

# STATE OF NEW YORK

5538

2025-2026 Regular Sessions

## IN ASSEMBLY

February 14, 2025

Introduced by M. of A. SIMON, PAULIN, COOK, WEPRIN, OTIS, STECK,  
WILLIAMS -- read once and referred to the Committee on Mental Health

AN ACT to amend the mental hygiene law and the correction law, in  
relation to enhancing the assisted outpatient treatment program; and  
to amend Kendra's Law, in relation to making the provisions thereof  
permanent

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

- 1 Section 1. Paragraph 2 of subdivision (f) of section 7.17 of the  
2 mental hygiene law, as amended by chapter 158 of the laws of 2005, is  
3 amended to read as follows:  
4 (2) The oversight and monitoring role of the program coordinator of  
5 the assisted outpatient treatment program shall include each of the  
6 following:  
7 (i) that each assisted outpatient receives the treatment provided for  
8 in the court order issued pursuant to section 9.60 of this [~~chapter~~  
9 title];  
10 (ii) that existing services located in the assisted outpatient's  
11 community are utilized whenever practicable;  
12 (iii) that a case manager or assertive community treatment team is  
13 designated for each assisted outpatient;  
14 (iv) that a mechanism exists for such case manager, or assertive  
15 community treatment team, to regularly report the assisted outpatient's  
16 compliance, or lack of compliance with treatment, to the director of the  
17 assisted outpatient treatment program;  
18 (v) that directors of community services establish procedures [~~which~~  
19 that provide that reports of persons who may be in need of assisted  
20 outpatient treatment are appropriately investigated in a timely manner;  
21 [~~and~~]  
22 (vi) that assisted outpatient treatment services are delivered in a  
23 timely manner[~~-~~];

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

LBD07375-01-5

1 (vii) that, prior to the expiration of assisted outpatient treatment  
2 orders, the clinical needs of assisted outpatients are adequately  
3 reviewed in determining the need to petition for continued assisted  
4 outpatient treatment pursuant to subdivision (m) of section 9.60 of this  
5 title;

6 (viii) that the appropriate director is determined for each assisted  
7 outpatient, pursuant to subdivisions (k) and (l) of section 9.60 of this  
8 title; and

9 (ix) that the office fulfills its duties pursuant to subdivision (t)  
10 of section 9.60 of this title to meet local needs for training of judges  
11 and court personnel.

12 § 2. Subdivision (f) of section 7.17 of the mental hygiene law is  
13 amended by adding a new paragraph 5 to read as follows:

14 (5) The commissioner shall develop an educational pamphlet on the  
15 process of petitioning for assisted outpatient treatment for dissem-  
16 ination to individuals seeking to submit reports of persons who may be  
17 in need of assisted outpatient treatment, and individuals seeking to  
18 file a petition pursuant to subparagraph (i) or (ii) of paragraph one of  
19 subdivision (f) of section 9.60 of this title. Such pamphlet shall set  
20 forth, in plain language: the criteria for assisted outpatient treat-  
21 ment, resources available to such individuals, the responsibilities of  
22 program coordinators and directors of community services, a summary of  
23 current law, the process for petitioning for continued assisted outpa-  
24 tient treatment, and other such information the commissioner determines  
25 to be pertinent.

26 § 3. Subdivision (b) of section 9.47 of the mental hygiene law, as  
27 amended by chapter 158 of the laws of 2005, paragraphs 5 and 6 as added  
28 and paragraph 7 as renumbered by chapter 1 of the laws of 2013, is  
29 amended to read as follows:

30 (b) All directors of community services shall be responsible for:

31 (1) receiving reports of persons who may be in need of assisted outpa-  
32 tient treatment pursuant to section 9.60 of this article and documenting  
33 the receipt date of such reports;

34 (2) conducting timely investigations of such reports received pursuant  
35 to paragraph one of this subdivision and providing written notice upon  
36 the completion of investigations to reporting persons and program coor-  
37 dinators, appointed by the commissioner [~~of mental health~~] pursuant to  
38 subdivision (f) of section 7.17 of this title, and documenting the  
39 initiation and completion dates of such investigations and the disposi-  
40 tions;

41 (3) filing of petitions for assisted outpatient treatment pursuant to  
42 [~~paragraph~~] subparagraph (vii) of paragraph one of subdivision [~~(e)~~] (f)  
43 of section 9.60 of this article, and documenting the petition filing  
44 [~~date~~] dates and the [~~date~~] dates of the court [~~order~~] orders;

45 (4) coordinating the timely delivery of court ordered services with  
46 program coordinators and documenting the date assisted outpatients begin  
47 to receive the services mandated in the court order; [~~and~~]

48 (5) ensuring evaluation of the need for ongoing assisted outpatient  
49 treatment pursuant to subdivision [~~(k)~~] (m) of section 9.60 of this  
50 article prior to the expiration of any assisted outpatient treatment  
51 order;

52 (6) if [~~he or she has~~] they have been ordered to provide for or  
53 arrange for assisted outpatient treatment pursuant to paragraph five of  
54 subdivision [~~(j)~~] (k) of section 9.60 of this article or became the  
55 appropriate director pursuant to this paragraph or subdivision (c) of  
56 section 9.48 of this article, notifying the director of community

1 services of the new county of residence when [~~he or she has~~] they have  
2 reason to believe that an assisted outpatient has or will change [~~his or~~  
3 ~~her~~] their county of residence during the pendency of an assisted outpa-  
4 tient treatment order. Upon such change of residence, the director of  
5 the new county of residence shall become the appropriate director, as  
6 such term is defined in section 9.60 of this article; [~~and~~]

7 (7) notifying program coordinators when assisted outpatients cannot be  
8 located after reasonable efforts or are believed to have taken residence  
9 outside of the local governmental unit served; and

10 (8) reporting on a quarterly basis to program coordinators the infor-  
11 mation collected pursuant to this subdivision.

12 § 4. Paragraphs (viii) and (ix) of subdivision (b) of section 9.48 of  
13 the mental hygiene law are renumbered paragraphs (ix) and (x) and a new  
14 paragraph (viii) is added to read as follows:

15 (viii) an account of any court order expiration, including but not  
16 limited to the director's determination as to whether to petition for  
17 continued assisted outpatient treatment, pursuant to section 9.60 of  
18 this article, the basis for such determination, and the disposition of  
19 any such petition;

20 § 5. Section 9.60 of the mental hygiene law, as amended by chapter 158  
21 of the laws of 2005, paragraph 1 of subdivision (a) as amended by  
22 section 1 of part E of chapter 111 of the laws of 2010, paragraph 3 of  
23 subdivision (a), paragraphs 2 and 5 of subdivision (j), and subdivisions  
24 (k) and (n) as amended by chapter 1 of the laws of 2013, paragraph 5 of  
25 subdivision (c) as amended by chapter 137 of the laws of 2005, paragraph  
26 4 of subdivision (e) as amended by chapter 382 of the laws of 2015,  
27 paragraph 4 of subdivision (c), paragraph 2 of subdivision (h) as  
28 amended and subdivision (s) as added by section 2 of subpart H of part  
29 UU of chapter 56 of the laws of 2022, is amended to read as follows:

30 § 9.60 Assisted outpatient treatment.

31 (a) Definitions. For purposes of this section, the following defi-  
32 nitions shall apply:

33 (1) "assisted outpatient treatment" shall mean categories of outpa-  
34 tient services [~~which~~] that have been ordered by the court pursuant to  
35 this section. Such treatment shall include case management services or  
36 assertive community treatment team services to provide care coordi-  
37 nation, and may also include any of the following categories of  
38 services: medication support; medication education or symptom management  
39 education; periodic blood tests or urinalysis to determine compliance  
40 with prescribed medications; individual or group therapy; day or partial  
41 day programming activities; educational and vocational training or  
42 activities; appointment of a representative payee or other financial  
43 management services, subject to final approval of the Social Security  
44 Administration, where applicable; alcohol or substance abuse treatment  
45 and counseling and periodic or random tests for the presence of alcohol  
46 or illegal drugs for persons with a history of alcohol or substance  
47 abuse; supervision of living arrangements; and any other services within  
48 a local services plan developed pursuant to article forty-one of this  
49 chapter, clinical or non-clinical, prescribed to treat the person's  
50 mental illness and to assist the person in living and functioning in the  
51 community, or to attempt to prevent a relapse or deterioration that may  
52 reasonably be predicted to result in [~~suicide~~] serious physical harm to  
53 any person or the need for hospitalization.

54 (2) "director" shall mean the director of community services of a  
55 local governmental unit, or the director of a hospital licensed or oper-

1 ated by the office of mental health which operates, directs and super-  
2 vises an assisted outpatient treatment program.

3 (3) "director of community services" and "local governmental unit"  
4 shall have the same meanings as provided in article forty-one of this  
5 chapter. The "appropriate director" shall mean the director of community  
6 services of the county where the assisted outpatient resides, even if it  
7 is a different county than the county where the assisted outpatient  
8 treatment order was originally issued.

9 (4) "assisted outpatient treatment program" shall mean a system to  
10 arrange for and coordinate the provision of assisted outpatient treat-  
11 ment, to monitor treatment compliance by assisted outpatients, to evalu-  
12 ate the condition or needs of assisted outpatients, to take appropriate  
13 steps to address the needs of such individuals, and to ensure compliance  
14 with court orders.

15 (5) "assisted outpatient" shall mean the person under a court order to  
16 receive assisted outpatient treatment.

17 (6) "subject of the petition" or "subject" shall mean the person who  
18 is alleged in a petition, filed pursuant to the provisions of this  
19 section, to meet the criteria for assisted outpatient treatment.

20 (7) "correctional facility" and "local correctional facility" shall  
21 have the same meanings as provided in section two of the correction law.

22 (8) "health care proxy" and "health care agent" shall have the same  
23 meanings as provided in article twenty-nine-C of the public health law.

24 (9) "program coordinator" shall mean an individual appointed by the  
25 commissioner [~~of mental health~~], pursuant to subdivision (f) of section  
26 7.17 of this chapter, who is responsible for the oversight and monitor-  
27 ing of assisted outpatient treatment programs.

28 (b) Programs. The director of community services of each local govern-  
29 mental unit shall operate, direct and supervise an assisted outpatient  
30 treatment program. The director of a hospital licensed or operated by  
31 the office [~~of mental health~~] may operate, direct and supervise an  
32 assisted outpatient treatment program, upon approval by the commission-  
33 er. Directors of community services shall be permitted to satisfy the  
34 provisions of this subdivision through the operation of joint assisted  
35 outpatient treatment programs. Nothing in this subdivision shall be  
36 interpreted to preclude the combination or coordination of efforts  
37 between and among local governmental units and hospitals in providing  
38 and coordinating assisted outpatient treatment.

39 (c) Criteria. A person may be ordered to receive assisted outpatient  
40 treatment if the court finds that such person:

- 41 (1) is eighteen years of age or older; and
- 42 (2) is suffering from a mental illness; and
- 43 (3) is unlikely to survive safely in the community without super-  
44 vision, based on a clinical determination; and
- 45 (4) has a history of lack of compliance with treatment for mental  
46 illness that has:

47 (i) except as otherwise provided in subparagraph (iii) of this para-  
48 graph, prior to the filing of the petition, at least twice within the  
49 last thirty-six months been a significant factor in necessitating hospi-  
50 talization in a hospital, or receipt of services in a forensic or other  
51 mental health unit of a correctional facility or a local correctional  
52 facility[~~, not including~~]; provided that such thirty-six month period  
53 shall be extended by the length of any current period[~~, or period~~  
54 ~~ending~~] within the last six months[~~, during which the person was or is~~  
55 ~~hospitalized or incarcerated~~]; or

1 (ii) except as otherwise provided in subparagraph (iii) of this para-  
2 graph, within forty-eight months prior to the filing of the petition,  
3 resulted in one or more acts of serious violent behavior toward self or  
4 others or threats of, or attempts at, serious physical harm to self or  
5 others [~~within the last forty-eight months, not including~~]; provided  
6 that such forty-eight month period shall be extended by the length of  
7 any current period[~~, or period ending~~] of hospitalization or incarceration,  
8 and any such period that ended within the last six months[~~, in~~  
9 ~~which the person was or is hospitalized or incarcerated~~]; or

10 (iii) notwithstanding subparagraphs (i) and (ii) of this paragraph,  
11 resulted in the issuance of a court order for assisted outpatient treat-  
12 ment which has expired within the last six months, and since the expira-  
13 tion of the order, the person has experienced a substantial increase in  
14 symptoms of mental illness and such symptoms substantially interferes  
15 with or limits one or more major life activities as determined by a  
16 director of community services who previously was required to coordinate  
17 and monitor the care of any individual who was subject to such expired  
18 assisted outpatient treatment order. The applicable director of communi-  
19 ty services or their designee shall arrange for the individual to be  
20 evaluated by a physician. If the physician determines court ordered  
21 services are clinically necessary and the least restrictive option, the  
22 director of community services may initiate a court proceeding.

23 (5) is, as a result of [~~his or her~~] their mental illness, unlikely to  
24 voluntarily participate in outpatient treatment that would enable [~~him~~  
25 ~~or her~~] them to live safely in the community; and

26 (6) in view of [~~his or her~~] their treatment history and current behav-  
27 ior, is in need of assisted outpatient treatment in order to prevent a  
28 relapse or deterioration which would be likely to result in serious harm  
29 to the person or others as defined in section 9.01 of this article; and

30 (7) is likely to benefit from assisted outpatient treatment.

31 (d) Health care proxy. Nothing in this section shall preclude a person  
32 with a health care proxy from being subject to a petition pursuant to  
33 this chapter and consistent with article twenty-nine-C of the public  
34 health law.

35 (e) Investigation of reports. The commissioner shall promulgate regu-  
36 lations establishing a procedure to ensure that reports of a person who  
37 may be in need of assisted outpatient treatment, including those  
38 received from family and community members of such person, are investi-  
39 gated in a timely manner and, where appropriate, result in the filing of  
40 petitions for assisted outpatient treatment.

41 (f) Petition to the court. (1) A petition for an order authorizing  
42 assisted outpatient treatment may be filed in the supreme or county  
43 court in the county in which the subject of the petition is present or  
44 reasonably believed to be present. When a director of community  
45 services has reason to believe that an assisted outpatient has changed  
46 their county of residence, future petitions and applications under this  
47 section may be filed in the supreme or county court in the new county of  
48 residence, which shall have concurrent jurisdiction with the court that  
49 initially ordered such treatment. Such petition may be initiated only by  
50 the following persons:

51 (i) any person eighteen years of age or older with whom the subject of  
52 the petition resides; or

53 (ii) the parent, spouse, sibling eighteen years of age or older, or  
54 child eighteen years of age or older of the subject of the petition; or

1 (iii) the director of a hospital in which the subject of the petition  
2 is hospitalized, or pursuant to section four hundred four of the  
3 correction law; or

4 (iv) the director of any public or charitable organization, agency or  
5 home providing mental health services to the subject of the petition or  
6 in whose institution the subject of the petition resides; or

7 (v) a qualified psychiatrist who is either supervising the treatment  
8 of or treating the subject of the petition for a mental illness; or

9 (vi) a psychologist, licensed pursuant to article one hundred fifty-  
10 three of the education law, or a social worker, licensed pursuant to  
11 article one hundred fifty-four of the education law, who is treating the  
12 subject of the petition for a mental illness; or

13 (vii) the director of community services, or [~~his or her~~] such direc-  
14 tor's designee, or the social services official, as defined in the  
15 social services law, of the city or county in which the subject of the  
16 petition is present or reasonably believed to be present; or

17 (viii) a parole officer or probation officer assigned to supervise the  
18 subject of the petition[~~r~~]; or

19 (ix) the director of the hospital or the superintendent of a correc-  
20 tional facility in which the subject of the petition is imprisoned,  
21 pursuant to section four hundred four of the correction law.

22 (2) The commissioner shall promulgate regulations pursuant to which  
23 persons initiating a petition, pursuant to subparagraphs (i) and (ii) of  
24 paragraph one of this subdivision, may receive assistance in filing such  
25 petitions, where appropriate, as determined pursuant to subdivision (e)  
26 of this section.

27 (3) The petition shall state:

28 (i) each of the criteria for assisted outpatient treatment as set  
29 forth in subdivision (c) of this section;

30 (ii) facts which support the petitioner's belief that the subject of  
31 the petition meets each criterion, provided that the hearing on the  
32 petition need not be limited to the stated facts; and

33 (iii) that the subject of the petition is present, or is reasonably  
34 believed to be present, within the county where such petition is filed.

35 [~~(3)~~] (4) The petition shall be accompanied by an affirmation or affi-  
36 davit of a physician, who shall not be the petitioner, stating that such  
37 physician is willing and able to testify at the hearing on the petition  
38 and that either [~~that~~]:

39 (i) such physician has personally examined the subject of the petition  
40 no more than ten days prior to the submission of the petition[~~r~~] and  
41 recommends assisted outpatient treatment for the subject of the peti-  
42 tion[~~, and is willing and able to testify at the hearing on the peti-~~  
43 ~~tion~~]; or

44 (ii) no more than ten days prior to the filing of the petition, such  
45 physician or [~~his or her~~] such physician's designee has made appropriate  
46 attempts but has not been successful in eliciting the cooperation of the  
47 subject of the petition to submit to an examination, such physician has  
48 reason to suspect that the subject of the petition meets the criteria  
49 for assisted outpatient treatment, and such physician is willing and  
50 able to examine the subject of the petition [~~and testify at the hearing~~  
51 ~~on the petition~~] prior to providing testimony.

52 [~~(4)~~] (5) In counties with a population of less than eighty thousand,  
53 the affirmation or affidavit required by paragraph [~~three~~] four of this  
54 subdivision may be made by a physician who is an employee of the office.  
55 The office is authorized and directed to make available, at no cost to

1 the county, a qualified physician for the purpose of making such affir-  
2 mation or affidavit consistent with the provisions of such paragraph.

3 [~~(f)~~] (g) Service. The petitioner shall cause written notice of the  
4 petition to be given to the subject of the petition and a copy thereof  
5 to be given personally or by mail to the persons listed in section 9.29  
6 of this article, the mental hygiene legal service, the health care agent  
7 if any such agent is known to the petitioner, the appropriate program  
8 coordinator, and the appropriate director of community services, if such  
9 director is not the petitioner.

10 [~~(g)~~] (h) Right to counsel. The subject of the petition shall have the  
11 right to be represented by the mental hygiene legal service, or private-  
12 ly financed counsel, at all stages of a proceeding commenced under this  
13 section.

14 [~~(h)~~] (i) Hearing. (1) Upon receipt of the petition, the court shall  
15 fix the date for a hearing. Such date shall be no later than three days  
16 from the date such petition is received by the court, excluding Satur-  
17 days, Sundays and holidays. Adjournments shall be permitted only for  
18 good cause shown. In granting adjournments, the court shall consider the  
19 need for further examination by a physician or the potential need to  
20 provide assisted outpatient treatment expeditiously. The court shall  
21 cause the subject of the petition, any other person receiving notice  
22 pursuant to subdivision [~~(f)~~] (g) of this section, the petitioner, the  
23 physician whose affirmation or affidavit accompanied the petition, and  
24 such other persons as the court may determine to be advised of such  
25 date. Upon such date, or upon such other date to which the proceeding  
26 may be adjourned, the court shall hear testimony and, if it be deemed  
27 advisable and the subject of the petition is available, examine the  
28 subject of the petition in or out of court. If the subject of the peti-  
29 tion does not appear at the hearing, and appropriate attempts to elicit  
30 the attendance of the subject have failed, the court may conduct the  
31 hearing in the subject's absence. In such case, the court shall set  
32 forth the factual basis for conducting the hearing without the presence  
33 of the subject of the petition.

34 (2) The court shall not order assisted outpatient treatment unless an  
35 examining physician, who recommends assisted outpatient treatment and  
36 has personally examined the subject of the petition no more than ten  
37 days before the filing of the petition, testifies in person or by video-  
38 conference at the hearing. Provided however, a physician shall only be  
39 authorized to testify by video conference when it has been: (i) shown  
40 that diligent efforts have been made to attend such hearing in person  
41 and the subject of the petition consents to the physician testifying by  
42 video conference; or (ii) the court orders the physician to testify by  
43 video conference upon a finding of good cause. Such physician shall  
44 state the facts and clinical determinations which support the allegation  
45 that the subject of the petition meets each of the criteria for assisted  
46 outpatient treatment; provided that the parties may stipulate, upon  
47 mutual consent, that such physician need not testify.

48 (3) If the subject of the petition has refused to be examined by a  
49 physician, the court may request the subject to consent to an examina-  
50 tion by a physician appointed by the court. If the subject of the peti-  
51 tion does not consent and the court finds reasonable cause to believe  
52 that the allegations in the petition are true, the court may order peace  
53 officers, acting pursuant to their special duties, or police officers  
54 who are members of an authorized police department or force, or of a  
55 sheriff's department to take the subject of the petition into custody  
56 and transport [~~him or her~~] them to a hospital for examination by a

1 physician. Retention of the subject of the petition under such order  
2 shall not exceed twenty-four hours. The examination of the subject of  
3 the petition may be performed by the physician whose affirmation or  
4 affidavit accompanied the petition pursuant to paragraph [~~three~~] four of  
5 subdivision [~~(e)~~] (f) of this section, if such physician is privileged  
6 by such hospital or otherwise authorized by such hospital to do so. If  
7 such examination is performed by another physician, the examining physi-  
8 cian may consult with the physician whose affirmation or affidavit  
9 accompanied the petition as to whether the subject meets the criteria  
10 for assisted outpatient treatment.

11 (4) A physician who testifies pursuant to paragraph two of this subdi-  
12 vision shall state: (i) the facts [~~which~~] and clinical determinations  
13 that support the allegation that the subject meets each of the criteria  
14 for assisted outpatient treatment, (ii) that the treatment is the least  
15 restrictive alternative, (iii) the recommended assisted outpatient  
16 treatment, and (iv) the rationale for the recommended assisted outpa-  
17 tient treatment. If the recommended assisted outpatient treatment  
18 includes medication, such physician's testimony shall describe the types  
19 or classes of medication which should be authorized, shall describe the  
20 beneficial and detrimental physical and mental effects of such medica-  
21 tion, and shall recommend whether such medication should be self-admin-  
22 istered or administered by authorized personnel.

23 (5) The subject of the petition shall be afforded an opportunity to  
24 present evidence, to call witnesses on [~~his or her~~] their behalf, and to  
25 cross-examine adverse witnesses.

26 [~~(i)~~] (j) Written treatment plan. (1) The court shall not order  
27 assisted outpatient treatment unless a physician appointed by the appro-  
28 priate director, in consultation with such director, develops and  
29 provides to the court a proposed written treatment plan. The written  
30 treatment plan shall include case management services or assertive  
31 community treatment team services to provide care coordination. The  
32 written treatment plan also shall include all categories of services, as  
33 set forth in paragraph one of subdivision (a) of this section, which  
34 such physician recommends that the subject of the petition receive. All  
35 service providers shall be notified regarding their inclusion in the  
36 written treatment plan. If the written treatment plan includes medica-  
37 tion, it shall state whether such medication should be self-administered  
38 or administered by authorized personnel, and shall specify type and  
39 dosage range of medication most likely to provide maximum benefit for  
40 the subject. If the written treatment plan includes alcohol or substance  
41 abuse counseling and treatment, such plan may include a provision  
42 requiring relevant testing for either alcohol or illegal substances  
43 provided the physician's clinical basis for recommending such plan  
44 provides sufficient facts for the court to find (i) that such person has  
45 a history of alcohol or substance abuse that is clinically related to  
46 the mental illness; and (ii) that such testing is necessary to prevent a  
47 relapse or deterioration which would be likely to result in serious harm  
48 to the person or others. If a director is the petitioner, the written  
49 treatment plan shall be provided to the court no later than the date of  
50 the hearing on the petition. If a person other than a director is the  
51 petitioner, such plan shall be provided to the court no later than the  
52 date set by the court pursuant to paragraph three of subdivision [~~(j)~~]  
53 (k) of this section.

54 (2) The physician appointed to develop the written treatment plan  
55 shall provide the following persons with an opportunity to actively  
56 participate in the development of such plan: the subject of the peti-

1 tion; the treating physician, if any; and upon the request of the  
2 subject of the petition, an individual significant to the subject  
3 including any relative, close friend or individual otherwise concerned  
4 with the welfare of the subject. The appointed physician shall make a  
5 reasonable effort to gather relevant information for the development of  
6 the treatment plan from the subject of the petition's family member or  
7 members, or their significant other. If the subject of the petition has  
8 executed a health care proxy, the appointed physician shall consider any  
9 directions included in such proxy in developing the written treatment  
10 plan.

11 (3) The court shall not order assisted outpatient treatment unless a  
12 physician appearing on behalf of a director testifies to explain the  
13 written proposed treatment plan; provided that the parties may stipu-  
14 late, upon mutual consent, that such physician need not testify. Such  
15 physician shall state the categories of assisted outpatient treatment  
16 recommended, the rationale for each such category, facts which establish  
17 that such treatment is the least restrictive alternative, and, if the  
18 recommended assisted outpatient treatment plan includes medication, such  
19 physician shall state the types or classes of medication recommended,  
20 the beneficial and detrimental physical and mental effects of such medi-  
21 cation, and whether such medication should be self-administered or  
22 administered by an authorized professional. If the subject of the peti-  
23 tion has executed a health care proxy, such physician shall state the  
24 consideration given to any directions included in such proxy in develop-  
25 ing the written treatment plan. If a director is the petitioner, testi-  
26 mony pursuant to this paragraph shall be given at the hearing on the  
27 petition. If a person other than a director is the petitioner, such  
28 testimony shall be given on the date set by the court pursuant to para-  
29 graph three of subdivision ~~(j)~~ (k) of this section.

30 ~~(j)~~ (k) Disposition. (1) If after hearing all relevant evidence, the  
31 court does not find by clear and convincing evidence that the subject of  
32 the petition meets the criteria for assisted outpatient treatment, the  
33 court shall dismiss the petition.

34 (2) If after hearing all relevant evidence, the court finds by clear  
35 and convincing evidence that the subject of the petition meets the  
36 criteria for assisted outpatient treatment, and there is no appropriate  
37 and feasible less restrictive alternative, the court may order the  
38 subject to receive assisted outpatient treatment for an initial period  
39 not to exceed one year. In fashioning the order, the court shall specif-  
40 ically make findings by clear and convincing evidence that the proposed  
41 treatment is the least restrictive treatment appropriate and feasible  
42 for the subject. The order shall state an assisted outpatient treatment  
43 plan, which shall include all categories of assisted outpatient treat-  
44 ment, as set forth in paragraph one of subdivision (a) of this section,  
45 which the assisted outpatient is to receive, but shall not include any  
46 such category that has not been recommended in ~~both~~ the proposed writ-  
47 ten treatment plan and ~~the~~ in any testimony provided to the court  
48 pursuant to subdivision ~~(i)~~ (j) of this section.

49 (3) If after hearing all relevant evidence presented by a petitioner  
50 who is not a director, the court finds by clear and convincing evidence  
51 that the subject of the petition meets the criteria for assisted outpa-  
52 tient treatment, and the court has yet to be provided with a written  
53 proposed treatment plan and testimony pursuant to subdivision ~~(i)~~ (j)  
54 of this section, the court shall order the appropriate director to  
55 provide the court with such plan and testimony no later than the third  
56 day, excluding Saturdays, Sundays and holidays, immediately following

1 the date of such order; provided that the parties may stipulate, upon  
2 mutual consent, that such testimony need not be provided. Upon receiv-  
3 ing such plan and any required testimony, the court may order assisted  
4 outpatient treatment as provided in paragraph two of this subdivision.

5 (4) A court may order the patient to self-administer psychotropic  
6 drugs or accept the administration of such drugs by authorized personnel  
7 as part of an assisted outpatient treatment program. Such order may  
8 specify the type and dosage range of such psychotropic drugs and such  
9 order shall be effective for the duration of such assisted outpatient  
10 treatment.

11 (5) If the petitioner is the director of a hospital that operates an  
12 assisted outpatient treatment program, the court order shall direct the  
13 hospital director to provide or arrange for all categories of assisted  
14 outpatient treatment for the assisted outpatient throughout the period  
15 of the order. In all other instances, the order shall require the appro-  
16 priate director, as that term is defined in this section, to provide or  
17 arrange for all categories of assisted outpatient treatment for the  
18 assisted outpatient throughout the period of the order. Orders issued  
19 on or after the effective date of the chapter of the laws of two thou-  
20 sand twenty-five that amended this section shall require the appropriate  
21 director "as determined by the program coordinator" to provide or  
22 arrange for all categories of assisted outpatient treatment for the  
23 assisted outpatient throughout the period of the order.

24 (6) The director shall cause a copy of any court order issued pursuant  
25 to this section to be served personally, or by mail, facsimile or elec-  
26 tronic means, upon the assisted outpatient, the mental hygiene legal  
27 service or anyone acting on the assisted outpatient's behalf, the  
28 original petitioner, identified service providers, and all others enti-  
29 tled to notice under subdivision ~~(f)~~ (g) of this section.

30 ~~(k)~~ (l) Relocation of assisted outpatients. The commissioner shall  
31 promulgate regulations requiring that, during the period of the order,  
32 an assisted outpatient and any other appropriate persons shall notify  
33 the program coordinator within a reasonable time prior to such assisted  
34 outpatient relocating within the state of New York to an area not served  
35 by the director who has been directed to provide or arrange for the  
36 assisted outpatient treatment. Upon receiving notification of such relo-  
37 cation, the program coordinator shall redetermine who the appropriate  
38 director shall be and cause a copy of the court order and treatment plan  
39 to be transmitted to such director.

40 (m) Petition for ~~[additional periods of]~~ continued treatment. (1)  
41 [Prior] Within thirty days prior to the expiration of an order pursuant  
42 to this section, the appropriate director shall review whether the  
43 assisted outpatient continues to meet the criteria for assisted outpa-  
44 tient treatment. ~~[If, as documented in the petition, the director deter-~~  
45 ~~mines that such criteria continue to be met or has made appropriate~~  
46 ~~attempts to, but has not been successful in eliciting, the cooperation~~  
47 ~~of the subject to submit to an examination, within thirty days prior to~~  
48 ~~the expiration of an order of assisted outpatient treatment, such direc-~~  
49 ~~tor may petition the court to order continued assisted outpatient treat-~~  
50 ~~ment pursuant to paragraph two of this subdivision. Upon determining~~  
51 ~~whether such criteria continue to be met, such director shall notify the~~  
52 ~~program coordinator in writing as to whether a petition for continued~~  
53 ~~assisted outpatient treatment is warranted and whether such a petition~~  
54 ~~was or will be filed.] Upon determining that one or more of such crite-~~  
55 ria are no longer met, such director shall notify the program coordina-  
56 tor in writing that a petition for continued assisted outpatient treat-

1 ment is not warranted. Upon determining that such criteria continue to  
2 be met, they shall petition the court to order continued assisted outpa-  
3 tient treatment for a period not to exceed one year from the expiration  
4 date of the current order. If the court's disposition of such petition  
5 does not occur prior to the expiration date of the current order, the  
6 current order shall remain in effect until such disposition. The proce-  
7 dures for obtaining any order pursuant to this subdivision shall be in  
8 accordance with the provisions of the foregoing subdivision of this  
9 section; provided that the time restrictions included in paragraph four  
10 of subdivision (c) of this section shall not be applicable. The notice  
11 provisions set forth in paragraph six of subdivision (k) of this section  
12 shall be applicable. Any court order requiring periodic blood tests or  
13 urinalysis for the presence of alcohol or illegal drugs shall be subject  
14 to review after six months by the physician who developed the written  
15 treatment plan or another physician designated by the director, and such  
16 physician shall be authorized to terminate such blood tests or urinaly-  
17 sis without further action by the court.

18 (2) Within thirty days prior to the expiration of an order of assisted  
19 outpatient treatment, [~~the appropriate director or~~] the current peti-  
20 tioner, if the current petition was filed pursuant to subparagraph (i)  
21 or (ii) of paragraph one of subdivision [~~(e)~~] (f) of this section, and  
22 the current petitioner retains [~~his or her~~] their original status pursu-  
23 ant to the applicable subparagraph, may petition the court to order  
24 continued assisted outpatient treatment for a period not to exceed one  
25 year from the expiration date of the current order. If the court's  
26 disposition of such petition does not occur prior to the expiration date  
27 of the current order, the current order shall remain in effect until  
28 such disposition. The procedures for obtaining any order pursuant to  
29 this subdivision shall be in accordance with the provisions of the fore-  
30 going subdivisions of this section; provided that the time restrictions  
31 included in paragraph four of subdivision (c) of this section shall not  
32 be applicable. The notice provisions set forth in paragraph six of  
33 subdivision [~~(j)~~] (k) of this section shall be applicable. Any court  
34 order requiring periodic blood tests or urinalysis for the presence of  
35 alcohol or illegal drugs shall be subject to review after six months by  
36 the physician who developed the written treatment plan or another physi-  
37 cian designated by the director, and such physician shall be authorized  
38 to terminate such blood tests or urinalysis without further action by  
39 the court.

40 [~~(1)~~] (3) If neither the appropriate director nor the current peti-  
41 tioner petition for continued assisted outpatient treatment pursuant to  
42 this paragraph and the order of the court expires, any other person  
43 authorized to petition pursuant to paragraph one of subdivision (f) of  
44 this section may bring a new petition for assisted outpatient treatment.  
45 If such new petition is filed less than sixty days after the expiration  
46 of such order, the time restrictions provided in paragraph four of  
47 subdivision (c) of this section shall not be applicable to the new peti-  
48 tion.

49 (4) If, thirty days prior to the expiration of an order, the assisted  
50 outpatient is deemed by the appropriate director to be missing and  
51 thereby unavailable for evaluation as to whether such assisted outpa-  
52 tient continues to meet the criteria for assisted outpatient treatment,  
53 such director shall petition the court to extend the term of the current  
54 order until sixty days after such time as the assisted outpatient is  
55 located. If the court grants the extension, the director shall continue  
56 reasonable efforts to locate the assisted outpatient. Upon location of

1 the assisted outpatient, the director shall review whether the assisted  
2 outpatient continues to meet the criteria for assisted outpatient treat-  
3 ment, pursuant to paragraph two of this subdivision.

4 (n) Petition for an order to stay, vacate or modify. (1) In addition  
5 to any other right or remedy available by law with respect to the order  
6 for assisted outpatient treatment, the assisted outpatient, the mental  
7 hygiene legal service, or anyone acting on the assisted outpatient's  
8 behalf may petition the court on notice to the director, the original  
9 petitioner, and all others entitled to notice under subdivision [~~(f)~~]  
10 (g) of this section to stay, vacate or modify the order.

11 (2) The appropriate director shall petition the court for approval  
12 before instituting a proposed material change in the assisted outpatient  
13 treatment plan, unless such change is authorized by the order of the  
14 court. Such petitions to change an assisted outpatient treatment plan,  
15 as well as petitions for continued treatment, may be made to any judge  
16 of the supreme or county courts in the county in which the subject of  
17 the petition is present or reasonably believed to be present. Such peti-  
18 tion shall be filed on notice to all parties entitled to notice under  
19 subdivision [~~(f)~~] (g) of this section. Not later than five days after  
20 receiving such petition, excluding Saturdays, Sundays and holidays, the  
21 court shall hold a hearing on the petition; provided that if the  
22 assisted outpatient informs the court that [~~he or she agrees~~] they agree  
23 to the proposed material change, the court may approve such change with-  
24 out a hearing. Non-material changes may be instituted by the director  
25 without court approval. For the purposes of this paragraph, a material  
26 change is an addition or deletion of a category of services to or from a  
27 current assisted outpatient treatment plan, or any deviation without the  
28 assisted outpatient's consent from the terms of a current order relating  
29 to the administration of psychotropic drugs.

30 [~~(m)~~] (o) Appeals. Review of an order issued pursuant to this section  
31 shall be had in like manner as specified in section 9.35 of this  
32 article; provided that notice shall be provided to all parties entitled  
33 to notice under subdivision (g) of this section.

34 [~~(n)~~] (p) Failure to comply with assisted outpatient treatment. Where  
35 in the clinical judgment of a physician, (i) the assisted outpatient,  
36 has failed or refused to comply with the assisted outpatient treatment,  
37 (ii) efforts were made to solicit compliance, and (iii) such assisted  
38 outpatient may be in need of involuntary admission to a hospital pursu-  
39 ant to section 9.27 of this article or immediate observation, care and  
40 treatment pursuant to section 9.39 or 9.40 of this article, such physi-  
41 cian may request the appropriate director of community services, the  
42 director's designee, or any physician designated by the director of  
43 community services pursuant to section 9.37 of this article, to direct  
44 the removal of such assisted outpatient to an appropriate hospital for  
45 an examination to determine if such person has a mental illness for  
46 which they are in need of hospitalization is necessary pursuant to  
47 section 9.27, 9.39 or 9.40 of this article[~~, Furthermore, if such~~  
48 ~~assisted outpatient refuses to take medications as required by the court~~  
49 ~~order, or he or she refuses to take, or fails a blood test, urinalysis,~~  
50 ~~or alcohol or drug test as required by the court order, such physician~~  
51 ~~may consider such refusal or failure when determining whether]; provided  
52 that if, after efforts to solicit compliance, such physician determines  
53 that the assisted outpatient's failure to comply with the assisted  
54 outpatient treatment includes a substantial failure to take medication,  
55 pass or submit to blood testing or urinalysis, or receive treatment for  
56 alcohol or substance abuse, such physician may presume that the assisted~~

1 outpatient is in need of an examination to determine whether [~~he or she~~  
2 ~~has~~] they have a mental illness for which hospitalization is necessary.  
3 Upon the request of such physician, the appropriate director, the direc-  
4 tor's designee, or any physician designated pursuant to section 9.37 of  
5 this article, may direct peace officers, acting pursuant to their  
6 special duties, or police officers who are members of an authorized  
7 police department or force or of a sheriff's department to take the  
8 assisted outpatient into custody and transport [~~him or her~~] them to the  
9 hospital operating the assisted outpatient treatment program or to any  
10 hospital authorized by the director of community services to receive  
11 such persons. Such law enforcement officials shall carry out such direc-  
12 tive. Upon the request of such physician, the appropriate director, the  
13 director's designee, or any physician designated pursuant to section  
14 9.37 of this article, an ambulance service, as defined by subdivision  
15 two of section three thousand one of the public health law, or an  
16 approved mobile crisis outreach team as defined in section 9.58 of this  
17 article shall be authorized to take into custody and transport any such  
18 person to the hospital operating the assisted outpatient treatment  
19 program, or to any other hospital authorized by the appropriate director  
20 of community services to receive such persons. Any director of community  
21 services, or designee, shall be authorized to direct the removal of an  
22 assisted outpatient who is present in [~~his or her~~] their county to an  
23 appropriate hospital, in accordance with the provisions of this subdivi-  
24 sion, based upon a determination of the appropriate director of communi-  
25 ty services directing the removal of such assisted outpatient pursuant  
26 to this subdivision. Such person may be retained for observation, care  
27 and treatment and further examination in the hospital for up to seven-  
28 ty-two hours to permit a physician to determine whether such person has  
29 a mental illness and is in need of involuntary care and treatment in a  
30 hospital pursuant to the provisions of this article. Any continued  
31 involuntary retention of the assisted outpatient in such hospital beyond  
32 the initial seventy-two hour period shall be in accordance with the  
33 provisions of this article relating to the involuntary admission and  
34 retention of a person. If at any time during the seventy-two hour period  
35 the person is determined not to meet the involuntary admission and  
36 retention provisions of this article, and does not agree to stay in the  
37 hospital as a voluntary or informal patient, [~~he or she~~] such person  
38 must be released. Failure to comply with an order of assisted outpatient  
39 treatment shall not be grounds for involuntary civil commitment or a  
40 finding of contempt of court.

41 [~~(e)~~] (g) Effect of determination that a person is in need of assisted  
42 outpatient treatment. The determination by a court that a person is in  
43 need of assisted outpatient treatment shall not be construed as or  
44 deemed to be a determination that such person is incapacitated pursuant  
45 to article eighty-one of this chapter.

46 [~~(p)~~] (r) False petition. A person making a false statement or provid-  
47 ing false information or false testimony in a petition or hearing under  
48 this section shall be subject to criminal prosecution pursuant to arti-  
49 cle one hundred seventy-five or article two hundred ten of the penal  
50 law.

51 [~~(q)~~] (s) Exception. Nothing in this section shall be construed to  
52 affect the ability of the director of a hospital to receive, admit, or  
53 retain patients who otherwise meet the provisions of this article  
54 regarding receipt, retention or admission.

55 [~~(r)~~] (t) Education and training. (1) The office [~~of mental health~~],  
56 in consultation with the office of court administration, shall prepare

1 educational and training materials on the use of this section, which  
2 shall be made available to local governmental units, providers of  
3 services, judges, court personnel, law enforcement officials and the  
4 general public.

5 (2) The office, in consultation with the office of court adminis-  
6 tration, shall establish a mental health training program for supreme  
7 and county court judges and court personnel, and shall provide such  
8 training with such frequency and in such locations as may be appropriate  
9 to meet statewide needs. Such training shall focus on the use of this  
10 section and generally address issues relating to mental illness and  
11 mental health treatment.

12 [~~s~~] (u) A director of community services or [~~his or her~~] such direc-  
13 tor's designee may require a provider of inpatient psychiatric services  
14 operated or licensed by the office of mental health to provide contempo-  
15 raneous information, including but not limited to relevant clinical  
16 records, documents, and other information concerning the person receiv-  
17 ing assisted outpatient treatment pursuant to an active assisted outpa-  
18 tient treatment order, that is deemed necessary by such director or  
19 designee who is required to coordinate and monitor the care of any indi-  
20 vidual who was subject to an active assisted outpatient treatment order  
21 to appropriately discharge their duties pursuant to section 9.47 of this  
22 article, and where such provider of inpatient psychiatric services is  
23 required to disclose such information pursuant to paragraph twelve of  
24 subdivision (c) of section 33.13 of this chapter and such disclosure is  
25 in accordance with all other applicable state and federal confidentiali-  
26 ty laws. None of the records or information obtained by the director of  
27 community services pursuant to this subdivision shall be public records,  
28 and the records shall not be released by the director to any person or  
29 agency, except as already authorized by law.

30 § 6. Section 29.15 of the mental hygiene law is amended by adding a  
31 new subdivision (o) to read as follows:

32 (o) If the director of a department facility does not petition for  
33 assisted outpatient treatment pursuant to section 9.60 of this chapter  
34 upon the discharge of an inpatient admitted pursuant to section 9.27,  
35 9.39 or 9.40 of this chapter, or upon the expiration of a period of  
36 conditional release for such inpatient, such director shall report such  
37 discharge or such expiration in writing to the director of community  
38 services of the local governmental unit in which the inpatient is  
39 expected to reside.

40 § 7. Subdivision 3 of section 404 of the correction law, as amended by  
41 chapter 322 of the laws of 2021, is amended and a new subdivision 5 is  
42 added to read as follows:

43 3. Within a reasonable period prior to discharge of an incarcerated  
44 individual committed from a [~~state correctional facility from a~~] hospi-  
45 tal in the department of mental hygiene to the community, the director  
46 shall ensure that a clinical assessment has been completed to determine  
47 whether the incarcerated individual meets the criteria for assisted  
48 outpatient treatment pursuant to subdivision (c) of section 9.60 of the  
49 mental hygiene law. If, as a result of such assessment, the director  
50 determines that the incarcerated individual meets such criteria, prior  
51 to discharge the director of the hospital shall either petition for a  
52 court order pursuant to section 9.60 of the mental hygiene law, or  
53 report in writing to the director of community services of the local  
54 governmental unit in which the incarcerated individual is expected to  
55 reside so that an investigation [~~may~~] shall be conducted pursuant to  
56 section 9.47 of the mental hygiene law.

1 5. Within a reasonable period prior to release or discharge of an  
2 incarcerated individual who is not currently committed to a hospital in  
3 the department of mental hygiene from a state correctional facility to  
4 the community, if such incarcerated individual has a serious mental  
5 illness pursuant to paragraph (e) of subdivision six of section one  
6 hundred thirty-seven of this chapter, the department shall notify the  
7 director of a hospital who shall ensure that a clinical assessment has  
8 been completed to determine whether the incarcerated individual meets  
9 the criteria for assisted outpatient treatment pursuant to subdivision  
10 (c) of section 9.60 of the mental hygiene law. If, as a result of such  
11 assessment, the director determines that the incarcerated individual  
12 meets such criteria, prior to release or discharge, the director of the  
13 hospital shall either petition for a court order pursuant to section  
14 9.60 of the mental hygiene law, or report in writing to the director of  
15 community services of the local governmental unit in which the incarcer-  
16 ated individual is expected to reside so that an investigation shall be  
17 conducted pursuant to section 9.47 of the mental hygiene law.

18 § 8. Section 18 of chapter 408 of the laws of 1999, constituting  
19 Kendra's Law, as amended by section 1 of subpart H of part UU of chapter  
20 56 of the laws of 2022, is amended to read as follows:

21 § 18. This act shall take effect immediately, provided that section  
22 fifteen of this act shall take effect April 1, 2000, provided, further,  
23 that subdivision (e) of section 9.60 of the mental hygiene law as added  
24 by section six of this act shall be effective 90 days after this act  
25 shall become law[~~, and that this act shall expire and be deemed repealed~~  
26 ~~June 30, 2027~~].

27 § 9. Severability. If any clause, sentence, paragraph, section or part  
28 of this act shall be adjudged by any court of competent jurisdiction to  
29 be invalid, and after exhaustion of all further judicial review, the  
30 judgment shall not affect, impair or invalidate the remainder thereof,  
31 but shall be confined in its operation to the clause, sentence, para-  
32 graph, section or part thereof directly involved in the controversy.

33 § 10. This act shall take effect immediately.