STATE OF NEW YORK

8444

2023-2024 Regular Sessions

IN ASSEMBLY

December 29, 2023

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

AN ACT to amend the correction law and the executive law, in relation to setting standards for jail staffing analysis; providing the public the opportunity to view the statistics of their local county jail

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

Section 1. Subdivisions 8, 9, 10, 11, 12 and 13 of section 500-b of the correction law are renumbered subdivisions 9, 10, 11, 12, 13 and 14, and a new subdivision 8 is added to read as follows:

8. (a) The county sheriff or such designee shall oversee an annual jail staffing analysis using the staffing analysis methodology developed by the National Institute of Corrections. Such analysis shall also consider the following criteria:

(1) best practices in the prison rape elimination act and other state and federal guidelines regarding the ratio of uniformed officers to incarcerated people, where such ratio is calculated using the average officer headcount and average daily population from the previous calendar year;

(2) officers who required medical treatment, were permanently disabled in the course of their duty, or placed on light duty pursuant to section two hundred seven-c of the general municipal law; and

(3) efficient use of staff and resources that deploy uniformed officers only to posts unsuitable for civilian staff.

(b) The sheriff or designee shall submit its jail staffing analysis to the commission by April first of even-numbered years, and the commission shall provide written approval, or denial with comments, for all staffing analyses within ninety days of the submission of the analysis. If the commission denies the analysis, the sheriff or designee shall have thirty days from the receipt of any denial to remediate and resubmit its staffing analysis, which the commission shall review and respond to

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

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within thirty days of receipt. The commission shall not grant variances to any counties regarding their annual jail staffing analysis. The commission shall publish all staffing analyses, remediations, and approvals in a prominent place on its website in a machine-readable format.

§ 2. Paragraph (a) of subdivision 9 of section 500-b of the correction law, as added by chapter 907 of the laws of 1984 and as renumbered by section one of this act, is amended to read as follows:

(a) [~~minimum staffing requirements~~] the appropriate level and deployment of staff for each county jail; or

§ 3. Subdivision 10 of section 500-b of the correction law, as amended by chapter 574 of the laws of 1985 and the opening paragraph as amended by chapter 322 of the laws of 2021 and as renumbered by section one of this act, is amended to read as follows:

10. The chief administrative officer shall forward to the commission a quarterly report relative to the housing of incarcerated individuals. Such updates shall also be posted conspicuously on the website of the commission and of the local correctional facility in a machine-readable format. The report shall include, but not be limited to:

(a) all unusual incidents or assaults occurring in a housing unit categorized by use of force against people in custody, assaults on staff, violence among people in custody, and other incidents, including placement in solitary confinement, and the race, sex, mental health diagnosis, physical disability, intellectual disability, developmental disability, and/or traumatic brain injury of the incarcerated individuals involved;

(b) staffing segmented into the following categories: uniformed officers performing custody-related work, uniformed officers performing administrative duties, and civilian administrative staff;

(c) daily prisoner population counts segmented by charge type, admission status (sentenced, boarded in, boarded out, civil, federal, technical parole violators, state readies, pretrial, other), race, sex, mental health diagnosis, physical disability, intellectual disability, developmental disability, traumatic brain injury, and/or diagnosed substance use disorder;

(d) mean and median length of stay;

[~~(d)~~] (e) verification that the locality is maintaining security and supervision records as mandated pursuant to the commission's rules and regulations;

(f) a list and brief description of all programs available to people in detention, including but not limited to programs offering mental health treatment, substance use treatment, and vocational training; requirements for participation; number of participants per quarter by program; capacity of each program; and completion rates;

(g) notification of any instance in which a jail employs more corrections officers than the average daily population, which shall include any relevant justification and a remediation plan to be executed within six months;

[~~(e)~~] (h) court orders which have been issued and which relate to staffing, jail capacity or security requirements; and

[~~(f)~~] (i) any other information requested by the commission and available to the chief administrative officer with respect to this section.

§ 4. Subdivision 1 of section 264 of the executive law, as amended by section 30 of part A of chapter 56 of the laws of 2010, is amended to read as follows:

1. If at any time the office determines that a county plan is not being complied with, it shall notify the advisory board through the chairperson and the state commission of correction in writing of such fact, and it shall withhold any portion of state funds not theretofore allocated. Such notice shall state the particular reasons for the determination and demand compliance with the plan within sixty days of the notice, setting forth the specific actions deemed necessary to secure compliance. If compliance is forthcoming the board and the state commission of correction shall be notified of such fact in writing and any state funds heretofore withheld shall be released. If compliance with the plan is not fulfilled within such time or within a thirty day extension period as authorized herein, the office shall notify the advisory board through the chairperson and the state commission of correction. Upon such notification, the county shall be deemed in noncompliance with the approved plan and the provisions of subdivision [~~eight~~] **nine** of section five hundred-b of the correction law shall be applied.

An extension may be granted by the office for a thirty day period upon a request by the board through the chairperson, where the office determines it to be appropriate, setting forth specific reasons for a need for an extension and the steps which shall be undertaken to be in compliance at the end of such period.

Any notification by the office of non-compliance pursuant to this section shall be deemed a final determination for purposes of judicial review.

§ 5. This act shall take effect on the one hundred eightieth day after it shall have become a law, provided however, that:

1. the amendments to section 500-b of the correction law made by sections one, two and three of this act, shall not affect the repeal of such section and shall be deemed repealed therewith.

2. the amendments to subdivision 1 of section 264 of the executive law made by section four of this act shall not affect the repeal of such section and shall be deemed repealed therewith.

3. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made and completed by the state commissioner of corrections and community supervision on or before such effective date.