

STATE OF NEW YORK

2719--B

2025-2026 Regular Sessions

IN ASSEMBLY

January 22, 2025

Introduced by M. of A. RAJKUMAR -- read once and referred to the Committee on Mental Health -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the mental hygiene law, the social services law, the correction law, the judiciary law, the criminal procedure law, the public health law and the administrative code of the city of New York, in relation to enacting the "empire state of mind act" to address the treatment of persons with mental illness; to amend chapter 554 of the laws of 1986, amending the correction law and the penal law relating to providing for community treatment facilities and establishing the crime of absconding from the community treatment facility, in relation to the effectiveness thereof; to amend the penal law, in relation to decriminalizing the possession of buprenorphine; and to repeal certain provisions of the correction law relating to certain limitations of community treatment facilities

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

1 Section 1. This act shall be known and may be cited as the "empire
2 state of mind act".

3 § 2. Subdivisions 3 and 20 of section 1.03 of the mental hygiene law,
4 subdivision 3 as amended by chapter 281 of the laws of 2019, subdivision
5 20 as added by chapter 978 of the laws of 1977, are amended and a new
6 subdivision 58-a is added to read as follows:

7 3. "Mental disability" means mental illness, intellectual disability,
8 or developmental disability~~[, or an addictive disorder as defined in~~
9 ~~this section]~~.

10 20. "Mental illness" means an affliction with a mental disease or
11 mental condition which is manifested by a disorder or disturbance in
12 behavior, feeling, thinking, or judgment to such an extent that the

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

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1 person afflicted requires care, treatment and rehabilitation; or an
2 addictive disorder as defined in this section.

3 58-a. "Behavioral health worker" means someone with expertise in
4 behavioral health services as defined in this section.

5 § 3. Section 9.01 of the mental hygiene law, as amended by chapter 723
6 of the laws of 1989, the seventh undesignated paragraph as amended by
7 chapter 595 of the laws of 2000, is amended to read as follows:

8 § 9.01 Definitions.

9 As used in this article:

10 (a) "in need of care and treatment" means that a person has a mental
11 illness for which in-patient care and treatment in a hospital or other
12 facility, or receipt of services pursuant to this chapter or the social
13 services law, is appropriate. Such services shall include, but are not
14 limited to, employment, health care, mental health care, educational or
15 vocational training, housing, and access to supportive outpatient facil-
16 ities such as clubhouses.

17 (b) "in need of involuntary care and treatment" means that a person
18 has a mental illness for which care and treatment as a patient in a
19 hospital is essential to [~~such person's welfare~~] prevent such person
20 from engaging in behavior likely to result in serious harm, and whose
21 judgment is so impaired that [~~he~~] such person is unable to understand
22 the need for such care and treatment.

23 (c) "likelihood to result in serious harm" or "likely to result in
24 serious harm" means [~~(a)~~] 1. a substantial risk of physical harm to the
25 person as manifested by threats of or attempts at suicide or serious
26 bodily harm or other conduct demonstrating that the person is dangerous
27 to [~~himself or herself~~] themselves, or [~~(b)~~] 2. a substantial risk of
28 physical harm to other persons as manifested by [~~homicidal or other~~
29 violent behavior by which others are placed in reasonable fear of seri-
30 ous physical harm] attempts at or perpetration of violence, or possess-
31 ing a weapon or an object that can be utilized as a weapon and using
32 such weapon or object in a manner consistent with a use that would
33 produce imminent physical harm to themselves or others; for the purposes
34 of this section, noncompliance with instructions from any police offi-
35 cer, peace officer, behavioral health worker or homeless outreach worker
36 in the absence of other threatening behavior shall not constitute
37 reasonable fear of serious physical harm; nor shall the fashioning of
38 any body part, or handling of any object that is not a firearm or compo-
39 nent thereof in such a manner consistent with operating a firearm,
40 constitute reasonable fear of serious physical harm.

41 (d) "need for retention" means that a person who has been admitted to
42 a hospital pursuant to this article is in need of involuntary care and
43 treatment in a hospital for a further period.

44 (e) "record" of a patient shall consist of admission, transfer or
45 retention papers and orders, and accompanying data required by this
46 article and by the regulations of the commissioner.

47 (f) "director of community services" means the director of community
48 services for the mentally disabled appointed pursuant to article forty-
49 one of this chapter.

50 (g) "qualified psychiatrist" means a physician licensed to practice
51 medicine in New York state who: [~~(a)~~] 1. is a diplomate of the American
52 board of psychiatry and neurology or is eligible to be certified by that
53 board; or [~~(b)~~] 2. is certified by the American osteopathic board of
54 neurology and psychiatry or is eligible to be certified by that board.

55 (h) "patient advocate" means an individual or organization with exper-
56 tise in navigating behavioral health and homelessness intervention

1 services that provides assistance and representation to a patient
2 receiving healthcare, in support of such person's welfare. Such patient
3 advocate may be an employee of an agency engaged in homelessness inter-
4 vention services; an employee or volunteer of a homelessness inter-
5 vention services organization; a mental health expert; or a person who
6 has experienced homelessness; provided, however, that such patient advo-
7 cate shall not be a current employee or other agent of a for-profit
8 entity providing homelessness intervention services.

9 (i) "homeless outreach worker" shall mean a person with expertise in
10 provision of homelessness intervention services, behavioral health, and
11 engagement with homeless individuals to compel receipt of such services;
12 may be an employee of an agency engaged in homelessness intervention
13 services an employee or volunteer of a homelessness intervention
14 services organization; a behavioral health expert; or a person who has
15 experienced homelessness; provided, however, that such homeless outreach
16 worker shall not be a current employee or other agent of a for-profit
17 entity providing homelessness intervention services.

18 (j) "empath unit" means a facility that provides emergency treatment
19 to patients with mental illness without unnecessary long-term admission,
20 including a crisis stabilization center as provided for in section 36.01
21 of this chapter.

22 (k) "clubhouse" means a non-emergency medical facility and community-
23 based psycho-social rehabilitation center that provides structured,
24 evidence-based services for individuals living with mental illness,
25 including:

26 (i) employment assistance, workforce development, and job placement;
27 (ii) housing assistance, supportive housing navigation, and homeless-
28 ness prevention;
29 (iii) educational and skills training programs;
30 (iv) peer support groups and mental health counseling;
31 (v) crisis intervention and suicide prevention services;
32 (vi) re-entry support for justice-involved individuals; and
33 (vii) veteran services, including post-traumatic stress disorder
34 support and United States department of veterans' affairs benefit navi-
35 gation.

36 § 4. Section 7.17 of the mental hygiene law is amended by adding a new
37 subdivision (h) to read as follows:

38 (h) The commissioner shall establish at least one empath unit, as such
39 term is defined in section 9.01 of this title, in each county in the
40 state.

41 § 5. Paragraph 2 of subdivision (a) of section 9.48 of the mental
42 hygiene law, as added by chapter 408 of the laws of 1999, is amended to
43 read as follows:

44 (2) The directors of assisted outpatient treatment programs shall
45 ensure the timely delivery of services described in paragraph one of
46 subdivision (a) of section 9.60 of this article pursuant to any court
47 order issued under such section. Directors of assisted outpatient treat-
48 ment programs shall immediately commence corrective action upon receiv-
49 ing notice from program coordinators, that services are not being
50 provided in a timely manner. Such directors shall inform the program
51 coordinator of such corrective action. Assertive community treatment
52 team services which have been court ordered, requested by a homeless
53 individual, or otherwise directed under this article shall be provided
54 within thirty days of such order or upon request of the application. For
55 the purposes of such service provision, there shall be a presumption of

eligibility to the maximum extent possible and confirmation of eligibility shall occur subsequent to program admission.

§ 6. Paragraph 2 of subdivision (b) of section 9.27 of the mental hygiene law, as amended by chapter 343 of the laws of 1985, is amended and a new paragraph 12 is added to read as follows:

2. the ~~[father or mother, husband or wife, brother or sister,]~~ parent or legal guardian, spouse, sibling or the child of any such person or the nearest available relative.

12. a behavioral health worker acting as an agent of the city or county in which any such person may be.

§ 7. Section 9.27 of the mental hygiene law is amended by adding a new subdivision (j) to read as follows:

(j) A patient subject to an involuntary admission under this article shall be entitled to be placed in a room with a window and access to a restroom, with no more than one additional patient in the room, and shall not be physically restrained unless such patient is determined to be dangerous.

§ 8. Subdivisions (a) and (d) of section 9.33 of the mental hygiene law, as amended by chapter 789 of the laws of 1985, are amended to read as follows:

(a) If the director shall determine that a patient admitted upon an application supported by medical certification, for whom there is no court order authorizing retention for a specified period, is in need of retention or transfer to the jurisdiction of the department for retention in a hospital operated by the state or to a private facility having an appropriate operating certificate, and if such patient does not agree to remain in such hospital as a voluntary patient or agree to such transfer, the director shall apply to the supreme court or the county court in the county where the hospital is located for an order authorizing continued retention. Such application shall be made no later than sixty days from the date of involuntary admission on application supported by medical certification or thirty days from the date of an order denying an application for patient's release pursuant to section 9.31, whichever is later; and the hospital is authorized to retain the patient or transfer such patient to the jurisdiction of the department for retention in a hospital operated by the state or a private facility having an appropriate operating certificate for such further period during which the hospital is authorized to make such application or during which the application may be pending. The director shall cause written notice of such application to be given the patient and a copy thereof shall be given personally or by mail to the persons required by this article to be served with notice of such patient's initial admission and to the mental hygiene legal service. Such notice shall state that a hearing may be requested and that failure to make such a request within five days, excluding Sunday and holidays, from the date that the notice was given to the patient will permit the entry without a hearing of an order authorizing retention or transfer.

(d) If the director of a hospital, in which a patient is retained pursuant to the foregoing subdivisions of this section, shall determine that the condition of such patient requires ~~[his]~~ further retention in a hospital or transfer to a private facility having an appropriate operating certificate, ~~[he]~~ the director shall, if such patient does not agree to remain in such hospital as a voluntary patient or does not agree to a transfer, apply during the period of retention authorized by the last order of the court to the supreme court or the county court in the county where the hospital is located for an order authorizing further

1 continued retention or the transfer of such patient. The procedures for
2 obtaining any order pursuant to this subdivision shall be in accordance
3 with the provisions of the foregoing subdivisions of this section;
4 provided that the patient or anyone on [~~his~~] their behalf or the mental
5 hygiene legal service may request that the patient be brought personally
6 before the court, in which case the court shall not grant an order for
7 periods of one year or longer unless such patient shall have appeared
8 personally before the court. The period for continued retention pursuant
9 to the first order obtained under this subdivision shall authorize
10 further continued retention of the patient for not more than one year
11 from the date of the order. The period for the further continued
12 retention of the patient authorized by any subsequent order under this
13 subdivision shall be for periods not to exceed two years each from the
14 date of the order.

15 § 9. Section 9.03 of the mental hygiene law, as amended by chapter 351
16 of the laws of 2021, is amended to read as follows:

17 § 9.03 Admission to a hospital.

18 (a) Unless otherwise specifically provided for by statute, a person
19 with a mental illness shall be admitted to a hospital as an in-patient
20 only pursuant to the provisions of this article, except that chemically
21 dependent patients may be admitted to chemical dependence facilities
22 operated by such hospitals under contract or agreement with the office
23 of [~~alcoholism and substance abuse~~] addiction services and supports in
24 accordance with the provisions of article twenty-two of this chapter.
25 The section of the mental hygiene law under which a patient is admitted
26 or under which any change of legal status is subsequently effected shall
27 be stated in the patient's record.

28 (b) A patient admitted pursuant to this article shall be assigned a
29 patient advocate, as defined in this article, within twenty-four hours
30 of such admission.

31 § 10. Section 33.27 of the mental hygiene law is amended by adding a
32 new subdivision (d) to read as follows:

33 (d) Within twenty-four hours of admission to any facility operated or
34 licensed by the office of mental health a patient shall be informed of
35 their right to file a complaint with the ombudsman.

36 § 11. Section 33.27 of the mental hygiene law is amended by adding a
37 new subdivision (e) to read as follows:

38 (e) The office of the independent substance use disorder and mental
39 health ombudsman shall annually publish a report on involuntary admis-
40 sions that shall include the demographics of people admitted, the number
41 of complaints to the office, the due process for people admitted, the
42 nature of services provided after discharges, and the mental health and
43 housing stability outcomes of involuntary admissions.

44 § 12. The mental hygiene law is amended by adding a new section 22.13
45 to read as follows:

46 § 22.13 Medically recommended treatment.

47 Any addictive disorder services pursuant to this article shall include
48 medically recommended treatment by a person licensed to practice medi-
49 cine as set forth in article one hundred thirty-one of the education
50 law.

51 § 13. Section 29.07 of the mental hygiene law, subdivision (b) as
52 amended by chapter 37 of the laws of 2011, is amended to read as
53 follows:

54 § 29.07 Commissioner's powers over admissions to department facilities.

55 (a) [~~The commissioner may by order defer admissions to~~] If the commis-
56 sioner shall determine that overcrowding exists in any facility in the

1 department when the total number of patients therein exceeds its capaci-
2 ty to an extent which will not permit adequate care and treatment to be
3 provided patients, such commissioner shall authorize admission to another
4 facility with an appropriate operating certificate. The commissioner
5 may not defer admissions unless there is a state declaration of disaster
6 emergency pursuant to article two-B of the executive law.

7 (b) If the commissioner shall determine that overcrowding exists in
8 the department schools, ~~[he]~~ the commissioner may, within the amounts
9 appropriated therefor, authorize admission for care and treatment of any
10 person with a developmental disability to a designated facility approved
11 for such purposes by the commissioner. The patient and any liable rela-
12 tives shall be liable for payment of fees in accordance with article
13 forty-three of this chapter.

14 § 14. Subdivision (a) of section 9.47 of the mental hygiene law, as
15 amended by section 15 of chapter 351 of the laws of 2021, is amended to
16 read as follows:

17 (a) All directors of community services, health officers, and social
18 services officials, as defined by the social services law, are charged
19 with the duty of seeing that all persons with a mental illness within
20 their respective communities who are in need of or request medically
21 recommended care and treatment ~~[at a hospital]~~ are admitted to a hospi-
22 tal or other facility, or receive other services pursuant to the
23 provisions of this article or the social services law. Such services
24 shall include, but are not limited to, employment, health care, mental
25 health care, educational or vocational training, housing, and access to
26 supportive outpatient facilities such as clubhouses. Social services
27 officials and health officers shall notify the director of community
28 services of any such person coming to their attention. Pending the
29 determination of the condition of an alleged person with a mental
30 illness, it shall be the duty of the director of community services and,
31 if there be no such director, of the local health officer to provide for
32 the proper care of such person ~~[in a suitable facility]~~.

33 § 15. The opening paragraph of section 9.47 of the mental hygiene law,
34 as amended by section 16 of chapter 351 of the laws of 2021, is amended
35 to read as follows:

36 All directors of community services, health officers, and social
37 services officials, as defined by the social services law, are charged
38 with the duty of seeing that all persons with a mental illness within
39 their respective communities who are in need of or request medically
40 recommended care and treatment ~~[at a hospital]~~ are admitted to a hospi-
41 tal or other facility, or receive other services pursuant to the
42 provisions of this article or the social services law. Such services
43 shall include, but are not limited to, employment, health care, mental
44 health care, educational or vocational training, housing, and access to
45 supportive outpatient facilities such as clubhouses. Social services
46 officials and health officers shall notify the director of community
47 services of any such person coming to their attention. Pending the
48 determination of the condition of an alleged person with a mental
49 illness, it shall be the duty of the director of community services and,
50 if there be no such director, of the local health officer to provide for
51 the proper care of such person ~~[in a suitable facility]~~.

52 § 16. Subdivision (d) of section 9.37 of the mental hygiene law, as
53 amended by chapter 357 of the laws of 1991 and as relettered by chapter
54 343 of the laws of 1996, is amended to read as follows:

55 (d) After signing the application, the director of community services
56 or the director's designee shall be authorized and empowered to take

1 into custody, detain, transport, and provide temporary care for any such
2 person. Upon the written request of such director or the director's
3 designee it shall be the duty of a behavioral health worker or homeless
4 outreach worker to take into custody and transport any such person as
5 requested and directed by such director or designee. Such person or
6 persons may request and shall receive the accompaniment of peace offi-
7 cers, when acting pursuant to their special duties, or police officers
8 who are members of the state police or of an authorized police depart-
9 ment or force or of a sheriff's department [~~to take into custody and~~
10 ~~transport any such person as requested and directed by such director or~~
11 ~~designee~~]. No officer shall use coercive force to take a person into
12 custody or pursue any such person who flees unless directed by a behav-
13 ioral health worker or homeless outreach worker and, if so directed,
14 must refrain from any further coercion or pursuit at such direction;
15 provided, however, that this shall not apply to detaining a person
16 engaging in behavior likely to result in serious harm. Upon the written
17 request of such director or designee, an ambulance service, as defined
18 in subdivision two of section three thousand one of the public health
19 law, is authorized to transport any such person.

20 § 17. Intentionally omitted.

21 § 18. The mental hygiene law is amended by adding a new section 7.10
22 to read as follows:

23 § 7.10 Regulation and quality control of services for individuals with
24 severe mental illness.

25 This article sets forth provisions enabling the commissioner to regu-
26 late and assure the consistent high quality of treatment and services
27 provided within the state to individuals with severe mental illness.
28 The commissioner shall evaluate behavioral health outcomes, as well as
29 issuance of treatment plans pursuant to section 29.13 of this chapter.
30 The commissioner may adopt and promulgate any regulation reasonably
31 necessary to implement and effectively exercise the powers and perform
32 the duties conferred by this article. This article shall govern the
33 operation of programs, provision of services and the facilities herein-
34 after described and the commissioner's powers and authority with respect
35 thereto.

36 § 19. Subdivision (n) of section 19.07 of the mental hygiene law, as
37 added by chapter 762 of the laws of 2022, is relettered subdivision (o)
38 and a new subdivision (p) is added to read as follows:

39 (p) The office shall not adopt any regulations on the dispensing of
40 opioid agonists, including but not limited to methadone, which would
41 result in additional limitations to access, continuing treatment,
42 dosing, and dispensing for home use, beyond those enumerated in federal
43 law and any waivers issued by the federal government.

44 § 20. Section 29.13 of the mental hygiene law, as added by chapter 332
45 of the laws of 1976, subdivision (b) as amended by chapter 135 of the
46 laws of 1993, is amended to read as follows:

47 § 29.13 Treatment plans.

48 (a) Subject to the regulations of the commissioner, the director of
49 each departmental facility shall require the development of a written
50 treatment plan to assure adequate [~~care and~~] treatment for the health,
51 economic security, housing security, and welfare of each patient.

52 (b) The written treatment plan shall include, but not be limited to, a
53 statement of treatment goals; appropriate programs, treatment or thera-
54 pies to be undertaken to meet such goals; services pursuant to this
55 article and the social services law including, but not limited to,
56 employment, educational or vocational training, housing, and access to

1 supportive outpatient facilities such as clubhouses; and a specific
2 timetable for assessment of patient programs as well as for periodic
3 mental and physical reexaminations. In causing such a plan to be
4 prepared or when such a plan is to be revised, the following persons
5 shall be interviewed and provided an opportunity to actively participate
6 in such preparation or revision: the patient; ~~an~~ the patient advocate
7 or other authorized representative of the patient, to include the parent
8 or parents if the patient is a minor, unless such minor sixteen years of
9 age or older objects to the participation of the parent or parents and
10 there has been a clinical determination by a physician indicating that
11 the involvement of the parent or parents is not clinically appropriate
12 and such determination is documented in the record; upon the request of
13 the patient sixteen years of age or older, a significant individual to
14 the patient including any relative, close friend or individual otherwise
15 concerned with the welfare of the patient, other than an employee of the
16 facility.

17 (c) The director of each facility, in conjunction with a patient advo-
18 cate and any service provider for such discharged patient, shall monitor
19 the patient for at least thirty days to ensure compliance with the
20 patient treatment plan. If such patient is not in compliance, the local
21 social services commissioner shall make a good faith effort to locate
22 the patient and return them to treatment, and monitor such patient for
23 at least an additional thirty days to ensure compliance.

24 (d) The commissioner may suspend, revoke, or limit the operating
25 certificate of any facility found not to be providing medically recom-
26 ended treatment plans pursuant to this section.

27 § 21. Subdivision (k) of section 29.15 of the mental hygiene law, as
28 amended by chapter 433 of the laws of 1976, is amended to read as
29 follows:

30 (k) 1. No patient shall be discharged or conditionally released until
31 such patient and the patient advocate approve the written treatment plan
32 developed under section 29.13 of this article. No patient shall be
33 required, as a condition precedent to ~~his~~ discharge, to agree to the
34 terms of a written ~~service~~ treatment plan. If after the advisability
35 of following the program proposed in the written ~~service~~ treatment
36 plan has been explained to the patient who has been discharged or who is
37 to be discharged, such patient expresses ~~his~~ their objection to such
38 program or any part thereof, a notation of such objection shall be made
39 in the patient's records.

40 2. A patient with a mental illness diagnosis may request and shall be
41 entitled to receive inpatient or outpatient treatment recommended for
42 such condition, irrespective of the ability of such person to pay. For
43 the purposes of such treatment, a patient may be relocated to another
44 facility having an appropriate operating certificate. In the absence of
45 documentation of a mental illness diagnosis, attestation by the patient
46 shall serve as presumptive evidence of such condition.

47 3. Upon discharge or conditional release, a patient shall be entitled
48 to costs of transportation either to their place of usual residence, or
49 another requested destination, if a social services official, in consul-
50 tation with a patient advocate, determines that such person will have
51 adequate support for their welfare.

52 § 22. The mental hygiene law is amended by adding two new sections
53 9.34 and 9.36 to read as follows:

54 § 9.34 Court authorization to continued inpatient treatment and care.

55 (a) If the director shall determine that a patient admitted upon an
56 application supported by medical certification, for whom there is no

1 court order authorizing retention for a specified period, is in need of
2 discharge and if such patient or patient advocate does not agree with
3 such discharge, the patient or anyone on their behalf shall apply to the
4 supreme court or the county court in the county where the hospital is
5 located for an order for continued inpatient treatment and care at the
6 discretion of the patient. The hospital shall retain the patient for
7 such further period. The court shall cause written notice of such appli-
8 cation to be given to the director and a copy thereof shall be given
9 personally or by mail to the persons required by this article to be
10 served with notice of such patient's initial admission and to the mental
11 hygiene legal service. Such notice shall state that a hearing may be
12 requested and that failure to make such a request within five days,
13 excluding Sunday and holidays, from the date that the notice was given
14 to the director will permit the entry without a hearing of an order
15 authorizing continued inpatient treatment and care.

16 (b) If no request is made for a hearing on behalf of the director
17 within five days, excluding Sunday and holidays, from the date such
18 notice of such application was given to such director, and if the mental
19 hygiene legal service has not requested a hearing, the court receiving
20 the application may, if satisfied that the patient requires continued
21 inpatient care and treatment or transfer and continued retention, imme-
22 diately issue an order authorizing continued inpatient treatment and
23 care for such patient in such hospital.

24 (c) Upon the demand of the patient or of anyone on their behalf or
25 upon request of the mental hygiene legal service, the court shall, or
26 may on its own motion, fix a date for the hearing of the application, in
27 like manner as is provided for hearings in section 9.31 of this article.
28 The provisions of such section shall apply to the procedure for obtain-
29 ing and holding a hearing and to the granting or refusal to grant an
30 order of continued inpatient treatment and care by the court, except
31 that if the patient has already had a hearing, they shall not have the
32 right to designate initially the county in which the hearing shall be
33 held.

34 (d) If the director of a hospital, in which a patient is retained
35 pursuant to the foregoing subdivisions of this section, shall determine
36 that the condition of such patient requires discharge, such director
37 shall, if such patient does not agree to such discharge, apply during
38 the period of retention authorized by the last order of the court to the
39 supreme court or the county court in the county where the hospital is
40 located for an order authorizing discharge of such patient. The proce-
41 dures for obtaining any order pursuant to this subdivision shall be in
42 accordance with the provisions of the foregoing subdivisions of this
43 section; provided that the patient or anyone on such patient's behalf or
44 the mental hygiene legal service may request that the patient be brought
45 personally before the court.

46 (e) Nothing in this section shall prohibit the patient from voluntar-
47 ily agreeing to such discharge at any time; provided, however, that such
48 patient may not receive remuneration to agree to such discharge.

49 § 9.36 Review of court authorization to continued inpatient care and
50 treatment.

51 (a) If a hospital that has been ordered to continue provision of inpa-
52 tient treatment and care be dissatisfied with any such order, the direc-
53 tor may, during the period of authorized continued treatment and care,
54 obtain a rehearing and a review of the proceedings already had and of
55 such order upon a petition to a justice of the supreme court other than
56 the judge or justice presiding over the court making such order. Such

1 justice shall cause a jury to be summoned and shall try the question of
2 the mental illness and the need for retention of the patient so author-
3 ized to receive continued inpatient treatment and care. Any such direc-
4 tor applying for such review may waive the trial of the fact by a jury
5 and consent in writing to trial of such fact by the court. If the
6 verdict of the jury, or the decision of the court when jury trial has
7 been waived, be that such person does not have a mental illness or is
8 not in need of retention the justice shall forthwith discharge such
9 patient, but if the verdict of the jury, or the decision of the court
10 where a jury trial has been waived, be that such person is in need of
11 retention the justice shall certify that fact and make an order author-
12 izing continued inpatient treatment and care. Such order shall be
13 presented, at the time of authorization, to, and filed with, the direc-
14 tor, and a copy thereof shall be forwarded to the department by such
15 director and filed in the office thereof. Proceedings under the order
16 shall not be stayed pending an appeal therefrom, except upon an order of
17 a justice of the supreme court, made upon a notice and after a hearing,
18 with provisions made therein for such temporary care or confinement of
19 the alleged person with a mental illness as may be deemed necessary.

20 (b) Nothing in this section shall prohibit the patient from voluntar-
21 ily agreeing to such discharge at any time; provided, however, that such
22 patient may not receive remuneration to agree to such discharge.

23 § 23. Section 29.19 of the mental hygiene law, as amended by chapter
24 408 of the laws of 1999, is amended to read as follows:

25 § 29.19 Powers and duties ~~[of peace officers acting pursuant to their~~
26 ~~special duties and police officers]~~ to apprehend, restrain,
27 and transport persons to facilities.

28 A person who has been committed or admitted to a department facility
29 or a hospital licensed or operated by the office of mental health and
30 who has been reported as escaped therefrom or from lawful custody, or
31 who resists or evades lawful custody; and any patient for whom the
32 director of a hospital operated by the office of mental health, or the
33 director's designee, has terminated a conditional release and ordered
34 such patient to return to such facility; and any patient for whom a
35 director of an assisted outpatient treatment program, as defined in
36 subdivision (a) of section 9.60 of this chapter, or the director's
37 designee, or anyone designated pursuant to section 9.37 of this chapter,
38 has directed the removal to a hospital pursuant to subdivision (n) of
39 section 9.60 of this chapter, may be apprehended, restrained, trans-
40 ported to, and returned to such school or hospital by any behavioral
41 health worker or homeless outreach worker, who may request the assist-
42 ance of a peace officer, acting pursuant to ~~[his]~~ their special duties,
43 or any police officer who is a member of an authorized police department
44 or force or of a sheriff's department, and it shall be the duty of any
45 such officer to assist any representative of a department or licensed
46 facility, or an assisted outpatient treatment program, to take into
47 custody any such person or patient upon the request of such represen-
48 tative, director or designee. No officer shall use coercive force to
49 take a person into custody or pursue any such person who flees unless
50 directed by a behavioral health worker or homeless outreach worker, and
51 if so directed must refrain from any further coercion or pursuit at such
52 direction; provided, however, that this shall not apply to detaining a
53 person engaging in behavior likely to result in serious harm.

54 § 24. Section 29.19 of the mental hygiene law, as amended by chapter
55 843 of the laws of 1980, is amended to read as follows:

§ 29.19 Powers and duties of peace officers acting pursuant to their special duties and police officers to apprehend, restrain, and transport persons to facilities.

A person who has been committed or admitted to a department facility and who has been reported as escaped therefrom or from lawful custody, or who resists or evades lawful custody, may be apprehended, restrained, transported to, and returned to such school or hospital by any behavioral health worker or homeless outreach worker, who may request the assistance of a peace officer, acting pursuant to ~~his~~ their special duties, or any police officer, and it shall be the duty of any such officer to assist any representative of a department facility to take into custody any such person upon the request of such representative. No officer shall use coercive force to take a person into custody or pursue any such person who flees unless directed by a behavioral health worker or homeless outreach worker, and if so directed must refrain from any further coercion or pursuit at such direction; provided, however, that this shall not apply to detaining a person engaging in behavior likely to result in serious harm.

§ 25. Subdivisions (c) and (e) of section 29.27 of the mental hygiene law, as amended by chapter 322 of the laws of 2021, are amended to read as follows:

(c) An incarcerated individual-patient may be retained for care and treatment in the facility designated by the commissioner for the period stated in the order committing the incarcerated individual-patient to the custody of the department unless sooner transferred or discharged in accordance with law. If the incarcerated individual-patient requires inpatient care and treatment for mental illness beyond such authorized period such person may request and shall receive medically recommended services, irrespective of ability to pay. If such person does not voluntarily accept treatment, the director of the facility where ~~he or she is~~ they are kept in custody shall apply for an order of retention or subsequent orders of retention in accordance with the procedures set forth in article nine of this chapter for the retention of patients. The provisions of this chapter applying to the rights of patients with respect to notices, hearings, judicial review, writ of habeas corpus, and the services of the mental hygiene legal service shall apply to incarcerated individual-patients except that in no case shall an incarcerated individual-patient be discharged or released from custody prior to the time that such incarcerated individual-patient has completed ~~his or her~~ their term of imprisonment or that ~~his or her~~ their release from custodial confinement in the correctional facility or jail from which ~~he or she~~ such individual was delivered to the department has been duly authorized.

(e) When the director of the facility in which the incarcerated individual-patient is in custody finds that the incarcerated individual-patient is no longer mentally ill or no longer requires hospitalization for care and treatment, ~~he or she~~ they shall so notify the incarcerated individual-patient and commissioner of corrections and community supervision or, in the case of an incarcerated individual-patient coming from a jail or correctional institution operated by local government, the officer in charge of the jail or correctional institution from which the incarcerated individual-patient was committed. The commissioner of corrections and community supervision or such officer, as the case may be, shall immediately arrange to take such incarcerated individual-patient into custody and return ~~him or her~~ them to a correctional facility or to the jail or correctional institution operated by local govern-

ment. Upon return to the correctional institution, such incarcerated individual shall be eligible for review for merit termination of sentence and discharge from presumptive release, parole, conditional release and release to post-release supervision pursuant to section two hundred five of the correction law.

§ 26. Subdivision 1 of section 43 of the social services law, as amended by chapter 458 of the laws of 1986, is amended and a new subdivision 12 is added to read as follows:

1. ~~[Within the limits of funds available in the homeless housing and assistance fund, the]~~ The commissioner is hereby authorized to enter into contracts with municipalities to provide state financial assistance for the project costs attributable to the establishment of homeless housing projects. The municipalities that enter into contracts with the commissioner shall undertake the establishment of the homeless housing project or shall contract with a not-for-profit corporation or charitable organization to undertake the project, pursuant to this article.

12. No later than five years after the effective date of this subdivision, no municipality, not-for-profit corporation or subsidiary thereof, public corporation or charitable organization or subsidiary thereof shall operate, enter into or renew a contract for any homeless housing project intended for occupancy more than ninety days other than a shelter composed of single room occupancy units; provided, however that this shall not apply to any homeless housing project exclusively for use by individuals who change their country of usual residence to seek temporary or permanent residence in another country, and who have applied for asylum under 8 U.S. Code § 1158, or are eligible to apply.

§ 27. Subdivision 5 of section 45 of the social services law, as amended by chapter 349 of the laws of 1994, is amended to read as follows:

5. "Single room occupancy unit" shall mean a private room providing living and sleeping space for no more than two persons with access to bathing and toilet facilities, within a building or portion thereof which is operated by an eligible applicant~~[-; provided, however, that in no event shall such unit be located in:~~

~~(a) hotels, motels or other dwellings occupied transiently;~~
~~(b) shelters for families or adults, as defined by the commissioner;~~
~~(c) residential facilities or institutions which are required to be licensed by any state agency;~~
~~(d) college or school dormitories;~~
~~(e) clubhouses;~~
~~(f) housing intended for use primarily or exclusively by the employees of a single company or institution; or~~
~~(g) convents or monasteries];~~ or a living and sleeping space for no more than one family that contains its own cooking, bathing, and toilet facilities for exclusive use by such family.

The unit itself may contain a kitchen and/or a bathroom.

§ 28. Subdivision 4 of section 81 of the social services law, as amended by chapter 863 of the laws of 1977, is amended to read as follows:

4. Such annual reports shall include an itemized statement of all money received by the social services official and all money expended ~~[by him]~~, and a detailed statement in regard to the recipients of public assistance and care, and outcomes of homeless persons served that shall include but is not limited to housing stability, behavioral health outcomes, and employment. Town and city social services officers shall furnish the county commissioner with all data, relating to their work

1 and persons in receipt of public assistance and care, necessary to
2 enable the county commissioner to make the reports required by the
3 department.

4 § 29. Section 71-a of the correction law, as amended by chapter 322 of
5 the laws of 2021, is amended to read as follows:

6 § 71-a. Transitional accountability plan. Upon admission of an incar-
7 cerated individual committed to the custody of the department under an
8 indeterminate or determinate sentence of imprisonment, the department
9 shall develop a transitional accountability plan. Such plan shall be a
10 comprehensive, dynamic and individualized case management plan based on
11 the programming and treatment needs of the incarcerated individual. The
12 purpose of such plan shall be to promote the rehabilitation of the
13 incarcerated individual and their successful and productive reentry and
14 reintegration into society upon release. To that end, such plan shall be
15 used to prioritize programming and treatment services for the incarcer-
16 ated individual during incarceration and any period of community super-
17 vision. The commissioner ~~[may]~~ shall consult with the office of mental
18 health, the office of ~~[alcoholism and substance abuse]~~ addiction
19 services and supports, the board of parole, the department of health,
20 and other appropriate agencies in the development of transitional case
21 management plans.

22 § 30. Paragraph (c) of subdivision 6 of section 72-a of the correction
23 law is REPEALED.

24 § 31. Section 5 of chapter 554 of the laws of 1986, amending the
25 correction law and the penal law relating to providing for community
26 treatment facilities and establishing the crime of absconding from the
27 community treatment facility, as amended by section 22 of part A of
28 chapter 55 of the laws of 2023, is amended to read as follows:

29 § 5. This act shall take effect immediately and shall remain in full
30 force and effect until September 1, ~~[2025]~~ 2027, and provided further
31 that the commissioner of correctional services shall report each January
32 first and July first during such time as this legislation is in effect,
33 to the ~~[chairmen]~~ chair of the senate crime victims, crime and
34 correction committee, the senate codes committee, the assembly
35 correction committee, and the assembly codes committee, the number of
36 individuals who are released to community treatment facilities during
37 the previous six-month period, including the total number for each date
38 at each facility who are not residing within the facility, but who are
39 required to report to the facility on a daily or less frequent basis.

40 § 32. Subdivisions 5 and 15 of section 201 of the correction law,
41 subdivision 5 as amended by chapter 484 of the laws of 2022, subdivision
42 15 as added by section 32 of subpart A of part C of chapter 62 of the
43 laws of 2011, are amended to read as follows:

44 5. The department shall assist incarcerated individuals eligible for
45 community supervision and individuals who are on community supervision
46 to secure employment, educational or vocational training, ~~[and]~~
47 and treatment pursuant to the mental hygiene law. Any program the
48 department requires a person on community supervision to take as a
49 condition of such supervision shall not unreasonably interfere with such
50 person's employment, educational or vocational training schedule unless
51 such program is a residential treatment program.

52 15. The commissioner shall provide an annual report to the temporary
53 president of the senate, the speaker of the assembly, the minority lead-
54 er of the senate and minority leader of the assembly, commencing January
55 first, two thousand twelve. Such report shall include but not be limited
56 to the number of persons: released to community supervision and the

1 release type; supervised on community supervision during the preceding
2 year; whose community supervision was revoked; returned to incarceration
3 for conviction of a new felony committed while on community supervision;
4 transferred out of state pursuant to the Interstate Compact for Adult
5 Supervision. In addition, the commissioner shall provide information on
6 behavioral health and housing outcomes, and other available information
7 regarding community supervision to the temporary president of the
8 senate, the speaker of the assembly, the minority leader of the senate
9 and minority leader of the assembly upon request.

10 § 33. Section 205 of the correction law is amended by adding a new
11 subdivision 1-a to read as follows:

12 1-a. A merit termination may be granted if it is determined by the
13 department that such person cannot be reasonably expected to reoffend if
14 provided services pursuant to the social services law or the mental
15 hygiene law, and such person is not on presumptive release, parole,
16 conditional release or release to post-release supervision from a term
17 of imprisonment imposed for any of the following offenses:

18 (a) murder in the first degree;

19 (b) unlawful imprisonment in the first degree, kidnapping in the first
20 degree, or kidnapping in the second degree, in which the victim is less
21 than seventeen years old and the offender is not the parent of the
22 victim;

23 (c) an offense defined in article two hundred thirty of the penal law
24 involving the prostitution of a person less than nineteen years old; or

25 (d) an offense defined in article two hundred sixty-three of the penal
26 law.

27 § 34. Paragraph (c) of subdivision 1 of section 273 of the correction
28 law, as added by section 1 of part SS of chapter 56 of the laws of 2009,
29 is amended to read as follows:

30 (c) having verified community ties in one of the following areas:
31 employment^[7]; permanent residence or receipt of homelessness inter-
32 vention services; and family.

33 § 35. Subdivision 6 of section 400 of the correction law, as added by
34 chapter 766 of the laws of 1976, is amended to read as follows:

35 (6) "Mental illness" means an affliction with a mental disease or
36 mental condition which is manifested by a disorder or disturbance in
37 behavior, feeling, thinking, or judgment to such an extent that the
38 person afflicted requires care and treatment; or an addictive disorder
39 as defined in the mental hygiene law.

40 § 36. Section 401 of the correction law is amended by adding a new
41 subdivision 1-a to read as follows:

42 1-a. A mental health clinician, or the highest ranking facility secu-
43 rity supervisor in consultation with a mental health clinician who has
44 interviewed the incarcerated individual, may determine that such incar-
45 cerated individual can receive therapeutic programming and/or mental
46 health treatment in an outpatient facility with an appropriate operating
47 certificate while living out-of-cell if such incarcerated person is
48 reasonably safe to be at-large. Such determination shall be documented
49 in writing.

50 § 37. Subdivision 6 of section 401 of the correction law, as separate-
51 ly amended by section 9 of part NNN of chapter 59 and chapter 322 of the
52 laws of 2021, is amended to read as follows:

53 6. The department shall ensure that the curriculum for new correction
54 officers, and other new department staff who will regularly work in
55 programs providing mental health treatment for incarcerated individuals,
56 shall include at least eight hours of training about the types and symp-

1 toms of mental illnesses, the goals of mental health treatment, the
2 prevention of suicide and training in how to effectively and safely
3 manage incarcerated individuals with mental illness. Such training may
4 be provided by the office of mental health or the justice center for the
5 protection of people with special needs. All department staff who are
6 transferring into a residential mental health treatment unit shall
7 receive a minimum of eight additional hours of such training, and eight
8 hours of annual training as long as they work in such a unit. All secu-
9 rity, program services, mental health and medical staff with direct
10 incarcerated individual contact shall receive training each year regard-
11 ing identification of, and care for, incarcerated individuals with
12 mental illnesses. The department shall provide additional training on
13 these topics on an ongoing basis as it deems appropriate. All staff
14 working in a residential mental health treatment unit shall also receive
15 the training mandated in paragraph (n) of subdivision six of section one
16 hundred thirty-seven of this chapter. All department staff shall have
17 the obligation to report signs of mental illness to a supervisor.

18 § 38. Subdivisions 1, 2, 3, 9 and 10 of section 402 of the correction
19 law, as amended by chapter 351, subdivisions 1, 2, 3 and 9 as separately
20 amended by chapter 322 of the laws of 2021, are amended and a new subdi-
21 vision 12-a is added to read as follows:

22 1. [~~Whenever the~~] The physician of any correctional facility, any
23 county penitentiary, county jail or workhouse, any reformatory for
24 women, or of any other correctional institution, shall [~~report in writ-~~
25 ~~ing to the superintendent that~~] conduct a personal examination and
26 review medical records of any person undergoing a sentence of imprison-
27 ment or adjudicated to be a youthful offender or juvenile delinquent
28 confined therein within five days of such person's incarceration, and
29 every twelve months thereafter. If the physician determines that the
30 incarcerated person has, in [~~his or her~~] such physician's opinion, a
31 mental illness, [~~such superintendent shall apply to a judge of the coun-~~
32 ~~ty court or justice of the supreme court in the county to cause an exam-~~
33 ~~ination to be made of such person by two examining physicians. Such~~
34 ~~physicians shall be designated by the judge to whom the application is~~
35 ~~made.~~] such physician shall cause an examination to be made of such
36 person by a second examining physician within twenty-four hours. Each
37 such physician, if satisfied, after a personal examination, that such
38 incarcerated individual has a mental illness and in need of care and
39 treatment, shall make a certificate to such effect. [~~Before making such~~
40 ~~certificate, however, he or she shall consider alternative forms of care~~
41 ~~and treatment available during confinement in such correctional facili-~~
42 ~~ty, penitentiary, jail, reformatory or correctional institution that~~
43 ~~might be adequate to provide for such incarcerated individual's needs~~
44 ~~without requiring hospitalization.~~] If the examining physician knows
45 that the person [~~he or she is~~] they are examining has been under prior
46 treatment, [~~he or she~~] such physician shall, insofar as possible,
47 consult with the physician or psychologist furnishing such prior treat-
48 ment prior to making [~~his or her~~] such certificate.

49 2. In the city of New York, [~~if~~] within five days of an individual's
50 incarceration and every twelve months thereafter, the physician of a
51 workhouse, city prison, jail, penitentiary or reformatory [~~reports in~~
52 ~~writing to the superintendent of such institution that a prisoner~~
53 ~~confined therein, serving a sentence of imprisonment, in his or her~~
54 ~~opinion~~] shall conduct a personal examination and review medical records
55 of such incarcerated individual. If, in the opinion of such physician,
56 the incarcerated individual has a mental illness, or if medical records

1 for such incarcerated individual document diagnosis of an ongoing seri-
2 ous mental illness, the superintendent of said institution shall either
3 transfer said ~~[prisoner]~~ incarcerated individual to Bellevue or Kings
4 county hospital for observation as to ~~[his or her]~~ such individual's
5 mental condition by two examining physicians or shall secure two examin-
6 ing physicians to make such examination and review medical records in
7 ~~[his]~~ the institution. Each such physician, if satisfied after a
8 personal examination ~~[and]~~, observation, and review of medical records
9 that the ~~[prisoner]~~ individual has a mental illness ~~[and]~~ in need of
10 care and treatment, shall make a certificate to such effect. ~~[Before~~
11 ~~making such certificate, however, he or she shall consider alternative~~
12 ~~forms of care and treatment available during confinement in such correc-~~
13 ~~tional facility, penitentiary, jail, reformatory or correctional insti-~~
14 ~~tution that might be adequate to provide for such incarcerated individ-~~
15 ~~ual's needs without requiring hospitalization.]~~ If the examining
16 physician knows that the person ~~[he or she is]~~ they are examining has
17 been under prior treatment, ~~[he or she]~~ they shall, insofar as possible,
18 consult with the physician or psychologist furnishing such prior treat-
19 ment prior to making ~~[his or her]~~ such certificate.

20 3. Upon such certificates of the examining physicians being so made,
21 it shall be delivered to the superintendent who, if the incarcerated
22 individual does not agree to voluntary admission, shall thereupon apply
23 by petition forthwith to a judge of the county court or justice of the
24 supreme court in the county, annexing such certificate to ~~[his or her]~~
25 their petition, for an order committing such incarcerated individual to
26 a hospital for persons with a mental illness or outpatient facility with
27 an appropriate operating certificate. Upon every such application for
28 such an order of commitment, notice thereof in writing, of at least five
29 days, together with a copy of the petition, shall be served personally
30 upon the alleged person with a mental illness, and in addition thereto
31 such notice and a copy of the petition shall be served upon either the
32 ~~[wife, the husband, the father or mother]~~ spouse, parent or other near-
33 est relative of such alleged person with a mental illness, if there be
34 any such known relative within the state; and if not, such notice shall
35 be served upon any known friend of such alleged person with a mental
36 illness within the state. If there be no such known relative or friend
37 within the state, the giving of such notice shall be dispensed with, but
38 in such case the petition for the commitment shall recite the reasons
39 why service of such notice on a relative or friend of the alleged person
40 with a mental illness was dispensed with and, in such case, the order
41 for commitment shall recite why service of such a notice on a relative
42 or friend of the alleged person with a mental illness was dispensed
43 with. Copies of the notice, the petition and the certificates of the
44 examining physicians shall also be given the mental hygiene legal
45 service. The mental hygiene legal service shall inform the incarcerated
46 individual and, in proper cases, others interested in the incarcerated
47 individual's welfare, of the procedures for placement in a hospital or
48 outpatient facility having an appropriate operating certificate and of
49 the incarcerated individual's right to have a hearing, to have judicial
50 review with a right to a jury trial, to be represented by counsel and to
51 seek an independent medical opinion. The mental hygiene legal service
52 shall have personal access to such incarcerated individual for such
53 purposes.

54 9. Except as provided in subdivision two of this section pertaining to
55 ~~[prisoners]~~ incarcerated individuals confined in the city of New York,
56 an incarcerated individual of a correctional facility or a county jail

1 may be admitted on an emergency basis to the Central New York Psychiatric Center upon the certification by two examining physicians, including
2 physicians employed by the office of mental health and associated with
3 the correctional facility in which such incarcerated individual is
4 confined, that the incarcerated individual suffers from a mental illness
5 which is likely to result in serious harm to ~~[himself, herself]~~ themselves
6 or others as defined in subdivision (a) of section 9.39 of the mental
7 hygiene law. Any person so committed shall be delivered by the superintendent within a twenty-four hour period, to the director of the
8 appropriate hospital as designated in the rules and regulations of the
9 office of mental health. Upon delivery of such person to a hospital
10 operated by the office of mental health, if such person does not agree to voluntary admission, a proceeding under this section shall immediately be commenced.

11 10. If the director of a hospital for persons with a mental illness
12 shall deem that the condition of such person with a mental illness
13 requires ~~[his]~~ further retention in a hospital ~~[he]~~ the director shall,
14 during the period of retention authorized by the last order of the
15 court, apply to the supreme court or county court in the county where
16 such hospital is located, for an order authorizing continued retention
17 of such person with a mental illness. The procedures for obtaining any
18 order pursuant to this subdivision shall be in accordance with the
19 provisions of the mental hygiene law for the retention of involuntary
20 patients. A person may be discharged before the end of any sentence or period of retention if the director determines it is medically appropriate and such person is not likely to reoffend.

21 12-a. Prior to discharge, the facility director shall provide the department with a treatment plan deemed medically appropriate and that supports the housing stability and economic well-being of such person, and the department, in consultation with the department of health must approve such plan. If the director determines that no plan is needed, they shall provide a written attestation to that effect.

22 § 39. Subdivision 4 of section 404 of the correction law, as amended
23 by chapter 322 of the laws of 2021, is amended to read as follows:

24 4. Every incarcerated individual who has received mental health treatment pursuant to this article within three years of ~~[his or her]~~ their
25 anticipated release date from a state correctional facility shall be
26 provided with mental health discharge planning and, when necessary, ~~[an appointment with a mental health professional]~~ a course of treatment in
27 the community ~~[who can prescribe]~~ that can include prescription medications following discharge and sufficient mental health medications and
28 prescriptions to bridge the period between discharge and such time as
29 such mental health professional may assume care of the patient. Incarcerated individuals who have refused mental health treatment may also be
30 provided mental health discharge planning and any necessary appointment
31 with a mental health professional.

32 § 40. Subdivision 5 of section 201 of the correction law, as amended
33 by chapter 484 of the laws of 2022, is amended to read as follows:

34 5. The department shall assist incarcerated individuals eligible for
35 community supervision and individuals who are on community supervision
36 to secure employment, educational or vocational training, mental health treatment, and housing. Any program the department requires a person on
37 community supervision to take as a condition of such supervision shall
38 not unreasonably interfere with such person's employment, educational or
39 vocational training schedule unless such program is a residential treatment program.

§ 41. The judiciary law is amended by adding a new article 5-C to read as follows:

ARTICLE 5-C
MENTAL HEALTH COURTS

Section 178. Establishment of mental health courts.

178-a. Transfer of actions or proceedings to superior mental health courts.

178-b. Transfer of actions or proceedings to local mental health courts.

178-c. Procedure in a superior mental health court or local mental health court upon transfer of actions or proceedings thereto.

178-d. Reports.

§ 178. Establishment of mental health courts. 1. Following consultation with the presiding justice of the appropriate appellate division, the chief administrator of the courts shall establish mental health courts in supreme court or county court ("superior mental health courts") in any county and assign one or more justices or judges to preside therein. Each superior mental health court shall have as its purpose the hearing and determination of:

(a) criminal cases that are commenced in the superior court and that are identified by the court as appropriate for disposition by a superior mental health court; and

(b) criminal cases that are commenced in other courts of the county, and that are identified as appropriate for disposition by a superior mental health court and transferred to that court as provided for in section one hundred seventy-eight-a of this article.

2. Where necessary to best utilize available court and community resources for actions or proceedings involving defendants with mental health problems, the chief administrator of the courts shall establish mental health courts in one or more city or district courts or town or village justice courts in such county, and assign one or more justices or judges to preside therein. Each local mental health court shall have as its purpose the hearing and determination of criminal actions or proceedings that are commenced in a city or district court or town or village justice court that are identified as appropriate for disposition by a local mental health court and transferred to that court as provided for in section one hundred seventy-eight-b of this article.

§ 178-a. Transfer of actions or proceedings to superior mental health courts. 1. (a) A local criminal court in a county in which a superior mental health court has been established may, upon motion of the defendant, cause copies of papers and other documents filed in such local criminal court in connection with a criminal action or proceeding pending therein to be sent to the superior mental health court:

(i) upon or after arraignment of the defendant on a local criminal court accusatory instrument by which such action or proceeding was commenced; or

(ii) upon or after commencement of a proceeding brought against the defendant for the violation of a condition of a sentence of probation or a sentence of conditional discharge.

(b) Not later than five days following receipt of the papers and other documents, where there is a reasonable belief that a defendant has a severe mental illness, the justice or judge presiding in the superior mental health court shall review the medical records of such defendant and shall cause a psychiatric evaluation of such defendant. If the defendant is determined to have a severe mental illness, the justice or

1 judge presiding in the court shall order transfer, of the action or
2 proceeding to the superior mental health court, all originating papers
3 shall be sent from the originating court to the superior mental health
4 court, and all further proceedings shall be conducted therein. If the
5 justice or judge determines that a transfer of the action or proceeding
6 would not promote the administration of justice, they shall notify the
7 local criminal court from which the reference was received of such
8 determination, whereupon all further proceedings in such action or
9 proceeding shall be conducted in accordance with law.

10 2. (a) At any time while a criminal action or proceeding is pending in
11 a superior court in a county in which a superior mental health court has
12 been established, including a proceeding brought against defendant for
13 the violation of a condition of a sentence of probation or a sentence of
14 conditional discharge, a judge or justice of the court in which the
15 action or proceeding is pending may, upon motion of the defendant, cause
16 copies of papers and other documents filed in such court in connection
17 with the action or proceeding to be sent to the judge or justice presid-
18 ing in the superior mental health court for review of the appropriate-
19 ness of the transfer.

20 (b) Not later than five business days following receipt of the papers
21 and other documents, the judge or justice presiding in the superior
22 mental health court shall determine whether or not a transfer of the
23 action or proceeding to the court would promote the administration of
24 justice. If such judge or justice determines that it would:

25 (i) such judge or justice, if sitting in supreme court, may order such
26 transfer, in which event the action or proceeding shall be referred for
27 disposition to the superior mental health court, all original papers
28 shall be sent to the superior mental health court, and all further
29 proceedings in such action or proceeding shall be conducted therein; or

30 (ii) such judge or justice, if sitting in county court, shall so noti-
31 fy the judge of the court who caused the papers and other documents to
32 be sent to them, and such justice may thereupon order such transfer, in
33 which event the action or proceeding shall be referred for disposition
34 to the superior mental health court, all original papers shall be sent
35 from the originating court to the superior mental health court, and all
36 further proceedings in such action or proceeding shall be conducted
37 therein. If the judge or justice presiding in the superior mental health
38 court determines that a transfer of the action or proceeding would not
39 promote the administration of justice, such judge or justice shall noti-
40 fy the originating court of such determination, whereupon all further
41 proceedings in such action or proceeding shall be conducted in accord-
42 ance with law.

43 3. Upon transfer of an action or proceeding to a mental health court,
44 a judge or justice, with the advice and consent of a psychiatrist and a
45 social services official, may order inpatient medical treatment, outpa-
46 tient treatment, or other medically recommended treatment, and may order
47 monitoring for compliance. Failure to comply with any such order may
48 result in a new hearing. Failure to comply with any such order shall not
49 be grounds for incarceration, probation, or fines.

50 4. Upon transfer of an action or proceeding to a mental health court,
51 the defendant shall be notified of social services available to them.

52 § 178-b. Transfer of actions or proceedings to local mental health
53 courts. 1. A local criminal court in a county in which a local mental
54 health court has been established may, upon motion of the defendant,
55 cause copies of papers and other documents filed in such local criminal

1 court in connection with a criminal action or proceeding therein to be
2 sent to the local mental health court:

3 (a) upon or after arraignment of a defendant on a local criminal court
4 accusatory instrument by which such action or proceeding was commenced;
5 or

6 (b) upon or after commencement of a proceeding brought against a
7 defendant for the violation of a condition of a sentence of probation or
8 a sentence of conditional discharge.

9 2. Not later than five days following receipt of the papers and other
10 documents, the justice or judge presiding in the local mental health
11 court, in consultation with the justice or judge in the court of origin,
12 shall review the medical records of such defendant and shall cause a
13 psychiatric evaluation of such defendant. If the defendant is determined
14 to have a severe mental illness, the justice or judge presiding in the
15 court shall order transfer, of the action or proceeding shall be trans-
16 ferred to the local mental health court, all originating papers shall
17 then be sent from the court of origin to the local mental health court,
18 and all further proceedings shall be conducted therein. If the presiding
19 justice or judge in the local mental health court or the justice or
20 judge presiding in the court of origin determines that a transfer of the
21 action or proceeding would not promote the administration of justice,
22 the action or proceeding will not be transferred and all further
23 proceedings in such action or proceeding shall be conducted in accord-
24 ance with law.

25 3. Upon transfer of an action or proceeding to a mental health court,
26 a judge or justice, with the advice and consent of a psychiatrist and a
27 social services official, may order inpatient medical treatment, outpa-
28 tient treatment, or other medically recommended treatment, and may order
29 monitoring for compliance. Failure to comply with any such order may
30 result in a new hearing. Failure to comply with any such order shall not
31 be grounds for incarceration, probation, or fines.

32 4. Upon transfer of an action or proceeding to a mental health court,
33 the defendant shall be notified of social services available to them.
34 Such services shall include, but are not limited to, employment, health
35 care, mental health care, educational or vocational training, housing,
36 and access to supportive outpatient facilities such as clubhouses.

37 § 178-c. Procedure in a superior mental health court or local mental
38 health court upon transfer of actions or proceedings thereto. Each
39 action or proceeding transferred to a superior court and referred for
40 disposition to a superior mental health court thereof and each action
41 transferred to a local court and referred for disposition in a local
42 mental health court thereof shall be subject to the same substantive and
43 procedural law as would have applied had there been no transfer.

44 § 178-d. Reports. Every five years the office of court administration
45 shall produce a report on outcomes on defendants in mental health courts
46 which shall include, but not be limited to, subsequent arrests, behav-
47 ioral health outcomes, and housing stability of such defendants.

48 § 42. Section 730.30 of the criminal procedure law, subdivision 3 as
49 amended by chapter 629 of the laws of 1974, is amended to read as
50 follows:

51 § 730.30 Fitness to proceed; order of examination.

52 1. At any time after a defendant is arraigned upon an accusatory
53 instrument [~~other than a felony complaint and~~] before the imposition of
54 sentence, or at any time after a defendant is arraigned upon a felony
55 complaint [~~and before he is held for the action of the grand jury~~], if
56 the defendant produces records or other evidence of a medical diagnosis

1 of mental illness or mental disability, or it is otherwise the opinion
2 of the court that the defendant may be an incapacitated person, the
3 ~~court [wherein the criminal action is pending must issue an order of~~
4 ~~examination when it is of the opinion that the defendant may be an inca-~~
5 ~~pacitated person]~~ shall direct such defendant to the mental health court
6 as provided for in article five-C of the judiciary law. For purposes of
7 such determination, the court may issue an order of examination.

8 2. When the examination [~~reports~~] report submitted to the court [~~show~~]
9 shows that [~~each~~] the psychiatric examiner is of the opinion that the
10 defendant is not an incapacitated person, the court may, on its own
11 motion, conduct a hearing to determine the issue of capacity, and it
12 must conduct a hearing upon motion therefor by the defendant or by the
13 district attorney. If no motion for a hearing is made, the criminal
14 action against the defendant must proceed. If, following a hearing, the
15 court is satisfied that the defendant is not an incapacitated person,
16 the criminal action against [~~him~~] such defendant must proceed; if the
17 court is not so satisfied, it must issue a further order of examination
18 directing that the defendant be examined by a different psychiatric
19 [~~examiners~~] examiner designated by the director.

20 3. When the examination reports submitted to the court show that each
21 psychiatric examiner is of the opinion that the defendant is an incapac-
22 itated person, the court [~~may, on its own motion, conduct a hearing to~~
23 ~~determine the issue of capacity and it must conduct such hearing upon~~
24 ~~motion therefor by the defendant or by the district attorney]~~ shall
25 direct such defendant to the mental health court wherein the criminal
26 action is pending.

27 4. When the examination reports submitted to the court show that the
28 psychiatric examiners are not unanimous in their opinion as to whether
29 the defendant is or is not an incapacitated person, or when the examina-
30 tion reports submitted to the superior court show that the psychiatric
31 examiners are not unanimous in their opinion as to whether the defendant
32 is or is not [~~a dangerous~~] an incapacitated person who, with a course of
33 medically recommended treatment, nonetheless has a high probability of
34 engaging in behavior likely to result in serious harm, the court must
35 conduct a hearing to determine the issue of capacity or [~~dangerousness~~]
36 such likelihood.

37 § 43. Subdivision 9 of section 730.10 of the criminal procedure law,
38 as added by section 1 of part Q of chapter 56 of the laws of 2012, is
39 amended and three new subdivisions 10, 11 and 12 are added to read as
40 follows:

41 9. "Appropriate institution" means: (a) a hospital operated by the
42 office of mental health or a developmental center operated by the office
43 for people with developmental disabilities; [~~or~~] (b) a hospital licensed
44 by the department of health which operates a psychiatric unit licensed
45 by the office of mental health, as determined by the commissioner
46 [~~provided, however, that any~~]; or (c) an outpatient facility having an
47 appropriate operating certificate. Any such hospital or outpatient
48 facility that is not operated by the state [~~shall~~] may qualify as an
49 "appropriate institution" [~~only pursuant to the terms of an agreement~~
50 ~~between the commissioner and the hospital~~] upon the consent of the
51 hospital or outpatient facility. Nothing in this article shall be
52 construed as requiring a hospital or outpatient facility to consent to
53 providing care and treatment to an incapacitated person [~~at such hospi-~~
54 ~~tal~~] if another appropriate institution offering comparable care and
55 treatment is available.

1 10. "Likely to result in serious harm" has the same meaning as defined
2 in section 9.01 of the mental hygiene law.

3 11. "Mental illness" has the same meaning as defined in section 1.03
4 of the mental hygiene law.

5 12. "Mental disability" has the same meaning as defined in section
6 1.03 of the mental hygiene law.

7 § 44. The public health law is amended by adding a new article 30-D to
8 read as follows:

9 ARTICLE 30-D

10 EMERGENCY BEHAVIORAL HEALTH SERVICES

11 Section 3080. Description.

12 3081. Definitions.

13 3082. State emergency behavioral health services advisory
14 committee.

15 § 3080. Description. 1. Emergency behavioral health services is a
16 system for the immediate recognition and management of sudden illness or
17 behavior of someone (a) with mental illness or mental disability, (b)
18 who is homeless, or (c) who is engaging in behavior that is the result
19 of substance use disorder, and addresses emergency medical dispatch,
20 prehospital emergency care, in-hospital emergency care, admission,
21 behavioral health services, homelessness intervention services, and
22 housing. Such response shall consist of a team including, but not limit-
23 ed to, members trained in emergency medical services, behavioral health
24 services, addictive disorder services, and homelessness intervention
25 services.

26 2. For the purposes of satisfying this section, team members may
27 include individuals who have experienced mental illness or homelessness.
28 Such team shall not include a police officer or peace officer, provided,
29 however, that such team may request one for accompaniment or inter-
30 vention at any time.

31 § 3081. Definitions. As used in this article:

32 1. "State emergency behavioral health services advisory committee"
33 means the state emergency behavioral health services advisory committee
34 provided for by this article.

35 2. "State emergency medical services council" means the state emergen-
36 cy medical services council established under article thirty of this
37 chapter.

38 3. "State emergency medical advisory committee" means the state emer-
39 gency medical advisory committee established under article thirty of
40 this chapter.

41 4. "State trauma advisory committee" means the state trauma advisory
42 committee established under article thirty-B of this chapter.

43 5. "Mental illness" has the same meaning as defined in section 1.03 of
44 the mental hygiene law.

45 6. "Mental disability" has the same meaning as defined in section 1.03
46 of the mental hygiene law.

47 7. "Behavioral health services" has the same meaning as defined in
48 section 1.03 of the mental hygiene law.

49 8. "Addictive disorder services" has the same meaning as defined in
50 section 1.03 of the mental hygiene law.

51 9. "Homelessness intervention services" means services rendered pursu-
52 ant to section fifty of the social services law.

53 10. "Admission" refers to hospitalization of a person with mental
54 illness pursuant to article nine of the mental hygiene law.

55 § 3082. State emergency behavioral health services advisory committee.

56 1. There is hereby established in the department the state emergency

1 behavioral health services advisory committee. It shall consist of
2 behavioral health and homelessness intervention advocates representative
3 of all geographic areas of the state; of those occupations regularly
4 involved in provision of comprehensive behavioral health services and
5 homelessness intervention services, other than for-profit provision; and
6 of those with experience receiving such services, appointed by the
7 commissioner upon recommendation of appropriate statewide professionals
8 or organizations, who shall serve for terms of four years, which may be
9 renewed. It shall advise the department, the commissioner, the state
10 emergency medical services council, the state emergency medical advisory
11 committee, and the state trauma advisory committee regarding all aspects
12 of emergency behavioral health services, including, but not limited to,
13 emergency medical dispatch, prehospital emergency care, in-hospital
14 emergency care, admission, behavioral health services, homelessness
15 intervention services, and housing. The state emergency medical services
16 director, the state emergency medical services medical director, the
17 state trauma medical director, the state trauma program manager, and the
18 governor's highway traffic safety administrator, shall also serve as
19 nonvoting ex-officio members.

20 2. The state emergency behavioral health services advisory committee
21 shall meet as frequently as its business may require, but ordinarily no
22 less than quarterly. The members of the state emergency behavioral
23 health services advisory committee shall receive no compensation for
24 their services as members, but each shall be allowed the necessary and
25 actual expenses incurred in the performance of their duties under this
26 section.

27 3. The commissioner shall designate an officer or employee of the
28 department to assist the state emergency behavioral health services
29 advisory committee in the performance of its duties under this section,
30 to coordinate the activities of the state emergency behavioral health
31 services advisory committee and to facilitate communication between the
32 state emergency health services council, the state emergency medical
33 advisory committee, and the state trauma advisory committee.

34 4. In no event shall any member, officer, or employee of the state
35 emergency behavioral health services committee be liable for damages in
36 any civil action for any act done, failure to act, or statement or opin-
37 ion made, while discharging duties as a member, officer, or employee of
38 the state emergency behavioral health services advisory committee if
39 they shall have acted in good faith, with reasonable care.

40 § 45. Subdivision 1 of section 602 of the public health law is amended
41 by adding a new paragraph (g) to read as follows:

42 (g) Mental health services.

43 § 46. The administrative code of the city of New York is amended by
44 adding two new sections 21-335 and 21-336 to read as follows:

45 § 21-335 Mobile devices and post office boxes. 1. Every homeless
46 person, or one individual in a family which is identified as homeless
47 shall be entitled to a mobile phone capable of at least Short Message
48 Service (SMS) and electronic mail.

49 2. Every homeless person, or one individual in a family which is iden-
50 tified as homeless shall be entitled to a post office box or other mail-
51 ing address.

52 § 21-336 Shelter systems study. At least once every five years, the
53 commissioner shall undertake a dynamic study on needed improvements to
54 the shelter system. Such study shall be conducted by following the
55 attempts of at least five contracted persons, posing as homeless indi-
56 viduals, as they attempt to seek permanent housing and services. The

commissioner shall produce a report on those processes and make recommendations for improvements.

§ 47. Section 17-199.26 of the administrative code of the city of New York, as added by local law number 108 of the city of New York for the year 2023, and as renumbered by local law number 100 for the city of New York for the year 2024, is amended to read as follows:

§ 17-199.26 Mental health and behavioral health services outreach and education. The department shall establish and implement an outreach and education campaign to raise public awareness about programs that provide low-cost and no-cost mental health services to New Yorkers who do not qualify for or cannot afford health insurance based on federal guidelines. Such outreach and education shall include, as applicable, an explanation of how individuals may access such services, including, but not limited to, through referrals from primary care providers. The materials for such outreach and education campaign shall be made available in English and the designated citywide languages, as defined in section 23-1101. The department shall provide pamphlets and conspicuously display information on the program in all city agency buildings, schools, shelters, and at hospitals operated by the New York city health and hospitals corporation.

§ 48. The administrative code of the city of New York is amended by adding a new section 21-304.1 to read as follows:

§ 21-304.1 Application; process. 1. To the maximum extent possible:

a. The commissioner shall develop a single application for all programs under this chapter, or, in the alternative, a process whereby the information provided by an applicant in a single application can be populated into other applications.

b. An application for services shall not be closed due to a missed appointment or other noncompliance.

c. An applicant shall be presumed eligible for services under this chapter and shall receive such services pending verification. If the applicant is subsequently deemed ineligible, the commissioner may provide alternative services. If the applicant is found to be in violation of any provisions of article one hundred fifty-eight of the penal law relating to the receipt of services under this chapter, the commissioner may discontinue services and recover civil damages pursuant to section one hundred forty-five-b of the social services law.

§ 49. Section 21-314 of the administrative code of the city of New York, as added by local law number 57 for the city of New York for the year 1998, and as renumbered by local law number 19 for the city of New York for the year 1999, is amended to read as follows:

§ 21-314 Case management services. ~~[The]~~ Within fourteen days of admission, the commissioner shall provide case management services to all persons assigned to stay at the department's facilities or the facilities of organizations contracting with the department who are either waiting for the department to determine their eligibility for shelter or are receiving such shelter. Such case management services shall include, but not be limited to, assistance obtaining (a) medical treatment, (b) federal, state and local government documents including, but not limited to, birth certificates, marriage licenses, and housing records, ~~[and]~~ (c) food, medicine and other necessary supplies, (d) permanent housing, and (e) outpatient services including clubhouses; and shall address issues such as domestic violence, child abuse and mental illness~~[, when needed]~~ that shall include transferring such persons to medically recommended treatment. Upon request by such person, an examining physician will perform a psychiatric evaluation and review medical

1 records of each such person, and shall refer such person to medically
2 recommended treatment.

3 § 50. Paragraphs 1, 10 and 11 of subdivision b of section 21-332 of
4 the administrative code of the city of New York, as added by local law
5 number 62 of the city of New York for the year 2023, are amended and a
6 new paragraph 12 is added to read as follows:

7 1. The right to shelter, which shall not be contingent upon a person
8 undergoing addictive disorder services;

9 10. The requirement that a shelter comply with the environmental stan-
10 dards set forth in section 491.18 of title 18 of the New York codes,
11 rules and regulations and section 900.18 of such title, as applicable;
12 [~~and~~]

13 11. The right to mental health treatment;

14 12. The right to a mobile phone and a post office box or other mailing
15 address; and

16 13. Any other information the department deems appropriate.

17 § 51. Section 21-148 of the administrative code of the city of New
18 York is amended by adding a new subdivision d to read as follows:

19 d. The commissioner of social services shall cause to be performed an
20 audit to identify all vacant units of supportive housing in the city,
21 determine the reasons for such vacancies, and make recommendations for
22 actions, policies and procedures for the immediate or timely filling of
23 such vacancies.

24 § 52. Subdivisions 5 and 8 of section 220.00 of the penal law, subdi-
25 vision 5 as amended by chapter 92 of the laws of 2021 and subdivision 8
26 as amended by section 18 of part C of chapter 447 of the laws of 2012,
27 are amended to read as follows:

28 5. "Controlled substance" means any substance listed in schedule I,
29 II, III, IV or V of section thirty-three hundred six of the public
30 health law other than buprenorphine.

31 8. "Narcotic preparation" means any controlled substance listed in
32 schedule II(b-1), III(d) or III(e), other than buprenorphine.

33 § 53. Severability. If any clause, sentence, paragraph, subdivision,
34 section or part of this act shall be adjudged by any court of competent
35 jurisdiction to be invalid, such judgment shall not affect, impair, or
36 invalidate the remainder thereof, but shall be confined in its operation
37 to the clause, sentence, paragraph, subdivision, section or part thereof
38 directly involved in the controversy in which such judgment shall have
39 been rendered. It is hereby declared to be the intent of the legislature
40 that this act would have been enacted even if such invalid provisions
41 had not been included herein.

42 § 54. This act shall take effect on the first of January next succeed-
43 ing the date on which it shall have become a law; provided that:

44 (a) the amendments to section 9.48 of the mental hygiene law made by
45 section five of this act shall not affect the expiration and repeal of
46 such section and shall expire and be deemed repealed therewith;

47 (b) the amendments to subdivision (a) of section 9.47 of the mental
48 hygiene law made by section fourteen of this act shall be subject to the
49 expiration and reversion of such subdivision when upon such date the
50 provisions of section fifteen of this act shall take effect;

51 (c) the amendments to section 29.19 of the mental hygiene law made by
52 section twenty-three of this act shall be subject to the expiration and
53 reversion of such section when upon such date the provisions of section
54 twenty-four of this act shall take effect; and

55 (d) provided, however, that if local law number 100 of the city of New
56 York for the year 2024 shall not have taken effect on or before such

1 date then section forty-seven of this act shall take effect on the same
2 date and in the same manner as such local law of the laws of 2024 takes
3 effect.