

STATE OF NEW YORK

2664

2025-2026 Regular Sessions

IN SENATE

January 22, 2025

Introduced by Sen. ORTT -- read twice and ordered printed, and when printed to be committed to the Committee on Alcoholism and Substance Use Disorders

AN ACT to amend the mental hygiene law, in relation to emergency intervention for persons impaired by substances

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

- 1 Section 1. Section 22.09 of the mental hygiene law, as amended by
2 section 1 of part D of chapter 69 of the laws of 2016, paragraph 5 of
3 subdivision (a) as amended by section 9 of part AA of chapter 57 of the
4 laws of 2021, is amended to read as follows:
5 § 22.09 Emergency services for persons intoxicated, impaired, or inca-
6 pacitated by alcohol [~~and/or substances~~].
7 (a) As used in this article:
8 1. "Intoxicated or impaired person" means a person whose mental or
9 physical functioning is substantially impaired as a result of the pres-
10 ence of alcohol [~~and/or substances~~] in [~~his or her~~] their body.
11 2. "Incapacitated" means that a person, as a result of the use of
12 alcohol [~~and/or substances~~], is unconscious or has [~~his or her~~] their
13 judgment otherwise so impaired that [~~he or she is~~] they are incapable of
14 realizing and making a rational decision with respect to [~~his or her~~]
15 their need for treatment.
16 3. "Likelihood to result in harm" or "likely to result in harm" means
17 (i) a substantial risk of physical harm to the person as manifested by
18 threats of or attempts at suicide or serious bodily harm or other
19 conduct demonstrating that the person is dangerous to [~~himself or~~
20 ~~herself~~] themselves, or (ii) a substantial risk of physical harm to other
21 persons as manifested by homicidal or other violent behavior by which
22 others are placed in reasonable fear of serious physical harm.
23 4. "Emergency services" means immediate physical examination, assess-
24 ment, care and treatment of an incapacitated person for the purpose of

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

LBD06846-01-5

1 confirming that the person is, and continues to be, incapacitated by
2 alcohol [~~and/or substances~~] to the degree that there is a likelihood to
3 result in harm to the person or others.

4 5. "Treatment facility" means a facility designated by the commission-
5 er which may only include a general hospital as defined in article twen-
6 ty-eight of the public health law, or a medically managed or medically
7 supervised withdrawal, inpatient rehabilitation, or residential stabili-
8 zation treatment program that has been certified by the commissioner to
9 have appropriate medical staff available on-site at all times to provide
10 emergency services and continued evaluation of capacity of individuals
11 retained under this section or a crisis stabilization center licensed
12 pursuant to [~~article~~] section 36.01 of this chapter.

13 (b) 1. An intoxicated or impaired person may come voluntarily for
14 emergency services to a chemical dependence program or treatment facili-
15 ty authorized by the commissioner to provide such emergency services. A
16 person who appears to be intoxicated or impaired and who consents to the
17 proffered help may be assisted by any peace officer acting pursuant to
18 [~~his or her~~] their special duties, police officer, or by a designee of
19 the director of community services to return to [~~his or her~~] their home,
20 to a chemical dependence program or treatment facility, or to any other
21 facility authorized by the commissioner to provide such emergency
22 services. In such cases, the peace officer, police officer, or designee
23 of the director of community services shall accompany the intoxicated or
24 impaired person in a manner which is reasonably designed to assure [~~his~~
25 ~~or her~~] their safety, as set forth in regulations promulgated in accord-
26 ance with subdivision (d) of this section.

27 2. A person who appears to be incapacitated by alcohol [~~and/or~~
28 ~~substances~~] to the degree that there is a likelihood to result in harm
29 to the person or to others may be taken by a peace officer acting pursu-
30 ant to [~~his or her~~] their special duties, or a police officer who is a
31 member of the state police or of an authorized police department or
32 force or of a sheriff's department or by the director of community
33 services or a person duly designated by [~~him or her~~] them to a treatment
34 facility for purposes of receiving emergency services. Every reasonable
35 effort shall be made to protect the health and safety of such person,
36 including but not limited to the requirement that the peace officer,
37 police officer, or director of community services or [~~his or her~~] their
38 designee shall accompany the apparently incapacitated person in a manner
39 which is reasonably designed to assure [~~his or her~~] their safety, as set
40 forth in regulations promulgated in accordance with subdivision (d) of
41 this section.

42 3. A person who comes voluntarily or is brought without [~~his or her~~]
43 their objection to any such facility or program in accordance with this
44 subdivision shall be given emergency care and treatment at such place if
45 found suitable therefor by authorized personnel, or referred to another
46 suitable facility or treatment program for care and treatment, or sent
47 to [~~his or her~~] their home.

48 4. The director of a treatment facility may receive as a patient in
49 need of emergency services any person who appears to be incapacitated as
50 defined in this section.

51 5. A person who comes voluntarily or is brought with [~~his or her~~]
52 their objection to a treatment facility shall be examined as soon as
53 possible but not more than twelve hours after arriving at such treatment
54 facility by an examining physician. If such examining physician deter-
55 mines that such person is incapacitated by alcohol [~~and/or substances~~]
56 to the degree that there is a likelihood to result in harm to the person

1 or others, [~~he or she~~] such person may be retained to receive emergency
2 services and shall be regularly reevaluated to confirm continued inca-
3 pacity by alcohol [~~and/or substances~~] to the degree that there is a
4 likelihood to result in harm to the person or others. If the examining
5 physician determines at any time that such person is not incapacitated
6 by alcohol [~~and/or substances~~] to the degree that there is a likelihood
7 to result in harm to the person or others, [~~he or she~~] such person must
8 be released. Notwithstanding any other law, in no event may such person
9 be retained against [~~his or her~~] their objection beyond whichever is the
10 shorter of the following: (i) the time that [~~he or she~~] such person is
11 no longer incapacitated by alcohol [~~and/or substances~~] to the degree
12 that there is a likelihood to result in harm to the person or others or
13 (ii) a period longer than seventy-two hours.

14 6. Every reasonable effort must be made to obtain the person's consent
15 to give prompt notification of a person's retention in a facility or
16 program pursuant to this section to [~~his or her~~] their closest relative
17 or friend, and, if requested by such person, to [~~his or her~~] their
18 attorney and personal physician, in accordance with federal confiden-
19 tiality regulations.

20 7. A person may not be retained pursuant to this section beyond a
21 period of seventy-two hours without [~~his or her~~] their consent. Persons
22 suitable therefor may be voluntarily admitted to a chemical dependence
23 program or facility pursuant to this article.

24 (c) Discharge procedures. 1. The discharge procedure process shall
25 begin as soon as the patient is admitted to the treatment facility and
26 shall be considered a part of the treatment planning process. The
27 discharge plan shall be developed in collaboration with the patient and
28 any significant other(s) the patient chooses to involve. If the patient
29 is a minor, the discharge plan must also be developed in consultation
30 with [~~his or her~~] such patient's parent or guardian, unless the minor is
31 being treated without parental consent as authorized by section 22.11 of
32 this [~~chapter~~] article.

33 2. No patient shall be discharged without a discharge plan which has
34 been completed and reviewed by the multi-disciplinary team prior to the
35 discharge of the patient. This review may be part of a regular treatment
36 plan review. The portion of the discharge plan which includes the refer-
37 rals for continuing care shall be given to the patient upon discharge.
38 This requirement shall not apply to patients who refuse continuing care
39 planning, provided, however, that the treatment facility shall make
40 reasonable efforts to provide information about the dangers of long term
41 substance use as well as information related to treatment including, but
42 not limited to, the OASAS HOPELINE and the OASAS Bed Availability Dash-
43 board.

44 3. The discharge plan shall be developed by the responsible clinical
45 staff member, who, in the development of such plan, shall consider the
46 patient's self-reported confidence in maintaining abstinence and follow-
47 ing an individualized relapse prevention plan. The responsible clinical
48 staff member shall also consider an assessment of the patient's home and
49 family environment, vocational/educational/employment status, and the
50 patient's relationships with significant others. The purpose of the
51 discharge plan shall be to establish the level of clinical and social
52 resources available to the patient upon discharge from the inpatient
53 service and the need for the services for significant others. The
54 discharge plan shall include, but not be limited to, the following:

55 (i) identification of continuing chemical dependence services includ-
56 ing management of withdrawal or continuing stabilization and any other

1 treatment, rehabilitation, self-help and vocational, educational and
2 employment services the patient will need after discharge;
3 (ii) identification of the type of residence, if any, that the patient
4 will need after discharge;
5 (iii) identification of specific providers of these needed services;
6 and
7 (iv) specific referrals and initial appointments for these needed
8 services.

9 4. A discharge summary which includes the course and results of care
10 and treatment must be prepared and included in each patient's case
11 record within twenty days of discharge.

12 (d) The commissioner shall promulgate all rules and regulations, after
13 consulting with representatives of appropriate law enforcement and chem-
14 ical dependence providers of services, establishing procedures for
15 taking intoxicated or impaired persons and persons apparently incapac-
16 itated by alcohol [~~and/or substances~~] to their residences or to appropri-
17 ate public or private facilities for emergency services and for minimiz-
18 ing the role of the police in obtaining treatment of such persons
19 necessary to implement the provisions of this section, including but not
20 limited to establishing procedures for transporting incapacitated
21 persons to a treatment facility for emergency services.

22 § 2. The mental hygiene law is amended by adding a new section 22.10
23 to read as follows:

24 § 22.10 Emergency services for persons impaired or incapacitated by
25 substances.

26 (a) Definitions. As used in this article:

27 1. "Impaired person" means a person whose mental or physical function-
28 ing is substantially impaired as a result of the presence of substances
29 in their body.

30 2. "Incapacitated" means that a person, as a result of the use of
31 substances, is unconscious or has their judgment otherwise so impaired
32 that such person is incapable of realizing and making a rational deci-
33 sion with respect to his or her need for treatment.

34 3. "Likelihood to result in harm" or "likely to result in harm" means
35 (i) a substantial risk of physical harm to the person as manifested by
36 threats of or attempts at suicide or serious bodily harm or other
37 conduct demonstrating that the person is dangerous to themselves, or (ii)
38 a substantial risk of physical harm to other persons as manifested by
39 homicidal or other violent behavior by which others are placed in
40 reasonable fear of serious physical harm.

41 4. "Emergency services" means immediate voluntary or involuntary phys-
42 ical examination, assessment, care and treatment of an impaired person
43 who has become incapacitated in order to achieve stabilization and/or
44 subsequent admission to extended voluntary or involuntary treatment.

45 5. "Treatment facility" means a hospital as defined in article twen-
46 ty-eight of the public health law, or a chemical dependence program
47 facility certified or approved by the commissioner.

48 6. "Substance" shall have the same meaning as set forth in subdivision
49 thirty-nine of section 1.03 of this chapter.

50 (b) Voluntary emergency services. 1. An impaired person may come
51 voluntarily for emergency services to a chemical dependence program or
52 treatment facility authorized by the commissioner to provide such emer-
53 gency services. A person who appears to be impaired and who consents to
54 the proffered help shall be assisted by any peace officer acting pursu-
55 ant to their special duties, police officer, or by a designee of the
56 director of community services to return to their home, to a chemical

1 dependence program or treatment facility, or to any other facility
2 authorized by the commissioner to provide emergency services. In such
3 cases, the peace officer, police officer, or designee of the director of
4 community services shall accompany the impaired person in a manner which
5 is reasonably designed to assure their safety, as set forth in regu-
6 lations promulgated in accordance with subdivision (f) of this section.

7 2. Consistent with subdivision (b) of section 22.07 of this article, a
8 person who appears to be incapacitated by substances to the degree that
9 there is a likelihood to result in harm to the person or to others shall
10 be taken by a peace officer acting pursuant to their special duties, or
11 a police officer who is a member of the state police or of an authorized
12 police department or force or of a sheriff's department or by the direc-
13 tor of community services or a person duly designated by them, or pursu-
14 ant to petition to the director of community services pursuant to subdivi-
15 vision (d) of this section, to a treatment facility for purposes of
16 receiving emergency services. Every reasonable effort shall be made to
17 protect the health and safety of such person, including but not limited
18 to the requirement that the peace officer, police officer, or director
19 of community services or their designee shall accompany the apparently
20 incapacitated person in a manner which is reasonably designed to assure
21 their safety, as set forth in regulations promulgated in accordance with
22 subdivision (f) of this section.

23 3. A person who comes voluntarily or is brought without their
24 objection to any such treatment facility in accordance with paragraph
25 two of this subdivision shall be provided emergency services at such
26 place if found suitable by authorized personnel, or referred to another
27 suitable facility or treatment program for emergency services, or sent
28 to their home.

29 4. A person who is brought with their objection to any treatment
30 facility in accordance with paragraph two of this subdivision shall be
31 examined as soon as possible by an examining physician. If such examin-
32 ing physician determines that such person is incapacitated by substances
33 to the degree that there is a likelihood to result in harm to the person
34 or others, such person may be retained for emergency treatment to
35 achieve stabilization. If the examining physician determines that such
36 person is not incapacitated by substances to the degree that there is a
37 likelihood to result in harm to the person or others, they must be
38 released. Except as provided in subdivision (c) of this section, in no
39 event may such person be retained against their objection beyond which-
40 ever is the shorter of the following:

41 (i) the time that such person is no longer incapacitated by substances
42 to the degree that there is a likelihood to result in harm to the person
43 or others or;

44 (ii) a period longer than seventy-two hours.

45 5. Every reasonable effort must be made to obtain the person's consent
46 to give prompt notification of a person's retention in a facility or
47 program pursuant to this subdivision to their closest relative or
48 friend, and, if requested by such person, to their attorney and personal
49 physician, in accordance with federal confidentiality regulations.

50 (c) Involuntary emergency services on certificate of a director of
51 community services or designee. 1. The director of a treatment facility
52 designated by the commissioner to provide emergency services shall upon
53 the certificate of a local director of community services or a physician
54 duly designated by the director of community services, receive and care
55 for in such facility as a patient any person who, in the opinion of the
56 director of community services or their designee sought by petition

1 pursuant to subdivision (d) of this section, is incapacitated such that
2 such person's use or abuse of chemical substances is likely to result in
3 harm to himself or others and for whom immediate involuntary emergency
4 services is appropriate.

5 2. The need for immediate involuntary emergency services shall be
6 confirmed prior to admission by a physician affiliated with the facili-
7 ty. Excluding Sundays and holidays, if the physician recommends such
8 patient be retained for emergency services beyond seventy-two hours and
9 the patient does not agree to remain in such facility as a voluntary
10 patient, the certificate of such physician attesting that the patient is
11 in need of extended involuntary emergency services shall be filed with
12 the facility. From the time of such patient's admission under this
13 subdivision the retention of such patient for emergency services beyond
14 seventy-two hours shall be subject to the provisions for notice, hear-
15 ing, review, and judicial approval provided by this article for the
16 admission and retention of involuntary patients, provided that, for the
17 purposes of such provisions, the date of admission of the patient shall
18 be deemed to be the date when the patient was first received in the
19 facility pursuant to this subdivision.

20 (d) Petition to local director of community services for voluntary or
21 involuntary emergency services. 1. A petition for emergency services may
22 be sought for an adult or for a minor by petition to a local govern-
23 mental unit's director of community services in accordance with this
24 subdivision. Any one of the following persons may petition the director
25 of community services:

26 (i) in the case of an adult, a physician, the person's spouse or guar-
27 dian, any relative of the person, or any other adult who has personal
28 knowledge of a person's substance abuse impairment; or

29 (ii) in the case of a minor, the minor's parent, legal guardian, or
30 legal custodian.

31 2. Petition for admission of a patient to a treatment facility for
32 emergency services pursuant to this section shall be based upon a
33 personal examination by a director of community services or such direc-
34 tor's designee. It shall be in writing and shall be filed with the
35 director of a facility at the time of the patient's reception, together
36 with a statement in a form prescribed by the commissioner giving such
37 information as such commissioner may deem appropriate. A petition for
38 admission for emergency services must establish the reason the petition-
39 er believes that there is a likelihood to result in harm to the person
40 or others unless they are admitted for immediate emergency services. A
41 petition must include:

42 (i) the name of the person to be admitted, the name and signature of
43 the petitioner, the relationship between the person to be admitted and
44 the applicant; and

45 (ii) the reason the petitioner believes that because of such impair-
46 ment the person has lost the power of self-control with respect to
47 substance abuse; and

48 (iii) the reason the petitioner believes that the person's refusal to
49 voluntarily receive emergency services is based on judgment so impaired
50 by reason of substance abuse that they are incapable of appreciating
51 such person's need for such services and of making a rational decision
52 regarding their need for services.

53 3. Upon receipt of such petition, the director of community services
54 or a person duly designated by them shall review such petition and may
55 take actions pursuant to subdivisions (b) or (c) of this section.

(e) Each person admitted to a treatment facility for emergency services pursuant to this section shall be provided with written notice regarding patient rights pursuant to section 22.03 of this article, access to their personal attorney upon request, and notice as to the availability of the mental hygiene legal service for legal counsel and shall be provided access to the service upon request.

(f) The commissioner shall promulgate regulations establishing procedures for taking intoxicated or impaired persons and persons apparently incapacitated by alcohol and/or substances to their residence or to appropriate public or private treatment facilities for emergency services and minimizing the role of the police in obtaining treatment of such persons.

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

§ 22.13 Court authorization to retain an involuntary patient.

(a) If the director of a facility shall determine that a patient admitted pursuant to subdivision (c) of section 22.10 of this article, for whom there is no prior court order authorizing retention for a specified period, is in need of retention beyond seventy-two hours and if such patient does not agree to remain in such facility as a voluntary patient, the director shall apply to the supreme court or the county court in the county where the facility is located for an order authorizing continued retention. The facility is authorized to retain the patient for seventy-two hours or during the period in which the application may be pending, such period not to exceed ninety days. The director shall cause written notice of such application to be given to the patient and a copy thereof shall be given personally or by mail to any 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 by the patient or the service 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 for a period not to exceed ninety days from the date of the order, provided the court is satisfied that the patient requires continued retention.

(b) Upon the demand of the patient or of anyone on their behalf or upon request of the mental hygiene legal service, the court shall, or may on its own motion, fix a date for the hearing of the application pursuant to court procedure in the jurisdiction of the facility.

(c) Except as provided in subdivision (a) of this section a person may not be retained beyond a period of ninety days without their consent. Persons suitable therefor may be voluntarily admitted to a chemical dependence program or facility pursuant to this article.

§ 4. Subdivision (d) of section 22.11 of the mental hygiene law, as added by chapter 558 of the laws of 1999, is amended to read as follows:

(d) Inpatient or residential treatment. 1. ~~[Admission]~~ Voluntary admission procedures. (i) A copy of the patient's rights established under this section and under section 22.03 of this article shall be given and explained to the minor and to the minor's consenting parent or guardian at the time of admission by the director of the facility or such person's designee.

(ii) The minor shall be required to sign a form indicating that the treatment is being voluntarily sought, and that ~~[he or she has]~~ they have been advised of ~~[his or her]~~ their ability to access the mental hygiene legal service and of ~~[his or her]~~ their rights under this

1 section and section 22.03 of this article. The signed form shall be
2 included in the minor's medical record.

3 (iii) At the time of admission, any minor so admitted shall be
4 informed by the director of the facility or the director's designee,
5 orally and in writing, of the minor's right to be discharged in accord-
6 ance with the provisions of this ~~[section]~~ subdivision within twenty-
7 four hours of ~~[his or her]~~ them making a request therefor.

8 (iv) Emergency contacts.

9 (A) At the time of admission, the provider of services shall use its
10 best efforts to obtain from the minor's consenting parent or guardian a
11 telephone number or numbers where ~~[he or she]~~ they may be reached by the
12 facility at any time during the day or night. In addition, such provider
13 of services shall also use its best efforts to obtain from the parent or
14 guardian a name, address and appropriate telephone number or numbers of
15 an adult designated by such parent or guardian as an emergency contact
16 person in the event the facility is unable to reach such parent or guar-
17 dian.

18 (B) If the minor is admitted in accordance with subdivision (c) of
19 this section, the provider of services shall use its best efforts to
20 obtain from the minor the name, address, and telephone number of an
21 adult who may serve as an emergency contact, and the facility shall
22 verify the existence and availability of such contact upon notice to and
23 with the prior written consent of the minor.

24 (C) Failure to obtain emergency contacts, after reasonable effort, in
25 accordance with this section shall not preclude admission of the minor
26 to treatment.

27 (v) Notice of admission and discharge procedures.

28 (A) A copy of the facility's admission and discharge procedures shall
29 be provided to the minor and to the minor's consenting parent or guardi-
30 an at the time of admission by the director of the facility or such
31 person's designee. Such information shall also be mailed to the desig-
32 nated emergency contact person by regular mail.

33 (B) If the minor is admitted in accordance with subdivision (c) of
34 this section, a copy of the facility's admission and discharge proce-
35 dures shall be provided to the minor. Such information shall also be
36 mailed to the designated emergency contact person by regular mail.

37 (vi) Each minor admitted for inpatient or residential chemical depend-
38 ence treatment pursuant to this subdivision shall be provided with writ-
39 ten notice regarding the availability of the mental hygiene legal
40 service for legal counsel, and shall be provided access to the service
41 upon request.

42 2. Involuntary admission procedures. (i) Minors admitted pursuant to
43 section 22.10 of this article shall be provided with written notice
44 regarding the availability of the mental hygiene legal service for legal
45 counsel, and shall be provided access to the service upon request.

46 (ii) No minor receiving involuntary inpatient emergency services
47 pursuant to subdivision (c) of section 22.10 of this article may be
48 discharged from the program prior to seventy-two hours based solely on
49 their request.

50 (iii) A copy of the patient's rights established under this section
51 and under section 22.03 of this article shall be given and explained to
52 the minor and to the minor's consenting parent or guardian at the time
53 of admission by the director of the facility or such person's designee.

54 (iv) The minor shall be required to sign a form indicating that they
55 have been advised of their ability to access the mental hygiene legal
56 service and of their rights under this section and section 22.03 of this

1 article. The signed form shall be included in the minor's medical
2 record.

3 3. Discharge procedures. All minors admitted pursuant to this subdivi-
4 sion shall be discharged in accordance with the following:

5 (i) ~~[Any minor admitted to an inpatient or residential chemical~~
6 ~~dependence treatment facility has the right to be discharged within~~
7 ~~twenty-four hours of his or her request in accordance with the~~
8 ~~provisions of this subdivision.~~

9 ~~(ii)]~~ If discharge is requested prior to completion of a minor's
10 treatment plan, such minor must request discharge in writing.

11 (A) Upon receipt of any form of written request for discharge, the
12 director of the facility in which the minor is admitted shall immediate-
13 ly notify the minor's parent or guardian. If the facility is unable to
14 contact such parent or guardian within a reasonable time, or if the
15 minor has been admitted pursuant to subdivision (c) of this section, the
16 facility shall notify the designated emergency contact person.

17 (B) The minor shall not be discharged from such facility until it is
18 determined:

19 (1) that the safety and well being of such minor will not be threat-
20 ened ~~[or the expiration of twenty-four hours, whichever is sooner]; [or]~~

21 (2) that the minor's parent or guardian consents to the release of
22 such minor; and

23 (3) that the parent, guardian, or designated emergency contact person
24 has made appropriate and timely departure arrangements with the facili-
25 ty. ~~[However, unless otherwise directed by the minor's parent or guardi-~~
26 ~~an or designated emergency contact person pursuant to this item, such~~
27 ~~minor shall be discharged within twenty-four hours after submission of~~
28 ~~the request.~~

29 ~~(iii)]~~ (ii) Writing materials for use in requesting a discharge shall
30 be made available at all times to all minors admitted under this
31 section.

32 (iii) The staff of the facility shall assist such minors in preparing
33 or submitting requests for discharge.

34 § 5. This act shall take effect immediately.