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

6001

2011-2012 Regular Sessions

I N A S S E M B L Y

March 3, 2011

Introduced by M. of A. BURLING, J. MILLER, GIGLIO, FINCH, STEVENSON -- Multi-Sponsored by -- M. of A. CALHOUN, CROUCH, HAWLEY, KOLB, McDONOUGH, MONTESANO -- 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 ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. The correction law is amended by adding two new sections 144 and 145 to read as follows:

S 144. MEDICAL TESTING OF CERTAIN INMATES UPON APPLICATION FOR CERTAIN PRIVILEGES. 1. INMATES APPLYING TO THE COMMISSIONER TO MARRY, TO PARTICIPATE IN THE FAMILY REUNION PROGRAM, OR TO PARTICIPATE IN A TEMPORARY RELEASE PROGRAM, SHALL SUBMIT TO A TEST FOR EVIDENCE OF ACQUIRED IMMUNE DEFICIENCY SYNDROME (AIDS), THE AIDS RELATED COMPLEX (ARC), AND HUMAN IMMUNODEFICIENCY VIRUS (HIV) INFECTION. AS SCIENTIFIC KNOWLEDGE OF THE AIDS DISEASE INCREASES, USAGE OF TERMINOLOGY AND ADDITIONAL TESTS FOR HIV OR FOR LEVELS OF ANTIGEN OR ANTIBODY SHALL BE MODIFIED BY THE COMMISSIONER IN ACCORDANCE WITH THE LATEST PUBLICATION MADE AVAILABLE BY THE FEDERAL CENTERS FOR DISEASE CONTROL.

2. UPON PROOF THAT ANY IDENTIFIABLE INMATE SEEKING APPROVAL FOR ONE OR MORE OF THE PRIVILEGES SPECIFIED IN SUBDIVISION ONE OF THIS SECTION, HAS TESTED POSITIVE, HAS A CERTAIN LEVEL OF ANTIGEN OR ANTIBODY OR HAS OTHERWISE TESTED POSITIVE FOR INFECTION WITH HIV OR INFECTION WITH THE PROBABLE CAUSATIVE AGENT OF AIDS, THE COMMISSIONER MAY DENY SUCH REQUESTED PRIVILEGE TO SUCH INMATE.

3. INMATES GRANTED THE PRIVILEGE TO PARTICIPATE IN THE FAMILY REUNION PROGRAM OR A TEMPORARY RELEASE PROGRAM SHALL SUBMIT TO ANY OF THE TESTS 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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SUCH PROGRAM AT INTERVALS DETERMINED BY THE COMMISSIONER BUT IN NO CASE LESS THAN SIX MONTH INTERVALS.

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

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

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

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