

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

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I N S E N A T E

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Introduced by Sens. MONTGOMERY, ADAMS, DUANE, KRUEGER, ONORATO, PARKER, PERKINS, SQUADRON -- read twice and ordered printed, and when printed to be committed to the Committee on Children and Families -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading

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

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

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1 NON-SECURE FACILITIES OPERATED, MAINTAINED OR CERTIFIED BY THE OFFICE OF
2 CHILDREN AND FAMILY SERVICES, INCLUDING ALL PROPERTY, DOCUMENTS,
3 RECORDS, POLICIES, PROCEDURES, STAFF AND ALL SUCH OTHER THINGS MAIN-
4 TAINED OR CONTROLLED BY SUCH FACILITIES.

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

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

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

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

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

52 S 504-D. POWERS OF PRISONERS' LEGAL SERVICES OF NEW YORK. 1. NOTWITH-
53 STANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, PRISONERS' LEGAL
54 SERVICES, BY AND THROUGH THEIR EMPLOYEES, UPON NOTIFICATION OF ABUSE OR
55 A COMPLAINT REGARDING A CONDITION OF CONFINEMENT BY THE CORRECTIONAL
56 ASSOCIATION OF NEW YORK PURSUANT TO SUBDIVISION TWO OF SECTION FIVE

1 HUNDRED FOUR-C OF THIS TITLE, VIA THE HOTLINE ESTABLISHED PURSUANT TO
2 SUBDIVISION THREE OF THIS SECTION, OR BY A PARENT, GUARDIAN OR ANY OTHER
3 CONCERNED INDIVIDUAL, SHALL HAVE THE POWER AND AUTHORITY TO PROVIDE
4 LEGAL REPRESENTATION TO YOUTH RESIDING IN SECURE, LIMITED SECURE AND
5 NON-SECURE FACILITIES OPERATED, MAINTAINED OR CERTIFIED BY THE OFFICE OF
6 CHILDREN AND FAMILY SERVICES, INCLUDING THE POWER AND AUTHORITY TO HAVE
7 CONFIDENTIAL CONTACT VISITS WITH SUCH YOUTH, REVIEW THEIR RECORDS,
8 INVESTIGATE THEIR COMPLAINTS, AND ADVOCATE FOR THEIR RIGHTS, SAFETY AND
9 WELL-BEING. UPON COMMENCING REPRESENTATION OF A YOUTH PURSUANT TO THIS
10 SECTION, PRISONERS' LEGAL SERVICES SHALL PROVIDE NOTICE TO THE LAW GUAR-
11 DIAN, IF ANY, APPOINTED TO REPRESENT SUCH YOUTH.

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

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

24 4. ALL CONFIDENTIAL INFORMATION OBTAINED BY PRISONERS' LEGAL SERVICES
25 PURSUANT TO ITS FUNCTIONS UNDER THIS SECTION SHALL REMAIN CONFIDENTIAL
26 AND ANY LIMITATIONS ON THE RELEASE THEREOF IMPOSED BY LAW UPON THE PARTY
27 FURNISHING THE INFORMATION SHALL APPLY TO PRISONERS' LEGAL SERVICES.
28 CONFIDENTIAL INFORMATION OBTAINED BY PRISONERS' LEGAL SERVICES PURSUANT
29 TO ITS FUNCTIONS UNDER THIS SECTION MAY BE APPENDED TO LEGAL DOCUMENTS
30 AND PLEADINGS AS A SEALED EXHIBIT.

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

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