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I N S E N A T E

March 5, 2012

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

AN ACT to amend the correction law, in relation to adequate staffing at correctional facilities

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

1 Section 1. Section 112 of the correction law, as amended by section 19
2 of subpart A of part C of chapter 62 of the laws of 2011, is amended to
3 read as follows:
4 S 112. Powers and duties of commissioner relating to correctional
5 facilities and community supervision. 1. The commissioner [of
6 corrections and community supervision] shall have the superintendence,
7 management and control of the correctional facilities in the department
8 and of the inmates confined therein, and of all matters relating to the
9 government, discipline, policing, contracts and fiscal concerns thereof.
10 HE OR SHE SHALL HAVE THE RESPONSIBILITY TO ENSURE THAT ADEQUATE STAFFING
11 EXISTS AT EVERY CORRECTIONAL FACILITY PURSUANT TO SUBDIVISION TWO OF
12 THIS SECTION. He or she shall have the power and it shall be his or her
13 duty to inquire into all matters connected with said correctional facil-
14 ities. He or she shall make such rules and regulations, not in conflict
15 with the statutes of this state, for the government of the officers and
16 other employees of the department assigned to said facilities, and in
17 regard to the duties to be performed by them, and for the government and
18 discipline of each correctional facility, as he or she may deem proper,
19 and shall cause such rules and regulations to be recorded by the super-
20 intendent of the facility, and a copy thereof to be furnished to each
21 employee assigned to the facility. He or she shall also prescribe a
22 system of accounts and records to be kept at each correctional facility,
23 which system shall be uniform at all of said facilities, and he or she
24 shall also make rules and regulations for a record of photographs and
25 other means of identifying each inmate received into said facilities. He
26 or she shall appoint and remove, subject to the civil service law and

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

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1 rules, subordinate officers and other employees of the department who
2 are assigned to correctional facilities.

3 1-A. THE COMMISSIONER SHALL ESTABLISH A STAFFING PLAN FOR ALL
4 UNIFORMED AND NON-UNIFORMED EMPLOYEES. WITH REGARD TO UNIFORMED STAFF,
5 THE COMMISSIONER SHALL ESTABLISH A STAFFING PLAN WHICH SHALL INCLUDE,
6 BUT NOT BE LIMITED TO, THE FOLLOWING FACTORS:

7 (A) THE NUMBER OF TOTAL SECURITY POSTS THAT MUST BE STAFFED BY
8 CORRECTION OFFICERS AND CORRECTIONAL SERGEANTS BY CORRECTIONAL FACILITY.
9 THESE POSTS SHALL BE DELINEATED BY THOSE THAT ARE NECESSARY FIVE DAYS
10 PER WEEK AND SEVEN DAYS PER WEEK.

11 (B) THE STAFFING PLAN SHALL REQUIRE THAT EVERY POST BE STAFFED USING A
12 RATIO OF 1.75 CORRECTION OFFICERS FOR EVERY SEVEN DAY POST AND A RATIO
13 OF 1.25 CORRECTION OFFICERS FOR EACH FIVE DAY POST.

14 (C) THE COMMISSIONER SHALL PROVIDE A COPY OF SUCH STAFFING PLAN TO THE
15 CHAIRS OF THE SENATE FINANCE, SENATE CRIME VICTIMS, CRIME AND
16 CORRECTION, ASSEMBLY WAYS AND MEANS AND ASSEMBLY CORRECTION COMMITTEES
17 BY DECEMBER THIRTY-FIRST OF EACH YEAR. SUCH REPORT SHALL ALSO PROVIDE
18 DETAILED INFORMATION REGARDING HOW THE STAFFING PLAN WAS IMPLEMENTED
19 DURING THE CURRENT FISCAL YEAR. THIS INFORMATION SHALL INCLUDE:

20 (I) THE NUMBER OF CORRECTION OFFICERS AND SERGEANTS BY CORRECTIONAL
21 FACILITY THAT THE STAFFING PLAN REQUIRED AS WELL AS THE ACTUAL NUMBER OF
22 CORRECTION OFFICERS AND SERGEANTS THAT WERE AVAILABLE BY CORRECTIONAL
23 FACILITY DURING THE CURRENT FISCAL YEAR. IN THE EVENT THE DEPARTMENT
24 DEVIATED FROM THE STAFFING PLAN, THE COMMISSIONER SHALL PROVIDE DETAILS
25 ON WHY THE STAFFING PLAN WAS NOT IMPLEMENTED AS REQUIRED PURSUANT TO
26 THIS SECTION;

27 (II) THE NUMBER OF POSTS INCLUDED IN THE STAFFING PLAN FOR EACH FACIL-
28 ITY THAT HAVE BEEN CLOSED ON A DAILY BASIS, BY CORRECTIONAL FACILITY
29 SECURITY CLASSIFICATION (MINIMUM, MEDIUM AND MAXIMUM);

30 (III) THE NUMBER OF SECURITY POSITIONS NOT FILLED AND THOSE ELIMI-
31 NATED, BY CORRECTIONAL FACILITY SINCE TWO THOUSAND ONE COMPARED TO THE
32 NUMBER OF INMATES INCARCERATED IN EACH SUCH FACILITY; AND

33 (IV) A BREAKDOWN BY CORRECTIONAL FACILITY SECURITY CLASSIFICATION
34 (MINIMUM, MEDIUM, AND MAXIMUM) OF THE STAFF HOURS OF OVERTIME WORKED, BY
35 YEAR SINCE TWO THOUSAND ONE AND THE ANNUAL AGGREGATE COSTS RELATED TO
36 THIS OVERTIME. IN ADDITION, SUCH REPORT SHALL BE DELINEATED BY CORREC-
37 TIONAL FACILITY SECURITY CLASSIFICATION, THE ANNUAL NUMBER OF SECURITY
38 POSITIONS ELIMINATED, THE NUMBER OF CLOSED POSTS AND AMOUNT OF STAFF
39 HOURS OF OVERTIME ACCRUED AS WELL AS THE OVERALL OVERTIME EXPENDITURES
40 THAT RESULTED.

41 2. The commissioner shall have the management and control of persons
42 released on community supervision and of all matters relating to such
43 persons' effective reentry into the community, as well as all contracts
44 and fiscal concerns thereof. The commissioner shall have the power and
45 it shall be his or her duty to inquire into all matters connected with
46 said community supervision. The commissioner shall make such rules and
47 regulations, not in conflict with the statutes of this state, for the
48 governance of the officers and other employees of the department
49 assigned to said community supervision, and in regard to the duties to
50 be performed by them, as he or she deems proper and shall cause such
51 rules and regulations to be furnished to each employee assigned to
52 perform community supervision. The commissioner shall also prescribe a
53 system of accounts and records to be kept, which shall be uniform. The
54 commissioner shall also make rules and regulations for a record of
55 photographs and other means of identifying each inmate released to
56 community supervision. The commissioner shall appoint officers and other

1 employees of the department who are assigned to perform community super-
2 vision.

3 3. The commissioner may require reports from the superintendent or any
4 other officer or employee of the department assigned to any correctional
5 facility or to perform community supervision in relation to his or her
6 conduct as such officer or employee, and shall have the power to inquire
7 into any improper conduct which may be alleged to have been committed by
8 any person at any correctional facility or in the course of his or her
9 performance of community supervision, and for that purpose to issue
10 subpoenas to compel the attendance of witnesses, and the production
11 before him or her of books, writings and papers. A subpoena issued under
12 this section shall be regulated by the civil practice law and rules.

13 4. The commissioner and the chair of the parole board shall work
14 jointly to develop and implement, as soon as practicable, a risk and
15 needs assessment instrument or instruments, which shall be empirically
16 validated, that would be administered to inmates upon reception into a
17 correctional facility, and throughout their incarceration and release to
18 community supervision, to facilitate appropriate programming both during
19 an inmate's incarceration and community supervision, and designed to
20 facilitate the successful integration of inmates into the community.

21 S 2. This act shall take effect immediately; provided, however, that
22 effective immediately, the addition, amendment and/or repeal of any rule
23 or regulation necessary for the implementation of this act on its effec-
24 tive date is authorized and directed to be made and completed on or
25 before such effective date.