STATE OF NEW YORK

222

2017-2018 Regular Sessions

IN ASSEMBLY

(Prefiled)

January 4, 2017

Introduced by M. of A. GANTT -- read once and referred to the Committee on Children and Families

AN ACT to amend the family court act and the executive law, in relation to the county of Monroe establishing a limited secure placement facility for juveniles; and providing for the repeal of such provisions upon expiration thereof

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section 340.2 of the family court act, as added by chapter 920 of the laws of 1982, subdivision 3 as amended by chapter 173 of the laws of 1999, is amended to read as follows:

§ 340.2. Presiding judge. 1. The judge who presides at the commencement of the fact-finding hearing shall continue to preside until such hearing is concluded and an order entered pursuant to section 345.1 unless a mistrial is declared.

2. The judge who presides at the fact-finding hearing or accepts an admission pursuant to section 321.3 shall preside at any other subsequent hearing in the proceeding, including but not limited to the dispositional hearing.

3. Notwithstanding the provisions of subdivision two, the rules of the family court shall provide for the assignment of the proceeding to another judge of the court when the appropriate judge cannot preside:

(a) by reason of illness, disability, vacation or no longer being a judge of the court in that county; or

(b) by reason of removal from the proceeding due to bias, prejudice or similar grounds; or

(c) because it is not practicable for the judge to preside.

4. **Notwithstanding the provisions of subdivision two, any judge presiding in the juvenile matters part of the Monroe county family court**

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

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may preside over any matters related to a juvenile delinquency proceeding, including matters affecting dispositions imposed by another judge.

5. The provisions of this section shall not be waived.

§ 2. Section 355.4 of the family court act is amended by adding a new subdivision 6 to read as follows:

6. When a respondent is placed at the Monroe county juvenile justice center through the office of children and family services, the Monroe county juvenile justice center shall possess the consent to provide routine medical, dental and mental health services and treatment as granted by the office of children and family services pursuant to this section.

§ 3. Section 501 of the executive law is amended by adding two new subdivisions 3-a and 4-a to read as follows:

3-a. To enter into a memorandum of understanding with the county of Monroe for such county to establish, operate and maintain a limited secure placement facility.

4-a. To inspect and certify the Monroe county juvenile justice center limited secure placement facility.

§ 4. Section 505 of the executive law is amended by adding a new subdivision 4 to read as follows:

4. The director of the Monroe county juvenile justice center shall be appointed by the Monroe county director of social services.

§ 5. Article 19-G of the executive law is amended by adding a new title 2-A to read as follows:

TITLE 2-A

MONROE COUNTY JUVENILE JUSTICE CENTER

Section 509-a. Monroe county juvenile justice center established.
509-b. Definitions.
509-c. Juvenile justice center specifications.
509-d. Equal employment opportunities for minority and women-owned business enterprises.
509-e. Prevailing wage requirements.
509-f. Juvenile probation investigation and diagnostic assessment.
509-g. Substance and alcohol abuse treatment of juveniles.
509-h. Health services and education.
509-i. Educational components of the juvenile justice center.
509-j. Juvenile justice center oversight.
509-k. State reimbursement of funds.

§ 509-a. Monroe county juvenile justice center established. Monroe county shall operate and maintain a limited secure facility to be known as the Monroe county juvenile justice center, for the placement of juvenile delinquents placed with the office of children and family services by the Monroe county family court.

§ 509-b. Definitions. For purposes of this title, the following words shall have the following meanings:

1. "center" shall mean the Monroe county juvenile justice center.

2. "commissioner" shall mean the commissioner of the office of children and family services.

3. "director" shall mean the director of the Monroe county juvenile justice center appointed pursuant to subdivision four of section five hundred five of this chapter.

§ 509-c. Juvenile justice center specifications. The juvenile justice center established pursuant to section five hundred nine-a of this title shall consist of the following:

1. No more than sixty beds to be used for juveniles who have been placed in the juvenile justice center; and

2. No more than seventy-five beds to be used for juveniles who are being detained at the juvenile justice center and are awaiting placement or adjudication.

§ 509-d. Equal employment opportunities for minority and women-owned business enterprises. 1. All contracts entered into by the center pursuant to this title of whatever nature and all documents soliciting bids or proposals therefor shall contain or make reference to the following provisions:

(a) The contractor will not discriminate against employees or applicants for employment because of race, creed, color, national origin, sex, age, disability, or marital status, and will undertake or continue existing programs of affirmative action to ensure that minority group persons and women are afforded equal opportunity without discrimination. Such programs shall include, but not be limited to, recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, termination, rates of pay or other forms of compensation, and selection for training and retraining, including apprenticeship and on-the-job training.

(b) The contractor shall request each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding and which is involved in the performance of the contract with the center to furnish a written statement that such employment agency, labor union or representative shall not discriminate because of race, creed, color, national origin, sex, age, disability or marital status and that such union or representative will cooperate in the implementation of the contractor's obligations hereunder.

(c) The contractor shall state, in all solicitations or advertisements for employees placed by or on behalf of the contractor in the performance of the contract with the center that all qualified applicants will be afforded equal employment opportunity without discrimination because of race, creed, color, national origin, sex, age, disability or marital status.

(d) The contractor will include the provisions of this subdivision and subdivisions two and three of this section in every subcontract or purchase order in such a manner that such provisions will be binding upon each subcontractor or vendor as to its work in connection with the contract with the center.

2. The county shall establish measures, procedures and guidelines to ensure that contractors and subcontractors undertake meaningful programs to employ and promote qualified minority group members and women. Such procedures may require after notice in a bid solicitation, the submission of a minority and women workforce utilization program prior to the award of any contract, or at any time thereafter, and may require the submission of compliance reports relating to the operation and implementation of any workforce utilization program adopted hereunder. The county shall take appropriate action, including the impositions of sanctions for non-compliance to effectuate the provisions of this section and shall be responsible for monitoring compliance with this title.

3. In the performance of projects pursuant to this title, minority and women-owned business enterprises shall be given the opportunity for meaningful participation. The county shall establish quantifiable standards and measures and procedures to secure meaningful participation and

identify those contracts and items of work for which minority and women-owned business enterprises may best bid to actively and affirmatively promote and assist their participation in projects, so as to facilitate the award of a fair share of contracts to such enterprises; provided, however, that nothing in this title shall be construed to limit the ability of the county to assure that qualified minority and women-owned business enterprises may participate in the program. For purposes hereof, minority business enterprise shall mean any business enterprise which is at least fifty-one per centum owned by, or in the case of a publicly owned business, at least fifty-one per centum of the stock or other voting interest is owned by citizens or permanent resident aliens who are Black, Hispanic, Asian, American Indian, Pacific Islander, or Alaskan Native, and such ownership interest is real, substantial and continuing and has the authority to independently control the day to day business decisions of the entity for at least one year; and women-owned business enterprise shall mean any business enterprise which is at least fifty-one per centum owned by, or in the case of a publicly owned business, at least fifty-one per centum of the stock to other voting interests of which is owned by citizens or permanent resident aliens who are women, and such ownership interest is real, substantial and continuing and has the authority to independently control the day to day business decisions of the entity for at least one year.

The provisions of this subdivision shall not be construed to limit the ability of any minority business enterprise to bid on any contract.

4. In order to implement the requirements and objectives of this section, the county shall establish procedures to monitor contractors compliance with provisions hereof, provide assistance in obtaining competing qualified minority and women-owned business enterprises to perform contracts proposed to be awarded, impose contractual sanctions for non-compliance, and take other appropriate measures to improve the access of minority and women-owned business enterprises to these contracts.

§ 509-e. Prevailing wage requirements. In the construction and development of the center, Monroe county must comply with the provisions of article eight of the labor law.

§ 509-f. Juvenile probation investigation and diagnostic assessment. For every juvenile who is detained or placed in the center, a probation investigation and a diagnostic assessment shall be performed on such juvenile. For the purposes of this section, the probation investigation shall include, but not be limited to, the history of the juvenile including previous conduct, the family situation, any previous psychological and psychiatric reports, school history, school adjustment, previous social assistance provided by voluntary or public agencies and the response of the juvenile to such assistance, and any possible history of alcohol, substance or sexual abuse. For the purposes of this section, the diagnostic assessment shall include, but not be limited to, psychological tests and psychiatric interviews to determine mental capacity and achievement, emotional stability and mental disabilities. It shall include a clinical assessment of the situational factors that may have contributed to the act or acts, including any alcohol, substance or sexual abuse of the juvenile. When feasible, expert opinion shall be rendered as to the risk presented by the juvenile to others or himself, with a recommendation as to the need for a restrictive placement.

§ 509-g. Substance and alcohol abuse treatment of juveniles. 1. Screening, evaluation and treatment for alcohol, cannabis and other

substances. The center shall contract with one or more community-based, not-for-profit alcohol and/or substance abuse treatment providers licensed by the office of alcoholism and substance abuse services to screen, evaluate, diagnose, treat and provide all other necessary services to juveniles placed at the center who use, are exposed to, or at risk from exposure to alcohol, cannabis or other substances. Screening, evaluation, diagnosis, treatment and all other necessary services for alcohol, cannabis and other substance use, abuse or exposure shall be provided by appropriate health professionals licensed, certified or credentialed by the office of alcoholism and substance abuse services. The center shall give particular consideration to providers of alcohol and substance abuse treatment services which demonstrate the ability to provide treatment services that effectively reduce addiction in young people.

a. All juveniles shall be screened upon placement at the center using a protocol approved by the office of alcoholism and substance abuse services to identify any use of, exposure to, or risk from alcohol, cannabis or other substances. If a family court probation report or diagnostic assessment provides all the required information necessary to screen a juvenile for any use of, exposure to or risk from alcohol, cannabis or other substances, the report or assessment may be adopted in lieu of screening under this section.

b. A juvenile identified by screening, family court probation report, family court diagnostic assessment or family court order for use of, exposure to or risk from alcohol, cannabis or other substances shall be evaluated using a protocol approved by the office of alcoholism and substance abuse services to assess dependence on, use or abuse of, or impairment from exposure to alcohol, cannabis or other substances. If a family court probation report or diagnostic assessment provides all the required information necessary to evaluate a juvenile for dependence on, abuse of, or impairment from exposure to alcohol, cannabis or other substances, the report or assessment may be adopted in lieu of evaluation under this section.

c. The center shall provide treatment and other services to a juvenile (i) who is diagnosed with alcohol, cannabis or other substance abuse, alcohol, cannabis or other substance dependence or other psychoactive substance use disorder and/or (ii) whose evaluation identifies evidence of developmental or functional impairment in one or more major life areas due to a relationship with a significant other as defined in subdivision nineteen of section 1.03 of the mental hygiene law who uses, abuses or depends on alcohol, cannabis or other substances.

d. The reasons for denial of treatment or services must be documented in a written record kept by the center for a period of ten years.

2. Education about alcohol, cannabis and other substances. The center shall provide to all juveniles placed at the center education and other prevention services about the risks of alcohol and substance abuse including the risks for children of alcohol and/or substance abusing persons and for others at high risk for alcohol and/or substance abuse problems.

§ 509-h. Health services and education. The center shall contract with a family planning clinic licensed under article twenty-eight of the public health law to provide to both female and male juveniles as appropriate:

1. prompt and comprehensive reproductive health services including but not limited to family planning; screening, diagnosis and treatment of

sexually transmitted diseases; screening, diagnosis and treatment of HIV and AIDS; and gynecological and obstetrical services; and

2. family life education programs including but not limited to human development, sexuality, physiology, reproductive health and contraception, sexually transmitted diseases and HIV/AIDS, abstinence, relationships, roles and psycho-sexual development.

§ 509-i. Educational components of the juvenile justice center. The center must provide every child placed in the center with educational services in accordance with the provisions of section four thousand two of the education law.

§ 509-j. Juvenile justice center oversight. 1. The office of children and family services shall be responsible for ensuring that the center meets all the necessary requirements including, but not limited to, the educational services required by section five hundred nine-i of this title and the treatment requirements pursuant to section five hundred nine-g of this title.

2. The office of children and family services shall submit a report to the temporary president of the senate and the speaker of the assembly one year after the opening of the center, and every year thereafter. Such report shall include at least the following:

a. Statistical data regarding the number of children detained and/or placed at the center throughout the year;

b. An analysis of the alcohol and substance abuse treatment programs offered by the center, and a summary of the effectiveness of such programs on affected children;

c. An analysis of the educational services provided by the center, including statistical data regarding the number of children who earn high school or general equivalency diplomas; and

d. Information pertaining to the aftercare program and the placement of children into the workforce.

3. The commissioner shall evaluate the center annually after the center has opened. The office of children and family services shall conduct two visits annually: one of which shall be announced, and one unannounced to ensure full compliance with state law, and to monitor and comment on the general health and well being of the youth at the facility. The commissioner is hereby authorized to terminate the center's operation if he or she determines that it is in the best interests of the state, the county, and the children who are placed within the center to do so.

§ 509-k. State reimbursement of funds. Subject to appropriation, the state shall reimburse Monroe county for fifty percent of the costs associated with construction, implementation and maintenance of the center.

§ 6. Section 522 of the executive law, as added by chapter 552 of the laws of 1993, is amended to read as follows:

§ 522. Actions against persons rendering health care services at the request of the [~~division~~] office of children and family services; defense and indemnification. The provisions of section seventeen of the public officers law shall apply to any person holding a license to practice a profession pursuant to article one hundred thirty-one, one hundred thirty-one-B, one hundred thirty-two, one hundred thirty-three, one hundred thirty-six, one hundred thirty-seven, one hundred thirty-nine, one hundred forty-one, one hundred forty-three, one hundred fifty-six or one hundred fifty-nine of the education law, who is rendering or has rendered professional services authorized under such license while acting at the request of the [~~division~~] office of children and family services or a facility of the [~~division~~] office of children and

family services or at the Monroe county juvenile justice center in providing health care and treatment or professional consultation to residents of [~~division~~] office of children and family services facilities, or to infants of residents while such infants are cared for in [~~division~~] office of children and family services facilities or at the Monroe county juvenile justice center pursuant to section five hundred sixteen of this [~~article~~] subtitle, without regard to whether such health care and treatment or professional consultation is provided within or without [~~a division~~] an office of children and family services facility.

§ 7. The executive law is amended by adding a new section 522-a to read as follows:

§ 522-a. Training, education and aftercare model program. 1. For the purposes of this section, the following terms shall have the following meanings:

(a) "Commissioner" shall mean the commissioner of the office of children and family services.

(b) "Program" shall mean the "training, education and aftercare model (TEAM) program" authorized by subdivision two of this section.

(c) "Juvenile delinquent" shall mean a person over seven and less than sixteen years of age, who, having committed an act that would constitute a crime if committed by an adult, (i) is not criminally responsible for such conduct by reason of infancy, or (ii) is the defendant in an action ordered removed from a criminal court to the family court pursuant to article seven hundred twenty-five of the criminal procedure law.

(d) "Contractor" shall mean not-for-profit or for-profit providers of enhanced interventions for juvenile delinquents in the Monroe county juvenile justice center.

(e) "Center" shall mean the Monroe county juvenile justice center.

2. (a) Monroe county is hereby authorized to establish the training, education and aftercare model (TEAM) program in the Monroe county juvenile justice center to reduce juvenile delinquent recidivism. Such program shall be outcome-driven and use recognized treatment models which have been effective in serving and placing at-risk youth with multiple barriers to employment.

(b) To accomplish the program objectives of paragraph (a) of this subdivision, technical assistance shall be provided to center staff and aftercare counselors to achieve the program improvements described in paragraph (c) of this subdivision. Monroe county may use contractors who have demonstrated effectiveness in serving and placing at-risk youth with multiple barriers to employment to provide such technical assistance, subject to a request for proposal.

(c) The program improvements sought shall include the following key components:

(i) Aftercare and follow-up services. Full-time aftercare and follow-up services shall be provided for the duration of the child's assigned aftercare and shall include, but not be limited to, enhanced procedures for ensuring frequent contacts at each phase of aftercare; an automated case management system; and the implementation of performance measures, as described in subdivision four of this section. The types of aftercare services provided shall include, but not be limited to, job search assistance and placement; job counseling; independent living placement and assistance; mentoring; family counseling and support for custodial and non-custodial parents; securing a school placement prior to release from a facility; and where applicable, outreach, referral and assistance in enrolling in the military or ROTC programs.

(ii) Youth service plans. Revised procedures shall be established for developing youth service plans to set goals and identify services necessary for post-release success. Juvenile delinquents placed in the Monroe county juvenile justice center shall have each intake assessment reviewed and expanded to include such plan within thirty days of assignment to such center. Such plan shall be developed in consultation with existing training and aftercare staff to ensure appropriate placement in education and all training-related services, in addition to alcohol or substance abuse, mental health, or other services deemed necessary in the assessment and as a part of ensuring successful intervention and post-release success. The plan shall be amended as appropriate to reflect changing service needs.

(iii) Education services. Technical assistance shall be provided on the use of non-traditional open entry and self-paced education models such as, computer-assisted instruction. Such assistance shall be integrated with work-based training.

(iv) Training services. Technical assistance shall be provided to enhance the following types of employability and socialization skills: occupational training programs, conflict resolution, behavior management, team work, discipline training, job search and interviewing techniques, independent living skills, and substance abuse counseling.

3. Such technical assistance provided shall include:

(a) Advice and assistance to existing center staff in improving education and training related interventions, as described in subparagraphs (iii) and (iv) of paragraph (c) of subdivision two of this section to support successful aftercare and reintegration of youth into the community;

(b) Assistance to center staff and aftercare counselors in coordinating with other services and accessing other funds to ensure juvenile delinquents are placed in any full-time combination of school, employment in unsubsidized or supported work, or further training activities within one week of release;

(c) A review of training programs, as described in subparagraph (iv) of paragraph (c) of subdivision two of this section, along with an analysis of related programs that serve at-risk youth to upgrade existing training programs and to ensure the use of state-of-the-art equipment, integration with basic skills instruction, and a labor market demand for the job training provided; and

(d) The development of procedures to ensure that the outcomes described in subdivision four of this section are established, measured, and continually monitored for each juvenile delinquent.

4. The program shall be evaluated on achievement of performance outcomes and program effectiveness. The evaluation shall be conducted by a research institute within the greater Monroe county area with established expertise in juvenile justice programs and practices. A control site shall be established to measure similar outcomes in a facility offering traditional services. The evaluation shall be based upon juvenile delinquent outcomes and the program's performance.

(a) Outcomes shall be established to measure performance for each juvenile delinquent at a minimum of two intervals--upon release and at least twelve months after release. Such outcomes may include behavioral incentives and shall measure:

(i) education and training gains while incarcerated and the initial placement and wage rate upon release; and

(ii) recidivism rates, employment status, and wage levels at least one year after release.

(b) The program shall be evaluated on the success of the juvenile delinquents based on the following measures:

(i) job placement and twelve month retention rates for participants, regardless of whether employment has been with one or more employers;

(ii) wage rates at placement and twelve months after initial placement;

(iii) learning gains based on pre- and post-testing;

(iv) obtaining a high school diploma or its equivalent or returning to school; and

(v) recidivism rates at selected intervals after release.

5. No later than January first, two thousand nineteen, and each January first thereafter, the office of children and family services shall prepare and submit a report incorporating the evaluation required by subdivision four of this section. The report shall focus on the center, the number of juvenile delinquents served, demographic data about participating delinquents, including but not limited to, race, ethnicity, language spoken at home, family income group and information on any sibling involvement with family court, and the results of the program outcomes required by subdivision four of this section. The report shall be submitted to the temporary president of the senate, the speaker of the assembly and the chairs of the senate and assembly children and families committees, the assembly ways and means committee and the senate finance committee.

§ 8. Subdivision 1 of section 529 of the executive law, as added by chapter 906 of the laws of 1973, paragraph (c) as amended and paragraph (d) as added by chapter 881 of the laws of 1976, is amended to read as follows:

1. Definitions. [~~As~~] Except as provided for in section five hundred thirty-a of this title, as used in this section:

(a) "authorized agency", "certified boarding home", "local charge" and "state charge" shall have the meaning ascribed to such terms by the social services law;

(b) "aftercare supervision" shall mean supervision of released or discharged youth, not in foster care; [~~and,~~]

(c) "foster care" shall mean residential care, maintenance and supervision provided released or discharged youth, or youth otherwise in the custody of the [~~division for youth~~] office of children and family services, in [~~a division~~] an office of children and family services foster family home certified by [~~the division.~~] such office; and

(d) "[~~division~~] office of children and family services foster family home" means a service program provided in a home setting available to youth under the jurisdiction of the [~~division for youth~~] office of children and family services.

§ 9. Subdivision 1 of section 530 of the executive law, as amended by section 4 of subpart B of part Q of chapter 58 of the laws of 2011, is amended to read as follows:

1. Definitions. [~~As~~] Except as provided for in section five hundred thirty-a of this title, as used in this section, the term "municipality" shall mean a county, or a city having a population of one million or more.

§ 10. The executive law is amended by adding a new section 530-a to read as follows:

§ 530-a. Reimbursement for detention, placement and aftercare supervision at the Monroe county juvenile justice center. 1. Definitions. As used in this section, the terms "local charge" and "state charge" shall have the same meaning ascribed to them in the social services law.

2. Expenditures made by social services districts in providing care, maintenance and supervision to youth in detention facilities designated pursuant to sections seven hundred twenty-four and 305.2 of the family court act and certified by the office of children and family services, shall be subject to reimbursement by the state upon approval by such office in accordance with its regulations, as follows:

(a) the full amount expended by the district for care, maintenance and supervision of state charges;

(b) fifty percent of the amount expended for the care, maintenance and supervision of local charges where counties conform with requirements of subdivision B of section two hundred eighteen-a of the county law.

3. Expenditures made by the Monroe county social services district in providing care, maintenance and supervision to youth placed in the Monroe county juvenile justice center shall be subject to reimbursement by the state upon approval by the office of children and family services in accordance with its regulations, as follows:

(a) the full amount expended by the district for care, maintenance and supervision of state charges;

(b) fifty percent of the amount expended for the care, maintenance and supervision of local charges where counties conform with requirements of subdivision B of section two hundred eighteen-a of the county law.

4. Expenditures made by the Monroe county social services district for aftercare supervision as defined in paragraph (b) of subdivision one of section five hundred twenty-nine of this title provided to adjudicated juvenile delinquents by the Monroe county juvenile justice center shall be subject to reimbursement by the state upon approval by the office of children and family services in accordance with such office's rules and regulations, as follows:

(a) the full amount expended by the district for aftercare supervision of state charges; and

(b) fifty percent of the amount expended by the district for after-care supervision of local charges.

§ 11. This act shall take effect immediately and shall expire and be deemed repealed 4 years after the initial admittance of a child to detention or placement; provided that Monroe county shall notify the legislative bill drafting commission of the date of such initial placement in order that the commission may maintain an accurate and timely effective data base of the official text of the laws of the state of New York in furtherance of effecting the provisions of section 44 of the legislative law and section 70-b of the public officers law.