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

5356

2011-2012 Regular Sessions

I N A S S E M B L Y

February 16, 2011

Introduced by M. of A. AUBRY -- read once and referred to the Committee on Correction

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:

Section 1. Section 503 of the executive law is amended by adding a new subdivision 6-a to read as follows:

6-A. THE OFFICE OF CHILDREN AND FAMILY SERVICES SHALL ENSURE THAT ALL YOUTH PLACED IN SECURE, LIMITED SECURE AND NON-SECURE FACILITIES OPERATED, MAINTAINED OR CERTIFIED BY THE OFFICE OF CHILDREN AND FAMILY SERVICES HAVE ACCESS TO A CONFIDENTIAL TOLL-FREE HOTLINE ESTABLISHED BY PRISONERS' LEGAL SERVICES OF NEW YORK PURSUANT TO SUBDIVISION THREE OF SECTION FIVE HUNDRED FOUR-D OF THIS TITLE FOR THE PURPOSES OF REPORTING ABUSE AND COMPLAINTS REGARDING CONDITIONS OF CONFINEMENT. THE OFFICE OF CHILDREN AND FAMILY SERVICES SHALL ALLOW PRISONERS' LEGAL SERVICES OF NEW YORK QUARTERLY ACCESS TO SUCH FACILITIES TO ADVISE THE YOUTH OF THEIR PROCEDURAL AND SUBSTANTIVE RIGHTS AND INFORM SUCH YOUTH OF THE HOTLINE.

S 2. The executive law is amended by adding a new section 504-c to read as follows:

S 504-C. POWERS AND DUTIES OF THE CORRECTIONAL ASSOCIATION OF NEW YORK. 1. NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, THE CORRECTIONAL ASSOCIATION OF NEW YORK, BY SUCH COMMITTEES AS THEY SHALL FROM TIME TO TIME APPOINT, SHALL HAVE THE POWER, AUTHORITY AND DUTY TO REGULARLY VISIT, INSPECT, AND EXAMINE ALL SECURE, LIMITED SECURE AND NON-SECURE FACILITIES OPERATED, MAINTAINED OR CERTIFIED BY THE OFFICE OF CHILDREN AND FAMILY SERVICES, INCLUDING ALL PROPERTY, DOCUMENTS, RECORDS, POLICIES, PROCEDURES, STAFF AND ALL SUCH OTHER THINGS MAINTAINED OR CONTROLLED BY SUCH FACILITIES.

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

LBD04696-01-1

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

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

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

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

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

S 504-D. POWERS OF PRISONERS' LEGAL SERVICES OF NEW YORK. 1. NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, PRISONERS' LEGAL SERVICES, BY AND THROUGH THEIR EMPLOYEES, UPON NOTIFICATION OF ABUSE OR A COMPLAINT REGARDING A CONDITION OF CONFINEMENT BY THE CORRECTIONAL ASSOCIATION OF NEW YORK PURSUANT TO SUBDIVISION TWO OF SECTION FIVE HUNDRED FOUR-C OF THIS TITLE, VIA THE HOTLINE ESTABLISHED PURSUANT TO SUBDIVISION THREE OF THIS SECTION, OR BY A PARENT, GUARDIAN OR ANY OTHER CONCERNED INDIVIDUAL, SHALL HAVE THE POWER AND AUTHORITY TO PROVIDE LEGAL REPRESENTATION TO YOUTH RESIDING IN SECURE, LIMITED SECURE AND

NON-SECURE FACILITIES OPERATED, MAINTAINED OR CERTIFIED BY THE OFFICE OF CHILDREN AND FAMILY SERVICES, INCLUDING THE POWER AND AUTHORITY TO HAVE CONFIDENTIAL CONTACT VISITS WITH SUCH YOUTH, REVIEW THEIR RECORDS, INVESTIGATE THEIR COMPLAINTS, AND ADVOCATE FOR THEIR RIGHTS, SAFETY AND WELL-BEING. UPON COMMENCING REPRESENTATION OF A YOUTH PURSUANT TO THIS SECTION, PRISONERS' LEGAL SERVICES SHALL PROVIDE NOTICE TO THE LAW GUARDIAN, IF ANY, APPOINTED TO REPRESENT SUCH YOUTH.

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

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

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

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

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