

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:

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

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

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

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

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

8 (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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1 (e) Facilities regulated by the office for people with developmental
2 disabilities pursuant to title fourteen of the New York codes, rules and
3 regulations.

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

10 (i) The scheduled work shift or duty period;

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

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

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

19 (c) Except during a declared state of emergency, as defined in para-
20 graph (a) of this subdivision:

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

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

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

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

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

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

42 (b) Staff resignations and retirements;

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

45 (d) Waiting lists for individuals eligible to receive care in a resi-
46 dential setting;

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

48 (f) Assaults and injuries to staff, including but not limited to sexu-
49 al assaults; and staff on medically monitored or indefinite sick leave;
50 and

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

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

1 rights of any employee pursuant to any other law, regulation, or collec-
2 tive bargaining agreement.

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