STATE OF NEW YORK

2440--A

2025-2026 Regular Sessions

IN ASSEMBLY

January 16, 2025

Introduced by M. of A. SIMONE, LASHER, SHIMSKY, CRUZ, GLICK, McDONOUGH, REYES, EPSTEIN, GALLAHAN, LUNSFORD, K. BROWN, TAPIA, GONZALEZ-ROJAS, DAVILA, O'PHARROW, BRAUNSTEIN, KELLES, BERGER -- read once and referred to the Committee on Codes -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the criminal procedure law, in relation to cases terminated due to mental disease or defect

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

Section 1. Subdivision 2 of section 730.40 of the criminal procedure law, as amended by chapter 7 of the laws of 2013, is amended to read as follows:

2. **(a)(1)** When a local criminal court has issued a final order of observation, it must**:**

(A) order the institution in which the defendant is confined to make a single point of access referral for the defendant with the appropriate agency closest to the defendant's last known county of residence prior to discharge; and

(B) dismiss the accusatory instrument filed in such court against the defendant and such dismissal constitutes a bar to any further prosecution of the charge or charges contained in such accusatory instrument.

(2) Each appropriate institution shall maintain records compiling all discharge planning and single point of access referrals completed pursuant to subparagraph one of this paragraph and submit de-identified biannual reports on such records to the commissioner and chief administrative judge of the courts.

(b) When the defendant is in the custody of the commissioner pursuant to a final order of observation, the commissioner or [~~his or her~~] **such commissioner's** designee, which may include the director of an appropriate institution, immediately upon the discharge of the defendant, must

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

LBD05187-05-5

certify to such court that [~~he or she~~] **the commissioner or such commissioner's designee** has complied with the notice provisions set forth in paragraph (a) of subdivision six of section 730.60 of this article **and the referral provisions set forth in paragraph (a) of this subdivision**. When the defendant is in the custody of the commissioner at the expiration of the period prescribed in a temporary order of observation, the proceedings in the local criminal court that issued such order shall terminate for all purposes and the commissioner must promptly certify to such court and to the appropriate district attorney that the defendant was in [~~his or her~~] **the commissioner's** custody on such expiration date. Upon receipt of such certification, the court must dismiss the felony complaint filed against the defendant.

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