STATE OF NEW YORK

10093

IN SENATE

April 28, 2026

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

AN ACT to amend the mental hygiene law, in relation to restoring safe and appropriate transitional care placements

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

Section 1. Subdivision (g) of section 13.38 of the mental hygiene law, as amended by chapter 405 of the laws of 1998, is amended and a new subdivision (h) is added to read as follows:

(g) The office may make payments necessary to maintain individuals described in subdivision (a) of this section **on an emergency basis** in a child care facility or **an in-state or out-of-state** residential school [~~on an emergency basis~~] **or residential adult program associated with the individual's former residential school** where circumstances temporarily prevent the transfer of individuals to adult services or placements **within the office's system of care**.

(h) 1. After an individual described in subdivision (a) of this section has been placed within the office's system of care, the office shall make payments necessary to return the individual to their previous in-state or out-of-state residential school or residential adult program associated with such school if: (i) the office's system of care is failing to provide residential and habilitation services appropriate for the individual; (ii) continuation in such system of care is adversely affecting the individual's health, safety, or welfare; (iii) the residential school or residential adult program associated with the school that previously provided transitional care to the individual, is currently able to provide appropriate services for the individual; (iv) the residential school or residential adult program associated with the residential school that provided transitional care previously is willing and able to re-admit the individual; and (v) the individual or their guardian consents to the transfer.

2. The individual or their guardian may notify the office that they believe that conditions for the return of the individual as set forth in paragraph one of this subdivision are satisfied and request that the

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

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individual return to the individual's previous in-state or out-of-state residential school or residential adult program associated with the school. In the event the individual or their guardian requests a return to the residential school or residential adult program under this subdivision and the office declines the request, the individual may seek review of the determination in accordance with the provisions of article seventy-eight of the civil practice laws and rules.

3. The provisions of this subdivision shall supplement, and shall not limit or restrict, any rights and remedies to which the individual may be entitled under applicable law.

4. When an individual returns to their previous transitional care placement at a residential school or a residential adult placement associated with the residential school, their administrative due process rights pursuant to subdivision (e) of this section are revived.

§ 2. This act shall take effect immediately.