

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:

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 in a state institution
8 when such person is alleged to be mentally ill, mentally defective or a
9 [~~narcotic-addict~~] person with substance abuse disorder, or when it
10 orders a hearing for the commitment of the guardianship and custody of a
11 child to an authorized agency by reason of the mental illness or devel-
12 opmental disability of a parent, or when it orders a hearing to deter-
13 mine whether consent to the adoption of a child shall be required of a
14 parent who is alleged to be mentally ill or developmentally disabled, or
15 when it orders a hearing to determine the best interests of a child when
16 the parent of the child revokes a consent to the adoption of such child
17 and such revocation is opposed or in any adoption or custody proceeding
18 if it determines that assignment of counsel in such cases is mandated by
19 the constitution of this state or of the United States, the court may
20 assign counsel to represent such person if it is satisfied that he is
21 financially unable to obtain counsel. Upon an appeal taken from an order
22 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.

LBD00243-01-3

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

20 § 3350. Dispensing prohibition. Controlled substances may not be
21 prescribed for, or administered or dispensed to [~~addicts~~] persons with
22 substance abuse disorder or habitual users of controlled substances,
23 except as provided by this title or title III.

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

27 § 3351. Dispensing for medical use. 1. Controlled substances may be
28 prescribed for, or administered or dispensed to [~~an addict~~] a person
29 with substance abuse disorder or habitual user:

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

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

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

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

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

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

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

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

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

8 § 3372. Practitioner patient reporting. It shall be the duty of every
9 attending practitioner and every consulting practitioner to report
10 promptly to the commissioner, or his duly designated agent, the name
11 and, if possible, the address of, and such other data as may be required
12 by the commissioner with respect to, any person under treatment if he
13 finds that such person is [~~an addict~~] a person with substance abuse
14 disorder or a habitual user of any narcotic drug. Such report shall be
15 kept confidential and may be utilized only for statistical, epidemiolog-
16 ical or research purposes, except that those reports which originate in
17 the course of a criminal proceeding other than under section 81.25 of
18 the mental hygiene law shall be subject only to the confidentiality
19 requirements of section thirty-three hundred seventy-one of this arti-
20 cle.

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

24 2. To establish in-patient and out-patient treatment facilities for
25 persons [~~addicted to the use of drugs and drug abusers~~] with substance
26 abuse disorders. Such facilities shall include, but shall not be limited
27 to:

28 a. detoxification centers and clinics for the out-patient treatment of
29 [~~drug abusers and addicts~~] persons with substance abuse disorders;

30 b. a treatment center where [~~drug abusers and addicts~~] persons with
31 substance abuse disorders may obtain professional counseling from physi-
32 cians, psychologists, psychiatrists and where possible, [~~former drug~~
33 ~~abusers and addicts~~] other persons with substance abuse disorders;

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

36 3. To create a referral program whereby [~~drug abusers, addicts~~]
37 persons with substance abuse disorders and persons and agencies
38 concerned with their treatment will make use of the aforementioned
39 treatment facilities;

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

43 2. To establish in-patient and out-patient treatment facilities for
44 persons [~~addicted to the use of drugs and drug abusers~~] with substance
45 abuse disorders. Such facilities shall include, but shall not be limited
46 to:

47 a. detoxification centers and clinics for the out-patient treatment of
48 [~~drug abusers and addicts~~] persons with substance abuse disorders;

49 b. a treatment center where [~~addicts~~] persons with substance abuse
50 disorders may obtain professional counseling from physicians, psychol-
51 ogists, psychiatrists and where possible, [~~former drug abusers and~~
52 ~~addicts~~] other persons with substance abuse disorders;

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

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

1 concerned with their treatment will make use of the aforementioned
2 treatment facilities;
3 § 13. This act shall take effect immediately.