

STATE OF NEW YORK

1049--A

2025-2026 Regular Sessions

IN SENATE

(Prefiled)

January 8, 2025

Introduced by Sens. SALAZAR, BRISPORT, BROUK, CLEARE, COMRIE, COONEY, FAHY, FERNANDEZ, GIANARIS, GONZALEZ, HARCKHAM, HOYLMAN-SIGAL, JACKSON, KRUEGER, MAY, MYRIE, RAMOS, RIVERA, SEPULVEDA, SERRANO, WEBB -- read twice and ordered printed, and when printed to be committed to the Committee on Crime Victims, Crime and 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 the "gender identity respect, dignity and safety act"

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 "gender identity respect, dignity and safety act".

3 § 2. Section 137 of the correction law is amended by adding a new
4 subdivision 7 to read as follows:

5 7. (a) Any incarcerated individual in a correctional facility or other
6 institution who has a gender identity that differs from their assigned
7 sex at birth, who has a diagnosis of gender dysphoria, who has a vari-
8 ation in their sex characteristics, or who self-identifies as transgen-
9 der, gender nonconforming, nonbinary, or intersex shall:

10 (i) be addressed by correctional officers and staff in a manner that
11 most closely aligns with such person's gender identity, including the
12 name and pronouns specified by that person. If a person states that, in
13 order to most closely align with their gender identity, they use a name
14 that is different from the name listed on their government-issued iden-
15 tification, they shall be addressed and referred to by their requested
16 name;

17 (ii) have access to commissary items, clothing, personal property,
18 programming and educational materials that most closely align with such
19 person's gender identity;

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

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1 (iii) have the right to be searched by a correctional officer or staff
2 member of the gender most closely aligned with such person's gender
3 identity, unless the incarcerated individual requests otherwise or under
4 exigent circumstances;

5 (iv) have the right to access all necessary and appropriate medical
6 and mental health care, including routine and preventive medical care
7 related to their sex characteristics, and affirming medical and mental
8 health care as related to gender dysphoria or gender affirmation, which
9 includes access to items that are used by individuals to affirm their
10 gender identity, including those items associated with necessary and
11 appropriate care after gender-affirming surgery;

12 (v) have the right not to be subjected to medical or mental health
13 treatments or interventions which they do not want or to which they do
14 not provide informed consent, including but not limited to surgical
15 interventions to change their sex characteristics such as genital
16 surgeries and sterilizations, and counseling that pathologizes or
17 attempts to change their sexual orientation or gender identity; and

18 (vi) have the right to maintain the confidentiality of records or
19 portions of records related to their incarceration that would reveal
20 their sex characteristics or their transgender, gender nonconforming,
21 nonbinary, or intersex status, or that would otherwise reveal that their
22 gender identity differs from their assigned sex at birth, that they have
23 a diagnosis of gender dysphoria, or that they have an intersex trait or
24 variation in their sex characteristics. This provision does not prevent
25 an incarcerated individual from consenting to the release of such mate-
26 rial nor does it prevent the release of aggregate data, reports created
27 pursuant to subdivision twelve of section seventy-two-d and paragraph
28 (1) of subdivision fourteen of section five hundred-b of this chapter,
29 or records that have otherwise been de-identified and would not reveal
30 the identity of a transgender, gender nonconforming, nonbinary, or
31 intersex person without their consent.

32 (b) The department is prohibited from requiring documentation to
33 confirm a person's gender identity, sex characteristics, or intersex
34 status.

35 (c) All people shall receive notice in writing in a language and
36 manner understandable to them about the requirements of this subdivision
37 upon their admission to a correctional facility or other institution.

38 (d) The department shall provide annual training on provisions of this
39 subdivision to all personnel.

40 (e) A violation of this subdivision is a violation of section forty-c
41 of the civil rights law and section two hundred ninety-six of the execu-
42 tive law. Any individual aggrieved under this subdivision may initiate
43 proceedings in a court of competent jurisdiction or in the New York
44 state division of human rights seeking injunctive relief and damages,
45 including reasonable attorney's fees.

46 § 3. The correction law is amended by adding a new section 72-d to
47 read as follows:

48 § 72-d. Placement of incarcerated individuals based on gender identi-
49 ty. 1. An incarcerated individual who has a gender identity that differs
50 from their assigned sex at birth, who has a diagnosis of gender dyspho-
51 ria, who has a variation in their sex characteristics, or who self-iden-
52 tifies as transgender, gender nonconforming, nonbinary, or intersex
53 pursuant to subdivision seven of section one hundred thirty-seven of
54 this chapter shall be placed in a correctional facility or other insti-
55 tution with persons of the gender that most closely aligns with such

1 person's self-attested gender identity unless the person opts out of
2 such placement.

3 2. Such placement may be overcome by a determination in writing by the
4 commissioner or the commissioner's designee that there is clear and
5 convincing evidence that such person presents a current danger of
6 committing gender-based violence against others.

7 3. A denial of gender-aligned placement shall not be based on any
8 discriminatory reasons, including but not limited to (a) the past or
9 current sex characteristics, including chromosomes, genitals, gonads,
10 other internal or external reproductive anatomy, secondary sex charac-
11 teristics, or hormone function of the person whose housing placement is
12 at issue, (b) the sexual orientation of the person whose housing place-
13 ment is at issue, (c) the complaints of other incarcerated individuals
14 who do not wish to be housed with a non-cisgender or intersex person due
15 to that person's gender identity or sex characteristics, or (d) a factor
16 present among other people in the gender-aligned housing unit or facili-
17 ty.

18 4. Placement shall not be conditioned upon the incarcerated individ-
19 ual's history of, consent to, intention to seek, or refusal to undergo
20 any treatment or intervention regarding their sex characteristics or
21 gender identity, including those interventions described in subparagraph
22 (v) of paragraph (a) of subdivision seven of section one hundred thir-
23 ty-seven of this chapter.

24 5. After being notified that a transgender, gender nonconforming,
25 nonbinary, or intersex person is seeking gender-aligned placement, the
26 department shall have two days to make a determination pursuant to this
27 subdivision. A denial of gender-aligned placement shall be provided in
28 writing to the affected person within two days of the department's deci-
29 sion. The department shall include in its written decision a
30 description of all evidence supporting the department's decision and an
31 explanation of why the evidence supports a determination that the person
32 presents a current danger of committing gender-based violence against
33 others. The department shall attach all supporting documentation to the
34 written decision. The supporting documentation may be redacted as neces-
35 sary to protect any person's privacy or safety. Unsubstantiated allega-
36 tions are not clear and convincing evidence justifying a denial of
37 gender-aligned placement or transfer out of gender-aligned placement.

38 6. The department's decision pursuant to subdivisions two through five
39 of this section is final and shall not be grievable.

40 7. An incarcerated individual denied gender-aligned placement pursuant
41 to subdivisions two through five of this section may re-apply for
42 gender-aligned housing at any time when there is information that was
43 not previously submitted to the commissioner or the commissioner's
44 designee or when previous information was improperly weighed by the
45 commissioner or the commissioner's designee. Such application shall be
46 subject to subdivisions two through six of this section.

47 8. The department is prohibited from denying a gender-aligned place-
48 ment or transferring a person out of a gender-aligned placement as a
49 form of discipline.

50 9. The incarcerated individual shall be permitted to leave such
51 gender-aligned placement and transfer to a facility housing individuals
52 of their assigned sex at birth at any time. Any such person who has
53 opted out of such gender-aligned placement or who leaves such placement
54 may again request placement in a correctional facility with persons of
55 the gender that most closely aligns with their self-attested gender
56 identity at any time.

1 10. A transgender, gender nonconforming, nonbinary, or intersex incar-
2 cerated individual experiencing harassment, violence or threats of
3 violence due to their gender identity or sex characteristics shall not
4 be placed in involuntary protective custody for more than fourteen days
5 as a result of such harassment, violence or threats of violence, and
6 shall be housed in a least-restrictive setting where they will be safe
7 from such behavior.

8 11. All people shall receive notice in writing in a language and
9 manner understandable to them about the requirements of this section
10 upon their admission to a correctional facility or other institution.
11 The department shall provide annual training on provisions of this
12 section to all correctional personnel who are involved in the super-
13 vision or placement of incarcerated individuals.

14 12. The department shall report annually to the governor, the tempo-
15 rary president of the senate, the minority leader of the senate, the
16 speaker of the assembly, the minority leader of the assembly, the chair-
17 person of the senate crime victims, crime and correction committee and
18 the chairperson of the assembly correction committee on the number of
19 transgender, gender nonconforming, nonbinary, or intersex incarcerated
20 individuals who (a) were denied gender-aligned placement in accordance
21 with subdivision five of this section; (b) voluntarily opted out of
22 gender-aligned placement in accordance with subdivisions one and nine of
23 this section; and (c) were kept in involuntary protective custody for
24 longer than fourteen days. Reports required by this section shall be
25 posted on the website maintained by the department. Reports may include
26 de-identified individual information in the aggregate, but shall not
27 include personally identifiable information.

28 13. A violation of this section is a violation of section forty-c of
29 the civil rights law and section two hundred ninety-six of the executive
30 law. Any individual aggrieved under this section may initiate
31 proceedings in a court of competent jurisdiction or in the New York
32 state division of human rights seeking injunctive relief and damages,
33 including reasonable attorney's fees.

34 § 4. Section 500-b of the correction law is amended by adding a new
35 subdivision 14 to read as follows:

36 14. (a) Notwithstanding the provisions of this section, any incar-
37 ated individual determined to have a gender identity different from
38 their assigned sex at birth, who has a diagnosis of gender dysphoria,
39 who has a variation in their sex characteristics, or who self-identifies
40 as transgender, gender nonconforming, nonbinary, or intersex pursuant to
41 subdivision seven of section one hundred thirty-seven of this chapter
42 shall be placed in a facility housing unit with incarcerated individuals
43 of the gender most closely aligned with such person's self-attested
44 gender identity unless the person opts out of such placement.

45 (b) Such placement may be overcome by a determination in writing by
46 the chief administrative officer or their designee that there is clear
47 and convincing evidence that such person presents a current danger of
48 committing gender-based violence against others.

49 (c) A denial of gender-aligned placement shall not be based on any
50 discriminatory reasons, including but not limited to (i) the past or
51 current sex characteristics, including chromosomes, genitals, gonads,
52 other internal or external reproductive anatomy, secondary sex charac-
53 teristics, or hormone function of the person whose housing placement is
54 at issue, (ii) the sexual orientation of the person whose housing place-
55 ment is at issue, (iii) the complaints of other incarcerated individuals
56 who do not wish to be housed with a non-cisgender or intersex person due

1 to that person's gender identity or sex characteristics, or (iv) a
2 factor present among other people in the gender-aligned housing unit or
3 facility.

4 (d) Placement shall not be conditioned upon the incarcerated individ-
5 ual's history of, consent to, intention to seek, or refusal to undergo
6 any treatment or intervention regarding their sex characteristics or
7 gender identity, including those interventions described in subparagraph
8 (v) of paragraph (a) of subdivision seven of section one hundred thir-
9 ty-seven of this chapter.

10 (e) After being notified that a transgender, gender nonconforming,
11 nonbinary, or intersex person is seeking gender-aligned placement, the
12 chief administrative officer or their designee shall have two days to
13 make a determination pursuant to this subdivision. A denial of gender-a-
14 ligned placement shall be provided in writing to the affected person
15 within two days of the decision by the chief administrative officer or
16 their designee. The chief administrative officer or their designee shall
17 include in their written decision a description of all evidence support-
18 ing the decision of the chief administrative officer or their designee
19 and an explanation of why the evidence supports a determination that the
20 person presents a current danger of committing gender-based violence
21 against others. The chief administrative officer or their designee shall
22 attach all supporting documentation to the written decision. The
23 supporting documentation may be redacted as necessary to protect any
24 person's privacy or safety. Unsubstantiated allegations are not clear
25 and convincing evidence justifying a denial of gender-aligned placement
26 or transfer out of gender-aligned placement.

27 (f) The decision by the chief administrative officer or their designee
28 pursuant to this subdivision is final and shall not be grievable.

29 (g) An incarcerated individual denied gender-aligned placement pursu-
30 ant to this subdivision may re-apply for gender-aligned housing at any
31 time when there is information that was not previously submitted to the
32 chief administrative officer or their designee or when previous informa-
33 tion was improperly weighed by the chief administrative officer or their
34 designee. Such application shall be subject to the provisions of this
35 subdivision.

36 (h) The chief administrative officer or their designee is prohibited
37 from denying a gender-aligned placement or transferring a person out of
38 a gender-aligned placement as a form of discipline.

39 (i) The incarcerated individual shall be permitted to leave such
40 gender-aligned placement and transfer to a unit housing individuals of
41 their assigned sex at birth at any time. Any such person who has opted
42 out of such gender-aligned placement or who leaves such placement may
43 again request placement in a housing unit with persons of the gender
44 that most closely aligns with their self-attested gender identity at any
45 time.

46 (j) A transgender, gender nonconforming, nonbinary, or intersex incar-
47 cerated individual experiencing harassment, violence or threats of
48 violence due to their gender identity or sex characteristics shall not
49 be placed in involuntary protective custody for more than fourteen days
50 as a result of such harassment, violence or threats of violence, and
51 shall be housed in a least-restrictive setting where they will be safe
52 from such behavior.

53 (k) All people shall receive notice in writing in a language and
54 manner understandable to them about the requirements of this section
55 upon their admission to a local correctional facility. The chief admin-
56 istrative officer or their designee shall provide annual training on

provisions of this section to all correctional personnel who are involved in the supervision or placement of incarcerated individuals.

(l) The chief administrative officer or their designee shall report, in a form and manner prescribed by the commission, the number of transgender, gender nonconforming, nonbinary, or intersex incarcerated individuals who (1) were denied gender-aligned placement in accordance with paragraph (e) of this subdivision; (2) voluntarily opted out of gender-aligned placement in accordance with paragraphs (a) and (i) of this subdivision; and (3) were kept in involuntary protective custody for longer than fourteen days. The commission shall include such information in its annual report pursuant to section forty-five of this chapter, but shall exclude identifying information from such report. Reports required by this provision shall be posted on the website maintained by the commission.

(m) A violation of this section is a violation of section forty-c of the civil rights law and section two hundred ninety-six of the executive law. Any individual aggrieved under this section may initiate proceedings in a court of competent jurisdiction or in the New York state division of human rights seeking injunctive relief and damages, including reasonable attorney's fees.

§ 5. Section 500-b of the correction law is amended by adding a new subdivision 15 to read as follows:

15. Pursuant to its authority under section forty-five of this chapter, the commission in collaboration with the department shall promulgate rules and regulations to ensure that local correctional authorities timely notify the department when a transgender, gender nonconforming, nonbinary, or intersex person is being transferred into the custody of the department. The rules and regulations shall ensure the department makes necessary arrangements to ensure gender-aligned housing, unless the impacted individual opts out of such housing, immediately upon transfer to department custody.

§ 6. Subdivision 1 of section 500-k of the correction law, as separately amended by chapters 93 and 322 of the laws of 2021, is amended to read as follows:

1. Subdivisions five ~~and~~, six and seven of section one hundred thirty-seven of this chapter, except paragraphs (d) and (e) of subdivision six of such section, relating to the treatment of incarcerated individuals in state correctional facilities are applicable to incarcerated individuals confined in county jails; except that the report required by paragraph (f) of subdivision six of such section shall be made to a person designated to receive such report in the rules and regulations of the state commission of correction, or in any county or city where there is a department of correction, to the head of such department.

§ 7. This act shall take effect immediately; provided, however, that the amendments to section 500-b of the correction law made by sections four and five of this act shall not affect the repeal of such section and shall be deemed repealed therewith.