

6582

2009-2010 Regular Sessions

I N   A S S E M B L Y

March 6, 2009

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Introduced by M. of A. BURLING, MILLER, GIGLIO, WALKER, FINCH, BALL --  
Multi-Sponsored by -- M. of A. BACALLES, CALHOUN, CROUCH, ERRIGO,  
HAWLEY, KOLB, McDONOUGH -- read once and referred to the Committee on  
Correction

AN ACT to amend the correction law and the education law, in relation to  
providing for the medical testing of certain inmates upon application  
for certain privileges and authorizing the disclosure of such test  
results for such purpose and diagnosing of certain disease symptoms

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

1     Section 1.    The correction law is amended by adding two new sections  
2     144 and 145 to read as follows:  
3     S 144. MEDICAL TESTING OF CERTAIN INMATES UPON APPLICATION FOR CERTAIN  
4     PRIVILEGES. 1. INMATES APPLYING TO THE COMMISSIONER TO MARRY, TO PARTIC-  
5     IPATE IN THE FAMILY REUNION PROGRAM, OR TO PARTICIPATE IN A TEMPORARY  
6     RELEASE PROGRAM, SHALL SUBMIT TO A TEST FOR EVIDENCE OF ACQUIRED IMMUNE  
7     DEFICIENCY SYNDROME (AIDS), THE AIDS RELATED COMPLEX (ARC), AND THE  
8     HUMAN IMMUNODEFICIENCY VIRUS INFECTION (HIV). AS SCIENTIFIC KNOWLEDGE  
9     OF THE AIDS DISEASE INCREASES, USAGE OF TERMINOLOGY AND ADDITIONAL TESTS  
10    FOR THE HIV OR FOR LEVELS OF ANTIGEN OR ANTIBODY SHALL BE MODIFIED BY  
11    THE COMMISSIONER IN ACCORDANCE WITH THE LATEST PUBLICATION MADE AVAIL-  
12    ABLE BY THE FEDERAL CENTER FOR DISEASE CONTROL.  
13    2. UPON PROOF THAT ANY IDENTIFIABLE INMATE SEEKING APPROVAL FOR ONE OR  
14    MORE OF THE PRIVILEGES SPECIFIED IN SUBDIVISION ONE OF THIS SECTION, HAS  
15    TESTED POSITIVE, HAS A CERTAIN LEVEL OF ANTIGEN OR ANTIBODY OR HAS  
16    OTHERWISE TESTED POSITIVE FOR INFECTION WITH HIV OR INFECTION WITH THE  
17    PROBABLE CAUSATIVE AGENT OF AIDS, THE COMMISSIONER MAY DENY SUCH  
18    REQUESTED PRIVILEGE TO SUCH INMATE.  
19    3. INMATES GRANTED THE PRIVILEGE TO PARTICIPATE IN THE FAMILY REUNION  
20    PROGRAM OR A TEMPORARY RELEASE PROGRAM SHALL SUBMIT TO ANY OF THE TESTS  
21    SPECIFIED IN SUBDIVISION ONE OF THIS SECTION DURING PARTICIPATION IN

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

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1 SUCH PROGRAM AT INTERVALS DETERMINED BY THE COMMISSIONER BUT IN NO CASE  
2 LESS THAN SIX MONTH INTERVALS.

3 S 145. NOTIFICATION OF DISEASE SYMPTOMS. UPON THE DIAGNOSIS BY A  
4 FACILITY HEALTH DIRECTOR OR ANY OTHER MEDICAL SERVICE PROVIDER AUTHOR-  
5 IZED BY THE DEPARTMENT TO EXAMINE INMATES, THAT AN INMATE HAS SYMPTOMS  
6 OF ACQUIRED IMMUNE DEFICIENCY SYNDROME, NOTICE OF THE DIAGNOSIS SHALL BE  
7 PROVIDED TO ALL EMPLOYEES OF THE DEPARTMENT WHO CAN REASONABLY BE  
8 EXPECTED TO BE INVOLVED IN THE SUPERVISION AND CARE OF SAID INMATE.

9 S 2. Subdivision 1 of section 1007 of the education law, as amended by  
10 chapter 656 of the laws of 1999, is amended to read as follows:

11 1. It shall be unlawful, except for purposes directly connected with  
12 the administration of the vocational rehabilitation program AND FOR  
13 PURPOSES OF SECTION ONE HUNDRED FORTY-FIVE OF THE CORRECTION LAW, for  
14 any person or persons to solicit, disclose, receive, or make use of, or  
15 authorize, knowingly permit, participate in, or acquiesce in the use of  
16 any list of, or names of, or any information concerning, persons apply-  
17 ing for or receiving vocational rehabilitation, directly or indirectly  
18 derived from the [record] RECORDS, papers, files, communications of the  
19 state or subdivisions or agencies thereof, or acquired in the course of  
20 the performance of official duties without the consent of each such  
21 applicant or recipient. Such records, papers, files and communications  
22 shall be regarded as confidential information and privileged within the  
23 meaning of section forty-five hundred four of the civil practice law and  
24 rules.

25 S 3. This act shall take effect on the first of November next  
26 succeeding the date on which it shall have become a law.