

# STATE OF NEW YORK

9185

## IN SENATE

February 12, 2026

Introduced by Sen. CHAN -- read twice and ordered printed, and when printed to be committed to the Committee on Mental Health

AN ACT to amend the mental hygiene law, in relation to strengthening assisted outpatient treatment, discharge planning, and post-incident reassessment; and providing for the protection of due process and least-restrictive care

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

1 Section 1. Short title. This act shall be known and may be cited as  
2 the "involuntary care continuity and safety act of 2026".

3 § 2. Legislative findings and purpose. The legislature finds that  
4 reforms regarding involuntary commitment enacted in May 2025 expanded  
5 the definition of likelihood to result in serious harm, broadened clinical  
6 certifiers, and eased re-filing of assisted outpatient treatment  
7 (AOT). Remaining gaps occur at discharge and after high-risk community  
8 incidents, resulting in repeat hospitalizations, cycles of victimization,  
9 and instability for individuals with serious mental illness. This  
10 act closes those gaps by: (i) requiring standardized AOT eligibility  
11 review prior to discharge from specified involuntary admissions; (ii)  
12 authorizing narrowly tailored twelve-month initial AOT orders for  
13 repeat-cycle or violence-risk cohorts with mid-term case review; (iii)  
14 strengthening conditional release planning; and (iv) mandating rapid  
15 court reassessment after violent arrests or serious dangerous incidents.  
16 The act preserves due process, clinical discretion, and the least-restrictive  
17 alternative consistent with *Olmstead v. L.C.*, 527 U.S. 581  
18 (1999).

19 § 3. Subdivision (e) of section 9.60 of the mental hygiene law is  
20 amended by adding a new paragraph 1-a to read as follows:

21 (1-a) (i) Prior to the discharge of a person admitted or retained  
22 pursuant to section 9.27, 9.33 or 9.39 of this article, the director of  
23 the hospital, or the director's designee, shall ensure completion of a  
24 standardized assisted outpatient treatment eligibility review ("AOT  
25 discharge review").

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

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1 (ii) The commissioner shall prescribe by regulation a uniform check-  
2 list to be used statewide which shall consider, at a minimum: (A) histo-  
3 ry of treatment non-adherence; (B) two or more emergency department  
4 presentations or hospital admissions within the preceding twenty-four  
5 months; (C) acts, threats, or attempts of serious physical harm to self  
6 or others or other documented violent conduct; and (D) recent material  
7 deterioration, including inability to meet basic living needs consistent  
8 with the serious-harm standard.

9 (iii) If, based on the AOT discharge review and clinical judgment, the  
10 person is believed to meet the criteria of this section, the director of  
11 the hospital shall, prior to discharge, file a petition pursuant to  
12 paragraph one of this subdivision in the supreme or county court of the  
13 county where the person is present or is expected to reside upon  
14 discharge. The filing of a petition shall not, by itself, delay a clin-  
15 ically appropriate discharge; provided, however, that the hospital shall  
16 coordinate interim services to avoid gaps in care pending hearing.

17 (iv) Upon filing, the hospital shall provide written notice to the  
18 person, to the mental hygiene legal service, and to appointed or  
19 retained counsel, if any, and shall transmit the AOT discharge review  
20 and supporting clinical affidavit. The hearing shall be set in accord-  
21 ance with subdivision (h) of this section.

22 (v) Nothing in this paragraph shall be construed to mandate petition-  
23 ing where the treatment team determines, and documents, that AOT is not  
24 clinically indicated and that a voluntary plan with appropriate communi-  
25 ty supports is reasonably expected to suffice.

26 § 4. Subdivision (j) of section 9.60 of the mental hygiene law is  
27 amended by adding a new paragraph 2-a to read as follows:

28 (2-a) Notwithstanding paragraph two of this subdivision, where the  
29 court finds by clear and convincing evidence that the subject of the  
30 petition:

31 (i) has had two or more involuntary admissions pursuant to sections  
32 9.27, 9.33 or 9.39 of this article within the preceding twenty-four  
33 months; or

34 (ii) has engaged in an act, threat, or attempt of serious physical  
35 harm to self or others within the preceding twelve months; or

36 (iii) is being discharged pursuant to paragraph (c) of section 9.01 of  
37 this article, together with a documented pattern of non-adherence to  
38 recommended treatment.

39 The court shall issue an initial assisted outpatient treatment order  
40 for a period of twelve months, provided that such order is the least  
41 restrictive alternative appropriate and feasible for the subject. The  
42 court shall make specific findings supporting the applicability of this  
43 paragraph.

44 § 5. Subdivision (j) of section 9.60 of the mental hygiene law is  
45 amended by adding a new paragraph 7 to read as follows:

46 (7) For initial orders exceeding six months pursuant to paragraph two  
47 of this subdivision, the treating service shall conduct and file with  
48 the court and counsel a mid-term case review at or about one hundred  
49 eighty days after entry of the order. Upon review, the court may, on  
50 motion of any party and after hearing if requested, modify conditions or  
51 convert the remaining term to a period not to exceed six additional  
52 months where sustained stability and adherence are demonstrated.

53 § 6. Section 29.15 of the mental hygiene law is amended by adding four  
54 new subdivisions (p), (q), (r) and (s) to read as follows:

55 (p) For any person discharged from an inpatient psychiatric unit oper-  
56 ated or licensed by the office of mental health following admission

1 under article nine of this chapter, the director shall ensure completion  
2 of a written community adherence plan ("CAP") to accompany the  
3 discharge. The CAP shall specify, as clinically appropriate: (i)  
4 psychotropic medications and monitoring schedule; (ii) scheduled outpa-  
5 tient visits and care coordination contacts; (iii) housing disposition  
6 and responsible provider contact; (iv) crisis and after-hours contacts;  
7 and (v) arrangements for an initial staff outreach within seventy-two  
8 hours of discharge to confirm receipt of services, medication access,  
9 and housing placement. The CAP shall be provided to the person, to coun-  
10 sel, to the local governmental unit, and to relevant community provid-  
11 ers, consistent with confidentiality laws.

12 (q) Where, after discharge, there is credible clinical information of  
13 substantial non-compliance with a community adherence plan that presents  
14 a significant risk of serious deterioration or serious harm, the direc-  
15 tor of community services or the director's designee may initiate a  
16 recall for evaluation to a designated emergency room or comprehensive  
17 psychiatric emergency program. The person shall be advised of the basis  
18 for recall, and transportation shall be arranged consistent with section  
19 9.45 of this chapter or other applicable provisions. Judicial review  
20 shall be available within seventy-two hours of arrival upon application  
21 by the person or counsel, at which time the court may order continued  
22 evaluation, modification of conditions, initiation or modification of an  
23 assisted outpatient treatment order, or discharge to community services.  
24 Nothing in this subdivision limits existing authority under sections  
25 9.39, 9.40, 9.41 or 9.45 of this chapter.

26 (r) For discharges meeting criteria set forth in paragraph two of  
27 subdivision (j) of section 9.60 of this chapter (twelve-month initial  
28 orders), the director of community services shall file a ninety-day  
29 progress update with the court that entered any active assisted outpa-  
30 tient treatment order, or, if none, with the supreme or county court of  
31 the county of residence, copying the person and counsel. Such update  
32 shall address adherence, service engagement, housing stability, and any  
33 material incidents.

34 (s) All community adherence plans shall be designed to provide  
35 services in the least restrictive setting appropriate to the person's  
36 needs and shall not condition access to services on compliance with  
37 housing or program rules that exceed lawful and clinically necessary  
38 requirements.

39 § 7. Section 9.60 of the mental hygiene law is amended by adding a new  
40 subdivision (t) to read as follows:

41 (t) Mandatory reassessment after violent arrest or serious dangerous  
42 incident. (1) Where a person subject to an order under this section is  
43 (i) arrested for a violent felony offense as defined in subdivision one  
44 of section 70.02 of the penal law, or (ii) is credibly reported by law  
45 enforcement or a treating provider to have engaged in a serious danger-  
46 ous incident involving serious physical injury, use of a deadly weapon,  
47 forcible sexual offense, arson, or conduct creating a substantial risk  
48 of such injury, the director of community services shall, within five  
49 business days, file a petition seeking reassessment. A director of a  
50 hospital may file such petition when the person is currently admitted or  
51 under the hospital's conditional-release authority.

52 (2) Upon notice and hearing, the court may modify assisted outpatient  
53 treatment conditions, impose enhanced monitoring, convert to or extend  
54 inpatient evaluation or admission under article nine where statutory  
55 standards are met, or take such other action as is authorized by law and  
56 consistent with due process and least-restrictive care.

1 (3) The commissioner, in consultation with the division of criminal  
2 justice services and statewide associations representing sheriffs and  
3 police chiefs, shall promulgate regulations establishing procedures for  
4 clinical assessment and, where indicated, transfer from a local correc-  
5 tional facility to a hospital pursuant to this article, including  
6 exchange of information necessary for continuity of medications and  
7 treatment.

8 § 8. Section 29.15 of the mental hygiene law is amended by adding a  
9 new subdivision (t) to read as follows:

10 (t) Parallel reassessment for conditional releases. Where a person  
11 discharged under this section and subject to a community adherence plan  
12 is arrested for a violent felony offense as defined in subdivision one  
13 of section 70.02 of the penal law, or has engaged in a serious dangerous  
14 incident as defined in subdivision (t) of section 9.60 of this chapter,  
15 the director of community services shall, within five business days,  
16 petition the appropriate court for reassessment, which may include  
17 initiation or modification of an assisted outpatient treatment order,  
18 modification of community adherence plan conditions, or application for  
19 inpatient evaluation under article nine, as clinically indicated.

20 § 9. Within one hundred twenty days of the effective date of this act,  
21 the commissioner of mental health shall: (a) adopt the standardized  
22 assisted outpatient treatment discharge review checklist required by  
23 paragraph 1-a of subdivision (e) of section 9.60 of the mental hygiene  
24 law; (b) prescribe model community adherence plan forms; (c) establish  
25 mid-term case review templates; and (d) issue guidance to courts, hospi-  
26 tals, prosecutors, defense counsel, law enforcement, and local govern-  
27 mental units concerning the reassessment process.

28 § 10. The office of mental health shall publish, annually, de-identi-  
29 fied statewide and county-level data on: (i) number of assisted outpa-  
30 tient treatment discharge reviews conducted; (ii) petitions filed pursu-  
31 ant to paragraph 1-a of subdivision (e) of section 9.60 of the mental  
32 hygiene law; (iii) number of initial twelve-month assisted outpatient  
33 treatment orders and mid-term reviews; (iv) community adherence plan  
34 utilization and seventy-two-hour outreach completion; (v) petitions and  
35 outcomes under subdivision (t) of section 9.60 and subdivisions (p),  
36 (q), (r) and (s) of section 29.15 of the mental hygiene law; and (vi)  
37 measures of hospitalization, arrest, victimization, and housing stabili-  
38 ty.

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

48 § 12. This act shall take effect on the one hundred eightieth day  
49 after it shall have become a law; provided the amendments to section  
50 9.60 of the mental hygiene law made by sections three, four, five and  
51 seven of this act shall not affect the repeal of such section and shall  
52 be deemed repealed therewith. Effective immediately, the addition,  
53 amendment and/or repeal of any rule or regulation necessary for the  
54 implementation of this act on its effective date are authorized to be  
55 made and completed on or before such effective date.