STATE OF NEW YORK

8308

2021-2022 Regular Sessions

IN ASSEMBLY

October 20, 2021

Introduced by M. of A. WEPRIN -- read once and referred to the Committee on Consumer Affairs and Protection

AN ACT to amend the civil service law, in relation to safe staffing for public employees of institutional settings

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

Section 1. Legislative intent. It is in the interest and the responsibility of the state and local governments to provide for a safe, stable and humane environment for residents and staff of the custodial facilities within the state of New York. The maintenance of order, security, safety and care for all in custodial facilities currently falls upon a workforce stretched beyond its limits. Recruitment and retention of staff is at a crisis at all levels and in all facilities within the state. Double and triple shifts are the norm, creating unsafe conditions for residents and staff. Therefore, it is in the interest of the state to set maximum overtime levels to ensure staff safety and a humane environment for residents of custodial facilities.

§ 2. The civil service law is amended by adding a new section 137 to read as follows:

§ 137. Safe staffing for public employees of institutional settings. 1. This section shall apply to and cover the following facilities:

(a) Correctional facilities, as defined by subdivision four of section two of the correction law.

(b) Local correctional facilities, as defined by subdivision sixteen of section two of the correction law.

(c) Facilities regulated by the office of mental health pursuant to section 7.17 of the mental hygiene law.

(d) Juvenile offender and adolescent offender facilities pursuant to section five hundred eight of the executive law.

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

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(e) Facilities regulated by the office for people with developmental disabilities pursuant to title fourteen of the New York codes, rules and regulations.

2. (a) Except during a declared state of emergency, defined as the event of riots, prison breaks or other similar emergencies, or with twenty-four hour notice to the head of the facility's collective bargaining unit, a facility shall not mandate or otherwise require, directly or indirectly, an employee to work or be on duty in excess of any one of the following:

(i) The scheduled work shift or duty period;

(ii) Seventeen hours in a twenty-four hour period, including time for meal breaks; or

(iii) Eighty hours in a consecutive fourteen-day period.

(b) For purposes of this subdivision, "mandate" means any request which, if refused or declined by the employee, may result in discharge, discipline, loss of promotion, or other adverse employment consequence. Nothing in this section is intended to prohibit an employee from voluntarily working overtime.

(c) Except during a declared state of emergency, as defined in paragraph (a) of this subdivision:

(i) No employee shall work or be on duty more than seventeen hours in any twenty-four hour period.

(ii) Any employee working seventeen hours in any twenty-four hour period must have at least eight consecutive hours off duty before being required to return to duty.

(iii) No employee shall be required to work or be on duty more than seven consecutive days without at least one consecutive twenty-four hour period off duty within that time.

3. A work shift schedule or overtime program established pursuant to a collective bargaining agreement negotiated on behalf of the healthcare employees by a bona fide labor organization may provide for mandatory on-duty hours in excess of that permitted under this section, provided adequate measures are included in the agreement to ensure against excessive fatigue on the part of the affected employees.

4. The administrators of a facility covered under this section shall file a report on a quarterly basis to the executive officer, legislative body of the political subdivision of such facility and the head of such facility's collective bargaining units, who shall, upon review, make such reports available to the public on the facility's or governing agency's website. Such quarterly report shall include the following:

(a) Information on current staffing levels by position or title;

(b) Staff resignations and retirements;

(c) Number of full-time equivalent positions that have been budgeted for;

(d) Waiting lists for individuals eligible to receive care in a residential setting;

(e) Steps taken to recruit staff for new or vacant positions;

(f) Assaults and injuries to staff, including but not limited to sexual assaults; and staff on medically monitored or indefinite sick leave; and

(g) Additional information for correctional facilities, including classification of inmates by facility and information on manned posts, permanent facility posts, and temporary posts.

5. The provisions of this section are intended as a remedial measure to ensure staff safety and a humane environment for residents of custodial facilities, and shall not be construed to diminish or waive any

rights of any employee pursuant to any other law, regulation, or collective bargaining agreement.

§ 3. This act shall take effect on the sixtieth day after it shall have become a law.