

STATE OF NEW YORK

10718--A

IN ASSEMBLY

March 27, 2026

Introduced by M. of A. GIBBS -- read once and referred to the Committee on Correction -- committee discharged, bill amended, 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 prisoner India Cummings in February 2016. The New York State
13 Commission of Correction issued a report in July 2018 on the death of
14 Ms. Cummings in which their Medical Review Board ruled the death as a
15 homicide due to medical neglect. The report highlighted several
16 instances wherein Ms. Cummings' mental state was not properly diagnosed
17 and treated and healthcare provided to her was deficient. She displayed
18 behaviors consistent with a mental health crisis and behavior associated
19 with injury/illness. During her incarceration, Ms. Cummings was evalu-
20 ated by two physicians who separately determined she was suffering a
21 serious mental health episode, but she was kept in custody without
22 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
26 to ensure they receive adequate care and treatment which will prevent
27 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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1 By way of comparison, the New York State Department of Corrections and
2 Community Supervision maintains a policy providing for notification to
3 an incarcerated individual's next-of-kin when an incarcerated individual
4 dies in custody, as well as a policy notifying an incarcerated individ-
5 ual's next-of-kin when their family member is experiencing grave
6 illness. However, the State does not maintain a policy to notify the
7 family members of incarcerated individuals when they are displaying
8 behaviors that can lead to a fatality.

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

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

24 § 3. The opening paragraph of paragraph a of subdivision 2 of section
25 508 of the correction law, as amended by chapter 322 of the laws of
26 2021, is amended and a new subdivision 3 is added to read as follows:

27 If a physician to a jail or in case of a vacancy a physician acting as
28 such and the warden or jailer certify in writing that a prisoner
29 confined in a jail, either in a civil cause or upon a criminal charge,
30 is in such a state of mental health that [~~he or she~~] such prisoner is in
31 need of involuntary care and treatment and in their opinion should be
32 removed to a psychiatric hospital for treatment, the warden or jailer
33 shall [~~immediately~~] notify the director within twenty-four hours, who
34 shall have the responsibility for providing treatment for such prisoner.
35 If such director after examination of the prisoner by an examining
36 physician designated by [~~him or her~~] the director shall determine that
37 such prisoner is in need of involuntary care and treatment, the director
38 shall file an application within twenty-four hours for the involuntary
39 hospitalization of such prisoner pursuant to article nine of the mental
40 hygiene law in a hospital or secure facility, as defined in paragraph b
41 of this subdivision, operated by the office of mental health or in the
42 case of a prisoner confined in a jail in a city or county which main-
43 tains or operates a general hospital containing a psychiatric prison
44 ward approved by the office of mental health to such prison ward for
45 care and treatment or to any other psychiatric hospital if such prison
46 ward is filled to capacity. Such application shall be filed within twen-
47 ty-four hours and supported by the certificate of two physicians in
48 accordance with the requirements of section 9.27 of the mental hygiene
49 law and thereupon such prisoner shall be admitted forthwith to the
50 hospital or secure facility in which such application is filed, and the
51 procedures of the mental hygiene law governing the hospitalization of
52 such prisoner. The jailer or warden having custody of the prisoner shall
53 deliver the prisoner to the hospital or secure facility with which the
54 director has filed the application. If such jailer or warden shall
55 certify that such prisoner has a mental illness which is likely to
56 result in serious harm to [~~himself, herself~~] themselves or others and for

1 which care in a psychiatric hospital is appropriate such jailer or ward-
2 en shall effect the admission of such prisoner to a hospital or secure
3 facility forthwith in accordance with the provisions of section 9.37 or
4 9.39 of the mental hygiene law and the hospital shall admit such prison-
5 er. Upon admission of the prisoner, pursuant to section 9.37 or 9.39 of
6 the mental hygiene law, the jailer or warden shall notify the director,
7 the prisoner's attorney, and ~~[his or her]~~ the prisoner's family, where
8 information about the family is available. While the prisoner is in the
9 hospital, other than a secure facility, ~~[he or she]~~ such prisoner shall
10 remain in the custody under sufficient guard of the jailer or warden in
11 charge of the jail from which ~~[he or she]~~ such prisoner came. When the
12 prisoner is in a secure facility, the jailer or warden may transfer
13 custody of the incarcerated individual to the commissioner of mental
14 health, pursuant to an agreement between such jailer or warden and such
15 commissioner. A prisoner admitted to a psychiatric hospital pursuant to
16 section 9.27, 9.37 or 9.39 of the mental hygiene law may be retained at
17 the hospital or secure facility pursuant to the provisions of the mental
18 hygiene law until ~~[he or she]~~ such prisoner has improved sufficiently in
19 ~~[his or her]~~ their mental illness so that hospitalization is no longer
20 necessary or until ordered by the court to be returned to the jail
21 whichever comes first and in either event, the prisoner shall thereupon
22 be returned to jail. The cost of the care and treatment of such prison-
23 ers in the hospital or secure facility shall be defrayed in accordance
24 with the provisions of the mental hygiene law in such cases provided.

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

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

34 § 500-r. Notice to next of kin. 1. Within twenty-four hours of an
35 incarcerated individual or any other individual in the custody of a
36 local correctional facility experiencing a serious medical event or
37 demonstrating behavior that is likely to result in serious harm to them-
38 selves or others or having died, such facility shall notify the individ-
39 ual's next of kin or any other person designated as the representative
40 of such individual, provided that contact information is available.

41 2. Within twenty-four hours of an incarcerated individual or any
42 other individual in the custody of a local correctional facility experi-
43 encing a serious medical event or demonstrating behavior that is likely
44 to result in serious harm to themselves or others, such facility shall
45 allow the next of kin or any other person designated as the represen-
46 tative of such individual immediate visitation.

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

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

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

53 (i) inpatient hospitalization;

54 (ii) any surgery requiring general anesthesia;

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

1 (iv) any condition that renders the incarcerated individual unable to
2 communicate;
3 (v) significant, permanent impairment or disfigurement;
4 (vi) diagnosis of a terminal illness with a prognosis of six months or
5 less to live;
6 (vii) transfer to a medical intensive care unit;
7 (viii) an attempted suicide; and
8 (ix) any other medical condition that, if left untreated, could
9 reasonably be expected to result in significant pain, disability, or
10 death.

11 § 5. Paragraph (a) of subdivision 1 of section 624 of the correction
12 law, as amended by section 1 of part C of chapter 36 of the laws of
13 2026, is amended to read as follows:

14 (a) [~~The~~] Within twenty-four hours of the death of an incarcerated
15 individual while in custody, the department shall [~~promptly~~] notify the
16 individual's next of kin [~~and~~] or any other person designated as the
17 representative of [~~any incarcerated~~] such individual [~~whose death takes~~
18 ~~place during custody~~] , provided that contact information is available.

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

28 § 7. This act shall take effect immediately.