

STATE OF NEW YORK

8820

IN ASSEMBLY

January 18, 2024

Introduced by M. of A. FAHY -- read once and referred to the Committee on Governmental Operations

AN ACT to amend the executive law, in relation to authorizing the state inspector general to receive and investigate complaints of sexual assault in correctional facilities and other places operated by the department of corrections and community supervision for the confinement of persons

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

1 Section 1. Subdivision 7 of section 53 of the executive law, as added
2 by chapter 766 of the laws of 2005, is amended and a new subdivision 8
3 is added to read as follows:

4 7. establish programs for training state officers and employees
5 regarding the prevention and elimination of corruption, fraud, criminal
6 activity, conflicts of interest or abuse in covered agencies~~[-]~~; and

7 8. receive and investigate complaints of sexual assault in correction-
8 al facilities and other places operated by the department of corrections
9 and community supervision for the confinement of persons in accordance
10 with section fifty-four-a of this article.

11 § 2. The executive law is amended by adding a new section 54-a to read
12 as follows:

13 § 54-a. Incidents of sexual assault in institutions in the department
14 of corrections and community supervision. 1. Definitions. For the
15 purposes of this section:

16 a. "Institution" shall have the same meaning as defined in paragraph
17 (c) of subdivision four of section two of the correction law.

18 b. "Sexual assault" or any derivative term thereof means any non-con-
19 sensual sexual contact, including but not limited to the following
20 offenses as defined in article one hundred thirty of the penal law: (i)
21 rape; (ii) criminal sexual act; (iii) sexual misconduct; and (iv) sexual
22 abuse.

23 c. "Non-consensual" or any derivative word or phrase shall have the
24 same meaning as "lack of consent" as defined in section 130.05 of the
25 penal law.

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

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1 2. a. The state inspector general shall receive and investigate
2 complaints from any source concerning allegations of sexual assault of
3 incarcerated individuals in institutions. The state inspector general
4 shall have all powers as set forth in section fifty-four of this article
5 and to take any other actions necessary to conduct a thorough and impar-
6 tial investigation.

7 b. Any individual in the custody of the department of corrections and
8 community supervision who claims to have been sexually assaulted in an
9 institution shall have the right to report the incident directly to the
10 state inspector general.

11 3. a. The state inspector general shall create a confidential and
12 secure reporting system for individuals in the custody of the department
13 of corrections and community supervision to report incidents of sexual
14 assault in such institutions.

15 b. The state inspector general shall develop protocols and procedures
16 for the reporting and investigation of sexual assault allegations in
17 institutions. Protocols shall include, at a minimum:

18 (i) procedures for the immediate and confidential reporting of allega-
19 tions of sexual assault;

20 (ii) procedures for the collection of evidence, including forensic
21 evidence;

22 (iii) procedures for conducting thorough and impartial investigations
23 of sexual assault allegations, including interviews with the alleged
24 victim, witnesses, and the accused;

25 (iv) procedures for notifying victims of the status of their case and
26 the outcome of the investigation;

27 (v) procedures for the referral of cases for criminal prosecution
28 where appropriate; and

29 (vi) procedures for tracking and reporting on sexual assault allega-
30 tions, investigations, and outcomes.

31 4. When the state inspector general commences an investigation of a
32 complaint of sexual assault in an institution, such investigation shall
33 be conducted in accordance with protocols, policies, and procedures
34 established by the state inspector general and shall include the follow-
35 ing:

36 a. interviews with the victim, witnesses, and any alleged perpetra-
37 tors;

38 b. collection and analysis of physical and forensic evidence, if or
39 when applicable;

40 c. review of relevant institutional or departmental records and poli-
41 cies, if relevant to the investigation;

42 d. coordination with law enforcement authorities and other relevant
43 agencies as necessary; and

44 e. any other investigative steps deemed necessary to determine the
45 facts and circumstances of the alleged sexual assault.

46 5. The protocol and procedures established pursuant to this section
47 shall be made available to all incarcerated individuals and shall be
48 regularly reviewed and updated by the state inspector general, as need-
49 ed.

50 a. The department of corrections and community supervision, in consul-
51 tation with the office of the state inspector general, shall provide
52 individuals in its custody with information on how to report sexual
53 assault to the state inspector general, including information on how to
54 contact the state inspector general's office, and shall make this infor-
55 mation readily available in a variety of formats.

1 b. The department of corrections and community supervision, in consul-
2 tation with the office of the state inspector general, shall provide
3 individuals in its custody with access to a confidential and secure
4 method for reporting sexual assault to the state inspector general,
5 including the use of a hotline or other similar systems.

6 c. The department of corrections and community supervision shall
7 ensure that any reports of sexual assault made by individuals in its
8 custody when this act takes effect are immediately forwarded to the
9 office of the state inspector general.

10 6. a. Any individual in the custody of the department of corrections
11 and community supervision who reports a sexual assault to the state
12 inspector general shall be protected from retaliation, harassment, or
13 any other form of retribution or adverse treatment as a result of making
14 such report. Any allegations of retaliation, harassment, or any other
15 form of retribution against an individual who reports sexual assault to
16 the state inspector general shall be subject to investigation and poten-
17 tial referral for prosecution pursuant to the provisions of this arti-
18 cle.

19 b. The office of the state inspector general shall protect the confi-
20 dentiality of individuals who file reports of sexual assault in insti-
21 tutions to the fullest extent of the law.

22 7. The state inspector general and the department of corrections and
23 community supervision shall take all necessary measures to implement the
24 provisions of this act, including but not limited to training staff on
25 the reporting process to the state inspector general.

26 § 3. This act shall take effect on the one hundred eightieth day after
27 it shall have become a law.