

# STATE OF NEW YORK

10678

## IN ASSEMBLY

August 12, 2022

Introduced by COMMITTEE ON RULES -- (at request of M. of A. Weprin) --  
read once and referred to the Committee on Correction

AN ACT to amend the correction law, in relation to correctional facility  
visits by the correctional association

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

1 Section 1. Subdivision 3 of section 146 of the correction law, as  
2 amended by chapter 32 of the laws of 2021, is amended to read as  
3 follows:  
4 3. a. Notwithstanding any other provision of law to the contrary, the  
5 correctional association shall be permitted, at its pleasure on any day  
6 at any time of day and without advance notice, to access, visit,  
7 inspect, and examine all state correctional facilities [~~with seventy-two~~  
8 ~~hours advance notice to the department~~] and all facilities in which  
9 people under the custody or supervision of the department are being held  
10 or used for operational purposes, including, but not limited to, the  
11 Central New York Psychiatric Center. Up to twelve people may comprise  
12 the visiting party[~~, provided, however, that only four people from the~~  
13 ~~party may enter a special housing facility or unit at the same time~~].  
14 The correctional association shall have unfettered access to every area  
15 of the facilities without department escort. The department shall  
16 provide escort whenever requested by the correctional association. Prior  
17 to the visitation authorized pursuant to this subdivision, the correc-  
18 tional association shall provide to the department on, at least, an  
19 annual basis a list of people who will be visiting the facility or  
20 facilities, including names, dates of birth, driver's license numbers  
21 and their designation as an employee, board member, or designee in order  
22 for the department to perform prompt background checks, which shall not  
23 be unreasonably disapproved and any objections must be provided in a  
24 timely manner. The correctional association may from time to time  
25 supplement the list of visitors by providing the same information with  
26 the same prompt background check and disapproval requirements. During  
27 all visits, the correctional association shall be given unfettered  
28 access to all paper, electronic, and digital records, including, but not

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

LBD15882-01-2

1 limited to, documents, papers, logbooks, emails, books, data, video and  
2 audio recordings, policies, and procedures pertaining to the management,  
3 condition, issues or operation of any correctional facility, including  
4 records concerning incarcerated individuals, except for records that are  
5 protected from disclosure under state or federal law. At all times  
6 during all visits and inspections, the correctional association shall be  
7 permitted to use relevant electronic equipment, including but not limit-  
8 ed to, audio and video recording devices, cameras, and computers and  
9 tablets for purposes of typing, recording, documentation, the adminis-  
10 tration of surveys, and other related purposes, as well as relevant  
11 instruments of measurement, including but not limited to those used for  
12 measuring distance, sound decibels, temperature, and air quality. The  
13 department may not place restrictions on such visits and inspections,  
14 including during periods when a facility is locked down or experiencing  
15 a facility wide emergency[~~., In addition, the department may restrict~~  
16 ~~access to a portion of a facility in an emergency situation for the~~  
17 ~~duration of the emergency. For the purpose of this subdivision, an emer-~~  
18 ~~gency shall be determined by the commissioner or his or her designee and~~  
19 ~~defined as a significant risk to the safety or security of the facility,~~  
20 ~~or the health, safety or security of staff or incarcerated individuals,~~  
21 ~~or an event that significantly compromises the operations of the facili-~~  
22 ~~ty] except in extraordinary circumstances in which there is explicit  
23 evidence that there is a specific, serious risk to the safety of the  
24 correctional association visiting team if they enter the facility even  
25 if security staff accompanies them during the visit.~~

26 b. [~~Upon twenty-four hours advance notice, at~~] At the commencement and  
27 conclusion of any visits to, or inspections and examinations of, state  
28 correctional facilities, the superintendent and executive team, [~~to the~~  
29 ~~extent practicable~~] upon request by the correctional association, shall  
30 meet with the correctional association[~~., Upon twenty-four hours advance~~  
31 ~~notice, the~~] privately without representatives of the central office  
32 present. Representatives of the office of mental health and any other  
33 entities or agencies providing services in a facility shall meet with  
34 the correctional association upon request. The correctional association  
35 may meet privately with the inmate liaison committee and representatives  
36 of the inmate grievance resolution committee or any other organization  
37 of incarcerated individuals recognized by the department.

38 c. [~~During the course of any such visit, inspection or examination,~~  
39 ~~upon consent of the person being interviewed, the~~] The correctional  
40 association shall have the power to interview and converse publicly or  
41 confidentially with any correctional employee or administrator, any  
42 incarcerated individual, and any other person providing, supervising, or  
43 monitoring services in a correctional facility, whether or not employed  
44 by such facility. Such interviews shall not be restricted by the depart-  
45 ment or the office of mental health any other agency or attended by  
46 anyone on behalf of the department or the office of mental health or any  
47 other agency, nor shall there be any retaliation or adverse action taken  
48 by the department or other state agency against [~~any incarcerated indi-~~  
49 ~~vidual~~] anyone who [~~agrees to speak~~] speaks with the correctional asso-  
50 ciation. The department may not limit the number of individuals the  
51 correctional association may interview or the duration of the inter-  
52 views[~~., in any manner unreasonable under the circumstances~~]. The  
53 correctional association shall have the power to conduct private, confi-  
54 dential meetings [~~reasonable in number under the circumstances~~] at their  
55 pleasure and without notice to the department with incarcerated people  
56 in housing units and in attorney visiting rooms or other rooms in the

1 facility in which their conversations will remain confidential. No  
2 department employee may attend or listen to any such meeting without the  
3 consent of the correctional association.

4 d. The correctional association shall be provided within fourteen  
5 days of any request to the department or other agency with records rele-  
6 vant to correctional facilities, by mail and electronically in easily  
7 searchable and usable formats, such paper, electronic, and digital  
8 records that are not otherwise protected from disclosure by state or  
9 federal law including but not limited to any and all documents, papers,  
10 logbooks, books, data, video, audio, policies, procedures, directives  
11 and emails related to the management, conditions of confinement and  
12 treatment of persons under custody, issues or operation of any state  
13 correctional facility, including policies, practices, and procedures  
14 relating to staff training and recruitment, so as to enable the correc-  
15 tional association to carry out its mission and duties.

16 e. The correctional association shall periodically~~[, but not less than~~  
17 ~~every five years,~~ conduct inspections of ~~[each state]~~ correctional  
18 ~~[facility]~~ facilities, prioritized based on the correctional associ-  
19 ation's assessment of systemic issues, and [shall] issue reports and  
20 recommendations to the governor, the legislature and the public about  
21 the conditions and issues at ~~[each such facility]~~ correctional facili-  
22 ties. When preparing such formal reports and recommendations, the  
23 correctional association shall submit a tentative copy of such report  
24 and recommendations to the commissioner~~[-The commissioner may], and, if~~  
25 the correctional association so chooses, to the commissioner of mental  
26 health, commissioner of the parole board, commissioner of the department  
27 of health, and any other relevant commissioners or administrators. All  
28 commissioners receiving such report shall submit a written response to  
29 such tentative report within ~~[sixty]~~ thirty days of the receipt thereof,  
30 including a plan of action for addressing the findings and recommenda-  
31 tions. When the correctional association thereafter submits its final  
32 report and recommendations, it shall contain a complete copy of the  
33 response, if any, submitted to the tentative report and recommendations.  
34 The department, the office of mental health, the parole board, the  
35 department of health and any other agency that received recommendations  
36 shall implement their plan of action and shall publicly report on the  
37 progress of such plan within sixty days of the correctional associ-  
38 ation's final report.

39 ~~[e-]~~ f. The correctional association may send, and distribute during  
40 prison visits, confidential written and electronic surveys or question-  
41 naires to people in custody or employees concerning conditions of  
42 confinement, working conditions, or other subjects within the scope of  
43 their mission without prior approval of the department. People incar-  
44 cerated shall be permitted to confidentially complete and return to the  
45 correctional association such surveys either in written format or elec-  
46 tronically. The correctional association may also receive free confiden-  
47 tial phone calls and emails from incarcerated individuals and/or set up  
48 a confidential hotline for individuals to use if they choose to contact  
49 them.

50 ~~[f-]~~ g. The department, in consultation with the office of mental  
51 health, the department of health, the parole board, the office of  
52 special investigations, and any other relevant agency, shall publicly  
53 report on its website on a monthly basis, and with semi-annual and annu-  
54 al cumulative reports, with a word searchable database and cumulative  
55 subject matter index, data relevant to the conditions and experiences of  
56 people in correctional facilities, with any personal identifying infor-

1 mation redacted, including but not limited to: all data on individuals  
2 under custody; department daily population data; all data on people  
3 under community supervision including but not limited to as related to  
4 sentence, aggregate time on parole, and location; all data on deaths,  
5 suicides and incidents of self-harm and attempted suicide; parole board  
6 hearings, release decisions, and appeals all disaggregated by basis for  
7 the revocation, outcome, and location; grievances aggregated by type and  
8 outcome; prison rape elimination act complaints disaggregated by type  
9 and outcome; disciplinary data disaggregated by type and outcome; unusu-  
10 al incidents disaggregated by type and outcome; staff uses of force  
11 disaggregated by level of injury to incarcerated individuals and staff  
12 and outcome of any disciplinary or other action taken; office of special  
13 investigations complaints received disaggregated by date received, date  
14 closed, and outcome; operational and capital expenditure disaggregated  
15 by facility; Corcraft and other industry revenue and expenditures; and  
16 wages paid to incarcerated individuals. All such data in this section  
17 shall be disaggregated by facility, location within a facility where  
18 relevant, and all relevant demographic categories, including but not  
19 limited to, race, ethnicity, age, gender, gender identity, mental health  
20 treatment level, medical conditions, pregnancy or postpartum status, and  
21 identification as lesbian, gay, bisexual, transgender, intersex, or  
22 gender non-conforming. The department shall also publicly report on its  
23 website in an easily accessible location, all policies, directives, and  
24 memorandums that are not privileged or confidential, all new and reis-  
25 sued directives, and all new memorandums issued to the incarcerated  
26 population or staff.

27 h. The access, visits, and inspection of state correctional facilities  
28 by the correctional association pursuant to this subdivision shall be  
29 undertaken solely in furtherance of the correctional association's  
30 lawful powers, duties and obligations, and information obtained pursuant  
31 to these powers shall be used solely in furtherance of the correctional  
32 association's mission. Employees, board members and designees shall be  
33 required to sign [~~a waiver~~] an acknowledgement of the foregoing as a  
34 condition of entry into a correctional facility pursuant to this subdivi-  
35 vision.

36 i. In all circumstances in which the department has, or enters into,  
37 any memorandum of understanding or similar agreement with any other  
38 state or local agency, such agency shall also be subject to the  
39 provisions of this subdivision.

40 j. In any case where the department or other agency operating in the  
41 prisons or an employee thereof shall fail to comply with the provisions  
42 of this subdivision, the correctional association may apply to the  
43 supreme court for an order directed to the department or such employee  
44 of the department requiring compliance therewith. Upon such application,  
45 the court may issue such order as may be just, and a failure to comply  
46 with the order of the court shall be a contempt of court and be punisha-  
47 ble as such; any action or proceeding commenced by the correctional  
48 association pursuant to this subdivision shall have expedited treatment  
49 by the court.

50 § 2. This act shall take effect immediately.