

# 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 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 and subdivision  
3 5 as added by chapter 211 of the laws of 2020, is amended to read as  
4 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 inmates confined therein, and of all matters relating to the  
10 government, discipline, policing, contracts and fiscal concerns thereof.  
11 He or she shall have the responsibility to ensure that adequate staffing  
12 exists at every correctional facility pursuant to subdivision three of  
13 this section. He or she shall have the power and it shall be his or her  
14 duty to inquire into all matters connected with said correctional facil-  
15 ities. He or she shall make such rules and regulations, not in conflict  
16 with the statutes of this state, for the government of the officers and  
17 other employees of the department assigned to said facilities, and in  
18 regard to the duties to be performed by them, and for the government and  
19 discipline of each correctional facility, as he or she may deem proper,  
20 and shall cause such rules and regulations to be recorded by the super-  
21 intendent of the facility, and a copy thereof to be furnished to each  
22 employee assigned to the facility. He or she shall also prescribe a  
23 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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1 which system shall be uniform at all of said facilities, and he or she  
2 shall also make rules and regulations for a record of photographs and  
3 other means of identifying each inmate received into said facilities. He  
4 or she shall appoint and remove, subject to the civil service law and  
5 rules, subordinate officers and other employees of the department who  
6 are assigned to correctional 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 inmate released to  
22 community supervision. The commissioner shall appoint officers and other  
23 employees of the department who are assigned to perform community super-  
24 vision.

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

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

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

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

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

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

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

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

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

22 ~~[4.]~~ 5. The commissioner and the chair of the parole board shall work  
23 jointly to develop and implement, as soon as practicable, a risk and  
24 needs assessment instrument or instruments, which shall be empirically  
25 validated, that would be administered to inmates upon reception into a  
26 correctional facility, and throughout their incarceration and release to  
27 community supervision, to facilitate appropriate programming both during  
28 an inmate's incarceration and community supervision, and designed to  
29 facilitate the successful integration of inmates into the community.

30 ~~[5.]~~ 6. (a) The commissioner shall not make or promulgate any policy  
31 and/or regulation requiring an inmate to waive any religious right,  
32 including, but not limited to, daily prayer as a condition for partic-  
33 ipation in any inmate program including any such program developed  
34 and/or implemented pursuant to subdivision four of this section includ-  
35 ing, but not limited to, the shock program and the industrial training  
36 program.

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

40 § 2. This act shall take effect immediately.