

# STATE OF NEW YORK

5582

2023-2024 Regular Sessions

## IN SENATE

March 8, 2023

Introduced by Sen. SCARCELLA-SPANTON -- read twice and ordered printed,  
and when printed to be committed to the Committee on Civil Service and  
Pensions

AN ACT to amend the civil service law, in relation to safe staffing for  
public employees of institutional settings

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

1 Section 1. Legislative intent. It is in the interest and the responsi-  
2 bility of the state and local governments to provide for a safe, stable  
3 and humane environment for residents and staff of the custodial facili-  
4 ties within the state of New York. The maintenance of order, security,  
5 safety and care for all in custodial facilities currently falls upon a  
6 workforce stretched beyond its limits. Recruitment and retention of  
7 staff is at a crisis at all levels and in all facilities within the  
8 state. Double and triple shifts are the norm, creating unsafe conditions  
9 for residents and staff. Therefore, it is in the interest of the state  
10 to set maximum overtime levels to ensure staff safety and a humane envi-  
11 ronment for residents of custodial facilities.

12 § 2. The civil service law is amended by adding a new section 137 to  
13 read as follows:

14 § 137. Safe staffing for public employees of institutional settings.

15 1. This section shall apply to and cover the following facilities:

16 (a) Correctional facilities, as defined by subdivision four of section  
17 two of the correction law.

18 (b) Local correctional facilities, as defined by subdivision sixteen  
19 of section two of the correction law.

20 (c) Facilities regulated by the office of mental health pursuant to  
21 section 7.17 of the mental hygiene law.

22 (d) Juvenile offender and adolescent offender facilities pursuant to  
23 section five hundred eight of the executive law.

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

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1 (e) Facilities regulated by the office for people with developmental  
2 disabilities pursuant to title fourteen of the New York codes, rules and  
3 regulations.

4 2. (a) Except during a declared state of emergency, defined as the  
5 event of riots, prison breaks or other similar emergencies, or with  
6 twenty-four hour notice to the head of the facility's collective  
7 bargaining unit, a facility shall not mandate or otherwise require,  
8 directly or indirectly, an employee to work or be on duty in excess of  
9 any one of the following:

10 (i) The scheduled work shift or duty period;

11 (ii) Seventeen hours in a twenty-four hour period, including time for  
12 meal breaks; or

13 (iii) Eighty hours in a consecutive fourteen-day period.

14 (b) For purposes of this subdivision, "mandate" means any request  
15 which, if refused or declined by the employee, may result in discharge,  
16 discipline, loss of promotion, or other adverse employment consequence.  
17 Nothing in this section is intended to prohibit an employee from volun-  
18 tarily working overtime.

19 (c) Except during a declared state of emergency, as defined in para-  
20 graph (a) of this subdivision:

21 (i) No employee shall work or be on duty more than seventeen hours in  
22 any twenty-four hour period.

23 (ii) Any employee working seventeen hours in any twenty-four hour  
24 period must have at least eight consecutive hours off duty before being  
25 required to return to duty.

26 (iii) No employee shall be required to work or be on duty more than  
27 seven consecutive days without at least one consecutive twenty-four hour  
28 period off duty within that time.

29 3. A work shift schedule or overtime program established pursuant to a  
30 collective bargaining agreement negotiated on behalf of the healthcare  
31 employees by a bona fide labor organization may provide for mandatory  
32 on-duty hours in excess of that permitted under this section, provided  
33 adequate measures are included in the agreement to ensure against exces-  
34 sive fatigue on the part of the affected employees.

35 4. The administrators of a facility covered under this section shall  
36 file a report on a quarterly basis to the executive officer, legislative  
37 body of the political subdivision of such facility and the head of such  
38 facility's collective bargaining units, who shall, upon review, make  
39 such reports available to the public on the facility's or governing  
40 agency's website. Such quarterly report shall include the following:

41 (a) Information on current staffing levels by position or title;

42 (b) Staff resignations and retirements;

43 (c) Number of full-time equivalent positions that have been budgeted  
44 for;

45 (d) Waiting lists for individuals eligible to receive care in a resi-  
46 dential setting;

47 (e) Steps taken to recruit staff for new or vacant positions;

48 (f) Assaults and injuries to staff, including but not limited to sexu-  
49 al assaults; and staff on medically monitored or indefinite sick leave;  
50 and

51 (g) Additional information for correctional facilities, including  
52 classification of inmates by facility and information on manned posts,  
53 permanent facility posts, and temporary posts.

54 5. The provisions of this section are intended as a remedial measure  
55 to ensure staff safety and a humane environment for residents of custo-  
56 dial facilities, and shall not be construed to diminish or waive any

1 rights of any employee pursuant to any other law, regulation, or collec-  
2 tive bargaining agreement.  
3 § 3. This act shall take effect on the sixtieth day after it shall  
4 have become a law.