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

5428--A

2015-2016 Regular Sessions

I N S E N A T E

May 14, 2015

Introduced by Sen. RIVERA -- read twice and ordered printed, and when printed to be committed to the Committee on Crime Victims, Crime and Correction -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the correction law, in relation to people in the custody of the department of corrections and community supervision and a medical authorization form to disclose private medical information

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

Section 1. Section 71 of the correction law is amended by adding a new subdivision 9 to read as follows:

9. (A) ANY PERSON WHO IS IN THE CUSTODY OF THE DEPARTMENT SHALL RECEIVE AN OPPORTUNITY TO COMPLETE AN AUTHORIZATION FORM TO DISCLOSE PRIVATE MEDICAL INFORMATION TO ANY NEXT OF KIN OR OTHER REPRESENTATIVE OF HIS OR HER CHOICE AND AN AUTHORIZATION FOR RELEASE OF INFORMATION TO DISCLOSE MENTAL HEALTH TREATMENT INFORMATION TO ANY NEXT OF KIN OR OTHER REPRESENTATIVE OF HIS OR HER CHOICE UPON SUCH PERSON'S ARRIVAL AT A DESIGNATED RECEPTION FACILITY AND UPON ORIENTATION CONDUCTED AT ANY FACILITY AS A RESULT OF ANY TRANSFER DURING THE COURSE OF SUCH PERSON'S INCARCERATION. SUCH AUTHORIZATION SHALL BE IN FORCE UNTIL THE INMATE IS TRANSFERRED, DIES OR REVOKES SUCH AUTHORIZATION IN WRITING. SUCH AUTHORIZATION MAY BE REVISED OR REVOKED UPON REQUEST BY THE INMATE.

(B) (I) THE COMMISSIONER SHALL PROVIDE A COPY OF ANY SUCH AUTHORIZATION TO THE PERSON AUTHORIZED BY THE INMATE AS SOON AS IS REASONABLY PRACTICABLE.

(II) SUCH AUTHORIZED INDIVIDUAL IS TO BE PROVIDED WITH SUCH INMATE'S PROTECTED HEALTH INFORMATION AS GOVERNED BY THE HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996, ALSO KNOWN AS HIPAA, 42 USC 1320D, 45 CFR 160-164, AND SECTIONS SEVENTEEN AND TWENTY-SEVEN HUNDRED EIGHTY-TWO OF THE PUBLIC HEALTH LAW. ANY PHYSICIAN, HEALTHCARE PROFESSIONAL, DENTIST, HEALTH PLAN, HOSPITAL, CLINIC, LABORATORY, PHARMACY OR

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

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OTHER HEALTH CARE PROVIDER IS HEREBY AUTHORIZED TO GIVE, DISCLOSE AND RELEASE TO THE APPOINTED NEXT OF KIN OR OTHER REPRESENTATIVE ALL OF SUCH INMATE'S HEALTH INFORMATION NOT OTHERWISE RESTRICTED BY LAW.

(III) WHERE AN INMATE IS UNDER THE CARE OF THE OFFICE OF MENTAL HYGIENE, AN AUTHORIZATION FOR RELEASE OF INFORMATION PURSUANT TO SECTION 33.13 OF THE MENTAL HYGIENE LAW SHALL PROVIDE AN AUTHORIZED INDIVIDUAL WHO HAS A NEED FOR SUCH INFORMATION AND WHO HAS OBTAINED SUCH CONSENT, DISCLOSURE OF INFORMATION RELATING TO THE CARE AND TREATMENT OF THE PATIENT.

(C) THE COMMISSIONER SHALL CONSULT WITH, AND BE ENTITLED TO RECEIVE, THE ASSISTANCE OF THE COMMISSIONER OF MENTAL HYGIENE AND THE EXECUTIVE DIRECTOR OF THE JUSTICE CENTER FOR THE PROTECTION OF PEOPLE WITH SPECIAL NEEDS IN THE IMPLEMENTATION OF THIS SUBDIVISION.

S 2. This act shall take effect on the one hundred twentieth day after it shall have become a law; provided, effective immediately, the addition, amendment and/or repeal of any rules or regulations necessary for the implementation of the foregoing section of this act on its effective date is authorized to be made on or before such effective date.