STATE OF NEW YORK

1765--A

Cal. No. 196

2021-2022 Regular Sessions

IN SENATE

January 15, 2021

Introduced by Sens. MANNION, AKSHAR, BIAGGI, BROUK, GALLIVAN, GAUGHRAN, HELMING, HINCHEY, JORDAN, MARTUCCI, REICHLIN-MELNICK, SERINO, SKOUFIS -- read twice and ordered printed, and when printed to be committed to the Committee on Disabilities -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, passed by Senate and delivered to the Assembly, recalled, vote reconsidered, restored to third reading, amended and ordered reprinted, retaining its place in the order of third reading

AN ACT to amend the mental hygiene law and the executive law, in relation to the closure or suspension of services of certain office of mental health, office for people with developmental disabilities or office of children and family services facilities and institutions

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

Section 1. The mental hygiene law is amended by adding a new section 13.18 to read as follows:

§ 13.18 Closure or suspension of services of facilities.

The commissioner shall submit a written report to the legislature at least three hundred sixty-five days prior to the date the office is seeking closure or suspension of services of any facility or institution. Such report shall include, but not be limited to: (1) justification for the proposed closure or suspension of services; (2) information on the fiscal year budgeted staffing levels; (3) information on the current staffing levels by position or title; (4) information both statewide and on a regional basis regarding: (a) how many full time equivalent positions have been budgeted for; (b) how many full time equivalent positions have been filled; (c) how many full time equivalent vacancies exist; and (d) waiting lists for individuals eligible to receive care in a residential setting; and (5) steps taken by the agency to recruit staff for new and vacant positions. Such report shall be submitted to the speaker of the assembly and the temporary president of

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

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the senate and shall be published on the office's website on a quarterly basis. The legislature may require any additional information or data that it deems necessary in such report.

§ 2. Subdivision (e) of section 7.17 of the mental hygiene law, as amended by chapter 723 of the laws of 1993, paragraph 1 as amended by chapter 170 of the laws of 1994, paragraph 3 as amended by chapter 83 of the laws of 1995, is amended to read as follows:

(e) In the event that the plan for state and local mental health services, developed in accordance with subdivision (b) of this section, determines that significant service reductions are anticipated for a particular state-operated hospital or its catchment area, or a state-operated research institute, the commissioner shall take the following actions[~~, provided nothing in this subdivision shall create a basis for enjoining any otherwise lawful service reductions~~]:

1. submit a written report to the legislature at least three hundred sixty-five days prior to the date the office is seeking closure or suspension of services of any facility or institution. Such report shall include, but not be limited to: (1) justification for the proposed closure or suspension of services; (2) information on the fiscal year budgeted staffing levels; (3) information on the current staffing levels by position or title; (4) information both statewide and on a regional basis regarding: (a) how many full time equivalent positions have been budgeted for; (b) how many full time equivalent positions have been filled; (c) how many full time equivalent vacancies exist; and (d) waiting lists for individuals eligible to receive care in a residential setting; and (5) steps taken by the agency to recruit staff for new and vacant positions. Such report shall be submitted to the speaker of the assembly and the temporary president of the senate and shall be published on the office's website on a quarterly basis. The legislature may require any additional information or data that it deems necessary in such report.

2. confer with the department of civil service, the governor's office of employee relations and any other state agency to develop strategies which attempt to minimize the impact on the state workforce by providing assistance in obtaining state employment in state-operated community-based services or other employment opportunities, and to develop strategies for the development of necessary retraining and redeployment programs. In planning such strategies, the commissioner shall provide for the participation of the representatives of the employee labor organizations and for the participation of managerial and confidential employees to ensure continuity of employment;

[~~2.~~] 3. consult with the department of economic development and any other appropriate state agencies to develop strategies which attempt to minimize the impact of such significant service reductions on the local and regional economies;

[~~3.~~] 4. provide for a mechanism which may reasonably be expected to provide notice to local governments, community organizations, employee labor organizations, managerial and confidential employees, consumer and advocacy groups of the potential for significant service reductions at such state-operated hospitals and state-operated research institutes at least twelve months prior to commencing such service reduction, provided, however, that this requirement shall be deemed satisfied with respect to reductions at Central Islip Psychiatric Center, Gowanda Psychiatric Center, Harlem Valley Psychiatric Center, Kings Park Psychiatric Center, Willard Psychiatric Center and Manhattan Children's Psychiatric Center; and

[~~4.~~] **5.** consult with the office of general services and any other appropriate state agency in developing a mechanism for determining alternative uses for land and buildings to be vacated by the office of mental health. Such a mechanism should include a review of other programs or state agencies that could feasibly expand their operations onto a state-operated hospital campus and are compatible with health, safety and programmatic needs of patients served in such facilities.

§ 3. Subdivision 15 of section 501 of the executive law, as amended by section 1 of part H of chapter 58 of the laws of 2006, is amended to read as follows:

15. In the event that the office of children and family services determines that significant service reductions, public employee staffing reductions and/or the transfer of operations to a private or not-for-profit entity are anticipated in the office of children and family services long term planning process or for a particular facility in a future year, to take the following actions:

(a) **submit a written report to the legislature at least three hundred sixty-five days prior to the date the office of children and family services is seeking closure or suspension of services of any secure or limited secure facility. Such report shall include, but not be limited to: (1) justification for the proposed closure or suspension of services; (2) information on the fiscal year budgeted staffing levels; (3) information on the current staffing levels by position or title; (4) information both statewide and on a regional basis regarding: (a) how many full time equivalent positions have been budgeted for; (b) how many full time equivalent positions have been filled; (c) how many full time equivalent vacancies exist; and (d) waiting lists for individuals eligible to receive care in a residential setting; and (5) steps taken by the agency to recruit staff for new and vacant positions. Such report shall be submitted to the speaker of the assembly and the temporary president of the senate and shall be published on the office's website on a quarterly basis. The legislature may require any additional information or data that it deems necessary in such report.**

(b) confer with the department of civil service, the governor's office of employee relations and any other state agency to develop strategies which attempt to minimize the impact on the state workforce by providing assistance in obtaining state employment in state-operated community-based services or other employment opportunities, and to develop strategies for the development of necessary retraining and redeployment programs. In planning such strategies, the commissioner of the office of children and family services shall provide for the participation of the representatives of the employee labor organizations and for the participation of managerial and confidential employees to ensure continuity of employment;

[~~(b)~~] **(c)** consult with the department of economic development and any other appropriate state agencies to develop strategies which attempt to minimize the impact of such significant service reductions, public employee staffing reductions and/or the transfer of operations to a private or not-for-profit entity on the local and regional economies;

[~~(c)~~] **(d)** provide for a mechanism which may reasonably be expected to provide notice to local governments, community organizations, employee labor organizations, managerial and confidential employees, consumer and advocacy groups of the potential for significant service reductions, public employee staffing reductions and/or the transfer of operations to a private or not-for-profit entity at such state-operated facilities, at least twelve months prior to commencing such service reduction; and

[~~(d)~~] **(e)** consult with the office of general services and any other appropriate state agency in developing a mechanism for determining alternative uses for land and buildings to be vacated by the office of children and family services. Such a mechanism should include a review of other programs or state agencies that could feasibly expand their operations onto a state-operated campus and are compatible with health, safety and programmatic needs of persons served in such facilities.

§ 4. Severability. If any clause, sentence, paragraph, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

§ 5. This act shall take effect on the thirtieth day after it shall have become a law. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made and completed on or before such effective date.