STATE OF NEW YORK

5485

2023-2024 Regular Sessions

IN SENATE

March 6, 2023

Introduced by Sen. FERNANDEZ -- read twice and ordered printed, and when printed to be committed to the Committee on Judiciary

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 abuse disorder or variation thereof

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

Section 1. Paragraph a of subdivision 1 of section 35 of the judiciary law, as amended by chapter 479 of the laws of 2022, is amended to read as follows:

a. When a court orders a hearing in a proceeding upon a writ of habeas corpus to inquire into the cause of detention of a person in custody in a state institution, or when it orders a hearing in a civil proceeding to commit or transfer a person to or retain him in a state institution when such person is alleged to be mentally ill, mentally defective or a [~~narcotic addict~~] **person with substance abuse disorder**, or when it orders a hearing for the commitment of the guardianship and custody of a child to an authorized agency by reason of the mental illness or developmental disability of a parent, or when it orders a hearing to determine whether consent to the adoption of a child shall be required of a parent who is alleged to be mentally ill or developmentally disabled, or when it orders a hearing to determine the best interests of a child when the parent of the child revokes a consent to the adoption of such child and such revocation is opposed or in any adoption or custody proceeding if it determines that assignment of counsel in such cases is mandated by the constitution of this state or of the United States, the court may assign counsel to represent such person if it is satisfied that he is financially unable to obtain counsel. Upon an appeal taken from an order entered in any such proceeding, the appellate court may assign counsel

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

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to represent such person upon the appeal if it is satisfied that he is financially unable to obtain counsel.

§ 2. Subdivision 4 of section 35 of the judiciary law, as amended by chapter 706 of the laws of 1975 and as renumbered by chapter 315 of the laws of 1985, is amended to read as follows:

4. In any proceeding described in paragraph (a) of subdivision one of this section, when a person is alleged to be mentally ill, mentally defective or a [~~narcotic addict~~] **person with substance abuse disorder**, the court which ordered the hearing may appoint no more than two psychiatrists, certified psychologists or physicians to examine and testify at the hearing upon the condition of such person. A psychiatrist, psychologist or physician so appointed shall, upon completion of his services, receive reimbursement for expenses reasonably incurred and reasonable compensation for such services, to be fixed by the court. Such compensation shall not exceed two hundred dollars if one psychiatrist, psychologist or physician is appointed, or an aggregate sum of three hundred dollars if two psychiatrists, psychologists or physicians are appointed, except that in extraordinary circumstances the court may provide for compensation in excess of the foregoing limits.

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

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

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

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

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

1. [~~"Addict"~~] **"Person with substance abuse disorder"** means a person who habitually uses a [~~controlled substance for a non-legitimate or unlawful use~~] **psychoactive or addictive substance**, and who by reason of such use is dependent thereon**, in spite of predictable negative consequences that might result.**

(a) For the purposes of this subdivision, the term "psychoactive or addictive substance" shall include, without limitation, the meanings of

the terms "narcotic drug", "drug", and "controlled substance" as those terms are defined in this section.

(b) For the purposes of this subdivision, the term "substance abuse disorder" shall mean the habitual use of a psychoactive or addictive substance, causing dependence thereon, in spite of predictable negative consequences that might result.

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

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

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

DISPENSING TO [~~ADDICTS~~] PERSONS WITH SUBSTANCE ABUSE DISORDER AND HABITUAL USERS

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

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

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

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

(a) during emergency medical treatment unrelated to abuse of controlled substances;

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

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

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

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

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

5. Methadone, or such other controlled substance designated by the commissioner as appropriate for such use, may be administered to [~~an~~

~~addict~~] a person with substance abuse disorder by a practitioner or by his designated agent acting under the direction and supervision of a practitioner, as part of a substance abuse or chemical dependence program approved pursuant to article twenty-three or thirty-two of the mental hygiene law.

§ 10. Section 3372 of the public health law, as amended by chapter 195 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 abuse 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 abuse 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 abuse disorders;

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

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

3. To create a referral program whereby [~~drug abusers, addicts~~] persons with substance abuse 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 abuse 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 abuse disorders;

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

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

3. To create a referral program whereby [~~drug abusers, addicts~~] persons with substance abuse disorders and persons and agencies

concerned with their treatment will make use of the aforementioned treatment facilities;

§ 13. This act shall take effect immediately.