STATE OF NEW YORK

5171--A

2023-2024 Regular Sessions

IN SENATE

February 23, 2023

Introduced by Sens. SEPULVEDA, JACKSON -- read twice and ordered printed, and when printed to be committed to the Committee on Cities 1 -- recommitted to the Committee on Cities 1 in accordance with Senate Rule 6, sec. 8 -- reported favorably from said committee and committed to the Committee on Finance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the administrative code of the city of New York, in relation to requiring the New York city department of corrections and the New York city health and hospitals corporation to adopt safety policies and training to protect health care workers

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

Section 1. The administrative code of the city of New York is amended by adding a new section 9-167 to read as follows:

§ 9-167 Health care worker safety policy; reports. a. Definitions. As used in this section, the following terms shall have the following meanings:

1. "Correctional health services" means the division of the New York city health and hospitals corporation responsible for the delivery of health and mental health services to incarcerated individuals in the custody of the department, and any other health care entity designated by the city of New York as the agency or agencies responsible for health services for incarcerated individuals in the care and custody of the department, including an outside provider sharing such responsibilities.

2. "Health care worker" means a health care professional employed by correctional health services or another entity described in paragraph one of this subdivision who regularly provides health and mental health services to incarcerated individuals in the custody of the department. Such term shall include dentists, physical therapists and subcontractors of any health care entity designated by the city of New York as the agency or agencies responsible for health services for incarcerated

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

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individuals in the care and custody of the department, including an outside provider.

3. "Hospitals corporation" or "corporation" means the New York city health and hospitals corporation.

4. "Special officer" means a peace officer appointed pursuant to subdivision forty of section 2.10 of the criminal procedure law and employed by the city of New York or the New York city health and hospitals corporation to perform the patrol, investigation, and maintenance of the peace duties of special officer, senior special officer and hospital security officer.

b. Health care worker safety policy. 1. The department, in collaboration with correctional health services shall develop and implement a joint health care worker safety policy to protect health care workers from assault and other violent incidents during the provision of services to incarcerated individuals. Such policy shall establish a minimum standard of care for health care worker safety which shall, at minimum:

2. Require yearly training for all uniformed staff of the department and all special officers as defined in paragraph four of subdivision a of this section regarding minimum standards necessary to secure an incarcerated individual in the presence of a health care worker.

3. Establish protocols in consultation with stakeholders such as health care employee unions, advocacy and community groups, for requiring uniformed staff of the department and all special officers to inform all health care workers who will or are likely to come into contact with an incarcerated individual with a history of violent or aggressive behavior whenever such individual is admitted to a hospital or other medical facility. Such protocols shall be reviewed, and modified if deemed necessary, by the department and health care providers on an annual basis to ensure such protocols are adequate to protect health care workers.

c. Reporting. 1. No later than ninety days after the effective date of this section, and every six months thereafter, the department and correctional health services shall publish a joint report on the health care worker safety policy, which shall include but not be limited to a review of any new rules and regulations promulgated or amended pursuant thereto, and an evaluation of compliance with the policy at each correctional facility and any medical facility subject to the provisions of this chapter.

2. No later than nine months after the effective date of this section and annually, the department and correctional health services shall prepare and submit a report to the legislature. Such report shall include a copy of every joint report published pursuant to paragraph two of this subdivision during the twelve months preceding the date on which the report required pursuant to this paragraph is due and any related materials, together with any recommendations or proposals relating to health care worker safety. Such report shall include an analysis of whether certain punitive measures, including but not limited to the imposition of a higher maximum sentence of imprisonment for assault on a health care worker by an incarcerated individual, and/or provisions for the extension of such an individual's current sentence should be considered by the legislature as a deterrent to such assaults.

d. Private right of action. 1. The department, the corporation, or both such department and corporation shall be liable for damages to any health care worker who suffers injuries as a result of any failure to

enforce or comply with minimum standards of care established pursuant to subdivision b of this section.

2. A health care worker aggrieved by a violation of paragraph one of this subdivision and subdivision b of this section shall have a cause of action in any court of competent jurisdiction against the department, the corporation or both such department and corporation.

§ 2. This act shall take effect immediately.