

STATE OF NEW YORK

8478

2021-2022 Regular Sessions

IN ASSEMBLY

November 17, 2021

Introduced by M. of A. J. M. GIGLIO -- read once and referred to the
Committee on Correction

AN ACT to amend the correction law, in relation to the 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 Assem-
bly, 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, subdivisions
3 1, 2, 4 and 5 as amended by chapter 322 of the laws of 2021, is amended
4 to read as follows:
5 § 112. Powers and duties of commissioner relating to correctional
6 facilities and community supervision. 1. The commissioner [~~of~~
7 ~~corrections and community supervision~~] shall have the superintendence,
8 management and control of the correctional facilities in the department
9 and of the incarcerated individuals confined therein, and of all matters
10 relating to the government, discipline, policing, contracts and fiscal
11 concerns thereof. He or she shall have the responsibility to ensure
12 that adequate staffing exists at every correctional facility pursuant to
13 subdivision two of this section. He or she shall have the power and it
14 shall be his or her duty to inquire into all matters connected with said
15 correctional facilities. He or she shall make such rules and regu-
16 lations, not in conflict with the statutes of this state, for the
17 government of the officers and other employees of the department
18 assigned to said facilities, and in regard to the duties to be performed
19 by them, and for the government and discipline of each correctional
20 facility, as he or she may deem proper, and shall cause such rules and
21 regulations to be recorded by the superintendent of the facility, and a
22 copy thereof to be furnished to each employee assigned to the facility.
23 He or she shall also prescribe a system of accounts and records to be
24 kept at each correctional facility, which system shall be uniform at all

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

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1 of said facilities, and he or she shall also make rules and regulations
2 for a record of photographs and other means of identifying each incar-
3 cerated individual received into said facilities. He or she shall
4 appoint and remove, subject to the civil service law, subordinate offi-
5 cers and other employees of the department who are assigned to correc-
6 tional 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 incarcerated individual
22 released to community supervision. The commissioner shall appoint offi-
23 cers and other employees of the department who are assigned to perform
24 community supervision.~~] The commissioner shall establish a staffing plan
25 for all uniformed and non-uniformed employees. With regard to uniformed
26 staff, the commissioner shall establish a staffing plan which shall
27 include, but not be limited to, the number of total security posts that
28 must be staffed by correction officers and sergeants by correctional
29 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 every 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 incarcerated individuals upon
17 reception into a correctional facility, and throughout their incarceration
18 and release to community supervision, to facilitate appropriate
19 programming both during an incarcerated individual's incarceration and
20 community supervision, and designed to facilitate the successful inte-
21 gration of incarcerated individuals into the community.

22 5. (a) The commissioner shall not make or promulgate any policy and/or
23 regulation requiring an incarcerated individual to waive any religious
24 right, including, but not limited to, daily prayer as a condition for
25 participation in any incarcerated individual program including any such
26 program developed and/or implemented pursuant to subdivision four of
27 this section including, but not limited to, the shock program and the
28 industrial training program.

29 (b) Upon request, incarcerated individuals shall be granted exemptions
30 for activities, including jobs, that coincide with the Sabbath and other
31 work proscriptive days, including those set forth in the religious
32 calendar.

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