STATE OF NEW YORK

8990--A

IN ASSEMBLY

January 31, 2024

Introduced by M. of A. WEPRIN -- read once and referred to the Committee on Correction -- recommitted to the Committee on Correction in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the public health law, in relation to the use of body imaging scanning equipment in local correctional facilities

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

Section 1. Subparagraphs (ii) and (iii) of paragraph (a) of subdivision 6 of section 3502 of the public health law, as amended by section 1 of part LL of chapter 56 of the laws of 2023, are amended to read as follows:

(ii) Notwithstanding the provisions of this section or any other provision of law, rule or regulation to the contrary, licensed practitioners, persons licensed under this article and unlicensed personnel employed at a state **or local** correctional facility may, in a manner permitted by the regulations promulgated pursuant to this subdivision, utilize body imaging scanning equipment that applies ionizing radiation to humans for purposes of screening individuals detained in, committed to, visiting, or employed in such facility, in connection with the implementation of such facility's security program.

(iii) The utilization of such body imaging scanning equipment shall be in accordance with regulations promulgated by the department, or for local correctional facilities in cities having a population of two million or more, such utilization shall be in accordance with regulations promulgated by the New York city department of health and mental hygiene. The state commission of correction, in consultation with the department of corrections and community supervision, shall promulgate regulations establishing when body imaging scanning equipment will be used to screen visitors and incarcerated individuals in state **or local** correctional facilities. Such regulations shall include provisions establishing that alternative methods of screening may be used to accommodate individuals who decline or are unable to be screened by body

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

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imaging scanning equipment for medical reasons and that alternative methods of screening may be used to accommodate individuals who decline to be screened for other reasons, unless security considerations warrant otherwise. Such regulations shall also ensure that no person shall be subjected to any form of harassment, intimidation, or disciplinary action for choosing to be searched by an alternative method of screening in lieu of body imaging scanning.

The department of corrections and community supervision shall promulgate regulations establishing when body imaging scanning equipment will be used to screen employees of the department of corrections and community supervision, provided, however that such regulations shall be consistent with the policies and procedures of the department of corrections and community supervision governing the search of employees. Such regulations shall include provisions establishing that alternative methods of screening may be used to accommodate individuals who decline or are unable to be screened by body imaging scanning equipment for medical or other reasons. Such regulations shall also ensure that no person shall be subjected to any form of harassment, intimidation, or disciplinary action for choosing to be searched by an alternative method of screening in lieu of body imaging scanning. An employee's request to be searched by an alternative method of screening in lieu of body imaging scanning shall not, in itself, be grounds for disciplinary action against such employee.

§ 2. Subparagraph (i) of paragraph (f) of subdivision 6 of section 3502 of the public health law, as amended by section 1 of part LL of chapter 56 of the laws of 2023, is amended to read as follows:

(i) For local correctional facilities, the number of times the equipment was used on [~~incarcerated~~] individuals [~~upon intake, after visits,~~] **detained in, committed to, working in, or visiting the facility upon intake, before work shift, after work shift, before visits, after visits,** and upon the suspicion of contraband, as well as any other event that triggers the use of such equipment, and the average, median, and highest number of times the equipment was used on any [~~incarcerated~~] individual **detained in, committed to, working in, or visiting the facility**, with corresponding exposure levels; and

§ 3. This act shall take effect immediately; provided however, that the amendments to subdivision 6 of section 3502 of the public health law made by sections one and two of this act shall not affect the repeal of such subdivision and shall be deemed repealed therewith. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made and completed on or before such effective date.