

DRAFT LBDC

A BUDGET BILL submitted by the Governor
in accordance with Article VII of the Constitution

AN ACT to amend the correction law, in relation to the functions,
powers and duties of the state commission of correction
(Part);

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

1 PART ____

2 Section 1. Subdivision 1 of section 41 of the correction law, as added
3 by chapter 865 of the laws of 1975, is amended to read as follows:

4 1. There shall be within the executive department a state commission
5 of correction. It shall consist of three persons to be appointed by the
6 governor, by and with the advice and consent of the senate. The governor
7 shall designate one of the appointed members as [chairman] chair to
8 serve as such at the pleasure of the governor. The members shall devote
9 full time to their duties and shall hold no other salaried public posi-
10 tion.

11 § 2. Paragraph 3 of subdivision (a) of section 42 of the correction
12 law, as added by chapter 865 of the laws of 1975, is amended to read as
13 follows:

14 3. Any member chosen to fill in a vacancy created other than by expi-
15 ration of term shall be appointed for the unexpired term of the
16 succeeded member [whom he is to succeed]. Vacancies caused by the expi-
17 ration of term or otherwise shall be filled in the same manner as
18 original appointments.

1 § 3. Paragraph 4 of subdivision (a) of section 42 of the correction
2 law, as amended by chapter 55 of the laws of 1992, is amended to read as
3 follows:

4 4. The members of the council other than the [chairman] chair shall
5 receive no compensation for their services but each member other than
6 the [chairman] chair shall be entitled to receive [his or her] actual
7 and necessary expenses incurred in the performance of [his or her] coun-
8 cil duties.

9 § 4. Paragraph 5 of subdivision (a) of section 42 of the correction
10 law, as amended by section 14 of subpart A of part C of chapter 62 of
11 the laws of 2011, is amended to read as follows:

12 5. No appointed member of the council shall qualify or enter upon the
13 duties of [his] office, or remain therein, while [he is] an officer or
14 employee of the department of corrections and community supervision or
15 any correctional facility or is in a position [where he exercises] to
16 exercise administrative supervision over any correctional facility. The
17 council shall have such staff as shall be necessary to assist it in the
18 performance of its duties within the amount of the appropriation there-
19 for as determined by the [chairman] chair of the commission.

20 § 5. Paragraph 1 of subdivision (c) of section 42 of the correction
21 law, as added by chapter 865 of the laws of 1975, is amended to read as
22 follows:

23 1. Advise and assist the commission in developing policies, plans and
24 programs for improving the commission's performance of its duties and
25 for coordinating the efforts of the commission and of correctional offi-
26 cials to improve conditions of care, treatment, safety, supervision,
27 rehabilitation, recreation, training and education in correctional

1 facilities. Such advice and assistance shall minimally consist of an
2 annual report of the council to the commission;

3 § 6. Paragraph 3 of subdivision (c) of section 42 of the correction
4 law, as added by chapter 865 of the laws of 1975, is amended to read as
5 follows:

6 3. Meet at least once per calendar month at a time and place desig-
7 nated by the [chairman] chair of the council.

8 § 7. Subdivision 1 of section 43 of the correction law, as amended by
9 chapter 379 of the laws of 1988, is amended to read as follows:

10 1. There shall be within the commission a correction medical review
11 board. It shall consist of six persons to be appointed by the governor
12 by and with the advice and consent of the senate. In addition, the
13 governor shall designate one of the full-time members other than the
14 [chairman] chair of the commission and the [chairman] chair of the coun-
15 cil as [chairman] chair of the board to serve as such at the pleasure of
16 the governor. Of the appointed members of the board one shall be a
17 physician duly licensed to practice in this state; one shall be a physi-
18 cian duly licensed to practice in this state and a board certified
19 forensic pathologist; one shall be a physician duly licensed to practice
20 in this state and shall be a board certified forensic psychiatrist; one
21 shall be an attorney admitted to practice in this state; two shall be
22 members appointed at large.

23 § 8. Subdivision 3 of section 43 of the correction law, as added by
24 chapter 865 of the laws of 1975, is amended to read as follows:

25 3. Any member chosen to fill a vacancy created other than by expira-
26 tion of term shall be appointed for the unexpired term of the succeeded
27 member [whom he is to succeed]. Vacancies caused by expiration of term

1 or otherwise shall be filled in the same manner as original appoint-
2 ments.

3 § 9. Section 44 of the correction law, as added by chapter 865 of the
4 laws of 1975, is amended to read as follows:

5 § 44. [Chairman] Chair of commission. 1. The [chairman] chair shall be
6 the executive officer of the commission, the board and the council, and
7 may serve as the chair of the board or council at any time necessitated
8 by a commission member vacancy.

9 2. The [chairman] chair may appoint such assistants, officers and
10 employees, committees and consultants for the board and the council as
11 [he may determine] necessary, prescribe their powers and duties, fix
12 their compensation and provide for reimbursement of their expenses with-
13 in amounts appropriated therefor.

14 3. The [chairman] chair may, from time to time, create, abolish,
15 transfer and consolidate bureaus and other units within the commission,
16 the board and the council not expressly established by law as [he may
17 determine] necessary for the efficient operation of the commission, the
18 board and the council, subject to the approval of the director of the
19 budget.

20 4. The [chairman] chair may request and receive from any department,
21 division, board, bureau, commission or other agency of the state or any
22 political subdivision thereof or any public authority such assistance,
23 information and data as will enable the commission, the board and the
24 council properly to carry out its functions, powers and duties.

25 § 10. Subdivision 3 of section 45 of the correction law, as amended by
26 chapter 322 of the laws of 2021, is amended to read as follows:

27 3. [Except in circumstances involving health, safety or alleged
28 violations of established standards of the commission, visit] Visit,

1 [and] inspect [correctional facilities consistent with a schedule deter-
2 mined by the chairman of the commission, taking into consideration
3 available resources, workload and staffing,] and appraise the management
4 of [such] correctional facilities with specific attention to matters
5 such as safety, security, health of incarcerated individuals, sanitary
6 conditions, rehabilitative programs, disturbance and fire prevention and
7 control preparedness, and adherence to laws and regulations governing
8 the rights of incarcerated individuals. Such visits, inspections and
9 appraisals shall occur, at a minimum, annually for jails, specialized
10 secure juvenile detention facilities for older youth, facilities oper-
11 ated by the department, and secure facilities operated by the office of
12 children and family services.

13 § 11. Subdivision 4 of section 45 of the correction law, as amended by
14 chapter 322 of the laws of 2021, is amended to read as follows:

15 4. Establish procedures to assure effective investigation of griev-
16 ances of, and conditions affecting, incarcerated individuals of local
17 correctional facilities. Such procedures shall include but not be limit-
18 ed to receipt of written complaints, interviews of persons, and on-site
19 monitoring of conditions. In addition, the commission shall establish
20 procedures for the speedy and impartial review of grievances referred to
21 it by the commissioner [of the department of corrections and community
22 supervision]. The commission shall maintain a website that allows for
23 the submission of written complaints regarding any correctional facili-
24 ty, and provides the commission's address for the receipt of complaints
25 by mail. The commission shall promulgate rules and regulations requiring
26 correctional facilities to provide incarcerated individuals, in writing,
27 the commission's website and mailing address.

1 § 12. Subdivision 17 of section 45 of the correction law, as amended
2 by chapter 322 of the laws of 2021, is amended to read as follows:

3 17. Make an annual report to the governor, the [chairman] chair of the
4 assembly committee on correction and the [chairman] chair of the senate
5 committee on crime victims, crime and correction concerning incarcerated
6 individuals confined in local correctional facilities pursuant to an
7 agreement authorized by section five hundred-o of this chapter. Such
8 report shall include but not be limited to the number of counties main-
9 taining such agreements and the number of incarcerated individuals
10 confined pursuant to such agreements.

11 § 13. Subdivision 1 of section 46 of the correction law, as amended by
12 chapter 322 of the laws of 2021, is amended to read as follows:

13 1. The commission, any member or any employee designated by the
14 commission must be granted access at any and all times to any correc-
15 tional facility or part thereof and to all books, records, medical and
16 substance use disorder treatment and transition services records of
17 incarcerated individuals and data pertaining to any correctional facili-
18 ty deemed necessary for carrying out the commission's functions, powers
19 and duties. The commission, any member or any employee designated by the
20 [chairman] chair may require from the officers or employees of a correc-
21 tional facility any information deemed necessary for the purpose of
22 carrying out the commission's functions, powers and duties. Commission
23 members and employees may conduct private interviews of correctional
24 facility officers and employees, who may be accompanied by counsel or a
25 union representative acting on such officer or employee's behalf.
26 Commission members and employees may also conduct private interviews of
27 incarcerated individuals, upon such individual's consent.

1 § 14. Paragraph (d) of subdivision 1 of section 47 of the correction
2 law, as amended by chapter 322 of the laws of 2021, is amended to read
3 as follows:

4 (d) Upon review of the cause of death and circumstances surrounding
5 the death of any incarcerated individual, the board shall submit its
6 report thereon to the commission and to the governor, the [chairman]
7 chair of the assembly committee on correction and the [chairman] chair
8 of the senate committee on crime victims, crime and correction and,
9 where appropriate, make recommendations to prevent the recurrence of
10 such deaths to the commission and the administrator of the appropriate
11 correctional facility. The report provided to the governor, the [chair-
12 man] chair of the assembly committee on correction and the [chairman]
13 chair of the senate committee on crime victims, crime and correction
14 shall not be redacted except as otherwise required to protect confiden-
15 tial medical records and behavioral health records in accordance with
16 state and federal laws, rules, and regulations.

17 § 15. Subparagraph (i) of paragraph (e) of subdivision 1 of section 47
18 of the correction law, as amended by chapter 322 of the laws of 2021, is
19 amended to read as follows:

20 (i) Investigate and report to the commission on the condition of
21 systems for the delivery of medical care to incarcerated individuals of
22 correctional facilities and where appropriate recommend such changes as
23 it shall deem necessary and proper to improve the quality and availabil-
24 ity of such medical care. Such report and recommendation shall minimally
25 consist of an annual report of the board to the commission.

26 § 16. This act shall take effect one year after it shall have become a
27 law; provided, however, that the amendments to subdivision 17 of section
28 45 of the correction law made by section twelve of this act shall not

1 affect the repeal of such subdivision and shall expire and be deemed
2 repealed therewith.