

6474

I N S E N A T E

January 19, 2010

Introduced by Sen. MONTGOMERY -- read twice and ordered printed, and when printed to be committed to the Committee on Children and Families

AN ACT in relation to the powers and duties of the Correctional Association

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

1 Section 1. Legislative intent. The Correctional Association has sound-
2 ed the loudest, clearest call for reform of our state's prisons ever
3 since the organization was founded in 1844. When the organization began
4 its work, prisons were, by today's standards, astonishingly brutal.
5 Punishment of prisoners, not their rehabilitation, was the goal. Inmates
6 were regularly beaten by guards, inmates were allowed to commit acts of
7 violence against one another without consequence, and living conditions
8 were by any standard inhumane. Not surprisingly, those whose term of
9 incarceration ended returned to their neighborhoods more violent and
10 more dangerous than when they entered.

11 Throughout the intervening years the Correctional Association has
12 called for the reforms which are "demanded by the interests of society
13 and by every dictate of humanity." Their advocacy has led to, among
14 other important accomplishments, the abolishment of corporal punishment
15 within prisons; the establishment of a system of fines to keep individ-
16 uals convicted of minor offenses from being incarcerated; the establish-
17 ment of a system of restitution to make victims of crime whole; the
18 creation of academic, religious, and vocational training for inmates to
19 prevent recidivism; the founding of the state probation commission; the
20 establishment of mental health and substance abuse treatment for
21 inmates; and the creation of the Elmira Reformatory, the first prison in
22 the nation designed for children. In 2009, the Association was a leader
23 in the effort to end the unconscionable practice of shackling inmates
24 who are in the process of childbirth and the establishment of department
25 of health oversight over HIV and hepatitis C testing and treatment in
26 prison.

27 The conditions in New York juvenile justice facilities are by no meas-
28 ure as brutal as the conditions in New York state prisons when the

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

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1 Correctional Association began its work. But the stakes are just as
2 high. The youth in these facilities, almost without exception, are
3 profoundly vulnerable. Many of them have been victims of physical or
4 sexual abuse. Many of them have a mental health diagnosis. Many of them
5 have a diagnosed learning impairment. Many of them are coping with
6 several of these issues at once and may have acted in ways that jeopard-
7 ize public safety and their own safety.

8 In August of 2009 the Department of Justice issued a report which
9 revealed the cruelty of our state's juvenile detention facilities in
10 stark detail. Their investigation showed that staff routinely used
11 excessive physical force to discipline children, resulting in serious
12 injuries including concussions and broken bones. Mental health services
13 are abysmal and substance abuse services are shockingly deficient. These
14 youth, many of them under 16, have never been given a chance.

15 We cannot expect these youth to be rehabilitated until the facilities
16 that we place them in are reformed. That process cannot begin until we
17 understand the depths of the problem, today and in the future. The spot-
18 light that the Correctional Association wields will make that endeavor
19 possible.

20 S 2. Notwithstanding any other provision of law to the contrary, the
21 Correctional Association, by such committees as they shall from time to
22 time appoint, shall have the power, authority and duty to regularly
23 visit, inspect, and examine all residential juvenile facilities overseen
24 by the office of children and family services as defined in section 504
25 or 504-a of the executive law, including the property, documents,
26 records, policies, procedures, staff and all such other things and
27 records maintained or controlled by the facility which are connected to
28 the Association's legislative mandate.

29 The Association has the authority to conduct unannounced visits to
30 determine the welfare of the youth is protected at juvenile facilities
31 operated or certified by the office of children and family services.
32 The Association shall receive copies of incident reports involving a
33 youth residing in a facility operated or certified by the office of
34 children and family services. If the Association comes to learn of child
35 abuse as defined in section 412-a of the social services law, they shall
36 make an immediate report to the commissioner of the office of children
37 and family services and the statewide central registry of child abuse.

38 The Association shall have confidential contact in person and in writ-
39 ing with the residents and staff of such facilities. All information the
40 Correctional Association obtains while fulfilling its duties under this
41 section that is not publicly available shall be kept confidential,
42 unless a release is obtained by effected parties and such disclosure
43 will advance the rights of youth who are placed in these facilities.

44 The Correctional Association shall periodically report to the gover-
45 nor, the president of the senate, the speaker of the assembly, the
46 chairs of the children and families committee in the senate and assem-
47 bly, office of children and family services, labor representatives, and
48 the media regarding the state and condition of the residential facili-
49 ties, including any suggested remedial actions. In addition, the associ-
50 ation shall also report by the first of November to the governor, legis-
51 lature, labor representatives, and the media on the state and condition
52 of all of the state's residential juvenile facilities. The Correctional
53 Association shall also make all reports available on the internet. The
54 office of children and family services shall meet with the Correctional
55 Association and respond in writing to the findings and recommendations

1 issued in the annual reports. The office of children and family services
2 shall make its response available on the internet.
3 S 3. This act shall take effect on the sixtieth day after it shall
4 have become a law.