STATE OF NEW YORK

9126

IN SENATE

February 5, 2026

Introduced by Sen. BASKIN -- 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 enacting "India's law"

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

Section 1. Short title. This act shall be known and may be cited as "India's law".

§ 2. Legislative findings and intent. This legislature has repeatedly observed and called attention to the severe issues associated with incarcerated persons in the Erie County Sheriff Office's Division of Jail Management. This includes incarcerated individuals who have mental health problems and issues. Unfortunately, these mental health struggles coupled with custodial negligence, have led to the deaths of many incarcerated individuals of the Erie County Sheriff Office's Division of Jail Management.

These issues were highlighted in the death of Erie County Holding Center prisoner India Cummings in February 2016. The New York State Commission of Correction issued a report in July 2018 on the death of Ms. Cummings in which their Medical Review Board ruled the death as a homicide due to medical neglect. The report highlighted several instances wherein Ms. Cummings' mental state was not properly diagnosed and treated and healthcare provided to her was deficient. She displayed behaviors consistent with a mental health crisis and behavior associated with injury/illness. During her incarceration, Ms. Cummings was evaluated by two physicians who separately determined she was suffering a serious mental health episode, but she was kept in custody without adequate care.

The intention of this law is to create a policy to help ensure incarcerated individuals experiencing a mental health crisis or episode are timely diagnosed, treated and/or transferred to an appropriate facility to ensure they receive adequate care and treatment which will prevent further deterioration and possible death.

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

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

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

The Health Insurance Portability and Accountability Act of 1996 ("HIPPA") permits correctional health care providers to share a patient's information with family, friends, or others involved in the patient's care or payment for care, as long as the health care provider determines, based on professional judgment, that doing so is in the best interests of the patient. The intention of this law is to provide for the timely notice of serious medical or mental health issues to an incarcerated individual's family in order to involve the family in a situation where their knowledge and participation could assist in the incarcerated individual's improvement and prevent further injury or death.

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

a. If a physician to a jail or in case of a vacancy a physician acting as such and the warden or jailer certify in writing that a prisoner confined in a jail, either in a civil cause or upon a criminal charge, is in such a state of mental health that [~~he or she~~] **such prisoner** is in need of involuntary care and treatment and in their opinion should be removed to a psychiatric hospital for treatment, the warden or jailer shall [~~immediately~~] notify the director **within twenty-four hours,** who shall have the responsibility for providing treatment for such prisoner. If such director after examination of the prisoner by an examining physician designated by [~~him or her~~] **the director** shall determine that such prisoner is in need of involuntary care and treatment, the director shall file an application **within twenty-four hours** for the involuntary hospitalization of such prisoner pursuant to article nine of the mental hygiene law in a hospital or secure facility, as defined in paragraph b of this subdivision, operated by the office of mental health or in the case of a prisoner confined in a jail in a city or county which maintains or operates a general hospital containing a psychiatric prison ward approved by the office of mental health to such prison ward for care and treatment or to any other psychiatric hospital if such prison ward is filled to capacity. Such application shall be **filed within twenty-four hours and** supported by the certificate of two physicians in accordance with the requirements of section 9.27 of the mental hygiene law and thereupon such prisoner shall be admitted forthwith to the hospital or secure facility in which such application is filed, and the procedures of the mental hygiene law governing the hospitalization of such prisoner. The jailer or warden having custody of the prisoner shall deliver the prisoner to the hospital or secure facility with which the director has filed the application. If such jailer or warden shall certify that such prisoner has a mental illness which is likely to result in serious harm to [~~himself, herself~~] **themself** or others and for which care in a psychiatric hospital is appropriate such jailer or ward-

en shall effect the admission of such prisoner to a hospital or secure facility forthwith in accordance with the provisions of section 9.37 or 9.39 of the mental hygiene law and the hospital shall admit such prisoner. Upon admission of the prisoner, pursuant to section 9.37 or 9.39 of the mental hygiene law, the jailer or warden shall notify the director, the prisoner's attorney, and [~~his or her~~] **the prisoner's** family, where information about the family is available. While the prisoner is in the hospital, other than a secure facility, [~~he or she~~] **such prisoner** shall remain in the custody under sufficient guard of the jailer or warden in charge of the jail from which [~~he or she~~] **such prisoner** came. When the prisoner is in a secure facility, the jailer or warden may transfer custody of the incarcerated individual to the commissioner of mental health, pursuant to an agreement between such jailer or warden and such commissioner. A prisoner admitted to a psychiatric hospital pursuant to section 9.27, 9.37 or 9.39 of the mental hygiene law may be retained at the hospital or secure facility pursuant to the provisions of the mental hygiene law until [~~he or she~~] **such prisoner** has improved sufficiently in [~~his or her~~] **their** mental illness so that hospitalization is no longer necessary or until ordered by the court to be returned to the jail whichever comes first and in either event, the prisoner shall thereupon be returned to jail. The cost of the care and treatment of such prisoners in the hospital or secure facility shall be defrayed in accordance with the provisions of the mental hygiene law in such cases provided.

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

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

§ 500-r. Notice to next of kin. 1. Within twenty-four hours of an incarcerated individual or any other individual in the custody of a local correctional facility experiencing a serious medical event or demonstrating behavior that is likely to result in serious harm to themselves or others, such facility shall notify the individual's next of kin or any other person designated as the representative of such individual, provided that contact information is available.

2. Within twenty-four hours of an incarcerated individual or any other individual in the custody of a local correctional facility experiencing a serious medical event or demonstrating behavior that is likely to result in serious harm to themselves or others, such facility shall allow the next of kin or any other person designated as the representative of such individual immediate visitation.

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

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

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

(i) inpatient hospitalization;

(ii) any surgery requiring general anesthesia;

(iii) a life-threatening illness or injury;

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

(v) significant, permanent impairment or disfigurement;
(vi) diagnosis of a terminal illness with a prognosis of six months or less to live;
(vii) transfer to a medical intensive care unit;
(viii) an attempted suicide; and
(ix) any other medical condition that, if left untreated, could reasonably be expected to result in significant pain, disability, or death.

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

§ 6. This act shall take effect immediately.