

# STATE OF NEW YORK

3763

2025-2026 Regular Sessions

## IN SENATE

January 29, 2025

Introduced by Sens. SALAZAR, BRISPORT, CLEARE, FERNANDEZ, GONZALEZ, JACKSON, PARKER, RAMOS, SEPULVEDA, WEBB -- 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 correction law, in relation to the rights of people in prisons, jails, and forensic facilities

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 the "rights behind bars; protecting the rights of people in prisons,  
3 jails, and forensic facilities, and their loved ones, in New York state  
4 act".

5 § 2. Legislative findings and intent. The legislature hereby finds and  
6 declares:

7 A. Incarcerated individuals, their families, and loved ones have human  
8 rights. The legislature finds that New York's prisons and jails system-  
9 atically fail to recognize and protect the human rights of incarcerated  
10 individuals, their families, and their loved ones. While some of these  
11 rights are protected by the law and constitution of New York State, and  
12 the law and constitution of the United States, it is well-documented  
13 that the rights protected under existing law are often not recognized in  
14 practice and that there are gaps in existing law. The intent of this  
15 act is to: (i) make clear some of the rights that already exist under  
16 New York law but are not being consistently followed, (ii) close some of  
17 the gaps in existing law, and (iii) enshrine into New York State law  
18 some of the well-established principles and obligations under interna-  
19 tional human rights law.

20 B. Numerous recent studies, reports, documented incidents, and court  
21 decisions have documented systemic, widespread, and persistent human  
22 rights violations in New York's correctional facilities.

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

LBD02137-02-5

1 C. Recent incidents include the brutal beating of Robert Brooks in  
2 December 2024 at Marcy Correctional Facility by multiple officers, and  
3 witnessed by other officers and medical staff, which resulted in Mr.  
4 Brooks' death. This incident was captured on video recordings although  
5 the DOCCS staff involved or present did not appear to realize that at  
6 the time. The video recordings appear to show that the beating of Mr.  
7 Brooks in an examination room in the facility infirmary was not viewed  
8 by the staff as anything out of the ordinary. No one intervened to stop  
9 the fatal beating of Mr. Brooks.

10 D. Recent reports include: NYS Inspector General Lucy Lang, Racial  
11 Disparities in the Administration of Discipline in New York State Pris-  
12 ons, November 2022; Neff, Santo, and Meagher, How A 'Blue Wall' Inside  
13 New York State Prisons Protects Abusive Guards, The Marshall Project in  
14 partnership with the New York Times, May 2023; Neff, Santo, and Meagher,  
15 In New York Prisons Guards Who Brutalize Prisoners Rarely Get Fired, The  
16 Marshall Project in partnership with the New York Times, May 2023; Law,  
17 V., The Worst Prison in New York State, Prison Legal News, March 2022;  
18 Gelardi and Brown, State Prisons Are Routinely Violating New York's  
19 Landmark Solitary Confinement Law, New York Focus, September 2022;  
20 Bryant, 19 People Have Died From NYC Jails in 2022, The Vera Project,  
21 December 2022; Weill-Greenberg, Disabled and Abandoned in New York State  
22 Prisons, The Nation, October 2021; Marcius, Hundreds of Women Set to Sue  
23 New York Over Allegations of Prison Sex Abuse, New York Times, November  
24 2022; Monitor's Reports in Nunez, et al. v. NYC Department of  
25 Correction, et al., 11-cv-05845 (LTS) (SDNY) (multiple reports issued by  
26 Court-appointed Monitor as part of the settlement of a class action  
27 lawsuit relating to conditions in NYC jails on Rikers Island, starting  
28 in 2016 and continuing to the present); and Post-Visit Briefing Reports  
29 issued periodically by the Correctional Association of New York ("CANY")  
30 pursuant to their statutory authority to conduct monitoring visits in  
31 NYS prisons (Eighteen Post-Visit Briefings were issued by CANY from June  
32 2021 through December 2024. Among the consistent findings during this  
33 period were that high percentages of incarcerated individuals inter-  
34 viewed reported witnessing or experiencing verbal, physical, or sexual  
35 abuse by prison staff, and, similarly, high numbers reported witnessing  
36 or experiencing racialized abuse by prison staff.).

37 E. Some of the human rights of incarcerated individuals in New York  
38 State are protected by provisions in the New York State Constitution,  
39 including, Article I, sections 5 (prohibiting cruel and unusual punish-  
40 ment), 6 (right to due process), 8 (right to speak freely), 11 (guaran-  
41 teeing equal protection of the laws), and 12 (prohibiting unreasonable  
42 searches and seizures); the United States Constitution, including the  
43 1st Amendment (free speech), 4th Amendment (prohibition of unreasonable  
44 searches and seizures), 8th Amendment (prohibition of cruel and unusual  
45 punishments), and 14th Amendment (guaranteeing equal protection of the  
46 law and due process of law). However, these provisions and laws do not  
47 go far enough to protect the rights of people incarcerated in New York.  
48 The intent of this act, in part, is to incorporate into New York law  
49 additional human rights protections for incarcerated people as enshrined  
50 in key documents included in the body of international human rights law,  
51 including, the United Nations Declaration of Human Rights, recognizing  
52 basic human rights applicable to all people, including, in Article 5,  
53 the right not to be subjected to torture or to cruel, inhuman, or  
54 degrading treatment or punishment; the International Covenant of Civil  
55 and Political Rights, including Article 7 (No one shall be subjected to  
56 torture or to cruel, inhuman or degrading treatment or punishment), and

1 Article 10 (All persons deprived of their liberty shall be treated with  
2 humanity and with respect for the inherent dignity of the human person);  
3 the Basic Principles for the Treatment of Prisoners (General Assembly  
4 Resolution 45/111); the Convention Against Torture and Other Cruel,  
5 Inhuman, or Degrading Treatment or Punishment; the United Nations Stand-  
6 ard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela  
7 Rules); and other applicable and binding principles of international  
8 human rights law.

9 F. The fundamental approach of international human rights law to the  
10 treatment of people in prison is expressed in Rule 3 of the Mandela  
11 Rules, which recognizes that "imprisonment and other measures that  
12 result in cutting off persons from the outside world are afflictive by  
13 the very fact of taking from these persons the right of self-determina-  
14 tion by depriving them of their liberty. Therefore the prison system  
15 shall not, except as incidental to justifiable separation or the mainte-  
16 nance of discipline, aggravate the suffering inherent in such a situ-  
17 ation." In turn, Rule 4 requires that incarceration must be used to  
18 "ensure the reintegration of such persons into society upon release so  
19 that they can lead a law-abiding and self-supporting life" and Rule 5  
20 thus requires prisons and jails to "minimize any differences between  
21 prison life and life at liberty that tend to lessen the responsibility  
22 of the {incarcerated people} or the respect due to their dignity as  
23 human beings."

24 To effectuate these rights, the Mandela Rules require, among other  
25 protections, that incarcerated people be allowed regular communication  
26 with their family and friends, including through visits and through  
27 writing, telecommunication, electronic means, and digital means (Rule  
28 58.1), that people in prison have a right to "food of nutritional value  
29 adequate for health and strength, of wholesome quality and well prepared  
30 and served", and that any use of force against an incarcerated individ-  
31 ual be "no more than is strictly necessary" (Rule 82). They also estab-  
32 lish basic rights related to access to programming and treatment,  
33 connections to community entities, and restrictions on the use of  
34 restraints.

35 G. In keeping with these legislative findings, this act aims to clear-  
36 ly recognize and establish the broad human rights framework that  
37 protects all incarcerated individuals in New York State. This act  
38 specifically addresses certain issues that have arisen in New York pris-  
39 ons and jails in recent years. That has included: violations of the  
40 HALT Solitary Confinement Law; restrictions on packages, visits, and  
41 mail; staff abuse and brutality; and denials of other basic rights.

42 In regard to some of these issues, the law is already clear, but New  
43 York's prisons and jails are not consistently following it. For example,  
44 despite clarity concerning who qualifies as disabled under the HALT  
45 Solitary Confinement Law, and who, therefore, cannot be placed in segre-  
46 gated confinement, the NYS Department of Corrections and Community  
47 Supervision has consistently placed people with disabilities in segre-  
48 gated confinement. The intent of the amendments to paragraph (c) of  
49 subdivision 33 of section 2 of the correction law made by section five  
50 of this act is not to define disability, which is already in the law,  
51 but rather to make clear via examples what is already required. Similar-  
52 ly, while the correction law is already clear that people facing possi-  
53 ble placement in segregated confinement or facing Tier III tickets must  
54 have access to meaningful representation, including by any lawyer or law  
55 student; that hearing officers must conduct individualized assessments  
56 of the fact to determine if the allegations meet the threshold require-

1 ments for placement in segregated confinement or alternatives; and that  
2 people in alternative disciplinary units must have access to out-of-cell  
3 time in group settings, access to core programs available in the general  
4 population; and a presumption against the use of restraints unless an  
5 individualized determination is made finding a significant and unreason-  
6 able risk, prisons and jails are not complying with these provisions and  
7 so this act reiterates and clarifies these requirements.

8 This act is not intended as an all-inclusive compendium of the human  
9 rights protections afforded to people in jail or prison under interna-  
10 tional law, as the intent is to correct and clarify certain specific  
11 rights within the overall human rights framework. Among other  
12 protections, this act aims to ensure that people have a right to visit  
13 with their loved ones, to have regular communication with their loved  
14 ones, to receive care packages from their loved ones, to have access to  
15 healthy and nutritious food, to be free from staff brutality and retali-  
16 ation, to be free from the torture of prolonged solitary confinement,  
17 and to have access to real and meaningful out-of-cell group programming  
18 and engagement. Recognition of these basic human rights will alleviate  
19 suffering of incarcerated individuals, strengthen ties with families and  
20 communities, better prepare people for release, increase safety in pris-  
21 ons and jails and in outside communities, and unequivocally establish as  
22 the policy of the State of New York that brutality, racism, sexual  
23 abuse, harassment, and denials of access to family and loved ones have  
24 no place in New York's jails and prisons and will not be tolerated.

25 § 3. Section 2 of the correction law is amended by adding eleven new  
26 subdivisions 35, 36, 37, 38, 39, 40, 41, 42, 43, 44 and 45 to read as  
27 follows:

28 35. "Contact visit" means a visit between an incarcerated individual  
29 and one or more visitors in a visiting room or equivalent space in which  
30 the incarcerated individual and their visitor are in the same unob-  
31 structed space as each other without physical barriers between the  
32 incarcerated individual and their visitor or visitors, that is conducive  
33 to meaningful social interaction and activity, and with the ability to  
34 interact freely with their visitor, including but not limited to the  
35 ability to communicate freely, hold hands, hug, kiss, have other appro-  
36 priate physical contact, purchase and share food and drinks from the  
37 vending machine, and take photographs together.

38 36. "Visitor" means any individual who comes to visit a person incar-  
39 cerated in a correctional facility or secure facility, including, but  
40 not limited to, a family member, friend, advocate, or loved one.

41 37. "Cell" means any room, area or space that is used or is intended  
42 to be used by an incarcerated individual for sleep; or any room, area,  
43 or space that is not a shared space conducive to meaningful congregate  
44 social interaction among many people in a group setting appropriate for  
45 the number of people in the space without physical barriers between  
46 people where a person or persons are held for any purpose; or any room,  
47 area, or space that is not out-of-cell.

48 38. "Cell confinement" means being in a cell.

49 39. "Out-of-cell" means being in a space outside of, and in an area  
50 away from, a cell, in a group setting (including a group classroom, open  
51 group recreation yard, group library or law library, group contact  
52 visits room, or other equivalent space) with many other people all in  
53 the same shared space without physical barriers between people that is  
54 conducive to meaningful and congregate social interaction and activity  
55 among the number of people in the space, for purposes including congre-  
56 gate programming, congregate recreation, congregate contact visits,

1 congregate library services, congregate law library services, congregate  
2 jobs, congregate meals, or equivalent congregate activities; or being in  
3 a space outside of and in an area away from a cell during the time of  
4 medical treatment, individual counseling, an attorney visit, or equiv-  
5 alent service, in a setting conducive to the provision of such service  
6 with a person in custody in the same shared space with their service  
7 provider without physical barriers between them.

8 40. "Congregate recreation" means out-of-cell recreation in a group  
9 setting with other people all in the same shared space that takes place  
10 outside, weather permitting, in an open yard without being caged or  
11 covered, and when weather does not permit or when an incarcerated indi-  
12 vidual so chooses, in a non-caged gymnasium or equivalent.

13 41. "Core programs" means any and all programs that can be assigned by  
14 a department program committee, any and all required department  
15 programs, and any and all programs that are considered for purposes of  
16 good time, merit time, other time allowance, parole release, or other  
17 release mechanisms. Core programs shall include, but not be limited to,  
18 academic classes, vocational programs, transitional services, alcohol  
19 and substance abuse treatment, aggression replacement training, sex  
20 offense counseling and treatment, and any other assigned or required  
21 programs.

22 42. "Represented" means an incarcerated individual having an attorney  
23 (licensed in any jurisdiction of the United States), law student with  
24 supervision by any attorney regardless of whether the attorney is affil-  
25 iated with a law school, paralegal, or other incarcerated individual  
26 provide representation at any and all stages of a hearing and appeal,  
27 including but not limited to opening and closing statements, presenta-  
28 tion of evidence, calling and questioning witnesses, cross-examining  
29 witnesses, reading of the disposition, sentencing, and appeal, with the  
30 choice by the incarcerated individual and their representative of either  
31 having the representative physically present at any and all stages of  
32 the hearing in the same room and/or participating through videoconfer-  
33 ence.

34 43. "Personal property" means any and all property that has been  
35 lawfully in the possession of an incarcerated individual, including but  
36 not limited to, for the purposes of state correctional facilities all  
37 items listed in department directive forty-nine hundred thirteen as of  
38 June fourteenth, two thousand twenty-two and for purposes of local  
39 correctional facilities and secure facilities all items permitted under  
40 applicable rules and regulations to each facility as of October twenti-  
41 eth, two thousand twenty-three. If a person has a static tablet,  
42 personal property includes a static tablet and the person shall be able  
43 to use that tablet, in addition to any other tablet, for purposes of  
44 making phone calls, emails, and other uses. If a person is at a facility  
45 that allows televisions, personal property includes televisions.  
46 Personal property shall also include typewriters, assistive devices,  
47 approved electronic devices, books-on-tape players, and any other prop-  
48 erty that an incarcerated individual has lawfully had in their  
49 possession.

50 44. "Secure facility" means (a) all forensic mental health facilities,  
51 including those that hold people pursuant to section 330.20 or 730.50 of  
52 the criminal procedure law or 14 NYCRR Part 57, and including but not  
53 limited to the Mid-Hudson Forensic Psychiatric Center, Kirby Forensic  
54 Psychiatric Center, Rochester Regional Forensic Unit, and Northeast  
55 Regional Forensic Unit; (b) all secure treatment facilities, as defined  
56 in subdivision (o) of section 10.03 of the mental hygiene law, including

1 but not limited to the Central New York Psychiatric Center and St.  
2 Lawrence Psychiatric Center; and (c) all secure mental health facilities  
3 holding people pursuant to section four hundred two or five hundred  
4 eight of this chapter.

5 45. "Incarcerated individual" means any person confined in a state or  
6 local correctional facility or secure facility.

7 § 4. Subdivision 23 of section 2 of the correction law is amended by  
8 adding three new paragraphs (a), (b) and (c) to read as follows:

9 (a) A person may only be placed in cell confinement beyond seventeen  
10 hours a day for purposes of medical or mental health treatment if a  
11 licensed medical professional determines that the cell confinement  
12 itself is medically necessary to carry out the medical or mental health  
13 treatment, such as for purposes of suicide watch, medical isolation, or  
14 medical quarantine. Such determination shall be documented in writing  
15 and shall be reviewed and reauthorized by a licensed medical profes-  
16 sional at least once every forty-eight hours.

17 (b) A person may only be held in such confinement pursuant to para-  
18 graph (a) of this subdivision for as limited a time as medically neces-  
19 sary, as exclusively determined by medical or mental health staff, and  
20 in the least restrictive environment that is medically appropriate, as  
21 determined exclusively by medical or mental health staff.

22 (c) Cell confinement pursuant to paragraph (a) of this subdivision  
23 shall be in an appropriate space conducive to medical or mental health  
24 treatment. While in such confinement a person shall at least have access  
25 to: (i) a tablet pursuant to paragraph (t) of subdivision six of section  
26 one hundred thirty-seven of this chapter unless a licensed medical  
27 professional determines that access to a tablet would be harmful to the  
28 person based on medical or mental health-related reasons; (ii) such  
29 person's full complement of property unless a licensed medical profes-  
30 sional determines that access to a particular item is inappropriate for  
31 medical or mental health-related reasons; and (iii) core programs and  
32 other programming and engagement available to people incarcerated in the  
33 general population but done in a manner consistent with the medical and  
34 mental health treatment being received, such as at a physical distance  
35 determined appropriate by medical or mental health staff.

36 § 5. Subdivision 33 of section 2 of the correction law, as added by  
37 chapter 93 of the laws of 2021, is amended to read as follows:

38 33. "Special populations" means any person: (a) twenty-one years of  
39 age or younger; (b) fifty-five years of age or older; (c) with a disa-  
40 bility as defined in paragraph (a) of subdivision twenty-one of section  
41 two hundred ninety-two of the executive law, which includes all diagnos-  
42 able conditions, including all people on the office of mental health  
43 caseload currently and all people with any disability (including but not  
44 limited to any intellectual, mental health, developmental, cognitive,  
45 physical, mobility, sensorial, medical, or other disability, a traumatic  
46 brain injury, or an organic brain syndrome); (d) who had been on the  
47 office of mental health caseload, or had a diagnosis of any disability  
48 (including any intellectual, mental health, developmental, cognitive,  
49 physical, sensorial, medical, or other disability) within the previous  
50 year; or [~~(d)~~] (e) who is pregnant, in the first [~~eight weeks of the~~  
51 post-partum recovery period] eighteen months (or longer if medically  
52 necessary as determined by medical staff) after being pregnant, includ-  
53 ing after giving birth, experiencing a miscarriage, or terminating a  
54 pregnancy, or caring for a child in a correctional institution pursuant  
55 to [~~subdivisions~~] subdivision two or three of section six hundred eleven  
56 of this chapter.

1 § 6. Subdivision 3 of section 137 of the correction law, as amended by  
2 chapter 322 of the laws of 2021, is amended to read as follows:

3 3. Each incarcerated individual shall be entitled to clothing suited  
4 to the season and weather conditions, including but not limited to  
5 appropriate winter weather clothing, multiple layers of clothing, and  
6 the ability to wear personal clothing under state issued clothing when  
7 going to programs, recreation, visits, facility medical, or medical  
8 trips when the temperature is forty-five degrees or below, and to a  
9 sufficient quantity of quality, wholesome and nutritious food, including  
10 a full range and variety of fresh fruits and vegetables, consistent with  
11 nutritional guideline requirements developed by the department of  
12 health. Medically necessary diets, including but not limited to diabetic  
13 and heart health diets, and religious diets, shall be provided and be of  
14 comparable quality and variety as general population meals.

15 (a) Each incarcerated individual shall be afforded sufficient time to  
16 eat their meals, including that all people shall be provided at least  
17 twenty minutes after receiving their food to eat during meal times and  
18 that any person who requires additional time due to age or disability  
19 shall be provided sufficient additional time. Each incarcerated individ-  
20 ual shall be allowed to bring leftover food out of the mess hall in a  
21 small bowl. To the extent practicable, the clothing and bedding of  
22 incarcerated individuals shall be manufactured and laundered in insti-  
23 tutions in the department.

24 (b) Each incarcerated individual who uses a wheelchair shall be  
25 provided an assistant to help push the wheelchair if the person who uses  
26 the wheelchair chooses to have such an assistant.

27 § 7. Subdivision 5 of section 137 of the correction law, as amended by  
28 chapter 322 of the laws of 2021, is amended to read as follows:

29 5. No incarcerated individual in the care or custody of the department  
30 shall be subjected to degrading treatment[~~, and no~~]. No officer [or],  
31 other employee of the department, or other government employee shall  
32 [infract any blows whatever] use force upon any incarcerated individual,  
33 [unless in self defense, or to suppress a revolt or insurrection. When  
34 any incarcerated individual, or group of incarcerated individuals, shall  
35 offer violence to any person, or do or attempt to do any injury to prop-  
36 erty, or attempt to escape, or resist or disobey any lawful direction,  
37 the officers and employees shall use all suitable means to defend them-  
38 selves, to maintain order, to enforce observation of discipline, to  
39 secure the persons of the offenders and to prevent any such attempt or  
40 escape] except as a last resort after exhausting de-escalation tech-  
41 niques and where there are no practical alternatives available to  
42 prevent: (i) imminent physical harm to other incarcerated individuals,  
43 staff, visitors, or other persons; (ii) major property damage that rais-  
44 es an imminent safety and security risk; or (iii) escape. When the use  
45 of force is authorized, officers and employees shall always use the  
46 minimum amount necessary to defend themselves, to secure the persons of  
47 incarcerated individuals, to prevent imminent physical harm, to prevent  
48 major property damage that raises an imminent safety and security risk,  
49 and to prevent an escape. Any force used shall be proportional to the  
50 threat encountered. Contractors and volunteers are prohibited from ever  
51 using force.

52 (a) All officers, department employees, and government employees work-  
53 ing or operating in a correctional facility shall be prohibited from  
54 using excessive and unnecessary force, force after control of an incar-  
55 cerated individual has been established, and all high impact force,  
56 including but not limited to (i) strikes or blows to the head, face,

1 groin, neck, kidneys, and spinal column, (ii) kicks, and (iii) choke  
2 holds, carotid restraint holds, and other neck restraints except where a  
3 person is in imminent danger of death or equivalent level of serious  
4 bodily injury and where lesser means are impractical or ineffective.

5 (b) No officer, other employee of the department, or other government  
6 employee working or operating in a correctional facility shall carry or  
7 use a steel baton. Any use of other batons, chemical spray, or any other  
8 weapons shall comply with all provisions of this subdivision.

9 (c) No officer, other employee of the department or the office of  
10 mental health, or other government employee working or operating in a  
11 correctional facility or secure facility shall carry out, nor cause  
12 others to carry out, any form of retaliation against any person incar-  
13 cerated in a correctional facility or confined in a secure facility for  
14 reporting misconduct, reporting an incident, raising a complaint, filing  
15 a grievance, filing a lawsuit, taking other legal action, communicating  
16 with the media, lawmakers, the Correctional Association of New York, an  
17 attorney, an advocate, any investigative body or any other person or  
18 entity, otherwise exercising or asserting the rights of incarcerated or  
19 confined individuals or asserting responsibilities of staff or the  
20 department, taking any other similar action, or supporting another  
21 incarcerated or confined individual in taking any of the actions in this  
22 paragraph.

23 (d) No officer, other employee of the department or the department of  
24 mental health, or other government employee working or operating in a  
25 correctional facility or secure facility shall provide any false infor-  
26 mation on a misbehavior report, unusual incident report, use of force  
27 report, or any other document, and all officers, employees, and govern-  
28 ment employees working or operating in a correctional facility or secure  
29 facility shall have a duty to report, and provide all relevant informa-  
30 tion regarding, any and all observed misconduct by another officer,  
31 employee, or person working or operating in a correctional facility or  
32 secure facility.

33 § 8. Subdivision 6 of section 137 of the correction law is amended by  
34 adding seven new paragraphs (p), (q), (r), (s), (t), (u) and (v) to read  
35 as follows:

36 (p) (i) All persons incarcerated in a correctional facility or secure  
37 facility shall have the right to in-person contact visits with up to  
38 four visitors at a time, every day of the week for many hours per day.  
39 Visitation shall be allowed at all correctional facilities and secure  
40 facilities, seven days a week, every day of the year. The number,  
41 length, and frequency of visits by each visitor may be limited only as  
42 necessary to accommodate all visitors who arrive during scheduled visit-  
43 ing times, and any such limitations shall never infringe upon the mini-  
44 mum visit requirements in this paragraph. Multiple sets of visitors  
45 shall be allowed to visit an incarcerated individual at different times  
46 on the same day, and a visitor shall be allowed to visit multiple incar-  
47 cerated individuals at different times on the same day. If a visitor  
48 leaves the correctional facility, they shall have the ability to return  
49 to the facility that day to participate in a visit, including either  
50 with the same incarcerated individual originally visited or a different  
51 incarcerated individual.

52 (ii) Neither the department nor the office of mental health may  
53 restrict an incarcerated individual's visits as a disciplinary measure  
54 or for any other reason, nor may either agency deny or restrict a visi-  
55 tor's ability to visit so long as the person visited agrees to the  
56 visit.

1 (iii) Each correctional facility and secure facility shall process  
2 visitors and bring down people in such facilities to a visit as expe-  
3 ditiously as possible, including ensuring that the visited person and  
4 their visitor are able to be together starting within one hour of the  
5 visitor arriving at the facility, unless the visited person voluntarily  
6 chooses to take more time to come for the visit. All visitors waiting  
7 for a visit shall have basic needs met while waiting, including but not  
8 limited to being able to wait inside, being able to comfortably sit, and  
9 having access to drinking water and bathroom facilities.

10 (iv) No drug detecting dogs may be used inside of any visiting rooms  
11 or other areas where a visited person is meeting with their visitor.

12 (v) Videoconferencing may supplement, but shall not take the place of,  
13 in-person visits.

14 (vi) Each incarcerated individual shall be provided the opportunity to  
15 take a shower before any visit.

16 (q) All persons in a correctional facility or a secure facility shall  
17 have the right to receive packages from any person through direct mail,  
18 during a visit to a correctional facility or secure facility, or by mail  
19 from commercial sources. The department shall not require that packages  
20 be purchased from or delivered by a vendor, shall not require that pack-  
21 ages that are purchased or delivered from a vendor come from a partic-  
22 ular vendor or vendors, and shall not restrict the ability of a person  
23 to directly send items to an incarcerated individual through the facili-  
24 ty package room or directly deliver items to an incarcerated individual  
25 through the visiting process. The department shall provide for prompt  
26 delivery to incarcerated individuals of all packages, including prompt  
27 delivery of perishable food items to avoid expiration or spoilage. All  
28 packages shall be delivered to incarcerated individuals within forty-  
29 eight hours from the time the package arrives at the facility, except  
30 that all packages that are brought on a visit shall be delivered to the  
31 incarcerated individual on the same day as the visit. If any item in a  
32 package is disallowed, the incarcerated individual shall have the option  
33 to, within fourteen days of receiving written notice that the item is  
34 disallowed, donate the item to the charitable organization of their  
35 choosing, return the item via the visiting room, or return the item via  
36 mail at their own expense. Items that may be part of packages shall  
37 include, but not be limited to the following items, and any restrictions  
38 on the particular packaging of any such items must be reasonably and  
39 directly related to a significant safety or security concern:

40 (i) food utensils and food items, without any limit on the number of  
41 pounds or items, including but not limited to fresh fruits and vegeta-  
42 bles, coffee and beverages, dried coffee cream, bread, pouched food,  
43 canned food, candy, cheese, condiments, meats, nuts, oatmeal and cereal,  
44 pastries, raisins and dried fruit, cooked or cured or smoked seafood,  
45 and snacks;

46 (ii) personal cosmetics and personal hygiene products, including but  
47 not limited to soap, shampoo, deodorant, and menstrual products;

48 (iii) seasonally appropriate indoor and outdoor clothing and footwear;

49 (iv) legal, writing, and art supplies, including but not limited to  
50 stationery, writing and drawing implements, and typewriters;

51 (v) educational supplies, including but not limited to notebooks,  
52 rulers, and calculators appropriate for primary, secondary and post-sec-  
53 ondary education;

54 (vi) new and used books, magazines and other publications;

55 (vii) items for use in recreation and physical exercise;

1 (viii) accessories for tablet computers and other electronic devices  
2 permitted in facilities;

3 (ix) religious articles, including but not limited to prayer rugs and  
4 books, religious headgear, and pendants; and

5 (x) tobacco products.

6 (r) All persons incarcerated in a correctional facility or secure  
7 facility, other than those in segregated confinement, shall have access  
8 to at least fourteen hours of out-of-cell time per day, including access  
9 to at least seven hours of daily out-of-cell congregate programming and  
10 activities and access to at least two hours of congregate recreation.

11 (s) All persons incarcerated in a correctional facility or secure  
12 facility shall have the right to receive correspondence in its original,  
13 and not photocopied, form, including but not limited to letters, cards,  
14 photographs, postcards, legal mail, and other correspondence.

15 (t) All persons incarcerated in a correctional facility or secure  
16 facility shall have access to an internet-connected or similarly  
17 equipped tablet or other device that allows for free personal phone  
18 calls and free emails, as well as access to law library resources,  
19 programming, music, games, videos, movies, and other applications.  
20 Incarcerated individuals shall have access to free personal phone calls  
21 and free emails at least four hours per day. Beyond the four-hour mini-  
22 imum, a facility may provide additional access to the tablet and addi-  
23 tional access to personal phone calls and emails, and all personal phone  
24 calls and emails shall be free for the person initiating and the person  
25 receiving the communication.

26 (u) All correctional facilities and secure facilities shall operate a  
27 commissary or canteen. The prices of items sold at each commissary or  
28 canteen shall take into account the minimum wages people incarcerated  
29 are earning and shall be at least sixty percent below the current market  
30 rate for such items, as based upon the cost of similar items for sale in  
31 the same region as the correctional facility. Each commissary and  
32 canteen shall be fully stocked and shall include quality wholesome and  
33 nutritious food, including a full range and variety of fresh fruits and  
34 vegetables.

35 (v) Any person incarcerated in a correctional facility or secure  
36 facility shall have a right to bring in state court an action based on  
37 any violation of this section or the regulations prescribed under these  
38 sections to: (i) enjoin such violation; (ii) obtain a declaratory judg-  
39 ment; (iii) recover for money damages; and (iv) any other appropriate  
40 relief determined by the court.

41 § 9. Subparagraph (ii) of paragraph (j) of subdivision 6 of section  
42 137 of the correction law is amended by adding three new clauses (A),  
43 (B), and (C) to read as follows:

44 (A) Time spent in any of the following locations shall not constitute  
45 out-of-cell time: (1) on a tier or walkway outside of a cell or groups  
46 of cells; (2) in a recreation area contiguous to a cell; (3) in a recre-  
47 ation area without a group of many people afforded simultaneous access  
48 to the same shared space without physical barriers and conducive to a  
49 meaningful congregate social interaction; or (4) any space without a  
50 group of many people afforded simultaneous access to the same shared  
51 space without physical barriers and conducive to meaningful congregate  
52 social interaction.

53 (B) If an incarcerated individual voluntarily chooses not to partic-  
54 ipate in congregate out-of-cell time, congregate recreation, or congre-  
55 gate programming, they shall be offered access to comparable individual  
56 programming, individual recreation, and individual time away from their

1 cell where they sleep. Voluntarily declining to participate in congre-  
2 gate out-of-cell time, congregate recreation, or congregate programming  
3 shall be done in writing or by videotape.

4 (C) Neither the department nor the office of mental health may  
5 restrict a person's recreation, programs, visits, phone calls, emails,  
6 packages, or commissary as a disciplinary measure or for any other  
7 reason.

8 § 10. Subparagraph (v) of paragraph (j) of subdivision 6 of section  
9 137 of the correction law, as amended by section 4 of part NNN of chap-  
10 ter 59 of the laws of 2021, is amended to read as follows:

11 (v) An incarcerated [~~person~~] individual in a residential rehabili-  
12 tation unit shall have access to core programs and work assignments  
13 [~~comparable to core programs and types of work assignments in general~~  
14 ~~population~~] available in general population, and shall receive the same  
15 credit for participation in such programs as they would in general popu-  
16 lation for purposes of their program requirements and for purposes of  
17 good time, merit time, other time allowance, parole release, or consid-  
18 eration for other release mechanisms. Such incarcerated [~~persons~~] indi-  
19 viduals shall also have access to additional out-of-cell, trauma-in-  
20 formed therapeutic programming aimed at promoting personal development,  
21 addressing underlying causes of problematic behavior resulting in place-  
22 ment in a residential rehabilitation unit, and helping prepare for  
23 discharge from the unit and to the community.

24 § 11. Subparagraph (vii) of paragraph (j) of subdivision 6 of section  
25 137 of the correction law, as added by chapter 93 of the laws of 2021,  
26 is amended to read as follows:

27 (vii) Restraints shall not be used when incarcerated [~~persons~~] indi-  
28 viduals are participating in out-of-cell activities within a residential  
29 rehabilitation unit, residential mental health treatment unit, step-down  
30 unit, correctional alternative rehabilitation unit, protective custody,  
31 and any other similar unit, unless an [~~individual~~] individualized  
32 assessment is made at the time of, or immediately following, an incident  
33 involving the person in question that restraints are required for that  
34 specific person in question because of a significant and unreasonable  
35 risk [~~to the safety and security~~] of imminent serious physical injury to  
36 self, other incarcerated [~~persons~~] individuals or staff based on  
37 concrete evidence of such risk by that person. Such individualized  
38 assessments shall be memorialized in writing, with a written explanation  
39 as to why, including providing concrete evidence relied on to determine  
40 that, restraints were required for the specific person in question to  
41 prevent a significant and unreasonable risk of imminent serious physical  
42 injury.

43 (A) Where restraints are imposed, the least restrictive form of  
44 restraints shall be used, for no longer than necessary to abate such  
45 imminent harm.

46 (B) Restraints shall not continue to be used beyond the day they were  
47 applied unless a determination is made at a subsequent due process hear-  
48 ing, with all of the protections of subdivision one of this section,  
49 that restraints remain necessary to abate a significant and unreasonable  
50 risk of imminent serious physical injury to self, other incarcerated  
51 individuals, or staff, based on concrete evidence of such risk.

52 (C) Any continuing use of restraints shall be reviewed daily, in writ-  
53 ing, and discontinued once there is no longer a risk of imminent injury.  
54 Continued use of restraints may only be authorized for at most a seven-  
55 day period.

1 § 12. Paragraph (k) of subdivision 6 of section 137 of the correction  
2 law is amended by adding three new subparagraphs (v), (vi) and (vii) to  
3 read as follows:

4 (v) No incarcerated individual shall receive a sanction of more than  
5 fifteen days of segregated confinement time nor more than sixty days of  
6 time in a residential rehabilitation unit, residential mental health  
7 treatment unit, or any other disciplinary confinement unit for any inci-  
8 dent, regardless of how many charges are associated with that incident.

9 (vi) To impose a disciplinary sanction, a hearing officer must find an  
10 incarcerated individual guilty of the charged act or acts by clear and  
11 convincing evidence.

12 (vii) All hearing officers shall engage in a meaningful fact finding  
13 process. If a hearing officer imposes a sanction of segregated confine-  
14 ment beyond three days or any time in a residential rehabilitation unit,  
15 the hearing officer shall detail in writing in their decision the  
16 specific ways in which the act or acts the incarcerated individual was  
17 found guilty of met all of the requirements of subparagraph (ii) of this  
18 paragraph. The disposition or determination shall include a statement of  
19 evidence, which includes the testimony of each witness and a statement  
20 of reasons why the incarcerated individual's evidence or defense was  
21 credited or rejected.

22 § 13. Paragraph (l) of subdivision 6 of section 137 of the correction  
23 law is amended by adding five new subparagraphs (i), (ii), (iii), (iv)  
24 and (v) to read as follows:

25 (i) Each person facing the possibility of placement in segregated  
26 confinement or a residential rehabilitation unit shall be informed in  
27 writing and verbally, including before they appear for a disciplinary  
28 hearing and then again on the hearing record, that they are permitted to  
29 be represented at their disciplinary hearing, shall be provided the  
30 opportunity to seek representation, and may bring their chosen represen-  
31 tative into the hearing at any time prior to the disposition of their  
32 hearing.

33 (ii) For all disciplinary hearings, incarcerated individuals and,  
34 where applicable, their representatives shall be provided, as soon as  
35 possible and no later than forty-eight hours prior to the start of a  
36 hearing, all evidence relevant to their disciplinary charge and/or hear-  
37 ing, including but not limited to the misbehavior report, any and all  
38 exculpatory evidence, any use of force or unusual incident reports  
39 concerning the incident, any to-from memoranda concerning the incident,  
40 any staff reports or accounts, any witness statements, any information  
41 relied upon from a confidential source subject to security redactions,  
42 any medical records related to the incident, any related contraband  
43 receipts, any other written materials concerning the incident, any  
44 related photographs, and audio and video recordings of or related to the  
45 incident.

46 (iii) For all disciplinary hearings, incarcerated individuals and,  
47 where applicable, their representatives shall have the right during a  
48 hearing to provide opening and closing statements, request and receive  
49 evidence, conduct a meaningful investigation, call and question  
50 witnesses, cross-examine witnesses, and present evidence.

51 (iv) All disciplinary hearings shall be recorded and such recordings  
52 shall be provided to the incarcerated individual and such individual's  
53 representative, if applicable.

54 (v) If a person is held in segregated confinement or a residential  
55 rehabilitation unit prior to a hearing, any time spent in segregated  
56 confinement or a residential rehabilitation unit prior to the hearing

1 shall: (A) if the person is found guilty of an eligible charge under  
2 subparagraph (ii) of paragraph (k) of this subdivision, be credited  
3 toward any sanction to segregated confinement or residential rehabili-  
4 tation unit imposed; and (B) if the person is not found guilty of an  
5 eligible charge under subparagraph (ii) of paragraph (k) of this subdivi-  
6 vision, be credited as additional good time behavior allowance time  
7 under section eight hundred three of this chapter.

8 § 14. Paragraph (o) of subdivision 6 of section 137 of the correction  
9 law, as amended by section 6 of part NNN of chapter 59 of the laws of  
10 2021, is amended to read as follows:

11 (o) The department shall publish monthly reports on its website, with  
12 semi-annual and annual cumulative reports, of the total number of beds  
13 at each facility, including the number of beds held vacant for use as  
14 quarantine, and the total number of people who are in, separately list-  
15 ed: general population; segregated confinement [~~and the total number of~~  
16 people who are in]; residential rehabilitation units; step-down  
17 programs; residential mental health treatment units, including but not  
18 limited to behavioral health units, residential mental health units,  
19 therapeutic behavior units, intermediate care programs, and transitional  
20 intermediate care programs; protective custody; administrative segre-  
21 gation; reception, shock incarceration; I-ASAT; close supervision units;  
22 special needs units; assessment and program preparation units; residen-  
23 tial crisis treatment units; intensive intermediate care programs,  
24 correctional alternative rehabilitation units, units for the cognitively  
25 impaired, and any and all other designated units within the prison  
26 system where out-of-cell time is restricted in any way, on the first day  
27 of each month and the total number of placements in each location during  
28 the preceding month. The reports shall provide a breakdown of the  
29 number of people and placements, separately listed, in [~~segregated~~  
30 confinement and in residential rehabilitation] each of the aforemen-  
31 tioned units, separately listed, by: (i) age; (ii) race; (iii) gender;  
32 (iv) mental health treatment level; (v) special health accommodations or  
33 needs; (vi) need for and participation in substance use disorder,  
34 academic, vocational, transitional services, aggression replacement  
35 training, sex offense counseling and treatment, and all other mandatory  
36 programs, separately listed; (vii) pregnancy status; (viii) continuous  
37 length of stay in [~~residential treatment units] each type of unit, as~~  
38 well as length of stay in the past sixty days; (ix) number of days [~~in~~  
39 segregated confinement] and hours per day, of participation in out-of-  
40 cell group programming; (x) a list of all incidents resulting in sanc-  
41 tions of segregated confinement, including all substantiated charges  
42 related to each incident, by facility, unit, amount of segregated  
43 confinement and residential rehabilitation unit time imposed for the  
44 sanction, and date of occurrence; (xi) [~~the number of incarcerated~~  
45 persons in segregated confinement by] facility; [~~and~~] (xii) the number  
46 of [~~incarcerated persons in residential rehabilitation units by facili-~~  
47 ty] incidents of self-harm, suicide attempts, and suicide by facility,  
48 unit, and date of occurrence; (xiii) the number of deaths by facility  
49 and unit, cause of death, and date of occurrence; (xiv) the number of  
50 sanctions taking away a person's privileges or services, separately  
51 listed and including but not limited to, visitation, packages, corre-  
52 spondence, phone calls, tablets, cell shield, programs, recreation,  
53 commissary, out-of-cell time, food, restitution, forfeiture of funds,  
54 loss of good time, family reunion program, and imposed work task; and  
55 (xv) staff uses of force, by facility, unit, date of occurrence, level

1 of injury to incarcerated individuals and staff, and outcome of any  
2 disciplinary or other action taken.  
3 § 15. Severability. If any provision of this act, or any application  
4 of any provision of this act, is held to be invalid, that shall not  
5 affect the validity or effectiveness of any other provision of this act,  
6 or of any other application of any provision of this act, which can be  
7 given effect without that provision or application; and to that end, the  
8 provisions and applications of this act are severable.  
9 § 16. This act shall take effect on the thirtieth day after it shall  
10 have become a law.