime as defined in section 485.05 of the penal law; [~~or~~]

(xi) the offense is a qualifying offense pursuant to paragraph (t) of subdivision four of section 510.10 of this chapter, or pursuant to paragraph (t) of subdivision four of section 530.40 of this chapter[~~.~~] ; or

(xii) it has been reported to the officer by:

(A) any person eighteen years of age or older with whom the person resides; or

(B) the parent, spouse, sibling eighteen years of age or older, or child eighteen years of age or older of the person; or

(C) the director of a hospital in which the person is hospitalized; or

(D) the director of any public or charitable organization, agency or home providing mental health services to the person or in whose institution the person resides; or

(E) a qualified psychiatrist who is either supervising the treatment of or treating the person for a mental illness; or

(F) a psychologist, licensed pursuant to article one hundred fifty-three of the education law, or a social worker, licensed pursuant to article one hundred fifty-four of the education law, who is treating the person for a mental illness; or

(G) the director of community services, or his or her designee, or the social services official, as defined in the social services law, of the city or county in which the person is present or reasonably believed to be present; or

(H) a parole officer or probation officer assigned to supervise the person.

§ 4. The state finance law is amended by adding a new section 99-qq to read as follows:

§ 99-qq. Pretrial mental health and substance abuse services bail fund. 1. There is hereby established in the joint custody of the commissioner of taxation and finance and the state comptroller a special fund to be known as the "pretrial mental health and substance abuse services bail fund".

2. Such fund shall consist of all revenues received by the department of taxation and finance pursuant to the provisions of section 520.50 of the criminal procedure law, and all other moneys appropriated, credited, or transferred thereto from any other fund or source pursuant to law. Nothing contained herein shall prevent the state from receiving grants, gifts, or bequests for the fund and depositing them into the fund according to law.

3. Monies of the fund shall be expended only for reimbursement to counties for expenses incurred by such counties for pretrial mental health and/or substance abuse evaluations and treatment required pursuant to subdivision four of section 550.10 of the criminal procedure law.

4. Monies shall be payable from the fund on the audit and warrant of the comptroller on vouchers approved and certified by the commissioner of taxation and finance.

§ 5. This act shall take effect on the sixtieth day after it shall have become a law.