

STATE OF NEW YORK

10718--B

IN ASSEMBLY

March 27, 2026

Introduced by M. of A. GIBBS, BICHOTTE HERMELYN, MEEKS, ANDERSON -- read once and referred to the Committee on Correction -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the correction law, in relation to enacting "India's law"

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

1 Section 1. Short title. This act shall be known and may be cited as
2 "India's law".
3 § 2. Legislative findings and intent. This legislature has repeatedly
4 observed and called attention to the severe issues associated with
5 incarcerated persons in the Erie County Sheriff Office's Division of
6 Jail Management. This includes incarcerated individuals who have mental
7 health problems and issues. Unfortunately, these mental health struggles
8 coupled with custodial negligence, have led to the deaths of many incar-
9 cerated individuals of the Erie County Sheriff Office's Division of Jail
10 Management.
11 These issues were highlighted in the death of Erie County Holding
12 Center incarcerated individual India Cummings in February 2016. The New
13 York State Commission of Correction issued a report in July 2018 on the
14 death of Ms. Cummings in which their Medical Review Board ruled the
15 death as a homicide due to medical neglect. The report highlighted
16 several instances wherein Ms. Cummings' mental state was not properly
17 diagnosed and treated and healthcare provided to her was deficient. She
18 displayed behaviors consistent with a mental health crisis and behavior
19 associated with injury/illness. During her incarceration, Ms. Cummings
20 was evaluated by two physicians who separately determined she was
21 suffering a serious mental health episode, but she was kept in custody
22 without adequate care.
23 The intention of this law is to create a policy to help ensure incar-
24 cerated individuals experiencing a mental health crisis or episode are
25 timely diagnosed, treated and/or transferred to an appropriate facility

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

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1 to ensure they receive adequate care and treatment which will prevent
2 further deterioration and possible death.

3 By way of comparison, the New York State Department of Corrections and
4 Community Supervision maintains a policy providing for notification to
5 an incarcerated individual's next-of-kin when an incarcerated individual
6 dies in custody, as well as a policy notifying an incarcerated individ-
7 ual's next-of-kin when their family member is experiencing grave
8 illness. However, the State does not maintain a policy to notify the
9 family members of incarcerated individuals when they are displaying
10 behaviors that can lead to a fatality.

11 State mental hygiene law requires that the involuntary admission to a
12 mental health facility of an individual requires notice to the closest
13 living relative of the person alleged to be mentally ill.

14 The Health Insurance Portability and Accountability Act of 1996
15 ("HIPPA") permits correctional health care providers to share a
16 patient's information with family, friends, or others involved in the
17 patient's care or payment for care, as long as the health care provider
18 determines, based on professional judgment, that doing so is in the best
19 interests of the patient. The intention of this law is to provide for
20 the timely notice of serious medical or mental health issues to an
21 incarcerated individual's family in order to involve the family in a
22 situation where their knowledge and participation could assist in the
23 incarcerated individual's improvement and prevent further injury or
24 death. This law also explicitly provides for timely notice to the fami-
25 ly when an incarcerated individual has died.

26 § 3. The opening paragraph of paragraph a of subdivision 2 of section
27 508 of the correction law, as amended by chapter 322 of the laws of
28 2021, is amended and a new subdivision 3 is added to read as follows:

29 If a physician to a jail or in case of a vacancy a physician acting as
30 such and the warden or jailer certify in writing that [~~a-prisoner~~ an
31 incarcerated individual confined in a jail, either in a civil cause or
32 upon a criminal charge, is in such a state of mental health that [~~he-or~~
33 ~~she~~ such incarcerated individual is in need of involuntary care and
34 treatment and in their opinion should be removed to a psychiatric hospi-
35 tal for treatment, the warden or jailer shall [~~immediately~~ notify the
36 director within forty-eight hours, who shall have the responsibility for
37 providing treatment for such [~~prisoner~~ incarcerated individual. If
38 such director after examination of the [~~prisoner~~ incarcerated individ-
39 ual by an examining physician designated by [~~him-or-her~~ the director
40 shall determine that such [~~prisoner~~ incarcerated individual is in need
41 of involuntary care and treatment, the director shall file an applica-
42 tion within forty-eight hours for the involuntary hospitalization of
43 such [~~prisoner~~ incarcerated individual pursuant to article nine of the
44 mental hygiene law in a hospital or secure facility, as defined in para-
45 graph b of this subdivision, operated by the office of mental health or
46 in the case of [~~a-prisoner~~ an incarcerated individual confined in a
47 jail in a city or county which maintains or operates a general hospital
48 containing a psychiatric prison ward approved by the office of mental
49 health to such prison ward for care and treatment or to any other
50 psychiatric hospital if such prison ward is filled to capacity. Such
51 application shall be filed within forty-eight hours and supported by the
52 certificate of two physicians in accordance with the requirements of
53 section 9.27 of the mental hygiene law and thereupon such [~~prisoner~~
54 incarcerated individual shall be admitted forthwith to the hospital or
55 secure facility in which such application is filed, and the procedures
56 of the mental hygiene law governing the hospitalization of such [~~prison-~~

1 ~~ex]~~ incarcerated individual. The jailer or warden having custody of the
2 [~~prisoner~~] incarcerated individual shall deliver the [~~prisoner~~] incar-
3 cerated individual to the hospital or secure facility with which the
4 director has filed the application. If such jailer or warden shall
5 certify that such [~~prisoner~~] incarcerated individual has a mental
6 illness which is likely to result in serious harm to [~~himself, herself~~]
7 themselves or others and for which care in a psychiatric hospital is
8 appropriate such jailer or warden shall effect the admission of such
9 [~~prisoner~~] incarcerated individual to a hospital or secure facility
10 forthwith in accordance with the provisions of section 9.37 or 9.39 of
11 the mental hygiene law and the hospital shall admit such [~~prisoner~~]
12 incarcerated individual. Upon admission of the [~~prisoner~~] incarcerated
13 individual, pursuant to section 9.37 or 9.39 of the mental hygiene law,
14 the jailer or warden shall notify the director, the [~~prisoner's~~] incar-
15 cerated individual's attorney, and [~~his or her~~] the incarcerated indi-
16 vidual's family, where information about the family is available. While
17 the [~~prisoner~~] incarcerated individual is in the hospital, other than a
18 secure facility, [~~he or she~~] such incarcerated individual shall remain
19 in the custody under sufficient guard of the jailer or warden in charge
20 of the jail from which [~~he or she~~] such incarcerated individual came.
21 When the [~~prisoner~~] incarcerated individual is in a secure facility, the
22 jailer or warden may transfer custody of the incarcerated individual to
23 the commissioner of mental health, pursuant to an agreement between such
24 jailer or warden and such commissioner. [~~A prisoner~~] An incarcerated
25 individual admitted to a psychiatric hospital pursuant to section 9.27,
26 9.37 or 9.39 of the mental hygiene law may be retained at the hospital
27 or secure facility pursuant to the provisions of the mental hygiene law
28 until [~~he or she~~] such incarcerated individual has improved sufficiently
29 in [~~his or her~~] their mental illness so that hospitalization is no long-
30 er necessary or until ordered by the court to be returned to the jail
31 whichever comes first and in either event, the [~~prisoner~~] incarcerated
32 individual shall thereupon be returned to jail. The cost of the care
33 and treatment of such [~~prisoners~~] incarcerated individuals in the hospi-
34 tal or secure facility shall be defrayed in accordance with the
35 provisions of the mental hygiene law in such cases provided.

36 3. Except as otherwise provided by law, the chief medical officer of a
37 local correctional facility, in conjunction with the sheriff, shall be
38 authorized to send an incarcerated individual or any other individual in
39 the custody of a local correctional facility to a hospital or secure
40 facility when such individual demonstrates behaviors that are likely to
41 result in serious harm to themselves or others unless a judge has
42 approved the individual's release from confinement.

43 § 4. The correction law is amended by adding a new section 500-r to
44 read as follows:

45 § 500-r. Notice to next of kin. 1. Within forty-eight hours of an
46 incarcerated individual or any other individual in the custody of a
47 local correctional facility experiencing a serious medical event or
48 demonstrating behavior that is likely to result in serious harm to them-
49 selves or others such facility shall notify the individual's next of kin
50 or any other person designated as the representative of such individual,
51 provided that contact information is available.

52 2. If an incarcerated individual or any other individual in the custo-
53 dy of a local correctional facility has been transferred to a medical
54 facility and is unresponsive, diagnosed with the failure of a major
55 organ, or in need of major life-saving surgery, such facility shall

1 allow the next of kin or any other person designated as the represen-
2 tative of such individual visitation as soon as is practicable.

3 3. For the purposes of this section, the following terms shall have
4 the following meanings:

5 (a) "Likelihood to result in serious harm" shall have the same meaning
6 as defined by subdivision two of section five hundred eight of this
7 article.

8 (b) "Serious medical event" means any of the following:

9 (i) inpatient hospitalization;

10 (ii) any surgery requiring general anesthesia;

11 (iii) a life-threatening illness or injury;

12 (iv) any condition that renders the incarcerated individual unable to
13 communicate;

14 (v) significant, permanent impairment or disfigurement;

15 (vi) diagnosis of a terminal illness with a prognosis of six months or
16 less to live;

17 (vii) transfer to a medical intensive care unit;

18 (viii) an attempted suicide; and

19 (ix) any other medical condition that, if left untreated, could
20 reasonably be expected to result in significant pain, disability, or
21 death.

22 § 5. Severability. If any clause, sentence, paragraph, subdivision,
23 section or part of this act shall be adjudged by any court of competent
24 jurisdiction to be invalid, such judgment shall not affect, impair, or
25 invalidate the remainder thereof, but shall be confined in its operation
26 to the clause, sentence, paragraph, subdivision, section or part thereof
27 directly involved in the controversy in which such judgment shall have
28 been rendered. It is hereby declared to be the intent of the legislature
29 that this act would have been enacted even if such invalid provisions
30 had not been included herein.

31 § 6. This act shall take effect immediately.