



**MEMORANDUM OF SUPPORT
A10239-A (Simon)
May 24th, 2022**

State-wide behavioral health advocates, public defenders, public interest lawyers, and disability rights lawyers enthusiastically support A.10239-A (Rules, request of M. of A. Simon). This legislation provides immediate and necessary modifications to the process created in this year's approved Budget which expanded upon Criminal Court Judges authority to refer people appearing to be seriously mentally ill before the Criminal Court to hospitals for psychiatric assessments and possible hospitalizations.

The process which became law on May 9th of this year, inadvertently permits these Criminal Court referrals to be made by Judges not familiar with the mental health system to any local hospital for the psychiatric assessment, not limiting them to hospitals with NYS Office of Mental Health-licensed psychiatric emergency rooms or comprehensive psychiatric emergency programs (CPEPs). The consequences of this oversight are multiple and significant. By not requiring referrals to established programs of psychiatric expertise, anyone referred by a Criminal Court Judge to an unlicensed hospital will: 1) likely suffer from a lower quality psychiatric assessment and subsequent treatment, compromising their recovery; 2) not be entitled to legal representation by the Mental Hygiene Legal Service as are others in licensed hospital units, providing unequal legal rights; and 3) if admitted for psychiatric hospitalization following an assessment, be in a facility not familiar with or required to deliver the comprehensive discharge and aftercare plan required for those leaving licensed inpatient units which should begin by law at admission and with their full participation.

The existing Mental Hygiene law provides a much higher standard of psychiatric care and affords particular legal rights to individuals receiving services in psychiatric emergency rooms and CPEPs that are licensed by OMH. Parts of general hospitals subject to OMH licensure have established clinical staffing and quality standards not required of general medical facilities. The comprehensive discharge planning requirements pursuant to section 29.15 of the Mental Hygiene Law apply only to inpatient units that have an OMH license. And the legal representation provided by the Mental Hygiene Legal Services, a program operated in each Judicial Department in the State by the Court System, is available to provide legal services and representation only to patients at OMH-licensed inpatient units pursuant to Article 47 of the Mental Hygiene Law.

It is urgent and necessary for the Legislature to pass and enact this legislation introduced by Assembly Member Simon. Only with these necessary corrections can we ensure Criminal Courts are able to engage seamlessly and productively with the mental health system. Only with these changes can we ensure that persons referred by Criminal Courts receive the highest quality assessments and treatment and that all, not just some, patients are provided the legal representation and services they are guaranteed under the law. Only with these changes can we ensure that the discharge planning process identifies clinically appropriate aftercare services, housing and supports and is completed in concert with the person to maximize their potential for recovery.

The undersigned enthusiastically support A.10239-A.

*The Bronx Defenders
Brooklyn Defender Services
Coalition for the Homeless
Center for Disability Rights
Coalition of Medication-Assisted Treatment Providers and Advocates
The Coalition for Behavioral Health
The Legal Aid Society
Families Together in New York State*

*From Punishment to Public Health at John Jay College of Criminal Justice
Mental Health Association in New York State
Mental Health Empowerment Project
National Alliance of Mental Health New York State
National Alliance of Mental Health, Huntingdon
The Neighborhood Defender Service of Harlem
New York Association on Independent Living*

*New York Association of Psychiatric Rehabilitation Services, Inc.
New York Civil Liberties Union
New York County Defender Services
New York Lawyers for the Public Interest
New York State Care Management Coalition
New York State Council for Community Behavioral Healthcare
Urban Pathways
The Vera Institute of Justice*