

3494

2009-2010 Regular Sessions

I N A S S E M B L Y

January 27, 2009

Introduced by M. of A. AUBRY -- read once and referred to the Committee
on 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 chapter
2 476 of the laws of 1970, is amended to read as follows:
3 S 112. Powers and duties of commissioner of correction relating to
4 correctional facilities. 1. The commissioner [of correction] shall have
5 the superintendence, management and control of the correctional facilities
6 in the department and of the inmates confined therein, and of all
7 matters relating to the government, discipline, policing, contracts and
8 fiscal concerns thereof. HE OR SHE SHALL HAVE THE RESPONSIBILITY TO
9 ENSURE THAT ADEQUATE STAFFING EXISTS AT EVERY CORRECTIONAL FACILITY
10 PURSUANT TO SUBDIVISION TWO OF THIS SECTION. He OR SHE shall have the
11 power and it shall be his OR HER duty to inquire into all matters
12 connected with said correctional facilities. He OR SHE shall make such
13 rules and regulations, not in conflict with the statutes of this state,
14 for the government of the officers and other employees of the department
15 assigned to said facilities, and in regard to the duties to be performed
16 by them, and for the government and discipline of each correctional
17 facility, as he OR SHE may deem proper, and shall cause such rules and
18 regulations to be recorded by the superintendent of the facility, and a
19 copy thereof to be furnished to each employee assigned to the facility.
20 He OR SHE shall also prescribe a system of accounts and records to be
21 kept at each correctional facility, which system shall be uniform at all
22 of said facilities, and he OR SHE shall also make rules and regulations
23 for a record of photographs and other means of identifying each inmate
24 received into said facilities. He OR SHE shall appoint and remove,
25 subject to the civil service law and rules, subordinate officers and

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

LBD04173-02-9

1 other employees of the department who are assigned to correctional
2 facilities.

3 2. THE COMMISSIONER SHALL ESTABLISH A STAFFING PLAN FOR ALL UNIFORMED
4 AND NON-UNIFORMED EMPLOYEES. WITH REGARD TO UNIFORMED STAFF, THE COMMIS-
5 SIONER SHALL ESTABLISH A STAFFING PLAN WHICH SHALL INCLUDE, BUT NOT BE
6 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 3. The commissioner [of correction] may require reports from the
42 superintendent or any other officer or employee of the department
43 assigned to any correctional facility in relation to his OR HER conduct
44 as such officer or employee, and shall have the power to inquire into
45 any improper conduct which may be alleged to have been committed by any
46 person at any correctional facility, and for that purpose to issue
47 subpoenas to compel the attendance of witnesses, and the production
48 before him OR HER of books, writings and papers. A subpoena issued under
49 this section shall be regulated by the civil practice law and rules. The
50 commissioner [of correction] is authorized and empowered to lease the
51 railroad, constructed under and by the authority of the laws of eighteen
52 hundred [and] seventy-eight, chapter one hundred [and] forty-eight, for
53 such term of years and upon such terms and conditions as shall be
54 approved of, in writing, by the governor and comptroller of this state.

55 S 2. This act shall take effect immediately; provided, however, that
56 effective immediately, the addition, amendment and/or repeal of any rule

1 or regulation necessary for the implementation of this act on its effec-
2 tive date is authorized and directed to be made and completed on or
3 before such effective date.