STATE OF NEW YORK

1398

2023-2024 Regular Sessions

IN ASSEMBLY

January 17, 2023

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

AN ACT to establish a commission on post-secondary correctional education; and providing for the repeal of such provisions upon expiration thereof

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

Section 1. Legislative findings and intent. The legislature finds that the availability of post-secondary correctional education has the potential to reduce recidivism, increase employment opportunities for incarcerated individual upon release and have a positive impact on prison safety and security. The legislature further finds that there is currently a lack of available post-secondary educational opportunities for incarcerated individuals in the New York state prison system.

Studies have consistently found that the higher the level of education attained, the more likely a former incarcerated individual will be to obtain gainful and stable employment, and the less likely he or she will be to engage in future criminal activity. However, in 1994, federal tuition assistance, in the form of Pell Grants, for individuals incarcerated in federal and state correctional facilities was terminated with the enactment of the Violent Crime Control and Law Enforcement Act. Then, in 1995, New York prohibited incarcerated individuals from accessing state funds through the Tuition Assistance Program (TAP) for post-secondary correctional education. According to a report published by the Correctional Association of New York in January, 2009, entitled "Education From the Inside, Out: The Multiple Benefits of College Programs in Prison," only four out of seventy post-secondary correctional education programs continued to operate in New York following the termination of TAP availability for incarcerated individuals.

According to the Correctional Association of New York report, statistical evidence from several highly regarded studies demonstrates that

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

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college programming in prison is a highly effective tool in reducing recidivism. For example, the report cites a 1991 study released by New York's department of correctional services that found incarcerated individuals who earned a degree while incarcerated had a 26.4 percent recidivism rate whereas 44.6 percent of participants who did not earn a degree were returned to custody. The report cites another influential study, published in 2004, "Post-Secondary Correctional Education and Recidivism: A Meta-Analysis of Research Conducted 1990-1999," that found incarcerated individuals who participated in post-secondary correctional education programs recidivated 22 percent of the time and those who did not participate had a recidivism rate of 41 percent. Further, the New York state commission on sentencing reform recently reported that post-secondary correctional education programs have been shown to reduce recidivism by up to 40% and the commission recommended that more post-secondary educational opportunities be made available to incarcerated individuals.

The Correctional Association of New York report also asserts that in-prison college programs are a cost-effective method of improving public safety. The report states that "the cost differences in education versus incarceration in New York, plus the short- and long-term benefits of a better educated population, makes investment in higher education for incarcerated individuals and people in the community smart fiscal policy." The report cites one cost-benefit analysis that found the cost to a state per crime prevented by offering education to incarcerated individuals is about $1,600 while the cost per crime prevented by extending prison sentences is $2,800. In other words, according to the study, a $1 million investment in incarceration will prevent about 350 crimes, while that same investment in education will prevent more than 600 crimes meaning that correctional education may be almost twice as cost-effective as incarceration.

In addition, research suggests that post-secondary programs in prison can provide incarcerated individuals with an incentive for good behavior and greatly enhance an incarcerated individual's problem-solving skills thereby reducing tension and violent interactions between incarcerated individuals and staff and among incarcerated individuals. Reportedly, incarcerated individuals who attend post-secondary educational classes are among the best-behaved of the incarcerated individual population because there is a strong incentive to avoid conduct that could result in discipline and a loss of credit for the college program.

Despite the potential benefits of post-secondary correctional education programs, only a relatively small number of programs currently operate in the New York state prisons funded mostly through private sources, federal grants for youth offenders or through small legislative initiative grants.

§ 2. A temporary state commission, to be known as the New York state commission on post-secondary correctional education, hereinafter referred to as the commission, is hereby created to examine, evaluate, and make recommendations concerning the availability, effectiveness and need for expansion of post-secondary education in the New York state prison system. The issues to be considered by the commission shall include, but not be limited to, the following:

a. the benefits of post-secondary correctional education in improving public safety by reducing recidivism;

b. the impact of post-secondary correctional education on an incarcerated individual's employment opportunities upon release from prison;

c. the impact of post-secondary correctional education on an incarcerated individuals reintegration into society upon release from prison;

d. the cost savings, if any, associated with reduced recidivism and the successful reintegration of released incarcerated individual who have participated in post-secondary correctional education;

e. the impact of post-secondary correctional education on prison safety and security;

f. the need, if any, to expand post-secondary correctional educational programs in the New York state prison system and the costs associated with such an expansion; and

g. recommendations for funding options, including but not limited to the Tuition Assistance Program, to increase the availability of post-secondary correctional education in the New York state prison system.

§ 3. The commission shall consist of fifteen members, to be appointed as follows: four members shall be appointed by the governor and shall include the commissioner of the department of correctional services, and one member each from the division of parole, the division of criminal justice services and the New York state higher education services corporation; six members, with three appointments by the temporary president of the senate and three by the speaker of the assembly, shall be representatives of private providers of post-secondary education services in New York state prisons, criminal justice advocates, and academic professionals; one member shall be appointed by the minority leader of the senate; and one member shall be appointed by the minority leader of the assembly. The remaining members shall be the chancellor, or his or her designee, of the city university of New York, the chancellor, or his or her designee, of the state university of New York and the commissioner of the state department of education. The commission shall be co-chaired by the commissioner of the state department of correctional services and the commissioner of the state department of education. The vice-chairperson of the commission shall be a representative of one of the private providers of post-secondary education services as appointed by the chairpersons. Vacancies in the membership of the commission shall be filled in the manner provided for original appointments.

§ 4. The members of the commission shall receive no compensation for their services, but shall be allowed their actual and necessary expenses incurred in the performance of their duties hereunder. To the maximum extent feasible, the commission shall be entitled to request and receive and shall utilize and be provided with such facilities, resources, and data of any court, department, division, board, bureau, commission, or agency of the state or any political subdivision thereof as it deems necessary or desirable to carry out properly its powers and duties hereunder.

§ 5. For the accomplishment of its purposes, the commission shall be authorized and empowered to undertake any studies, inquiries, surveys or analyses it may deem relevant in cooperation with or by agreement with any other public or private agency. The commission shall meet and hold public hearings or private meetings within or without the state, and shall have all the powers of a legislative committee pursuant to the legislative law.

§ 6. The commission shall make a report of its findings, including any recommendations for legislative action as it may deem necessary and appropriate, to the governor, the temporary president of the senate, the speaker of the assembly, the chairperson of the senate committee on crime victims, crime and correction and the chairperson of the assembly

committee on correction no later than one year after the effective date of this act.

§ 7. This act shall take effect immediately and shall expire and be deemed repealed one year after such effective date; provided that the appointment of members to the New York state commission on post-secondary correctional education shall be completed within sixty days of such effective date.