STATE OF NEW YORK

876

2021-2022 Regular Sessions

IN ASSEMBLY

(Prefiled)

January 6, 2021

Introduced by M. of A. JONES, GOTTFRIED, GUNTHER, MONTESANO, DiPIETRO, COOK, B. MILLER, MANKTELOW -- read once and referred to the Committee on Correction

AN ACT to amend the correction law, in relation to adequate staffing at correctional facilities

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

Section 1. Section 112 of the correction law, as amended by section 19 of subpart A of part C of chapter 62 of the laws of 2011 and subdivision 5 as added by chapter 211 of the laws of 2020, is amended to read as follows:

§ 112. Powers and duties of commissioner relating to correctional facilities and community supervision. 1. The commissioner [~~of corrections and community supervision~~] shall have the superintendence, management and control of the correctional facilities in the department and of the inmates confined therein, and of all matters relating to the government, discipline, policing, contracts and fiscal concerns thereof. **He or she shall have the responsibility to ensure that adequate staffing exists at every correctional facility pursuant to subdivision three of this section.** He or she shall have the power and it shall be his or her duty to inquire into all matters connected with said correctional facilities. He or she shall make such rules and regulations, not in conflict with the statutes of this state, for the government of the officers and other employees of the department assigned to said facilities, and in regard to the duties to be performed by them, and for the government and discipline of each correctional facility, as he or she may deem proper, and shall cause such rules and regulations to be recorded by the superintendent of the facility, and a copy thereof to be furnished to each employee assigned to the facility. He or she shall also prescribe a 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.

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

2. The commissioner shall have the management and control of persons released on community supervision and of all matters relating to such persons' effective reentry into the community, as well as all contracts and fiscal concerns thereof. The commissioner shall have the power and it shall be his or her duty to inquire into all matters connected with said community supervision. The commissioner shall make such rules and regulations, not in conflict with the statutes of this state, for the governance of the officers and other employees of the department assigned to said community supervision, and in regard to the duties to be performed by them, as he or she deems proper and shall cause such rules and regulations to be furnished to each employee assigned to perform community supervision. The commissioner shall also prescribe a system of accounts and records to be kept, which shall be uniform. The commissioner shall also make rules and regulations for a record of photographs and other means of identifying each inmate released to community supervision. The commissioner shall appoint officers and other employees of the department who are assigned to perform community supervision.

3. **The commissioner shall establish a staffing plan for all uniformed and non-uniformed employees. With regard to uniformed staff, the commissioner shall establish a staffing plan which shall include, but not be limited to, the following factors:**

(a) The number of total security posts that must be staffed by correction officers and correctional sergeants by correctional facility. These posts shall be delineated by those that are necessary five days per week and seven days per week.

(b) The staffing plan shall require that every post be staffed using a ratio of at least 1.75 correction officers for every seven day post and a ratio of at least 1.25 correction officers for each five day post. Nothing in this subdivision shall be deemed to authorize a reduction in the ratio of officers in facilities which already maintain a ratio of at least 1.75 officers and 1.25 officers for seven day posts and five day posts, respectively.

(c) The commissioner shall provide a copy of such staffing plan to the chairs of the senate finance, senate crime victims, crime and correction, assembly ways and means and assembly correction committees by December thirty-first of each year. Such report shall also provide detailed information regarding how the staffing plan was implemented during the current fiscal year. This information shall include:

(i) the number of correction officers and sergeants by correctional facility that the staffing plan required as well as the actual number of correction officers and sergeants that were available by correctional facility during the current fiscal year. In the event the department deviated from the staffing plan, the commissioner shall provide details on why the staffing plan was not implemented as required pursuant to this section;

(ii) the number of posts included in the staffing plan for each facility that have been closed on a daily basis, by correctional facility security classification (minimum, medium and maximum);

(iii) the number of security positions not filled and those eliminated, by correctional facility since two thousand one compared to the number of inmates incarcerated in each such facility; and

(iv) a breakdown by correctional facility security classification (minimum, medium, and maximum) of the staff hours of overtime worked, by year since two thousand one and the annual aggregate costs related to this overtime. In addition, such report shall be delineated by correctional facility security classification, the annual number of security positions eliminated, the number of closed posts and amount of staff hours of overtime accrued as well as the overall overtime expenditures that resulted.

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

[~~4.~~] 5. The commissioner and the chair of the parole board shall work jointly to develop and implement, as soon as practicable, a risk and needs assessment instrument or instruments, which shall be empirically validated, that would be administered to inmates upon reception into a correctional facility, and throughout their incarceration and release to community supervision, to facilitate appropriate programming both during an inmate's incarceration and community supervision, and designed to facilitate the successful integration of inmates into the community.

[~~5.~~] 6. (a) The commissioner shall not make or promulgate any policy and/or regulation requiring an inmate to waive any religious right, including, but not limited to, daily prayer as a condition for participation in any inmate program including any such program developed and/or implemented pursuant to subdivision four of this section including, but not limited to, the shock program and the industrial training program.

(b) Upon request, inmates shall be granted exemptions for activities, including jobs, that coincide with the Sabbath and other work proscription days, including those set forth in the religious calendar.

§ 2. This act shall take effect immediately.