

6422

2007-2008 Regular Sessions

I N S E N A T E

July 14, 2007

Introduced by Sen. NOZZOLIO -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the correction law and the mental hygiene law, in relation to confinement conditions and treatment of convicted persons with serious mental illness

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Legislative findings. 1. The legislature finds that the
2 needs of inmates with serious mental illness should be served by
3 improved access to mental health treatment during incarceration. In
4 particular, inmates with serious mental illness should be offered thera-
5 peutic care and treatment in residential mental health settings when
6 doing so will not compromise the safety of inmates or other persons or
7 the security of the facility. While in exceptional circumstances segre-
8 gated confinement may sometimes be necessary to maintain such safety and
9 security, even for inmates with serious mental illness, the state should
10 strive to maintain such inmates with serious mental illness in less
11 restrictive settings whenever it can safely do so.

12 2. When inmates with serious mental illness are placed in segregated
13 confinement, they should receive a heightened level of care, including
14 out-of-cell therapeutic programming and/or mental health treatment, when
15 consistent with the safety of the inmate and other persons or the secu-
16 rity of the facility. Such inmates with serious mental illness should
17 also undergo periodic reassessments of their mental condition to deter-
18 mine whether diversion from segregated confinement to a less restrictive
19 setting is appropriate.

20 3. This act creates a balanced approach to care and treatment of
21 inmates with serious mental illness and the state's ability to ensure
22 the safety of all inmates and employees and the security of prison
23 facilities.

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets
{ } is old law to be omitted.

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1 S 2. Section 2 of the correction law is amended by adding ten new
2 subdivisions 21, 22, 23, 24, 25, 26, 27, 28, 29 and 30 to read as
3 follows:

4 21. "RESIDENTIAL MENTAL HEALTH TREATMENT UNIT" MEANS HOUSING FOR
5 INMATES WITH SERIOUS MENTAL ILLNESS THAT IS OPERATED JOINTLY BY THE

6 DEPARTMENT AND THE OFFICE OF MENTAL HEALTH AND IS THERAPEUTIC IN NATURE.
7 SUCH UNITS SHALL NOT BE OPERATED AS DISCIPLINARY HOUSING UNITS, AND
8 DECISIONS ABOUT TREATMENT AND CONDITIONS OF CONFINEMENT SHALL BE MADE
9 BASED UPON A CLINICAL ASSESSMENT OF THE THERAPEUTIC NEEDS OF THE INMATE
10 AND MAINTENANCE OF ADEQUATE SAFETY AND SECURITY ON THE UNIT. SUCH UNITS
11 SHALL INCLUDE, BUT NOT BE LIMITED TO, THE RESIDENTIAL MENTAL HEALTH UNIT
12 MODEL, THE BEHAVIORAL HEALTH UNIT MODEL, THE INTERMEDIATE CARE PROGRAM
13 AND THE INTENSIVE INTERMEDIATE CARE PROGRAM. THE MODELS SHALL BE DEFINED
14 IN REGULATIONS PROMULGATED BY THE DEPARTMENT IN CONSULTATION WITH THE
15 COMMISSIONER OF MENTAL HEALTH CONSISTENT WITH THIS SUBDIVISION AND
16 SECTION FOUR HUNDRED ONE OF THIS CHAPTER. INMATES PLACED IN A RESIDEN-
17 TIAL MENTAL HEALTH TREATMENT UNIT SHALL BE OFFERED AT LEAST FOUR HOURS A
18 DAY OF STRUCTURED OUT-OF-CELL THERAPEUTIC PROGRAMMING AND/OR MENTAL
19 HEALTH TREATMENT, EXCEPT ON WEEKENDS OR HOLIDAYS, IN ADDITION TO EXER-
20 CISE, AND MAY BE PROVIDED WITH ADDITIONAL OUT-OF-CELL ACTIVITIES AS ARE
21 CONSISTENT WITH THEIR MENTAL HEALTH NEEDS; PROVIDED, HOWEVER, THAT THE
22 DEPARTMENT MAY MAINTAIN NO MORE THAN THIRTY-EIGHT BEHAVIORAL HEALTH UNIT
23 BEDS IN WHICH THE NUMBER OF HOURS OF OUT-OF-CELL STRUCTURED THERAPEUTIC
24 PROGRAMMING AND/OR MENTAL HEALTH TREATMENT OFFERED TO INMATES ON A DAILY
25 BASIS, EXCEPT ON WEEKENDS OR HOLIDAYS, MAY BE LIMITED TO ONLY TWO HOURS.
26 OUT-OF-CELL THERAPEUTIC PROGRAMMING AND/OR MENTAL HEALTH TREATMENT NEED
27 NOT BE PROVIDED TO AN INMATE FOR A BRIEF ORIENTATION PERIOD FOLLOWING
28 HIS OR HER ARRIVAL AT A RESIDENTIAL MENTAL HEALTH TREATMENT UNIT. THE
29 LENGTH OF SUCH ORIENTATION PERIOD SHALL BE DETERMINED BY A MENTAL HEALTH
30 CLINICIAN BUT IN NO EVENT SHALL BE LONGER THAN FIVE BUSINESS DAYS.

31 22. "MENTAL HEALTH CLINICIAN" MEANS A PSYCHIATRIST, PSYCHOLOGIST,
32 SOCIAL WORKER OR NURSE PRACTITIONER WHO IS LICENSED BY THE DEPARTMENT OF
33 EDUCATION AND EMPLOYED BY THE OFFICE OF MENTAL HEALTH.

34 23. "SEGREGATED CONFINEMENT" MEANS THE DISCIPLINARY CONFINEMENT OF AN
35 INMATE IN A SPECIAL HOUSING UNIT OR IN A SEPARATE KEEPLOCK HOUSING UNIT.
36 SPECIAL HOUSING UNITS AND SEPARATE KEEPLOCK UNITS ARE HOUSING UNITS THAT
37 CONSIST OF CELLS GROUPED SO AS TO PROVIDE SEPARATION FROM THE GENERAL
38 POPULATION, AND MAY BE USED TO HOUSE INMATES CONFINED PURSUANT TO THE
39 DISCIPLINARY PROCEDURES DESCRIBED IN REGULATIONS.

40 24. "JOINT CASE MANAGEMENT COMMITTEE" MEANS A COMMITTEE COMPOSED OF
41 STAFF FROM THE DEPARTMENT AND THE OFFICE OF MENTAL HEALTH. SUCH A
42 COMMITTEE SHALL BE ESTABLISHED AT EACH LEVEL ONE AND LEVEL TWO FACILITY.
43 EACH COMMITTEE SHALL CONSIST OF AT LEAST TWO CLINICAL STAFF OF THE
44 OFFICE OF MENTAL HEALTH AND TWO OFFICIALS OF THE DEPARTMENT. THE PURPOSE
45 OF SUCH COMMITTEE SHALL BE TO REVIEW, MONITOR AND COORDINATE THE BEHAV-
46 IOR AND TREATMENT PLAN OF ANY INMATE WHO IS PLACED IN SEGREGATED
47 CONFINEMENT OR A RESIDENTIAL MENTAL HEALTH TREATMENT UNIT AND WHO IS
48 RECEIVING SERVICES FROM THE OFFICE OF MENTAL HEALTH.

49 25. "JOINT CENTRAL OFFICE REVIEW COMMITTEE" MEANS A COMMITTEE
50 COMPRISED OF CENTRAL OFFICE PERSONNEL FROM THE DEPARTMENT AND THE OFFICE
51 OF MENTAL HEALTH AS DESIGNATED BY THE RESPECTIVE COMMISSIONERS.

52 26. "TREATMENT TEAM" MEANS A TEAM CONSISTING OF AN EQUAL NUMBER OF
53 INDIVIDUALS FROM THE DEPARTMENT AND THE OFFICE OF MENTAL HEALTH WHO ARE
54 ASSIGNED TO A RESIDENTIAL MENTAL HEALTH TREATMENT UNIT AND WHO WILL
55 REVIEW AND DETERMINE EACH INMATE'S APPROPRIATENESS FOR MOVEMENT THROUGH
56 THE VARIOUS PROGRAM PHASES, WHEN APPLICABLE. THE TREATMENT TEAM SHALL

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1 ALSO REVIEW, MONITOR AND COORDINATE THE TREATMENT PLANS FOR ALL INMATE
2 PARTICIPANTS.

3 27. "LEVEL ONE FACILITY" MEANS A CORRECTIONAL FACILITY AT WHICH STAFF

4 FROM THE OFFICE OF MENTAL HEALTH ARE ASSIGNED ON A FULL-TIME BASIS AND
5 ABLE TO PROVIDE TREATMENT TO INMATES WITH A MAJOR MENTAL DISORDER. THE
6 ARRAY OF AVAILABLE SPECIALIZED SERVICES INCLUDE: RESIDENTIAL CRISIS
7 TREATMENT, RESIDENTIAL DAY TREATMENT, MEDICATION MONITORING BY PSYCHIAT-
8 RIC NURSING STAFF, AND POTENTIAL COMMITMENT TO THE CENTRAL NEW YORK
9 PSYCHIATRIC CENTER.

10 28. "LEVEL TWO FACILITY" MEANS A CORRECTIONAL FACILITY AT WHICH STAFF
11 FROM THE OFFICE OF MENTAL HEALTH ARE ASSIGNED ON A FULL-TIME BASIS AND
12 ABLE TO PROVIDE TREATMENT TO INMATES WITH A MAJOR MENTAL DISORDER, BUT
13 SUCH DISORDER IS NOT AS ACUTE AS THAT OF INMATES WHO REQUIRE PLACEMENT
14 AT A LEVEL ONE FACILITY.

15 29. "LEVEL THREE FACILITY" MEANS A CORRECTIONAL FACILITY AT WHICH
16 STAFF FROM THE OFFICE OF MENTAL HEALTH ARE ASSIGNED ON A PART-TIME BASIS
17 AND ABLE TO PROVIDE TREATMENT AND MEDICATION TO INMATES WHO EITHER HAVE
18 A MODERATE MENTAL DISORDER, OR WHO ARE IN REMISSION FROM A DISORDER, AND
19 WHO ARE DETERMINED BY STAFF OF THE OFFICE OF MENTAL HEALTH TO BE ABLE TO
20 FUNCTION ADEQUATELY IN THE FACILITY WITH SUCH LEVEL OF STAFFING.

21 30. "LEVEL FOUR FACILITY" MEANS A CORRECTIONAL FACILITY AT WHICH STAFF
22 FROM THE OFFICE OF MENTAL HEALTH ARE ASSIGNED ON A PART-TIME BASIS AND
23 ABLE TO PROVIDE TREATMENT TO INMATES WHO MAY REQUIRE LIMITED INTER-
24 VENTION, EXCLUDING PSYCHIATRIC MEDICATIONS.

25 S 3. The opening paragraph of subdivision 6 of section 137 of the
26 correction law, as amended by chapter 490 of the laws of 1974, is
27 amended to read as follows:

28 {The} EXCEPT AS PROVIDED IN PARAGRAPHS (D) AND (E) OF THIS SUBDIVI-
29 SION, THE superintendent of a correctional facility may keep any inmate
30 confined in a cell or room, apart from the accommodations provided for
31 inmates who are participating in programs of the facility, for such
32 period as may be necessary for maintenance of order or discipline, but
33 in any such case the following conditions shall be observed:

34 S 4. Paragraph (d) of subdivision 6 of section 137 of the correction
35 law, as amended by chapter 490 of the laws of 1974, is relettered para-
36 graph (f) and amended and two new paragraphs (d) and (e) are added to
37 read as follows:

38 (D) (I) EXCEPT AS SET FORTH IN CLAUSE (E) OF SUBPARAGRAPH (II) OF THIS
39 PARAGRAPH, THE DEPARTMENT, IN CONSULTATION WITH MENTAL HEALTH CLINI-
40 CIANS, SHALL DIVERT OR REMOVE INMATES WITH SERIOUS MENTAL ILLNESS, AS
41 DEFINED IN PARAGRAPH (E) OF THIS SUBDIVISION, FROM SEGREGATED CONFINEMENT,
42 WHERE SUCH CONFINEMENT COULD POTENTIALLY BE FOR A PERIOD IN EXCESS
43 OF THIRTY DAYS, TO A RESIDENTIAL MENTAL HEALTH TREATMENT UNIT. NOTHING
44 IN THIS PARAGRAPH SHALL BE DEEMED TO PREVENT THE DISCIPLINARY PROCESS
45 FROM PROCEEDING IN ACCORDANCE WITH DEPARTMENT RULES AND REGULATIONS FOR
46 DISCIPLINARY HEARINGS.

47 (II) (A) UPON PLACEMENT OF AN INMATE INTO SEGREGATED CONFINEMENT AT A
48 LEVEL ONE OR LEVEL TWO FACILITY, A SUICIDE PREVENTION SCREENING INSTRU-
49 MENT SHALL BE ADMINISTERED BY STAFF FROM THE DEPARTMENT OR THE OFFICE OF
50 MENTAL HEALTH WHO HAS BEEN TRAINED FOR THAT PURPOSE. IF SUCH A SCREENING
51 INSTRUMENT REVEALS THAT THE INMATE IS AT RISK OF SUICIDE, A MENTAL
52 HEALTH CLINICIAN SHALL BE CONSULTED AND APPROPRIATE SAFETY PRECAUTIONS
53 SHALL BE TAKEN. ADDITIONALLY, WITHIN ONE BUSINESS DAY OF THE PLACEMENT
54 OF SUCH AN INMATE INTO SEGREGATED CONFINEMENT AT A LEVEL ONE OR LEVEL
55 TWO FACILITY, THE INMATE SHALL BE ASSESSED BY A MENTAL HEALTH CLINICIAN.

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1 (B) UPON PLACEMENT OF AN INMATE INTO SEGREGATED CONFINEMENT AT A LEVEL
2 THREE OR LEVEL FOUR FACILITY, A SUICIDE PREVENTION SCREENING INSTRUMENT

3 SHALL BE ADMINISTERED BY STAFF FROM THE DEPARTMENT OR THE OFFICE OF
4 MENTAL HEALTH WHO HAS BEEN TRAINED FOR THAT PURPOSE. IF SUCH A SCREENING
5 INSTRUMENT REVEALS THAT THE INMATE IS AT RISK OF SUICIDE, A MENTAL
6 HEALTH CLINICIAN SHALL BE CONSULTED AND APPROPRIATE SAFETY PRECAUTIONS
7 SHALL BE TAKEN. ALL INMATES PLACED IN SEGREGATED CONFINEMENT AT A LEVEL
8 THREE OR LEVEL FOUR FACILITY SHALL BE ASSESSED BY A MENTAL HEALTH CLINI-
9 CIAN, WITHIN FOURTEEN DAYS OF SUCH PLACEMENT INTO SEGREGATED CONFINEMENT.
10

11 (C) AT THE INITIAL ASSESSMENT, IF THE MENTAL HEALTH CLINICIAN FINDS
12 THAT AN INMATE SUFFERS FROM A SERIOUS MENTAL ILLNESS, A RECOMMENDATION
13 SHALL BE MADE WHETHER EXCEPTIONAL CIRCUMSTANCES, AS DESCRIBED IN CLAUSE
14 (E) OF THIS SUBPARAGRAPH, EXIST. IN A FACILITY WITH A JOINT CASE MANAGE-
15 MENT COMMITTEE, SUCH RECOMMENDATION SHALL BE MADE BY SUCH COMMITTEE. IN
16 A FACILITY WITHOUT A JOINT CASE MANAGEMENT COMMITTEE, THE RECOMMENDATION
17 SHALL BE MADE JOINTLY BY A COMMITTEE CONSISTING OF THE FACILITY'S HIGH-
18 EST RANKING MENTAL HEALTH CLINICIAN, THE DEPUTY SUPERINTENDENT FOR SECUR-
19 RITY, AND THE DEPUTY SUPERINTENDENT FOR PROGRAM SERVICES, OR THEIR
20 EQUIVALENTS. ANY SUCH RECOMMENDATION SHALL BE REVIEWED BY THE JOINT
21 CENTRAL OFFICE REVIEW COMMITTEE. THE ADMINISTRATIVE PROCESS DESCRIBED IN
22 THIS CLAUSE SHALL BE COMPLETED WITHIN FOURTEEN DAYS OF THE INITIAL
23 ASSESSMENT, AND IF THE RESULT OF SUCH PROCESS IS THAT THE INMATE SHOULD
24 BE REMOVED FROM SEGREGATED CONFINEMENT, SUCH REMOVAL SHALL OCCUR AS SOON
25 AS PRACTICABLE, BUT IN NO EVENT MORE THAN SEVENTY-TWO HOURS FROM THE
26 COMPLETION OF THE ADMINISTRATIVE PROCESS.

27 (D) IF AN INMATE WITH A SERIOUS MENTAL ILLNESS IS NOT DIVERTED OR
28 REMOVED TO A RESIDENTIAL MENTAL HEALTH TREATMENT UNIT, SUCH INMATE SHALL
29 BE REASSESSED BY A MENTAL HEALTH CLINICIAN WITHIN FOURTEEN DAYS OF THE
30 INITIAL ASSESSMENT AND AT LEAST ONCE EVERY FOURTEEN DAYS THEREAFTER.
31 AFTER EACH SUCH ADDITIONAL ASSESSMENT, A RECOMMENDATION AS TO WHETHER
32 SUCH INMATE SHOULD BE REMOVED FROM SEGREGATED CONFINEMENT SHALL BE MADE
33 AND REVIEWED ACCORDING TO THE PROCESS SET FORTH IN CLAUSE (C) OF THIS
34 SUBPARAGRAPH.

35 (E) A RECOMMENDATION OR DETERMINATION WHETHER TO REMOVE AN INMATE FROM
36 SEGREGATED CONFINEMENT SHALL TAKE INTO ACCOUNT THE ASSESSING MENTAL
37 HEALTH CLINICIANS' OPINIONS AS TO THE INMATE'S MENTAL CONDITION AND
38 TREATMENT NEEDS, AND SHALL ALSO TAKE INTO ACCOUNT ANY SAFETY AND SECURI-
39 TY CONCERNS THAT WOULD BE POSED BY THE INMATE'S REMOVAL, EVEN IF ADDI-
40 TIONAL RESTRICTIONS WERE PLACED ON THE INMATE'S ACCESS TO TREATMENT,
41 PROPERTY, SERVICES OR PRIVILEGES IN A RESIDENTIAL MENTAL HEALTH TREAT-
42 MENT UNIT. A RECOMMENDATION OR DETERMINATION SHALL DIRECT THE INMATE'S
43 REMOVAL FROM SEGREGATED CONFINEMENT EXCEPT IN THE FOLLOWING EXCEPTIONAL
44 CIRCUMSTANCES: (1) WHEN THE REVIEWER FINDS THAT REMOVAL WOULD POSE A
45 SUBSTANTIAL RISK TO THE SAFETY OF THE INMATE OR OTHER PERSONS, OR A
46 SUBSTANTIAL THREAT TO THE SECURITY OF THE FACILITY, EVEN IF ADDITIONAL
47 RESTRICTIONS WERE PLACED ON THE INMATE'S ACCESS TO TREATMENT, PROPERTY,
48 SERVICES OR PRIVILEGES IN A RESIDENTIAL MENTAL HEALTH TREATMENT UNIT; OR
49 (2) WHEN THE ASSESSING MENTAL HEALTH CLINICIAN DETERMINES THAT SUCH
50 PLACEMENT IS IN THE INMATE'S BEST INTERESTS BASED ON HIS OR HER MENTAL
51 CONDITION AND THAT REMOVING SUCH INMATE TO A RESIDENTIAL MENTAL HEALTH
52 TREATMENT UNIT WOULD BE DETRIMENTAL TO HIS OR HER MENTAL CONDITION. ANY
53 DETERMINATION NOT TO REMOVE AN INMATE WITH SERIOUS MENTAL ILLNESS FROM
54 SEGREGATED CONFINEMENT SHALL BE DOCUMENTED IN WRITING AND INCLUDE THE
55 REASONS FOR THE DETERMINATION.

1 (III) INMATES WITH SERIOUS MENTAL ILLNESS WHO ARE NOT DIVERTED OR

2 REMOVED FROM SEGREGATED CONFINEMENT SHALL BE OFFERED A HEIGHTENED LEVEL
3 OF CARE, INVOLVING A MINIMUM OF TWO HOURS EACH DAY, FIVE DAYS A WEEK, OF
4 OUT-OF-CELL THERAPEUTIC TREATMENT AND PROGRAMMING. THIS HEIGHTENED LEVEL
5 OF CARE SHALL NOT BE OFFERED ONLY IN THE FOLLOWING CIRCUMSTANCES:

6 (A) THE HEIGHTENED LEVEL OF CARE SHALL NOT APPLY WHEN AN INMATE WITH
7 SERIOUS MENTAL ILLNESS DOES NOT, IN THE REASONABLE JUDGMENT OF A MENTAL
8 HEALTH CLINICIAN, REQUIRE THE HEIGHTENED LEVEL OF CARE. SUCH DETERMI-
9 NATION SHALL BE DOCUMENTED WITH A WRITTEN STATEMENT OF THE BASIS OF SUCH
10 DETERMINATION AND SHALL BE REVIEWED BY THE CENTRAL NEW YORK PSYCHIATRIC
11 CENTER CLINICAL DIRECTOR OR HIS OR HER DESIGNEE. SUCH A DETERMINATION IS
12 SUBJECT TO CHANGE SHOULD THE INMATE'S CLINICAL STATUS CHANGE. SUCH
13 DETERMINATION SHALL BE REVIEWED AND DOCUMENTED BY A MENTAL HEALTH CLINI-
14 CIAN EVERY THIRTY DAYS, AND IN CONSULTATION WITH THE CENTRAL NEW YORK
15 PSYCHIATRIC CENTER CLINICAL DIRECTOR OR HIS OR HER DESIGNEE NOT LESS
16 THAN EVERY NINETY DAYS.

17 (B) THE HEIGHTENED LEVEL OF CARE SHALL NOT APPLY IN EXCEPTIONAL
18 CIRCUMSTANCES WHEN PROVIDING SUCH CARE WOULD CREATE AN UNACCEPTABLE RISK
19 TO THE SAFETY AND SECURITY OF INMATES OR STAFF. SUCH DETERMINATION SHALL
20 BE DOCUMENTED BY SECURITY PERSONNEL TOGETHER WITH THE BASIS OF SUCH
21 DETERMINATION AND SHALL BE REVIEWED BY THE FACILITY SUPERINTENDENT, IN
22 CONSULTATION WITH A MENTAL HEALTH CLINICIAN, NOT LESS THAN EVERY SEVEN
23 DAYS FOR AS LONG AS THE INMATE REMAINS IN SEGREGATED CONFINEMENT. THE
24 FACILITY SHALL ATTEMPT TO RESOLVE SUCH EXCEPTIONAL CIRCUMSTANCES SO THAT
25 THE HEIGHTENED LEVEL OF CARE MAY BE PROVIDED. IF SUCH EXCEPTIONAL
26 CIRCUMSTANCES REMAIN UNRESOLVED FOR THIRTY DAYS, THE MATTER SHALL BE
27 REFERRED TO THE JOINT CENTRAL OFFICE REVIEW COMMITTEE FOR REVIEW.

28 (IV) INMATES WITH SERIOUS MENTAL ILLNESS WHO ARE NOT DIVERTED OR
29 REMOVED FROM SEGREGATED CONFINEMENT SHALL NOT BE PLACED ON A RESTRICTED
30 DIET, UNLESS THERE HAS BEEN A WRITTEN DETERMINATION THAT THE RESTRICTED
31 DIET IS NECESSARY FOR REASONS OF SAFETY AND SECURITY. IF A RESTRICTED
32 DIET IS IMPOSED, IT SHALL BE LIMITED TO SEVEN DAYS, EXCEPT IN THE EXCEP-
33 TIONAL CIRCUMSTANCES WHERE THE JOINT CASE MANAGEMENT COMMITTEE DETER-
34 MINES THAT LIMITING THE RESTRICTED DIET TO SEVEN DAYS WOULD POSE AN
35 UNACCEPTABLE RISK TO THE SAFETY AND SECURITY OF INMATES OR STAFF. IN
36 SUCH CASE, THE NEED FOR A RESTRICTED DIET SHALL BE REASSESSED BY THE
37 JOINT CASE MANAGEMENT COMMITTEE EVERY SEVEN DAYS.

38 (V) ALL INMATES IN SEGREGATED CONFINEMENT IN A LEVEL ONE OR LEVEL TWO
39 FACILITY WHO ARE NOT ASSESSED WITH A SERIOUS MENTAL ILLNESS AT THE
40 INITIAL ASSESSMENT SHALL BE OFFERED AT LEAST ONE INTERVIEW WITH A MENTAL
41 HEALTH CLINICIAN WITHIN FOURTEEN DAYS OF THEIR INITIAL MENTAL HEALTH
42 ASSESSMENT, AND ADDITIONAL INTERVIEWS AT LEAST EVERY THIRTY DAYS THERE-
43 AFTER, UNLESS THE MENTAL HEALTH CLINICIAN AT THE MOST RECENT INTERVIEW
44 RECOMMENDS AN EARLIER INTERVIEW OR ASSESSMENT. ALL INMATES IN SEGRE-
45 GATED CONFINEMENT IN A LEVEL THREE OR LEVEL FOUR FACILITY WHO ARE NOT
46 ASSESSED WITH A SERIOUS MENTAL ILLNESS AT THE INITIAL ASSESSMENT SHALL
47 BE OFFERED AT LEAST ONE INTERVIEW WITH A MENTAL HEALTH CLINICIAN WITHIN
48 THIRTY DAYS OF THEIR INITIAL MENTAL HEALTH ASSESSMENT, AND ADDITIONAL
49 INTERVIEWS AT LEAST EVERY NINETY DAYS THEREAFTER, UNLESS THE MENTAL
50 HEALTH CLINICIAN AT THE MOST RECENT INTERVIEW RECOMMENDS AN EARLIER
51 INTERVIEW OR ASSESSMENT.

52 (E) AN INMATE HAS A SERIOUS MENTAL ILLNESS WHEN HE OR SHE HAS BEEN
53 DETERMINED BY A MENTAL HEALTH CLINICIAN TO MEET AT LEAST ONE OF THE
54 FOLLOWING CRITERIA:

55 (I) HE OR SHE HAS A CURRENT DIAGNOSIS OF, OR IS DIAGNOSED AT THE
56 INITIAL OR ANY SUBSEQUENT ASSESSMENT CONDUCTED DURING THE INMATE'S

1 SEGREGATED CONFINEMENT WITH, ONE OR MORE OF THE FOLLOWING TYPES OF AXIS
2 I DIAGNOSES, AS DESCRIBED IN THE MOST RECENT EDITION OF THE DIAGNOSTIC
3 AND STATISTICAL MANUAL OF MENTAL DISORDERS, AND SUCH DIAGNOSES SHALL BE
4 MADE BASED UPON ALL RELEVANT CLINICAL FACTORS, INCLUDING BUT NOT LIMITED
5 TO SYMPTOMS RELATED TO SUCH DIAGNOSES:

6 (A) SCHIZOPHRENIA (ALL SUB-TYPES),
7 (B) DELUSIONAL DISORDER,
8 (C) SCHIZOPHRENIFORM DISORDER,
9 (D) SCHIZOAFFECTIVE DISORDER,
10 (E) BRIEF PSYCHOTIC DISORDER,
11 (F) SUBSTANCE-INDUCED PSYCHOTIC DISORDER (EXCLUDING INTOXICATION AND
12 WITHDRAWAL),

13 (G) PSYCHOTIC DISORDER NOT OTHERWISE SPECIFIED,
14 (H) MAJOR DEPRESSIVE DISORDERS, OR
15 (I) BIPOLAR DISORDER I AND II;
16 (II) HE OR SHE IS ACTIVELY SUICIDAL OR HAS ENGAGED IN A RECENT, SERI-
17 OUS SUICIDE ATTEMPT;

18 (III) HE OR SHE HAS BEEN DIAGNOSED WITH A MENTAL CONDITION THAT IS
19 FREQUENTLY CHARACTERIZED BY BREAKS WITH REALITY, OR PERCEPTIONS OF REAL-
20 ITY, THAT LEAD THE INDIVIDUAL TO EXPERIENCE SIGNIFICANT FUNCTIONAL
21 IMPAIRMENT INVOLVING ACTS OF SELF-HARM OR OTHER BEHAVIOR THAT HAVE A
22 SERIOUSLY ADVERSE EFFECT ON LIFE OR ON MENTAL OR PHYSICAL HEALTH;

23 (IV) HE OR SHE HAS BEEN DIAGNOSED WITH AN ORGANIC BRAIN SYNDROME THAT
24 RESULTS IN A SIGNIFICANT FUNCTIONAL IMPAIRMENT INVOLVING ACTS OF
25 SELF-HARM OR OTHER BEHAVIOR THAT HAVE A SERIOUSLY ADVERSE EFFECT ON LIFE
26 OR ON MENTAL OR PHYSICAL HEALTH;

27 (V) HE OR SHE HAS BEEN DIAGNOSED WITH A SEVERE PERSONALITY DISORDER
28 THAT IS MANIFESTED BY FREQUENT EPISODES OF PSYCHOSIS OR DEPRESSION, AND
29 RESULTS IN A SIGNIFICANT FUNCTIONAL IMPAIRMENT INVOLVING ACTS OF
30 SELF-HARM OR OTHER BEHAVIOR THAT HAVE A SERIOUSLY ADVERSE EFFECT ON LIFE
31 OR ON MENTAL OR PHYSICAL HEALTH; OR

32 (VI) HE OR SHE HAS BEEN DETERMINED BY A MENTAL HEALTH CLINICIAN TO
33 HAVE OTHERWISE SUBSTANTIALLY DETERIORATED MENTALLY OR EMOTIONALLY WHILE
34 CONFINED IN SEGREGATED CONFINEMENT AND IS EXPERIENCING SIGNIFICANT FUNC-
35 TIONAL IMPAIRMENT INDICATING A DIAGNOSIS OF SERIOUS MENTAL ILLNESS AND
36 INVOLVING ACTS OF SELF-HARM OR OTHER BEHAVIOR THAT HAVE A SERIOUS
37 ADVERSE EFFECT ON LIFE OR ON MENTAL OR PHYSICAL HEALTH.

38 (f) The superintendent shall make a full report to the commissioner at
39 least once a week concerning the condition of such inmate and shall
40 forthwith report to the commissioner any recommendation relative to
41 health maintenance or health care delivery made by the facility health
42 services director AND ANY RECOMMENDATION RELATIVE TO MENTAL HEALTH
43 TREATMENT OR CONFINEMENT OF AN INMATE WITH A SERIOUS MENTAL ILLNESS MADE
44 BY THE MENTAL HEALTH CLINICIAN PURSUANT TO PARAGRAPHS (D) AND (E) OF
45 THIS SUBDIVISION that is not endorsed or carried out, as the case may
46 be, by the superintendent.

47 S 5. Section 401 of the correction law, as added by chapter 766 of the
48 laws of 1976, is amended to read as follows:

49 S 401. Establishment of programs inside correctional facilities. 1.
50 The commissioner, in cooperation with the commissioner of mental
51 {hygiene} HEALTH, shall establish programs, INCLUDING BUT NOT LIMITED TO
52 RESIDENTIAL MENTAL HEALTH TREATMENT UNITS, in such correctional facili-
53 ties as he OR SHE may deem appropriate for the treatment of mentally ill
54 inmates confined in state correctional facilities who are in need of
55 psychiatric services but who do not require hospitalization for the
56 treatment of mental illness. INMATES WITH SERIOUS MENTAL ILLNESS SHALL

1 RECEIVE THERAPY AND PROGRAMMING IN SETTINGS THAT ARE APPROPRIATE TO
2 THEIR CLINICAL NEEDS WHILE MAINTAINING THE SAFETY AND SECURITY OF THE
3 FACILITY. The administration and operation of programs established
4 pursuant to this section shall be the JOINT responsibility of the
5 commissioner of mental {hygiene} HEALTH AND THE COMMISSIONER. The
6 professional MENTAL health care personnel, AND THEIR ADMINISTRATIVE AND
7 SUPPORT STAFF, for such programs shall be employees of the {department
8 of mental hygiene} OFFICE OF MENTAL HEALTH. All other personnel shall be
9 employees of the department.

10 2. (A) (I) IN EXCEPTIONAL CIRCUMSTANCES, A MENTAL HEALTH CLINICIAN, OR
11 THE HIGHEST RANKING FACILITY SECURITY SUPERVISOR IN CONSULTATION WITH A
12 MENTAL HEALTH CLINICIAN WHO HAS INTERVIEWED THE INMATE, MAY DETERMINE
13 THAT AN INMATE`S ACCESS TO OUT-OF-CELL THERAPEUTIC PROGRAMMING AND/OR
14 MENTAL HEALTH TREATMENT IN A RESIDENTIAL MENTAL HEALTH TREATMENT UNIT
15 PRESENTS AN UNACCEPTABLE RISK TO THE SAFETY OF INMATES OR STAFF. SUCH
16 DETERMINATION SHALL BE DOCUMENTED IN WRITING AND ALTERNATIVE MENTAL
17 HEALTH TREATMENT AND/OR OTHER THERAPEUTIC PROGRAMMING, AS DETERMINED BY
18 A MENTAL HEALTH CLINICIAN, SHALL BE PROVIDED.

19 (II) ANY DETERMINATION TO RESTRICT OUT-OF-CELL THERAPEUTIC PROGRAMMING
20 AND/OR MENTAL HEALTH TREATMENT SHALL BE REVIEWED AT LEAST EVERY FOURTEEN
21 DAYS BY THE JOINT CASE MANAGEMENT COMMITTEE OR, IF NO SUCH COMMITTEE IS
22 AVAILABLE, BY THE TREATMENT TEAM ASSIGNED TO THE INMATE`S RESIDENTIAL
23 MENTAL HEALTH TREATMENT UNIT.

24 (III) THE DETERMINATION WHETHER TO RESTRICT OUT-OF-CELL THERAPEUTIC
25 PROGRAMMING AND/OR MENTAL HEALTH TREATMENT SHALL TAKE INTO ACCOUNT THE
26 INMATE`S MENTAL CONDITION AND ANY SAFETY AND SECURITY CONCERNS THAT
27 WOULD BE POSED BY THE INMATE`S ACCESS TO SUCH OUT-OF-CELL THERAPEUTIC
28 PROGRAMMING. THE JOINT CASE MANAGEMENT COMMITTEE OR TREATMENT TEAM SHALL
29 RECOMMEND THAT THE INMATE SHALL HAVE ACCESS TO OUT-OF-CELL THERAPEUTIC
30 PROGRAMMING AND/OR MENTAL HEALTH TREATMENT UNLESS IN EXCEPTIONAL CIRCUM-
31 STANCES SUCH ACCESS WOULD POSE AN UNACCEPTABLE RISK TO THE SAFETY OF THE
32 INMATE OR OTHER PERSONS. SUCH RECOMMENDATION SHALL BE REVIEWED BY THE
33 FACILITY SUPERINTENDENT, AND IF THE SUPERINTENDENT MAKES A DETERMINATION
34 NOT TO ACCEPT SUCH RECOMMENDATION, THE MATTER SHALL BE REFERRED TO THE
35 JOINT CENTRAL OFFICE REVIEW COMMITTEE FOR RESOLUTION. SUCH RESOLUTION
36 SHALL BE MADE NO LATER THAN TWENTY-ONE DAYS AFTER THE IMPOSITION OF THE
37 RESTRICTION.

38 (B) INMATES IN A RESIDENTIAL MENTAL HEALTH TREATMENT UNIT SHALL
39 RECEIVE PROPERTY, SERVICES AND PRIVILEGES SIMILAR TO INMATES CONFINED IN
40 THE GENERAL PRISON POPULATION, PROVIDED HOWEVER, THE DEPARTMENT MAY
41 IMPOSE GENERAL LIMITATIONS ON THE QUANTITY AND TYPE OF PROPERTY ALL
42 INMATES ON THE UNIT ARE PERMITTED TO HAVE IN THEIR CELLS AND INMATE
43 ACCESS TO PROGRAMS THAT ARE MORE RESTRICTIVE THAN FOR GENERAL POPULATION
44 INMATES IN ORDER TO MAINTAIN SECURITY AND ORDER ON THE UNIT. FURTHER, IN
45 CONSULTATION WITH A MENTAL HEALTH CLINICIAN, THE DEPARTMENT MAY MAKE AN
46 INDIVIDUAL DETERMINATION TO IMPOSE RESTRICTIONS ON PROPERTY, SERVICES OR
47 PRIVILEGES FOR AN INMATE ON THE UNIT FOR THERAPEUTIC AND/OR SECURITY
48 REASONS WHICH ARE NOT INCONSISTENT WITH THE INMATE`S MENTAL HEALTH
49 NEEDS. IF ANY SUCH RESTRICTIONS ON PROPERTY, SERVICES OR PRIVILEGES ARE
50 IMPOSED ON A PARTICULAR INMATE, THEY SHALL BE DOCUMENTED IN WRITING AND
51 SHALL BE REVIEWED BY THE JOINT CASE MANAGEMENT COMMITTEE NOT LESS THAN
52 EVERY THIRTY DAYS. A DISCIPLINARY SANCTION OF RESTRICTED DIET SHALL NOT
53 BE IMPOSED ON ANY INMATE WHO IS HOUSED IN A RESIDENTIAL MENTAL HEALTH
54 TREATMENT UNIT.

55 3. MISBEHAVIOR REPORTS WILL NOT BE ISSUED TO INMATES WITH SERIOUS
56 MENTAL ILLNESS FOR REFUSING TREATMENT OR MEDICATION, HOWEVER, AN INMATE

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1 MAY BE SUBJECT TO THE DISCIPLINARY PROCESS FOR REFUSING TO GO TO THE
2 LOCATION WHERE TREATMENT IS PROVIDED OR MEDICATION IS DISPENSED. IN
3 ADDITION, THERE WILL BE A PRESUMPTION AGAINST IMPOSITION AND PURSUIT OF
4 DISCIPLINARY CHARGES FOR SELF-HARMING BEHAVIOR AND THREATS OF SELF-HARM-
5 ING BEHAVIOR, INCLUDING RELATED CHARGES FOR THE SAME BEHAVIORS, SUCH AS
6 DESTRUCTION OF STATE PROPERTY, EXCEPT IN EXCEPTIONAL CIRCUMSTANCES.

7 4. A DISCIPLINARY SANCTION IMPOSED ON AN INMATE REQUIRING CONFINEMENT
8 TO A CELL OR ROOM SHALL CONTINUE TO RUN WHILE THE INMATE IS PLACED IN
9 RESIDENTIAL MENTAL HEALTH TREATMENT IN A RESIDENTIAL MENTAL HEALTH UNIT
10 MODEL OR A BEHAVIORAL HEALTH UNIT MODEL. SUCH DISCIPLINARY SANCTION
11 SHALL BE REVIEWED BY THE JOINT CASE MANAGEMENT COMMITTEE OR, IF NO SUCH
12 COMMITTEE IS AVAILABLE, BY THE TREATMENT TEAM ASSIGNED TO THE INMATE'S
13 RESIDENTIAL MENTAL HEALTH TREATMENT UNIT AT LEAST ONCE EVERY THREE
14 MONTHS TO DETERMINE WHETHER BASED UPON THE INMATE'S MENTAL HEALTH STATUS
15 AND SAFETY AND SECURITY CONCERNS, THE INMATE'S DISCIPLINARY SANCTION
16 SHOULD BE REDUCED AND/OR THE INMATE SHOULD BE TRANSFERRED TO A LESS
17 RESTRICTIVE SETTING. NOTHING IN THIS SUBDIVISION SHALL BE DEEMED TO
18 PRECLUDE THE DEPARTMENT FROM GRANTING REDUCTIONS OF DISCIPLINARY SANC-
19 TIONS TO INMATES IN OTHER RESIDENTIAL MENTAL HEALTH TREATMENT UNIT
20 MODELS.

21 5. (A) AN INMATE IN A RESIDENTIAL MENTAL HEALTH TREATMENT UNIT SHALL
22 NOT BE SANCTIONED WITH SEGREGATED CONFINEMENT FOR MISCONDUCT ON THE
23 UNIT, OR REMOVED FROM THE UNIT AND PLACED IN SEGREGATED CONFINEMENT,
24 EXCEPT IN EXCEPTIONAL CIRCUMSTANCES WHERE SUCH INMATE'S CONDUCT POSES A
25 SIGNIFICANT AND UNREASONABLE RISK TO THE SAFETY OF INMATES OR STAFF, OR
26 TO THE SECURITY OF THE FACILITY. FURTHER, IN THE EVENT THAT SUCH A
27 SANCTION IS IMPOSED, AN INMATE SHALL NOT BE REQUIRED TO BEGIN SERVING
28 SUCH SANCTION UNTIL THE REVIEWS REQUIRED BY PARAGRAPH (B) OF THIS SUBDI-
29 VISION HAVE BEEN COMPLETED; PROVIDED, HOWEVER THAT IN EXTRAORDINARY
30 CIRCUMSTANCES WHERE AN INMATE'S CONDUCT POSES AN IMMEDIATE UNACCEPTABLE
31 THREAT TO THE SAFETY OF INMATES OR STAFF, OR TO THE SECURITY OF THE
32 FACILITY AN INMATE MAY BE IMMEDIATELY MOVED TO SEGREGATED CONFINEMENT.
33 THE DETERMINATION THAT AN IMMEDIATE TRANSFER TO SEGREGATED CONFINEMENT
34 IS NECESSARY SHALL BE MADE BY THE HIGHEST RANKING FACILITY SECURITY
35 SUPERVISOR IN CONSULTATION WITH A MENTAL HEALTH CLINICIAN.

36 (B) THE JOINT CASE MANAGEMENT COMMITTEE SHALL REVIEW ANY DISCIPLINARY
37 DISPOSITION IMPOSING A SANCTION OF SEGREGATED CONFINEMENT AT ITS NEXT
38 SCHEDULED MEETING. SUCH REVIEW SHALL TAKE INTO ACCOUNT THE INMATE'S
39 MENTAL CONDITION AND SAFETY AND SECURITY CONCERNS. THE JOINT CASE
40 MANAGEMENT COMMITTEE MAY ONLY THEREAFTER RECOMMEND THE REMOVAL OF THE
41 INMATE IN EXCEPTIONAL CIRCUMSTANCES WHERE THE INMATE POSES A SIGNIFICANT
42 AND UNREASONABLE RISK TO THE SAFETY OF INMATES OR STAFF OR TO THE SECU-
43 RITY OF THE FACILITY. IN THE EVENT THAT THE INMATE WAS IMMEDIATELY MOVED
44 TO SEGREGATED CONFINEMENT, THE JOINT CASE MANAGEMENT COMMITTEE MAY
45 RECOMMEND THAT THE INMATE CONTINUE TO SERVE SUCH SANCTION ONLY IN EXCEP-
46 TIONAL CIRCUMSTANCES WHERE THE INMATE POSES A SIGNIFICANT AND UNREASON-
47 ABLE RISK TO THE SAFETY OF INMATES OR STAFF OR TO THE SECURITY OF THE
48 FACILITY. IF A DETERMINATION IS MADE THAT THE INMATE SHALL NOT BE
49 REQUIRED TO SERVE ALL OR ANY PART OF THE SEGREGATED CONFINEMENT SANC-
50 TION, THE JOINT CASE MANAGEMENT COMMITTEE MAY INSTEAD RECOMMEND THAT A
51 LESS RESTRICTIVE SANCTION SHOULD BE IMPOSED. THE RECOMMENDATIONS MADE
52 BY THE JOINT CASE MANAGEMENT COMMITTEE UNDER THIS PARAGRAPH SHALL BE

53 DOCUMENTED IN WRITING AND REFERRED TO THE SUPERINTENDENT FOR REVIEW AND
54 IF THE SUPERINTENDENT DISAGREES, THE MATTER SHALL BE REFERRED TO THE
55 JOINT CENTRAL OFFICE REVIEW COMMITTEE FOR A FINAL DETERMINATION. THE
56 ADMINISTRATIVE PROCESS DESCRIBED IN THIS PARAGRAPH SHALL BE COMPLETED

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1 WITHIN FOURTEEN DAYS. IF THE RESULT OF SUCH PROCESS IS THAT AN INMATE
2 WHO WAS IMMEDIATELY TRANSFERRED TO SEGREGATED CONFINEMENT SHOULD BE
3 REMOVED FROM SEGREGATED CONFINEMENT, SUCH REMOVAL SHALL OCCUR AS SOON AS
4 PRACTICABLE, AND IN NO EVENT LONGER THAN SEVENTY-TWO HOURS FROM THE
5 COMPLETION OF THE ADMINISTRATIVE PROCESS.

6 6. THE DEPARTMENT SHALL ENSURE THAT THE CURRICULUM FOR NEW CORRECTION
7 OFFICERS, AND OTHER NEW DEPARTMENT STAFF WHO WILL REGULARLY WORK IN
8 PROGRAMS PROVIDING MENTAL HEALTH TREATMENT FOR INMATES, SHALL INCLUDE AT
9 LEAST EIGHT HOURS OF TRAINING ABOUT THE TYPES AND SYMPTOMS OF MENTAL
10 ILLNESSES, THE GOALS OF MENTAL HEALTH TREATMENT, THE PREVENTION OF
11 SUICIDE AND TRAINING IN HOW TO EFFECTIVELY AND SAFELY MANAGE INMATES
12 WITH MENTAL ILLNESS. SUCH TRAINING MAY BE PROVIDED BY THE OFFICE OF
13 MENTAL HEALTH OR THE NEW YORK STATE COMMISSION ON QUALITY OF CARE AND
14 ADVOCACY FOR PERSONS WITH DISABILITIES. ALL DEPARTMENT STAFF WHO ARE
15 TRANSFERRING INTO A RESIDENTIAL MENTAL HEALTH TREATMENT UNIT SHALL
16 RECEIVE A MINIMUM OF EIGHT ADDITIONAL HOURS OF SUCH TRAINING, AND EIGHT
17 HOURS OF ANNUAL TRAINING AS LONG AS THEY WORK IN SUCH A UNIT. THE
18 DEPARTMENT SHALL PROVIDE ADDITIONAL TRAINING ON THESE TOPICS ON AN ONGO-
19 ING BASIS AS IT DEEMS APPROPRIATE.

20 S 6. The correction law is amended by adding a new section 401-a to
21 read as follows:

22 S 401-A. OVERSIGHT RESPONSIBILITIES OF THE NEW YORK STATE COMMISSION
23 ON QUALITY OF CARE AND ADVOCACY FOR PERSONS WITH DISABILITIES. 1. THE
24 NEW YORK STATE COMMISSION ON QUALITY OF CARE AND ADVOCACY FOR PERSONS
25 WITH DISABILITIES ("COMMISSION") SHALL BE RESPONSIBLE FOR MONITORING THE
26 QUALITY OF MENTAL HEALTH CARE PROVIDED TO INMATES PURSUANT TO ARTICLE
27 FORTY-FIVE OF THE MENTAL HYGIENE LAW. THE COMMISSION SHALL HAVE DIRECT
28 AND IMMEDIATE ACCESS TO ALL AREAS WHERE STATE PRISONERS ARE HOUSED, AND
29 TO CLINICAL AND DEPARTMENT RECORDS RELATING TO INMATES' CLINICAL CONDI-
30 TIONS. THE COMMISSION SHALL MAINTAIN THE CONFIDENTIALITY OF ALL
31 PATIENT-SPECIFIC INFORMATION.

32 2. THE COMMISSION SHALL MONITOR THE QUALITY OF CARE IN RESIDENTIAL
33 MENTAL HEALTH TREATMENT PROGRAMS AND SHALL ENSURE COMPLIANCE WITH PARA-
34 GRAPHS (D) AND (E) OF SUBDIVISION SIX OF SECTION ONE HUNDRED THIRTY-SEV-
35 EN OF THIS CHAPTER AND SECTION FOUR HUNDRED ONE OF THIS ARTICLE. THE
36 COMMISSION MAY RECOMMEND TO THE DEPARTMENT AND THE OFFICE OF MENTAL
37 HEALTH THAT INMATES IN SEGREGATED CONFINEMENT PURSUANT TO SUBDIVISION
38 SIX OF SECTION ONE HUNDRED THIRTY-SEVEN OF THIS CHAPTER BE EVALUATED FOR
39 PLACEMENT IN A RESIDENTIAL MENTAL HEALTH TREATMENT UNIT. IT MAY ALSO
40 RECOMMEND WAYS TO FURTHER THE GOAL OF DIVERTING AND REMOVING INMATES
41 WITH SERIOUS MENTAL ILLNESS FROM SEGREGATED CONFINEMENT TO RESIDENTIAL
42 MENTAL HEALTH TREATMENT UNITS. THE COMMISSION SHALL INCLUDE IN ITS ANNU-
43 AL REPORT TO THE GOVERNOR AND THE LEGISLATURE PURSUANT TO SUBDIVISION
44 (G) OF SECTION 45.07 OF THE MENTAL HYGIENE LAW, A DESCRIPTION OF THE
45 STATE'S PROGRESS IN COMPLYING WITH THIS ARTICLE, WHICH SHALL BE PUBLICLY
46 AVAILABLE.

47 3. THE COMMISSION SHALL APPOINT AN ADVISORY COMMITTEE ON PSYCHIATRIC
48 CORRECTIONAL CARE ("COMMITTEE"), WHICH SHALL BE COMPOSED OF INDEPENDENT
49 MENTAL HEALTH EXPERTS AND MENTAL HEALTH ADVOCATES, AND MAY INCLUDE FAMI-
50 LY MEMBERS OF FORMER INMATES WITH SERIOUS MENTAL ILLNESS. SUCH COMMITTEE

51 SHALL ADVISE THE COMMISSION ON ITS OVERSIGHT RESPONSIBILITIES PURSUANT
52 TO THIS SECTION AND ARTICLE FORTY-FIVE OF THE MENTAL HYGIENE LAW. THE
53 COMMITTEE MAY ALSO MAKE RECOMMENDATIONS TO THE COMMISSION REGARDING
54 IMPROVEMENTS TO PRISON-BASED MENTAL HEALTH CARE. NOTHING IN THIS SUBDI-
55 VISION SHALL BE DEEMED TO AUTHORIZE MEMBERS OF THE COMMITTEE TO HAVE
56 ACCESS TO A CORRECTIONAL OR MENTAL HYGIENE FACILITY OR ANY PART OF SUCH

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1 A FACILITY. PROVIDED, HOWEVER, NEWLY APPOINTED MEMBERS OF THE ADVISORY
2 COMMITTEE SHALL BE PROVIDED WITH A TOUR OF A SEGREGATED CONFINEMENT UNIT
3 AND A RESIDENTIAL MENTAL HEALTH TREATMENT UNIT, AS SELECTED BY THE
4 COMMISSIONER. ANY SUCH TOUR SHALL BE ARRANGED ON A DATE AND AT A TIME
5 SELECTED BY THE COMMISSIONER AND UPON SUCH TERMS AND CONDITIONS AS ARE
6 WITHIN THE SOLE DISCRETION OF THE COMMISSIONER.

7 S 7. Section 45.07 of the mental hygiene law is amended by adding a
8 new subdivision (z) to read as follows:

9 (Z) MONITOR AND MAKE RECOMMENDATIONS REGARDING THE QUALITY OF CARE
10 PROVIDED TO INMATES WITH SERIOUS MENTAL ILLNESS, INCLUDING THOSE WHO ARE
11 IN A RESIDENTIAL MENTAL HEALTH TREATMENT UNIT OR SEGREGATED CONFINEMENT
12 IN FACILITIES OPERATED BY THE DEPARTMENT OF CORRECTIONAL SERVICES, AND
13 OVERSEE COMPLIANCE WITH PARAGRAPHS (D) AND (E) OF SUBDIVISION SIX OF
14 SECTION ONE HUNDRED THIRTY-SEVEN, AND SECTION FOUR HUNDRED ONE, OF THE
15 CORRECTION LAW. SUCH RESPONSIBILITIES SHALL BE CARRIED OUT IN ACCORDANCE
16 WITH SECTION FOUR HUNDRED ONE-A OF THE CORRECTION LAW.

17 S 8. This act shall take effect immediately; provided however, that:

18 (a) sections one, two, three, four and five of this act and subdivi-
19 sions 2 and 3 of section 401-a of the correction law as added by section
20 six of this act shall take effect two years after the date that the
21 commissioner of correctional services certifies to the legislative bill
22 drafting commission that the first residential mental health unit
23 constructed by the department of correctional services is completed and
24 ready to receive inmates, provided, however that such sections shall
25 take effect no later than July 1, 2011;

26 (b) sections six and seven of this act shall take effect July 1, 2008;
27 and

28 (c) the commissioner of mental health and the commissioner of correc-
29 tional services are immediately authorized to promulgate rules and regu-
30 lations necessary to implement the provisions of this act on their
31 respective effective dates.