

**A03333 Summary:**

BILL NO A03333  
SAME AS No Same As  
SPONSOR Ortiz  
COSPNSR  
MLTSPNSR

Amd §§1.03, 19.09 & 41.13, add §41.59, Ment Hyg L; add §97-ssss, St Fin L

Creates the community opioid rehabilitation program services act and the opioid dependency services fund.

**A03333 Text:**

**STATE OF NEW YORK**

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2019-2020 Regular Sessions

**IN ASSEMBLY**

January 29, 2019

Introduced by M. of A. ORTIZ -- read once and referred to the Committee on Alcoholism and Drug Abuse

AN ACT to amend the mental hygiene law, in relation to community opioid rehabilitation program services act; and to amend the state finance law, in relation to establishing the opioid dependency services fund

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

1 Section 1. This act shall be known as the "community opioid rehabili-  
2 tation program services act".

3 § 2. Legislative findings. The legislature finds that New York state  
4 is experiencing a shocking increase in opioid use in both its street and  
5 prescription forms. Heroin, in particular, is emerging as a public  
6 health concern in every community, but its rise is especially alarming  
7 in the state's smaller urban, suburban and rural areas. The increased  
8 incidence of heroin use largely involves young people who have turned to  
9 the drug, because of its relatively low cost and high accessibility, in  
10 light of recent efforts to curb accessibility to prescription opioids.  
11 Horrifying stories of opioid addiction, drug availability and use in our  
12 schools, as well as family tragedy in which a promising young life has  
13 ended with overdose, are becoming far too commonplace. Rising arrest  
14 rates of low-level dealers and addicts, often taking place in public  
15 areas like suburban mall parking lots, are further indication that the  
16 resurrection of this drug more commonly associated with street culture  
17 has permeated all sectors of society.

18 In addition, the legislature finds that the extent of the problem is  
19 widely recognized by professionals from all points on the front line as  
20 an emerging and significant public health issue.

21 The legislature further finds that significant savings will come to  
22 the taxpayers of New York through the elimination of prison beds  
23 throughout the state as the prison population declines, due in no small  
24 measure to reforms of drug laws enacted in the nineteen seventies. While

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

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1 there were more than 24,000 drug offenders in the state's prison popu-  
2 lation at the end of 1996, that number had diminished to less than 6,700  
3 at the end of 2013. In its plan to consolidate with the closure of four  
4 facilities during the 2014-15 state fiscal year, the department of  
5 corrections and community supervision estimates an annual savings to the  
6 state's taxpayers of approximately \$30 million.

7 Finally, the legislature finds that the savings from the closure of  
8 prison facilities which, by the department of corrections and community  
9 supervision's own estimate, is due largely to the diminishing sector of  
10 the prison population incarcerated for drug-related offenses, should be  
11 directed to community programs designed to address the growing public  
12 health epidemic of heroin and opiate addiction.

13 § 3. Section 1.03 of the mental hygiene law is amended by adding a new  
14 subdivision 59 to read as follows:

15 59. "Community opioid rehabilitation program services" shall mean  
16 programs and services provided for the care, treatment and rehabili-

17 tation of those persons who are dependent on opioid substances, includ-  
18 ing but not limited to:

19 (a) emergency and crisis services provided in a program licensed,  
20 certified, operated, or funded by the office;

21 (b) case management and intensive case management services;

22 (c) outpatient services which provide an adequate level of treatment  
23 and rehabilitation as determined by a licensed treatment professional  
24 provided in a program licensed, certified, operated or funded by the  
25 office;

26 (d) residential services, other than inpatient services, provided in  
27 programs licensed, certified, operated or funded by the office, which  
28 may include, but are not limited to, community residences, residential  
29 care centers for adults, family care homes, crisis residence or  
30 supported housing;

31 (e) other support services, including, but not limited to, psychiatric  
32 rehabilitation, client advocacy, supported employment, consumer self-  
33 help, family support, peer support and vocational training as approved  
34 by the office;

35 (f) any other services that meet the needs of those persons who are  
36 dependent on opioid substances;

37 (g) preventive programs and prevention services designed to educate  
38 the general public on the dangers of general opioid and heroin abuse and  
39 addiction including, but not limited to the risks to health and quality  
40 of life; the toll opioid addiction takes on family members; the finan-  
41 cial costs associated with opioid addiction; and recognizing the signs  
42 of opioid dependency.

43 § 4. Section 19.09 of the mental hygiene law is amended by adding a  
44 new subdivision (k) to read as follows:

45 (k) The commissioner of mental health shall, in cooperation with the  
46 commissioner of health and the commissioner of the office of alcoholism  
47 and substance abuse services, promote, establish, develop, coordinate,  
48 evaluate, and conduct programs and services of prevention, diagnosis,  
49 examination, care, treatment, and rehabilitation for the benefit of  
50 persons who are dependent on opioid substances and their families. Such  
51 programs shall include but not be limited to inpatient, outpatient,  
52 partial hospitalization, day care, emergency, rehabilitative, community  
53 opioid rehabilitation programmatic services, pursuant to section 41.59  
54 of this chapter and other appropriate treatments and services. He or she  
55 shall take all actions that are necessary, desirable, or proper to  
56 implement the purposes of this chapter and to carry out the purposes and

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1 objectives of the department within the amounts made available therefor  
2 by appropriation, grant, gift, devise, bequest, or allocation from the  
3 opioid dependency services fund established under section ninety-seven-  
4 ssss of the state finance law.

5 § 5. Subdivision (a) of section 41.13 of the mental hygiene law is  
6 amended by adding a new paragraph 17 to read as follows:

7 17. the office of mental health and the office of alcoholism and  
8 substance abuse services shall also be responsible for such program  
9 development relating to community opioid rehabilitation programmatic  
10 services in areas where the responsible local government unit does not  
11 receive a grant of state aid specifically for the purpose of funding  
12 community opioid rehabilitation programmatic services pursuant to this  
13 chapter.

14 § 6. The mental hygiene law is amended by adding a new section 41.59  
15 to read as follows:

16 § 41.59 Community opioid rehabilitation program.

17 (a) Community opioid rehabilitation program funds shall be annually  
18 allocated by the commissioner based upon the following criteria:

19 1. the efficiency and effectiveness of the use of funding within the  
20 local governmental unit for the delivery of services to persons who are  
21 dependent on opioid substances in order to assure that resources are  
22 made available to fund opioid rehabilitation services to persons  
23 discharged into the community; and

24 2. other relevant factors that require the maintenance of existing  
25 opioid dependency services and the development of new opioid dependency  
26 services.

27 (b) Amounts provided pursuant to this section shall only be used to  
28 fund opioid rehabilitation services, mental health workforce related  
29 activities, including recruitment and retention initiatives and training  
30 programs, and other general programmatic activities to help ensure a  
31 stable mental health system. Such grants and other funds shall not be  
32 used for capital costs associated with the development of community  
33 corrections reinvestment services.

34 (c) Prior to entering into contracts for the provision of services  
35 funded pursuant to this section, the office of mental health and any  
36 local governmental unit receiving such funds shall consider the follow-  
37 ing:

38 1. the service needs of persons with opioid substance dependency in  
39 the geographical area in which the opioid rehabilitation program oper-  
40 ates;

41 2. the capacity of the program to meet identified service needs and  
42 specified performance standards related to access, admission, referral,  
43 and service coordination and delivery;

44 3. the extent to which opioid rehabilitation services authorized by  
45 the contract are consistent and integrated with the plan prepared and  
46 approved pursuant to this article; and

47 4. the reliability and capability of the provider, including its  
48 expertise, prior experience, financial responsibility, record of adher-  
49 ence to law, record of providing quality care and services, and ability  
50 to deliver appropriate services in a cost-effective and efficient manner

51 to deliver appropriate services in a cost-effective and efficient manner  
52 to persons with opioid substance dependency. The commissioner is author-  
53 ized to promulgate regulations to establish minimum contractual obli-  
54 gations in accordance with the provisions of this subdivision.

54 (d) The commissioner is authorized and empowered to make inspections  
55 and examine records of a local governmental unit receiving state aid  
56 under this section. Such examination shall include all medical, service

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1 and financial records, receipts, disbursements, contracts, loans and  
2 other moneys relating to the financial operation of the provider.

3 (e) For purposes of this section, the term "state operations general  
4 fund" shall mean the office of mental health state operations general  
5 fund appropriations before any offset from the special revenue funds,  
6 other miscellaneous special revenue fund or mental hygiene patient  
7 income account.

8 § 7. The state finance law is amended by adding a new section 97-ssss  
9 to read as follows:

10 § 97-ssss. Opioid dependency services fund. 1. There is hereby estab-  
11 lished in the joint custody of the comptroller and the commissioner of  
12 taxation and finance a debt service fund to be known as the "opioid  
13 dependency services fund".

14 2. The opioid dependency services fund shall consist of the annual  
15 savings from the downsizing of facilities under the department of  
16 corrections and community supervision, as determined in the annual budg-  
17 et and shall include the amount of actual state operations general fund  
18 appropriation reductions, including personal service savings and other  
19 than personal service savings directly attributed to correctional facil-  
20 ity closures. The methodologies used to calculate the closure savings  
21 shall be developed by the commissioner of taxation and finance and the  
22 director of the budget. The annual appropriation to the opioid dependen-  
23 cy services fund shall at no time be less than thirty million dollars.  
24 In the event that twenty percent of the annual savings from downsizing  
25 is less than thirty million dollars, appropriation from the state oper-  
26 ations general fund shall make up the shortfall.

27 3. Moneys in the opioid dependency services fund shall be kept sepa-  
28 rate and shall not be commingled with any other moneys in the custody of  
29 the comptroller. All deposits of such moneys shall be secured by obli-  
30 gations of the United States or of the state of market value equal at  
31 all times to the amount of the deposit and all banks and trust companies  
32 are authorized to give such securities for such deposits.

33 4. Any moneys in the opioid dependency services fund may be invested  
34 by the comptroller in obligations of the United States or the state or  
35 obligations the principal and interest of which are guaranteed by the  
36 United States or the state.

37 § 8. This act shall take effect immediately.