

4590

2013-2014 Regular Sessions

I N A S S E M B L Y

February 6, 2013

Introduced by M. of A. O'DONNELL, 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 ASSEM-
BLY, 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

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

LBD01772-02-3

1 or she shall appoint and remove, subject to the civil service law and
2 rules, subordinate officers and other employees of the department who
3 are assigned to correctional facilities.

4 2. The commissioner shall have the management and control of persons
5 released on community supervision and of all matters relating to such
6 persons' effective reentry into the community, as well as all contracts
7 and fiscal concerns thereof. The commissioner shall have the power and
8 it shall be his or her duty to inquire into all matters connected with
9 said community supervision. The commissioner shall make such rules and
10 regulations, not in conflict with the statutes of this state, for the
11 governance of the officers and other employees of the department
12 assigned to said community supervision, and in regard to the duties to
13 be performed by them, as he or she deems proper and shall cause such
14 rules and regulations to be furnished to each employee assigned to
15 perform community supervision. The commissioner shall also prescribe a
16 system of accounts and records to be kept, which shall be uniform. The
17 commissioner shall also make rules and regulations for a record of
18 photographs and other means of identifying each inmate released to
19 community supervision. The commissioner shall appoint officers and other
20 employees of the department who are assigned to perform community super-
21 vision.

22 3. THE COMMISSIONER SHALL ESTABLISH A STAFFING PLAN FOR ALL UNIFORMED
23 AND NON-UNIFORMED EMPLOYEES. WITH REGARD TO UNIFORMED STAFF, THE COMMIS-
24 SIONER SHALL ESTABLISH A STAFFING PLAN WHICH SHALL INCLUDE, BUT NOT BE
25 LIMITED TO, THE FOLLOWING FACTORS:

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

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

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

39 (I) THE NUMBER OF CORRECTION OFFICERS AND SERGEANTS BY CORRECTIONAL
40 FACILITY THAT THE STAFFING PLAN REQUIRED AS WELL AS THE ACTUAL NUMBER OF
41 CORRECTION OFFICERS AND SERGEANTS THAT WERE AVAILABLE BY CORRECTIONAL
42 FACILITY DURING THE CURRENT FISCAL YEAR. IN THE EVENT THE DEPARTMENT
43 DEVIATED FROM THE STAFFING PLAN, THE COMMISSIONER SHALL PROVIDE DETAILS
44 ON WHY THE STAFFING PLAN WAS NOT IMPLEMENTED AS REQUIRED PURSUANT TO
45 THIS SECTION;

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

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

52 (IV) A BREAKDOWN BY CORRECTIONAL FACILITY SECURITY CLASSIFICATION
53 (MINIMUM, MEDIUM, AND MAXIMUM) OF THE STAFF HOURS OF OVERTIME WORKED, BY
54 YEAR SINCE TWO THOUSAND ONE AND THE ANNUAL AGGREGATE COSTS RELATED TO
55 THIS OVERTIME. IN ADDITION, SUCH REPORT SHALL BE DELINEATED BY CORREC-
56 TIONAL FACILITY SECURITY CLASSIFICATION, THE ANNUAL NUMBER OF SECURITY

1 POSITIONS ELIMINATED, THE NUMBER OF CLOSED POSTS AND AMOUNT OF STAFF
2 HOURS OF OVERTIME ACCRUED AS WELL AS THE OVERALL OVERTIME EXPENDITURES
3 THAT RESULTED.

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

14 [4.] 5. The commissioner and the chair of the parole board shall work
15 jointly to develop and implement, as soon as practicable, a risk and
16 needs assessment instrument or instruments, which shall be empirically
17 validated, that would be administered to inmates upon reception into a
18 correctional facility, and throughout their incarceration and release to
19 community supervision, to facilitate appropriate programming both during
20 an inmate's incarceration and community supervision, and designed to
21 facilitate the successful integration of inmates into the community.

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