

STATE OF NEW YORK

1623

2019-2020 Regular Sessions

IN ASSEMBLY

January 16, 2019

Introduced by M. of A. JONES, GOTTFRIED, BLAKE, GUNTHER, ORTIZ, MONTESANO, DiPIETRO, COOK -- 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 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 § 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 three 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

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

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1 other means of identifying each inmate received into said facilities. He
2 or she shall appoint and remove, subject to the civil service law and
3 rules, subordinate officers and other employees of the department who
4 are assigned to correctional facilities.

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

23 3. The commissioner shall establish a staffing plan for all uniformed
24 and non-uniformed employees. With regard to uniformed staff, the commis-
25 sioner shall establish a staffing plan which shall include, but not be
26 limited to, the following factors:

27 (a) The number of total security posts that must be staffed by
28 correction officers and correctional sergeants by correctional facility.
29 These posts shall be delineated by those that are necessary five days
30 per week and seven days per week.

31 (b) The staffing plan shall require that every post be staffed using a
32 ratio of at least 1.75 correction officers for every seven day post and
33 a ratio of at least 1.25 correction officers for each five day post.
34 Nothing in this subdivision shall be deemed to authorize a reduction in
35 the ratio of officers in facilities which already maintain a ratio of at
36 least 1.75 officers and 1.25 officers for seven day posts and five days
37 posts, respectively.

38 (c) The commissioner shall provide a copy of such staffing plan to the
39 chairs of the senate finance, senate crime victims, crime and
40 correction, assembly ways and means and assembly correction committees
41 by December thirty-first of each year. Such report shall also provide
42 detailed information regarding how the staffing plan was implemented
43 during the current fiscal year. This information shall include:

44 (i) the number of correction officers and sergeants by correctional
45 facility that the staffing plan required as well as the actual number of
46 correction officers and sergeants that were available by correctional
47 facility during the current fiscal year. In the event the department
48 deviated from the staffing plan, the commissioner shall provide details
49 on why the staffing plan was not implemented as required pursuant to
50 this section;

51 (ii) the number of posts included in the staffing plan for each facil-
52 ity that have been closed on a daily basis, by correctional facility
53 security classification (minimum, medium and maximum);

54 (iii) the number of security positions not filled and those elimi-
55 nated, by correctional facility since two thousand one compared to the
56 number of inmates incarcerated in each such facility; and

1 (iv) a breakdown by correctional facility security classification
2 (minimum, medium, and maximum) of the staff hours of overtime worked, by
3 year since two thousand one and the annual aggregate costs related to
4 this overtime. In addition, such report shall be delineated by correc-
5 tional facility security classification, the annual number of security
6 positions eliminated, the number of closed posts and amount of staff
7 hours of overtime accrued as well as the overall overtime expenditures
8 that resulted.

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

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

27 § 2. This act shall take effect immediately; provided, however, that
28 effective immediately, the addition, amendment and/or repeal of any rule
29 or regulation necessary for the implementation of this act on its effec-
30 tive date are authorized and directed to be made and completed on or
31 before such effective date.