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2009-2010 Regular Sessions

I N A S S E M B L Y

January 27, 2009

Introduced by M. of A. SCARBOROUGH, COOK, BRADLEY, JAFFEE, TITUS,
P. RIVERA, MILLMAN, SCHROEDER, ESPAILLAT, CARROZZA, WRIGHT, ROBINSON,
GREENE -- Multi-Sponsored by -- M. of A. BENEDETTO, BOYLAND,
BROOK-KRASNY, DIAZ, GLICK, HYER-SPENCER, MAISEL, MCENENY, PHEFFER,
REILLY, J. RIVERA, SWEENEY, TOWNS, WEISENBERG -- read once and
referred to the Committee on Children and Families

AN ACT to amend the social services law, in relation to residential
programs for children

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

1 Section 1. Section 462-b of the social services law is renumbered
2 section 462-d and two new sections 462-b and 462-c are added to read as
3 follows:
4 S 462-B. RIGHTS OF YOUTH IN DETENTION AND RESIDENTIAL CARE. IN ORDER
5 TO ENSURE THAT RESIDENTS OF FACILITIES OR PROGRAMS OPERATED, LICENSED OR
6 CERTIFIED BY THE OFFICE OF CHILDREN AND FAMILY SERVICES ARE TREATED
7 CONSISTENTLY WITH THE LAWS AND REGULATIONS, AND ARE ASSURED APPROPRIATE
8 AND QUALITY CARE, THE COMMISSIONER OF THE OFFICE OF CHILDREN AND FAMILY
9 SERVICES SHALL PROMULGATE REGULATIONS INFORMING RESIDENTS OF THEIR
10 RIGHTS UNDER LAW. SUCH REGULATIONS SHALL INCLUDE, BUT NOT BE LIMITED TO,
11 INFORMING RESIDENTS THAT THEY HAVE THE RIGHT TO:
12 1. A SAFE, SANITARY AND NURTURING ENVIRONMENT FREE FROM ABUSE AND
13 MISTREATMENT BY EMPLOYEES AND OTHER RESIDENTS OF THE FACILITY OR RESI-
14 DENCE;
15 2. AN INDIVIDUAL TREATMENT PLAN DESIGNED WITH THE ACTIVE PARTICIPATION
16 OF THE YOUTH, TO THE EXTENT POSSIBLE AND CLINICALLY APPROPRIATE, AND THE
17 PARENT OR GUARDIAN;
18 3. NOT BE DEPRIVED OF ANY OF THE FOLLOWING AS A DISCIPLINARY MEASURE:
19 FOOD, WATER, SLEEP, EXERCISE, EDUCATION, BEDDING, A DAILY SHOWER, WATER,
20 A TOILET, MEDICAL SERVICES, READING MATERIAL, CONTACT WITH PARENTS,
21 GUARDIANS, OR ATTORNEYS, OR THE RIGHT TO SEND AND RECEIVE MAIL, EXCEPT

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

LBD04454-01-9

1 IN THE EVENT THE SENDING OR RECEIPT OF MAIL POSES A SAFETY THREAT TO THE
2 YOUTH OR OTHERS;
3 4. BE FREE FROM PHYSICAL RESTRAINT AND SECLUSION, EXCEPT AS OTHERWISE
4 AUTHORIZED BY LAW AND REGULATION;
5 5. RECEIVE ADEQUATE AND APPROPRIATE MEDICAL, DENTAL, VISION AND MENTAL
6 HEALTH SERVICES WHICH SHALL INCLUDE A SAFE MEDICATION PRESCRIBING PRAC-
7 TICE, INCLUDING THE PROVISION OF INFORMATION ABOUT MEDICATIONS AND
8 SUBJECT TO THE PROVISIONS OF SUBDIVISION (E) OF SECTION 33.21 OF THE
9 MENTAL HYGIENE LAW, CONSENT FOR PSYCHOTROPIC MEDICATION FROM THE PARENT
10 OR PARENTS;
11 6. COMMUNICATE THROUGH LETTERS, PHONE CALLS AND VISITS WITH A PARENT
12 OR PARENTS, OTHER FAMILY MEMBERS, GUARDIANS OR OTHER SIGNIFICANT INDI-
13 VIDUALS, ABSENT LEGAL OR CLINICAL IMPEDIMENTS WHICH MUST BE DOCUMENTED
14 IN THE YOUTH'S CASE RECORD;
15 7. MAKE AND RECEIVE CONFIDENTIAL TELEPHONE CALLS, SEND AND RECEIVE
16 CONFIDENTIAL MAIL, AND HAVE CONFIDENTIAL VISITS WITH ATTORNEYS,
17 OMBUDSPERSONS, JUDGES, RELIGIOUS AND SPIRITUAL ADVISERS AND THEIR
18 AUTHORIZED REPRESENTATIVES, AND LEGAL SERVICE ORGANIZATIONS;
19 8. EXPRESS GRIEVANCES, CONCERNS AND SUGGESTIONS TO STAFF OF THE FACIL-
20 ITY OR THE OMBUDSPERSON, WITHOUT FEAR OF RETRIBUTION;
21 9. HAVE ACCESS TO MEANINGFUL RECREATIONAL ACTIVITIES AND COMMUNITY
22 PROGRAMS INCLUDING DAILY OUTDOOR OR EXERCISE ACTIVITIES UNLESS THERE ARE
23 LEGAL OR CLINICAL IMPEDIMENTS WHICH SHALL BE DOCUMENTED IN THE YOUTH'S
24 CASE RECORD;
25 10. PARTICIPATE IN RELIGIOUS ACTIVITIES;
26 11. HAVE AND DISPLAY PHOTOGRAPHS OF FRIENDS AND FAMILY IN THEIR
27 PERSONAL LIVING SPACE;
28 12. RECEIVE AN APPROPRIATE EDUCATION IN THE LEAST RESTRICTIVE ENVIRON-
29 MENT;
30 13. BE FREE OF HARASSMENT FROM EMPLOYEES OR YOUTH IN FACILITIES OR
31 PROGRAMS;
32 14. BE CALLED BY THE NAME OF THEIR CHOOSING, EXCEPT IN THE EVENT IT
33 POSES A SAFETY THREAT;
34 15. EXPRESS THEIR GENDER IDENTITY THROUGH APPROPRIATE UNDERGARMENTS
35 AND HAIR STYLE;
36 16. BE FREE FROM BEING SUBJECTED TO DISCRIMINATION BASED ON THE
37 YOUTH'S ACTUAL OR PERCEIVED RACE, COLOR, NATIONAL ORIGIN, ETHNIC GROUP,
38 RELIGION, RELIGIOUS PRACTICE, DISABILITY, SEXUAL ORIENTATION, GENDER,
39 GENDER IDENTITY OR SEX BY EMPLOYEES OR YOUTH IN FACILITIES OR PROGRAMS;
40 AND
41 17. AN AGE APPROPRIATE VERSION OF THE POLICY OUTLINED IN THIS SECTION,
42 WRITTEN IN PLAIN LANGUAGE, SHALL BE PRESENTED TO EACH YOUTH UPON HIS OR
43 HER ORIENTATION TO ANY FACILITY OR PROGRAM.
44 S 462-C. YOUTH ADVISORY BOARD. 1. YOUTH ADVISORY BOARDS SHALL BE
45 ESTABLISHED WITHIN THE OFFICE OF CHILDREN AND FAMILY SERVICES. THE
46 COMMISSIONER OF THE OFFICE OF CHILDREN AND FAMILY SERVICES SHALL APPOINT
47 A DESIGNEE, WHO SHALL ESTABLISH YOUTH ADVISORY BOARDS WITHIN SECURE,
48 NON-SECURE DETENTION FACILITIES AND RESIDENTIAL FACILITIES OPERATED AS
49 APPROVED TRANSITIONAL INDEPENDENT LIVING SUPPORT PROGRAMS PURSUANT TO
50 ARTICLE NINETEEN-H OF THE EXECUTIVE LAW.
51 2. YOUTH ADVISORY BOARDS SHALL ASSIST IN THE DEVELOPMENT OF POLICIES
52 AFFECTING YOUTH IN CARE; HAVE INPUT ON THE DELIVERY OF SERVICES PROVIDED
53 AT DETENTION AND RESIDENTIAL FACILITIES, AND COMMUNICATE THEIR RECOMMEN-
54 DATIONS TO SUCH COMMISSIONER'S DESIGNEE. YOUTH ADVISORY BOARDS SHALL
55 MEET WITH THE OMBUDSPERSON WITHIN SUCH OFFICE ONCE A MONTH TO CONVEY

1 THEIR CONCERNS AND SUGGESTIONS FOR IMPROVEMENT AS IT RELATES TO THEIR
2 CARE.

3 S 2. Subdivision 1 of section 462-d of the social services law, as
4 amended by chapter 465 of the laws of 1992, such section as renumbered
5 by section one of this act, is amended to read as follows:

6 1. The [division for youth] OFFICE OF CHILDREN AND FAMILY SERVICES
7 shall exercise the enforcement powers enumerated in section four hundred
8 sixty-d of this article which may apply to secure and non-secure
9 detention facilities and to those [division for youth] OFFICE OF CHIL-
10 DREN AND FAMILY SERVICES residential facilities authorized by article
11 nineteen-G of the executive law and those residential facilities oper-
12 ated as approved runaway programs or transitional independent living
13 support programs pursuant to article nineteen-H of the executive law.

14 S 3. This act shall take effect immediately.