

STATE OF NEW YORK

6975

2023-2024 Regular Sessions

IN SENATE

May 16, 2023

Introduced by Sen. SALAZAR -- read twice and ordered printed, and when printed to be committed to the Committee on Crime Victims, Crime and Correction

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)

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

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1 rape; (ii) criminal sexual act; (iii) sexual misconduct; and (iv) sexual
2 abuse.

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

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

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

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

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

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

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

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

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

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

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

36 4. When the state inspector general commences an investigation of a
37 complaint of sexual assault in an institution, such investigation shall
38 be conducted in accordance with protocols, policies, and procedures
39 established by the state inspector general and shall include the follow-
40 ing:

41 a. interviews with the victim, witnesses, and any alleged perpetra-
42 tors;

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

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

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

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

51 5. The protocol and procedures established pursuant to this section
52 shall be made available to all incarcerated individuals and shall be
53 regularly reviewed and updated by the state inspector general, as need-
54 ed.

55 a. The department of corrections and community supervision, in consul-
56 tation with the office of the state inspector general, shall provide

1 individuals in its custody with information on how to report sexual
2 assault to the state inspector general, including information on how to
3 contact the state inspector general's office, and shall make this infor-
4 mation readily available in a variety of formats.

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

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

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

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

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

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