

# STATE OF NEW YORK

9126--A

## 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 -- 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

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

LBD14521-04-6

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

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

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

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

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

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

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

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

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

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

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

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

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

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

55 (i) inpatient hospitalization;

56 (ii) any surgery requiring general anesthesia;

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

12 § 5. Paragraph (a) of subdivision 1 of section 624 of the correction  
13 law, as amended by section 1 of part C of chapter 36 of the laws of  
14 2026, is amended to read as follows:

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

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

29 § 7. This act shall take effect immediately.