S T A T E O F N E W Y O R K

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I N A S S E M B L Y

June 3, 2010

Introduced by COMMITTEE ON RULES -- (at request of M. of A. Aubry, Wright, Benjamin, Gibson, Barron, Peoples-Stokes, Duprey, Finch, Giglio, Gottfried, Lupardo, McEneny, Millman, Molinaro, Reilly, Sayward, Schimel, Stirpe) -- read once and referred to the Committee on Correction

AN ACT to amend the correction law, in relation to reporting by the commissioner of the department of correctional services on the capacity and staffing of the state prison system

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

Section 1. Subdivision 4 of section 29 of the correction law, as amended by section 1 of part R of chapter 56 of the laws of 2005, is amended to read as follows:

4. [The] ON OR BEFORE THE FIRST DAY OF FEBRUARY, TWO THOUSAND ELEVEN, AND EVERY YEAR THEREAFTER, THE commissioner [of the department of correctional services] shall provide [an annual] A COMPREHENSIVE report to the legislature [on the staffing of correction officers and correction sergeants in state correctional facilities. Such report shall include, but not be limited to the following factors: the number of security posts on the current plot plan for each facility that have been closed on a daily basis, by correctional facility security classification (minimum, medium and maximum); the number of security positions eliminated by correctional facility since two thousand compared to the number of inmates incarcerated in each such facility; a breakdown by correctional facility security classification (minimum, medium, and maximum) of the staff hours of overtime worked, by year since two thousand and the annual aggregate costs related to this overtime. In addition, such report shall be delineated by correctional facility security classification, the annual number of security positions eliminated, the number of closed posts and amount of staff hours of overtime accrued as well as the overall overtime expenditures that resulted] EVALUATING THE CAPACITY AND STAFFING OF THE STATE PRISON SYSTEM. Such report shall be provided to the TEMPORARY PRESIDENT OF THE SENATE, THE SPEAKER OF THE ASSEMBLY, THE MINORITY LEADER OF THE SENATE, THE MINORITY LEADER OF THE

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

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ASSEMBLY, AND THE chairs of the senate finance, assembly ways and means, senate crime and corrections and assembly correction committees [by December thirty-first]. SUCH REPORT SHALL INCLUDE, BUT NOT BE LIMITED TO, THE FOLLOWING:

(A) INFORMATION ON THE STAFFING OF CORRECTION OFFICERS AND CORRECTION SERGEANTS IN STATE CORRECTIONAL FACILITIES INCLUDING: THE NUMBER OF SECURITY POSTS ON THE CURRENT PLOT PLAN FOR EACH FACILITY THAT HAVE BEEN CLOSED ON A DAILY BASIS, BY CORRECTIONAL FACILITY SECURITY CLASSIFICATION (MINIMUM, MEDIUM AND MAXIMUM); THE NUMBER OF SECURITY POSITIONS ELIMINATED BY CORRECTIONAL FACILITY SINCE TWO THOUSAND COMPARED TO THE NUMBER OF INMATES INCARCERATED IN EACH SUCH FACILITY; A BREAKDOWN BY CORRECTIONAL FACILITY SECURITY CLASSIFICATION (MINIMUM, MEDIUM AND MAXIMUM) OF THE STAFF HOURS OF OVERTIME WORKED, BY YEAR SINCE TWO THOUSAND AND THE ANNUAL AGGREGATE COSTS RELATED TO THIS OVERTIME. THE REPORT SHALL ALSO INCLUDE THE RATIO OF ALL SECURITY STAFF TO INMATE AT EACH CORRECTIONAL FACILITY. IN ADDITION, SUCH INFORMATION SHALL BE DELINEATED BY CORRECTIONAL FACILITY SECURITY CLASSIFICATION, THE ANNUAL NUMBER OF SECURITY POSITIONS ELIMINATED, THE NUMBER OF CLOSED POSTS AND AMOUNT OF STAFF HOURS OF OVERTIME ACCRUED AS WELL AS THE OVERALL OVERTIME EXPENDITURES THAT RESULTED;

(B) THE TOTAL NUMBER OF CORRECTIONAL FACILITIES IN OPERATION WHICH ARE MAINTAINED BY THE DEPARTMENT OF CORRECTIONAL SERVICES, THE SECURITY LEVEL OF EACH SUCH FACILITY, THE NUMBER OF INMATES AT EACH SUCH FACILITY, THE TOTAL NUMBER OF BEDS AT EACH CORRECTIONAL FACILITY, AND THE NUMBER OF EMPTY BEDS, IF ANY, AT EACH SUCH FACILITY WITH AN EXPLANATION AS TO THE TYPE OF BED THAT IS EMPTY. WHEN REPORTING ON THE TOTAL NUMBER OF BEDS AND EMPTY BEDS, THE COMMISSIONER SHALL DIFFERENTIATE BETWEEN GENERAL CONFINEMENT BEDS AND OTHER TYPES OF SPECIALIZED OR RESTRICTED BEDS WITHIN THE SYSTEM, INCLUDING BUT NOT LIMITED TO INFIRMARY BEDS, BEDS UTILIZED FOR DISCIPLINARY PURPOSES, SHOCK INCARCERATION BEDS, WORK RELEASE BEDS, SUBSTANCE ABUSE AND MENTAL HEALTH TREATMENT BEDS AND ANY OTHER TYPE OF SPECIALIZED OR RESTRICTED BEDS. THE COMMISSIONER SHALL ALSO INCLUDE INFORMATION REGARDING THE NECESSITY TO MAINTAIN SUCH SPECIALIZED AND RESTRICTED BEDS TO MEET THE NEEDS OF INMATES AND THE CORRECTIONAL SYSTEM;

(C) THE CURRENT NUMBER OF INMATES WITHIN THE PRISON SYSTEM WHO ARE LIVING IN DOUBLE-BUNKED AND DOUBLE-CELLED CONDITIONS, WITH AN EXPLANATION AS TO THE NUMBER OF INMATES DOUBLE-BUNKED AND DOUBLE-CELLED, IF ANY, WITHIN MINIMUM SECURITY FACILITIES, MEDIUM SECURITY FACILITIES, AND MAXIMUM SECURITY FACILITIES. THE COMMISSIONER SHALL PROVIDE AN EXPLANATION AS TO THE NUMBER OF INMATES, IF ANY, WHO ARE LIVING IN DOUBLE-BUNKED OR DOUBLE-CELLED CONDITIONS AS A RESULT OF A VARIANCE RECEIVED FROM THE STATE COMMISSION OF CORRECTION ESTABLISHED PURSUANT TO ARTICLE THREE OF THIS CHAPTER. FOR THE PURPOSES OF THIS PARAGRAPH, AN INMATE SHALL BE DEEMED TO BE LIVING IN A DOUBLE-BUNKED CONDITION WHEN HIS OR HER CONFINEMENT BED IS SITUATED IMMEDIATELY ABOVE ANOTHER CONFINEMENT BED OR IMMEDIATELY BELOW ANOTHER CONFINEMENT BED IN A HOUSING UNIT DEFINED BY THE STATE COMMISSION OF CORRECTION AS A MULTIPLE OCCUPANCY HOUSING UNIT AND, AN INMATE SHALL BE DEEMED TO BE LIVING IN A DOUBLE-CELLED CONDITION WHEN HIS OR HER CONFINEMENT BED IS SITUATED IMMEDIATELY ABOVE ANOTHER CONFINEMENT BED OR IMMEDIATELY BELOW ANOTHER CONFINEMENT BED IN A HOUSING UNIT DEFINED BY THE STATE COMMISSION OF CORRECTION AS EITHER AN INDIVIDUAL OCCUPANCY HOUSING UNIT OR A DOUBLE OCCUPANCY HOUSING UNIT ORIGINALLY DESIGNED FOR INDIVIDUAL OCCUPANCY.

S 2. Section 79-a of the correction law, as amended by section 1 of part H of chapter 56 of the laws of 2009, is amended to read as follows:

S 79-a. Closure of correctional facilities; notice. Before the closure of any correctional facility,[,] for reasons other than those set forth in paragraph (a) of subdivision eight of section forty-five of this chapter, the commissioner shall take the following actions:

1. confer with the department of civil service, the governor's office of employee relations and any other appropriate state agencies to develop strategies which attempt to minimize the impact of the closure on the state work force;

2. consult with the department of economic development and any other appropriate state agencies to develop strategies which attempt to minimize the impact of such closures on the local and regional economies; [and]

3. provide notice by certified mail to (i) all local governments of any political subdivision in which the correctional facility is located, (ii) all employee labor organizations operating within, or representing employees of, the correctional facility, [and] (iii) managerial and confidential employees employed within the correctional facility AND (IV) THE TEMPORARY PRESIDENT OF THE SENATE, THE SPEAKER OF THE ASSEMBLY, THE MINORITY LEADER OF THE SENATE, THE MINORITY LEADER OF THE ASSEMBLY, AND THE CHAIRS OF THE SENATE FINANCE, ASSEMBLY WAYS AND MEANS, SENATE CRIME AND CORRECTIONS AND ASSEMBLY CORRECTION COMMITTEES at least twelve months prior to any such closure[.]; AND

4. INCLUDE, WITH THE NOTICE REQUIRED BY SUBDIVISION THREE OF THIS SECTION, A REPORT REGARDING THE IMPACT OF THE CLOSURE ON INMATES AND STAFF IN THE STATE PRISON SYSTEM. SUCH REPORT SHALL INCLUDE, BUT NOT BE LIMITED TO, THE FOLLOWING:

(I) AN EXPLANATION AS TO THE IMPACT OF SUCH CLOSURE ON THE STATE PRISON SYSTEM AS A WHOLE, INCLUDING THE IMPACT, IF ANY, ON INMATE SECURITY LEVEL CLASSIFICATION, THE CHANGE, IF ANY, THAT WILL RESULT IN THE RATIO OF INMATES TO CORRECTIONAL STAFF, BOTH WITHIN INDIVIDUAL CORRECTIONAL FACILITIES AND WITHIN THE STATE PRISON SYSTEM AS A WHOLE, THE CHANGE THAT WILL RESULT IN THE BED CAPACITY WITHIN THE STATE PRISON SYSTEM AS A WHOLE AND WITHIN THE MINIMUM SECURITY CORRECTIONAL FACILITIES, MEDIUM SECURITY CORRECTIONAL FACILITIES AND MAXIMUM SECURITY CORRECTIONAL FACILITIES, RESPECTIVELY;

(II) AN EXPLANATION AS TO THE IMPACT OF SUCH CLOSURE ON EMPLOYEES OF THE DEPARTMENT OF CORRECTIONAL SERVICES WHO WILL BE AFFECTED, INCLUDING INFORMATION AS TO THE NUMBER OF EMPLOYEES WHO WILL HAVE NEW WORK LOCATIONS AND THE EFFORTS, IF ANY, UNDERTAKEN BY THE DEPARTMENT TO MINIMIZE THE RELOCATION OF ANY EMPLOYEES; AND

(III) AN EXPLANATION AS TO THE NUMBER AND TYPES OF PROGRAMS AND THE AVAILABILITY OF PROGRAMS, IF ANY, THAT WILL BE IMPACTED BY SUCH CLOSURE, INCLUDING PROGRAMS DESIGNED TO PROMOTE THE SUCCESSFUL AND PRODUCTIVE REENTRY AND REINTEGRATION INTO SOCIETY OF INMATES UPON THEIR RELEASE FROM THE CUSTODY OF THE DEPARTMENT.

S 3. This act shall take effect immediately.