

2459

2015-2016 Regular Sessions

I N   A S S E M B L Y

January 16, 2015

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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.

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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 effective date is authorized and directed to be made and completed on or  
25 before such effective date.  
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