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:

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

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

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

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

b. Upon twenty-four hours advance notice, at the commencement of any 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.

LBD15807-01-0

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

c. During the course of any such visit, inspection or examination, upon consent of the person being interviewed, the correctional association shall have the power to interview and converse publicly or confidentially with any correctional employee, any incarcerated individual, and any other person providing services in a state correctional facility, whether or not employed by such facility. Such interviews shall not be restricted by the department or attended by anyone on behalf of the department nor shall there be any retaliation or adverse action taken by the department or other state agency against anyone who agrees to speak with the correctional association. The department may not limit the number of individuals the correctional association may interview or the duration of the interviews. The correctional association shall have the power to conduct private, confidential meetings at their pleasure and without notice to the department with incarcerated people in housing units and in attorney visiting rooms or other rooms in the facility in which their conversations will remain confidential. No department employee may attend or listen to any such meeting without the consent of the correctional association.

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

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

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

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

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