

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:

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

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

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

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

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

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

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

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

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

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

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

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

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

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