

STATE OF NEW YORK

8046

IN SENATE

March 12, 2020

Introduced by Sen. SEPULVEDA -- read twice and ordered printed, and when printed to be committed to the Committee on Crime Victims, Crime and Correction

AN ACT to amend the correction law, in relation to permitting the correctional association to access, visit, inspect, and examine all state correctional facilities

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Section 2 of the correction law is amended by adding a new
2 subdivision 32 to read as follows:

3 32. "Correctional association" means the correctional association of
4 New York, duly incorporated by chapter six of the laws of eighteen
5 forty-six, and any of its employees, board members, and designees.

6 § 2. Section 146 of the correction law is amended by adding a new
7 subdivision 3 to read as follows:

8 3. a. Notwithstanding any other provision of law to the contrary, the
9 correctional association shall be permitted, at its pleasure, to access,
10 visit, inspect, and examine all state correctional facilities without
11 advance notice to the department. Up to twelve people may comprise the
12 correctional association visiting party. Except for documents or records
13 created about employees of the department solely for supervisory or
14 disciplinary purposes, the correctional association shall be given
15 unfettered access to all paper, electronic, and digital records, includ-
16 ing but not limited to documents, papers, logbooks, emails, books, data,
17 video and audio recordings, policies, and procedures pertaining to the
18 management, condition, issues or operation of any state correctional
19 facility, including the individual records of incarcerated individuals
20 that are not otherwise confidential under the mental hygiene law or
21 federal law. The department may not place restrictions on such visits
22 and inspections, including during periods when facilities are locked
23 down, although they may restrict access to a portion of a facility in
24 emergency situations for the duration of the emergency.

25 b. Upon twenty-four hours advance notice, at the commencement of any
26 visits to, or inspections and examinations of, state correctional facil-

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

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1 ities, the superintendent and executive team, to the extent possible,
2 shall meet with the correctional association. Upon twenty-four hours
3 advance notice, the correctional association may meet privately with the
4 inmate liaison committee and representatives of the inmate grievance
5 resolution committee or any other inmate organization of its choosing.

6 c. During the course of any such visit, inspection or examination,
7 upon consent of the person being interviewed, the correctional associ-
8 ation shall have the power to interview and converse publicly or confi-
9 dentially with any correctional employee, any incarcerated individual,
10 and any other person providing services in a state correctional facili-
11 ty, whether or not employed by such facility. Such interviews shall not
12 be restricted by the department or attended by anyone on behalf of the
13 department nor shall there be any retaliation or adverse action taken by
14 the department or other state agency against anyone who agrees to speak
15 with the correctional association. The department may not limit the
16 number of individuals the correctional association may interview or the
17 duration of the interviews. The correctional association shall have the
18 power to conduct private, confidential meetings at their pleasure and
19 without notice to the department with incarcerated people in housing
20 units and in attorney visiting rooms or other rooms in the facility in
21 which their conversations will remain confidential. No department
22 employee may attend or listen to any such meeting without the consent of
23 the correctional association.

24 d. The correctional association may at any time request and shall
25 promptly receive from the department or any other agency of the state or
26 public authority such paper, electronic, and digital records including
27 but not limited to any and all documents, papers, logbooks, books, data,
28 video, audio, policies, procedures, directives and emails related to the
29 management, conditions of confinement and treatment of persons under
30 custody, issues or operation of any state correctional facility, includ-
31 ing policies, practices and procedures relating to staff training and
32 recruitment, so as to enable the correctional association to carry out
33 its mission and duties, regardless of whether such requested paper,
34 electronic, and digital records could have been withheld under article
35 six of the public officers law. Any such paper, electronic, and digital
36 records provided to the correctional association by the department does
37 not constitute a waiver of any confidentiality or privilege regarding
38 such records. The correctional association shall not be compelled to
39 testify or release records that are otherwise exempt from public disclo-
40 sure, including identifying information or correspondence with any
41 person, without a court order unless that person consents in writing to
42 the release of such information.

43 e. The correctional association shall periodically, but not less than
44 every five years, conduct inspections of each state correctional facili-
45 ty and shall issue reports and recommendations to the governor, the
46 legislature and the public about the conditions and issues at each such
47 facility. The department shall issue a timely response to said reports
48 and include explanations of any actions that have been or will be taken
49 to address the issues raised therein.

50 f. The correctional association may send surveys or questionnaires to
51 people in custody concerning conditions of confinement or other subjects
52 within their mission without prior approval of the department. The
53 department shall distribute such surveys when requested by the correc-
54 tional association. The correctional association may also receive phone
55 calls from incarcerated individuals and/or set up a hotline for such
56 individuals to contact them.

1 g. In any case where the department or an employee thereof shall fail
2 to comply with the provisions of this subdivision, the correctional
3 association may apply to the supreme court for an order directed to the
4 department or such employee of the department requiring compliance ther-
5 ewith. Upon such application, the court may issue such order as may be
6 just and a failure to comply with the order of the court shall be a
7 contempt of court and be punishable as such; any action or proceeding
8 commenced by the correctional association pursuant to this subdivision
9 shall have a preference over all other cases, except habeas corpus
10 proceedings, pending before the court.

11 § 3. This act shall take effect on the ninetieth day after it shall
12 have become a law.