

STATE OF NEW YORK

7261

2023-2024 Regular Sessions

IN ASSEMBLY

May 16, 2023

Introduced by M. of A. AUBRY -- read once and referred to the Committee on Correction

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

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

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

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

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

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

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

49 § 504-d. Powers of prisoners' legal services of New York. 1. Notwith-
50 standing any other provision of law to the contrary, prisoners' legal
51 services, by and through their employees, upon notification of a
52 complaint of maltreatment or abuse or a complaint regarding a condition
53 of placement or confinement by the correctional association of New York
54 pursuant to subdivision two of section five hundred four-c of this
55 title, via the hotline established pursuant to subdivision three of this
56 section, or by a parent, guardian or any other concerned individual,

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

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

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

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

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

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