

STATE OF NEW YORK

5780

2019-2020 Regular Sessions

IN ASSEMBLY

February 19, 2019

Introduced by M. of A. GIGLIO, BRABENEC, HAWLEY, B. MILLER, SMITH, DeSTEFANO, LAWRENCE, MONTESANO, DiPIETRO, McDONOUGH, MORINELLO, FINCH, MIKULIN, RA -- Multi-Sponsored by -- M. of A. FRIEND, PALMESANO, SAYEGH -- read once and referred to the Committee on Correction

AN ACT to amend the correction law, in relation to establishment of a staffing plan for all uniformed and non-uniformed employees 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 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,

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

LBD06871-01-9

1 which system shall be uniform at all of said facilities, and he or she
2 shall also make rules and regulations for a record of photographs and
3 other means of identifying each inmate received into said facilities. He
4 or she shall appoint and remove, subject to the civil service law [~~and~~
5 ~~rules~~], subordinate officers and other employees of the department who
6 are assigned to correctional facilities.

7 2. [~~The commissioner shall have the management and control of persons~~
8 ~~released on community supervision and of all matters relating to such~~
9 ~~persons' effective reentry into the community, as well as all contracts~~
10 ~~and fiscal concerns thereof. The commissioner shall have the power and~~
11 ~~it shall be his or her duty to inquire into all matters connected with~~
12 ~~said community supervision. The commissioner shall make such rules and~~
13 ~~regulations, not in conflict with the statutes of this state, for the~~
14 ~~governance of the officers and other employees of the department~~
15 ~~assigned to said community supervision, and in regard to the duties to~~
16 ~~be performed by them, as he or she deems proper and shall cause such~~
17 ~~rules and regulations to be furnished to each employee assigned to~~
18 ~~perform community supervision. The commissioner shall also prescribe a~~
19 ~~system of accounts and records to be kept, which shall be uniform. The~~
20 ~~commissioner shall also make rules and regulations for a record of~~
21 ~~photographs and other means of identifying each inmate released to~~
22 ~~community supervision. The commissioner shall appoint officers and other~~
23 ~~employees of the department who are assigned to perform community super-~~
24 ~~vision.] The commissioner shall establish a staffing plan for all
25 uniformed and non-uniformed employees. With regard to uniformed staff,
26 the commissioner shall establish a staffing plan which shall include,
27 but not be limited to, the number of total security posts that must be
28 staffed by correction officers and correctional sergeants by correction-
29 al facility. These posts shall be delineated by those that are necessary
30 five days per week and seven days per week. The staffing plan shall
31 require that every post be staffed using a ratio of 1.8 correction offi-
32 cers for every seven day post and a ratio of 1.25 correction officers
33 for each five day post. The commissioner shall provide a copy of such
34 staffing plan to the chairs of the senate finance, senate crime victims,
35 crime and correction, assembly ways and means and assembly correction
36 committees by December thirty-first of each year. Such report shall also
37 provide detailed information regarding how the staffing plan was imple-
38 mented during the current fiscal year. This information shall include:
39 (a) 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; (b) the number of posts included in the staffing plan for
46 each facility that have been closed on a daily basis, by correctional
47 facility security classification (minimum, medium and maximum); (c) the
48 number of security positions not filled and those eliminated, by correc-
49 tional facility since two thousand one compared to the number of inmates
50 incarcerated in each such facility; and (d) a breakdown by correctional
51 facility security classification (minimum, medium, and maximum) of the
52 staff hours of overtime worked, by year since two thousand one and the
53 annual aggregate costs related to this overtime. In addition, such
54 report shall be delineated by correctional facility security classifica-
55 tion, the annual number of security positions eliminated, the number of~~

1 closed posts and amount of staff hours of overtime accrued as well as
2 the overall overtime expenditures which resulted.

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

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

21 § 2. This act shall take effect immediately. Effective immediately
22 the addition, amendment and/or repeal of any rule or regulation neces-
23 sary for the implementation of this act on its effective date are
24 authorized to be made and completed on or before such date.