

Hochul seeks to extend Kendra's Law, rekindling debate over court-mandated mental health treatment



➡ Governor Kathy Hochul and Mayor Eric Adams hold press conference to announce plans for subway safety and homeless outreach.

[GOVERNOR'S OFFICE VIA FLICKR](#)

When New Yorker Michelle Go was pushed in front of an oncoming train in a Times Square subway station last month, the tragedy predictably set off a flurry of recommendations for how to reform the mental health system.

Martial Simon, the man accused of pushing her, even reportedly talked openly about struggling to get the mental health care and stable housing he needed.

And in the aftermath of Go's death and other high-profile crimes, Mayor Eric Adams issued a wide-ranging plan to make the subways safer. It included a call to enhance Kendra's Law — a 1999 statute that has become go-to in such situations. The state law allows a court to order someone with a mental illness who meets certain criteria into monitored outpatient services, typically meaning the person is prescribed medicine or therapy and may be ordered to comply with other services

such as substance use treatment. Those subject to an order can be hospitalized, with or without their consent, if they don't follow the treatment plan.

Gov. Kathy Hochul included provisions in her executive budget last month to extend the law for another five years, since it was scheduled to sunset this July. She also proposed several reforms, including one that would make it easier to issue a second court order for someone who was released from the program within the last six months.

In the more than 20 years since Kendra's Law took effect, research has shown some positive outcomes. But the law's strong-arm approach to getting people services in an overtaxed system is no less controversial now than when it was first proposed in response to Andrew Goldstein pushing Kendra Webdale, the law's namesake, in front of a train in 1999.

“It’s not a way to engage people that’s really going to last,” said Harvey Rosenthal, CEO of the New York Association Psychiatric Rehabilitation Services.

“Both camps agree that easy access to services and some form of help navigating the system are key to keeping people engaged.”

Nearly all (96%) of those who are ordered to receive assisted outpatient treatment, which is the name for services provided under the law, have had a psychiatric hospitalization at some point in their lives. But just a third have been hospitalized during the program. Data collected by the state also show moderate gains in other areas such as having less difficulty managing medications. About 27% of those involved threatened physical violence of some sort prior to the start of the program and that figure was down to 17% after the first six months of participation.

But Rosenthal and other critics of Kendra’s Law argue that coercion only alienates people further from the mental health system and say there are other ways to engage people who are not in treatment besides a court order. Supporters of the law within the mental health community say it is simply a way to prioritize those who are most vulnerable, while keeping them and others safe.

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“It’s very misunderstood,” Matthew Shapiro, director of public affairs at the New York State chapter of the National Alliance on Mental Illness, said of Kendra’s Law. Shapiro said the law has benefited many of NAMI’s members, some of whom are referred by family members and friends and others of whom are referred through another channel, such as by a hospital after a psychiatric stay.

What Makes Kendra’s Law Effective?

Under Kendra’s Law, a person ordered to receive assisted outpatient treatment is connected with a team that works to get them into care and monitors their progress. A court order also grants the recipient “preferred status” — allowing them to bypass lines within the overburdened and often

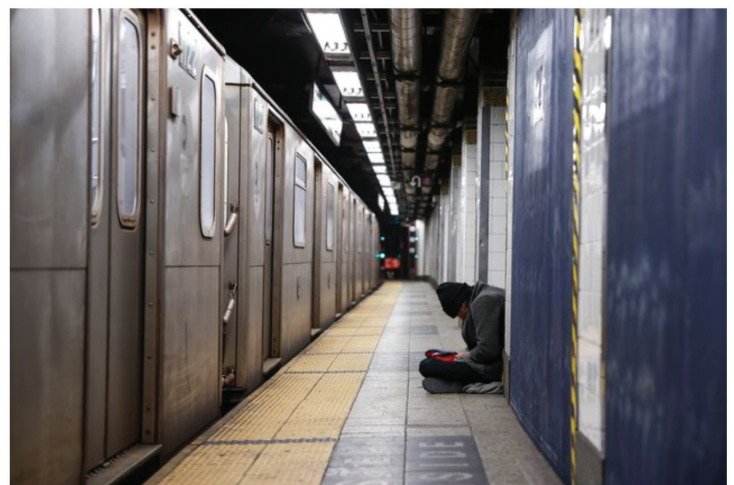
slow-moving system of mental health and social services, Shapiro explained.

“So, something like housing services that there’s such a high demand for and very little access to, you get put on the top of the list for that,” Shapiro said. “You get put at the front of the line for community services.”

He said that the ability to leapfrog others seeking similar services is part of why the law should only be invoked as a last resort, adding that the health care system should be striving to make these services readily available to all in need.

Rosenthal argued that it was specifically the non-coercive components of the law that made it effective.

“Of course, you’re going to get better if you’ve got access to stable housing and good case management,” he said. “That doesn’t take a rocket scientist to figure out.”



➔ A homeless person is seen in a subway station in Manhattan, February 21, 2022.
TAYFUN COSKUN/ANADOLU AGENCY VIA GETTY IMAGES

Shapiro said he didn’t consider the possibility of someone ending up in the hospital if they don’t get better as a “punitive measure.” But Rosenthal and other critics of Kendra’s Law said that participants can resent being placed under a court order.

“My experience with the individuals that we work with is that [assisted outpatient treatment] is just something that makes them angry,” said Ruthanne Becker, senior vice president of rehabilitation services at the Mental Health Association of Westchester, who oversees a program called INSET. “It doesn’t help them to engage or trust the services.”

Becker oversees INSET, one of several programs throughout the state that helps connect people with serious behavioral health issues to services. Some of those INSET's clients are under a court order for assisted outpatient treatment, while others have arrived through voluntary referrals or outreach.

Becker said the key to engaging clients is not to threaten them, but to hire a team of peers with diverse experiences that match the population they're serving -- and to be patient and persistent when people don't accept help. "We just don't stop," she said. "We just keep reaching out."

An independent evaluation of Kendra's Law in 2009 found that people in assisted outpatient treatment did have somewhat better outcomes — such as a lower likelihood of being arrested or hospitalized while in treatment — than those who only received voluntary case management services. But Dr. Martin Swartz, a psychiatrist at Duke Health who worked on the study, said there's room for more research comparing assisted outpatient treatment with specific voluntary programs.

He added that at the time when he researched the program, he found there wasn't much queue-jumping among those involved because of how well the program was funded when it first launched.

"With the years that have passed ... there probably needs to be an expansion of the funding for services in general to prevent the queue-jumping," Swartz said.

New Funding and Reforms

Hochul has proposed new mental health funding as well as several changes to Kendra's Law. One measure would make it easier to order someone into assisted outpatient treatment if they've had it before.

As it currently stands, there are several criteria someone must meet to be eligible for the program. They must be older than 18, have a mental illness and have an assessment from a physician saying they are "unlikely to survive safely in the community without supervision." They also have to have a history of non-compliance with mental health treatment that has contributed to specific negative outcomes, such as being hospitalized twice within three years or being incarcerated. Committing or threatening violence toward

themselves or others would also qualify someone for assisted outpatient treatment.

Hochul is now seeking to extend eligibility to anyone who has had a court order expire within the last six months and has since "experienced a substantial increase in symptoms of mental illness."

Some critics have railed against this new language, saying it waters down the purpose of the original legislation.

"When the order expires, that still can be a very vulnerable period. Matthew Shapiro, National Alliance on Mental Illness."

Matthew Shapiro, National Alliance on Mental Illness

But Shapiro argued this maneuver is just to ensure that people aren't released from the program before they're ready. "When the order expires, that still can be a very vulnerable period," he said.

In response to a query about reforms to the law, Hazel Crampton-Hays, a spokesperson for the governor's office, said Hochul "has made the development of a comprehensive behavioral health crisis system in New York State one of her administration's key priorities." The spokesperson added that, "proposed modernizations of Kendra's Law, including allowing physician testimony by video conference, will help ensure effective implementation."

Hochul has included funding in her budget that could benefit both those ordered to receive mental health services and those receiving them voluntarily.

There's new funding for supportive housing as well as higher reimbursement rates from Medicaid for inpatient psychiatric services. Many hospitals have cut psychiatric beds in recent years, in part because they don't get paid sufficiently to provide that care. Mental health advocates say this can lead to people being discharged before they're ready, creating a revolving door. The governor is also putting money toward growing the health care workforce, including mental health practitioners.

Kendra's Law in New York City

While Hochul has clearly outlined proposals for reforming the law, it's less obvious how New York

City might change its deployment of Kendra's Law under Mayor Adams.

Assisted outpatient treatment currently serves 1,478 people in New York City, accounting for nearly half of those in the program statewide. And 44% of those subject to a court order in the five boroughs are Black, while only 17% are white.

In 2019, in response to another violent incident, then-Mayor Bill de Blasio called for increased use of the law and said the NYPD would start to receive information about people who had rejected court-mandated treatment, so the police could take them to the hospital if encountered.



→ Mayor Eric Adams at a vigil for Michelle Alyssa Go in Times Square.
MICHAEL APPLETON/MAYORAL PHOTOGRAPHY OFFICE

"It actually increases people's distrust in the service system and can make them less interested in treatment," Cal Hedigan, CEO at Community Access, a non-profit that provides housing and social services for people with mental health issues, told Gothamist at the time.

Adams' Subway Safety Plan indicated that his administration will conduct an inter-agency review of Kendra's Law to ensure it's being implemented effectively. He added that he will "revisit existing law so that if someone who can't take care of themselves refuses treatment, they can be hospitalized if that is what a doctor and judge recommend."

Gothamist has reached out to the New York City health department and City Hall to ask for more details on how the changes put in place by de Blasio have been implemented and how things will change under Adams. Kate Smart, a spokesperson for City Hall, referred back to the Subway Safety Plan. She also noted that the city will defer to new guidance from the state on how to interpret existing laws.

At a joint press conference Adams and Hochul held last week, Dr. Ann Sullivan, commissioner of the state Office of Mental Health, said the state would be issuing new guidance on how hospitals should interpret the law around involuntary psychiatric holds – likely opting for wider interpretation than is currently used.

Dr. Mitchell Katz, president and CEO of NYC Health + Hospitals, said he welcomed the guidance, which would make the standards for when to commit someone involuntarily more clear.