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:

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

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

8. 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 in accordance with section fifty-four-a of this article.

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

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

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

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

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

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

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

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

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

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

(i) procedures for the immediate and confidential reporting of allegations of sexual assault;

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

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

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

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

(vi) procedures for tracking and reporting on sexual assault allegations, investigations, and outcomes.

4. When the state inspector general commences an investigation of a complaint of sexual assault in an institution, such investigation shall be conducted in accordance with protocols, policies, and procedures established by the state inspector general and shall include the following:

a. interviews with the victim, witnesses, and any alleged perpetrators;

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

c. review of relevant institutional or departmental records and policies, if relevant to the investigation;

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

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

5. The protocol and procedures established pursuant to this section shall be made available to all incarcerated individuals and and shall be regularly reviewed and updated by the state inspector general, as needed.

a. The department of corrections and community supervision, in consultation with the office of the state inspector general, shall provide individuals in its custody with information on how to report sexual assault to the state inspector general, including information on how to contact the state inspector general's office, and shall make this information readily available in a variety of formats.

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

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

6. a. Any individual in the custody of the department of corrections and community supervision who reports a sexual assault to the state inspector general shall be protected from retaliation, harassment, or any other form of retribution or adverse treatment as a result of making such report. Any allegations of retaliation, harassment, or any other form of retribution against an individual who reports sexual assault to the state inspector general shall be subject to investigation and potential referral for prosecution pursuant to the provisions of this article.

b. The office of the state inspector general shall protect the confidentiality of individuals who file reports of sexual assault in institutions to the fullest extent of the law.

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

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