

STATE OF NEW YORK

8611--A

IN SENATE

March 22, 2022

Introduced by Sen. SALAZAR -- read twice and ordered printed, and when printed to be committed to the Committee on Children and Families -- reported favorably from said committee and committed to the Committee on Finance -- committee discharged and said bill committed to the Committee on Rules -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the executive law, in relation to the powers and duties of the correctional association to inspect residential juvenile facilities

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

1 Section 1. Section 503 of the executive law is amended by adding a new
2 subdivision 6-a to read as follows:

3 6-a. The office of children and family services shall ensure that all
4 youth placed in secure, limited secure and non-secure facilities oper-
5 ated, maintained or certified by the office of children and family
6 services have access to a confidential toll-free hotline established by
7 prisoners' legal services of New York pursuant to subdivision three of
8 section five hundred four-d of this title for the purposes of reporting
9 maltreatment or abuse and complaints regarding conditions of placement
10 or confinement. The office of children and family services shall allow
11 prisoners' legal services of New York quarterly access to such facili-
12 ties to advise the youth of their procedural and substantive rights and
13 inform such youth of the hotline.

14 § 2. The executive law is amended by adding a new section 504-c to
15 read as follows:

16 § 504-c. Powers and duties of the correctional association of New
17 York. 1. Notwithstanding any other provision of law to the contrary, the
18 correctional association of New York, by such committees as they shall
19 from time to time appoint, shall have the power, authority and duty to
20 regularly visit, inspect, and examine all secure, limited secure and
21 non-secure facilities operated, maintained or certified by the office of
22 children and family services, including all property, documents,

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

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1 records, policies, procedures, staff and all such other things main-
2 tained or controlled by such facilities.

3 2. The correctional association shall have the authority to conduct
4 unannounced visits at all secure, limited secure and non-secure facili-
5 ties operated, maintained or certified by the office of children and
6 family services to ensure the welfare of the youth is protected. The
7 correctional association shall have the authority to receive and review
8 copies of all incident reports involving youth residing in such facili-
9 ties. If the correctional association learns that a youth has been
10 maltreated or abused, or that a youth has made allegations of maltreat-
11 ment or abuse, they shall make an immediate report to the commissioner
12 of the office of children and family services, the justice center for
13 the protection of people with special needs, and to prisoners' legal
14 services of New York.

15 3. The correctional association shall have the authority to have
16 confidential contact in person and in writing with the residents and
17 staff of secure, limited secure and non-secure facilities operated,
18 maintained or certified by the office of children and family services.
19 All confidential information the correctional association obtains while
20 fulfilling its duties under this section shall remain confidential and
21 any limitations on the release thereof imposed by law upon the party
22 furnishing the information shall apply to the correctional association,
23 provided that the correctional association may report such information
24 related to the maltreatment or abuse of youth as required by subdivision
25 two of this section.

26 4. The correctional association shall annually report to the governor,
27 the temporary president of the senate, the speaker of the assembly, the
28 chairs of the children and families committee in the senate and assem-
29 bly, the office of children and family services, labor representatives,
30 and the media regarding the state and condition of the secure, limited
31 secure and non-secure facilities operated, maintained and certified by
32 the office of children and family services, including any suggested
33 remedial actions. The initial report required by this subdivision shall
34 be presented by the first of November next succeeding the effective date
35 of this section. The correctional association shall make all reports
36 available on the internet. The office of children and family services
37 shall meet with the correctional association and respond in writing to
38 the findings and recommendations issued in the annual reports. The
39 office of children and family services shall make its response available
40 on the internet.

41 5. The provisions of this section shall not apply to any child who is
42 placed in foster care pursuant to section three hundred fifty-eight-a,
43 three hundred eighty-four or three hundred eighty-four-a of the social
44 services law or pursuant to section one thousand twenty-one, one thou-
45 sand twenty-two, one thousand twenty-four, one thousand twenty-seven, or
46 one thousand fifty-two of the family court act; or directly placed with
47 a relative pursuant to section one thousand seventeen or one thousand
48 fifty-five of the family court act.

49 § 3. The executive law is amended by adding a new section 504-d to
50 read as follows:

51 § 504-d. Powers of prisoners' legal services of New York. 1. Notwith-
52 standing any other provision of law to the contrary, prisoners' legal
53 services, by and through their employees, upon notification of a
54 complaint of maltreatment or abuse or a complaint regarding a condition
55 of placement or confinement by the correctional association of New York
56 pursuant to subdivision two of section five hundred four-c of this

1 title, via the hotline established pursuant to subdivision three of this
2 section, or by a parent, guardian or any other concerned individual,
3 shall have the power and authority to provide legal representation to
4 youth residing in secure, limited secure and non-secure facilities oper-
5 ated, maintained or certified by the office of children and family
6 services, including the power and authority to have confidential contact
7 visits with such youth, review their records, investigate their
8 complaints, and advocate for their rights, safety and well-being. Upon
9 commencing representation of a youth pursuant to this section, prison-
10 ers' legal services shall provide notice to the attorney for the child
11 or retained counsel or appointed counsel, if any, who represent such
12 youth at the time the complaint is received. Upon commencing represen-
13 tation of a youth pursuant to this section, prisoners' legal services
14 shall provide notice to the parent, guardian, or custodian of the youth.
15 Upon commencing representation of a youth pursuant to this section,
16 prisoners' legal services shall provide notice to the local department
17 of social services and/or entity which is the temporary custodian of the
18 youth or which facilitates the youth's placement or confinement at the
19 time the complaint is received.

20 2. Prisoners' legal services shall have the authority to inspect,
21 request, receive and review all documents associated with representation
22 of a youth pursuant to subdivision one of this section, including but
23 not limited to, use of force documents, unusual incident reports,
24 medical and mental health records, disciplinary records and programming
25 institutional records, presentence reports and court records, including
26 sealed records, without obtaining an unseal order. The entity providing
27 documents shall have the authority to remove and/or redact the confiden-
28 tial information of any youth contained in the documents provided who
29 are not represented by prisoners' legal services.

30 3. Prisoners' legal services shall be authorized to establish a confi-
31 dential toll-free hotline for the purpose of receiving reports of
32 maltreatment or abuse from youth residing at secure, limited secure and
33 non-secure facilities operated, maintained or certified by the office of
34 children and family services.

35 4. All confidential information obtained by prisoners' legal services
36 pursuant to its functions under this section shall remain confidential
37 and any limitations on the release thereof imposed by law upon the party
38 furnishing the information shall apply to prisoners' legal services.
39 Confidential information obtained by prisoners' legal services pursuant
40 to its functions under this section may be appended to legal documents
41 and pleadings as a sealed exhibit.

42 5. The provisions of this section shall not apply to any child who is
43 placed in foster care pursuant to section three hundred fifty-eight-a,
44 three hundred eighty-four or three hundred eighty-four-a of the social
45 services law or pursuant to section one thousand twenty-one, one thou-
46 sand twenty-two, one thousand twenty-four, one thousand twenty-seven, or
47 one thousand fifty-two of the family court act; or directly placed with
48 a relative pursuant to section one thousand seventeen or one thousand
49 fifty-five of the family court act.

50 § 4. This act shall take effect on the sixtieth day after it shall
51 have become a law.