

S T A T E O F N E W Y O R K

10155--A

I N A S S E M B L Y

March 8, 2010

Introduced by M. of A. AUBRY -- read once and referred to the Committee on Correction -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the executive law, in relation to the powers and duties of the correctional association to inspect residential juvenile facilities

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

- 1 Section 1. Section 503 of the executive law is amended by adding a new
2 subdivision 6-a to read as follows:
3 6-A. THE OFFICE OF CHILDREN AND FAMILY SERVICES SHALL ENSURE THAT ALL
4 YOUTH PLACED IN SECURE, LIMITED SECURE AND NON-SECURE FACILITIES OPER-
5 ATED, MAINTAINED OR CERTIFIED BY THE OFFICE OF CHILDREN AND FAMILY
6 SERVICES HAVE ACCESS TO A CONFIDENTIAL TOLL-FREE HOTLINE ESTABLISHED BY
7 PRISONERS' LEGAL SERVICES OF NEW YORK PURSUANT TO SUBDIVISION THREE OF
8 SECTION FIVE HUNDRED FOUR-D OF THIS TITLE FOR THE PURPOSES OF REPORTING
9 ABUSE AND COMPLAINTS REGARDING CONDITIONS OF CONFINEMENT. THE OFFICE OF
10 CHILDREN AND FAMILY SERVICES SHALL ALLOW PRISONERS' LEGAL SERVICES OF
11 NEW YORK QUARTERLY ACCESS TO SUCH FACILITIES TO ADVISE THE YOUTH OF
12 THEIR PROCEDURAL AND SUBSTANTIVE RIGHTS AND INFORM SUCH YOUTH OF THE
13 HOTLINE.
14 S 2. The executive law is amended by adding a new section 504-c to
15 read as follows:
16 S 504-C. POWERS AND DUTIES OF THE CORRECTIONAL ASSOCIATION OF NEW
17 YORK. 1. NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, THE
18 CORRECTIONAL ASSOCIATION OF NEW YORK, BY SUCH COMMITTEES AS THEY SHALL
19 FROM TIME TO TIME APPOINT, SHALL HAVE THE POWER, AUTHORITY AND DUTY TO
20 REGULARLY VISIT, INSPECT, AND EXAMINE ALL SECURE, LIMITED SECURE AND
21 NON-SECURE FACILITIES OPERATED, MAINTAINED OR CERTIFIED BY THE OFFICE OF
22 CHILDREN AND FAMILY SERVICES, INCLUDING ALL PROPERTY, DOCUMENTS,
23 RECORDS, POLICIES, PROCEDURES, STAFF AND ALL SUCH OTHER THINGS MAIN-
24 TAINED OR CONTROLLED BY SUCH FACILITIES.
25 2. THE CORRECTIONAL ASSOCIATION SHALL HAVE THE AUTHORITY TO CONDUCT
26 UNANNOUNCED VISITS AT ALL SECURE, LIMITED SECURE AND NON-SECURE FACILI-

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

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1 TIES OPERATED, MAINTAINED OR CERTIFIED BY THE OFFICE OF CHILDREN AND
2 FAMILY SERVICES TO ENSURE THE WELFARE OF THE YOUTH IS PROTECTED. THE
3 CORRECTIONAL ASSOCIATION SHALL HAVE THE AUTHORITY TO RECEIVE AND REVIEW
4 COPIES OF ALL INCIDENT REPORTS INVOLVING YOUTH RESIDING IN SUCH FACILI-
5 TIES. IF THE CORRECTIONAL ASSOCIATION LEARNS THAT A YOUTH HAS BEEN
6 ABUSED AS DESCRIBED IN SUBDIVISION ONE OF SECTION FOUR HUNDRED TWELVE-A
7 OF THE SOCIAL SERVICES LAW, THEY SHALL MAKE AN IMMEDIATE REPORT TO THE
8 COMMISSIONER OF THE OFFICE OF CHILDREN AND FAMILY SERVICES, THE STATE-
9 WIDE CENTRAL REGISTRY OF CHILD ABUSE, AND TO PRISONERS' LEGAL SERVICES
10 OF NEW YORK.

11 3. THE CORRECTIONAL ASSOCIATION SHALL HAVE THE AUTHORITY TO HAVE
12 CONFIDENTIAL CONTACT IN PERSON AND IN WRITING WITH THE RESIDENTS AND
13 STAFF OF SECURE, LIMITED SECURE AND NON-SECURE FACILITIES OPERATED,
14 MAINTAINED OR CERTIFIED BY THE OFFICE OF CHILDREN AND FAMILY SERVICES.
15 ALL CONFIDENTIAL INFORMATION THE CORRECTIONAL ASSOCIATION OBTAINS WHILE
16 FULFILLING ITS DUTIES UNDER THIS SECTION SHALL REMAIN CONFIDENTIAL AND
17 ANY LIMITATIONS ON THE RELEASE THEREOF IMPOSED BY LAW UPON THE PARTY
18 FURNISHING THE INFORMATION SHALL APPLY TO THE CORRECTIONAL ASSOCIATION,
19 PROVIDED THAT THE CORRECTIONAL ASSOCIATION MAY REPORT SUCH INFORMATION
20 RELATED TO THE ABUSE OF YOUTH AS REQUIRED BY SUBDIVISION TWO OF THIS
21 SECTION.

22 4. THE CORRECTIONAL ASSOCIATION SHALL ANNUALLY REPORT TO THE GOVERNOR,
23 THE TEMPORARY PRESIDENT OF THE SENATE, THE SPEAKER OF THE ASSEMBLY, THE
24 CHAIRS OF THE CHILDREN AND FAMILIES COMMITTEE IN THE SENATE AND ASSEM-
25 BLY, THE OFFICE OF CHILDREN AND FAMILY SERVICES, LABOR REPRESENTATIVES,
26 AND THE MEDIA REGARDING THE STATE AND CONDITION OF THE SECURE, LIMITED
27 SECURE AND NON-SECURE FACILITIES OPERATED, MAINTAINED AND CERTIFIED BY
28 THE OFFICE OF CHILDREN AND FAMILY SERVICES, INCLUDING ANY SUGGESTED
29 REMEDIAL ACTIONS. THE INITIAL REPORT REQUIRED BY THIS SUBDIVISION SHALL
30 BE PRESENTED BY THE FIRST OF NOVEMBER NEXT SUCCEEDING THE EFFECTIVE DATE
31 OF THIS SECTION. THE CORRECTIONAL ASSOCIATION SHALL MAKE ALL REPORTS
32 AVAILABLE ON THE INTERNET. THE OFFICE OF CHILDREN AND FAMILY SERVICES
33 SHALL MEET WITH THE CORRECTIONAL ASSOCIATION AND RESPOND IN WRITING TO
34 THE FINDINGS AND RECOMMENDATIONS ISSUED IN THE ANNUAL REPORTS. THE
35 OFFICE OF CHILDREN AND FAMILY SERVICES SHALL MAKE ITS RESPONSE AVAILABLE
36 ON THE INTERNET.

37 5. THE PROVISIONS OF THIS SECTION SHALL NOT APPLY TO ANY CHILD WHO IS
38 PLACED IN FOSTER CARE PURSUANT TO SECTION THREE HUNDRED FIFTY-EIGHT-A,
39 THREE HUNDRED EIGHTY-FOUR OR THREE HUNDRED EIGHTY-FOUR-A OF THE SOCIAL
40 SERVICES LAW OR PURSUANT TO SECTION ONE THOUSAND TWENTY-TWO, ONE THOU-
41 SAND TWENTY-SEVEN, OR ONE THOUSAND FIFTY-TWO OF THE FAMILY COURT ACT; OR
42 DIRECTLY PLACED WITH A RELATIVE PURSUANT TO SECTION ONE THOUSAND SEVEN-
43 TEEN OR ONE THOUSAND FIFTY-FIVE OF THE FAMILY COURT ACT.

44 S 3. The executive law is amended by adding a new section 504-d to
45 read as follows:

46 S 504-D. POWERS OF PRISONERS' LEGAL SERVICES OF NEW YORK. 1. NOTWITH-
47 STANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, PRISONERS' LEGAL
48 SERVICES, BY AND THROUGH THEIR EMPLOYEES, UPON NOTIFICATION OF ABUSE OR
49 A COMPLAINT REGARDING A CONDITION OF CONFINEMENT BY THE CORRECTIONAL
50 ASSOCIATION OF NEW YORK PURSUANT TO SUBDIVISION TWO OF SECTION FIVE
51 HUNDRED FOUR-C OF THIS TITLE, VIA THE HOTLINE ESTABLISHED PURSUANT TO
52 SUBDIVISION THREE OF THIS SECTION, OR BY A PARENT, GUARDIAN OR ANY OTHER
53 CONCERNED INDIVIDUAL, SHALL HAVE THE POWER AND AUTHORITY TO PROVIDE
54 LEGAL REPRESENTATION TO YOUTH RESIDING IN SECURE, LIMITED SECURE AND
55 NON-SECURE FACILITIES OPERATED, MAINTAINED OR CERTIFIED BY THE OFFICE OF
56 CHILDREN AND FAMILY SERVICES, INCLUDING THE POWER AND AUTHORITY TO HAVE

1 CONFIDENTIAL CONTACT VISITS WITH SUCH YOUTH, REVIEW THEIR RECORDS,
2 INVESTIGATE THEIR COMPLAINTS, AND ADVOCATE FOR THEIR RIGHTS, SAFETY AND
3 WELL-BEING. UPON COMMENCING REPRESENTATION OF A YOUTH PURSUANT TO THIS
4 SECTION, PRISONERS' LEGAL SERVICES SHALL PROVIDE NOTICE TO THE LAW GUAR-
5 DIAN, IF ANY, APPOINTED TO REPRESENT SUCH YOUTH.

6 2. PRISONERS' LEGAL SERVICES SHALL HAVE THE AUTHORITY TO INSPECT,
7 REQUEST, RECEIVE AND REVIEW ALL DOCUMENTS ASSOCIATED WITH REPRESENTATION
8 OF A YOUTH PURSUANT TO SUBDIVISION ONE OF THIS SECTION, INCLUDING BUT
9 NOT LIMITED TO, USE OF FORCE DOCUMENTS, UNUSUAL INCIDENT REPORTS,
10 MEDICAL AND MENTAL HEALTH RECORDS, DISCIPLINARY RECORDS AND PROGRAMMING
11 INSTITUTIONAL RECORDS, PRESENTENCE REPORTS AND COURT RECORDS, INCLUDING
12 SEALED RECORDS, WITHOUT OBTAINING AN UNSEAL ORDER.

13 3. PRISONERS' LEGAL SERVICES SHALL BE AUTHORIZED TO ESTABLISH A CONFI-
14 DENTIAL TOLL-FREE HOTLINE FOR THE PURPOSE OF RECEIVING REPORTS OF ABUSE
15 FROM YOUTH RESIDING AT SECURE, LIMITED SECURE AND NON-SECURE FACILITIES
16 OPERATED, MAINTAINED OR CERTIFIED BY THE OFFICE OF CHILDREN AND FAMILY
17 SERVICES.

18 4. ALL CONFIDENTIAL INFORMATION OBTAINED BY PRISONERS' LEGAL SERVICES
19 PURSUANT TO ITS FUNCTIONS UNDER THIS SECTION SHALL REMAIN CONFIDENTIAL
20 AND ANY LIMITATIONS ON THE RELEASE THEREOF IMPOSED BY LAW UPON THE PARTY
21 FURNISHING THE INFORMATION SHALL APPLY TO PRISONERS' LEGAL SERVICES.
22 CONFIDENTIAL INFORMATION OBTAINED BY PRISONERS' LEGAL SERVICES PURSUANT
23 TO ITS FUNCTIONS UNDER THIS SECTION MAY BE APPENDED TO LEGAL DOCUMENTS
24 AND PLEADINGS AS A SEALED EXHIBIT.

25 5. THE PROVISIONS OF THIS SECTION SHALL NOT APPLY TO ANY CHILD WHO IS
26 PLACED IN FOSTER CARE PURSUANT TO SECTION THREE HUNDRED FIFTY-EIGHT-A,
27 THREE HUNDRED EIGHTY-FOUR OR THREE HUNDRED EIGHTY-FOUR-A OF THE SOCIAL
28 SERVICES LAW OR PURSUANT TO SECTION ONE THOUSAND TWENTY-TWO, ONE THOU-
29 SAND TWENTY-SEVEN, OR ONE THOUSAND FIFTY-TWO OF THE FAMILY COURT ACT; OR
30 DIRECTLY PLACED WITH A RELATIVE PURSUANT TO SECTION ONE THOUSAND SEVEN-
31 TEEN OR ONE THOUSAND FIFTY-FIVE OF THE FAMILY COURT ACT.

32 S 4. This act shall take effect on the sixtieth day after it shall
33 have become a law.