

# 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.