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:

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

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

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

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

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

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

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

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

(v) Nothing in this paragraph shall be construed to mandate petitioning where the treatment team determines, and documents, that AOT is not clinically indicated and that a voluntary plan with appropriate community supports is reasonably expected to suffice.

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

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

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

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

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

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

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

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

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

(p) For any person discharged from an inpatient psychiatric unit operated or licensed by the office of mental health following admission

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

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

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

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

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

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

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

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

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

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

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

§ 10. The office of mental health shall publish, annually, de-identified statewide and county-level data on: (i) number of assisted outpatient treatment discharge reviews conducted; (ii) petitions filed pursuant to paragraph 1-a of subdivision (e) of section 9.60 of the mental hygiene law; (iii) number of initial twelve-month assisted outpatient treatment orders and mid-term reviews; (iv) community adherence plan utilization and seventy-two-hour outreach completion; (v) petitions and outcomes under subdivision (t) of section 9.60 and subdivisions (p), (q), (r) and (s) of section 29.15 of the mental hygiene law; and (vi) measures of hospitalization, arrest, victimization, and housing stability.

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

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